

Expunging & Sealing Criminal Records

The Florida Department of Law Enforcement processes all ‘Seal and Expunge’ application. You can find more information and the application by visiting the links below:

- **FDLE Home Page – Seal and Expunge:** [FDLE Seal and Expunge Home Page](#)
- **FDLE Seal and Expunge Application Packet:** [Application Packet](#)

Notes:

Terminology

- **Sealing** – a record that has been sealed is removed from the public record.
- **Expungement** – Functionally the same as sealing a record, but with the added step that the Clerk destroys the physical file.

Prerequisites

- You may only have your criminal record sealed once in your lifetime. This includes if you have had your record sealed in other jurisdictions in the USA.
- If you have been adjudicated guilty for any crime, you cannot have your record sealed or expunged.
- If you have been adjudicated delinquent, you cannot have your record expunged. Also, when your juvenile record is sealed automatically by statute, it counts as your once-per-lifetime sealing.
- The resolution of the case cannot be for a non-sealable offense. The rule-of-thumb is if it contains the term “aggravated,” or relates to sexual crimes, it will not be sealable. Most of these offenses are violent in nature, though some non-sealable offenses may be surprising: e.g. Cultivation of Marijuana and misdemeanor Domestic Battery.
- If there are multiple cases or charges, the offenses must stem from one activity or episode, and in addition, the crimes must be temporally related or have a nexus between them. Separate and unconnected offenses are not all sealable. For clarification, see *State v. Dinkins*, 794 So.2d 736 (Fla. 1st DCA 2001).
- **Specifically for Expungement:**
 1. For cases with an AW, you can only have your record sealed, otherwise you must wait 10 years after sealing the record to have your record expunged. For an

Statutes:

§ 943.0585, Fla. Stat. Ann.

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immediate expunging, the case must have been dismissed or Nolle Prossed. **If you were found Not Guilty at trial, you can only immediately have your record sealed. You must then wait the 10-year period after sealing the NG verdict to have your record expunged.**

2. The FDLE still maintains a copy of your record even after it has been expunged. So, while the clerk may have destroyed their file, a record still exists.

3. Arrests can be expunged, regardless of charge, if the case was dismissed or Nolle Prossed.

When to Disclose your Sealed & Expunged Record

- Legally, you are allowed to affirmatively state that you have never been arrested and charged with a crime if your record has been sealed or expunged, with some exceptions.
- A private organization is not allowed to ask you if you have had your record sealed in a job application.
- However, there are times you must disclose this information to agencies and public institutions. These are when you are applying to become a police officer, applications to the State Bar, DCF, Dept. of Health, any Healthcare Agency, the Dept. of Education (who even has extra scrutiny and can search into district records), and to be a Guardian ad Litem.
- There are times when even private organizations are able to gain access to sealed and expunged records, namely when you are purchasing a firearm from a licensed dealer and applying for a concealed firearms license.
- You must disclose your record to the above listed agencies. They have access to sealed and expunged records regardless, and you may be prosecuted criminally for misrepresenting your record.
- This is not an official legal process, but private companies such as Mugshots.com may need to be paid to remove arrest photos and other previously available public records.

Process for Sealing and Expunging your Record

- **First**, you must apply for a Certificate of Eligibility from FDLE. You must fill out the application and submit it with an official fingerprint card and a certified copy of the case's disposition. This process takes approximately 4-5 months. Denial of this certificate can be litigated.

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- **Second**, you must file a petition, including a copy of the Certificate of Eligibility, in the Circuit Court where the offense occurred. Whether to seal the record or not is within this court's discretion.
- **Third**, you should have the approval of that circuit's State Attorney. However, should they object, it is not fatal to your petition. You would then need to litigate your petition in front of the Court.
- If your petition is granted, then send the order to the counties and arresting agencies.

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