

Expungement Procedures

The Solicitor's Office will not be able to discuss eligibility requirements or fees in the office. You must complete an application first. Please do not bring any monies into our office until your record has been verified by our expungement coordinator and you have been notified of the fees.

Expungement requests are processed according to the date received in our office. We understand the urgency of your request and will process your application as quickly as possible. Due to the high volume of requests, the expungement process currently takes up to 6 months. **PLEASE DO NOT CALL ABOUT YOUR RECORD; WE CANNOT GIVE OUT ANY INFORMATION UNTIL THE RECORD IS VERIFIED.** Thank you for your understanding in this matter.

WE DO NOT ISSUE BACKGROUND CHECKS.

****We cannot expunge media related information – this includes newspapers, television, or information on the internet available on third-party sites.****

The process for the expungement of a criminal charge is as follows:

- A. You submit an Expungement Application in person, by mail or fax. Our expungement coordinator will contact you regarding any fees associated with your case after your record is reviewed. All fees are non-refundable regardless of whether the offense is determined to be statutorily ineligible or the Solicitor or his designee does not consent to the expungement!
- B. We will attempt to obtain the necessary information regarding eligibility from the records of the Clerk of Court, Magistrate Court, Municipal Court, NCIC, police department(s), and/or other sources, however, in the event we are unable to locate a disposition on certain charge(s) it is your responsibility to provide proof of the disposition to our office.
- C. Prepare and type a proposed Order, acceptable to SC Court Administration.
- D. Submit proposed Order to SLED (South Carolina Law Enforcement Division) requesting confirmation that the criminal charge is statutorily appropriate for expungement along with the \$25.00 fee (not required for 17-1-40, 17-22-150(a), 17-22-530(a), or 44-53-450(b)).
- E. Request the signature of the Solicitor or his designee.
- F. Request the approval and signature of a Circuit Court Judge.
- G. File the original signed Order in the Office of the Clerk of Court (SC statutes provide for a \$35.00 filing fee to be paid to the Clerk at the time of filing, except when 17-1-40 controls).
- H. Obtain certified copies of the Order from the Clerk of Court.
- I. Deliver or mail certified copies of the Order to appropriate agencies. Please keep in mind once we submit the Order to the proper agencies, it is the agencies' responsibility to expunge the record. Law enforcement, prosecution agencies and detention/correctional facilities are not obligated to destroy records under state law, however, the information is not available for public dissemination.

The Solicitor's Office will process all steps for the applicant and mail one (1) certified copy to the applicant if approved. In exchange for this service, the applicant is responsible for payment of an administrative fee to the Solicitor's Office, in the form of a money order, in the amount of two hundred fifty dollars (\$250.00) per Order, which shall be retained by the Solicitor's Office to defray the costs associated with this process. In addition, SLED shall receive a twenty-five dollar (\$25.00) money order from the applicant to verify that the criminal charge is statutorily appropriate for expungement. Also, where applicable, a thirty-five dollar (\$35.00) Clerk of Court filing fee shall apply.

For requests arising under Section 17-1-40 of the South Carolina Code of Laws, where the charge was dismissed, nolle prossed, or the defendant was found not guilty due to identity theft, no fee is required by our office. If the case was dismissed as a result of a plea bargain, the cost is \$250.00 plus the Clerk fee. (This includes drug court and conditional discharges.)

Charges dismissed in magistrate and municipal courts will be expunged by Order of the presiding magistrate or municipal judge pursuant to statute effective June 2, 2009. Our office will process these for you if you wish to pay the above Clerk's fee otherwise please contact the appropriate court for expungement information.

Information provided by this office is correct at the time of application; however SC laws may change and the information provided may no longer be accurate.

Expungement of criminal records is handled according to the South Carolina Code of Laws:

By state law, there are seven categories of cases in which the defendant is entitled to have records relating to an arrest or conviction expunged and destroyed:

I. **Section 17-1-40.** The charge was dismissed, nolle prossed, or the defendant was found not guilty, except as provided by Section 17-22-950 (Municipal/Summary Court dismissals).

II. **Section 17-22-150.** The defendant successfully completed the Pre-Trial Intervention Program.

III. **Section 17-22-530.** The defendant successfully completed the Alcohol Education Program.

IV. **Section 34-11-90 (e).** The defendant was convicted of a first offense misdemeanor under the Fraudulent Check Law and no additional criminal activity has taken place in one year from the date of conviction.

V. **Section 44-53-450 (b).** The defendant was convicted under the "conditional discharge" provisions of this specific law and has successfully complied with the terms of that sentence.

VI. **Section 22-5-910.** The defendant was convicted of a first offense in a magistrate or municipal court for a crime carrying a penalty of not more than thirty days imprisonment or a fine of not more than one thousand dollars, or both and no additional criminal conviction has taken place within three years from the date of the conviction, or five years for domestic violence. However, convictions for the following cannot be expunged:

1. Wildlife and game violations
2. Traffic offense violations
3. Charges where enhanced penalties for subsequent convictions are authorized (with the exception of CDV 1st Offense, effective 1-1-04)

VI. **Section 56-5-750.** The defendant was convicted of a first offense, non-aggravated violation for Failure to Stop for a Blue Light and Siren, and had no other convictions for any crime for three years following the completion of all terms and conditions of the Blue Light sentence.

VII. **Section 22-5-920.** Following the first offense conviction as a youthful offender, the defendant after five years from the date of the conviction may apply, or cause someone acting on his behalf to apply, to the Circuit Court for an order expunging the records of the arrest and conviction.

VIII. **Section 17-22-330(a).** Successful completion of the Traffic Education Program

IX. **Section 63-19-2050.** Juvenile Expungements

X. **Section 22-5-930.** First offense simple possession or possession with intent to distribute conviction

XI. **Section 17-22-1010.** Successful completion of the Youth Challenge Academy and Jobs Challenge Program