

EXPUNCTION (Juvenile)

FLORIDA STATUTES

Chapter 943.0585

Court-ordered *expunction* of criminal history records

Chapter 943.059

Court-ordered *sealing* of criminal records

RESOURCES

Court Administration

205 North Dixie Highway
West Palm Beach, FL 33401
(561) 355-2431

Department of Juvenile Justice

1100 45th St, Building B
West Palm Beach, FL 33407
(561) 882-3600

Florida Department of Law Enforcement (FDLE)

2331 Phillips Road
Tallahassee, FL 32308
(850) 410-7870

Office of the Clerk & Comptroller

Main Courthouse, Room 3.220
205 North Dixie Highway
West Palm Beach, FL 33401
(561) 355-6227

Office of the State Attorney

401 North Dixie Highway
West Palm Beach, FL 33401
(561) 355-7100

**This material is intended to provide general information regarding Expunction - it is in no way final legal authority. It is best to consult with an attorney about your legal rights.*

Definition

- Expunging of Record— Private/public companies are told that the record does not exist; Government/related agencies are given the following statement “*criminal information has been expunged from this record*”. With the exception of any criminal history record maintained by FDLE, all related criminal records and information are physically destroyed.
- Sealing of Record— Private/public businesses do not have permission to access a juvenile’s criminal record, and they do not know of the existence of the record. Certain governmental agencies maintain access to a juvenile’s record.

Who Is Eligible?

- Juveniles with a criminal record who have never filed a *Petition for Expunging/Sealing of Record* in the state of Florida .

Who Is Not Eligible?

- If a juvenile was adjudicated delinquent for the requested criminal record.
- If a juvenile has an open case or is on probation.
- If a juvenile was ever adjudicated guilty for any felony or a misdemeanor specified in 943.051(3)(b); OR if a juvenile was found guilty, pled guilty, or nolo contendere (no contest) to any of the following offenses (below), the juvenile **cannot** seal or expunge that specific criminal record.
- If a juvenile was arrested for any of the following offenses (below), but charges were later dismissed or dropped, a juvenile **can** have criminal record expunged/sealed.
 - 1) Arson
 - 2) Aggravated assault
 - 3) Aggravated battery
 - 4) Illegal use of explosives
 - 5) Child abuse or aggravated child abuse
 - 6) Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult
 - 7) Aircraft piracy
 - 8) Kidnapping
 - 9) Homicide
 - 10) Manslaughter
 - 11) Sexual battery
 - 12) Robbery
 - 13) Carjacking
 - 14) Lewd, lascivious, or indecent assault or act upon or in the presence of a child under the age of 16 years

CONTINUED ON NEXT PAGE

EXPUNCTION (Juvenile) continued

- 15) Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of a person in familial or custodial authority
- 16) Burglary of a dwelling
- 17) Stalking or aggravated stalking
- 18) Act of domestic violence (as defined in s. 741.28)
- 19) Home-invasion robbery
- 20) Act of terrorism
- 21) Manufacturing any substances in violation of chapter 893
- 22) Attempting or conspiring to commit any of the above crimes (1-21)
- 23) Sexual misconduct with developmentally disabled person and related offenses
- 24) Sexual misconduct with mentally ill person and related offenses
- 25) Luring or enticing a child
- 26) Sexual battery and related offense
- 27) Procuring person under 18 for prostitution
- 28) Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age
- 29) Voyeurism
- 30) Florida Communication Fraud Act
- 31) Scheme to defraud or organized Fraud (as defined in s.817.034)
- 32) Lewd or lascivious offense upon or in presence of elderly person or disabled adult
- 33) Sexual performance by a child
- 34) Offenses by public officers and employees
- 35) Showing obscene literature to minor
- 36) Computer pornography
- 37) Selling or buying of minors
- 38) Trafficking in controlled substances
- 39) Sexual misconduct with mentally deficient or mentally ill defendant and related offenses
- 40) Any offense that would qualify as a predicate for "sexual offender" or "sexual predator" status (s.775.21 and s. 943.0435)

Important Information

- If charge(s) occurred in Palm Beach county, expunction/sealing of record must be filed in Palm Beach county. If charge(s) did **not** occur in Palm Beach County, expunction/sealing of record **cannot** be filed in Palm Beach County.
- Any charge, which resulted in a withholding of adjudication or in an acquittal after trial, may not be expunged unless and until it has first been sealed for at least 10 years (refer to F.S. 943.0585(2)(h)).
- Expunging/sealing a record may have no impact on private company or federal databases if private companies may have obtained/purchased the information before the record was expunged/sealed.
- Expunction is only allowed for criminal records that do not include adjudication/conviction; expunction and sealing may be allowed for criminal records that include withheld adjudication in certain circumstances.
- If the criminal record is expunged, FDLE retains any criminal history record in their custody and this record can only be accessed if a Judge signs an Order granting permission to a government or related agency.
- A juvenile with an expunged/sealed record may lawfully deny or not admit to anything related to the expunged/sealed record, except in special circumstances (refer to F.S. 943.0585, 943.059).

The Process

- 1) Obtain a complete application packet from the Office of the Clerk & Comptroller; cost is \$10.00.
* packets are available at the Main Courthouse (205 North Dixie Highway, West Palm Beach, FL 33401, Room 2.2209)
- 2) Complete "Section A" of the FDLE application in the presence of a notary public.
- 3) For expunction applicants only: Submit the FDLE application portion to the Office of the State Attorney for completion of "Section B".
- 4) Submit the FDLE application portion and fingerprint card to FDLE. FDLE must approve the application and provide the "Certification of Eligibility" (valid for one year). The cost is \$75.00 (waived for youth who complete pre/post arrest diversion program and/or youth currently in care of foster family). Must include a certified disposition of the case (this can be obtained from the Office of the Clerk & Comptroller—Main Courthouse, 205 North Dixie Highway, West Beach, FL 33401, Room 3.2200)
*for diversion cases, a certified letter of completion from the Office of the State Attorney is acceptable
*for probation cases, must submit a certified copy of Termination of Probation
- 5) Submit the completed packet—including the "Certification of Eligibility", to the Office of the Clerk & Comptroller (Main Courthouse, 205 North Dixie Highway, West Palm Beach, FL 33401, Room 3.2200); cost is \$42.00.
- 6) Hearing will be scheduled and the Judge will review the completed packet
- 7) At the court hearing, the Judge will either grant or deny the request for expunction/sealing of the record.