



**KIM MCCARSON, CIRCUIT CLERK**

Calhoun County Circuit Court  
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Anniston, AL 36201  
256.231.1750

### **EXPUNGEMENT CHECKLIST**

Effective July 6, 2014, individuals may apply for an expungement of their criminal records under the following circumstances:

For a misdemeanor criminal offense, a violation, a traffic violation, or a municipal ordinance violation:

(a) A person who has been charged with a misdemeanor criminal offense, a violation, a traffic violation, or a municipal ordinance violation may file a petition in the criminal division of the circuit court in the county in which the charges were filed, to expunge records relating to the charge in any of the following circumstances:

- (1) When the charge is dismissed with prejudice.
- (2) When the charge has been not billed by a grand jury.
- (3) When the person has been found not guilty of the charge.
- (4) When the charge was dismissed without prejudice more than two years ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous two years. Ala. Code 1975 § 15-27-1.

For a Felony offense:

(a) A person who has been charged with a felony offense, except a violent offense as defined in Section 12-25-32(14), may file a petition in the criminal division of the circuit court in the county in which the charges were filed, to expunge records relating to the charge in any of the following circumstances:

- (1) When the charge is dismissed with prejudice.

- (2) When the charge has been no billed by a grand jury.
- (3) (a) The charge was dismissed after successful completion of a drug court program, mental health court program, diversion program, veteran's court, or any court-approved deferred prosecution program after one year from successful completion of the program.  
(b) Expungement may be a court ordered condition of a program.
- (4) The charge was dismissed without prejudice more than five years ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous five years.
- (5) Ninety days have passed from the date of dismissal with prejudice, no-bill, acquittal, or nolle prosequi and the charge has not been refiled.

(b) (1) A person who has been charged with any felony offense, including a violent offense as defined in Section 12-25-32, may file a petition in the criminal division of the circuit court in the county in which the charges were filed to expunge records relating to the charge if the person has been found not guilty of the charge.

(2) Records related to violent offenses as defined in Section 12-25-32 may be disclosed to law enforcement agency for criminal investigation purposes as provided in Section 15-27-7.

(c) The circuit court shall have exclusive jurisdiction of a petition filed under subsection (a) or subsection (b).

The individual must provide the Court, at the time of filing, with the following items:

- a. **A sworn statement** stating that the individual has satisfied the requirements for an expungement and whether they have previously applied for an expungement. (See Form CR-65) Ala. Code 1975 § 15-27-3(a).
- b. **Certified copy of the arrest**, disposition, or the case action summary from the agency or court the individual is seeking to have expunged. Ala. Code 1975 § 15-27-3(b).
- c. **Certified copy of the individual's criminal record** from the Alabama Criminal Justice Information Center. Ala. Code 1975 § 15-27-3(b).

- d. **\$300 Administrative Filing Fee** or Substantial Hardship Affidavit. The filing fee shall be paid at the time the petition is filed and is a condition precedent to any expungement ruling. The petitioner may file an Affidavit of Substantial Hardship. If the court grants the substantial hardship affidavit, the individual will be given a payment plan for the \$300 Administrative Fee. The fee will not be waived and an expungement will not be granted until the fee is paid in full. Ala. Code 1975 § 15-27-4. The \$300 fee does not include copy fees, certification fees or service fees. The filing fee should be in the form of cash, cashier's check or money order.

The District Attorney's Office, the law enforcement agency and the Clerk of Circuit Court of the jurisdiction for which the records are sought to be expunged must be **served** with a copy of the petition and sworn statement by the individual seeking the expungement. The District Attorney will have **45** days to file an objection to the petition to expunge criminal records.

Individuals should not expect to hear anything regarding their request to expunge records for at least **60** days. The judge assigned to the case may rule on the request with or without a hearing.

No order of expungement shall be granted unless all terms and conditions, including court ordered restitution, are satisfied and paid in full, including interest, to any victim, or the Alabama Crime Victim's Compensation Commission, as well as court costs, fines or statutory fees ordered by the sentencing court to have been paid, absent a finding of indigency by the court.

Should you have any questions regarding our filing requirements, please do not hesitate to call the Calhoun County Clerk's Office at 256.231.1750.

## **Expungement Information**

Individuals may apply for an expungement of their criminal records under the following circumstances:

- a. For a misdemeanor criminal offense, a violation, a traffic violation, or a municipal ordinance violation:
    - (1) When the charge is dismissed with prejudice.
    - (2) When the charge has been no billed by a grand jury.
    - (3) When the person has been found not guilty of the charge.
    - (4) When the charge was dismissed without prejudice more than two years ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous two years.
- § 15-27-1, Ala. Code 1975.
- b. For a non-violent felony offense:
    - (1) When the charge is dismissed with prejudice.
    - (2) When the charge has been no billed by a grand jury.
    - (3) a. The charge was dismissed after successful completion of a drug court program, mental health court program, diversion program, veteran's court, or any court-approved deferred prosecution program after one year from successful completion of the program.
    - b. Expungement may be a court-ordered condition of a program listed in paragraph a.
    - (4) The charge was dismissed without prejudice more than five years ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous five years.
    - (5) Ninety days have passed from the date of dismissal with prejudice, no-bill, acquittal, or nolle prosequi and the charge has not been refiled.
  - c. For any felony offense, including a violent offense as defined in § 12-25-32(15), Ala. Code 1975, if the person has been found not guilty of the charge.

§ 15-27-2, Ala. Code 1975.

The individual must provide the Court, at the time of filing, with the following items:

- a. **A sworn statement under the penalty of perjury** stating that the individual has satisfied the requirements for an expungement and whether they have previously applied for an expungement in any jurisdiction and whether an expungement has been previously granted. See Form CR-65, a copy of which can be found at: <http://eforms.alacourt.gov>, under "Criminal Forms." See also <http://eforms.alacourt.gov/Criminal%20Forms/Petition%20for%20Expungement%20of%20Records.pdf>

§ 15-27-3(a), Ala. Code 1975.

- b. **Certified copy of the arrest**, disposition, or the case action summary from the appropriate agency for the court record the petitioner seeks to have expunged as well as a certified official criminal record obtained from the Alabama Criminal Justice Information Center. In addition to setting forth grounds for the court to consider, the petitioner shall specify what criminal charges from the record are to be considered, further specify the agency or department that made the arrest and any agency or department where the petitioner was booked or was incarcerated or detained pursuant to the arrest or charge sought to be expunged from the agency or court in which the arrest was made or the charge was filed and which the individual is seeking to have expunged. § 15-27-3(b), Ala. Code 1975.
- c. **Certified official copy of the individual's criminal record** from the Alabama Criminal Justice Information Center. § 15-27-3(b), Ala. Code 1975. Please visit their website at [www.acjic.alabama.gov](http://www.acjic.alabama.gov) to request a copy.
- d. **\$300 administrative filing fee** or Affidavit of Substantial Hardship. See Form C-10, a copy of which may be found at: <http://eforms.alacourt.gov>, under "Civil Forms." Filing a substantial hardship affidavit is required to apply for indigent status. If the court grants indigent status, the individual may be given a payment plan for the \$300 administrative fee. The fee will not be waived, and an expungement will not be granted until the fee is paid in full. § 15-27-4, Ala. Code 1975. In addition, no order of expungement shall be granted unless all terms and conditions, including court ordered restitution, are satisfied and paid *in full, including interest*, to any victim, or the Alabama Crime Victim's Compensation Commission, as well as court costs, fines, or statutory fees ordered by the sentencing court to have been paid, absent a finding of indigency by the court. § 15-27-12, Ala. Code 1975.

The District Attorney's Office (or Prosecuting Attorney's Office in municipal cases) must be **served** with a copy of the petition by the individual seeking the expungement. The District Attorney (or City Prosecutor) will have **45** days to file an objection to the petition to expunge criminal records. If the prosecutor objects, a hearing will be scheduled no sooner than 14 days from the objection filing date. The judge assigned to the case may rule on the request, with or without a hearing, if no objection is filed.

***DISCLAIMER: This Office cannot provide legal advice; therefore, this information is not to be construed as a legal opinion. Should a reader interpret any part of it as a legal opinion or advice, it is not so intended and does not reflect the legal opinion of the Alabama Administrative Office of Courts or this Office, and does not have the force and effect of law.***