



# GUIDE TO EXPUNGEMENTS IN TENNESSEE

Expungement is a court-ordered process where the legal record of some criminal cases can be erased in the eyes of the law. In Tennessee, only certain criminal records can be expunged. Some cases can be expunged without any fees. If you are unsure about your situation, it's best to talk to a lawyer for help.

## ARE YOU ELIGIBLE FOR EXPUNGEMENT?

You may be eligible for free expungement in Tennessee if:

1. You had charges against you dismissed
2. A “no true bill” was returned by a grand jury
3. You were arrested and released without being charged
4. You went to trial, which resulted in a not guilty verdict
5. The case resulted in a nolle prosequi (prosecution will not be pursued).
6. An order of protection was successfully defended and denied by a court following a hearing

## STEPS FOR EXPUNGEMENT IN TENNESSEE

If you qualify for an expungement for any of the reasons listed above, you will need to file for expungement in the court in which the matter originated. This may be general sessions court or a trial court. Not all courts operate exactly the same, but the following steps outline the process generally.

You need the information (docket #, etc.) regarding the case. This information is required to get an expungement. You may want to obtain a copy of your record from the court clerk if you do not have a copy.

For charges that are marked as “dismissed” or “nollied”, follow the steps below. If the charges were dismissed “with costs” or they were “retired”, there are additional steps you have to take to get your record expunged (see below).

1. File a request with the court where your case originated (see attached examples of forms you can use). Check with the court clerk because you may have to fill out separate forms for multiple charges.
2. Indicate the charges that qualify for expungement (see above). File the information with the criminal court clerk. You do not need to appear in court.
3. If you want a copy of the expungement, bring a self-addressed stamped envelope for each charge that you want to get expunged. For example, if there are 4 charges you want expunged, you need to bring 4 self-addressed stamped envelopes. This will allow the clerk to send you the paperwork after the expungement is complete.
4. Ask the criminal court clerk for a certified copy of the order(s) expunging your record and a certified copy of the charging document. These are the documents that the clerk will mail to you in the envelope(s) you brought.
5. Your paperwork will then be sent to the judge and forwarded to the proper agencies for expungement.

If your record says a charge was “dismissed with costs”, that means that there are court costs that you owe. You have to take care of the court costs before you can have your record expunged. You may be able to get them waived.

If your record says a charge was “retired”, that means that the case was put on hold for a very long time. You have to request that the retired case be changed to a dismissed case before you can get that charge expunged.



CPN \_\_\_\_\_

Cost Rec. # \_\_\_\_\_ Date Pd. \_\_\_\_\_

Exp. Rec.# \_\_\_\_\_ Date Pd. \_\_\_\_\_

**ORDER FOR THE EXPUNGEMENT OF CRIMINAL OFFENDER RECORD**

State of Tennessee vs. \_\_\_\_\_

Criminal Docket No. \_\_\_\_\_ General Sessions Docket No. \_\_\_\_\_

In the General Sessions/Criminal Court of **Davidson County, Tennessee at Nashville** on Motion or Petition of above named defendant

**Defendant/Arrest Information:**

<b>NAME used at time of arrest</b>	<b>RACE</b>	<b>SEX</b>	<b>DATE OF BIRTH</b>
<b>Arresting Agency</b>	<b>OCA</b>		
<b>CHARGE 1 (as shown on fingerprint card)</b>	<b>DATE OF ARREST</b>		
<b>CHARGE 2 (as shown on fingerprint card)</b>	<b>SOCIAL SECURITY NUMBER</b>		
<b>CHARGE 3 (as shown on fingerprint card)</b>			

**Disposition Information**

<b>Final Charge 1</b>
<b>Final Charge 2</b>
<b>Final Charge 3</b>
<b>FINAL DISPOSITON</b>
<b>DIVERSION DATE (if applicable)</b>

The defendant named above is entitled to have all PUBLIC RECORDS relating to the offense listed above expunged according to the Tennessee Code Annotated provision marked below:

<b>Provisions Relating to Adult</b> <input type="checkbox"/> Charge has been dismissed (TCA 40-32-101) <input type="checkbox"/> No true bill returned by Grand Jury (TCA 40-32-101) <input type="checkbox"/> Verdict of not guilty returned by jury (TCA 40-32-101) <input type="checkbox"/> Conviction which has by appeal been reversed (TCA 40-32-101) <input type="checkbox"/> Nolle prosequi entered into case (TCA 40-32-101) <input type="checkbox"/> Successful completion of all probation provisions and proceedings against Defendant have been discharged by the court (TCA 40-35-313) <input type="checkbox"/> Suspension of prosecution pursuant to (TCA 40-15-105)	<b>Provisions Relating to Juveniles:</b> <input type="checkbox"/> Petition alleging delinquency not filed (TCA 37-1-155) <input type="checkbox"/> Proceedings dismissed after petition is filed or the case is transferred to the Juvenile Court as provided in TCA 37-1-109 (TCA 37-1-155) <input type="checkbox"/> Adjudicated not to be a delinquent child (TCA 37-1-155) <input type="checkbox"/> Child has reached eighteen (18) years of age and there is no record that he committed a criminal offense after reaching sixteen (16) years of age, unless such fingerprints were obtained on alleged charge which if committed by an adult would be a felony (TCA 37-1-155) <input type="checkbox"/> Passage of six (6) months from date of liquor law violations defined by TCA 57-3-412(a)(3)(c) or TCA 57-3-301 (e) (3)
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It is ordered that all PUBLIC RECORDS relating to such offense above referenced be expunged and immediately destroyed upon payment of all cost to clerk and that no evidence of such records pertaining to such offense be retained by any municipal, county or state agency, except non-public confidential information retained in accordance with TCA 10-7-504 and TCA 38-6-118.

**APPROVED FOR ENTRY**

_____ Defendant / Attorney for Defendant _____ Bar ID	Entered _____ day of _____ _____ Judge _____ Court of Davidson County Div. _____
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AOC-

RDA Pending

\_\_\_\_\_  
Assistant District Attorney

\_\_\_\_\_  
Date

(FOR TBI USE ONLY) State Identification Number: \_\_\_\_\_

(FOR TBI USE ONLY) FBI Identification Number: \_\_\_\_\_

**ORDER FOR THE EXPUNGEMENT OF CRIMINAL OFFENDER RECORD (PLEASE PRINT OR TYPE)**

State of Tennessee vs \_\_\_\_\_ Circuit Docket Number \_\_\_\_\_

Date Original Case was filed in Clerk's Office \_\_\_\_\_ General Sessions Docket Number \_\_\_\_\_

In the \_\_\_\_\_ Court of \_\_\_\_\_ County, Tennessee at \_\_\_\_\_

On the Motion or Petition of \_\_\_\_\_

**Defendant/Arrest Information:**

Defendant (name used at time of arrest)	Race	Sex	Date of Birth
Arresting Agency	OCA#	Date of Arrest	
Charge 1(As shown on arrest fingerprint card)	SSN#		
Charge 2(As shown on arrest fingerprint card)			
Charge 3(As shown on arrest fingerprint card)			

**Disposition Information:**

Final Charge 1
Final Charge 2
Final Charge 3
Final Disposition
Diversion Date (if applicable)

The defendant named above is entitled to have all PUBLIC RECORDS relating to the offenses listed above expunged according to the Tennessee Code Annotated provision marked below:

Provision relating to Adults: <input type="checkbox"/> Charge has been dismissed (T.C.A. § 40-32-101) <input type="checkbox"/> No true bill returned by Grand Jury (T.C.A. § 40-32-101) <input type="checkbox"/> Verdict of not guilty returned by jury (T.C.A. § 40-32-101) <input type="checkbox"/> Conviction which has by appeal been reversed (T.C.A. § 40-32-101) <input type="checkbox"/> Nolle Prosequi entered in case (T.C.A. § 40-32-101) <input type="checkbox"/> Successful completion of all probation provisions and proceedings against defendant have been discharged by the court (T.C.A. § 40-35-313) <input type="checkbox"/> Suspension of prosecution pursuant to T.C.A. § 40-15-105	Provisions relating to Juveniles: <input type="checkbox"/> Petition alleging delinquency not filed (T.C.A. § 37-1-155) <input type="checkbox"/> Proceedings dismissed after petition is filed or the case transferred to Juvenile Court as provided in T.C.A. § 37-1-109 (T.C.A. § 37-1-155) <input type="checkbox"/> Adjudicated not to be a delinquent child (T.C.A. § 37-1-155) <input type="checkbox"/> Child has reached eighteen (18) years of age and there is no record that he committed a criminal offense after reaching sixteen (16) years of age, unless such fingerprints were obtained on alleged charge which if committed by an adult would be a felony (T.C.A. § 37-1-155) <input type="checkbox"/> Passage of six (6) months from date of liquor law violations defined by T.C.A. § 57-3-412(a)(3)(c) or T.C.A. § 57-5-301(e)(3)
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It is ordered that all PUBLIC RECORDS relating to such offense above referenced be expunged and immediately destroyed upon payment of all costs to clerk and that no evidence of such records pertaining to such offense be retained by any municipal, county, or state agency, except non-public confidential information retained in accordance with T.C.A. § 10-7-504 and T.C.A. § 38-6-118.

**APPROVED FOR ENTRY**

_____	Entered this _____ day of _____, _____
Defendant/Attorney for Defendant	
_____	_____
District Attorney General	Judge

# Tenn. Code Ann. § 40-32-101

## Copy Citation

Current through the 2018 Regular Session.

- [Tennessee Code Annotated](#)
- [Title 40 Criminal Procedure](#)
- [Chapter 32 Destruction of Records Upon Dismissal or Acquittal](#)

### 40-32-101. Destruction or release of records.

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(a) (1) (A) All public records of a person who has been charged with a misdemeanor or a felony shall, upon petition by that person to the court having jurisdiction in the previous action, be removed and destroyed without cost to the person, if:

- (i) The charge has been dismissed;
- (ii) A no true bill was returned by a grand jury; or
- (iii) The person was arrested and released without being charged.

(B) A person applying for the expunction of records because the charge or warrant was dismissed in any court as a result of the successful completion of a pretrial diversion program pursuant to §§ 40-15-102 -- 40-15-107, shall be charged the appropriate court clerk's fee pursuant to § 8-21-401 for destroying such records.

(C)

(i) If a person seeking expunction pursuant to subdivision (a)(1)(A) was arrested or charged due to a case of mistaken identity, the person may provide evidence of the relevant circumstances in the petition and request that the court order the expunction to be expedited. If the court finds that the person was arrested or charged due to mistaken identity, the court shall order the Tennessee bureau of investigation and any other entity that performs expunction to expunge the records of the person in an expedited manner.

(ii) As used in this subdivision (a)(1)(C), "mistaken identity" means during the investigation of a criminal offense, a person has been arrested, charged, or indicted for a criminal act and subsequent investigation has revealed that the person arrested was not the individual the arresting officer believed the person to be.

(D) Notwithstanding subdivision (a)(1)(B) or (a)(6), the records of a person who successfully completes a pretrial diversion program pursuant to §§ 40-15-102 -- 40-15-107, or a judicial diversion program pursuant to § 40-35-313, shall not be expunged pursuant to this section, if the offense for which the person was diverted was a sexual offense as defined by § 40-39-202, or a violent sexual offense as defined by § 40-39-202.

(E) Except as provided in subsection (j), a person is not entitled to the expunction of such person's records if:

(i) The person is charged with an offense, is not convicted of the charged offense, but is convicted of an offense relating to the same criminal conduct or episode as the charged offense, including a lesser included offense; provided, however, any moving or nonmoving traffic offense shall not be considered an offense as used in this subdivision (a)(1)(E); or

(ii) The person is charged with multiple offenses or multiple counts in a single indictment and is convicted of:

(a) One (1) or more of the charged offenses or counts in the indictment; or

(b) An offense relating to the same criminal conduct or episode as one (1) of the offenses charged in the indictment, including a lesser included offense.

(F) Upon a verdict of not guilty being returned, whether by a judge following a bench trial or by a jury, on all charges for which the defendant was accused, the judge shall inquire of the person acquitted whether such person requests that all public records associated with the charges for which such person was acquitted be removed and destroyed without cost to the person and without the requirement that the person petition for destruction of such records. If the person requests that the public records related to such charges be removed and destroyed, the court shall so order. If the person acquitted does not request that such records be destroyed at the time the judge inquires pursuant to this subdivision (a)(1)(F), but subsequently requests that such records be destroyed, the person shall be required to follow the petition procedure set out in this section.

(2) All public records of a person required to post bond under § 38-3-109 or § 38-4-106 [repealed] shall be removed and destroyed as required by this chapter upon the expiration of any bond required, if no surety on the bond is required to fulfill the obligations of the bond.

(3) Upon petition by a defendant in the court that entered a nolle prosequi in the defendant's case, the court shall order all public records expunged.

(4) For purposes of this section, "court" includes any juvenile court exercising juvenile court jurisdiction over an adult who is charged with an offense that was committed when the person was eighteen (18) years of age or older.

(5) All public records concerning an order of protection authorized by title 36, chapter 3, part 6, which was successfully defended and denied by the court shall, upon petition by that person to the court denying the order, be removed and destroyed without cost to the person.

(6) Except as provided in subsection (f), it is the intent of this section that a person is entitled to the expunction of public records in a criminal case only if the person successfully completes a pretrial diversion program pursuant to §§ 40-15-102 -- 40-15-107 or a judicial diversion program pursuant to § 40-35-313, the charges against such person are dismissed, or the person is entitled to have all public records removed and destroyed by reason of one (1) of the results specified in this section.

(b)

(1) "Public records," for the purpose of expunction only, does not include arrest histories, investigative reports, intelligence information of law enforcement agencies, or files of district attorneys general that are maintained as confidential records for law enforcement purposes and are not open for inspection by members of the public and shall also not include records of the department of children's services or department of human services that are confidential under state or federal law and that are required to be maintained by state or federal law for audit or other purposes. Whenever an order of expunction issues under this section directed to the department of children's services or department of human services, the department shall notify the defendant if there are records required to be maintained as directed above and the basis therefor. The department shall delete identifying information in these records whenever permitted by state or federal law. These records are to be expunged whenever their maintenance is no longer required by state or federal law.

(2) "Public records", for the purpose of expunction only, does not include appellate court records or appellate court opinions.

(c)

(1) Release of confidential records or information contained therein other than to law enforcement agencies for law enforcement purposes shall be a Class A misdemeanor.

(2) This section shall not be construed to deny access to any record to the comptroller of the treasury or the comptroller of the treasury's agent for purposes of audit investigation; the comptroller of the treasury or the comptroller of the treasury's agent having this access shall protect the confidential nature of the records that are not otherwise public under other statutes.

(3) Release of arrest histories of a defendant or potential witness in a criminal proceeding to an attorney of record in the proceeding shall be made to the attorney upon request.

(d)

(1) Any court ordering the expunction of a person's public records of a criminal offense, including orders issued as a result of the successful completion of a diversion program pursuant to §§ 40-15-105 and 40-15-106 or judicial diversion program, shall send or cause to be sent a copy of the expunction order to the Tennessee bureau of investigation within thirty (30) days from the date of the expunction order for entry into its expunged offender and pretrial diversion database. The order shall contain the name of the person seeking expunction, the person's date of birth and social security number, the offense that was dismissed, the date and cause of the dismissal and the date the order of expunction is entered.

(2) (A) A defendant petitioning a court for expunction of records because the charge against the person was dismissed as a result of the successful completion of a diversion program pursuant to §§ 40-15-102 -- 40-15-106 shall be assessed a one-hundred-eighty-dollar fee. The fee shall be transmitted by the clerk of the court for deposit in a special fund and shall be used by the bureau for the following purposes:

(i) Employing personnel;

(ii) Purchasing equipment and supplies;

(iii) Funding education, training and development of employees;

(iv) Maintaining the expunged criminal offender and pretrial diversion database;

(v) Computer system support;

(vi) Maintenance expenses; and

(vii) Any other purpose to allow the bureau's business to be done in a more efficient manner.

(B) The moneys received in the fund shall be invested for the benefit of the fund by the state treasurer pursuant to § 9-4-603. Amounts in the fund shall not revert to the general fund of the state, but shall together with interest income credited to the fund remain available for expenditure in subsequent fiscal years.

(C) The three-hundred-fifty-dollar fee under subdivision (d)(2)(A) shall not apply to any case where there has been an acquittal, nolle prosequi, or dismissal for failure to prosecute or where the law does not require a copy of the expunction order be sent to the Tennessee bureau of investigation.

(e) It is the intent of the general assembly that no fee ever be charged a person who is petitioning a court for expunction of records because:

(1) The charge against the person was dismissed for a reason other than the successful completion of a diversion program pursuant to §§ 40-15-102 -- 40-15-106 or § 40-35-313;

(2) A no true bill was returned by a grand jury;

(3) A verdict of not guilty was returned, whether by the judge following a bench trial or by a jury; or

(4) The person was arrested and released without being charged.

(f) (1) All public records of a person who has been charged and convicted with a misdemeanor or felony while protesting or challenging a state law or municipal ordinance whose purpose was to maintain or enforce racial segregation or racial discrimination shall, upon petition by that person to the court having jurisdiction in the previous action, be removed and destroyed without cost to the person, if:

(A) The charge has been dismissed;

(B) A no true bill was returned by a grand jury;

(C) A verdict of not guilty was returned, whether by the judge following a bench trial or by a jury;

(D) The person was arrested and released, without being charged; or

(E)

(i) Thirty-seven (37) years or more have elapsed since the date of conviction for the offense being expunged and the petitioner has not been convicted of any other offense, excluding minor traffic violations, during that period of time;

(ii) Any period of supervision due to conviction has been completed;

(iii) The offense was a misdemeanor, Class C, D or E felony not otherwise excluded pursuant to subdivision

(f)(1)(E)(iv), or, if committed prior to November 1, 1989, would be an included Class C, D, or E felony if committed after November 1, 1989;

(iv) The offense was not a Class A or Class B felony or a Class C felony described in § 40-15-105(a)(1)(B)(iii), a sexual offense described in § 40-15-105(a)(1)(B)(ii), or an offense prohibited by title 55, chapter 10, part 4, vehicular assault as prohibited by § 39-13-106, or if committed prior to November 1, 1989, would not be an excluded offense if committed after November 1, 1989; and

(v) The district attorney general is served a copy of the petition for expunction by certified mail, return receipt requested, and the district attorney general does not file an objection with the court within twenty (20) calendar days of receipt of the petition.

(2) All public records of a person required to post bond under § 38-3-109 shall be removed and destroyed as required by this section upon the expiration of any bond required, if no surety on the bond is required to fulfill the obligations of the bond.

(3) Upon petition by a defendant in the court that entered a nolle prosequi in the defendant's case, the court shall order all public records expunged.

(4) If the person charged or convicted is deceased, the petition may be filed by a person who is able to establish legal authority to act on the behalf of the deceased person.

(5) Notwithstanding any law to the contrary, upon request of the petitioner, records or documents subject to the destruction requirement of this subsection (f) that are utilized exclusively for education purposes and are displayed in public museums, libraries, and buildings are exempt from the destruction requirement.

(g) (1) For purpose of this subsection (g), "eligible petitioner" means:

(A) A person who was convicted of one of the following Class E felonies and sentenced to imprisonment for a term of three (3) years or less for an offense committed on or after November 1, 1989:

- (i) Section 39-11-411 -- Accessory after the fact;
- (ii) Section 39-13-306 -- Custodial interference where person not voluntarily returned by defendant;
- (iii) Section 39-13-604(c)(2) -- Knowing dissemination of illegally recorded cellular communication;
- (iv) Section 39-14-105(a)(2) -- Theft;
- (v) Section 39-14-114(c) -- Forgery;
- (vi) Section 39-14-115 -- Criminal simulation;
- (vii) Section 39-14-116(c) -- Hindering secured creditors;
- (viii) Section 39-14-117(b) -- Fraud in insolvency;
- (ix) Section 39-14-118 -- Fraudulent use of credit card or debit card;
- (x) Section 39-14-121 -- Worthless checks;
- (xi) Section 39-14-130 -- Destruction of valuable papers;
- (xii) Section 39-14-131 -- Destruction or concealment of will;
- (xiii) Section 39-14-133 -- Fraudulent or false insurance claim;
- (xiv) Section 39-14-137(b) -- Fraudulent qualifying for set aside programs;
- (xv) Section 39-14-138 -- Theft of trade secrets;
- (xvi) Section 39-14-139 -- Sale of recorded live performances without consent;
- (xvii) Section 39-14-143 -- Unauthorized solicitation for police, judicial, or safety associations;
- (xviii) Section 39-14-147(f) -- Fraudulent transfer of motor vehicle with value of less than \$20,000;
- (xix) Section 39-14-149 -- Communication theft (fine only);
- (xx) Section 39-14-154 -- Home improvement fraud;
- (xxi) Section 39-14-402 -- Burglary of an auto;
- (xxii) Section 39-14-408 -- Vandalism;
- (xxiii) Section 39-14-411 -- Utility service interruption or property damage;
- (xxiv) Section 39-14-505 -- Aggravated criminal littering (2nd and 3rd offenses involving certain weight or volume);
- (xxv) Section 39-14-602 -- Violation of Tennessee Personal and Commercial Computer Act;
- (xxvi) Section 39-14-603 -- Unsolicited bulk electronic mail;
- (xxvii) Section 39-16-201 -- Taking telecommunication device into penal institution;
- (xxviii) Section 39-16-302 -- Impersonation of licensed professional;
- (xxix) Section 39-16-603 -- Evading arrest in motor vehicle where no risk to bystanders;
- (xxx) Section 39-16-609(e) -- Failure to appear (felony);
- (xxxi) Section 39-17-106 -- Gifts of adulterated candy or food;
- (xxxii) Section 39-17-417(f) -- Manufacture, delivery, sale, or possession of Schedule V drug (fine not greater than \$5,000);
- (xxxiii) Section 39-17-417(g)(1) -- Manufacture, delivery, sale, or possession of not less than one-half ounce (1/2 oz.) and not more than ten pounds (10 lbs.) of Schedule VI drug marijuana (fine not greater than \$2,500);
- (xxxiv) Section 39-17-417(h) -- Manufacture, delivery, sale or possession of Schedule VII drug (fine not greater than \$1,000);
- (xxxv) Section 39-17-418(e) -- Simple possession or casual exchange (3rd offense);

- (xxxvi) Section 39-17-422(c) -- Selling glue for unlawful purpose;
- (xxxvii) Section 39-17-423(c) -- Counterfeit controlled substance;
- (xxxviii) Section 39-17-425(b)(1), (2), (3) -- Unlawful drug paraphernalia uses and activities;
- (B) Except as provided in this subdivision (g)(1)(B), a person who was convicted of a misdemeanor offense committed on or after November 1, 1989. Misdemeanors excluded from consideration are:
  - (i) Section 39-13-101(a)(1) and (2) -- Assault;
  - (ii) Section 39-13-102 -- Aggravated assault of public employee;
  - (iii) Section 39-13-111 -- Domestic assault;
  - (iv) Section 39-13-113(g) -- Violation of protective or restraining order;
  - (v) Section 39-13-113(h) -- Possession of firearm while order of protection in effect;
  - (vi) Section 39-13-511 -- Public indecency 3rd or subsequent offense;
  - (vii) Section 39-13-511 -- Indecent exposure (victim under 13 years of age) or by person in penal institution exposing to a guard;
  - (viii) Section 39-13-526(b)(1) and (2) -- Violation of community supervision by sex offender not constituting offense or constituting misdemeanor;
  - (ix) Section 39-13-528 -- Soliciting minor to engage in Class E sexual offense;
  - (x) Section 39-13-509 -- Unlawful sexual contact by authority figure;
  - (xi) Section 39-14-118 -- Fraudulent use of credit/debit card (up to \$500);
  - (xii) Section 39-14-304 -- Reckless burning;
  - (xiii) Section 39-14-406 -- Aggravated criminal trespass of a habitation, hospital, or on the campus of any public or private school, or on railroad property;
  - (xiv) Section 39-15-201(b)(3) -- Coercion -- abortion;
  - (xv) Section 39-15-210 -- Third or subsequent violation of Child Rape Protection Act of 2006;
  - (xvi) Section 39-15-401(a) -- Child abuse (where child is between ages 7-17);
  - (xvii) Section 39-15-401(b) -- Child neglect and endangerment (where child is between ages 7-13);
  - (xviii) Section 39-15-404 -- Enticing a child to purchase intoxicating liquor -- purchasing alcoholic beverage for child;
  - (xix) Section 39-15-404 -- Allowing person ages 18-21 to consume alcohol on person's premises;
  - (xx) Section 39-15-414 -- Harboring or hiding a runaway child;
  - (xxi) Section 39-17-315 -- Stalking;
  - (xxii) Section 39-17-431 -- Unlawful dispensing of immediate methamphetamine precursor, sale of meth precursor to person on methamphetamine registry or purchase by someone on registry, possess meth precursor with intent to sell to another for unlawful use, purchase meth precursor for another for unlawful use, purchase meth precursor at different times and places to circumvent limits, and use false ID to purchase meth precursor for purpose of circumventing limits;
  - (xxiii) Section 39-17-437 -- Using substance or device to falsify drug test results and selling synthetic urine;
  - (xxiv) Section 39-17-438 -- Possession of the hallucinogenic plant *Salvia Divinorum* or the synthetic cannabinoids;
  - (xxv) Section 39-17-452 -- Sale or possession of synthetic derivatives or analogues of methcathinone;

- (xxvi) Section 39-17-902(a) -- Importing, preparing, distributing, processing, or appearing in obscene material or Class A misdemeanors;
  - (xxvii) Section 39-17-907 -- Unlawful exhibition of obscene material;
  - (xxviii) Section 39-17-911 -- Sale or loan to minors of harmful materials;
  - (xxix) Section 39-17-918 -- Unlawful massage or exposure of erogenous areas;
  - (xxx) Section 39-17-1307(f)(1)(A) -- Possession of firearm after being convicted of misdemeanor crime of domestic violence;
  - (xxxi) Section 39-17-1307(f)(1)(B) -- Possession of firearm while order of protection is in effect;
  - (xxxii) Section 39-17-1307(f)(1)(C) -- Possession of firearm while prohibited by state or federal law;
  - (xxxiii) Section 39-17-1312 -- Failure of adult to report juvenile carrying gun in school;
  - (xxxiv) Section 39-17-1320(a) -- Nonparent providing handgun to a juvenile;
  - (xxxv) Section 39-17-1352 -- Failure to surrender handgun carry permit upon suspension;
  - (xxxvi) Section 39-17-1363 -- Violent felon owning or possessing vicious dog;
  - (xxxvii) Section 39-13-101(a)(3) -- Assault (offensive or provocative physical contact);
  - (xxxviii) Section 39-13-511(a) -- Public indecency -- first or second offense (punishable by \$500 fine only);
  - (xxxix) Section 39-13-511(b)(2) -- Indecent exposure (victim 13 years old or older);
  - (xl) Section 39-15-412(b) -- Disseminating smoking paraphernalia to minor after 3 prior violations;
  - (xli) Section 39-16-404 -- Misuse of official information by public servant;
  - (xlii) Section 39-17-317 -- Disorderly conduct at funerals;
  - (xliii) Section 39-17-715 -- Possession of or consuming alcoholic beverages on K-12 school premises;
  - (xliv) Section 39-17-914 -- Display for sale or rental of material harmful to minors; and
  - (xlv) Section 55-10-401 -- Driving under the influence of an intoxicant;
- (C) A person who was convicted of a felony or misdemeanor committed prior to November 1, 1989, if:
- (i) The person was sentenced to a determinate sentence of three (3) years or less;
  - (ii) The person was sentenced to an indeterminate sentence for which the person served three (3) years or less;
  - (iii) The person has never had a previous conviction expunged as the result of the successful completion of a diversion program pursuant to §§ 40-15-102 -- 40-15-106 or § 40-35-313; and
  - (iv) The offense for which the person was convicted:
    - (a) Did not have as an element the use, attempted use, or threatened use of physical force against the person of another;
    - (b) Did not involve, by its nature, a substantial risk that physical force against the person of another would be used in the course of committing the offense;
    - (c) Did not involve the use or possession of a deadly weapon;
    - (d) Was not a sex offense for which the offender is required to register as a sexual offender or violent sexual offender under chapter 39, part 2 of this title; or any sex offense involving a minor;
    - (e) Did not result in the death, serious bodily injury or bodily injury to a person;
    - (f) Did not involve the use of alcohol or drugs and a motor vehicle;
    - (g) Did not involve the sale or distribution of a Schedule I, II, III, or IV controlled substance;

- (h) Did not involve a minor as the victim of the offense; or
  - (i) Did not result in causing the victim or victims to sustain a loss of fifty thousand dollars (\$50,000) or more;
  - (D) A person who was convicted of drug fraud pursuant to § 53-11-402(a)(3) and sentenced to imprisonment for a term of four (4) years or less for an offense committed on or after November 1, 1989; provided, however, that at least ten (10) years have elapsed since completion of the sentence imposed for the offense; or
  - (E) A person who was convicted of more than one (1) of the offenses listed in this subdivision (g)(1), if the conduct upon which each conviction is based occurred contemporaneously, occurred at the same location, represented a single continuous criminal episode with a single criminal intent, and all such convictions are eligible for expunction under this part. The offenses of a person who is an eligible petitioner under this subdivision (g)(1)(E) shall be considered a single offense for the purposes of this section so that the person is eligible for expunction consideration if all other requirements are met.
- (2) Notwithstanding the provisions of this section, effective July 1, 2012, an eligible petitioner may file a petition for expunction of that person's public records involving a criminal offense if:
- (A) Except as provided in subdivision (g)(1)(E), at the time of filing, the person has never been convicted of any criminal offense, including federal offenses and offenses in other states, other than the offense committed for which the petition for expunction is filed; provided, however, that any moving or non-moving traffic offense shall not be considered a criminal offense as used in this subdivision (g)(2)(A);
  - (B) At the time of the filing of the petition for expunction at least five (5) years have elapsed since the completion of the sentence imposed for the offense;
  - (C) The person has fulfilled all the requirements of the sentence imposed by the court in which the individual was convicted of the offense, including:
    - (i) Payment of all fines, restitution, court costs and other assessments;
    - (ii) Completion of any term of imprisonment or probation;
    - (iii) Meeting all conditions of supervised or unsupervised release; and
    - (iv) If so required by the conditions of the sentence imposed, remaining free from dependency on or abuse of alcohol or a controlled substance or other prohibited substance for a period of not less than one (1) year.
- (3) A person seeking expunction shall petition the court in which the petitioner was convicted of the offense sought to be expunged is filed. Upon filing of the petition, the clerk shall serve the petition on the district attorney general for that judicial district. Not later than sixty (60) days after service of the petition, the district attorney may submit recommendations to the court and provide a copy of such recommendations to the petitioner.
- (4) Both the petitioner and the district attorney general may file evidence with the court relating to the petition.
- (5) In making a decision on the petition, the court shall consider all evidence and weigh the interests of the petitioner against the best interests of justice and public safety.
- (6) If the court denies the petition, the petitioner may not file another such petition until at least two (2) years from the date of the denial.
- (7) The district attorneys general conference shall, by September 1, 2012, create a simple form to enable a lay person to petition the court for expunction under this subsection (g).

(8) The petition and proposed order shall be prepared by the office of the district attorney general and given to the petitioner to be filed with the clerk of the court. A petitioner shall be entitled to a copy of the order of expunction and such copy shall be sufficient proof that the person named in the order is no longer under any disability, disqualification or other adverse consequence resulting from the expunged conviction.

(9) Except as provided in subdivision (g)(14), the petitioner shall pay to the clerk of the court a fee of one hundred eighty dollars (\$180) upon the filing of the petition. The fee shall be distributed as follows:

(A) Fifty dollars (\$50.00) to the Tennessee bureau of investigation for the purpose of defraying the costs incurred from the additional expunction petitions filed and granted as the result of this subsection (g) or subsection (h); and

(B) One hundred thirty dollars (\$130) to the district attorneys expunction fund.

(10) There is created within the district attorneys general conference a district attorneys expunction fund. Moneys in the district attorneys expunction fund shall be used to defray the expense incurred for the required record search and preparation of the petition and the proposed order of expunction under this subsection (g) or subsection (h). Any remaining moneys in the district attorneys expunction fund may be used by the district attorneys generals for law enforcement purposes, including, but not limited to, the hiring of expert witnesses, training, matching federal grants directly related to prosecutorial duties, the purchase of equipment and supplies necessary to carry out prosecutorial functions, the expenses of travel in the performance of official duties of the office, provided all reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter, salaries and salary supplements, which may only be paid through the district attorneys general conference for support staff. Such payments shall be subject to the limitation of § 40-3-209(b) on the use of any funds to supplement the salary of any assistant district attorney. Moneys in the district attorneys expunction fund shall not revert to the general fund but shall be carried forward into the subsequent fiscal year. All funds in the district attorneys expunction fund shall be subject to annual audit by the comptroller of the treasury.

(11) There is created within the state treasury a public defenders expunction fund. Moneys in the public defenders expunction fund shall be used to defray the expense incurred by conducting the educational activities required pursuant to this subsection (g). Subject to annual appropriation, any remaining moneys in the public defenders expunction fund may be used in furtherance of the services and programs provided by public defenders for each judicial district. Moneys in the public defenders expunction fund shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

(12)

(A) Notwithstanding any other law to the contrary, an order of expunction granted pursuant to this subsection (g) or subsection (h) entitles the petitioner to have all public records of the expunged conviction destroyed in the manner set forth in this section.

(B) Additionally, such an expunction has the legal effect of restoring the petitioner, in the contemplation of the law, to the same status occupied before the arrest, indictment, information, trial and conviction. Once the expunction order is granted and the petitioner pays the fee required by this subsection (g) or subsection (h), no direct or indirect collateral consequences that are generally or specifically attendant to the petitioner's conviction by any law shall be imposed or continued.

(C) A petitioner with respect to whom an order has been granted under this subsection (g) or subsection (h) shall not be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge the arrest, indictment, information, trial or conviction in response to any inquiry made of the petitioner for any purpose.

(D) Expunction under this subsection (g) or subsection (h) means, in contemplation of law, the conviction for the expunged offense never occurred and the person shall not suffer any adverse effects or direct disabilities by virtue of the criminal offense that was expunged.

(E) Notwithstanding § 39-17-1307(b)(1)(B) and (c), a petitioner whose petition is granted pursuant to this subsection (g) or subsection (h), and who is otherwise eligible under state or federal law to possess a firearm, shall be eligible to purchase a firearm pursuant to § 39-16-1316 and apply for and be granted a handgun carry permit pursuant to § 39-17-1351.

(13) The clerk of the court maintaining records expunged pursuant to this subsection (g) or subsection (h) shall keep such records confidential. These records shall not be public and can only be used to enhance a sentence if the petitioner is subsequently charged and convicted of another crime. This confidential record is only accessible to the district attorney general, the defendant, the defendant's attorney and the circuit or criminal court judge.

(14) If the petitioner is unable to pay the fee required by subdivision (g)(9), the petitioner may enter into a payment plan with the clerk in order to pay the fee in installment payments; provided, however, that no order of expunction shall be granted pursuant to this subdivision (g)(14) until the total amount of the fee is paid. Once the petitioner has paid to the clerk of the court a total of one hundred eighty dollars (\$180), the fee shall be allocated by the clerk in the same manner set forth for the disposition of the one-hundred-eighty-dollar fee under subdivision (g)(9).

(h) (1) For purposes of this subsection (h), "eligible petitioner" means a person who was convicted of a nonviolent crime after January 1, 1980, if the person:

(A) Petitioned the court in which the petitioner was convicted of the offense and the judge finds that the offense was a nonviolent crime;

(B) Petitioned for and received a positive vote from the board of parole to receive a pardon; and

(C) Received a pardon by the governor.

(2) Notwithstanding the provisions of this section, effective July 1, 2013, an eligible petitioner under subdivision (h)(1) may file a petition for expunction of that person's public records involving the crime. The procedures in subdivisions (g)(3)-(6), (8), (9), (12) and (13) will apply to a petitioner under this subsection (h).

(i) A person applying for expunction of records pursuant to this section or § 40-35-313 shall be charged the appropriate court clerk's fee pursuant to § 8-21-401, in addition to any other fees required by this section or § 40-35-313, unless the person is entitled to have such records removed and destroyed without cost to the person.

(j) A person who is ineligible for expunction of the person's records pursuant to subdivision (a)(1)(E) shall, upon petition by that person to the court having jurisdiction in the previous action, be entitled to removal of public records from electronic databases, as provided in this subsection (j), relating to the person's arrest, indictment, charging instrument, or disposition for any charges other than the offense for which the person was convicted. The public records shall be removed from the relevant electronic databases of the national crime information center system and similar state databases, and the person shall be entered into the Tennessee bureau of investigation's expunged

criminal offender and pretrial diversion database with regard to the offenses removed pursuant to this subsection (j). The public records shall also be removed from any public electronic database maintained by a court clerk. Nothing in this subsection (j) shall require court clerks to expunge records relating to an offense for which the person was convicted. Court clerks shall not be liable for any errors or omissions relating to the removal and destruction of records under this section.

**(k) (1)** Notwithstanding subsection (g), effective July 1, 2017, for purposes of this subsection (k), an "eligible petitioner" means a person who was convicted of no more than two (2) offenses and:

**(A)** Each of the offenses for which the petitioner seeks expunction are offenses that are eligible for expunction under subsection (g);

**(B)** The offenses were:

**(i)** Two (2) misdemeanors; or

**(ii)** One (1) felony and one (1) misdemeanor;

**(C)**

**(i)** At the time of the filing of the petition for expunction at least five (5) years have elapsed since the completion of the sentence imposed for the most recent offense; and

**(ii)** If one (1) of the offenses was drug fraud pursuant to § 53-11-402(a)(3), at the time of the filing of the petition for expunction at least ten (10) years have elapsed since the completion of the sentence imposed for that offense; and

**(D)** The person has fulfilled all the requirements of the sentences imposed by the court for each offense the petitioner is seeking to expunge, including:

**(i)** Payment of all fines, restitution, court costs, and other assessments for each offense;

**(ii)** Completion of any term of imprisonment or probation for each offense;

**(iii)** Meeting all conditions of supervised or unsupervised release for each offense; and

**(iv)** Remaining free from dependency on or abuse of alcohol or a controlled substance or other prohibited substance for a period of not less than one (1) year, if so required by the conditions of any of the sentences imposed.

**(2)** A person may petition for expunction of two (2) offenses under this subsection (k) only one (1) time.

**(3)** The expunction fee under this subsection (k) shall be the same amount as a single expunction under subsection (g).

**(4)** Subdivisions (g)(3)-(6), (8), (9), (12), and (13) shall apply to a petition filed under this subsection (k).

#### History

Acts 1973, ch. 318, § 1; 1975, ch. 193, § 1; 1976, ch. 790, § 1; 1977, ch. 161, § 1; 1978, ch. 736, § 1; 1980, ch. 892, § 1, 2; 1982, ch. 756, § 1; T.C.A., §§ 40-2109, 40-4001; Acts 1987, ch. 335, §§ 1-4; T.C.A., § 40-15-106; Acts 1996, ch. 1079, § 127; 1997, ch. 455, § 1; 1998, ch. 1036, § 1; 1998, ch. 1099, § 7; 1999, ch. 496, § 1; 2000, ch. 645, §§ 3, 5; 2000, ch. 664, §§ 1-3; 2002, ch. 495, §§ 1-4; 2003, ch. 50, § 1; 2003, ch. 175, § 1; 2005, ch. 429, § 12; 2006, ch. 650, §§ 1, 3; 2007, ch. 363, § 2; 2010, ch. 951, §§ 1, 2; 2012, ch. 951, §§ 1-3; 2012, ch. 1041, § 3; 2012, ch. 1103, §§ 1, 2; 2013, ch. 384, §§ 1, 2; 2013, ch. 443, §§ 1-3; 2014, ch. 671, §§ 1-4; 2014, ch. 1008, § 1; 2015, ch. 89, §§ 1, 2; 2015, ch. 278, §§ 1, 2; 2015, ch. 295, § 2; 2016, ch. 893, § 1; 2016, ch. 960, § 1; 2017, ch. 199, §§ 7, 8; 2017, ch. 298, § 1; 2017, ch. 358, § 1; 2017, ch. 456, §§ 1-4; 2017, ch. 487, § 1; 2018, ch. 586, § 3; 2018, ch. 876, § 1.