

## **YOUR RIGHT TO EXPUNGE OR SEAL CRIMINAL RECORDS**

Your criminal record can cause many problems in obtaining employment, professional licensing or funding for college. Effective January 1, 2004, people with qualifying arrests, misdemeanor supervisions and misdemeanor convictions may petition the court of their sentencing county for expungement or sealing of their records. Only criminal records prosecuted and maintained by the State of Illinois are affected. Federal and out-of-state convictions do not fall under the law.

What is the difference between getting a record “**expunged**” and “**sealed**”?

**Expungement:** When a record is “expunged”, it is as if the crime never occurred. Most agencies expunge, or destroy, their records.

**Sealed:** When a record is “sealed”, the file remains intact. It is labeled as “sealed” and can only be released to other law enforcement agencies. Employers will not have access to the records.

You may be eligible to have your case expunged or sealed after a period of time (two to five years, depending on each case) if you are placed on supervision, probation or convicted of a misdemeanor. The Clerk of the court in the county in which the offense occurred and the Office of the State Appellate Defender have information which you can request that more fully explains your right to expunge or seal records, together with the proper forms; however, multiple convictions, supervisions or arrests may affect your eligibility to have these records expunged or sealed.

This information is current as of January 1, 2004, but the law may change without notice. Check the web site of the Office of the State Appellate Defender at <http://state.il.us/defender/exp.html> for updates, or contact:

Office of the State Appellate Defender  
PO Box 5780  
Springfield, IL 62705-5780  
Toll free: 1-866-431-4907  
E-mail: [Expungement.Springfield@osad.state.il.us](mailto:Expungement.Springfield@osad.state.il.us)

The state’s guide to expungement can be accessed here:  
<http://state.il.us/defender/expforms/06instguide.pdf>

Expungement/Seal Petitions, Order, etc. are located here (NOTE: If you are connected to internet, the following links should take you to the proper sites; they will open in new windows.)

Packet A Forms and Instructions	
Petition to Expunge and Seal	<a href="http://state.il.us/defender/packeta.html">http://state.il.us/defender/packeta.html</a>
Packet B Forms and Instructions	
Petition to Seal Arrest Record	<a href="http://state.il.us/defender/packetb.html">http://state.il.us/defender/packetb.html</a>
Packet C Forms and Instructions	
Petition to Seal Conviction	<a href="http://state.il.us/defender/packetc.html">http://state.il.us/defender/packetc.html</a>
Packet D Forms and Instructions	
Petition to Seal Felony Drug Conviction	<a href="http://state.il.us/defender/packetd.html">http://state.il.us/defender/packetd.html</a>
Packet E Forms and Instructions	
Petition to Seal Felony Drug Arrest	<a href="http://state.il.us/defender/packete.html">http://state.il.us/defender/packete.html</a>
Indigency Application and Forms	<a href="http://state.il.us/defender/indapp.html">http://state.il.us/defender/indapp.html</a>

<b>YOUR CASE:</b>	<b>CAN YOU EXPUNGE?</b>	<b>CAN YOU SEAL?</b>
<b>Arrests for Misdemeanors</b> Acquitted or dismissed	Yes, immediately upon acquittal or dismissal	Yes. 3 years if no intervening conviction or supervision.
<b>Arrests for Felonies</b> Acquitted or dismissed.	Yes, immediately upon acquittal or dismissal	The law is silent on the matter.
<b>Supervision for Offenses Not otherwise listed below, and where Supervision is authorized by law.</b>	Yes, 2 years after termination of supervision if no other conviction.	Yes, 3 years after termination of supervision if no intervening conviction.
<b>Supervision for the following Misdemeanors:</b>		
Article 11 of the Criminal Code of 1961 (Pimping, Patronizing a Prostitute, Keeping Place of Prostitution, Adultery, Fornication, Public Indecency, Sexual Exploitation of a Child, Marrying a Bigamist, Prostitution, Solicitation of Sexual Act), 710 ILCS 5/11	Yes, 2 years after termination of supervision, if no other conviction.	No.
Violation of an Order of Protection, 720 ILCS 5/12-30	Yes, 2 years after termination of supervision, if no other conviction.	No.
Humane Care for Animals Act, 510 ILCS 70/1	Yes, 2 years after termination of supervision, if no other conviction.	No.
Crimes that would require an individual to register under Sec. 2 of the Sex Offender Registration Act, 730 ILCS 150/2	Yes, 2 years after termination of supervision, if no other conviction.	No.
<b>Supervision for the following Misdemeanors:</b>		
Dog Fighting, 720 ILCS 5/26-5	No.	No.
Driving Under Influence of Alcohol/ Drugs, 625 ILCS 5/11-501, et seq.	No.	No.
Operating an uninsured motor vehicle, 625 ILCS 5/3-707	Yes, 5 years after termination of supervision.	Yes, 3 years after termination of supervision, if no intervening conviction or Supervision.
Suspended registration for non-insurance, 625 ILCS 5/3-708	Yes, 5 years after termination of supervision.	Yes, 3 years after termination of supervision, if no intervening conviction or Supervision.
Display of False Insurance, 625 ILCS 5/3-710	Yes, 5 years after termination of supervision.	Yes, 3 years after termination of supervision, if no intervening conviction or Supervision.
Failure of Scrap Dealer to Keep Records, 625 ILCS 5/5-401.3	Yes, 5 years after termination of supervision.	Yes, 3 years after termination of supervision, if no intervening conviction or Supervision.
Reckless Driving, 625, ILCS 5/11-503	Yes, 5 years after termination of supervision.	Yes, 3 years after termination of supervision, if no intervening conviction or Supervision.

Retail Theft, 720, ILCS 5/16A-3	Yes, 5 years after termination of supervision.	Yes, 3 years after termination of supervision, if no intervening conviction or Supervision.
<b>Supervision for the following Misdemeanors (see indication below for cases where a disposition of supervision is not authorized):</b>		
Domestic Battery, 720 ILCS 5/12-3.2	Yes, 5 years after termination of supervision if charged prior to August 6, 1993; No if charged after August 6, 1993 [730 ILCS 5-6-1(c)]	No.
Criminal Sexual Abuse (if victim was 18 years of age or older), 720 ILCS 5/12-15	Yes, 5 years after termination of supervision if charged prior to August 6, 1993; No if charged after August 6, 1993 [730 ILCS 5-6-1(c)]	No.
<b>Probation for the Following:</b>		
Violation of the Cannabis Control Act (1 <sup>st</sup> violation only), 720 ILCS 550/10	Yes, 5 years after successful completion and termination of probation if no other conviction.	The law is silent on the matter.
Violation of the Illinois Controlled Substance Act (1 <sup>st</sup> Violation only), 720 ILCS 570/410	Yes, 5 years after successful completion and termination of probation if no other conviction.	The law is silent on the matter.
Illinois Alcoholism and Other Drug Dependence Act (Treatment condition of probation), when the judgment of conviction has been vacated, 20 ILCS 301/40-10	Yes, 5 years after successful completion and termination of probation if no other conviction.	The law is silent on the matter.
Par. 10, Steroid Control Act, Charged prior to September 28, 1991, under Ch. 56-1/2, Par. 2606(c)(1)(2)(3) IRS	Yes, 5 years after successful completion and termination of probation if no other conviction.	The law is silent on the matter.
Aggravated Battery of a child, charged prior to January 1, 1996, 720 ILCS 5/12-4.3	Yes, 5 years after successful completion and termination of probation if no other conviction.	The law is silent on the matter.
<b>Conviction for the following Misdemeanors:</b>		
Driving under the Influence, 625 ILCS 11-501, et seq.	No.	No.
Article 11 of the Criminal Code of 1961 (Pimping, Patronizing a Prostitute, Keeping Place of Prostitution, Soliciting a Prostitute, Adultery, Fornication, Public Indecency, Sexual Exploitation of a Child, Marrying a Bigamist, Prostitution, Solicitation of Sexual Act), 720 ILCS 5/12-30	No.	No.
Dog Fighting, 720 ILCS 5/26-5	No.	No.
Assault, 720 ILCS 5/12-1	No.	No.
Aggravated Assault, 720 ILCS 5/12-2	No.	No.

Battery, 720 ILCS 5/12-3	No.	No.
Reckless Conduct, 720 ILCS 5/12-5	No.	No.
Violation of Order of Protection, 720 ILCS 5/12-30	No.	No.
Violation of Humane Care for Animals Act, 510 ILCS 70/1	No.	No.
Any offense or attempted offense where offender is required to register under Sex Offender Registration Act, 730 ILCS 150/1	No.	No.
<b>Felony or Misdemeanor Conviction Set Aside on Appeal or Collateral Attack</b>	Yes, if factual innocence proved by a preponderance of the evidence.	The law is silent on this matter.
<b>Conviction for Misdemeanor Offense not otherwise listed.</b>	No.	4 years after completion of sentence, if no intervening supervision or conviction.
<b>Executive Pardon</b> 20 ILCS 2630/5 (a-5)(c)	Yes,	Yes.
<b>Victim of Identify Theft:</b> Aggrieved person whose name is used by another arrested of a crime. 20 ILCS 2630/5(a-5)	No.	Yes. May petition court to have records of Clerk sealed.
<b>Victim of:</b> Criminal sexual assault, aggravated Criminal sexual assault, predatory Criminal Sexual assault of a child Criminal sexual abuse, aggravated Criminal sexual abuse. 20 ILCS 2630/5(c-5)	No.	Yes. May request State's Attorney in County of offense to file petition to seal records of Circuit Clerk.

**OFFENSES FOR WHICH A DISPOSITION OF SUPERVISION IS NOT AUTHORIZED UNDER THE CRIMINAL CODE OF 1961 (720 ILCS 5/\_\_\_\_)**

Domestic Battery, §12-3.2  
Criminal Sexual Assault, §12-15  
Resisting/Obstructing a Peace Officer in Correctional Institution, §31-1  
Escape, §31-6  
Aiding an escape, §31-7  
Criminal Damage of Property by Fire/Explosives, §21-1(b)  
Fire on Land of Another, §21-1(c)  
Unlawful Use of a Weapon, §24-1(a), Par. (1) through (5), (8), (10), and (11)  
Boarding or attempting to Board an Aircraft with Weapon/Explosives, §545/1  
Retail Theft, §16A-3 if convicted or granted disposition of supervision within the last 5 years. [730 ILCS 5/5-6-1(c)]

**OFFENSES FOR WHICH A DISPOSITION OF SUPERVISION IS NOT AUTHORIZED UNDER THE VEHICLE CODE (624 ILCS 5/\_\_\_\_)**

Driving Under Influence of Alcohol/Drugs, §11-501, if convicted previously of this offense under similar law or local ordinance of this or another State, or previously given supervision of this offense, or pleaded guilty offense of Reckless Driving/Aggravated Reckless Driving;

Overweight, §15-111;

Refusing to Stop to be Weighed, §15-301;

Violation of Classification (driver under 21/or less than 1 year experience driving bus transporting children), §6-104(b);

Violation of Speed Limit through School Zone/Construction Zone, §11-605;

Overtaking/Passing School Bus Stopped to Receive/Discharge Children, §11-1414;

Second violation for Operating Uninsured Motor Vehicle, §3-707;

Operating Motor Vehicle when Registration Suspended for Non-insurance, §3-708 ;

Displaying False Insurance card, §3-710;

Failure of Scrap Dealers to Keep Records, §4-1.3 if offender has been convicted or granted supervision for these offenses with in the last 5 years (with the exception that supervision is not authorized for a second violation of §3-707 or similar ordinance).

Violation of a Serious Traffic Offense as defined by section 1-187.001 by a person under 21 years of age unless a traffic safety program successfully completed or if such person has previously been convicted of a serious traffic offense on or after January 1, 1998.

A second or subsequent violation of Driving When License Revoked/Suspended, §6-303, when the suspension was due to Driving While Under the Influence of Alcohol/Drugs, §11-501;

Suspension due to Other Drugs/Intoxicating Compounds, §11-501.1;

Causing Accident resulting in Injury/Death, §11-401; or

Involuntary Manslaughter/Reckless Homicide (720 ILCS 5/9-3 if, within the last 10 years, the offender has been convicted or given supervision for a violation of Section 6-303 of the Vehicle Code [730 ILCS 5/5-6-1(c)].