

Expungement Under T.C.A. 40-32-101(g)

Pursuant to T. C. A. 40-32-101(g), certain convictions are now eligible for expungement. You must contact the District Attorney General for the judicial district where the conviction occurred. If your conviction occurred within the 9th Judicial District (Loudon, Meigs, Morgan or Roane County), follow the directions carefully. Please note that there is a non-refundable \$450 fee to process the expungement application.

Directions

*The expungement process has many variables and requires detailed documentation on various elements relating to your conviction. It is **imperative** that the directions are followed and that all paperwork is thoroughly and accurately completed to process your petition.*

1. Carefully read each page of this packet before calling our office.
2. Complete the check list (pages 1 and 2) and obtain all of the required documentation before calling our office.

*Note – The most important aspect of this process is that you have only ONE criminal conviction and that conviction must be one that is eligible for expungement under this statute. If you cannot complete the checklist, **then you are probably not eligible for expungement.***

If you may have criminal charges that were dismissed and you have paid in full all court costs and any court ordered restitution you may be able to have that charge expunged without going through this process and without paying the \$450 filing fee associated with T.C.A. 40-32-101(g). If you have a criminal charge for which you received pre-trial or judicial diversion and you have completed the diversion requirements, you may be eligible to have the charge expunged without going through this process BUT you WILL have to pay the \$450 fee.

If you need legal advice you may contact an attorney or even the Public Defender's Office at (865) 882-5555 as they provide educational seminars on this subject.

3. Once you have successfully answered the questions and obtained all supporting documentation on the checklist then call (865) 376-2145 ext 152 to schedule an appointment to meet with an assistant district attorney. *Note – Appointments must be scheduled in advance and will be held on Friday's between 10 am and noon. **You MUST bring your checklist and ALL supporting documentation to this meeting.***
4. If your paperwork is complete and the requirements are met, you will be given a Petition that you will then need to file at the clerk's office (where your conviction occurred).
5. You will file the petition and pay a **NON-REFUNDABLE** application fee of **\$450** to the clerk.
6. The clerk's office will then forward the petition to our office and we have sixty (60) days from the filing of the Petition to review you criminal history and approve or deny the Petition.
7. Once the Petition has been approved the Court will enter an Order of Expungement which will then be forwarded to the TBI for final approval and expungement of your record. Due to the high volume of these orders, expect for it to take TBI several months to clear your criminal history.

Please Note – The District Attorney General's Office does not give legal advice. Consult the attorney who represented you when you received the conviction or consult another attorney or the Public Defender's Office at 865 882-5555 for legal advice.

**PETITION FOR EXPUNCTION OF RECORD OF CONVICTION PURSUANT TO T.C.A.
§40-32-101(g)**

**IF YOU WERE CONVICTED OF OR PLED GUILTY TO TWO (2) OR MORE CRIMES
ARISING FROM SEPARATE CRIMINAL EVENTS YOU CANNOT HAVE THE CHARGES
EXPUNGED**

Before any petition to expunge a record pursuant to T.C.A. §40-32-101(g) can be filed the following steps must be successfully completed and the required documents attached.

- You must have no other convictions in this or any other jurisdiction other than the one to be expunged.
- You must have completed all terms of imprisonment, probation, or parole. At least five (5) years must have elapsed since the completion of the sentence imposed for the offense. If the sentence included probation or parole, the sentence was completed at the end of the probationary period.
- You must have met all conditions of supervised or unsupervised release, such as parole, probation, or community service, as evidenced by an official statement from the agency responsible for supervising your release, such as the State parole office, the State or County probation or community service agency.
- You must have a copy of the record of the conviction to be expunged. *(This may be obtained from either the Criminal Court Clerk or the General Sessions Court Clerk, depending on which Court entered the conviction.)*
- You must have paid all fines, restitution, court costs and other assessments as evidenced by a statement from the appropriate Court Clerk, *(This may be obtained from either the Criminal Court Clerk or the General Sessions Court Clerk, depending on which Court entered the conviction.)* or other documentary evidence showing that the obligation has been satisfied.
- The conviction must be for either a Class E felony included in the inclusion list attached or a Misdemeanor that is NOT included on the exclusion list attached.
- If so required by the conditions of the sentence imposed, you must have remained 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.
- You must have photo identification or government issued ID.
- You must pay a fee of \$350 to the Clerk of the Court where the conviction was entered at the time of filing the Petition.
- List the cities and states where you have lived since your conviction

- Petitioner understands that the District Attorney is not giving legal advice, but is performing an administrative function pursuant to TCA 40-32-101(g) by assisting in the completion of the petition to expunge and the order of expungement.
- Petitioner further understands that the order granting expungement does not reinstate his/her voting rights or other citizenship rights, and that further action may be required to have any of those rights restored.
- Petitioner understands that the filing of the petition for expungement does not guarantee that the petition will be granted by the Court.
- Petitioner further understands that statements made in the petition for expungement are made under penalty of perjury in connection with an official proceeding.

Petitioner

INCLUSION LIST

A Class E felony committed after November 1, 1989, may be expunged if the sentence was for three (3) years or less and appears in the below list. (If the conviction is for a class E felony committed after November 1, 1989, and is not on this list, it cannot be expunged. If the sentence was for more than three (3) years it cannot be expunged.)

39-11-411 Accessory after the fact;
39-13-306 Custodial interference where person not voluntarily returned by defendant;
39-13-604(c)(2) Knowing dissemination of illegally recorded cellular communication;
39-14-105(2) Theft (\$501-\$999)
39-14-114(c) Forgery (up to \$1,000);
39-14-115 Criminal simulation (up to \$1,000);
39-14-116(c) Hindering secured creditors;
39-14-117(b) Fraud in insolvency;
39-14-118 Fraudulent use of credit card or debit card (\$501-\$999);
39-14-121 Worthless checks (\$501-\$999);
39-14-130 Destruction of valuable papers (\$501-\$999);
39-14-131 Destruction or concealment of will;
39-14-133 Fraudulent or false insurance claim (\$501-\$999);
39-14-137(b) Fraudulent qualifying for set aside programs (\$501-\$999);
39-14-138 Theft of trade secrets (\$501-\$999);
39-14-139 Sale of recorded live performances without consent (\$501-\$999);
39-14-143 Unauthorized solicitation for police, judicial or safety associations;
39-14-147(f) Fraudulent transfer of motor vehicle with value of less than \$20,000;
39-14-149 Communication theft (\$501-\$999 (fine only);
39-14-153 False information in applying for housing project accommodations
39-14-402 Burglary of an auto;
39-14-408 Vandalism (\$501-\$999);
39-14-411 Utility service interruption or property damage;
39-14-505 Aggravated criminal littering (2nd and 3rd offenses involving certain weight or volume);
39-14-602 Violation of Tennessee Personal and Commercial Computer Act (\$501-\$999);
39-14-603 Unsolicited bulk electronic mail (\$500- \$999);
39-16-201 Taking telecommunication device into penal institution;
39-16-302 Impersonation of licensed professional;
39-16-603 Evading arrest in motor vehicle where no risk to bystanders;
39-16-609(e) Failure to appear (felony);
39-17-106 Gifts of adulterated candy or food;
39-17-417(f) Manufacture, delivery, sale or possession of Schedule V drug (fine not greater than \$5,000);
39-17-417(g)(1) Manufacture, delivery, sale or possession of not less than ½ ounce and not more than 10 pounds of Schedule VI; drug marijuana (fine not greater than \$1,000);
39-17-417(h) Manufacture, delivery, sale or possession of Schedule VII drug (fine not greater than \$1,000);
39-17-418(e) Simple possession or casual exchange (3rd offense);
39-17-422(c) Selling glue for unlawful purpose;
39-17-423(c) Counterfeit controlled substance;
39-17-425(b)(1), (2), (3) Unlawful drug paraphernalia uses and activities;

EXCLUSION LIST

If the conviction is for a misdemeanor committed after November 1, 1989, and is on this list, then that conviction cannot be expunged.

- 39-13-101(a)(1) and (2) Assault;
- 39-13-102 Aggravated assault of public employee;
- 39-13-111 Domestic assault;
- 39-13-113(g) Violation of protective or restraining order;
- 39-13-113(h) Possession of firearm while order of protection in effect;
- 39-13-511 Public indecency 3rd or subsequent offense;
- 39-13-511 Indecent exposure (victim under 13 years of age) or by person in penal institution exposing to a guard;
- 39-13-526(b)(1)(2) Violation of community supervision by sex offender not constituting offense or constituting misdemeanor;
- 39-13-528 Soliciting minor to engage in Class E sexual offense;
- 39-13-533 Unlawful sexual contact by authority figure;
- 39-14-118 Fraudulent use of credit/debit card (up to \$500);
- 39-14-304 Reckless burning;
- 39-14-406 Aggravated criminal trespass of a habitation, hospital, or on the campus of any public or private school, or on railroad property;
- 39-15-201(b)(3) Coercion — abortion;
- 39-15-210 third or subsequent violation of “Child Rape Protection Act of 2006”;
- 39-15-401(a) Child abuse (where child is between ages 7- 17);
- 39-15-401(b) Child neglect and endangerment (where child is between ages 7-13);
- 39-15-404 Enticing a child to purchase intoxicating liquor — purchasing alcoholic beverage for child;
- 39-15-404 Allow person 18-21 to consume alcohol on person’s premises;
- 39-15-414 Harboring or hiding a runaway child;
- 39-17-315 Stalking;
- 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;
- 39-17-437 Using substance or device to falsify drug test results and selling synthetic urine;
- 39-17-438 Possession of the hallucinogenic plant Salvia Divinorum or the synthetic cannabinoids;
- 39-17-452 Sale or possession of synthetic derivatives or analogues of methcathinone;
- 39-17-902(a) Importing, preparing, distributing, processing, or appearing in obscene material or A misdemeanors;
- 39-17-907 Unlawful exhibition of obscene material;
- 39-17-911 Sale or loan to minors of harmful materials;
- 39-17-918 Unlawful massage or exposure of erogenous areas;
- 39-17-1307(f)(1)(A) Possession of firearm after being convicted of misdemeanor crime of domestic violence;
- 39-17-1307(f)(1)(B) Possession of firearm while order of protection is in effect;
- 39-17-1307(f)(1)(C) Possession of firearm while prohibited by state or federal law;
- 39-17-1312 Failure of adult to report juvenile carrying gun in school;
- 39-17-1320(a) Non parent providing handgun to a juvenile;
- 39-17-1352 Failure to surrender handgun carry permit upon suspension;

39-17-1363 Violent felon owning or possessing vicious dog;
39-13-101(a)(3) Assault (offensive or provocative physical contact);
39-13-511(a) Public indecency — first or second offense (punishable by \$500 fine only);
39-13-511(b)(2) Indecent exposure (victim 13 years old or older);
39-15-412(b) Disseminating smoking paraphernalia to minor after 3 prior violations;
39-16-404 Misuse of official information by public servant;
39-17-317 Disorderly conduct at funerals;
39-17-715 Possession of or consuming alcoholic beverages on K-12 school premises;
39-17-914 Display for sale or rental of material harmful to minors; and
55-10-401 Driving under the influence of an intoxicant;

OFFENSE COMMITTED BEFORE NOVEMBER 1, 1989

If the conviction is for an offense committed before November 1, 1989, all of the below criteria must be met.

1. The sentence was either a determinate sentence, of three (3) years or less OR sentenced to an indeterminate sentence for which the person served three (3) years or less.
2. The convicted person 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;
3. The convicted offense did not have as an element the use, attempted use, or threatened use of physical force against the person of another;
4. The convicted offense 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;
5. The convicted offense did not involve the use or possession of a deadly weapon;
6. The convicted offense was not a sex offense for which the offender is required to register as a sexual offender or violent sexual offender under title 40, chapter 39 part 2; or any sex offense involving a minor;
7. The convicted offense did not result in the death, serious bodily injury or bodily injury to a person;
8. The convicted offense did not involve the use of alcohol or drugs and a motor vehicle;
9. The convicted offense did not involve the sale or distribution of a Schedule I, II, III, or IV controlled substance;
10. The convicted offense did not involve a minor as the victim of the offense; or
11. The convicted offense did not result in causing the victim or victims to sustain a loss of twenty-five thousand dollars (\$25,000) or more.

IN THE _____ COURT OF _____ COUNTY, TENNESSEE
DIVISION _____

STATE OF TENNESSEE

Docket #

vs.

CHARGE:

PETITION TO EXPUNGE RECORDS OF CONVICTION PURSUANT TO
T.C.A. §40-32-101(g)

Petitioner respectfully petitions this Honorable Court to order that all public records of the conviction for _____ under docket # _____ be expunged pursuant to T.C.A. §40-32-101(g) and in support would state to the Court as follows.

1. The statute authorizes the subject conviction to be expunged
2. Petitioner has no other convictions in this or any other jurisdiction other than the one to be expunged, and Petitioner has never been on pre-trial diversion or judicial diversion wherein the record has been expunged.
3. At least five (5) years have elapsed since the completion of the sentence imposed for the offense.
4. All fines, restitution, court costs and other Court ordered assessments have been paid.
5. All terms of imprisonment, probation and parole have been completed.
6. All conditions of supervised or unsupervised release have been met.
7. If so required by the conditions of the sentence imposed, Petitioner has remained 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.
8. Petitioner understands that the District Attorney, by assisting in the completion of the petition for expungement and the order of expungement, is not giving legal advice but is performing an administrative function pursuant to TCA 40-32-101(g), and further in some instances the District Attorney may stand in opposition to the granting of the petition. Further, the Petitioner understands that he/she does not become a client of the

District Attorney by virtue of the District Attorney performing the functions required by the statute and that none of the duties imposed upon an attorney/client relationship by the Rules of Professional Conduct, including confidentiality and conflicts of interest, attach as a consequence of performing the functions required by the statute. If Petitioner seeks legal advice he/she should consult an attorney.

9. Petitioner understands that statements made by me in this document are made under penalty of perjury in connection with an official proceeding.

WHEREFORE, petitioner prays that this Court order that all public records of this conviction be expunged pursuant to T.C.A. §40-32-101(g)

Respectfully submitted,

PETITIONER
MAILING ADDRESS:

