

Expungements in Pennsylvania: FAQ's and Resource Links

What is the new law?

People are now eligible to ask the courts to clear their record of summary convictions if they have been free of arrest or prosecution for at least five years. This new law (18 Pa.C.S.A. §9122(b)(2)) took effect on January 26, 2009 and applies to all summary convictions over 5 years old. You must still apply for a pardon for misdemeanor or felony convictions, or if you are not eligible for an expungement for your summary conviction.

What is a summary offense?

Summary offenses are minor offenses, such as disorderly conduct, reckless driving and (some) retail theft offenses, which are usually punishable only by a fine. Summary offenses are less serious than misdemeanor and felony offenses.

What does it mean to have a record expunged?

Expungement is the process by which a criminal record is sealed and destroyed. Essentially, the summary offense disappears from your record after having it expunged.

Aren't expungements rare?

They are rare for felonies and misdemeanors, but not for arrests not leading to convictions and for summary convictions. Additionally, first-time offenders who get ARD are receiving expungement as part of their plea bargain. There are also similar programs such as Probation Without Verdict (PWOV) and some County's "Service Institutes"; all of which result in the person receiving an expungement as part of their plea bargain.

When can a felony or misdemeanor conviction be expunged?

While you are living, your only option is a pardon until you a) reach age 70 and b) have not been arrested or prosecuted for 10 years. PA House Bill 908, if passed, would allow for the expungement of a person's felony or misdemeanor conviction after at least seven years has lapsed from their release from prison provided certain criteria are met.

How much time needs to pass before I can petition for a summary conviction to be expunged?

Summary convictions are probably eligible for expungement if you have remained free from arrest or prosecution for 5 years. You file a petition in the County where you were convicted for the summary offense.

When I look at my PA RAP sheet or Docket, how can I tell if an arrest did not lead to a conviction?

Any arrest with one of the following dispositions *may* be eligible for expungement:

- Withdrawn
- Dismissed
- Nolle Prossed
- Not Guilty
- Disposition Unreported/No Further Action Taken

What are the benefits of having a summary offense or arrest expunged?

While employers are not able to consider summary convictions or arrests in an adverse manner when making most hiring decisions, they still see those items on your criminal record and it may make a negative impression on the employer. It's better to have those items expunged so the employer doesn't see them on your criminal background check, and so you don't have to disclose them when asked about them on an application.

Because I completed ARD, shouldn't my conviction automatically be expunged?

As of 1990 expungement as part of an ARD should be automatic without having to file for expungement. However, six months after your ARD/PWOV or other alternative sentencing program which involved an expungement as part of your plea bargain is completed, one should check to make sure that the conviction does not appear. If it does appear, you may need to file an expungement petition unless the probation department corrects the situation. Some Counties, upon completion of a non-ARD alternative sentencing program, may not automatically expunge the conviction and may require the offender to file an expungement petition.

I completed ARD for a DUI conviction, but it is still showing up on my PennDot administrative record. What's going on?

When someone receives ARD for a driving related offense, their offense, although expunged from the criminal records, stays on PennDot's administrative records except for the situation outlined in the italics paragraph below. So one should not confuse PennDOT's administrative records (which are often required by employer's when one is looking for a driving job) with an expungement of a criminal record.

a person 21 years of age or older who has been convicted of a violation of section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) petitions the court of common pleas in the county where the conviction occurred seeking expungement and the person has satisfied all terms and conditions of the sentence imposed for the violation, including any suspension of operating privileges, imposed pursuant to section 6310.4 (relating to restriction of operating privileges). Upon review of the petition, the court shall order the expungement of all criminal history record information and all administrative records of the Department of Transportation relating to said conviction.

Where can I find helpful resources for completing an expungement petition?

A very helpful guide on expungements is found at:

<http://studentaffairs.psu.edu/legalservices/pdf/expungement.pdf>

The website of the County where you are seeking the expungement (where the conviction occurred) probably has an expungement packet on their website. Dauphin County's can be found at:

<http://www.dauphincounty.org/onlineforms/Expungement%20Packet.pdf>

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Prepared by Rev. Ron Tilley, Brethren Community Ministries (bcm-pa.org) 717-234-0415 x12
rtilley.bcm@gmail.com for the Capital Region Ex-Offenders Support Coalition (reentrynow.org)