Expunging Court Records

What Does It Mean When the Court Expunges a Record?

When a court record is expunged, the court will seal the entire criminal case file and will not allow anyone to access the file without a court order. If someone asks the court about the case, the person will be told that no other information is available. On the Wisconsin Circuit Court Access (WCCA) website, a search for the defendant's name or case number will not return the case.

Is My Record Eligible For Expungement?

The circuit court can expunge criminal records in three circumstances:

1) For certain crimes committed by youthful offenders where the sentence is successfully completed (See Wisconsin Statute § 973.015). Eligibility for expungement must be approved by the court at the time of sentencing. The court must find that you will benefit and society will not be harmed by expunging the record.

For sentences imposed on or after July 1, 2009, the record of your conviction may be expunged if you were under age 25 at the time of the offense and if the maximum punishment for the crime was 6 years or less. Some offenses are excluded, and felony offenders are not eligible if they have a prior felony conviction. See Wis. Stat. § 973.015(1m)(a) for details. If you were sentenced before July 1, 2009, the record of your conviction may be expunged if you were under age 21 at the time of the offense and if the crime was a misdemeanor.

2) For juvenile cases where the offender has reached age 17 and has satisfactorily complied with the conditions of the dispositional order. See Wis. Stat. § 938.355(4m). In deciding whether to expunge the record of your juvenile adjudication, the court will determine whether you satisfactorily complied with the conditions of your dispositional order. The court must also find that you will benefit and society will not be harmed by the expungement.

3) If you committed a commercial sex act as a victim of human trafficking. See Wis. Stat. § 973.015(2m).

Other than these three situations, a judge has no authority to expunge other types of cases. For example, the statute does not allow the judge to expunge the record of traffic citations, civil or small claims cases.

What Do I Have To Do To Get My Criminal Record Expunged?

What steps you need to take depends on your situation:

1) If you were placed on probation or sentenced to serve time in jail or prison, and you have successfully completed your sentence, the clerk will expunge the record of your conviction. Successful completion of a sentence means that you have not been convicted of a subsequent offense, your probation was not revoked, and the conditions of your probation have been satisfied. Your probation agent or correctional institution will send a certificate of discharge to the clerk of circuit court. If no certificate was filed with the court, you should contact your probation agent or the correctional institution to request the certificate.

2) If you did not serve any time in jail or prison and were not placed on probation (for example, if you were only sentenced to pay a fine or restitution), you may request the court to expunge the record when your sentence is successfully completed. Circuit court form CR-266 can be used to request expungement of the court record in this situation.

3) In order to have your juvenile record expunged, you must petition the court. Form JD-1780 is available for this purpose.

Circuit court forms are posted on the court's website at http://wicourts.gov/forms1/circuit/index.htm.

My Record Was Expunged. Does That Mean That No One Will Find Out About My Case?

No. Although your case was expunged and your court record sealed, the judge's order does not reverse or set aside your conviction. An expungement order only affects whether the conviction is accessible through court records. It does not affect the records kept by other criminal justice agencies.

The Crime Information Bureau (CIB), which is part of the Wisconsin Department of Justice, operates the Wisconsin Criminal History Repository. The repository maintains a record of all convictions regardless of whether the court expunged your record. Anyone can make a request for this information, and employers, schools and licensing agencies often run background checks of applicants this way. For this reason, you may want to consider explaining the circumstances of your case and why the court record of the conviction was expunged.

Additionally, the case may still exist in the records of the district attorney, law enforcement, the Department of Transportation, and other agencies. The judge has no authority to require removal of those agency records. Even if your court record has been expunged, anyone who asks for information about your conviction from another agency may be able to obtain it.

The Charges Against Me Were Dismissed. Can I Still Get My Record Expunged?

No. A court can only expunge the record if you were convicted of a criminal offense or adjudicated as a juvenile delinquent. If your case was dismissed, or if you were charged with a crime and found not guilty, you were not convicted.

In this situation, you may be able to have certain information removed from the Wisconsin Criminal History Repository. Contact CIB to get a special form for this request. Even if CIB removes information from the repository, that does not remove information from other agency records.

I Was Arrested But Never Charged. Can The Court Expunge That Information?

No. If you were never charged with a crime, the circuit court does not have a criminal case record to expunge. If you were arrested but never formally charged, you may be able to have certain information about your arrest removed from the Wisconsin Criminal History Repository by submitting a special form to the CIB. Again, removing information from the repository does not remove information from other agency records.

Is A Governor's Pardon The Same Thing As Getting My Case Expunged?

No. A governor's pardon does not expunge your court record. If you receive a governor's pardon, the court will add a notation to your court record indicating that a pardon was granted for your case. However, your record will not be sealed and the file will still be accessible both at the clerk of courts office and on the WCCA website. A pardon will not remove your record from the Wisconsin Criminal History Repository.

How Do I Find More Information About The Wisconsin Criminal History Repository?

Visit the Wisconsin Department of Justice website at www.doj.state.wi.us/ and search for "background check". There you will find information about how to remove your arrest information at CIB, forms, and answers to frequently asked questions about criminal records.
http://www.doj.state.wi.us/dles/cib/background-check-criminal-history-information.

Additional information can be found at:

Wisconsin Circuit Court Access Website:
http://wcca.wicourts.gov/

Wisconsin Court System
www.wicourts.gov

Wisconsin Department of Justice: www.doj.state.wi.us/

Wisconsin State Bar: www.wisbar.org

Department of Workforce Development Fact Sheet "Arrest and Conviction Records under the Law":
http://dwd.wisconsin.gov/dwd/forms_publications_search.htm

Wisconsin Statutes:
http://legis.wisconsin.gov/rsb/stats.html

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Helpful Information and Frequently Asked Questions

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