

## **EXPUNGEMENT OF A CRIMINAL OR SUMMARY CONVICTION**

### **(READ THE FOLLOWING BEFORE REQUESTING AN EXPUNGEMENT)**

If you have been convicted of a criminal charge or charges or a summary offense or offenses in certain limited circumstances you may be eligible to have your conviction record expunged.

When you request an expungement you are asking the court to enter an order directing that any record of your arrest and conviction be destroyed.

**Since expungements are only allowed under the law for limited reasons, BEFORE you file a petition requesting an expungement you should read the section of law governing expungements (18 Pa.C.S.A. 9122) which is attached and if your conviction was for a drug related charge you should also read (35 P.S. 780-119) which is attached.**

If after reading those laws you believe you qualify for an expungement you should fill out and file the form "Petition for Expungement Pursuant to Pa.R.Crim. P. 490" if you seeking expungement of **summary offense convictions only.**

If you are seeking expungement of **felony or misdemeanor convictions** you should fill out and file the form "Petition for Expungement Pursuant to Pa.R.Crim.P. 790."

If you are seeking expungement of felony or misdemeanor convictions **and** summary offense convictions you should include **ALL** convictions in your "Petition for Expungement Pursuant to Pa.R.Crim.P. 790."

If after reviewing the laws attached you do not believe you qualify for an expungement you may wish to consult with an attorney of your choice to confirm your conclusion.

If you do not qualify for an expungement you may wish to seek a pardon from the Governor of Pennsylvania by applying through the Pennsylvania Board of Pardons. The information to do so can be found online.

**Any information contained in this packet is not intended as legal advice but only as informational to aid self-represented individuals. The information is current to the best of our knowledge as of the date listed below. Since the law changes you are responsible for making sure you are using the most current law. In this and any legal matter it is always best to consult with an attorney of your choice.**

**January 2013**

Citation/Title  
PA ST 18 Pa.C.S.A. Sec. 9122, Expungement

**\*25001 18 Pa.C.S.A. § 9122**

**PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES  
TITLE 18 PA.C.S.A. CRIMES AND OFFENSES  
PART III. MISCELLANEOUS PROVISIONS  
CHAPTER 91. CRIMINAL HISTORY RECORD INFORMATION  
SUBCHAPTER C. DISSEMINATION OF CRIMINAL HISTORY RECORD  
INFORMATION**

*Current through 2012 Regular Session Act 143*

**§ 9122. Expungement**

(a) Specific proceedings.--Criminal history record information shall be expunged in a specific criminal proceeding when:

(1) no disposition has been received or, upon request for criminal history record information, no disposition has been recorded in the repository within 18 months after the date of arrest and the court of proper jurisdiction certifies to the director of the repository that no disposition is available and no action is pending. Expungement shall not occur until the certification from the court is received and the director of the repository authorizes such expungement;

(2) a court order requires that such nonconviction data be expunged; or

(3) 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.

(b) Generally.--Criminal history record information may be expunged when:

(1) An individual who is the subject of the information reaches 70 years of age and has been free of arrest or prosecution for ten years following final release from confinement or supervision.

**\*25002** (2) An individual who is the subject of the information has been dead for three years.

(3)(i) An individual who is the subject of the information petitions the court for the expungement of a summary offense and has been free of arrest or prosecution for five years following the conviction for that offense.

(ii) Expungement under this paragraph shall only be permitted for a conviction of a summary offense.

(b.1) Prohibition.--A court shall not have the authority to order expungement of the defendant's arrest record where the defendant was placed on Accelerated Rehabilitative Disposition for a violation of any offense set forth in any of the following where the victim is under 18 years of age:

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

## PA ST 18 Pa.C.S.A. Sec. 9122, Expungement

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 5902(b) (relating to prostitution and related offenses).

Section 5903 (relating to obscene and other sexual materials and performances).

(c) Maintenance of certain information required or authorized.--Notwithstanding any other provision of this chapter, the prosecuting attorney and the central repository shall, and the court may, maintain a list of the names and other criminal history record information of persons whose records are required by law or court rule to be expunged where the individual has successfully completed the conditions of any pretrial or post-trial diversion or probation program or where the court has ordered expungement under this section. Such information shall be used solely for the purposes of determining subsequent eligibility for such programs, identifying persons in criminal investigations or determining the grading of subsequent offenses. Such information shall be made available to any court or law enforcement agency upon request.

\*25003 (d) Notice of expungement.--Notice of expungement shall promptly be submitted to the central repository which shall notify all criminal justice agencies which have received the criminal history record information to be expunged.

(e) Public records.--Public records listed in section 9104(a) (relating to scope) shall not be expunged.

(f) District attorney's notice.--The court shall give ten days prior notice to the district attorney of the county where the original charge was filed of any applications for expungement under the provisions of subsection (a)(2).

### CREDIT(S)

*1979, July 16, P.L. 116, No. 47, § 2, effective in 60 days. Amended 1982, June 11, P.L. 476, No. 138, § 4, effective in 180 days 1996, Oct. 16, P.L. 715, No. 128, § 1, effective in 60 days; 1997, April 22, P.L. 73, No. 5, § 4, effective in 60 days; 2004, Nov. 29, P.L. 1349, No. 173, § 3, effective in 60 days [Jan. 28, 2005]; 2008, Nov. 26, P.L. 1670, No. 134, § 1, effective in 60 days [Jan. 26, 2009].*

<General Materials (GM) - References, Annotations, or Tables>

### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

##### Act 1979-127 legislation

Section 4(a) of Act 1979, Dec. 14, P.L. 556, No. 127 provides:

"The provisions of 18 Pa.C.S. § 9122(a)(1) (relating to expungement) shall not be applicable to criminal proceedings initiated or completed prior to the effective date of this amendatory act unless requested by an individual as provided in 18 Pa.C.S. Ch. 91 Subch. F (relating to individual right of access and review)."

##### Act 1996-128 legislation

The 1996 amendment, in subsec. (c), at the end of the second sentence, added "and for identifying persons in criminal investigations"; and, in the third sentence following "any court", inserted "or law enforcement agency".

##### Act 1997-5 legislation

The 1997 amendment added subsec. (b.1).

##### Act 2004-173 legislation

Act 2004-173, § 3, added subsec. (a)(3).

Citation/Title

PA ST 35 P.S. Sec. 780-119, Expunging criminal records

\*48979 35 P.S. § 780-119

**PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES  
TITLE 35 P.S. HEALTH AND SAFETY  
CHAPTER 6. THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC  
ACT**

*Current through 2012 Regular Session Act 143*

**§ 780-119. Expunging criminal records**

(a) Any records of arrest or prosecution or both for a criminal offense under this act, except for persons indicted for violations of clause (30) of subsection (a) of section 13, [FN1] or under the provisions previously governing controlled substances in the Commonwealth of Pennsylvania or any political subdivision thereof shall be promptly expunged from the official and unofficial arrest and other criminal records pertaining to that individual when the charges are withdrawn or dismissed or the person is acquitted of the charges: Provided, That such expungement shall be available as a matter of right to any person only once. Within five days after such withdrawal, dismissal or acquittal the court, in writing, shall order the appropriate keepers of criminal records (i) to expunge and destroy the official and unofficial arrest and other criminal records of that individual, to request in so far as they are able the return of such records as they have made available to Federal and other State agencies, and to destroy such records on receipt thereof; and (ii) to file with the court within thirty days an affidavit that such records have been expunged and destroyed, together with the court's expunction order and to retain no copies thereof. Upon receipt of such affidavit, the court shall seal the same together with the original and all copies of its expunction order and shall not permit any person or agency to examine such sealed documents.

The court shall file with the council a list of those persons whose record was expunged. The council shall maintain a confidential list, which list may be used only for the purpose of determining the eligibility of persons for the expunction provisions under this section and to be made available to any court upon request.

(b) Any expunged record of arrest or prosecution shall not hereafter be regarded as an arrest or prosecution for the purpose of any statute or regulation or license or questionnaire or any civil or criminal proceeding or any other public or private purpose. No person shall be permitted to learn of an expunged arrest or prosecution, or of the expunction, either directly or indirectly. Any person, except the individual arrested or prosecuted, who divulges such information in violation of this subsection shall be guilty of a summary offense and shall, upon conviction thereof, be punished by imprisonment not exceeding thirty (30) days or a fine not exceeding five hundred dollars (\$500) or both.

\*48980 (c) Nothing contained in this section shall prohibit a person acting pursuant to prior practice from petitioning an appropriate court for an expunction order.

**CREDIT(S)**

*1972, April 14, P.L. 233, No. 64, § 19, eff. June 14, 1972. Amended 1972, Oct. 26, P.L. 1048, No. 263, § 1, imd. effective.*

[FN1] 35 P.S. § 780-113.

< Section 16 of Act 1992, Dec. 14, P.L. 1116, No. 145, provides that the Controlled Substance, Drug, Device and Cosmetic Act is repealed insofar as it is inconsistent with said act. See the Wholesale Prescription Drug Distributors License Act, 63 P.S. § 391.1 et seq. >