

Expungement of Criminal Records



The Office of the
Minnesota Attorney General
helping people afford their lives and live with dignity, safety, and respect

What is an Expungement?

An expungement is an Order from a District Court Judge that prevents others from seeing if you have a criminal conviction or arrest. Expungement does not vacate or eliminate a conviction or arrest, but it seals the record from public view.

Do I qualify for an Expungement?

You may qualify for an expungement if:

- You were arrested but not charged, the charges against you were dismissed, you were found not guilty, or the case did not otherwise result in a conviction.
- You successfully completed the terms of a diversion, stay of adjudication, or continuance for dismissal.
- If you were convicted of an offense that qualifies for expungement under Minn. Stat. § 609A.02, subd. 3, and the required amount of time has passed, all petty misdemeanor, misdemeanor and gross misdemeanor convictions are eligible for expungement. The felonies that qualify for expungement are:
 - 35.824 – altering livestock certificate
 - 62A.41 – insurance regulations
 - 86B.865, subd. 1 – title fraud
 - 152.025 – 5th Deg Controlled Substance
 - 152.097 – sale of simulated drug
 - 168A.30, subd. 1 – false certificate of title
 - 169.09, subd. 14(a)(2) – accident with great bodily harm
 - 201, 203B, or 204C – voting violations
 - 228.45-51(see statute) – false bill of lading
 - 256.984 – false app for public assistance
 - 296A.23, subd. 2 – evasion of fuel tax
 - 297D.09, subd. 1 – scheduled substances
 - 297G.19 – liquor tax
 - 340A.701 – unlawful acts with liquor
 - 325F.743 – precious metal dealers
 - 325F.755, subd. 7 – prize solicitations
 - 346.155, subd. 10 – regulated animal control
 - 349.2127, or 349.22 – gambling regulations
 - 588.20 – contempt (of court)
 - 609.27, subd. 1 (clauses 2 to 5) – coercion
 - 609.31 – leaving state to avoid paternity
 - 609.485, subd. 4, (a)(2) or (4) – hospital escape
 - 609.49 – failure to appear in court
 - 609.52, sub.3, clause 3(a) – theft under \$5,000
 - 609.52, subd. 3(a), clause 1 – theft under \$1,000 + risk of bodily harm
 - 609.525 – stolen goods into state
 - 609.526, subd. 2(2) – metal dealer stolen goods
 - 609.527, subd. 5b – illegal use of scanner
 - 609.528, subd. 3, clause 3 – counterfeit checks
 - 609.529 – mail theft
 - 609.53 – receiving stolen goods
 - 609.535, subd. 2a(a)(1) – bad check over \$500
 - 609.54 (clause 1) – embezzle public funds under \$2500
 - 609.551 – livestock theft
 - 609.5641, subd. 1a(a) – wildfire arson
 - 609.576, subd. 1(3)(iii) – negligent fires
 - 609.595, subd. 1, clauses (3)-(5), and subd. 1a(a) – criminal property damage
 - 609.597, subd. 3(3) – assaulting a police horse
 - 609.625 to .645 (see statute) – forgery crimes
 - 609.65, clause 1 – false cert by notary
 - 609.651, subd. 4(a) – lottery fraud
 - 609.652 – fake driver's license
 - 609.66, subd. 1a(a) – discharge of firearm
 - 609.66, subd. 1b – furnishing firearm to minor
 - 609.662, subd. 2(b) – duty to render aid
 - 609.686, subd. 2 – tampering with fire alarm
 - 609.746, subd. 1(e) – invasion of privacy
 - 609.80, subd. 2 – cable t.v. piracy
 - 609.821, subd. 2 – credit card fraud

- 609.822 – mortgage fraud
- 609.825, subd. 2 – bribing a contest judge
- 609.855, subd. 2(c)(1) – interfere with bus driver
- 609.88 – computer damage
- 609.89 – computer theft
- 609.893, subd. 2 – cellphone service fraud
- 609.894, subd. 3 or 4 – cellphone hacking
- 609.895, subd. 3(a) or (b) – counterfeit intellectual property
- 609.896 – movie pirating
- 624.7132, subd. 15(b) - transfer pistol to minor
- 624.714, subd. 1a – pistol without permit
- 624.7141, subd. 2 – giving pistol to ineligible person
- 624.7181 – long gun in public by minor

How Do I Get an Expungement?

If you believe the criminal charge(s) against you, or conviction, qualify for an expungement, you have a few options.

One option is to apply for an expungement via the Minnesota Attorney General’s Office’s Statewide Expungement Program at HelpSealMyRecord.org. The Minnesota Attorney General’s Office will review your application and criminal history and determine whether any offenses on your record are eligible for expungement. If so, the Office will contact the applicable prosecutor to see if they would agree to expunge the offense. If the prosecutor agrees, you will not have to file a Petition for Expungement or attend a hearing. The Office will work with the prosecutor to expunge the record and will notify you when it is complete. Visit HelpSealMyRecord.org to apply.

Another option is to bring a Petition for Expungement in the district court where you were convicted. If the action against you did not result in criminal charges or a conviction, and only resulted in an arrest, you may not need to bring a Petition for Expungement. If you are only seeking to expunge an arrest record, and if you have don’t have a felony or gross misdemeanor in any state in the past 10 years, then you can contact the arresting agency, or the Minnesota Bureau of Criminal Apprehension, about having the record sealed under Minnesota Statutes section 299C.11, subdivision 1(b). You may contact the Minnesota Attorney General’s Office at (651) 296-3353, or if outside the Twin Cities metro area (800) 657-3787, if you would like more information.

Steps to Obtaining an Expungement by Petition

1. Notice of Hearing and Petition for Expungement

You must complete this document to start the process (one for each case you want expunged). You must provide information about any prior and pending criminal charges, anywhere in the U.S., on this form. You must fill out a separate form for each offense/charge you want expunged. You can get a copy of the form at any county courthouse, or you can access it at the following website:

www.mncourts.gov/forms

When you go to the website, click on the “Criminal Expungements” tab. The form will be listed under “Form Number” EXP 102. You must completely fill out EXP 102 and file the document at your county courthouse. The court administrator will give you a hearing date and time that you must then add to your Notice of Hearing and Petition for Expungement form (EXP 102). Court administration will also require that you pay a fee to open your case, however, this fee can be waived if you meet certain income requirements. The form for a fee waiver is also on the www.mncourts.gov/forms website.

2. Proposed Order to Expunge Criminal Records

You must also complete this form (one for each case you want expunged). This form is also found on the www.mncourts.gov/forms website. This form is EXP 105, 106, and 107. When you fill out the Notice of Hearing and Petition for Expungement form (EXP 102), it will provide information about which of the Proposed Order forms (105, 106 or 107) to use in your case. Fill out this form completely, as well.

3. Serve Copies Of Your Petition and Proposed Order (i.e. send by mail) On All Government Agencies That Have The Criminal Records You Want to Expunge

Once you have added the date, time and location information that you get from Court Administration into the Notice of Hearing and Petition for Expungement (Form EXP 102), and you have completed the Proposed Order for each set of records (Form EXP 105, 106, or 107) applicable to your

case(s), you must then make copies of the two forms you filled out, and mail a copy of those completed forms to any agency that you think has a record of the offenses/charges you want expunged. This notifies those agencies that you are trying to get your records expunged, and gives those agencies an opportunity to respond to your expungement petition. Generally, those agencies will either

1. support your expungement petition,
2. oppose your expungement petition, or
3. waive their appearance and take no position on your petition (which means the judge doesn't take into account the agency's position on your expungement, and makes a decision based only on the law, your petition, and your arguments at the hearing).

4. Show The Court That You Mailed Copies of Your Petition and Proposed Order to All The Agencies That Have Your Records

To show the Court that you provided copies of your Petition and Proposed Order to all the law enforcement and prosecution agencies you need to notify, complete a Proof of Service form after you put the envelopes to those agencies in the mail.¹ The Proof of Service form is also on the www.mncourts.gov/forms webpage, and is listed as Form EXP 104. This form has boxes to check for every agency to which you have sent a copy of your Petition and Proposed Order. This form includes the mailing addresses for those agencies most commonly served in expungement proceedings. **YOU MUST DEPOSIT THE COPIES OF YOUR PETITION AND PROPOSED ORDER INTO THE MAIL AT LEAST 63 DAYS BEFORE THE HEARING DATE!!** This is why when you first go to the courthouse, you should request a hearing date from court administration that is 70-100 days out. This will give you time to put together copies of your petition, and proposed order, and get them all mailed to the proper law enforcement and prosecution agencies.

5. File the Petition, Proposed Order and Proof of Service (Mailing) With District Court

After you have served/mailed copies of your petition and proposed order to all the agencies that have your records, you must file your completed petition, proposed order and proof of service with the court. Just take them back to court administration. You are essentially showing the court:

1. the documents you sent to the agencies; and
2. that you sent the agencies the documents.

The Agency's Response

When you serve an agency with your notice of hearing, petition and proposed order, the agency can choose to support, object, or take no position on your petition. If an agency objects to your petition, the agency can submit documentation to the Court as part of its case against your expungement, but it can only do so if it has also provided you with copies of those documents prior to the hearing.

If I Qualify for an Expungement, Will I Get One Automatically?

No. A judge needs to ultimately decide whether to grant or deny your request for expungement. One or more of the agencies you have served may oppose your expungement petition. If that happens, a judge will take their positions into consideration, review your petition, and issue an order that grants or denies your expungement.

The Hearing

You must go to the hearing. Don't forget the date/time. If you are not at court for the hearing, the Judge may dismiss your case and **DENY** your expungement.

1. You do not need to mail copies of the Petition and Proposed Order by registered or certified mail, just make sure to have enough postage.