

Expungement 101: An Overview of Tennessee Laws

April 27, 2015
Lipscomb University
Nashville, Tennessee

Prepared for the Volunteer Attorney Training Session hosted by the
Tennessee Supreme Court's Access to Justice Commission,
The Tennessee Faith & Justice Alliance, and
The Administrative Office of the Courts

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OVERVIEW:

Thousands of Tennesseans have encountered barriers to employment, housing, and educational opportunities as a result of criminal convictions. The Tennessee Legislature's 2012 revision of TENN. CODE ANN. § 40-32-101, the criminal records expungement law, has created a new tool to help eligible clients overcome the hefty stigma of criminal records, in exchange for a hefty \$450.00 fee. Several no-fee expungement options remain where there is no conviction.

This session is designed to provide attorneys with the knowledge and tools to determine eligibility, identify and complete the necessary forms, and help eligible clients to obtain expungement of their criminal histories.

A new Tennessee law allowing for "partial expungement" of criminal records (effective 7-1-2015) and two laws allowing for "civil expungements" are also identified and explained.

I. Introduction

On May 21, 2012, Tennessee Governor Bill Haslam signed into law Public Chapter No. 1103, “related to the expunction of certain criminal records,” which took effect on July 1, 2012.

[Note: Some may say that the verb is “expunge” and the noun is “expunction,” but *Black’s Law Dictionary* (10th ed. 2014) indicates that the word “expungement” is preferred in the context of “expungement of records.”]

The revised expungement law allows persons convicted of certain crimes in Tennessee to apply and pay a total fee of \$450.00 to have that incident expunged from their records.

The total fee of \$450.00 is the result of the mandatory expungement fee of \$350.00 established by TENN. CODE ANN. § 40-32-101(g)(10), plus an additional mandatory clerk’s fee of \$100.00 set by TENN. CODE ANN. § 8-21-401(d) and (g) for criminal court clerks and general sessions court clerks, per Pub. Chap. 1008, signed into law on May 22, 2014.

Since a criminal record may have serious adverse consequences for persons who are applying for employment, school, housing, or a professional license, this is an important potential legal remedy for those who are eligible – and for those who can afford the total fee of \$450.00.

The presenter of this CLE session wishes to acknowledge the excellent article published in the March 2009 issue of the Tennessee Bar Association Journal by noted criminal defense attorney David Raybin, titled “Expungement of Arrest Records: Arresting the Past.”

Mr. Raybin’s article includes the following paragraph which addresses the historic stigma imposed upon persons convicted of crimes:

A “criminal record” has horrible consequences when applying for a job, school or professional license. It is amazing how much importance we attach to some ancient sin. In 1853, Gov. Andrew Johnson opposed the practice of teaching inmates stone masonry, which enabled “the criminals to engrave names upon the tombs of the departed.” He requested that convicted felons be excluded from those persons having charge of the cemeteries: “if it is degrading to be associated with a felon while we are living, it must be more so to be associated with them after we are dead.”

Moving beyond Governor Johnson’s notion of a criminal conviction as a ‘permanent penumbra’ upon one’s reputation, perhaps our modern Tennessee Legislature was guided by the words of French author Marcel Proust, who famously wrote in 1913, “*There is no man, however wise, who has not at some period of his youth said things, or lived in a way the consciousness of which is so unpleasant to him in later life that he would gladly, if he could, expunge it from his memory.*” Or, perhaps more practically, as reflected by the 2012 legislative history, several legislators perceived that the new expungement law option would likely be a revenue generator.

II. Previously Existing Expungement Laws Still In Effect

“No-Fee” Expungement Options

Before addressing the revised expungement law, it should be noted that “no-fee” expungement still is an option in several instances:

A. Charge Dismissed

If an individual was charged with a misdemeanor or felony but the charge was dismissed, then she or he is eligible to petition for the expungement of such all criminal records on that matter. There are no clerk’s fees or costs charged to the individual under this condition. *See* TENN. CODE ANN. § 40-32-101(a)(1).

B. “No True Bill” Returned/Verdict of Not Guilty

If a “no true bill” is returned by a grand jury, or a verdict of not guilty is returned by a jury, an individual has the right to petition for the expungement of such records, and all public records of that charge must be removed and destroyed. There are no clerks’ fees or costs charged to the individual under either of these conditions. *See* TENN. CODE ANN. § 40-32-101(a)(1).

C. Judgment Reversed Upon Appeal

An expungement of criminal records should be granted if a conviction has by appeal been reversed and the charge dismissed. There are no clerks’ fees or costs charged to the individual under this provision. *See* TENN. CODE ANN. § 40-32-101(a)(1).

D. Nolle Prosequi

If an order of *nolle prosequi* has been entered in the case, an expungement of criminal records should be granted. There are no clerks’ fees or costs charged to the individual under this condition. *See* TENN. CODE ANN. § 40-32-101(a)(3).

E. Arrested and Released Without Being Charged

A person who has been arrested and released without being charged with a crime is entitled to petition a court for the expungement of such records, and no court costs or fees shall be charged. *See* TENN. CODE ANN. § 40-32-101(e)(4).

NOTE: There are two other little-known “civil expungements” that exist under Tennessee law:

F. Order of Protection Petition Denied by Court

If a person had a petition for an order of protection brought against him or her, **and** if such petition was successfully defended and denied by the court following a hearing conducted pursuant to TENN. CODE ANN. § 36-3-605, then that person may petition to the court denying

such order for all public records concerning the order of protection to be expunged, removed, and destroyed without court costs or fees to such person. *See* TENN. CODE ANN. § 40-32-101(a)(5).

G. Divorce Complaint Dismissed

In Tennessee, parties to a divorce proceeding who have reconciled and dismissed their action without the entry of a Final Decree of Divorce, may file a petition requesting expungement of their divorce records:

Parties to any divorce proceeding, who have reconciled and dismissed their cause of action, may thereafter file an agreed sworn petition signed by both parties and notarized, requesting expungement of their divorce records. Upon the filing of such petition, the judge shall issue an order directing the clerk to expunge all records pertaining to such divorce proceedings, once all court costs have been paid. The clerk shall receive a fee of fifty dollars (\$50.00) for performing such clerk's duties under this section.

TENN. CODE ANN. § 36-4-127.

Section 36-4-127 does not describe any procedure for expungement. In addition, there is no other authority dictating such procedure. Therefore, the Tennessee Attorney General concluded that this statute only demands that the clerk destroy or obliterate the divorce records; there is no one proper procedure to accomplish this end. (Tenn. Atty. Gen. Opinion No. 006-015, January 19, 2006.)

Juvenile Matters:

If, by chance, a minor has experienced a brush with delinquency, certain statutes relating to juveniles provide for the destruction of fingerprint and photograph records **upon request**. The standard form that an applicant fills out for the expungement of a criminal offender record also includes five provisions relating to juvenile records:

1. A child charged with a felony and who is not adjudicated a delinquent child may petition for destruction of fingerprint and photograph records after the subject reaches 18 years of age. *See* TENN. CODE ANN. § 37-1-155(b)(1)(A).
2. A petition for destruction of fingerprints and photographs may be filed and granted if proceedings against a minor were dismissed after a petition was filed or after the case was transferred to the Juvenile Court as provided in TENN. CODE ANN. §§ 37-1-109 and 37-1-155.

3. A petition for destruction of fingerprints and photographs may be filed and granted if a child was adjudicated not to be a delinquent child. *See* TENN. CODE ANN. § 37-1-155(b).
4. If the child has reached eighteen years of age and there is no record that he or she has committed a criminal offense since reaching sixteen years of age, then the court shall grant a petition for destruction of fingerprint and photograph records, unless such fingerprints were obtained on alleged charges which if committed by an adult would be a felony. *See* TENN. CODE ANN. § 37-1-155(b).

A minor is entitled to the expungement of his or her records under any of these Tennessee statutes.

NOTE: Special Expungement Law for Juveniles AND Young Adults under 21 Convicted of Possession and/or Consumption and/or Transport of Liquor and/or Beer

5. If six months have passed from the date of a liquor law violation for underage consumption or possession (not including transporting or serving alcohol in the course of employment), any person under the age of 21 can petition to have all records of arrest and conviction removed from his or her record without a court fee. *See* TENN. CODE ANN. § 57-3-412(a)(3)(C).

This special law applies both to juveniles AND to young adults under the age of 21.

It is important to keep doors open and to eliminate as many barriers as possible for today's youth. Lawyers can help ensure that they can be successful, productive members of society.

III. Fee Required for Expungement of Successful Diversion Program Participants

A. Pretrial Diversion

According to TENN. CODE ANN. § 40-32-101(a)(1), if a charge is dismissed in any court as a result of the successful completion of a **pretrial diversion** program defined within TENN. CODE ANN. § 40-15-102 and 40-15-105, an individual is eligible to petition for the expungement of his or her criminal records on that matter.

The applicable law provides for criminal court clerks and general sessions court clerks to charge the total fee of \$450.00 for expungement of records of persons who have completed pretrial diversion.

B. Judicial Diversion

A defendant is generally eligible for **judicial diversion** when she or he is charged with a misdemeanor or felony and has not previously been convicted of a felony or Class A or B misdemeanor (the most serious levels of misdemeanor), per TENN. CODE ANN. § 40-35-313(a)(1)(B)(i).

Tennessee law allows for judicial diversion to be a conditional part of a guilty plea **if approved by the prosecutor and the trial court at the time that the guilty plea is entered**. Such judicial diversion is sometimes called “post-trial diversion,” but that is a misnomer, as there has, generally, been no trial.

A judicial diversion plea is like a guilty plea, but the guilty plea is stayed and is not formally entered as a conviction. TENN. CODE ANN. § 40-35-313 requires that the defendant must be supervised by probation staff during the term of the diversion.

The defendant must pay probation fees and court costs, just as with a traditional plea of guilty. If a defendant fails to comply with the conditions of probation or obtains a new arrest or conviction before the end of probation, the court will conduct a hearing and determine whether to remove the defendant from diversion, sentence the defendant, and enter the conviction on the record.

A judicial diversion plea is recognized as a **conditional guilty plea** that can be subsequently expunged on the condition that the defendant completes the requirements of his or her probation.

NOTE: Certain offenses are automatically **ineligible** for diversion, including:

- (a) Driving under the influence of an intoxicant as prohibited by § 55-10-401;
- (b) Any misdemeanor sexual offense prohibited by Title 39, Chapter 13, Part 5;
- (c) Conspiracy, under § 39-12-103, to commit any Class E felony sexual offense prohibited by Title 39, Chapter 13, Part 5;
- (d) Criminal attempt, under § 39-12-101, to commit any Class E felony sexual offense prohibited by Title 39, Chapter 13, Part 5; or
- (e) Solicitation, under § 39-12-102 to commit any Class D or Class E felony sexual offense prohibited by Title 39, Chapter 13, Part 5.

Eligibility under the judicial diversion law does not guarantee the grant of diversion. The decision of whether to place a defendant on judicial diversion is within the sound discretion of the trial court. *See State v. Harris*, 953 S.W.2d 701, 705 (Tenn. Crim. App. 1996).

Criminal court clerks are required to charge the statutory fee of \$350.00 plus the statutory clerk's fee of \$100.00 for the expungement of records of persons who have completed judicial diversion.

III. Tennessee's New Expungement Law Option (for Eligible Persons)

The new revisions to Tennessee's expungement law are in TENN. CODE ANN. § 40-32-101(g). These revisions apply to certain felony and misdemeanor criminal convictions, and do not apply to the other expungement options referenced above.

Because of the strict eligibility hurdles, there have been far fewer applications for expungement than anticipated by the Legislature when TENN. CODE ANN. § 40-32-101(g) was revised in 2012.

So, the BIG question is:

WHO IS ELIGIBLE FOR EXPUNGEMENT OF CONVICTIONS under Tennessee's revised expungement law?

For a person to be eligible for expungement of his or her Tennessee criminal conviction record:

- A. At the time of filing the application for expungement, that person must have **never been convicted of any other criminal offenses**, including federal offenses and offenses in other states, other than the offense for which an expungement is sought; and
- B. At the time of filing, **at least five (5) years must have elapsed** since the completion of the sentence imposed for the criminal conviction; and
- C. The person must have **fulfilled ALL of the requirements of the sentence imposed** for which she or he was convicted, including:
 - Payment of all fines, restitution, court costs, and other assessments; and
 - Completion of any term of imprisonment or probation; and
 - Meeting all conditions of supervised or unsupervised release; and
 - If required by the conditions of the sentence, remaining 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.

Class E Felonies Eligible for Expungement:

i.e., "Felonies Eligible for Expungement are Limited to Those Included on The List"

The new law only allows for expungement of specific offenses. For convictions that occurred after November 1, 1989 there are 38 specific Class E felonies which may be expunged.

Expungement is permitted if the person was convicted of one of the felonies listed below and sentenced to imprisonment of 3 years or less, and the offense was committed on or after November 1, 1989:

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 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 Home improvement fraud (\$500-\$1,000);
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 & 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; and
- 39-17-425(b)(1-3) Unlawful drug paraphernalia uses and activities.

All Misdemeanors Can Be Expunged – EXCEPT for Certain Misdemeanors NOT Eligible i.e., “Misdemeanors Eligible for Expungement are Defined by a List of Exceptions”

For this same time period all misdemeanors, with 45 specific exceptions, may be expunged. Some common examples of misdemeanors which may not be expunged include DUI and assault convictions. It is important to note that if a person is charged with DUI but is convicted of a non-DUI offense, such as reckless driving, then that person may be eligible to have that case expunged.

Here are the 45 misdemeanors that CANNOT be expunged:

- 39-13-101(a)(1) & (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 ages 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 & 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 Class 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) Nonparent 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;
55-10-401 Driving under the influence of an intoxicant

Restoration of Voting Rights and Gun Ownership Privileges (if otherwise eligible)

TENN. CODE ANN. § 40-32-101(g) expressly provides that an expungement granted under the law restores the person “to the same status occupied before the arrest, indictment, information, trial and conviction.” *See* TENN. CODE ANN. § 40-32-101(g)(15)(B).

In addition to restoration of voting rights, a person whose record has been expunged, “and who is otherwise eligible under state or federal law to possess a firearm,” shall be eligible to purchase a firearm and to be granted a handgun carry permit. *See* TENN. CODE ANN. § 40-32-101(g)(15)(E).

“Like It Never Happened”

The law further specifies that a persons whose criminal record has been expunged “shall not be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge the arrest, indictment, information, trial or conviction in response to any inquiry made of the petitioner for any purpose.” *See* TENN. CODE ANN. § 40-32-101(g)(15)(C).

The revised expungement law further stresses that expungement “means, in contemplation of law, the conviction for the expunged offense never occurred and the person shall not suffer any adverse effects or direct disabilities by virtue of the criminal offense that was expunged.” *See* TENN. CODE ANN. § 40-32-101(g)(15)(D).

IV. Additional Expungement Law Details

A. Additional Expungement Option for a Pardoned Non-Violent Offender

In 2013, the Tennessee Legislature passed Public Chapter 384, which took effect on July 1, 2013. Such Act provided that a petitioner will be eligible for expungement if he or she was convicted of a **non-violent crime** after January 1, 1980; if the person:

- (A) Petitions the court in which the petitioner was convicted of the offense and the judge finds that the offense was a non-violent crime; AND
- (B) Petitioned for and received a positive vote from the Board of Parole to receive a pardon; AND
- (C) Received a pardon from the governor.

Such a petitioner will also be required to pay the \$450.00 total fee.

B. "Partial Expungement" Law

On April 9, 2015, Governor Bill Haslam signed into law Public Chapter 89, which provides for "**partial expunction** [partial expungement] of any public records relating to the person's arrest, indictment, charging instrument, or disposition for any charges other than the offense for which the person was convicted."

This new law is an amendment to TENN. CODE ANN. § 40-32-101, and is to be assigned its own subsection designation.

C. "Single Continuous Criminal Episode" Law

In 2014, Governor Haslam signed Public Chapter 671, which provides for expungements of multiple convictions, apparently for a single fee of \$450.00, "if the conduct upon which each conviction is based occurred contemporaneously, at the same location, represented a **single continuous criminal episode with a single criminal intent and all such convictions are eligible for expunction under this part.**"

This amendment to TENN. CODE ANN. § 40-32-101(g) took effect on July 1, 2014.

Payment Plans

In 2013, the Legislature enacted Public Chapter 443, which added a **payment plan** provision to TENN. CODE ANN. § 40-32-101(g). Individuals may request that the clerk set up a payment plan to pay the total fee of \$450.00, but no order of expungement shall be granted until the total amount of the fee is paid.

The Tennessee general expungement law at TENN. CODE ANN. § 40-32-101 contains no provision for an indigency waiver. Whether this will be an option in the future will likely depend upon legislative action.

V. Steps to Complete the Expungement Process (according to the District Attorney General Conference)

1. A person seeking an expungement of his or her record must obtain and complete a checklist prepared by the district attorney's office **where the conviction occurred**.
2. The person seeking the expungement will be required to obtain all of the documents and records in the checklist and submit them to the district attorney that provided the checklist.
3. Once the district attorney is satisfied that the required information has been submitted, then the district attorney will provide the applicant with a petition to submit to the court clerk **where the conviction occurred**. (Note: The district attorney may determine that the applicant does not qualify for expunction. The applicant may still file the petition with the court. **However**, the district attorney will likely oppose the request.)
4. Upon submission of the petition to the clerk, the applicant will be required to pay all of the required fees, which include a **\$450.00** total fee for the petition and the clerk's fee. **THESE FEES ARE NOT REFUNDABLE**.
5. Within 60 days of submitting the petition, the district attorney may submit recommendations to the court. The district attorney is required to provide a copy of such recommendations to the applicant. During this 60 day time period, each party may submit evidence to the court in support of the case.
6. If the court **denies** the application, then the applicant may **not** file another application for expungement for at least **two years from the date of the denial**.
7. If the request for expungement is **granted**, the successful applicant will be entitled to a copy of the order of expunction and this copy will be sufficient proof that she or he is no longer under any disability, disqualification, or other adverse consequence resulting from the conviction that has been expunged.

VI. What about criminal convictions PRIOR to November 1, 1989?

Additional Information from the D.A.G.C.:

"For an offense committed PRIOR to NOVEMBER 1, 1989, these FELONIES OR MISDEMEANORS are ELIGIBLE FOR EXPUNCTION:

- Person sentenced to a determinate sentence of 3 years or less;
- Person sentenced to an indeterminate sentence for which the person served 3 years or less;
- Person has 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; AND
- The offense for which the person was convicted:

- 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;
- Did not involve the use or possession of a deadly weapon;
- 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;
- Did not result in the death, serious bodily injury or bodily injury to a person;
- Did not involve the use of alcohol or drugs and a motor vehicle;
- Did not involve the sale or distribution of a Schedule I, II, III, or IV controlled substance;
- Did not involve a minor as the victim of the offense; or
- Did not result in causing the victim or victims to sustain a loss of twenty-five thousand dollars (\$25,000) or more.”

VII. TBI Notes

TBI removes charges from the criminal record, deletes the charges from the paper or electronic fingerprint card, and sends the expungement order to the Federal Bureau of Investigation to be processed on the federal level. At TBI, the charges are actually deleted from the defendant’s record – the TBI does not ‘seal’ records. When the defendant has no other charges, all criminal fingerprints are deleted.

The TBI **does allow for expediting** of expungements in certain circumstances where expungements can be expedited. Orders to be expedited should be faxed to 615.744.4653. The TBI reminds petitioners, “Be sure to include contact information on your cover sheet so you can be notified that the order has been received and processed.” Among the reasons for expediting are:

- Fingerprinting - job or carry permit
- Firearms purchase
- Adoption

VIII. Keep a copy of the expungement order!

Once charges have been expunged, it’s very important for the petitioner to keep a certified copy of the expungement order, as it will be the only way to prove that the expungement has been completed by the court and is valid.

IX. Attachment (Expungement Application/Order form)

It is noted that the official expungement form on the Tennessee Supreme Court’s forms site bears a last revision date of 2003 (attached).

END OF HAND-OUT

(FOR TBI USE ONLY) State Identification Number: _____

(FOR TBI USE ONLY) FBI Identification Number: _____

ORDER FOR THE EXPUNGEMENT OF CRIMINAL OFFENDER RECORD (PLEASE PRINT OR TYPE)

State of Tennessee vs _____ Circuit Docket Number _____

Date Original Case was filed in Clerk's Office _____ General Sessions Docket Number _____

In the _____ Court of _____ County, Tennessee at _____

On the Motion or Petition of _____

Defendant/Arrest Information:

Defendant (name used at time of arrest)	Race	Sex	Date of Birth
Arresting Agency	OCA#	Date of Arrest	
Charge 1 (As shown on arrest fingerprint card)	SSN#		
Charge 2 (As shown on arrest fingerprint card)			
Charge 3 (As shown on arrest fingerprint card)			

Disposition Information:

Final Charge 1
Final Charge 2
Final Charge 3
Final Disposition
Diversion Date (if applicable)

The defendant named above is entitled to have all PUBLIC RECORDS relating to the offenses listed above expunged according to the Tennessee Code Annotated provision marked below:

Provision relating to Adults: <input type="checkbox"/> Charge has been dismissed (T.C.A. § 40-32-101) <input type="checkbox"/> No true bill returned by Grand Jury (T.C.A. § 40-32-101) <input type="checkbox"/> Verdict of not guilty returned by jury (T.C.A. § 40-32-101) <input type="checkbox"/> Conviction which has by appeal been reversed (T.C.A. § 40-32-101) <input type="checkbox"/> Nolle Prosequi entered in case (T.C.A. § 40-32-101) <input type="checkbox"/> Successful completion of all probation provisions and proceedings against defendant have been discharged by the court (T.C.A. § 40-35-313) <input type="checkbox"/> Suspension of prosecution pursuant to T.C.A. § 40-15-105	Provisions relating to Juveniles: <input type="checkbox"/> Petition alleging delinquency not filed (T.C.A. § 37-1-155) <input type="checkbox"/> Proceedings dismissed after petition is filed or the case transferred to Juvenile Court as provided in T.C.A. § 37-1-109 (T.C.A. § 37-1-155) <input type="checkbox"/> Adjudicated not to be a delinquent child (T.C.A. § 37-1-155) <input type="checkbox"/> Child has reached eighteen (18) years of age and there is no record that he committed a criminal offense after reaching sixteen (16) years of age, unless such fingerprints were obtained on alleged charge which if committed by an adult would be a felony (T.C.A. § 37-1-155) <input type="checkbox"/> Passage of six (6) months from date of liquor law violations defined by T.C.A. § 57-3-412(a)(3)(c) or T.C.A. § 57-5-301(e)(3)
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It is ordered that all PUBLIC RECORDS relating to such offense above referenced be expunged and immediately destroyed upon payment of all costs to clerk and that no evidence of such records pertaining to such offense be retained by any municipal, county, or state agency, except non-public confidential information retained in accordance with T.C.A. § 10-7-504 and T.C.A. § 38-6-118.

APPROVED FOR ENTRY

Defendant/Attorney for Defendant	Entered this _____ day of _____, _____
District Attorney General	Judge