

---

## Expungement Reference Guide

**What is an expungement?** Under SC law, you can apply to have certain **South Carolina** arrests, charges, or convictions placed under seal so they are no longer public record. Once they are sealed, these records can only be used for limited law enforcement purposes and otherwise can only be disclosed by court order.

**How can an expungement help me?** An expungement may help you clear some charges or convictions off your record and make it easier for you to find a job or secure housing, or overcome other hurdles relating to your criminal record.

### **Eligible Charges**

**Not Guilty, Dismissed and Nolle Prossed charges:** For charges dismissed after 2009, expungement is automatic in most cases. For charges prior to 2009, you will need to apply for an expungement. In most cases, it is free to have a dismissed charge expunged from your record, but you may still need to go through the application process. Charges that were dismissed as part of a plea agreement are still eligible for an expungement, but they do not qualify for a free expungement.

**Misdemeanor Offenses:** Convictions for misdemeanors that carry a maximum sentence of 30 days and/or \$1000 fine may be eligible for an expungement. You must wait three years and have no other convictions in those three years before applying for the expungement/five years if the conviction is for Domestic Violence. *New for 2019: Removes "first offense" requirement, so now any 30 day/\$1000/misdemeanor is eligible as long as there were no subsequent charges for three years/five years for domestic violence. Any number of eligible misdemeanor offenses will be counted as a single offense for expungement purposes if the individual received sentences at a single sentencing proceeding and the underlying charges are closely connected/arose out of a single incident. Pending charges may make a person ineligible for expungement.*

**Youthful Offender Act (YOA):** YOA is a special type of sentence for certain people who were convicted before their 25<sup>th</sup> birthday. If you are not sure if you received YOA, refer to your sentencing sheet. You must wait until five years have passed since you completed your sentence, including probation or parole, and have no other convictions, including out of state convictions, while serving your sentence or in the five years after completing your sentence before you can apply for an expungement. *New for 2019: Any number of eligible offenses will be counted as a single offense for expungement purposes if the individual received sentences at a single YOA sentencing proceeding and the underlying charges are closely connected/arose out of a single incident. No expungement is allowed for an offense for which an individual must register as a sex offender. Individuals who were sentenced before June 02, 2010 and met the definition of "youthful offender"<sup>1</sup> may be eligible for an expungement even if they were not sentenced under the Youthful Offender Act.*

**Fraudulent Checks:** A first offense misdemeanor fraudulent check charge is eligible for expungement. You must wait one year and have no other convictions before applying for the expungement.

---

<sup>1</sup> Youthful Offender is defined in Section 24-19-10(d) of the South Carolina Code

**Failure to Stop for a Blue Light:** A first offense failure to stop conviction is eligible for expungement. You must wait three years and have no other convictions before applying for the expungement.

**Victims of Human Trafficking:** Victims of human trafficking who were charged and convicted of either human trafficking or prostitution may be eligible to get their records expunged.

**Simple Possession/Possession with Intent to Distribute (new):** *First offense simple possession is eligible for expungement 3 years after completing sentence with no convictions in those 3 years. Possession with Intent to Distribute (PWID) is eligible for expungement 20 years after completing sentence if no other drug or felony convictions in those 20 years.*

**Diversion Programs:** Upon completion of the required program, including paying fees and costs associated with the program, the solicitor should have marked your charge as dismissed or not prosecuted (nolle prossed). Some common diversion programs that may result in a dismissed charge are:

- Pre-Trial Intervention (PTI)**
- Traffic Education Program (TEP)**
- Alcohol Education Program (AEP)**
- Conditional Discharge (for a first offense drug possession charge)**
- Drug Court**
- Veterans Court**

## **Costs**

The cost of an expungement depends on whether you are expunging a dismissed charge, a conviction, or completed a diversion program. Most dismissed charges are free to expunge, unless it was dismissed as part of a plea agreement in General Sessions court.

**Some or all of the following fees may apply:**

- \$250.00 application fee to Solicitors Office
- \$25.00 SLED fee
- \$35.00 Clerk of Court

*New for 2019: Solicitor may have funds available to offset up to 50% of the application fee for expungement. Be sure to ask when you apply for your expungement. These funds are not guaranteed.*

## **Next Steps:**

**Apply for an expungement:** Applications for expungements are handled by the Solicitors Office. There are 14 Solicitors Offices, so you must find the Solicitor who has jurisdiction in the county where your charges originated.

**How long does it take for the expungement?** It will vary depending on what offense you are attempting to expunge and the speed at which the paperwork is processed. It usually takes between 2-6 weeks, though some counties may take longer.

**Do I need to hire an attorney to get an expungement?** In most cases you do not need to hire an attorney to obtain an expungement if you qualify. In certain situations, you may want to consult an attorney.

**What if my charges do not qualify for an expungement? Is there anything else I can do?**

Since there are only limited convictions that are eligible for an expungement, many people do not qualify to have their charges expunged. If you do not qualify for an expungement, you may want to look into a PARDON. A pardon is different from an expungement. It does not seal your criminal history, but if granted a pardon you can tell employers or landlords that you have received a pardon. Many employers look favorably upon a person who has received a pardon. To learn more about Pardons, please see SC Appleseed's Pardon Fact Sheet, or go online to <http://www.dppps.sc.gov/> to download a pardon application.

The purpose of this document is to provide a quick overview of expungement eligibility for South Carolina criminal charges. This document is not meant to provide legal advice. If you have out of state convictions, you should look into the expungement laws for that state.