



UNDERSTANDING & CLEANING UP YOUR CRIMINAL RECORD



In the UNDERSTANDING & CLEANING UP YOUR CRIMINAL RECORD CHAPTER, you will first learn the importance of understanding your record. This includes where that information exists in the world and how to fix errors in your record early on in reentry.

In the second part of the Chapter, you will learn that you may be able to remove certain offenses from your South Carolina criminal record. This happens through a process South Carolina calls “expungement.” Expungements protect parts of your criminal background information from being accessed by the public. When an expungement is granted, it conceals certain offenses on your criminal history from individuals, employers, and most agencies. Expungements can increase access to housing, employment, education, and more. You will also learn about the pardon process in South Carolina. The pardon process in South Carolina does not conceal past offenses on your criminal history, but it can increase the likelihood of securing housing, jobs, and more.

DISCLAIMER - YOUR RESPONSIBILITY WHEN USING THIS GUIDE: When putting together the *Roadmap to Reentry: A South Carolina Legal Guide*, we did our best to give you useful and accurate information. However, the laws change frequently and are subject to differing interpretations. We do not always have the resources to make changes to this information in this material every time the law changes. If you use information from the *Roadmap to Reentry* legal guide, it is your responsibility to make sure that the law has not changed and that it still applies to your particular situation. If you are currently incarcerated, most of the materials you need should be available in your institution’s law library. The *Roadmap to Reentry* guide is not intending to give legal advice, but rather legal information. No attorney-client relationship is created by using any information in this guide. You should always consult your own attorney if you need legal advice specific to your situation.



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I. INTRODUCTION

This UNDERSTANDING & CLEANING UP YOUR RECORD CHAPTER is broken up into the following subjects:

- **Key Concepts For Understanding Your Criminal Record & Fixing Errors:** Explains the different types of criminal records that you may have, what information can (and can't) be included in your criminal records and on background checks, and why it's important to review and understand your own criminal records.
- **Who Can See Your Criminal Record:** Gives you the different rules for who CAN and CAN'T see your criminal records and/or run a background check on you. This might include employers, law enforcement agencies, licensing agencies, and landlords. This section will also include how information from a criminal record and/or background check can be used.
- **How to Get Your Criminal Records:** Explains how to get copies of the different types of criminal records you may have. You will need these in order to decide the best way to clean up your record.
- **How to Clean Up Your Record:** Explains the different options, or "remedies," available for cleaning up your record. This section can help you figure out which offenses are eligible for expungement and walks you through how to do each one.

If you are recently released from prison or jail or are earlier in the reentry journey, we suggest focusing on these sections of this Chapter first:

- Key concepts in understanding your record and fixing errors,
- Learning who can and cannot see your criminal record information, and
- How you can get copies of your criminal record information.

If you are later in your reentry journey, cleaning up your record will probably become more important to you over time. This is because many of the South Carolina "record cleaning" options are only available to people off supervision or those who are able to get off supervision early (by law).



II. KEY CONCEPTS FOR UNDERSTANDING YOUR CRIMINAL RECORD & FIXING ERRORS—EARLY IN REENTRY

This is one of the most important sections for people early in their reentry journey. This section includes:

- How to better understand your criminal record;
- How to fix errors in your record; and
- How to be prepared for what others can and cannot find out about you and your record.

WHAT IS A CRIMINAL RECORD?

Your “criminal record” is the broad term used to include ALL of the information created about any contact you’ve had with law enforcement, the courts, or other parts of the criminal legal system. Your “criminal record” includes arrests, charges filed against you, convictions, pleas, acquittals, dismissals, sentences, and any other contact you have had with law enforcement and/or the criminal legal system that was *documented* (written down or logged into a database).

NOTE: In order for an arrest or conviction to appear on your criminal background check in South Carolina, you must have been fingerprinted for that offense. For example, you are driving a vehicle on a South Carolina road and pulled over by law enforcement. The officer issues you a ticket for reckless driving. If law enforcement gives you a ticket with a court date and does NOT take you to jail, this arrest will not appear on your South Carolina RAP Sheet. (See below for more information on RAP Sheets.)

IMPORTANT PROTECTIONS TO KNOW ABOUT: A lot of this information CANNOT be included in a regular background check. Continue reading for more information about what information can and cannot be included in your background check.

WHY IS IT IMPORTANT TO UNDERSTAND MY CRIMINAL RECORD?

It is important to know what will show up in your criminal record so that you can:

- Check that the information is accurate,
- Make sure that information that shouldn’t be disclosed stays protected, and
- Better prepare to deal with your record coming up when you’re trying to get a job, find housing, reunite with your family, apply for public benefits, or go back to school.

South Carolina also has laws that allow you to “clean up” parts of your record LATER in the reentry process.

TYPES OF CRIMINAL RECORDS

TYPE 1: RAP SHEETS

WHAT IS A RAP SHEET AND WHY IS IT IMPORTANT?

A RAP sheet (Record of Arrest and Prosecution) is the government’s official version of your criminal history, as recorded by local, state, and federal governmental agencies (such as courts, law enforcement, FBI, and other criminal legal agencies).

Your RAP sheet includes important information like the date of each arrest, which law enforcement agency arrested you, what offense(s) you were charged with, your case number (case or warrant number), and most importantly—the final outcome (disposition) of each case (for example, acquittal, conviction, plea bargain, sentence, or dismissal). It’s also important to look out for errors (learn about common errors in Appendix D).

HOW MANY RAP SHEETS DO I HAVE?

If you’ve been arrested or convicted of a crime in South Carolina, you potentially have two different RAP sheets.

- Your *South Carolina Criminal History (SLED) RAP sheet* lists your criminal history in *South Carolina only*. This RAP sheet is kept by the South Carolina Law Enforcement Division (SLED).¹
- Your *FBI (federal) RAP sheet* lists any and all criminal legal involvement you’ve had in *any* state in the U.S. or with the federal government. This RAP sheet is produced by the Federal Bureau of Investigations (FBI).² Your

¹ South Carolina State Law Enforcement Division, *SLED CATCH*, <https://catch.sled.sc.gov/>.

² 28 C.F.R. § 16.31 (2023).



FBI RAP sheet is also called an Identity History Summary (but throughout this chapter, we will continue to call it your FBI RAP sheet).³ See APPENDIX A for sample SLED and FBI RAP sheets.

IMPORTANT: Your SLED RAP sheet is NOT confidential! SLED makes South Carolina RAP sheets available for a fee to anyone who knows the full name and birthdate of a person. For more information on who can see your SLED RAP sheet, see Section III Who Has Access to Your Criminal Record & What Can They See?

WHY IS IT HELPFUL FOR ME TO SEE MY RAP SHEET?

There are 4 main reasons why it's important to see your RAP sheet and know exactly what it says:

- 1) **RAP sheets often contain mistakes**, such as incomplete or incorrect information. It's important to find and correct any errors BEFORE the wrong information has a chance to harm you.
- 2) **You will have an accurate record of your criminal history** so that you know what information certain employers, professional licensing agencies, landlords, banks, or others might see about you.
- 3) **You will be better prepared to answer questions about your criminal history.** If you know what is in your record, you can plan ahead and figure out how to talk about it in a more positive light.
- 4) **It's necessary for cleaning up your record!** Your RAP sheet will help you figure out which remedies you qualify for and which are the best options for you. In addition, you will need the details from your RAP sheet to fill out forms and complete the process of cleaning up your record.

For more information on how to get a copy of your RAP sheet(s), see APPENDICES B and C.

FIXING ERRORS IN RAP SHEETS

There are many different reasons why incorrect or incomplete information may show up in your government-produced RAP sheet. It's very important to get copies of your RAP sheet (and background check, discussed in the next section below "Type 2: Background Checks") so that you can find and correct any errors BEFORE they cause problems for you! See APPENDIX D for a list of common RAP Sheet errors.

HOW CAN MISTAKES END UP IN MY RAP SHEET?

- **Human error.** The people who manage the various records can make mistakes. They may confuse you with someone who has a similar name, enter your information wrong, or include information that should NOT be included (for example, a sealed juvenile offense).
- **Failure to confirm information.** Although government agencies are supposed to confirm that the information that they have about you is correct and up-to-date, a lot of times they don't. As a result, they may not report changes in the status of your case or the final outcome of the case, *even if you were acquitted or the case was dismissed!*
- **Identity theft.** Someone else may open an account using your personal information or commit a crime and pretend to be you by giving your name or identification. These activities may then go on your record as your actions.

WHEN CAN I FIX THE ERRORS?

You can start to fix the errors right away! If you find incorrect or missing information in your criminal records, you can follow the steps below to fix the errors. Don't let errors stay on your record. Errors on your record can hurt your chances of getting a job, a place to live, or government benefits, and they can disrupt many other areas of your life as well. Also, don't wait until the errors show up on a background check that is seen by an employer, private landlord, creditor, or governmental agency. It's much easier to clean up errors BEFORE they cause you any problems.

HOW CAN I FIX ERRORS IN MY SLED RAP SHEET?

Even though your SLED RAP sheet is supposed to be the official record of your criminal history from South Carolina law enforcement agencies and the courts, it may contain errors. If you think that any piece of information contained in your SLED RAP sheet is incorrect, you must submit a formal challenge to the South Carolina Law Enforcement Division in order to dispute the information.⁴ However, you can only submit this formal challenge after you have requested and received a copy of your RAP sheet from SLED.⁵ Once SLED receives your challenge,

³ Identity History Summary Checks (Rap Sheets), *Frequently Asked Questions*, FED. BUREAU INVESTIGATION.

⁴ South Carolina State Law Enforcement Division, *supra* note 1.

⁵ *Id.*



they will review your claim and decide whether or not to correct the information in your RAP sheet. It typically takes SLED an average of six months to review paperwork related to correcting RAP sheet errors. We recommend starting the process as soon as possible.

For detailed instructions on each step of the process for correcting errors in your SLED RAP sheet, see APPENDIX E. If you have any other questions about getting or correcting your SLED RAP sheet, call SLED's Public Dissemination Unit at 803-896-1443.

HOW CAN I FIX ERRORS IN MY FEDERAL (FBI) RAP SHEET?⁶

Your FBI RAP sheet is the federal government's official record of all of your interactions with law enforcement and the criminal justice system from anywhere in the United States, including any federal cases or convictions. The FBI gets your fingerprints and criminal history information from other criminal legal organizations throughout the U.S. In general, when you have any interaction with one of these agencies, they send your information to the FBI's Criminal Justice Information Services (CJIS) Division.

The FBI can only change your information if the original agency or court (specifically, the one that sent the information to the FBI in the first place) tells the FBI to change it.⁷ If you think your FBI RAP sheet is inaccurate or incomplete, there are 2 ways to correct the information:

OPTION 1: Contact the court or agency that sent your information to the FBI.

NOTE: Each entry on your FBI RAP sheet should list the specific agency that provided the information. This is how you can tell which agency sent the FBI the incorrect or incomplete information on your FBI RAP sheet.

> IF THE INCORRECT OR MISSING INFORMATION IS FROM A SOUTH CAROLINA STATE AGENCY OR COURT:

Contact SLED's Division of Public Dissemination Unit, and ask them to send the FBI corrected or updated information.⁸

> IF THE INCORRECT OR MISSING INFORMATION IS FROM AN AGENCY OR COURT IN ANOTHER STATE:

Contact the Identification Bureau of the state where the agency or court is located, and ask them to send the FBI corrected or updated information. Contact information for the Identification Bureau of every U.S. state is available on the FBI's website at:

<https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/identity-history-summary-checks/state-identification-bureau-listing>.

> IF THE INCORRECT OR MISSING INFORMATION IS FROM A FEDERAL AGENCY OR COURT:

Contact the specific federal agency that sent your information to the FBI, and ask them to send corrected or updated information. See APPENDIX E for additional details about each of these steps.

OPTION 2: Go through the FBI directly.⁹

If you don't know where the incomplete or incorrect information on your RAP sheet came from, you can contact the FBI directly to challenge the error and ask them to correct it. You will need to write a "challenge letter" explaining exactly what information is wrong and why, and send it to the FBI along with any proof you have to support your claim.¹⁰

The FBI will then investigate your claim. If the FBI decides that the information in your RAP sheet is wrong or incomplete, it will correct your RAP sheet and let you know. For a detailed explanation of both Option 1 and Option 2, see APPENDIX E.

IMPORTANT: IT IS EXTREMELY IMPORTANT TO REVIEW YOUR RAP SHEETS – both State and Federal – to make sure that all the information contained in them is ACCURATE, COMPLETE, AND UP-TO-DATE. Any errors on your RAP sheet can cause you serious problems in the future when you apply for a job, a professional license, housing, or a loan, or if you get arrested or charged with a crime in the future.

TYPE 2: BACKGROUND CHECKS

WHAT IS A BACKGROUND CHECK?

⁶ Identity History Summary Checks (Rap Sheets), *Frequently Asked Questions*, FED. BUREAU INVESTIGATION.

⁷ *Id.*

⁸ *Id.*

⁹ 28 C.F.R. § 16.34 (2023).

¹⁰ 28 C.F.R. § 16.34 (2023).



A background check is the process of looking up non-confidential information about someone's past activities, including their criminal history, work experience, education, debts, and more. When someone runs a background check on you, they may research your history by looking up public records, running an internet search, and even interviewing people you know.

Most commonly, background checks are done by private companies that specialize in investigating people and compiling information about them. Employers, private landlords, creditors, and other people often hire these companies to run a background check on you when you apply for a job, rent an apartment, apply for a loan, or volunteer at your child's school.

DEFINITIONS

Background Check Reports & Background Check Companies

- A "background check report" is the document that an employer, landlord, or other person sees when he/she hires a private background check company to run a background check on you.
- A "background check company" is a private company that specializes in doing background checks (and selling the information they gather).

REMEMBER: Your SLED RAP sheet itself is not confidential and CAN be included in background checks. However, under federal law, there are certain restrictions as to what can and cannot be included in your background check.¹¹ Private companies who compile information about you, including your criminal history, must follow these federal laws.

WHAT INFORMATION CANNOT SHOW UP IN A PRIVATE BACKGROUND CHECK?

Background check laws protect you by making it illegal for private background check companies to include certain types of information in your background check report. Those companies can face penalties if this illegal information is provided.¹² The following information CANNOT show up in a private background check in South Carolina:

- Criminal convictions that have been expunged;
- Criminal convictions from *more than 7 years ago* (except for certain, sensitive jobs where the law requires it)¹³;
- Any information about arrests or charges that *did not* result in a conviction, *no matter how recent* (unless the judgment is still pending);
- Any information about arrests or charges from *more than 7 years ago*;
- Any information about referrals to, or participation in, any pretrial or post-trial diversion program (usually drug treatment programs that you are ordered to do instead of going to jail);
- Lawsuits and judgments from *more than 7 years ago*;
- Paid tax liens from *more than 7 years ago*;
- Accounts placed in collections *more than 7 years ago*;
- Bankruptcies from *more than 10 years ago*.¹⁴

Additionally, background check companies must follow *specific rules* when they include ANY negative or harmful information—including criminal history information—in a background check on you. Harmful information includes anything that could hurt your chances of getting a job, housing, insurance, or public benefits; cause you to have to pay more for housing, insurance, or public benefits; or have ANY other negative impact on you.

Background check companies *cannot* include any public information (for example, information about arrests, convictions, civil actions, tax liens, and outstanding judgments) **unless the company has double-checked it for accuracy**. This means the company should check with the court, police, or other agencies to find out the current status of any arrests, charges, indictments, convictions, judgments, etc. For example, if you were arrested but never charged, if your charges were dismissed or reduced, if you were acquitted (or convicted), or if there were any other changes to your case, the company must report the updated information.

WHAT INFORMATION CAN SHOW UP IN A BACKGROUND CHECK?

In the age of the Internet, there is a lot of information that could show up in your background check report. For example, it may contain information about:

¹¹ See 15 U.S.C. § 1681 et. seq.

¹² See generally U.S. Equal Employment Comm'n, *Background Checks: What Job Applicants and Employees Should Know*, EEOC.

¹³ See U.S. Equal Employment Opportunity Comm'n, *Arrest and Conviction Records: Resources for Job Seekers, Workers and Employers*, EEOC.

¹⁴ Matthew J. Rodgers, *South Carolina Background Check: A Complete Guide* (last updated Dec. 5, 2022), IPROSPECTCHECK, <https://iprospectcheck.com/background-check-south-carolina/>.



- Criminal convictions;
- Other court cases you were involved in (for example, lawsuits, small claims court cases, money judgments against you, etc.);
- Your driving record;
- Previous employment;
- Education records;
- Property ownership records;
- Bankruptcies and tax liens;
- Professional licensing records;
- Previous addresses;
- Past evictions; AND
- Personal references from people who know you (such as past employers, private landlords, neighbors, etc.).

Although anyone can look up public records or information on the Internet about you, there are special laws that limit who and when someone can run a background check on you if they use a private (“commercial”) background check company. In general, the people who can run a private background check on you include: employers, private landlords, insurance companies, professional licensing agencies, creditors, anyone with a court order or subpoena, and anyone seeking child support payments from you. (For a list of who can legally run a background check on you, see Section III: Who Has Access to Your Criminal Record & What Can They See?)

In addition, there are laws that protect you by limiting the information that can show up in a private background check report, and give you the chance to correct any errors that show up.

WHY IS IT HELPFUL FOR ME TO SEE WHAT IS IN MY BACKGROUND CHECK?

There are several reasons why it is important to find out what is likely to come up in your background check:

- **Background checks often contain mistakes**— such as incomplete, incorrect, or forbidden information. It is important to find and correct any errors BEFORE the information shows up in a background check and causes you problems.
 - **You will know what other people are likely to see about you**, in case your criminal history comes up on an application for employment, professional licensing, housing, or a loan, or in any other situation.
- **You will be better prepared to answer questions about your criminal history during job interviews, on job and housing applications, and in other situations.**
- **You can protect your rights and maximize your chances of success!** Remember, there are laws that protect your rights when someone runs a background check on you. But you need to know what information will show up in your background check in order to protect those rights!

REMEMBER, cleaning up your criminal record will reduce the information that most people can see about you when they run a background check!

WHAT IS THE DIFFERENCE BETWEEN A RAP SHEET AND A BACKGROUND CHECK?

RAP Sheet	Background Check
Based on official government records	Based on investigations by private companies
Lists every encounter with law enforcement, the courts, and the criminal legal system in South Carolina	Contains only limited criminal history information
Contains criminal history information only	Includes criminal history information as well as other information about you, such as identifying information like your social security number, previous addresses, spouses, and any aliases known to law enforcement.
Not confidential in South Carolina, but the person requesting your RAP Sheet must know your personal information before they can see it.	Can be seen by a variety of people (like public and private landlords and employers, banks, etc.) for many reasons – but not everything from your past can be reported. Most people running your background check will need to get your permission first! ¹⁵

FIXING ERRORS IN BACKGROUND CHECKS

WHAT ARE COMMON ERRORS IN A BACKGROUND CHECK?

¹⁵ Fair Credit Reporting Act § 604, 15 U.S.C. § 1681(b)(2).



- **Information that should NOT be included**, such as convictions more than 7 years old from the date of disposition, release, or parole, arrests that did not lead to a conviction (unless charges are still pending), participation in court-ordered drug treatment, or convictions that have been dismissed;
- **Information that is wrong** (for example, reporting that you were convicted of robbery instead of petty theft);
- **Information that belongs to someone else** with the same (or a similar) name as you;
- **Report of an arrest or charges filed, but not the final outcome of the case** (for example, you were never charged, charges were dismissed, you were acquitted, or you plead guilty to a lesser offense);
- **Information from public records or personal interviews that has not been confirmed;**
- **Any negative information about you that is more than 7 years old (or bankruptcies that are more than 10 years old).**

You have the right to challenge any information in your background check. You also have the right to view the background check company's files containing any information that was used to prepare your background check.

WHAT ARE SOME STEPS I CAN TAKE TO FIX ERRORS IN MY BACKGROUND CHECK?

- First, you can NOTIFY the background check company that the information is wrong and include proof (documents or evidence) of the correct information.
- Second, the background check company MUST INVESTIGATE the information that you challenged and MUST inform you of the results within 30 days.
- Third, the background check company MUST REMOVE or CORRECT any information that is wrong, incomplete, or cannot be confirmed as true.
- Finally, if the background check company does not remove the information from your background check, you can add your own STATEMENT OF DISPUTE to the company's file stating that you disagree with the information.¹⁶

For a step-by-step explanation of this process, see APPENDIX E.

HOW DO I KNOW WHICH BACKGROUND CHECK COMPANY DID MY BACKGROUND CHECK?

There are two ways to find out which background check company ran your report and how to contact them:

- BEFORE someone runs a background check on you (such as an employer, private landlord, or creditor), generally they must tell you that they are going to get a background check on you and get your permission. They must also give you the name, address, phone number, and website of the background check company that they are going to use.¹⁷
- If someone takes an adverse action against you (such as refusing to hire you, rent you an apartment, or give you benefits) based on information in your background check, they must give you an "ADVERSE ACTION LETTER" with the name, address, and phone number of the company used.¹⁸

You have the right to know what internal procedures the background company uses to investigate your claim. You can ask the company for this information and they MUST provide it to you.¹⁹

A NOTE ABOUT CHALLENGING INFORMATION IN YOUR BACKGROUND CHECK REPORT: Under the law, you have the right to challenge any information in your background check, and there is a specific process for doing it. However, in practice, it might not be as easy or straightforward, especially if the background check company is uncooperative or unresponsive. If you have trouble getting the company to review or change the wrong information in your file, it is recommended that you contact a lawyer for help. For more information on finding a lawyer, visit this website: <https://www.scbarr.org/public/get-legal-help/find-lawyer-or-mediator/find-a-lawyer/> or call 1-800-868-2284.

TYPE 3: ARREST WARRANTS

WHAT IS AN ARREST WARRANT, AND WHY IS IT IMPORTANT?

An arrest warrant, or simply a "warrant," is a legal order that gives police and law enforcement the authority to arrest you for various reasons: for example, because you missed a criminal court date or are suspected of a crime. If you have an outstanding warrant this means that the police can take you into custody at any time, including during a routine traffic stop or at your home. If you do not take care of the warrant, you may constantly worry about being unexpectedly arrested or taken to jail. This is why it is very important to figure out if you have any outstanding warrants before getting your criminal record expunged. (Learn more about expungements in Section 5: "Cleaning Up Your Criminal Record—Later In Reentry.") An outstanding warrant could also impact other areas of your life, such as your ability to get public benefits, public housing, or a passport.

¹⁶ Fair Credit Reporting Act § 611, 15 U.S.C. § 1681(i).

¹⁷ 15 U.S.C. § 1681b(2)-(3).

¹⁸ 15 U.S.C. § 1681m.

¹⁹ 15 U.S.C. § 1681g.



WHAT TYPE OF WARRANTS COULD BE ON MY RECORD?

Below is a brief overview of different types of warrants that could show up on a record:

- **Arrest Warrant:** An arrest warrant is issued after a grand jury or law enforcement officials have probable cause to suspect that you have committed a crime. Probable cause requires the knowledge of facts that would lead to a reasonable belief or strong suspicion that you committed a crime.²⁰ A judge will issue an arrest warrant for you if the judge determines, based on a “good faith belief” that you have been a part of the crime.
- **Bench Warrant:** A bench warrant is issued for failing to obey a court order, such as failing to appear for a court hearing or failing to answer a subpoena (*a subpoena is a court summons to attend court*). A bench warrant gives police the authority to arrest you at any time, but it usually doesn’t trigger immediate police action. When a bench warrant is issued against you, your name will go into a statewide computer system that is accessible to the entire law enforcement community.

Please note that in serious criminal cases, a failure to appear will most likely cause the court to issue a “regular” arrest warrant. This means the police may immediately try to find and arrest you.

- **Parole Warrant:** According to S.C. Code Ann. § 24-21-680, a person who violates any of the terms and conditions of his or her parole may face a revocation of it. The parole officer has the option of either issuing a warrant or a citation to the parolee. If a warrant is issued, he or she will be arrested, and bond may only be set by a judge in the district. In most cases, a person on parole who is accused of violating their parole will not be granted bond but will have to remain in jail until the parole revocation hearing. If the parole is revoked following the hearing, the person may be sent back to prison to serve either a portion of the remaining sentence or the entire remaining sentence. If the person on parole is returned to prison, they may be eligible for parole again after serving an additional amount of time.²¹

HOW DO I FIND OUT IF I HAVE AN OUTSTANDING WARRANT IN A STATE CASE?

There are different types of outstanding warrants. There are also different steps to find if you have an outstanding warrant depending on the type. If you are unsure whether you have an outstanding warrant, check your county courthouse website to see if it has a searchable public records section with information about outstanding warrants. You can search your name to see if the website has any warrants listed under that name. Please note that this option of searching a courthouse database for warrants may not be available.

You can also call the clerk of the court in your county and ask if there is an outstanding warrant for “Person X” (your name) in a criminal or civil case. Have your name, birth date, and if possible, your case number and Social Security number, in hand. Avoid identifying yourself as the person for whom a warrant could have been issued. If you are considering going to the courthouse for information, it would be better to ask a trusted family member or friend to go and ask for you instead. If law enforcement sees you and you have an active warrant, they can arrest you right then.

Below are specific instructions for different types of warrants:

- Arrest warrants for new charges that have not been filed with the court:
 - This means that the arrest warrant has not been served on that person yet.
 - These arrest warrants will only be on file at the law enforcement agency that holds the warrant. It will not show up on the public index.
 - You can call the law enforcement agency's warrants department to ask about any outstanding warrants.
- Bench warrants:
 - Bench warrants are normally displayed on the public index. This is because the case has already been filed with the court. Bench warrants are typically issued when the person fails to appear in court or fails to comply with their bond requirements.
 - The law enforcement agency's warrants department may also be able to help with whether or not a bench warrant has been issued.
- Bench warrants for failure to pay child support:
 - If you are responsible for paying child support and you fail to do so, the Family Court may issue a “Rule to Show Cause” summons. This is the Court telling you to come in and “show cause” as to why you have not paid.
 - If you receive a Rule to Show Cause for failure to pay child support and you do *not* attend that hearing, the Family Court may issue a bench warrant for your arrest.
 - These bench warrants are generally not public but are on file with the family court. You can call the Family Court Clerk of Court in the County that ruled you in for information about whether there is an active bench warrant related to your child support case.

²⁰ *Huffman v. Sunshine Recycling, LLC*, 426 S.C. 262 (2019).

²¹ See S.C. CODE ANN. § 24-21-680 (2012).



If you do not feel comfortable calling the clerk of the court, you may also try calling your local public defender's office to assist you.

HOW DO I FIND OUT IF I HAVE AN OUTSTANDING WARRANT RELATED TO A TRAFFIC TICKET/VIOLATION?

The best way to check if you have an outstanding warrant for a traffic ticket/violation is to contact the courthouse that is listed on your traffic ticket. You must contact BOTH the traffic clerk and the criminal clerk and have them run your name and date of birth through a warrant search on the court computer.

You may also search on the court website by doing a traffic ticket search. Search by "driver's license number" rather than by "ticket number" to get the most accurate results. The status of your ticket will say if you have a bench warrant, arrest warrant, or a failure to appear warrant. Please keep in mind that you may still have a warrant even if the court website does not show one for you, so don't rely completely on the website.

HOW DO I FIND OUT IF I HAVE AN OUTSTANDING WARRANT IN A FEDERAL CASE?

If you want to know whether you have an outstanding warrant in a federal case, call the clerk of the federal court for your district. If you are uneasy about calling the clerk of the court yourself, you can have another person call for you.

Another option is to go to the courthouse and look up your name in its public records. If it's possible, have another person do this for you, as you risk being taken into custody if you have an outstanding warrant.

You may have multiple outstanding warrants out for your arrest in different federal circuits. The clerk of the court for one circuit may not be able to tell you whether you have a warrant in another circuit. Consider working with a bail bondsman or an attorney to determine if you have multiple warrants.

I FOUND OUT I HAVE AN OUTSTANDING WARRANT. WHAT CAN I DO?

Generally

If you have an outstanding warrant, you have a few options. We highly recommend you first contact your public defender or private defense attorney and let them know you have an outstanding warrant. Your attorney might advise you to call the clerk of the court and find out whether you can take care of the warrant by simply paying a fine.

Although you can go to the court and take care of your warrant in person, it's best to first contact a lawyer to determine whether you are at risk of being taken into custody when you identify yourself. It may be best to have a lawyer take care of the warrant for you. The lawyer may be able to get your warrant "recalled" or "quashed," meaning the warrant would be deemed invalid. If you are unable to get the warrant recalled/quashed, the lawyer will also be able to help you schedule an arraignment and help you negotiate a plea deal. Most courts do not allow you to schedule a warrant arraignment (you would usually be required to surrender yourself) so you must ask an attorney to help you put your case on the calendar.²²

If you don't take care of your warrant, you risk being taken into custody the next time you come in contact with the police, even during a routine traffic stop. Call a lawyer to make sure this doesn't happen to you.

Out-of-state warrants

You may still be able to have the warrant recalled/quashed even if the warrant is from another state. However, you need to contact the public defender's office for the county and state in which the warrant was issued. A South Carolina attorney cannot recall/quash out-of-state warrants unless they are licensed in that particular state.

It is important to note that if an arrest warrant has been issued in another state, that state may issue a warrant to extradite (transport you to the other state to face criminal charges). However, extradition is possible ONLY IF you have been charged with a crime in the other state. You are entitled to a hearing before being moved, and if there are facts to support the extradition request, you will be transported to the other state to face charges. If no charges have been filed and the only issue is an outstanding out-of-state warrant, you should contact an attorney in the other state as soon as possible. It is better that you deal with your out-of-state warrant before charges have been filed to avoid possible extradition. You can do this by recalling/quashing the warrant, paying a fine, or discussing your options with an attorney if the other state intends to file charges.

Extradition is expensive and usually states do not extradite people for minor offenses. However, once an arrest warrant is issued, a person can be taken into custody if they come into contact with a law enforcement officer for any reason. For example, if a driver is stopped in Arizona and a computer check reveals an Oregon warrant in the person's name, the driver could be taken into custody, regardless of the basis for the stop.

²² See generally South Carolina Judicial Branch, *Warrants*, SCCOURTS, <https://www.sccourts.org/summaryCourtBenchBook/displaychapter.cfm?chapter=CriminalC>.



For people who are currently incarcerated

If you are currently incarcerated and have an outstanding warrant, the first thing you should do is find out if charges have been filed against you. Your local public defender's office can look into whether you have any charges pending.

If charges have been filed

You should contact the public defender or private defense attorney that represented you in your previous case and ask them to file a speedy trial motion on your behalf.

If charges have not been filed

You CANNOT use a speedy trial motion to quash a warrant if no charges have been filed against you. However, if a "hold" (detainer) has been placed on you (preventing your release) due to a probation violation that occurred either before your incarceration or as a result of your incarceration, a speedy trial motion is to be brought to trial within 90 days.

Also, the prosecuting attorney will usually bring you to trial within 90 days, so your chances of having the pending charges dismissed are very slim. You may, however, be given the opportunity to serve the sentence for the second charge concurrently (at the same time) with your current sentence, and the court may offer you a shorter consecutive sentence (which is tacked onto your original sentence).

If you have an outstanding warrant but no charges have been filed yet and your release date is approaching, you need to contact an attorney as soon as possible. Assuming the prison officials know of the outstanding warrant but the issuing jurisdiction has not acted on the warrant, they will block your release at the end of your sentence. Instead of being released after you have served your sentence, a "hold" will be placed on you, and you'll be taken to the jurisdiction that issued the warrant. The attorney may be able to get your warrant recalled/quashed or you may be able to take care of the warrant by paying a fine. If they are unable to do so, the attorney will be able to help you schedule an arraignment and explain your options if the jurisdiction that issued the warrant intends to file charges.

If you have an outstanding warrant in another state

If you are currently incarcerated and have an outstanding warrant in another state, a hold may also be placed on you. If a hold has in fact been placed on you and it is preventing your release, you can file a speedy trial motion to request the other state to act on the warrant. The prosecuting attorney in the other state is required to bring you to trial within 180 days. Please note that the prosecuting attorney may request a continuance (more time) so you may be brought to court after the 180 days have passed. If no continuance is requested or granted and the 180 days have passed, the court will dismiss the case.

NOTE: If you have an outstanding warrant in another state, you should contact an attorney in that state. You can ask a South Carolina public defender or defense attorney to file the speedy trial motion for you and to contact a public defender in that other state for you.

TYPE 4: CREDIT REPORTS

WHAT IS A CREDIT REPORT? AND WHAT'S THE DIFFERENCE BETWEEN A RAP SHEET AND A CREDIT REPORT?

A credit report is different from a background check and is covered by a different set of laws.²³ A credit report contains information about your money and finances—including debts you owe (such as unpaid bills, loans, or leases); your payment history for past bills and debts; and the status of your credit accounts. Your credit report does NOT include your criminal history or other personal information about you. For this reason, this legal guide does not go into detail about the laws governing credit reports.

WILL MY CREDIT REPORT BE INCLUDED IN MY BACKGROUND CHECK?

Generally, no. Background check companies are NOT allowed to include your credit report in your regular background check because not everyone who is allowed to see your background check is also allowed to see your credit report. When companies run your credit report, they must follow a separate set of rules that are specific to credit reports, which are not covered in this guide. The only time that your credit report and background check will be together is when someone who is ALLOWED to see both requests them together. (For example, a landlord can request both at the same time, but most employers cannot see your *credit* report, just your criminal background check.)

HOW DO I GET A COPY OF MY CREDIT REPORT WHILE I AM INCARCERATED?

²³ S.C. CODE ANN. Title 37, Consumer Protection Code.



You can mail in a request for your free credit report to the following address:

Annual Credit Report Request Service
PO Box 105281
Atlanta, GA 30348

Include your full name, date of birth, Social Security Number, and any addresses used in the last two years in a letter stating that you are requesting a free credit report.

NOTE: When this guide refers to background checks or background check reports, it means information about your *criminal history* (and certain other personal information)—but NOT your credit report. For more information about your rights related to credit reports, here are some additional resources:

- Federal Trade Commission, Your Equal Credit Opportunity Rights at: <https://consumer.ftc.gov/articles/credit-discrimination>
- Privacy Rights Clearinghouse, Credit & Credit Reports at: <https://privacyrights.org/about>
- Consumer Financial Protection Bureau, Your Money, Your Goals Toolkit at: <https://www.consumerfinance.gov/consumer-tools/educator-tools/your-money-your-goals/toolkit/>



III. WHO HAS ACCESS TO YOUR CRIMINAL RECORD & WHAT CAN THEY SEE?

WHAT WILL I LEARN?

- Who CAN and CAN'T see your RAP sheet;
- Who CAN and CAN'T run a background check on you;
- Other ways that people may see your criminal history.

There are laws about who can and can't get your RAP sheet or run a background check on you. This section will explain the different rules for accessing each type of criminal record.

WHO IS LEGALLY ALLOWED TO SEE MY RAP SHEET?

Anyone can request a copy of your RAP sheet from SLED. If you are taken to jail and fingerprinted for any crime in South Carolina, the jail will automatically upload that information and send it to SLED. SLED maintains RAP sheets through its SLED CATCH (Citizens Access to Criminal Histories) website. There is a \$25 fee for anyone who requests a RAP sheet, and the person requesting the RAP sheet must know your first and last name, as well as your date of birth, in order to retrieve a result.²⁴

While anyone in South Carolina can access your SLED RAP Sheet, the following people commonly look at them:

- **Criminal legal and law enforcement agencies** have full access to your RAP sheet, including juvenile adjudications that haven't been expunged, and, under limited circumstances, expunged/dismissed cases.
- **State occupational licensing agencies** can review your RAP when considering whether or not to issue you a professional license. Some may ban you from getting a license if you have been convicted of a crime.²⁵
- **State and local welfare agencies** including child welfare agencies, child support agencies, and humane societies can see your RAP sheet.
- **Most public employers** can see your RAP sheet when you apply for a job with them. These include all federal, state and local government agencies—including police and fire departments, the South Carolina Department of Corrections (SCDC), local Boards of Education, and the U.S. Postal Service.
- **Certain private employers** can see your RAP sheet if you are applying for a job that involves access to sensitive information (for example, nuclear power plants, public utilities, private security companies, and financial institutions like banks) OR you will be working with children, elderly, disabled, or other vulnerable people.

WHO IS LEGALLY ALLOWED TO RUN A BACKGROUND CHECK ON ME?

Unlike a RAP sheet, many more people (for housing, employment, bank loans, public benefits, etc.) can run a private background check on you, but it is still protected from showing everything in most cases. There are federal laws²⁶ that allow background check companies to run background checks and send information:

- To anyone making decisions about you for: employment, renting a house/apartment, professional licensing, government benefits, credit obligations,²⁷ court-ordered child support or alimony, or insurance;
- To establish child support requirements;
- In response to a court order or subpoena;
- To anyone with a legitimate business need for the report (for example, a bank, creditor, or someone you have a business relationship with);²⁸ or
- To the Federal Deposit Insurance Corporation or National Credit Union Administration.

Basically, the main people who can—and are likely to—run a background check on you are employers, private landlords, insurance companies, licensing boards and agencies, and financial institutions.

REMEMBER, there are LIMITS on what information can be included in your background check. In general, *cleaning up your record* means that the information may no longer show up in the background checks that *most* people (like ordinary employers and private landlords) can get.

²⁴ South Carolina State Law Enforcement Division, *SLED CATCH*, <https://catch.sled.sc.gov/>.

²⁵ See South Carolina Dep't of Labor, Licensing, and Regulation, *How can we help you*, www.llr.sc.gov.

²⁶ Fair Credit Reporting Act, 15 U.S.C. § 1681b.

²⁷ Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(3).

²⁸ Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(3)(F). (A "legitimate business need" includes anything related to a business relationship you started, or a need to review an existing account or ensure that you meet the terms of the account.)

**IS THERE ANY OTHER WAY THAT SOMEONE CAN SEE MY CRIMINAL HISTORY?**

Yes. Because most criminal records and criminal case information are technically public, people in the general public could access most legal paperwork filed in court or with a government agency. For example, anyone can go to the online Public Index for any South Carolina county and search your name. The Public Index will not only show criminal history but also any involvement you might have in civil cases, traffic tickets, and more. Someone can also go to the courthouse and look up your name to retrieve these records.

However, it is very unlikely that most people would go down to the courthouse to look you up for an apartment or job. Keep in mind that the information is likely scattered across hundreds of locations, so someone would really have to know exactly what they are looking for to actually find it. That's why most people use professional background check companies to do the investigating for them, and that's why these companies and the background checks they create are regulated by federal laws to protect you!



IV. GETTING COPIES OF YOUR CRIMINAL RECORDS

WHAT WILL I LEARN?

- Why it's important to get a copy of your RAP sheet and background check;
- How to get your state and federal RAP sheets;
- How to get a copy of your background check.

This section explains how you can get copies of your various types of criminal records. You will need the information from your criminal record(s) to figure out which options are best for cleaning them up, and to complete the steps to do so.

IMPORTANT: If there's ANY possibility that you might have an outstanding warrant for your arrest—for ANY reason (including new charges against you or a failure to appear in court) from ANY county—it is recommended that you call the public defender or a private lawyer to check on your warrant status first, before trying to get your RAP sheet.

HOW DO I GET MY SLED RAP SHEET?

Your SLED Rap Sheet is what you will need to see all of your South Carolina arrests and convictions. You will have to pay a \$25 processing fee to SLED. For a step-by-step explanation of how to get your SLED RAP sheet, see APPENDIX B.

Contact SLED. In order to obtain your RAP sheet directly from SLED, you must follow these steps:

STEP 1: Fill out a SLED Criminal Records Check Form found online at <https://catch.sled.sc.gov/>.

STEP 2: Send the Criminal Records Check Form, proper payment (\$25 SLED fee) via business check, certified check, money order, or cashier's check, and a self-addressed stamped envelope to:

SLED Records Department
PO Box 21398
Columbia, SC 29221

Note: In South Carolina, you can request your RAP sheet online through the South Carolina Law Enforcement Division's SLED CATCH. This system allows you to view your RAP sheet online as opposed to requesting it by mail.

HOW DO I GET MY SLED RAP SHEET IF I AM INCARCERATED?²⁹

Ask your attorney. Contact the attorney who represented you in your criminal case. They may have a copy of your RAP sheet in their files or archives.

Request to view your records. If you are in state prison, the South Carolina Department of Corrections will run a new NCIC and SLED RAP sheet during the intake process and keep these in your file. You have the right to review all information in your records (except clinical data) *as long as* your review is for an approved purpose.³⁰ To request your records, you must make a written request to the Assistant Division Director of the Inmate Records Office.

HOW DO I GET MY FEDERAL (FBI) RAP SHEET?

If you have ever been arrested or had a conviction in another state, or if you have ever been arrested for a federal offense, you will want to get a copy of your FBI (federal) RAP sheet (also called your "Identity History Summary").

There are two ways to get a copy of your FBI RAP sheet:

- You can request your RAP sheet directly from the FBI; OR
- You can use a special private company, called a "Channeler," that has contracted with the FBI to perform this service.

NOTE: It is generally faster to go through an FBI Channeler, but it is likely to be more expensive because these companies usually charge extra fees.

Whether you request your RAP sheet directly from the FBI or go through a Channeler, you will need to fill out the FBI's "Applicant Information Form" and get fingerprinted by a Live Scan service provider. For a step-by-step explanation of how to get your FBI RAP sheet, see APPENDIX C.

²⁹ See SCDC Policy OP 21.09, *Inmate Records Plan*, SCSTATEHOUSE (Mar. 31, 2022).

³⁰ *Id.* at 7.3.6. (SCDC allows someone who is currently incarcerated to review their record if the purpose of the review is for litigation, to challenge the accuracy of information contained in their file, or to challenge the justification of the inclusion of particular material.)



For more information about getting your RAP directly from the FBI, visit the FBI's website at: <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/identity-history-summary-checks>.

For more information about getting your FBI RAP sheet through an FBI-approved Channeler, see <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/identity-history-summary-checks/list-of-fbi-approved-channelers-for-departmental-order-submissions>.

HOW DO I GET A COPY OF MY BACKGROUND CHECK?

The best way to find out what information might show up in your background check is to get your own background check done *on yourself*.

There are 2 ways to do this:

OPTION 1: Pay a *reputable* background check company to run a report on you.

There are MANY private background check companies out there. You can search online for “background checks” or check your local Yellow Pages under “Investigators.” Beware, however, that some background check companies are scams. Look up or call a few different companies to see what they offer and how much they charge. Avoid companies that seem to charge much more or much less than the average fee.

OPTION 2: Request a free background check report.

Under federal and state law, you may be entitled to get a FREE copy of your background check once every 12 months from any background check company.³¹ To get a copy of your background check for free, you have to confirm *in writing* that one of the following is true:

- You are unemployed and intend to look for work within the next 60 days;
- You receive public benefits (government assistance such as SNAP Benefits or General Assistance); OR
- You believe there may be errors in your report because you have been the victim of fraud or identity theft.³²

Send a letter to whichever background check company you choose stating that you fall into one of the above categories (and list which category) and that you would like to request your free background check.

Legitimate agencies should not hesitate when you ask for your free report and should offer to run it right away.

REMEMBER, your background check is different from your credit report, but you are entitled to both for free once every 12 months.

³¹ Fair Credit Reporting Act § 612(c), 15 U.S.C. § 1681j.

³² Fair Credit Reporting Act § 611(a)(1)(A), 15 U.S.C. § 1681i(a)(1)(A).



V. CLEANING UP YOUR CRIMINAL RECORD—LATER IN REENTRY

WHAT WILL I LEARN?

- How an expungement or pardon can help with cleaning up a criminal background
- The rules and requirements for those processes
- How expungements and pardons affect your background check
- How expungements and pardons affect your legal rights

There are two different ways to do some “housekeeping” on your South Carolina criminal background check. This section will give you an overview of expungements and pardons in this state. Please note that these rules do not apply to federal charges and do not apply to charges outside the state of South Carolina.

There are two types of background checks in South Carolina:

- An *official* South Carolina criminal background check is maintained by SLED (see APPENDIX B to learn how to get a copy of your SLED background check).
- There are also *unofficial* criminal background checks generated by private, third-party companies for a fee. These companies obtain their information from many different public sources, so these unofficial background checks may not be updated as quickly as SLED’s records or may often have incorrect information.

Both types of criminal background checks may have incorrect or incomplete information, so always make sure to review any background checks that are requested for you.

South Carolina offers the following remedies to help you clean up your record...

- You may be able to get your charges expunged or removed from your SLED background check;
- You may be able to get a pardon from the South Carolina Department of Probation, Parole, and Pardon Services;
- Although it is not a process written out in South Carolina law, you can also correct errors, fill in incomplete information, or add missing information in your record;
- Continue reading for more information. This chapter will not provide any information about cleaning your criminal background if the charges are federal or if the charges are from another state. You will need to contact an attorney or organization that practices in the federal system or practices in the state where you have criminal charges on your record for further information.

WHY COULD IT BE HELPFUL TO “CLEAN UP” MY CRIMINAL RECORD?

In general, *cleaning up your criminal record* can reduce many of the damaging effects associated with having a criminal history:

- Having any sort of criminal record can affect many aspects of your life, including family, housing, employment, finances, education, and more.
- In certain circumstances, cleaning up your record may allow you to say that you were never convicted of a particular offense and/or may restore certain rights that were lost as a result of any convictions.
- Cleaning up your record can reduce or remove the legal hurdles that may prevent you from getting various professional licenses.

Cleaning up your record can make it easier to rebuild your life and maximize your opportunities for success in the future. The first step toward cleaning up your criminal record is understanding the different types of records you may have and the information contained in those records.

IF I AM REQUIRED TO REGISTER WITH LOCAL LAW ENFORCEMENT BECAUSE OF A CONVICTION, HOW WILL CLEANING UP MY RECORD AFFECT MY REGISTRATION REQUIREMENT?

Like most other questions about cleaning your record, this will depend on the specific details of your situation, including your conviction offense and which of these “remedies” you use to clean up your record. Unfortunately, under the current South Carolina law, cleaning up your record is unlikely to affect your registration requirements.³³ If you have questions about your specific circumstances, you should ask an attorney to review your case.

³³ S.C. CODE ANN. § 23-3-430(F); see also South Carolina Bar, *Frequently Asked Questions About Expungement and Pardons in South Carolina Courts*, SCBAR, <https://www.scbar.org/public/get-legal-help/common-legal-topics/frequently-asked-questions-about-expungement-and-pardons-in-south-carolina-courts/>.



SOUTH CAROLINA REMEDIES - OVERVIEW

Here is a basic overview of the different remedies available for cleaning up your record and the rules for each type of remedy. For more information about each of these remedies, see that specific section in this chapter.

CLEANING UP YOUR RECORD—DIFFERENT REMEDIES			
“CLEANING” REMEDY	AM I ELIGIBLE?	WHEN?	EFFECT
Fixing errors in your criminal record	YES! Anyone can fix errors in their record.	ANYTIME	Your criminal record will not contain wrong, incomplete, or missing information.
South Carolina expungement	<p><i>You may be eligible if:</i></p> <ul style="list-style-type: none"> > You are OFF probation or other supervision; AND > You are NOT currently charged with, serving a sentence for, or on probation/parole/supervision for another offense; > You have completed all terms and conditions of probation, including paying any fines and restitution; AND > You do not have any open warrants. <p><i>Note: Certain convictions are NEVER eligible for expungement</i></p>	<ul style="list-style-type: none"> > Once you are OFF probation or other supervision <p>Non-convictions can be expunged immediately. However, expungements for convictions may vary in the amount of time you have to wait to file; it could be 1 year, 3 years, 5 years, or even 20 years. Some convictions are not able to be expunged at all.</p>	<ul style="list-style-type: none"> > Most private employers, private landlords, insurance companies, creditors, and other people will NOT be able to see an expunged conviction if they run a background check on you. > If your charge or conviction is expunged and you are asked about it, you can respond as if the charge or conviction never happened.
Expunging South Carolina juvenile records³⁴	<p><i>You may be eligible if:</i></p> <ul style="list-style-type: none"> > You are over 18; > You do not have a prior adjudication for an offense that, if committed by an adult, has a maximum penalty of five years incarceration; > You do not currently have any pending charges in family court OR general sessions court; AND > You have successfully finished your sentence³⁵. <p>[Note: If you were a juvenile adjudicated for a “violent crime” as defined by S.C. Code § 16-1-60, the violent offenses cannot be expunged from your juvenile record.]</p>	<ul style="list-style-type: none"> > As soon as you are over 18; AND > You have successfully finished your sentence. <p>OR</p> <ul style="list-style-type: none"> > If your arrest ended in a non-conviction, at any time. 	<ul style="list-style-type: none"> > All court, law enforcement, and other records are sealed and destroyed. > It’s as if the juvenile case never occurred.
Federal expungement or dismissal	<p><i>You may be eligible if:</i></p> <ul style="list-style-type: none"> > You were convicted of “simple” possession of drugs under federal law; > You were in possession of a drug covered by the statute; > You were only convicted of one drug-related offense (state or federal); > You successfully completed probation with NO violations. 	As soon as you complete probation.	<p>If you were <i>under 21 at time of offense</i> - ALL records of conviction, arrest, and criminal proceedings are destroyed as if it never happened.</p> <p>If you were <i>over 21 at time of offense</i> - All records of conviction, arrest, and criminal proceedings are sealed (but not destroyed).</p>
Presidential pardon	<p><i>You may be eligible if:</i></p> <ul style="list-style-type: none"> > You were convicted of a federal offense; and > You have completed your sentence (including any parole or probation term). 	5 years from the date of your release (or from the date of your conviction if you were never incarcerated).	<ul style="list-style-type: none"> > Restores any civil rights lost due to federal conviction, including gun rights. > Does not restore rights lost due to state convictions.

³⁴ See S.C. Code § 63-19-2010. (Under South Carolina law, records of juvenile convictions (also called “adjudications”) are made and kept by the court that heard the case. However, these records are confidential, so the general public typically does not have access to them. The only people who can view juvenile records are you, your attorney, someone with a “legitimate interest” in the records (if they have a court order to view them), and anyone who needs your record to defend themselves in a legal action you initiate.

³⁵ S.C. Code § 63-19-2050.



Be prepared to show support for your clean record!

For almost every type of “cleaning” remedy, you will need to convince a judge (or sometimes the Department of Probation, Parole, and Pardon Services or the President) of why you deserve the remedy you are asking for. When you ask to have your record cleaned up (usually by filing papers in court or with the government), you will want to make sure that the judge has *all possible materials that support your request*, such as letters of support, school transcripts, awards, certificates of achievement, and diplomas.

WHAT INFORMATION WILL I NEED TO CLEAN UP MY RECORD?

This is a general list of the information you will need to have for **EVERY** entry in your criminal record:

1. Your case number (sometimes called “warrant number”);
2. The dates associated with your offense, including the dates of arrest, conviction, sentencing, release, and completion of any term of supervision;
3. The name of the code (for example, the South Carolina Code of Laws, Health & Safety Code, etc.) and section number of the statute that you were accused or convicted of violating;
4. What you were sentenced to (probation, prison, jail, etc.) and for how long;
5. Whether you were ordered to pay any restitution, court fines or penalties, or administrative fees, and how much; and
6. Whether you were sentenced to state prison.

WHY DO I NEED THIS INFORMATION?

You will need this information for two reasons:

1. The information in your record will help you (and your lawyer, if you have one) decide which remedies you are eligible for (allowed to get), based on your criminal history (such as expungement, dismissal, or pardon); AND
2. To request the remedy you want, you (or your lawyer) will need to fill out forms for the court or agency. You will need **detailed information** from your criminal record in order to fill out these forms.³⁶

WHERE DO I GET THIS INFORMATION?

The best way to get this information is from your RAP sheet. You will need the RAP sheet that has information on ALL of your convictions.

Choose the RAP sheet that has information on ALL of your cases:

- Your South Carolina (SLED) RAP sheet will list all of your cases in *South Carolina*, so use this if ALL of your cases are from the state of SOUTH CAROLINA only. For instructions on how to get your SLED RAP sheet, see APPENDIX B.
- Your FBI (federal) RAP sheet will list all of your cases from EVERY STATE as well as FEDERAL offenses. Use this if you have cases from more than one state or any federal convictions. For instructions on how to get your FBI RAP sheet, see APPENDIX C.

You may also be able to get information on a case from the following sources:

- *Your court papers from your case.*
 - NOTE: Court papers will *only* contain information about *that particular case*. If you have multiple cases, it may be easier to get a copy of your full South Carolina RAP sheet (or FBI RAP sheet, if you also have federal or out-of-state cases).
- *Your lawyer, parole agent, probation officer, or other people at the courts or law enforcement agencies.*
 - NOTE: These people may only have *limited information* about your case or may have information about *one case but NOT others*, so it’s better to go through the formal channels of getting your full RAP sheet.
- *The criminal court where your case was decided.*
 - NOTE: The court will *only* have information for *cases from that county* and NOT other counties. If you only have cases from one county, make sure you get copies of ALL of your court papers for ALL of your cases in that county.
- *The County’s Public Index where the crime was committed.*
 - Simply search on the Internet for your County’s Public Index, follow the instructions and it will show the status of the case, the outcome (if there has been one), and sometimes possible upcoming hearing dates.

Now that you have your criminal records and you know what’s in them, you are ready to begin cleaning them up!

³⁶ See South Carolina Fathers and Families, *Fatherhood Issues: Expungement*, SCFATHERSANDFAMILIES, <https://www.scfathersandfamilies.com/fatherhood-issues/expungement/>.



SOUTH CAROLINA “EXPUNGEMENT” OF STATE CONVICTIONS

SC EXPUNGEMENT—A GENERAL OVERVIEW

An expungement of a state conviction is a way of cleaning up your record that limits the information that shows up in a background check³⁷ and can relieve you of some of the consequences associated with your conviction.

WHAT EXPUNGEMENT DOES:

- Prohibits information about the conviction from being included in *most background checks*;
- Removes the conviction from your record entirely.³⁸

WHEN CAN MY CONVICTIONS CAN BE EXPUNGED?

A conviction may qualify for expungement if:

- You completed any term of supervision for the offense; AND
- You are NOT currently charged with, serving a sentence for, or on a term of supervision for another offense.
- **Note:** Certain convictions are NEVER eligible for expungement in South Carolina. See APPENDIX F for a list of which charges or convictions are currently eligible for expungement in South Carolina.

HOW DO I GET AN EXPUNGEMENT?

- You must apply with the County Solicitor’s Office in the County where the charge or conviction occurred. (See Appendix H for more information on expungement applications.)

WHAT IS “EXPUNGEMENT” IN SOUTH CAROLINA?

An expungement will restore you to the exact position you were in before the charge. It is as if the charge/conviction never happened. In fact, you are legally entitled to say it never happened.³⁹

WHAT DOES EXPUNGEMENT DO?

- An expungement makes it as if the incident never happened. Therefore, your employer CANNOT see anything regarding the incident. It is as if it NEVER happened.
- If you were denied federal student loans because of a drug conviction, you will become eligible again after an expungement.⁴⁰
- You do not have to disclose your conviction when applying for some government-issued licenses (such as professional or occupational licenses or certificates) or when applying for jobs. An expungement is as if the incident never happened.

WHAT DOES EXPUNGEMENT NOT DO?

- Release you from any registration requirements on the Sex Offender Registry;
- Prevent the DMV from suspending or revoking your driver’s license based on the underlying offense. Also, expungement will not automatically restore your driving privileges if the DMV has suspended them;
- Remove the immigration consequences of your conviction, so Immigration & Customs Enforcement (ICE) can still use the expunged conviction for removal or exclusion. Talk to an immigration attorney for help if you have this issue!

WHO CAN SEE MY RECORD—EVEN IF IT IS EXPUNGED?

Law enforcement and prosecutors have limited access to expunged convictions. The information they are able to see after you have had a charge or conviction expunged is highly regulated and protected. Prosecutors and law enforcement should only have access to expunged convictions in order to follow the amount of expungements that you have received because there is a limit to how many times you can utilize the expungement process.

³⁷ *Id.*

³⁸ However, the conviction that has been expunged remains on high security law enforcement records to keep track of the amount of expungements that someone has as there is a limit to how many times you can utilize the expungement process. S.C. CODE § 17-1-40; see South Carolina Center For Fathers and Families, *Fatherhood Issues: Expungement*, SCFATHERSANDFAMILIES, <https://www.scfathersandfamilies.com/fatherhood-issues/expungement/>.

³⁹ S.C. CODE ANN. §§ 17-22-150, 17-22-170; 63-19-2050(C).

⁴⁰ Federal Student Aid, *Students with Drug Convictions Have Limited Eligibility for Federal Student Aid*, STUDENTAID, <https://studentaid.gov/understand-aid/eligibility/requirements/criminal-convictions>.



SHOULD I DISCLOSE MY EXPUNGED CONVICTION IF ASKED?

Although it is *illegal* for most private employers to *ask about* or *consider* expunged convictions when making hiring decisions, be prepared for unethical or uninformed employers to access and use this information anyway.⁴¹

CAN A PRIVATE EMPLOYER FIND OUT ABOUT MY EXPUNGED CONVICTION?

No. Again, an expungement erases all evidence of the incident as if it never happened.

WHAT TYPES OF CONVICTIONS CAN BE EXPUNGED?

Under South Carolina law, only *certain types of convictions* can be expunged. Generally, the following types of convictions may qualify for expungement (a dismissal):

1. The CONVICTION is for an infraction, a misdemeanor, *or* an eligible felony; **AND**
2. The SENTENCE imposed was county jail time; probation; a fine; or a combination of these.⁴² This means that as long as you were sentenced only to pay a fine, serve a term of probation, **OR** serve time in county jail, your conviction may be eligible for expungement, and in a small number of cases, you may have served prison time.

IN ADDITION, you must meet the following requirements for your conviction to be eligible for expungement. In general, these requirements are:

1. You are OFF probation or other type of supervision;
2. You have completed the terms of your sentence (including paying off any fines and restitution); **AND**
3. You are NOT currently charged with, serving a sentence for, or on a term of supervision for another offense.

PLEASE NOTE: Certain convictions are *NEVER* eligible for expungement.

To learn more information about what types of charges and convictions can be expunged in South Carolina, see APPENDIX F.

IMPORTANT: You must be OFF PROBATION or any other form of supervision to be eligible for expungement!

HOW WILL I KNOW IF I AM OFF SUPERVISION AND ELIGIBLE TO APPLY FOR EXPUNGEMENT?

When you finish probation, you should contact the probation office where you last reported and ask them for a supervision completion letter. For an example of this letter, see APPENDIX G.

GETTING YOUR CONVICTION “EXPUNGED”

The following information will guide you through the general process of requesting an expungement in South Carolina, but it is always a good idea to get a lawyer’s help to make sure you get the best results.

A NOTE ABOUT COURT FEES: Be aware that you are almost always required to pay the applicable fees when seeking expungement in South Carolina. The fees are:

Solicitor’s Office: \$250
Clerk of Court: \$35
SLED: \$25

For more information about which fees you have to pay, see APPENDIX F.

I BELIEVE I AM ELIGIBLE FOR EXPUNGEMENT. HOW DO I GET IT?

The expungement process in South Carolina varies depending on the judicial circuit from which the charge or conviction arose. Generally, you will need to fill out that circuit’s application (which is found through that circuit’s solicitor’s office). For a link to the expungement applications for each judicial circuit in South Carolina, see APPENDIX H.

WHAT INFORMATION WILL I NEED TO KNOW FOR MY EXPUNGEMENT APPLICATION?

You will need the following information for most expungement applications in South Carolina:

- Your full legal name;
- Date of birth;

⁴¹ S.C. CODE ANN. § 17-22-960.

⁴² S.C. CODE ANN. § 17-22-910(A).



- Social Security number;
- The charges or convictions you are requesting to have expunged (including the warrant numbers for each one);

NOTE: You may need additional information depending on the circuit in which you are applying.

GETTING A PARDON FOR YOUR CONVICTION

WHAT IS A PARDON?

A “pardon” means that you are fully forgiven by the state of South Carolina for the criminal convictions for which you have been charged. In South Carolina, pardons are **only granted by the Department of Probation, Parole, and Pardon Services**. The governor does not have the power to pardon anyone in South Carolina.

WHAT DOES A PARDON DO?

A pardon should restore all civil rights you might have lost when you were convicted. A pardon means you can:

- Serve on a jury;
- Hold public office (in most instances);
- Testify in court without having the conviction used against you;
- Be licensed for a job requiring a license;
- Own or possess a gun under South Carolina law.

For more information on pardons in South Carolina, visit this website:
<https://www.dppps.sc.gov/Parole-Pardon-Hearings/Pardon-Application>.

DO I STILL HAVE TO LIST MY CONVICTION ON A JOB APPLICATION?

Yes. A pardon “forgives” you, but it does not mean the state “forgets” that you were convicted. If an employer asks, you should list your conviction but tell them that you received a pardon. Often, employers are more open to hiring job applicants who have received a pardon.

If you are pardoned, your conviction will still show up during a criminal history check. The records are NOT destroyed or sealed. The only way to seal your record is by getting an expungement.

WHO CAN ASK FOR A PARDON?

All charges or convictions in South Carolina are eligible to be pardoned. Before applying for a pardon, make sure you have paid all your court fees. Court fees might include restitution, fines, or other court costs. If you still owe court fees, your pardon application will not be considered.

Before applying for a pardon, make sure you meet one of the following:

- **You have completed your sentence** - Sentence includes any term of probation or parole.
- **If you are in prison** - The Board will consider a pardon if you have an extraordinary situation.
- **If you are in prison with a terminal illness** - If you are in prison and you have been told you have less than one year to live, you could ask for a pardon. You must include letters from two different doctors with your application. The doctors need to agree that you have less than one year to live.⁴³

IF I AM ELIGIBLE, WHEN COULD I APPLY FOR A PARDON?

You should apply for a pardon only after you have finished serving your sentence, including probation and parole. We generally recommend waiting 3-5 years after you are eligible before you apply for a pardon. This is so that you can provide proof of lifestyle changes, community activities, a steady job, or any other evidence that shows that you have reformed yourself since being released from prison.

⁴³ S.C. CODE ANN. § 17-22-910(A).



WHAT IS THE PROCESS FOR APPLYING FOR A PARDON?

You can get a Pardon Application Form online at www.dppps.sc.gov. You may also request a paper application by writing to:

Dept. of Probation Parole and Pardon Services
P.O. Box 50666
Columbia, SC 29250

This is what you will need to apply for a pardon:

1. The completed Pardon Application Form (see above).
2. Three written letters from people who can speak about the positive changes you've made and highlight your successes. The people who write the letters cannot be related to you by blood *or* by marriage. These letters could be from your boss, a preacher, or another person who knows you well. The letters should tell the Pardon Board about your positive character change. The letters could be about your work history, your activities in the community, or your family. The letters will help show the Pardon Board the positive changes you've made and why you deserve to be pardoned. See APPENDIX I for a sample letter of support.
3. A \$100 non-refundable fee. You will not get this money back if you are denied the pardon.⁴⁴

WHAT HAPPENS IF MY PARDON IS GRANTED?

First, the Board of Probation, Parole, and Pardon Services will notify SLED and the FBI to update their records. Then, the pardon will become a public record.

WHAT CAN I DO IF MY PARDON IS DENIED?

If your pardon is denied, the only thing you can do is start over and file a new application. SCDPPPS requires that a person denied a pardon wait *one year* before re-applying.⁴⁵ However, we recommend not filing a new application until after you have addressed the initial reasons for denial.⁴⁶

SOUTH CAROLINA STATE JUVENILE RECORDS

It is a common misconception that juvenile records are automatically destroyed when you turn 18. Unfortunately, this is not the case. If you have a juvenile record in South Carolina, you must *ask the court to have it expunged*. Otherwise, this information may find its way into your background check.⁴⁷

NOTE: This section refers only to expunging *juvenile records from South Carolina*. Every state has different laws for handling juvenile records.⁴⁸ If you have a juvenile record from another state, you will need to find out what relief is available in that state.⁴⁹ Also, *federal* juvenile records can be sealed only under very limited circumstances (the same as federal adult convictions—continue reading for more information).⁵⁰ If you have a federal juvenile record, it is recommended that you speak to a Federal Public Defender.

DO I HAVE A JUVENILE RECORD?

If you were arrested, went through a juvenile adjudication in family court, and/or had other contact with the juvenile justice system before you turned 18, you potentially have a juvenile record. This means that the police department, solicitor's office, court, probation department, and/or other public agencies have documents about criminal activity you were thought or found to be involved with.

NOTE: Some juveniles are transferred to "adult court" (also called "general sessions court") and tried as adults even though they are under the age of 18. If you received a conviction in general sessions court while you were under the age of 18, you have a criminal conviction and not a juvenile record.

⁴⁴ See SC Appleseed Legal Justice Center, *Resources and Brochures: Pardons*, SCJUSTICE.

⁴⁵ S.C. Dept. of Probation, Parole, and Pardon Services, *Parole Hearing Explanation*, DPPPS, <https://www.dppps.sc.gov/Victim-Services/Pardon-Hearing-Explanation>.

⁴⁶ See SC Appleseed Legal Justice Center *supra* note 44.

⁴⁷ S.C. CODE ANN. § 63-19-250(C).

⁴⁸ See Kathleen Michon & Rebecca Pirius, *Sealing Juvenile Court Records*, NOLO, <http://www.nolo.com/legal-encyclopedia/sealing-juvenile-court-records-32228.html>.

⁴⁹ See Rebecca Pirius, *How can my federal juvenile records be used against me?*, NOLO CRIMINAL DEFENSE LAWYER (Sept. 7, 2022), <http://www.criminaldefenselawyer.com/can-i-expunge-my-federal-juvenile-record.htm>.

⁵⁰ 18 U.S.C. § 3607; see also Rebecca Pirius, *How can my federal juvenile records be used against me?*, NOLO CRIMINAL DEFENSE LAWYER (Sept. 7, 2022), <http://www.criminaldefenselawyer.com/can-i-expunge-my-federal-juvenile-record.htm>.



WHAT COULD SHOW UP IN MY JUVENILE RECORD?

Your juvenile record is made up of various materials (including all documents, exhibits, judge's rulings, orders, and reports) associated with any trouble you got into before you turned 18. These are mostly contained in your family court file but may also be kept by other agencies such as SLED, the S.C. Department of Juvenile Justice (DJJ), the county Probation Department, police or other law enforcement agencies, and the Solicitor.⁵¹ Your record also includes any documents or records made by these other agencies.

WHO CAN SEE MY JUVENILE RECORD?

Your juvenile record is confidential and can *only* be disclosed to the judge, your attorney, someone who needs access to the records to defend themselves against a lawsuit you filed, and someone with a "legitimate interest" who has obtained a court order.⁵² Also, juvenile cases are considered "adjudications" (NOT "convictions"). This means, if you are asked, you can legally say that you have NO convictions on your juvenile record.⁵³

However, juvenile records sometimes DO show up on background checks, and certain employers such as law enforcement and health care agencies are allowed to ask about juvenile records that have not been expunged.⁵⁴ However, once your juvenile record is expunged, NO one can see it. All juvenile records kept by the court, DJJ, probation department, and other law enforcement agencies are expunged, and it's as if your case never happened.⁵⁵ You can legally and truthfully say that you do not have a juvenile record when you are applying for jobs, housing, and other benefits.

If you receive a traffic violation as a minor, it is not confidential like juvenile adjudications. The Department of Motor Vehicles (DMV) can see your vehicle and traffic records and share them with insurance companies. Further, the court may see your juvenile records if you are involved in a defamation case or if you apply for extended foster care benefits after turning 18. Additionally, the prosecutor, the probation department, or the court may see your records to determine whether you are eligible to participate in a deferred entry of judgment program.

WHO CAN GET THEIR JUVENILE RECORDS EXPUNGED?

It depends. For most juvenile cases, you must meet **ALL 4** of the criteria below to get your juvenile record expunged:

1. You are at least 18 years old;
2. Have successfully completed any court-ordered sentence;
3. Have not been subsequently adjudicated for or convicted of any criminal offense; and
4. Do not have any criminal charges pending in family court or general sessions court.⁵⁶

WHO CANNOT GET THEIR JUVENILE RECORD EXPUNGED?

You CANNOT get your juvenile record expunged if you committed any of the offenses classified as "violent offenses" by South Carolina law.⁵⁷ Also, if you have a prior adjudication for an offense that carries a maximum punishment of 5 years in prison, you CANNOT get your juvenile record expunged.⁵⁸

WHAT IS THE PROCESS FOR GETTING MY JUVENILE RECORD EXPUNGED?

1. Apply for expungement of Juvenile Arrest Records with the solicitor in the circuit where your case was adjudicated.
2. Ask the solicitor for a "fees due letter." Generally, you will need to pay the same fees that apply to expunging adult records.
3. The solicitor will send the application to the Department of Juvenile Justice (DJJ), who will then grant or deny the application.
4. If the application is approved by the DJJ, the solicitor will send the application to SLED to verify that the offense is eligible for expungement.
5. SLED will return the application to the solicitor.
6. If the offense is eligible, the solicitor will obtain all the necessary signatures and file the order with the clerk of court.
7. The solicitor will provide copies of the expungement order to you, your attorney (if applicable), and all relevant government agencies.

⁵¹ S.C. CODE ANN. § 63-19-250 (C); see also South Carolina Fathers and Family, *Juvenile Record Expungement in South Carolina*, SCFATHERSANDFAMILIES, <https://www.scfathersandfamilies.com/media/hi2porhq/juvenile-expungement.pdf>.

⁵² S.C. CODE ANN. §§ 63-19-2010, 2020(A).

⁵³ See South Carolina Bar, *Juvenile Justice*, SCBAR, <https://www.scbarr.org/public/get-legal-help/common-legal-topics/juvenile-justice/>.

⁵⁴ See South Carolina Fathers and Family, *Juvenile Record Expungement in South Carolina*, SCFATHERSANDFAMILY, <https://www.scfathersandfamilies.com/media/hi2porhq/juvenile-expungement.pdf>.

⁵⁵ *Id.*

⁵⁶ S.C. CODE ANN. § 63-19-2050(C).

⁵⁷ S.C. CODE ANN. § 16-1-60.

⁵⁸ S.C. CODE ANN. § 63-19-2050(A)(2).



NOTE: Prosecution or law enforcement agencies can file an objection to the expungement with the court, but they may only object on the grounds that you have other charges pending *or* that the charges are not eligible for expungement. By law, you must receive written notice of the objection. If this happens to you, you should contact an attorney as soon as possible.

WILL I STILL BE REQUIRED TO REGISTER ON THE SEX OFFENDER REGISTRY IF I HAVE MY JUVENILE RECORD EXPUNGED?

Yes. In South Carolina, expunging your juvenile record will not remove any registration requirements. For information about how to be removed from the registry, look for SOR Removal on SLED's website, and go to the juvenile section. You can also find more information here:

<https://www.sled.sc.gov/forms/cjis/SOR/SLED%20Guidance%20on%20Juveniles.pdf>.

FEDERAL EXPUNGEMENTS & DISMISSALS

WHAT TYPES OF FEDERAL EXPUNGEMENT ARE AVAILABLE, AND HOW COULD THEY HELP ME?

Convictions for federal offenses (violations of U.S. law) often have consequences *beyond* South Carolina. Federal convictions may cause you to lose your eligibility for government-assisted housing,⁵⁹ federal student loans,⁶⁰ and participating in foster care or adoption programs,⁶¹ so getting them expunged can benefit you in (re)applying to these programs.

Unfortunately, most federal convictions *cannot be expunged or dismissed*. Unlike in South Carolina (and most other states), there is NO general federal law that offers expungements for federal crimes. However, there are a few federal laws that offer expungements and dismissals in certain limited situations.

Here are the limited options that exist for “cleaning up” federal convictions on your record:

- If your federal conviction is for certain drug offenses and you were *UNDER 21* when you committed the offense, you may be eligible for a federal expungement. (*See Situation 1, below.*)
- If your federal conviction is for certain drug offenses and you were *OVER 21* when you committed the offense, you may be eligible for a federal *dismissal*, but not an expungement. (*See Situation 2, below.*)
- It is possible but *very difficult* to get your conviction expunged by a federal judge (this is called a *judicial expungement*). (*See Situation 3, below.*)

WHO CAN GET A FEDERAL EXPUNGEMENT OR DISMISSAL?

If you have a federal drug conviction (see *Situation 1 or 2 in the next question*), you may qualify for an expungement or dismissal of your conviction if ALL of the following are true:

- **You were convicted of only one drug-related offense.**
 - You are NOT eligible if you have *any* other drug-related convictions (state or federal) or if you have had any previous drug convictions expunged under the statute.⁶²
- **You were in possession of only *certain* types of drugs.**
 - The federal expungement statute ONLY covers convictions for marijuana, cocaine and cocaine-based substances, heroine, and methamphetamines (along with a few other less common drugs). To be eligible, your conviction must have involved one of these drugs.⁶³
- **You were convicted of “simple possession” only.**
 - You are NOT eligible if your conviction was for *any other offense* besides possession of a small amount of drugs consistent with personal use. This means no sales, transportation, or distribution offenses will qualify.⁶⁴
- **The judge “suspended” entry of judgment of conviction for the offense.**
 - This means that you were found guilty of the offense, but the judge basically put your conviction on hold, and did not enter it into the official record. (This is to give you a chance to complete probation or a treatment program instead of going to prison.);
 - The judge put you on probation for *no more than 1 year*; AND
 - You successfully completed probation with NO violations.

⁵⁹ *Dep't of Hous. & Urban Dev. v. Rucker*, 535 U.S. 135 (2002).

⁶⁰ 20 U.S.C. § 1091(r).

⁶¹ 42 U.S.C. § 671(20)(a) (requiring states to comply with the requirements of the Adoption and Safe Families Act of 1997 (ASFA) in order to receive ASFA funding).

⁶² 18 U.S.C. § 3607.

⁶³ These substances are listed in § 404 of the Controlled Substances Act. See 18 U.S.C. § 3607; 21 U.S.C. §§ 841, 844.

⁶⁴ 18 U.S.C. § 3607; 21 U.S.C. §§ 844, 844a.



I MEET ALL OF THE REQUIREMENTS FOR FEDERAL EXPUNGEMENT. WHAT ARE MY NEXT STEPS FOR PURSUING THE EXPUNGEMENT?

SITUATION 1: IF YOU WERE UNDER 21 AT THE TIME OF THE DRUG OFFENSE.

When your probation term ends, you can ask the judge to expunge your conviction. If you have successfully completed your probation with NO violations, and you meet all the other requirements, the judge is *required* to grant your expungement. This means that ALL *official records* of your conviction, all references to your *arrest*, and the results of any *criminal proceedings* against you will be destroyed. You will get back any rights that you lost because of your conviction, and you can say that you have never been arrested, prosecuted, or convicted of the offense.⁶⁵

SITUATION 2: IF YOU WERE OVER 21 AT THE TIME OF THE DRUG OFFENSE.

If you were *over* the age of 21 at the time of your offense, your conviction will not be completely expunged (or “erased”). However, if you *successfully complete your probation* with NO violations, and you meet all the other requirements described above, the judge is *required* to dismiss your conviction at the end of your probation term. You can also ask the judge to dismiss your conviction and release you from probation early (before the end of your probation), but it will be up to the judge whether or not to grant this early.

Once your conviction is dismissed, the record will be sealed. This means the record will still exist, but it will NOT be public, and it will NOT show on your criminal record that you were ever convicted of the offense. You will also get back any rights that you lost because of your conviction.⁶⁶

NOTE: If your conviction is expunged (Situation 1) or dismissed (Situation 2), the U.S. Department of Justice will keep a confidential, non-public record of your conviction in case you try to get another conviction expunged or dismissed in the future. Remember: You can only get a federal expungement *once in a lifetime!*⁶⁷

SITUATION 3: IS THERE ANY OTHER WAY TO GET MY FEDERAL CONVICTION EXPUNGED?

Maybe. It is sometimes possible to convince a federal judge to ORDER that your conviction be expunged. This is called a “judicial expungement.” However, judicial expungements are *VERY, VERY rare—and some courts won’t do them at all.*⁶⁸ Many federal courts only grant judicial expungements when it is *necessary* to correct an error in a criminal case that amounts to a violation of your basic rights (or a “*miscarriage of justice*”). In these courts, your only chance of being granted a judicial expungement is if your conviction was the result of illegal or invalid conduct by the government, such as an unlawful arrest, an unconstitutional law, or a gross administrative error.⁶⁹ The federal courts in California follow this rule—so if your federal conviction happened in *California*, you will need to show that your conviction was caused by a “*miscarriage of justice*,” otherwise the judge will NOT grant you a judicial expungement.⁷⁰

Other federal courts will grant a judicial expungement only under specific and extraordinary circumstances, when they determine that it is necessary in all fairness.⁷¹ These courts balance the harm that you suffer because of your criminal record (for example, if you are denied public housing or benefits, you cannot be with your family, or you are disqualified from certain jobs), against the public’s interest in preserving the record of your conviction.⁷² If your federal conviction is from a state where the federal courts allow the judge to balance the factors of your situation, you will still have to convince the judge that the expungement is *necessary to preserve your basic rights.*⁷³

⁶⁵ 18 U.S.C. § 3607(c).

⁶⁶ 18 U.S.C. § 3607(a)(b).

⁶⁷ 18 U.S.C. § 3607(b).

⁶⁸ Federal courts are divided into thirteen “circuits” across the country, comprised of district trial courts and circuit courts of appeals. Each of these circuit courts decides how the law should be interpreted within that circuit, which the district courts below must follow. This means that there are often discrepancies in the law at the federal circuit level—in other words, the same law can mean different things depending on where you live. These differences will persist until the Supreme Court rules on which interpretation is correct. This is the current state of federal expungement law. Several federal circuit courts have ruled that the courts should be allowed to order expungements based on their inherent equitable powers—their duty to make things fair. Others have decided that expungements are beyond the scope of the court’s duties and that they infringe on the powers allocated to the other branches of government. The Supreme Court has not resolved the dispute. See *U.S. v. Mitchell*, 683 F. Supp. 2d 427 (2010).

⁶⁹ Courts of Appeal in the First, Third, Sixth, Eighth, and Ninth Circuits, as well as some district courts in the Eleventh Circuit, do not allow expungements based on equitable grounds (i.e. to reward rehabilitation) and will not even hear these motions. See *U.S. v. Meyer*, 439 F.3d 855 (8th Cir. 2006), *U.S. v. Coloian*, 480 F.3d 47 (1st Cir. 2007); *U.S. v. Sumner*, 226 F.3d 1005 (9th Cir. 2000).

⁷⁰ *U.S. v. Sumner*, 226 F.3d 1005 (9th Cir. 2000).

⁷¹ Federal U.S. courts in the Second, Fourth, Fifth, Seventh, Tenth, and D.C. Circuits allow judicial expungements for equitable purposes under extraordinary circumstances. See, e.g., *U.S. v. Flowers*, 389 F.3d 737 (7th Cir. 2004), *U.S. v. Schnitzer*, 567 F.2d 536 (2nd Cir. 1977), *Camfield v. City of Oklahoma City*, 248 F.3d 1214 (10th Cir. 2001).

⁷² *U.S. v. Flowers*, 389 F.3d 737 (7th Cir. 2004).

⁷³ *Livingston v. U.S. Dep’t of Justice*, 759 F.2d 74, 78 (D.C. Cir. 1985).



CAN I GET A CERTIFICATE OF REHABILITATION FOR A FEDERAL CONVICTION?

Unfortunately, no. There is currently no law that allows federal judges to grant Certificates of Rehabilitation (COR). However, one judge in the Eastern District of New York issued a COR on his own.⁷⁴ This certificate has not been challenged, but to the best of our knowledge no other federal judge has issued a Certificate of Rehabilitation or anything like it in any other case. However, a small number of other federal judges in the Eastern District of New York have made it clear that they are frustrated by the limitations on remedies for cleaning up federal records. Although CORs are not currently available under federal law, we may see changes in the future because several federal judges have expressed their frustrations on the limitations on remedies for cleaning up federal records.

THE BOTTOM LINE:

The only circumstances under which you are likely to get a judicial expungement of your federal conviction are:

- When your conviction is based on a law that was later found to be unconstitutional; or
- If a judge finds that your conviction was the result of police or government misconduct.
- If you want to request a judicial expungement of your federal conviction, it is recommended that you talk to a lawyer. You can contact the lawyer who represented you in your criminal case or a federal public defender.

U.S. PRESIDENTIAL PARDONS

WHO CAN GET A PRESIDENTIAL PARDON OF A FEDERAL CONVICTION?

It depends. Presidential pardons are *even more difficult* to get than federal judicial expungements (see last section above). U.S. Presidential Pardons are generally only given in high-profile, highly public cases (for example, to certain public figures or politicians, or to friends and relatives of the president).

Technically, any federal conviction is eligible for a presidential pardon, but you must first complete your sentence (including any parole or probation term) and a 5-year waiting period before you can request a pardon. The 5-year waiting period starts when you are released from custody or from the date of your conviction if you were never incarcerated (whichever is later).⁷⁵ During this time, you will need to show that you have led a responsible and productive life, made significant efforts toward rehabilitation, and taken responsibility for your offense.

In deciding whether to grant your pardon, the President will consider the following factors, so you should emphasize your efforts and accomplishments in these areas:

- Employment, including stable work and financial situation;
- Family responsibility;
- Community service, volunteer work, or other charitable activities;
- Reputation in the community;
- Military service (if applicable);
- Any other accomplishments; and
- Your efforts to take responsibility for your offense and make any court-ordered restitution to any victims.⁷⁶

Here are some other things you should include or mention:

- Letters of support, reports, and recommendations—particularly official reports or recommendations from people involved in your criminal case, such as the judge, the prosecutor, or your federal probation officer.
- Any hardships caused by your conviction—for example, if your conviction is preventing you from getting certain jobs or professional licenses; or making it difficult for you to reunite with your children and family; or if you cannot get certain public benefits, public housing, loans, or other services because of your conviction.
- The amount of time that has passed since your conviction. The more serious your offense, the more time you will need to put between your conviction and your request in order to demonstrate your rehabilitation and convince the president that you deserve a pardon.⁷⁷

HOW DO I APPLY FOR A PRESIDENTIAL PARDON?

To apply for a presidential pardon, you must complete a “Petition for Executive Clemency” and file it with the Office of the Pardon Lawyer within the U.S. Department of Justice. Application forms and instructions can be found on the U.S. Department of Justice website at: <http://www.justice.gov/pardon/>.

For more information on requesting a presidential pardon, see <https://www.justice.gov/pardon/about-office-0>.

For most people, a presidential pardon is NOT a realistic solution for cleaning up your criminal record.

⁷⁴ *Doe v. United States*, No. 15-MC-1174 (E.D.N.Y. Mar. 7, 2016).

⁷⁵ 28 C.F.R. § 1.2.

⁷⁶ Standards for Consideration of Clemency Petitioners, U.S. DEP’T OF JUSTICE, § 1-2.113.

⁷⁷ Standards for Consideration of Clemency Petitioners, U.S. DEP’T OF JUSTICE, § 1-2.113.



VI. REGISTRATION REQUIREMENTS FOLLOWING CONVICTION

HOW WILL CLEANING UP MY RECORD AFFECT MY REGISTRATION REQUIREMENTS?

Like most questions about cleaning up your record, it depends on your conviction offense and which remedy (or remedies) you use to clean up your record. For specific answers, it is recommended that you discuss your situation with a lawyer.

SEX REGISTRATION

Registration on the sex offender registry under South Carolina Code Ann. § 23-3-400 is the most severe and permanent type of registration.⁷⁸

SEX REGISTRATION & MEGAN'S LAW

Under “Megan’s Law,” the South Carolina Law Enforcement Division is required to keep a public website with personal and criminal history information about anyone who is required to register for a sex offense under S.C. Code Ann. § 17-25-135. The website is available to the public, and includes information about your conviction offense, certain other information about your criminal history, a photograph and description of what you look like, and other personal information (name, date of birth, the community and zip code or county where you live, and in some cases even your address).⁷⁹

ARE THERE ANY RECORD-CLEANING REMEDIES I CAN USE TO REMOVE MY REGISTRATION REQUIREMENT?

Most likely, no. Unfortunately, there are not many record-cleaning remedies under current South Carolina law that will affect sex registry requirements. The only remedy that will remove registration requirements is a pardon, but your pardon *MUST* be granted on the basis of an explicit finding that you were not guilty of the conviction.⁸⁰ This is extremely rare or nonexistent.

IS THERE ANY WAY THAT I CAN BE REMOVED FROM THE SEX REGISTRY?

Technically, yes. In 2020, the South Carolina Supreme Court said that South Carolina is *not* allowed to have a lifetime registration requirement.⁸¹ However, the current guidelines for removal in South Carolina require long periods of registration in order to qualify, so it is not a “quick” process. The rules for you to be removed will depend on various factors, including (1) your tier; (2) how long you have been on the registry; and (3) whether you have had any failures to register, and when. For the best information about how to proceed, we recommend looking at SLED’s website under the “Sex Offender Removal” tab, and going to the section for individuals registered under your same tier.

⁷⁸ See S.C. CODE ANN. § 23-3-400 et seq.

⁷⁹ See S.C. CODE ANN. § 17-25-135

⁸⁰ See S.C. CODE ANN. § 23-3-430(F).

⁸¹ *Powell v. Keel*, 433 S.C. 457 (S.C. 2021).



VII. DNA EXPUNGEMENT

WHAT IS A DNA EXPUNGEMENT?

In South Carolina, anyone convicted of a felony, anyone convicted of a misdemeanor with a prior felony conviction; anyone on probation, parole, or supervision for a felony or with a prior felony conviction; and anyone required to register under S.C. Code § 17-25-135 (sex offense) is required to give a DNA sample.⁸² DNA samples can also be collected from anyone who was arrested for a felony offense that is punishable by a sentence of 5 or more years.⁸³ These DNA samples are kept in a state and national database, and then used by law enforcement agencies to identify suspects involved in other crimes.

Usually when a sample of your DNA is taken, it will be kept in the South Carolina state database (CODIS), and the information may be shared with the national database (kept by the FBI), which can be searched by law enforcement agencies around the country.⁸⁴

As long as your DNA remains in the database, law enforcement agencies can use your DNA to try to connect you (even incorrectly) to other crimes. Getting your DNA expunged from a database means that your DNA sample will be destroyed and all related information (your DNA profile) will be completely removed from that database.⁸⁵

SOUTH CAROLINA DNA EXPUNGEMENT

WHO CAN GET THEIR DNA EXPUNGED FROM THE SOUTH CAROLINA DATABASE?

You may qualify to have your DNA expunged from the South Carolina database if you meet the following requirements:

1. Your DNA was collected after you were arrested BUT NO charges were ever filed against you; OR
2. Your DNA was collected after you were arrested and charges were filed against you, but the charges were dismissed, or you were acquitted; OR
3. Your DNA was collected after you were arrested and criminal charges were filed against you, BUT your conviction was overturned; OR
4. Your DNA was collected after you were arrested and criminal charges were filed against you, but the charges were reduced below the requirement for inclusion in the State DNA Database;

AND

5. You have NO other qualifying offenses on your criminal record. (NOTE: Even if you get your felony conviction expunged or reduced to a misdemeanor, it will still count as a felony for purposes of DNA collection, so you will NOT qualify to have your DNA expunged from the database.);⁸⁶

AND

6. You are NOT required to register for a sex offense.⁸⁷

If you meet all of the legal requirements, your DNA **MUST** be expunged from the database once you submit your request for expungement.

HOW CAN I GET MY DNA EXPUNGED FROM THE SOUTH CAROLINA DATABASE?

You must request for the solicitor's office in the county where you were charged to have your DNA expunged from the South Carolina database. The solicitor will contact SLED and provide appropriate documentation for SLED to expunge your DNA from the database.

For more information about DNA expungement in South Carolina in general, see Getting Expunged or Removed from the SC DNA Data Bank on SLED's website at: <https://sled.sc.gov>.

FBI (NATIONAL) DNA EXPUNGEMENT

WHO CAN GET THEIR DNA EXPUNGED FROM THE NATIONAL DATABASE?

If your DNA sample was taken for a federal arrest or conviction, you may qualify to have your DNA expunged from the FBI's national database if:

⁸² S.C. CODE ANN. § 23-3-620.

⁸³ *Id.*

⁸⁴ S.C. CODE ANN. § 23-3-640; see also South Carolina State Law Enforcement Division, <https://sled.sc.gov/>.

⁸⁵ S.C. CODE ANN. § 23-3-660; see also South Carolina State Law Enforcement Division, <https://sled.sc.gov/>.

⁸⁶ S.C. CODE ANN. § 23-3-660(D); see also South Carolina State Law Enforcement Division, <https://sled.sc.gov/>.

⁸⁷ S.C. CODE ANN. § 23-3-600 et seq; see also South Carolina State Law Enforcement Division, <https://sled.sc.gov/>.



1. Your federal arrest did NOT result in a conviction because NO charges were filed against you or the charges were dismissed or you were acquitted; OR
2. Your federal conviction has been overturned.

To get your DNA expunged, you must provide an official court order showing the final outcome of your arrest, case, or overturned conviction.⁸⁸ For more information on expungement of DNA from the national database, visit the FBI's website on CODIS—Expungement Policy, available at: <https://www.fbi.gov/services/laboratory/biometric-analysis/codis>.

VIII. CONCLUSION

This chapter included information about understanding your criminal record and fixing errors, who can see your criminal records, how to get copies of your criminal records, and your record cleaning options. The goal of this chapter is to give you a better understanding of your criminal records and how to correct errors early in your reentry. We hope this chapter has also shown you the many options that are available to help you “clean up” your record and minimize its impact on your life.

⁸⁸ 42 U.S.C. § 12592(d)(1).



EXPUNGEMENT APPENDIX

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APPENDIX B	Getting Your SLED RAP Sheet - PG. 39
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APPENDIX A

Sample SLED and FBI RAP Sheets



SLED CATCH
Citizens Access to Criminal Histories

Results

Name [REDACTED]
DOB [REDACTED]
Gender [REDACTED]
Maiden Name
SSN
Transaction [REDACTED]
Date of Check [REDACTED]



The record is based on a search using **Last Name, First Initial, Gender, and Date of Birth Only**. Compare all identifying data given for record subject with screening subject. Fingerprint comparison is recommended as the most reliable means to identify a record subject.

INTERNET RAP SHEET REQUEST
ORI- [REDACTED] SID- [REDACTED] FBI- [REDACTED] PUR-E
ATN-WEB, ACCOUNT

AUTHORIZED USE ONLY. ***** CONTACT CONTRIBUTING
AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-11/30/2022 TIME-12:10:58
REQ ORI- [REDACTED] S C LAW ENF DIV
SID- [REDACTED] FBI- [REDACTED]
NAME- [REDACTED] SEX- [REDACTED] RACE- [REDACTED]
HEIGHT- [REDACTED] WEIGHT- [REDACTED] EYES- [REDACTED] HAIR- [REDACTED] SKIN- [REDACTED] BORN- [REDACTED]
FPC- [REDACTED] HENRY- [REDACTED]
PALM PRINTS AVAILABLE AUTHORIZED USE ONLY
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--N/A DATE OF LAST UPDATE-- [REDACTED]

ADDITIONAL IDENTIFIERS BIRTH
NAME DATES MARKS SOC SEC MISC NUM
[REDACTED]

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

[REDACTED]
SCSHP0200 SC HIWAY DEPT DIST 2
CASE- [REDACTED]
ATN- [REDACTED]
WARR- [REDACTED]
CIT-56-5-2945 (A) (2)-FELONY
NCIC CODE-5499

ARREST CHARGE -FELONY DRIVING
UNDER INFLUENCE, DEATH
RESULTS
OFFENSE DATE- [REDACTED]
PALM PRINTS AVAILABLE

SC040185C KIRKLAND RECPT & EV [REDACTED] CUSTODY STATUS-RECEIVED
CASE- [REDACTED] START DATE- [REDACTED]
CIT-56-5-2910-FELONY
NCIC CODE- 999

COURT CHARGE 01-RECKLESS
HOMICIDE, CAUSED INJURY
FROM VEHICLE
COURT DISP-CONVICTED; 2 CTS
YOA NTE 6 YRS EA CC
ATN- [REDACTED]

[REDACTED]
SCSHP0200 SC HIWAY DEPT DIST 2
CASE- [REDACTED]
ATN- [REDACTED]
WARR- [REDACTED] @
CIT-56-1-460 (A) (2) A-MISDEMEANOR

Sample FBI RAP Sheet



SINCE THIS RESPONSE CONTAINS NATIONAL FINGERPRINT FILE (NFF) AND/OR III PARTICIPANT STATE(S) REGULATED DATA, THE RESPONSE MAY NOT BE COMPLETE. HOWEVER THE FBI MAINTAINED DATA FROM THE NON-RESPONDING III PARTICIPANT STATE(S) IS INCLUDED IN THE RESPONSE.

[REDACTED]

FBI

[REDACTED]

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

- FBI IDENTIFICATION RECORD -

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT FURNISHED THE DATA TO THE FBI.

*****NOTICE****
SUBJECT OF RECORD IS WANTED SEE END OF
RECORD FOR MORE INFORMATION**

Caveat Information

NAME	FBI NO.	UCN	DATE REQUESTED				
[REDACTED]	[REDACTED]	←	2016/01/20				
SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	} Biographic Set Identifier
M	W	1984/03/23	601	185	BLU	BROW	
BIRTH PLACE OREGON							
PATTERN CLASS WU RS WU <u>WU</u> RS LS <u>LS</u>				CITIZENSHIP UNITED STATES			

1-ARRESTED OR RECEIVED 2016/01/20
[REDACTED]
AGENCY CASE-

FINGERPRINT INFORMATION
BSI/[REDACTED]
PRINT DATE /2016/01/20

PHOTO INFORMATION -2 PHOTOS AVAILABLE

BSI/[REDACTED]
POSE/ DESC/
PHOTO DATE/2016/01/20

Federal FBI Arrest Information



BSI/[REDACTED]
POSE/ DESC/
PHOTO DATE/2016/01/20

CHARGE 1-1211-ROBBERY -BANKING-TYPE INST
CHARGE 2-1211-ROBBERY -BANKING-TYPE INST
CHARGE 3-1211-ROBBERY -BANKING-TYPE INST
CHARGE 4-1211-ROBBERY -BANKING-TYPE INST



Federal Charges

WANTED
CONFIRM THAT WARRANT IS STILL OUSTANDING

AGENCY-[REDACTED]
WANTED BY FBI-NCIC # [REDACTED]
[REDACTED]
ROBBERY -BANKING-TYPE INST



Caveat Information

CASE [REDACTED]
DATE OF WARRANT 12/16/2015

NOTIFY [REDACTED]



APPENDIX B

Getting Your SLED RAP Sheet

ONLINE:

1. Go to catch.sled.sc.gov. Be sure to read the terms and conditions on the page, including the cost.
2. If you understand and agree to the terms and conditions, click “I accept these terms and conditions” at the bottom of the page.
3. Unless you are a verified charitable organization, you should click “Not Eligible” on the next page (titled “Eligibility for Reduced Fees”).
4. Enter your information on the next page:
 - a. First and Last Name;
 - b. Date of Birth; and
 - c. Gender.
 - d. Optional: You may enter your social security number and maiden name (if applicable). You do not have to enter this information in order to run the RAP Sheet.
5. Click submit and enter your billing information.

Once you have paid and completed the form, the website will automatically generate your RAP Sheet. ***You should immediately save a copy of this to your device.*** You can do this by taking a screenshot from your computer or phone. Once you close the page, you will lose access to the RAP Sheet and you will have to pay again to see it.

BY MAIL:

1. Fill out the Criminal Records Check form (on the next page of this guide).
2. Get a \$25 business check, certified check, cashier’s check, or money order made payable to the South Carolina Law Enforcement Division.
3. Put the Criminal Records Check form and your payment into a self-addressed stamped envelope.
4. Mail the envelope to:

SLED Records Department
P.O. Box 21398
Columbia, SC 29221-1398



South Carolina Law Enforcement Division

P.O. Box 21398
Columbia, South Carolina
29221-1398

Henry D. McMaster, Governor
Mark A. Keel, Chief

Tel: (803) 737-9000

CRIMINAL RECORD CHECK

(Please print your completed form and submit to SLED. You may want to print a copy for your records.)

FULL NAME (with middle name):
AKA and/or MAIDEN NAMES:
DOB: SSN:

(Federal law permits governmental agencies to require a social security number in order to conduct official business; however, private entities may only obtain social security numbers if given voluntarily).

(A self addressed stamped envelope is required for the return of background

CHARITABLE ORGANIZATIONS AND SCHOOL DISTRICTS ONLY

NAME OF ORGANIZATION:
VERIFICATION NUMBER (as provided by SLED for online checks):
SCHOOL DISTRICTS ONLY - POSITION APPLIED FOR:

(A self addressed stamped envelope is required for the return of background check)

PLEASE NOTE:

The fee is twenty-five dollars (\$25) unless you are a charitable organization approved for a fee of eight dollars (\$8). A charitable organization must include its name and User ID number or the request may not be processed. Payment must be business check, certified/cashier's check or money order payable to SLED. PERSONAL CHECKS and CASH WILL NOT BE ACCEPTED. This report contains records of arrests and convictions made by state/local agencies in South Carolina only. Alteration of a completed criminal record check may subject a person to criminal prosecution. A completed criminal records check should not be accepted unless it bears an original SLED stamp.

*SLED RECORDS SECTION HAS BEEN CLOSED TO THE PUBLIC SINCE DECEMBER 15, 2008.

(CJ-022) Revised 09/25/15



An Accredited Law Enforcement Agency



ALL-359-T



APPENDIX C

Getting Your FBI (Federal) RAP Sheet

In this appendix, you will learn how to get a copy of your FBI RAP Sheet. You will also find copies of the FBI RAP Sheet Request Checklist, the FBI Applicant Information Form, and a list of FBI-approved channelers.

There are two ways to get a copy of your FBI (federal) RAP sheet:

OPTION 1: Request your “Identity History Summary” (RAP sheet) from the FBI directly.

STEP 1: Fill out BOTH the FBI’s “Applicant Information Form”⁸⁹ (see APPENDIX D) AND the “Request for Live Scan Service” (Form BCIA 8016RR) (see APPENDIX E).⁹⁰

- Print the forms and fill them out by hand OR fill out the forms online and then print them.
- Where the form says: “Type of Application,” check the box for “Record Review.”
- Where the form says: “Reason for Application,” write “Record Review” on the line.
- Review the *RAP Sheet Request* checklist (see APPENDIX B) to make sure you don’t miss any of the steps.⁹¹

STEP 2: Take the completed “Request for Live Service Scan” form to a Public Live Scan Site to get fingerprinted.

- Live Scan services are available at most local police departments and sheriff’s offices.⁹²

STEP 3: Make your payment to the FBI.

- The charge is \$18 per copy of your Identity History Summary.⁹³
- You can pay by credit card, money order, or certified check made out to the “Treasury of the United States.”

STEP 4: Mail all forms and your \$18 payment to: FBI CJIS Division—Record Request, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306

Note: It can take up to 3 months (or more) to get a copy of your FBI RAP sheet after sending in your forms and payment.⁹⁴

OPTION 2: Ask an FBI-approved “Channeler” (While this is a faster process, it may include extra fees.)

An FBI-approved “Channeler” is a private business that has contracted with the FBI to be the “middle-man” when you request a copy of your FBI RAP sheet. The Channeler will collect all of your fingerprints, personal data, and fee(s), and then send everything to the FBI for you. Afterward, the FBI will send your RAP sheet to the Channeler, and the Channeler will forward the RAP sheet to you. This is a faster process than requesting your RAP sheet from the FBI directly, but channelers generally charge extra fees. Contact each Channeler to learn more about their specific procedures and instructions, processing times, and costs.

STEP 1: Find an FBI-approved Channeler.

- A list of FBI-approved Channelers is provided in APPENDIX F.
- This list is also available on the FBI’s website at:
<https://www.fbi.gov/services/cjis/identity-history-summary-checks/list-of-fbi-approved-channelers-for-departmental-order-submissions>.

STEP 2: Contact the Channeler directly for specific instructions, fees, and processing times.

- For more information about getting your FBI RAP sheet through an FBI-approved Channeler, see:
<https://www.fbi.gov/services/cjis/compact-council/channeler-faqs>.

⁸⁹ *Identity History Summary Checks*, FED. BUREAU INVESTIGATION, <https://forms.fbi.gov/identity-history-summary-checks-review/q384893984839334.pdf>.

⁹⁰ *Request for Live Scan Service*, STATE OF CALIFORNIA DEPARTMENT OF JUSTICE, http://oag.ca.gov/sites/all/files/agweb/pdfs/fingerprints/forms/bcia_8016RR.pdf?

⁹¹ 42 U.S.C. § 12592(d)(1)(A); see also CODIS- Expungement Policy, FED. BUREAU INVESTIGATION, <https://www.fbi.gov/services/laboratory/biometric-analysis/codis>.

⁹² Office of the Attorney General, *Criminal Records - Request Your Own*, STATE OF CALIFORNIA DEPARTMENT OF JUSTICE, <http://oag.ca.gov/fingerprints/security>.

⁹³ 28 C.F.R. § 16.33.

⁹⁴ *Identity History Summary Checks*, FED. BUREAU INVESTIGATION, <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/identity-history-summary-checks>.



FBI RAP Sheet Request Checklist

Please check the boxes below to ensure that you have included everything needed to process your request.

- ▶ Include a completed application form.
- ▶ *Sign your application. Note: If for a couple, family, etc., all must sign the application.*
- ▶ Include a completed fingerprint card. A completed fingerprint card includes the following:
 - ▶ 1. Name
 - ▶ 2. Date of Birth
 - ▶ 3. Descriptive Data
 - ▶ 4. All 10 rolled fingerprint impressions.
 - ▶ 5. The plain impressions, including thumbs of both hands.
- ▶ Include a credit card payment form, certified check*, or money order for \$18.00 per request. *Note: This amount must be exact.*
- ▶ If using a credit card, please ensure the credit card payment form is filled out completely. *Don't forget to include the expiration date of the credit card that you are using.*
- ▶ If paying with a certified check or money order, make it payable to the Treasury of the United States.

CASH OR PERSONAL/BUSINESS CHECKS
ARE NOT AN ACCEPTED FORM OF PAYMENT.

- ▶ Include a form of contact information (i.e., e-mail, telephone number) in case we need to contact you.

**To issue a certified check, the bank verifies that sufficient funds exist in the requestor's account to cover the check. This means the bank certifies payment at the time the check is written. Those funds are then set aside in the bank's internal account until the check is cashed or returned to the payee.*



FBI Applicant Information Form

1-783 (Rev. 06-01-2020)

OMB-1110-0052

IDENTITY HISTORY SUMMARY REQUEST FORM
Information * Denotes Required Fields

*Last Name <input style="width: 90%;" type="text"/>	*First Name <input style="width: 90%;" type="text"/>
Middle Name 1 <input style="width: 90%;" type="text"/>	Middle Name 2 <input style="width: 90%;" type="text"/>

*Date of Birth: <input style="width: 90%;" type="text"/>	*Place of Birth: <input style="width: 90%;" type="text"/>	*U.S. Citizen or Legal Permanent Resident: <input type="checkbox"/> Yes <input type="checkbox"/> No
*Country of Citizenship: <input style="width: 90%;" type="text"/>	Country of Residence: <input style="width: 90%;" type="text"/>	Prisoner Number (if applicable): <input style="width: 90%;" type="text"/>
*Last Four Digits of Social Security Number: <input style="width: 90%;" type="text"/>		

*Race (please check appropriate box): <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Caucasian <input type="checkbox"/> Native American <input type="checkbox"/> Unknown	
*Sex (please check appropriate box): <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other	

Address

C/O <input style="width: 90%;" type="text"/>	ATTN <input style="width: 90%;" type="text"/>
*Address <input style="width: 90%;" type="text"/>	
<input style="width: 90%;" type="text"/>	
*City <input style="width: 90%;" type="text"/>	*State <input style="width: 90%;" type="text"/>
*Postal (Zip) Code <input style="width: 90%;" type="text"/>	*Country <input style="width: 90%;" type="text"/>
Phone Number <input style="width: 90%;" type="text"/>	E-Mail <input style="width: 90%;" type="text"/>

Payment Enclosed: (please check appropriate box)

CERTIFIED CHECK
 MONEY ORDER
 CREDIT CARD FORM

You may request a copy of your own Identity History Summary to review it or obtain a change, correction, or an update to the summary. This is not a national background check and may not include information from state repositories which would be included on an employment background check. If you are requesting a background check for employment or licensing within the U.S., you may be required by state statute or federal law to submit your request through your state identification bureau, the requesting federal agency, or another authorized channeling agency.

* REQUESTOR SIGNATURE DATE

Mail the signed requestor information form, fingerprint card, and payment of \$18 U.S. dollars to the following address:

FBI CJIS Division – Summary Request
1000 Custer Hollow Road
Clarksburg, West Virginia 26306

PRIVACY ACT STATEMENT

The FBI's acquisition, retention, and sharing of information submitted on this form is generally authorized under 28 USC 534 and 28 CFR 16.30-16.34. The purpose for requesting this information from you is to provide the FBI with a minimum of identifying data to permit an accurate and timely search of FBI identification records. Providing this information (including your Social Security Account Number) is voluntary; however, failure to provide the information may affect the completion of your request. The information reported on this form may be disclosed pursuant to your consent and may also be disclosed by the FBI without your consent pursuant to the Privacy Act of 1974 and all applicable routine uses.

PAPERWORK REDUCTION ACT STATEMENT:

Under the Paperwork Reduction Act, you are not required to complete this form unless it contains a valid OMB control number. The form takes approximately 3 minutes to complete.



FBI-Approved Channelers

Accurate Biometrics

www.accuratebiometrics.com

(773) 685-5699

Biometrics4All, Inc.

www.applicantservices.com

(714) 568-9888

Digital Trusted Identity Services, Inc.

www.daontis.com

(703) 797-2562

Fieldprint, Inc.

www.fieldprintusa.com

(877) 614-4364

Idemia Identity & Security USA LLC

www.idemia.com

(877) 783-4187

National Background Check, Inc.

www.nationalbackgroundcheck.com

(877) 932-2435

National Credit Reporting

www.nbinformation.com

(800) 441-1661

STS SID LLC dba Sterling Identity

www.sterlingidentity.com

(844) 787-3431

Telos Identity Management Solutions, LLC

<https://enroll.idvetting.com>

(800) 714-3557

TRP Associates, LLC dba ID Solutions

www.trpassociates.net

(877) 885-1511

VetConnex

www.vetconnex.com

(952) 595-5800



APPENDIX D

Common RAP Sheet Errors

Your RAP Sheet may contain a number of errors. Generally, you should be able to request that the managing agency (either SLED or the FBI) correct these mistakes for free. Look out for these common errors:

- **Someone else's information.** Your RAP sheet may contain criminal history information about someone else with the same (or a similar) name as you.
- **Leaving out important information about a case.** Your RAP sheet may leave out important information about the final outcome of your case. For example, your RAP sheet may be missing warrant numbers or may not include the disposition of the case.
- **Including sealed information.** Your RAP sheet may contain records that should have been destroyed or can only be released by special court order, such as sealed arrests or juvenile offenses.
- **Misleading information.** It is possible that a single charge may appear multiple times on your RAP sheet, making it look like you have multiple offenses when you only have one.
- **Misclassifying your offense.** If a misdemeanor conviction shows up as a felony on your RAP sheet, this is a serious problem!



APPENDIX E

Fixing Errors in Your SLED and FBI RAP Sheets

HOW TO FIX ERRORS IN YOUR SLED RAP SHEET

If you notice errors in your SLED RAP Sheet, you should call the SLED Public Dissemination Unit at 803-896-1443.

FIXING ERRORS IN YOUR FBI RAP SHEET

The FBI gets all of its criminal history information from *other* law enforcement and criminal justice agencies as well as courts throughout the U.S. The FBI can *only* change your information if the *original* agency or court (meaning, the one that sent the information to the FBI in the first place) *tells* the FBI to change it. If you think your FBI RAP sheet is inaccurate or incomplete, there are two ways to correct the information:

OPTION 1: Contact the court or agency that sent your information to the FBI.

Note: Each entry on your FBI RAP sheet should list the specific agency that provided the information. This is how you can tell which agency sent the incorrect or incomplete information on your RAP sheet.

OPTION 2: Go through the FBI directly.

If you don't know where the incomplete or incorrect information on your RAP sheet came from, you can contact the FBI directly to challenge it, and ask them to correct it.⁹⁵

STEP 1: Write your challenge letter.

In your letter, you should: (1) clearly state that you think there is *inaccurate or missing information* in your Identity History Summary; (2) clearly identify *what information* you think is wrong; and (3) clearly explain *why* the information is wrong. (For a list of common RAP sheet errors, see APPENDIX D.)

STEP 2: Include proof of the correct information.

You should also send the FBI any proof you have that the particular information in your RAP sheet is wrong—such as court records, transcripts, court orders, court minutes, copy of a plea agreement, police records, or other paperwork or evidence that support your claim. For example, if your RAP sheet is missing information about the final outcome of a case, you should send court documents showing the final disposition.

STEP 3: Mail your written challenge request.

Send your challenge letter and all your proof (supporting documents and evidence) to:

FBI Criminal Justice Information Services Division
Attention: Criminal History Analysis Tad
Clarksburg, WV 26306

STEP 4: Wait for the FBI's review.

The FBI will investigate whether the information in your RAP sheet is incomplete or incorrect by contacting the agencies that supplied it as well as other agencies that might have additional information about your case. If the FBI decides that your RAP sheet is wrong or incomplete, it will correct the mistake(s) and let you know.

⁹⁵28 C.F.R. § 16.34.



APPENDIX F

South Carolina Expungeable Charges and Convictions

Below, you will find a chart detailing which charges or convictions are eligible for expungement in South Carolina.

What types of charges or convictions are eligible for expungement in South Carolina?		
APPLICABLE S.C. CODE SECTION	TYPE OF CHARGE OR CONVICTION	WHEN AM I ELIGIBLE TO HAVE THIS EXPUNGED FROM MY RECORD?
§ 17-1-40	Charge that was dismissed, nolle prossed, no-billed, or you were found not guilty	Any time! Also, expunging these from your record is typically <i>free</i> UNLESS the charges were dismissed, nolle prossed, no-billed, or you were found not guilty as part of a plea deal. If that is the case, then you must pay \$250 <i>per set of dispositions</i> (so, per plea deal). NOTES: *This is the ONLY rule that can be used while other charges are pending. *If dismissed/nolle prossed/not guilty in the summary court, must apply through the summary court. *If “dismissed at prelims,” must apply through the Solicitor’s Office Expungement Division.
§ 22-5-910(a)	Any misdemeanor charge or conviction that is punishable by a <i>maximum</i> of either 30-days in jail or up-to a \$1,000 fine	If you do not have any new convictions for 3 years from the date of <u>conviction</u> . NOTE: This does not apply to <i>any driving offenses</i> .
§ 22-5-910(b)	(before June 2015) Criminal Domestic Violence, 1st offense or (after June 2015) Domestic Violence, 3rd degree	If you do not have any new convictions for 5 years after the date of <u>conviction</u> .
§ 22-5-920	Any NONVIOLENT charges or convictions that were <i>sentenced under the Youthful Offender Act (YOA)</i> NOTES: This does not apply to: <ul style="list-style-type: none"> • driving offenses; • violent crimes; • domestic violence offenses (except firearm possession violations); or • offenses that result in a requirement to register on the sex offender registry. Before June 2, 2010: Just need to have been eligible for YOA sentence at the time of conviction. After June 2, 2010: Must have an explicit YOA sentence issued by the	If you do not have any new convictions <i>while serving the YOA sentence</i> <u>AND</u> for 5 years after completing the YOA sentence.



	General Sessions Court.	
§ 22-5-930(a)	Simple possession of a controlled substance - 1st offense	If you do not have any new convictions for 3 years from completing the sentence. NOTE: SLED has interpreted this statute to mean the first offense <i>in time</i> , not just an eligible 1st offense. Also, multiple convictions for one sentencing can be expunged together.
§ 22-5-930(b)	Possession with Intent to Distribute (not actual distribution) of a controlled substance - 1st offense	If you do not have any new felony OR drug convictions for 20 years after completing the sentence. NOTE: SLED has interpreted this statute to mean the first offense <i>in time</i> , not just an eligible 1st offense.
§ 34-11-90(e)	Fraudulent Check - 1st offense (misdemeanor only)	If you do not have any new convictions for 1 year after the date of conviction. NOTE: Can only be used for ONE charge, not a set of arrests or convictions. SLED has interpreted this statute to mean the first offense <i>in time</i> , not just an eligible 1st offense.
§ 56-5-750(f)	Failure to Stop for a Blue Light- 1st offense	If you do not have any new convictions for 3 years after completing the sentence.
§ 17-22-150(a)	Pre-trial Intervention (PTI)	If you have successfully completed the pre-trial intervention. NOTE: You do not have to pay the \$25 SLED fee to have this expunged from your record.
§ 17-22-330(a)	Traffic Education Program (TEP)	If you have successfully completed the traffic education program. NOTE: You do not have to pay the \$25 SLED fee to have this expunged from your record.
§ 17-22-530(a)	Alcohol Education Program (AEP)	If you have successfully completed the alcohol education program. NOTE: You do not have to pay the \$25 SLED fee to have this expunged from your record.
§ 17-22-1010	S.C. Youth Challenge and S.C. Jobs Challenge Program	If you have successfully completed the program. (Typically takes around 1 year).
§§ 44-53-450(b) and 16-17-530	Conditional discharge of a charge or conviction for simple possession 1st or public disorderly conduct	If you have successfully completed the sentence. NOTE: You do not have to pay the \$25.



		SLED fee to have this expunged from your record.
§ 63-19-2050	<p>ONLY Juvenile records in the following categories:</p> <ul style="list-style-type: none"> • Status Offenses • Non-violent crimes under S.C. Code § 16-1-70 	If you are over 18 years old, have successfully completed the sentence, have not had any more convictions, and do not have any current pending criminal charges in family court or general sessions court.
§ 16-3-2020(F)	Offenses due to sex trafficking	Contact the solicitor's office in the county where the charge or conviction occurred for more information.

IMPORTANT NOTE:

You can only use each of the rules in this chart ONE TIME. Once you use the rule to expunge an eligible charge from your record, you cannot use it again. The only exception to this rule is § 17-1-40, which can be used more than once.

NOTE ON PAYING FEES:

Unless the chart says otherwise, *you must pay all applicable fees to have your record expunged*. Most circuits will allow you to submit the application first and *then* tell you what fees you owe if your charge or conviction is eligible for expungement. The total cost to expunge a charge or conviction from your record is \$310. You will need to get 3 separate money orders and submit them to the appropriate agencies. Here is who you will need to pay:

Solicitor's Office in the County where the charge or conviction originated: \$250

Clerk of Court: \$35

SLED: \$25

NOTES ON APPLYING FOR EXPUNGEMENT:

If you have any questions or concerns about expunging charges or convictions on your record, you should contact an attorney to advise you.

Each circuit in South Carolina has a different application. To get an application, you should contact the solicitor's office of the county where the charge or conviction occurred. You may be able to find the application on the solicitor's office website, but you may have to call them and ask to speak to someone in the expungement division.

READ YOUR APPLICATION CAREFULLY. Each circuit may have different requirements. Make sure to fill out the application in full. If you don't know the answer, you can write "I don't know."



APPENDIX G Sample Supervision Completion Letter

Below is an example of a supervision completion letter. You must request this letter from SCDPPPS.

State of South Carolina
Department of Probation, Parole and Pardon Services

HENRY McMASTER
Governor



JERRY B. ADGER
Director

293 Greystone Boulevard
POST OFFICE BOX 207
COLUMBIA, SOUTH CAROLINA 29202
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov

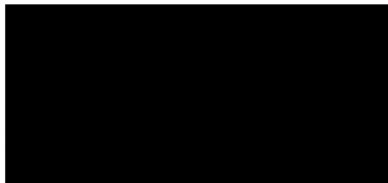
September 28, 2021

RE: [REDACTED]
SSN: [REDACTED]
DOB: [REDACTED]

To Whom It May Concern:

According to the Department's records, the above individual completed the required period of supervision on [REDACTED] and as a result, no longer reports to this Department. This Department does not confirm or guarantee that pending or future criminal sanctions may not occur subsequent to the date of this letter.

If you need further assistance, you may contact this office at [REDACTED]



"Nation's First Probation Agency accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA)."





APPENDIX H

Expungement Applications by Circuit - South Carolina

Each judicial circuit in South Carolina has a different process for expungement and a different application. The chart below is intended to make it easier for you to find those applications. In this appendix you will also find the South Carolina court form for destruction of records.

JUDICIAL CIRCUIT	LINK TO APPLICATION	CONTACT INFORMATION / NOTES
1st Circuit (Calhoun, Dorchester, and Orangeburg counties)	http://scsolicitor1.org/wp-content/uploads/2020/05/Expungement-Application-PDF-St-George2.pdf	
2nd Circuit (Aiken, Bamberg, and Barnwell counties)	https://www.scsolicitor2.org/view_form.php?id=2	Kelly Lynch Solicitor's Office Expungement Coordinator 803-502-9000
3rd Circuit (Clarendon, Lee, Sumter, and Williamsburg counties)		
4th Circuit (Chesterfield, Darlington, Dillon, and Marlboro counties)	https://www.solicitor4.com/wp-content/uploads/2021/10/PROD-Expungement.html	
5th Circuit (Kershaw and Richland counties)	https://www.scsolicitor5.org/wp-content/uploads/2021/11/2021-expungement-appl2.pdf	Norman Jackson Richland County Solicitor's Office Expungement Coordinator 803-576-1620
6th Circuit - CHESTER COUNTY ONLY	*MUST CONTACT SOLICITOR'S OFFICE FOR FORM* See https://www.scsolicitor6.org/expungement for more information	Ann Hardee Solicitor's Office Expungement Coordinator 803-377-1141
6th Circuit - FAIRFIELD COUNTY ONLY	*MUST CONTACT SOLICITOR'S OFFICE FOR FORM* See https://www.scsolicitor6.org/expungement for more information	Ann Hardee Solicitor's Office Expungement Coordinator 803-712-1735
6th Circuit - LANCASTER COUNTY ONLY	*MUST CONTACT SOLICITOR'S OFFICE FOR FORM* See https://www.scsolicitor6.org/expungement for more information	Julie Small Solicitor's Office Expungement Coordinator 803-416-9367
7th Circuit (Cherokee and Spartanburg counties)	https://www.spartanburgcounty.org/DocumentCenter/View/740/Expungement-Application?bidId=	Destiny Boone Solicitor's Office Expungement Coordinator 864-596-2421 (Spartanburg) 864-487-6216 (Cherokee) Cindy Cassady Director of Diversion Programs & Expungements 864-596-2419



<p>8th Circuit (Abbeville, Greenwood, Laurens, and Newberry counties)</p>		<p>Angela Rowland Solicitor's Office Expungement Coordinator 864-942-8800</p>
<p>9th Circuit (Berkeley and Charleston counties)</p>	<p>https://www.scsolicitor9.org/files/SCCA223A1.pdf</p>	<p>Charleston County: Adasha Clarke Solicitor's Office Expungement Clerk (843) 958-1900</p> <p>Berkeley County: Tammy Gentry 843-719-4529</p>
<p>10th Circuit (Anderson and Oconee counties)</p>	<p>https://secureservercdn.net/198.71.233.46/av3.59d.myftpupload.com/wp-content/uploads/2022/10/Solicitors-Expungement-Application-10-13-22-002-2.pdf</p>	<p>Kristen Sullivan Solicitor's Office Expungement Coordinator (for Anderson and Oconee) 864-716-3689 (Direct Line)</p>
<p>11th Circuit (Edgefield, Lexington, McCormick, and Saluda counties)</p>	<p>https://solicitor11.sc.gov/sites/solicitor11/files/Documents/Expungement/Expungement%20Application%20207-22-19.pdf</p>	<p>Davant Keenan Solicitor's Office Expungement Coordinator 803-785-8037</p>
<p>12th Circuit (Florence and Marion counties)</p>	<p>http://files.florenceco.org/public/Solicitor/Expungement/APPLICATION_FOR_EXPUNGEMENT.pdf</p>	
<p>13th Circuit - GREENVILLE COUNTY ONLY</p>	<p>https://www.greenvillecounty.org/solicitor/pdf/expungement_greenville.pdf</p>	<p>Andrea Plumley Solicitor's Office Expungement Coordinator 864-467-4792 (Direct) aplumley@greenvillecounty.org 864-467-8717 (Main Office)</p>
<p>13th Circuit - PICKENS COUNTY ONLY</p>	<p>https://www.greenvillecounty.org/solicitor/pdf/expungement_pickens.pdf</p>	<p>Judy Abercrombie Solicitor's Office Expungement Coordinator 864-467-8425 (Press 4 for Judy)</p>
<p>14th Circuit (Allendale, Beaufort, Colleton, Hampton, and Jasper counties)</p>	<p>https://scsolicitor14.org/wp-content/uploads/2021/01/Expungement-Application-2021.pdf</p>	
<p>15th Circuit - GEORGETOWN COUNTY ONLY</p>	<p>https://www.horrycountysc.gov/media/gjhn1jc0/georgetown-county-expungement-application.pdf</p>	<p>Marsha Conner Solicitor's Office 843-545-3169 (ask to speak with Expungement)</p>
<p>15th Circuit - HORRY COUNTY ONLY</p>	<p>https://www.horrycountysc.gov/media/4rokrkvo/horry-county-expungement-screening.pdf</p>	<p>Heather Bell Solicitor's Office 843-915-8624</p> <p>For expungement due to a diversion program, contact Tiffany Lee at (843) 915-5460.</p>
<p>16th Circuit (Union and York counties)</p>	<p>https://scsolicitor16.com/diversion/expungements/ (online instructions for the expungement process)</p>	<p>Maria Cabrera Special Programs Coordinator Solicitor's Office 803-628-3028</p>



SC Court Forms Blank Order

Some circuits do not have an application for you to fill out. Instead, they require that you fill out a South Carolina Order for Destruction of Records, obtain the appropriate signatures, and file it with the court. On the next 2 pages you will find a copy of the Order for Destruction of Arrest Records that you may print and use. You can also find this form on the SC Courts website.



STATE OF SOUTH CAROLINA)
COUNTY OF)

IN THE COURT OF GENERAL SESSIONS
ORDER FOR DESTRUCTION OF ARREST RECORDS

THE STATE OF SOUTH CAROLINA)
v.)

Defendant)

AKA)

Race _____ Sex _____ Age _____
DOB _____ SSN _____
SID # _____

Charges were disposed of in the court indicated below:
 Magistrate Municipal General Sessions

IT APPEARS that the defendant is entitled to have all records, including any outstanding associated bench warrants, relating to this offense expunged and destroyed or sealed according to the applicable section of the South Carolina Code of Laws indicated below:

Warrant/GS No. _____ Date of Arrest _____ Place of Arrest _____ County, S.C.

Arrest Charge _____

- | | |
|--------------------------|---|
| <input type="checkbox"/> | § 17-1-40. The charge was dismissed, <i>nolle prossed</i> , or the defendant was found not guilty on _____. |
| <input type="checkbox"/> | § 22-5-910. The defendant was convicted of an offense in magistrate, municipal or general sessions court for a crime carrying a penalty of not more than 30 days imprisonment or a fine of \$1,000, or both, on _____, that offense did not involve an offense involving the operation of a motor vehicle, and no additional criminal conviction as defined by §22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for first offense criminal domestic violence (conduct occurring prior to June 4, 2015) or third degree domestic violence under §16-25-20. (<i>Summary court judge must attest to eligibility if disposed of in that court.</i>) |
| <input type="checkbox"/> | § 22-5-920. The defendant was convicted of a first offense as a youthful offender on _____, that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by §22-5-920 has taken place during a five-year period following completion of his sentence, including probation and parole as a youthful offender. The sentence was completed on _____. |
| <input type="checkbox"/> | § 22-5-930(A). The defendant was convicted of a first offense simple possession of a controlled substance under Article 3, Chapter 53, Title 44 or unlawful possession of a prescription drug under Section 40-43-86 (EE) on _____ and no additional convictions, to include out-of-state convictions, have taken place during a three-year period following completion of his sentence, including probation and parole. The sentence was completed on _____. |
| <input type="checkbox"/> | § 22-5-930(B). The defendant was convicted of a first offense possession with intent to distribute a controlled substance under Article 3, Chapter 53, Title 44 on _____ and no additional convictions, to include out-of-state convictions, have taken place during a twenty-year period following completion of his sentence, including probation and parole. The sentence was completed on _____. |
| <input type="checkbox"/> | § 34-11-90(e). The defendant was convicted of a first offense misdemeanor under the fraudulent check law on _____ and no additional criminal conviction as defined by §34-11-90(e) has taken place in one year from date of conviction. |
| <input type="checkbox"/> | § 44-53-450(B). The defendant, who has not previously been convicted of any offense under Article 3, Chapter 53, Title 44 or any offense under any state or federal statute relating to marijuana, stimulant, depressant, or hallucinogenic drugs, successfully completed all terms of and received a conditional discharge of possession of a controlled substance under Section 44-53-370(c) and (d), or Section 44-53-375(A). |
| <input type="checkbox"/> | § 56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on _____ and no additional criminal conviction has taken place for three years after completion of the sentence. The sentence was completed on _____. |

SLED verifies the offense listed above is eligible for expungement: Yes No SLED _____ Date _____

IT IS ORDERED that all records relating to such arrest and subsequent discharge, including associated bench warrants, pursuant to the above-referenced section be expunged and destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except as follows:

- (1) arrest and booking record, associated bench warrants, mug shots and fingerprints of the defendant shall be retained under seal pursuant to § 17-1-40, by law enforcement, detention, correctional and prosecution agencies for three years and one hundred twenty days, and law enforcement and prosecution agencies may retain the information indefinitely under seal for purposes set forth in § 17-1-40 (B)(1)(a) and (b); under § 17-1-40 (C)(1), this order does not require the destruction of evidence gathered, unredacted incident and supplemental reports, and investigative files, which statutorily shall be retained under seal for three years and one hundred twenty days, and may be retained indefinitely under seal for purposes set forth in § 17-1-40 (C)(1); and information retained under seal by law enforcement, detention, correctional and prosecution agencies pursuant to § 17-1-40 is not a public information and is exempt from disclosure, except by court order;
- (2) probation records retained by S.C. Department of Probation, Pardon, and Parole Services pursuant to § 17-1-40 (B)(3) whose charges were dismissed by conditional discharge pursuant to § 44-53-450;
- (3) nonpublic information retained by S.C. Law Enforcement Division (SLED) pursuant to § 22-5-910, § 22-5-920, § 34-11-90(e), and §44-53-450; and
- (4) nonpublic information retained by SLED and S.C. Department of Public Safety/Department of Motor Vehicles pursuant to § 56-5-750(F), as well as any nonpublic records retained by S.C. Commission on Prosecution Coordination as required by law.



Name of Defense Counsel (if represented) _____ S.C. Bar No.: _____

To be completed by Summary Court Judge if charge disposed of in that court:

I ATTEST that the defendant is eligible for expungement pursuant to § 22-5-910, § 34-11-90(e), or § 44-53-450(B).

I CERTIFY (check one):

The defendant was fingerprinted and the summary court has coordinated with SLED and confirmed the criminal charge is statutorily appropriate for expungement.

The defendant was not fingerprinted and the summary court has coordinated with the arresting law enforcement agency and confirmed that no fingerprints were taken from the defendant for this charge.

Summary Court Judge

Printed/Typed Name: _____ Signed this ____ day of _____, 20____

To be completed by Solicitor:

Solicitor: Consents Declines to Consent Determined ineligible for expungement

The charge covered by this order was not dismissed or *nolle prossed* because of successful completion of the Pre-Trial Intervention Program, Traffic Education Program, Alcohol Education Program, or any other statutorily authorized diversion program operated by a solicitor's office. The charge covered by this order can legally be expunged.

Circuit Solicitor

Printed/Typed Name: _____ Signed this ____ day of _____, 20____

IT IS SO ORDERED.

_____, Circuit Court Judge _____ Judge Code Signed this ____ day of _____, 20____

For SLED internal use only: Expunged by SLED by: _____ Date: _____



APPENDIX I

Sample Letter of Support for Pardon Applications

This template does not have to be followed exactly. It is just a recommended list of writing points. Each reference should write in a formal and professional manner, but still from the heart.

Reference name

Street address

City, State Zip Code

Phone number

Division of Pardons and Paroles

Pardon Applications Processing

P.O. Box 50666

Columbia, SC 29250

[DATE]

Dear State Board of Pardons and Paroles,

First Paragraph - Introduction

- State that you are in favor of a pardon for the applicant!
- Introduce yourself (for example: personal history, employment, involvement in community activities)
- State how you met/know the applicant.

Second Paragraph - Persuasion

- State specific examples of the applicant's good will, rehabilitation, work ethic, community service, responsibilities, employment, or anything else that will reflect upon the applicant's good character.
- Describe applicant's change from past to present (if you knew them at the time of the charges)

Third Paragraph - Conclusion

- State why the applicant wants a pardon and why you think they should get a pardon.
- State how a pardon will positively affect the applicant, their family, and their community.

Sincerely,

[signature]

Reference name