

An Introduction to Expungements

Clerks of Courts
Orientation 2022



Expungement Process

Every expungement starts with the defendant being arrested and fingerprinted.

If there are no fingerprints associated with an arrest or the fingerprints were not submitted to TBI, TBI will not have the charges on file.



Expungement Process

After the defendant has been booked in and fingerprinted, the fingerprints and arrest information are transmitted to TBI.

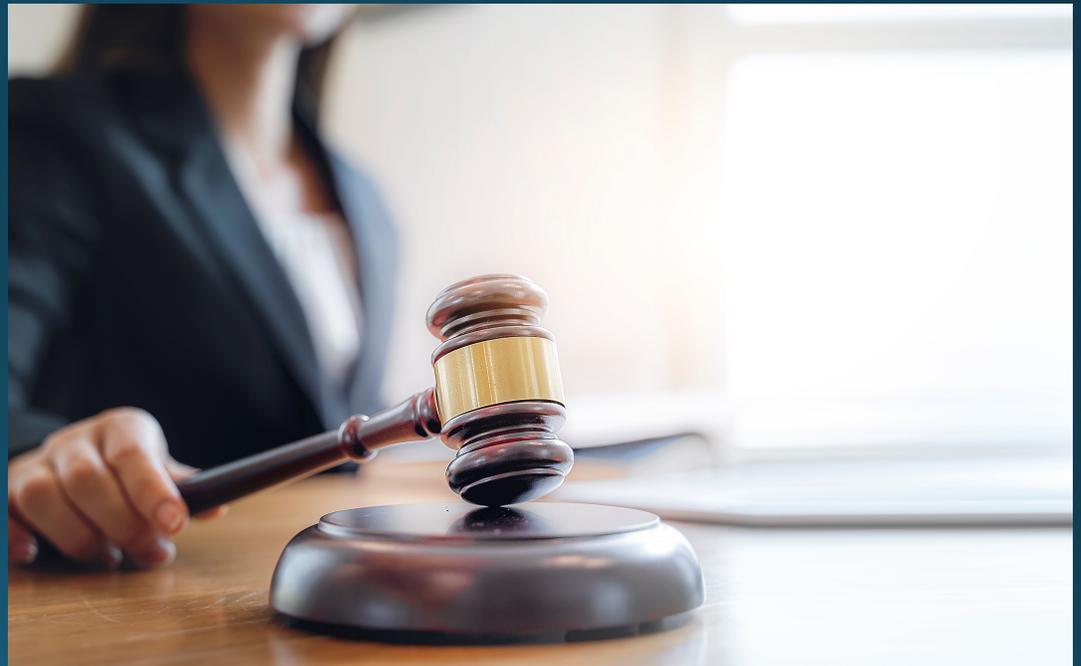
Charges are then added to TBI's AFIS system and CCH (Computerized Criminal History database).



Expungement Process

The judge decides if the defendant will receive an expungement. There are several types of expungement forms:

- The standard form;
- The conviction expungement form (also called a "g" expungement or DA expungement) (g & k);
- The pardon expungement form (h);
- The partial expungement order (j); and
- The administrative letter of expungement.



Expungement Forms Standard Form

Pursuant to T.C.A. §40-32-101 use the standard form for expungements listed in the "Provisions relating to Adults" and "Provisions related to Juvenile" sections.

Some counties create their own form for juvenile expungements.

(FOR TBI USE ONLY) State Identification Number: _____
 (FOR TBI USE ONLY) FBI Identification Number: _____

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

State of Tennessee vs _____ Circuit Docket Number _____
 Date Original Case was filed in Clerk's Office _____ General Sessions Docket Number _____
 In the _____ Court of _____ County, Tennessee at _____
 On the Motion or Petition of _____

Defendant/Arrest Information:

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

Disposition Information:

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

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

Provision relating to Adults: <input type="checkbox"/> Charge has been dismissed (T.C.A. § 40-32-101) <input type="checkbox"/> No true bill returned by Grand Jury (T.C.A. § 40-32-101) <input type="checkbox"/> Verdict of not guilty returned by jury (T.C.A. § 40-32-101) <input type="checkbox"/> Conviction which has by appeal been reversed (T.C.A. § 40-32-101) <input type="checkbox"/> Nolle Prosequi entered in case (T.C.A. § 40-32-101) <input type="checkbox"/> Successful completion of all probation provisions and proceedings against defendant have been discharged by the court (T.C.A. § 40-35-313) <input type="checkbox"/> Suspension of prosecution pursuant to T.C.A. § 40-15-105	Provisions relating to Juveniles: <input type="checkbox"/> Petition alleging delinquency not filed (T.C.A. § 37-1-155) <input type="checkbox"/> Proceedings dismissed after petition is filed or the case transferred to Juvenile Court as provided in T.C.A. § 37-1-109 (T.C.A. § 37-1-155) <input type="checkbox"/> Adjudicated not to be a delinquent child (T.C.A. § 37-1-155) <input type="checkbox"/> Child has reached eighteen (18) years of age and there is no record that he committed a criminal offense after reaching sixteen (16) years of age, unless such fingerprints were obtained on alleged charge which if committed by an adult would be a felony (T.C.A. § 37-1-155) <input type="checkbox"/> Passage of six (6) months from date of upper law violations defined by T.C.A. § 57-3-412(a)(3)(c) or T.C.A. § 57-5-301(e)(3)
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It is ordered that all PUBLIC RECORDS relating to such offense above referenced be expunged and immediately destroyed upon payment of all costs to clerk, and that no evidence of such records pertaining to such offense be retained by any municipal, county, or state agency, except non-public confidential information retained in accordance with T.C.A. § 106-7-504 and T.C.A. § 38-6-118.

APPROVED FOR ENTRY

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

Form EX-1 (Rev. 2003)

Expungement Forms

Standard Form (continued)

- Dismissed charges.*
- Grand Jury returns a no true bill.*
- Arrested and released without being charged.*
- Verdict of not guilty (judge is supposed to ask defendant if he wants charge(s) expunged).
- Person required to post bond and bond expires and no surety is required to fulfill the obligations of the bond.
- Orders of protection if denied by the court following a hearing.
- Nolle prosequi if the defendant petitions the court.
- Successful completion of judicial or pre-trial diversion.

*Cannot charge an expungement fee. Must be on affidavit.

Expungement Forms

Standard Form (continued)

Can also expunge when person charged and convicted of a misdemeanor or felony while protesting law enforcing racial segregation or discrimination IF:

- Charge was dismissed.
- No true bill from Grand Jury.
- Arrested and released without being charged OR 37 years have passed since the date of the conviction and the petitioner has not been convicted of any other offense, excluding minor traffic violations.
 - Also, period of supervision must be over.
 - Offense could not be a Class A, B, or disqualifying C Felony.
 - Can't be a sexual offense.
 - Can't be a vehicular offense.
 - DA doesn't object.

Expungement Forms

Standard Form (continued)

A copy of the expunction order must be sent to the Tennessee Bureau of Investigation within thirty (30) days from the date of the expunction order for entry into its expunged offender and pre-trial diversion database.

The order shall contain:

- Name of the person seeking expunction
- Person's date of birth
- Person's social security number
- Offense that was dismissed
- Date and cause of the dismissal
- Date the order of expunction is entered

Expungement Forms

Conviction (g) (continued)

- As of July 1, 2012, certain nonviolent offenders who have fulfilled all requirements of their sentence are allowed to seek expungement of their records.
- PC 677: The person has not been convicted of a criminal offense that is ineligible for expunction, including federal offenses and offenses in other states, that occurred prior to the offense for which the person is seeking expunction
 - Effective July 1, 2022
- Petitioner must wait at least 5 years after completion of a sentence when applying to expunge a misdemeanor or Class E felony. Petitioner must wait at least 10 years after completion of sentence when applying to expunge a Class C or Class D felony.

Expungement Forms

Conviction (g) (continued)

- Law contains a list of Class C, Class D, and Class E Felonies that are eligible as well as a list of misdemeanors that are excluded.
 - List changed for pre-1989 offenses as of July 1, 2022.
- Can have more than one offense expunged if it was part of a continuous criminal episode that occurred at the same location.
 - Counts as one offense.
- District Attorney's office must create a petition and court order.
- Petitioner must file a petition in the judicial district where the conviction occurred.
- The clerk must serve the District Attorney's office who will respond to the petition.

Expungement Forms

Conviction (g) (continued)

- DA may file evidence under seal. This evidence is confidential and is NOT a public record.
- Petitioner may also file evidence.
- Court must consider all evidence and weigh the interests of justice and public safety. There is a rebuttable presumption that when those who meet all of the criteria petition, that the petition should be granted.
- Judge must issue an order granting or denying petition no sooner than 61 days after service of the petition upon the DA.
- If denied, must wait 2 years until filing another petition.
- If granted, restores petitioner to their status before arrest.

Expungement Forms

Conviction (g) (continued)

“The clerk of the court maintaining records expunged pursuant to this subsection (g) or subsection (h) shall keep such records confidential. These records shall not be public and can only be used to enhance a sentence if the petitioner is subsequently charged and convicted of another crime. This confidential record is only accessible to the district attorney general, the defendant, the defendant's attorney and the circuit or criminal court judge.”

Expungement Forms

Conviction (k)

“Eligible petitioner” means:

A person who was convicted of no more than two (2) offenses.

Each of the offenses for which the petitioner seeks expunction are offenses that are eligible for expunction under subsection (g).

The offenses were:

Two (2) misdemeanors; or

One (1) felony and one (1) misdemeanor.

Other requirements of (g) are met.

Expungement Forms

Pardon (h) (continued)

“Eligible petitioner” means a person who was convicted of a nonviolent crime, if the person:

- Petitioned the court in which the petitioner was convicted of the offense and the judge finds that the offense was a nonviolent crime;
- Petitioned for and received a positive vote from the board of parole to receive a pardon; and
- Received a pardon by the governor.

Make sure the order reflects the findings above.

Expungement Forms *Partial (j)*

Pursuant to T.C.A. §40-32-101(j)

Conflicts with earlier part of the Code.

Must be some notation that this is a "partial expungement."

Sumner County Clerk came up with this order.

IN THE CRIMINAL COURT FOR SUMNER COUNTY			
REQUEST FOR REMOVAL OF CRIMINAL OFFENDER RECORD PURSUANT TO T.C.A. §40-32-101(j)			
State of Tennessee v. _____	Circuit Docket No. _____		
General Sessions Docket No. _____			
Defendant/Arrest Information:			
Defendant (name used at time of arrest) _____	Race _____	Sex _____	Date of Birth _____
Arresting Agency _____	Date of Arrest _____		
Charge 1 (As shown on arrest fingerprint card) _____	SSN# _____		
Charge 2 (As shown on arrest fingerprint card) _____			
Charge 3 (As shown on arrest fingerprint card) _____			
Disposition Information:			
Final Charge 1 _____			
Final Charge 2 _____			
Final Charge 3 _____			
Final Disposition _____			
*The Defendant understands that this request will only remove the requested charges from the Tennessee Bureau of Investigation database, the National Crime Information Database, and/or any public electronic database maintained by the court clerk, pursuant to T.C.A. §40-32-101(j), if eligible. This request will not expunge all records from any court file or other county database. Court clerks shall not be liable for any errors or omissions relating to the removal and destruction of records under this petition.			
Defendant/Attorney for Defendant _____	Date: _____		

Expungement Forms

Partial (j) (continued)

Began as a directive only to TBI to remove crime from criminal history.

- AG Opinion held otherwise.
- 2017 change allowed for removal of charge from “relevant databases”.
- “Nothing in this subsection (j) shall require court clerks to expunge records relating to an offense for which the person was convicted.”

Items That Cannot be Expunged

- Any offense requiring registration on the Sex Offender Registry.
- A conviction of a lesser included offense relating to the same criminal conduct or episode as the charged offense.
- An offense when a person is charged with multiple offenses or multiple counts and is convicted of one or more of the charges or any offense relating to the same criminal conduct.
- Retired charges.

Other Facts About Expungements

- If a person is granted expungement because of mistaken identity, the expungement must be expedited.
- If a person is deceased, legal representative can ask for expungement.
- Records used for education purposes in museums, libraries, and buildings are exempt from expungement.

Exemption Example (continued)

Jimi Hendrix Fingerprint Card

No. 89192
 Name Hendrix, James Marshall
 Classification 12 I 1
 Reference I 17 R 0 II
 Color B Skin

RIGHT HAND				
1. Thumb	2. Index finger	3. Middle finger	4. Ring finger	5. Little finger
LEFT HAND				
6. Thumb	7. Index finger	8. Middle finger	9. Ring finger	10. Little finger

Impressions taken by: W.P. Jones
 Date impressions taken: 14 Aug 62
 Note amputations: _____
 Signature of person fingerprinted: James Marshall Hendrix

Four fingers taken simultaneously		Four fingers taken simultaneously	
Left Hand	Left Thumb/Right Thumb	Right Hand	Right Hand

PLEASE DO NOT FOLD THIS CARD

Arrest: NO DRIVERS LICENSE

DEPARTMENT OF SAFETY
 BUREAU OF CRIMINAL IDENTIFICATION
 Nashville, Tennessee

Record from _____ Address: CITY OF NASHVILLE
 Date of arrest: 14 Aug 62
 Charge: No. 100 - 1st
 Disposition of case: 275

Residence: 539 Ford St Apt 5
 Place of birth: Seattle Washington
 Nationality: _____
 Criminal specialty: _____
 Age: 19 Date of birth: 27 Nov 42
 Height: 5' 10" Comp: Right Hair: Blk
 Weight: 150 Eyes: Blue Build: 774
 Scars and marks: _____

F. B. I. NO. _____
 M. S. _____

RELATIVES		
NAME	ADDRESS	RELATIONSHIP
<u>James C. Hendrix</u>	<u>266 Yeoman St Seattle Wash</u>	<u>Father</u>

ACCOMPLICES					
NAME	NUMBER	NAME	NUMBER	NAME	NUMBER

CRIMINAL HISTORY					
NAME	NUMBER	CITY OR INSTITUTION	DATE	CHARGE	DISPOSITION OR SENTENCE

(Please furnish all additional criminal history and police record on separate sheet)

Human Trafficking Expungement

T.C.A. § 40-32-105

- One year must have elapsed since completion of sentence.
- Petitioner must have completed the requirements of the sentence.
- Petitioner must not have been convicted of any crimes during the year prior to the petition and must not have any pending charges.
- The petitioner must not have had prior expungements.
- The conviction must not have involved physical force, possession of a deadly weapon, or be ineligible for expunction under the conviction expunction statute.
- Each conviction must have resulted from the petitioner's status as a victim of human trafficking.
- Requirement of prior prostitution was removed as of July 1, 2022
- The DA has forms and is involved.
- Records are kept by clerks, but are confidential.

Reminders

- Diversion cannot be granted without a TBI certificate.
- Diversions must be awarded at the time of sentencing. AG Opinion 06-008.
- Send complete orders with correct identifiers.
- Diversion applications should not be substituted for background checks!!!

FlexCheck

TBI and a focus group of court clerks worked together with a software developer to design a system that meets the needs of both court staff and TBI.



FlexCheck *(continued)*

- FlexCheck is FREE to courts.
- The FlexCheck encrypted web portal is used by court staff to submit expungements to TBI.
- TBI receives the expungements and court staff can check the progress of each expungement:
 - Pending
 - In progress
 - Completed
 - Rejected
- Once the expungement is completed by TBI, a 'watermarked' copy of the expungement is emailed to the clerk who entered it (as well as any email addresses that were added) with the date of completion.

FlexCheck *(continued)*

FlexCheck makes distributing expungements as easy as entering an email address.

There are several check boxes for state agencies as well as fields for you to enter your local addresses.

Click box to send to appropriate state agency (if applicable):

- | | | |
|--------------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> Administrative Office of the Courts | <input type="checkbox"/> SAFETY - carry permits | <input type="checkbox"/> SAFETY - DL revocations/suspensions |
| <input type="checkbox"/> Sex Offender Registry | <input type="checkbox"/> THP RECORDS | <input type="checkbox"/> TN Alcoholic Beverage Commission |
| <input type="checkbox"/> TN Department of Correction | <input type="checkbox"/> TN Wildlife Resources Agency | |

Also send notification to:

Email: <input type="text"/>	Email: <input type="text"/>
Email: <input type="text"/>	Email: <input type="text"/>
Email: <input type="text"/>	Email: <input type="text"/>
Email: <input type="text"/>	Email: <input type="text"/>

FlexCheck (continued)

Once TBI completes the expungement the clerk who submitted the transaction and any email addresses entered will receive a 'watermarked' copy of the expungement order.

FBI # _____ SID # _____

ORDER FOR THE EXPUNGEMENT OF CRIMINAL OFFENDER RECORD

State of Tennessee vs SANDY BEACH Date Original Case was filed in Clerk's Office 01/05/2019 In the CRIMINAL Court of KNOX County Tennessee at KNOXVILLE	CIRCUIT Docket # 12345 SESSIONS Docket # CR-12345 Docket #
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On the Motion of Petition of SANDY BEACH

Defendant Information

SPRINGS, SANDY	123456789	W	F	01/01/1950
<small>Defendant (name used at time of arrest)</small>	<small>SSN</small>	<small>Race</small>	<small>Sex</small>	<small>Date of Birth</small>
TN0470000 - Knox County Sheriff's Office	12345			01/01/2019
<small>Arresting Agency</small>	<small>Case #</small>			<small>Date of Arrest</small>

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

Charge/Disposition Information:
ORIG: DRIVING ON SUSPENDED LICENSE - DQA; 01/01/2019 - Misdemeanor
AMEND: DRIVERS LICENSE NOT IN POSSESSION - Misdemeanor
EXP TYPE: Judicial Diversion - Successful completion of all probation provisions and proceedings against defendant have been discharged by the court (40-35-013)

It is ordered that all PUBLIC RECORDS relating to such offenses herein referenced be expunged and immediately destroyed upon payment of all costs to clerk and that no evidence of such records pertaining to such offense be retained by any municipal, county, or state agency, except non-public, confidential information retained in accordance with T.C.A. § 20-7-304 and T.C.A. § 20-6-118.

_____	Entered this 10th day of Feb, 2019	
Defendant/Attorney for Defendant		
_____	Judge	
District Attorney General		

Contact Information

Contact Name	Phone	E-Mail
Yeselin Pendleton - CJIS Assistant Director	615-744-4136	Yeselin.Pendleton@tn.gov
Kenneth Blue - CJIS Systems Officer	615-744-4078	Kenneth.Blue@tn.gov
Rachel Russell - CJIS Attorney	615-522-7338	Rachel.D.Russell2@tn.gov
Heather Hurley - CJIS Supervisor	615-744-4025	Heather.Hurley@tn.gov
Holly Folsom - CJIS Supervisor	615-744-4280	Holly.Folsom@tn.gov
Haylee Pellegrino- CHE3 - Dispositions	615-744-4254	Haylee.Pellegrino@tn.gov
Cyndi Thompson - CHE3 Diversions	615-744-4273	Cyndi.Thompson@tn.gov
Julie Barr - CHE3 Expungements	615-744-4385	Julie.Barr@tn.gov
Shelley Christian- CHE3 Expungements	615-744-4096	Shelley.Christian@tn.gov
Dispositions	615-744-4617	TBI.Dispos@tn.gov
Diversions	615-744-4617	TBI.Diversions@tn.gov
Expungements	615-744-4617	TBI.Expungement@tn.gov

Submission Information

If your court chooses not to use FlexCheck, email expungement orders to TBI.Expungement@tn.gov. If the expungements need to be expedited, please include a message in your email subject line.

Dispositions can also be scanned and emailed to TBI.Dispos@tn.gov.

Helpful TBI Links

Tennessee Bureau of Investigation

<http://www.tn.gov/tbi>

TBI Diversions / Expungements / Dispositions

<https://www.tn.gov/tbi/divisions/cjis-division/diversions-expungements.html>

TBI Instant Check System

<https://www.tn.gov/tbi/divisions/cjis-division/firearm-background-checks.html>

TBI Tennessee Applicant System (TAPS)/ Tennessee Open Records Information System (TORIS)

<https://www.tn.gov/tbi/divisions/cjis-division/background-checks.html>

Helpful TBI Links (continued)

TBI Sex Offender Registry

<https://sor.tbi.tn.gov/home>

TBI Drug Offender Registry

<https://www.tn.gov/tbi/divisions/drug-investigation-division/tennessee-drug-offender-registry.html>

TBI Animal Abuse Registry

<https://www.tn.gov/tbi/tennessee-animal-abuse-registry.html>

Other Helpful Links

Administrative Office of the Courts

<http://www.tncourts.gov/>

Tennessee District Attorneys General Conference

<http://www.tndagc.com/>

Tennessee Felony Offender Information

<https://apps.tn.gov/foil/>

The background is a dark blue gradient with a repeating pattern of lighter blue speech bubbles, each containing a white question mark. The word "Questions" is written in a white, sans-serif font in the lower right area.

Questions