

Expungement in the South

CURRENT SOUTHERN STATES WITH MECHANISM FOR EXPUNGEMENT OR RESTRICTION OF CONVICTIONS

State	Misdemeanor Conviction Eligibility & Waiting Period	Felony Conviction & Waiting Period	Court Petition	Hearing	Requirements / Additional Notes	Eligible for Multiple Convictions	Eligible for Pardoned Offenses
Arkansas (A.C.A. 16-90-1405)	Yes – Automatic Sentence Completion	Yes 5 years after sentence completion	Yes	Discretionary	Minor Felony / Drug Conviction: <ul style="list-style-type: none"> No more than one prior felony Serious Violent/Sexual Offenses ineligible <u>Also:</u> Records are considered “as a matter of law never to have occurred, and the person may state that the underlying conduct did not occur and that a record of the person that was sealed does not exist.” Ark Code Ann. § 16-90-1401 et seq.	Misdemeanors Only	Yes, if ineligible for sealing. Ark Code Ann. § 16-90-1411.
Georgia O.C.G.A. 35-3-37	Youthful Offenders 5 years after sentence completion	No	Yes for Youthful offenders	Discretionary	Youthful Offender: <ul style="list-style-type: none"> Must be under 21 at time of conviction Sentence Completion 5 years with no criminal activity 	Yes	No
Kentucky KRS 431.078	Yes 5 years after sentence completion	Yes 5 years for certain non-violent Class D felonies or those with full pardon	Yes	Mandatory w/notice to county attorney and victim	Misdemeanor: <ul style="list-style-type: none"> No other conviction within the 5-year time Ky. Rev. Stat. Ann. 431.078 Sex offenses and offenses against children ineligible Must be informed of right to expunge at adjudication Felony: <ul style="list-style-type: none"> Vacatur and expungement may only be sought once in a lifetime (multiple felonies from same charge ok under single petition) No pending criminal charge Felony expungement restores right to vote 	Yes	Yes

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					<u>Also:</u> <ul style="list-style-type: none"> - Expunged records are deleted from official databases (including law enforcement) - \$500 filing fee 		
Louisiana La. Code Crim. Proc. Art. 971 et seq.	Yes 5 years after sentence completion	Certain 10 years after sentence completion	Yes	Upon objection – objecting party must show by a preponderance of the evidence why the motion should not be granted	Misdemeanor: <ul style="list-style-type: none"> • No felony conviction within 5 years • No pending felony case Felony: <ul style="list-style-type: none"> • No pending case <u>Also:</u> <ul style="list-style-type: none"> - Records are closed to public but are available for law enforcement and licensing purposes. La. Code Crim. Proc. Art. 972 	Yes (recently changed)	
Maryland Md. Code Ann., Crim. Proc. 10-110 (Oct. 1, 2017)	Yes 10 years after sentence completion 15 years for 2 nd degree assault and “domestically related crimes” SB 1005 (2016) (effective Oct. 2017)	No	Yes	Hearing held if the victim or the State’s Attorney objects within 30 days of notice. 10-110(E)(1) Standard: 10-110(F)(2)	Misdemeanor: <ul style="list-style-type: none"> • No felony conviction within 5 years • No pending case or new crime <u>Also:</u> <ul style="list-style-type: none"> - MD regards “expungement” as having greater protection than “shielding” - Destruction of records, including DNA, after 3 years. Md. Rule Crim. Proc. 4-511, 4-512 	Yes (an ineligible charge from a single render all charges ineligible) 10-110(D)(3), 10-107	Yes, Non-violent First Offenders
Missouri Mo. Rev. Stat. 610.140(2) (by SB-588)	Yes <u>Current Law</u> 10 years <u>New Law (2018)</u> 3 years	Certain 7 years	Yes	<u>Current Law</u> Discretionary <u>New Law (2018)</u> Pleading application “create[s] a rebuttable presumption	<u>Current Law</u> Misdemeanor: <ul style="list-style-type: none"> • First time alcohol-related after 10 years. <u>New Law (2018)</u> Felony: <ul style="list-style-type: none"> • Class A Felonies are ineligible • Certain violent crimes, sex crimes, driving offenses are ineligible <u>Also:</u>	<u>Current Law</u> No <u>New law</u> Only one felony and two misdemeanors within lifetime § 610.140(12)	No

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				that the expungement is warranted.” No longer discretionary. If not rebutted the court “shall” order expungement.	<ul style="list-style-type: none"> - Sealed records available for law enforcement and licensing. Mo. Rev. Stat. §§ 557.011, 610.105-610.110 - Must disclose expungement in application for professional license, 610.140, and the court § 610.140(7). - A person, upon expungement, returns “to the status he or she occupied prior to [conviction] as if such events had never taken place.” <i>Id.</i> - Records are no longer “destroyed,” but “closed” to public, but not court, law enforcement, or employers entrusted to care for vulnerable populations. § 610.120 		
Mississippi 99-19-71	Yes 5 years	Certain Underage Felonies 5 years	Yes	Underage Felony: Discretionary for “violent crime or felony related to distribution of controlled substance”	Misdemeanor: <ul style="list-style-type: none"> • Any first misdemeanor other than traffic offense. Miss. Code Ann. 99-19-71(2)(a) Felony: <ul style="list-style-type: none"> • Single minor felony conviction. <i>Id.</i> • Single more serious felony committed before 18 years old. 99-19-71(2)(b) Also: <ul style="list-style-type: none"> - Records retained for law enforcement purposes 	No	No
North Carolina N.C. Gen. Stat. 15A-145.5	Certain 15 years after sentence completion	Certain 15 years after sentence completion	Yes		<ul style="list-style-type: none"> • Sentence completion • Good moral character • No other criminal history • Two affidavits of unrelated supporters • Recent criminal background check 	No	
South Carolina	No	No	N/A	N/A	N/A	No	No
Tennessee Tenn. Code. Ann. 40-32-101	Yes 5 years after sentence completion	Certain 5 years after sentence completion	Yes	No – evidence can be filed by individual and prosecutor	<ul style="list-style-type: none"> • Sentence completion • Pardon obtained • Interest of individual must outweigh the best interests of justice and public safety • \$450 filing fee 	No	Yes

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Virginia	No	No	No	N/A	Only those convictions subject to absolute pardon. Va. Code Ann. 19.2-392.2	No	Yes, absolute pardon
West Virginia W. Va. Code 61-11-26	If pardoned Or If Youthful Misdemeanant First Offender 61-11-26(a) 1 year after pardon, and at least 5 years from discharge from sentence	If pardoned 1 year after pardon, and at least 5 years from discharge from sentence	Yes	Yes <i>See W. Va. Code 61-11- 26(c)(9) and (10)</i>	Pardoned Misdemeanor or Felony <ul style="list-style-type: none"> No pending case Exceptions for certain violent crimes § 5-1-16a(a) Youthful Misdemeanant First Offenders: <ul style="list-style-type: none"> <u>Also:</u> <ul style="list-style-type: none"> Educational institutions and licensing authorities may not consider expunged records 5-1-16a(b) Records are sealed from agencies and officials, including law- enforcement. Agencies must certify deletion within 60 days, orders enforcing this procedure are also sealed. W. Va. Code 61-11-26(j) 	Yes	Yes