

Expunging Court Records

What Does It Mean When the Court Expunges a Record?

Expunging a court record means the court seals the entire criminal case file, both paper and electronic, and will not allow anyone to access the file without a court order.

Any reference to an expunged case will be removed from the Wisconsin Circuit Court Access (WCCA) website. If someone asks the court about the case, they will be told that no information for that case exists.

I Would Like My Criminal Record Expunged. How Can I Do That?

The court can expunge criminal records in three circumstances:

- 1) For certain crimes committed by youthful offenders where the sentence is successfully completed (Wisconsin Statute § 973.015). Expungement must be approved by the court at the time of sentencing.
- 2) In juvenile cases when the juvenile reaches age 17 and has satisfactorily complied with the conditions of their dispositional order (Wis. Stat. § 938.355(4m)). Upon reaching age 17, the person must petition the court to expunge the record.
- 3) If the offender committed a commercial sex act as a victim of human trafficking, §973.015(2m).

Other than these situations, a judge has no authority or power to expunge other types of cases. For example, the statute does not provide for expunging traffic forfeitures, civil cases, or small claims cases.

Is My Record Eligible For Expungement?

If you were sentenced on or after July 1, 2009, the record of your conviction may be eligible to be expunged if you were under age 25 at the time of the offense and if the

maximum punishment for the crime was 6 years or less.

Some offenses are excluded, and felony offenders are not eligible if they have a prior felony conviction. See Wisconsin Statute §973.015 for details.

If you were sentenced before July 1, 2009, the record of your conviction may be eligible to be expunged if you were under age 21 at the time of the offense and if the crime was a misdemeanor.

Forms to request expungement of the court record for an adult conviction or a juvenile adjudication can be found at <http://wicourts.gov/forms1/circuit/index.htm>. Form CR-266 should be used for sentences imposed on or after July 1, 2009; form CR-290 should be used for sentences prior to July 1, 2009.

My Record Was Supposed To Be Expunged But It Is Still On the WCCA website. Why?

A criminal case may be expunged when the sentence has been successfully completed and the detaining or probationary authority has submitted a certificate of discharge. The detaining or probationary authority is the agency that supervised you during your sentence, usually the probation office.

Check with the clerk of court in the county where you were convicted to see if a certificate of discharge was filed in your case. If no certificate was filed with the court, you will have to contact the detaining or probationary authority to determine whether they can issue that certificate.

Juvenile adjudications cannot be viewed on the WCCA website, but the record can still be accessed by a variety of agencies. In order to have your juvenile record expunged you must petition the court.

In deciding whether to expunge your juvenile case the court will determine whether you satisfactorily complied with the conditions of your dispositional order. The court will also consider whether you would benefit and whether society will not be harmed by the expungement.

My Record Was Expunged. Does That Mean That No One Will Find Out About My Case?

No. Although your case was expunged and your court record sealed, the judge's order does not reverse or set aside your conviction. An expungement order only affects whether that conviction is accessible through court records. It does not affect the records kept by other criminal justice agencies.

The Crime Information Bureau (CIB), which is part of the Wisconsin Department of Justice, operates the Wisconsin Criminal History Repository. The Wisconsin Criminal History Repository maintains a record of all convictions regardless of whether the court expunged your record. Anyone can make a request for information from the Wisconsin Criminal History Repository. Employers, schools and licensing agencies often run background checks of applicants this way.

Additionally, the case may still exist in district attorney records, law enforcement records, and the department of transportation or other agency records. The judge has no authority to require removal of those agency records. Even if the circuit court expunged your court record, anyone who asks for information from another agency may be able to obtain information about your conviction.

Although your record was expunged and your court record sealed, the judge's order does not reverse or set aside your conviction. Even after it is expunged, your conviction is still recorded in the Wisconsin Criminal History Repository. Anyone running a formal criminal background check will be informed that you were convicted and that the conviction was expunged. For this reason, you may want to consider explaining the circumstances of your case and why the court record of the conviction was expunged.

The Charges Against Me Were Dismissed. Can I Still Get My Record Expunged?

No. A court can only expunge convictions. In order to qualify for expungement you must have been convicted in criminal court or adjudicated delinquent in juvenile court. If your case was dismissed, or if you were

charged with a crime and found not guilty, you were not convicted.

In this situation, you may be able to have certain information removed from the Wisconsin Criminal History Repository. Contact the CIB to get a special form for this request.

Even if CIB removes information from the Wisconsin Criminal History Repository, that does not remove information from district attorney records, law enforcement records, and the department of transportation or other agency records.

I Was Arrested But Never Charged. Can The Court Expunge That Information?

No. Because you were never charged with a crime the circuit court does not have a criminal case file to expunge. If you were arrested, but never formally charged, you may be able to have certain information about your arrest removed from the Wisconsin Criminal History Repository by submitting a special form to the CIB.

CIB removing information from the Wisconsin Criminal History Repository does not remove information from district attorney records, law enforcement records, and the department of transportation or other agency records.

Is A Governor's Pardon The Same Thing As Getting My Case Expunged?

No. A governor's pardon does not expunge your court record. If you receive a governor's pardon the court will add a notation to your court record indicating that a pardon was granted for that case.

Your record will not be sealed and the file will still be accessible both at the clerk of courts office and on the WCCA website. A pardon will also not remove your record from the Wisconsin Criminal History Repository.

How Do I Find More Information About The CIB and The Wisconsin Criminal History Repository?

Visit the Wisconsin Department of Justice website at www.doj.state.wi.us/ and read the information in the "Criminal History" link, which is under the "Background Checks" tab. There you will find helpful information such as how to remove your arrest information at CIB and answers to questions about criminal records.

Additional helpful information can be found at:

Wisconsin Circuit Court Access Website:
wcca.wicourts.gov/

Wisconsin Court System
www.wicourts.gov

Wisconsin Department of Justice: www.doj.state.wi.us/

Wisconsin State Bar: www.wisbar.org

Department of Workforce Development Publication:
"Fact Sheet - Arrest and Conviction Records under the Law" -
<http://dwd.wisconsin.gov/dwd/publications/viewsort/list.asp?sort=Subject>

Wisconsin Statutes – Revisor of Statutes Bureau:
www.legis.state.wi.us/rsb/

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Expunging Court Records: Helpful Information and Frequently Asked Questions

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