

So You Want to Seal or Expunge Your Criminal History Record...

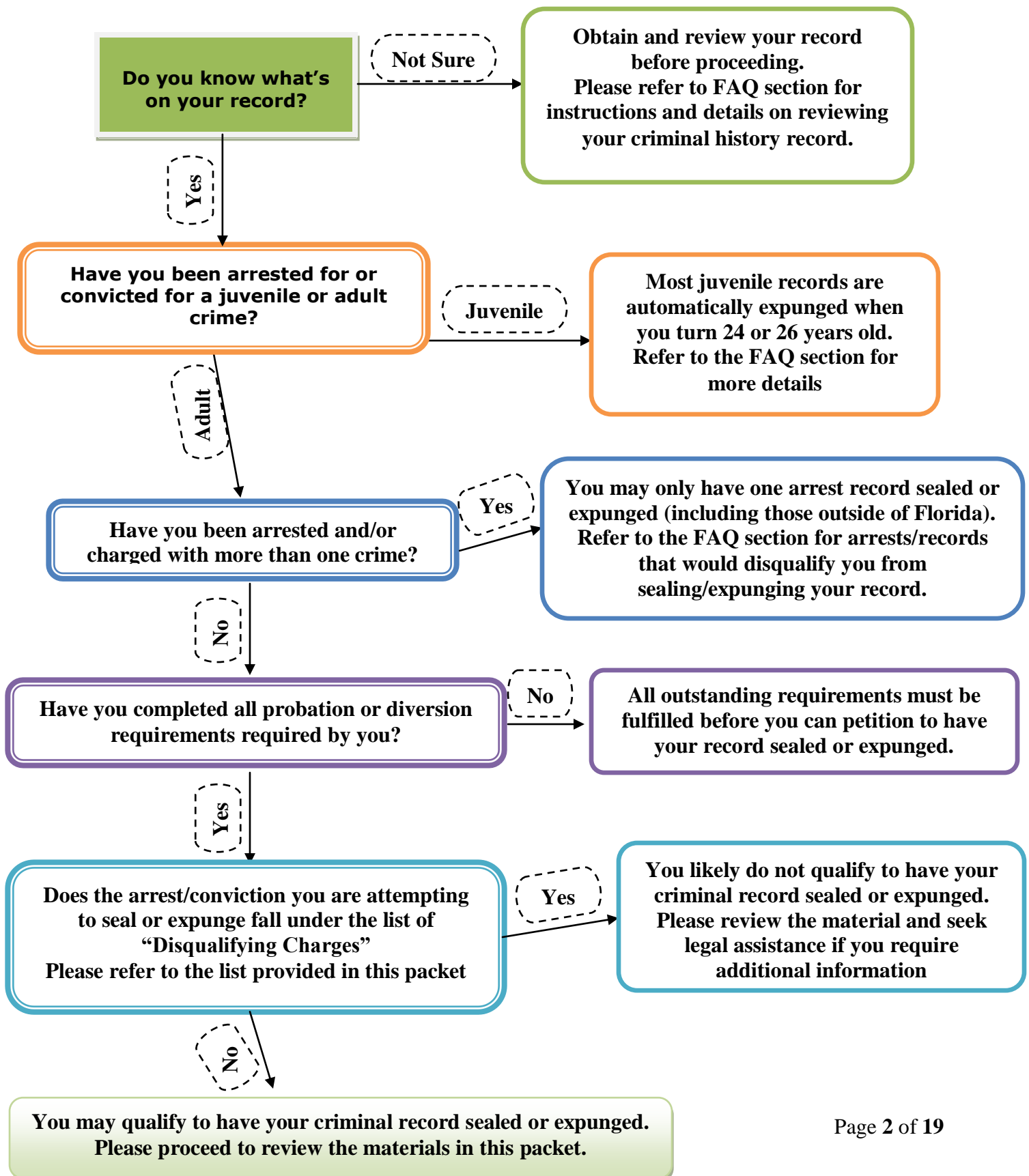
What's In This Packet?

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(Need to attach: Certificate of Eligibility Application, Criminal History Information Request Form, Fingerprint Card)

Quick-Glance Flowchart: Do I qualify?



FAQs

The Basics – What is a Criminal History Record? Where do I start?

1. Do I have a criminal history record? Can I personally review my Florida criminal history record on file with the FDLE?

If you have questions about what appears in your Florida criminal history records maintained by FDLE, you may wish to obtain a Personal Review of your record from FDLE, pursuant to Chapter 11C-8, FAC, before submitting the Certification of Eligibility application form. The Personal Review is **optional** and is not required for FDLE to process your application.

To obtain a Personal Review:

- visit the FDLE website at: <https://web.fdle.state.fl.us/search/app/default>
- Pay the \$24.00 processing fee

-OR-

- Fill out a Criminal History Information Request Form, attached to this packet or available at: <https://www2.fdle.state.fl.us/cchinet/docs/CrimHistInfoRequest.pdf>
- Mail the request form and the \$24.00 processing fee by Check or Money Order to:
Florida Department of Law Enforcement User Services Bureau
Criminal History Services
PO Box 1489
Tallahassee, Florida 32302

2. How does having a criminal record affect me?

Having a criminal history record can affect your rights and eligibility in several ways.

Education: Depending on whether your record is sealed or expunged, you may have to disclose your criminal history record on school applications that ask for criminal records. See Section 943.0582 and 973.0585.

Admissions:

- Some schools, including the University of Florida, will deny admission to an otherwise qualified person if they do not have a “record of good conduct with school or other officials”. See <http://www.admissions.ufl.edu/ugrad/frqualify.html>.
- Other schools, including the School of Education at the University of South Florida, require that an applicant’s criminal record be disclosed; including, but not limited to, juvenile arrests, dismissed charges, and sealed records. See <http://www.coedu.usf.edu/main/sas/DisclosureofConviction.html>.
- Some community colleges require documentation regarding arrests and convictions and will list the types of criminal arrests or convictions that they want you to explain.

Financial Aid:

- Denial of Bright Futures Scholarship. Students are ineligible for a Bright Futures Scholarship if they have been convicted of a felony offense as an adult or juvenile. See Section 1009.531(1)(e).
- Denial of Student Loans. Students with any state or federal convictions for selling or possessing drugs are ineligible for federal financial aid for at least one year, depending on the type and number of drug convictions. See 20 U.S.C. Section 1091 (r)(1).

Employment: Many jobs require you to disclose and/or conduct background checks during the hiring process that may affect whether or not they hire you. Additionally, there are some jobs that you **MUST** disclose your criminal record to **even if** it has been sealed or expunged, including:

- Police officer, lawyer, child care worker, teacher, juvenile probation officer, social worker, airport or seaport security, jobs with direct contact with children, the elderly, or developmentally disabled, and jobs that require professional licenses. See Sections 397.451, 985.644, 985.045, 943.0585, and THE FLORIDA SENATE, OVERVIEW OF SEALING AND EXPUNGING CRIMINAL RECORDS 2 (2009).

Housing: You may be ineligible for public housing if you have committed a drug related felony within the immediately preceding three years. See Section 420.633(2). Public housing includes any and all single family housing that is managed by your local housing authority.

Military Service: Convicted felons may not join the military unless they receive a "moral waiver". 10 U.S.C. Section 504(a).

3. What would disqualify me from having my criminal history record sealed or expunged?

1. If you have been **adjudicated guilty** (convicted as an adult) of a criminal offense, including a criminal traffic offense (e.g. DUI, DWLS), criminal ordinance violation, misdemeanor, or felony your juvenile criminal record will not be erased, or expunged.
2. If you were **adjudicated delinquent** (as a juvenile) of charges of: assault; battery; petit theft; carrying a concealed weapon; unlawful use of destructive devices or bombs; negligent treatment of children; assault or battery on a law enforcement officer, firefighter, or other specified personnel; cruelty to animals; arson; unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property.
3. If you were **adjudicated delinquent as a juvenile** for the crime you seek to seal (close) or expunge (erase).
4. If you were **placed on probation** or community control, but later **violated the terms** of your sentence and the judge converted the withhold to an adjudication.
5. If you were **found guilty, pled guilty, or no contest, or you have a withhold of adjudication** on certain offenses, such as: abuse or aggravated abuse of an elderly person or disabled adult; aggravated assault/aggravated battery; arson; burglary of a dwelling; carjacking; hijacking; home invasion robbery; homicide; illegal use of explosives; kidnapping; lewd, lascivious, or indecent assault or act upon or in the presence of a child; manslaughter; offenses by public officers and employees; organized fraud; robbery; sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of a person in familiar or custodial authority; sexual battery, stalking and aggravated stalking; use of child in sexual

performance; promoting sexual performance by a child; possession with intent to promote any photograph, motion picture, exhibition, show, representation, or presentation, which includes sexual conduct by a child; and voyeurism.

6. If you ever had a **prior record sealed** (closed) **or expunged** (erased) in any jurisdiction (even in another state). Automatic expunction of juvenile records, expunction of records before and after an arrest and participation in a diversion program, and expunction of arrest "contrary to law or by mistake" do not count as a prior expunged record.
7. If you have a seal (close) or expunge (erase) **petition currently pending** in another case.
8. If you have an **open criminal case**, are on probation or community control, owe community service hours or have an unsatisfied court-ordered financial obligation such as court costs or restitution.

4. Do I have to do anything if I have a juvenile criminal history record?

With the exception of some sex offenses, a juvenile criminal history record will usually automatically be expunged (erased) when you turn 24 or 26 years old if you are not arrested, convicted, or have adjudication withheld for a felony as an adult (§943.0515). This means your juvenile criminal history record does not automatically disappear when a juvenile turns 18.

Whether your juvenile record disappears at 24 or 26 depends on whether or not the court labeled you as a "serious or habitual juvenile offender" (see glossary) or ordered you to spend time in a juvenile correctional facility. If your record shows that you were ever a "serious or habitual offender" and/or you spent time in a juvenile correctional facility, your record will not be automatically expunged (erased) until you turn 26, otherwise it will automatically disappear when you turn 24. The final order of the court will reflect whether or not you were ever labeled as a serious or habitual juvenile offender. You can request this information from the Clerk of Court.

Even when a juvenile's or adult's criminal history record is sealed (closed) or expunged (erased), criminal justice agencies like the FBI, the court system, as well as private companies like Choice Point, keep or purchase copies of your criminal records for future criminal cases and employment background checks in government work, child care, the military and law enforcement (§943.0585). This means that your criminal history record is not entirely private or confidential. The criminal history record of a minor may also be eligible for other forms of expunction, as noted in the Juvenile Criminal Record section, below.

5. What if I don't want to or can't seal or expunge my criminal record? What can I do in the meantime?

Employment Exemptions: While employers may try to exclude you from certain positions, under Florida law ex-offenders are eligible (not entitled) for employment as long as:

- a. The felonies were committed more than 3 years prior to the date of disqualification;
- b. The offense was a misdemeanor;
- c. The offense was a felony when it was committed but it is now a misdemeanor;
- d. The job applicant was adjudicated delinquent; or
- e. The offense was an act of domestic violence.

Thankfully, this exemption covers felonies under Florida law as well felonies from other jurisdictions. Understand that in order to qualify for the exemption you have to show how you have been able to turn your life around since your felony conviction. For instance, the length of time since the incident, the kind of harm the victim suffered, your history since the crime, or any other evidence that would help show that you would not present a danger if employed, can all help strengthen the argument that you are a changed person. If the licensing department denies your exemption, you can contest and appeal its decision, so honesty is always the best policy when it comes to telling your employer about your criminal history. Lying about your past on your job application will only hurt you in the future. Courts have generally looked down upon and refused to apply this exemption when job applicants have lied or failed to disclose information on their job application. (§435.07 and *Leggs-Stewart v. Dep't of Juvenile Justice*, 01-4497 Fla. Div. of Admin. Hearings (2002)).

Military Waivers: The same statute that disqualifies felons from military service allows the Secretary of Defense "to authorize exceptions, in meritorious cases." These exceptions are called "moral waivers," and they allow the military to overlook the enlistees' criminal record, from traffic tickets to felony convictions. Although each branch has a different process and procedure, moral waivers are widely used throughout the armed forces.

- A) When you go in for your first recruitment interview, you will be asked to disclose "all arrests or convictions," regardless of when the incident occurred or whether you were found guilty.
- B) If a significant issue arises, the recruiter will ask you about all the relevant facts and circumstances surrounding your arrest or conviction. In deciding whether to pursue a moral waiver, recruiters are guided by their specific branch's offense classification rules that rank crimes by severity.
- C) The first disclosure or discovery of any law violation initiates the moral waiver process so it is a good idea to request a waiver as soon as possible. Keep in mind that you will not automatically receive a waiver if you request one. Approval is based on each individual case. Recruiters can begin the moral waiver process at any point in the recruitment schedule.
- D) Once it is clear that you will need a waiver, all branches of the military begin gathering the "who, what, when, where, and/or why" of the offense, as well as letters of recommendation from "responsible community leaders," such as police officers, teachers, and ministers who can confirm the applicant's moral character or suitability for enlistment.
- E) The moral waiver requests may be denied at any level of the recruitment chain of command. An offense's severity is the most important factor determining the level at which a waiver request must be granted. Recruiting commanders excuse the most serious crimes, while petty drug offenses are usually waived by low level recruiters who are otherwise unauthorized to grant waivers.
- F) Remember, it is better to be totally honest about your criminal record from the beginning, or else you will risk being barred from enlisting, or being kicked out for "fraudulent enlistment." (Michael Boucai, *Balancing Your Strengths Against Your Felonies: Considerations for Military Recruitment of Ex-Offenders*, 61 U. MIAMI L. REV. 997 (2007)).

Housing: Unfortunately, since federal law gives local housing authorities a lot of freedom to choose who can live in public housing, they can deny your application for housing because of a past criminal conviction. To make matters worse, they are actually allowed to discriminate against you as long as they are not denying you housing because of your race, color, national origin, religion, sex, familial status, and disability. (42 U.S.C § 3601).

Most applications for public housing in Florida simply ask whether you have ever been convicted of a crime, however, the Miami Dade Housing Authority will consider a variety of mitigating factors, such as how long it has been since the crime occurred, in determining whether or not to deny an application for public housing. (MIAMI DADE COUNTY, PUBLIC HOUSING ADMISSION AND OCCUPANCY PROCESS, 9 (2007).
http://www.miamidade.gov/housing/library/ACOP%20_2008_Aproved.pdf.)

Financial Aid for College: Under federal law, at least as far as drug felonies are concerned, a student who has been convicted of any offense under any federal or state law involving the possession or sale of drugs is not eligible to receive any grant, loan, or work assistance for college during a certain period of time beginning on the conviction date. However, a student is only ineligible for financial aid for one year for a first possession offense, two years for a second, and permanently for a third. In the case of a conviction for sale, a first offense leads to two years of ineligibility and a second conviction leads to a permanent ban on receiving financial aid. A student whose eligibility has been suspended has the opportunity resume eligibility early if he or she satisfactorily completes a drug rehabilitation program. (20 § U.S.C. 1091(r) (1) & (2)).

The Process – How do I get rid of my criminal history record?

1. What is a criminal history record? Are dropped or dismissed charges on my record?

The Florida Legislature has determined that Florida criminal history records are public unless the record is sealed or expunged. See Section 943.053(3), Florida Statutes, which provides for public access to criminal history records. The term "criminal history information" is defined, tracking the federal definition, at Section 943.045(4), Florida Statutes. A criminal history record is created when a person is arrested and fingerprinted, and includes the disposition of that arrest, whether it is a conviction, acquittal, dismissal of charges before trial, or other disposition.

2. How do I have a criminal history record sealed or expunged?

Florida Statutes, s.943.0585 and s.943.059, set forth the criteria that must be met in order to be eligible to have an adult criminal history record sealed or expunged. In addition, these statutes also state that in order to have a criminal history record sealed or expunged within the State of Florida, an individual must first make application to the FDLE for a Certificate of Eligibility. Please note that the issuance of a Certificate of Eligibility does not mean that your criminal history record will be ordered sealed or expunged. It merely indicates that you are statutorily eligible for the type of relief that is being requested. The criminal history record of a minor may also be eligible for other forms of expunction, as noted in the Juvenile Criminal Record section, below.

3. Where can I find the application for Certification of Eligibility?

The FDLE provides applications for Certification of Eligibility to the Clerk of Courts in all sixty-seven (67) counties throughout the State of Florida. These application packages may be obtained from the criminal division within each county courthouse. The Certificate of Eligibility Application Form is also attached to this packet.

Once FDLE has issued the Certificate of Eligibility to seal or expunge a criminal history record, the next step is to file a petition for relief, along with the Certificate of Eligibility and the required affidavit, in the court in the county of the arrest. The issuance of the Certificate of Eligibility is not the final step in the Sealing/Expunction process, nor does it guarantee that a criminal history record will be sealed or expunged. The final decision to Seal/Expunge your criminal history is placed by law in the sound discretion of the court.

4. Should I obtain a copy of my criminal history record prior to applying for a Certificate of Eligibility?

Under Florida and federal law, an individual has the right to request a copy of his or her criminal history record for purposes of review, to ensure that it is both accurate and complete. This process is known as a Personal Review. The requestor may examine the record obtained through Personal Review for accuracy and to challenge any information contained within the criminal history record that the record subject believes is inaccurate or incomplete. A Personal Review allows an individual to determine which, if any, date(s) of arrest the applicant will be eligible to have sealed or expunged. However, obtaining a personal review is not a prerequisite to applying for a certificate of eligibility to seal or

expunge a criminal history record. Refer to **The Basics (FAQ)** section for additional information on acquiring a Personal Review.

5. What is the difference between having a criminal history record sealed vs. expunged?

When a criminal history record is sealed, the public will not have access to it. Certain governmental or related entities, primarily those listed in s. 943.059(4)(a), Florida Statutes, have access to sealed record information in its entirety.

When a record has been expunged, those entities which would have access to a sealed record will be informed that the subject of the record has had a record expunged, but would not have access to the record itself without a court order. All they would receive is a caveat statement indicating that "Criminal Information has been expunged from this Record".

6. When is my criminal history record sealed or expunged?

Once an order has been issued by the court of competent jurisdiction to seal or expunge your criminal history record and a certified copy of this order has been received by the FDLE, it will be complied with in accordance with state statutes.

7. How many dates of arrest can I have sealed or expunged?

The eligibility criteria for an applicant to have a record sealed or expunged include the requirement that the applicant be able to attest that he or she has never previously had a record sealed or expunged in Florida or in another jurisdiction. This means, in effect, that a person may only seal or expunge one arrest record in one proceeding. More than one record may be sealed or expunged in the same proceeding if the court, in its sole discretion, finds the arrests to be directly related.

A record that is initially ineligible for expunction (e.g., where adjudication is withheld) may become eligible after it has been sealed for 10 years. However, a person may not seal or expunge one arrest record and then, later and in a different proceeding, ask to have a different arrest record sealed or expunged. An expunction or sealing which occurs automatically or by operation of law, without any action on the part of the record subject, is not considered a prior expunction or sealing for this purpose. By law, s. 943.0582(8), Florida Statutes, a juvenile diversion expunge does not prevent the record subject from seeking a judicial expunction or sealing under s. 943.0585 or s. 943.059, Florida Statutes.

8. What charges may not be sealed?

A list of charges that may not be sealed when adjudication is withheld is included with the application package, and is also enumerated in s. 943.059, Florida Statutes. (The same listing is found in s. 943.0585, because the specified offenses may not be expunged either.) In addition, if a person has been adjudicated guilty of any criminal offense in any jurisdiction (or adjudicated delinquent for any felony or for certain specified misdemeanors), whether or not related to the charge(s) that the person is applying for, the record is ineligible for sealing and the application will be denied.

9. What charges may not be expunged?

The same eligibility requirements which apply to sealing also apply to expunction, with certain additional requirements. Any charge, which resulted in a withholding of adjudication or in an acquittal (not guilty verdict) after trial, may not be expunged unless and until it has first been sealed for at least 10 years. See s. 943.0585(2)(h), Florida Statutes. A charge which was dismissed before trial (e.g., no information, nolle prosequi, no bill, etc.) may be expunged immediately provided all charges related to the arrest were so disposed of, and the record is otherwise eligible.

10. Can I appeal the denial of my application for a Certificate of Eligibility to seal or expunge my criminal history record?

If you believe that the denial of your application for Certification of Eligibility is in error, you may ask that the denial be reviewed. If the denial is based on information in your criminal history record that is believed to be in error or incomplete, the procedure for reviewing and correcting that record is given in Rule 11C-8.001, Florida Administrative Code. If you agree that the criminal history information is correct, but believe that the law has been incorrectly applied or interpreted in your case, you may appeal the decision of the FDLE. The appeal of a denial is to be handled within the court of competent jurisdiction.

11. If I receive a full pardon can I have my criminal history record sealed or expunged?

Unless the pardon indicates on its face that it entitles the record subject to seal or expunge his or her criminal history record, the granting of a full pardon does not remove any condition of ineligibility for sealing or expunging a criminal history record imposed by the disposition of the pardoned offense. See R.J.L. v. State, 887 So.2d 1268 (Fla. 2004).

12. If I receive clemency, will my record be automatically expunged?

No. Neither a full pardon, nor any other type of clemency, will automatically expunge or facilitate the expunction of your criminal record. You should contact the Florida Department of Law Enforcement at seal-expunge@fdle.state.fl.us for information on the expunction or sealing of records.

13. If I have my civil rights restored, will my criminal history record disappear?

No. In order to have your civil rights restored you had to have been convicted (adjudicated guilty) of a felony that was the basis for your loss of civil rights. Persons who have been convicted (adjudicated guilty) of a felony are not eligible for a seal or expunge of their criminal history under Florida law, regardless of whether their civil rights have been restored.

14. If I have a criminal history record sealed or expunged in another state or jurisdiction, am I still eligible to have a criminal history record sealed or expunged within the State of Florida?

If the other record were sealed or expunged by operation of law (administratively or automatically, without intervention or action by the subject of the record), then the out-of-

state sealing or expunction would not prevent you from being eligible to have a record in Florida sealed or expunged. However, if the record was sealed or expunged because you petitioned to have it done by a court order, or otherwise actively sought the sealing or expunction, then you would not be eligible to have another record sealed or expunged.

15. How long does it typically take to receive a response from my application for a Certificate of Eligibility?

The current processing time is thirty (30) working days or less from the date the application is received, processed, and mailed back to the customer.

Special Note: If the application is not complete at the time of submission the application will be returned. This will cause the application process to be delayed beyond the thirty (30) working day period.

16. If I had a criminal history record sealed or expunged, and then had it vacated, could I apply to have a new date of arrest sealed or expunged?

As s. 943.0585(2)(f) and s. 943.059(2)(e), Florida Statutes require that an applicant have never secured a prior sealing or expunction of a criminal history record under current or former law, having an earlier seal or expunge order vacated does not remove this disqualification.

17. Will FDLE notify the agencies involved with my case that the record has been sealed or expunged?

If the record is eligible and the court grants relief, FDLE will comply with the certified court order and seal or expunge the appropriate criminal history record. Once FDLE seals or expunges the criminal history record, a notification letter will be sent by FDLE to the arresting agency or agencies involved with your case. The notification letter is to inform the agencies that FDLE has received and has complied with the order in accordance with the seal or expunge statutes.

18. What type of background check is conducted by FDLE to determine my eligibility to have a criminal history record sealed or expunged?

FDLE conducts criminal history record checks in Florida through the Florida Crime Information Center (FCIC), national record checks through the National Crime Information Center (NCIC), local Court databases, and driving history checks through the Florida Department of Highway Safety and Motor Vehicles (DHSMV). These databases are utilized to determine the eligibility of an individual to have a criminal history record sealed or expunged.

19. Why is the Florida Department of Highway Safety and Motor Vehicles checked to determine my eligibility to have my criminal history record sealed or expunged?

A criminal offense such as DUI, Driving While License Suspended/canceled/revoked, or reckless driving may appear in the DHSMV database even though it may not be entered in the criminal history record system maintained by FDLE. Although non-criminal traffic

offenses (such as careless driving) have no effect on eligibility to seal or expunge a criminal history record, an adjudication of guilty for any criminal offense renders the record ineligible for either form of relief.

20. Who should receive a copy of the order to seal or expunge a criminal history record?

If the record is eligible and the court grants relief, the Clerk of the Court by statute is responsible to certify a copy of the court order to the State Attorney's Office or the Statewide Prosecutors Office and the arresting agency or agencies. The arresting agency is then responsible for sending a certified copy of the court order to all agencies that are known to have received the criminal history information. In addition to FDLE, these agencies may include the Department of Corrections, Teen Courts, and Department of Juvenile Justice.

21. What information is required to complete the application for Certification of Eligibility?

In order to obtain a Certificate of Eligibility to petition the court to seal or expunge a criminal history record, the following requirements must be met pursuant to s.943.0585(2) and s.943.059(2), Florida Statutes:

A. Section A of the application must be completed and signed in the presence of a notary public.

B. The applicant must be fingerprinted by authorized law enforcement personnel or a criminal justice agency. The fingerprint card must include the applicant's name, race, sex, date of birth, social security number, and signature, prior to submission to FDLE.

C. The applicant must provide a certified disposition of the case that he/she is applying to have sealed or expunged.

D. A NONREFUNDABLE money order or cashier's check for \$75.00 made payable to the FDLE must accompany the application.

E. If you are requesting an expunction of a criminal history record, the State Attorney or Statewide Prosecutor with jurisdiction over your case must complete Section B of the application. (If not completed, the application will be processed as a sealing of your criminal history record).

*Special Note: All of the items listed above are required at the time that the application is submitted. If an item is missing or the application or fingerprint card is not completed, the application will be returned unprocessed.

The Juvenile Process – What’s different about juvenile records?

1. Can I have my Juvenile criminal history record expunged before I turn 24 years old?

To qualify to have your Juvenile criminal history record sealed or expunged before you turn 24 years old, you must:

1. Have a withhold of adjudication for an adult charge or a withholding of delinquency for a juvenile charge.
2. Depending on where you live you must file a petition with the Clerk of the Court and pay a \$25 fee.
3. Fill out section A of the Florida Department of Law Enforcement (FDLE) “Application for Certification of Eligibility,” available at <http://www.fdle.state.fl.us/Content/getdoc/003684f7-ef31-4af6-b3e4-56878efe3f97/Expunge-20FDLE-2040-021-20Form-1-.aspx>, and pay the corresponding \$75.00 fee. Fill out Section B and have it signed by the local State Attorney where your crime was committed or the statewide prosecutor, if you want your record expunged (erased).
4. Get a certified copy of the disposition (outcome) of your case that you want sealed.
5. Get fingerprinted by authorized law enforcement personnel or another criminal justice agency.
6. Bring FDLE the “Certificate of Eligibility” that you filled out and submit your fingerprints to FDLE.
7. Copies of the petition will be sent to the arresting agency, State Attorney’s office, and defense attorney (if applicable) for you.
8. At this time, the State Attorney can object to the procedure.
9. If the State Attorney does not object, that office will send the paperwork back to the Clerk’s Juvenile Division office.
10. The petition will be sent to the Juvenile Court, where a judge may or may not approve/sign off on the request to seal (close) or expunge (erase) your file/record.
11. The Clerk’s Juvenile Division, Florida Dept. of Law Enforcement, and the arresting agency will each delete the case/charge from their database once receive the judge’s order sealing (closing) or expunging (erasing) your record. The actual record/file will not be accessible to anyone after this time.

Remember!

This is a one-time process, so weigh all of your options before you go through this process.

Currently, 6 agencies will still ask for information if a file has been sealed (closed). These agencies include law enforcement, teacher certifications, the Department of Children and Families, the Department of Health, and the Florida Bar Association.

2. What would disqualify me from having my Juvenile criminal history record automatically sealed or expunged?

1. If a person over 18 years old is charged with a forcible felony before their juvenile record is destroyed, then their juvenile record is added to their adult criminal record.
2. If a youth under 18 years old is adjudicated as an adult for a forcible felony, his juvenile record is added to his adult criminal record.
3. If a youth has been adjudicated as a sexual offender, his juvenile record is merged with his adult criminal record.

Disqualifying Charges: What would prevent me from sealing or expunging my record?

A request for a certificate of eligibility for an expunction or sealing of a criminal history record will be denied if the defendant was found guilty or pled guilty or nolo contendere, even if the adjudication was withheld, on any violation of the following:

Offenses listed in S. 907.041, F.S.:

1. Arson
2. Aggravated assault
3. Aggravated battery
4. Illegal use of explosives
5. Child abuse or Aggravated child abuse
6. Abuse of an elderly person or disabled adult; or aggravated abuse of an elderly person or disabled adult
7. Aircraft piracy
8. Kidnapping
9. Homicide
10. Manslaughter
11. Sexual battery
12. Robbery
13. Carjacking
14. Lew, lascivious, or indecent assault or act upon, or in the presence of a child under the age of 16 years
15. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of a person in familial or custodial authority
16. Burglary of a dwelling
17. Stalking or Aggravated stalking
18. Act of domestic violence, as defined in s. 741.28
19. Home-invasion robbery
20. Act of terrorism as defined by s. 775.30
21. Manufacturing any substance in violation of chapter 893
22. Attempting or conspiring to commit any of the above crimes

S.393.135, F.S.

Sexual misconduct with developmentally disabled person and related offenses

S.984.4593, F.S.

Sexual misconduct with mentally ill person and related offenses

S.787.025, F.S.

Luring or enticing a child

Ch. 794, F.S.

Sexual battery and related offense

S.796.03, F.S.

Procuring person under 18 for prostitution

S.800.04, F.S.

Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age

S.810.14, F.S.

Voyeurism

S.817.034, F.S.

Florida Communication Fraud Act

(Scheme to defraud or organized fraud, as defined in s.817.034, F.S.)

S.825.1025, F.S.

Lewd or lascivious offense upon or in the presence of elderly person or disabled adult
S.827.071, F.S.

Sexual performance by a child
Ch. 839, F.S.

Offenses by public officers and employees
S.847.0133, F.S.

Showing, etc., obscene literature to minor
S.847.0135, F.S.

Computer pornography
S.847.0145, F.S.

Selling or buying of minors
S.893.135, F.S.

Trafficking in controlled substances
S.916.1075

Sexual misconduct with mentally deficient or mentally ill defendant and related offenses
A violation of any offense qualify for registration as a sexual predator under s.775.21 or for registration as a sexual offender under s.943.0435.

All references are from Florida Statutes.

Glossary of Terms: What do these words mean!?

Adjudicated Delinquent: The court finds a youth guilty of committing a delinquent act. The court can commit the youth or place the youth on community supervision.

Adjudication Withheld: The court finds that a youth committed a delinquent act, but withholds an adjudication of delinquency. The court places the youth on community supervision.

Appeal: Generally, the request that a court with appellate jurisdiction review the judgment, decision, or order of a lower court and set it aside (reverse it) or modify it; also, the judicial proceedings or steps in judicial proceedings resulting from such a request.

Disposition: The judge's ruling in your particular case.

Diversion: Official suspension of criminal proceedings against an offender after arrest, but before judgment and referral of person to a treatment or care program, or no referral.

Expunction or Expunged: The physical destruction of your record. When a record is expunged, agencies that would have access to sealed record will be able to know criminal information has been expunged from the record, and would only have access to the record through a court order.

Felony: A serious criminal offense that can be punishable by over a year in prison.

Florida Department of Law Enforcement: The Florida Department of Law Enforcement (FDLE) is responsible for updating and maintaining criminal charges on your record.

Guilty: committed crime.

Misdemeanor: a criminal offense that can be punishable by less than a year in jail. These offenses are less serious than felony offenses.

Moral Waiver: A moral waiver is an action by United States armed forces officials to accept, for induction into one of the military services, a recruit who is disqualified from enlisting for one or more disqualifying situations, such as a felony conviction.

Nolo Contendere: Will not contest charge, but neither admits guilt nor claims innocence.

Plea: In criminal proceedings, a defendant's formal answer in court to the charge contained in a complaint, information, or indictment, that he or she is guilty or not guilty of the offense charged, or does not contest the charge.

Probation: a period of time when a person is allowed to remain in the community to complete conditions ordered by a judge. The person is supervised by a probation officer.

Sealed: Your record is not destroyed. When a record is sealed, the public will not have access to it through the government database. That means most employers will not have access to the information. However, city, county, state and federal government and agencies, including the police and military, have a legal right to access criminal history records even if they are sealed.

Serious or Habitual Juvenile Offender: The court may label you a serious or habitual offender if you were adjudicated delinquent at the age of 13 or older for: arson; sexual battery; robbery; kidnapping; aggravated child abuse, aggravated assault; aggravated stalking; murder; manslaughter; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; any lewd or lascivious offense committed upon or in the presence of someone less than 16 years of age; or carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony. You also might qualify as a serious or habitual juvenile offender if you were 13 or older when the juvenile court decided your felony case and you have previously been committed at least two times to a delinquency commitment program. Lastly, you might be a serious or habitual if you were at least 13 years old when you committed a felony offense and you were transferred from a moderate-risk or high-risk residential commitment placement to a higher security juvenile facility.

State Attorney: The State Attorney is responsible for the enforcement of criminal laws within the boundaries of the circuit. The State Attorney is responsible for criminal prosecution.

Transferred to Adult Court or Treated as an Adult: The decision by a juvenile court, resulting from a transfer hearing, that jurisdiction over an alleged delinquent will be waived, and that he or she should be prosecuted as an adult in a criminal court.

Instructions for Obtaining a FLDE Record Review

Instructions for Completing Certificate of Eligibility

1. Complete **every part** of **SECTION A**. Make sure your **signature**, as the applicant, is **notarized**.
2. If you were given a **Notice to Appear** and not physically arrested for the charge(s), indicate the date of the Notice to Appear in the box marked "Date of Arrest."
3. **NON-REFUNDABLE Processing Fee:** Submit with your application a **money order or Cashier's check** in the amount of **\$75.00**, made payable to the Florida Department of Law Enforcement (FDLE).
4. Submit the attached **fingerprint form** with your fingerprints, as part of your application packet. **This form must be completed by authorized personnel at a law enforcement or criminal justice agency**, using **only** the attached FDLE Fingerprint form. (If you have obtained a **Personal Review**; **send the fingerprint card back** with the enclosed fingerprint form, please resubmit the same form for the Expunge/Seal "Certificate of Eligibility" application.
5. Provide a **certified copy of the final disposition(s)** for **each** of the charges you list on your application. Dispositions can usually be obtained from the office of the Clerk of Courts in the county where you were charged. For Pretrial Intervention and other Diversion programs, a **certified letter of completion** from the State Attorney or Statewide Prosecutor may substitute for a certified disposition. If you received probation for any of the charges, you must also submit a **certified copy of the termination of your probation**.
6. **For Expunction Applicant Only:** **Submit the application to the State Attorney or Statewide Prosecutor for completion of SECTION B only if you are applying to have your records EXPUNGED**. NOTE: In addition to proper completion of Section B, you must also submit the certified copies of disposition(s) and termination of probation required under Section A.
7. Leave Section C **blank**. This is for **FDLE** official use only.

Mailing Information:

**Florida Department of Law Enforcement
ATTN: Expunge/Seal Section
P.O. Box 1489
Tallahassee, Florida 32302-1489**

Contact Information:

FDLE's Expunge/Seal Section – (850) 410-7870

Final Checklist!

CHECKLIST – Did You Remember To:

- Complete the application?
- Sign and Date in front of a Notary?
- Provide a certified (stamped copy) disposition of your case you want sealed/expunged?
- Include on fingerprint form your:
 1. Name
 2. Race
 3. Sex
 4. Date of birth
 5. Social security number
 6. Signature
- Enclose a \$75.00 check or money order made payable to FDLE? Did you sign and completely fill out the check or money order?
- For Expunge Applicants or Juvenile Expunge Applicants only: Is Section B completed and signed by the State Attorney's Office?
- Include an Attorney's letterhead, if you are represented by an attorney?
- Make copied of your entire application and documents for your records?