

# Most Frequently Asked Questions

If I receive a full pardon can I have a record sealed or expunged?

NO

On June 10, 1999 the Governor and Cabinet determined that the granting of a full pardon does not remove any condition of Ineligibility for sealing or expunging a criminal history record.

If I have a record sealed or expunged in another state can I also have a Florida record sealed or expunged?

YES & NO

If the other record was sealed or expunged as a matter of law (administratively), then yes, you would be eligible. However, if it was sealed because you petitioned to have it done by court order, then no, you would not be eligible.

If I have an out of state conviction will that prevent me from having my Florida record sealed or expunged?

YES

Any criminal conviction will prevent an Individual from having a record sealed or expunged in the State of Florida regardless of whether that conviction occurred within the state or outside the state. The conviction does not have to be on the arrest they are requesting.

Can I have more than one date of arrest sealed or expunged?

NO

The statutes provide for relief only once in a lifetime unless both dates of arrest can be shown to be directly related to one another (i.e., FTA, VOP, etc.)

# Most Frequently Asked Questions

Approximately how many applications are received by the section each month?

The section receives anywhere from 500 to 700 applications each month.

What items are necessary to have an application processed?

There are four main items that must be included in an application package for it to be accepted for processing.

- A completed (signed & notarized) application
- A \$75 processing fee
- A certified disposition
- A legible set of fingerprints recorded by a law enforcement agency on an applicant card

What is disseminated on a sealed record?

A sealed record will not be disseminated to anyone who is not entitled to it. Those entities that are entitled to receive sealed information will get the complete criminal history.

What is disseminated on an expunged record?

The entities entitled to receive sealed information will receive the identity segment of the criminal history record along with a caveat statement that says, "Criminal History Information has been Expunged from (hit record)". All other agencies will receive nothing.

# Most Frequently Asked Questions

What are the qualifications to have a criminal history record sealed?

An individual may have a record sealed as long as they have no criminal convictions on their record. If the Individual had the adjudication of guilt withheld, they are eligible to have it sealed as long as the charge is not one that is listed in s.907.041.

What are the qualifications to have a criminal history record expunged?

The charges have to be dropped, dismissed, nolle pros, no action, no information, etc, and the State Attorney has to fill out Section B of the application in order to be approved for an expunction.

When I receive my certificate does that mean my record is sealed or expunged at that-time?

NO

Once you receive the certificate, you are to file it with the clerk's office in the county in which you were arrested. once a court order has been signed and a certified copy is received by FDLE, then your record will be sealed or expunged.

Does the issuance of a certificate mean that my record will be ordered sealed or expunged?

NO

The issuance of a certificate does not guarantee that your record will be ordered sealed or expunged. It merely indicates to the court that you are eligible for the relief that you are requesting. The decision to seal or expunge your record rests solely with the presiding judge.

# Most Frequently Asked Questions

If I had a criminal history record sealed and then had it vacated, could I apply for a new date of arrest?

You could apply, but your application would be denied. The statute states that the Individual must never have had a record sealed or expunged. Just because that one is vacated it still counts as a prior action.

How long does it take to receive a response to my application?

Current processing time is approximately 8 to 10 weeks from the date the application is received in the office.

Is my \$75 processing fee refundable?

NO

On the back of the application, where all of the instructions are, it clearly states that the \$75 processing fee is non-refundable.

Can FDLE give advice to other law enforcement agencies or clerk of courts on the management of their sealed and expunged records?

NO

Each agency has to determine for themselves, with the aid of their legal counsel, how to manage their own records. FDLE is unable to dictate the management of another agency's records.

# Most Frequently Asked Questions

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

YES

FDLE will send a notification letter to each agency that we know to be involved with your case informing them that we have received an order to either seal or expunge the appropriate case. This letter is a courtesy letter and does not instruct the agencies to seal or expunge their records, but merely informs them that an order has been received.

Do I have to apply for a Certificate of Eligibility to have my juvenile record sealed or expunged?

YES & NO

If the juvenile arrest occurred prior to October 1, 1994 you do not have to go through the application process as these records were not to be entered into the system at that time. You would need to petition the court for a juvenile expunction order or obtain a juvenile expunction request from the arresting agency requesting the removal of the arrest from the system. However, after October 1, 1994 juvenile arrests began to be entered into the system and for these arrests you would have to go through the application process and meet the same eligibility requirements as an adult.

# Most Frequently Asked Questions

When did the application process begin?

July 1, 1992

With the creation of s. 943.0585 and S.943.059 came the application process.

Who is entitled to receive sealed information?

There are several agencies entitled to receive sealed information.

- Any and all law enforcement
- The Florida Bar,
- Teacher Certification
- Agency for Health Care Admin.
- HRS

If I have a criminal history record sealed or expunged can I legally deny that I was ever arrested?

YES

Aside from the agencies mentioned above you can legally deny that you were ever arrested.

Can I have one date of arrest sealed and another expunged?

NO

The statutes provide for relief only once in a lifetime, You can either have one record sealed or one expunged. You cannot have one of each.

REASONS AN APPLICATION FOR CERTIFICATION OF ELIGIBILITY TO SEAL  
EXPUNGE A CRIMINAL HISTORY RECORD WILL BE DENIED

Pursuant to Sections s.943.0585 and s.943.059, Florida Statutes, a Certificate of Eligibility to expunge or seal a criminal history record **cannot** be issued under any of the following circumstances:

1. The criminal history record reflects that you have been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing any felony or a misdemeanor specified in s.943.051.
2. The criminal history record reflects that you have been adjudicated guilty of or adjudicated delinquent for committing one or more of the acts stemming from the arrest or alleged criminal activity to which the application pertains.
3. The criminal history record reflects that you have received a prior sealing or expunction of a criminal history record under s.943-0585, s-943.059, former s.893.14, former s.901.33, former s.943.058, or from any jurisdiction outside the state.
4. The criminal history record to which the application pertains relates to a violation of s.787.025, chapter 794, s.796.03, s.800.04, s.817.034, s.825.1025, s.827.071, chapter 839, s.847.0133, s.847.0135, s.847.0145, s.893-135, or a violation enumerated in s.907.041, with a finding of guilt, or a plea or guilty or nolo contendere (without regard to whether adjudication was withheld).
5. The criminal history record reflects that you have another petition to seal or expunge pending before a court or competent jurisdiction.
6. The criminal history record reflects that the court supervision applicable to the disposition of the arrest or alleged criminal activity to which the application pertains has not been completed.
7. **[For expunction only]** The criminal history record reflects that some or all of the charges related to the arrest or criminal activity to which the application pertains were not dismissed prior to trial, adjudication, or the withholding of adjudication. If no other disqualification applies, the record would be eligible to be sealed.

**PLEASE NOTE:** The Governor and Cabinet of Florida, acting in the capacity of the Board of Executive Clemency, declared on June 10, 1999, that the granting of a full pardon does not remove any condition of ineligibility for sealing or expunging a criminal history record which would otherwise be imposed by a conviction or withholding of adjudication pursuant to Sections 943.0585 and 943.059, Florida Statutes, and, acting in the capacity of agency head of the Department of Law Enforcement, the Board directed FDLE to deny a Certificate of Eligibility to any person receiving a pardon who is otherwise ineligible for the sealing or expunging of the person's criminal history record.