

INSTRUCTIONS ON COURT ORDERED SEALINGS/EXPUNGEMENT FLORIDA STATUTES 943.045, 943.0581, 943.0585 & 943.059

These instructions are intended as a brief guide for those who wish to expunge or seal their history record. They are not intended to replace the assistance of a qualified attorney nor statutes concerning the expungement or sealing of a criminal history record.

I. Before you can file your petition to expunge or seal your criminal history record with the court, you must apply to the Florida Department of Law Enforcement for a certificate of eligibility for sealing or expungement. The application for the certificate of eligibility must include:

A. A money order, cashier's check, or certified check for \$75.00 made payable to:

Florida Department of Law Enforcement

This processing fee is non-refundable, regardless of the results of the certification review. A fee waiver may be granted by the Executive Director of the Department upon submission of a written request and in his determination that the waiver is in the best interests of criminal justice.

B. A completed Application for Certification of Eligibility. Section A must be completed by you and if you are seeking an expungement in addition to section A, section B must be completed by the State Attorney's Office, Sealing and Expungement Section, at 2725 Judge Fran Jamieson Way, Viera, FL 32940. The application (form number FDLE 40-021) may be obtained from either:

1. The Clerk of Court

- 400 South Street, 2nd Floor - West, Titusville, FL
- 2575 N. Courtenay Pkwy., Room 129, Merritt Island, FL
- 2825 Judge Fran Jamieson Way, Viera, FL
- 51 S. Nieman Avenue, Melbourne, FL
- 450 Cogan Drive, SE, Palm Bay

or visit our website at www.brevardclerk.us

2. Florida Department of Law Enforcement

Expunge Section

Post Office Box 1489

Tallahassee, FL 32302

Phone: (850) 410-7870

or visit FDLE's website here: [CLICK HERE](#)

C. A legible set of fingerprints recorded on an FBI Applicant Card (Form-40-024). The fingerprinting must be done by a law enforcement agency. The Applicant Fingerprint Card may be obtained from the Florida Department of Law Enforcement at the address listed in paragraph B or visit their website here: [CLICK HERE](#)

D. A certified copy of the disposition of the charge(s) to which the petition to expunge or seal pertains. This can be obtained from the Clerk of the Court in the County where your case was held. You must pay any fees required by the Clerk for this service.

- E. The complete application packet should be mailed or delivered to: Accounting and Budgeting, Florida Department of Law Enforcement, Post Office Box 1489, Tallahassee, Florida 32302.
 - F. If the application packet is incomplete, the Department will not process it. The incomplete packet, along with the processing fee, will be returned to you with an indication as to the reason for non-acceptance. If the application packet is complete, the Department will review it to determine if it meets the requirements for sealing or expungement. The Department will send you, via certified mail, return receipt requested, a certificate of eligibility if your criminal history records meets the requirements or a letter stating the reason for ineligibility.
- II. The following requirements must be met before the Department will issue you a Certificate of Eligibility.
- A. You have never previously been adjudicated guilty of a criminal offense or comparable ordinance violation.
 - B. You have not been adjudicated guilty of any of the charges stemming from the arrest or alleged criminal activity to which the petition pertains.
 - C. You have never secured a prior sealing or expungement of a criminal history record under 943.059, 943.0585, former s. 893.14, former s. 901.33, or former s. 943.058, or from any jurisdiction outside the state.
 - D. You are eligible for such a sealing or expungement to the best of your knowledge or belief and do not have any other petition to expunge or any petition to seal pending before any court.
- III. No sealing or expungement of criminal history records that relate to certain violations where the defendant was found or pled guilty (without regard to whether adjudication was withheld) is allowed. Those "no sealing/expungment" violations are:
- A. F.S. 393.135 (Sexual misconduct with developmentally disabled person and related offenses)
 F.S. 394.4593 (Sexual misconduct with mental health patient and related offenses)
 787.025 (Luring or enticing a child)
 Chapter 794 (Sexual Battery and related offenses)
 F.S. 800.04 (Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age)
 F.S. 817.034 (Florida Communication Fraud Act - Scheme to Defraud or Organized Fraud, as used in s.817.034, F.S.)
 F.S. 825.1025 (Lewd or lascivious offense upon or in presence of elderly person or disabled person)
 F.S. 827.071 (Sexual performance by a child)
 Chapter 839 (Offenses by Public Officers and Employees)
 F.S. 847.0133 (Showing, selling, etc., obscene literature to minor)
 F.S. 847.0135 (Computer pornography)
 F.S. 847.0145 (Selling or buying of minors)
 F.S. 893.135 (Trafficking in controlled substances)
 F.S. 916.1075 (Sexual misconduct with mentally deficient or mentally ill defendant and related offenses)
 or

Any violations enumerated in F.S. 907.041 ("dangerous crimes") or any attempted violation of them:

- Arson
- Aggravated Assault
- Aggravated Battery
- Illegal Use of Explosives
- Child Abuse or Aggravated Child Abuse
- Abuse of an Elderly Person or Disabled Adult, or Aggravated Abuse of an Elderly Person or Disabled Adult
- Aircraft piracy
- Kidnapping
- Homicide
- Manslaughter
- Sexual Battery
- Robbery
- Carjacking
- Lewd, lascivious, or indecent assault or act upon or in the presence of a child under the age of 16 years.
- 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 person in familial or custodial authority.
- Burglary of a dwelling
- Stalking and Aggravated Stalking
- Act of Domestic Violence as defined in Florida Statute 741.28
- Home-invasion
- Act of Terrorism as defined by s. 775.30
- Attempting or Conspiring to Commit any Such Crime; and Home-Invasion Robbery.

B. The Clerk's Office has forms available or you may print these forms from the following Website: www.brevardclerk.us These forms include:

1. Affidavit for Expungement (1 page) must be notarized
2. Affidavit for Sealing (1 page) must be notarized
3. Petition to Expunge Criminal Record (2 pages)
4. Petition to Seal Criminal Record (2 pages)

C. The statutory fees required by the Clerk of the Court are:

1. \$42.00 filing fee.
2. \$1.00 per page for copies and \$2.00 for certification of the Order.
Sealing/Expungement of your record is required to be sent to all law enforcement agencies who have your criminal record on file. The cost of the certified copies of the Order will range from \$12.00 to \$20.00 depending upon the arresting agency and the disposition of your case.

\$12.00	\$16.00	\$20.00
Sheriff (arresting agency)	Sheriff	Sheriff
State Attorney	Arresting Agency	Arresting Agency
Defense Attorney/Defendant	State Attorney	Defendant/Attorney
	Defendant/Attorney	Pre-Trial or Probation
		State Attorney

D. You must file, with the Clerk of Courts, the original Petition, Affidavit and Certificate along with the appropriate fees before the Judge will be able to rule on your case.