



## THE CIRCUIT COURT OF MONTGOMERY COUNTY

**GINA J. ISHMAN**  
Circuit Clerk  
Montgomery County, Alabama  
(334) 832-1260

**PHELPS-PRICE JUSTICE CENTER**  
251 South Lawrence Street  
P.O. Box 1667  
Montgomery, Alabama 36102-1667

### **Expungement Check List**

In accordance, with Ala. Code 1975 § 15-27-1, an individual may apply for an expungement of their criminal records if specified circumstances are met. The individual should file with the Circuit Clerk, at the time of filing, the following items:

- a. A **Sworn statement** stating that the individual has satisfied the requirements for an expungement and whether they have previously applied for an expungement. (See Form CR-65, Petition for Expungement of Records) Ala. Code 1975 § 15-27-3(a).
- b. **Certified copy of the arrest**, disposition, or the case action summary from the agency or court the individual is seeking to have expunged. Ala. Code 1975 § 15-27-3(b).
- c. **Certified copy of the individual's criminal record** from the Alabama Criminal Justice Information Center. Ala. Code 1975 § 15-27-3(b). You may visit their website at [www.acjic.alabama.gov](http://www.acjic.alabama.gov) to request a copy or in person at 301 S. Ripley Street, Montgomery, AL 36104.
- d. **\$500 administrative filing fee** or Affidavit of Substantial Hardship and Order (Form C-10). The hardship affidavit must be attached with the Expungement Petition.

#### **Expungement Procedure:**

Once the petition of expungement is filed with the Court, the District Attorney's Office must be **served** with a copy of the petition of the individual seeking the expungement. The District Attorney will have **45** days to file an objection to the petition to expunge criminal records. Individuals should not expect to hear anything regarding their request to expunge records for at least **60** days. The judge assigned to the expungement case may rule on the request with or without a hearing.

Should you have any questions regarding our filing requirements, please do not hesitate to call the Montgomery County Circuit Clerk's Office at (334) 832-1260.

## EXPUNGEMENT LAW

### **§ 15-27-1. Petition to expunge records -- Misdemeanor criminal offense, traffic violation, municipal ordinance violation.**

(a) A person who has been charged with a misdemeanor offense, a violation, a traffic violation, or a municipal ordinance violation may file a petition in the criminal division of the circuit court in the county in which the charges were filed, to expunge records relating to the charge in any of the following circumstances:

(1) When the charge has been dismissed with prejudice and more than 90 days have passed.

(2) When the charge has been not billed by a grand jury and more than 90 days have passed.

(3) When the person has been found not guilty of the charge and more than 90 days have passed.

(4) When the charge has been nolle prossed without conditions, more than 90 days have passed, and the charge or charges have not been refiled.

(5) When the indictment has been quashed and the statute of limitations for refiling the charge or charges has expired or the prosecuting agency confirms that the charge or charges will not be refiled.

(6)a. When the charge was dismissed after successful completion of a drug court program, mental health court program, diversion program, veteran's court, or any court-approved deferred prosecution program.

b. Expungement may be a court-ordered condition of a program listed in paragraph a.

c. A petition for expungement may be filed one year from the date of successful completion of a program listed in paragraph a.

(7) When the charge was dismissed without prejudice more than one year ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous two years.

(8) When the person proves by a preponderance of the evidence that the person is a victim of human trafficking, that the person committed the misdemeanor offense, violation, traffic violation, or municipal ordinance violation during the period the person was being trafficked, and that the person would not have committed the offense or violation but for being trafficked. Evidence that a person is a victim of human trafficking may include, but is not limited to, evidence that the person's trafficker was convicted of trafficking the person under [Section 13A-6-152](#) or [Section 13A-6-153](#).

(b) Subsection (a) notwithstanding, a person who has been convicted of a misdemeanor offense, a violation, a traffic violation, or a municipal ordinance violation may file a petition in

the criminal division of the circuit court in the county in which the charges were filed to expunge records relating to the charge and the conviction if all of the following occur:

- (1) Except as provided in [Section 15-27-4](#), all probation or parole requirements have been completed, including payment of all fines, costs, restitution, and other court-ordered amounts, and are evidenced by the applicable court or agency.
  - (2) Three years have passed from the date of conviction.
  - (3) If the person was convicted of any of the offenses enumerated in [49 C.F.R. § 383.51](#), the person was not operating a commercial motor vehicle at the time of the offense, or was not holding a commercial driver license or a commercial learner's permit at the time of the offense.
  - (4) The conviction is not a violent offense, as provided in [Section 12-25-32](#).
  - (5) The conviction is not a sex offense, as provided in [Section 15-20A-5](#).
  - (6) The conviction is not an offense involving moral turpitude, as provided in [Section 17-3-30.1](#). This subdivision does not apply if the crime the person was convicted of was classified as a felony at the time of the conviction, but has been reclassified as a misdemeanor, pursuant to [Act 2015-185](#), and the person has not been arrested for any offense, excluding minor traffic violations, 15 years prior to the filing of the petition for expungement.
  - (7) The conviction is not a serious traffic offense, as provided in Article 9 of Chapter 5A of Title 32.
- (c) Subject to the provisions of 15-27-16, records related to offenses and convictions may be disclosed to a criminal justice agency, a district attorney, or a prosecuting authority for criminal investigation purposes as provided in [Section 15-27-7](#), to a utility and its agents and affiliates, to the Department of Human Resources for the purpose of investigation or assessment in order to protect children or vulnerable adults, or to any entities or services providing information to banking, insurance, and other financial institutions as required for various requirements as provided in state and federal law.

Further, any criminal charges that are expunged or are pending expungement pursuant to **15-27-1** shall be available for use by any attorneys, officers of the Court, or the Court itself in any civil matters related to the criminal charges expunged or seeking to be expunged regardless of the outcome of the petitioned expungement. At the conclusion of the pending civil matter, all references to the criminal charges expunged or to be expunged shall be redacted in the event the criminal charges are expunged.

- (d) The circuit court shall have exclusive jurisdiction of a petition filed under subsections (a) and (b).

Effective: July 1, 2021

## **§ 15-27-2. Petition to expunge records -- Felony offense.**

(a) A person who has been charged with any felony offense may file a petition in the criminal division of the circuit court in the county in which the charges were filed, to expunge records relating to the charge in any of the following circumstances:

(1) When the charge is dismissed with prejudice and more than 90 days have passed.

(2) When the charge has been no billed by a grand jury and more than 90 days have passed.

(3) When the person has been found not guilty of the charge and more than 90 days have passed.

(4) When the charge has been nolle prossed without conditions, and more than 90 days have passed, and the charge or charges have not been refiled.

(5) When the indictment has been quashed and the statute of limitations for refileing the charge or charges has expired or the prosecuting agency confirms that the charge or charges will not be refiled.

(6)a. When the charge was dismissed after successful completion of a drug court program, mental health court program, diversion program, veteran's court, or any court-approved deferred prosecution program.

b. Expungement may be a court-ordered condition of a program listed in paragraph a.

c. A petition for expungement may be filed one year from the date of the successful completion of a program listed in paragraph a.

(7) When the charge was dismissed without prejudice more than five years ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous five years.

(8) When the person proves by a preponderance of the evidence that the person is a victim of human trafficking, that the person committed the felony offense during the period the person was being trafficked, and that the person would not have committed the felony offense but for being trafficked. Evidence that a person is a victim of human trafficking may include, but is not limited to, evidence that the person's trafficker was convicted of trafficking the person under [Section 13A-6-152](#) or [Section 13A-6-153](#).

(b) Subsection (a) notwithstanding, a person who has been convicted of any of the following violent offenses, as defined in [Section 12-25-32](#), may be expunged upon a showing that the person committed the felony offense during the period the person was trafficked, and that the person would not have committed the felony offense but for being trafficked:

(1) Promoting prostitution in the first degree pursuant to [Section 13A-12-111](#).

(2) Domestic violence in the third degree pursuant to [subsection \(d\) of Section 13A-6-132](#).

(3) Production of obscene matter involving a person under the age of 17 years pursuant to [Section 13A-12-197](#).

(c) A person who has been convicted of a felony offense may file a petition in the criminal division of the circuit court in the county in which the charges were filed to expunge records relating to the charge and the conviction if all of the following occur:

(1) The person has been granted a certificate of pardon with restoration of civil and political rights for the conviction from the Board of Pardons and Paroles.

(2) All civil and political rights that were forfeited as a result of the conviction have been restored.

(3) One hundred eighty days have passed from the date of the issuance of the certification of pardon.

(4) Except as provided in subsection (b), the conviction is not a violent offense, as provided in [Section 12-25-32](#).

(5) The conviction is not a sex offense, as provided in [Section 15-20A-5](#).

(6) The conviction is not an offense involving moral turpitude, as provided in [Section 17-3-30.1](#). This subdivision does not apply if the crime the person was convicted of was classified as a felony at the time of the conviction, but has been reclassified as a misdemeanor, pursuant to [Act 2015-185](#), and the person has not been arrested for any offense, excluding minor traffic violations, 15 years prior to the filing of the petition for expungement.

(7) The conviction is not a serious traffic offense, as provided in Article 9 of Chapter 5A of Title 32.

(8) If the person was convicted of any of the offenses enumerated in [49 C.F.R. § 383.51](#), the person was not holding a commercial driver license or a commercial learner's permit at the time of the offense, or was not operating a commercial motor vehicle at the time of the offense.

(d) Subject to the provisions of [Section 15-27-16](#), records related to offenses and convictions may be disclosed to a criminal justice agency, a district attorney, or a prosecuting authority for criminal investigation purposes as provided in [Section 15-27-7](#), to a utility and its agents and affiliates, to the Department of Human Resources for the purpose of investigation or assessment in order to protect children or vulnerable adults, or to any entities or services providing information to banking, insurance, and other financial institutions as required for various requirements as provided in state and federal law.

Further, any criminal charges that are expunged or are pending expungement pursuant to **15-27-2** shall be available for use by any attorneys, officers of the Court, or the Court itself in any civil matters related to the criminal charges expunged or seeking to be expunged regardless

of the outcome of the petitioned expungement. At the conclusion of the pending civil matter, all references to the criminal charges expunged or to be expunged shall be redacted in the event the criminal charges are expunged.

(e) The circuit court shall have exclusive jurisdiction of a petition filed under subsection (a), (b), or (c).

Effective: July 1, 2021

**§ 15-27-2.1. Limitations on number of expungements granted.**

(a)(1) A person may be granted unlimited expungements pursuant to [subdivisions \(a\)\(1\) through \(a\)\(5\) and \(a\)\(7\) and \(a\)\(8\) of Section 15-27-1](#), [subdivisions \(a\)\(1\) through \(a\)\(5\) and \(a\)\(7\) and \(a\)\(8\) of Section 15-27-2](#), and [subsection \(b\) of Section 15-27-2](#).

(2) A person may only be granted one expungement pursuant to [subsection \(c\) of Section 15-27-2](#).

(3) A person may only be granted two expungements pursuant to [subdivision \(a\)\(6\) of Section 15-27-1](#), [subsection \(b\) of Section 15-27-1](#), and [subdivision \(a\)\(6\) of Section 15-27-2](#).

(b) For the purposes of subsection (a), one expungement shall include all charges or convictions stemming from the same arrest or incident.