

PETITION FOR EXPUNGE RECORDS PURSUANT TO I.C. 35-38-9-2 and I.C. 35-38-9-3
(Section 2 - Misdemeanor convictions, including Class D / Level 6 felonies reduced to Class A misdemeanors;
Section 3 - Class D / Level 6 felonies)

INSTRUCTIONS FOR PETITIONERS

I.C. 35-38-9-2 provides for a person to petition a court to expunge records of a misdemeanor conviction(s), including Class D/Level 6 felonies which were reduced to a Class A misdemeanor. I.C. 35-38-9-3 provides for a person to petition a court to expunge records of Class D / Level 6 felony conviction(s).

1. **Waiting Period:** (a) At least five (5) years from the date of conviction for misdemeanor convictions or (b) at least eight (8) years from the date of conviction for Class D felonies. However, the prosecuting attorney may consent in writing to the filing of a petition for expungement prior to these times.
2. **Where to File the Petition:** The petition to expunge records may be filed in the court in which the conviction was imposed. A petition filed to expunge more than one conviction imposed by two or more different divisions of the Monroe Circuit Court may include all convictions sought to be expunged in one petition.
3. **Filing fees:** Civil filing fees are required but may be reduced or waived if the petitioner is determined to be indigent.
4. **Hearing on the petition:** The judge is not required to hold a hearing on the petition and may rule on it without a hearing. (a) The petition may be denied without hearing if it is clear from the petition that the petition does not meet the requirements of the law or (b) the petition may be granted without hearing if the Prosecuting Attorney does not object to the petition with thirty (30) days after the petition is served on the Prosecuting Attorney.

If the Prosecuting Attorney does object to the petition, the court will schedule a hearing at least sixty (60) days after the petition was served on the Prosecuting Attorney.

The petition must be completed in its entirety. If necessary, complete answers on additional attached pages, referencing the paragraph number to which the additional information applies. Failure to provide complete information may result in law enforcement departments, county jails, or treatment providers not being notified of the order granting the petition to expunge records.

5. **Result if the petition is granted:**

If the judge finds by a preponderance of the evidence that the petitioner has met each of the requirements required by law, specifically:

- a. that the statutorily defined waiting period has elapsed;
- b. that no charges are pending against the petitioner;
- c. that the person has paid all fines, fees, court costs, and monetary restitution;

- d. that the petitioner has not been convicted of a crime in the previous five (5) years (section 2 petition) / eight (8) years (section 3 petition) or within a shorter time period to which the Prosecuting Attorney has agreed in writing; and
- e. the petitioner has not been convicted of two (2) or more felony offenses that (a) involved the unlawful use of a deadly weapon; and (b) were not committed as part of the same episode of criminal conduct.

the court will order the records described in the petition expunged.

Please be advised that “expungement” does not mean that the records related to the conviction are actually destroyed or erased. The law requires the court to order the arrest and conviction records sealed from public access and can only be disclosed as permitted by statute or by order of the court after a petition requesting disclosure for limited purposes as expressly provided by statute.

If your petition is granted, neither the judge, nor any court personnel, nor the clerk of court will be able to respond to any telephonic or informal written inquiries pertaining to the records ordered sealed - **EVEN IF THE INQUIRIES ARE MADE BY YOU.**

6. Result if the petition is denied:

Except as noted below, a petitioner may file only one (1) petition for expungement during the petitioner’s lifetime. Upon filing a petition for expungement, the case file is not confidential. It only becomes confidential/sealed if the petition is granted. However, if the petition is denied, the case file and all related criminal files remain publicly accessible.

If a petition for expungement is denied, in whole or in part, the petitioner may file a subsequent petition for expungement with respect to one or more of the convictions, limited only to those convictions included in the original petition.

These instructions are intended as general information concerning the requirements of petitions filed pursuant to I.C. 35-38-9-2 and 3 and to assist petitioners who choose to proceed without the advice and assistance of a lawyer. You are urged to review the applicable Indiana statutes, copies of which are available upon request, from the Clerk of the Circuit Court and to seek the advice and assistance of a lawyer.