

# How to Clear an Arrest from Your Record in Texas (Expunction)

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## Can I clear an arrest from my record?

It depends. Some arrests can *never* be cleared, including arrests for driver's license suspensions.

Some arrests to be cleared through a process called **expunction**.

You may be able to clear your arrest record if:

- charges were never filed, *or*
- charges were filed, but then dismissed, *or*
- you were acquitted, *or*
- you were pardoned or otherwise granted relief based on your actual innocence, *or*
- you have not been tried and the prosecutor recommends expunction.

You must also meet the additional requirements set out in the law and listed in the ***Petition for Expunction of Criminal Records***.

See *Texas Code of Criminal Procedure, Chapter 55* for the law on expunctions.

## How do I ask the Court to clear my record?

You must:

- 1) Fill out a court form, called ***Petition for Expunction of Criminal Records***.
- 2) Sign the form in front of a Notary, then make extra copies.
- 3) Get an official record of your fingerprints. (The clerk's office can tell you how to do this.)
- 4) File the *Petition* and your fingerprints in the District Clerk's Office in the same county where you were arrested or where the offense allegedly occurred.
- 5) Send a copy of the *Petition* to the state prosecutor (the District or County Attorney). Send it by certified mail, return receipt requested. Keep the receipt to prove the state received notice.
- 6) Go to a court hearing. (The clerk will give you the date when you file your *Petition*.)

## Do I have to fill out any other court forms?

Yes. You must also fill out a court form, called ***Order Directing Expunction of Criminal Records***. Take it to your hearing. If the judge agrees to clear the arrest from your record, s/he will sign the *Order*. Then, the court clerk will send a certified copy of the *Order* to the people and agencies listed on the *Order* ordering them to return or destroy all records about this arrest.

## Do I have to go to Court?

Yes. You must go to a court hearing so a judge can decide your case. Any of the people and agencies listed in your *Petition* may go to your hearing, too. If they do not want your record cleared, they can tell the judge at your hearing.

## When will the hearing take place?

The hearing will be at least 30 days after you file your *Petition*. The court will send you a notice with the exact date, time, and location of your hearing.

## Will the Court automatically approve my Petition?

No. The Court will *not* approve your *Petition* if:

- You do not meet the requirements, *or*
- If an official or agency opposes your *Petition*, and the judge agrees with their opinion.

## How can I prove my record was cleared?

If the court approves your *Petition*, everyone listed on your *Petition* will be ordered to remove the arrest from your record. You should check your records to confirm the arrest has been removed from your record.

## If my record is cleared do I have to tell anyone about the arrest?

No, *unless* you are under oath in a criminal proceeding about the arrest. But, you can explain that the arrest was cleared from your record.

## Can I clear a conviction from my record?

You can only clear an arrest from your record through the process of expunction.

## Do I need a lawyer?

You do not *have to* have a lawyer, but it may be a good idea. Asking for a record clearance can be complicated. If you need help, contact your local lawyer referral service.

## Is there a fee?

Yes. An online calculator for fees in **Travis County** is at:

[www.co.travis.tx.us/district\\_clerk/documents/expunction\\_fee\\_calculator.xls](http://www.co.travis.tx.us/district_clerk/documents/expunction_fee_calculator.xls)

**Which law enforcement agencies will be notified to return or destroy the records about this arrest?**

You need to list the agencies that you want to be notified on the ***Petition for Expunction of Criminal Records***. Your ***Petition for Expunction of Criminal Records*** must include a list of the law enforcement agencies involved in your arrest and any other official or agency that may have a record or file of your arrest.

Include jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, central federal depositories of criminal records that you have reason to believe have information related to your arrest. Also list any private entities that sell criminal history record information that you have reason to believe have information related to your arrest.

**Some agencies for arrests occurring in Austin, Travis County might include:**

**Travis County District Clerk**

Attn. Expunctions  
PO Box 679003  
Austin, Texas 78767

**Travis County Sheriff's Office**

Attn: Expunctions  
PO Box 1748  
Austin, Texas 78767

**Travis County County Clerk**

Travis County  
Attn: Expunctions  
PO Box 1748  
Austin, Texas 78767

**Travis County Justice of Peace Courts  
#1,2,3,4, or 5\***

Attn: Expunctions  
PO Box 1748  
Austin, Texas 78767

\* When you list a Justice of the Peace court, list only the court number that pertains to your case.

**Travis County District Attorney**

Attn: Expunctions  
PO Box 1748  
Austin, Texas 78767

**Travis County Pretrial Serv./Personal Bond**

Attn: Expunctions  
PO Box 1748  
Austin, Texas 78767

**Travis County County Attorney**

Travis County  
Attn: Expunctions  
PO Box 1748  
Austin, Texas 78767

**Texas Dept. of Public Safety**

Expunctions, MSC 0234  
PO Box 4143  
Austin, Texas 78765

**Austin City Attorney**

Legal Department  
Attn: Expunctions  
PO Box 1546  
Austin, Texas 78767

**Austin Police Dept.**

Attn: Legal Advisor / Expunctions  
PO Box 689001  
Austin, Texas 78768

**Austin Municipal Court**

City of Austin  
Attn: Expunctions  
PO Box 2135  
Austin, Texas 78768

**Travis County Counseling & Education  
Service Center (TCCES)**

Attn: Expunctions  
PO Box 1748  
Austin, Texas 78767

EX PARTE

Cause No:

[Empty box for Cause No.]

\_\_\_\_\_  
(Print your first, middle and last names.)

In the \_\_\_\_\_  District Court of:

\_\_\_\_\_ County, Texas

### Petition for Expunction of Criminal Records

My name is \_\_\_\_\_.  
(Print your first, middle, and last names.)

I am the Petitioner in this case.

I ask this Court to ORDER the expunction of any and all records arising out of my arrest, described below:

#### 1. Information about Petitioner (You)

1. My name is: \_\_\_\_\_.  
(PRINT your first, middle and last names.)

2. My gender is  male.  female.

3. My race is: \_\_\_\_\_.

4. My birth date is: \_\_\_\_\_  
(month, day, and year.)

5. My driver's license number is: \_\_\_\_\_.

6. My social security number is: \_\_\_\_\_.

7. My address at the time of the arrest was:  
\_\_\_\_\_  
(PRINT your address at the time of the arrest: street, city, state, and zip.)

#### 2. Offense and Arrest

1. Offense: \_\_\_\_\_  
(List the offense.)

2. Alleged Offense Date: \_\_\_\_\_  
(date the offense was allegedly committed)

3. Arrest Date: \_\_\_\_\_  
(date of arrest)

4. Location of Arrest: \_\_\_\_\_  
(city, county, and state where you were arrested)

5. Arresting agency: \_\_\_\_\_  
(List the agency that arrested you. For example, Austin Police Dept. or Travis County Sheriff's Dept. or Department of Public Safety, etc.)

6. DPS tracking number: \_\_\_\_\_

7. (Check one.)
- I have not been charged with any offense relating to my arrest. (Skip 8.)
- I was charged with an offense relating to my arrest. (Go to 8.)
8. (The official charges related to your arrest may have started in one court, and been assigned a cause number, but later transferred to another court, and assigned a different cause number. You need to list the information about all courts and cause numbers that were assigned to your case.)
- My charges were originally filed in \_\_\_\_\_ court, and assigned the following cause number: \_\_\_\_\_.
- My charges were finally prosecuted in:
- (Check one.)
- the original court, with the same cause number.
- the following court: \_\_\_\_\_, with the following cause number: \_\_\_\_\_.
9. My arrest was not pursuant to a probation revocation warrant. (You may not expunge records of an arrest that occurs pursuant to a probation revocation warrant.)

**3. Grounds for Expunction** (Check the box of the ground that applies to your case.)

- Never Charged** (You were never charged, and you meet at least one of the following conditions.)

I have not been charged for an offense relating to my arrest and:

(Check all that apply.)

I was arrested for a Class C misdemeanor and it has been at least 180 days since the arrest. I have not been charged with a felony arising out of the same transaction for which I was arrested. **\*\***(See note below.)

I was arrested for a Class A or B misdemeanor and it has been at least one year since the arrest. I have not been charged with a felony arising out of the same transaction for which I was arrested. **\*\***(See note below.)

I was arrested for a felony or I was charged with a felony arising out of the same transaction for which I was arrested. It has been at least three years since the arrest. **\*\***(See note below.)

I have attached a letter from the prosecutor certifying that my arrest records and files are not needed for use in any criminal investigation or prosecution, including an investigation or prosecution of another person.

The Statute of Limitations has run completely for all offenses that could be charged from the arrest. This includes any tolling period that may have occurred. (See Article 12 of the Texas Code of Criminal Procedure for a complete list of the Statute of Limitations for all felonies. The Statute of Limitations for all misdemeanors is two years. The Statute of Limitations begins on the date of the alleged offense. Certain conditions may temporarily stop the Statute of Limitations. Consult with an attorney to determine if the Statute of Limitations has completely run in your case.)

**\*\***(If you ask the Court to expunge your arrest records under this ground before the Statute of Limitations has run, the Court will allow the arresting law enforcement agency and prosecutor to keep your arrest records unless you also file a letter from the prosecutor certifying that your arrest records and files are not needed for use in any criminal investigation or prosecution.)

**Dismissed** (Your charges were dismissed, and you meet the following conditions.)

My charges were dismissed or quashed on \_\_\_\_\_.  
(month, day and year that the charges were dismissed.)

I have attached a copy of the order dismissing or quashing the charges to this Petition.

I have been released, and the charge against me has not resulted in a final conviction, and is no longer pending.

I have not submitted to any kind of court ordered supervision for the offense, unless the offense was a Class C misdemeanor.

I did not intentionally or knowingly abscond (jump bail) from the court's jurisdiction after being released on bail following this arrest.

(Check one)

**No Felony.** No indictment or information charging me with a felony has been presented against me for an offense arising out of the transaction for which I was arrested.

**Felony.** An indictment or information charging me with a felony was presented against me for an offense arising out of the transaction for which I was arrested, AND

(Check one)

the indictment or information was dismissed or quashed because I completed a pretrial intervention program authorized under Section 76.011, Government Code, or because the presentment of the indictment or information had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe I committed the offense or because the indictment or information was void.

The Statute of Limitations has run completely for all offenses that could be charged from the arrest. This includes any tolling period that may have occurred.

(See Article 12 of the Texas Code of Criminal Procedure for a complete list of the Statute of Limitations for all felonies. The Statute of Limitations begins on the date of the alleged offense. Certain conditions may temporarily stop the Statute of Limitations. Consult with an attorney to determine if the Statute of Limitations has completely run in your case.)

**Acquitted** (You were acquitted of your charges.)

(Check one)

I was acquitted by the trial court. I was not convicted of another offense occurring during this same arrest/alleged criminal episode. No other offense can be charged against me out of this same arrest/ alleged criminal episode.

I have attached a copy of the judgment of acquittal to this Petition.

I was acquitted by the Court of Criminal Appeals or a court of appeals and the period for granting a petition for discretionary review has expired. I was not convicted of another offense occurring during this same arrest/alleged criminal episode. No other offense can be charged against me out of this same arrest/ alleged criminal episode. I realize that it is within this Court's discretion to expunge my arrest record. I am asking this court to expunge my records.

I have attached a copy of the judgment of acquittal to this Petition.



_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**5. Prayer**

I ask the Court to set the case for hearing, and after giving reasonable notice to each official or agency or other entity named in Paragraph IV, order the official, agency or entity to:

1. return all records concerning this arrest to the Court for delivery to me; or if removing the records is not practical, to destroy the records and notify the Court of their destruction, and
2. delete from its public records all index references to the records and files that are subject to the expunction order, and
3. direct any state agency that sent information concerning the arrest to a central federal depository to request the depository to return all records and files subject to the expunction order.

Respectfully submitted,

**Do not sign until you are in front of the notary!**



\_\_\_\_\_

*Petitioner signs in front of a notary*

\_\_\_\_\_

*Date*

\_\_\_\_\_

*Petitioner's name (print)*

(     ) \_\_\_\_\_

*Phone number*

\_\_\_\_\_

Mailing address:

*street address*

*city*

*state*

*zip*

**Notary fills out below.**

State of Texas, County of \_\_\_\_\_  
*(Print the name of county where this affidavit is notarized.)*

Sworn to and subscribed before me, the undersigned authority, on this date: \_\_\_\_\_

by \_\_\_\_\_  
*(Print the first and last names of the person who is signing this affidavit.)*

*(Notary's seal here)*



\_\_\_\_\_

*Notary's signature*

EX PARTE

Cause No:

[Empty box for Cause No.]

\_\_\_\_\_

(Print your first, middle and last names.)

In the \_\_\_\_\_  District Court of:

\_\_\_\_\_ County, Texas

### Order Directing Expunction of Criminal Records

Today, the Court considered Petitioner’s Petition for Expunction of Criminal Records. It appears to the Court that it has jurisdiction and that proper notice has been provided.

#### 1. Appearances

(Print your first, last and middle names.)

Petitioner, \_\_\_\_\_, appeared in person, representing him/herself.

(Check one.)

- No other party appeared.
- The following party (parties) appeared:

\_\_\_\_\_  
\_\_\_\_\_

#### 2. Information about Petitioner

1. Petitioner’s name is: \_\_\_\_\_.
2. Petitioner’s gender is  male.  female.
3. Petitioner’s race is: \_\_\_\_\_.
4. Petitioner’s birthdate is: \_\_\_\_\_ (month, day, and year.)
5. Petitioner’s driver’s license number is: \_\_\_\_\_.
6. Petitioner’s social security number is: \_\_\_\_\_.
7. Petitioner’s address at the time of the arrest was:

\_\_\_\_\_  
*Street Address City State Zip*

#### 3. Offense and Arrest

1. Offense: \_\_\_\_\_
2. Alleged Offense Date: \_\_\_\_\_
3. Arrest Date: \_\_\_\_\_
4. Arresting agency: \_\_\_\_\_
5. Location of Arrest: \_\_\_\_\_

6. DPS tracking number: \_\_\_\_\_

7. (Check one.)

Petitioner has not been charged with any offense relating to this arrest. (Skip 8.)

Petitioner was charged with an offense relating to this arrest. (Go to 8.)

8. Petitioner's charges were originally filed in \_\_\_\_\_ court, and assigned the following cause number: \_\_\_\_\_.

Petitioner's charges were finally prosecuted in:

(Check one.)

the original court, with the same cause number.

the following court: \_\_\_\_\_, with the following cause number: \_\_\_\_\_.

#### 4. Findings

After the presentation of evidence, the Court finds that Petitioner:

(Check one.)

is not entitled to have his/her records expunged.

is entitled to have his/her records expunged.

#### 5. Grounds for Expunction (Check the box of the ground that applies to this case.)

##### Never Charged

Petitioner has never been charged with an offense relating to this arrest and:

(Check all that apply.)

Petitioner was arrested for a Class C misdemeanor and it has been at least 180 days since the arrest. Petitioner has not been charged with a felony arising out of the same transaction for which Petitioner was arrested.

Petitioner was arrested for a Class A or B misdemeanor and it has been at least one year since the arrest. Petitioner has not been charged with a felony arising out of the same transaction for which Petitioner was arrested.

Petitioner was arrested for a felony or was charged with a felony arising out of the same transaction for which Petitioner was arrested. It has been at least three years since the arrest.

The attorney representing the state (the prosecutor) certifies that Petitioner's arrest records and files are not needed for use in any criminal investigation or prosecution, including an investigation or prosecution of another person. A copy of a letter from the prosecutor is attached to and fully incorporated in to this Order.

The Statute of Limitations has expired for all offenses that could be charged from this arrest.

**Dismissed**

Petitioner's charges were dismissed or quashed on \_\_\_\_\_.  
*month, day and year*

A copy of the order dismissing or quashing the charges is attached to and fully incorporated in to this Order.

Petitioner was released, and the charge against Petitioner has not resulted in a final conviction, and is no longer pending.

Petitioner has not submitted to any kind of court ordered supervision for the offense, unless the offense was a Class C misdemeanor.

Petitioner did not intentionally or knowingly abscond (jump bail) from the court's jurisdiction after being released on bail following this arrest.

*(Check one)*

- No Felony.** No indictment or information charging Petitioner with a felony has been presented against Petitioner for an offense arising out of the transaction for which Petitioner was arrested.
- Felony.** An indictment or information charging Petitioner with a felony was presented against Petitioner for an offense arising out of the transaction for which Petitioner was arrested, AND

*(Check one)*

- the indictment or information was dismissed or quashed because Petitioner completed a pretrial intervention program authorized under Section 76.011, Government Code, or because the presentment of the indictment or information had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe Petitioner committed the offense or because the indictment or information was void.
- The Statute of Limitations has run completely for all offenses that could be charged from the arrest.

**Acquitted**

*(Check one)*

- Petitioner was acquitted by the trial court. Petitioner was not convicted of another offense occurring during this same arrest/alleged criminal episode. No other offense can be charged against Petitioner out of this same arrest/ alleged criminal episode.
- Petitioner was acquitted by the Court of Criminal Appeals or a court of appeals and the period for granting a petition for discretionary review has expired. Petitioner was not convicted of another offense occurring during this same arrest/alleged criminal episode. No other offense can be charged against Petitioner out of this same arrest/ alleged criminal episode.

A copy of the judgment of acquittal is attached to and fully incorporated in to this Order.

**Pardoned or Otherwise Granted Relief Based on Actual Innocence**

*(Check one)*

- Petitioner was convicted, but later pardoned. A copy of the pardon is attached to and fully incorporated in to this Order.
- Petitioner was convicted, but later pardoned or otherwise granted relief based on Petitioner's actual innocence. A copy of the pardon or court order is attached to and fully incorporated in to this Order. The pardon or court order clearly shows on its face that it was granted based on Petitioner's actual innocence.

**Prosecutor Recommends Expunction**

Petitioner has not been tried for the offense for which Petitioner was arrested and the prosecutor, authorized to prosecute the offense for which Petitioner was arrested, recommends the records of the arrest be expunged.

**6. Orders**

IT IS ORDERED that all records arising out of Petitioner's arrest by:

*(name of arresting agency)* \_\_\_\_\_

for the offense of: *(list the offense.)* \_\_\_\_\_

on *(date of arrest)* \_\_\_\_\_, are EXPUNGED.

IT IS FURTHER ORDERED that each official, agency, or entity named below shall:

1. Return all records and files pertaining to the arrest or prosecution at issue to the Court, in a sealed envelope, for delivery to Petitioner, or if removal is impractical, obliterate the records and notify the Court of such action.

Videotapes and audiotapes shall be expunged by erasing them.

Records that pertain both to this arrest and to other arrests that are not included in this Order, and that would have been generated even if the expunged arrest had not been made, SHALL be obliterated (covered with tape, white-out or other opaque substance) only as they pertain to this arrest.

A photocopy of such partially obliterated records SHALL be forwarded to the Court.

2. Delete from its public records all index references to the records and files that are subject to this expunction order.
3. Immediately notify any central federal depository that the official, agency, or entity sent information concerning the arrest or prosecution in this petition, of this order, giving an explanation of this order, and requesting the depository to return all records and files subject to this expunction order, including any information concerning this order itself. If return of the records and files is impractical, the depository shall be requested to destroy the records and files.

The phrase "all records and files pertaining to the arrest" includes records and files that were generated by Respondents during this expunction proceeding and includes copies of the Petition and this Order that were served on each Respondent.

