

431.076 Expungement of criminal records for those found not guilty of crimes or for whom charges have been dismissed with prejudice.

- (1) A person who has been charged with a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed with prejudice, and not in exchange for a guilty plea to another offense, may make a motion, in the District or Circuit Court in which the charges were filed, to expunge all records including, but not limited to, arrest records, fingerprints, photographs, index references, or other data, whether in documentary or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge.
- (2) The expungement motion shall be filed no sooner than sixty (60) days following the order of acquittal or dismissal by the court.
- (3) Following the filing of the motion, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement motion. In addition, if the criminal charge relates to the abuse or neglect of a child, the court shall also notify the Office of General Counsel of the Cabinet for Health and Family Services of an opportunity for a response to the expungement motion. The counsel for the Cabinet for Health and Family Services shall respond to the expungement motion, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court, if the Cabinet for Health and Family Services has custody of records reflecting that the person charged with the criminal offense has been determined by the cabinet or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect. If the cabinet fails to respond to the expungement motion or if the cabinet fails to prevail, the order of expungement shall extend to the cabinet's records. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records.
- (4) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the motion and order the sealing of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records. The court shall order the sealing on a form provided by the Administrative Office of the Courts. Every agency, with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to seal records, shall certify to the court within sixty (60) days of the entry of the expungement order, that the required sealing action has been completed. All orders enforcing the expungement procedure shall also be sealed.
- (5) After the expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.
- (6) Inspection of the expunged records may thereafter be permitted by the court only upon a motion by the person who is the subject of the records and only to those persons named in the motion.

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(7) This section shall be retroactive.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 648, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 426, sec. 1, effective July 14, 2000. -- Created 1996 Ky. Acts ch. 374, sec. 1, effective July 15, 1996.

431.078 Expungement of misdemeanor and violation records of convictions and dismissed or amended charges.

- (1) Any person who has been convicted of a misdemeanor or a violation, or a series of misdemeanors or violations arising from a single incident, may petition the court in which he was convicted for expungement of his misdemeanor or violation record, including a record of any charges for misdemeanors or violations that were dismissed or amended in the criminal action. The person shall be informed of the right at the time of adjudication.
- (2) Except as provided in KRS 218A.275(8) and 218A.276(8), the petition shall be filed no sooner than five (5) years after the completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later.
- (3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.
- (4) The court shall order sealed all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:
 - (a) The offense was not a sex offense or an offense committed against a child;
 - (b) The person had no previous felony conviction;
 - (c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;
 - (d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;
 - (e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and
 - (f) The offense was an offense against the Commonwealth of Kentucky.
- (5) Upon the entry of an order to seal the records, and payment to the circuit clerk of one hundred dollars (\$100), the proceedings in the case shall be deemed never to have occurred; all index references shall be deleted; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. The first fifty dollars (\$50) of each fee collected pursuant to this subsection shall be deposited into the general fund, and the remainder shall be deposited into a trust and agency account for deputy clerks.
- (6) Copies of the order shall be sent to each agency or official named therein.
- (7) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.
- (8) This section shall be deemed to be retroactive, and any person who has been

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convicted of a misdemeanor prior to July 14, 1992, may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the those persons named in the petition.

History: Amended 2011 Ky. Acts ch. 2, sec. 97, effective June 8, 2011. -- Amended 2008 Ky. Acts ch. 158, sec. 7, effective July 1, 2008. -- Amended 1996 Ky. Acts ch. 374, sec. 3, effective July 15, 1996. -- Created 1992 Ky. Acts ch. 325, sec. 1, effective July 14, 1992.

510.300 Expungement of record.

- (1) The arrest record of anyone accused by his spouse of an offense under this chapter shall be expunged if said charge was either dismissed with prejudice or a verdict of not guilty on said charge was entered.
- (2) If the charges brought against a defendant under this chapter are dismissed with prejudice or the defendant is found not guilty, the court shall order all law enforcement and other public agencies holding records of the offense to expunge the records.
- (3) No person whose records have been expunged pursuant to this section shall have to answer "Yes" and may answer "No" to the question "Have you ever been arrested?" or any similar question with regard to the offense for which the records were expunged.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 448, sec. 4, effective July 13, 1990. -- Created 1986 Ky. Acts ch. 486, sec. 3, effective July 15, 1986.

610.330 Expungement of juvenile court records.

- (1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to status offenses, misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his or her juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult. He or she shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the Department of Juvenile Justice or the cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his or her unconditional release from commitment to the Department of Juvenile Justice or the Cabinet for Health and Family Services or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.
- (2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his or her parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.
- (3) The court shall order sealed all records in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, if at the hearing the court finds that:
 - (a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the Department of Juvenile Justice, the cabinet, or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1); and
 - (b) No proceeding concerning a felony and no petition under KRS 610.010(1) is pending or being instituted against him.
- (4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.
- (5) Copies of the order shall be sent to each agency or official named therein.
- (6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 87, sec. 20, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 99, sec. 663, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 615, effective July 15, 1998; and ch. 443, sec. 20, effective July 15,

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1998. -- Amended 1996 Ky. Acts ch. 358, sec. 37, effective July 15, 1997. -- Amended 1988 Ky. Acts ch. 350, sec. 38, effective April 10, 1988. -- Created 1986 Ky. Acts ch. 423, sec. 52, effective July 1, 1987.

Kentucky Constitution

Section 77

Power of Governor to remit fines and forfeitures, grant reprieves and pardons -- No power to remit fees.

He shall have power to remit fines and forfeitures, commute sentences, grant reprieves and pardons, except in case of impeachment, and he shall file with each application therefor a statement of the reasons for his decision thereon, which application and statement shall always be open to public inspection. In cases of treason, he shall have power to grant reprieves until the end of the next session of the General Assembly, in which the power of pardoning shall be vested; but he shall have no power to remit the fees of the Clerk, Sheriff or Commonwealth's Attorney in penal or criminal cases.

Text as Ratified on: August 3, 1891, and revised September 28, 1891.
History: Not yet amended.

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17.150 Reports by law enforcement officers and criminal justice agencies -- Public inspection exemptions -- Administrative regulations -- Information from the Court of Justice.

- (1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital, or institution for the intellectually disabled; Department of Kentucky State Police; state fire marshal; Board of Alcoholic Beverage Control; Cabinet for Health and Family Services; Transportation Cabinet; Department of Corrections; Department of Juvenile Justice; and every other person or criminal justice agency, except the Court of Justice and the Department for Public Advocacy, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:
 - (a) Install and maintain records needed for reporting data required by the cabinet;
 - (b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal the juvenile's or the juvenile's parents' identity;
 - (c) Give the cabinet or its accredited agent access for purpose of inspection; and
 - (d) Cooperate with the cabinet to the end that its duties may be properly performed.
- (2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:
 - (a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;
 - (b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;
 - (c) Information which may endanger the life or physical safety of law enforcement personnel; or
 - (d) Information contained in the records to be used in a prospective law enforcement action.
- (3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.
- (4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice and Public Safety Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision, and release. The information shall be restricted to that recorded as the result of the

initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice and Public Safety Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

- (5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.
- (6) The secretary of justice and public safety shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of Kentucky State Police.
- (7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice and public safety, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice and public safety.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 141, sec. 2, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 85, sec. 83, effective June 26, 2007. -- Amended 2005 Ky. Acts ch. 99, sec. 15, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 74, effective July 15, 1998; and ch. 606, sec. 14, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 211, sec. 5, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 331, sec. 11, effective July 15, 1986; and ch. 389, sec. 27, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 61, sec. 1, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 5, effective January 2, 1978. -- Amended 1976 Ky. Acts ch. 191, sec. 5. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 31. -- Created 1968 Ky. Acts ch. 128, sec. 4.

Legislative Research Commission Note (6/26/2007). Although 2007 Ky. Acts ch. 85, sec. 83, contains a reference to the "Department of Public Advocacy," the entity created by 2007 Ky. Acts ch. 85, secs. 7 and 40, and Executive Order 2006-805 is the "Department for Public Advocacy." In accordance with 2007 Ky. Acts ch. 85, sec. 335, and KRS 7.136, the erroneous reference in this section has been corrected in codification.

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