

What happens at an expunction hearing?

1

A judge will listen to the reason that the district attorney (DA) believes you do not qualify for expunction.

2

You, along with your attorney, may then tell the judge why you believe that you qualify, based on one of the five reasons listed on page 2.

3

It is the responsibility of the DA to prove you do not qualify for expunction. The judge will decide if your records should be expunged.

If the judge approves your expunction: You can legally say that your juvenile record never existed and the contact never occurred.

If the judge denies your expunction: You have the right to file a new expunction application based on the same or a different reason, from the list on page 2. You also have the right to have an attorney help you.

Other really important things to know about this brochure:

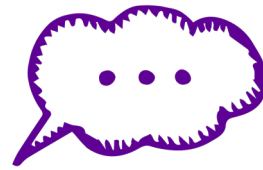
This brochure is NOT meant to be legal advice.

This brochure is to help make you aware of and explain expunction, how you qualify, how the process works, and some general facts.

This information was put together by Marion County Juvenile Department, Oregon Youth Authority, Oregon Judicial Department, Oregon Juvenile Department Directors Association, and Youth, Rights & Justice.

If you want legal advice about your expunction, you may ask for a court-appointed attorney to help you for free. Contact your local juvenile court's office to do this. You also may hire your own attorney.

I'm still confused! Who can help me?



All About Expunction

A guide for young people with juvenile records

January 2022

What is an expunction?

The expunction process destroys or seals records of your contact with the police agencies, juvenile court, and the county juvenile department. It's sometimes called "getting your record expunged."

If the juvenile department or the court approve an expunction of your records, this is what happens:

- Any agency who has a record based on the contact must remove your record.
- If people ask the agency or the court about your record, they must tell that person that you do not have one.
- The juvenile department or court will give you a copy of the expunction notice or order and a list of the agencies that have complied with it (the agencies that need to follow it).
- **You are legally permitted to say that your juvenile record never existed and the contact (act or behavior) never occurred.**



Before you keep reading, there are some legal words you should know.

Best interests: The reason you give for removing your record benefits BOTH you and the community.

Contact: When you act in a way that a court could find you within its jurisdiction. This is normally when the police speak with you about something that you did that could be against the law.

Jurisdiction: When a judge decides that you did something that would have been a crime if you were an adult, you are found to be "within the jurisdiction of the court." This is similar to the adult term "conviction." In juvenile justice, this normally means you were placed on probation through the juvenile department or committed to the Oregon Youth Authority.

Never within the jurisdiction: Even though you had contact with police or the juvenile department, you were never found in jurisdiction. This normally occurs when you go through some type of diversion program, you are on informal probation, or the charges against you are either never filed or were dropped.

Termination: After you are found in jurisdiction and either the maximum time period passes or your probation officer asks for your case to be closed, the court can order your jurisdiction terminated. This is usually when you finish probation or parole. Your most recent termination is when you last finished probation or parole. The juvenile department can help you figure out this date.

Do I qualify for an expunction?

To qualify, you have to meet **ONE** of the five criteria listed below:

1

You were NEVER found within the jurisdiction of the juvenile court, and you meet ALL FIVE of these conditions:

1. You are at least 18 years old.
2. There is no pending petition in juvenile court that alleges criminal conduct.
3. You were not waived to criminal court. (ORS 419C.349 or ORS 419C.352);
4. You do not have an open referral for a case by informal means.
5. You did not have contact with the juvenile department resulting in a conviction under ORS 137.707.

2

You were previously under the jurisdiction of the juvenile court, but now you meet ALL FIVE of these conditions:

1. At least five years have passed since your most recent termination.
2. Since termination, you have not been convicted of a felony or a Class A misdemeanor.
3. You are not the subject of a pending proceeding in juvenile or criminal court.
4. You are not currently within the jurisdiction of any juvenile court.
5. You are not the subject of a pending police criminal investigation.

3

You were previously under the jurisdiction of the juvenile court, but you meet ALL FOUR of these conditions:

1. You were adjudicated for a crime involving possession, delivery, or manufacturing of marijuana.
2. At least one year has passed since your most recent termination.
3. You have not been adjudicated for any other offense.
4. You complied with and performed all conditions of the adjudication.

4

You were referred for a prostitution-related offense, and:

1. You were younger than 18 at the time.
2. The request for expunction only applies to the part of the record that involves a charge, allegation, or adjudication of prostitution (ORS 167.007).

5

Expunging your record is in the best interests of both you and the public.



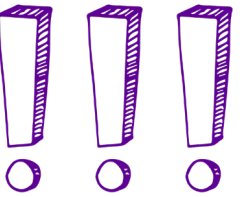
ORS = Oregon Revised Statutes. These are Oregon's state laws. You can find them online: oregonlegislature.gov

Does expunction happen automatically?

Yes, if you turn 18 after Jan. 2, 2022, and you were never found within the jurisdiction of the court. The juvenile department will process the expunction after you turn 18 and your case is closed.

However, if you were found within the jurisdiction of the court, you must apply for expunction. (See info on the next page.)

Are all records able to be expunged?



No. You are NOT allowed to expunge these types of records:

Records where you were found within the jurisdiction of the court for any of these acts:

- Aggravated murder or murder
- Attempt, solicitation, or conspiracy to commit murder or aggravated murder
- Manslaughter in the first or second degree
- Criminally negligent homicide
- Assault in the first degree
- Criminal mistreatment in the first degree
- Unlawful sexual penetration in the first or second degree
- Sexual abuse in the first, second or third degree
- Promoting or compelling prostitution
- Aggravated vehicular homicide
- An attempt to commit any of these acts listed above

Any records from:

- Department of Transportation (DMV)
- State Marine Board
- State Fish and Wildlife Commission
- Blood or buccal samples, other physical evidence, and identification information kept by Oregon State Police

For a complete list of records that cannot be expunged, see ORS 419A.260.

NOTE: There may be exceptions if you were adjudicated for certain sex crimes. To learn more, see the link to the statewide application (more info below).

How do I apply for expunction?

If you were under the jurisdiction of the court, you may submit an application to the county court or county juvenile agency that most recently handled your case. There is no fee to apply.

The application form is available at the county juvenile department or online: bit.ly/3Ct2Q72.

Can I get legal help to apply for expunction?

Yes! You have two options:

- Ask the court for an attorney to help you. Contact the court clerk for details.
- Hire your own attorney. The Oregon State Bar may be able to help you find one: 800-452-7636, osbar.org/public/ris

What happens after I apply?

The District Attorney (DA) will review your application and notify any victims. The DA may object to your application. If this happens, the court will schedule a hearing to decide if your records should be expunged, and they will notify you about how to request an attorney.

If the DA supports your application for expunction, the court usually will order expunction of your record without a hearing. (Learn more about these hearings on page 4.)