



KNOW YOUR RECORD

What Teens Should Know About Their Delinquency Record

Law Office of Julianne M. Holt
Public Defender, Thirteenth Judicial Circuit of Florida
700 East Twiggs Street, Fifth Floor
P.O. Box 172910
Tampa, Florida 33672-0910
Telephone (813) 272-5980
E-mail Address: pd13@pd13.state.fl.us

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INTRODUCTION AND PURPOSE

We hope this booklet will help you:

- Understand your delinquency record. It is important for you to make sure your record is correct. If there is a mistake, you can fix it.
- Understand what it means to have your delinquency record expunged or sealed, and the benefits of having your record sealed or expunged.
- Understand how to help you prepare the best explanations about your previous delinquency record when you are applying for jobs or schools.
- Understand who you can call to get help if you have questions.

Unless otherwise stated, the information in this booklet comes from the following Florida Statutes:

- §985.04
- §943.059
- §943.053
- §943.0585
- §943.0582

DISCLAIMER

This booklet is in no way intended to offer legal advice and is not a substitute for legal counsel. The information in this booklet was collected from the Florida Statutes; it is not a source of legal authority. You should consult with an attorney if you have any questions about your criminal/delinquency record, current charges, or the law described in this booklet.



GLOSSARY

These terms are frequently used in this booklet, and in juvenile court.

Adjudication: A judgment given by the Court. In adult court, when people are adjudicated, they are “convicted.” In juvenile court, when a minor is “adjudicated delinquent,” it means he or she has been found guilty and classified as a delinquent.

Adjudication withheld: There is no judgment given by the Court. The juvenile may still plead guilty or be found guilty, but the Court has not classified the child as “delinquent.”

Criminal Justice Agency: This can mean several things, but in this document, the term usually refers to the Court, the Department of Juvenile Justice (DJJ), the Department of Children and Family (DCF) Services Protective Investigations Unit, or another government agency that helps the criminal justice system operate.

Confidential: Private, secret.

Delinquency: Used in the Florida courts, this refers to the part of the juvenile justice system set up to prosecute juveniles charged with criminal offenses. In the juvenile system, a crime committed by a juvenile is called a “delinquent act” or an “act of delinquency.”

Diversion Program: Programs available for some first-time offenders providing a way to resolve the case/charges without going to trial or pleading guilty.

Florida Department of Law Enforcement: The Florida Department of Law Enforcement is responsible for updating and maintaining criminal charges on your record. In this booklet, it is referred to as the FDLE.

Florida Statutes: The set of Florida laws, including criminal offenses.

Juvenile: A child under age 18.

Offense: A violation of the law.

State Attorney: The State Attorney is responsible for prosecuting criminal offenses.

DELINQUENCY RECORDS

What information is in my delinquency record?

Your “delinquency record” is your criminal record. Your official “record” contains information regarding arrests and criminal charges.

A criminal history record is created when you are arrested and fingerprinted, and includes the outcome of that arrest, whether it is adjudication, acquittal, dismissal of charges before trial, or other disposition.

But remember...other agencies also have files that contain other information about you. Your court file or probation file might have information about gang involvement, violations of probation, court-ordered psychological evaluations, and other information.

Can my delinquency record be wrong?

Yes, your record can be incorrect and you are able to fix it. The Florida Department of Law Enforcement (FDLE) sometimes mixes up people's records or includes felonies or misdemeanors on your record that you did not commit.

Am I allowed to see my delinquency record?

Under Florida and federal law, you have the right to request a copy of your criminal history record to ensure that it is accurate and complete. This process is known as a Personal Review and FDLE does not charge for this service.

How do I get a copy of my record?

Contact FDLE's Compromised Identity Division at (850) 410-8880.

Request a personal review of your criminal history. This puts in a request for your record, and FDLE should then send you a copy of your record. They may require you get fingerprinted or submit other documents to prove your identity.

What do I do if I think my record is wrong?

Once you have spotted what you think is a mistake on your record, you should contact the State Attorney's Office in the county where the charge was prosecuted.

If the charge was listed incorrectly, the agency who originally filed the charge must submit a correction form to the FDLE. The FDLE will then make the changes to your record.

How do violations of probation appear on my delinquency record?

They might appear as new arrests for violations of probation or as new charges.

If your juvenile probation officer files a violation of probation with the State Attorney, and the State Attorney thinks the violation is serious enough to be its own misdemeanor or felony charge, the State Attorney may file your violation of probation as a separate charge.

The State Attorney sends that information to FDLE. FDLE is responsible for adding it to your record.

Is my violation of probation a misdemeanor or a felony?

Your violation of probation does not *usually* become a separate misdemeanor or felony. But if your violation would be a misdemeanor or a felony without consideration of your previous (original) charge, then you might be charged with a separate offense.

For example, if you violated your probation because you did not go to school, then the State Attorney should only report a violation of probation and not another criminal charge to FDLE. However, if you violated your probation because you were accused of a burglary, then the State Attorney can bring a violation of probation as a separate and additional charge to your record.

Who else can see my delinquency record?

Information relating to you and your delinquency record is *usually* confidential and not available to the public. However, there are exceptions to this general rule.

The victim of the offense may be given a copy of the arrest report, which will include your name, date of birth, address, and other identifying information.

These people may have access to your complete or entire record:

- Judges, attorneys, and other authorized court personnel
- The Department of Juvenile Justice
- Law enforcement officers
- Schools
 - If you are taken into custody (arrested) for an offense that would be a felony if you were an adult, the law enforcement agency must notify the superintendent or head of the school system.
 - If you are formally charged by the State Attorney, the superintendent must notify your principal within 48 hours. Your principal must then notify your teacher(s).

- Licensed professional treatment or counseling agencies (such as the Drug Abuse Foundation (DAF), Multilingual, Comprehensive Alcoholism Rehabilitation Programs (CARP), and more).

Also – your name, address, picture, arrest records, or offense records are not confidential in the following situations:

- You were taken into custody for an offense that would be a felony crime if you were an adult
- You committed what the court would consider three or more misdemeanors if you were an adult
- You were transferred into the adult system for an offense that requires you be prosecuted as an adult
- You were transferred into the adult system, but still sentenced as a juvenile

EXPUNCTION AND SEALING

What does “expunction of my record” mean?

Expunction means that the Court has ordered the physical destruction of your delinquency record.

What does “sealing my record” mean?

When your delinquency record has been sealed, it means that the record is being kept secure and inaccessible to any person that does not have a legal right to it.

What is the difference between having my record expunged and sealed?

If your record is expunged, it is supposed to be physically destroyed; an expunged record is more protected because there is supposed to be less documentation of your record. A sealed record is not destroyed, but it is kept secure.

When a record is sealed, certain governmental entities, primarily those listed in the next section, can access sealed record information in its entirety. When a record has been expunged, those entities will be informed that you had a record expunged, but they cannot access the details of the record without a court order.

Who can see my record when it is sealed or expunged?

Practically speaking, the effect of expunction and sealing is to protect your record from being seen by those people outside of the criminal justice system.

Most of the time, if your record has been expunged or sealed, you are allowed deny any arrests covered by the expunction or sealed record. Generally, this means that if you are asked a question on an application about previous criminal history, you may deny that you were arrested.

BUT under certain circumstances, there are people or agencies that will have access to your record *even if your record has been sealed*, especially if you apply for a job, license, or permit that needs a background check:

- If you attempt to purchase a gun, even your sealed or expunged record will be available to state or federal background checks.
- If you apply to work for a law enforcement or criminal justice agency – such as a Police Department, Sheriff’s Office, Highway Patrol, the Department of Juvenile Justice, the

Department of Corrections, the Department of Children and Families, or another agency that helps the criminal justice system operate, you must disclose that you have a sealed or expunged record and it will be available for them to review.

- If you are a defendant in a criminal case your entire record will be available to your attorney, the prosecutor, the Court, and the Department of Juvenile Justice.
- If you apply for a job or license to be a childcare worker or work with the elderly by the Department of Children and Family Services, the Department of Juvenile Justice, or any other license to be in direct contact with children, the developmentally disabled, the aged, or the elderly these agencies will be able to see your entire record.
- If you apply for a teaching job with the Department of Education, your entire record will be available through a background check.
- If you apply to the Florida Bar to be an attorney you must disclose whether you had a case sealed or expunged, and your entire record will be available through a background check.
- If you apply for authorization from a Florida seaport or apply for access to one or more of such seaports, your entire record will be available through a background check.

You should also keep in mind, that if a record of your arrest or court case ever existed, either in a file folder or on a computer, there is a chance that someone might be able to gain access to it. There is no way to totally erase your record.

Am I eligible to have my records expunged or sealed?

If you meet *all* the following requirements, you may be eligible:

- You have only one arrest or incident of alleged criminal activity.
- You have never been adjudicated delinquent.
- You have never had any prior offenses expunged or sealed.
- You must not have committed one of the offenses listed in the next section.
- FOR SEALING: You are no longer under court supervision or on probation.
- FOR EXPUNCTION ONLY: To have your record “expunged” or destroyed, all of your charges must have been dismissed prior to trial, adjudication, or withholding of adjudication.

Basically – you may only seal or expunge one arrest record in one proceeding, and you are not

permitted to seal/expunge one arrest record, and then in a later proceeding, ask to have a different arrest record sealed or expunged.

If you are arrested for and plead guilty or are found guilty of any of these charges, the record is not eligible for expunction or sealing:

- Abuse of an Elder or Disabled Adult
- Aggravated Assault
- Aggravated Battery
- Aircraft Piracy
- Arson
- Burglary of a Dwelling
- Carjacking
- Child Abuse or Aggravated Child Abuse
- Computer Pornography
- Domestic Violence
- Florida Communication Fraud
- Homicide
- Illegal Use of Explosives
- Kidnapping
- Lewd or Lascivious Event in the Presence of a Minor or Child or the Elderly or Disabled
- Luring or Enticing a Child
- Manslaughter
- Manufacturing Substances
- Procuring a Person Under Age 18 for Prostitution
- Robbery
- Selling or Buying of Minors
- Sexual Battery
- Sexual Misconduct with a Developmentally Disabled Person
- Sexual Misconduct with a Mentally Ill Person
- Sexual Performance by a Child
- Showing Obscene Literature to Minors
- Stalking or Aggravated Stalking
- Terrorism
- Trafficking in Controlled Substances
- Voyeurism

What if I completed a diversion program?

The diversion program you complete must be one that expressly says an expunction is permitted. When you complete an eligible diversion program, the Court usually grants an expunction of your record.

Additionally, an expunction or sealing that happens when you successfully complete a diversion program is not considered a prior expunction or sealing for this purpose. A juvenile diversion expunge does not prevent you from seeking a later judicial expunction or sealing.

What if I have more than one arrest?

Usually, you can have only one arrest sealed or expunged. However, you might be eligible to have multiple arrests sealed or expunged if the Court decides the arrests are directly related.

For example, if you were arrested for a misdemeanor, and you had 5 violations of probation listed as misdemeanors all stemming from the original misdemeanor, you may be able to have the original misdemeanor and the violations of probation misdemeanors expunged from your record.

How do I get my record expunged or sealed?

While a petition to seal or expunge a record is related to a criminal case, it is an administrative proceeding and therefore the Public Defender cannot help you. However, there are attorneys who can be hired to help you with the process for sealing or expunging a case.

If you do not have an attorney, it is possible to handle your own application to expunge or seal your record. You can obtain a copy of a Petition to Expunge or a Petition to Seal at the Hillsborough County Courthouse. If you would like help with the application, you may call the Clerk's self-service information line at (813) 276-2029, Ext. 3800.

FDLE also has applications and instructions available on its website at:

<http://www.fdle.state.fl.us/Content/Seal-and-Expunge-Process/Menu/Seal-and-Expunge-Home.aspx>

For more information about having your record expunged or sealed, call the Florida Department of Law Enforcement's Expunge/Seal Department at (850) 410-7870.



APPLYING FOR JOBS AND SCHOOLS

Do I need to report previous felony and misdemeanor arrests and charges when I apply for jobs or to schools?

It depends.

If your record has been expunged or sealed: Most of the time you can deny any previous criminal activity and check the “no” box when asked if you have ever been arrested or convicted.

However, you cannot lawfully deny when applying to the following agencies:

- A criminal justice agency
- If you are a criminal defendant
- The Florida Bar
- The Department of Children & Families
- The Department of Juvenile Justice
- The Department of Education

Your record has not been sealed/expunged and you were not adjudicated delinquent (guilty) because you completed a diversion program, the charges were dismissed, or the judge withheld adjudication:

If you are asked if you have ever been convicted or adjudicated, you can say “No.”

Your record has not been sealed/expunged and you were adjudicated delinquent (guilty):

If you are asked if you have ever been convicted or adjudicated, you should say “Yes.”

Who is likely to ask me about my record?

Many employers and schools will want to know information about previous arrests and criminal history.

- Schools that are likely to ask: University of South Florida, Florida Atlantic University, University of Florida, Florida State University,
- Employers who are likely to ask: Most retail and clothing stores, Doctors’ offices and hospitals, Banks and financial institutions, Childcare, County and City government, and the U.S. Military.

What's the best way to let schools or employers know about my record?

Everyone has made mistakes. In our experience, employers and schools usually want to know what your record includes, what actions you took to correct your bad behavior, and how you have moved on and improved since that time in your life.

Often, employers and schools may give you the chance to write a “brief statement explaining your past criminal history.”

“Do's” and “Don'ts” for preparing statements to employers or schools explaining your delinquency record*

- **Do** pay very close attention to what the question is asking you.
How the question is worded is very important. If the question asks if you were ever adjudicated guilty and adjudication was withheld, you might not need to disclose your criminal history. An employer should not ask you if you have ever had a charge expunged from your record. Make sure that you consult with your attorney if you are confused about the question.
- **Do** fully disclose and tell the truth, because if anyone finds out you lied, you might get fired or expelled.
- **Do** explain why you acted as you did, but don't give excuses.
The person reviewing your application needs insight to why you felt you needed to act as you did.
- **Do** explain how you understand what you did was wrong and show that you can take responsibility for your actions.
Consider explaining that while at the time you felt you had act the way you did, but you now understand that you should have looked for other alternatives.
- **Do** explain how you have worked to correct your behavior.
This should probably be the longest and most detailed part of your statement. Spend time explaining what you have done to correct your behavior and way of thinking. This can include time that you spent in a residential commitment program, community service, or counseling services. If you can explain to others how programs have helped you, they might be less likely to consider you a danger to yourself or others.
- **Do** explain what you learned from your mistakes.
This can include general or specific statements. For example, explain that you have learned to overcome challenges and hard times, which has made you a better student (or employee) and helped you understand the value of being responsible, accountable, and

* Given to us by a member of the Florida State University Judicial Review Board who reviews applications to determine if students with criminal histories should be offered admission.

trustworthy.

- **Do** consult with your attorney or an alternative education guidance counselor to help reduce the chances of reporting something in error or not reporting something that you should.
To contact alternative education guidance counselors, call the Alternative Education Schools and Programs in Hillsborough County: (813) 247-7233, (813) 651-2167, and (813) 651-2166.
- **Do not** answer more of the question than you need to.
For example, if the question asks, “Have you ever been adjudicated guilty of a felony or a misdemeanor?” and adjudication was withheld, then you were not adjudicated guilty. To be sure on how much information you should disclose, you might want to consider contacting your attorney.
- **Do not** make excuses.
For example, you would not want to say that you felt the need to possess marijuana because you felt like you really needed to get high. Even though it is hard to overcome being an addict, people view using drugs as making a choice.
- **Do not** write a vague, short, or unclear statement.
If you fail to include how you have learned from your mistakes, the person reviewing your application will have a hard time understanding that you are no longer a threat to yourself or to others and that you are trustworthy or ready to improve your life.

FOR MORE INFORMATION

If you need more information about having your record expunged or sealed, or you just have general questions about your delinquent record, the following numbers might be helpful.

Hillsborough County Clerk of Court

Official Records Department	(813) 276-8100, x 3461	Obtain final disposition for each of your charges
Self-Service Information Line	(813) 276-8100, x 3800	How to file or complete your expunction/sealing application

Florida Department of Law Enforcement

Expunge/Seal Hotline	(850) 410-7870	How to file or complete your expunction/sealing application
Compromised Identity Unit	(850) 410-8880	Personal review of your delinquency record

Attorney Services or Lawyer Referral

Bay Area Legal Services	(813) 232-1343	Assistance with legal questions
Hillsborough County Legal Aid	(800) 625-2257	Assistance with legal questions