

Criminal History Records, Purging of Local Records

1. On July 1, 1997, O.C.G.A. 35-3-37 (Inspection of Criminal Records; Purging, Modifying, or Supplementing of Records) was amended by the insertion of a new code section. The major change was the addition of subsection (d), which provides for the expungement of certain local criminal records where the charges were dropped without referral to the prosecuting attorney or dismissed prior to the filing of an indictment or accusation, provided certain criteria are met.
2. Individuals seeking to have records meeting the criteria expunged from local records must first request the original agency (arrest agency) in writing to expunge the record using the attached form prescribed by the Georgia Crime Information Center (GCIC). The original agency, upon receipt of the request, completes section (2) and forwards the form to the prosecuting attorney (Solicitor or District Attorney) who determines if the records meet the criteria set forth in the law.
3. If the prosecuting attorney determines all of the criteria have been satisfied, the individual has the right to have the record expunged. The original agency, upon being notified by the prosecuting attorney, shall expunge the record by destroying fingerprint cards, photographs and other documents relating to the person's arrest. (This does not include incident reports or other records that record the fact that a crime was committed or reported to law enforcement, nor does it include custodial or jail records. Agencies are required to take reasonable action such as flagging or marking retained records that the arrest record was expunged, to prevent the disclosure of this information to the public if the other records were ordered expunged.)
4. The original agency is required to notify the GCIC promptly of any records which are to be expunged pursuant to this subsection. GCIC, upon notification, will restrict access to provide such records only to criminal justice officials for use in criminal judicial proceedings or criminal investigations (Purpose Code C – Administration of Criminal Justice) upon written application. Written application is implied when a CJIS terminal inquiry is made using Purpose Code C.
5. If an agency declines to expunge a local record, the individual may file an action in the superior court where the agency is located. The decision of the agency will be upheld only if it is determined by clear and convincing evidence that the individual did not meet the criteria set forth in this subsection. The court may award reasonable costs to the individual, including attorney's fees, if the individual prevails in the appellate process.
6. Reasonable fees may be charged by the original agency and GCIC for the actual costs of the purging of these records, provided the total of the fees shall not exceed \$50.00.
7. Questions concerning this law and the expungement of local records should be referred to the prosecuting attorney's office holding jurisdiction over the matter in question.

REQUEST TO EXPUNGE ARREST RECORD

O.C.G.A. 35-3-37(d)

SECTION (1) ONE - APPLICANT INFORMATION (to be completed by requester)

Name _____

Date of Birth _____ Race _____ Sex _____

Social Security Number _____

Street Address _____

City _____ State _____ Zip Code _____

Arresting Agency: _____

Date of Arrest _____

Offense(s) Arrested For: _____

I request the arrest record information described above pertaining to me be expunged from the record(s) of the arresting agency pursuant to the provisions of O.C.G.A. 35-3-37(d).

Signature _____

Date _____

O.C.G.A. 35-3-37(d)(1) provides in part that "An individual who was: (A) Arrested for an offense under the laws of this state but subsequent to such arrest is released by the arresting agency without such offense being referred to the prosecuting attorney for prosecution; or (B) After such offense referred to the proper prosecuting attorney, and the prosecuting attorney dismisses the charges without seeking an indictment or filing an accusation may request the original agency in writing to expunge the records of such arrest..."

SECTION (2) TWO - ARREST INFORMATION
(to be completed by the arresting agency)

Date Request Received _____

Original (Arresting) Agency _____

ORI Number: _____

Case/Citation/Docket Number: _____

Date of Arrest: _____

Arrest Charges: _____

Disposition of Arrest: _____

Prosecuting Attorney/Court Case Referred To: _____

Applicants State Identification Number(SID): _____

Does Applicants GCIC Criminal History Record Indicate the Disposition of Arrest? If none appears, a copy of final disposition or completed OBTS form **MUST** be attached to this request.

Signature of Official Completing Form

Attach copies of the incident report, warrants, citations, GCIC criminal history record or any other reports which may be required by the prosecuting attorney in conducting a review of this request.

*SECTION (3) THREE - PROSECUTING ATTORNEY
(to be completed by prosecuting attorney only)*

Date Request Received _____

Judicial Circuit _____

District Attorney/Solicitor _____

Prosecutor Assigned to Case _____

Case/Citation/Docket Number _____

Explanation for Expungement of Record _____

APPROVED

DENIED

Signature of Prosecutor

Date