

Welcome to the Maryland Courts' video series on expungement. This video covers the correct time to file. It is important to understand that your case status and the sentence you received, if any, determine when you may ask the court to expunge your record.

We covered eligibility for expungement in the other videos in this series, so if you're watching this video, you've determined that your case is eligible. But, when is the right time to file?

We'll start with cases that require no waiting period and work up to the convictions that require you to wait 15 years. We'll also identify case types that permit you to file earlier by submitting a waiver to the court.

Maryland law regarding expungement is complex. We will be covering a lot of material, so consider using the tip sheet and taking notes.

Let's start with a discussion that applies to every case type. To file for expungement, your case must be complete.

#### **CHAPTER HEADING: Your Case Must Be Complete.**

If you are the defendant in an ongoing criminal case, wait until the case is over before filing for expungement. If the court ordered you to complete something such as drug or alcohol counseling, restitution, or community service, make sure to finish what was requested before asking the court to expunge your record.

***Expungement: When to File Your Petition – Part 5***

Now, let's move on to those case types that require the shortest wait times, ranging from no time to three years.

**CHAPTER HEADING: NO TIME TO THREE YEARS**

If you were convicted of an act which is no longer a crime, you may file for expungement immediately.

If you were convicted of possession of cannabis, wait until you complete your sentence, or probation, to file a petition for expungement.

However, if you were convicted of possession of cannabis with intent to distribute, you must first satisfy any sentence you received, and then wait an additional three years before filing for expungement. This includes parole, probation, or mandatory supervision.

If your case ended with an acquittal, not guilty, dismissal, or "nolle pros," wait three years before filing for expungement. With these three favorable dispositions, you may file earlier than three years, if you file a General Waiver and Release form. Be sure to watch Part 4 of this series on expungement forms to learn about the rights you are waiving.

If your case ended with probation before judgement, also known as PBJ, a three-year wait period also applies. File your expungement form three years after disposition, or after discharge from probation, whichever is later.

***Expungement: When to File Your Petition – Part 5***

If your case was “stetted,” it is eligible for expungement after three years from the date of the disposition.

If you were convicted of a nuisance crime, you must wait three years after completing your sentence.

If you were found not criminally responsible for trespass, disturbing the peace, or telephone misuse, you may file for expungement three years from the date of your disposition.

Finally, were you charged with assault? Did all parties agree to dismiss the case? If so, wait three years before asking the court to expunge your record.

Be aware that the process is slightly different for certain cases with dispositions entered on October 1, 2021 or later. The court will automatically expunge eligible cases after three years. Eligible cases are those where all charges have a disposition of acquittal, not guilty, dismissal, or “nolle pros.” In these situations, you do not need to file paperwork to request expungement. You may either wait three years for the court to automatically expunge the case, or you can request the record be expunged as soon as the case has closed.

Now, let’s move onto case types that require wait periods ranging from five to ten years.

**CHAPTER HEADING FULL SCREEN TEXT: FIVE TO TEN YEARS**

A pardon from the Governor is a unique case type. If you were pardoned, file for expungement within 10 years of the Governor signing the pardon.

***Expungement: When to File Your Petition – Part 5***

If you were convicted of second-degree assault or common law battery, you must wait seven years after you satisfy all sentences, including parole, probation, or mandatory supervision.

If you were convicted of a different misdemeanor listed in the Maryland Code's Criminal Procedure Article in Section 10-110, then your case is eligible for expungement five years after you complete your sentence, including parole, probation or mandatory supervision.

If you were convicted of a felony, how long you must wait to file for expungement depends on the type of felony. If you were convicted of first or second-degree burglary or theft, you must wait 10 years from satisfaction of your sentence. If you were convicted of another felony under the Criminal Procedure Article Section 10-110, you only have to wait 7 years.

Remember, a conviction of possession of cannabis with intent to distribute is only a three year wait period.

Now, let's discuss the case type with the longest waiting period, fifteen years.

**CHAPTER HEADING FULL SCREEN TEXT: FIFTEEN YEARS**

If you were convicted of a domestically-related crime listed in the Maryland Code's Criminal Procedure Article in Section 6-233, your case is not eligible for expungement until 15 years after you complete your sentence. That includes any parole, probation, or mandatory supervision.

Yes, the wait times for expungement can be complex. If you have any questions, contact a lawyer at the Maryland Court Help Center. The number is 410-260-1392.

Let's do a quick review.

### **CHAPTER HEADING: Review**

Most cases with favorable dispositions require that you wait three years before asking the court to expunge your record. In some of those cases, you may file a waiver to request expungement sooner. Wait three years if you were charged with a nuisance crime. Most eligible misdemeanor convictions require 5 years. However, wait seven years for second-degree assault and common law battery. Felony convictions require a 7 to 10-year wait, depending on the type of felony.

If you were convicted of possession of cannabis, file after the completion of your sentence or probation. But if you were convicted of possession of cannabis with intent to distribute, wait an additional three years.

On behalf of the Maryland Courts, we hope this information about when to file for expungement is helpful. Thanks for watching.