

## **THE NEW EXPUNGEMENT LAW: EXPANDED OPPORTUNITIES TO ERASE A CRIMINAL RECORD**

In April 2016, the expungement statute was amended opening up greater opportunities for residents to expunge (or erase) their criminal record. For many, even a minor criminal record can block employment. These amendments have created a new opportunity for an individual to efficiently and inexpensively erase their criminal history.

Not every criminal record can be expunged and these amendments do not change that fact. But for those who have faced the difficult prospect of finding a job while explaining their criminal history to a prospective employer, expungement is worth a shot.

There are three major changes to the expungement law. First, expungement of the **entire criminal record** is possible after successful completion of Drug Court. Second, the wait time for filing most petitions for expungement is now reduced. Finally, the responsibility to expunge arrests that did not result in convictions is transferred to the Court.

The Drug Court amendments, although they only apply to those individuals who participated in and graduated from Drug Court, have the most far reaching effect. When a Drug Court participant (sentenced to “Special Probation” Drug Court) successfully completes the program, his or her entire criminal history can be expunged. This will apply to every arrest and conviction for every crime or offense, except for convictions for crimes that have always been barred (such as murder, sexual assault, or robbery). The Drug Court graduate will not need to file the expungement petition since Drug Court personnel will expunge the entire criminal history through the expungement process. A Drug Court graduate saves the cost of hiring an attorney and can completely expunge his or her criminal record. Again, these amendments only apply to those who have participated in and successfully completed Drug Court.

The second change is the relaxation of strict timelines for filing an expungement. Previously, to expunge disorderly persons or petty disorderly persons offenses, there was a mandatory five-year waiting period. Now, there is a pathway to expunge convictions for these offenses after three years from conviction.

Finally, the amendments create a favorable procedure for those people arrested for a crime or offense but the charges are later dismissed in Municipal Court. Often, people mistakenly believe that if a case is “dismissed” in Municipal Court, their criminal history will not appear on a background check. However, unless the charge, arrest **and** dismissal are expunged, they will appear on a background check.

Previously, a person who was charged, arrested and whose case was dismissed in Municipal Court, had to file an expungement petition to have the charges, arrest and dismissal expunged. The new amendment requires the municipal court judge or court administrator to sign a written confirmation, to be delivered to the Criminal Division of the Superior Court by the person who received the dismissal. After delivery, it becomes the responsibility of the Criminal Division and the County Prosecutor’s Office to ensure that the arrest, charges and dismissal are expunged.

The cost of having a criminal record expunged is relatively minor but can pay huge dividends to those willing to make the effort.

*The Legal ABC’s general information column was provided by the Hunterdon County Bar Association (HCBA) for informational purposes only. It was originally prepared by Steven C. Lember, Esq. It does not constitute legal advice. If you need an attorney, you may call the HCBA Lawyer Referral Service at (908)200-7822 for an attorney reference or visit the HCBA website at [www.huntcolaw.org](http://www.huntcolaw.org).*