

# UNDERSTANDING INDIANA'S EXPUNGEMENT LAW (Indiana Code § 35-38-9)

	IC § 35-38-9-1 ("SECTION 1")	IC § 35-38-9-2 ("SECTION 2")	IC § 35-38-9-3 ("SECTION 3")	IC § 35-38-9-4 ("SECTION 4")	IC § 35-38-9-5 ("SECTION 5")
ARREST(S) OR CONVICTION(S)?	ARREST THAT DID <u>NOT</u> LEAD TO A CONVICTION	MISDEMEANOR or CLASS D/LEVEL 6 FELONY <b>that has been REDUCED TO MISDEMEANOR</b>	CLASS D/LEVEL 6 FELONY <b>NOT REDUCED TO MISDEMEANOR</b>	ALL OTHER FELONIES INCLUDING THOSE THAT RESULTED IN BODILY INJURY (BUT NOT SERIOUS BODILY INJURY)	ALL OTHER FELONIES THAT RESULTED IN SERIOUS BODILY INJURY
	No filing Fee	\$157 filing fee	\$157 filing fee	\$157 filing fee	\$157 filing fee
WAITING PERIOD REQUIREMENTS	<b>1 YEAR</b> from date of arrest  <u>or</u>  Earlier if prosecutor agrees in writing	<b>5 YEARS</b> from Date of Most Recent Conviction  <u>or</u>  Earlier if prosecutor agrees in writing	<b>8 YEARS</b> from Date of Most Recent Conviction  <u>or</u>  Earlier if prosecutor agrees in writing	<b>8 YEARS</b> From Date of Most Recent Conviction  <u>or</u> <b>3 YEARS</b> From completion of person's sentence (whichever is later of the two )  <u>or</u> Earlier if Prosecutor agrees in writing	<b>10 YEARS</b> From Date of Most Recent Conviction  <u>or</u> <b>5 YEARS</b> From completion of person's sentence (whichever is later of the two )  <u>or</u> Earlier if Prosecutor agrees in writing
ELIGIBILITY REQUIREMENTS	<ol style="list-style-type: none"> <li>1. No pending criminal charges in any state</li> <li>2. Arrest did <b>not</b> result in conviction</li> <li>3. Not currently in pretrial diversion program</li> </ol>	<ol style="list-style-type: none"> <li>1. No pending criminal charges in any state</li> <li>2. All fines, fees, court costs, and restitution are paid</li> <li>3. Waiting period requirements are met</li> </ol>	<ol style="list-style-type: none"> <li>1. No pending criminal charges in any state</li> <li>2. All fines, fees, court costs, and restitution are paid</li> <li>3. Waiting period requirements are met</li> </ol>	<ol style="list-style-type: none"> <li>1. No pending criminal charges in any state</li> <li>2. All fines, fees, court costs, and restitution are paid</li> <li>3. Waiting period requirements are met</li> </ol>	<ol style="list-style-type: none"> <li>1. No pending criminal charges in any state</li> <li>2. All fines, fees, court costs, and restitution are paid</li> <li>3. Waiting period requirements are met</li> <li>4. Prosecutor consents to expungement in writing.</li> </ol>
HOW COURT DECIDES	COURT <b>SHALL</b> GRANT PETITION	COURT <b>SHALL</b> GRANT PETITION	COURT <b>SHALL</b> GRANT PETITION	COURT <b>MAY</b> GRANT THE PETITION	COURT <b>MAY</b> GRANT THE PETITION
EFFECT (IF GRANTED)	If granted, record is not available to public or listed on a criminal history report.	If granted, record is not available to public or listed on a criminal history report.	If granted, record is not available to public or listed on a criminal history report.	If granted, record remains available to public and listed on criminal history report, but is visibly marked as "Expunged".	If granted, record remains available to public and listed on criminal history report, but is visibly marked as "Expunged".

- Reasons arrests do not lead to conviction → Charges not filed; Charges dismissed; Not Guilty/Acquittal; Completed diversion program.
- A person can only file one petition to expunge conviction(s) in his/her lifetime. There is no lifetime limit on "Section 1" (arrest-only) petitions.
- If you have convictions in multiple counties in Indiana, you must file a petition in each county within a 365-day period.
- With multiple convictions, the waiting period is based on your highest level of conviction and starts from date of your most recent conviction.
- Certain crimes are never eligible to be expunged. This includes convictions under homicide, human trafficking, and sex offense statutes.

**THIS FLYER IS NOT BE CONSTRUED AS LEGAL ADVICE. READING THIS INFORMATIONAL FLYER DOES NOT MAKE YOU A CLIENT OF THE NEIGHBORHOOD CHRISTIAN LEGAL CLINIC. LEGAL INFORMATION IS ALWAYS CHANGING. PLEASE CONSULT AN ATTORNEY FOR LEGAL ADVICE.**



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