

Expunction Law and Processes FAQ for Victims in Juvenile Court

What is expunction?

Expunction destroys or seals records of youth contact with police agencies, juvenile court, and the county juvenile department. If expunction occurs, it means that any agency that had contact with the youth must remove their record, and agencies must say that no record exists. It means that people like landlords and employers can't see that individual's record when they apply for an apartment or job.

Who qualifies for expunction?

There are several ways that youth can qualify for expunction. The type of offense and type of involvement with the juvenile system impact when and how the case is expunged. These include:

1. Youth who were never adjudicated in court – the juvenile department initiates expunction at age 18, and the case is closed.
2. Youth who were adjudicated for a misdemeanor or violation – the juvenile department initiates expunction at age 18, and the case is closed, as long as no restitution is still owed to a victim.
3. Youth who were adjudicated for certain felony offenses or a misdemeanor involving violence – juvenile department initiates expunction four years after case closure and the youth is at least age 18, as long as the youth meets all requirements, and no restitution is still owed to a victim.
4. Youth who were adjudicated for an offense that does not qualify for system initiation – youth must apply for expunction at least four 4 years after the case was terminated, and other factors are met.
5. Any youth can apply for expunction based on an argument that it is in the best interest of the youth and the public.

Can every type of case be expunged?

No, there are many offenses that cannot be expunged. The complete list of non-qualifying offenses can be found in ORS 419A.260 and includes serious person-to-person crimes that were adjudicated.

There are also some records that cannot be expunged even if the offense can be; some examples include Department of Transportation (DMV) records; samples, and physical evidence retained by Oregon State Police; education records; and medical records.

Youth can apply for expunction for certain sexual offenses (Third degree Rape, Sodomy or Sexual Abuse, or attempts of any of those), including C Felony sex crimes, if certain conditions specific to the sex offense are met. These conditions include: the youth is not required to register as a sex offender, the youth was under age 16, the victim was at least 12, there was not more than three and a half years difference in age, and the victim's lack of consent was due solely to being under a specific age.

Am I notified when a youth applies for expunction?

- If a youth is adjudicated, the victim must be notified of the automated expunction process at or before the time of adjudication. This notification may be written or verbal.
- If a youth was adjudicated on a misdemeanor or violation before 1/1/24, or a felony before 1/1/26, the juvenile department must make a reasonable effort to notify the victim when an expunction application is filed.
- If the youth (not the juvenile department) applies for expunction, the district attorney (DA) is required to notify the victim by mailing a copy of the expunction application to the victim's last known address.

What if an expunction hearing is scheduled?

If the juvenile department initiates the expunction, no hearing is scheduled; the court makes an order without a hearing. If the expunction includes a felony or violent misdemeanor case and the DA objects, then a hearing is scheduled.

If the youth applies and the DA objects, a hearing is scheduled. Expunction hearings are considered critical stage hearings in juvenile court. Victims have the right to be notified and present at all critical stage hearings if they have requested that right through the DA's Office or juvenile department.