



Clean Slate Delaware

Adult Misdemeanor & Felony Records

Eligible for Mandatory Expungement

DISCLAIMER:

- **The following information was last updated on July 30, 2024, and is *not* intended to provide legal advice or recommendations.** This document provides general information to help understand possible mandatory expungement eligibility. To learn where to obtain further assistance and legal help regarding clearing your record, visit the “Resources, Events and More” section of the [CleanSlateDE.org](https://www.CleanSlateDE.org) hub page.

IMPORTANT NOTES REGARDING THIS RESOURCE:

- This list focuses on **adult misdemeanor and felony conviction records** eligible for expungement.
- **Arrest records and cases in which all charges are “terminated in favor of the accused”** are eligible for mandatory expungement as soon as the case is terminated.
 - Terminated in favor of the accused means all of the charges were *dropped, dismissed, or nolle prosequi*, or the individual was *arrested but never charged*.
- **Violation convictions:** This list does not include detailed information about the expungement of violation records, but violation convictions are generally eligible for expungement 3 years after the date of conviction.

MANDATORY EXPUNGEMENT ELIGIBILITY RESTRICTIONS:

These *restrictions apply to all of the convictions included in the list below*, unless otherwise noted in the “exceptions” sections.

- **Fines, fees, and restitution payment requirement:** Under the State Bureau of Identification's current interpretation of the mandatory expungement law, a conviction record is *not eligible* for mandatory expungement if there are *outstanding fines, fees, or restitution* related to that conviction.

- Clean Slate Delaware continues to advocate for the removal of the requirement that fines and fees be paid in order to qualify for an expungement. Access to a second chance should never depend on the amount of money in someone’s bank account. To support these efforts to eliminate this cruel and unnecessary barrier to jobs, housing, education, and more, [sign the Clean Slate DE Second Chance pledge](#).

- **Domestic violence restrictions:** Any record of conviction that involves *domestic violence or a child or vulnerable adult victim* is **not eligible** for mandatory expungement, regardless of what category it would otherwise be in. Such records *may* be eligible for discretionary expungement or an expungement after receiving a pardon.

- **“Prior or subsequent conviction” restriction:** A person is eligible under the following categories *only if* the case including one or more convictions is the *only case that includes a conviction on the person’s record*.
 - **Exceptions to the “prior or subsequent convictions” restriction –** The prior or subsequent convictions restriction does not apply to:
 - Cases in which **all the charges were “terminated in favor of the accused”** are always eligible for mandatory expungement. Terminated in favor of the accused means all of the charges were *dropped, dismissed, or nolle prosequi*, or the individual was *arrested but never charged*.
 - Convictions for *underage possession or consumption of alcohol* (4 Del. C. § 904(e)-(f)), *possession of personal use quantity of marijuana* (16 Del. C. § 4764), or *possession of drug paraphernalia* (16 Del. C. § 4771). These convictions are always eligible for mandatory expungement and do not count as a “previous or subsequent conviction” when determining the eligibility of other conviction records.
 - Convictions for *violations*. These convictions are eligible 3 years after the date of conviction.
 - Convictions for *Title 21 Motor Vehicle offenses not considered “prior or subsequent convictions”* for the purposes of expungement eligibility. But, Title 21 Motor Vehicle offenses, with very limited exceptions, are not eligible for any form of expungement.
 - **Multiple case exception for misdemeanors –** If an individual has multiple cases including convictions and (1) all of the convictions are

misdemeanors, (2) each case individually would be eligible for mandatory expungement if not for “prior or subsequent convictions,” and (3) there are no other cases including a conviction ineligible for mandatory expungement, then an individual can petition for a *discretionary expungement*.

ADULT MANDATORY EXPUNGEMENT CONVICTIONS LIST:

How to use this list:

- This *list is organized by Code section*, starting with the Title then breaking it down by Chapter and Subchapter (if necessary).
- Each subsection is organized by the *length of the required waiting period*, starting with the shortest waiting period and working up to the longest.
- Some *sections of the code may include multiple different types of convictions* under the same code section, but only some of the convictions under that section of the code are eligible for mandatory expungement ((e.g. 11 Del. C. § 841 for theft can be charged as a few different types of felonies or misdemeanors, but only the misdemeanor conviction types under that code section are eligible for mandatory expungement). *Struck through text* (e.g. ~~class C felony~~) indicates that a specific conviction type is *not eligible* for mandatory expungement, even though other conviction types in that code section may be eligible.

TITLE 4: Alcoholic Liquors

Chapter 9: Criminal Offenses and Penalties

Misdemeanor convictions eligible for mandatory expungement without a waiting period

§ 904(e) - (f). Offenses concerning certain persons [(e) & (f) concern the possession and consumption of alcohol by a person under 21 years of age.

TITLE 11: Crimes and Criminal Procedure

CHAPTER 5: Specific Offenses

Subchapter I: Inchoate Crimes



Misdemeanor convictions eligible for mandatory expungement 5 years after date of conviction

§ 501 Criminal solicitation in the third degree; class A misdemeanor.

§ 511. Conspiracy in the third degree; class A misdemeanor.

Subchapter II: Offenses against the Person

Misdemeanor convictions eligible for mandatory expungement 5 years after date of conviction

§ 601 Offensive touching; unclassified misdemeanor; class A misdemeanor.

§ 602 Menacing; unclassified misdemeanor.

§ 603 Reckless endangering in the second degree; class A misdemeanor.

§ 611 Assault in the third degree; class A misdemeanor.

§ 614 Abuse of a sports official; ~~class G felony~~; class A misdemeanor.

§ 621 Terroristic threatening; class A misdemeanor; ~~class G felony~~; ~~class F felony~~; ~~class E felony~~.

§ 625 Unlawfully administering drugs; class A misdemeanor.

- **Exception:** if this conviction was charged in conjunction with a sexual offense, as defined in § 761(f) of this title, it is excluded from mandatory expungement eligibility.

§ 627 Prohibited acts as to substances releasing vapors or fumes; unclassified misdemeanor.

§ 628 Vehicular assault in the third degree; class B misdemeanor.

§ 652 Self-abortion; class A misdemeanor.

- **Note:** this statute was repealed but any convictions will remain on an individual's record unless they are expunged.

§ 653 Issuing abortifacient articles; class B misdemeanor.

- **Note:** this statute was repealed but any convictions will remain on an individual's record unless they are expunged.

§ 781 Unlawful imprisonment in the second degree; class A misdemeanor.

§ 785 Interference with custody; ~~class G felony~~; class A misdemeanor.

Subchapter III: Offenses Involving Property

Misdemeanor convictions eligible for mandatory expungement 5 years after date of conviction

§ 804 Reckless burning or exploding; class A misdemeanor; ~~class G felony~~.

§ 805 Cross or religious symbol burning; class A misdemeanor.

- **Note:** this misdemeanor was transferred to 11 Del. C. § 1306.



- § 811 Criminal mischief; ~~class G felony~~; class A misdemeanor; unclassified misdemeanor.
- § 812 Graffiti and possession of graffiti implements; ~~class G felony~~; class A misdemeanor; class B misdemeanor.
- § 813 Theft of property from a cemetery; class A misdemeanor.
- § 822 Criminal trespass in the second degree; unclassified misdemeanor.
- § 823 Criminal trespass in the first degree; class A misdemeanor.
- § 840 Shoplifting; ~~class G felony~~; class A misdemeanor.
- § 840A Use of illegitimate retail sales receipt or Universal Product Code Label; ~~class F felony~~; class A misdemeanor.
- § 841 Theft; ~~class B felony~~; ~~class D felony~~; ~~class F felony~~; ~~class G felony~~; class A misdemeanor; restitution.
- § 848 Misapplication of property; ~~class G felony~~; class A misdemeanor.
- § 849 Theft of rented property; class A misdemeanor or ~~class G felony~~.
- § 850 Use, possession, manufacture, distribution and sale of unlawful telecommunication and access devices; unclassified misdemeanor; ~~class F felony~~; ~~class D felony~~.
- § 851 Receiving stolen property; ~~class G felony~~; class A misdemeanor.
- § 852A Selling stolen property; class A misdemeanor; ~~class G felony~~.
- § 853 Unauthorized use of a vehicle; class A misdemeanor.
- § 858 Unlawful operation of a recording device; class B misdemeanor; class A misdemeanor.
- § 861 Forgery; ~~class F felony~~; ~~class G felony~~; class A misdemeanor.
- **Note:** The class G felony under this code section (forgery in the second degree) is eligible after a 10-year waiting period, see below.
- § 871 Falsifying business records; class A misdemeanor.
- § 873 Tampering with public records in the second degree; class A misdemeanor.
- § 877 Offering a false instrument for filing; class A misdemeanor.
- § 881 Bribery; class A misdemeanor.
- § 882 Bribe receiving; class A misdemeanor.
- § 891 Defrauding secured creditors; class A misdemeanor.
- § 892 Fraud in insolvency; class A misdemeanor.
- § 893 Interference with levied-upon property; class A misdemeanor.
- § 900 Issuing a bad check; class A misdemeanor; ~~class G felony~~.
- § 903 Unlawful use of payment card; class A misdemeanor; ~~class G felony~~; ~~class F felony~~.
- **Note:** The class G felony conviction under this code section is eligible after a 10-year waiting period, see below.
- § 906 Deceptive business practices; class A misdemeanor.
- § 907 Criminal impersonation; class A misdemeanor.
- § 907C Impersonation as a member or veteran of the United States Armed Forces, class A misdemeanor.
- § 909 Securing execution of documents by deception; class A misdemeanor.
- § 910 Debt adjusting; class B misdemeanor.

- § 914 Use of consumer identification information.
- § 915 Use of payment card information.
- § 915A Credit and debit card transaction receipts; unclassified misdemeanor.
- § 918 Ticket scalping; class B misdemeanor; class A misdemeanor.
- § 921 Sale of transferred recorded sounds; class A misdemeanor.
- § 922 Improper labeling; ~~class G felony~~; ~~class F felony~~; unclassified misdemeanor.
- § 926 Trademark counterfeiting; class A misdemeanor; ~~class G felony~~; ~~class E felony~~.
- § 939 Computer Related Offenses, Penalties; ~~class D felony~~; ~~class E felony~~; ~~class G felony~~; class A misdemeanor.

Felony convictions eligible 10 years for mandatory expungement after the date of conviction or date of release, whichever is more recent

- §828 Possession of burglar's tools or instruments facilitating theft; class F felony.
- §861 Forgery; ~~class F felony~~; class G felony; ~~class A misdemeanor~~.

- **Note:** The class A misdemeanor under this code section (forgery in the third degree) is eligible after a 5-year waiting period, see above.

- §903 Unlawful use of a payment card; ~~class A misdemeanor~~; class G felony; ~~class F felony~~.

- **Note 1:** Misdemeanors under this code section are eligible after a 5-year waiting period, see above.
- **Note 2:** The class G felony is eligible so long as the victim was not a vulnerable adult.

Subchapter IV: Offenses Relating to Marriage

No records eligible for mandatory expungement

Subchapter V: Offenses Relating to Children and Vulnerable Adults

Misdemeanor convictions eligible for mandatory expungement 5 years after date of conviction

- § 1114 Body-piercing, tattooing or branding; consent for minors; civil and criminal penalties; class B misdemeanor; class A misdemeanor

- **Exception:** not eligible if victim is a minor

- § 1114A Tongue-splitting; ~~class A misdemeanor~~; class B misdemeanor; ~~class G felony~~

- **Exception:** not eligible if victim is a minor

Subchapter VI: Offenses Against Public Administration

Misdemeanor convictions eligible for mandatory expungement 5 years after date of conviction

- § 1241 Refusing to aid a police officer; class B misdemeanor.
- § 1243 Obstructing fire-fighting operations; class A misdemeanor.
- § 1244 Hindering prosecution; class A misdemeanor; ~~class G felony~~.
- § 1244A Obstruction of justice; ~~class D felony~~; ~~class G felony~~; class A misdemeanor.

- § 1245 Falsely reporting an incident; class A misdemeanor; ~~class G felony~~.
- § 1245A Providing a false statement to law enforcement; ~~class G felony~~; class A misdemeanor.
- § 1246 Compounding a crime; class A misdemeanor.
- § 1248 Obstructing the control and suppression of rabies; class B misdemeanor; ~~class E felony~~.
- § 1249 Abetting the violation of driver's license restrictions; class A misdemeanor; ~~class G felony~~.
- § 1251 Escape in the third degree; class A misdemeanor.
- § 1260 Misuse of prisoner mail; class A misdemeanor; ~~class G felony~~.

Subchapter VII: Offenses against Public Health, Order and Decency

Misdemeanor convictions eligible for mandatory expungement 5 years after date of conviction

- § 1301 Disorderly conduct; unclassified misdemeanor.
- § 1303 Disorderly conduct; funeral or memorial service; class A misdemeanor; ~~class F felony~~.
- § 1305. Desecration; class A misdemeanor.
 - **Note 1:** former 11 Del. C. § 1331 (desecration) and § 1340 (desecration of a burial place) are now consolidated under § 1305. Both of those former misdemeanors are also eligible.
 - **Note 2:** this conviction is not eligible if accompanied by a conviction for a hate crime under 11 Del. C. § 1304.
- § 1306. Cross or religious symbol burning; class A misdemeanor.
 - **Note:** this conviction is not eligible if accompanied by a conviction for a hate crime under 11 Del. C. § 1304.
- § 1311 Harassment; class A misdemeanor.
- § 1315 Public intoxication; unclassified misdemeanor; ~~violation~~.
 - **Note:** the violation under this code section is eligible for mandatory expungement after a 3-year waiting period.
- § 1322 Criminal nuisance; unclassified misdemeanor.
- § 1324 Obstructing ingress to or egress from public buildings; unclassified misdemeanor.
- § 1325 Cruelty to animals; class A misdemeanor; ~~class F felony~~.
- § 1325A The unlawful trade in dog or cat by-products; class B misdemeanor; class A misdemeanor, penalties.
- § 1327 Maintaining a dangerous animal; ~~class E felony~~; ~~class F felony~~; class A misdemeanor.
- § 1333 Trading in human remains and Associated Funerary Objects.
- § 1334 Unlawful use of an unmanned aircraft system; unclassified misdemeanor; class B misdemeanor; class A misdemeanor.
- § 1342 Prostitution; class B misdemeanor; class A misdemeanor.
- § 1365 Obscene literature harmful to minors; class A misdemeanor.
- § 1366 Outdoor motion picture theaters.

- § 1367 Unauthorized promotion of boxing, mixed martial arts or of a combative sports or combative sports entertainment or combative fighting match, contest, or event; class A misdemeanor.
- § 1368 Unauthorized participation in a boxing, mixed martial arts or in a combative sports or combative sports entertainment or combative fighting match, contest, or event; class A misdemeanor.
- § 1401 Advancing gambling in the second degree; class A misdemeanor.
- § 1402 Foreign lotteries; prima facie evidence; class A misdemeanor.
- § 1403 Advancing gambling in the first degree; class A misdemeanor.
- § 1404 Providing premises for gambling; class A misdemeanor; unclassified misdemeanor.
- § 1405 Possessing a gambling device; class A misdemeanor.
- § 1406 Being concerned in interest in keeping any gambling device; class A misdemeanor.
- § 1411 Unlawfully disseminating gambling information; class A misdemeanor.
- § 1428 Maintaining an obstruction; class A misdemeanor; ~~a violation.~~
- **Note:** the violation under this code section is eligible for mandatory expungement after a 3-year waiting period.
- § 1444 Possessing a destructive weapon; ~~class E felony~~; class B misdemeanor.
- § 1446 Unlawfully dealing with a switchblade knife; unclassified misdemeanor.
- § 1448A Criminal history record checks for sales of firearms; class A misdemeanor; ~~class G felony.~~
- § 1448B Criminal history record checks for sales of firearms — Unlicensed persons; class A misdemeanor; ~~class G felony.~~
- § 1452 Unlawfully dealing with knuckles-combination knife; class B misdemeanor.
- § 1453 Unlawfully dealing with martial arts throwing star; class B misdemeanor.
- § 1457B Possession of a firearm at a polling place; class A misdemeanor.
- § 1460 Possession of firearm while under the influence; class A misdemeanor; ~~class G felony.~~
- § 1469. Large-capacity magazines prohibited; ~~class E felony~~; class B misdemeanor; or civil violation.
- § 1472 Offenses involving video lottery machines, Penalties; class A misdemeanor; ~~class G felony; class E felony; class C felony.~~

TITLE 16: Health and Safety

CHAPTER 47: Uniform Controlled Substances Act

Subchapter IV: Offenses and Penalties

Misdemeanor convictions eligible for mandatory expungement without a waiting period

- § 4764 Possession of marijuana; class B misdemeanor, unclassified misdemeanor, or civil violation.



Felony convictions eligible for mandatory expungement 5 years after date of conviction

§ 4756 Drug Possession; class G felony.

Felony convictions eligible for mandatory expungement 10 years after the date of conviction or date of release, whichever is more recent

§ 4757 Miscellaneous drug crimes; class C or F felony.

§ 4758 Unlawful dealing in a counterfeit or purported controlled substance; class E felony.

§ 4760 Maintaining a drug property; class F felony.

Subchapter V: Drug Paraphernalia

Misdemeanor and felony convictions eligible for mandatory expungement without a waiting period

§ 4771 Drug paraphernalia; class B misdemeanor; unclassified misdemeanor; class G felony; ~~class E felony.~~