

## EXPUNGEMENT LAW

H.B. 1482

Prepared by Mark D. Stoner

Judge, Marion Superior Court

Effective 7/1/13

<u>Offense type</u>	<u>When</u>	<u>Filing Fee</u>	<u>Mandatory?</u>	<u>Exceptions?</u>
Acquittal or Vacated	must wait until 1 year after event	NO	Yes	access to criminal justice agency only
Misdemeanors	five years after <i>conviction</i>	yes	yes	none
D felony	8 years after <i>conviction</i>	yes	yes	homicides, sex crimes, bodily injury,  Perjury, elected officials, official misconduct, "sex or violent offender" under IC 11-8-8-5
most felonies	8 years after sentence completed & satisfaction of all obligations	yes	no	homicides, sex crimes, bodily injury perjury, elected officials, official misconduct, "sex or violent offenders" under IC 11-8-8-5
injury/elected officials	10 years after sentence completed & satisfaction of all obligations	yes	no	homicides, sex crimes, official misconduct," sex or violent offender" under IC 11-8-8-5

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legal standard If the court finds by clear and convincing evidence that:

- (1) the period required has elapsed;
- (2) no charges are pending against the person;
- (3) the person does not have an existing or pending driver's license suspension;
- (4) the person has successfully completed the person's sentence, including any term of supervised release, and satisfied all other obligations placed on the person as part of the sentence; and
- (5) the person has not been convicted of a crime within the applicable time period.

NOTE: the prosecutor can consent to a shorter time.

The Defendant's petition must include: (1) full name and all aliases (2) date of birth (3) addresses from the date of the offense to the date of the petition (4) affirm that no criminal investigation or charges are pending (5) affirm that the petitioner has not committed another crime within the period required for expungement (6) shall list all convictions and the date of the conviction (7) affirm that the required period has elapsed or attach a copy of the prosecuting attorney's written consent to a shorter period (8) describe any other petitions that the petitioner has filed under this chapter (9) provide evidence that the petitioner has successfully completed all terms of the sentence previously imposed, including: (A) payment of restitution, fines, and court costs; and (B) completion of any terms of probation, parole, or community corrections. (10) **service on the prosecutor**

The prosecutor must reply within 30 days and must notify the victim. If the prosecutor does not object, the court can summarily grant the petition. If the prosecutor objects, the court must hold a hearing no sooner than 60 days. The victim can supply either an oral or written statement. The court can summarily deny the petition if it is deficient on its face.



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