

431.076 Expungement of criminal records for those found not guilty of crimes, for whom charges have been dismissed with prejudice, or against whom charges have not resulted in an indictment.

- (1) A person who has been charged with a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed with prejudice and not in exchange for a guilty plea to another offense, or against whom felony charges originally filed in the District Court have not resulted in an indictment by the grand jury, may petition the District or Circuit Court in which the charges were filed to expunge all records.
- (2) The expungement petition shall be filed no sooner than sixty (60) days following the order of acquittal or dismissal by the court or twelve (12) months following the date of the District Court decision to hold the matter to the grand jury. The petition shall be served upon the office of the Commonwealth's attorney or county attorney that prosecuted the case.
- (3) Following the filing of the petition, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement petition. In addition, if the criminal charge relates to the abuse or neglect of a child, the court shall also notify the Office of General Counsel of the Cabinet for Health and Family Services of an opportunity for a response to the expungement petition. The counsel for the Cabinet for Health and Family Services shall respond to the expungement petition, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court, if the Cabinet for Health and Family Services has custody of records reflecting that the person charged with the criminal offense has been determined by the cabinet or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect. If the cabinet fails to respond to the expungement petition or if the cabinet fails to prevail, the order of expungement shall extend to the cabinet's records. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records.
- (4) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the petition and order the expunging of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records. If the expungement petition pertains to felony charges originally filed in the District Court which have not resulted in an indictment by the grand jury, and the Circuit Court or District Court grants the motion, it shall dismiss the charges and order the expunging of the records. The court shall order the expunging on a form provided by the Administrative Office of the Courts. Every agency, with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to expunge records, shall certify to the court within sixty (60) days of the entry of the expungement order, that the required expunging action has been completed. All orders enforcing the expungement procedure shall also be expunged.
- (5) If an expungement is ordered under this section, an appellate court which issued an opinion in the case may, upon motion of the petitioner in the case, order the

appellate case file to be sealed and also direct that the version of the appellate opinion published on the court's Web site be modified to avoid use of the petitioner's name in the case title and body of the opinion.

- (6) After the expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall delete or remove the records from their computer systems so that any official state-performed background check will indicate that the records do not exist. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.
- (7) This section shall be retroactive.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 94, sec. 2, effective July 15, 2016. -- Amended 2013 Ky. Acts ch. 69, sec. 16, effective June 25, 2013. -- Amended 2005 Ky. Acts ch. 99, sec. 648, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 426, sec. 1, effective July 14, 2000. -- Created 1996 Ky. Acts ch. 374, sec. 1, effective July 15, 1996.