

Expunction/Expungement Rights of Certain Class "C" Cases

1. Code of Criminal Procedure

Art. 45.0216. Expunction of Certain Conviction Records of Children

- (a) In this article, "child" has the meaning assigned by Section 51.02, Family Code.
- (b) A person convicted of not more than one offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child may, on or after the person's 17th birthday, apply to the court in which the child was convicted to have the conviction expunged as provided by this article.
- (c) The person must make a written request to have the records expunged. The request must be under oath.
- (d) The request must contain the person's statement that the person was not convicted while the person was a child of any offense described by Section 8.07(a)(4) or (5), Penal Code, other than the offense the person seeks to have expunged.
- (e) The judge shall inform the person and any parent in open court of the person's expunction rights and provide them with a copy of this article.
- (f) If the court finds that the person was not convicted of any other offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child, the court shall order the conviction, together with all complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the offense, expunged from the person's record. After entry of the order, the person is released from all disabilities resulting from the conviction and the conviction may not be shown or made known for any purpose.
- (g) This article does not apply to any offense otherwise covered by: (1) Chapter 106, Alcoholic Beverage Code; (2) Chapter 161, Health + Safety Code; or (3) Section 25.094, Education Code.
- (h) Records of a person under 17 years of age relating to a complaint dismissed as provided by Article 45.051 or 45.052 may be expunged under this article.
- (i) The justice or municipal court shall require a person who requests expungement under this article to pay a fee in the amount of \$30 to defray the cost of notifying state agencies of orders of expunction under this article.
- (j) The procedures for expunction provided under this article are separate and distinct from the expunction procedures under Chapter 55.

2. Alcoholic Beverage Code

§ 106.12. EXPUNGEMENT OF CONVICTION OF A

MINOR. (a) Any person convicted of not more than one violation of this code while a minor, on attaining the age of 21 years, may apply to the court in which he was convicted to have the conviction expunged.

(b) The application shall contain the applicant's sworn statement that he was not convicted of any violation of this code while a minor other than the one he seeks to have expunged.

(c) If the court finds that the applicant was not convicted of any other violation of this code while he was a minor, the court shall order the conviction, together with all complaints, verdicts, sentences, and other documents relating to the offense, to be expunged from the applicant's record. After entry of the order, the applicant shall be released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose.

(d) The court shall charge an applicant a fee in the amount of \$30 for each application for expungement filed under this section to defray the cost of notifying state agencies of orders of expungement under this section.

3. Health and Safety Code

§ 161.255. EXPUNGEMENT OF CONVICTION.

(a) An individual convicted of an offense under Section 161.252 may apply to the court to have the conviction expunged. If the court finds that the individual satisfactorily completed the tobacco awareness program or tobacco-related community service ordered by the court, the court shall order the conviction and any complaint, verdict, sentence, or other document relating to the offense to be expunged from the individual's record and the conviction may not be shown or made known for any purpose.

(b) The court shall charge an applicant a fee in the amount of \$30 for each application for expungement filed under this section to defray the cost of notifying state agencies of orders of expungement under this section.

4. Code of Criminal Procedure

Art. 45.055. EXPUNCTION OF CONVICTION AND RECORDS IN FAILURE

TO ATTEND SCHOOL CASES. (a) An individual convicted of not more than one violation of Section 25.094, Education Code, may, on or after the individual's 18th birthday, apply to the court in which the individual was convicted to have the conviction and records relating to the conviction expunged.

(b) To apply for an expunction, the applicant must submit a written request that:

- (1) is made under oath;
- (2) states that the applicant has not been convicted of more than one violation of Section 25.094, Education Code; and
- (3) is in the form determined by the applicant.

(c) The court may expunge the conviction and records relating to the conviction without a hearing or, if facts are in

doubt, may order a hearing on the application. If the court finds that the applicant has not been convicted of more than one violation of Section 25.094, Education Code, the court shall order the conviction, together with all complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the applicant's record. After entry of the order, the applicant is released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose. The court shall inform the applicant of the court's decision on the application.

(d) The court shall require an individual who files an application under this article to pay a fee in the amount of \$30 to defray the cost of notifying state agencies of orders of expunction under this article.