



CLEAN SLATE 3.0

FREQUENTLY ASKED QUESTIONS



OVERVIEW

What has changed under Clean Slate 3.0?

Act 36 of 2023, a.k.a. “Clean Slate 3.0,” expands the type of convictions eligible for automated and petition-based sealing, including for the first time some felony convictions. Additionally, the waiting periods for eligibility have been reduced for misdemeanor and summary convictions. Clean Slate 3.0 also now prohibits the use of sealed charges for employment, housing, or educational purposes. Clean Slate 3.0 also makes pardoned offenses eligible for automatic expungement.

When does Clean Slate 3.0 go into effect?

Act 36 went into effect on February 12, 2024, except for the automated sealing sections of the law. The automated sealing provisions of Act 36 went into effect on June 11, 2024. Auto-sealing of newly eligible summary convictions began on that date. Auto-sealing of the backlog of eligible misdemeanor and felony convictions should be completed in the first quarter of 2025.

What convictions are newly eligible for sealing under Clean Slate 3.0?

“Qualifying offense” drug felonies, enumerated felony convictions (mostly relating to theft, forgery, and fraud) that are graded as F or F3, and Terroristic Threats (§ 2706), if graded as an M1.

What is a “Qualifying Offense?”

A “Qualifying Offense” is any offense under 35 § 780-113, or attempt, conspiracy, or solicitation to commit such an offense, *unless* a minimum prison sentence of 30 months or more, or a maximum prison sentence of 60 months or more, was imposed on that offense. §9102.

“Qualifying offense” is defined by the sentence that was imposed in the case, rather than the legal maximum. No drug types or drug crimes are excluded.

What is the waiting period before a charge is eligible for sealing?

To be eligible to seal a **non-conviction** or **summary** conviction, a certain period of time must pass following the disposition of the case. A subsequent conviction will *not* affect eligibility. §9122.2(a).

- Summary Convictions – 5 years (previously 10 years). §9122.1; 9122.2(a)(3)
- Non-convictions – 30 days. §9122.2(b)(2)(i)

To be eligible to seal a **misdemeanor** or **felony** conviction, a person must not have any felony or misdemeanor convictions for a certain period of time following the disposition of the case. §9122.2(a).

- Eligible felony convictions - 10 years. §9122.2(a)(1.1).
- Eligible misdemeanor convictions – 7 years (previously 10 years). §9122.1; 9122.2(a)(1)

A longer waiting period may be caused by certain convictions, multiple felony convictions, or multiple cases with misdemeanor convictions. Most of these additional waiting periods have been shortened under Clean Slate 3.0. See “**Are there any other circumstances that may disqualify someone from the benefit of sealing?**” for more information.

Does court debt and/or restitution need to be paid before someone can have their charges sealed?

There must be no restitution owed on a case for convictions in the case to be sealed. Other outstanding court debt (fines, fees, costs, etc.) need not be addressed as a prerequisite to receiving automated or petition-based sealing.

SEALING BY PETITION

What charges are now eligible for petition-based sealing?

The following felony convictions enumerated in §9122.1(a.1) that are graded as F or F3, as well as conspiracy, attempt or solicitation of those convictions, are eligible for petition-based sealing:

- “Qualifying Offense” drug felonies (see **What is a “Qualifying Offense?”** above),
- Criminal Mischief (§3304);
- Criminal Trespass (§3503);
- Theft (all Chapter 39 offenses);
- Forgery and Fraud (all Chapter 41 offenses); and
- Welfare Fraud (62 Pa.C.S. §481).

All misdemeanor convictions graded M2 or lower (M, M3, M2), summary convictions and non-convictions are eligible for petition sealing. § 9122.1(b)(1); §9122.3(c). Additionally, most misdemeanor convictions graded as M1, now including Terroristic Threats (§2706), are eligible for petition-based sealing (See below for exceptions).

What types of convictions are excluded from petition-based sealing?

Under §9122.1(a.1) and §9122.1(b)(1), convictions for the following offenses or with the following gradation are ineligible for both petition-based and automated sealing:

- All F1 and F2 convictions, and any F3 or F convictions not enumerated in §9122.1(a.1)
- M1 convictions for:
 - Article B offenses (Offenses Involving Danger to the Person (§§2500-3300)), except Terroristic Threats (§ 2706) is eligible;
 - Article D offenses (Offenses Against the Family (§§4301-4305));
 - Firearms offenses (Chapter 61 - Firearms and Other Dangerous Articles (§§6100 - 6122))
 - Sexual offense/tier system ("Tiered sexual offenses" under 42 Pa. C.S.A. §9799.14. Offenses requiring "registration" under 42. Pa. C.S.A. §9799.55.);
 - Corruption of minors (§6301).

Are there any circumstances that may disqualify someone from the benefit of sealing?

Yes. Some convictions disqualify a person from sealing any other misdemeanor or felony conviction on their record. A person may be temporarily or permanently disqualified from having convictions sealed, depending on the offense type, gradation, and number of convictions.

Under §9122.1(b)(2), a person with the following convictions is disqualified from sealing:

- 2 or more cases with M1 or felony convictions in the last 10 years (previously 15 years)
- 4 or more cases with M2 convictions or higher in the last 15 years (previously 20 years)
- A felony conviction for one of the following in the last 15 years (previously 20 years):
 - Art. B (Offenses Involving Danger to the Person (§§2500-3300));
 - Art. D (Offenses Against the Family (§§4301-4305));
 - Firearms (Chapter 61 - Firearms and Other Dangerous Articles (§§6100 - 6122)), or
 - Sexual offense/tier system ("Tiered sexual offenses" under 42 Pa. C.S.A. §9799.14. Offenses requiring "registration" under 42. Pa. C.S.A. §9799.55.).
- A conviction to one of the following misdemeanors in the last 15 years:
 - indecent exposure,
 - sexual intercourse w/ animal,
 - failure to comply w/registration req'ts,
 - weapons/implements for escape,
 - abuse of corpse, or
 - prohibiting paramilitary training.
- A conviction at any time to:
 - F1, murder, or offense punishable by more than 20 years.

How are convictions counted when determining petition sealing eligibility under Clean Slate 3.0?

A person may be disqualified from petition sealing due to the number of convictions on their record. (See above.) Clean Slate 3.0 has changed the way these convictions are counted, making it less likely that a person will be disqualified from sealing. Under §9122.1(b.1) (“Consolidation”), the conviction of two or more offenses that are charged in separate counts are now considered a *single conviction*, so long as the convictions are consolidated under one docket number and share the same offense tracking number (OTN). This section is consistent with the preexisting interpretation of Clean Slate law in certain counties, e.g., Philadelphia.

AUTOMATED SEALING

What charges are now eligible for automated sealing?

“Qualifying Offense” drug felony convictions, misdemeanor convictions graded M2 or lower (M, M3, M2), all summary convictions, and non-convictions are all eligible for automated sealing. §9122.2(a)(1); §9122.2(a)(1.1). (See below for exceptions).

What types of convictions are excluded from automated sealing?

Misdemeanor or felony convictions for the following offenses are not eligible for automated sealing (§9122.3(a)(1); §9122.3(b)):

- Article B offenses (Offenses Involving Danger to the Person (§§2500-3300))
- Article D offenses (Offenses Against the Family (§§4301-4305))
- Firearms offenses (Chapter 61 - Firearms and Other Dangerous Articles (§§6100 - 6122))
- Sexual offense/tier system offenses (“Tiered sexual offenses” under 42 Pa. C.S.A. §9799.14. Offenses requiring “registration” under 42. Pa. C.S.A. §9799.55.)
- Cruelty to animals (§5533)
- Corruption of minors (§6301)
- M1 convictions or higher that are not “qualifying offenses”

What may disqualify someone from benefitting from automated sealing?

Some convictions disqualify a person from automated sealing of any other misdemeanor or felony conviction on their record. A person may be disqualified for automated sealing if they have any of the following convictions:

- Felony conviction, except to a “qualifying offense.” §9122.3(a)(2)(i).
- Case with 3 or more “qualifying offense” felony convictions.* §9122.3(a)(2)(i),(ii); §9122.3(a.1).
- 2 or more cases with M1 convictions or higher.* §9122.3(a)(2)(ii); §9122.3(a.1).
- 4 or more cases with M convictions or higher.* §9122.3(a)(2)(iii); §9122.3(a.1).
- Convictions to: indecent exposure; sexual intercourse with an animal, failure to comply with registration requirements, weapons/implements to escape, abuse of corpse, prohibiting paramilitary training. §9122.3(a)(2)(i).

*These rules come from the combined effects of §9122.3(a)(2)(ii), §9122.3(a)(2)(iii), and §9122.3(a.1). See “**How are convictions counted when determining automated sealing eligibility under Clean Slate 3.0?**” for more information.

How are convictions counted when determining automated sealing eligibility under Clean Slate 3.0?

Under existing Clean Slate law, a person may be disqualified from automated sealing due to the number of convictions on their record. (See “**What types of cases may disqualify someone from benefitting from automated sealing?**” for more information.) Clean Slate 3.0 has changed the way these convictions are counted, making it less likely that a person will be disqualified from automated sealing.

Under §9122.3(a.1) (“Consolidation”), the conviction of two or more offenses that are charged in separate counts are now considered a *single conviction*, so long as the convictions: (1) are consolidated under one docket number and share the same offense tracking number (OTN), and (2) the docket does not contain more than two felony convictions. In other words, a case with any number of misdemeanor convictions and/or up to two felony convictions will count as one conviction.

AUTOMATIC EXPUNGEMENT OF PARDONED RECORDS

Are pardoned records eligible for automatic expungement under Clean Slate 3.0?

Yes. If a person has been granted an unconditional pardon, the pardoned record will be expunged through an automatic process. §9122(a)(2.1). These expungements will be processed quarterly. §9122(a.1). Conditionally pardoned cases will be automatically sealed. §9122.2(a)(4).

RIGHTS IMPLICATED BY CLEAN SLATE 3.0

Can sealed charges be used for employment, housing or school matriculation?

In most cases, no. Under Clean Slate 3.0, sealed or expunged criminal history record information cannot be used for “employment, housing, or school matriculation purposes” by any “individual or noncriminal justice agency,” unless required by federal law. §9122.5(a.1). If, however, an individual voluntarily discloses their sealed or expunged criminal history, an employer will be immune from liability if that information is used in an employment decision in an otherwise lawful way. §9122.6(b).

Who can see sealed records?

Sealed records remain inaccessible to the public and will not show up on background checks. A limited number of agencies and employers, however, will remain able to view sealed records:

- Law enforcement entities (e.g. police, District Attorneys, courts, etc.) (§9121(b));
- Employers who are required to consider records under federal law (§9121(b.2)(2)(i));
- Department of Human Services, for verifications required under the Child Protective Services Law (CPSL) or other laws (§9121(b.1) & (b.2)(2)(iv));
- Supreme Court for admission to the bar & judiciary (§9121(b.2)(2)(ii));
- For verification of information provided by certain candidates for public office (§9121(b.2)(2)(iii)).

Clean Slate 3.0 expanded access to sealed records in two, relatively minor, ways: for certain candidates for public office, and for verification by DHS as required by a law *other* than the CPSL. (DHS has access for CPSL-related verifications under preexisting law.)

Must a person disclose their sealed record?

A person does *not* need to disclose a sealed record to a noncriminal justice agency or employer that has not been granted access to sealed records under Pennsylvania law. (See “**Who can see sealed records?**” above.) If a noncriminal justice agency or employer without special access to sealed records asks the person about their record, they may respond as if the sealed offense did not occur. 18 Pa.C.S.A. § 9122.5(a).

A person *must* disclose a sealed record to a criminal justice agency and to any of the noncriminal justice agencies who have been granted special access to sealed records under §9121(b.1) & (b.2), including those employers who are required under federal law to perform background checks. 18 Pa.C.S.A. § 9122.5(a).

Do sealed records appear on FBI reports for employment?

No. Prior to September 2024, due to technical limitations, sealed records did appear on fingerprint-based, FBI background checks for employment. Now, the Pennsylvania State Police has addressed the technical issue and sealed records will not appear on FBI background checks that are obtained for non-criminal justice employment or licensing purposes.

Does sealing restore individual rights forfeited as a result of conviction, such as the ability to purchase a firearm or obtain a license to carry a concealed firearm?

No. The Pennsylvania State Police has access to sealed records and may consider them for firearm license application purposes. Some individuals with prior convictions rendering them permanently ineligible to obtain a firearm may incorrectly assume that their conviction is no longer a bar because it is out of public view. Counsel should be sure to advise their clients that sealing criminal convictions will not result in the restoration of gun rights, and that the only means of restoring such rights through record clearing is by obtaining a pardon.

Does a person have access to their own sealed records?

Yes, people have a right to access and review their full record. §9151. An individual can request a copy of their sealed court summary and docket sheets from the records clerks in any criminal courthouse after proving their identity, or they may request an Access and Review record by mail from the Pennsylvania State Police.