

## Expungements

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## Brief History of Expungements

- Prior to July 11, 2003, there was no uniform process for expungements in this State.
- Order of the Chief Justice dated July 11, 2003, set forth a uniform process for expungements.
- Order dated December 20, 2005, amended the original Order.
- Act No. 36, Section 2, effective June 2, 2009, amended the Code to provide for statutory uniform process for expungements statewide at §17-22-910 through §17-22-950.

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## Expungement Statutes

- §17-22-910: Applications for expungement; administration
- §17-22-920: Direction of expungement process inquiries to county solicitor's office
- §17-22-930: Obtaining and mandatory use of expungement form
- §17-22-940: Fees; establishment of expungement process; requirements and duties of solicitor and SLED
- §17-22-950: Criminal charges in summary court resulting in not guilty finding or dismissal; issuance of expungement order by presiding judge.

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### Applications for Expungement

**SECTION 17-22-910.** Applications for expungement; administration.

Applications for expungement of all criminal records must be administered by the solicitor's office in each circuit in the State as authorized pursuant to:

- (1) Section 34-11-90(e), first offense misdemeanor fraudulent check;
- (2) Section 44-53-450(b), conditional discharge
- (3) Section 22-5-910, first offense conviction in magistrates court;
- (4) Section 22-5-920, youthful offender act;
- (5) Section 22-5-930, first offense simple possession or possession with intent to distribute drug convictions;**

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### Applications for Expungement

(6) Section 56-5-750(f), first offense failure to stop when signaled by a law enforcement vehicle;

(7) Section 17-22-150(a), pretrial intervention;

(8) Section 17-1-40, criminal records destruction, except as provided in Section 17-22-950;

(9) Section 63-19-2050, juvenile expungements;

(10) Section 17-22-530(a), alcohol education program;

(11) Section 17-22-330(A), traffic education program;

**(12) Section 17-22-1010, Youth Challenge Academy and Jobs Challenge Program; and**

(13) any other statutory authorization.

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### Applications for Expungement

- (B) A person's eligibility for expungement of an offense contained in this section, or authorized by any other provision of law, must be based on the offense that the person pled guilty to or was convicted of committing and not on an offense for which the person may have been charged. In addition, if an offense for which a person was convicted is subsequently repealed and the elements of the offense are consistent with an existing similar offense which is currently eligible for expungement, a person's eligibility for expungement of an offense must be based on the existing similar offense.

(C) The provisions of this section apply retroactively to allow expungement as provided by law for each offense delineated in subsection (A) by persons convicted prior to the enactment of this section or the addition of a specific item contained in subsection (A).

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### §22-5-930: Expungement; First Offense Drug Convictions

(A) Following a first offense conviction for either simple possession of a controlled substance under Article 3, Chapter 53, Title 44 or unlawful possession of a prescription drug under Section 40-43-86(EE), including those charges for which the person would now be eligible for a conditional discharge pursuant to Section 44-53-450, the defendant after three years from the date of the completion of the sentence, including probation and parole, for this conviction, and including a conviction in magistrates or general sessions court, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant.

(B) Following a first offense conviction for possession with intent to distribute a controlled substance under Article 3, Chapter 53, Title 44, the defendant after twenty years from the date of the completion of any sentence, including probation and parole, for a drug conviction or any felony conviction may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant.

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(C) If the defendant had no other convictions, to include out-of-state convictions, during the three-year period as provided in subsection (A) or no other drug conviction or felony conviction during the twenty-year period as provided in subsection (B), the circuit court may issue an order expunging the records including any associated bench warrant.

(D) No person may have the person's record expunged under this section if the person has pending criminal charges of any kind unless the charges have been pending for more than five years; however, this five-year time period is tolled for any time the defendant has been under a bench warrant for failure to appear. No person may have the person's records expunged under this section more than once. No person may have the person's records expunged pursuant to this section if the person has had a conditional discharge within the five years prior to the date of arrest for the charge sought to be expunged if the charge sought to be expunged is simple possession of marijuana, or within the ten years prior to the date of arrest for the charge sought to be expunged if the charge sought to be expunged is for the simple possession of any other controlled substance or the unlawful possession of a prescription drug under Section 40-43-86(EE). A person may have the person's record expunged even though the conviction occurred before the effective date of this section; however, the expungement will not affect a subsequent enhanced conviction or sentence that occurred before the effective date of this section.

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(E) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(F) As used in this section, "conviction" includes a guilty plea, a nolo contendere, or the forfeiting of bail. For the purpose of this section, any number of offenses for which the individual received sentences at a single sentencing proceeding for offenses that are closely connected and arose out of the same incident may be considered as one offense and treated as one conviction for expungement purposes.

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### SC Youth Challenge Academy and SC Jobs Challenge Program

**SECTION 17-22-1010.** Completion of South Carolina Youth Challenge Academy and the South Carolina Jobs Challenge Program; expungement; records.

(A) A person who is eligible for expungement of his criminal record pursuant to the provisions of Sections 22-5-910, 22-5-920, 34-11-90(e), and 56-5-750(F) may apply to have his record expunged pursuant to the procedures provided in Article 9 if he graduates and successfully completes the South Carolina Youth Challenge Academy and the South Carolina Jobs Challenge Program administered by the South Carolina Army National Guard. Notwithstanding another provision of law, such person may apply for expungement immediately upon graduation and successful completion of the South Carolina Youth Challenge Academy and the South Carolina Jobs Challenge Program.

(B) If the person has had no other conviction during the approximately one-year period as provided in subsection (A), the circuit court may issue an order expunging the records including any associated bench warrant. No person may have his records expunged under this section more than once.

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(C) If the expungement order is granted by the court, the records must be destroyed or retained by any law enforcement agency or municipal, county, or state agency or department pursuant to the provisions of Section 17-1-40.

(D) The effect of the expungement order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(E) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(F) As used in this section, "conviction" includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail.

Use form SCCA 223B2

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### Conditional Discharges

- While conditional discharges for SPMJ and hashish are processed in the summary courts and do result in a dismissal upon successful completion, those criminal records must be expunged through the solicitor's office and signed by a circuit court judge as required by Code §17-22-910 (2).

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### Direction of Expungement Process Inquiries

**SECTION 17-22-920.** Direction of expungement process inquiries to county solicitor's office.

The clerk of court shall direct all inquiries concerning the expungement process to the corresponding solicitor's office to make application for expungement.

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### Expungement Forms

**SECTION 17-22-930.** Obtaining and mandatory use of expungement form.

A person applying to expunge a criminal record shall obtain the appropriate blank expungement order form from the solicitor's office in the judicial circuit where the charge originated. The use of this form is mandatory and to the exclusion of all other expungement forms.

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### Expungement Application Process for General Sessions

- Application made to the solicitor in the circuit in which the offense(s) was committed. The applicant must pay the following amounts to the solicitor in the form of separate certified checks or money orders:
  - (a) a non-refundable administrative fee of \$250.00 made payable to the solicitor,
  - (b) a non-refundable SLED verification fee of \$25.00 made payable to SLED, when applicable,
  - (c) a filing fee of \$35.00 made payable to the county clerk of court, when applicable.
- Pursuant to §17-22-940(B), GS charges sought to be expunged pursuant to §17-1-40 are exempt from paying the administrative fees, unless the charge that is the subject of the expungement request was dismissed, discharged, or nolle prossed as part of a plea arrangement under which the defendant pled guilty and was sentenced on other charges.
- The solicitor will send the application to SLED in order to verify that the offense is eligible for expungement, as provided by the South Carolina Code of Laws.

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- SLED will return the application to the solicitor and indicate if the offense(s) is eligible for expungement.
- If the offense is determined to be eligible for expungement by SLED, the solicitor will obtain all necessary signatures, including the signature of the PTI Director, the summary court judge, and the circuit court judge.
- Once the order is signed by the circuit court judge, the solicitor will file the order with the clerk of court.
- The solicitor will provide copies of the expungement order to all pertinent governmental agencies as well as the applicant or the applicant's attorney. Agencies include, but not limited to, arresting LEA, detention facility, Solicitor's office, summary court where warrant issued and preliminary hearing held, DJJ and SLED

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**§17-22-950: Criminal Chgs in Summ Ct resulting in NG or dismissal**

(A) If criminal charges are brought in a summary court, the accused person is found not guilty or the charges are dismissed or nolle prossed, and the accused person was **fingerprinted** for the charges, the summary court, at no cost to the accused person, immediately shall issue an order to expunge the criminal records, including any associated bench warrants, of the accused person unless the dismissal of the charges occurs at a preliminary hearing or the accused person has charges pending in summary court and a court of general sessions and the charges arise out of the same course of events. Upon issuance of the order, the summary court shall obtain and verify the presence of all necessary signatures and provide copies of the completed expungement order to all governmental agencies which must receive the order, including, but not limited to, the arresting law enforcement agency; the detention facility or jail; the solicitor's office; the clerk of court, but only in cases in which the charges were appealed to the circuit court or remanded to the summary court from general sessions court; the summary court where the arrest or bench warrants originated; the summary court that was involved in any way in the criminal process of the charges or bench warrants; and SLED.  
 -- SCCA 223C

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(B) If criminal charges are brought in a summary court, the accused person is found not guilty or the charges are dismissed or nolle prossed, and the person was **not fingerprinted** for the charges, the accused person may apply to the summary court, at no cost to the accused person, for an order to expunge the criminal records, including any associated bench warrants, of the accused person unless the dismissal of the charges occurs at a preliminary hearing or the accused person has charges pending in summary court and a court of general sessions and the charges arise out of the same course of events. Upon application, and after verification that the charges are appropriate for expungement, the summary court shall issue an order to expunge the criminal records, obtain and verify all necessary signatures, and provide copies of the completed expungement order to the arresting law enforcement agency and all summary courts that were involved in the criminal process of the charges. The summary court is not required to provide copies of the completed expungement order to SLED.  
 -- SCCA 223E and then SCCA 223C

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- (C) An expungement pursuant to this section must occur no sooner than the appeal expiration date and no later than thirty days after the appeal expiration date.

(D) A summary court shall provide a copy of a completed expungement order issued pursuant to this section to the applicant or the applicant's counsel of record. The copy must be certified or marked with the court's raised seal.

(E) Criminal charges must be removed pursuant to this section from all Internet-based public records no later than thirty days from the disposition date, regardless of whether the accused person applies to the summary court for expungement pursuant to subsection (B). All other criminal records must be destroyed or retained pursuant to the provisions of Section 17-1-40.

(F) A prosecution or law enforcement agency may file an objection to a summary court expungement. If an objection is filed, the expungement must be heard by the judge of a general sessions court. The prosecution's or law enforcement agency's reason for objecting must be that the accused person has other charges pending or the charges are not eligible for expungement. The prosecution or law enforcement agency shall notify the accused person of the objection. The notice must be given in writing at the most current address on file with the summary court, or through the accused person's attorney, no later than thirty days after the accused person is found not guilty or the accused person's charges are dismissed or nolle prossed.

(G) The Office of Court Administration shall provide uniform application forms to be used for expungements pursuant to this section.

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**§17-1-40: Expungement; retention of certain info by LE or prosecution agencies**

- (A) For purposes of this section, "under seal" means not subject to disclosure other than to a law enforcement or prosecution agency, and attorneys representing a law enforcement or prosecution agency, unless disclosure is allowed by court order.

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(B)(1) If a person's record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal offense, or was issued a courtesy summons pursuant to Section 22-3-330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then the arrest and booking record, associated bench warrants, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge or associated bench warrants may be retained by any municipal, county, or state agency. Provided, however, that:

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(a) Law enforcement and prosecution agencies shall retain the arrest and booking record, associated bench warrants, mug shots, and fingerprints of the person under seal for 3 years and 120 days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations and prosecution of the offense, and to defend the agency and the agency's employees during litigation proceedings. The information must remain under seal. The information is not a public document and is exempt from disclosure, except by court order.

(b) Detention and correctional facilities shall retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated, for a period not to exceed 3 years and 120 days from the date of the expungement order to manage the facilities' statistical and professional information needs, and to defend the facilities and the facilities' employees during litigation proceedings, except when an action, complaint, or inquiry has been initiated. The information is not a public document and is exempt from disclosure, except by court order.

(2) A municipal, county, or state agency, or an employee of a municipal, county, or state agency that intentionally violates this subsection is guilty of contempt of court.

(3) Nothing in this subsection requires the South Carolina Department of Probation, Parole and Pardon Services to expunge the probation records of persons whose charges were dismissed by conditional discharge pursuant to Section 44-53-450.

(4) If a person pleads guilty to a lesser included offense and the solicitor deems it appropriate, the solicitor shall notify the State Law Enforcement Division (SLED) and SLED shall request that the person's record contained in the National Crime Information Center (NCIC) database or other similar database reflects the lesser included offense rather than the offense originally charged.

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(C)(1) If a person's record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal offense, or was issued a courtesy summons pursuant to Section 22-3-330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then law enforcement and prosecution agencies shall retain the evidence gathered, unredacted incident and supplemental reports, and investigative files under seal for 3 years and 120 days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations, other law enforcement or prosecution purposes, and to defend the agency and the agency's employees during litigation proceedings. The information must remain under seal. The information is not a public document, is exempt from disclosure, except by court order, and is not subject to an order for destruction of arrest records.

(2) If a request is made to inspect or obtain the incident reports pursuant to the South Carolina FOIA, the law enforcement agency shall redact the name of the person whose record is expunged and other information which specifically identifies the person from copies of the reports provided to the person or entity making the request.

(3) If a person other than the person whose record is expunged is charged with the offense, a prosecution agency may provide the attorney representing the other person with unredacted incident and supplemental reports. The attorney shall not provide copies of the reports to a person or entity nor share the contents of the reports with a person or entity, except during judicial proceedings or as allowed by court order.

(4) A person who intentionally violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days, or both.

(5) Nothing in this subsection prohibits evidence gathered or information contained in incident reports or investigation and prosecution files from being used for the investigation and prosecution of a criminal case or for the defense of a law enforcement or prosecution agency or agency employee.

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(D) A municipal, county, or state agency may not collect a fee for the destruction of records pursuant to this section.

(E) The State Law Enforcement Division is authorized to promulgate regulations that allow for the electronic transmission of information pursuant to this section.

(F) Unless there is an act of gross negligence or intentional misconduct, nothing in this section gives rise to a claim for damages against the State, a state employee, a political subdivision of the State, an employee of a political subdivision of the State, a public officer, or other persons.

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### Summary Court Expungement Procedure

- §17-22-950: Requires that the summary courts expunge the records of criminal cases disposed in those courts when an accused person is found not guilty or the charges are dismissed or nolle prossed pursuant to §17-1-40. Exceptions:
  - the dismissal of the charges occurs at a preliminary hearing, or
  - the accused person has charges pending in summary court and GS and charges arise out of the same course of events.
- Expungement must occur no sooner than the appeal expiration date and no later than thirty days after the appeal expiration date (41 days).
- The statute requires that **no fee** may be charged by the summary court for the expungements pursuant to §17-22-950. Please be advised that charges pursuant to that statute are the **only** allowance for expungements to be conducted by summary court judges. All other expungements are processed through the Solicitor's Office and signed by a circuit court judge.

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### Summary Court Expungement Process – Defendant was Fingerprinted

- **A criminal charge** where the accused person is found not guilty or the charges are dismissed or nolle prossed **and the accused person was fingerprinted for the charges**, the summary court, at no cost to the accused person, immediately shall issue an order to expunge the criminal records, including any associated bench warrants, of the accused person. The automatic expungement is required regardless of the type of charging document used to initiate the charge, including courtesy summonses.

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- Immediately upon a disposition of not guilty, dismissed or nolle prossed, the court should complete the Order for Expungement of Arrest Records (Magistrate and Municipal Court), SCCA 223C. Each order should contain only one charge sought to be expunged, except in those circumstances where expungement is sought for multiple charges occurring out of a single incident.
- The summary court judge should not sign or date the form at this time. Obtain the signature of the prosecuting attorney or law enforcement officer on the bottom of the form. (The purpose of this signature is simply to verify the disposition. By signing, the attorney or officer is not indicating that he or she agrees with the disposition.)

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- If an appeal is filed in the case, the expungement process should be stopped pending the outcome of the appeal.
- The statute provides that the prosecuting agency or appropriate law enforcement agency may object in writing to the expungement within 30 days of the disposition. However, statutory reasons for an objection are limited to the following:
  - The accused has other charges pending;
  - The charges are not eligible for expungement.
- If a written objection is filed with the trial court, the prosecuting or law enforcement agency shall notify the accused person of the objection in writing at the most current address on file with the trial court, or through the accused person's attorney.
  - In the event that there is a written objection filed, the court must forward the record, including the written objection, to the circuit court with SCCA Form 223D, Expungement Abjection Transmittal. The circuit court judge will determine whether the defendant is entitled to have the record expunged. The circuit court judge will indicate on Form 223D whether or not the record will be expunged, and return that form to the summary court. If the Circuit Court determines that the record should be expunged, the summary court will be responsible for completing the expungement process. See §17-22-950(F).

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- In the event no written objection is filed with your court, **the trial judge should sign and date the order no sooner than 31 days after disposition, and no later than 40 days after disposition.** The court must attach a copy of the disposition to the expungement order and forward certified copies of the order and disposition to the following agencies.
  - SLED via the US Mail at the following: Mary Porter, PO Box 21398, Columbia, SC 29221.
  - The appropriate law enforcement agency which handled the case.
  - The prosecuting agency if prosecuted by an agency other than the arresting law enforcement agency.
  - The appropriate detention facility.
  - If a traffic case, the order and disposition must be sent to DMV to the attention of Shirley Rivers, Post Office Box 1498, Blythewood, SC 29016.
  - If a DNR case, the order and disposition must be sent to Lt. Mike Sabaka. This may be done electronically at [sabakam@dnr.sc.gov](mailto:sabakam@dnr.sc.gov) or via facsimile at 803-734-3962.
  - The defendant's lawyer, if represented, or the defendant. This copy must be certified or marked with the court's raised seal.
  - The county Clerk of Court, but only in cases in which the charges were appealed to the circuit court or remanded to the summary court from general sessions court. (No filing fee)
  - Any other summary court that was involved in the processing of the case.

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**Summary Court Expungement Process**  
**– Defendant was Not Fingerprinted**

- A defendant who was found not guilty or the charges were dismissed or nolle prossed in the summary court **and the defendant was not fingerprinted for the charges** must apply to the summary court for expungement of records. The statute applies regardless of the type of charging document used to initiate the charge, including courtesy summonses. The defendant may apply to the summary court, **at no cost to the defendant**, for an order to expunge the criminal records, including any associated bench warrants.

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- The defendant shall use the Application for Expungement (SCCA 223E) to apply for an expungement pursuant to Section 17-22-950(B).
- Upon application, and after verification that the charges are appropriate for expungement, the summary court shall issue an order to expunge the criminal records (SCCA 223C), and obtain and verify all necessary signatures.
- If an appeal is filed in the case, the expungement process should stop pending the outcome of the appeal.
- The statute provides that the prosecuting agency or appropriate law enforcement agency may object in writing to the expungement within 30 days of the disposition. However, statutory reasons for an objection are limited to the following:
  - The accused has other charges pending;
  - The charges are not eligible for expungement.

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- **Objections:** In the event that there is a written objection filed the court must forward the record, including the written objection, to the circuit court with SCCA Form 223D. The circuit court judge will determine whether the defendant is entitled to have the record expunged, complete the form indicating whether or not the record will be expunged, and return that form to the summary court. If the Circuit Court determines that the record should be expunged, the summary court will be responsible for completing the expungement process. The summary court should follow the directive of the circuit court. See 17-22-950(F).

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- In the event no written objection is filed with your court, **the trial judge should sign and date the order no sooner than 31 days after disposition, and no later than 40 days after disposition.** The court must then attach a copy of the disposition to the expungement order and forward certified copies of the order and disposition to the following agencies:
  - The appropriate law enforcement agency which handled the case.
  - The prosecuting agency if prosecuted by an agency other than the arresting law enforcement agency.
  - The appropriate detention facility.
  - If a traffic case, the order and disposition must be sent to DMV to the attention of Shirley Rivers, Post Office Box 1438, Blythewood, SC 29016.
  - If a DNR case, the order and disposition must be sent to Lt. Mike Sabaka. This may be done electronically at [sabakam@dnr.sc.gov](mailto:sabakam@dnr.sc.gov) or via facsimile at 803-734-3962.
  - The defendant's lawyer, if represented, or the defendant. This copy must be certified or marked with the court's raised seal.
  - The county Clerk of Court, but only in cases in which the charges were appealed or the circuit court or remanded to the summary court from general sessions court. (No filing fee)
  - Any other summary court that was involved in the processing of the case.
- The court should then expunge their records as they normally would, including any related bench warrant. Criminal charges must be removed from any internet-based public record no later than 30 days from the disposition date, regardless of whether the accused person applies to the summary court for expungement pursuant to §17-22-950(B).

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### Retroactivity

- Act No. 132 of 2016, effective 5/16/16, which amended §17-22-950, provided that the expungement process be applied retroactively.
- Charges in which the person accused was found not guilty, or the charges were dismissed or nolle prossed prior to the effective date of the summary court expungement legislation shall be expunged by the summary courts upon application of the defendant, regardless of whether the charges were fingerprinted or non-fingerprinted at the time of arrest.

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- The defendant must initiate this process by completing and submitting to the trial court SCCA 223E, Application for Expungement.
- Upon application, and after verification that the charges are appropriate for expungement, the summary court shall issue an order to expunge the criminal records, obtain and verify all necessary signatures, and provide copies of the completed expungement order to the arresting law enforcement agency and all summary courts that were involved in the criminal process of the charges.
- If the defendant was fingerprinted for the charge, the summary court must provide a copy of the expungement order to SLED. If the defendant was not fingerprinted for the charge, the summary court is **not** required to provide copies of the completed expungement order to SLED.
- Expungement orders **should not** be forwarded to the Clerk of Court **unless** the charges were appealed from the summary court to the circuit court or remanded to the summary court from general sessions court.
- There is no waiting period for processing the expungement of charges that occurred prior to the expungement legislation and are now eligible for expungement. The summary court expungement process must begin upon the application for expungement.

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### Courts

- Retain the expungement order in a nonpublic location in the office
- No retention schedule, therefore must maintain indefinitely

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### Expungement of Courtesy Summonses

- Process is the same as if it was made on a warrant or UTT, but courts do not send the expungement order to SLED or to a detention facility.
- If law enforcement had involvement, expungement order goes to them.
- Any documentation held by the court should be destroyed/deleted.

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### Internet-Based Public Records

- Charge must be removed from the public index within 30 days of the disposition date.
  - CMS has made this automatic
- NOT a true expungement. Courts do NOT destroy any records related to these charges.
- Records are subject to FOIA.

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### Mutual Orders of Protection

- 20-4-60(F): If mutual orders of protection have been entered that do not comply with the provisions of this section a petitioner may request the order be vacated and all records of the order be destroyed.

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### Temporary Restraining Orders

- 16-3-1760(E): Upon motion of a party, the court may determine that a temporary restraining order was improperly issued due to unknown facts. The court may order the temporary restraining order vacated and all records of the improperly issued restraining order destroyed.

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### Procedure

- Petitioner will file a motion in your court.
- You hold a hearing w/ all parties to the action given notice and an opportunity to be heard.
- If you determine a TRO or mutual order of protection is to be vacated, all records of the order must be destroyed. (SCCA 517)

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- You must send certified copies of the destruction order to the appropriate law enforcement agency (or agencies) that has copies of the temporary restraining order or mutual order of protection, the party whose motion is granted, and the Clerk of Court (if appropriate).
- Keep the original order of destruction in a lockbox in your office.

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Miscellaneous

- Send ALL expungement orders promptly.
- Send copies to DMV for relevant charges

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