

FAQs - Can I clean up my Georgia criminal record?

Can I get a FELONY conviction off my record? Maybe. There are 3 ways to restrict and seal (expunge) a Georgia felony conviction [Note: see back for definitions of terms].

1. Retroactive First Offender: O.C.G.A § 42-8-66

- Eligibility – If you were eligible for First Offender at the time of sentencing, but were not aware of your eligibility and did not receive it, you may be retroactively sentenced as a First Offender if the prosecutor consents to filing and the judge grants your petition.
- Impact – No longer a conviction, can be sealed.

2. Restrict & seal pardoned convictions: O.C.G.A. § 35-3-37 (2021 change!)

- Eligibility – If you received a pardon for an eligible offense(s), you may petition the court to restrict and seal the record(s) if you have not been convicted of anything since you were pardoned.
- Impact – Conviction restricted on GCIC and sealed from public record.

3. Vacate, restrict, & seal under the Survivors First Act: O.C.G.A. §§ 17-10-21, 35-3-37 (2020 change!)

- Eligibility – If you are a survivor of sex or labor trafficking, you can petition the court to vacate OR restrict and seal convictions that were the direct result of being trafficked or were committed while you were being trafficked. (1 year waiting period after sentence completion for vacatur).
- Impact – No longer a conviction if vacated OR conviction is restricted on GCIC and sealed from public record.

Can I get a MISDEMEANOR conviction off my record? Maybe. The same 3 remedies are available to restrict and seal (expunge) misdemeanor convictions.

1. Retroactive First Offender: O.C.G.A § 42-8-66 (see above)

2. Restrict & seal TWO misdemeanor convictions: O.C.G.A. § 35-3-37 (2021 change!)

- Eligibility – You may petition the court to restrict and seal up to 2 eligible misdemeanor convictions if you completed all sentences at least 4 years ago and haven't been convicted of anything else in those 4 years.
- Impact – Conviction is restricted on GCIC and sealed from public record.

3. Vacate, restrict, & seal under the Survivors First Act: O.C.G.A. §§ 17-10-21, 35-3-37 (2020 change!)

- 6 month waiting period after sentencing for vacatur. (see above)

Can I get a NON-CONVICTION off my record? Yes. You can restrict and seal most charges that did not result in a conviction (dismissal, nolle prosequere, acquittal, etc.)

- **Arrests before July 1, 2013** – Apply for restriction through the arresting agency and pay any required fees. The clerk's file may need to be sealed.
- **Arrests on or after July 1, 2013** – Should be automatically restricted when the clerk of court or prosecutor enters the appropriate disposition into the GCIC database. The clerk's file may need to be sealed.

Can I get a PENDING case off my record? Maybe. You may be able to restrict and seal cases on the dead docket for more than 12 months.

Can I fix my GCIC record if it is WRONG? Yes. Criminal history reports are frequently wrong and the procedure to fix it depends on the type of error.

- Inaccurate, incomplete, or misleading information – You need to request the agency who entered the information to correct it. If the agency does not fix it, you can file an appeal.
- Identity theft – Complete a record inspection through the GCIC.

Terms to Know

- ❖ **Expungement** – Term used in some states for record clearing. Georgia law does not use the word expungement because records are not destroyed, but access to the records is limited for employers, housing providers, and others (law enforcement maintains access).
- ❖ **Restriction & Sealing** – Two-step process required in Georgia to limit public view of criminal history information.
 - Restriction – Limits access to official Georgia criminal history report maintained by the Georgia Crime Information Center (GCIC).
 - Sealing – Limits access to court records.
- ❖ **Background checks** – There are two types of criminal history reports in Georgia:
 - GCIC Reports – Official record that can be obtained from most law enforcement agencies for a fee.
 - Private Background Checks – Criminal history reports often used by employers and landlords, which pull data from court records.
- ❖ **Petition** – A written request filed with the court asking the judge to take a specific action in a case (For example: a petition to seal the record of your case)
- ❖ **Pardon** – Certificate of forgiveness for a Georgia conviction issued by the State Board of Pardons and Paroles (usually felonies). A pardon does not clear your record, but may be the basis for restriction and sealing.
- ❖ **First Offender** – The First Offender Act in Georgia is a deferred adjudication statute, which means if you successfully complete your sentence you will not have a conviction and your record will be restricted on your GCIC report and may be sealed. It can be used only once, for either a misdemeanor or felony, and the judge must agree.
 - Similar remedies: conditional discharge; minor in possession of alcohol.
- ❖ **Non-convictions** – Case resolutions that do not result in a conviction.
 - Common examples: charges that are dismissed/nolle prossed/acquitted, charges that are not prosecuted, and charges that were not presented to the Grand Jury or were No Billed.
- ❖ **Vacatur** – An order setting aside the judgment or conviction in a case.
- ❖ **Final Disposition** – The disposition is the outcome of a case. The official final disposition is maintained by the clerk's office of the court in which your case was handled.
- ❖ **Time-Expired Restrictions** – When no disposition is entered on your GCIC report, a restriction is automatically entered after a certain period of time (Note: This is not a real restriction because the offense may still appear on private background checks and FBI background checks if not properly sealed).
- ❖ **Dead dockets** – A pending case that has been placed on hold by the court.

Georgia Justice Project is a non-profit organization that provides free legal representation to individuals facing barriers due to their criminal history who cannot afford an attorney. To apply for criminal records assistance email intake@GJP.org or call (404) 827-0027, ext. 238. See GJP.org for more details about all of the services we provide.