

**Gwinnett County District Attorney
Record Restriction
Frequently Asked Questions**

Q. What is record restriction or expungement?

A. Georgia’s old law used the term “expungement, which implied that criminal records information was deleted or destroyed. Criminal records were not deleted or destroyed; the term “expungement” simply meant that the information was unavailable to be viewed for all purposes except law enforcement and criminal justice.

Georgia’s new law, effective July 1, 2013, does not use the word “expungement.” Instead, the process is now referred to as “record restriction.” Only the name of the process has changed. Record restriction means that eligible records on your official criminal history report are restricted from public view and are only accessible to law enforcement for criminal justice purposes.

Q. Can I get a record restriction if some of the charges in the case qualify for restriction?

A. No. All of the charges in the case must qualify for restriction.

Q. If I have been denied restriction in the past, can I reapply?

A. Yes, your application will be reconsidered under the criteria in the new law. If your application was denied in the past and the charge(s) now qualify under the new law, you should reapply.

Q. I was arrested in a city in Gwinnett County (i.e. Buford, Dacula, Sugar Hills). Am I still eligible?

A. Yes. Anyone arrested by the Gwinnett County Sheriff, Gwinnett County Police Department or any of the 16 cities in Gwinnett County is eligible for record restriction consideration.

Q. I don’t remember what happened in my case: where can I get a certified copy of my final disposition?

A. Go the Clerk’s office and give them your case number in which your case was handled and request a copy. They may be able to find and print your disposition. Visit them at <https://www.gwinnettcourts.com/about/clerk-of-courts>.

Q. If my Record Restriction is complete, can anyone else see my arrest?

A. Record restriction removes arrests from the employment level searches on the official Georgia Criminal History provided by the GBI. However, the case paperwork remains open. In order to seal the court paperwork, a petition must be filed with one of our judges to have the court paperwork sealed.

Q. I received Order of First Offender Discharge with record restriction, but it is still on my record. What can I do?

A. If you received an Order of First Offender Discharge, submit it to the Georgia Crime Information Center (GCIC); visit them at <https://gbi.georgia.gov/georgia-criminal-history-record-restrictions>.

Q. Does restriction happen automatically?

A. If your arrest is not referred for prosecution, it will be restricted from your GCIC criminal history record automatically after a period of two (2) years for misdemeanors, four (4) years for most felonies, and seven (7) years for serious violent and sex-related felonies. These automatic provisions of the law apply to arrests before and after July 1, 2013. If a record is automatically restricted, however, and later a disposition is entered that does not qualify for restriction, the law requires that the record be “unrestricted” by GCIC.

Q. If I was not convicted, why is the charge still on my criminal history?

A. *If you were arrested before July 1, 2013*, the record remains on your official criminal history unless the charge(s) qualifies for record restriction and you complete the restriction application process.

If you are arrested after July 1, 2013 and the charge(s) qualifies for restriction, the arrest(s) will be restricted by GCIC when the disposition is entered into the GCIC database by the prosecutor or clerk of court. The records of the arresting agency will be restricted within thirty (30) days of the entry of the disposition into GCIC’s database.

Regardless of the date of your arrest, if your case was placed on the dead docket you will need to wait twelve (12) months from the date the case was placed on the dead docket to file an action in superior court for restriction.

Q. Why does an arrest/case show up on background checks after it has been restricted?

A. The old restriction process in Georgia covered only the criminal history information maintained by the Georgia Crime Information Center (GCIC) and the arresting law enforcement agency. Private background companies, therefore, still had access to information about your case in their records because the information remained public at the courthouse and the jail/detention center. **Since July 1, 2013, Georgia allows the restriction of these records. Once the record is no longer publicly available, federal law requires that private background companies remove the information about the case from the databases if the information cannot be verified.**