

| <u>Grounds</u> | <u>Overview</u> | | <u>Waiting Period</u> | <u>Burden</u> |
|--------------------------|--|--|---|---|
| M.S. 299C.11 | * Arrest-only, without a criminal case filed with the courts (no MNCIS record) * If DHS has disqualified, go through reg. expungement process | * The client must have <u>no</u> felony or gross misdemeanor convictions (within outside the state) in the 10 years prior to the arrest | <u>None</u> | If conditions are met, the bureau or agency shall, upon demand, destroy the arrested person's... |
| M.S. 609A.02 subd. 1 | * Certain stays of adjudication for first time drug possession offense, successful completion of probation/diversion/treatment, guilty plea vacated and dismissed. (<u>drug diversion cases</u>) | * The charge that the client pleaded to and that was later dismissed was prosecuted under: <u>152.024, subdivision 2; 152.025, subdivision 2; or 152.027, subdivision 2, 3, 4, or 6, paragraph (d)</u> | <u>None</u> , upon dismissal/dischARGE of proceedings | <u>On Petitioner</u> (interest <u>equal to or greater than</u> the public's...see below)—different than other dismissed cases. |
| M.S. 609A.02 subd. 2 | * juvenile at the time of committing the offense * the juvenile court formally certified the client to be prosecuted in adult criminal proceedings * the adult criminal proceedings have been discharged | * NOT: committed an offense as a juvenile and was prosecuted in adult court without formal certification proceedings in juvenile court | <u>None</u> | <u>On Petitioner</u> (interest <u>greater than</u> the public's o the disadvantages to the public and to public safety and the burden of issuing/enforcing an expungement order.) |
| M.S. 609A.02 subd. 3 (1) | * dismissal, continuance for dismissal/continuance without a plea (ultimately dismissed), some continuance for diversion (ultimately dismissed), and acquittal * Also cases ineligible for 299C.11 but otherwise meeting the requirements | * NOT: stay of adjudication with a vacation and dismissal, verdict of not guilty by reason of mental illness, and cases resulting in a conviction | <u>None</u> , qualify once case is dismissed | <u>On the State</u> —presumption in favor unless clear and convincing evidence... |
| M.S. 609A.02 subd. 3 (2) | * Successful completion of diversion or stay of adjudication (after pleading guilty) * No new charges for at least 1 year after completion | * Must be off paper for all cases. | <u>1 year</u> with no new charges. | <u>On the State</u> —presumption in favor unless clear and convincing evidence... |
| M.S. 609A.02 subd. 3 (3) | * Convicted, sentence was discharged * Waiting period starts when your last case, even if unrelated, is closed (probation discharged) | * Must be off paper for all cases. * New convictions (including misdemeanor traffic offenses) will reset the time | <u>2 years</u> with no new convictions | <u>On Petitioner</u> (interest <u>equal to or greater than</u> the public's...see above) |
| M.S. 609A.02 subd. 3 (4) | * Convicted, sentence was discharged * Waiting period starts when your last case, even if unrelated, is closed (probation discharged) | * Must be off paper for all cases. * New convictions (including misdemeanor traffic offenses) will reset the time | <u>4 years</u> with no new convictions | <u>On Petitioner</u> (interest <u>equal to or greater than</u> the public's...see above) |
| M.S. 609A.02 subd. 3 (5) | * Convicted, sentence discharged * Qualifying felony (see <u>list below</u>) * Waiting period starts when your last case, | * Must be off paper for all cases. * Non-violent felonies * New convictions (including | <u>5 years</u> with no new convictions | <u>On Petitioner</u> (interest <u>equal to or greater than</u> the public's...see above) |

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| Inherent Authority | <u>imposition (S.A.M v. State)</u> Most anything not otherwise expungeable | even if unrelated, is closed (probation discharged) *Court records only (except constitutional violation, abuse of discretion in executive branch) | misdemeanor traffic offenses) will reset the time *Statutory prohibitions still applicable | <u>None</u> | Difficult to grant. On petitioner. Interest equal to or greater than the public's...see above) |
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****NOTE: This document is intended for general information purposes only, and is not legal advice.**

- No open cases, no pending fines/restitution, no warrants.
- No expungement if you had to register as a predatory offender b/c of the case.
- Traffic cases are rarely expunged.
- ~\$300 filing fee per case, unless waived.
- Stays of impositions treated as the initial disposition, not the resulting lower disposition.
- Clients must be able to show a need for expungement as well as rehabilitation (if conviction).

List of Felony Offenses:

- (b) Paragraph (a), clause (5), applies to the following offenses:
 - (1) section 35.824 (altering livestock certificate);
 - (2) section 62A.41 (insurance regulations);
 - (3) section 86B.865, subdivision 1 (certification for title on watercraft);
 - (4) section 152.025 (controlled substance in the fifth degree); or 152.097 (sale of simulated controlled substance);
 - (5) section 168A.30, subdivision 1 (certificate of title false information); or 169.09, subdivision 14, paragraph (a), clause (2) (accident resulting in great bodily harm);
 - (6) chapter 201; 203B; or 204C (voting violations);
 - (7) section 228.45; 228.47; 228.49; 228.50; or 228.51 (false bill of lading);
 - (8) section 256.984 (false declaration in assistance application);
 - (9) section 296A.23, subdivision 2 (willful evasion of fuel tax);
 - (10) section 297D.09, subdivision 1 (failure to affix stamp on scheduled substances);
 - (11) section 297G.19 (liquor taxation); or 340A.701 (unlawful acts involving liquor);
 - (12) section 325F.743 (precious metal dealers); or 325F.755, subdivision 7 (prize notices and solicitations);
 - (13) section 346.155, subdivision 10 (failure to control regulated animal);
 - (14) section 349.2127; or 349.22 (gambling regulations);
 - (15) section 588.20 (contempt);
 - (16) section 609.27, subdivision 1, clauses (2) to (5) (coercion);
 - (17) section 609.31 (leaving state to evade establishment of paternity);
 - (18) section 609.485, subdivision 4, paragraph (a), clause (2) or (4) (escape from civil commitment for mental illness);
 - (19) section 609.49 (failure to appear in court);
 - (20) section 609.52, subdivision 3, clause (3)(a) (theft of \$5,000 or less), or other theft offense that is sentenced under this provision; or 609.52, subdivision 3a, clause (1) (theft of \$1,000 or less with risk of bodily harm);
 - (21) section 609.525 (bringing stolen goods into state);
 - (22) section 609.526, subdivision 2, clause (2) (metal dealer receiving stolen goods);

- (23) section 609.527, subdivision 5b (possession or use of scanning device or reencoder); 609.528, subdivision 3, clause (3) (possession or sale of stolen or counterfeit check); or 609.529 (mail theft);
- (24) section 609.53 (receiving stolen goods);
- (25) section 609.535, subdivision 2a, paragraph (a), clause (1) (dishonored check over \$500);
- (26) section 609.54, clause (1) (embezzlement of public funds \$2,500 or less);
- (27) section 609.551 (rustling and livestock theft);
- (28) section 609.5641, subdivision 1a, paragraph (a) (wildfire arson);
- (29) section 609.576, subdivision 1, clause (3), item (iii) (negligent fires);
- (30) section 609.595, subdivision 1, clauses (2) to (4), and subdivision 1a, paragraph (a) (criminal damage to property);
- (31) section 609.597, subdivision 3, clause (3) (assaulting or harming police horse);
- (32) section 609.625 (aggravated forgery); 609.631, subdivision 4, clause (3)(a) (check forgery \$2,500 or less); 609.635 (obtaining signature by false pretense); 609.64 (recording, filing forged instrument); or 609.645 (fraudulent statements);
- (33) section 609.65, clause (1) (false certification by notary); or 609.651, subdivision 4, paragraph (a) (lottery fraud);
- (34) section 609.652 (fraudulent driver's license and identification card);
- (35) section 609.66, subdivision 1a, paragraph (a) (discharge of firearm; silencer); or 609.66, subdivision 1b (furnishing firearm to minor);
- (36) section 609.662, subdivision 2, paragraph (b) (duty to render aid);
- (37) section 609.686, subdivision 2 (tampering with fire alarm);
- (38) section 609.746, subdivision 1, paragraph (e) (interference with privacy; subsequent violation or minor victim);
- (39) section 609.80, subdivision 2 (interference with cable communications system);
- (40) section 609.821, subdivision 2 (financial transaction card fraud);
- (41) section 609.822 (residential mortgage fraud);
- (42) section 609.825, subdivision 2 (bribery of participant or official in contest);
- (43) section 609.855, subdivision 2, paragraph (c), clause (1) (interference with transit operator);
- (44) section 609.88 (computer damage); or 609.89 (computer theft);
- (45) section 609.893, subdivision 2 (telecommunications and information services fraud);
- (46) section 609.894, subdivision 3 or 4 (cellular counterfeiting);
- (47) section 609.895, subdivision 3, paragraph (a) or (b) (counterfeited intellectual property);
- (48) section 609.896 (movie pirating);
- (49) section 624.7132, subdivision 15, paragraph (b) (transfer pistol to minor); 624.714, subdivision 1a (pistol without permit; subsequent violation); or 624.7141, subdivision 2 (transfer of pistol to ineligible person); or
- (50) section 624.7181 (rifle or shotgun in public by minor).

Factors Considered by the Court:

- (1) the nature and severity of the underlying crime, the record of which would be sealed;
- (2) the risk, if any, the petitioner poses to individuals or society;
- (3) the length of time since the crime occurred;
- (4) the steps taken by the petitioner toward rehabilitation following the crime;
- (5) aggravating or mitigating factors relating to the underlying crime, including the petitioner's level of participation and circumstances of the underlying crime;
- (6) the reasons for the expungement, including the petitioner's attempts to obtain employment, housing, or other necessities;
- (7) the petitioner's criminal record;

- (8) the petitioner's record of employment and community involvement;
- (9) the recommendations of interested law enforcement, prosecutorial, and corrections officials;
- (10) the recommendations of victims or whether victims of the underlying crime were minors;
- (11) the amount, if any, of restitution outstanding, past efforts made by the petitioner toward payment, and the measures in place to help ensure completion of restitution payment after expungement of the record if granted; and
- (12) other factors deemed relevant by the court.