

### Summary Court Expungement Process

§17-22-950. "(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.

(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.

(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."

Pursuant to §17-22-950, the summary courts are responsible for expunging the records of all criminal cases handled in their courts resulting in a not guilty finding, *nolle prossed*, or judicial dismissal. Criminal charges must be removed from all Internet-based public record no later than thirty days from the disposition date, regardless of whether the expungement is automatic under §17-22-950(A) or accused person applies to the summary court for expungement pursuant to §17-22-950(B). All other expungements should be processed through the solicitor's office and issued by a circuit court judge.

EXPUNGEMENT ORDERS **SHOULD NOT** BE FORWARDED TO S.C. COURT ADMINISTRATION (SCCA): (1) for magistrate or municipal court convictions/dispositions, because SCCA does not retain information which identifies defendants by name or SSN for these charges; or (2) for general sessions convictions/dispositions because disposition data (including expungements) is sent to SCCA electronically, and expungements are automatically entered into SCCA records; or (3) for family court convictions/dispositions because disposition data (including expungements) is sent to SCCA electronically, and expungements are automatically entered into SCCA records.

EXPUNGEMENT ORDERS **SHOULD NOT** BE FORWARDED TO THE CLERK OF COURT **UNLESS** the charges were appealed to the circuit court or remanded to the summary court from general sessions court.