



1 in 3

Americans have a criminal record that will show up on a routine background check.

Convictions, dismissals, and even mere arrests are public record and generally remain a public record unless they are somehow removed.

What is expungement?

In NM, expunged records are removed from public view and are no longer reported on background checks. A person whose record is expunged may answer “no” when asked if they have ever been arrested or convicted. District Attorneys and certain employers requiring security clearance may still have access to expunged records.

48,000

How will expungement help me? The American Bar Association estimates there are 48,000 ways a person can be affected by a criminal record in the U.S. These “collateral consequences” include housing, employment, occupational licenses, immigration, and many others.

How do I know what is on my background?

New Mexico courts has an online case lookup system at <https://caselookup.nmcourts.gov/caselookup/app>.

Everyone has the right to a free online criminal background check once per year under the federal Fair Credit Reporting Act.

You may obtain a RAP sheet from the New Mexico Department of Public Safety at <https://www.dps.nm.gov/top-links-for-nm-residents/fingerprinting-and-background-checks>.

You may request a copy of your FBI background check at <https://www.fbi.gov/services/cjis/identity-history-summary-checks>.

You may also request to view a file at the Clerk of the Court’s office in the jurisdiction where the arrest occurred (for instance, at the 2nd Judicial District Clerk of the Court for an arrest in Albuquerque).

Type of Record	Waiting Period
Identity theft	Immediate
Non-convictions (felony or misdemeanor) including conditional discharge, pre-prosecution diversion, nolle, acquittals, etc.	One year from date of final disposition.
Municipal ordinance or misdemeanor convictions.	Two years from end of sentence.
Misdemeanor aggravated battery or 4th degree felony convictions..	Four years from end of sentence.
3rd degree felony convictions.	Six years from end of sentence.
2nd degree felony convictions.	Eight years from end of sentence.
1st degree felony convictions or a conviction under the Crimes Against Household Members Act.	Ten years from end of sentence.

What is eligible to be expunged?

Misdemeanor and felony dismissals, acquittals, and convictions with certain exceptions.

What are the exceptions?

Convictions for the following offenses are not eligible for expungement:

- DWI
- Embezzlement
- Sex Crimes (requiring registration)
- Crimes against children
- Violent Offenses resulting in great bodily harm or death of another.

Need more information? Check out our website page dedicated to expungement: aclu-nm.org/expungement.