

FELONY CHECKLIST: NOT ALL FELONIES CAN BE EXPUNGED (KRS 431.073)

However, Most Class D Felonies (penalty range 1-5 years) are eligible for expungement, but it is up to the judge whether to grant an expungement.

QUALIFYING FELONIES

Your felony must meet at least one of the following two sets of criteria;

ONE

Any class D felony (including a crime committed before Jan 1, 1975 that carried a maximum sentence of 5 years) EXCEPT the following:

1. Driving under the influence, 4th Offense (KRS 189A.010)
2. Assault on family member (KRS 508.032)
3. Impersonating a peace officer (KRS 519.055)
4. Abuse of public office
5. A sex offense
6. An offense committed against a child
7. An offense that resulted in serious bodily injury

OR

TWO

A crime for which the Governor has granted a full pardon (note: The crime can be more serious than a Class D felony).

OTHER CRITERIA:

1. You have not been convicted of a felony or a misdemeanor in the last five years (note: Violations do not count)
2. You have no pending felony or misdemeanor charges (note: Violations do not count).
3. You completed your sentence over 5 years ago.

NOTE:

Also, in addition to the category above ("All Class D except...") there is an alternative less inclusive list of eligible felonies. This list exists largely as a result of the way the felony expungement statute evolved.

Alternative Category: There is a specific list of felonies in KRS 431.073(1)(a). You can see this list by going to <https://kycourts.gov/AOC/Information-and-Technology/Pages/Expungement.aspx> and clicking "Class D Felony Offenses Eligible for Expungement." The list is also attached hereto. All charges on this list are also included in the broader list above.

Why bother with this list? If your felony is on this narrower list, obtaining an expungement will be simpler and perhaps more likely to be granted.

It is not necessary to concern yourself with the differences between these two groups until you are filling out the forms.

Fees:

- \$40- KSP Certification (Note: the same certificate can be copied and used in multiple cases)
- \$50- Filing fee
- \$250 - Expungement fee which can be paid in installments over 18 months

KRS 431.073(1) lists specific Class D felony charges that are eligible for expungement:

17.175 Unlawful use of DNA database identification system.

186.990 Motor Vehicles, Operators, and Trailers – Theft and Fraud Offenses.

194A.505; 194B.505 - Assistance Program Fraud.

217.181 Theft of a legend drug.

217.207 Theft, criminal possession, trafficking, or unlawful possession of a prescription blank.

217.208 Forgery of a prescription.

218A.140 Prohibited acts relating to controlled substances – Penalties.

218A.1415 Possession of controlled substance in first degree.

218A.1416 Possession of controlled substance in second degree.

218A.1417 Possession of controlled substance in third degree.

218A.1418 Theft of a controlled substance (Repealed in 2013).

218A.1439 Trafficking in or transferring a dietary supplement -- Exceptions -- Penalties.

218A.282 Forgery of a prescription.

218A.284 Criminal possession of a forged prescription.

218A.286 Theft, criminal possession, trafficking, or unlawful possession of a prescription or blank.

218A.320 Criminal possession of a medical record – Penalties.

218A.322 Theft of a medical record – Penalties.

218A.324 Criminal falsification of a medical record – Penalties.

218A.1423 Marijuana Cultivation -- Penalties.

218A.500 Unlawful practices/Drug paraphernalia

244.165 Unlawful sale and shipment by out-of-state seller directly to a Kentucky consumer -- Permissible shipments of wine into Kentucky by out-of-state small farm wineries -- Penalty.

286.11-057 Penalties under KY Financial Services Code.

304.47-025 Felony offense involving dishonesty or breach of trust -- Fraudulent insurance act

324.990 Engaging in real estate brokerage without license – Penalties.

365.241 Counterfeiting intellectual property -- Penalties -- Disposition of property.

434.155 Filing illegal lien.

434.675 Use of scanning device or reencoder to obtain payment card information prohibited.

434.850 Unlawful access to a computer in the second degree.

434.872 Disclosure of information from financial information repository – Penalties.

511.040 Burglary in the third degree.

512.020 Criminal mischief in the first degree.

514.030 Theft by unlawful taking or disposition – Penalties.

514.040 Theft by deception.

514.050 Theft of property lost, mislaid, or delivered by mistake.

514.060 Theft of services.

514.065 Possession use or transfer of device for theft of telecommunications services.

514.070 Theft by failure to make required disposition of property.

514.080 Theft by extortion.

514.090 Theft of labor already rendered.

514.100 Unauthorized use of automobile or other propelled vehicle.

514.110 Receiving stolen property.

514.120 Obscuring identity of machine or other property.

514.140 Theft of mail matter.

514.150 Possession of stolen mail matter.

514.160 Theft of identity.

516.030 Forgery in the second degree.

516.060 Criminal possession of forged instrument in the second degree.

516.090 Possession of forgery device.

516.108 Criminal simulation in the first degree.

517.120 Operating a sham or front company.

518.040 Sports bribery.

522.040 Misuse of confidential information.

524.100 Tampering with physical evidence.

525.113 Institutional vandalism.

526.020 Eavesdropping.

526.030 Installing eavesdropping device.

528.020 Promoting gambling in the first degree.

528.040 Conspiracy to promote gambling.

528.050 Possession of gambling records in the first degree.

530.010 Bigamy – Defense.

530.050 Nonsupport and flagrant nonsupport.