

MISDEMEANOR ANNULMENT

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QUESTION: A couple of years ago I was convicted of a misdemeanor in New Hampshire. I have been told that I can get the misdemeanor annulled from my criminal record. Is that true? How do I do this?

ANSWER: The good news is that you may be able to have the conviction annulled. The bad news, however, is that the law regarding annulment is incredibly complicated and is rife with exceptions to the general rule. Let's see if we can hack our way through this statutory jungle.

In New Hampshire, the law allows the annulment, or erasing, of certain violation, misdemeanor and felony convictions. The legislature has deemed it in society's interest for citizens who have proven that they have been rehabilitated to have the black mark of a criminal record removed.

The general rule is that a misdemeanor, whether a class A or class B, may be annulled three years after you have completed all terms and conditions of your sentence. That means that if you were given a term of probation, the time does not start until you have finished. Likewise, if a portion of your sentence was suspended on certain conditions, the three year clock does not start running until you have done everything the court required of you. And if you have more than one conviction on your record, all have to be eligible for annulment before any can be annulled.

Some misdemeanors carry a lengthier annulment period. A misdemeanor sexual assault, for example, may be annulled, but not for ten years. Likewise, Driving While Intoxicated offenses carry an annulment period of ten years rather than three.

If you are attempting to annul a motor vehicle offense, an entirely separate annulment period applies. There is a long list of offenses that cannot be annulled until seven years after the date of conviction. These include serious motor vehicle offenses such as reckless operation, operating after revocation, and conduct after an accident. Also included, however, are minor offenses such as speeding, driving without a valid license and a line violation. If you want to annul your assault or theft conviction, you must wait three years. The speeding ticket, however, will take seven years.

If your crime is eligible to be annulled and you have complied with the time limits, congratulations. Your next step is to go to the clerk's office in the court in which you were convicted. Ask for a petition to annul the record of your conviction. The clerks are happy to provide these forms along with an instruction sheet. You still need to gather quite a bit of information. Besides your personal information, you will have to provide the docket number, the date of the offense, the date of conviction, the date you finished the terms of your sentence, the statute number and what the sentence was. The clerk can help you find this information in your file.

Once you have filled out the form, you will then have to file it along with the filing fee of \$50 and an additional fee of \$100 is required so that the probation department can determine whether you are eligible. The investigating probation officer will send you a questionnaire which asks for even more information and even includes several essay questions. This, too, must be returned.

Once all of the paperwork is submitted, it is presented to a judge. The judge may have no problems and grant the petition without a hearing. On the other hand, the judge may want you to appear in court to give both you and the prosecutor the chance to be heard. The hearing is quite informal and you may be asked further questions.

Assuming all goes well, several weeks later, you will receive a certificate of annulment.

The effect of an annulment is as if the conviction never occurred: you no longer have a criminal record. The conviction is erased from the computers. In fact, according to the law, if a person discloses to another the existence of an annulled conviction, that person has committed a misdemeanor.

New Hampshire also has a mechanism for annulling felony convictions. As those provisions are even more complicated, an analysis will have to await another article.

I urge you to take advantage of New Hampshire's annulment laws. It is worth the money and the effort to have a clean record.

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