

State Survey:

What States collect DNA on arrest and who is responsible for expunging DNA if applicable?

ALABAMA: Collects DNA [Code of Ala. § 36-18-25](#)

Requires Defendant to request Expungement

Upon the reversal of conviction, the director shall be authorized and empowered to expunge DNA records upon request of the person from whom the sample was taken.

[Code of Ala. § 36-18-26](#)

ALASKA: Collects DNA

Requires Defendant to request Expungement

(i) The Department of Public Safety shall destroy the material in the system relating to a person or minor on the written request of the person or minor, if the request is accompanied by a certified copy of a court order making the written findings required by this subsection.

[Alaska Stat. § 44.41.035](#)

ARIZONA: Collects DNA

Requires Defendant to request Expungement

J. If the conviction or adjudication of a person who is subject to this section or section 8-238 is overturned on appeal or postconviction relief and a final mandate has been issued, on petition of the person to the superior court in the county in which the conviction occurred, the court shall order that the person's deoxyribonucleic acid profile resulting from that conviction or adjudication be expunged from the Arizona deoxyribonucleic acid identification system established by section 41-2418 unless the person has been convicted or adjudicated delinquent of another offense that would requires the person to submit to deoxyribonucleic acid testing pursuant to this section.

[A.R.S. § 13-610](#)

ARKANSAS: Collects DNA

Requires Defendant to request Expungement

(a) (1) Any person whose DNA record has been included in the State DNA Database and whose DNA sample is stored in the State DNA Databank may apply to any circuit court for removal and destruction of the DNA record and DNA sample on the grounds that the adjudication of guilt that resulted in the inclusion of the person's DNA record in the database or the inclusion of the person's DNA sample in the databank has been reversed and the case dismissed.

[A.C.A. § 12-12-1113](#)

CALIFORNIA: Collects DNA

Requires Defendant to request Expungement

(b) Pursuant to subdivision (a), a person who has no past or present qualifying offense, and for whom there otherwise is no legal basis for retaining the specimen or sample or searchable profile, may make a written request to have his or her

specimen and sample destroyed and searchable database profile expunged from the data bank program if:

[Cal Pen Code § 299](#)

COLORADO: Collects DNA

Requires Defendant to request Expungement

(2) A person who qualifies for expungement under subsection (1) of this section may submit a written request for expungement to the Colorado bureau of investigation. The request shall include the items listed in this subsection (2) and may include any additional information that may assist the bureau in locating the records of arrest or charges or the biological substance sample or testing results. The following information shall be included in the submitted request:

[C.R.S. 16-23-105](#)

CONNECTICUT: Do not collect DNA on arrest

DELAWARE: Do not collect DNA on arrest

FLORIDA: Collects DNA

Requires Defendant to request Expungement

(16) Procedures for removal. --Unless the department determines that a person is otherwise required by law to submit a DNA sample for inclusion in the statewide DNA database, the department shall, upon receipt and completion of such verification of the information noted below as may be required, promptly remove from the statewide DNA database the DNA analysis and any DNA biological samples that may have been retained of a person included therein:

(a) On the basis of a conviction for a qualifying offense specified in subparagraph (2)(g)2., if the department receives, from the person seeking removal of DNA information from the statewide DNA database, for each qualifying offense, a certified copy of a final court order establishing that such conviction has been overturned on direct appeal or set aside in a postconviction proceeding; or

[Fla. Stat. § 943.325](#)

GEORGIA: Do not collect DNA on arrest

HAWAII: Do not collect DNA on arrest

IDAHO: Do not collect DNA on arrest

ILLINOIS: Collects DNA

Requires Defendant to request Expungement

(1) A petitioner may petition the circuit court to expunge the records of his or her arrests and charges not initiated by arrest when:

[20 ILCS 2630/5.2](#)

INDIANA: Do not collect DNA on arrest

IOWA: Do not collect DNA on arrest

KANSAS: Collects DNA

Requires the Defendant to request Expungement

(4) If a court later determines that there was not probable cause for the arrest, charge or placement in custody or the charges are otherwise dismissed, and the case is not appealed, the Kansas bureau of investigation, upon petition by such person, shall expunge both the DNA sample and the profile record of such person.

(5) If a conviction against a person, who is required to submit such specimen or sample, is expunged or a verdict of acquittal with regard to such person is returned, the Kansas bureau of investigation shall, upon petition by such person, expunge both the DNA sample and the profile record of such person.

[K.S.A. § 21-2511](#)

KENTUCKY: Do not collect DNA on arrest

LOUISIANA: Collects DNA

Require the Defendant to request Expungement

A. A person whose DNA record or profile has been included in the data base or data bank pursuant to this Chapter may request that his record or profile be removed on the following grounds:

(1) The arrest on which the authority for including his DNA record or profile was based does not result in a conviction or plea agreement resulting in a conviction.

(2) The conviction on which the authority for including his DNA record or profile was based has been reversed and the case dismissed.

[La. R.S. 15:614](#)

MAINE: Do not collect DNA on arrest

MARYLAND: Collects DNA

As of Dec. 2013, will require the Defendant to request Expungement

(a) In general. -- An individual whose DNA record or profile is included in the statewide DNA data base system and whose DNA sample is stored in the statewide DNA repository may request that information be expunged on the grounds that the conviction that resulted in the inclusion meets the expungement criteria specified in § 10-105 or § 10-106 of the Criminal Procedure Article.

[Md. PUBLIC SAFETY Code Ann. § 2-511](#)

MASSACHUSETTS: Do not collect DNA on arrest

MICHIGAN: Collects DNA

Does not put burden on State to expunge DNA, but State can request it if no longer necessary for investigation or prosecution

(a) The department receives a written request for disposal from the investigating police

agency or prosecutor indicating that the sample or profile is no longer necessary for a criminal investigation or criminal prosecution.

(b) The department receives a written request for disposal and a certified copy of a final court order establishing that the charge for which the sample was obtained has been dismissed or has resulted in an acquittal or that no charge was filed within the applicable limitations period.

[MCLS § 28.176](#)

MINNESOTA: Collects DNA

Requires Defendant to request Expungement

(a) The bureau shall destroy the biological specimen and return all records to a person who submitted a biological specimen under subdivision 1 but who was found not guilty of a felony. Upon the request of a person who submitted a biological specimen under subdivision 1 but where the charge against the person was later dismissed, the bureau shall destroy the person's biological specimen and return all records to the individual.

[Minn. Stat. § 299C.105](#)

MISSISSIPPI: Does not collect DNA on arrest

MISSOURI: Collects DNA

Requires Defendant to request Expungement

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this section, section 488.5050, and sections 650.050, 650.052, and 650.100 may request expungement on the grounds that the conviction has been reversed, or the guilty plea or plea of nolo contendere on which the authority for including that person's DNA record or DNA profile was based has been set aside.

[§ 650.055 R.S.Mo.](#)

MONTANA: Does not collect DNA on arrest

NEBRASKA: Does not collect DNA on arrest

NEVADA: Does not collect DNA on arrest

NEW HAMPSHIRE: Does not collect DNA on arrest

NEW JERSEY: Collects DNA

Requires Defendant to request Expungement

(1) Any person whose DNA record or profile has been included in the State DNA database and whose DNA sample is stored in the State DNA databank may apply for expungement on the grounds that the conviction that resulted in the inclusion of the person's DNA record or profile in the State database or the inclusion of the person's DNA sample in the State databank has been reversed and the case dismissed. The person, either individually or through an attorney, may apply to the court for expungement of the record. A copy of the application for expungement shall be served on the prosecutor for the county in which the conviction was obtained not less than 20 days prior to the date of

the hearing on the application. A certified copy of the order reversing and dismissing the conviction shall be attached to an order expunging the DNA record or profile insofar as its inclusion rests upon that conviction.

[N.J. Stat. § 53:1-20.25](#)

NEW MEXICO: Collects DNA

Requires Defendant to request Expungement of arrest information, no specific DNA expungement statute

A. A person may petition the department to expunge arrest information on the person's state record or federal bureau of investigation record if the arrest was for a misdemeanor or petty misdemeanor offense and the arrest was not for a crime of moral turpitude. If the department cannot locate a final disposition after contacting the arresting law enforcement agency, the administrative office of the courts and the administrative office of the district attorneys, the department shall expunge the arrest information.

[N.M. Stat. Ann. § 29-3-8.1](#)

NEW YORK: Does not collect DNA on arrest

NORTH CAROLINA: [N.C. Gen. Stat. § 15A-266.3](#)

NORTH DAKOTA: Collects DNA

Requires Defendant to request Expungement

1. An individual whose DNA profile has been included in the database under this chapter may petition the district court to seal the court record on the grounds that the arrest that led to the inclusion of the DNA profile has not resulted in a felony charge within one year; has been resolved by a dismissal, acquittal, or misdemeanor conviction; has not resulted in a felony conviction; or the conviction on which the authority for including the DNA profile was based has been reversed or the case dismissed

[N.D. Cent. Code, § 31-13-07](#)

OHIO: Collects DNA [ORC Ann. 2901.07](#)

OKLAHOMA: Does not collect DNA on arrest

OREGON: Does not collect DNA on arrest

PENNSYLVANIA: Does not collect DNA on arrest

RHODE ISLAND: Does not collect DNA on arrest

SOUTH CAROLINA: Collects DNA

Requires the State to start expungement process

(B) The solicitor in the county in which the person was charged must notify SLED when the person becomes eligible to have his DNA record and DNA profile expunged. Upon

receiving this notification, SLED must begin the expungement procedure.
[S.C. Code Ann. § 23-3-660](#)

SOUTH DAKOTA: Collects DNA

Does not put burden on State to expunge DNA

Upon receipt of written request for expungement; certified copy of the final court order reversing and dismissing the conviction or delinquency adjudication; and any other information necessary to ascertain the validity of the request, the South Dakota State Forensic Laboratory shall expunge all DNA records and identifiable information in the database pertaining to the person and destroy the DNA sample from the person, unless the South Dakota State Forensic Laboratory determines that the person has otherwise become obligated to submit a DNA sample.

[S.D. Codified Laws § 23-5A-29](#)

TENNESSEE: Collects DNA

Requires the Clerk to notify TBI of final disposition and TBI to destroy DNA if applicable

(2) The clerk of the court in which the charges against a person described in subdivision (e)(1) are disposed of shall notify the Tennessee bureau of investigation of final disposition of the criminal proceedings. If the charge for which the sample was taken is dismissed or the defendant is acquitted at trial, then the bureau shall destroy the sample and all records of the sample; provided, that there is no other pending qualifying warrant or capias for an arrest or felony conviction that would otherwise require that the sample remain in the data bank.

[Tenn. Code Ann. § 40-35-321](#)

TEXAS: Collects DNA

Requires Defendant to request Expungement

(a) The director shall expunge a DNA record of an individual from a DNA database if the person:

(1) notifies the director in writing that the DNA record has been ordered to be expunged under this section or Chapter 55, Code of Criminal Procedure, and provides the director with a certified copy of the court order that expunges the DNA record; or

[Tex. Gov't Code § 411.151](#)

UTAH: Collects DNA

Requires Defendant to request Expungement

(6) A person whose DNA specimen has been obtained under this part may, personally or through a legal representative, submit to the court a motion for a court order requiring the destruction of the person's DNA specimen and any criminal identification record created in connection with that specimen if:

[Utah Code Ann. § 53-10-406](#)

AND Bureau if:

(i) destroy a DNA specimen obtained under this part if criminal charges have not been filed within 90 days after booking for an alleged offense under Subsection 53-10-

403(2)(c); and
[Utah Code Ann. § 53-10-406](#)

VERMONT: Collects DNA

Requires the Court or Governor to start expungement process

(b) If any of the circumstances in subsection (a) of this section occur, the court with jurisdiction or, as the case may be, the governor, shall so notify the department, and the person's DNA record in the state DNA database and CODIS and the person's DNA sample in the state DNA data bank shall be removed and destroyed. The laboratory shall purge the DNA record and all other identifiable information from the state DNA database and CODIS and destroy the DNA sample stored in the state DNA data bank. If the person has more than one entry in the state DNA database, CODIS, or the state DNA data bank, only the entry related to the dismissed case shall be deleted. The department shall notify the person upon completing its responsibilities under this subsection, by certified mail addressed to the person's last known address.

[20 V.S.A. § 1940](#)

VIRGINIA: Collects DNA

Requires Defendant to request Expungement

A person whose DNA profile has been included in the data bank pursuant to § 19.2-310.2 may request expungement on the grounds that the felony conviction on which the authority for including his DNA profile was based has been reversed and the case dismissed. The Department of Forensic Science shall purge all records and identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of (i) a written request for expungement pursuant to this section and (ii) a certified copy of the court order reversing and dismissing the conviction.

[Va. Code Ann. § 19.2-310.7](#)

WASHINGTON: Does not collect DNA on arrest

WEST VIRGINIA: Does not collect DNA on arrest

WISCONSIN: Does not collect DNA on arrest

WYOMING: Does not collect DNA on arrest

Other Sources:

DNA Saves: 26 States Have Passed the Law, <http://www.katieslaw.org/> .