

## Frequently Asked Questions

### Restoration of Civil Rights, Firearm Rights, Setting Aside a Conviction and Undesignated Offenses

#### 1. **What rights are lost when a person is convicted of a felony? (A.R.S. § 13-904)**

A felony conviction suspends a person's civil rights. The person loses the right to vote, the right to hold public office of trust or profit, the right to serve as a juror and right to possess a firearm. A felony conviction may also prevent a person from obtaining business and professional licenses, government secured loans and housing.

#### 2. **Can a person restore their civil rights?**

##### **How do I know if I am eligible to restore my rights? (A.R.S. §§ 13-906, 907, 909, 910)**

A person's civil rights may be restored.

A person with only one felony conviction, whose civil rights were lost or suspended, will have their rights automatically restored upon completion of a term of probation, or receipt of an absolute discharge from imprisonment if the person paid all restitution imposed. Full payment of any other outstanding court-imposed fines, fees or assessments is not required prior to a court granting restoration of rights; however, the person is still responsible for paying any outstanding financial obligations in that case.

A person with only one felony conviction is still required to file an application with the Court in which they were sentenced to request restoration of the right to possess a firearm.

A person with two or more felony convictions must file the application to restore their civil rights and/or right to possess a firearm with the Court in which they were sentenced. A separate application will be required for each felony criminal case.

To exercise these rights once restored, the person must complete a Voter Registration Application (available on the ServiceArizona.com website if you have an Arizona Driver License or Arizona ID card issued by the Motor Vehicle Division; or Secretary of State online at azsos.gov; or from your County Recorder's Office). The application for voter registration will require you to affirm that you are not a convicted felon or that your civil rights are restored.

Selection of jurors is done randomly from a combination of the County's voter registration list and the Arizona Department of Transportation records. Once you have registered to vote your name will be added to the list of names for random jury selection.

#### 3. **What if my felony conviction was in another state?**

A person wishing to restore their civil rights must do so in the state in which the felony conviction occurred. Many states automatically restore a person's civil rights upon completion of probation or discharge from the department of corrections.

A person should contact the state in which the conviction occurred to obtain information regarding the restoration process.

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#### 4. What if I was convicted of a felony in federal court?

A person convicted of a felony in federal court may apply to restore their civil rights in the county in which they currently reside. Note that other federal laws may still prohibit possession of a firearm after a conviction for a federal offense even if the state grants a request to restore firearm rights. The state may not set aside a judgment of guilt for a federal conviction.

#### 5. What is setting aside a conviction? (A.R.S. § 13-905)

Upon completion of probation or sentence and once discharged by the court a person may file to have their judgment of conviction set aside. Setting aside a judgment of conviction releases the person from all penalties and disabilities resulting from the conviction.

Setting aside a conviction does not seal or expunge your record. The record is still accessible to the public. However, the record will have a notation stating that the conviction has been set aside. Some employers, landlords or other persons reviewing your background are more likely to view the setting aside of a conviction favorably. The setting aside of a conviction lets the employer know that the court is satisfied that the person has been rehabilitated.

The setting aside of a conviction does not apply to penalties and disabilities imposed as a result of a conviction for Department of Transportation offenses under A.R.S §§ 28-3304, 3305, 3306, 3307, 3308, 3312 or 3319 (license revocations and suspensions) or Game and Fish Commission offenses under A.R.S. §§ 17-314 or 340 (unlawful taking, wounding or killing certain wildlife).

A felony that has been set aside may be used at a subsequent trial as a prior felony conviction.

A judgment of guilt may not be set aside for persons convicted of criminal offenses designated as a dangerous offense; an offense for which the person is required to register pursuant to section A.R.S. § 13-3821; an offense for which there has been a finding of sexual motivation pursuant to A.R.S. § 13-118; a felony offense in which the victim is a minor under fifteen years of age; or an offense in violation of A.R.S. § 28-3473 (driving on a suspended, revoked or cancelled license), any title 28, chapter 3 offense (which includes traffic and vehicle regulation offenses) or any local ordinance relating to stopping, standing or operation of a vehicle. Note: a conviction for reckless driving under A.R.S. § 28-693 may apply to have a conviction set aside.

#### 6. Where can I get an application?

You may obtain applications for Restoration of Civil Rights or Setting Aside a Conviction from the Clerk of Court in the county in which you were convicted.

You may also find the application on-line at: [azcourts.gov](http://azcourts.gov) (see "Self-Service Center" "Forms & Instructions"). If your case was from Maricopa County Superior Court, the form may be accessed on the Maricopa County Superior Court Website; ([superiorcourt.maricopa.gov](http://superiorcourt.maricopa.gov)) from the Law Library Resource Center under Court Forms, Criminal Section. Carefully read over the form to ensure you know what information the form is requesting.

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#### 7. Where do I get a copy of my Absolute Discharge?

Certificate of Absolute Discharge from the Department of Corrections may be obtained by writing and requesting the records or visiting:

**Arizona Department of Corrections**  
1601 West Jefferson, MIC 112  
Phoenix, AZ 85007

The information will be mailed in three to six weeks. If you were discharged from the Federal Bureau of Prisons, you may obtain a copy of your discharge from your federal probation officer. If your application is being filed in Maricopa County, you may contact the restoration clerk at 602-506-4949 to assist with a federal conviction.

#### 8. Once I complete the application, then what?

After making a copy of the completed application and absolute discharge (if you were sentenced to the Department of Corrections), file the documents at the Clerk of the Court in the court in which you were sentenced.

The court will send you written notice of whether your request was granted or denied. It may take 90 days or more to get your notice.

If the court denies your application the court will provide you with the reason for the denial. If your application for Restoration of Civil Rights is denied you may file an application for reconsideration.

#### 9. My felony was reduced to a misdemeanor, but background checks are still showing that I have a felony. Why?

A criminal background check will include records of arrests by law enforcement agencies (police, sheriff, Department of Public Safety, etc.) and records of court actions from the court in which the case was filed.

If you were originally arrested or charged with a felony offense that was later reduced to a misdemeanor, the law enforcement record of the original felony arrest will not be changed.

If you were placed on probation for an undesignated offense, the offense is treated as a felony for all purposes until such time that the court actually enters an order designating the offense a misdemeanor.

Information regarding a person's Class 6 offense designation from a felony to misdemeanor is not routinely forwarded to anyone. This means that when background checks are done, the charges are still showing as felonies.

To resolve the situation, you need to make copies of the court order that designated the offense a misdemeanor and write a note requesting certain government entities update the information in their databases.

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Upon notification of the court order designating the offense a misdemeanor the Arizona Department of Public Safety will update the court record of disposition for the conviction to indicate the conviction was changed to a misdemeanor; however, the record of the original law enforcement arrest will still appear as an arrest for a felony.

Similar to a set aside, your record will have a notation stating that the conviction has been reduced to a misdemeanor. Some employers, landlords or other persons reviewing your background are more likely to view the fact that the conviction was reduced to a misdemeanor more favorably. Designation of the conviction from a felony to a misdemeanor lets the employer, landlords or other persons reviewing your record know that the court is satisfied that the person has been rehabilitated.

The three (3) entities that need to be contacted about this issue are:

**Arizona Department of Public Safety**

P.O. Box 6638  
Phoenix, AZ 85005-6638

**Federal Bureau of Investigation**

935 Pennsylvania Avenue, NW  
Washington, DC 20535

**Maricopa County Sheriff's Office**

100 West Washington, Suite 1900  
Phoenix, AZ 85003

OR: Sheriff's Office in the county in which you were arrested.

To ensure proper and faster routing of mail inquiries please write the subject relating to your inquiry on the outside of your envelope. They may send you an application that you will need to complete and return.