

Criminal Expungement for Sexually Exploited Individuals



What is Criminal Expungement?

Criminal expungement is the act of sealing criminal records, making them unavailable. This can be either a partial sealing of a record, meaning some government agencies may still see it, or a full sealing of a record from executive agencies and the public. The process begins by an individual requesting the court seal certain criminal records, and if an expungement is granted will end with court-ordered sealing of records within different agencies.

Am I eligible for criminal expungement?

- Once you have completed probation or parole without being convicted of another crime, depending on the specific type of conviction, there is a required wait time before you are eligible for expungement.
- Average waiting periods are
 - At least two years for misdemeanors
 - Four years for gross misdemeanors
 - Five years for expungement qualifying felonies
- Not all felony crimes are eligible for expungement.

What are the benefits of getting an expungement?

- Reduced stigma
- Greater access and freedom to:
 - Public housing
 - Employment (particularly positions involving licensure)
 - Social services benefits
 - Federal loans for education
 - Parental rights
- People with lived experience have this to say of the benefits of getting an expungement:
 - Fulfillment
 - Free oneself from stereotypical titles
 - Relief
 - Second chance



What is MN Statute 609A.03 subdivision 6a (AKA "The Nexus Statute")?

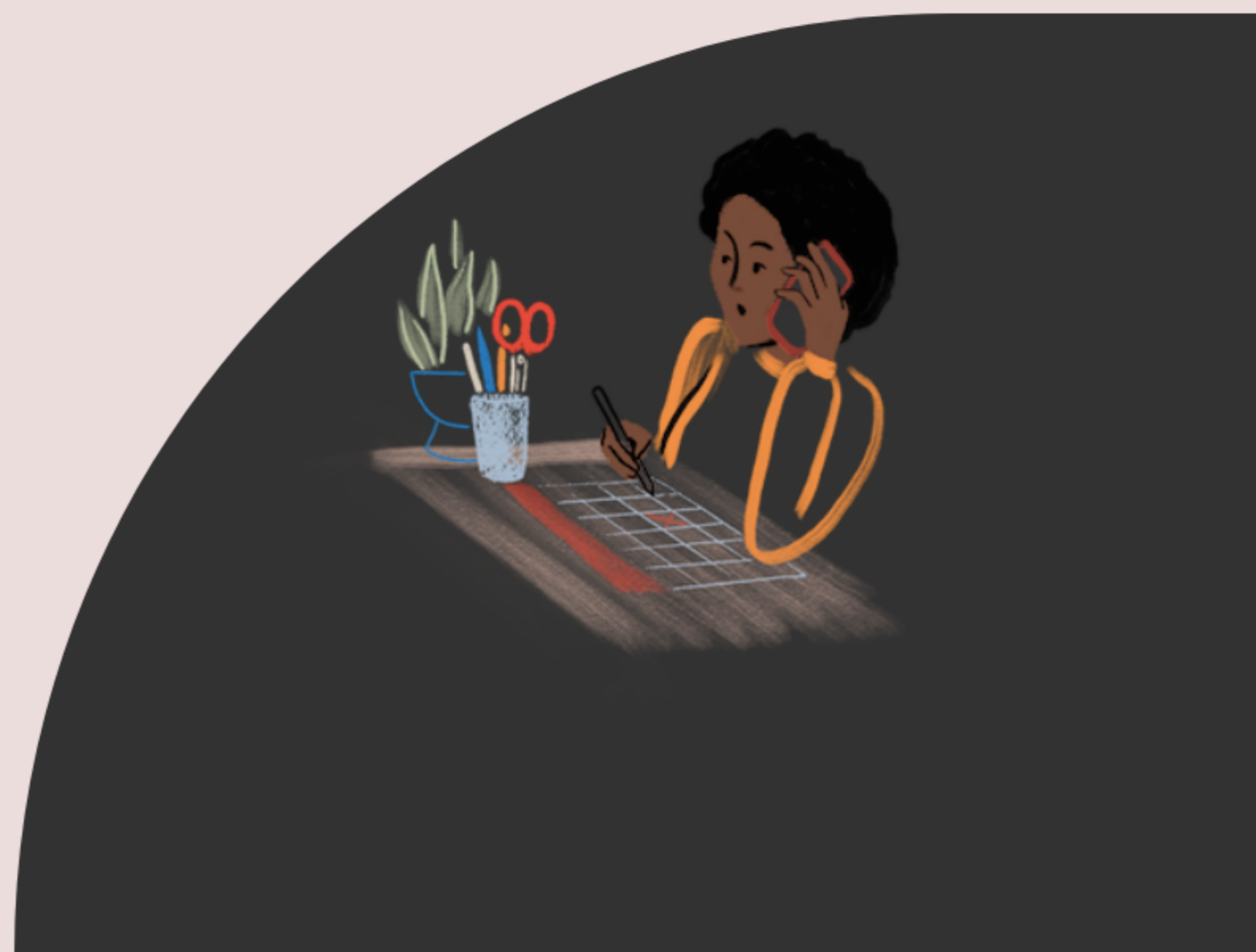
In Minnesota, there is a provision in the law intended to help people who have been sexually exploited and have prostitution or prostitution-related convictions get their records expunged. It's called MN Statute 609A.03 subdivision 6a, or the "Nexus Statute." The Nexus Statute acknowledges that some people with prostitution and prostitution-related charges/convictions may meet the "nexus" of being the victim of a crime while committing a crime.

With a regular expungement, records are sealed, but if the judge agrees that you meet the qualifications of the Nexus Statute, then the record is sealed AND you're able to deny that you ever had that record. So, on any form that you fill out which asks "Have you ever been convicted of a crime?" you can answer, "No."

How can I use the "Nexus Statute"?

In the expungement petition form, Question 16 states, *"Please explain any mitigating or aggravating factors relating to the underlying crime, including your level of participation, the context and circumstances of the underlying crime, and what risk, if any you pose to individuals or society."* This can be a place you talk about the "nexus" of being the victim of a crime while committing a crime by speaking about trafficking/exploitation.

In a typical expungement petition, the court is looking for accountability as one factor they consider. So even if you use subdivision 6a, it is still important to indicate responsibility for your actions. Your answer to question 16 can prompt a judge to consider subdivision 6a in their order, thereby allowing you to deny the record ever existed.



Does the "Nexus Statute" apply to me?

People affected by sexual exploitation can and should use this subdivision. With prostitution and prostitution-related charges, you meet this "nexus" by having committed crimes while being a victim of a crime.



What are some important things to know about the expungement process?

- The expungement process can vary by county, which can make the process more challenging if a person has records in many counties.
- Costs to file an expungement petition for each case can vary and are high. There is a way to request a fee waiver, which would remove the cost altogether.
- Expungement is complicated and hard to accomplish without legal representation.
- There are risks to seeking expungement for people with active warrants or those who are undocumented. Seeking pro bono legal support can be helpful in these instances.
- It is common to have convictions in many states, but this expungement process is specific to Minnesota.

Where can I go for more information?

- Central Minnesota Legal Services - <https://www.centralmnlegal.org/>
- Law Help MN - <https://www.lawhelpmn.org/>
- Legal Rights Center - <https://www.legalrightscenter.org/>
- Mid-Minnesota Legal Aid - <https://mylegalaid.org/>
- Self-Help Center - <http://www.mncourts.gov/Help-Topics/Self-Help-Centers.aspx>
- Southern Minnesota Regional Legal Services - <https://www.smrls.org/#>
- Volunteer Lawyers Network - <https://www.vlnmn.org/>

Consider googling “Criminal Expungement Clinics MN” to find some clinics in your area.

For an overview of the expungement process: <https://www.cura.umn.edu/project/reimagining-expungement>

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