



EXPUNGEMENT DOCUMENTS ENTERED 7/15/2016 – 1/11/2022 STATEWIDE

January 19, 2022

Statistics Request Overall Description

On January 8, 2022, the League of Women Voters requested a report on expungement documents entered since 7/15/2016 (the effective date of House Bill 40 from the 2016 Regular Session of the Kentucky General Assembly).

CourtNet, which provides a summary of Kentucky court cases statewide, was queried for the specific document codes for the petitions and applications for expungement documents (PEXC, AFEX, PEXA, OAE, or PEX) which were entered within criminal cases July 15, 2016 through December 31, 2021 statewide. Those cases were then queried to check for an order granting/denying expungement documents (OFXG, OFXD, OEXG, OEXD, OG or OD) up until the date this report was generated, January 19, 2022. CourtNet was also queried for automatic expungement documents (OAE or DOE) entered statewide for the same timeframe.

1. Expungement for Felony Conviction

Expungement for class D felony convictions and executive pardons in KRS 431.073¹

The felony conviction expungement law (2016 HB40), which came into effect on July 15, 2016, created a process for the expungement of *class D felony convictions* and for offenses that receive executive pardons.

The felony conviction expungement process has three court documents:

- **AFEX** is used for the application for such expungements of felony convictions.
- **OFXG** is used when such expungements are granted
- **OFXD** is used when such expungements are denied

2. Expungement

Expungement of convictions for misdemeanor, violation and traffic infraction KRS 431.078²

Expungement of charges acquitted or dismissed *without prejudice* 431.076(1)(b) and

Expungement of felony charges in District Court not resulting in indictment 431.076 (1)(c)³

¹ See KRS 431.073 (2016 HB 40) at <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=49358>

² See KRS 431.078 at <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=45221>

³ See KRS 431.076 (1)(b) & (c) <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=50191>

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The process that allows petition for the expungement of conviction for certain misdemeanors or traffic violations and infractions (including dismissed or amended charges), for the expungement of criminal offense charges acquitted or dismissed *without prejudice*, and for the expungement of felony charges in District Court not resulting in indictment.

- **PEXA** document applies to the expungement of a criminal charge that was not disposed as a conviction including felony charges in district court not resulting in indictment.
- **PEXC** pertains to expungement of a convicted misdemeanor, violation, or infraction.
- **PEX** prior code to PEXA and PEXC, may currently still be used erroneously.
- **OEXG/OEX** document is used to indicate the granting of either expungement petition.
- **OEXD** document is used to indicate the denial of either expungement petition.

3. Automatic Expungement

Automatic expungement process in KRS 431.076 (1)(a)⁴

The automatic expungement law (2020 HB 327), which came into effect on July 15, 2020, requires an automatic expungement of records upon the expiration of thirty (30) days after a court enters an order of acquittal of criminal charges against a person or enters an order dismissing *with prejudice* all criminal charges in a case against a person (not in exchange for a guilty plea to another charge), unless the person objects to the expungement. Traffic infractions not otherwise classified as a misdemeanor are not eligible for automatic expungement. A petition is not required by the person.

- **OAE** document is used when a charge is automatically expunged under KRS 431.076(1)(a).
- **DOE** document When a person objects to the automatic expungement process.

Expungement Process	Petition/Application Document Codes	Grant/Deny/Objection Document Codes
Expungement for Felony Convictions KRS 431.073	(AFEX) Application to Vacate and Expunge Felony Conviction	(OFXG) Order Felony Expungement Granted (OFXD) Order Felony Expungement Denied
Expungement for Convictions for misdemeanor, violation and traffic infraction KRS 431.078, Charges acquitted or dismissed <i>without prejudice</i> KRS 431.076 (1)(b), and Felony charges in District Court not resulting in indictment KRS 431.076(1)(c)	(PEXA) Petition to Expunge Acquittal (applies to charges acquitted, dismissed without prejudice, and felony charges in District Court not resulting in indictment).	(OEX) Order for Expungement (OEXG) Order Granting Expungement (OEXD) Order Denying Expungement
	(PEXC) Petition for Expungement of Conviction (Misdemeanor, Violation, or Traffic Infraction).	

⁴ See KRS 431.076 (1)(a) (2020 HB 327) at <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=50191>

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	(PEX) Petition for Expungement prior code to PEXA and PEXC, may currently still be used erroneously.	
Automatic Expungement KRS 431.076(1)(a) (applies to cases with all charges acquitted or dismissed with prejudice.)	No petition/application needs to be filed. Note: This process began in CY 2020 and will not appear in the count of petition documents for prior calendar years.	(OAE) Order Granting of Automatic Expungement (DOE) Order of Defendant’s Objection to Expungement

Statistical Table (22_RS3007)

The statistical report provides counts of the expungement petition and order documents entered during the timeframe (7/15/2016 – 1/11/2022). Each table is sorted according to which expungement process is used (2016 HB40 Expungement, Automatic Expungement, or Other Expungement). Separate counts are provided for the total number of documents as well as the distinct number of cases.

Page 1 provides a statewide count for Circuit Court petition documents entered. (The automatic expungement process does not require the filing of a petition and will not appear in the count of petition documents.)

Page 2 provides a statewide count for District Court petition documents entered. (The automatic expungement process does not require the filing of a petition and will not appear in the count of petition documents.)

Page 3 provides a statewide count for expungements granted and denied in Circuit Court.

Page 4 provides a statewide count for expungements granted and denied in District Court.

Statistical Analysis Considerations:

- The statistics presented in the attached tables are a snapshot in time, as of January 19, 2022.
- The software used to record the filings of these document types does not contain any restrictions that the correct document type be used in relation to any given charge, and as such, some document types may be entered erroneously. For instance, many orders of OFXG or OFXD may be preceded by the petition used for the pre-HB 40 expungement process rather than the correct AFEX, leading to underreporting of petition documents. In other instances, an order granting or denying an expungement in a case may not be preceded by a petition document at all.
- When a case or charge is expunged, a process programmed within the software creates the appropriate ‘expungement granted’ document code. In some cases, this may result in duplicate entry when the documents are entered manually as well as processed automatically. For this reason, counts of granted expungements may be artificially high.
- A single expungement order of a felony conviction may apply to both a Circuit Criminal case and a District Felony case pertaining to the same defendant and incident.

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Statistical Table (22_RS3007)

Data Variables Requested

Database	Data Variable	Description
CourtNet	Calendar Year (CY)	The calendar year (January 1 through December 31) in which each document was entered. This report is for the timeframe of 7/15/2016 through 1/11/2022.
	Jurisdiction	The jurisdiction in which the case associated with a given document was entered (Circuit or District Court).
	Document Type	The type of document counted, indicated by code (see document type code descriptions above).
	Expungement Process	Distinguishes documents related to the various expungement processes available in Kentucky: <ol style="list-style-type: none"> 1. <u>Expungement for Felony Conviction</u> <ul style="list-style-type: none"> • Expungement for class D felony convictions and executive pardons in KRS 431.073 2. <u>Expungement</u> <ul style="list-style-type: none"> • Expungement of convictions for misdemeanor, violation and traffic infraction KRS 431.078 • Expungement of charges acquitted or dismissed <i>without prejudice</i> 431.076(1)(b) and • Expungement of felony charges in District Court not resulting in indictment 431.076 (1)(c) 3. <u>Automatic Expungement</u> <ul style="list-style-type: none"> • Automatic expungement process in KRS 431.076 (1)(a)
	Document Group	Distinguishes petition documents (AFEX, PEXA, PEXC), documents of expungement order granted (OFXG, OEXG, OAE), documents of expungement order denied (OFXD, OEXD) and objection to automatic expungement process (DOE).
	Documents	A count of the total number of documents entered.
	Cases	The total number of distinct cases referenced in any of these documents.

Disclaimer Associated with KCOJ/AOC Database(s) and Element(s)

RESEARCH AND STATISTICS DISCLAIMER

Information received from KYCourts/CourtNet is subject to change(s), reprogramming, modification(s) of format and availability at the direction of the Administrative Office of the Courts (AOC), and may not at any particular moment reflect the true status of court cases due to ordinary limitation(s), delay(s) or error(s) in the system's operation. The KYCourts/CourtNet database is not a real-time

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system. All datasets are a snapshot of case data at the time a query is run. Case counts are not counts of individuals as some persons may have multiple cases.

The AOC disclaims any warranties as to the validity of the information obtained from KYCourts/CourtNet. The recipient is solely responsible for verifying information received from KYCourts/CourtNet through the cross-referencing of official court records. The AOC shall not be liable to the recipient, or to any third party using the system or information obtained therefrom, for any damages whatsoever arising out of the use of KYCourts/CourtNet.



ADMINISTRATIVE OFFICE OF THE COURTS
Research and Statistics
 Expungement Petition Documents 7/15/2016 - 1/11/2022
STATEWIDE

22_RS3007

CIRCUIT COURT

		2016 HB40 Expungements		Other Expungements			Grand Total	
		APPLICATION TO VACATE AND EXPUNGE FELONY CONVICTION	Total	PETITION FOR EXPUNGEMENT	PETITION FOR EXPUNGEMENT/ ACQUITTAL	PETITION FOR EXPUNGEMENT/ CONVICTION		
						Total		
2016	Documents	711	711	33	311	130	474	1,185
	Cases	691	691	32	304	128	446	1,118
2017	Documents	720	720	41	919	234	1,194	1,914
	Cases	703	703	41	892	228	1,115	1,778
2018	Documents	565	565	21	922	211	1,154	1,719
	Cases	547	547	21	889	207	1,078	1,592
2019	Documents	777	777	34	1,110	239	1,383	2,160
	Cases	759	759	34	1,076	236	1,323	2,024
2020	Documents	1,090	1,090	23	1,102	253	1,378	2,468
	Cases	1,046	1,046	23	1,073	247	1,324	2,326
2021	Documents	862	862	48	933	181	1,162	2,024
	Cases	848	848	48	909	180	1,117	1,936
2022	Documents	17	17	1	24		25	42
	Cases	17	17	1	24		25	42
Total	Documents	4,742	4,742	201	5,321	1,248	6,770	11,512
	Cases	4,521	4,521	200	5,113	1,213	6,342	10,581

Statistical Analysis Considerations:

*Data is provided from the CourtNet database.

*The data presented is a snapshot in time as of January 19, 2022.

*The automatic expungement process does not require the filing of a petition and will not appear in the count of petition documents.

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DISTRICT COURT

		2016 HB40 Expungements		Other Expungements			Grand Total	
		APPLICATION TO VACATE AND EXPUNGE FELONY CONVICTION	Total	PETITION FOR EXPUNGEMENT	PETITION FOR EXPUNGEMENT/ ACQUITTAL	PETITION FOR EXPUNGEMENT/ CONVICTION	Total	
2016	Documents	12	12	758	1,827	1,430	4,015	4,027
	Cases	11	11	755	1,801	1,403	3,882	3,891
2017	Documents	9	9	624	6,468	4,265	11,357	11,366
	Cases	9	9	619	6,329	4,193	10,940	10,947
2018	Documents	3	3	471	6,875	4,271	11,617	11,620
	Cases	3	3	461	6,801	4,178	11,226	11,229
2019	Documents	17	17	460	8,414	4,681	13,555	13,572
	Cases	16	16	449	8,226	4,607	13,129	13,143
2020	Documents	34	34	427	7,225	4,555	12,207	12,241
	Cases	34	34	425	7,111	4,483	11,855	11,887
2021	Documents	27	27	317	4,954	3,387	8,658	8,685
	Cases	27	27	313	4,855	3,341	8,363	8,384
2022	Documents	1	1	6	145	107	258	259
	Cases	1	1	6	145	107	256	257
Total	Documents	103	103	3,063	35,908	22,696	61,667	61,770
	Cases	101	101	3,023	35,114	22,087	59,150	59,235

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CIRCUIT COURT

		2016 HB40 Expungements			Automatic Expungements		Other Expungements			Grand Total
		Expungement Granted	Expungement Denied	Total	Expungement Granted	Total	Expungement Granted	Expungement Denied	Total	
2016	Documents	439	36	475			933	48	981	1,456
	Cases	396	36	432			714	44	750	1,058
2017	Documents	896	93	989			1,339	91	1,430	2,419
	Cases	792	91	876			1,096	87	1,172	1,930
2018	Documents	619	63	682			1,437	105	1,542	2,224
	Cases	562	62	619			1,215	101	1,307	1,839
2019	Documents	667	62	729			1,477	75	1,552	2,281
	Cases	570	62	627			1,242	74	1,311	1,839
2020	Documents	1,101	71	1,172	84	84	1,630	93	1,723	2,979
	Cases	910	70	974	79	79	1,378	92	1,462	2,354
2021	Documents	950	56	1,006	2,268	2,268	1,477	65	1,542	4,816
	Cases	813	55	861	1,899	1,899	1,272	62	1,328	3,917
2022	Documents	39	7	46	104	104	33	3	36	186
	Cases	36	7	42	89	89	30	3	33	160
Total	Documents	4,711	388	5,099	2,456	2,456	8,326	480	8,806	16,361
	Cases	4,041	379	4,347	2,065	2,065	6,915	450	7,286	12,874

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DISTRICT COURT

		2016 HB40 Expungements			Automatic Expungements		Other Expungements			Grand Total
		Expungement Granted	Expungement Denied	Total	Expungement Granted	Total	Expungement Granted	Expungement Denied	Total	
2016	Documents	25		25			7,110	214	7,324	7,349
	Cases	25		25			6,082	208	6,274	6,292
2017	Documents	169	5	174			14,871	407	15,278	15,452
	Cases	164	5	169			13,652	401	13,985	14,114
2018	Documents	177	6	183			15,591	362	15,953	16,136
	Cases	164	6	170			14,368	357	14,681	14,824
2019	Documents	192	5	197			15,206	281	15,487	15,684
	Cases	185	5	190			13,894	276	14,146	14,296
2020	Documents	206	4	210	2,909	2,909	14,585	196	14,781	17,900
	Cases	204	4	208	2,862	2,862	13,338	194	13,514	16,532
2021	Documents	235	3	238	10,375	10,375	13,563	181	13,744	24,357
	Cases	231	3	234	9,787	9,787	12,381	181	12,546	22,370
2022	Documents	9		9	419	419	309	1	310	738
	Cases	9		9	413	413	284	1	285	707
Total	Documents	1,013	23	1,036	13,703	13,703	81,235	1,642	82,877	97,616
	Cases	982	23	1,005	13,050	13,050	73,856	1,602	75,062	88,747

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