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Research and Statistics
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ESTIMATED CLASS D FELONY CONVICTION EXPUNGEMENT ELIGIBILITY

CONVICTIONS OF CLASS D FELONY OFFENSES ELIGIBLE PER EXPUNGEMENT PER KRS 431.073

December 28, 2023

By

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Statistics Request Description

On October 24, 2023, Research & Statistics received a request from the Administrative Office of the Courts Chief Information Officer for a report estimating the number of convictions of Class D Felony offenses eligible for expungement under KRS 431.073¹.

CourtNet, which provides a summary of court cases statewide, was queried for charges of those Class D Felony offenses in the attached list convicted (*Charge Disposition Guilty, Guilty – Sealed Sentence, or Guilty – Multiple Counts*). For these charges, Case, Charge, Sentence, and Defendant information was queried. There were no date limits applied to the query.

An additional query was run to identify any convictions of Felony or Misdemeanor offenses against the defendants identified in the first query between the original conviction's sentence and date of anticipated eligibility, as well as any Circuit Criminal, District Felony, or District Misdemeanor cases pending as *Original Pending, Re-Opened, Active Diversion, Fugitive, Failure to Appear, Administrative Procedure, or Grand Jury* as of the date of the query (12/28/2023). Defendants were matched using Criminal History Key.

Completeness of Cases Filed Prior to 7/1/2002

The implementation of the Sustain application followed by the implementation of the first KYCourts application corresponded to a gradual transition of practice leading up to the point in 2002 when all cases filed in the Kentucky Court of Justice were entered into the CourtNet database rather than being exclusively hand-counted for caseload reporting. While many Circuit Criminal cases filed before the end of this transition are included in the CourtNet database and are able to be counted in this report, data entry is not considered comprehensive until July 1, 2002. Cases filed prior to this date may not necessarily be included in CourtNet and such cases cannot be included in this report.

¹ KRS 431.073: Certain felony convictions may be vacated and the records expunged -- Application -- Hearing -- Vacating conviction without a hearing -- Order to vacate and expunge -- Application form -- Fees -- Retroactivity. <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=53904>

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KRS 431.073 Expungement Eligibility

The results of the query above are used to determine expungement eligibility under KRS 431.073 as follows:

Eligible Offenses:

The attached list is limited to Class D Felony offenses excluding those indicated as ineligible for expungement under KRS 431.073(1)(d). The query is limited to offenses with UOR codes appearing on this list.

Eligibility Date:

The date of anticipated incarceration sentence completion is calculated using CourtNet sentence data.

Entries of sentence converted to a number of days, with entries of years multiplied by 365.24 and entries of months multiplied by 30.44.

The total number of days in a sentence is then calculated as the sum of the number of days sentenced *Jail or Prison, Home Incarceration, Supervised Probation, and Unsupervised Probation* less the sum of the number of days of suspended *Jail or Prison, suspended Home Incarceration, and Credit Time Served*. If the sum of the number of days of suspended *Jail or Prison, suspended Home Incarceration, and Credit Time Served* is greater than the sum of total number of days sentenced to *Jail or Prison and Home Incarceration*, then this combined sum is considered to be zero days (rather than a negative number) before any days of *Supervised Probation or Unsupervised Probation* are added.

The date of projected sentence completion is calculated by adding this number of days to the Sentence Date.

The date of projected expungement eligibility is then calculated by adding 1,826 days (i.e., five years) to the date of projected sentence completion.

The results of the subsequent query are incorporated so as to classify those defendants who had one or more Felony or Misdemeanor level convictions between their most recent Class D Felony conviction's Sentence Date and date of projected expungement eligibility and those who have at least one pending criminal case as of the date of the query separately from those that are potentially currently eligible and those who may be eligible once a future projected eligibility date is reached.

Known Limitations:

- Court records data as entered in CourtNet reflects only information about the sentence as originally set in court. The custodian of record of actual sentence completion is the Department of Corrections, and the true date of sentence completion is not reportable by KCOJ/AOC.
- Some elements of some offenses ineligible for expungement are not part of the offense as

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KRS 431.073 Expungement Eligibility

defined by the Uniform Offense Reporting (UOR) Code. Elements outside of defined UOR codes cannot be utilized in AOC reporting. These limitations include:

- Offenses committed against children,
- Offenses resulting in bodily injury or death.
- Data entry reflecting State Supervised Probation sentences in counties that use the KYCourts application are not replicated to the reporting server used by Research & Statistics and cannot be incorporated into the projected sentence/probation completion date or projected eligibility dates used in this report.
- Subsequent convictions and pending cases cannot be identified with the methodology employed in this report if the defendant in the case including the original Class D Felony conviction does not have an associated criminal history key as of the date of the query.
- In addition to having one or more convictions of Class D Felony offenses eligible for expungement, some defendants may also have convictions of more serious felonies or Class D Felony offenses ineligible for expungement. It should therefore not be assumed that all defendants presumed eligible for at least one expungement of a Class D Felony conviction would therefore have a clear record or become eligible to vote in Kentucky elections.

Statistical Report 23_RS8047

The statistical report consists of a single page including two cross-tabulations and a bar chart visualization.

The smaller table at the top of the page presents the overall number of defendants, cases, and Class D Felony convictions (charges) grouped by *Person Eligibility* as defined below.

The bar chart beneath this table presents the proportion and percentage of the reported defendants having each classification of *Person Eligibility* with the horizontal size of each colored section of the bar representing this proportion.

The larger table at the bottom of the page further divides the counts in the first table by whether the associated cases were filed before or after 7/1/2002 and the manner by which distinct defendants were identified in CourtNet.

Statistical Analysis Considerations:

- These statistics represent a snapshot in time as of the date the data was queried (12/28/2023).
- The field *Person Eligibility* in this report classifies defendants by the first ineligibility or eligibility criterion identified in the order described in the definition below. It is possible for a defendant to have more than one ineligibility criterion at a time, but only the first-identified is provided in this report.

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Statistical Report 23_RS8047

- *Person Eligibility* is assessed in reference to each defendant's most recent Class D Felony conviction. A defendant may have more than one such conviction.
- 15,891 of the reported convictions (1.8%) are in District Court cases, whereas felony convictions should exclusively be in Circuit Court cases.

Data Fields

Database	Data Variable	Description
CourtNet	Person Eligibility	<p>Indicates the best available assessment of eligibility or ineligibility for KRS 431.073 expungement based on the eligibility factors described above. Each defendant is classified by the first of the criteria below to be satisfied.</p> <ul style="list-style-type: none"> • Sentence / Probation Projected Incomplete: The projected date of completion of the defendant's most recent sentence for a Class D Felony conviction is in the future, meaning the defendant is not yet eligible for expungement. • Subsequent Felony Conviction: The projected completion date of the defendant's most recent sentence for a Class D Felony is past, but they have at least one conviction of a felony between their most recent Class D Felony Sentence Date and the date of projected expungement eligibility, meaning the defendant is not eligible for expungement. • Subsequent Misdemeanor Conviction: The projected completion date of the defendant's most recent sentence for a Class D Felony is past and the defendant has not had any felony convictions between the date of this sentence and the date of their projected expungement eligibility, but the defendant has had at least one conviction of a misdemeanor between their most recent Class D Felony Sentence Date and the date of projected expungement eligibility, meaning the defendant is not eligible for expungement. • Pending Case as of 12/28/2023: The projected completion date of the defendant's most recent sentence for a Class D Felony is past and the defendant has not had any felony or misdemeanor convictions between the date of this sentence and

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Data Fields		
Database	Data Variable	Description
		<p>the date of their projected expungement eligibility, but the defendant has at least one case pending as <i>Original Pending, Re-Opened, Active Diversion, Fugitive, Failure to Appear, Administrative Procedure, or Grand Jury</i> as of the date of the query (12/28/2023), meaning they are not currently eligible for expungement.</p> <ul style="list-style-type: none"> • Less than Five Years Since Projected Completion of Sentence or Probation: The projected completion date of the defendant’s most recent sentence for a Class D Felony is past, the defendant has not had any felony or misdemeanor convictions between the date of this sentence and the date of their projected expungement eligibility, the defendant has no pending cases as described above as of the date of the query (12/28/2023), but five years have not passed since the projected completion date of the defendant’s most recent sentence for a Class D Felony conviction, meaning the defendant is not yet eligible for expungement. • Potentially Eligible: Five years have passed since the date of the defendant’s most recent sentence for a Class D Felony, the defendant has not had any felony or misdemeanor convictions between the date of this sentence and the date of their projected expungement eligibility, and the defendant has no pending cases as described above as of the date of the query (12/28/2023), meaning that the defendant may be eligible for KRS 431.073 expungement according to the available data.
	Defendant Identification	<p>The data point used to uniquely identify this defendant, according to a hierarchy of validity. Each defendant is identified by the most valid data point available according to this hierarchy:</p> <ol style="list-style-type: none"> 1. Criminal History Key* 2. Social Security Number 3. Driver’s License Number 4. Name with date of birth 5. Name without date of birth 6. Generic Identifier (Expunged, Record Destruction, John Doe – these are excluded from this report)

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Data Fields		
Database	Data Variable	Description
		<p>*The criminal history key is a system generated number that utilizes the other data points indicated in this hierarchy to match defendants across cases as part of the process used by the AOC Department of Records to conduct background checks.</p>
	Case Filing Date	The date the case was filed. This report differentiates between cases filed before and after 7/1/2002 since electronic records are incomplete before this date.
	Identification	<p>The data point used to uniquely identify this defendant, according to a hierarchy of validity. Each defendant is identified by the most valid data point available according to this hierarchy:</p> <ol style="list-style-type: none"> 1. Criminal History Key* 2. Social Security Number 3. Driver's License Number 4. Name with date of birth 5. Name without date of birth 6. Generic Identifier (Expunged, Record Destruction, John Doe – excluded from this report) <p>*The criminal history key is a system generated number that utilizes the other data points indicated in this hierarchy to match defendants across cases as part of the process used by the AOC Department of Records to conduct background checks.</p>
	Defendants	The number of unique identifiers (Criminal History key, Name and Date of Birth, etc.) as defined above appearing among the reported convictions
	Cases	The number of unique cases including any of the reported convictions.
	Charges	The number of distinct convictions of Class D Felony offenses.

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

RESEARCH AND STATISTICS DISCLAIMER FOR COURTNET

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

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 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.

RESEARCH AND STATISTICS UOR CODE DISCLAIMER

The Kentucky State Police (KSP) assigns the Kentucky Uniform Crime Reporting Codes (UOR Codes) to criminal offenses in the Commonwealth of Kentucky. The KSP official list of UOR Codes by KRS number and descriptor can be obtained at the KSP's website at www.kentuckystatepolice.org.

The AOC assigns and maintains codes that are used within the Court of Justice Case Management System for statistical and reporting purposes. These codes are used to identify local and city ordinances, as well as codes for general administrative purposes. The AOC official list of UOR Codes with KRS number and descriptor can be obtained at the Court of Justice Website at courts.ky.gov/aoc/statisticalreports. The AOC UOR Code Listing is for informational purposes only and the information is subject to change, reprogramming, modifications of format, and availability at the direction of the Administrative Office of the Courts (AOC).

A query for data based on specified charges will include each UOR code specified and possible supplemental codes. Supplemental codes (or "ASCF" codes) to any UOR code include: 1) attempt, 2) solicitation, 3) conspiracy, 4) facilitation, 5) complicity, and 6) enhancement. In total, UOR codes contain seven digits. The first six digits are specific to that charge. The seventh digit indicates if there is a supplemental code. A "0" as the seventh digit means that is the primary UOR code and it does not have a supplemental code. If there are supplemental codes, the "0" will change to a 1, 2, 3, 4, 5, or 6 (the numbering corresponds to the list above). An enhancement does not exist on all UOR codes. When a supplemental code does not appear within a dataset, charge(s) did not occur during this period. The presence of "*obs" within the description of a UOR code indicates an obsolete UOR code. However, the code is still present within the KYCourts/CourtNet database and may still be utilized. Not every UOR code included in the query will have charges associated with it in each calendar year examined. Some cases may contain multiple charges; therefore, charge counts may exceed case counts. The number of cases cannot be inferred as the number of individuals as multiple cases may have the same defendant.

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

The AOC disclaims and makes no warranty, express or implied, nor assumes any legal liability or responsibility, for the validity, accuracy, correctness, or completeness of any information that is available and/or obtained through this listing. The recipient is solely responsible for verifying the accuracy of the information received from the official owner of the UOR Codes, the KSP. Furthermore, the AOC shall not be liable to the recipient, the recipient's heirs and assigns, next of kin or to any third party, for any and all claims, demands, losses or damages arising from the usage of this list and/or information contained therein.

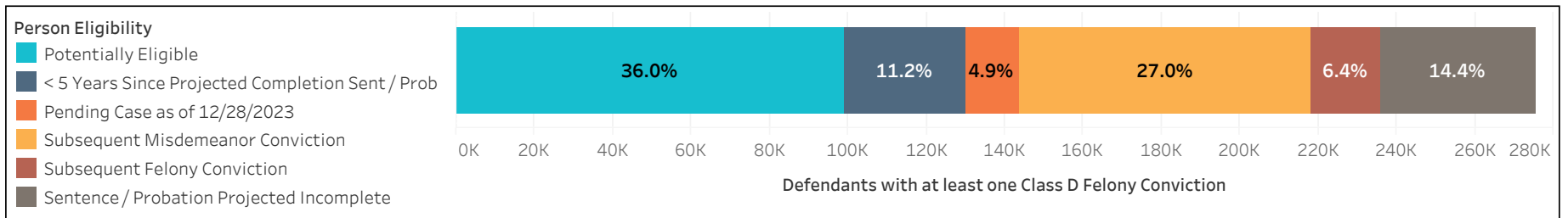


ADMINISTRATIVE OFFICE OF THE COURTS
Research and Statistics

23_RS8047

Estimated Class D Felony Conviction Expungement Eligibility
Convictions of Class D Felony Offenses Eligible for Expungement Per KRS 431.073

Person Eligibility	Defendants	Cases	Charges
Potentially Eligible	99,238	135,817	240,274
< 5 Years Since Projected Completion Sent / Prob	30,961	65,621	106,504
Pending Case as of 12/28/2023	13,587	30,358	49,034
Subsequent Misdemeanor Conviction	74,506	144,075	240,864
Subsequent Felony Conviction	17,568	32,403	52,451
Sentence / Probation Projected Incomplete	39,683	107,628	175,569
Grand Total	275,543	515,902	864,696



Filing Group	Person Eligibility	Criminal History Key			Defendant Identification			Grand Total		
		Defendants	Cases	Charges	Defendants	Cases	Charges	Defendants	Cases	Charges
Filed On/After 7/1/2002	Potentially Eligible	42,517	57,498	106,033	2,638	2,753	4,672	45,155	60,251	110,705
	< 5 Years Since Projected Completion Sent / Prob	30,704	60,643	97,068	229	240	367	30,933	60,883	97,435
	Pending Case as of 12/28/2023	12,033	25,383	40,177				12,033	25,383	40,177
	Subsequent Misdemeanor Conviction	58,221	103,936	168,329				58,221	103,936	168,329
	Subsequent Felony Conviction	11,382	19,804	31,798				11,382	19,804	31,798
	Sentence / Probation Projected Incomplete	39,555	100,385	161,896	96	106	140	39,651	100,491	162,036
	Total	194,412	367,649	605,301	2,963	3,099	5,179	197,375	370,748	610,480
Filed Before 7/1/2002 (Electronic Records Incomplete)	Potentially Eligible	44,822	58,423	106,770	15,053	17,143	22,799	59,875	75,566	129,569
	< 5 Years Since Projected Completion Sent / Prob	2,792	4,736	9,067	2	2	2	2,794	4,738	9,069
	Pending Case as of 12/28/2023	3,046	4,975	8,857				3,046	4,975	8,857
	Subsequent Misdemeanor Conviction	26,136	40,139	72,535				26,136	40,139	72,535
	Subsequent Felony Conviction	8,369	12,599	20,653				8,369	12,599	20,653
	Sentence / Probation Projected Incomplete	3,871	7,122	13,517	11	15	16	3,882	7,137	13,533
	Total	89,036	127,994	231,399	15,066	17,160	22,817	104,102	145,154	254,216

Statistical Analysis Considerations

* This report represents a rough approximation of what expungement eligibility might look like. The specificity of the numbers reported should not be interpreted as precision.

* Data provided from the CourtNet database.

* Report excludes 7,055 D Felony convictions that have gone through the record destruction process and 3,568 further convictions with missing or incomplete sentence information.

Run Date:

12/28/2023

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