EASTERN BAND OF CHEROKEE INDIANS
THE CHEROKEE COURT

On August 7, 2025, Tribal Council passed Ordinance No. 516 (2024) which creates a process for expungement in Cherokee Code § 15-15 for certain convictions in the Cherokee Court. To receive an expungement, you must meet certain eligibility requirements, file a Petition for Expungement Under C.C. § 15-15 (Form: CR-EXP-PET), and attend a hearing before a Judge. A Judge will enter an order denying or granting your Petition. A Judge may deny the Petition if you are not eligible or if expungement is not in the best interests of justice. A Judge may grant the Petition in whole (meaning that an expungement is granted for all the convictions listed in the Petition) or in part (meaning expungement is granted for some but not all of the convictions listed in the Petition).

This is an informational sheet created for educational purposes only and may not apply to your situation. Please read this informational sheet before filling out any forms. The Clerk's Office and Court staff cannot give you legal advice or help you fill out forms. If you have questions about whether you are eligible for an expungement or how an expungement may affect your immigration proceeding, you should speak with an attorney.

Criminal Expungements in Tribal Court

What is an expungement?
Expungement refers to the removal of a criminal conviction from a criminal record and the destruction of most court and law enforcement records related to the criminal case.

What happens after a Judge enters an Order granting an expungement?
An expungement of a conviction under Cherokee Code § 15-15 places you in the legal position you had prior to the conviction being expunged, so it is like the criminal case and conviction never happened legally. If your conviction is expunged under Cherokee Code § 15-15, you are not required to disclose that you were arrested for, charged with, or convicted of the offense which was expunged. You cannot be punished or denied employment for failing to disclose the expunged conviction. You can only receive an expungement under Cherokee Code § 15-15 once – but an order granting expungement can include all eligible convictions, and you may be eligible for other types of relief in the future depending on the circumstances and the law. Even if you have certain convictions which cannot be expunged, you can still seek expungement for those convictions which are eligible. You are not disqualified if you have received an expungement in another jurisdiction or under a different form of relief in the Cherokee Court.

Is the Cherokee Court the right place for my Petition?
To file for an expungement, your conviction must have been entered in the Cherokee Court – do not file for convictions from a state or federal or other tribal court.

How do I know if I have a "conviction"?
Under Cherokee Code § 15-15, a "conviction" is a guilty verdict or a plea of guilty, plea of nolo contendere (also known as a no contest plea), or plea of guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970). The conviction must be for either a misdemeanor or felony – do not file for civil traffic infractions or a civil domestic violence protection or no contact order. Dismissals and not guilty verdicts or pleas are <u>not</u> convictions under Cherokee Code § 15-15 and may not be expunged.

What convictions cannot be expunged?
Convictions for the following types of offenses cannot be expunged:

- An offense involving sexual assault, harassment, molestation, exploitation, or contact;
- An offense involving physical harm or bodily injury;
- An offense that is a crime of violence;
- An offense for which sex offender registration is required under the Cherokee Code, whether or not the registration period has ended;
- An offense for the crime of domestic violence as defined or designated in Cherokee Code 14-40.1;
- An offense involving embezzlement, theft, or fraud against the Tribe.

Am I eligible for an expungement under Cherokee Code § 15-15?
You may be eligible for expungement of one or more convictions if all of these requirements are met:

- At least one year has passed since the completion or satisfaction of the sentence, deferred judgment, or probation period for the conviction(s).
- You have not been convicted in any jurisdiction of a misdemeanor or felony offense since the date of the most recent conviction you are seeking to be expunged. A misdemeanor traffic conviction will not make you ineligible, unless it was for a driving while impaired offense.
- No criminal charges are pending against you in any jurisdiction.
- You have paid all financial obligations related to the conviction(s) as ordered by the Court or as assessed by the Clerk's Office – this may include but is not limited to court costs, fees, fines, and victim restitution.
- Expungement is in the best interests of justice.

What is the process if I want an expungement?

- Find two people who are not related to you to complete an Affirmation of Good Character and Reputation in Support of Petition for Expungement Under C.C. § 15-15 (Form: CR-EXP-AFM).
- Complete a Petition for Expungement Under C.C. § 15-15 (Form: CR-EXP-PET). The Petition is required by law to include certain information and must be "verified" meaning you signed the Petition before a notary and swore that all the information is true. The Clerk's Office has prepared packets for parties representing themselves without an attorney, which are now available for pick-up.
- File the two Affirmations and the Petition with the Clerk's Office and pay the $200 filing fee (unless you are requesting that the filing fee be waived in which case you must also complete and file an Application to Waive Expungement Filing Fee and Costs).
- The Clerk's Office will have five days to complete a Tribal and national background check and to determine whether you have previously received an expungement under Cherokee Code § 15-15.
- The Clerk's Office will serve a copy of your Petition and background check on the Tribal Prosecutor.
- The Tribal Prosecutor has ten days to file an objection to your Petition. The Tribal Prosecutor will serve you with a copy of their objection if they file one. An objection being filed does not mean that the Judge has denied your Petition.
- After the deadline to file an objection has passed, the Clerk's Office will set a hearing date for your Petition. The Clerk's Office will serve you and the Tribal Prosecutor with a notice of hearing.
- The Tribal Prosecutor's Office will identify any victim or victims in the criminal cases you list in the Petition and notify the victim(s) of the hearing. Victims have the right to attend the hearing and testify as to their view on expungement.
- Attend the hearing. You must prove to the Judge that you are eligible to receive an expungement for the conviction or convictions listed in your Petition and that expungement is in the best interests of justice.
- After the hearing, the Judge will determine whether you have proven eligibility and whether expungement is in the best interests of justice and will enter an order denying or granting your Petition.
- If the Judge enters an order granting your Petition, Tribal law enforcement agencies and the Tribal Prosecutor's Office will have sixty days to destroy all records related to the arrest, trial, plea or adjudication of guilt, conviction, probation, and appeal for each offense/conviction being expunged and to file a certification with the Clerk's Office that the records were destroyed.

How can I prove that expungement is "in the best interests of justice"?
Bring all the evidence you want the Judge to see and consider to the hearing, showing your personal growth since your conviction and showing how the conviction on your criminal record has affected you. Examples of evidence may include completion of a treatment program or certificates/diplomas from education or training programs. The Judge will look at all relevant factors, including the type of offense that the conviction was for and the circumstances surrounding the offense, how long has passed since the conviction, your criminal record, the barriers which you have faced because of the conviction balanced with any threat of danger to the community or to any person, the views and concerns offered by any victim, and evidence of your good character and reputation. It is up to you to show the Judge that expungement is in the best interests of justice, so provide detailed information in your Petition and be prepared to explain everything to the Judge at the hearing.

EXPUNGEMENT IN THE CHEROKEE TRIBAL COURT UNDER CHEROKEE CODE § 15-15

What **CANNOT** be expunged?

Convictions for the following types of offenses cannot be expunged:

- An offense involving sexual assault, harassment, molestation, exploitation, or contact;
- An offense involving physical harm or bodily injury;
- An offense that is a crime of violence;
- An offense for which sex offender registration is required under the Cherokee Code, whether or not the registration period has ended;
- An offense for the crime of domestic violence as defined or designated in Cherokee Code 14-40.1;
- An offense involving embezzlement, theft, or fraud against the Tribe.

What is a conviction?

- Under Cherokee Code § 15-15, a "conviction" is a guilty verdict or a plea of guilty, plea of nolo contendere (also known as a no contest plea), or plea of guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970).
- The conviction must be for either a misdemeanor or felony – do not file for civil traffic infractions or a civil domestic violence protection or no contact order.
- Dismissals and not guilty verdicts are <u>not</u> convictions under Cherokee Code § 15-15 and may not be expunged.

Am I eligible for an expungement?

You may be eligible for expungement of one or more convictions if all of these requirements are met:

- At least one year has passed since the completion or satisfaction of the sentence, deferred judgment, or probation period for the conviction(s).
- You have not been convicted in any jurisdiction of a misdemeanor or felony offense since the date of the most recent conviction you are seeking to be expunged. A misdemeanor traffic conviction will not make you ineligible, unless it was for a driving while impaired offense.
- No criminal charges are pending against you in any jurisdiction.
- You have paid all financial obligations related to the conviction(s) as ordered by the Court or as assessed by the Clerk's Office – this may include but is not limited to court costs, fees, fines, and victim restitution.
- Expungement is in the best interests of justice.

If you have questions about whether you are eligible for an expungement or how an expungement may affect your immigration proceeding, you should speak with an attorney. The Clerk's Office and Court staff cannot give you legal advice or help you fill out forms.

Forms are now available at The Cherokee Court Clerk's Office.

What is the process if I want an expungement?

Pick up your packet at the Clerk's Office.

Have two people complete an Affirmation of Good Character and Reputation in Support of Petition for Expungement Under C.C. §15-15 (Form: CR-EXP-AFM).

Complete a Petition for Expungement Under C.C. §15-15.

File the two Affirmations and the Petition with the Clerk's Office and pay the filing fee.

The Clerk's Office completes Tribal and national background checks within five days.

Clerk's Office serves a copy of your Petition and background checks on the Tribal Prosecutor.

Tribal Prosecutor has ten days to file an objection. If one is filed, you will be served with the objection.

After the deadline to file an objection has passed, the Clerk's Office will set a hearing date for your Petition. You will be served with a notice of hearing.

The Tribal Prosecutor's Office will identify any victim(s) and notify them of their right to attend and speak at the hearing.

Attend the hearing. If you fail to attend the hearing your expungement request will be denied and your Petition will be dismissed.

At the hearing you must prove to the Judge that you are eligible and that expungement is in the best interest of justice.

After the hearing, the Judge will enter an order granting or denying your petition.

If granted, Tribal law enforcement agencies and the Tribal Prosecutor's Office have 60 days to destroy records related to your case and file a certification with the Clerk's Office.

If you have questions about whether you are eligible for an expungement or how an expungement may affect your immigration proceeding, you should speak with an attorney. The Clerk's Office and Court staff cannot give you legal advice or help you fill out forms.

EASTERN BAND OF CHEROKEE INDIANS
CHEROKEE COURT
QUALLA BOUNDARY, CHEROKEE, NORTH CAROLINA

Exhibit #

Affirmation of Good Character and Reputation in Support of Petition for Expungement Under C.C. § 15-15

Instructions: Complete the form in its entirety. DO NOT SIGN unless you are before a notary or an official authorized to administer oaths. A staff member of the Clerk's Office or the Court will notarize this form for you for free, otherwise a notary may be able to charge you a small fee. Please call ahead to the Clerk's Office to ensure availability. Once you have signed this form and had it notarized, return this form to the person submitting the Petition for Expungement so that they may file it alongside their Petition.

The affiant, being duly sworn, affirms as follows:

1. My name is _____.

2. Pursuant to C.C. § 15-15(d)(4), I am completing this affirmation in support of the Petition for Expungement to be filed by _____ (name of Petitioner-Defendant).

3. I am not related to the Petitioner-Defendant in blood or by marriage.

4. I have known the Petitioner-Defendant for _____.

5. I know the character and reputation of Petitioner-Defendant because (explain how you know the Petitioner-Defendant and how you know about their character): _____
_____
_____.

6. The Petitioner-Defendant has a good character and reputation.

7. I believe that expungement would be in the best interests of justice because: _____
_____
_____
_____
_____.

SWORN/AFFIRMED AND SUBSCRIBED BEFORE ME		SIGNATURE OF AFFIANT
My commission expires	Date Subscribed	Signature of Affiant
Name of Notary/Official	Signature	Date of Signature
Seal		

EASTERN BAND OF CHEROKEE INDIANS
CHEROKEE COURT
QUALLA BOUNDARY, CHEROKEE, NORTH CAROLINA

Exhibit #

Affirmation of Good Character and Reputation in Support of Petition for Expungement Under C.C. § 15-15

Instructions: Complete the form in its entirety. DO NOT SIGN unless you are before a notary or an official authorized to administer oaths. A staff member of the Clerk's Office or the Court will notarize this form for you for free, otherwise a notary may be able to charge you a small fee. Please call ahead to the Clerk's Office to ensure availability. Once you have signed this form and had it notarized, return this form to the person submitting the Petition for Expungement so that they may file it alongside their Petition.

The affiant, being duly sworn, affirms as follows:

1. My name is _____.

2. Pursuant to C.C. § 15-15(d)(4), I am completing this affirmation in support of the Petition for Expungement to be filed by _____ (name of Petitioner-Defendant).

3. I am not related to the Petitioner-Defendant in blood or by marriage.

4. I have known the Petitioner-Defendant for _____.

5. I know the character and reputation of Petitioner-Defendant because (explain how you know the Petitioner-Defendant and how you know about their character): _____
_____
_____.

6. The Petitioner-Defendant has a good character and reputation.

7. I believe that expungement would be in the best interests of justice because: _____
_____
_____
_____
_____.

SWORN/AFFIRMED AND SUBSCRIBED BEFORE ME		SIGNATURE OF AFFIANT
My commission expires	Date Subscribed	Signature of Affiant
Name of Notary/Official	Signature	Date of Signature
Seal		

EASTERN BAND OF CHEROKEE INDIANS
CHEROKEE COURT
QUALLA BOUNDARY, CHEROKEE, NC

▶ File No(s).(*to be completed by the Clerk's Office*) _____
_____

Instructions: Complete the petition in its entirety. DO NOT SIGN at the end of the petition until you are before a notary or an official authorized to administer oaths. A staff member of the Clerk's Office or the Court will notarize this form for you for free, otherwise a notary may be able to charge you a small fee. Please call ahead to the Clerk's Office to ensure availability. Before you file, write in the exhibit numbers for the affirmations of good character and reputation based on the information you completed in paragraph 29 of the petition (i.e., label the form completed by person 1 as Exhibit 1 and the form completed by person 2 as Exhibit 2). For the copies of any documents you have listed in paragraph 30 of the petition, label as an exhibit in the upper-right hand corner of the document and continue the numbering from Exhibit 3 (i.e., Exhibit 3, Exhibit 4, Exhibit 5). When you are ready to file, bring your signed Petition, two Affirmations of Good Character and Reputation (Form: CR-EXP-AFM), an additional conviction form if you used one (Form: CR-EXP-CONV), any supporting documents you listed in paragraph 30, along with the $200 filing fee or an Application To Waive Expungement Filing Fee and Costs, to the Clerk's Office.

PETITION FOR EXPUNGEMENT UNDER C.C.§ 15-15

Pursuant to Cherokee Code 15-15, I, _____ (name of Petitioner-Defendant), hereby file this Petition in the Cherokee Court to be treated as a motion in the cause in the case(s) listed herein (within paragraph 10 and as listed on any Cherokee Court Form CR-EXP-CONV attached as an exhibit) and request that the conviction in each case listed herein be expunged from my criminal record.

PETITIONER INFORMATION

1. My full legal name is: _____

   a. Have you been known by any other names in your life? ☐ Yes ☐ No

   b. If yes, list all names or aliases you have been known as: _____
   _____

2. My date of birth is: _____

3. My Social Security Number is: _____
   Or ☐ I do not have a Social Security Number.

4. My EBCI enrollment number is: _____
   Or ☐ I am not enrolled in the EBCI.

5. My sex is: _____

6. I have: ☐ never been issued a driver's license (*if you have never been issued a driver's license, continue to 7.*)
   ☐ been issued a driver's license from _____
   _____ (*list every state or licensing authority who has issued you a driver's license, complete a. and b., and then continue to 7.*).

   a. My current driver's license is: ☐ active ☐ suspended ☐ other:_____

   b. My current driver's license number is: _____

7. List your current physical address:_____

_____

8. List your current mailing address: _____

_____

9. I request that service of the notice of hearing be given to me by the Clerk's Office in the following manner:

☐ U.S. mail at my above-listed mailing address.

☐ by fax at the following number: _____

☐ by e-mail at the following address: _____

☐ by calling me at the following number: _____, so that I may pick up the notice in-person by hand delivery.

CRIMINAL RECORD

10. For each conviction you are requesting be expunged, list the case number, offense type/charge, arresting agency, disposition, date of disposition, and the date you completed or satisfied your sentence, deferred judgment, or period of probation:

Case Number	Offense/Charge	Arresting Agency	Disposition	Date of Disposition	Date Sentence Completed

11. ☐ I have listed all of the convictions that I am requesting be expunged in paragraph 10 above.
Or ☐ I have listed additional conviction(s) on Cherokee Court Form CR-EXP-CONV and have attached that form as an exhibit to this Petition.

12. Have you listed a conviction for any of the following excluded convictions which are not eligible for expungement:

    a. An offense involving sexual assault, harassment, molestation, exploitation, or contact? ☐ Yes ☐ No

    b. An offense involving physical harm or bodily injury? ☐ Yes ☐ No

    c. An offense that is a crime of violence? ☐ Yes ☐ No

    d. An offense for which sex offender registration is required pursuant to Article X for Chapter 14, whether or not the registration period has ended? ☐ Yes ☐ No

    e. An offense for the crime of domestic violence as defined or designated in Sec. 14-40.1? ☐ Yes ☐ No

    f. An offense involving embezzlement, theft, or fraud against the EBCI? ☐ Yes ☐ No

13. For any case number you listed in paragraph 10 or on Cherokee Court Form CR-EXP-CONV, did you spend any time in the Cherokee Detention Center, either pre-trial or as part of the sentence? ☐ Yes ☐ No

14. If yes to paragraph 13, list the case number(s): _____

    _____

15. For any case number you listed in paragraph 10 or on Cherokee Court Form CR-EXP-CONV, were you on supervised or unsupervised pre-trial release or probation? ☐ Yes ☐ No

16. If yes to paragraph 15, list the case number(s): _____

    _____

17. Was there an identified victim in any of the cases listed above? ☐ Yes ☐ No

    a. If there was an identified victim in any of the cases, do you know the name of each victim? ☐ Yes ☐ No

    b. List the full name of each known victim: _____

    _____

    _____

    _____

18. ☐ I affirm that at least one year has passed since the completion or satisfaction of the sentence, deferred judgment, or period of probation for each conviction which I am requesting be expunged.

19. ☐ I affirm that I have no outstanding court costs, fees, fines, restitution, or any other financial obligations ordered by the Court or assessed by the Clerk of Court.

20. ☐ I affirm that I have not previously been granted an expungement under Cherokee Code § 15-15.

21. ☐ I affirm that there are no criminal charges pending against me in any jurisdiction.

22. The date of my most recent conviction that I am requesting be expunged is: _____

23. I affirm that since the date of my most recent conviction as listed in paragraph 22: (*select a. or b.*)

    a. ☐ I have not been convicted of any misdemeanor or felony offense in any jurisdiction.

    b. ☐ I have been convicted of a misdemeanor traffic violation, but the violation was not a driving while impaired offense.

24. ☐ I consent to a Tribal and national criminal background check.

	EXPUNGEMENT IS IN THE BEST INTERESTS OF JUSTICE	

25. ☐ I affirm that expungement is in the best interests of justice.

26. Explain why you are asking for an expungement. _____

27. Explain if you face any barriers in reintegrating within the community based on the conviction(s), such as barriers in obtaining housing, employment, services, or benefits. _____

28. Explain any steps towards rehabilitation or reintegration you have taken since the time of the conviction(s), such as substance abuse treatment you have completed, ongoing participation in a substance abuse or recovery program, participation in the Mother Town Healing Program, completion of Wellness Court, employment or internship, participation in parenting classes, volunteering, participation in cultural classes or activities, education or job training. _____

29. I have attached two affirmations of good character and reputation completed by persons who are not related to me by blood or marriage. The two people completing these affirmations on my behalf are:

Name of person 1: _____ Name of person 2: _____

Mailing address of person 1: _____ Mailing address of person 2: _____

30. List any additional documents (attach only copies but bring the original to the hearing with you) that you are attaching as exhibits to your Petition as evidence of why expungement is in the best interests of justice. _____

_____

_____

_____

_____

_____

	SIGNATURE	

Therefore, I request that the Court enter an Order granting my Petition for Expungement in the aforementioned criminal case(s) and expunge the eligible conviction(s) therein.

I hereby affirm that I have read this Petition; that the information listed is true and correct to the best of my ability; and that to the best of my knowledge, information, and belief, I am eligible for expungement under Cherokee Code § 15-15 of the conviction(s) listed herein.

Petitioner Signature (only sign if you are before a notary): _____

Date: _____

Sworn/affirmed to and subscribed before me this __ day of _____, 20___.

Official/Notary Name: _____

Signature: _____

Date Commission Expires: _____

Seal

EASTERN BAND OF CHEROKEE INDIANS
CHEROKEE COURT
QUALLA BOUNDARY, CHEROKEE, NORTH CAROLINA

NOTE: Use this form as an additional page for the convictions that you are requesting be expunged only if you have fully completed the table in paragraph 10 of the Petition for Expungement Under C.C. § 15-15 and you have selected paragraph 11.b. to confirm that you have attached this form as an exhibit to your Petition.

Name of Petitioner-Defendant:

CONTINUATION OF CONVICTIONS FOR CONSIDERATION IN PETITION FOR EXPUNGEMENT UNDER C.C. § 15-15

The Petitioner, named above, further states as a continuation of the convictions listed in paragraph 10:

Case Number	Offense/Charge	Arresting Agency	Disposition	Date of Disposition	Date Sentence Completed

Petitioner-Defendant Signature	Date

EASTERN BAND OF CHEROKEE INDIANS
THE CHEROKEE COURT
QUALLA BOUNDARY, CHEROKEE, NC

Application to Waive Expungement Filing Fee and Costs

APPLICATION

As the Petitioner-Defendant seeking relief under Cherokee Code § 15-15, I affirm that I am financially unable to pay the required filing fee and court costs related to my Petition for Expungement and therefore ask that some or all of the cost associated with this action be waived for the reasons stated in my affidavit below.

I hereby declare under the penalties of perjury that the declarations I have made in this Application and Financial Affidavit are true, correct, and complete.

FINANCIAL AFFIDAVIT

Fill in all answers and check all boxes which apply to you.

Employment: I am: ☐ currently employed. ☐ currently unemployed. ☐ actively seeking employment.

My present income is: _____ I am paid on a: ☐ weekly ☐ bi-weekly ☐ monthly basis.

Are you an EBCI Tribal Elder? ☐ Yes. ☐ No.

Number of individuals living in your home: _____ **Number of children living in your home:** _____

Marital Status: I am currently: ☐ married ☐ not married Spouse's Income:_____

Government Assistance: I am currently a recipient of: ☐ Supplemental Nutrition Assistance Program (SNAP) ☐ Medicaid ☐ Temporary Assistance for Needy Families (TANF) ☐ Supplemental Security Income (SSI) ☐ Other:_____

Available assets: Cash on hand: _____ Bank accounts/Deposits: _____ Other:_____

Are you eligible to pay the filing fee by administratively garnishing a per capita or genwell distribution? ☐ Yes ☐ No

Expenses: Estimate your average monthly expenses (include all costs that you pay such as rent/mortgage, groceries, childcare, car insurance, etc.):_____

Estimate the total costs you paid in the case(s) in which you are filing for expungement (include all actual costs which you paid and/or had garnished including attorney fees, probation fees, court costs, restitution): _____

Other information which should be considered as to your ability to pay: _____

_____

SIGNATURE OF APPLICANT		SWORN AND SUBSCRIBED TO BEFORE ME		
Date	Signature	Date	Signature	☐ Clerk of Court ☐ Asst. Clerk ☐ Notary ☐ Judge

ORDER

Based upon the Application and Financial Affidavit above, it is ORDERED that:

☐ The Application is granted in part, and the costs are reduced by:

- ☐ 25% with $ 150.00 remaining due.
- ☐ 50% with $100.00 remaining due.
- ☐ 75% with $50.00 remaining due.

☐ The Application is granted, and the cost of filing and court fees associated with this action are hereby waived.

☐ The Application is denied.

Date	Signature	Presiding Official