



THE COMPREHENSIVE GUIDE TO UNDERSTANDING EXPUNGEMENT

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FREQUENTLY ASKED QUESTIONS

Q.: What is expungement? **A.:** First-time offenders of certain crimes can have their criminal records sealed for certain types of crimes after the case has been resolved. These convictions will no longer be a part of public record and first-time offenders with no past history can continue with their lives as though the offense never happened once the sentence or probation has been completed.

Q.: After several years will my record be expunged? **A.:** There is no such thing as “automatic expungement.” Once you get arrested, you will have an arrest record, even if you were never charged or if the case was dismissed and even if you were found not guilty.

Q.: Are there convictions that cannot be expunged? **A.:** Yes, if a criminal statute specifically states that a particular crime is not expungeable.

Q.: What kinds of criminal convictions cannot be expunged? **A.:** Felonies and first-degree misdemeanors in which the victim is under 18 years of age are not eligible for expungement. Rape, sexual battery, corruption of a minor, sexual imposition, or obscenity or pornography involving a minor are among the list of crimes that are not eligible for expungement.

Q.: What factors help decide if expungement will be granted? **A.:** The court needs to determine how your interest in clearing your name weighs against the government’s need to allow public access to your records. Your probation report is reviewed as well and your behavior since your probation was granted is a factor. If the court determines that the offense was an isolated incident and you have since returned to a trouble-free lifestyle expungement may be granted.

Q.: Once the records are sealed, can they still be accessed? **A.:** Yes. The records are not destroyed and can be used by a limited number of persons and for a limited number of reasons (On questions by *Government Employers or Government Licensing Applications* if you are asked if you have ever been convicted of a crime, you must disclose the expunged case.). Law enforcement officials investigating later crimes also may use expunged records.

FREQUENTLY ASKED QUESTIONS

continued

Q.: Can the Court provide me with information on expungement?

A.: The court system does not provide a step-by-step procedure. It is up to you to become familiar with this detailed process.

Q.: What is the legal statute for expungement in the case of drug charges? A.:

Whether you are seeking federal or state expungement depends on the quantity and circumstances. Each case is determined on a case by case basis.

Q.: Am I allowed to get expungement on my own?

A.: You have the right to act on your own behalf. An attorney may be beneficial, especially if the facts of your case determine the need of legal assistance.

Q.: Who can expunge a federal offense? A.: Expungement must be applied for through the court and Pardons do not erase the record.

Q.: How soon after a conviction or a dismissal can an expungement be applied for?

A.: Some expungements may be started the day after the end of the legal proceedings, it is determined on a case by case basis.

Q.: What are the costs associated with expungement?

A.: This varies depending on attorney fees and also the amount to be paid when filing for expungement.

Understanding Expungement

Millions of Americans have a legal record that can keep them from living productive lifestyles long after they have repaid their debt to society. In many cases, these citizens should be free to pursue their goals and ambitions without being disabled by their past offenses. Expungement is the sealing of a criminal record so it is not publicly available. The process is partly a response to the realization by lawmakers that mistakes are possible, even when writing the laws that were created to serve and protect us. The process of striking out these mistakes is called expungement.

If you have been convicted of a misdemeanor, or a series of misdemeanors or violations stemming from a single incident, you may petition the court in which you were convicted for expungement of the misdemeanor or violation record. Individuals must follow specific procedures to request the court to grant a criminal expungement. In some states, the petition cannot by law, be filed until at least five years after the person has completed his sentence or probation. The court will set a hearing date once the petition is filed. Any person who may have relevant information concerning the case may attend. Additionally, the victim (if there is any) and the county attorney may attend the meeting.

If the petitioner meets specific qualifications, has waited five years since his probation or sentence was completed, and pays a fee to the circuit clerk, the record may be expunged. The court will then state that no record exists for the person regarding this matter. The person whose record is expunged does not have to disclose any information regarding the violation in employment applications - unless the crime committed could have an effect on the job you are seeking (for example if you were convicted of theft and you were applying as a manager at a retail store who counts the money drawers at the end of every shift). Information regarding the violation can also be left off of credit histories, or other applications.

Your state's county courthouse should provide the forms necessary if the forms we provide are not up to date.

EXPUNGEMENTS (Cont'd)

Expungement of your criminal record is the obliteration and striking out of all records on file within any court, law enforcement agency or criminal, and detention or correctional facility. An expungement creates a condition where the act that resulted in a legal record never occurred. So, any information associated with the arrest, and processes leading up to the arrest is destroyed. Generally, it is reserved for non-violent, lower level offenses and for defendants who do not have a prior (or subsequent) criminal record.

However, expungements are not seen as a right by the state, rather, a privilege granted to a petitioner who must file and beg for in a prayer for relief when petitioning the court for cleaning a legal record. If the petitioner is eligible for an expungement most records with few exceptions can be expunged. These records also include all complaints, warrants, arrests, processing records, commitments, fingerprints, photographs, index cards, "rap sheets" and judicial dockets.

Illegal activity in violation of law is categorized many ways: felonies are the most serious, then misdemeanors, disorderly persons, and traffic violations. A record for some felonies such as murder, manslaughter, treason, kidnapping, rape, forcible sodomy, arson, anarchy, perjury and robbery do not allow for expungement in every state. Also, a conviction for child related sex offenses do not qualify for expungement in any state.

Who is Eligible for Expungement?

Requirements for Eligibility

Each state differs and will have different requirement for the sealing of criminal or traffic records so you should review the State Statutes and Laws governing records relief. It depends on whether there was a criminal conviction, or the criminal charge was dismissed or there was a finding of not guilty. In any case, a person does not qualify for expungement if criminal proceedings are pending against the person. Expungements are considered an act of generosity and fairness by the state or federal government. Petitioners demonstrate eligibility by showing that they have been law abiding citizens since the conviction. Showing that they are part of, and/or provider of a stable family, remaining employed, and being a productive member of society can also enhance your eligibility.

What is a Conviction?

Any finding of guilt which results in probation, conditional discharge, fine, time served or sentence of incarceration.

What is not a Conviction?

Supervision, nolle prosequi (NP), stricken off with leave to reinstate (SOL), no probable cause found (FNPC), dismissed or not guilty.

Arrests Not Resulting in a Conviction If a person has been arrested for crimes and then found not guilty, the case is dismissed, not prosecuted or discharged without conviction that person may apply for a petition for expungement any time thereafter. If charges have been dismissed after supervisory treatment then you are usually eligible six months after such treatment and upon application for expungement.

Typically if your record has been expunged you will get a response in the mail from the court, arresting authority and/or the state police.

Federal Pardons

If a person has been arrested or convicted of a federal crime, the process of expungement may be done by seeking "Executive Clemency By Pardon." Petitions may be sought by writing:

**President of the United States Pardon Attorney Department of Justice Washington,
DC 20530**

http://www.usdoj.gov/pardon/forms/pardon_form.pdf

1. Submit the petition to the Office of the Pardon Attorney

All petitions, except petitions relating to military offenses (see paragraph 6 below), should be forwarded to the Office of the Pardon Attorney, Department of Justice, 500 First Street N.W., Suite 400, Washington, D.C. 20530. The completed pardon petition must be entirely legible; therefore, please type or print in ink. The form must be completed fully and accurately in order to be considered. You may attach to the petition additional pages and documents that amplify or clarify your answer to any question.

2. Federal convictions only

Under the Constitution, only federal criminal convictions, such as those obtained in the United States District Courts, may be pardoned by the President. In addition, the President's pardon power extends to convictions obtained in the Superior Court of the District of Columbia and military court-martial proceedings. However, the President cannot pardon a state criminal offense. Accordingly, if you are seeking clemency for a state criminal conviction, you should not complete and submit this petition. Instead, you should contact the Governor or other appropriate authorities of the state where you reside or where the conviction occurred (such as the state board of pardons and paroles) to determine whether any relief is available to you under state law. If you have a federal conviction, information about the conviction may be obtained from the clerk of the federal court where you were convicted.

3. Five-year waiting period required

Under the Department's rules governing petitions for executive clemency, 28 C.F.R. §§ 1.1 *et seq.*, a minimum waiting period of five years after completion of sentence is required before anyone convicted of a federal offense becomes eligible to apply for a presidential pardon. The waiting period, which is designed

to afford the petitioner a reasonable period of time in which to demonstrate an ability to lead a responsible, productive and law-abiding life, begins on the date of the petitioner's release from confinement. Alternatively, if the conviction resulted in a sentence other than a term of imprisonment, such as probation or a fine, the waiting period begins on the date of sentencing. In addition, the petitioner should have satisfied the penalty imposed, including all probation, parole, or supervised release. Moreover, the waiting period begins upon release from confinement for your most recent conviction, whether or not this is the offense for which pardon is sought. You may make a written request for a waiver of this requirement. However, waiver of any portion of the waiting period is rarely granted and then only in the most exceptional circumstances. In order to request a waiver, you must complete the pardon application form and submit it with a cover letter explaining why you believe the waiting period should be waived in your case.

4. Reason for seeking pardon

In answering question 20, you should state the specific purpose for which you are seeking pardon and, if applicable, attach any relevant documentary evidence that indicates how a pardon will help you accomplish that purpose (such as citations to applicable provisions of state constitutions, statutes, or regulations, or copies of letters from appropriate officials of administrative agencies, professional associations, licensing authorities, etc.). In addition, you should bear in mind that a presidential pardon is ordinarily a sign of forgiveness and is granted in recognition of the applicant's acceptance of responsibility for the crime and established good conduct for a significant period of time after conviction or release from confinement. A pardon is not a sign of vindication and does not connote or establish innocence. For that reason, when considering the merits of a pardon petition, pardon officials take into account the petitioner's acceptance of responsibility, remorse, and atonement for the offense.

5. Multiple federal convictions

If you have more than one federal conviction, the most recent conviction should be shown in response to question 2 of the petition and the form completed as to that conviction. For all other federal convictions, including convictions by military courts-martial, the information requested in questions 2 through 6 of the petition should be provided on an attachment. Any federal charges not resulting in conviction should be reported in the space provided for prior and subsequent criminal record (question 7).

6. Pardon of a military offense

If you are requesting pardon of a court-martial conviction only, you should submit your completed petition directly to the Secretary of the military department that had original jurisdiction in your case, completing questions 2 through 6 and question 15 of the petition form to show all pertinent information concerning your

court-martial trial and conviction. Pardon of a military offense will not change the character of a military discharge. An upgrade or other change to a military discharge may only be accomplished by action of the appropriate military authorities. To apply for a review of a military discharge, you should write to the relevant military branch, at the address listed below:

Army Discharge Review Board Crystal Mall 4 1941 Jefferson Davis Highway Arlington, Virginia 22202-4508

Naval Discharge Review Board Ballston Tower 2 801 North Randolph Street Arlington, Virginia 22203-1989

Air Force Discharge Review Board 1535 Command Drive Andrews Air Force Base, Maryland 20331-7002

7. Additional arrest record

In response to question 7, you must disclose any additional arrest or charge by any civilian or military law enforcement authority, including any federal, state, local, or foreign authority, whether it occurred before or after the offense for which you are seeking pardon. Your answer should list every violation, including traffic violations that resulted in an arrest or criminal charge, such as driving under the influence. Your failure to disclose any such arrest, whether or not it resulted in conviction, may be construed as a falsification of the petition.

8. Credit status and civil lawsuits

In response to question 14, you must list all delinquent credit obligations, whether or not you dispute them. You must also list all civil lawsuits in which you were named as a party, whether as plaintiff or defendant, including bankruptcy proceedings. You must also list all unpaid tax obligations, whether federal, state, or local. You may submit explanatory material in connection with any of these matters (such as an agreed method of payment for indebtedness).

9. Character references

At least three character affidavits must accompany the petition. If you submit more than three, you should designate the three persons whom you consider to be primary references. The affidavit forms provided are preferred. However, letters of recommendation may be substituted if they contain the full name, address, and telephone number of the reference, indicate a knowledge of the offense for which

you seek pardon, and bear a notarized signature. Persons related to you by blood or marriage cannot be used as primary character references.

10. Effect of a pardon

While a presidential pardon will restore various rights lost as a result of the pardoned offense and should lessen to some extent the stigma arising from a conviction, it will not erase or expunge the record of your conviction. Therefore, even if you are granted a pardon, you must still disclose your conviction on any form where such information is required, although you may also disclose the fact that you received a pardon. In addition, most civil disabilities attendant upon a federal felony conviction, such as loss of the right to vote and hold state public office, are imposed by state rather than federal law, and also may be removed by state action. Because the federal pardon process is exacting and may be more time-consuming than analogous state procedures, you may wish to consult with the appropriate authorities in the state of your residence regarding the procedures for restoring your state civil rights.

11. Scope of investigation

Pardon officials conduct a very thorough review in determining a petitioner's worthiness for relief. Accordingly, you should be prepared for a detailed inquiry into your personal background and current activities. Among the factors entering into this determination are the nature, seriousness and recentness of the offense, your overall criminal record, any specific hardship you may be suffering because of the conviction, and the nature and extent of your post-conviction involvement in community service, or charitable or other meritorious activities. We encourage you to submit information concerning your community contributions.

12. Exclusive Presidential authority

The power to grant pardons is vested in the President alone. No hearing is held on the pardon application by either the Department of Justice or the White House. You will be notified when a final decision is made on your petition, and there is no appeal from the President's decision to deny a clemency request. The Office of the Pardon Attorney does not disclose information regarding the nature or results of any investigation that may have been undertaken in a particular case, or the exact point in the clemency process at which a particular petition is pending at a given time. As a matter of well-established policy, the specific reasons for the President's decision to grant or deny a petition are generally not disclosed by either the White House or the Department of Justice. In addition, documents reflecting deliberative communications pertaining to presidential decision-making, such as the Department's recommendation to the President in a clemency matter, are confidential and not available under the Freedom of Information Act. If your petition is denied, you may submit a new petition for consideration two years from the date of denial.

STATUTES AND LAWS GOVERNING RECORDS RELIEF

ALABAMA

Right to Inspect & Make Copy Of your Criminal Record: 32-2-60 through 32-2-62

Right to Challenge (information on your criminal record): 41-9-645

Judicial Review of Challenged Information: 41-9-645

Purging, (Erasing, Expunging) Non-conviction Information: 41-9-645

To apply for a pardon, write to the Alabama Board of Pardons and Paroles in Montgomery and request an application for a pardon for restoration of your civil rights.
Alabama Board of Pardons and Paroles

P.O. Box 302405

Montgomery, Alabama 36130-2405

1-334-242-8730

<http://www.pardons.state.al.us/>

(Note: If you were convicted under a city ordinance, you should apply for a pardon from the mayor of the city of conviction and not the Board of Pardons and Paroles in Montgomery.)

Certain persons applying for a pardon, including felons convicted after May 6, 1994 and felons incarcerated as of that date, must submit a DNA sample as a mandatory condition of the pardon. If you are unsure whether your DNA sample is on file with the Alabama Department of Forensic Sciences, contact your probation or parole officer.

WHAT INFORMATION SHOULD I INCLUDE IN MY REQUEST FOR A PARDON APPLICATION?

Your request for a pardon should include the following information:

1. Name convicted under
2. True name
3. Sex and race
4. Date of birth
5. Social Security Number
6. AIS# (Alabama Prison number), if you have one
7. Current physical address including county
8. Current mailing address, if different
9. Indicate whether the conviction was a State or Federal conviction
10. Home telephone number
11. Work telephone number, if you have one
12. List of charges, county you were convicted in, and year of conviction

WHAT TYPE OF INFORMATION DOES THE PARDON APPLICATION REQUIRE?

The application seeks information about the crime for which you lost your right to vote, and other basic personal information, including employment history and a list of references.

WHO CAN I CALL FOR HELP WITH MY PARDON?

If you have any questions about the restoration of your right to vote, you can reach the Board of Pardons and Paroles at: 1-334-242-8730. You may also contact your probation or parole officer for guidance on the process.

If you apply for a pardon. Thirty days notice must be provided to the following people before you may be granted a pardon:

Alabama Attorney General, presiding judge, prosecuting attorney, and the chief of police in the city where the disqualifying crime occurred. Notice must also be given to the victim for certain enumerated crimes.

WHAT IS THE PROCEDURE ONCE I SUBMIT MY APPLICATION FOR A PARDON?

Once you submit your pardon application to the Board of Pardons and Paroles, it will be forwarded to a probation officer for completion of an in-depth investigation. The investigation may take up to one year to complete. The following matters will be investigated:

1. Have you committed any additional offenses since the disqualifying crime was committed? If so, your pardon application may be denied.
 2. What is your personal, social and employment history? Are you currently employed? Your references will be contacted, including current and former employers, current and former spouses, as well as friends and family members.
 3. Have you paid all restitution and court fees? If you have any outstanding fees or fines, including your annual supervision fee of \$30.00, your pardon application may be denied.
- Once the investigation is complete, the investigating probation officer will write a report recommending approval or denial of your pardon application. Also, a letter is sent to the victim requesting input on whether to grant or deny your pardon application. Finally, a date for a hearing before a three-member panel of the Board of Pardons and Paroles will be set. You will be notified at least 30 days prior to the hearing, which will be conducted at the following location:

Lurleen B. Wallace Building, 2nd Floor
500 Monroe Street
Montgomery, Alabama

At your hearing, you will be allowed an opportunity to present your case before the three-member panel. Note that your attendance at the hearing is not mandatory. Notice of the hearing is provided to the appropriate authorities, as well as the victim. (See above). The victim will have an opportunity to oppose your pardon at the hearing. A three-member panel of the Board of Pardons and Paroles has ultimate authority to grant or deny your pardon application.

ALASKA

Right to Inspect & Make Copy of your Criminal Record: 12.62.160(b)(11)

Right to Challenge (information on your criminal record): 12.62.170(b)

Sealing Conviction and Non-conviction Information: 12.62.180(b)

Purging (Erasing, Expunging) Conviction Information: 12.62.190 (same for Non-conviction)

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY REQUEST TO SEAL CRIMINAL JUSTICE INFORMATION

SEND TO:

CHIEF, CRIMINAL RECORDS AND IDENTIFICATION BUREAU

5700 E. TUDOR ROAD Ö ANCHORAGE, AK 99507

INSTRUCTIONS. You must provide all required information and attachments. Use extra pages if necessary. Incomplete forms will be returned to you indicating what additional information is required. You may also attach other documents or evidence, beyond what is required in this application that supports your request.

PART I includes the Alaska statute (AS 12.62.180) and regulation (13 AAC 68.205) that address sealing of criminal justice information. The Commissioner of Public Safety cannot seal criminal records from other states or the federal government, only records that originated in this state.

PART II requires you to give information about yourself and the criminal charges/court case. The information you provide will be used to identify your records in the Alaska Public Safety Information Network (APSIN) and the records of police, prosecution, court, or other criminal justice agencies involved in your case.

PART III requires you to explain the circumstances of the charge/case. Your explanation must show that, beyond a reasonable doubt, that the criminal charge(s) resulted from **mistaken identity** or a **false accusation**.

PART IV requires documentation from criminal justice agencies involved with your case to verify your version of events. Depending upon the circumstances of your case, you must provide 1. evidence that the charge was dismissed or you were acquitted because the charge resulted from mistaken identity or false accusation,

OR

2. if you were convicted, evidence that the conviction has been overturned by a court or you have been pardoned by the Governor because the charge resulted from mistaken identity or false accusation.

PART V will be completed by the Records and Identification Bureau. The Bureau may contact you for additional information, including a request for a full set of fingerprints if necessary to process your request.

PART VI will be completed by the Commissioner of Public Safety. The application packet will be returned to you showing the Commissioner's decision.

2 Form: Seal Req 2-04

PART I: ALASKA STATUTES/REGULATIONS.

AS 12.62.180. SEALING OF CRIMINAL JUSTICE INFORMATION. (a) Under this section, a criminal justice agency may seal only the information that the agency is responsible for maintaining. (b) A person may submit a written request to the head of the agency responsible for maintaining past conviction or current offender information, **asking the agency to seal such information about the person that, beyond a reasonable doubt, resulted from mistaken identity or false accusation.** The decision of the head of the agency is the final administrative decision on the request.

(c) The person requesting that the information be sealed may appeal an adverse decision of the agency to the court under applicable rules of procedure for appealing the decision of an administrative agency. The appellant bears the burden on appeal of showing that the agency decision was clearly mistaken. An appeal filed under this subsection may not collaterally attack a court judgment or a decision by prison, probation, or parole authorities, or any other action that is or could have been subject to appeal, post-conviction relief, or other administrative remedy. (d) A person about whom information is sealed under this section may deny the existence of the information and of an arrest, charge, conviction, or sentence shown in the information. Information that is sealed under this section may be provided to another person or agency only

- (1) for record management purposes, including auditing;
- (2) for criminal justice employment purposes;
- (3) for review by the subject of the record;
- (4) for research and statistical purposes;
- (5) when necessary to prevent imminent harm to a person; or
- (6) for a use authorized by statute or court order.

13 AAC 68.205. SEALING CRIMINAL JUSTICE INFORMATION.

When information maintained by the repository is sealed under AS 12.62.180, the repository shall enter a notation in the record stating that the information has been sealed by order of the commissioner or by an identified court after appeal under AS 12.62.180(c), and the date of the order. (Eff. 1/10/97, Register 140) 3 Form: Seal Req 2-04

PART II: PERSON AND CASE INFORMATION.

Please fill out ALL items; do not write in the check boxes. If an item does not apply to you or your case, write "N/A". Use additional sheets if necessary. Incomplete/illegible forms will be returned with checked boxes indicating missing information required..

FULL NAME (Last) (First) (Middle) (Suffix)
FORMER OR OTHER NAMES/ALIASES
MAILING ADDRESS
PHONE NUMBER(S)
SOCIAL SECURITY #
DATE OF BIRTH
ALASKA DRIVER'S LICENSE # OR STATE ID #
ARREST TRACKING NUMBER
DATE OF ARREST DATE OF OFFENSE
POLICE AGENCY CASE #
NAME OF ARRESTING AGENCY NAME OF ARRESTING OFFICER
PROSECUTION CASE #
NAME OF PROSECUTING AGENCY NAME OF PROSECUTOR
TRIAL COURT CASE #: NAME OF TRIAL COURT
APPELLATE COURT CASE #: NAME OF APPELLATE COURT
CHARGE(S): STATUTE/ORDINANCE # (E.G., "AS 11.46.120") NAME OF
OFFENSE(S) (E.G., "THEFT IN 1ST DEGREE")
DATE CHARGE DISMISSED AGENCY THAT DISMISSED
DATE ACQUITTED
DATE SENTENCED
DATE CONVICTION REVERSED OR VACATED DATE PARDONED

4 Form: Seal Req 2-04

PART III. EXPLANATION OF MISTAKEN IDENTITY OR FALSE ACCUSATION.

*Please explain the circumstances leading to the charge(s) you wish sealed. **Your statement must show that, beyond a reasonable doubt, the charge(s) resulted from mistaken identity or false accusation.** If the charges resulted from mistaken identity, provide the name and descriptive information about the person for whom you were mistaken, if known. If the charge(s) resulted from false accusation, include the name and descriptive information about the person who made the false accusation, if known. Use additional sheets if needed.*

5 Form: Seal Req 2-04

PART IV. VERIFICATION/DOCUMENTATION. *You must obtain the required statement(s) and signature(s) and attach the required documents for **ALL of the circumstances, A-D, that apply to your case.** You may also attach any other reports, statements, or documents that support your request.*

A. IF YOU WERE ARRESTED OR ISSUED A CITATION for the charge(s) you wish sealed, you must have the arresting/citing officer (or the officer's superior) complete and sign this section.

I am the officer who arrested or cited the applicant, or the arresting/citing officer's superior. I have read this application. **I AGREE I DO NOT AGREE** that, beyond a

reasonable doubt, the charge(s) in question resulted from mistaken identity or false accusation.

COMMENTS:

NAME/TITLE (PRINTED) SIGNATURE

AGENCY

PHONE NUMBER

DATE

B. IF THE CHARGE(S) WERE REFERRED TO A PROSECUTOR, you must have the prosecutor (or the prosecutor's superior) complete and sign this section.

I am the prosecutor to whom the charges in question were referred, or the prosecutor's superior. I have read this application. **I AGREE I DO NOT AGREE** that, beyond a reasonable doubt, the charge(s) in question resulted from mistaken identity or false accusation.

COMMENTS:

NAME/TITLE (PRINTED) SIGNATURE

AGENCY

DATE

C. IF THE CHARGE(S) WERE DISMISSED OR YOU WERE ACQUITTED OR FOUND NOT GUILTY: You must attach a court order or judgment showing dismissal, acquittal, or a finding of not guilty.

D. IF YOU WERE CONVICTED OF THE CHARGE(S): You must attach either (1) a court judgment or order overturning the conviction OR (2) a Governor's Pardon.

PART V. TO BE COMPLETED BY RECORDS AND ID BUREAU

APSIN #

FBI #

Person demographic information is accurate and complete

Offense/Case information is accurate and complete

Fingerprints on file for record subject

Fingerprints on file for charge(s) in question

State and national criminal history records attached

Arresting/citing agency information verified, or N/A

Prosecution agency information verified, or N/A

Dismissal/Acquittal information verified, or N/A

Appellate reversal attached and verified & no further appeals pending, or N/A

Governor's Pardon attached and verified, or N/A

I RECOMMEND THE REQUEST FOR SEALING BE APPROVED DENIED.

COMMENTS:

Signature Date

PART VI: TO BE COMPLETED BY THE COMMISSIONER OF PUBLIC SAFETY

THE REQUEST IS APPROVED.

I order that information maintained in the Alaska Public Safety Information Network (APSIN) concerning the charge(s) shown in this application be sealed.

THE REQUEST IS DENIED.

COMMENTS:

Signature Date

cc: Chief, Criminal Records and Identification Bureau

Record Subject/Requester

ARIZONA

Right to Inspect & Make Copy of your Criminal Record: 41-1750.G.5; Reg. 13-1 -08

Right to Challenge (information on your criminal record): 41-2203A.5; Reg. 13-1-08D

Sealing Conviction Information: 13-907 (For Non-conviction: 13-4051)

Purging (Erasing, Expunging) Conviction Information: 8-247

Setting Aside Judgment of Guilt – [ARS 13-907](#)

When a court order setting aside judgement of guilt is received additional wording is added to the criminal record to show " judgement of guilt set aside per [ARS 13-907.](#)"

If civil rights are also restored on the court order (in addition to setting aside judgment of guilt), wording is added to the criminal record to show "civil rights restored per [ARS 13-905](#)" (or [ARS 13-906](#) or [ARS 13-908](#)), and the date of the court order

Civil Rights Restoration Statutes:

Restoration of Civil Rights; Persons Completing Probation – [ARS 13-905](#)

Application by Persons Discharged from Prison – [ARS 13-906](#)

Restoration of Civil Rights in Discretion of Superior Court Judge – [ARS 13-908](#)

When court orders are received on any of the three civil right restoration statutes indicated above, the criminal record has wording added in the disposition to show "civil rights restored per [ARS 13-905](#), or [13-906](#), or [13-907](#); and the date of the court order.

Wrongful Arrest – [ARS 13-4051](#)

The arrest/disposition specified in the court order is purged out of the Arizona computerized criminal system.

Name Change – [ARS 12-601](#)

The change in name is added to the criminal record. This is not a change in the original arrest record.

The criminal record has additional wording placed in it to show: name change by court order, date of court order and new name.

13-905. Restoration of civil rights; persons completing probation

A. A person who has been convicted of two or more felonies and whose period of probation has been completed may have any civil rights which were lost or suspended by his felony conviction restored by the judge who discharges him at the end of the term of probation.

B. Upon proper application, a person who has been discharged from probation either prior to or after adoption of this chapter may have any civil rights which were lost or suspended by his felony conviction restored by the superior court judge by whom the person was sentenced or his successors in office from the county in which he was originally convicted. The clerk of such superior court shall have the responsibility for processing the application upon request of the person involved or his attorney. The superior court shall cause a copy of the application to be served upon the county attorney.

C. If the person was convicted of a dangerous offense under section 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of a serious offense as defined in section 13-604 the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of his discharge from probation. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his discharge from probation.

13-906. Applications by persons discharged from prison

A. Upon proper application, a person who has been convicted of two or more felonies and who has received an absolute discharge from imprisonment may have any civil rights which were lost or suspended by his conviction restored by the superior court judge by whom the person was sentenced or his successors in office from the county in which he was originally sentenced.

B. A person who is subject to the provisions of subsection A of this section may file, no sooner than two years from the date of his absolute discharge, an application for restoration of civil rights that shall be accompanied by a certificate of absolute discharge from the director of the state department of corrections. The clerk of the superior court that sentenced the applicant shall have the responsibility for processing applications for restoration of civil rights upon request of the person involved, his attorney or a representative of the state department of corrections. The superior court shall cause a copy of the application to be served upon the county attorney.

C. If the person was convicted of a dangerous offense under section 13-604, the person may not file for the restoration of his right to possess or carry a gun or firearm. If the person was convicted of a serious offense as defined in section 13-

604 the person may not file for the restoration of his right to possess or carry a gun or firearm for ten years from the date of his absolute discharge from imprisonment. If the person was convicted of any other felony offense, the person may not file for the restoration of his right to possess or carry a gun or firearm for two years from the date of his absolute discharge from imprisonment.

13-907. Setting aside judgment of convicted person on discharge; making of application; release from disabilities; exceptions

A. Except as provided in subsection B of this section, every person convicted of a criminal offense may, upon fulfillment of the conditions of probation or sentence and discharge by the court, apply to the judge, justice of the peace or magistrate who pronounced sentence or imposed probation or such judge, justice of the peace or magistrate's successor in office to have the judgment of guilt set aside. The convicted person shall be informed of this right at the time of discharge. The application to set aside the judgment may be made by the convicted person or by the convicted person's attorney or probation officer authorized in writing. If the judge, justice of the peace or magistrate grants the application, the judge, justice of the peace or magistrate shall set aside the judgment of guilt, dismiss the accusations or information and order that the person be released from all penalties and disabilities resulting from the conviction other than those imposed by the department of transportation pursuant to section 28-3304, 28-3306, 28-3307 or 28-3308, except that the conviction may be used as a conviction if such conviction would be admissible had it not been set aside and may be pleaded and proved in any subsequent prosecution of such person by the state or any of its subdivisions for any offense or used by the department of transportation in enforcing the provisions of section 28-3304, 28-3306, 28-3307 or 28-3308 as if the judgment of guilt had not been set aside.

B. This section does not apply to a person convicted of a criminal offense:

1. Involving the infliction of serious physical injury.
2. Involving the use or exhibition of a deadly weapon or dangerous instrument.
3. In violation of chapter 14 of this title.
4. In which the victim is a minor under fifteen years of age.
5. In violation of section 28-3473, any local ordinance relating to stopping, standing or operation of a vehicle or title 28, chapter 3, except a violation of section 28-693 or any local ordinance relating to the same subject matter as section 28-693.

13-908. Restoration of civil rights in the discretion of the superior court judge

Except as provided in section 13-912, the restoration of civil rights and the dismissal of the accusation or information under the provisions of this chapter shall be in the discretion of the superior court judge by whom the person was sentenced or his successor in office.

13-4051. Entry on records; stipulation; court order

A. Any person who is wrongfully arrested, indicted or otherwise charged for any crime may petition the superior court for entry upon all court records, police records and any other records of any other agency relating to such arrest or indictment a notation that the person has been cleared.

B. After a hearing on the petition, if the judge believes that justice will be served by such entry, the judge shall issue the order requiring the entry that the person has been cleared on such records, with accompanying justification therefore, and shall cause a copy of such order to be delivered to all law enforcement agencies and courts. The order shall further require that all law enforcement agencies and courts shall not release copies of such records to any person except upon order of the court.

C. Any person who has notice of such order and fails to comply with the court order issued pursuant to this section shall be liable to the person for damages from such failure.

ARIZONA

Pardon Information

31-441. Application for pardon; statement of facts proved at trial

When an application is made for a pardon, the board of executive clemency may require the judge of the court before whom the applicant was convicted, or the county attorney by whom the action was prosecuted, to furnish the board, without delay, a statement of facts proved on the trial and any other facts having reference to the propriety of granting or refusing the pardon.

31-442. Application for pardon; notice; exceptions

A. At least ten days before the board of executive clemency acts upon an application for a pardon, written notice of intention to apply therefor, signed by the person applying, shall be served on the county attorney of the county where the applicant was convicted, and proof of the service must be presented to the board by affidavit. Unless dispensed with by the governor, a copy of the notice shall also be published for thirty days from the first publication, in a paper in the county in which the conviction was had.

B. The provisions of this section shall not apply:

1. When there is imminent danger of the death of the person convicted or imprisoned.
2. When the term of imprisonment of the applicant is within ten days of expiration.

31-443. Power of governor to grant reprieves, commutations and pardons

The governor, subject to any limitations provided by law, may grant reprieves, commutations and pardons, after conviction, for all offenses, except impeachment, upon conditions, restrictions and limitations he deems proper.

ARKANSAS

Right to Inspect & Make Copy of your Criminal Record: 12-12-211

Right to Challenge (information on your criminal record): 12-12-211; 12-12-1013

Sealing Conviction Information: None

Purging (Erasing, Expunging) Non-conviction Information: 12-12-207(i)

SECTION 1. Arkansas Code § 16-93-204 is amended to read as follows:

16-93-204. Executive clemency.

(a)(1)(A) All applications for pardon, commutation of sentence, reprieve, respite, or remission of fine or forfeiture shall be signed by the applicant under oath.

(B) For purposes of § 5-53-102, the application shall be deemed an official proceeding.

(2) An applicant shall obtain and include with his or her application a certified copy of the applicant's judgment and commitment order or comparable document.

(3) Applications shall be referred to the Post Prison Transfer Board for investigation.

(b) The Post Prison Transfer Board shall thereupon investigate each case and shall submit to the Governor its recommendation, a report of the investigation, and all other information the Post Prison Transfer Board may have regarding the applicant.

(c)(1) As part of the board's investigation, the chair of the board or his or her designee shall have the power to issue oaths and subpoena witnesses to appear and testify and to bring before the board any relevant books, papers, records, or documents.

(2)(A) The subpoena shall be directed to any sheriff, coroner, or constable of the county where the designated witness resides or is found.

(B) The endorsed affidavit on the subpoena of any person eighteen (18) years of age or older shall be proof of the service of the subpoena.

(C) The subpoena shall be served and returned in the same manner as subpoenas in civil actions in the circuit courts are served and returned.

(D) The fees and mileage expenses as prescribed by law for witnesses in civil cases shall be paid by the Department of Community Correction.

(4)(A) If any person subject to a subpoena issued under this section fails or refuses to testify or answer to any matter regarding which the person may be lawfully interrogated, any circuit court in this state on application of the chair of the board shall issue an attachment for the person and compel him or her to comply with the subpoena, appear before the board, and produce such testimony and documents as may be required.

(B) The circuit court may hold the person in contempt as in civil cases.

(5) It is a violation for a witness to refuse or neglect to appear and testify, punishable upon conviction by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

(6) Any person knowingly testifying falsely under oath before the board to any matter that is material to a lawful inquiry by the board under this section may be charged with perjury under § 5-53-102.

(c)(1)(d)(1) Before the Post Prison Transfer Board shall consider an application for a pardon or recommend a commutation of sentence, the board shall solicit the written or oral recommendation of the committing court, the prosecuting attorney, and the sheriff of the county from which the person was committed.

(2)(A) Before considering an application for a pardon or recommending a commutation of sentence of a person who was convicted of capital murder, § 5-10-101, or a Class Y, Class A, or Class B felony, the board shall notify the victim of the crime or the victim's next of kin, if he or she files a request for notice with the prosecuting attorney.

(B) When the board provides notice under subsection (c) of this section, the board shall solicit the written or oral recommendations of the victim or his or her next of kin regarding the granting of a pardon or commutation of sentence.

(3) The board shall retain a copy of the recommendations in the board's file.

(4) The recommendations shall not be binding upon the board in advising the Governor whether to grant a pardon or commute a sentence, but shall be maintained in the inmate's file.

(5)(A) If a hearing will be held on the application, the board shall notify the victim or his or her next of kin of the date, time, and place of the hearing.

(B) The notice shall be given when soliciting the recommendations of the victim of the crime or his or her next of kin. (e) At least thirty (30) days before submitting to the Governor a recommendation that an application for pardon, commutation of sentence, or remission of fine or forfeiture be granted, the board shall:

(1) Issue a public notice of its intention to make such a recommendation;

(2) Send notice of its intention to the circuit court judge who presided over the applicant's trial, the prosecuting attorney, and sheriff of the county in which the applicant was convicted, and, if applicable, to the victim or the victim's next of kin; and

(3) Send to the Governor any documents and a summary of any testimony that support the board's recommendation that an application for pardon, commutation of sentence, or remission of fine or forfeiture be granted.

(f) Whether the board recommends that an application for pardon, commutation of sentence, or remission of fine or forfeiture be granted or denied by the Governor, the board shall issue public notice of each recommendation.

SECTION 2. Arkansas Code § 16-93-207 is amended to read as follows:

16-93-207. Applications for pardon, commutation of sentence, and remission of fines and forfeitures Executive clemency procedures for the Governor.

(a)(1)(A) At least thirty (30) sixty (60) days before granting an application for pardon, commutation of sentence, or remission of fine or forfeiture, the Governor shall file with the Secretary of State a notice of his intention to grant such application.

(B)(i) The Governor shall also direct the Department of Correction to: send

(a) Send notice in writing of his the Governor's intention to grant clemency to the judge, the prosecuting attorney, and the sheriff or chief law enforcement officer of the arresting agency of the county in which the applicant was convicted; and, if applicable,

(b) Attempt to send notice to the victim or the victim's next of kin.

(ii) The notification to the victim or the victim's next of kin shall not be required if the conviction occurred more than ten (10) years prior to the filing of the notice under subdivision (a)(1)(A) of this section of intent to grant clemency shall contain specific reasons for the Governor's intent to grant clemency.

(iii) Prior to granting clemency, the Governor shall accept any objections to the clemency application or the Governor's intent to grant clemency which are submitted in writing to the Governor's office within thirty (30) days of the filing of the notice of intention to grant clemency described in subdivision (a)(1)(A) of this section by:

(a) The sheriff or chief law enforcement officer of the arresting agency of the county in which the applicant was convicted;

(b) The prosecuting attorney for the county in which the applicant was convicted; or

(c) The victim of the crime or the victim's next of kin. 35

(2) The filing of such notice shall not preclude the Governor from later denying the application, but any pardon, commutation of sentence, or remission of fine or forfeiture granted without filing such notice shall be null and void.

(b) If the Governor does not grant an application for pardon, commutation of sentence, or remission of fine or forfeiture within one hundred twenty (120) two hundred forty (240) days of the Governor's receipt of the recommendation of the Post Prison Transfer Board regarding the application, the application shall be deemed denied by the Governor, and any pardon, commutation of sentence, or remission of fine or forfeiture granted after the one hundred twenty-day period two hundred forty-day period shall be null and void.

(c)(1) If an application for pardon, commutation of sentence, or remission of fine or forfeiture is denied in writing by the Governor, the person filing the application shall not be eligible to file a new application for pardon, commutation of sentence, or remission of fine or forfeiture related to the same offense for a period of four (4) years from the date of the denial.

(2) If an application for pardon, commutation of sentence, or remission of fine or forfeiture is deemed denied by the Governor pursuant to subsection (b) of this section, the person filing the application may immediately file a new application for pardon, commutation of sentence, or remission of fine or forfeiture related to the same offense.

(d) This section shall not apply to reprieves, and reprieves may be granted as presently provided by law Upon granting an application for executive clemency whether by pardon, commutation of sentence, or remission of fine or forfeiture, the Governor shall describe in writing and in detail, upon the face of the document granting clemency, the specific reasons for granting clemency.

SECTION 3. Legislative intent.

(a) It is the intent of the General Assembly that the Governor fully inform the public, the victim or the victim's next of kin, prosecutors, and law enforcement agencies of his or her rationale for granting executive clemency.

(b) A victim or the victim's next of kin especially have the right to be notified in writing of the clemency granted to a person who has inflicted harm upon the victim. (c) Persons who sought justice on behalf of the victim or the victim's next of kin should be involved in informing the Governor of any objections to clemency applications.

(d) It is in the best interests of the citizens of the State of Arkansas that the Governor:

(1) Carefully consider the facts and circumstances surrounding a particular crime;

(2) Carefully consider the consequences of granting clemency to a person who was convicted of harming those whom the law seeks to protect; and

(3) Describe in detail to the citizens of the State of Arkansas the specific reasons for the exercise of the power of executive clemency.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the granting of clemency is a matter of great public importance; that procedures for the Governor are necessary due to the volume of requests for clemency to ensure that the interested parties are properly informed of the reasons for granting clemency; and that this act is immediately necessary in order to provide a proper procedure for exercising the power of executive clemency as prescribed by the Constitution and the laws of the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

CALIFORNIA

Right to Inspect & Make Copy of your Criminal Record: Pen. Code 13323;, 11122; 11124

Right to Challenge (information on your criminal record): Pen. Code 13324; 11126

Sealing Conviction Information: Pen. Code 1203.45 (Non-conviction: Pen. Code 851.8)

Purging (Erasing, Expunging) Non-conviction Information: H&S Code 11361.5; Pen. Code 851.8 (Conviction: Same)

What Were The Details Of Your Conviction?

In order to begin cleaning up your criminal record, you first need to know what is on your criminal record. The court will require you to fill out forms. Whether you are requesting a dismissal or a Certificate of Rehabilitation, you will need to know the details of your convictions(s) in order to complete the forms. Also, certain details will affect whether you are eligible. There are several details you will need to know in order to accomplish your goals:

- Your Case Number(s) [Sometimes called docket number.]
- Your Date(s) of Conviction(s) [The date of your plea or verdict.]
- The Code Name(s) and Section Number(s) you were convicted of violating.
- Was there a "Verdict" or did you "Enter a Plea"? If you Entered a Plea, was it "Guilty" or "Nolo Contendere" (No Contest)?
- Were you ordered to serve any time on "Probation"? If so, how long? [Formal and informal probation are treated the same.]
- Were you ordered to pay any "Fines," "Restitution," or "Reimbursement"?
- If you were sentenced to state prison, which one?
- If you were sentenced to state prison, what date were you released?
- If you were released on "Parole," what date did your parole end?

Get a Copy of Your Criminal Records Information. Your criminal records information can be obtained from a variety of sources. Below is a list of the sources most commonly used.

1. Your court papers received at the time of conviction.
2. Your attorney, parole officer, probation officer, or contacts within the [courts](#) or [law enforcement community](#).
3. The [Superior Court](#) where you were convicted. They will only have information for convictions from that county and not other

counties. You will need to make a copy of your order(s) of judgment.

4. The [California State Department of Justice](#), Criminal Records Division. They will have your criminal records information for the entire State of California. They are located at 4949 Broadway, First Floor Fingerprinting Office, Sacramento, California. Their phone number is (916) 227-3400. There is a fee, but you may be eligible for a fee waiver. You must provide written proof of your income. It may take several weeks for the record to arrive in the mail.

Your Options. Depending on your particular situation, you may have the following options:

If you were convicted of a misdemeanor and are still on probation, you may request early release from probation and file petition to have conviction dismissed. To do this, file a PC 1203.3 petition to have probation terminated early, and PC [1203.4 petition](#) for expungement.

If you were convicted of a misdemeanor and have successfully completed probation you may file a petition to have conviction dismissed. To do this, file a [PC 1203.4 petition](#) for expungement.

If you were convicted of a misdemeanor and were never given any probation at all, you may file a petition to have conviction dismissed. To do this, file a PC [1203.4a petition](#) for expungement

You were convicted of a felony and are still on probation you may request early release from probation and file a petition to have your conviction reduced to misdemeanor and dismissed. To do this, file a PC 1203.3 petition to have probation terminated early. Also file a PC 17(b) petition to get felony reduced, and PC [1203.4 petition](#) for expungement.

If you were convicted of a felony and are done with probation and/or county jail time you may file petition to have conviction reduced and dismissed. To do this, file a PC 17(b) petition to get the felony reduced, and a PC [1203.4 petition](#) for expungement

If you were convicted of a felony and were never given any probation at all and were sentenced to county jail, you may file a petition to have felony reduced to a misdemeanor and file petition to have conviction dismissed. To do this file a PC 17(b) petition to get felony reduced and a [PC 1203.4a](#) petition for expungement.

You were convicted of a felony and were sentenced to state prison or under the authority of the California Department of Corrections, you may file a petition for Certificate of Rehabilitation and Pardon.

Dismissal Of Cases Not Involving State Prison Sentences: If you were convicted of a misdemeanor or a felony and were not sentenced to state prison or under the authority of the California Department of Corrections you can petition for a dismissal. This means you were given county jail time, probation, a fine, or a combination of those three. If you are petitioning for a dismissal, the court upon proper motion, may withdraw your guilty or nolo contendere (no contest) plea, or verdict of guilt if you went to trial, and enter a not guilty plea. Then the court will set aside and dismiss the conviction. From that point forward, you are considered no longer convicted of the offense. Your record will be changed to show a dismissal rather than a conviction.

You are Eligible if:

1. If you were given probation, you have either completed it or obtained early release. If you violated your probation and it was either reinstated or revoked, then the court has discretion whether or not to grant you a dismissal.
2. If you were not given probation, it has been at least one year since the date of conviction.
3. You have paid all fines, restitution and reimbursement ordered by the court as part of your sentence.
4. You are not currently under arraignment for a new criminal offense (charges pending), nor are you on probation for another offense.

If you were convicted of any of the following offenses you are not eligible for a dismissal: Vehicle Code Section 42001(b) which includes sections 2800, 2801 and 2803; Penal Code Section 261(d), 286(c), 288, 288a(c), 288.5 and 289(j).

If you were referred to a "diversion" program, your record will already be changed in one of two ways. If you successfully completed all of the diversion program requirements, your record should already be changed to show a dismissal. If you didn't complete your requirements or were not actually given diversion, then the conviction will be on your record.

If you were convicted of possession of marijuana for personal use then you do not necessarily need to get a dismissal for the offense. Under California Health and Safety Code Sections 11361.5 and 11361.7 all possession of marijuana for personal use convictions, after January 1, 1976, are erased from your record after two years. BE CAREFUL! The conviction cannot be for cultivation, sales or transportation. If it is, it will be on your record.

Your Juvenile records do appear on your criminal record. Upon your 18th birthday, you are eligible to petition to have your juvenile records sealed. Once

sealed, no one can gain access to them and they will be completely destroyed five years from the date of sealing.

Juvenile records are not automatically sealed upon your 18th birthday. You must affirmatively petition the juvenile court to have them sealed. You can do this by filing out a form and filing it with the juvenile court in the county in which you were convicted. Contact the juvenile court in the county you were convicted, and ask them to send you a copy of the form used in that county. Check to see if they have any special filing requirements such as additional photocopies or the need to serve copies of the petition on any government agencies, and get the correct information for filing by mail. Usually, there is no fee.

If you graduated from the California Youth Authority, your juvenile conviction(s) will have been dismissed as part of your graduation. If you do not petition to have your juvenile records sealed and destroyed, they will remain on your record until your 38th birthday, then they will be destroyed.

Procedure:

Complete and File the Petition(s) and Fee Waiver(s). If you are filing a petition for reducing a felony or a petition for early release from probation or for a dismissal, you will need to call the Clerk of the [Superior Court](#) for the county in which you were convicted, and ask them for the following information:

1. Have them send you as many copies of their form (if they have one) as you have convictions in that county.
2. Ask if you need to submit additional photocopies of the petition, and how many?
3. Ask if their rules of court require you to serve copies of your petition on the district attorney and/or probation department?
4. Ask what the correct mailing address is for filing by mail?

Remember, you can only dismiss one conviction at a time. This means you will fill out a separate petition for each conviction that you want to dismiss, but you can file them all at the same time. If you are currently on probation, you will need to deal with that conviction first, then you can proceed with the others. Usually there is a fee to file a petition for dismissal with the court. However, fee waivers are available to people who cannot afford to pay. [Click here](#) for court fee and waiver information.

File Your Petition(s) and Fee Waiver(s) With the Court(s) If you are filing a petition for reducing a felony or a petition for early release from probation or a dismissal, you will need to mail (or deliver in person) your filing materials to the Clerk of the Superior Court for the county of your conviction(s).

Be sure to include any supportive materials such as letters of support, school diplomas and/or transcripts, and if applying for early release from probation, include a letter to the judge explaining why you feel you should be released from probation early. At the time you file your papers, the clerk will set a hearing date.

If required in your county, be sure to serve the district attorney and/or probation department.

You will be required to attend the hearing, although for 1203.4 and 1203.4a petitions you may not have to appear. If you are required to attend the hearing **BE SURE TO ATTEND**. Be on time, and dress conservatively. If your petition is granted, make sure to put the order in a safe place for your records.

If Your Petition(s) is Denied. You may still be able to get your conviction(s) dismissed. After you receive the order from the judge denying your dismissal, you can either go to, or call, the Clerk at the courthouse to see if you can find out why the petition was denied and whether you can fix the problem and re-file.

Certificate of Rehabilitation. If you were sentenced to state prison or sentenced under the authority of the California Department of Corrections you are not eligible for a dismissal under Penal Code Section 1203.4 or 1203.4a. You may, however, be eligible for a Certificate of Rehabilitation. For eligibility and application requirements contact the Board of Prison Terms, 428 J Street, 6th Floor, Sacramento, CA 95814. This is a lengthy process that may necessitate the assistance of a private attorney.

What Will A Dismissal Mean?:

Once all of your convictions have been dismissed:

1. On questions by Private Employers if you are asked if you have ever been convicted of a crime, you must respond with "YES-CONVICTION DISMISSED."
2. On questions by Government Employers or Government Licensing Applications if you are asked if you have ever been convicted of a crime, you **MUST** respond with "YES-CONVICTION DISMISSED." In California, government employers and licensing agencies (except for police agencies and concessionaire licensing boards), will treat you the same as if you had never been convicted of any crime.

3. You will not be allowed to own or possess a firearm until you would otherwise be able to do so.
4. Your dismissed conviction(s) can still be used to increase your punishment in future criminal cases.
5. Your prior conviction(s) can still affect your driving privileges.
6. If you have been required to register as a sex offender as a result of a conviction, you have to make a different motion to the court in order to be relieved of this requirement. A dismissal will not relieve you of your duty to register as a sex offender

California Pardon

INSTRUCTIONS

(a) Prepare this Notice and enough copies to serve all of the persons you have names. The Notice shall be given

(1) to the Governor of California, (2) the District Attorney of the county in which you filed your petition, and

(3) to the District Attorney of each county in which you were convicted of a felony.

(b) This Notice must be served at least **30 days** prior to the date set for the hearing.

(c) On the reverse side of this Notice are forms for proof of service upon various persons indicated above. This can be done by delivering a copy to each one, and having them sign for the same in the blanks indicated, or by having someone, other than yourself, mail a copy to each and making the affidavit of mailing, which is also set out on the reverse side of this Notice. Mailing procedure is explained in the affidavit itself.

(d) After you have served all of the persons indicated, personally or by mail, or a combination of both, file this

Notice with the Clerk of the Court, together with the admission of service or the affidavit of mailing, or a combination of both, as the case may be.

Law reference: Sections 4852.01 to 4852.2, inclusive, Penal Code of California.

COLORADO

Right to Inspect and Make Copy of Criminal records 24-72-301:24-72-306

Right to Challenge Information in a criminal record: 24-72-307

Sealing Conviction 24-72-308

Purging (Erasing, Expunging) Conviction Information: 24-72-308(8)

Locate and examine exact case information FIRST!

Call, write or drop by the local court - request a name search Not only is detailed information available, quite likely the court file is accessible on demand.

You may have the right to file a separate civil lawsuit in District Court requesting that criminal justice agency records be sealed. Sealing does not happen automatically. Courts in El Paso County require a separate civil lawsuit to be filed for each matter to be sealed.

The relevant statute is [CRS 24-72-308](#) - sealing of criminal justice agency records

1. After investigation, the matter was dropped without filing criminal charges. **OR** 2. After prosecution was initiated, all charges in the criminal case were dismissed. This includes but not limited to evidentiary suppression, nolle, nolle prosequi, insufficient evidence, dismissal, straight dismissal, flat dismissal, or successful completion of a deferred sentence and subsequent dismissal. **AND** a. You did not waive your rights to petition to seal in plea negotiation has a sealing waiver pre-printed into misdemeanor deferred sentence agreements. Many felony deferred sentence agreements are custom drafted and contain a similar clause. If such a clause exists, the right to seal is gone unless perhaps grounds exist for a collateral attack. Place to begin - carefully read your deferred sentence agreement looking for the word waive, waives, waived and also the numbers [24-72-308](#).

b. The dismissal or failure to charge was not the result of a plea agreement in a separate case Note: 2004 amendment opens a window if you have been a good lad or lass. Now the uncharged offense investigation records or flat dismissal would be eligible for sealing 15 years after the date of final disposition of all criminal proceedings if no new criminal charges have been brought during the 15 years. Word to the wise. DUI, DEAC & DWAI as well as driving under restraint are classified as misdemeanors - criminal charges - as well as some other traffic matters. Exercise care if relevant. **OR** 3. After prosecution was initiated, a judge or jury entered a verdict of not guilty on all charges.

FILING

At the time of filing of a petition, if the court does not determine that grounds exist on the face of the petition at that time for the court to deny the request to seal, the court is required to set a date for a hearing. 1. Petitioner is responsible to provide notice to each agency with records to be sealed by certified mail. [CRS 24-72-308\(1\)\(b\)\(II\)](#) Notice is sent to the prosecuting attorney, the arresting agency, and any other person or agency identified by the Petitioner. 2. Locally it was common for notice to be sent by regular US Mail, however the statute was amended to place the burden of certified mailings upon the Petitioner where it was previously the court's duty. 3. This office has always complied with the statute and provided both petition and notice of hearing by certified mail to all agencies with records to seal. Expensive postage & time consuming, but done.

HEARING - CRITERIA - ORDER

In making a determination, the trial court should consider the severity of the offense sought to be sealed, the time which has elapsed since the conviction, the subsequent criminal history of the petitioner, and the need for the government agency to retain the records. D.W.M. v. District Court, 751 P.2d 74 (Colo. 1988); People v. Bushu, 876 P.2d 106 (Colo. App. 1994). The court may also consider factors relating to the strength of the case, petitioner's age and employment history, and various consequences if the records are not sealed. The balance test allows for consideration of other factors on a case-by-case basis. Bushu, *supra*.

If after the hearing is conducted the court finds that the harm to the privacy of the petitioner or dangers of unwarranted adverse consequences to the petitioner outweigh the public interest in retaining the records, the court may order such records to be sealed. By law, basic identification information will not be sealed. [CRS 24-72-308\(1\)\(c\)](#)

The statute indicates the general assembly's intent to preserve the complete criminal justice record, but in a form that protects the individual named from any harmful effects. Physical destruction of records not generally allowed. By fashioning the remedy of sealing records, the general assembly did not intend that the physical destruction of the records also be allowed in most situations. People v. Wright, 43 Colo. App. 30, 598 P.2d 157 (1979).

COLORADO PARDON

Applicable Form of Executive Clemency: Commutation of Sentence Colorado Constitution, Article IV, Section 7: "The governor shall have the power to grant reprieves, commutations and pardons after conviction for all offenses except treason, and except in case of impeachment, subject to such regulations as may be prescribed by law relative to the manner of applying for pardons, but he shall in every case where he may exercise this power, send to the general assembly at its first session thereafter, a transcript of the petition, all proceedings, and reasons for his action." **Eligibility Restrictions :**

Confinement A) The inmate must be housed in a facility of confinement, which includes prisons, jails, community placement, private/public contract facilities and out-of state facilities. B) Currently not on parole or within 15 months of parole eligibility. C) Not participating in Intensive Supervision Program (ISP). **Time Eligibility** A) Life Sentences: Inmates serving a single life sentence must have served 1/3 of their sentence to parole eligibility or ten full years, whichever is less. B) Life Sentence with Consecutive Sentence(s): Inmates serving a life sentence with consecutive sentences which have been adjusted by the Department of Corrections or legislative action must serve ten full years. C) Inmates serving all other sentences other than those described above must serve 1/3 of their actual sentence or ten calendar years, whichever is less. **Disqualifying Conduct While Confined** A) Any Code of Penal Discipline Class 1 or Class II violation conviction(s) within a two year period prior to the application will disqualify inmates from commutation eligibility. B) Inmates housed in Administrative Segregation are not eligible for commutation consideration. **Crimes Ineligible for Commutation** Inmates who have committed a violent crime against a peace officer are not eligible (i.e. assault on a peace officer, riot, etc.).

Probation/Parole Status Ineligibility A) If the inmate was on probation at the time the crime being proposed for commutation was committed, the inmate is not eligible for commutation consideration. B) Parole violators who have been charged/convicted with a new crime are not eligible to apply for commutation for the sentence. C) Those charged/convicted of new crime(s) while on parole are eligible to apply for commutation as to the new sentence only; provided they meet the current eligibility criteria. **Pending Criminal Charges/Sentences** A) Inmates with unresolved criminal charges are not eligible for commutation consideration. B) Those with pending sentences may apply for commutation. **Appeals** A) The inmate must have no pending appeals. B) All other judicial remedies must be exhausted prior to being eligible for clemency review. **Waiver of Ineligibility Criteria** The Governor and the Department of Corrections Director may grant a waiver of these criteria in cases involving medical emergency or for compelling cases that demonstrate: A) Catastrophic medical and/or mental health problems. B) Extremely unique situations (i.e. heroism, severe sentence disparity or rehabilitation). **Reapplication** Applicants may reapply after four years from receipt of official notification of denial from the Governor or the Governor's Clemency Coordinator. Cases not reviewed or tabled are terminated within one year of date of application.

Application Process: Applications are available from an inmate's Case Manager or by contacting: Mark Noel Executive Chambers 136 State Capitol Denver, CO 80203-1792 Tel: (303) 866-2471 An application for commutation of sentence is initiated by the inmate with the assistance of the Department of Corrections' Case Managers. Applicants must complete Executive Clemency Advisory Board (ECAB) Application Eligibility Criteria for Commutation of Sentence & Character Certificate. Attachments to be included with application:

- A personal letter to Governor Bill Owens stating specific reasons/circumstances for requesting clemency.
- A recent Performance Review Summary (PRS); if older than 90 days, a new PRS should be submitted.
- The Admission Data Summary (ADS) and Diagnostic Summary completed upon DOC admission.
- Psychological/psychiatric reports which include diagnostic information from clinical staff or contractors.
- Reports of disciplinary actions and sanctions; including investigative reports if applicable.
- The most recent time computation.
- Current FBI record of arrest.
- Detainers/notifications requests, or other pertinent law enforcement communications.
- Pre-sentence investigation report and/or offense report.
- Reports of adjustment to community placement if applicable.
- If serious medical/mental health problems exist, a current report containing the diagnosis, prognosis, and recommendations.
- Any additional documents, references, or exhibits that would assist the Governor in making an informed decision.

Copies of the completed application are sent to the sentencing judge and district attorney in the judicial district where the conviction took place. Colorado law requires that ECAB solicit the comments of the appropriate judge and the district attorney. ECAB also makes every attempt to contact any victims associated with the crime. Clemency applications are routinely reviewed by ECAB for recommendation. The Governor has final discretion to grant, refuse or table all clemency applications. An application may take six months to a year to process. The inmate's Case Manager will process the prisoner's application with the assistance of the Department of Corrections Offender Services. The Governor's Clemency Coordinator will notify the prisoner of the Governor's final decision. Every effort has been made to make this information accurate and up-to-date. Errors are inevitable and changes occur frequently. We would appreciate learning of any errors or inaccuracies regarding any information on this Webpage as soon as possible. Please write to info@cjpf.org

CONNECTICUT

Right to Inspect & Make Copy of your Criminal Record: 54-142k

Right To Challenge (information on your criminal record): 54-142l

Sealing Conviction Information: 54-142a; 54-142b (Non-conviction: 29-16; 54-142a)

Purging (Erasing, Expunging) Conviction Information: 54-142a (Non-conviction: 54-142a)

From Connecticut General Assembly:

Sec. 54-142g. Definitions. For purposes of this part and sections 29-11 and 54-142c, the following definitions shall apply:

(a) "Criminal history record information" means court records and information compiled by criminal justice agencies for purposes of identifying criminal offenders and of maintaining as to each such offender notations of arrests, releases, detentions, indictments, informations, or other formal criminal charges or any events and outcomes arising from those arrests, releases, detentions, including pleas, trials, sentences, appeals, incarcerations, correctional supervision, paroles and releases; but does not include intelligence, presentence investigation, investigative information or any information which may be disclosed pursuant to subsection (f) of section 54-63d.

(b) "Criminal justice agency" means any court with criminal jurisdiction, the Department of Motor Vehicles or any other governmental agency created by statute which is authorized by law and engages, in fact, as its principal function in activities constituting the administration of criminal justice, including, but not limited to, organized municipal police departments, the Division of State Police, the Department of Correction, the Court Support Services Division, the Office of Policy and Management, the state's attorneys, assistant state's attorneys and deputy assistant state's attorneys, the Board of Pardons and Paroles, the Chief Medical Examiner and the Office of the Victim Advocate. "Criminal justice agency" includes any component of a public, noncriminal justice agency if such component is created by statute and is authorized by law and, in fact, engages in activities constituting the administration of criminal justice as its principal function.

(c) "Conviction information" means criminal history record information which has not been erased, as provided in section 54-142a, and which discloses that a person has pleaded guilty or nolo contendere to, or was convicted of, any criminal offense, and the terms of the sentence.

(d) "Current offender information" means information on the current status and location of all persons who (1) are arrested or summoned to appear in court; (2) are being prosecuted for any criminal offense in Superior Court; (3) have an appeal pending from any criminal conviction; (4) are detained or incarcerated in any correctional facility in this state; or (5) are subject to the jurisdiction or supervision of any probation, parole or correctional agency in this state, including persons transferred to other states for incarceration or supervision.

(e) "Nonconviction information" means (1) criminal history record information that has been "erased" pursuant to section 54-142a; (2) information relating to persons granted youthful offender status; (3) continuances which are more than thirteen months old. Nonconviction information does not mean conviction information or current offender information.

(f) "Disclosure" means the communication of information to any person by any means.

Sec. 54-142a. (Formerly Sec. 54-90). Erasure of criminal records.

(a) Whenever in any criminal case, on or after October 1, 1969, the accused, by a final judgment, is found not guilty of the charge or the charge is dismissed, all police and court records and records of any state's attorney pertaining to such charge shall be erased upon the expiration of the time to file a writ of error or take an appeal, if an appeal is not taken, or upon final determination of the appeal sustaining a finding of not guilty or a dismissal, if an appeal is taken. Nothing in this subsection shall require the erasure of any record pertaining to a charge for which the defendant was found not guilty by reason of mental disease or defect or guilty but not criminally responsible by reason of mental disease or defect.

(b) Whenever in any criminal case prior to October 1, 1969, the accused, by a final judgment, was found not guilty of the charge or the charge was dismissed, all police and court records and records of the state's or prosecuting attorney or the prosecuting grand juror pertaining to such charge shall be erased by operation of law and the clerk or any person charged with the retention and control of such records shall not disclose to anyone their existence or any information pertaining to any charge so erased; provided nothing in this subsection shall prohibit the arrested person or any one of his heirs from filing a petition for erasure with the court granting such not guilty judgment or dismissal, or, where the matter had been before a municipal court, a trial justice, the Circuit Court or the Court of Common Pleas with the records center of the Judicial Department and thereupon all police and court records and records of the state's attorney, prosecuting attorney or prosecuting grand juror pertaining to such charge shall be erased. Nothing in this subsection shall require the erasure of any record pertaining to a charge for which the defendant was found not guilty by reason of mental disease or defect.

(c) Whenever any charge in a criminal case has been nolle in the Superior Court, or in the Court of Common Pleas, if at least thirteen months have elapsed since such nolle, all police and court records and records of the state's or prosecuting attorney or the prosecuting grand juror pertaining to such charge shall be erased. However, in cases of nolle entered in the Superior Court, Court of Common Pleas, Circuit Court, municipal court or by a justice of the peace prior to April 1, 1972, such records shall be deemed erased by operation of law and the clerk or the person charged with the retention and control of such records shall not disclose to anyone their existence or any information pertaining to any charge so erased, provided nothing in this subsection shall prohibit the arrested person or any one of his heirs from filing a petition to the court or to the records center of the Judicial Department, as the case may be, to have such records erased, in which case such records shall be erased. Whenever any charge in a criminal case has been continued at the request of the prosecuting attorney, and a period of thirteen months

has elapsed since the granting of such continuance during which period there has been no prosecution or other disposition of the matter, the charge shall be construed to have been nolle as of the date of termination of such thirteen-month period and such erasure may thereafter be effected or a petition filed therefor, as the case may be, as provided in this subsection for nolle cases.

(d) Whenever prior to October 1, 1974, any person who has been convicted of an offense in any court of this state has received an absolute pardon for such offense, such person or any one of his heirs may, at any time subsequent to such pardon, file a petition with the superior court at the location in which such conviction was effected, or with the superior court at the location having custody of the records of such conviction or with the records center of the Judicial Department if such conviction was in the Court of Common Pleas, Circuit Court, municipal court or by a trial justice court, for an order of erasure, and the Superior Court or records center of the Judicial Department shall direct all police and court records and records of the state's or prosecuting attorney pertaining to such case to be erased. Whenever such absolute pardon was received on or after October 1, 1974, such records shall be erased.

(e) The clerk of the court or any person charged with retention and control of such records in the records center of the Judicial Department or any law enforcement agency having information contained in such erased records shall not disclose to anyone, except the subject of the record, upon submission pursuant to guidelines prescribed by the Office of the Chief Court Administrator of satisfactory proof of the subject's identity, information pertaining to any charge erased under any provision of this section and such clerk or person charged with the retention and control of such records shall forward a notice of such erasure to any law enforcement agency to which he knows information concerning the arrest has been disseminated and such disseminated information shall be erased from the records of such law enforcement agency. Such clerk or such person, as the case may be, shall provide adequate security measures to safeguard against unauthorized access to or dissemination of such records or upon the request of the accused cause the actual physical destruction of such records, except that such clerk or such person shall not cause the actual physical destruction of such records until three years have elapsed from the date of the final disposition of the criminal case to which such records pertain. No fee shall be charged in any court with respect to any petition under this section. Any person who shall have been the subject of such an erasure shall be deemed to have never been arrested within the meaning of the general statutes with respect to the proceedings so erased and may so swear under oath.

(f) Upon motion properly brought, the court or a judge thereof, if such court is not in session, may order disclosure of such records (1) to a defendant in an action for false arrest arising out of the proceedings so erased or (2) to the prosecuting attorney and defense counsel in connection with any perjury charges which the prosecutor alleges may have arisen from the testimony elicited during the trial. Such disclosure of such records is subject also to any records destruction program pursuant to which the records may have been destroyed. The jury charge in connection with erased offenses may be ordered by the judge for use by the judiciary, provided the names of the accused and the witnesses are omitted therefrom.

(g) The provisions of this section shall not apply to any police or court records or the records of any state's attorney or prosecuting attorney with respect to any information or

indictment containing more than one count (1) while the criminal case is pending, or (2) when the criminal case is disposed unless and until all counts are entitled to erasure in accordance with the provisions of this section. Nothing in this section shall require the erasure of any information contained in the registry of protective orders established pursuant to section 51-5c.

(h) For the purposes of this section, "court records" shall not include a record or transcript of the proceedings made or prepared by an official court reporter, assistant court reporter or monitor.

Sec. 54-142c. Disclosure of erased records.

(a) The clerk of the court or any person charged with retention and control of erased records by the Chief Court Administrator or any criminal justice agency having information contained in such erased records shall not disclose to anyone the existence of such erased records or information pertaining to any charge erased under any provision of this part, except as otherwise provided in this chapter.

(b) Notwithstanding any other provisions of this chapter, within two years from the date of disposition of any case, the clerk of the court or any person charged with retention and control of erased records by the Chief Court Administrator or any criminal justice agency having information contained in such erased records may disclose to the victim of a crime or the victim's legal representative the fact that the case was dismissed. If such disclosure contains information from erased records, the identity of the defendant or defendants shall not be released, except that any information contained in such records, including the identity of the person charged may be released to the victim of the crime or the victim's representative upon written application by such victim or representative to the court stating (1) that a civil action has been commenced for loss or damage resulting from such act, or (2) the intent to bring a civil action for such loss or damage. Any person who obtains criminal history record information by falsely representing to be the victim of a crime or the victim's representative shall be fined not more than five thousand dollars or imprisoned not less than one year or more than five years or both.

Sec. 54-142d. Destruction of record of decriminalized offense. Whenever any person has been convicted of an offense in any court in this state and such offense has been decriminalized subsequent to the date of such conviction, such person may file a petition with the superior court at the location in which such conviction was effected, or with the superior court at the location having custody of the records of such conviction or with the records center of the Judicial Department if such conviction was in the Court of Common Pleas, Circuit Court, municipal court or by a trial justice, for an order of erasure, and the Superior Court or records center of the Judicial Department shall direct all police and court records and records of the state's or prosecuting attorney pertaining to such case to be physically destroyed.

HOW ARE PARDONS GRANTED IN CONNECTICUT?

The Conn. Board of Pardons and Paroles has the authority to:

- grant pardons for any crime under Connecticut law and to
- grant commutations from a death penalty imposed under Connecticut law.

Although the Governor has no authority to grant pardons or commutations, he/she may grant a reprieve in all cases except impeachment.

A reprieve is essentially a stay of execution of a sentence, which gives a person convicted of a crime the opportunity to seek a pardon, commutation, or further judicial review. A reprieve is temporary, lasting only from the time the Governor acts, until the end of the next session of the General Assembly.

WHO IS ELIGIBLE FOR A PARDON?

- Inmate: If serving a minimum sentence of eight years or more, must have served at least four years; if serving a minimum sentence of less than eight years, must have served at least 50% of the minimum sentence.
- Non-inmate: May not apply until at least five years have elapsed from the date of completion of the sentence, including a suspended sentence together with any term of probation attached. The Board may make exceptions as it deems fit.

APPLYING FOR A PARDON IN CONNECTICUT To apply for a pardon you must complete an application (a.k.a. petition) for a pardon and submit it to Board of Pardons and Paroles. You can get the form from the Board by calling the Board main office at (203) 805-6605, or you can download the form by going to the Dept. of Corrections website <http://www.ct.gov/doc> then click on the link to Board of Pardons and Paroles. The application form will include information on what documents you must submit with the petition, such as a certified copy of your conviction record from the court, a personal statement, and three character references. The form will have the details on how to obtain or prepare these documents. Please note that all documents **MUST be sent by U.S. Mail** to Board of Pardons and Paroles, 55 West Main St., Waterbury, CT 06702. **PERSONAL DELIVERIES WILL NOT BE ACCEPTED.** If your application form is not completed in accordance with the instructions, it will not be presented to the Board. Although you are not required to have an attorney to submit a petition for a pardon, it may be to your advantage to consult with an attorney before submitting a petition.

DELAWARE

Right to Inspect & Make Copy of your Criminal Record: 11-8513

Right to Challenge (information on your criminal record): 11-8506(e); 11-1448A 11-8560

Sealing Non-conviction Information: 11-4372

Purging (Erasing, Expunging) Conviction Information: 11-8506(c) (Non-conviction: Same)

Subchapter VII. Expungement of Criminal Records

§ 4371. Statement of policy.

The General Assembly finds that arrest records can be a hindrance to an innocent citizen's ability to obtain employment, obtain an education or to obtain credit. This subchapter is intended to protect innocent persons from unwarranted damage which may occur as the result of arrest and other criminal proceedings which are unfounded or unproven. (62 Del. Laws, c. 317, § 2.)

§ 4372. Termination of criminal action in favor of accused.

(a) If a person is charged with the commission of a crime and

(1) Is acquitted; or

(2) A nolle prosequi is taken, or the charge is otherwise dismissed, the person may file a petition setting forth the relevant facts and requesting expungement of the police records, and the court records relating to the charge.

(b) The petition shall be filed in the Superior Court in the county where the case was terminated, disposed of or concluded.

(c) A copy of the petition shall be served on the Attorney General, who may file an objection or answer to the petition within 30 days after it is served on the Attorney General.

(d) Notwithstanding any provision to the contrary, the Attorney General or designee responsible for prosecuting a criminal action may petition the court to expunge the instant arrest record of a defendant if at the time of a state motion to dismiss or entry of nolle prosequi in the case, the prosecutor has determined that the continued existence and possible dissemination of information relating to the arrest of the defendant for the matter dismissed or for which a nolle prosequi was entered may cause circumstances which constitute a manifest injustice to the defendant. (62 Del. Laws, c. 317, § 2; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 150, § 5.)

§ 4373. Hearing by Court; granting or denial of expungement.

(a) Unless the Court believes a hearing is necessary, petitions shall be disposed of without a hearing. If the Court finds that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes, or may cause, circumstances which constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records relating to the charge. Otherwise, it shall deny the petition. However, the Court shall grant petitions filed by the Attorney General or his or her designee pursuant to § 4372(d) of this title. The fact that the petitioner has previously been convicted of a criminal offense, other than that referred to in the petition, shall be considered by the Court as prima facie evidence that the continued existence and possible dissemination of information relating to the arrest in question does not constitute a manifest injustice to the petitioner.

(b) The State shall be made party defendant to the proceeding. Any party aggrieved by the decision of the Court may appeal, as provided by law in civil cases.

(c) If an order expunging the records is granted by the Court, all the records specified in the order shall, within 60 days of the order, be removed from the files, and placed in the control of the Supervisor of the State Bureau of Identification who shall be designated to retain control over all expunged records, and who shall insure that the records or the information contained therein is not released for any reason except as specified in this subchapter. In response to requests from nonlaw-enforcement officers for information or records on the person who was arrested, the law-enforcement officers and departments shall reply, with respect to the arrest and proceedings which are the subject of the order, that there is no record. (62 Del. Laws, c. 317, § 2; 72 Del. Laws, c. 150, § 6.)

§ 4374. Disclosure of expunged records.

(a) Except for disclosure to law-enforcement officers acting in the lawful performance of their duties in investigating criminal activity or for the purpose of an employment application as an employee of a law-enforcement agency, it shall be unlawful for any person having or acquiring access to an expunged court or police record to open or review it or to disclose to another person any information from it without an order from the Court which ordered the record expunged.

(b) Where disclosure to law-enforcement officers in the lawful performance of their duties in investigating criminal activity is permitted by subsection (a) of this section, such disclosure shall apply for the purpose of investigating particular criminal activity in which the person, whose records have been expunged, is considered a suspect and the crime being investigated is a felony or pursuant to an investigation of an employment application as an employee of a law-enforcement agency.

(c) Nothing contained in this section shall require the destruction of photographs or fingerprints taken in connection with any felony arrest and which are utilized solely by

law-enforcement officers in the lawful performance of their duties in investigating criminal activity.

(d) Nothing herein shall require the destruction of court records or records of the Department of Justice. However, all such records, including docket books, relating to a charge which has been the subject of a destruction order shall be so handled to ensure that they are not open to public inspection or disclosure.

(e) An offense for which records have been expunged pursuant to this section shall not have to be disclosed by the person as an arrest for any reason.

(f) Any person who violates subsection (a) of this section shall be guilty of a class B misdemeanor, and shall be punished accordingly. (62 Del. Laws, c. 317, § 2.)

§ 4375. Notification to federal government.

Upon the granting by the Court for an order for the expungement of records in accordance with this subchapter, a copy of such order shall be forwarded to the federal Department of Justice. (62 Del. Laws, c. 317, § 2.)

Instructions for Filing a Petition (Application) for Commutation of Sentence

*(You may use paper clips or rubber bands. Please do not staple or bind)**

To prepare your petition (or application – there is **no** official “application form”), please follow the steps below in the order listed:

FIRST: Obtain a **Certified** copy of the **Court Docket** and **Sentencing Order** for **each** guilty charge on your record. This can be obtained by contacting the court where you were sentenced. The court will need to know your arrest date in order to locate your docket.

SECOND: Complete the [Board of Pardons Cover Sheet](#).

THIRD: On a separate sheet of paper, please state your **Reasons for Applying** and why you believe you should be considered for a commutation.

FOURTH: On the same page as number 3, write a short **History of the Case**. You need to explain in detail the history of the offense (i.e., what happened, who was involved, where it happened, etc.).

FIFTH: You must provide a **Statement of All Pending Proceedings**. You must state whether you have any cases pending, State or Federal, and the nature of the cases pending against you. If such proceedings are pending, state which court is involved and note the status of the proceeding. If no such proceedings are pending, you must so state. If you have nothing pending, the following statement is sufficient: “I have no proceedings pending.” This statement should follow the history of the case, #4.

SIXTH: You may submit letters of character reference from family, friends, present or past employers, instructors, etc. You may also submit copies of any programs or groups you have completed during your incarceration. This is not a requirement.

SEVENTH: Once you have completed items 1-6, please photocopy and submit original and 5 copies to this office. You may have your representative deliver your petition in person or the petition may be sent by first class mail. We suggest that you keep a copy of your petition (application) for your records. Send to Secretary of State's Office, 401 Federal Street, Suite 3, Dover, DE, 19901. Before mailing the 6 copies to us, please include copies of your notifications described below.

NOTIFICATION PROCEDURE

Once you have completed the steps above, please send notices to the people listed below, giving them the following information: the offense(s) and date(s) of arrest, the reasons why you are applying for a commutation, and your date of birth. You may state that your petition will be heard at the earliest date possible as determined by the Board of Pardons. You must send the certificate of service or affidavit of notice/service along with your application. If you do not follow these instructions accurately, you may be required to send the notices a second time!

(1) Commissioner Stanley W. Taylor, Department of Correction, Central Administration Building, 245 McKee Road, Dover, DE 19904.

(2) The Judge who presided at your sentencing hearing. If you were sentenced at more than one court, each court must be notified. If the judge is no longer at that court, please address your envelope to "Presiding Judge" at that court.

(3) Jane Brady, Esq., Attorney General, Department of Justice, Carvel State Building, 820 N. French Street, Wilmington, DE, 19801.

(4) The Chief of Police for the city or county where you were arrested. If you were arrested by more than one police agency, you must notify each. If the Delaware State Police arrested you, you can omit this item.

(5) Colonel Thomas MacLeish, Superintendent, Department of Public Safety, Division of State Police, P.O. Box 430, Dover, DE, 19903.

Please include copies of each letter/notice above with your petition (or application) together with the certificate of service or affidavit of notice/service.

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****REMEMBER: You may use paper clips or rubber bands. Please do not staple or bind. You do need to collate your petition into six separate copies (original and 5). Failure to complete the above steps will result in your petition being returned.***

If you have questions, please read this entire sheet before you contact: [Judy Smith](#) in the Secretary of State's office at 302-739-4111.

Instructions for Filing a Petition (Application) for Pardon

*(You may use paper clips or rubber bands. Please do not staple or bind)**

To prepare your petition (or application – there is **no** official “application form”), *please read the [Rules of the Board of Pardons](#)* since some charges require *both a psychiatric and a psychological examination prior to a hearing being scheduled* for a hearing. **We encourage you to keep a copy of your completed petition for your records.** Follow the steps listed below:

FIRST: Obtain a copy of your **Criminal History**. This can be obtained from the State Bureau of Identification, Division of State Police. Ensure that **all criminal convictions** (i.e., felonies or misdemeanors for which you paid a fine, served jail time or probation) are included in an application for pardon. The sentencing order would be obtained with the court docket from the appropriate court. If you have adult charges on your record that are “Disposition Unobtainable,” you must ensure that the charges are not convictions and provide documentation of the final disposition.

SECOND: Obtain a **Certified** copy of the **Court Docket and Sentencing Order** for each guilty charge on your record. This can be obtained by contacting the court where you were sentenced. The court will need to know your arrest date in order to locate your docket.

THIRD: Complete the [Board of Pardons Cover Sheet](#).

FOURTH: On a separate sheet of paper, please state your **Reasons for Applying** and why you believe you should be considered for a pardon.

FIFTH: On the same page as item # 4, write a short **History of the Case**. You need to explain in detail the history of the offense (i.e., what happened, who was involved, where it happened, etc.).

SIXTH: You must provide a **Statement of All Pending Proceedings**. You must state whether you have any cases pending in State or Federal or local courts and the nature of the cases pending against you. If such proceedings are pending, state which court is involved and note the status of the proceeding. If no such proceedings are pending, you must so state. The following statement is sufficient: “I have no proceedings pending.” This statement may be on the same sheet as items #4 and #5.

SEVENTH: You may submit letters of character reference from family, friends, employers, etc. This is not a requirement.

EIGHTH: Once you have completed the above steps **plus** the notification procedure noted below, please photocopy and submit original and 5 copies to this office. You may deliver in person or send by first class mail. We suggest that you **keep a copy of your**

petition (application) for your records. Send to Secretary of State’s Office, 401 Federal Street, Suite 3, Dover, DE, 19901. **Before mailing the 6 copies to us, please include copies of your notifications described below.**

NOTIFICATION PROCEDURE

Please send letter notices to the people listed below, giving them the following information: **the tentative date, time, and place of the meeting (see meeting dates enclosed for this information).** Also provide them with the offense(s) and date(s) of arrest, the reasons why you are applying for a pardon, and your date of birth. **You are not required to send them the full application package.** These letters or memos must be mailed **at least 37 days** before the hearing date and must be sent CERTIFIED MAIL. If you do not follow these instructions accurately, you may be required to send the notices a second time!

- (1) The Judge who presided at your sentencing hearing(s). If you were sentenced at more than one court, each court must be notified. If the judge is no longer at that court, please address your envelope to “Presiding Judge” at that court.
- (2) Jane Brady, Esq., Attorney General, Department of Justice, Carvel State Building, 820 N. French Street, Wilmington, DE, 19801.
- (3) The Chief of Police for the city or county where you were arrested. If you were arrested by more than one police agency, you must notify each. If you were arrested by the Delaware State Police only, you can omit this item.
- (4) Colonel Thomas MacLeish, Superintendent, Department of Public Safety, Division of State Police, P.O. Box 430, Dover, DE, 19903.

Please include copies of each letter/notice above with your petition (or application) together with the **paid Certified Mail Receipts** from the Post Office.

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****REMEMBER:*** *You may use paper clips or rubber bands. Please do not staple or bind.*

You do need to collate your petition into six separate copies (original and 5).

*if you have questions, please read this entire sheet before you contact: [Judy Smith](#) in the Secretary of State’s office at 302-739-4111. **You will be notified in writing of your hearing date.** Failure to complete the above steps will result in your petition*

DISTRICT OF COLUMBIA (WASHINGTON, D.C.) and FEDERAL ZONES

Right to Inspect & Make Copy of your Criminal Record: 1-1522; 4-135; 1 DCMR 1004.1

Right to Challenge (information on your criminal record): None

Sealing Conviction Information: 33-541(e); SCR Crim 118; Crim. 32(g).(Non-conviction): SCR Crim 118)

Purging (Erasing, Expunging) Conviction Information: None

Note: All "federal zones" such as Virgin Islands, Guam, Puerto Rico and other U.S. territories are governed by federal laws and not state laws.

§ 1-301.76. Power to grant pardons and respites; commissioning of officers; execution of laws.

The Mayor of the District of Columbia may grant pardons and respites for offenses against the late corporation of Washington, the ordinances of Georgetown and the levy court, the laws enacted by the Legislative Assembly, and the police and building regulations of the District. He shall commission all officers appointed under the laws of the District, and shall take care that the laws be faithfully executed.

FLORIDA

Right to Inspect & Make Copy of your Criminal Record and 943.056; Reg. 11C-8

Right to Challenge (information on your criminal record): (Same as above)

Sealing Conviction Information: 943.059; Reg. 11C-7 (Non-conviction: Same)

Purging (Erasing, Expunging): 943.0585; Ileg. 11C-7 (Non-conviction: same)

Sealing and Expungement of Records

The Petition to Seal or Expunge Information packet is available at the Clerk of the Circuit Court Self Service Center. The packet provides you with all the instructions and forms needed to file a Petition to Seal or Expunge. The packet has copies of the forms, which need to be filed, and explains the costs involved (including the filing fee which is \$37.50, payable to the Clerk of Court)

Additionally, the Florida Department of Law Enforcement (F.D.L.E.) charges \$75.00 for the filing of the documents with the State of Florida.

There is also a fee, which must be paid to a local law enforcement agency, for having your fingerprints taken. The fingerprint card is provided in the Clerk's packet.

Once the appropriate forms are filed with the Clerk of Court, the Judge reviews the documents filed at a court hearing, which is scheduled by the Court. If the Judge approves the request, then an Order is signed. This Order is filed with the Clerk's Office. Copies of this Order are sent to F.D.L.E., the State Attorney's Office, the arresting agency, the Sheriff's Office, and the Department of Probation.

From start to finish, this process takes approximately six to eight weeks. You may purchase a Petition to Seal or Expunge packet at the Self Service Center. The cost of the packet is \$5.00. You may also request an information packet by calling the Clerk of the Court Self Service Center.

GEORGIA

Right to Inspect & Make Copy of your Criminal Record: 35-3-37(b), & Reg. 140-2-. 10

Right to Challenge (information on your criminal record): Same as above

Judicial Review of Challenged Information: Same as above

Sealing (Under Court Order) Non-conviction Information: 42-8-65(a)

Proceedings:

(A) Arrested for an offense under the laws of this state but subsequent to such arrest is released by the arresting agency without such offense being referred to the prosecuting attorney for prosecution; or (B) After such offense referred to the proper prosecuting attorney, and the prosecuting attorney dismisses the charges without seeking an indictment or filing an accusation may request the original agency in writing to expunge the records of such arrest, including any fingerprints or photographs of the individual taken in conjunction with such arrest, from the agency files. Such request shall be in such form as the center shall prescribe. Reasonable fees shall be charged by the original agency and the center for the actual costs of the purging of such records, provided that such fees shall not exceed \$50.00. (2) Upon receipt of such written request, the agency shall provide a copy of the request to the proper prosecuting attorney. Upon receipt of a copy of the request to expunge a criminal record, the prosecuting attorney shall promptly review the request to determine if it meets the criteria for expungement set forth in paragraph (3) of this subsection. If the request meets those criteria, the prosecuting attorney shall review the records of the arrest to determine if any of the material contained therein must be preserved in order to protect the constitutional rights of an accused under *Brady v. Maryland*. (3) An individual has the right to have his or her record of such arrest expunged, including any fingerprints or photographs of the individual taken in conjunction with such arrest, if the prosecuting attorney determines that the following criteria have been satisfied: (A) The charge was dismissed under the conditions set forth in paragraph (1) of this subsection; (B) No other criminal charges are pending against the individual; and (C) The individual has not been previously convicted of the same or similar offense under the laws of this state, the United States, or any other state within the last five years, excluding any period of incarceration. (4) The agency shall expunge the record by destroying the fingerprint cards, photographs, and documents relating exclusively to such person. Any material which cannot be physically destroyed or which the prosecuting attorney determines must be preserved

under *Brady v. Maryland* shall be restricted by the agency and shall not be subject to disclosure to any person except by direction of the prosecuting attorney or as ordered by a court of record of this state. (5) It shall be the duty of the agency to notify promptly the center of any records which are expunged pursuant to this subsection. Upon receipt of notice from an agency that a record has been expunged, the center shall, within a reasonable time, restrict access to the criminal history of such person relating to such charge. Records for which access is restricted pursuant to this subsection shall be made available only to criminal justice officials upon written application for official judicial law enforcement or criminal investigative purposes. (6) If the agency declines to expunge such arrest record, the individual may file an action in the superior court where the agency is located as provided in Code Section 50-13-19. A decision of the agency shall be upheld only if it is determined by clear and convincing evidence that the individual did not meet the criteria set forth in paragraph (3) of this subsection or subparagraphs (A) through (G) of paragraph (7) of this subsection. The court in its discretion may award reasonable court costs including attorney's fees to the individual if he or she prevails in the appellate process. Any such action shall be served upon the agency, the center, the prosecuting attorney having jurisdiction over the offense sought to be expunged, and the Attorney General who may become parties to the action. (7) After the filing of an indictment or an accusation, a record shall not be expunged if the prosecuting attorney shows that the charges were nolle prossed, dead docketed, or otherwise dismissed because: (A) Of a plea agreement resulting in a conviction for an offense arising out of the same underlying transaction or occurrence as the conviction; (B) The government was barred from introducing material evidence against the individual on legal grounds including but not limited to the grant of a motion to suppress or motion in limine; (C) A material witness refused to testify or was unavailable to testify against the individual unless such witness refused to testify based on his or her statutory right to do so; (D) The individual was incarcerated on other criminal charges and the prosecuting attorney elected not to prosecute for reasons of judicial economy; (E) The individual successfully completed a pretrial diversion program, the terms of which did not specifically provide for expungement of the arrest record; (F) The conduct which resulted in the arrest of the individual was part of a pattern of criminal activity which was prosecuted in another court of this state, the United States, another state, or foreign nation; or (G) The individual had diplomatic, consular, or similar immunity or inviolability from

arrest or prosecution. (8) If the prosecuting attorney having jurisdiction determines that the records should not be expunged because the criteria set forth in paragraph (3) or subparagraphs (A) through (G) of paragraph (7) of this subsection were not met, and the agency or center fails to follow the prosecuting attorney's recommendation, the prosecuting attorney having jurisdiction over the offense sought to be expunged or the Attorney General may appeal a decision by the agency or center to expunge a criminal history as provided in Code Section 50-13-19. (9) An individual who has been indicted or charged by accusation that was subsequently dismissed, dead docketed, or nolle prossed may request an expungement as provided by paragraphs (1) through (3) of this subsection; provided, however, that if the prosecuting attorney objects to the expungement request within 60 days after receiving a copy of said request from the agency, the agency shall decline to expunge and the individual shall have the right to appeal as provided by paragraph (6) of this subsection. (10) Nothing in this subsection shall be construed as requiring the destruction of incident reports or other records that a crime was committed or reported to law enforcement. Further, nothing in this subsection shall be construed to apply to custodial records maintained by county or municipal jail or detention centers. It shall be the duty of the agency to take such action as may be reasonable to prevent disclosure of information to the public which would identify such person whose records were expunged. (e) Agencies, including the center, at which criminal offender records are sought to be inspected may prescribe reasonable hours and places of inspection and may impose such additional procedures, fees not to exceed \$3.00, or restrictions including fingerprinting as are reasonably necessary to assure the records' security, to verify the identities of those who seek to inspect them, and to maintain an orderly and efficient mechanism for inspection of records. (f) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' shall not apply to proceedings under this Code section. (g) If the center has notified a firearms dealer that a person is prohibited from purchasing or possessing a handgun pursuant to Part 5 of Article 4 of Chapter 11 of Title 16 and if the prohibition is the result of such person's being involuntarily hospitalized within the immediately preceding five years, upon such person or his or her attorney making an application to inspect his or her records, the center shall provide the record of involuntary hospitalization and also inform the person or attorney of his or her right to a hearing before the judge of the probate court or superior court relative to such person's eligibility to possess or transport a handgun.

A PARDON MAY BE GRANTED IN TWO INSTANCES.

1. A pardon may be granted to a person who, to the Board's satisfaction, proves his innocence of the crime for which he was convicted under Georgia law. Newly available evidence proving the person's complete justification or non-guilt may be the basis for granting a pardon. Application may be submitted in any written form any time after conviction.

2. A pardon which does not imply innocence may be granted to an applicant convicted under Georgia law who has completed his full sentence obligation, including serving any probated sentence and paying any court-ordered payment, and who has thereafter completed five years without any criminal involvement. The five-year waiting period after sentence completion may be waived if the waiting period is shown to be detrimental to the applicant's livelihood by delaying his qualifying for employment in his chosen profession. Application must be made by the ex-offender on a form available from the Board on request.

No pardon is automatic; the Board judges the merits of each individual case.

Majority Vote Decides Clemency

A decision to grant any type of clemency is by majority vote.

Attorney's Services are Unnecessary for Clemency Consideration

Representation by an attorney is not necessary for any type of clemency consideration. Consideration for parole is automatic, and procedures for application for other types of clemency are not too formal or complex for the average person to understand. The decision whether to employ an attorney is a personal decision by the offender or anyone acting in his behalf.

Only licensed attorneys who are active members, in good standing, of the State Bar of Georgia may appear before the Board for a fee. The Board may require an attorney representing a person before the Board to file a sworn statement as to whether he or she is receiving a fee.

A member of the Georgia General Assembly or other elected or appointed State official may not charge a fee for appearing before the Board regardless of whether he or she is an attorney.

Board May Restore Firearm Right to Certain Offenders

Under Georgia law conviction of a felony removes the right to receive, possess, and transport a firearm. A pardon applicant may request that the pardon be specially worded to restore this firearm right, but he must provide in detail his reason for the request. The applicant should also understand that the restoration of the firearm right only removes

disabilities occurring by operation of Georgia law. It provides no exemption from the firearm laws of other states or the Federal government.

Board policy is to deny restoration of the firearm right to a pardon applicant who possessed a firearm during the commission of any offense.

The Board May Remove Disabilities Incurred by Conviction

Under Georgia law a person convicted of a "felony involving moral turpitude" loses his civil and political rights, including the right to vote, the right to hold public office, and the right to serve on a jury. Under the 1983 State Constitution the right to vote is restored automatically to ex-offenders who have completed their sentences.

Using an application form available on request, a person who was convicted under Georgia law may apply to the State Board of Pardons and Paroles for a Restoration of Civil and Political Rights. If the person was convicted under another state's law or under Federal law but is residing in Georgia and wishes to exercise civil and political rights in the State, he also may apply.

Restoration of Civil and Political Rights Does Not Imply Innocence

A Restoration of Civil and Political Rights carries no implication of innocence. It may be granted only to a person who has completed his full sentence or, with no probation unserved, has been discharged early by commutation.

A Restoration may, upon specific application and with specific wording, restore the right to receive, possess and transport a firearm to a felon living in Georgia but convicted in Federal or another state's court. Applicants are required to meet the criteria outlined for Georgia felons under the preceding topics "Basis for Granting a Pardon" and "Restoration of Firearm Right."

Rights Restoration Is Automatically Considered

The Board automatically considers restoring civil and political rights to a felony parolee upon discharge from parole if he has no other sentence to serve or pending criminal charge against him.

Requesting a pardon for a Georgia sentence

To request a pardon from the Parole Board on a Georgia sentence, information and an application form can be obtained from

http://www.pap.state.ga.us/Pardon_Application.PDF.

HAWAII

Right to Inspect & Make Copy of your Criminal Record: 92E-7; 846-14

Right to Challenge (information in a record): 92E-11; 846-14

Sealing Conviction Information:(Non-conviction: 831-3.2)

Purging (Erasing, Expunging) Non-conviction Information: 831-3.2; 852-1 Ce)

EXPUNGEMENT STATUTE §831-3.2 Hawaii Revised Statutes 1993

§831-3.2 Expungement orders. (a) The Attorney General, or the attorney general's duly authorized representative within the department of the attorney general, upon written application from a person arrested for, or charged with but not convicted of a crime, shall issue an expungement order annulling, canceling, and rescinding the record of arrest; provided that an expungement order shall not be issued:

(1) (2) (3) (4) (5)

In the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture; For a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture; In the case of an arrest of any person for any offense where conviction has not been obtained because the person has rendered prosecution impossible by absencing oneself from the jurisdiction; In the case of a person acquitted by reason of a mental or physical defect under chapter 704; and For a period of one year upon discharge of the defendant and dismissal of the charge against the defendant in the case of a deferred acceptance of guilty plea or nolo contendere plea, in accordance with chapter 853.

Any person entitled to an expungement order hereunder may by written application also request return of all fingerprints or photographs taken in connection with the person's arrest. The attorney general or the attorney general's duly authorized representative within the department of the attorney general, within 120 days after receipt of the written application, shall, when so requested, deliver, or cause to be delivered, all fingerprints or photographs of the person, unless the person has a record of conviction or is a fugitive from justice, in which case the photographs or fingerprints may be retained by the agencies holding such records. (b) Upon the issuance of the expungement certificate, the person applying for the order shall be treated as not having been arrested in all respects not otherwise provided for in this section. (c) Upon the issuance of the expungement order, all arrest records pertaining to the arrest which are in the custody or control of any law enforcement agency of the state or any county government, and which are capable of being forwarded to the attorney general without affecting other

records not pertaining to the arrest, shall be so forwarded for placement of the arrest records in a confidential file. (d) Records filed under subsection (c) shall not be divulged except upon inquiry by:

(1) (2)

A court of law or an agency thereof which is preparing a presentence investigation for the court; An agency of the federal or state government which is considering the subject person for a position immediately and directly affecting the national or state security; or

(3) A law enforcement agency acting within the scope of their duties. Response to any other inquiry shall not be different from responses made about persons who have no

arrest records. (e) The attorney general or the attorney general's duly authorized representative within the department of the attorney general shall issue to the person for whom an expungement order has been entered, a certificate stating that the order has been issued and that its effect is to annul the record of a specific arrest. The certificate shall authorize the person to state, in response to any question or inquiry, whether or not under oath, that the person has no record regarding the specific arrest. Such a statement shall not make the person subject to any action for perjury, civil suit, discharge from employment, or any other adverse action. (f) The meaning of the following terms as used in this section shall be as indicated:

(1) (2)

"Conviction" means a final determination of guilt whether by plea of the accused in open court, by verdict of the jury or by decision of the court. "Arrest record" means any existing photographic and fingerprint cards relating to the arrest.

(g) The attorney general shall adopt rules pursuant to chapter 91 necessary for the purpose of this section. (h) Nothing in this section shall affect the compilation of crime statistics or information stored or disseminated as provided in chapter 846. [L 1974, c 92, §2; am L 1975, c 103, §1; am L 1976, c 116, §§1, 2; am L 1980, c 12, §1; am L 1983, c 78, §4; gen ch 1985; am L 1987, c 322, §1; am L 1993, c 7, §§1, 2]

PARDONS (information available via Governor's Office)

A pardon eliminates a conviction from criminal records. Once pardoned, a defendant can serve on a jury, seek public office or, if given express authorization, possess or use firearms.

Applying for a pardon is a multi-step process that can take up to a year.

IDAHO

Right to Inspect & Make Copy Record: 9-342

Right to Challenge (information record): 9-342

Sealing Conviction (Non-conviction: None)

Purging (Erasing, Expunging) Non-conviction Information: 19-4813

EXPUNGEMENT OF RECORD

SPECIAL INDEX -- EFFECT OF ORDER.

(1) Any person who has been adjudicated in a case under this act and found to be within the purview of the act for having committed a felony offense or having been committed to the department of corrections may, after the expiration of five (5) years from the date of termination of the continuing jurisdiction of the court, or, five (5) years from the date of his release from the corrections center, whichever occurs last, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and of the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(2) Any person who has been adjudicated in a case under this act and found to be within the purview of the act for having committed misdemeanor or status offenses only and not having been committed to the department of juvenile corrections may, after the expiration of one (1) year from the date of termination of the continuing jurisdiction of the court, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(3) In any case where the prosecuting attorney has elected to utilize the diversion process or the court orders an informal adjustment pursuant to section 20-511, Idaho Code, the person may, after the expiration of one (1) year from the date of termination of the continuing jurisdiction of the court, petition the court for the expungement of his record. Upon the filing of the petition, the court shall set a date for a hearing and shall notify the prosecuting attorney of the pendency of the petition and the date of the hearing. The prosecuting attorney and any other person who may have relevant information about the petitioner may testify at the hearing.

(4) The court may not expunge a conviction for any of the following crimes from a record:

- (a) Administering poison with intent to kill (18-4014, Idaho Code);
- (b) Aggravated battery (18-907, Idaho Code);
- (c) Armed robbery (chapter 65, title 18, Idaho Code);
- (d) Arson (chapter 8, title 18, Idaho Code);
- (e) Assault with intent to commit a serious felony (18-909, Idaho Code);
- (f) Assault with intent to murder (18-4015, Idaho Code);
- (g) Assault or battery upon certain personnel, felony (18-915, Idaho Code)

Code);

(h) Forcible sexual penetration by use of a foreign object (18-6608, Idaho Code);

(i) Infamous crime against nature, committed by force or violence (18-6605, Idaho Code);

(j) Injury to child, felony (18-1501, Idaho Code);

(k) Kidnapping (18-4501, Idaho Code);

(l) Murder of any degree (18-4001 and 18-4003, Idaho Code);

(m) Rape, excluding statutory rape (18-6101 and 18-6108, Idaho Code);

(n) Ritualized abuse of a child (18-1506A, Idaho Code);

(o) Sexual exploitation of a child (18-1507, Idaho Code);

(p) Unlawful use of destructive device or bomb (18-3320, Idaho Code);

(q) Voluntary manslaughter (18-4006 1., Idaho Code);

(r) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

(s) A violation of the provisions of section 37-2732B, Idaho Code, related to drug trafficking or manufacturing of illegal drugs.

(5) If the court finds after hearing that the petitioner has not been adjudicated as a juvenile for any of the crimes identified in subsection (2) of this section, and has not been convicted of a felony, or of a misdemeanor wherein violence toward another person was attempted or committed since the termination of the court's jurisdiction or his release from the juvenile corrections center, and that no proceeding involving such felony or misdemeanor is pending or being instituted against him, and if the court further finds to its satisfaction that the petitioner has been held accountable, is developing life skills necessary to become a contributing member of the community and that the expungement of the petitioner's record will not compromise public safety, it shall order all records in the petitioner's case in the custody of the court and all such records, including law enforcement investigatory reports and fingerprint records, in the custody of any other agency or official sealed; and shall further order all references to said adjudication, diversion or informal adjustment removed from all indices and from all other records available to the public. However, a special index of the expungement proceedings and records shall be kept by the court ordering expungement, which index shall not be available to the public and shall be revealed only upon order of a court of competent jurisdiction. Copies of the order shall be sent to each agency or official named in the order. Upon the entry of the order the proceedings in the petitioner's case shall be deemed never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter be permitted only by the court upon petition by the person who is the subject of the records or by any other court of competent jurisdiction, and only to persons named in the petition.

ILLINOIS

Right to Inspect & Make Copy of your Criminal Record: 20-2630/7

Right to Challenge (information on your criminal record): 20/2630 / 7; 20-3930 / 7(h)

Sealing Non-conviction: 20-2630/5

Purging (Erasing, Expunging) Non-conviction Information: 20-2630/5; 20-2605/55(a). (Conviction: 7 30-5/5-6-3. 1(f))

www.IllinoisAttorneyGeneral.gov

EXPUNGEMENT

GENERAL GUIDELINES FOR EXPUNGING AND SEALING CRIMINAL RECORDS IN ILLINOIS

Informational Resources

Office of the State Appellate Defender

(866) 431-4907

www.state.il.us/defender

•

Cook County Clerk of the Circuit Court

(312) 603-5030

www.cookcountyclerkofcourt.org

•

Prisoner Review Board

(217) 782-7273

•

www.IllinoisLawHelp.org

Chicago-Kent College of Law

•

Cabrini Green Legal Aid Clinic

(312) 266-1345

•

Illinois State Police

Bureau of Identification

(815) 740-5160

ILLINOIS ATTORNEY GENERAL

CHICAGO

100 W. Randolph Street

Chicago, IL 60601

(312) 814-3000

TTY: (312) 814-3374

SPRINGFIELD

500 South Second Street

Springfield, IL 62706

(217) 782-1090

TTY: (217) 785-2771

CARBONDALE

1001 East Main Street

Carbondale, IL 62901

(618) 529-6400

TTY: (618) 529-6403

What Can I Expunge?

Under current Illinois law, you can have a court expunge your record if any of the following circumstances apply to you:

1. Your record can be expunged of municipal ordinance, misdemeanor and felony charges IF:

- You were found NOT GUILTY of the charges, OR
- The State dismissed the charges against you.

2. If you were sentenced to supervision for certain misdemeanors, AND

- It has been at least five years since supervision was discharged, AND

- You have not been arrested or criminally charged since the supervision was discharged.

3. If you were sentenced to probation for certain misdemeanors, AND

- It has been five years since successful termination of probation, AND

- You have not been arrested or criminally charged since probation was discharged, and there are no charges pending against you.

4. If you were released without conviction following a sentence of supervision for certain offenses – EXCEPT DUI and any sexual offenses committed against a minor younger than 18 – AND it has been two years since successful discharge and dismissal from supervision.

5. If you were convicted or found guilty AND EITHER

- You received a pardon from the governor that specifically authorizes an expungement*, OR

- Your conviction was set aside on direct review or collateral attack, and the court “determines by clear and convincing evidence that the defendant was factually innocent.”

What Are Expungement And Sealing?

Expungement and sealing are ways to limit access to criminal records in Illinois. This information does not apply to every case, however, and you must go to the Clerk of the Circuit Court in the county where charges were brought against you to start the process. Ultimately, a judge decides if your criminal record can be expunged or sealed.

How Do I Expunge Or Seal My Record?

You must go to the Clerk of the Circuit Court in the county where charges were brought against you. The Clerk of the Circuit Court will assist you in filing the necessary papers and paying fees.

Do I Need A Lawyer?

You do not have to hire an attorney to clear your record, but you may hire one to help you, if you choose. If you would like to hire a lawyer but cannot afford one, please contact a legal aid service.

Expunging Versus Sealing: What's The Difference?

EXPUNGEMENT results in a record being destroyed. SEALING means the record is kept confidential and can only be reviewed for limited law enforcement and sentencing purposes. In Illinois, sealed criminal history records are not released to employers.

Although convictions may be harder to expunge, you can usually seal records of misdemeanor convictions **if you have had a clean record in recent years**.

For a more comprehensive explanation and list of crimes eligible for expungement, contact the Office of the State Appellate Defender at (866) 431-4907 or visit www.state.il.us/defender.

What does it cost to expunge or seal my records?

It costs \$60 to file it and then \$40 later on for the Illinois State Police. If you cannot afford the fees, you can ask the court to pay them for you. See [Waiving Court Costs in Illinois](#) to learn how. Once a judge agrees to waive your fees, you may file for expungement or sealing without paying for it.

Forms/Letters

Listed below are instructions and sample forms/letters that you may need to resolve your problem. Please click on the title of a form to view the form.

Illinois, but not Cook County

The [Office of the State Appellate Defender's Website](#) has information about how to complete the necessary forms to Expunge or Seal your record. You can also check with the Clerk of your County Court for the proper forms to use. A list of all the Circuit Courts in Illinois with the names of their Clerks is available [here](#).

Cook County Forms

Cook County Circuit Court's website provides additional information regarding expungement, sealing and identity theft/factual innocence. Click on the the following titles to view the information:

[Criminal and Traffic Expungement Guidelines](#) [Criminal and Traffic Sealing Guidelines](#)
[Identity Theft/Factual Innocence Guidelines](#)

Forms for Expungement: Note: please see the [guidelines above](#) to determine which form is appropriate for your case.

- [Form CCCR-0011: Petition to Expunge](#)PDF (Use this form for cases where you were acquitted or released without being convicted, cases where an Order of Supervision was entered and two years have passed since discharge and dismissal of the supervision, and cases in which the Governor has issued a pardon.)
- [Form CCCR-0012: Petition to Expunge and Seal](#)PDF (Use this form for cases in which an Order of Supervision was entered and five years have passed since the termination of supervision, and cases in which an Order was entered terminating probation and at least five years have passed since the Order of Termination was entered.)
- [Form CCCR-0013: Order to Expunge \(and Seal\)](#)PDF
- [Form CCCR-0324A-B: Notice of Filing](#)PDF

Forms for Sealing: Note: please see the [guidelines above](#) to determine which form is appropriate for your case.

- [Form CCCR-0322A/B: Petition to Seal Arrest Record Form](#)PDF (Use this form for cases where you were an adult or minor prosecuted as an adult for a misdemeanor or municipal ordinance violation in which you were acquitted, released without being convicted, your conviction was reversed, or you received a sentence of supervision for a misdemeanor and you have not been convicted of a felony or misdemeanor or placed on supervision for a misdemeanor for three years.)
- [Form CCCR-0323A/B: Petition to Seal Conviction Form](#)PDF (Use this form for cases where you were an adult or minor prosecuted as an adult for a misdemeanor which resulted in a conviction and you have not been convicted of a felony or misdemeanor or placed on supervision for a misdemeanor for four years after completing your sentence.)
- [Form CCCR-0324A-B: Notice of Filing](#)PDF
- [Form CCCR-0320A/B: Order to Seal Arrest Record](#)PDF
- [Form CCCR-0321A/B: Order to Seal Conviction](#)PDF

Forms for Identity Theft: Note: please see the [guidelines above](#) to determine which form is appropriate for your case.

• **[Form CCCR-0020: Petition for Expedited Judicial Determination of Factual Innocence \(Financial Identity Theft\)](#)** PDF (Use this form for cases where someone has falsely identified themselves using your identity during their criminal arrest, citation, or conviction; if a criminal complaint has been filed against someone in your name; or if your identity has been mistakenly associated with a criminal conviction.)

• **[Form CCCR-0021: Identity Theft Order](#)**PDF

• **[Form CCCR-0022: Order Denying Petition for Expedited Judicial Determination of Factual Innocence \(Financial Identity Theft\)](#)** PDF

If you decide to expunge your record you must fill out and file certain forms. File your expungement forms at the Circuit Court Clerk's office. If you live in Chicago, you can file at the Daley Center, Room 1006, or you can file at 26th and California in the criminal courts building at the fifth floor Clerk's office.

Once you file the forms, you must send them to the Illinois State Police, the arresting police agency, and the legal officer of the city. If the city is Chicago, it goes to the City of Chicago's Counsel. There is a form at each Clerk's office that tells you the addresses for the places you need to send the papers. You have to make sure the papers get to all these places because that is the only way the law enforcement officials will know to expunge your record.

If you decide to seal your criminal record you must fill out and file forms for both arrests and convictions. You must complete and file a Petition to Seal Arrests and an Order to Seal Arrests for the arrests you want to seal. You should list all the arrest cases that you want to seal on the petition.

You must complete and file a Petition to Seal Convictions and an Order to Seal Convictions for the convictions that you want to seal. You should list all the convictions that you want to seal on the petition.

When you seal your criminal record, it is not an "all or nothing" action like expungement. You can seal some items on your record while leaving other items on your record. This means that you can seal some items on your record, while waiting for the waiting period to expire on other items. Convictions that cannot be sealed do not prevent you from sealing eligible arrests or convictions that are on your record.

It costs \$60 to file it and then \$40 later on for the Illinois State Police. If you cannot afford the fees, you can ask the court to pay them for you. See Waiving Court Costs in Illinois in "[Related Information](#)" to learn how. Once a judge agrees to waive your fees, you may file for expungement or sealing without paying for it.

If you need more information on expungement and sealing and if you live in Cook County, the Cook County Court Website has information about [Criminal and Traffic Expungement Guidelines](#) and [Criminal and Traffic Sealing Guidelines](#). If you do not live in Cook County, the [Office of the State Appellate Defender's Website](#) has

information about how to complete the necessary forms to Expunge or Seal your record. Also, check with the Clerk of your County Court for the proper forms to use. For a list of all the Circuit Courts in Illinois with the names of their Clerks, please see the information under "[Related Information](#)."

INDIANA

Right to Inspect & Make Copy of your Criminal Record: 5-2-5-8

Right to Challenge (information on record): 5-2-5-8(b), 5-2-5-10(b)

Sealing Non-conviction Information: 35-38-5-1 (conviction: 35-38-5)

Purging (Erasing, Expunging) Information: 35-38-5-1

Information Maintained by the Office of Code Revision Indiana Legislative Services Agency

IC 35-38-5 Chapter 5. Expungement of Arrest Records

IC 35-38-5-1 Petition; grounds; verification; filing; contents; service; notice of opposition; hearing

Sec. 1. (a) Whenever: (1) an individual is arrested but no criminal charges are filed against the individual; or (2) all criminal charges filed against an individual are dropped because: (A) of a mistaken identity; (B) no offense was in fact committed; or (C) there was an absence of probable cause; the individual may petition the court for expungement of the records related to the arrest. (b) A petition for expungement of records must be verified and filed in the court in which the charges were filed, or if no criminal charges were filed, in a court with criminal jurisdiction in the county where the arrest occurred. The petition must set forth: (1) the date of the arrest; (2) the charge; (3) the law enforcement agency employing the arresting officer; (4) any other known identifying information, such as the name of the arresting officer, case number, or court cause number; (5) the date of the petitioner's birth; and (6) the petitioner's Social Security number. (c) A copy of the petition shall be served on the law enforcement agency and the state central repository for records. (d) Upon receipt of a petition for expungement, the law enforcement agency shall notify the court of the name and address of each agency to which any records related to the arrest were forwarded. The clerk shall immediately send a copy of the petition to each of those agencies. Any agency desiring to oppose the expungement shall file a notice of opposition with the court setting forth reasons for resisting the expungement along with any sworn statements from individuals who represent the agency that explain the reasons for resisting the expungement within thirty (30) days after the petition is filed. A copy of the notice of opposition and copies of any sworn statements shall be served on the petitioner in accordance with the Rules of Trial Procedure. The court shall: (1) summarily grant the petition; (2) set the matter for hearing; or

(3) summarily deny the petition, if the court determines that: (A) the petition is insufficient; or (B) based on information contained in sworn statements submitted by individuals who represent an agency, the petitioner is not entitled to an expungement of records. (e) If a notice of opposition is filed and the court does not summarily grant or summarily deny the petition, the court shall set the matter for a hearing. (f) After a hearing is held under this section, the petition shall be granted unless the court finds: (1) the conditions in subsection (a) have not been met; (2) the individual has a record of arrests other than minor traffic offenses; or (3) additional criminal charges are pending against the individual. *As added by P.L.311-1983, SEC.3. Amended by P.L.295-1989, SEC.1; P.L.159-1994, SEC.1.*

IC 35-38-5-2 Delivery of records to individual or destruction Sec. 2. If the petition for expungement is granted, the law enforcement agency shall within thirty (30) days of receipt of the court order, deliver to the individual or destroy all fingerprints, photographs, or arrest records in their possession. *As added by P.L.311-1983, SEC.3.*

IC 35-38-5-3 Effect of grant of petition Sec. 3. Whenever the petition of an individual under section 1 of this chapter is granted, no information concerning the arrest may be placed or retained in any state central repository for criminal history information or in any other alphabetically arranged criminal history information system maintained by a local, regional, or statewide law enforcement agency. However, this chapter does not require any change or alteration in any record (such as a police blotter entry) made at the time of the arrest or in the record of any court in which the criminal charges were filed. *As added by P.L.311-1983, SEC.3.*

IC 35-38-5-4 Action by person whose records are expunged that might be defended with contents of such records Sec. 4. If a person whose records are expunged brings an action that might be defended with the contents of such records, the defendant is presumed to have a complete defense to such an action. In order for the plaintiff to recover, he must show that the contents of the expunged records would not exonerate the defendant. The plaintiff may be required to state under oath whether he had records in the criminal justice system and whether those records were expunged. If the plaintiff denies the existence of the records, the defendant may prove their existence in any manner compatible with the law of evidence. *As added by P.L.311-1983, SEC.3.*

IC 35-38-5-5 Petition to limit access to limited criminal history of person discharged from probation, imprisonment, or parole

Sec. 5. (a) This section does not apply to a request to a law enforcement agency for the release or inspection of a limited criminal history to a noncriminal justice organization or individual whenever the subject of the request is described in IC 10-13-3-27(a)(8) or IC 10-13-3-27(a)(12). (b) A person may petition the state police department to limit access to the person's limited criminal history to criminal justice agencies if more than fifteen (15) years have elapsed since the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last conviction for a crime. (c) When a petition is filed under subsection (b), the state police department shall not release limited criminal history to noncriminal justice agencies under IC 10-13-5-27. *As added by P.L.311-1983, SEC.3. Amended by P.L.56-1998, SEC.18; P.L.10-1999, SEC.3; P.L.2-2003, SEC.92 ...*

FORMS BELOW:

STATE OF INDIANA IN THE SUPERIOR COURT OF _____ COUNTY
COUNTY OF _____ CRIMINAL DIVISION, ROOM _____
STATE OF INDIANA
VS. CAUSE NO. 49 _____

The following information must be included in order for request to be processed.

Date of Birth: _____ Date of Arrest: _____

All Charges related to the case (filed and not filed):

ORDER GRANTING EXPUNGEMENT

Comes now the Defendant, _____, Petitioner herein, by counsel, _____, and files herein his Verified Petition To Expunge Arrest Record pursuant to I.C. 35-38-5-1 et. Seq. which Petition is in the following words and figures, to-wit:

(H.I.)

And the Court having reviewed said Petition and being duly advised in the premises, grants said Petitioner's Verified Petition To Expunge Arrest Record pursuant to I.C. 35-38-5-1. That the Court further finds that there shall be Expungement of all references and information of the arrest and booking, the case chronology, case charges, criminal history and charge disposition that is electronically maintained in the Marion County Criminal Justice System (JUSTIS) as pertains to the Defendant. **IT IS THEREFORE**

ORDERED, ADJUDGED AND DECREED by the Court that Petitioner's Verified Petition To Expunge Arrest Record pursuant to I.C. 35-38-5-1 et. Seq. is hereby granted and that the _____(LOCAL)_____ Police Department, the Indiana State Police, and the Court Administrator's Office are each ordered to, within thirty (30) days of receipt of this Order, either deliver to _____, in care of his attorney, _____, or destroy all fingerprints, photographs, and/or arrest records in their respective possessions including complete deletion of all information, material and references maintained electronically in the Marion County Criminal Justice System (JUSTIS) pertaining to the Defendant, _____.

Dated at _____, Indiana this _____ day of _____, 200____.

Judge, _____ County Superior Court
Criminal Division Room _____

DISTRIBUTION TO:

Indianapolis Police Department
50 North Alabama Street, Room EG5A (Ident and Records)
Indianapolis, IN 46204
Attention: Paula Wright, Supervisor of Criminal Records Processing

Indiana State Police
Records Division, Room 302
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204
Attention: Judy Bryant, Supervisor
Office of the Court Administrator
Attention Kelly Campbell or Mike McConaha
200 E. Washington Street, Ste. T-1221
Indianapolis, IN 46204

Standard Order adopted on August 27, 2002

Revised September 24, 2002

IOWA

Upon the expiration of two years following conviction for a violation, a person may petition the court to exonerate the person of the conviction, and if the person has had no other criminal convictions, other than simple misdemeanor violations of chapter 321 during the two-year period, the person shall be deemed exonerated of the offense as a matter of law.

The court shall enter an order exonerating the person of the conviction, and ordering that the record of the conviction be expunged by the clerk of the district court. [C35, §1921-f42, 1921-f127; C39, § **1921.042, 1921.132**; C46, 50, 54, 58, 62, 66, 71, §123.42, 124.37; C73, 75, 77, 79, 81, §123.46] 85 Acts, ch 32, §36; 86 Acts, ch 1067, §1; 89 Acts, ch 225, §10; 92 Acts, ch 1231, §7; 2000 Acts, ch 1138, §1

Most juvenile delinquency records can be sealed 2 years following the final discharge if the person has not subsequently been convicted of a serious crime. Iowa Code Ann. § 232.150(1).

If a record of public consumption or intoxication is expunged, the person is exonerated. Iowa Code Ann. § 123.46(5).

See county court clerk for specific instructions.

Link to forms provided below:

http://www.governor.state.ia.us/requests/App_clemency.doc

KANSAS

Right to Inspect & Make Notes C your Criminal Record: 224709; 22-4711; Reg. 10-13-2

Right to Challenge (information on your criminal record): 224709; 224711

Sealing Conviction Information: 22-4619; 12-4516

Purging (Erasing, Expunging) Non-conviction Information: None (Use Civil Remedy: 224707)

OFFICE OF THE STATE ATTORNEY

The Kansas statute allows any person convicted or granted diversion in this state of a traffic infraction, tobacco infraction, misdemeanor, severity level 6-10 non-drug crimes, and severity level 4 drug crimes, to petition the court for expungement if more than three (3) years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole, or post-release supervision. (K.S.A. 21-4619 (a) (2)).

Five or more years must have elapsed since the person satisfied the sentence imposed, terms of diversion, or discharged from probation, parole, or post release supervision if the person was convicted of a class A, B, C Felony, off-grid felony or severity level 1 through 5 of any non-drug crime, severity level 1 through 3 of the drug grid, vehicular homicide, driving under the influence, driving while the cancelled, suspended or revoked, perjury, applying for a title of a motor vehicle under a false name or address, any crime punishable as a felony, wherein a motor vehicle was used, failing to stop at the scene of an accident, or failing to have motor vehicle insurance.

There are certain convictions that cannot be expunged. They are the following offenses: rape, indecent liberties with a child, aggravated indecent liberties with a child, aggravated criminal sodomy, criminal sodomy, aggravated indecent solicitation of a child, indecent solicitation of a child, sexual exploration, aggravated incest, endangering a child, abuse of a child, capital murder, murder in the first degree, murder in the second degree, voluntary manslaughter, involuntary manslaughter, involuntary manslaughter while driving under the influence. (K.S.A. 21-4619 (c)).

There is a \$50.00 docket fee in the District Court for filing a petition. Attorneys may also charge a fee for services rendered on your behalf, such as preparing the forms or appearing in court.

The proceeding documents are to be used as a guideline in preparing the expungement pleadings. The guideline forms include a Petition, Affidavit and an Order of Expungement. You must re-type these forms in their entirety, not just fill in the blanks. Please note that on the Verification and Affidavit the state and county on the top of the form should be the state and county you (or your client) are in currently in when you (they) sign the documents.

When you have retyped the forms, please send to the Office of the District Attorney, at the above address, one copy of the Petition, one copy of the Affidavit and the original of the Order of Expungement. Once the required record check has been completed and the attorney has reviewed the file, a decision will be made as to eligibility for expungement. If we agree to the expungement, the attorney will sign the Order and return it to you for further handling. At that time, you will need to file the Petition,

Affidavit and the Order with the Clerk of Criminal Court. Please note that the judge's signature must be on the Order before it can be filed with the clerk. The clerk's office will advise you regarding how many copies of each pleading they require.

If this office decides to object to the expungement, you will be so notified and the documents you submitted will be returned to you. You can then decide whether you wish to file the petition, schedule a hearing on the petition, and present your request to the Court.

In preparing the forms, all information presently set out in the forms should be contained in the original documents that are prepared. The information is needed by this office in conducting the record check and is also needed by the various law enforcement agencies which must identify the specific event, arrest and conviction. Since the records are maintained by name, date of birth, social security number, date of arrest, and date of conviction, all that information must be provided as listed on the original complaint/information. A separate Petition, Affidavit, and Order must be completed for each case you are petitioning the court to expunge.

FORMS PROVIDED BELOW:

**DISTRICT COURT, _____ COUNTY, KANSAS
CRIMINAL DEPARTMENT**

THE STATE OF KANSAS

Plaintiff,

vs. Case No.

_____,
Defendant.

PETITION FOR EXPUNGEMENT OF ARREST RECORD

COMES NOW the defendant in the above-captioned matter and petitions the Court for an Expungement of his criminal record pursuant to K.S.A.22-2410. In support of this petition, defendant alleges and states:

1. That defendant, _____, is a _____ (race) _____ (sex), with a date of birth of _____.
2. That defendant was arrested on _____ by (arresting agency) for the offense of Severity Level or Class , a (person/non-person?) (felony or misdemeanor?), contrary to K.S.A. under the name of _____ and no charges are likely to be filed .
3. [That defendant has not been arrested or convicted of any felony or misdemeanor since this case and no charges are presently pending or being instituted against this defendant].

OR

3. [That the defendant has not been arrested or convicted of any felony or misdemeanor since _____ on the charge of _____ and no charges are presently pending or being instituted against this defendant.]

4. The defendant's current circumstances and behavior warrant this expungement and this expungement is consistent with public welfare.

Attorney for Defendant or Pro Se

VERIFICATION

STATE OF KANSAS

ss:

_____ COUNTY

_____, of lawful age, being first duly sworn upon his oath, states:

That I am the Petitioner in the above and foregoing action, that I have read the foregoing Petition for Expungement and that the statements contained therein are true and correct.

Defendant

SUBSCRIBED AND SWORN to before me, a Notary Public, on this day of , 20 .

Notary Public

My Commission Expires:_____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Petition for Expungement was mailed, postage prepaid and properly addressed, this day of , 20____, to District Attorney, _____ County Courthouse, _____, _____, Kansas 67203.

Attorney for Defendant or Pro Se

**DISTRICT COURT, _____, KANSAS
CRIMINAL DEPARTMENT**

THE STATE OF KANSAS,

Plaintiff,

vs. Case No.

_____,
Defendant.

)
AFFIDAVIT

STATE OF KANSAS

ss:

COUNTY OF SEDGWICK)

_____, of lawful age, being first duly sworn on oath, alleges and states:

1. That he/she is the defendant in the above-captioned matter and is making this Affidavit in support of his/her Petition for Expungement.
2. That he/she is _____ years of age, having been born on _____.
3. [That he/she has not been arrested, charged or convicted of any felony since his/her release from the Sedgwick Adult Detention Facility on _____.]

OR

3. [That the defendant has not been arrested or convicted of any felony or misdemeanor since _____ on the charge of _____ and no charges are presently pending or being instituted against this defendant.]

4. That he/she is [unemployed] or [employed] at _____, and has been since _____.
5. That he/she is [single] or [married] and the [father] [mother] of _____ children.
6. That [he] [she] is a good citizen and it would be in his/her best interest and in the interest of justice if this expungement would be granted.
- FURTHER AFFIANT SAITH NOT.

Affiant

ACKNOWLEDGMENT

BE IT REMEMBERED, that on this _____ day of _____, 20 __, before me, a Notary Public, in and for the County and state aforesaid, came _____, who is personally known to me to be the same person who executed the foregoing Affidavit and he/she duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year above written.

Notary Public

**DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CRIMINAL DEPARTMENT**

THE STATE OF KANSAS,

Plaintiff,

vs. Case No.

_____,
Defendant.

ORDER OF EXPUNGEMENT

NOW on this _____ day of _____, 20__, this matter comes on for hearing upon the defendant's Petition for Expungement filed herein. The State of Kansas appears by James E. Puntch, Jr., Assistant District Attorney. The defendant appears by and through _____. There are no other appearances.

WHEREUPON, the Court, after hearing evidence, reviewing the files, hearing statements of counsel, and becoming knowledgeable in the premises, finds as follows:

1. The defendant's full name is _____;
2. The defendant's full name at the time of his/her arrest in the above-entitled action was _____;
3. The defendant is a _____ (race) _____ (sex) who was born on _____;
4. The defendant was arrested on the _____ day of _____, ____; by the _____ (name of arresting agency).
5. The defendant was not charged with any crime or are any charges likely to be filed as a result of said arrest;
6. The defendant was arrested in Sedgwick County, Kansas;
7. More than two years have elapsed since the defendant was arrested.

8. The defendant has not been convicted of a felony within the past two (2) years, and no proceedings involving a felony are presently pending or being instituted against the defendant;

9. The circumstances of behavior of the defendant warrant expungement of his/her record, and is consistent with the public welfare and good.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the defendant's related arrest records should be and is hereby expunged and he/she shall be treated as not having been arrested;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant shall disclose the arrest herein expunged as follows:

1. In any employment application as a detective with a private detective agency, as defined by K.S.A. 75-7b01, or as a security personnel with a private patrol operator, as defined by K.S.A. 75-7b91, or with an institution, as defined by K.S.A. 76-12a01, of the Department of Social and Rehabilitation Services;
2. In any application for admission, or for an order of reinstatement, to the practice of law;
3. In any request for employment with the Kansas Lottery or State Gaming Agency
4. In any request for employment with the Kansas Racing Commission or in any request for licensing or renewal of license by the Kansas Racing Commission.
5. In any application for a commercial drivers license under K.S.A. 8-2,125 through 8-2,142;
6. In any request for employment with a tribal gaming commission or in any request to hold a license issued pursuant to a tribal - state gaming compact.
7. In any agreement for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-1252.
8. The Department of Wildlife and Parks and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a permit as a commercial guide or associate guide under K.S.A. 32-964.
9. In any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon entry of this Order of Expungement, the expunged arrest shall not be disclosed, except when requested by:

1. The defendant;
2. A private detective agency, or a private patrol operator, and the request is being made in conjunction with an employment application with such agency or operator by the person whose record has been expunged;
3. A court, upon a subsequent conviction of the person whose record has been expunged;
4. The Secretary of Social and Rehabilitation Services, or a designee of the Secretary, as a result of an employment application;
5. A person entitled to such information pursuant to the terms of the expungement order;
6. A prosecuting attorney when the expunged conviction is an element of an offense being prosecuted;

7. The Kansas Supreme Court, or Clerk thereof, Disciplinary Administrator, the State Board for Admission of Attorneys, or the State Board for Discipline of Attorneys, when made as a result of an application for admission or readmission to practice law;
8. The Kansas Lottery, as a result of an application for employment;
9. The Governor or the Kansas Racing Commission, as a result of an application for employment or licensing, renewal of license or continued licensing by the Commission;
10. The Kansas Sentencing Commission;
11. The State Gaming Agency, when an application for employment or licensure is made with, 1) the State Gaming Agency; or 2) the Tribal Gaming Commission;
12. The Kansas Securities Commission as a result of an application for registration as a broker-dealer, agent, investment advisor or investment advisor representative;
13. The Department of Wildlife and Parks and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a permit as a commercial guide or associate guide under K.S.A. 32-964.
14. The Kansas Law Enforcement Training Commission and the request is accompanied by a statement that the request is being made to aid in determining certification eligibility as a law enforcement officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto; or
15. A law enforcement agency and the request is accompanied by a statement that the request is being made to aid in determining eligibility for employment as a law enforcement officer as defined by K.S.A. 22-2202,

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of the District Court, upon receipt and filing herein, shall send a certified copy of the Order of Expungement to the Federal Bureau of Investigation, the Kansas Bureau of Investigation, the Secretary of Corrections, the arresting law enforcement agency, the District Attorney's Office, the probation department, any other criminal justice agency which may have a record of the arrest described herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon filing of the Order of Expungement the defendant shall be treated as not having been arrested of the crimes herein, subject to the provisions and conditions stated herein and stated in K.S.A. 21-4619.

JUDGE OF THE DISTRICT COURT

APPROVED:

District Attorney's Office

Attorney for Defendant or Pro Se

KENTUCKY

Right to Inspect & Make Copy of your Criminal Record: 17. 150; 61-874; 61-884; Reg. 502 KAR 30:070

Right to Challenge (information on your criminal record): Reg. 502 KAR 30:070

Sealing Non-conviction Information: 17.142 Purging (Erasing, Expunging) Non-conviction Information: Use 61.882; 17.157; or U.S.C. Title 42 Sec 1983 aka the Civil Rights Act

State Code

COMMONWEALTH of KENTUCKY

431.078 Expungement of misdemeanor and violation conviction records.

(1) Any person who has been convicted of a misdemeanor or a violation, or a series of misdemeanors or violations arising from a single incident, may petition the court in which he was convicted for expungement of his misdemeanor or violation record. The person shall be informed of the right at the time of adjudication.

(2) The petition shall be filed no sooner than five (5) years after the completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later.

(3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.

(4) The court shall order sealed all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:

- (a) The offense was not a sex offense or an offense committed against a child;
- (b) The person had no previous felony conviction;
- (c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;
- (d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;
- (e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and
- (f) The offense was an offense against the Commonwealth of Kentucky.

(5) Upon the entry of an order to seal the records, and payment to the circuit clerk of twenty-five dollars (\$25), the proceedings in the case shall be deemed never to have occurred; all index references shall be deleted; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. The fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks.

(6) Copies of the order shall be sent to each agency or official named therein.

(7) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.

(8) This section shall be deemed to be retroactive, and any person who has been convicted of a misdemeanor prior to July 14, 1992, may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the record of one (1) misdemeanor offense or violation or a series of misdemeanor offenses or violations arising from a single incident, provided that the offense was not one specified in subsection (4) and that the offense was not the precursor offense of a felony offense for which he was subsequently convicted. This section shall apply only to offenses against the Commonwealth of Kentucky.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 374, sec. 3, effective July 15, 1996. -- Created 1992 Ky. Acts ch. 325, sec. 1, effective July 14, 1992.

State Procedures

COMMONWEALTH of KENTUCKY

Under act of the 1992 and 1996 Kentucky General Assembly, persons with certain offenses may be eligible to have their criminal charges expunged. Once expunged, the record will no longer exist and it will be as if the charge was never entered.

Requirements

Petitioner must present proof of criminal record to county court of said violation. This can be obtained from Pretrial Records in Frankfort. Contact information available on next page.

Petition

Applicant must petition the district court where the charges were placed to have record expunged. Petitioner must answer all questions on the petition and file it with the district court. Sample petition questionnaire attached as well as other court documents.

Fee

A fee of \$25.00 is required for each conviction you have expunged. The fee must be in the form of a money order. If the expungement is denied in court the money order will be returned.

Restrictions

- 1) Felony convictions must be expunged through the Governor's Office. Contact information provided.
- 2) Criminal record must be free of convictions for five years after conviction date of offense prior to expungement.
- 3) Crimes against children may not be expunged.
- 4) Sex crimes may not be expunged.
- 5) If placed upon probation, five years must have expired from the end of probation.

Dismissed Charges

If the charge was dismissed or the defendant found not guilty the charge may be expunged after 60 days without a fee.

Charges *dismissed without prejudice* will be treated as convictions.

RESTORATION OF RIGHT TO VOTE

KENTUCKY

U.S. Department of Justice

Civil Rights Division

Restoring Your Right to Vote

The right to vote is an important civil right in a democracy as well as a civic responsibility, and yet many persons who have been convicted of a crime do not know whether they are eligible to vote. For both federal and state elections, the right to vote is controlled by the law of the state in which you live. Some states restrict the right to vote for persons who have been convicted of a crime.

What law governs whether my felony conviction limits my right to vote?

The impact of a criminal conviction on the right to vote varies widely from state to state. Whether you can vote after being convicted of a crime is determined by the state in which you live, not the state in which you were convicted.

Can I vote while I'm incarcerated in Kentucky?

If you are a resident of Kentucky, you cannot vote in Kentucky elections while you are incarcerated as a result of a felony conviction. If you are a resident of another state who is temporarily incarcerated in Kentucky, you may be able to vote by absentee ballot in your home state. You need to consult the law of your home state regarding both criminal convictions and absentee ballots to see if this is a possibility.

I have been released from incarceration. How do I restore my right to vote?

If you were convicted of a felony in Kentucky, then you must obtain a pardon from the Governor in order to regain your right to vote.

To apply, contact:
Governor of Kentucky
700 Capitol Avenue
Frankfort, KY 40601
(502) 564-2611 (voice)
(502) 564-2517 (fax)

CRIMINAL BACKGROUND CHECK REQUEST

To obtain a criminal background check from the Administrative Office of the Courts, follow these steps based on the appropriate classification. Please note that when you request a background check on an individual that person is notified by mail as to whom requested their court record. To make multiple requests, contact the Pretrial Services Records Division for additional copies.

Individuals: Yourself

Fee \$10 by money order or check made payable to State Treasurer. To order by mail, enclose payment and a self-addressed stamped envelope for a return reply.

Individuals: Others

Fee \$10 by money order or check made payable to State Treasurer. To order by mail, enclose payment and a self addressed stamped envelope for a return reply and an envelope addressed to the person whose record you are requesting.

Nonprofit Organization

Fee \$10 by money order or check made payable to State Treasurer. To order by mail, enclose payment, your non-profit number (Form 51-A-126), and a self addressed stamped envelope for a return reply and an envelope addressed to the person whose record you are requesting.

Example: Kentucky contact information,

**Pretrial Services Records Division
Administrative Office of the Courts
100 Millcreek Park
Frankfort, Kentucky 40601
Phone 800-928-6381 or 502-573-1682
Fax 502-573-1669
pretrialcustomerservice@mail.aoc.state.ky.us**

LOUISIANA

Right to Inspect & Make Copy of your Criminal Record: Reg. LAC 1-18:3(9)

Right to Challenge : 15:588; Reg. LAC 1-18:4

Sealing Non-conviction Information: 44:9 (conviction: same)

Purging (Erasing, Expunging) Non-conviction Information LRS 15:586; 44:9

There are two major distinctions to keep in mind in order to understand Louisiana's expungement statute: 1) "expungement" and "destruction" are not synonymous, and 2) an acquittal obtained pursuant to Article 893 or 894 of the Code of Criminal Procedure is treated differently than an acquittal obtained from trial.

II. Misdemeanors and Violations of Parish or Municipal Ordinances

A. Procedure The procedure to expunge misdemeanors and violations of municipal and parish ordinances is found at 44:9(A). The decision of whether to use the felony or misdemeanor procedure is determined by the charge filed, not the violation stated for the arrest. *State v. Sims*, 357 So.2d 1095 (La. 1978) .

1. Who May File Any person who has been arrested for the violation of a municipal or parish ordinance or a misdemeanor

2. Where to File A written motion is to be filed in the district, parish, or city court in which the violation was prosecuted or in the district court in the parish where the person was arrested, if no prosecution was instituted. A contradictory hearing is not statutorily required although one appellate court has stated that they should be done. See *State v. Williams*, 536 So.2d 1312, (La. App. 2nd Cir. 1989).

3. Eligibility for Expungement A person is entitled to relief if:

a. The time limitation for the institution of prosecution of the offense has expired and no prosecution has been instituted; or

b. If a prosecution has been instituted and the proceedings were finally resolved by dismissal, sustaining a motion to quash, or an acquittal. [The acquittal referenced here does not include an acquittal obtained pursuant to Article 894 of the Code of Criminal Procedure. Such an acquittal is addressed at 44:9(E)(3).]

B. Relief Available If the court finds that the mover is eligible for expungement,

1. It shall order all agencies and law enforcement offices having record of the arrest, whether on microfilm, computer card or tape, or on any

photographic, electronic, or mechanical method of storing data, to destroy any record of arrest, photograph, fingerprint, or any other information of any and all kinds or descriptions.

2. The court shall also order such custodians of records to file a sworn affidavit to the effect that the records have been destroyed and that no notations or references have been retained in the agency's central repository which will or might lead to the inference that any record ever was on file with any agency or law enforcement office. The original of

such affidavit shall be kept by the court and a copy shall be retained by the affiant agency, which copy shall not be a public record and shall not be open for public inspection but rather shall be kept under lock and key and maintained only for internal recordkeeping purposes.

C. **DWI's** The last sentence of subsection 44:9(A)(2) states that it does not apply to arrests for a first or second violation of any ordinance or statute making criminal the driving of a motor vehicle while under the influence of alcoholic beverages or narcotic drugs, as denounced by R.S. 14:98 (Operating a Vehicle While Intoxicated) or 98.1 (Underage Driving Under the Influence). This very language, with the exception of "or 98.1," has been decreed to be unconstitutional as a denial of equal protection because it was found not to be rationally related to a legitimate state interest. *State v. Bradley*, 360 So.2d 858 (La. 1978). The inclusion of 14:98.1 (Underage Driving Under the Influence) should not alter this analysis. Therefore, persons arrested for DWI are eligible for expungement if they meet the requirements outlined above. [Note that DWI acquittals obtained pursuant to Article 894 of the Code of Criminal Procedure are not covered here. They are addressed in 44:9(E)(3).]

D. There is no express provision to expunge misdemeanors when a prosecuting authority declines to prosecute as there is for felonies and certain misdemeanors. Liberal construction of the statute should allow for such, but it may be prudent to have the prosecution instituted and dismissed, simply to comply with the express wording of the statute, if the defendant does not want to wait for the time to lapse for the institution of the prosecution.

III. Felonies and violations of 14:34.2 (Battery of a Police Officer), 14:34.3 (Battery of a School Teacher), or 14:37 (Aggravated Assault)

A. **Procedure** The procedure to expunge felonies and violations of 14:34.2 (Battery of a Police Officer), 14:34.3 (Battery of a School Teacher), or 14:37 (Aggravated Assault) is found at 44:9(B).

1. **Who May File** Any person who has been arrested for the violation of a felony or a violation of 14:34.2 (Battery of a Police Officer), 14:34.3 (Battery of a School Teacher), or 14:37 (Aggravated Assault).

2. **Where to File** A written motion is to be filed in the district court in the parish where the person was arrested. A contradictory hearing is required with the district attorney and the arresting law enforcement agency.

3. **Eligibility for Expungement** A person is entitled to relief if:

a. The district attorney declines to prosecute, or the prosecution has been instituted and such proceedings have been finally disposed of by acquittal, dismissal, or sustaining a motion to quash [The acquittal referenced herein does not include an acquittal obtained pursuant to Article 893 or 894 of the Code of Criminal Procedure. Such an acquittal is addressed at 44:9(E)(1) & (3).]; and

b. The record of arrest and prosecution for the offense is without substantial probative value as a prior act for any subsequent prosecution. This is almost always the case since only convictions, not acquittals, are admissible into evidence. According to State v. M.K.O., 36,524-CA (La. App. 2 Cir., 12/18/02) 833 So.2d 1265, 1267:

“Louisiana courts rely on the defendant's presumption of innocence under our Constitution and the principle of ‘fundamental fairness’ to conclude that the defendant is entitled to expungement of an arrest record, and the court is required by law to grant relief, if there has been a dismissal of the offense. The statute requires a contradictory hearing with the arresting agency prior to a ruling on the motion by the trial court.”

B. Relief Available If, after the contradictory hearing, the court finds that the mover is entitled to the relief sought, it shall order all law enforcement agencies to expunge the record of the same. This subsection does not expressly provide for the destruction of records. 44:9 provides for the expungement (removal from public access) of arrest records in certain instances; it does not provide for the destruction of felony arrest records. See State v. Expunged Records Number 249,044, 2002-589 (La. App. 3 Cir., 12/11/02) 833 So.2d 553.

IV. Any Felony Not Prosecuted Within the Time Allowed by Law

A. Procedure The procedure to expunge any felony not prosecuted within the time allowed by law is found at 44:9(C).

1. Who May File Any person who has been arrested for the violation of a felony

2. Where to File A written motion is to be filed in the district court in the parish where the person was arrested. A contradictory hearing is required with the arresting agency only

3. Eligibility for Expungement A person is entitled to relief if the time limitation for the institution of the prosecution has expired with no prosecution ever having been instituted

B. Relief Available If, after the contradictory hearing, the court finds the mover is entitled to the relief sought, it shall order all law enforcement agencies to expunge the record of the same. This subsection does not expressly provide for the destruction of records. 44:9 provides for the expungement (removal from public access) of arrest records in certain instances; it does not provide for the destruction of felony arrest records. See State v. Expunged Records Number 249,044, 2002-589 (La. App. 3 Cir., 12/11/02) 833 So.2d 553.

C. Information that May Be Retained If expungement is ordered, the arresting agency may preserve the name and address of the person arrested and the facts of the case for investigative purposes only.

V. Felony Acquittals Obtained Pursuant to Article 893 of the Code of Criminal Procedure

A. Same as the procedure outlined above in section III, with the following exceptions:

1. The court may not order the destruction of records. It may order only the removal of records from public access. "Expungement" is defined in the statute in subsection G. as the removal of a record from public access, not the destruction of the record. 44:9 provides for the expungement (removal from public access) of arrest records in certain instances; it does not provide for the destruction of felony arrest records. See *State v. Expunged Records* Number 249,044, 2002-589 (La. App. 3 Cir., 12/11/02) 833 So.2d 553.

2. An expunged record is confidential, but remains available for use by law enforcement agencies, criminal justice agencies, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, or the Louisiana State Board of Examiners of Psychologists.

B. Restoration of Rights Upon the entry of the order of expungement, all rights which were lost or suspended by virtue of the conviction shall be restored and the person shall be treated in all respects as not having been arrested or convicted unless otherwise provided in the statute or otherwise provided in the Code of Criminal Procedure Article 893 and 894.

VI. Misdemeanor Acquittals Obtained Pursuant to Article 894 of the Code of Criminal Procedure

A. Same as the procedure outlined above in section II, with the exception that no destruction of the record shall be ordered for any conviction for a first or second violation of any ordinance or statute making criminal the driving of a motor vehicle while under the influence of alcoholic beverages or narcotic drugs, as denounced by R.S. 14:98 or 98.1. Even considering *State v. Bradley*, supra, this provision most likely will be deemed constitutional since the records will be needed as a prior offense in a multiple offender prosecution, and the records will be removed from public access, with the exception of those agencies listed in subsection G of 44:9.

B. Restoration of Rights Upon the entry of the order of expungement, all rights which were lost or suspended by virtue of the conviction shall be restored and the person shall be treated in all respects as not having been arrested or convicted unless otherwise provided in this statute or otherwise provided in the Code of Criminal Procedure Article 893 and 894.

VII. Crimes That Cannot Be Expunged

Subsection 44:9(E)(2) states that no court shall order the expungement or destruction of any record of the arrest and prosecution of any person convicted of a sex offense as defined by R.S. 15:542(E), involving a child under the age of 17 years. This provision shall apply to all records of any proceedings, order, judgment, or other action under Code

of Criminal Procedure Article 893. Following the equal protection analysis of *State v. Bradley*, supra, this provision may very well be unconstitutional if a rational basis cannot be established for treating these offenders differently.

VIII. Persons Who Cannot Move for Expungement

Subsection H of 44:9 states that a convicted felon, while in the custody of the Secretary of the Department of Public Safety and Corrections, shall have no right or standing to petition the court for expungement. Presumably, this applies regardless of whether the arrest or crime to be expunged has anything to do with the reason for incarceration.

IX. Records Held by the Department of Public Safety and Corrections

Subsection F of 44:9 states that, for investigative purposes only, the Department of Public Safety and Corrections may maintain a confidential, nonpublic record of the arrest and disposition. This information may be released, upon specific request and on a confidential basis, to any law enforcement agency, criminal justice agency, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, or the Louisiana State Board of Examiners of Psychologists. Such receiving agency shall maintain the confidentiality of such record.

An order of destruction would apply, nevertheless, to the Department of Public Safety and Corrections since nothing excepts its information gathering from the expungement process outlined in 44:9. However, this provision does create a central location for information that may be accessed by the agencies specified in subsection F concerning not only convictions, but felony acquittals obtained pursuant to Article 893 of the Code of Criminal Procedure and DWI acquittals obtained pursuant to Article 894.

X. Availability of Records to Employers of Health Care Providers

Subsection 44:9(E)(4) allows a health care provider to request criminal records on potential employees, even expunged records. However, if records are destroyed, then there is no information to transmit. This also allows the employer to discover the criminal convictions of applicants since the applicants are not required to disclose their arrests or convictions. See 44:9(I).

XI. Disclosure of Expunged Arrests and Convictions

Subsection I of 44:9 states that except for the agencies listed in subsection G (the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, or the Louisiana State Board of Examiners of Psychologists), no person whose record of arrest or conviction has been expunged shall be required to disclose that he was arrested or convicted or that the record of such arrest or conviction has been expunged, unless otherwise provided in the statute. For most people, the effect of this provision will be that a person does not have to tell his employer or potential employer, assuming his employer is not a listed agency.

XII. Punishment for Violating 44:9

Subsection D of 44:9 states that whoever violates any provision of the statute shall be punished by a fine of not more than \$250.00 or by imprisonment of not more than 90 days, or both, if the conviction is for a first violation. Second and subsequent violations

shall be punished by a fine of not more than \$500.00 or imprisonment of six months, or both.

For purposes of this criminal sanction, who is “whoever?” The judge that orders expungement or destruction when it is not allowed? The lawyer or client who requests more remedy than that which is allowed? The persons or agencies who do not remove from public access or destroy records in violation of a court order? The agencies who expunge the wrong records? Agencies, which are not the specified agencies of subsection G of 44:9, that require disclosure of expunged arrests or convictions?

XIII. Applicability

LSA-R.S. 44:9 does not provide for the expungement of accident records. *Primas v. State, DPSC, OMV, 98 CA 0855 (La. App. 1st Cir 5/14/99), 734 So.2d 899.*

A Louisiana court has no jurisdiction to expunge offenses committed in another state. *Alario v. State, DPSC, 530 So.2d 1164 (La. App. 5th Cir. 1988).*

An expungement order applies *only* to criminal records held by the arresting law enforcement agency and/or courts. An expungement order does not affect the driving record since suspensions/disqualifications of driving privileges are the result of civil action on a criminal charge.

If the expungement order also includes an order that the conviction was dismissed, acquitted, reduced, or that there has been a permanent refusal to charge a crime or Article 894, then the court order is acceptable. The driving record is to be updated accordingly.

When an expungement order is received, correspondence will be sent to the individual as to the status of the driving record and a copy to the attorney, if applicable.

Expungement orders are scanned/routed to the Conviction/Medical Unit by Records. All original expungement orders are forwarded to State Police, Criminal Records Bureau, Box 18.

If an expungement order is received on a driver licensed in another state, a copy must be forwarded to the home state of record. Therefore, a copy must be made and certified as a true copy prior to the original being forwarded to State Police.

MAINE

Right to Inspect & Make Copy of your Criminal Record: 16-620(1)

Right to Challenge: 16-620(2),(3)

Sealing Non-conviction Information: None (Use 25.1550, or U.S. 1983 Civil Rights Action)

Purging (Erasing, Expunging): None (Use 25-1550 or Judicial Review-16-620(4) or U.S. 1983 Civil Rights Action)

General Information Regarding Executive Clemency

Listed below are answers to questions most often asked regarding Executive Clemency. **Please read them before completing any application for a pardon or commutation.**

A. What is Executive Clemency?

"Executive Clemency" refers to the constitutional power (see Maine Constitution, Article V, Part First, section 11) given exclusively to the Governor that allows him, following a criminal conviction or juvenile adjudication, to grant either a commutation of sentence or a pardon. A **commutation** is a partial or full reduction of a sentence for persons incarcerated for having committed a crime. A **pardon** (unlike a commutation) officially forgives an individual for a crime or crimes.

B. How does a pardon affect my criminal record?

The effect of a full and free pardon on an individual's criminal record is controlled by Title 16, section 611-622 of the Maine Revised Statutes Annotated. Because Maine does not expunge (i.e., erase) criminal records, one's criminal record is not "wiped clean" by being granted a pardon; rather, information concerning the pardoned conviction is considered "non-conviction" data and is available only under the conditions or circumstances set forth in Title 16, section 611-622 of the Maine Revised Statutes Annotated. Information related to a conditional pardon (or commutation, for that matter) may be disseminated to any person for any purpose.

C. How many steps are involved in the Executive Clemency process?

1. A Petitioner for Executive Clemency must complete the attached petition for **EACH CONVICTION** for which Executive Clemency is sought. In addition, one must obtain from the court in which one was convicted, a certified copy of the **CHARGING INSTRUMENT** (i.e., the Indictment, Information, or Complaint), **JUDGMENT AND COMMITMENT FORM**, and **DOCKET SHEET** for each conviction for which Executive Clemency is sought. **If a Petitioner is not able to obtain the above forms (because, e.g., they were destroyed or archived due to the age of the conviction) the Petitioner must have the Clerk of the Courts certify in writing that the documents are unavailable.**

2. Once completed, the petition form and the court documents must be sent the following mailing address:

Pardon Clerk Office of the Secretary of State 101 State House Station Augusta, Maine
04333 (207) 624-7650

Additional petitions may be obtained from the Pardon Clerk upon request, or by visiting the Secretary of State's website at the following Internet address:

<http://www.maine.gov/sos/cec/boards/pardons.htm>

For those seeking Executive Clemency on more than one conviction, page 2 of the petition need only be completed once.

3. Upon receipt of the completed petition form and necessary documents, the Pardon Clerk will ask the State Bureau of Identification of the Maine State Police and the Division of Motor Vehicles of the Secretary of State's Office to do a preliminary background check for the Governor's Board on Executive Clemency. Once that background check is completed, the Board will review the petitions it has received at its next regularly scheduled meeting and will grant or deny a request for hearing on each petitioner. Petitioners will be notified in writing of the Board's decision.

4. Those Petitioners granted a hearing will be asked to appear before the Board at its next regularly scheduled meeting. In the meantime, the Division of Probation and Parole of the Department of Corrections shall conduct a more thorough background investigation and present its findings to the Board. The investigation will include a personal interview between each Petitioner and a member of the Division of Probation and parole. That Division will contact each Petitioner to establish a mutually convenient time for such an interview.

At the hearing, the Board will have an opportunity to ask Petitioners about such matters as the reason why clemency is being sought and what the circumstances were surrounding the crimes for which a pardon or commutation is being requested. Following all of the hearings, the Board meets in Executive Session to discuss each Petitioner's case. The Board, which serves in an advisory capacity to the Governor, then makes its **recommendations** to the Governor.

5. The Governor, who has sole responsibility for the granting or denial of Executive Clemency, reviews the Board's recommendations and makes

the final decision. Petitioners are notified in writing of the Governor's decision.

D. How long does the Executive Clemency process usually take?

The length of time varies. Petitioners should be aware that the Governor's Board on Executive Clemency meets no fewer than three (3) times a year in Augusta to review petitions and to assign hearings for the Board's next meeting. Thus, the process usually takes a minimum of four months.

E. If I am denied a hearing, how long should I wait before reapplying?

Petitioners generally must wait **one year** before reapplying for clemency.

F. What guidelines has the Governor established to determine the pardon petition that will be heard?

1. Petitioners seeking a clemency generally will not be heard until five (5) years have elapsed from the date of completion of entire sentence, including any probation periods associated with the sentence.
2. Petitioners seeking a clemency for Operating Under the Influence of Intoxicating Liquor (OUI) generally will not be heard.
3. Petitioners seeking clemency will not be heard if they are seeking to rectify alleged errors in the judicial system.
4. Petitioners seeking a clemency for the sole purpose of carrying a firearm, to hunt, or otherwise, generally will not be heard.

G. What guidelines have been established to determine whether commutation petitions will be heard?

Petitioners seeking a commutation of a sentence must have served at least one half of a sentence, or a minimum of one year of a sentence, **whichever is a longer period of time**. Good time and meritorious (extra) good time credited at the time of petitioning may be considered, but not projected good time or meritorious (extra) good time, i.e., good time and meritorious (extra) good time that may be earned in the future. A person petitioning for a commutation must have confirmation **in writing** from the warden or superintendent of the penal institution in which the person is incarcerated, that the minimum time served criteria, discussed above, have been met. In exceptional cases, the Governor's Board on Executive Clemency may waive those guidelines .

A Petitioner seeking commutation will not be heard if the Petitioner is seeking to rectify alleged errors in the judicial system.

H. If I am granted a hearing before the Governor's Board on Executive Clemency, what must I do?

1. Publish the Legal Notice form that the Petitioner will receive from the Pardon Clerk at the Secretary of State's Office. The Legal Notice must be published in a newspaper that has its principal place of business in the county in which the Petitioner's case was tried. A list of appropriate newspapers will be provided at a later date. The Legal Notice **must** appear once a week for four consecutive weeks prior to the date of the hearing. The expense incurred for the publication of this Legal Notice is solely the petitioner's responsibility. In addition, the Petitioner is responsible for providing the Pardon Clerk with a copy of the entire page in each week's newspaper in which the Legal Notice appeared.
2. Those petitioning for a pardon must appear in person before the Governor's Board on Executive Clemency at a time and location in Augusta specified in writing by the Board.
Persons petitioning for a commutation are not permitted to appear in person. They must ask someone to appear on their behalf (e.g., a relative, a friend, an inmate advocate, legal counsel).
3. Petitioners may ask other persons to appear and speak on their behalf at the hearing.

Should you have any further questions, please contact the **Pardon Clerk** at the Office of the Secretary of State at the address or telephone number listed above.

MARYLAND

Right to Inspect & Make Copy of your Criminal Record: Reg. 12.15.01.05

Urging of Non-conviction (Expungement): 27-736, 27-737

Removal of Disqualifications (Restores): 641;27-735 thru 741

Right to State3 Non-existence of Record: 27-641, 27-739, 27-740

Civil Remedies: Reg. 12.15.10.01; 27-753

CRIMINAL RECORDS EXPUNGEMENT

Introduction

Law enforcement agencies and clerks of the courts retain records of arrests or judicial proceedings on criminal charges indefinitely. An investigation of an individual's criminal records will reveal any arrest or criminal charge even if the arrest did not result in any charges being filed and the criminal proceedings resulted in an acquittal or probation before judgment.

In many instances, these records may be expunged such that there will be no trace of the arrest or the criminal proceeding in the person's record. Article 27, Section 737 of the Maryland Annotated Code and Title 4, Chapter 500 of Maryland Rules provide the authority and procedures for expungement of records pertaining to arrests and criminal proceedings. The Clerk of the District Court or Circuit Court can provide the necessary forms for filing a petition for expungement of records. Maryland Rules also contain Forms 4-503.1, 4-503.2, and 4-504.1 for this purpose.

Maryland Rules provide one set of procedures for expungement of records when an arrest did not result in charges (Application for Expungement of Police Records) and one set of procedures for expungement of records when the arrest resulted in charges (Petition for Expungement of Records). For the Statutes and Rules governing expungement of police records for arrests not resulting in charges, refer to Article 27, Section 736, Form 4-503.3, and Rule 4-501, et. seq. In the remainder of this manual, "criminal records" and "expungement" will refer only to expungement of court and police records when the person has been charged with the commission of a crime.

Criminal Records

The type of disposition and the criminal record of the individual will determine whether the arrest or charge may be expunged.

The first step in the process is to obtain the individual's complete criminal record. There is a central database that contains records of all criminal arrests and charges and the subsequent disposition for all jurisdictions in Maryland. The client must obtain a copy of his record from:

Criminal Justice Information System

Reisterstown Plaza, Room 200

6776 Reisterstown Road

Baltimore, Maryland

The cost is \$23.00 and is not waiveable. CJIS does not accept cash – only money orders or certified or personal checks made payable to CJIS-Central Repository. It usually takes about 10 days to get the records.

What Can Be Expunged

Article 27, Section 737 provides that a person charged with the commission of a crime may file a petition for expungement of the police records, court records, and other

records maintained by the State of Maryland and its subdivisions if any of the following apply.

Section 738 provides that charges resulting from the same incident, transaction, or set of facts should be considered as a unit in making a decision to grant expungement. If any of the charges of the unit cannot be expunged, none of the charges will be expunged. The exception to this provision is charges for violation of any provision of the Maryland Vehicle Law for which a term of imprisonment may not be imposed or any other traffic law, ordinance, or regulation. Such charges may not be included in a unit described above and may not preclude expungement of any criminal charge if the person is otherwise entitled to an expungement.

For expungement purposes, the term “Court records” does not include records pertaining to nonincarcerable violations of the vehicle laws of the State or any other traffic law, ordinance or regulation; written opinions of a court that have been published; cash receipt and disbursement records necessary for audit purposes; or a court reporter’s transcript of proceedings in multiple defendant cases. Furthermore, “Police records” does not include investigatory files; police work-product records used solely for police investigation purposes; or records pertaining to nonincarcerable violations of the vehicle laws of the State or of any other traffic law, ordinance, or regulation. The types of disposition that may be expunged and the conditions under which the individual may petition the court for expungement are listed below.

Acquittal.

The person is acquitted and three years have passed since the disposition (or earlier if a General Waiver and Release is filed).

Dismissal.

The charge is dismissed or quashed and three years have passed since the disposition (or earlier if a General Waiver and Release is filed).

Nolle Prosequi.

A nolle prosequi is entered (meaning the prosecutor has decided not to prosecute the case) and three years have passed since the disposition (or earlier if a General Waiver and Release is filed). The person may not petition for expungement under this subsection if he has been convicted of any crime or is now a defendant in any pending criminal action since the date of nolle prosequi. This restriction does not apply if the subsequent conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Probation Before Judgment (PBJ).

A disposition of probation before judgment (except on a charge under Transportation Article, Section 21-902 – driving while intoxicated) is entered, but not

before three years have passed since the disposition or the person is discharged from probation, whichever occurs later. The person may not petition for expungement under this subsection if he has been convicted of any crime or is now a defendant in any pending criminal action since the date the PBJ was entered. This restriction does not apply if the subsequent conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Stet Docket.

The proceeding is placed on the stet docket (the prosecutor has suspended the case but may reopen it later) and three years have passed since the disposition. The person may not petition for expungement under this subsection if he has been convicted of any crime or is now a defendant in any pending criminal action since the date the disposition that the case be placed on stet docket. This restriction does not apply if the subsequent conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Compromise.

The case is compromised pursuant to Article 27, Section 766 (Victim’s Rights provision – victim compromising the case leading to dismissal) and three years have passed since the disposition.

Pardon.

The person is convicted of only one criminal act, which is not a crime of violence as defined in Article 27, Section 643B(a), and has been pardoned by the governor more than five years, but less than 10 years, before the filing of the petition. The person may not petition for expungement under this subsection if he has been convicted of any crime or is now a defendant in any pending criminal action since the date of pardon. This restriction does not apply if the subsequent criminal conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Section 643B defines the term “crime of violence” to mean abduction, arson in the first degree, kidnapping, manslaughter (except involuntary manslaughter), mayhem and maiming (defined under §§ 384, 385, and 386), murder, rape, robbery, robbery with a deadly weapon, carjacking or armed carjacking, sexual offense in the first degree, sexual offense in the second degree, use of a handgun in the commission of a felony or other crime of violence, an attempt to commit any of the aforesaid offenses, assault in the first degree, assault with intent to murder, assault with intent to rape, assault with intent to rob, assault with intent to commit a sexual offense in the first degree, and assault with intent to commit a sexual offense in the second degree.

Transfer to Juvenile Court.

The charge was transferred to juvenile court under Article 27, Section 594A, which provides for the transfer of an individual between the ages of 14 and 18. The transfer is authorized if the child has not been previously waived into juvenile court, convicted in another unrelated case, or charged with first-degree murder, and the waiver is in the best interests of the child or society.

Section 737(b) mandates expungement of these records if the charge transferred under Section 594A did not result in the filing of a petition under Section 3-810 of the Courts and Judicial Proceedings Article or the decision on the petition file pursuant to Section 3-810 was a finding of facts-not-sustained. A petition for expungement of records under either of these conditions may be filed any time after the date of the decision not to file charges under Section 3-810 or the date of the decision of facts-not-sustained.

If the charge was transferred to juvenile court and a petition was filed under Section 3-810 of the Courts and Judicial Proceedings Article and resulted in adjudication of the child as delinquent, the court may grant a petition for expungement on or after the 21st birthday of the petitioner.

General Waiver and Release

In the case of acquittal, dismissal, and nolle prosequi, the person may file earlier than three years after disposition if he files with the petition a General Waiver and Release of all claims the person may have against any person for tortious conduct arising

from the charge. Conversely, the three-year period for stet or compromise may not be shortened by filing a waiver and release.

Subsequent Conviction

For PBJ, nolle prosequi, stet, and pardon, the person may not petition for expungement if he has been convicted of any crime or is now a defendant in any pending criminal action since the date of the disposition. This restriction does not apply if the subsequent conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Good Cause

Section 737(h) gives the court the authority to grant a petition for expungement upon a showing of good cause by the petitioner, notwithstanding any other provisions in the statute.

It takes at least 160 days to expunge a criminal record, assuming that it is one of the qualifying records.

The essential facts that need to be discovered are:

- a. the date of each incident
- b. the client's charged offense
- c. the entry of judgement entered in the matter (see II for descriptions)
- d. the court in which each charge was entered
- e. the case number (when a case number is not provided, the tracking number is acceptable)

All or none of this pertinent information may be beyond the recall of the client. The client should obtain a copy of his Criminal Justice Information Systems reports, or CJIS report, which is readily obtainable by the client and contains all of this information.

Contact information:

Carole Shelton (410-764-5160)
Director, CJIS Central Repository
1201 Reisterstown Road, Bldg. G
Pikesville, MD 21208

Procedure

The process in Maryland for expungement is primarily to allow the proper governmental bodies time to consider and respond to each petition.

When to File

The section in this manual outlining the requirements for each type of disposition specifies the period after which the petition may be filed for each disposition.

Where to File

The petition must be filed in the original action. If the action was transferred to another court, the petition must be filed in the court to which the action was transferred. If an appeal was taken, the petition must be filed in the circuit court that had jurisdiction over the action.

What to File

It is important to use the appropriate form (Form 4-504.1) and to file enough copies to allow service on the State's Attorney and each law enforcement agency named in the petition. One expungement form is required for each case number. For example, if the client was arrested for one criminal incident, but charged with assault with intent to maim, and possession of a controlled dangerous substance, both could be expunged through one form if both the assault and possession were consolidated in one case. The form to request expungement may be obtained from any district or circuit court in Maryland. A list of Maryland's district and circuit courts is included. The entries that can be expunged are listed on the form.

For acquittal, dismissal and nolle prosequi, a General Waiver and Release must be filed along with the petition (use Form 4-503.2). A waiver of expenses may be filed with

the court, if your client qualifies. This form requires personal financial information. The court can grant the waiver in full or in part.

Service

Once the petition is filed, the clerk serves copies on the State's Attorney and the law enforcement agencies named in the petition.

Objections to Expungement

The State's Attorney must file an objection within 30 days after service to contest the petition, and provide a specific statement of the reasons why the petition should not be granted. The State's Attorney must serve a copy of the answer on the petitioner or the attorney of record. Failure of the State's Attorney to file an answer within 30 days constitutes a consent to the expungement as requested.

Hearing

A hearing will be held only if the State's Attorney objects to the petition.

Order

The court's order for expungement of records is a final judgment. Upon entry of the order granting or denying expungement, the clerk serves a true copy of the order on all parties. An order for expungement may be appealed within 30 days after entry of the order. Thirty days after the entry of an order granting expungement (unless there is a stay), the clerk serves on each custodian of records designated in the order and on the Central Repository a true copy of the order and a blank form of Certificate of Compliance (Form 4-508.3).

Compliance by Custodians of Records

Within 30 days after service of a court order for expungement (60 days after entry of the order), every custodian of police and court records subject to the order shall comply with the order and file a Certificate of Compliance with the court. A copy of the Certificate must be served on the petitioner.

Rules 4-511 and 4-512 specify the procedures that must be followed by the custodians of records to comply with the order.

District Courts

First District--**Baltimore City**--Administrative Clerk Lonnie P. Ferguson, Jr.

a. Borgerding District Court Building; 5800 Wabash Avenue; Baltimore, MD 21215-3330 (410-878-8000 or 1-800-939-4253)

b. Eastside District Court Building; 1400 E. North Avenue; Baltimore, MD 21213-1400

(410-878-8500 or 1-800-939-4253)

c. Southern District; 10 Cherry Hill Road; Baltimore, MD 21225-1159 (410-355-4288 or 1-800-939-4253)

d. Central Booking; 300 E. Madison Street; Baltimore, MD (410-545-8151 or 1-800-939-4253)

Second District--Administrative Clerk Mary E. Kinnamon

a. **Dorchester County**--310 Gay Street-P.O. Box 547; Cambridge, MD 21613-1813 (410-221-2580 or 1-800-939-2872)

b. **Somerset County**—11559 Somerset Avenue; Princess Anne, MD 21853 (410-651-2713 or 1-800-939-7306)

c. **Wicomico County**—201 Baptist Street; Salisbury, MD 21801 (410-543-6600 or 1-800-940-3267)

d. Worcester County

1. 301 Commerce Street; Snow Hill, MD 21863 (410-632-3055 or 1-800-941-0282)

2. 6505 Coastal Highway; Ocean City, MD 21842 (410-723-6935)

Third District—Administrative Clerk Grace D. Achuff

a. **Caroline County**--Multi-Service Center; 207 S. Third Street; Denton, MD 21629-1229 (410-479-5800 or 1-800-940-4968)

b. **Cecil County**—170 E. Main Street; Elkton, MD 21921-5943 (410-996-0700 or 1-800-941-0408)

c. **Kent County**— 103 N. Cross Street; Chestertown, MD 21620-1511 (410-810-3362 or 1-800-941-3347)

d. **Queen Anne's County**—120 Broadway; Centreville, MD 21617-1092

(410-758-5200 or 1-800-941-3403)

e. **Talbot County**—108 W. Dover Street; Easton, MD 21601

(410-822-2750 or 1-800-941-2195)

Fourth District—Administrative Clerk Richard A. Parker

a. **Calvert County**—Multi-Service Center; 200 Duke Street; Prince Frederick, MD 20678-4136 (410-535-8800 or 1-800-941-3375)

b. **Charles County**—Administrative Clerk Richard A. Parker; 200 Charles Street; P.O. Box 3070; La Plata, MD 20646-3070 (301-932-3300 or 1-800-941-3463)

c. **St. Mary's County**—Administrative Clerk Richard A. Parker; c/o Carter State Office Building; 23110 Leonard Hall Drive; Leonardtown, MD 20650

(410-475-4530 or 1-800-943-0091)

Fifth District--**Prince George's County**—Administrative Clerk Violet O. Owens

a. 14735 Main Street, Suite 173B; Upper Marlboro, MD 20772 (301-952-4080 or 1-800-943-8853)

b. 4990 Rhode Island Avenue; Hyattsville, MD 20872 (301-699-2766 or 1-800-943-8853)

Sixth District--**Montgomery County**—Administrative Clerk Jeffrey L. Ward

a. 27 Court House Square; Rockville, MD 20850-2325 (1-800-944-1341)

b. 8665 Georgia Avenue; Silver Spring, MD 20910-3405 (301-608-0660 or 1-800-944-1341)

Seventh District--**Anne Arundel County**—Administrative Clerk Rebecca A. Hoppa

a. 251 Rowe Boulevard; Annapolis, MD 21401 (410-260-1370 or 1-800-944-2688)

b. George M. Taylor Multi-Service Center; 7500 Gov. Ritchie Highway; Glen Burnie, MD 21061-3756 (410-260-1800 or 1-800-944-2688)

Eighth District--**Baltimore County**—Administrative Clerk Michael P. Vach

a. 8914 Kelso Drive; Essex, MD 212221-3135 (410-512-2300 or 1-800-944-1826)

b. 120 E. Chesapeake Avenue; Towson, MD 21286-5307 (410-512-2000 or

1-800-944-1826)
c. 900 Walker Avenue; Catonsville, MD 21228-5380 (410-512-2500 or

1-800-944-1826)
Ninth District--**Harford County**--Administrative Clerk E. Carol Sweet; 2 South Bond Street; Bel Air,

MD 21014-3737 (410-838-2300 or 1-800-943-6344)

Tenth District—Administrative Clerk Nancy E. Mueller

a. **Carroll County**—Carroll County Annex; 55 N. Court Street; Westminster, MD 21157 (410-386-2365 or 1-800-943-9396)

b. **Howard County**—3451 Courthouse Driver; Ellicott City, MD 21043-4377 (410-461-0200 or 1-800-944-8107)

Eleventh District—Administrative Clerk Dixie L. Scholtes

a. **Frederick County**—100 W. Patrick Street; Frederick, MD 21701 (301-694-2000 or 1-800-945-2119)

b. **Washington County**—36 W. Antietam Street; Hagerstown, MD 21740 (240-420-4600 or 1-800-945-1406)

Twelfth District—Administrative Clerk Kathleen M. Stafford

a. **Allegany County**—Allegany County Office Building; 3 Pershing Street, 2nd Floor; Cumberland, MD 21502-3045 (301-777-2105 or 1-800-946-3952)

b. **Garrett County**—205 South Third Street; Oakland, MD 21550-1526 (301-334-8164 or 1-800-947-1029)

Circuit Courts

Allegany County—Acting Clerk Dawne E. Lindsey; Court House; 30 Washington Street; Cumberland, MD 21502 (301-777-5922)

Anne Arundel County—Clerk Robert P. Duckworth; Court House; Church Circle; Annapolis, MD 21401 (410-222-1397)

Baltimore City—Clerk Frank M. Conaway (410-333-3750)

a. Courthouse East; 111 N. Calvert Street; Baltimore, MD 21202

b. Clarence M. Mitchell, Jr. Courthouse; 100 N. Calvert Street; Baltimore, MD 21202

Baltimore County—Clerk Suzanne Mensh; County Courts Building; 401 Bosley Avenue; Towson, MD 21204 (410-887-2601)

Calvert County—Clerk Kathy P. Smith; Calvert County Courthouse; 175 Main Street; Prince Frederick, MD 20678 (410-535-1660)

Caroline County—Clerk F. Dale Minner; Court House; P.O. Box 458; Denton, MD 21629 (410-479-1811)

Carroll County—Clerk Larry W. Shipley; 55 N. Court Street; Westminster, MD 21157 (410-386-2026)

Cecil County—Clerk William L. Brueckman; 129 E. Main Street; Elkton, MD 21921 (410-996-5370)

Charles County—Clerk Donna G. Burch; 200 Charles Street; LaPlata, MD 20646 (301-932-3202 or 301-870-2659)

Dorchester County—Clerk Michael L. Baker; 206 High Street; P.O. Box 150; Cambridge, MD 21613

(410-228-0481)

Frederick County—Clerk Sandra K. Dalton; 100 West Patrick Street; Frederick, MD 21701 (301-694-1976)

Garrett County—Clerk David K. Martin; 203 S. 4th Street, Room 209; P.O. Box 447; Oakland, MD 21550 (301-334-1941)

Harford County—Clerk Charles G. Hiob, III; 20 W. Courtland Street; Bel Air, MD 21014 (410-638-3426 or 410-879-2000)

Howard County—Clerk Margaret D. Rappaport; Court House; Ellicott City, MD 21043 (410-313-2111)

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Kent County—Clerk's Office; 103 N. Cross Street; Chestertown, MD 21620 (410-778-7460 or 1-800-989-2520)

Montgomery County—Clerk Molly Q. Ruhl; 50 Maryland Avenue; Rockville, MD 20850 (240-777-9466)

Prince George's County—Clerk Rosalyn E. Pugh; Court House; 14735 Main Street; Upper Marlboro, MD 20772 (301-952-3318)

Queen Anne's County—Clerk's Office; Court House; 100 Court House Square; Centreville, MD 21617 (410-758-1773 or 1-800-987-7591)

St. Mary's County—Clerk Evelyn W. Arnold; 23150 Leonard Hall Drive; Leonardtown, MD 20650 (301-475-4567)

Somerset County—Clerk I. Theodore Phoebus; Court House; 30512 Prince William Street; Princess Anne, MD 21853 (410-651-1555)

Talbot County—Clerk Mary Ann Shortall; Court House; P.O. Box 723; Easton, MD 21601 (410-822-2611 or 1-800-339-3403)

Washington County—Clerk Dennis J. Weaver; 95 West Washington Street; Hagerstown, MD 21740 (301-733-8660)

Wicomico County—Clerk Mark S. Bowen; P.O. Box 198; Salisbury, MD 21803-0198 (410-543-6551)

Worcester County—Clerk Stephen V. Hales; Court House, Room 104; One W. Market Street; P.O. Box 40; Snow Hill, MD 21863 (410-632-1221)

MASSACHUSETTS

Right to Inspect and Obtain Copy: 6-175; Reg. 803 CMR 6.02, 6.05, 6.06

Purging (Expungement) of Non-conviction and Conviction Information: 6-175; Reg. 803 CMR 6.07 (3)

Sealing of Non-conviction Information: 276-bOA, B, C; Reg. 803 CMR 7.02

Sealing of Conviction Information: 94C-34; 127-152; 276-bOA, B, C; Reg. 803 CMR 7.02

Right to State Nonexistence of Record: 94C-34; 276-100A, C; 151B-4(a); 127-152

Massachusetts law: If one is convicted of a crime, one must wait 15 years after a felony or 10 years after a misdemeanor before a judge is allowed to consider whether a record can be sealed. It is not 15 years from the date one is first charged, but 15 years after a person is completely finished with probation or jail or any contact with the court.

Chapter 276: Section 100A Requests to seal files; conditions; application of section; effect of sealing of records

Section 100A. Any person having a record of criminal court appearances and dispositions in the commonwealth on file with the office of the commissioner of probation may, on a form furnished by the commissioner and signed under the penalties of perjury, request that the commissioner seal such file. The commissioner shall comply with such request provided (1) that said person's court appearance and court disposition records, including termination of court supervision, probation or sentence for any misdemeanor occurred not less than ten years prior to said request; (2) that said person's court appearance and court disposition records, including termination of court supervision, probation or sentence for any felony occurred not less than fifteen years prior to said request; (3) that said person had not been found guilty of any criminal offense within the commonwealth in the ten years preceding such request, except motor vehicle offenses in which the penalty does not exceed a fine of fifty dollars; (4) said form includes a statement by the petitioner that he has not been convicted of any criminal offense in any other state, United States possession or in a court of federal jurisdiction, except such motor vehicle offenses, as aforesaid, and has not been imprisoned in any state or county within the preceding ten years; and (5) said person's record does not include convictions of offenses other than those to which this section applies. This section shall apply to court appearances and dispositions of all offenses provided, however, that this section shall not apply in case of convictions for violations of sections one hundred and twenty-one to one hundred and thirty-one H, inclusive, of chapter one hundred and forty or for violations of chapter two hundred and sixty-eight or chapter two hundred and sixty-eight A.

In carrying out the provisions of this section, notwithstanding any laws to the contrary:

1. Any recorded offense which was a felony when committed and has since become a misdemeanor shall be treated as a misdemeanor.
2. Any recorded offense which is no longer a crime shall be eligible for sealing forthwith, except in cases where the elements of the offense continue to be a crime under a different designation.
3. In determining the period for eligibility, any subsequently recorded offenses for which the dispositions are ""not guilty", ""dismissed for want of prosecution", ""dismissed at request of complainant", ""nol prossed", or ""no bill" shall not be held to interrupt the running of the required period for eligibility.
4. If it cannot be ascertained that a recorded offense was a felony when committed said offense shall be treated as a misdemeanor.

When records of criminal appearances and criminal dispositions are sealed by the commissioner in his files, he shall notify forthwith the clerk and the probation officer of the courts in which the convictions or dispositions have occurred, or other entries have been made, of such sealing, and said clerks and probation officers likewise shall seal records of the same proceedings in their files.

MICHIGAN

Right to Inspect and Obtain Copy: 15.235; 15.233

Purging of Non-conviction Information: 28.243

Sealing of Non-conviction Information: 333.7411; 769.4a, 750.350a(4)

Sealing of Conviction Information: 780.623; 712A.18e

Right to State Nonexistence of Record: 37.2205a

How Do I Know if I Can Get an Expungement in Michigan?

Both adult convictions and juvenile adjudications can be expunged. However, not everyone can get their criminal record expunged. To be eligible for an expungement, you must meet very specific criteria. To see if you are eligible to expunge a conviction or juvenile adjudication in the state of Michigan, take the test below. *If the answer to all of the questions is no, you may be eligible for an expungement.* If you have convictions in another state, or if you have a federal conviction, different rules will apply. If, after taking the test, you are unsure whether you can get an expungement, you should consult an attorney.

1. Do you have more than one adult criminal conviction or more than one juvenile adjudication?

Yes: You *cannot* get your criminal record expunged. It does not matter if only one of the crimes is a felony. Even if only one of the crimes is serious, you cannot get an expungement.

Even if you just have two misdemeanor convictions, you cannot get them expunged.

No: You *may* be able to get your record expunged. Go on to question 2.

Notes: Sometimes people have more than one conviction or adjudication in the same case. For example, if the cops arrested you for driving on a suspended license and then found pot in your car, you could have convictions both for driving on a suspended license and for possession. Even though you only got arrested once, and only went to court for that one case, if you were convicted on both the suspended license and the possession charges, you have two convictions. Therefore, you cannot get an expungement. Before you file for an expungement, get a copy of your criminal record and check it carefully to make sure there is only one conviction. If you have one adult conviction and one juvenile adjudication, you should consult an attorney. If you have questions about how many convictions/adjudications you have, get a copy of your criminal record and show it to an attorney.

2. Were you convicted of a felony or an attempt to commit a felony that is punishable by life imprisonment?

Yes: You *cannot* get your criminal record expunged.

No: You *may* be able to get your record expunged. Go on to question 3.

Notes: It does not matter whether or not you were sentenced to life imprisonment. The question is whether you were convicted of an offense for which you could have gotten a

life sentence. For example, if you received a ten-year sentence, but you *could have* gotten a life sentence, you cannot get an expungement. If you were adjudicated as a juvenile, the question is whether your crime was one that, if committed by an adult, would carry a maximum life sentence. Even if you were tried as a juvenile, if you could have gotten a life sentence if you had been tried as an adult, then you cannot get your juvenile record expunged. If you do not know what the maximum sentence was for your crime, consult an attorney.

3. Were you convicted of felony criminal sexual conduct (first, second, or third degree), or assault with intent to commit criminal sexual conduct?

Yes: You *cannot* get your criminal record expunged.

No: You *may* be able to get your record expunged. Go on to question 4.

Notes: You may be eligible for an expungement if you were convicted of misdemeanor criminal sexual conduct. If you have a juvenile record for criminal sexual conduct, consult an attorney.

4. Were you convicted of or adjudicated for a traffic offense, or a non-traffic offense reportable to the Secretary of State?

Yes: You *cannot* get your criminal record expunged.

No: You *may* be able to get your record expunged. Go on to question 5.

Notes: In general, “traffic offenses” involve the operation of a motor vehicle and are contained within a special section of the law called the Motor Vehicle Code. If you are unsure whether your conviction is for a “traffic offense,” consult an attorney.

5. Has it been less than five years since the date of your conviction or adjudication?

Yes: You *cannot* get your criminal record expunged *now*. You must wait until five years have

passed from the date of your conviction or from the date of your juvenile adjudication.

You may be able to get an expungement once the five years are up.

No: You *may* be able to get your record expunged. Go on to question 6.

6. If you were imprisoned, has it been less than five years since you were released?

Yes: You *cannot* get your criminal record expunged *now*. You must wait until five years have passed from the date of your release from prison or jail. You may be able to get an expungement once the five years are up.

No: You *may* be able to get your record expunged. Go on to question 7.

7. If you are applying to set aside a juvenile adjudication, are you under 24?

Yes: You *cannot* get your juvenile adjudication expunged now. You must wait until you are at least 24 to apply for an expungement.

No: You *may* be able to get your record expunged. See the instructions below on how to expunge your record.

If you answered *no* to *all* of the questions in the test above, you should try to get an expungement.

How Do I Get an Expungement?

In order to apply for an expungement, you must file a motion with the court in which you were convicted, or in which you were adjudicated as a juvenile. This may mean that you go back in front of the judge who sentenced you. Sometimes, however, cases are transferred to a different judge. You can find out what judge is assigned to your case by calling the clerk of the court in which you were convicted or adjudicated.

To file your expungement, you can either use an attorney, or you can file on your own.

A. Finding an Attorney

If you have questions about filing an expungement, or if you want help in the process, you should contact an attorney. If you can afford an attorney, hire one who has experience handling expungement cases. If you cannot afford an attorney, call the Legal

Aid office in the county where you were convicted to see if you are eligible for free legal help. Some, but not all, legal aid offices provide help with expungements.

Lakeshore Legal Aid

Huron, Macomb, Sanilac, St. Clair & Tuscola 1-888-783-8190

Legal Aid & Defender Association

Wayne, Oakland, & Macomb 1-313-965-9419

Legal Services of Eastern Michigan

Arenac, Clare, Genesee, Gladwin, Gratiot, Isabella, Lapeer
Midland & Saginaw 1-800-339-9513

Legal Services of Northern Michigan

Alcona, Alpena, Montmorency & Presque Isle 1-888-356-9009

Delta, Menominee & Schoolcraft 1-888-786-2303

Crawford, Kalkaska, Otsego & Roscommon 1-888-645-9993

Houghton, Keweenaw & Baraga 1-888-482-2343

Alger, Marquette, Dickinson & Iron 1-888-228-5590

Charlevoix, Cheboygan & Emmet 1-888-347-5520

Chippewa, Luce & Mackinac 1-888-632-9313

Antrim, Benzie, Grand Traverse, Leelanau, Manistee

Missaukee & Wexford 1-888-632-9313

Legal Services of South Central Michigan

Branch, Calhoun, Hillsdale, Jackson, Lenawee, Monroe

Washtenaw 1-734-665-6181

Barry, Clinton, Eaton, Ingham, & Shiawassee 1-517-394-3121

Western Michigan Legal Services

Kent, Ionia & Montcalm 1-800-442-2777

Lake, Mecosta, Newaygo & Osceola 1-800-968-4878

Cass, Kalamazoo, St. Joseph, & Van Buren 1-269-344-8113

Mason, Muskegon, & Oceana 1-800-968-4887

Allegan & Ottawa 1-800-681-8016

Berrien 1-888-418-1311

Wayne County Neighborhood Legal Services

Wayne 1-313-831-3000

B. Filing for an Expungement on Your Own

If you cannot find an attorney or if you prefer to file an expungement on your own, follow the steps below. Filing for an expungement is not particularly difficult, and is mostly a matter of getting the proper forms together and sending them to the right people. However, you must make sure that you have done everything correctly. Otherwise, your motion will be denied.

1. Get together all of your documents and the necessary fees.

In order to get an expungement, you will need to get the following:

a. Two complete sets of fingerprints. You can get your fingerprints taken at your local police station. Ask that your fingerprints be put on an RI-8 card. You must have two sets of prints if you are applying to set aside an adult conviction. You only need one set of prints if you are applying to set aside a juvenile adjudication.

b. A certified copy of your judgment of sentence or order of disposition. In an adult criminal case, you need a certified copy of the judgment. In a juvenile case, you need a certified copy of the order of disposition. You can get these documents from the court where you were sentenced as an adult or adjudicated as a juvenile.

c. A money order made out to the Michigan State Police for the appropriate fee. As of April 2003, the fee for a criminal records check was \$50 for an application to set aside an adult conviction. The fee for an application to set aside a juvenile adjudication was \$30. However, this fee is subject to change. You should check with the Michigan State Police Criminal Records Division to determine the current fee. Call 517-322-5531 to find out the current fee. If you cannot afford the fee, and if you are receiving public assistance (such as food stamps or FIP), ask your FIA or Michigan Works caseworker whether funds are available to help pay for the costs of an expungement.

2. Fill out the Application to Set Aside Conviction or the Application to Set Aside Adjudication.

If you are applying to set aside an adult conviction, use the form called “Application to Set Aside Conviction.” If you are applying to set aside a juvenile adjudication, use the form called “Application to Set Aside Adjudication.” If you were a juvenile who was tried as an adult, you need to use the Application to Set Aside Conviction form.

Copies of the Application to Set Aside Conviction and of the Application to Set Aside Adjudication are attached to this packet. You can also get copies from the court.

a. Filling out the Application to Set Aside Conviction

Look at your certified copy of the judgment of sentence. The information on the top of the judgment is the same information that you will fill out at the top of Application to Set Aside Conviction. Make sure to include your case number. Answer questions 1 and 2 on the form. Make sure that the statements under numbers 3 and 4 are true.

Sign and date the form in front of a notary. If you take the form to the court clerk, you can usually have it notarized there.

b. Filling out the Application to Set Aside Adjudication

Look at your certified copy of the order of disposition. The information on the top of the order is the same information that you will fill out at the top of Application to Set Aside Adjudication. Make sure to include your case number. Answer questions 1 - 2 and 5 - 7 on the form. Make sure that the statements under numbers 3 - 5 and 8 - 9 are true.

Sign and date the form in front of a notary. If you take the form to the court clerk, you can usually have it notarized there.

3. Make five copies of the Application and four copies of the Certified Copy of your Judgment of Sentence (for an adult conviction) or the Certified Order of Disposition (for a juvenile adjudication).

4. Mail or deliver the *original* Application, plus five copies, to the court clerk in the court in which you were convicted or adjudicated. Also include the *original* certified Judgment (for an adult conviction) or the *original* certified Order of Disposition (for a juvenile adjudication).

The court clerk will fill in the Notice of Hearing Section of your Application, and return four copies of your Application to you. The Notice of Hearing is the date on which the court will hear your request to have your record expunged. You must appear in court on that date. Generally, it is a good idea to file your Application in person. That way, if you

have forgotten something, or if you need to change the court date, you can take care of that right away. **5. Once you have gotten your five extra copies of the Application back from the court, you must mail out copies as follows:**

a. Send these items to the Michigan State Police

- The fingerprint cards
- The application fee
- A copy of your Application
- A copy of your Judgment of Sentence or Order of Disposition

The address is:

Michigan State Police Criminal Justice Information Center
7150 Harris Drive
Lansing, MI 48913

The Michigan State Police will conduct a criminal record check. The police will report to the court what your criminal record is, if you have more than one conviction/adjudication, if you have pending criminal charges, and whether or not you have previously had a conviction/adjudication set aside. The police should send you a copy of the same report that they send to the court. If the report says that you cannot get an expungement and you do not understand why, consult an attorney.

b. Send these items to the Attorney General's Office:

- A copy of your Application
- A copy of your Judgment of Sentence or Order of Disposition

The address is:

Attorney General's Office Criminal Division
PO Box 30218
East Lansing, MI 48823

c. Send these items to the Prosecutor's Office in the county where you were prosecuted:

- A copy of your Application
- A copy of your Judgment of Sentence or Order of Disposition

If you are unsure of the address of your local Prosecutor's Office, ask the court clerk. You should know that if you committed an assaultive crime or serious misdemeanor, the prosecutor will notify the victim in your case. The victim has the right to make a written statement or appear in court.

6. Fill out the Proof of Service and Send it back to the Court.

At this point you should have two copies of the Application. (You should also have one copy of the judgment or order of disposition, which is a copy for your records.) One of the copies of the Application is for your records. On the other copy of the Application, fill in the section entitled "Proof of Service." On the Application to Set Aside Conviction, the "Proof of Service" section is at the bottom of the first page. On the Application to Set Aside Adjudication, the "Proof of Service" section is at the bottom of the second page. By sending in the proof of service you show the court that you mailed copies to the police, attorney general, and prosecutor's office. After you fill out and sign the proof of service section, make another copy for your records. Then, mail the proof of service back to the court.

7. Fill out the Draft Order on Application to Set Aside Conviction and Make Copies

Attached to this packet you will find a Draft Order on Application to Set Aside Conviction. This Draft Order has already been partially completed with the Court's "findings." You need to fill out the rest of the Draft Order, using the same information that is on your Judgment of Sentence and on your Application to Set Aside Conviction. You only need to do this if you are filing to set aside an adult conviction. Make a few copies, and bring them to court with you. If you are filing to set aside a juvenile adjudication, the order is already on the same page as your Application. Make a couple of extra copies of the Application, and bring them to court with you.

8. On your court date, go to court and answer any questions the court has.

Different judges handle expungement hearings differently. Some judges will grant expungements in almost all cases where the applicant meets the legal criteria for an expungement. Other judges may want to hear what you have done to rehabilitate yourself. Some judges are very strict, and will not grant an expungement unless you can prove that you have led a model life since your conviction. The judge's reaction may depend on whether the prosecutor or Attorney General's office objects to the expungement. It is a good idea to bring evidence of your work history, drug or alcohol treatment, educational achievements, or other successes you have had since your conviction. Whether the judge will consider this information depends a lot on how expungements are handled by that court and that county. While some judges don't ask for proof of rehabilitation, it is better to be prepared. Think about what you can use to convince the judge that you aren't the same person you were when you were convicted, and that you deserve a second chance. Can you show the judge evidence of the jobs you've held? If you've worked in the same place for a long time, make sure to mention

that. Did you earn a diploma or vocational certificate? Can you bring in letters of appreciation for volunteering at your church, children's school, or kids' soccer team? If you used to have a substance abuse problem, can you provide evidence that you've completed treatment, or proof that you've been free from drugs or alcohol? Letters of support can be helpful, especially if they are from people like ministers, counselors, teachers, or others professionals. But if you don't have professional references, get letters from friends. If you want the judge to review this material ahead of time, attach it to your Application to Set Aside Conviction. (You will have to mail copies not just to the court, but to the prosecutor and the Attorney General.) Finally, if you think the judge is going to be strict, you may want to bring friends or family to the courtroom to show that you have a lot of community support. Although most judges are unlikely to hear testimony during an expungement motion, you can offer to the judge that these people would be willing to testify about your character.

9. If the Judge Grants Your Request for an Expungement, Make Sure a Copy Goes to the State Police Central Records Division

The court will keep the original copy of the Order. Normally, the Court will also send a copy to the State Police Central Records Division. You should check with the court clerk to make sure that they will send the copy, since your record is kept by the State Police Central Records Division. Also make sure that the prosecutor and the Attorney General get a copy of the final order. If your expungement request was granted, get a copy of your criminal record a month or two after the expungement to make sure that your

conviction/adjudication no longer shows up on y our record. If it does, contact the MI State Police Criminal Records Division at 517-322-5531.

MINNESOTA

Right to Inspect and Obtain Copy: 13.04, Sub.3

Purging of Non-conviction Information: 299C.11; 152.18

Purging of Conviction Information: 152.18; 364.04

Sealing of Non-conviction Information: 299C.11; 152.18

Sealing of Conviction Information: 242.31; 364.04; 609.166-609.168; 638.02

Removal of Disqualifications: 152.18; 242.31; 364.03

Criminal Record Expungement

In certain cases, individuals may ask the court to seal or expunge their criminal records. Specific Minnesota Statutes authorize expungement. Individuals must follow specific procedures to request the court to grant a criminal expungement. Expungement is considered an extraordinary remedy--individuals may need to contact an attorney to discuss whether or not they might qualify for an expungement. When a person petitions for a criminal expungement, the court will deny the request if "the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record." (Minnesota Statutes 609A.03, Subd.5(b).

Individuals should consult Minnesota Statutes for a better understanding of their expungement rights and any limitations that apply. Dakota County residents with criminal files in the county may contact any of the three court locations in Dakota County to begin the expungement process.

EXPUNGEMENT (SEALING) PROCEDURE

1. You must go to the Court location where your case was heard.
2. Request the "Petitioner's Affidavit for Expungement" and instructions for expungement. These materials are available from the court locations listed above. You will also need to request a proper order (usually a proposed expungement order). Court staff will determine the proper order for your case. This determination is based upon the sentencing information identified in your file.
3. Serve the proper parties. The petition and proposed order should be served by mail on ALL state and local agencies and their attorney's whose records would be affected by the proposed order (Minnesota Statutes 609A.03 Subd. 3). The following list includes some of the agencies you would likely need to serve--but there may be others:
County Attorney
The Bureau of Criminal Apprehension
The City Attorney of the city where the crime was committed.

4. **NOTE:** A petition is NOT required if the individual has not been convicted of a felony or gross misdemeanor within the ten years immediately preceding the determination of all pending criminal actions in his/her favor, **AND** either of the following occurred:

- (1) All charges were dismissed prior to a determination of probable cause; or
- (2) The prosecuting authority declined to file any charges and a grand jury did not return an indictment.

When these conditions are met, the individual should contact the appropriate arresting agency and follow procedures outlined by Minnesota Statute 299C.11.

5. After the petition and proposed order are served on the necessary party(ies), you may file your case with the court. To complete your filing with the court, you need to provide

the proposed order and your petition. After you submit your file, the proposed Order will be completed by the Judge if your expungement is granted.

6. Note that proof of service documents will be required by the court to proceed with the filing. The cost of filing is about \$145.00. If you cannot afford the cost, you may apply for "In Forma Pauperis" status with the court. The "In Forma Pauperis" order must be signed by a County District Court judge before filing.

7. In Dakota County, no motions are needed since the petition provides the information required by the judge.

8. The Court clerk will set a hearing date for no sooner than 60 days from the date you file the petition.

9. Court staff will notify all parties served of the date and time of the hearing.

Further Reading

1. Minnesota Statutes 299C.11

2. Minnesota Statutes 609A

3. "Expungement of Records." Dunnell Minnesota Digest, V. 40, p. 181-187, 1998.

Minnesota Statutes are available on the Web. Visit: www.leg.state.mn.us/leg/statutes.htm

MISSISSIPPI

Right to Inspect and Obtain Copy: 45-27-11

Purging of Non-conviction Information: 45-27-9(2), (4)

Purging of Conviction Information: 45-27-9(10); 45-27-11

HOW DO I APPLY FOR A PARDON OR EXECUTIVE ORDER?

If you were convicted in a Mississippi State Court, you can apply to the Governor of Mississippi to seek a pardon or executive order. Once you have been discharged from probation, you should submit a written request to your probation field supervisor, who should then forward a written report of your probation record to the Division of Community Services.

The Division will present this report to the Governor, who may, in her or his discretion, issue an executive order restoring your civil rights. Before the Governor can issue a pardon on your behalf, you must have published your petition for pardon in a newspaper in the county where your crime was committed for thirty days.

The Governor may request that the Mississippi Department of Corrections assist in the investigation of a petition for pardon.

Contact Information:

Mississippi Attorney General's Office

P. O. Box 220

Jackson, MS 39205

Carroll Gartin Justice Building

450 High Street

Jackson, MS 39201

Telephone: 601-359-3680

Email: msag05@ago.state.ms.us

ACLU of Mississippi

P.O. Box 2242

Jackson, MS 39225

Phone: 601 - 355 - 6464

Fax: 601 - 355 - 6465

Missouri

Right to Inspect and Obtain Copy: 13.04, Sub.3

Purging of Non-conviction Information: 299C.11; 152.18

Purging of Conviction Information: 152.18; 364.04

Sealing of Non-conviction Information: 299C.11; 152.18

Sealing of Conviction Information: 242.31; 364.04; 609.166-609.168; 638.02

Removal of Disqualifications: 152.18; 242.31; 364.03

Missouri Rehabilitation and Sealed Records Act which authorizes a court to set aside a person's criminal convictions and seal a person's criminal record if such person:

1. Has had no more than 1 felony or 2 misdemeanors;
2. Has not been convicted for 10 consecutive years following service of his or her most recent sentence;
3. Has no convictions for violent felonies or a sex-related offense;
4. Has no A or B felony convictions for a drug-distribution offense;
5. Has no convictions on his or her commercial drivers license (CDL) involving a BAC of .04 or higher; and
6. Is at least 25.

The act criminalizes knowing use or release of records sealed pursuant to the act. Failure to seal or knowingly releasing such records is a Class B misdemeanor (time: 6 months or less; fine: \$500 or less), and knowing use of the records for financial gain is a Class D felony (time: 5 years or less; fine: \$5,000 or less, or double the gain (not more than \$20,000)).

MONTANA

Right to Inspect and Obtain Copy: 44-5-214

Purging of Non-conviction Information: 44-5-212; 44-5-202

Purging of Conviction Information: 44-5-212; 44-5-202(8)

Sealing of Non-conviction Information: 44-5-202

Sealing of Conviction Information: 46-18-204

<http://cjpf.org/clemency/MontanaApp.PDF>

Applications must be in writing, signed by the applicant, and filed with the Executive Director of the Board of Pardons and Parole. Applications may be filed only by the person convicted of the crime, by the inmate's attorney acting on the person's behalf and with consent, or by a court-appointed next friend, guardian, or conservator acting on the prisoner's behalf. Unless the Board orders otherwise or there has been a substantial change in circumstances, as determined by the Board, a person may not reapply for Executive Clemency for a period of 36 months.

Forms provided below:

STATE OF MONTANA - BOARD OF PARDONS AND PAROLE

300 Maryland Avenue, Deer Lodge, Montana 59722

Phone: (406) 846-1404 - Fax (406) 846-3512

Application for Executive Clemency

(46 23-301 - 46-23 316, MCA and A.R.M. 20.25.901 – 20.25.904)

(Use a separate sheet of paper when necessary)

Name: _____ Date: _____

Address: _____ Phone: _____

Aliases used: _____

Type of Executive Clemency requested:

A) PARDON B) COMMUTATION C) OTHER _____

REASON AND JUSTIFICATION FOR REQUEST:

PERSONAL DATA:

Sex:

Race:

Birth date:

Occupation:

Name and address of employer or school:

Social Security Number:

Marital Status:

No. Of Dependents:

Parents (name, address and phone)

Give a Summary of your social history and accomplishments which qualify you for Executive Clemency:

LEGAL DATE: (List the following information for all offenses for which you are requesting relief. A *certified* copy of the sentencing judgement(s) *must* accompany this application.)

Offense:

Sentence:

Date Sentenced:

County:

Judge:

Plea:

Circumstances of the crime(s):

Prison parole or discharge: (Give dates and type of discharge)

Parole Expiration date:

Sentence Expiration date:

List any *prior* convictions: (Give circumstances, dates, court action, etc.)

List any convictions *subsequent to* the offense for which you are requesting relief. (Give circumstances, dates, court action, etc.)

Any person convicted of a crime after 7-1-73, will automatically have restored all civil rights that may have been lost, if any, upon termination of state supervision.

Application must be SIGNED AND NOTARIZED and accompanied by three letters of recommendation from reputable persons acquainted with you.

The Board of Pardons and Parole advises you that all information relating to your crime is public record and may be released to the public.

I state that the information presented in this application is true and correct to the best of my knowledge.

Applicant's signature

PARDON: A declaration of record that an individual is to be relieved of all legal consequences of a prior conviction.

COMMUTATION: Substitution of a lesser sentence for a greater one.

OTHER: Remission of fines/forfeitures of a temporary suspension or reprieve.

NEBRASKA

Right to Inspect and Obtain Copy: 29-3520; 29-3525

Right to Challenge: 29-3525; 29-3526

NEBRASKA PARDON

Any person who has been convicted of an offense against the laws of the State of Nebraska, except for treason or cases of impeachment, may submit an application to the Pardons Board on the form prescribed by the Board. Write to the Nebraska Board of Pardons and request an application for a pardon for restoration of your civil rights:

Nebraska Board of Pardons

P.O. Box 94754

Lincoln, NE

68509-4754

Phone (402) 479-5726,

Fax: (402) 471-2453.

WHEN AM I ELIGIBLE TO APPLY FOR A PARDON?

The Nebraska Board of Pardons' procedure is to only hear cases in which 10 years have elapsed from the date of discharge from imprisonment, probation, or parole with no further contact with the law. Only unusual circumstances will cause the Board to deviate from this practice.

What information should I include in my request for a pardon application?

You must simply ask for an application. The Board will send you instructions, policies and procedures as well as an application.

What type of information does the pardon application require?

The application seeks information about the crime for which you lost your right to vote, and other basic personal information, including employment history and a list of references.

Is there anyone I can call at the Board of Pardons for help with my pardon application?

If you have any questions about the pardon process or the status of your application for a pardon, you can reach the Board of Pardons at: 1-402-479-5726.

WHAT IS THE PROCEDURE ONCE I SUBMIT MY APPLICATION FOR A PARDON?

The Board meets and considers pending applications at a time set at the convenience of the Board. If the Board determines that an application merits a hearing, the Board will schedule the application for a hearing at a quarterly meeting designated for hearings on

applications. It is the policy of the Board to consider all applications for pardon if the applicant has filed a written application with the Secretary of State, or a designee, in the form prescribed by the Board. However, in cases involving treason or impeachment, or where the applicant is sentenced to death and has previously submitted an application, which has been denied, the Board has voted not to consider further applications. Applications may be considered with or without hearing. The Board will act upon applications when it has conducted such investigation (including any hearing) as it deems necessary, and it is prepared to evaluate the merits of the application. The Board may consult with the Board of Parole concerning applications for the exercise of pardon authority. The Pardon Board may request a written report or recommendation from the Parole Board in connection with any application.

NEVADA

Right to Inspect and Obtain Copy: 179K 150

Purging of Non-conviction Information: 179A.075.2, 179A.160

Purging of Conviction Information: 179A.160

Sealing of Non-conviction Information: 179.255; 179.275

Sealing of Conviction Information: 453.336; 179.245; 179.255; 179.275

Arrests resulting in dismissal or acquittal may be sealed, provided there is no evidence that further action will be brought against the individual. Nev. Rev. Stat. § 179.255. Individuals who have been acquitted, had their charges dismissed, or have had favorable dispositions may also apply to the central repository to remove the record from the files generally searched for criminal history inquiries. The record will be removed unless the individual is a fugitive, the case is under active prosecution, the case's disposition was a deferred prosecution, plea bargain, or other similar disposition, the individual has a prior gross misdemeanor or felony conviction, or the individual has been arrested or charged with another crime (other than minor traffic violations) since the arrest s/he seeks to have removed. Nev. Rev. Stat. § 179A.160.

The proceedings are deemed never to have occurred, individual may answer that s/he has never been arrested, and the individual's civil rights are restored. Nev. Rev. Stat. § 179.285.

Certain convictions for possession of a controlled substance not for purpose of sale may be sealed after 3 years if the individual fulfills the terms and conditions of probation and/or parole and the court is satisfied that s/he is rehabilitated. Nev. Rev. Stat. § 453.3365.

Except for a crime against a child or a sexual offense, an eligible person may have his or her conviction record sealed following successful completion of reentry program. To be eligible, a person may have been convicted of a single, non-violent felony. Nev. Rev. Stat. § 179.259. Except for convictions of a crime against a child or sexual offense, convictions may be sealed once a specified period of time has passed since release from custody or discharge from parole or probation (whichever is later), so long as the individual has not been convicted during the prescribed period (except for minor moving or traffic violations) and s/he has no charges pending against him or her: 15 years for an A or B felony; 12 years for a C or D felony; 10 years for an E felony; 7 years for a gross misdemeanor, misdemeanor DUI, or domestic violence battery misdemeanor; 3 years for other misdemeanors. Nev. Rev. Stat. § 179.245. In addition, most juvenile records may be

sealed 3 years after the child is declared a ward of the court, or 3 years after the child is referred to the juvenile court if the child is not declared a ward of the court, provided that during the prescribed period s/he has not been convicted of a misdemeanor of moral turpitude or felony and the court finds sufficient evidence of rehabilitation. Most juvenile records must be automatically sealed when the child turns 21. However, delinquencies for sexual assault, battery with intent to commit sexual assault, lewdness with a child, an act involving the use or threatened use of force or violence may be sealed after the child reaches 30 years of age provided the child has not been convicted of any offense (except for minor moving or traffic violations) since the age of 21. Nev. Rev. Stat. § 62.370. Juvenile records relating to a child cannot be sealed while the child is subject to community notification as a juvenile sex offender or if the child is deemed an adult sex offender or is convicted of a sexual offense before reaching 21 years of age. Nev. Rev. Stat. § 62.600.

NEW HAMPSHIRE

Right to Inspect and Obtain Copy: Reg 3.B.9

Purging of Non-conviction Information: Reg 3.D

Purging of Conviction Information: Reg 3.D

Sealing of Non-conviction Information: 651:5; 318-B:28

Arrests that did not lead to conviction may be annulled. N.H. Rev. Stat. § 651:5(II).

Except for obstruction of justice, violent crimes, and crimes for which an extended sentence was imposed, convictions may be annulled following completion of the sentence and waiting periods ranging from 1 to 10 years, as long as the individual has been convicted of no more than one offense. N.H. Rev. Stat. §§ 651:5(III) and (IV). Juvenile delinquency records are placed in an inactive file upon the individual's reaching 21 years of age. N.H. Rev. Stat. § 169-B:35(II).

4807.2. Every application for pardon or commutation of sentence shall be accompanied by a full statement of any compensation being paid to any person for procuring or assisting in procuring the pardon or commutation or the pardon or commutation shall be denied.

4812. Upon request of the Governor the Board of Prison Terms shall investigate and report on all applications for reprieves, pardons and commutation of sentence and shall make such recommendations to the Governor with reference thereto as to it may seem advisable. To that end the board shall examine and consider all applications so referred and all transcripts of judicial proceedings and all affidavits or other documents submitted in connection therewith, and shall have power to employ assistants and take testimony and to examine witnesses under oath and to do any and all things necessary to make a full and complete investigation of and concerning all applications referred to it. Members of the board and its administrative officer are, and each of them is, hereby authorized to administer oaths.

4813. In the case of applications of persons twice convicted of a felony, the Board of Prison Terms, after investigation, shall transmit its written recommendation upon such application to the Governor, together with all papers filed in connection with the application.

NEW JERSEY

Right to Challenge: NJAC 13:59-1.8B

Sealing Non-conviction Information: 2C:52-6; 2C:36A-1

Sealing of Conviction Information: 20:52-2, 20:52-3

The expungement process is provided for within the New Jersey Statutes and is available to all individuals who have committed any disorderly persons offense, as well as indictable offenses within the State of New Jersey. The expungement process is available to residents and/or non-residents of the State of New Jersey and an individual may expunge one or more petty disorderly persons offenses and/or indictable offenses from their criminal history. Obviously, there are limitations concerning the eligibility for expungements. In addition, certain offenses, such as murder and/or distributing a narcotic for sale, are not subject to expungement. Nonetheless, the expungement process is a valuable tool which can help many people erase and/or minimize a mistake they made in their past.

Prior to becoming eligible for an expungement, there are mandatory waiting periods after which time a party may be eligible for an expungement. For example, a person may seek an expungement ten (10) years after being discharged from probation or parole for an indictable offense. If a person is convicted a disorderly persons or petty disorderly persons offense, there is a five (5) year eligibility waiting period after discharge from probation and/or payment of the fine in full. If a person is convicted of a Municipal Ordinance, there is a two (2) year waiting period from the time the person is discharged from probation and/or has paid the fine in full. In other instances, the waiting period for an expungement may be shorter.

Filing Yourself (Pro Se) Expungements

All the information you provide in your expungement petition has to be verified. In order to avoid delays in processing your petition, please do the following.

FOR CASES HANDLED IN MUNICIPAL COURT:

Provide a copy of the complaint and other paperwork you or your attorney received from the court indicating when you were arrested, the charges, and disposition (and sentence if applicable). If you don't have this, you can ask the Court Administrator of the Municipal Court for a docket sheet which will contain all that information.

FOR CASES HANDLED IN SUPERIOR COURT:

Provide a copy of the complaint, judgment of conviction or other documentation from the court indicating arrest date, charges disposition and sentence. If you don't have this you can make a request for documents from the Criminal Records Office of Superior Court located at:

Office of Superior Court located at: Essex County Courts Building, Attn. Expungement Clerk, 50 West Market Street, Room 100S, Newark, New Jersey 07102

TO FILE YOUR ORDERS WITH THE EXPUNGEMENT CLERK, THE FOLLOWING IS NEEDED:

1. FILING FEE OF \$52.50 --- MADE PAYABLE TO: STATE OF NEW JERSEY, JUDICIARY IN MONEY ORDER OR PERSONAL CHECK IF FILING BY MAIL. PAYABLE IN CASH, MONEY ORDER OR PERSONAL CHECK IN PERSON AT THE CRIMINAL RECORDS OFFICE. 2. THE ORIGINAL AND (4) FOUR COPIES OF THE ORDER SETTING HEARING DATE 3. THE ORIGINAL AND (4) FOUR COPIES OF A NOTARIZED VERIFIED PETITION FOR EXPUNGEMENT. PLEASE HAVE ALL OF THE ABOVE WHEN YOU ARE READY TO FILE IN PERSON OR BY MAIL.

FILING FEES ARE PAYABLE TO THE: STATE OF NEW JERSEY JUDICIARY. THE FEE OF FIFTY-TWO DOLLARS AND FIFTY CENTS (\$52.50) MUST BE FORWARDED TO THE CRIMINAL RECORDS OFFICE AT THE ABOVE

ADDRESS ALONG WITH THE ORIGINAL APPLICATION AND FOUR COPIES.
PERSONAL CHECKS ACCEPTED. MONEY ORDER OR CASH.

Complete the following forms:

REQUEST FOR STATE POLICE RECORD

PETITION FOR EXPUNGEMENT

ORDER FOR HEARING

EXPUNGEMENT ORDER

COVER LETTER TO COURT WHEN FILING PAPERS

PROOF OF NOTICE

NEW MEXICO

Right to Inspect and Obtain Copy: 29-10-6; 29-10-8; 14-2-1; 14-2A-1;32A-2-26

Right to Challenge: 29-10-8

Sealing Non-conviction Information: 30-31-28; 32A-2-26

Expungement & Purging: 30-31-28; 32A-3B-26

Although there is no statutory authority to expunge arrests, the New Mexico Court of Appeals has “assumed without deciding” that a common law power may exist upon a showing of compelling circumstances. N.M. Const. art. 6, § 13; N.M. Stat. Ann. § 29-10-1 et seq.; and Toth v. Albuquerque Police Dep’t., 944 P.2d 285, 287 (N.M. Ct. App. 1997).

Application Process: Applications are obtained upon request by contacting:

Pardons/Paroles Office of the Governor State Capitol Building Santa Fe, N.M. 87503

Tel: (505) 476-2269 Fax: (505) 476-2207

[You may also click here for a downloadable clemency form.](#)

NEW YORK

Right to Inspect and Obtain Copy: Reg. 9 NYCRR 6050.1

Purging of Non-conviction Information: CPL 160.55

Purging of Conviction Information: CPL 160.55

Sealing Non-conviction Information: CPL 160.55; CPL 720.15

Sealing of Conviction Information: CPL 160.55; 170.56

State law does allow DCJS and the courts to seal arrests that did not lead to a criminal conviction.

These include:

Arrests that resulted in a disposition favorable to the defendant, such as acquittal, dismissal, or decline prosecution. N.Y. CRIM. PROC. LAW § 160.50;

Arrests that led to a violation conviction for marijuana under N.Y. PENAL LAW § 221.05;

Arrests that led to a conviction for other non-criminal offenses, except convictions for Driving While Impaired and Prostitution. N.Y. CRIM. PROC. LAW § 160.55.

When a case is sealed, information about the sealed arrest is not disseminated by DCJS except in very limited circumstances. As part of the sealing process, DCJS will destroy or return all fingerprints and photographs on file. N.Y. CRIM. PROC. LAW § 160.50(1)(a). The court will seal its records as well if the arrest resulted in a favorable disposition. N.Y. CRIM. PROC. LAW § 160.50(1).

Getting a case sealed does not require the assistance of an attorney. The process for sealing a case depends on the date the case was disposed.

Cases decided after November 1, 1991: As of November 1, 1991, DCJS will automatically seal an arrest event when it is notified by the court that the case has resulted in a sealable disposition unless DCJS receives an order from the court **not** to seal the case. Therefore, all that needs to be done to have such a case sealed is to forward an original certified disposition slip to DCJS along with a letter of explanation or a statement of challenge.

Cases decided prior to November 1, 1991: If the case was decided prior to November 1, 1991, the process is more complicated. You or the client should contact the court and ask it to send a sealing order to DCJS. Each court's procedures for obtaining a sealing order may vary. In some courts the client may be required to appear before a judge and make an oral request to have the case sealed, others may **require formal legal papers**.

If you have a misdemeanor or felony conviction, that cannot be sealed, you can apply for a certificate of rehabilitation. Such a certificate restores some of the rights you may have lost as a result of your conviction (such as the right to serve on a jury) and can help when you are looking for work or applying for a license. If you have a certificate of rehabilitation when you apply for a job or an occupational license, the employer or licensing agency must assume that you are “rehabilitated.” This means that you should not be rejected for employment or refused a license just because of your conviction, unless your conviction has a direct bearing on your ability to perform the job.

The certificates are useful because New York has a number of laws that otherwise bar persons who have been convicted of certain crimes from working in particular jobs or getting certain licenses. A certificate of rehabilitation, in most cases, removes what are called “statutory bars” to employment or occupational licenses. This means that, instead of automatically being disqualified for a particular job or license because of your conviction(s), you have the right to be considered for the position on an individual basis.

Having a certificate does not completely protect you from being denied a job or license because of your criminal record. A certificate of rehabilitation is not a pardon; it does not erase the record of your convictions. You still must list your convictions on job applications that ask for them. And an employer will still see your convictions if he or she asks for your rap sheet when you apply for a job. Finally, although an employer must take your certificate into account in deciding whether to hire you, the law still permits an employer or licensing agency to refuse to hire or license you if your convictions are “job-related.”

NORTH CAROLINA

Right to Inspect and Obtain Copy: NOAC 4F.0404

Purging of Non-conviction Information: 15A-146

Purging of Conviction Information: 15A-145

Sealing of Conviction Information: NCAC 4g.020

In North Carolina, under some circumstances, you may be able to have a criminal record expunged, which means that the records are removed or, in the case of juvenile records, destroyed.

You may be eligible for expungement if:

- Charges against you are dismissed or you are found not guilty, or
- Another person was arrested or charged using your name or identification (identity theft), or
- You are at least 18 years old and wish to expunge juvenile court records (unless a serious offense was involved), or
- You are a first-time offender no older than 21 who was charged with a minor drug possession offense.

If you are eligible to have your conviction set aside, you may file an application with the court. It is up to the court to decide whether to grant your application in light of your behavior since your conviction.

There are several NC General Statutes that govern the expungement of North Carolina criminal history records. These are the steps you must follow to obtain an expungement.

1. Contact the clerk of court in the county where the action or arrest occurred.
2. Ask for a request for expunction form, the AOC-CR-237 Form (Request & Reports/Convictions/Expunctions/Dismissals and Discharge)
3. You must complete every applicable section on the front of the form. Be sure to indicate the statute that applies in your case. An attorney is not required -you may be able to do it yourself.
4. Complete the form and ask the clerk of court to let you borrow the North Carolina Law & Procedure Book so you can review the statutes, or, you may find the NC General Statutes at the local library.
5. Ask the clerk to have a judge sign the bottom right-hand corner of the form.

6. Ask the clerk to forward the Request Form (AOC-CR-237 form) to the SBI/Criminal Information & Identification Section/Expungement Unit.
7. The SBI will check to see if there is any criminal history record information.
8. The SBI will forward the AOC-CR-237 form to the Administrative Officer of the Court.
9. From the Administrative Office of the Courts, the form goes to the Presiding Judge in the county where the action or arrest occurred.
10. The Presiding Judge reviews the information provided by SBI and Administrative Office of the Courts and either grants or denies the Order.

11. If the judge grants the Order, it goes to the Clerk of Court who then deletes the record from his/her files, certifies the Order, and forwards it to the arresting agency.

12. The arresting agency deletes the record from their files, and attaches a Final Disposition Report (R-84) form. The arresting agency then forwards the Order to the SBI where it is processed and completed at the state level and federal level

Instructions for obtaining criminal records:

1. The Criminal Information and Identification Section (CIIS) must receive a written request to send Right to Review instructions. This request must contain the requester's name, telephone number, complete address, and must be signed by the requester. This written request may be mailed or faxed to CIIS, to the attention of the "**Applicant Unit-Right to Review.**"

A. Our mailing address is:

State Bureau of Investigation
Criminal Information and Identification Section
Attn: Applicant Unit-Right to Review
P.O. Box 29500
Raleigh, NC 27626-0500

B. The Fax number is (919) 662-4689.

2. Once we receive your request, we will mail you the instructions. You must be fingerprinted at a local law enforcement agency. The completed fingerprint card and certified check or money order for \$14.00, made payable to the North Carolina State Bureau of Investigation, should be returned to the State Bureau of Investigation at the address listed above. If any of the above items are missing or incomplete, the request will be returned.

3. We will perform a search of your fingerprints, and then mail the results to your address.

NORTH DAKOTA

Right to Inspect and Obtain Copy: 12-60.3

Purging of Non-conviction Information: Rule of Judicial Conduct B Rule 6

Purging of Conviction Information: Rule of Judicial Conduct B Rule 6 E (1)

PARDON ADVISORY BOARD

NECESSARY APPLICATION INFORMATION

1. Applicant's Name:

Date of Birth:

Place of Birth:

I have used the following aliases:

2. I am requesting the following of the Pardon Advisory Board:

(Check one)

Pardon Commutation of Sentence Reprieve of Sentence Remission of Fine Other

3. On the day of ,19 , I (pled guilty/was found guilty) of (list crimes) and the following sentence was imposed As of this time, I will serve out my sentence on (Month/Year)

4. Name and Address (City and State) of:

Trial/Sentencing Judge:

Prosecuting Attorney:

Defense Attorney:

5. I have been arrested, indicted/convicted of the following prior offenses (include misdemeanors and felonies):

DATE PLACE CRIME DISPOSITION

OPEN RECORD NOTICE: Upon receipt at this office, your completed application will become public record.

6. My occupation(s) and residence(s) from five (5) years prior to my present conviction to date are as follows:

DATES FROM TO

OCCUPATION - EMPLOYER

AND EMPLOYER'S ADDRESS

DATES

FROM TO RESIDENCE

7. What is the reason for your request?

8. Submit a detailed synopsis of your life that includes personal background and type of clemency.

NOTE: If additional pages are needed for any section, please attach and number accordingly. If you fail to complete this application in full, it will be returned to you and could result in a postponement of your hearing.

This is due back to the ND Parole/ Probation Office by for the Pardon Advisory Board.

(Signature) (Date)

OHIO

Purging of Non-conviction Information: 109.60, 2951.04

Sealing of Conviction Information: 2953.32

If you have been convicted of an offense and are a first offender, you may qualify for expungement. By statute, application for expungement is made to the sentencing judge. Certain waiting periods, as described below, apply before a first offender may apply for expungement. The final decision to grant or deny expungement is in the discretion of the sentencing judge. Please note that even though a criminal conviction has been expunged, it may still be used as specified in Ohio Revised Code section [2953.32\(D\)](#), (E), (F) & (G), and Ohio Revised Code Chapter 2950 [Sexual Predators, etc.].

A first offender means anyone who has been convicted of an offense in this state or any other jurisdiction and who previously or subsequently has not been convicted of the same or a different offense in this state or any other jurisdiction, Ohio Revised Code [2953.31\(A\)](#).

When two or more convictions result from or are connected with the same act or result from offenses committed at the same time, they shall be counted as one conviction. When two or three convictions result from the same indictment, information, or complaint, from the same plea of guilty, or from the same official proceeding, and result from related criminal acts that were committed within a three-month period but do not result from the same act or from offenses committed at the same time, they shall be counted as one conviction, provided that a court may decide as provided in division (C)(1)(a) of section 2953.32 of the Revised Code that it is not in the public interest for the two or three convictions to be counted as one conviction.

- 1.) Fee:** If you are requesting the expungement of a non-conviction, no fee is required. Go to step 2. Otherwise, you must pay a \$50.00 fee to the Clerk of Courts. If you indicate to the clerk you cannot afford the \$50.00 filing fee, you will be referred to the Assignment Commissioner's office, see the next step, to fill out the Affidavit of Indigency.
- 2)** Proceed to the Assignment Commissioner's office with any required fee receipt or to fill out, but not sign, the Affidavit of Indigency. At the Assignment Commissioner's office, you also will be required to fill out and file the Probation Information Sheet and the appropriate application for expungement. No hearing date will be set, until a completed Probation Information Sheet is received by the Assignment Commissioner's office.

The required forms are available at the Assignment Commissioner's office and here for download:

Affidavit of Indigency: [Word](#) or [PDF](#)

Application to Expunge Conviction: [Word](#) or [PDF](#) [\$50.00 Fee]

Application to Expunge Record of Non-Conviction: [Word](#) or [PDF](#) [No Fee]

Probation Information Sheet: [Word](#) or [PDF](#)

3.) The Application to Expunge will be set for consideration by the judge you originally appeared before; the Probation Department will get the Probation Information Sheet; and any Affidavit of Indigency will be filed in your case file.

[The expungement request is usually scheduled for hearing in about four to six weeks before the judge. Pending the hearing, your application is checked by the Probation Department for initial eligibility. Be sure to respond promptly to any request for information from the Probation Department. The Probation Department reports its findings to the judge for consideration at the expungement hearing. If you do not respond to the Probation Department, it is likely the department will report that you do not qualify for expungement.]

4.) If your request for expungement is granted and you have filed the Affidavit of Indigency, but the judge finds you are not indigent, the sealing of your record will not take place until the \$50.00 fee is paid. If your request for expungement is granted and the judge finds you are indigent, the record will be sealed without payment of a fee.

OKLAHOMA

Right to Inspect and Obtain Copy: 15-24A.5

Purging of Non-conviction Information: 22-18; 22-991C; 22-305.4

Purging of Conviction Information: 22-991C; 63-2410

Sealing Non-conviction Information: 22-18 19; 22-991C; 63-2410

Sealing of Conviction Information: 22-18 19; 22-991C; 63-2410

IN ORDER TO QUALIFY FOR CONSIDERATION YOU MUST MEET THE FOLLOWING CONDITIONS:

1. You have been convicted of a violation of Oklahoma law, either a felony or a misdemeanor.
2. No pending charges.
3. Not currently in jail or prison.
4. You must have discharged all sentences, successfully completed parole or a suspended sentence, OR completed five years under supervision on the current case(s).
5. You cannot have been considered or investigated for a pardon within the past six months.

For more information concerning pardons and the pardon process, contact:

General Counsel

Attn: Pardons

4040 N. Lincoln Blvd., Suite 219

Oklahoma City, Oklahoma 73105-5221

(405) 427-8601, extension 228

Persons authorized to file a motion for expungement, as provided herein, must be within one of the following categories:

1. The person has been acquitted;
2. The conviction was reversed with instructions to dismiss by an appellate court of competent jurisdiction, or an appellate court of competent

jurisdiction reversed the conviction and the district attorney subsequently dismissed the charge;

3. The factual innocence of the person was established by the use of deoxyribonucleic acid (DNA) evidence subsequent to conviction;
4. The person was arrested and no charges of any type, including charges for an offense different than that for which the person was originally arrested are filed or charges are dismissed within one (1) year of the arrest;
5. The statute of limitations on the offense had expired and no charges were filed;

6. The person was under eighteen (18) years of age at the time the offense was committed and the person has received a full pardon for the offense;
7. The offense was a misdemeanor, the person has not been convicted of any other misdemeanor or felony, no felony or misdemeanor charges are pending against the person, and at least ten (10) years have passed since the judgment was entered; or
8. The offense was a nonviolent felony, as defined in [Section 571 of Title 57](#) of the Oklahoma Statutes, the person has received a full pardon for the offense, the person has not been convicted of any other misdemeanor or felony, no felony or misdemeanor charges are pending against the person, and at least ten (10) years have passed since the conviction.

PROCEDURE FOR SEALING RECORDS

A. Any person qualified under Section 18 of this title may petition the district court of the district in which the arrest information pertaining to the person is located for the sealing of all or any part of the record, except basic identification information.

B. Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall provide thirty (30) days of notice of the hearing to the district attorney, the arresting agency, the Oklahoma State Bureau of Investigation, and any other person or agency whom the court has

reason to believe may have relevant information related to the sealing of such record.

C. Upon a finding that the harm to privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the public interest in retaining the records, the court may order such records, or any part thereof except basic identification information, to be sealed. If the court finds that neither sealing of the records nor maintaining of the records unsealed by the agency would serve the ends of justice, the court may enter an appropriate order limiting access to such records.

Any order entered under this subsection shall specify those agencies to which such order shall apply. Any order entered pursuant to this subsection may be appealed by the petitioner, the district attorney, the arresting agency, or the Oklahoma State Bureau of Investigation to the Oklahoma Supreme Court in accordance with the rules of the Oklahoma Supreme Court . In all such appeals, the Oklahoma State Bureau of Investigation is a necessary party and must be given notice of the appellate proceedings.

D. Upon the entry of an order to seal the records, or any part thereof, the subject official actions shall be deemed never to have occurred, and the person in interest and all criminal justice agencies may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to such person.

E. Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person in interest who is the subject of such records, the Attorney General, or by the district attorney and only to those persons and for such purposes named in such petition.

F. Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to disclose any information contained in sealed records. An applicant need not, in answer to any question concerning arrest and criminal records provide information that has been sealed, including any reference to or information concerning such sealed information and may state that no such action has ever occurred. Such an application may not be denied solely because of the applicant's refusal to disclose arrest and criminal records information that has been sealed.

G. All arrest and criminal records information existing prior to the effective date of this section, except basic identification information, is also subject to sealing in accordance with subsection C of this section.

H. Nothing in this section shall be construed to authorize the physical destruction of any criminal justice records.

I. For the purposes of this section, sealed materials which are recorded in the same document as unsealed material may be recorded in a separate document, and sealed, then obliterated in the original document.

J. For the purposes of this act, district court index reference of sealed material shall be destroyed, removed or obliterated.

K. Any record ordered to be sealed pursuant to Section 1 et seq. of this title, if not unsealed within ten (10) years of the expungement order, may be obliterated or destroyed at the end of the ten-year period.

L. Subsequent to records being sealed as provided herein, the district attorney, the arresting agency, the Oklahoma State Bureau of Investigation, or other interested person or agency may petition the court for an order unsealing said records. Upon filing of a petition the court shall set a date for hearing, which hearing may be closed at the court's discretion, and shall provide thirty (30) days' notice to all interested parties. If, upon hearing, the court determines there has been a change of conditions or that there is a compelling reason to unseal the records, the court may order all or a portion of the records unsealed.

M. Nothing herein shall prohibit the introduction of evidence regarding actions sealed pursuant to the provisions of this section at any hearing or trial for purposes of impeaching the credibility of a witness or as evidence of character testimony pursuant to Section 2608 of Title 12 of the Oklahoma Statutes.

OREGON

Right to Inspect and Obtain Copy: 181.540

Purging of Non-conviction Information: 137.225

Purging of Conviction Information: 137.225

Sealing Non-conviction Information: 137.225

Sealing of Conviction Information: 137.225

If you are interested in having an arrest and/or conviction set aside and/or expunged from your criminal record, you must file with the court a Motion to Set Aside Record of Arrest, Motion to Set Aside Conviction, or Motion to Expunge Criminal Record. The court does not provide forms for filing these motions, however, legal forms are available at most stationary stores. Of course, you may also retain an attorney to file the appropriate documents for you.

Motions must be submitted in their original form to the County Circuit Court Clerk's Office, Criminal Section. There is no filing fee.

A copy of all motions filed with the court must be filed with the County's District Attorney's Office (D.A.). You must also provide the D.A.'s Office with a completed fingerprint card. The fingerprint card may be obtained at the County Sheriff's Department. There is a \$17.00 fee for this service.

If the charge you wish to have expunged is a conviction, there is a \$80.00 processing fee charged by the Oregon State Police (OSP). This fee needs to be submitted to the D.A.'s Office at the same time as the copy of all motions and the fingerprint card. The \$80.00 fee needs to be in the form of a certified check or a cashier's check made out to the Oregon State Police. If it is a record of arrest that you wish to expunge, the OSP does not charge a processing fee, but you will still need to submit a fingerprint card.

The D.A.'s Office will forward the fingerprint card (and check, if a conviction) to the State Police Bureau of Criminal Identification. OSP will use the fingerprint card to make a positive identification, to determine other prior criminal cases have been expunged or set aside, and to determine if there are any outstanding warrants. The fingerprint card is then returned to the D.A.'s Office.

The D.A.'s Office then files with the court an Answer to your motion to set aside or expunge. The Answer will either state the D.A.'s Office has no objections to the motion or, if there is an objection, the Answer will set forth specific reasons for the objection.

The D.S.'s Office will send a copy of the Answer to you or your attorney. For this reason, it is important that your current address is on any paperwork submitted to the court or D.A.'s Office. A Circuit Court Judge will then make a decision on your motion. You or your attorney will be notified by way of an order signed by the judge.

Please understand that the processed outlined above can take anywhere from four (4) to eight (8) weeks.

PENNSYLVANIA

Right to Inspect and Obtain Copy: ACT 4; Reg. 9

Purging of Conviction Information: ACT 8

Call or visit the Clerk of Courts Office to receive the standard forms necessary to file a petition. Your entire petition must be typed and must include the following information:

Cover Sheet: Includes your name, address, phone number, Offense Tracking Number and/or Criminal Complaint Number.

Petition/Motion: A personalized account of your case, including arrest date, charges, and trial/hearing outcome.

Petitioners take this opportunity to often state their motivation for expungement. Although there is no set format, be brief and to the point.

Copy of Disposition: A copy of the official outcome of your case. Copies of summary cases are obtained from your District Justice's office or the Bureau of Criminal Investigations at the BCI, 660 First Street. The Clerk of Courts houses the files for cases held-for-court for the Allegheny County Common Pleas Court, Criminal Division.

Preliminary Order: A form completed by the Judge with the assigned hearing date.

Expungement Order: The official directive from the Court to expunge records. Complete with all pertinent questions.

Verification/Affidavit: A statement attesting that all of the provided information is true and correct.

FILING YOUR PETITION

Bring the original plus two copies of your petition and disposition to the Clerk of Courts Office for approval. Your petition must be typed. The petition may be filed for a fee of \$50.00, only payable in cash or money order made payable to the Clerk of Courts.

You may want to make a copy of the petition for your personal files and retain your receipt of payment.

RHODE ISLAND

Right to Inspect and Obtain Copy: 38-2-3

Purging of Non-conviction Information: 12-1-12

Sealing of Conviction Information: 12-1.3-2

Unless previously convicted of a felony, cases where the individual is acquitted or otherwise exonerated may be sealed. There is a 3-year waiting period for arrests involving domestic violence. R.I. Gen. Law §§ 12-1.3-1(2) and 12-1-12.1(a), (b), (e).

Unless convicted of a violent crime, first offenders may apply for expungement of convictions after 5 years from completion of the sentence if convicted of a misdemeanor or after 10 years from completion of the sentence if convicted of a felony. Persons convicted of certain alcohol-related violations while between the ages of 18 and 21 may also be expunged. R.I. Gen. Laws §§ 3-8-12 and 12-1.3-2.

Only 12 states - Rhode Island among them - allow expungement of adult felony convictions, but convictions in certain cases may not legally be expunged:

- Crimes of violence (murder, manslaughter, robbery, many kinds of assault, kidnapping with intent to extort, etc.);
- Recent cases (persons guilty of a felony must wait 10 years after completing their sentences, five years for a misdemeanor);
- Prior convictions (only cases of first-time offenders are eligible for expungement).

Beyond those legal standards, judges exercise wide discretion in deciding whether to allow expungement. Judges need only be satisfied that the petitioner is rehabilitated and has demonstrated "good moral character" and that expungement is "consistent with the public interest."

Rhode Island's law is one of the most liberal in the nation, and there have been repeated efforts in the General Assembly to make expungements even easier to obtain. Expungements of cases originally charged as felonies are becoming more frequent, increasing six-fold during the 1990s (from 15 in 1990 to 99 in 1998).

SOUTH CAROLINA

Right to Inspect and Obtain Copy: 73-25

Purging of Non-conviction Information: 73-27, 22-5-910

Purging of Conviction Information: 17-1-40

You may be eligible to have a criminal case record expunged IF:

- You have never had a charge expunged before, AND
- The charges against you were dismissed, "nol prossed", or you were found "not guilty", OR
- The charges were dismissed by the Solicitor because the defendant successfully completed a Pre-Trial Intervention (PTI) program, OR
- You were convicted of a Fraudulent Check Law violation, and no criminal activity has taken place for three years following the date of the conviction, OR
- You were convicted of a first offense simple possession of marijuana, received a conditional discharge, and has successfully complied with the terms of that sentence, OR
- You were convicted of a first offense in a Magistrates' or Municipal Court and no other criminal activity has taken place within three years following the date of conviction.

You may ask for a criminal charge to be expunged from your record under a variety of conditions, but you are only entitled to one expungement during your lifetime. In order to obtain an expungement you must first meet the eligibility requirements listed above, and you must obtain and complete a form known as an Expungement Order. You will also need to obtain certain signatures on the Expungement Order.

- If the case was heard by a Magistrate, obtain the Magistrate's signature on the expungement order.
- If the case was heard in Circuit Court, obtain the signature of a Circuit Court Judge.
- If the you went through a Pre-Trial Intervention program, obtain the signature of the Pre-Trial Intervention Director.
- Obtain a signature from an authorized person in the Solicitor's Office.

Once the form contains all required signatures, you must file the Expungement Order with the Clerk of Court. In order for the expungement to be processed, you must pay a filing fee. The amount of the filing will be provided by the Clerk of Court at (843) 958-5000. Finally, you should distribute certified copies of the order to appropriate agencies and departments in which the charge was recorded: Sheriff's Office, SC Department of Public Safety, Office of the Solicitor, the Circuit or Magistrates' Courts, or SLED.

SOUTH DAKOTA

Right to Inspect and Obtain Copy: 1-11-13; 23-5-13

Purging of Non-conviction Information: 23-6-8.1

Purging of Conviction Information: 23-6-8.1

Sealing of Conviction Information: 23A-27-14

FOR AN ACT ENTITLED, An Act to provide for the expungement of certain records of criminal proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
Section 2.

For the purposes of this Act, a first offender is anyone who has been convicted of an offense in this state or any other jurisdiction, and who previously or subsequently has not been convicted of the same or a different offense in this state or any other jurisdiction. If two or more convictions result from or are connected with the same act, or result from offenses committed at the same time, they shall be counted as one conviction.

Section 3.

Any first offender may apply to the sentencing court if convicted in this state, or to the circuit court if convicted in another state or in a federal court, for the sealing of the conviction record. Application may be made at the expiration of three years after the offender's final discharge if convicted of a felony, or at the expiration of one year after final discharge if convicted of a misdemeanor.

Section 4.

Any person who has been arrested for any misdemeanor offense and who has effected a bail forfeiture may apply to the court in which the misdemeanor criminal case was pending when bail was forfeited for the sealing of the record of the case. The application may be filed at any time after the expiration of one year from the date on which the bail forfeiture was entered upon the minutes of the court or the journal, whichever entry occurs first.

Section 5.

Upon the filing of an application under section 3 or 4 of this Act, the court shall set a date for a hearing and shall notify the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court shall direct a court services officer to make inquiries and written reports as the court requires concerning the applicant.

Section 6.

The court shall:

- (1) Determine whether the applicant is a first offender or whether the forfeiture of bail was agreed to by the applicant and the prosecutor in the case;
- (2) Determine whether criminal proceedings are pending against the applicant;
- (3) If the applicant is a first offender who is applying pursuant to section 3 of this Act, determine whether the applicant has been rehabilitated to the satisfaction of the court;
- (4) If the prosecutor has filed an objection in accordance with section 5 of this Act, consider the reasons against granting the application specified by the prosecutor in the objection;

(5) Weigh the interests of the applicant in having the records pertaining to the conviction sealed against the legitimate needs, if any, of the government to maintain those records.
Section 7.

If the court determines that the applicant is a first offender or the subject of a bail forfeiture, that no criminal proceeding is pending against the applicant, and that the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed are not outweighed by any legitimate governmental needs to maintain such records, and that the rehabilitation of an applicant who is a first offender applying pursuant to section 3 of this Act has been attained to the satisfaction of the court, the court shall order all official records pertaining to the case sealed and, except as provided in section 11 of this Act, all index references to the case deleted and, in the case of bail forfeitures, shall dismiss the charges in the case. The proceedings in the case shall be considered not to have occurred and the conviction or bail forfeiture of the person who is the subject of the proceedings shall be sealed. However, upon conviction of a subsequent offense, the sealed record of prior conviction or bail forfeiture may be considered by the court in determining the sentence or other appropriate disposition, including the relief provided for in this Act.

Section 8.

Upon the filing of an application under this Act, the applicant shall pay a fee of fifty dollars, which shall be deposited in the state general fund.

Section 9.

Inspection of the sealed records included in the order may be made only by the following persons or for the following purposes: (1) By a law enforcement officer or prosecutor to determine whether the nature and character of the offense with which a person is to be charged would be affected by virtue of the person's previously having been convicted of a crime; (2) By the parole or probation officer of the person who is the subject of the records, for the exclusive use of the officer in supervising the person while on parole or probation and in making inquiries and written reports as requested by the court or parole authority;

(3) Upon application by the person who is the subject of the records, by the persons named in the application; (4) By a law enforcement officer who was involved in the case, for use in the officer's defense of a civil action arising out of the officer's involvement in that case; (5) By any law enforcement agency or by the Department of Corrections as part of a background investigation of a person who applies for employment with the agency as a law enforcement officer or with the department as a corrections officer. When the nature and character of the offense with which a person is to be charged would be affected by the information, it may be used for the purpose of charging the person with an offense.

Section 10.

In any criminal proceeding, proof of any otherwise admissible prior conviction may be introduced and proved, notwithstanding the fact that for any such prior conviction an order of sealing previously was issued pursuant to this Act.

Section 11.

The person or governmental agency, office, or department that maintains sealed records pertaining to convictions or bail forfeitures that have been sealed pursuant to this section

may maintain a manual or computerized index to the sealed records. The index shall contain only the name of, and alphanumeric identifiers that relate to, the persons who are the subject of the sealed records, the word, sealed, and the name of the person, agency, office, or department that has custody of the sealed records, and may not contain the name of the crime committed. The index shall be made available by the person who has custody of the sealed records only for the purposes set forth in sections 6, 9, and 10 of this Act.

Section 12.

The provisions of this Act do not apply to any conviction for a Class A, Class B, Class 1, or Class 2 felony, any conviction of § 22-22-23, 22-22-23.1, or 22-22-24, or any violation of Title 32.

Section 13.

Any person, who is found not guilty of an offense by a jury or a court or who is the defendant named in a dismissed complaint, indictment, or information, may apply to the court for an order to seal the official records in the case. The application may be filed at any time after the finding of not guilty or the dismissal of the complaint, indictment, or information is entered.

Section 14.

Any person, against whom a no bill is entered by a grand jury, may apply to the court for an order to seal the official records in the case. The application may be filed at any time after the expiration of two years after the date on which the grand jury reports to the court that the grand jury has reported a no bill.

Section 15

Upon the filing of an application pursuant to section 13 of this Act, the court shall set a date for a hearing and shall notify the prosecutor in the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons the prosecutor believes justify a denial of the application.

Section 16.

The court shall: (1) Determine whether the person was found not guilty in the case, or the complaint, indictment, or information in the case was dismissed, or a no bill was returned in the case and a period of two years has expired from the date of the report to the court of a no bill by the grand jury; (2) Determine whether criminal proceedings are pending against the person; (3) If the prosecutor has filed an objection in accordance with section 15 of this Act, consider the reasons against granting the application specified by the prosecutor in the objection; (4) Weigh the interests of the person in having the official records pertaining to the case sealed against the legitimate needs, if any, of the government to maintain those records.

Section 17.

If the court determines that the person was found not guilty in the case, that the complaint, indictment, or information in the case was dismissed, or that a no bill was returned in the case and that the appropriate period of time has expired from the date of the report to the court of a no bill by the grand jury; that no criminal proceedings are pending against the person; and the interests of the person in having the records pertaining to the case sealed are not outweighed by any legitimate governmental needs to maintain such records, the court shall issue an order directing that all official records pertaining to the case be sealed and that, except as provided in this Act, the proceedings in the case be deemed not to have occurred.

TENNESSEE

Right to Inspect and Obtain Copy: 40-15-106; 40-32-101

Purging of Non-conviction Information: 40-15-106

Sealing of Conviction Information: 23A-27-14

EXPUNGEMENT ORDERS AND INDIGENT FUND ORDERS

The General Sessions Court Clerk and the Sessions Judges administrative officer will only accept complete expungement orders and indigent fund order forms.

- (1) Expungement orders must include the following information:
 - (a) Name of defendant, warrant number, charge and date of arrest.
 - (b) Name of the trial judge and court.
 - (c) Signature of defendant or his attorney and certificate of service to Attorney General.
 - (d) Attorney General's approval and signature.
 - (e) A copy of the defendant's arrest warrant with the final judgment.
- (2) Multiple arrests may be put on one order as long as the date of arrest is the same. Different arrest dates on one defendant require separate orders.
- (3) Records will be expunged without cost on charges that have been dismissed or nolle prossed.
- (4) A \$25.00 fee must be paid to the Clerk for each record expunged where the defendant was placed on a diversion program pursuant to Tenn. Code Ann. § 40-35-312 and § 40-15-102 —40-15-105.
- (5) When the expungement order is completed in accordance with (1) above, deliver the order to the Attorney General's Office. The Attorney General will review and approve the order, if appropriate, and deliver the signed order to the Sessions Judges office. After the order is signed by the Judge, the attorney of record will be notified.
- (6) At the time of filing, the signed expungement order and five copies must be presented to the clerk. The \$25.00 fee must be paid, if applicable.
- (7) Only records listed on the order will be expunged.

(8) The Clerk's Office is responsible for expungement of records of the General Sessions Court. The certified copies will be distributed to all other agencies included in the arrest process. They are responsible for the expungement of their records.

(9) The Clerk's Office expunges records in the order they are filed. The law allows 60 days for the process to be completed.

TEXAS

Right to Inspect and Obtain Copy: Reg. 37 TAO 27.1; TROS 6252-17

Purging of Non-conviction Information: Code of Criminal Procedure Article 55.01

Expungement Process for State of Texas

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if: (1) the person is tried for the offense for which the person was arrested and is: (A) acquitted by the trial court, except as provided by Subsection (c) of this section; or (B) convicted and subsequently pardoned; or (2) each of the following conditions exist: (A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and: (i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or (ii) the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void; (B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and (C) the person has not been convicted of a felony in the five years preceding the date of

the arrest. (b) Except as provided by Subsection (c) of this section, a district court may expunge all records and files relating to the arrest of a person who has been arrested for commission of a felony or misdemeanor under the procedure established under Article 55.02 of this code if the person is: (1) tried for the offense for which the person was arrested; (2) convicted of the offense; and (3) acquitted by the court of criminal appeals. (c) A court may not order the expunction of records and files relating to an arrest for an offense for which a person is subsequently acquitted, whether by the trial court or the court of criminal appeals, if the offense for which the person was acquitted arose out of a criminal episode, as defined by Section 3.01, Penal Code, and the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode. (d) A person is entitled to have any information that identifies the person, including the person's name, address, date of birth, driver's license number, and social security number, contained in records and files relating to the arrest of another person expunged if: (1) the information identifying the person asserting the entitlement to expunction was falsely given by the person arrested as the arrested person's identifying information without the consent of the person asserting the entitlement; and (2) the only reason for the information identifying the person asserting the entitlement being contained in the arrest records and files of the person arrested is that the information was falsely given by the person arrested as the arrested person's identifying information.

UTAH

Right to Inspect and Obtain Copy: 53-5-214(7)

Purging of Non-conviction Information: 53-5-214(7); 77-18-2

Purging of Conviction Information: 77-18-2

Sealing of Conviction Information: 77-18-2

Your expungement eligibility will be based upon your total criminal history, not just what has been reported to the Utah Bureau of Criminal Identification. This includes incidents in all states. For further information about Utah's expungement laws, see Utah Code Ann. § 77-18-9 through § 77-18-17.

Utah will conduct a thorough background check and you will be notified by mail of your approval or denial within six to eight weeks.

Some factors which may contribute to a denial are:

- Time period required by law has not been met. (*This time period does not begin until all confinement and probation has been completed and fines are paid.*)

10 years - Any alcohol related traffic offense 7 years - All felonies 5 years -
Class A misdemeanor 3 years - All other offenses 30 days - Dismissals

- Three or more convictions, not stemming from a single arrest.
- More than one felony exists
- Capital felony
- 1st degree felony
- Forcible 2nd degree felony
- A previous felony expungement exists.
- One or more pending arrest(s).
- Conviction of a sexual offense against a minor.
- Registerable sex offender.
- Court records indicate that the case is still open.
- Disposition information is missing

Juvenile offender information is not retained by the Bureau of Criminal Identification. Requests must be made directly to Juvenile Court

If you have questions you may contact the Expungement Section for further information at 801-965-4966 or 801-965-4759.

Utah Bureau of Criminal Identification 3888 West 5400 South Box 148280 Taylorsville, Utah 84114-8280

VERMONT

Right to Inspect and Obtain Copy: Reg. 8.10

Purging of Non-conviction Information: Reg. 10.10

Purging of Conviction Information: Reg. 10.10

Sealing Non-conviction Information: Reg. 10.10

Sealing of Conviction Information: Reg. 10.10

Applicable Form of Executive Clemency:

The power to pardon possessed by the Governor is exclusive and conferred upon the office by the Vermont Constitution, which states the Governor "shall have power to grant pardons and remit fines in all cases whatsoever..." (Vermont Constitution, Chapter II, 20). **Eligibility:** All are eligible to apply.

Application Process: Applications are available upon request. Applicants, or someone acting on their behalf, should send a letter expressing their desire to receive a conditional pardon and the reasons why they feel it should be granted to: Governor James Douglas 109 State Street, Pavilion Montpelier, VT 05609-0101 Tel: (802) 828-3333 Toll free: (800) 649-6825 [Click here](#) to view the application form. The form is for sample purposes only. All petitions must be filed on forms requested from the Governor. Failure to request forms from the Governor may lead to rejection of the application. The application should be typed or clearly printed. All questions must be answered, marking non-applicable questions with "n/a." If the space provided is not sufficient to complete your answers, or if you wish to furnish additional information, attach extra sheets and number answers to correspond with the questions. The application must be notarized. The completed application should be returned to the Governor's address. A separate letter that indicates the application is for a "conditional pardon" should be included with the submission. By submitting the application, the applicant consents to the release of his or her record to the Governor, and to the public release of his or her name. The Governor's office will send a letter to the Commissioner of Corrections to initiate a

conditional pardon investigation. The Commissioner of Corrections, after review, may assign the investigation to the appropriate Area Manager. The Area Manager will instruct the Facility Superintendent to conduct an investigation to determine if cause exists to require a hearing on the conditional pardon application. If cause exists, the Facility Superintendent will recommend to the Area Manager that a hearing be held. The Area Manager reviews the investigation report, measuring the information gathered against the compelling reason for the applicant's request, the guidelines for a compelling reason to grant a pardon, and pardon policy and procedures. At this time, he or she reviews the entire case. The Area Manager sends to the Commissioner a memo stating the rationale for a positive or negative recommendation for the conditional pardon. The Commissioner reviews the case and rationale from the Area Manager for a positive or negative recommendation on the conditional pardon, and measures this against the applicant's request and the compelling reason for granting a conditional pardon. The Commissioner will forward the Department of Corrections (DOC) recommendation to the Governor. If the recommendation is positive, the Commissioner will present written rationale for his or her decision. If the recommendation is negative, the Commissioner will forward the case, with a letter expressing his or her position, to the Governor and the Secretary of Civil and Military Affairs. The DOC's investigation is to be completed within 30 days after it is assigned to the Area Manager. The Governor reviews the DOC's recommendation and the inmate's file before making a decision. Section 12 of the DOC's Probation and Parole Manual, which is devoted to pardon investigations, states, "The Governor will determine if a hearing will be held and if an investigating officer from the department or the Parole Board will hold a hearing." As of March 19, 2002, no specifics pertaining to hearings were available. The Governor's office reports it has never handled a hearing. If the Governor's decision is to not grant a conditional pardon, a letter is sent to the applicant expressing the rationale. A copy is sent to the Commissioner. If a conditional pardon is granted to an applicant eligible for parole, the Governor will sign the original and one copy of the pardon documents. All other copies may be stamped with his signature. If a conditional pardon is granted to an inmate not eligible for parole, the applicant will be placed on parole and be subject to all the conditions of parole, plus any additional conditions issued by the Governor. The period of supervision will be to the expiration date of the original sentence. The Parole Board will act as an advisory body in any matter to hear and make recommendations to the Governor should any alleged violation of the conditions occur.

VIRGINIA

Right to Inspect and Obtain Copy: 19.2-389; 9-192, 193

Purging of Non-conviction Information: 9-190

Sealing Non-conviction Information: 9-190; 19.2-392.2

A. If a person is charged with the commission of a crime and

1. Is acquitted, or
2. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and satisfaction pursuant to § [19.2-151](#), or
3. Is granted an absolute pardon for the commission of a crime for which he has been unjustly convicted, he may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge.

B. If any person whose name or other identification has been used without his consent or authorization by another person who has been charged or arrested using such name or identification, he may file a petition with the court disposing of the charge for relief pursuant to this section.

C. The petition with a copy of the warrant or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain, except where not reasonably available, the date of arrest and the name of the arresting agency. Where this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge to be expunged, the date of final disposition of the charge as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest.

D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition within twenty-one days after it is served on him.

E. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner.

F. After receiving the criminal history record information from the CCRE, the court shall conduct a hearing on the petition. If the court finds that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records relating to the charge. Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest was for a misdemeanor violation, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to expungement of the police and court records relating to the charge, and the court shall enter an order of expungement.

G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

H. Notwithstanding any other provision of this section, when the charge is dismissed because the court finds that the person arrested or charged is not the person named in the summons, warrant, indictment or presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or charged, enter an order requiring expungement of the police and court records relating to the charge. Such order shall contain a statement that the dismissal and expungement are ordered pursuant to this subsection. Upon the entry of such order, it shall be treated as provided in subsection I hereof.

I. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § [9.1-134](#), direct the manner by which the appropriate expungement or removal of such records shall be effected.

WASHINGTON

Right to Inspect and Obtain Copy: 10.97.080

Purging of Non-conviction Information: 10.97.060

Purging of Conviction Information: 9.94A.230

Sealing Non-conviction Information: 13.50.050

Sealing of Conviction Information: 13.50.050

Basic Requirements

The circumstances under which conviction records may be vacated or sealed are **VERY LIMITED**. You should NOT begin the seal/vacate process unless ALL of the following are true:

1. The court date of your conviction was **ON/AFTER July 1, 1984**;
2. There are **NO** criminal charges against you pending in any court in any state or federal court;
3. You have **NOT** been convicted of a new crime in any state or federal court since the date of the your discharge (this is the date the sentencing court issued an order called a "Certificate of Discharge" certifying that all requirements of your sentence had been completed);
4. a) The offense was a **class B felony** and at least **10 YEARS** have passed since the date your sentence was discharged; or b) The offense was a **class C felony** and at least **5 YEARS** have passed since the date your sentence was discharged; **AND**

1 Restoration of your right to possess firearms is beyond the scope of this publication. However, for reference, a petition to restore rights concerning firearms can be made under RCW 9.41.040(4). See also RCW 9.41.047.2 RCW 9.94A.640 (formerly RCW 9.94A.230).

5. The offense of which you were convicted was **NOT** one of the following:

This list of crimes was compiled and consolidated from RCW 9.94A.030(45) ("violent crimes") and RCW 43.43.830(5) ("crimes against children or other persons").

- Any felony defined under any law as a class A felony or an attempt to commit a class A felony
- Criminal solicitation of or criminal conspiracy to commit a class A felony
- Extortion in the first degree
- Drive-by shooting
- Vehicular homicide
- Aggravated, first or second degree murder
- First or second degree kidnapping

- Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug, or by operation of any vehicle in a reckless manner
- First, second, third, and fourth (simple) degree assault
- First, second, or third degree assault of a child
- First, second, or third degree rape
- First, second, or third degree rape of a child
- First or second degree robbery
- First or second degree arson

- First degree burglary
- First or second degree manslaughter
- First or second degree extortion
- Indecent liberties
- Incest
- First degree promoting prostitution
- Communication with a minor
- Unlawful imprisonment
- Sexual exploitation of minors
- First or second degree criminal mistreatment
- Endangerment with a controlled substance
- Child abuse or neglect as defined in RCW 26.44.020
- First or second degree custodial interference
- First or second degree custodial sexual misconduct
- Malicious harassment
- First, second, or third degree child molestation
- First or second degree sexual misconduct with a minor
- Patronizing a juvenile prostitute
- Child abandonment
- Promoting pornography
- Selling or distributing erotic material to a minor
- Custodial assault
- Violation of child abuse restraining order
- Child buying or selling
- Prostitution
- Felony indecent exposure
- Criminal abandonment
- Possibly any of the above crimes as they may be renamed in the future
- Possibly any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to one of the above felonies
- Possibly any federal or out-of-state conviction for an offense that under the laws of this state would be classified as one of the above felonies.

WARNING: If any of the above requirements are not met, you do **NOT** qualify for vacation of your conviction and you should **NOT** attempt to do so.

Step-by-Step Guide

The following is a step-by-step guide to vacating and sealing your criminal history records.

STEP 1: OBTAIN A PERSONAL CRIMINAL HISTORY CHECK

In many cases, your local prosecutor and your employer will be satisfied that you have no new arrests on your record if you obtain an "unofficial" copy of your criminal history background report through the WSP on the Internet at the following website:

<https://watch.wsp.wa.gov>. This service costs \$10 per search and requires a credit card.

If the WATCH printout does not satisfy the prosecutor or employer, then you should go

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to your local law enforcement office (police or sheriff) and have them fingerprint you and provide you with **TWO official fingerprint cards**.

Next, write the Washington State Patrol ("WSP") to request that they send you an **official copy** of your **personal criminal history background** (sometimes referred to as a "**fingerprint search**"). Explain that you are making this request in connection with your motion to vacate/seal criminal history records. Include one of the official fingerprint cards (NOT a copy) and a \$25 money order and send everything to:

**Criminal History Section
Washington State Patrol
PO Box 42633
Olympia WA 98504-2633**

It can take up to 8 weeks or more for the WSP to process your request. If you have not received the report within 8 weeks of your mailing, you should call the WSP at **360.705.5100** to inquire as to the status of your request.

STEP 2: OBTAIN COURT DOCUMENTS

Go to the court in which you were convicted and obtain the following documents from the Court Clerk:

1. A copy of the **Satisfaction of Judgment** if there is one.
2. A certified copy of your **Certificate and Order of Discharge**. This document should have been provided to the court by the Department of Corrections (DOC), and then given to you in person or by mail (and filed in the criminal court file), after successful completion of the sentence.⁴ Sometimes, DOC terminates supervision of a convicted individual without issuing an Order of Discharge. For example, the individual may have failed to pay fines that were required or failed to complete a treatment program that was ordered. Because your ability to vacate a conviction is based on the date the Order of Discharge was issued, you will NOT be able to vacate your conviction until an Order of Discharge has been issued. You may be able to get this issue straightened out with DOC if you in fact paid all your legal financial obligations or completed all sentencing conditions, or you may need to contact a private attorney. If you are low income and live outside King County, you may call Northwest Justice Project's CLEAR line at 1-888-

201-1014 (King County low-income clients may call 206-464-1519) for advice or a possible referral.

3. Certified copy of your **Judgment and Sentence**.

The files with these documents will likely be in the court's archives and thus your request may take several weeks to process. There may be charges for copying these documents.

STEP 3: DRAFT YOUR DECLARATION TO SUPPORT YOUR MOTION

NOTE: It is preferred that any documents you prepare for the court are TYPED and NOT handwritten. If typing is not possible, then be sure that the penmanship is clear and easy to read.

In your Declaration, you are stating the information necessary to meet the "**Basic Requirements**" noted above.

Attached is a "**Declaration of Defendant . . .**" form that you may use.

You should also attach all court/other documents related to your declaration.

STEP 4: DRAFT THE MOTION

Complete the attached "**Defendant's Motion for Order . . .**" form.

STEP 5: CONTACT THE PROSECUTOR'S OFFICE/VICTIM'S INFORMATION

At some point early on, well before scheduling your court hearing, you should contact the prosecutor's office that was involved in your case. Explain what you are doing and ask to speak with the prosecutor in their office who handles such matters.

You may learn that the particular prosecutor's office does not require the formality of a court hearing and will agree to sign off on an "Agreed Order" if you provide them with sufficient proof you have satisfied the statutory requirements. (See the section below regarding the "**Order to Vacate/Seal . . .**" in **Step 9** for more information.)

It is more likely, however, that the prosecutor will require that you schedule and attend a hearing before the judge. If so, you must properly notify the prosecutor of the hearing by following applicable court rules (see below).

STEP 6: SCHEDULE HEARING DATE/NOTICE OF HEARING

When you have all your papers in order and are essentially ready to go to court, contact the Court Clerk and find out which court/judge will hear your motion and on what day of the week/time it can be heard. You should plan to schedule your hearing 3-4 weeks in advance, and verify with the Clerk that there are no conflicts around this time.

Also, verify with the Clerk whether there is a special form that you must use to note the time/date of the hearing. If not, you may use the attached "**Notice of Hearing re Motion for Order . . .**" form.

Finally, verify with the court whether there is a filing fee for this type of motion. At least some courts do not require a filing fee as you are filing the motion under the original case number. If the clerk believes a filing fee applies, ask that they verify this with their supervisor and/or the court's accounting department. If a fee does apply, it may be around **\$110-\$125** cash, money order or certified check.

STEP 7: COPY/FILE/SERVE THE DOCUMENTS

Make copies of all your documents so that you have **THREE** complete sets – one original and two copies. You may also need at least **TWO** additional copies of your "**Notice of Hearing**".

Go to the Clerk's office and file the originals – the "**Motion**" (with attachments), the "**Declaration**" (with attachments), and the "**Notice of Hearing**" – and pay any applicable filing fee. Also, have them date stamp one set of your documents (the first page of each document in the set).

Then, go directly to the prosecutor's office and hand a copy of your documents – the "**Motion**", "**Declaration**", and "**Notice of Hearing**" to an employee of the prosecutor's office. Have this person date stamp the set of documents that was previously stamped by

the Court Clerk. Also, make sure that the person who receives the documents understands that there is a notice regarding a hearing that will happen very soon and the documents should immediately be given to a prosecutor.

If there were any identifiable victims of your crime, write the prosecuting attorney a letter requesting that they send notice of the hearing to each victim and include a copy of the "**Notice of Hearing**" and an envelope with sufficient postage for this purpose.

STEP 8: DECLARATION OF SERVICE

Complete the attached "**Declaration of Service**" form with information on HOW you sent WHAT papers to WHOM and WHEN.

Make **FOUR** copies, file the original with the Court Clerk some time before your hearing, have one of your copies date stamped by the clerk and bring the three copies with you to the hearing – one for yourself (the date stamped copy), one for the prosecutor and one for the judge.

STEP 9: PREPARE FOR & ATTEND THE HEARING/OBTAIN AN ORDER

Fill in the attached "**Order to Vacate Seal . . .**" – everything except where the judge and prosecutor signs/dates it. If the prosecutor decides to sign off on your order, check the box under the heading next to "AGREED ORDER" and have the prosecutor sign it at the end. Make **THREE** copies and bring them to the hearing.

Prepare for the hearing by writing a brief outline of what you intend to say to the court. Your outline should follow the following format:

1. Brief introduction. Introduce yourself, thank the court for allowing you to be heard, and explain why you are there – i.e., bringing a motion to vacate criminal history records.
2. Briefly state that you have satisfied all of **RCW 9.94A.640**'s statutory requirements.
 - a) Your conviction was **ON/AFTER July 1, 1984**;
 - b) There are **NO** pending criminal charges against you anywhere;
 - c) You have **NOT** been convicted of a new crime in any state or federal court since your discharge;
 - d) You were convicted of a **class B felony** and over **10 YEARS** have passed since your discharge, or you were convicted of a **class C felony** and over **5 YEARS** have passed since your discharge; **AND**
 - e) The offense involved was **NOT** a "violent crime" under **RCW 9.94A.030(45)**, or a "crime against persons" under **RCW 43.43.830(5)**.
3. Briefly state that you have satisfied all of the procedural requirements **under General Rule (GR) 15** by serving proper notice of the hearing.
4. Present a copy of your proposed order to the prosecution and to the judge. Explain that your proposed order tracks the language in **RCW 9.94A.640** and **General Rule 15**.
5. Ask the court if it has any questions and, if so, answer them to the best of your ability.

Attend the hearing. Bring at least **TWO** extra copies of your documents (**THREE** copies of your "**Declaration of Service**" and "**Order to Vacate/Seal . . .**"), which includes the copy that was date stamped by the court and the prosecutor.

1. Be 30 minutes early.
 2. Dress neatly, as if you were going to a job interview.
 3. Do NOT bring your children, if at all possible.
 4. Check in with the clerk of the judge's courtroom.
 5. Try to find the prosecutor and go over any last minute details with him or her before the hearing.
 6. When your case is called, walk up to the table or podium for lawyers in front of the judge and wait to be instructed by the judge to speak. Follow your prepared outline.
 7. Remember to speak only to the judge and only when it is your turn. Do NOT interrupt the judge or speak to the prosecutor, even if they interrupt or speak to you. You want to appear polite and reasonable. Staying calm will impress the judge. If you are confused or do not understand something, politely tell the judge so and ask for clarification.
- If the judge grants and signs your order, ask that either the judge or courtroom clerk give the order to you so that you may go to the Court Clerk's office to file it and obtain **FIVE** copies of the order: **be sure that the order has the court's file stamp on it or the Washington State Patrol will not accept it.** There will be a charge for this service.

STEP 10: SEND THE ORDER TO THE WASHINGTON STATE PATROL (WSP) & OTHER AGENCIES

Fill in and sign the attached letter to the WSP requesting that they delete all references to your conviction and cease disseminating information regarding your conviction. The letter also requests that, if possible, they forward this information to any other relevant

agencies, including the Federal Bureau of Investigation (FBI). You **MUST** enclose the copy of your signed order that you obtained from the Court Clerk after your hearing.

Mail this letter to the WSP at the same address to which you sent your criminal history report request. You should send this letter with delivery confirmation requested – **NOT** by certified mail – as you are sending it to a P.O. Box and no one is there to personally accept delivery.

After a few weeks have passed, call the WSP to ensure that they have received the order and are processing your request.

Approximately ninety days after the Order was obtain, you should confirm that your criminal history record with the WSP is up-to-date and correct. You can do this by ordering a new official and/or unofficial copy of your criminal history report.

Be prepared for the possibility that your criminal history information may have found its way into databases other than the WSP's. Consequently, you should also contact the FBI, local law enforcement, the Department of Licensing and other relevant agencies to request that their records concerning information be deleted or sealed. You may need to send them a court-stamped copy of your order. You should also keep a **court-stamped copy** of your order ready to present if someone like a prospective employer gets negative information from some other source. After sealing, the FBI may still disclose some information about the conviction. If disclosures are still being made, check your FBI records and contact the WSP.

WEST VIRGINIA

Right to Inspect and Obtain Copy: 29b-1-3

Purging of Non-conviction Information: 15-2-24

Individuals who are acquitted and have no prior criminal history may have their records returned to them from the criminal identification bureau, the central repository. W. Va. Code § 15-2-24(h). Unless previously convicted of a felony, individuals with no currently pending proceedings may apply for expungement of acquittals and dismissals 60 days after the court order. If expunged, the individual may deny the existence of the arrest. W. Va. Code § 61-11-25(a) and (d).

Individuals granted full and unconditional pardons may apply for expungement of the underlying conviction two years after the pardon and 20 years following discharge of the sentence, unless convicted of first degree murder, treason, kidnaping, or any felony. W. Va. Code § 5-1-16a

Chapter 5. General Powers and Authority of the Governor §5-1-16a. Expungement of criminal record upon full and unconditional pardon.

(a) Any person who has received a full and unconditional pardon from the governor, pursuant to the provisions of section eleven, article VII of the constitution of West Virginia and section sixteen of this article, may petition the circuit court in the county where the conviction was had to have the record of such conviction expunged. The petition shall be served upon the prosecuting attorney of the county where the petition was filed. Any person petitioning the court for an order of expungement shall publish a notice of the time and place that such petition will be made, which notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the petition is filed. The circuit court, upon verification of the act of pardon and after a hearing to determine that good cause exists, may enter an order directing that all public record of the petitioner's conviction be expunged. (b) The record expunged pursuant to the provisions of this section may not be considered in an application to any educational institution in this state or an application for any licensure required by any professional organization in this state. (c) No person shall be eligible for expungement pursuant to this section until two years after having been pardoned. (d) No person shall be eligible for expungement pursuant to this section until twenty years after the discharge of his or her sentence upon the conviction for which he or she was pardoned. (e) No person shall be eligible for expungement of a record of conviction of first degree murder, as defined in section one, article two, chapter sixty-one of this code;

treason, as defined in section one, article one of said chapter; kidnaping, as defined in section fourteen-a, article two of said chapter; or any felony defined in article eight-b of said chapter.

Chapter 62. Criminal Procedures §62-12-13. Powers and duties of board; eligibility for parole; procedure for granting parole. (Selected subsections relating to pardons, commutations, and reprieves) (a) The board of parole, whenever it is of the opinion that the best interests of the state and of the inmate will be served, and subject to the

limitations hereinafter provided, shall release any inmate on parole for terms and upon conditions as are provided by this article. ...

(g) The board shall, with the approval of the governor, adopt rules governing the procedure in the granting of parole. No provision of this article and none of the rules adopted hereunder are intended or may be construed to contravene, limit or otherwise interfere with or affect the authority of the governor to grant pardons and reprieves, commute sentences, remit fines or otherwise exercise his or her constitutional powers of executive clemency. ...

(l) The board shall, if so requested by the governor, investigate and consider all applications for pardon, reprieve or commutation and shall make recommendation thereon to the governor. (m) Prior to making a recommendation for pardon, reprieve or commutation and prior to releasing any inmate on parole, the board shall notify the sentencing judge and prosecuting attorney at least ten days before the recommendation or parole.

Chapter 28. State Correctional and Penal Institutions §28-5-27. Deduction from sentence for good conduct. (a) All adult inmates now in the custody of the commissioner of corrections, or hereafter committed to the custody of the commissioner of corrections, except those committed pursuant to article four, chapter twenty-five of this code shall be granted commutation from their sentences for good conduct in accordance with this section. (b) Such commutation of sentence, hereinafter called "good time," shall be deducted from the maximum term of indeterminate sentences or from the fixed term of determinate sentences. (c) Each inmate committed to the custody of the commissioner of corrections and incarcerated in a penal facility pursuant to such commitment shall be granted one day good time for each day he or she is incarcerated, including any and all days in jail awaiting sentence and which is credited by the sentencing court to his or her sentence pursuant to section twenty-four, article eleven, chapter sixty-one of this code or for any

other reason relating to such commitment. No inmate may be granted any good time for time served either on parole or bond or in any other status where by he or she is not physically incarcerated. (d) No inmate sentenced to serve a life sentence shall be eligible to earn or receive any good time pursuant to this section. (e) An inmate under two or more consecutive sentences shall be allowed good time as if the several sentences, when the maximum terms thereof are added together, were all one sentence. (f) The commissioner of corrections shall promulgate separate disciplinary rules for each institution under his control in which adult felons are incarcerated, which rules shall describe acts which inmates are prohibited from committing, procedures for charging individual inmates for violation of such rules and for determining the guilt or innocence of inmates charged with such violations and the sanctions which may be imposed for such violations. A copy of such rules shall be given to each inmate. For each such violations, by an inmate so sanctioned, any part or all of the good time which has been granted to such inmate pursuant to this section may be forfeited and revoked by the warden or superintendent of the institution in which the violation occurred. The warden or superintendent, when appropriate and with approval of the commissioner, may restore any good time so forfeited. (g) Each inmate, upon his or her commitment to and being received into the custody of the commissioner of the department of corrections, or upon his return to custody as the result of violation of parole pursuant to section nineteen, article twelve, chapter sixty-two of this code, shall be given a statement setting forth the term or length of his or her sentence or sentences and the time of his minimum discharge computed according to this section. (h) Each inmate shall be given a revision of the statement described in subsection (g) if and when any part or all of the good time has been forfeited and revoked or restored pursuant to subsection (f) whereby the time of his or her earliest discharge is changed. (i) The commissioner of corrections may, with the approval of the governor, allow extra good time for inmates who perform exceptional work or service. (j) In order to ensure equitable good time for all inmates now in the custody of the commissioner of corrections or hereafter committed to the custody of such commissioner, except as to those persons committed pursuant to article four, chapter twenty-five of this code, all good times shall be computed according to this section and all previous computations of good time under prior statutes or regulations are hereby voided. All inmates who have previously forfeited good time are hereby restored to good time computed according to this section and all inmates will receive a new discharge date computed according to this section. All inmates that have been awarded overtime good time or extra good time pursuant to sections twenty-seven-a and twenty-seven-b of this article which are repealed simultaneously with the amendment to this section during the regular session of the Legislature in the year one thousand nine hundred eighty- four, shall receive such good time in addition to the good time computed according to this section. (k) There shall be no grants or accumulations of good time or credit to any inmate now or hereafter serving a sentence in the custody of the department of corrections except in the manner provided in this section.

WISCONSIN

Right to Inspect and Obtain Copy: 19.35(1)

Purging of Non-conviction Information: 165.84(1)

(a) At the time of the commission of an offense for which the person has been found guilty in a court for violation of a law for which the maximum penalty is imprisonment for one year or less in the county jail, the court may order at the time of sentencing that the record be expunged upon successful completion of the sentence if the court determines the person will benefit and society will not be harmed by this disposition.

The court shall order at the time of sentencing that the record be expunged upon successful completion of the sentence if the offense was a violation of [s. 942.08 \(2\) \(b\)](#), [\(c\)](#), or [\(d\)](#), and the person was under the age of 18 when he or she committed it.

A person has successfully completed the sentence if the person has not been convicted of a subsequent offense and, if on probation, the probation has not been revoked and the probationer has satisfied the conditions of probation. Upon successful completion of the sentence the detaining or probationary authority shall issue a certificate of discharge which shall be forwarded to the court of record and which shall have the effect of expunging the record. If the person has been imprisoned, the detaining authority shall also forward a copy of the certificate of discharge to the department.

PAROLES AND PARDONS 304.08

304.08 Applications for pardon; regulations. All applications for pardon of any convict serving sentence of one year or more, except for pardons to be granted within 10 days next before the time when the convict would be otherwise entitled to discharge pursuant to law, shall be made and conducted in the manner hereinafter prescribed, and according to such additional regulations as may from time to time be prescribed by the governor.

History: 1989 a. 31 s. 1707; Stats. 1989 s. 304.08.

Executive clemency in Wisconsin. Bauer, 1973 WLR 1154.

304.09 Notice of pardon application. (1) In this section:

(a) "Member of the family" means spouse, child, sibling, parent or legal guardian.

(b) "Victim" means a person against whom a crime has been committed.

(2) The notice of the pardon application shall state the name of the convict, the crime of which he or she was convicted, the date and term of sentence and the date if known,

when the application is to be heard by the governor. The notice shall be served on the following persons, if they can be found:

- (a) The judge who participated in the trial of the convict.
- (b) The district attorney who participated in the trial of the convict.
- (c) The victim or, if the victim is dead, an adult member of the victim's family.

(3) The notice shall inform the persons under sub. (2) of the manner in which they may provide written statements or participate in any applicable hearing. The applicant shall serve notice on the persons under sub. (2) (a) and (b) at least 3 weeks before the hearing of the application. The governor shall make a reasonable attempt to serve notice on the person under sub. (2) (c) at least 3 weeks before the hearing of the application. The notice shall be published at least once each week for 2 successive weeks before the hearing in a newspaper of general circulation in the county where the offense was committed. If there is no such newspaper, the notice shall be posted in a conspicuous place on the door of the courthouse of the county for 3 weeks before the hearing and published once each week for 2 consecutive weeks before the hearing in a newspaper published in an adjoining county. Publication as required in this subsection shall be completed by a date designated by the governor. The date shall be a reasonable time prior to the hearing date.

History: 1983 a. 364; 1989 a. 31 s. 1708; Stats. 1989 s. 304.09; 1997 a. 181.

304.10 Pardon application papers; victim's statement.

(1) An application for pardon shall be accompanied by the following papers:

- (a) Notice of application and acknowledgments or affidavits showing due service and affidavits showing due publication and posting whenever required;
- (b) A certified copy of the court record entries, the indictment or information, and any additional papers on file in the court, if obtainable, as the governor requires;
- (c) A full sworn statement by the applicant of all facts and reasons upon which the application is based;
- (d) Written statements by the judge and the district attorney who tried the case, if obtainable, indicating their views regarding the application and stating any circumstances within their knowledge in aggravation or extenuation of the applicant's guilt;
- (e) A certificate of the keeper of the prison where the applicant has been confined showing whether the applicant has conducted himself or herself in a peaceful and obedient manner.

(2) When a victim or member of the victim's family receives notice under s. 304.09 (3), he or she may provide the governor with written statements indicating his or her views regarding the application and stating any circumstances within his or her knowledge in aggravation or extenuation of the applicant's guilt. Upon receipt of any such statement, the governor shall place the statement with the other pardon application papers.

(3) Any statement or paper containing a reference to the address of a victim or a member of the victim's family which is contained in a statement or other paper accompanying a pardon application is not subject to s. 19.35 and shall be closed to the public.

The governor, using the procedure under s. 19.36 (6), shall delete any reference to the address in any statement or paper made public.

WYOMING

Right to Inspect and Obtain Copy: 7-19-109

Purging of Conviction Information: 7-13-301

Sealing Non-conviction Information: 13.50.050

Sealing of Conviction Information: 13.50.050

WHEN AM I ELIGIBLE TO APPLY FOR OR A PARDON?

To be eligible for consideration to receive a pardon, the waiting period is not less than 10 years from the time of release from sentence. "Release from sentence" means final discharge from service of the sentence, whether the sentence was incarceration or supervision on probation or parole.

HOW DO I APPLY FOR A PARDON?

You must submit a written application to the Governor to request restoration of rights or a pardon. The application is available from the Attorney General at:

Wyoming Attorney General

Criminal Division

123 Capitol Building

Cheyenne, Wyoming 82002

(307) 777-7977

A document detailing the Governor's Policies On Pardons and Restorations of Rights is also available from the Wyoming Attorney General, Criminal Division.

The completed application should be submitted to the Governor's office at:

Governor of Wyoming

Wyoming State Capitol

Cheyenne, WY 82002

(307) 777-7434

What information should I include in my application for a pardon?

1. Your name, address, date of birth, marital status, children and social security number;
2. Hospitalizations within the last five years;
3. Whether you are seeking a pardon or restoration of rights and whether you would accept a restoration of rights if your pardon is not granted;
4. The crime for which you were convicted and for which you are now seeking a pardon or restoration of rights;
5. The date and place of the conviction and the presiding judge's name;
6. The sentence ordered by the court;

7. The amount of time actually served in prison/jail, whether all fines, restitution and court costs for the crime have been paid, and when you were discharged from probation or parole;
8. Any subsequent arrests, criminal charges, convictions or sentences;
9. Current employment information and employment history for the past five years; and
10. The names and telephone numbers of five people who support your receiving a pardon.

What type of information does the application for a pardon?

In addition to the information listed above, the application for a pardon request:

1. A certified copy of the Judgment and Sentence (this must be attached to the application);

2. A written statement in your own words of the facts and circumstances of your crime and how it has affected you and your family, and how you believe it has affected your victim;
3. Documents the Governor may request, such as parole and work release records and any other documents, transcripts, letters or information you want considered with the application; and
4. Submission of the application authorizes the Attorney General to perform a criminal history record check on you.

Is there anyone I can call at the Attorney General's Office for help with my application for a pardon or a restoration of rights?

The Wyoming Attorney General's Office, Criminal Division at (307) 777-7977 is able to assist you with your application.

Must notice be given to anyone before my right to vote can be restored?

If you are seeking a *pardon*, the Governor must provide notice to the district attorney in the county where you were convicted.

What is the procedure once I submit my application for a pardon?

After receiving your application for a *pardon*, the Governor must provide at least three weeks notice before consideration to the district attorney in the county where you were convicted. The district attorney must, within ten days of receiving this notice, provide the Governor with a statement detailing your conviction and any aggravating or extenuating factors which appeared in your trial and sentencing. If you are applying for a *restoration of rights*, the above procedure is not required, but the Governor notifies the district attorney as a matter of practice. Once the application is submitted, it takes from three to six months to be processed and a decision to be made. The Governor or his designee may request to meet with you, but this rarely happens. Once a pardon or restoration of rights is granted, a copy of the pardon or restoration of rights is filed with the Wyoming Secretary of State.

Get a copy of your criminal history from another state. If you had criminal cases in other states, contact those courts directly about your criminal record information. You may also want to contact the Federal Bureau of Investigation(FBI) if you are not sure of your complete record in other states, and the website is www.fbi.gov. Their address is:

FBI-CJIS Division - Record Request
1000 Custer Hollow Road
Clarksburg, VA 26306
(no contact via phone)