

EXPUNGEMENT PROCEDURE FOR CERTAIN **CRIMINAL** CONVICTIONS AND DIVERSION  
AGREEMENTS PURSUANT TO K.S.A. 21-4619

**I. Procedure**

- A. To expunge your case, you need to completely fill out the attached forms and file them in the correct office.
  - 1. Conviction/Diversion & Dismissed Cases are filed in either the Traffic Department (Basement) or Criminal (2nd Floor), depending on what department your case is filed in.
  - 2. Arrest Record expungements are filed in the Civil Department (3<sup>rd</sup> Floor)
- B. Make sure that **All Court Costs** in the original action are paid before filing the petition.
- C. There is a \$195 filing fee that must be paid before the Petition can be filed with the Criminal Clerk's Office.
  - 1. Payments are made in the Accounting Department on the 3<sup>rd</sup> Floor. Make checks payable to: Clerk of the District Court
  - 2. There is no fee for expunging a **DISMISSED/NOT GUILTY** case.
- D. You may act as your own attorney (Pro Se) or you may hire an attorney to help you fill out the Petition. Neither the Court Clerks or the District Attorney's staff are authorized to help you fill out the Petition.
- E. When filling out the Petition and Order for Expungement you must **answer ALL of the questions to the best of your ability.**
- F. The Petition must be notarized by a Notary Public (the 2<sup>nd</sup> page of the petition) before the Petition can be filed.
- G. After the Petition is filed with the Clerk's Office, you may contact the District Attorney's Office at (913-573-2851) for any questions that you may have. The process takes six (6) to eight (8) weeks from the time of filing the petition.
- H. The District Attorney's Office will do the necessary NCIC checks and notify the victims as provided in K.S.A. 74-7335.
- I. **The District Attorney's Office will provide the FBI and KBI numbers to the attorney for the Petitioner or, if Petitioner is Pro se, you may leave those parts blank (numbers 6 & 7 on the order)**
- J. **The District Attorney's Office will provide the FBI and KBI numbers to the attorney for the Petitioner or, if Petitioner is Prose, you may leave those parts blank (numbers 6 & 7 on the order)**
- K. If all statutory requirements are met and, if the District Attorney's Office and the victim do not object to the expungement, the District Attorney's Office will send a certified copy of the Order of Expungement to your attorney or to you if you are acting as your own attorney.

- L. If the District Attorney's Office and/or the victim object to the expungement, the District Attorney's office will inform your attorney, or will inform you, if you are acting as your own attorney. If you want a hearing then you will need to contact the Sentencing Judge and set up a court date. You then must inform the District Attorney of the Court Date.

**I. Crimes that can be expunged after a period of 3 years have elapsed.**

Any person convicted in this state of a traffic infraction, cigarette or tobacco infraction, misdemeanor or Class D or E felony, or crimes committed on or after July 1, 1993, nondrug crimes ranked in severity levels 6-10 or any felony ranked in severity level 4 on the drug grid, may petition the convicting court for the expungement of such conviction or related arrest records if three or more years have elapsed since the person: (1) Satisfied the sentence imposed; or (2) was discharged from probation, a community correctional services program, parole, post-release supervision, conditional release or a suspended sentence.

**II. Crimes that can be expunged after a period of 5 or more years have elapsed.**

No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, the terms of a diversion agreement, or was discharged from probation, a community correctional services program, parole, post release supervision, conditional release or a suspended sentence, if such person was convicted a Class A, B, or C felony or for crimes committed on or after July 1, 1993, if convicted of an off-grid felony or any nondrug crime ranked in severity levels 1 through 5 or any felony ranked in severity level 1 through 3 of the drug grid, or

1. Vehicular Homicide K.S.A 21-3405
2. Driving While Suspended K.S.A. 8-262
3. Making False Affidavit Perjury K.S.A. 8-261a
4. Violating the provisions of the fifth clause of K.S.A. 8-142, to use a false or fictitious name or address in any application for certificates of title, the registration of any vehicle or for any renewal or duplicate thereof.
5. Any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime. (Violating provisions of 21-3405a-Aggravated Vehicular Homicide).
6. Failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, an accident involving death or personal injury; duties of drivers, reports; penalties for violations; revocation of license, permit or driving privileges, K.S.A. 8-1603, an accident involving damage to vehicle or property; duties of drivers; penalties for violations, K.S.A. 8-1604, duty of driver to give information and render aid after accident.
7. Violating provisions of K.S.A. 40-3104, Motor Vehicle Liability Insurance Coverage Required.
8. Violation of K.S.A. 21-3405b, Vehicular Battery.

**IV. Crimes that CANNOT be expunged. There shall be no expungement of convictions for the following offenses or of convictions for an attempt to commit any of the following offenses:**

1. Rape K.S.A. 21-3502
2. Indecent Liberties with a Child K.S.A. 21-3503
3. Aggravated Indecent Liberties with a Child K.S.A. 21-3504
4. Criminal Sodomy K.S.A. 21-3505(a)(2) or (a)(3)
5. Aggravated Criminal Sodomy K.S.A. 21-3506
6. Indecent Solicitation of a Child K.S.A. 21-3510
7. Aggravated Indecent Solicitation of a Child K.S.A. 21-3511
8. Sexual Exploitation of a Child K.S.A. 21-3516
9. Aggravated Incest K.S.A. 21-3603
10. Endangering a Child K.S.A. 21-3608-
11. Aggravated Endangering a Child K.S.A. 21-3608a
12. Abuse of a Child K.S.A. 21-3609
13. Capital Murder K.S.A. 21-3439
14. Murder-First Degree K.S.A. 21-3401
15. Murder-Second Degree K.S.A. 21-3402
16. Voluntary Manslaughter K.S.A. 21-3403
17. Involuntary Manslaughter K.S.A. 21-3404
18. Involuntary Manslaughter while DUI K.S.A. 21-3442
19. Sexual Battery K.S.A. 21-3517
20. Aggravated Sexual Battery K.S.A. 21-3518
21. D.U.I in violation of K.S.A. 8-1567
22. Driving a Commercial Vehicle while Under the Influence K.S.A. 8-2,144
23. Any convictions for any offense in effect at any time prior to the effective date of this act, this is comparable to any offense as proved in this subsection.

NOTE: The lists in paragraphs II, III & IV are the present effective law on expungement. However, the law on expungement at the time of your conviction or diversion agreement controls whether your conviction or diversion agreement can be expunged. The District Attorney's office will look at the law at the time of your conviction or diversion agreement and notify you or your attorney if you are eligible for expungement.

Update: 02/2012

ORDER OF EXPUNGEMENT COVER SHEET  
(for submission to the Kansas Bureau of Investigation)

**DEFENDANT'S INFORMATION**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

MALE     FEMALE

DL OR STATE ID NO: \_\_\_\_\_

DOB: \_\_\_\_\_

ALIAS NAMES USED: \_\_\_\_\_

IN THE 29TH JUDICIAL DISTRICT  
DISTRICT COURT WYANDOTTE COUNTY, KANSAS  
CRIMINAL DEPARTMENT

State of Kansas

Plaintiff, )

Vs. )

Case No. \_\_\_\_\_

)

Defendant,

**PETITION FOR EXPUNGEMENT**

Comes now the defendant and petitions the Court, pursuant to the provisions of K.S.A. 21-6614, K.S.A. 21-6614a, K.S.A. 21-6614b, and K.S.A. 21-6614c for an Order of Expungement. In support of said Petition, the defendant states:

WHEREUPON, the Court, after reviewing the matter, finds as follows:

1. Defendant's full name is and was at the time of the arrest:

\_\_\_\_\_

2. The defendant's sex is \_\_\_\_\_; the defendant's race is \_\_\_\_\_; and the defendant's date of birth is \_\_\_\_\_.

3. The defendant's social security number is \_\_\_\_\_.

4. The crime for which the defendant was convicted or diverted was a violation of \_\_\_\_\_ a severity level \_\_\_\_\_ in violation of K.S.A. \_\_\_\_\_.

5. The defendant was convicted or diverted on the \_\_\_\_\_ day of \_\_\_\_\_ Before the Honorable Judge \_\_\_\_\_ Of the District Court of Wyandotte County, Kansas.

6. More than \_\_\_\_\_ years have elapsed since the defendant satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, post-release supervision, conditional release or suspended sentence on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

7. The defendant has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the defendant.

True  False

8. All the court costs in the above captioned matter have been paid in full.

Yes  No.

\_\_\_\_\_  
Defendant

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Defendant or Pro Se Defendant

STATE OF KANSAS                    )  
  ) ss:  
COUNTY OF WYANDOTTE        )

\_\_\_\_\_ of lawful age, being first duly sworn on his or her oath, states:

That he or she is the defendant above named, that he or she has read the foregoing Petition for Expungement and knows the facts thereof: and that the statements made therein are true and correct.

\_\_\_\_\_  
Defendant

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:  
\_\_\_\_\_



9. The defendant has not been convicted of a felony in the past two years and no proceedings involving any such crime is presently pending or being instituted against the defendant.
10. The circumstances and behavior of the defendant warrant the expungement.
11. The expungement is consistent with the public welfare.

**IT IS THEREFORE CONSIDERED, ORDERED ADJUDGED AND DECREED** that the Conviction or diversion and all arrest records regarding this matter are hereby ordered expunged. The Clerk of the Court Shall notify the Kansas Bureau of Investigation, the Secretary of Corrections, the Sheriff of Wyandotte County and any other criminal justice agency having a record of the said arrest, conviction or diversion.

**HENCEFORTH**, the defendant shall be treated as not having been arrested, convicted or diverted of the crime described herein, except as provided in K.S.A. 21-6614(g) and (j), K.S.A. 21- 6614a(g) and(j), K.S.A. 21-6614b(g) and (j), and K.S.A. 21-6614c(g) and (j).

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JUDGE OF THE DISTRICT COURT  
WYANDOTTE COUNTY, KANSAS  
DIVISION NO. \_\_\_\_\_

APPROVED:

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\_\_\_\_\_ # \_\_\_\_\_  
Assistant District Attorney  
Wyandotte County District Attorney's Office  
710 N 7th Street  
Kansas City, KS 66101  
(913) 573-2851

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Attorney for Defendant or Pro Se Defendant