

## **EXPUNGEMENT OF ARREST RECORDS AND DISMISSED CASES**

### **EXPUNGEMENT PROCEDURE FOR CERTAIN 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 (2<sup>nd</sup> 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) **ONLY** if no criminal case has been filed. If a criminal case HAS been filed, you will file it in the Criminal Department, 2<sup>nd</sup> Floor.

**\*\*\*MAKE SURE THAT YOU ARE FILING THE CORRECT PAPERWORK IN THE CORRECT OFFICE. IF UNSURE, PLEASE ASK THE CLERK IN THE SELF-HELP CENTER.**

- 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.
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 nor 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. 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.
- K. 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.

## **II. 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.

## **III. 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.

**Self-Represented Litigant Certification Form**

By signing this form, I certify that, to the best of my knowledge, information, and belief, and based on my reasonable review of the document's contents, the attached filing complies with the certification requirements in the Temporary Rule for Filing in a District Court by a Self-Represented Litigant as follows:

- (a) I have signed the attached filing and provided my name, address, email address (if available), telephone number, and fax number (if available); and
- (b) The attached filing contains no personally identifiable information (PII) or meets an exception in the Temporary Rule for Filing in a District Court by a Self-Represented Litigant because the filing (check box that applies):

contains no PII (if this box is checked, do not check any other boxes); or

requests that this document be sealed under the Temporary Rule for Filing in a District Court by a Self-Represented Litigant for the following reason (check box that applies):

a pre-existing order was entered by the court on \_\_\_\_\_ that seals this document.

this document asks the court to issue an order that seals the following document: [include general description of document contents without including PII.] \_\_\_\_\_;

or

this document asks the court to seal the following document already filed in the case: [describe the document already on file so that the clerk can identify it without using PII]  
\_\_\_\_\_.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Party: \_\_\_\_\_

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 DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

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. 22-2410 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 arrested was a violation of \_\_\_\_\_ a severity level \_\_\_\_\_ in violation of K.S.A. \_\_\_\_\_
5. The defendant was arrested on the \_\_\_\_\_ day of \_\_\_\_\_ by the \_\_\_\_\_ (arresting agency) in Wyandotte County, Kansas.
6. The defendant's FBI number is \_\_\_\_\_
7. The defendant's KBI number is \_\_\_\_\_

8. The defendant is seeking to expunge his arrest record because: (check one)

- The arrest occurred because of mistaken identity
- A court found that there was no probable cause for the arrest
- The expungement would be in the best interests of justice and

Charges have been dismissed or

No charges have been or are likely to be filed

\_\_\_\_\_  
Defendant

Address \_\_\_\_\_  
\_\_\_\_\_

Telephone No: \_\_\_\_\_

Email: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Defendant

STATE OF KANSAS

) ss:

COUNTY OF WYANDOTTE

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

That  he  she is the defendant above named, that  he  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: \_\_\_\_\_

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

State of Kansas

Plaintiff,

Vs.

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

\_\_\_\_\_  
Defendant,

ORDER OF EXPUNGEMENT

NOW, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above Matter comes on for hearing on the defendant Petition for Expungement, Pursuant to the provisions of K.S.A. 22-2410.

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

1. Defendant's full name is and was at the time of the arrest the same as set out in the caption above: \_\_\_\_\_
2. The defendant's sex is \_\_\_\_\_; the defendant 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 arrested was a violation of \_\_\_\_\_ a severity level \_\_\_\_\_ in violation of K.S.A. \_\_\_\_\_.
5. The defendant was arrested on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the \_\_\_\_\_ in Wyandotte County, Kansas.
6. The defendant's FBI number is \_\_\_\_\_.
7. The defendant's KBI number is \_\_\_\_\_
8. The court finds that
  - the arrest occurred because of mistaken identity
  - a court has found that there was no probable cause for the arrest
  - the defendant was found not guilty in court proceedings
  - or the expungement would be in the best interests of justice and  charges have been dismissed or  no charges have been or are likely to be filed.



**IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED** that all arrest records regarding this matter are hereby ordered expunged. The Clerk of the Court shall send a certified copy of this Order of Expungement to the Kansas Bureau of Investigations, which shall notify the Federal Bureau of Investigation, the Secretary of Corrections, the Sheriff of Wyandotte County and any criminal justice agency having a record of the said arrest.

**HENCEFORTH**, the defendant shall be treated as not having been arrested of the crime described herein.

---

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

APPROVED:

---

# \_\_\_\_\_

Assistant District Attorney

Wyandotte County District Attorney's Office  
710 N 7<sup>th</sup> Street  
Kansas City, Kansas 66101 (913) 573-2851

---

Attorney for Defendant or Pro Se Defendant