

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 (3rd 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 3rd Floor. Make checks payable to: Clerk of the District Court
 - 2. There is no fee for expunging a **DISMISSED** 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 not 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 2nd 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)**
- K. **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)**
- L. 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.

M. 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.

A. 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.

A. 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

For Office Use Only

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: _____
State and Number

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:

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

State of Kansas)
Plaintiff,)
Vs) Case No. _____
_____)
Defendant,)

ORDER OF EXPUNGEMENT

Comes now the defendant and petitions the Court, pursuant to the provisions of K.S.A. 21-6614, 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, conviction or diversion:

2. The defendant's sex is _____; the defendant's race is _____ 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 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. The defendant's FBI number is _____
7. The defendant's KBI number is _____

8. 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 _____
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).

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

APPROVED:

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

Attorney for Defendant or Pro Se Defendant