

EXPUNGEMENT INFORMATION PACKET

This is an outline of the requirements for expungements and basic guidelines for completing expungement forms. Attached are examples of expungement motions and orders. Court staff cannot give legal advice. If you have questions about preparing an expungement beyond what is contained here, please consult an attorney. For the purposes of this procedure, “expungement” means the sealing of records so that they are unavailable except to the Petitioner, criminal justice agencies and as otherwise provided for by federal, state and municipal laws. See: Charter Ordinance 224.

In preparing your expungement pleadings, please be aware of the specific Court Rules as to style and paper size for court documents. Court rules require the following (the most frequent problems that cause rejection have been bolded):

... papers prepared ... for filing in the courts shall, ... be **typed or printed legibly with black ink on one side only of a standard size (8.5 x 11) sheets and shall include the name, address, and telephone number of the attorney (or of the defendant, if the defendant has no attorney) filing them.** Typing shall be **double-spaced** except that single spacing may be used for subparagraphs, legal descriptions of real estate, itemizations, quotations, and similar subsidiary portions of the instrument. The **Municipal Court docket number ... and the Wichita Police Department case number must be included** with the caption upon each pleading to be filed.

- Your original must be double-spaced, on one side only of 8.5 x 11 paper.
- Include name, address, and telephone number (see sample).
- When filing, you will need to supply the original Motion and original Order with one (1) copy.
- The sample Motions and Orders are samples. You must use their wording and then personalize them by filling in the required information about your specific case.
- There are two samples:

Sample No. 1 is for situations where you were arrested and convicted of an offense or you were granted deferred judgment or diversion. It is to be used if you are trying to expunge the conviction(s) or a diversion/deferred judgment and the related arrest records.

Sample No. 2 is for situations where you were arrested but never charged with an offense, where you were charged but the case was dismissed, or where you were charged and subsequently found “not guilty” after trial. It is to be used if you are trying to expunge arrest record(s) and the subsequent court proceedings, if any.

- If you need the information requested (dates, case numbers, etc.) you must request a self-record check for expungement from the Court Clerk’s Office.
- The cost for filing an expungement is **\$90.00 per police case (not court case).**
- Motions are filed at the Attorney Window (adjacent to the Court Clerk’s Office on the 2nd Floor of the City Hall building, 455 N. Main, Wichita, KS 67202) between 8 a.m. and 4:45 p.m.

**EXPUNGEMENT OF CONVICTION(S), DIVERSIONS OR
DEFERRED JUDGMENT(S) AND RELATED ARREST RECORDS**

Charter Ordinance No. 224, Section 12, of the Code of the City of Wichita provides a procedure by which you may have your Municipal Court conviction(s) and/or diversion/deferred judgment(s), and related arrest records, expunged.

REQUIREMENTS

Any person who has been convicted of an offense or has been placed on a diversion/deferred judgment for a violation of a City of Wichita Ordinance may petition the court for an order of expungement if three or more years have elapsed since the person:

1. Satisfied the sentence imposed; or
2. Was discharged from probation, parole or a suspended sentence; or
3. Fulfilled the terms of the diversion/deferred judgment agreement.

However, no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, or fulfilled the terms of a diversion/deferred judgment agreement, or was discharged from probation, parole or suspended sentence if such person was convicted of or granted diversion/deferred judgment from a violation of one of the following crimes:

1. Driving while license is suspended or revoked (Section 11.42.030(c));
2. Failure to stop at the scene of an accident and perform the duties required (Sections 11.12.010,11.12.020,11.12.030, 11.12.040 and 11.12.050);
3. Failure to carry Liability Insurance (Section 11.13.010).

Additionally, no person may petition for expungement until ten or more years have elapsed since the person satisfied the sentence imposed, or fulfilled the terms of a diversion/deferred judgment agreement, or was discharged from probation, parole or suspended sentence if such person was convicted of or granted diversion/deferred judgment from a violation of one of the following crimes:

1. Driving Under the Influence of Alcohol and/or Drugs (Section 11.38.150)

Per state law, you cannot expunge a conviction or diversion for driving a commercial vehicle while under the influence of alcohol and/or drugs (Section 11.38.155). The law in effect at the time of your arrest will determine if the offense may be expunged.

**PROCEDURE FOR REQUESTING THE EXPUNGEMENT OF A CONVICTION,
DIVERSION OR DEFERRED JUDGMENT AND RELATED ARREST RECORDS**

To request an expungement of conviction, diversion or deferred judgment and the related arrest records, the Petitioner must submit to the Municipal Court Clerk's Office an original plus one (1) copy of the Motion and Order.

The \$90 filing fee must accompany the Motion and Order.

The Court will set a date for a hearing on the Motion. **Unless presented by an attorney, you must attend the hearing.** Any expungement for crimes falling within the scope of the Victim's Rights Act require notification of the hearing to the victim and he/she will be given an opportunity to address the Court regarding the motion for expungement.

The Motion and Order must contain the following information:

1. The Petitioner's full name;
2. The Petitioner's full name at the time of arrest, conviction or diversion/deferred judgment, if different;
3. The Petitioner's sex, race, date of birth and social security number;
4. The offense(s) and the ordinance number(s) for which the Petitioner was arrested, convicted, or diverted;
5. The date of arrest(s), conviction(s) or diversion/deferred judgment(s);
6. The citation number(s), docket number(s) and the Wichita Police Department Case Numbers for the conviction(s) or diversion(s)/deferred judgment(s);
7. The date showing the fulfillment of the terms of the diversion/deferred judgment agreement, or the conditions of parole/probation (if any);
8. Whether there has been a conviction of a felony in the past two (2) years and whether there are any traffic or criminal proceedings which are currently pending or will be instituted against the Petitioner in any court or jurisdiction; and
9. Facts setting forth the reason Petitioner's conviction(s) or diversion/deferred judgment(s) and related arrest records should be expunged;

If your case was appealed to the District Court, the motion for expungement should be filed in District Court.

EXPUNGEMENT OF ARREST RECORDS

Charter Ordinance No. 224, Section 13 of the Code of the City of Wichita provides a procedure by which any person who has been arrested for a violation of a city ordinance may petition the Municipal Court for expungement of the arrest records when:

1. No charges have been or are likely to be filed;
2. Charges have been dismissed; or
3. The Petitioner has been found not guilty in court proceedings.

PROCEDURE FOR EXPUNGEMENT OF ARREST RECORDS

To request an expungement of arrest records, the Petitioner must submit to the Municipal Court Clerk's Office an original and one (1) copy of a Motion and Order. Only one arrest may be expunged in each original petition and a \$90 filing fee will be assessed per arrest. The filing fee must accompany the Motion and Order.

The Court shall set a date for hearing on the Motion. **Unless you are represented by an attorney, you must attend the hearing.** Any expungement for arrest records falling within the scope of the Victim's Rights Act require notification to the victim(s). At the hearing, the victim(s) will be given an opportunity to address the court regarding the expungement.

The Motion and Order for Expungement of Arrest Records must contain the following information:

1. The Petitioner's full name;
2. The Petitioner's full name at the time of arrest, if now different;
3. The Petitioner's sex, race, date of birth, and social security number;
4. The offense(s) and the ordinance number(s) for which the Petitioner was arrested;
5. The date of arrest(s);
6. The Wichita Police Department Case Number(s) for the incident involving the arrest;
7. If the Petitioner was found not guilty in a court proceeding, or the charges have been dismissed, the applicable court, the case number or docket number and the date of final disposition.

SAMPLE NO. 1

SAMPLE MOTION AND ORDER FOR EXPUNGEMENT OF CONVICTION, DEFERRED JUDGMENT OR DIVERSION AND RELATED ARREST RECORDS

**(This form is to serve as an example only. Photocopies of this form will not be accepted as an original motion and order. Original motions and orders should be typed or printed neatly.)
IN THE MUNICIPAL COURT OF WICHITA, KANSAS**

CITY OF WICHITA,)	
)	
Plaintiff,)	
v.)	Docket No. _____
)	
JOHN DOE,)	WPD Case No. _____
)	
)	
Defendant,)	
_____)	

MOTION AND ORDER FOR EXPUNGEMENT OF CONVICTION OR DIVERSION AND RELATED ARREST RECORDS

COMES NOW, _____, Petitioner and moves the Court for an order of expungement, pursuant to Charter Ordinance No. 224, Section 12, of the Code of the City of Wichita. In support of his/her motion, Petitioner would show the court the following:

1. Petitioner’s full name at the time of his/her arrest was _____. Petitioner’s current name is _____. Petitioner is a _____ [race/sex] whose date of birth is _____. Petitioner’s social security number is XXX-XX-_____.
2. Petitioner was arrested on _____ [date] for the crime of _____ [charge] in violation of Section _____ of the Code of the City of Wichita. The docket number for the offense was _____.
3. Petitioner was [convicted of/placed on diversion for] _____ [crime] on _____ [date] in Wichita Municipal Court.
4. Petitioner [satisfied the sentence imposed/fulfilled the terms of the diversion agreement] on _____ [date].
5. Petitioner has not been convicted of a felony in the past two (2) years, and there is no proceeding involving any crime which is presently pending or being instituted against the Petitioner.
6. The circumstances and behavior of the Petitioner warrant expungement, and the expungement is consistent with the public welfare. As of the date this Petition for expungement is filed, there are no criminal or traffic charges pending in any court or jurisdiction against the Petitioner.

WHEREFORE, Petitioner requests that the Court enter an order expunging his/her conviction(s) and the related arrest records as set forth above, and grant any and all other further relief the court deems just and equitable.

Petitioner

ORDER FOR EXPUNGEMENT

NOW ON THIS ____ day of _____, _____, this matter comes on for hearing upon the Motion of the Petitioner for an order expunging his/her conviction(s) and related arrest records. The Petitioner appears in person, *Pro Se*. The City of Wichita appears by and through its attorney, _____. The Court, after having examined the file and hearing the statements of counsel, finds:

1. Petitioner's full name at the time of his/her arrest was _____. Petitioner's current name is _____. Petitioner is a _____ [race/sex] whose date of birth is _____. Petitioner's social security number is XXX-XX-_____.
2. Petitioner was arrested on _____ [date] for the crime of _____ [charge] in violation of Section _____ of the Code of the City of Wichita. The docket number for the offense was _____.
3. Petitioner was convicted of _____ [crime] on _____ [date] in Wichita Municipal Court.
4. Petitioner satisfied the sentence imposed on _____ [date].
5. Petitioner has not been convicted of a felony in the past two (2) years, and there is no proceeding involving any crime which is presently pending or being instituted against the Petitioner.
6. The circumstances and behavior of the Petitioner warrant expungement, and the expungement is consistent with the public welfare. As of the date this Petition for expungement is filed, there are no criminal or traffic charges pending in any court or jurisdiction against the Petitioner.
7. The circumstances and behavior of the Petitioner warrant the expungement.
8. The expungement is consistent with the public welfare.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the defendant's (conviction or diversion) and related arrest records should be and are hereby expunged and defendant shall be treated as not having been arrested (diverted or convicted) except as set out below or otherwise set out by law, including conviction for any subsequent crime.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the defendant shall disclose the arrest and (conviction or diversion) herein expunged as follows:

1. In any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01, and amendments thereto, 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 in this state;

3. To aid in determining the defendant's qualifications for employment with the Kansas Lottery or for work in sensitive areas within the Kansas Lottery as deemed appropriate by the executive director of the Kansas Lottery;
4. To aid in determining the defendant's qualifications for executive director of the Kansas Racing and Gaming Commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;
5. To aid in determining the defendant's qualifications for the following under the Kansas Expanded Lottery Act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;
6. Upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;
7. To aid in determining the defendant's qualifications to be an employee of the state gaming agency;
8. To aid in determining the defendant's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;
9. In any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-12a102, and amendments thereto;
10. In any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or
11. For applications received on and after July 1, 2006, to aid in determining the defendant's qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act, K.S.A. 75-7c01 *et seq.*, and amendments thereto;

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that upon entry of this Order of Expungement, the expunged arrest and (conviction or diversion) shall not be disclosed, except when requested by:

1. The person whose record was expunged;
2. A criminal justice agency, private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;
3. A court, upon a showing of 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, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of the Department of Social and Rehabilitation Services of any person whose record has been expunged;
5. A person entitled to such information pursuant to the terms of the expungement order;
6. A prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;
7. The Supreme Court, the Clerk or Disciplinary Administrator thereof, the State Board for Admission of Attorneys or the State Board for Discipline of Attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged;
8. The Kansas Lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas Lottery or for work in sensitive areas within the Kansas Lottery as deemed appropriate by the executive director of the Kansas Lottery;
9. The governor or the Kansas Racing and Gaming Commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
10. The state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications: (a) to be an employee of the state gaming agency; or (b) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-gaming compact;
11. The Kansas securities commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged;
12. The attorney general and the request is accompanied by a statement that the request is being made to aid in determining qualifications for a license to carry a concealed weapon pursuant to the personal and family protection act.
13. The Kansas sentencing commission;
14. The Kansas commission on peace officers' standards and training 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;

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, and amendments thereto; or
16. The Kansas Racing and Gaming Commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications of the following under the Kansas Expanded Lottery Act: (a) lottery gaming facility managers and prospective managers, racetrack gaming facility managers and prospective managers, licensees and certificate holders; and (b) their officers, directors, employees, owners, agents and contractors;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of the Municipal Court, upon receipt and filing herein, shall send a certified copy of the Order of Expungement to the Kansas Bureau of Investigation which shall notify the Federal Bureau of Investigation, the Secretary of Corrections, and any other criminal justice agency which may have a record of the arrest or (conviction or diversion) 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 (convicted or diverted) of the crimes herein, subject to the provisions and conditions stated herein and stated in K.S.A. 21-4619.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Order of Expungement does not affect any previous Court Order dealings with cost, fees, and restitution. All amounts unpaid are still due and owing unless otherwise specified within this Order of Expungement.

JUDGE OF THE WICHITA MUNICIPAL COURT

APPROVED:

Assistant City Attorney

Attorney for Defendant

SAMPLE NO. 2

SAMPLE MOTION AND ORDER FOR EXPUNGEMENT OF ARREST RECORDS
(This form is to serve as an example only. Photocopies of this form will not be accepted as an original motion and order. Original motions and orders should be typed or printed neatly.)

IN THE MUNICIPAL COURT OF WICHITA, KANSAS

CITY OF WICHITA,)	
)	
Plaintiff,)	
)	
v.)	
)	
JOHN DOE,)	WPD Case No. _____
)	
)	
Defendant,)	
_____)	

MOTION AND ORDER FOR EXPUNGEMENT OF ARREST RECORDS

COMES NOW, _____, Petitioner and moves the Court for an order of expungement, pursuant to Charter Ordinance No. 224, Section 13. In support of his/her motion, Petitioner would show the court the following:

1. Petitioner’s full name at the time of his/her arrest was _____. Petitioner’s current name is _____. Petitioner is a _____ [race/sex] whose date of birth is _____. Petitioner’s social security number is _____.
2. Petitioner was arrested on _____ [date] for the crime of _____ [charge] in violation of Section _____ of the Code of the City of Wichita.
3. The Wichita Police Department’s case number for the incident involving this arrest is _____.
4. There are grounds warranting expungement of Petitioner’s arrest, specifically, *[select one-four following reasons]* (1) the arrest occurred because of mistaken identity; (2) a court has found that there was no probable cause for the arrest; (3) the petitioner was found not guilty in court proceeding or (4) the expungement would be in the best interest of justice because charges have been dismissed or no charges have been or are likely to be filed.

WHEREFORE, Petitioner requests the Court enter an order expunging his/her record of arrest as set forth above, and grant any and all other further relief the court deems just and equitable.

Petitioner

ORDER FOR EXPUNGEMENT OF ARREST RECORD

NOW ON THIS ____ day of _____, _____, this matter comes on for hearing upon the Motion of the Petitioner for an order expunging his/her arrest record(s). The Petitioner appears in person [and by counsel, if applicable]. The City of Wichita appears by and through its attorney, _____.

The Court, after having examined the file and hearing the statements of counsel, finds:

1. Petitioner’s full name at the time of his/her arrest was _____. Petitioner’s current name is _____. Petitioner is a _____ [race/sex] whose date of birth is _____. Petitioner’s social security number is _____.
2. Petitioner was arrested on _____ [date] for the crime of _____ [charge] in violation of Section _____ of the Code of the City of Wichita.
3. The Wichita Police Department’s case number for the incident involving this arrest is _____.
4. There are grounds warranting expungement of Petitioner’s arrest, specifically (*list the grounds warranting expungement from the Petition for Expungement*).
5. That the defendant should be released from all penalties and disabilities resulting from said arrest and, except for the limitations set forth in Charter Ordinance 224, Section 13, the Petitioner shall be treated as not having been arrested for the crime set forth above.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the arrest(s) set forth above are hereby expunged. The Petitioner shall be treated in all respects as not having been arrested for the aforementioned crime except for the limitations set forth in Charter Ordinance 224, Section 13, of the Code of the City of Wichita, Kansas, if applicable.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that subject to the disclosures required pursuant to Charter Ordinance 224, Section 13 of the Code of the City of Wichita, Kansas, in any application for employment, license or other civil right or privilege, or as part of any appearance as a witness, the Petitioner may state that she/he has never been arrested, in relation to the above incident.

IT IS SO ORDERED.

Municipal Court Judge

APPROVED:

Petitioner

Assistant City Attorney