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

1. **Procedure**
	1. To expunge a Conviction or a Diversion Agreement case, you need to ask for the form for the Petition and Order for Expungement for a conviction or diversion agreement pursuant to K.S.A. 21-4619. The forms are available in the Criminal Clerk's Office.
	2. To expunge a Dismissed case, then you need to ask for the form for the Petition and Order for Expungement for a Dismissed case pursuant to K.S.A. 22-2410. The forms are available in the Criminal Clerk's Office.
	3. To expunge an Arrest Record, then you need to ask for the form for the Petition and Order for Expungement for an Arrest record pursuant to KS.A. 22-2410. The forms are available in Civil Clerk's Office.
	4. Make sure that All Court Costs in the original action are paid before filing the petition.
	5. There is a $195 filing fee that must be paid before the Petition can be filed with the Criminal Clerk's Office.
		1. The Criminal Clerk's Office will inform you where to make that payment.
	6. You may act as your own attorney (Pro Se) or you may hire an attorney to help you fill out the Petition. The Clerks in the Criminal Department or the District Attorney's staff are not authorized to help you fill out the Petition.
	7. When filling out the Petition and Order for Expungement you must answer ALL of the questions to the best of your ability.
	8. The Petition must be notarized by a Notary Public (the 2nd page of the petition) before the Petition can be filed.
	9. After the Petition is filed with the Criminal 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.
	10. The District Attorney's Office will do the necessary NCIC checks and notify the victims as provided in KS.A. 74-7335.
	11. **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)**
	12. 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.
	13. 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.
2. **Crimes that can be expunged after a period of 3 years have elapsed.**
	1. 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: (I) 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.
3. **Crimes that can be expunged after a period of 5 or more years have elapsed.**
	1. 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 I, 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

1. Driving While Suspended K.S.A. 8-262
2. Making False Affidavit Perjury K.S.A. 8-26la
3. 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.
4. Any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime. (Violating provisions of21-3405a-Aggravated Vehicular Homicide).
5. 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.
6. Violating provisions of K.S.A. 40-3104, Motor Vehicle Liability Insurance Coverage Required.
7. 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. 2!-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 KS.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 KS.A. 21-3402
16. Voluntary Manslaughter KS.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. 2 I -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 & JV 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

FFor Office Use Only

ORDEROFEXPUNGEMENTCOVERSHEET

(for submission to the Kansas Bureau of Investigation)

**DEFENDANT’S INFORMATION**

**NAME:** Click here to enter text.

**ADDRESS:** Click here to enter text.

**PHONE:** Click here to enter text.

 [ ]  MALE [ ]  FEMALE

**DL OR STATE ID NO:** Click here to enter text.

 State and Number

**DOB:** Click here to enter text.

**ALIAS NAMES USED:** Click here to enter text.

07-01-14

 IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

 CIVIL DEPARTMENT

IN RE: PETITION OF:

 CASE NO. \_\_\_\_\_CV\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 FOR EXPUNGEMENT OF

 ARREST RECORD

 **PETITION FOR EXPUNGEMENT**

Comes now \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 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:

Petitioner’s full name is and was at the time of the arrest:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The petitioner’s sex is \_\_\_\_\_\_\_\_; the defendant’s race is \_\_\_\_\_\_\_\_ and the defendant’s date of birth is \_\_\_\_\_\_\_\_\_\_\_\_\_.

The petitioner’s social security number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The crime for which the petitioner was arrested was a violation of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a severity level \_\_\_\_\_\_\_\_\_ in violation of K.S.A. \_\_\_\_\_\_\_\_\_\_\_.

The petitioner was arrested on the \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_ by the

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(arresting agency) in Wyandotte County, Kansas.

The petitioner’s FBI number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The petitioner’s KBI number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The petitioner 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 (A) charges have been dismissed or (B) no charges have been or are likely to be filed.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Petitioner

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

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Petitioner or

Attorney for Petitioner

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.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Petitioner

Subscribed and sworn to before me this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 200\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTARY PUBLIC

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

CIVIL DEPARTMENT

IN THE MATTER OF: )

 )

 ) CASE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

Petitioner, )

**ORDER OF EXPUNGEMENT**

**ARREST RECORD**

 NOW, on this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_, 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, find 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1. The defendant’s sex is \_\_\_\_\_\_\_\_\_\_; the defendant’s race is \_\_\_\_\_\_\_\_ and the defendant’s date of birth is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
2. The defendant’s social security number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
3. The crime for which the defendant was arrested was a violation of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ a severity level of \_\_\_\_\_\_\_\_ in violation of K.S.A. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
4. The defendant was arrested on the \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_, by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in Wyandotte County, Kansas. Arresting agency incident number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
5. The defendant’s FBI number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
6. The defendant’s KBI number is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
7. The court finds that (the arrest occurred because of mistaken identity) (a court has that there was no probably 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 [A] charges have been dismissed or [B] 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 WYANDOTTE COUNTY

APPROVED:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Assistant District Attorney

Wyandotte County District Attorney Office

710 North 7th Street, Suite 10

Kansas City, Kansas 66101

(913) 573-2851

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney for Defendant