### 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.

* 1. 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.
	2. 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 K.S.A. 22-2410. The forms are available in Civil Clerk’s Office.
	3. Make sure that **All Court Costs** in the original action are paid before filing the petition.
	4. 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.
	5. 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.
	6. When filling out the Petition and Order for Expungement you must **answer ALL of the questions to the best of your ability.**
	7. The Petition must be notarized by a Notary Public (the 2nd page of the petition) before the Petition can be filed.
	8. 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.
	9. The District Attorney’s Office will do the necessary NCIC checks and notify the victims as provided in K.S.A. 74-7335.
	10. **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)**
	11. 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.
	12. 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.

### 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: (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.

### 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 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.

### 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

1. Indecent Liberties with a Child K.S.A 21-3503
2. Aggravated Indecent Liberties with a Child K.S.A. 21-3504
3. Criminal Sodomy K.S.A. 21-3505(a)(2) or (a)(3)
4. Aggravated Criminal Sodomy K.S.A. 21-3506
5. Indecent Solicitation of a Child K.S.A. 21-3510
6. Aggravated Indecent Solicitation of a Child K.S.A. 21-3511
7. Sexual Exploitation of a Child K.S.A. 21-3516
8. Aggravated Incest K.S.A. 21-3603
9. Endangering a Child K.S.A. 21-3608
10. Aggravated Endangering a Child K.S.A. 21-3608a
11. Abuse of a Child K.S.A. 21-3609
12. Capital Murder K.S.A. 21-3439
13. Murder – First Degree K.S.A. 21-3401
14. Murder –Second Degree K.S.A. 21-3402
15. Voluntary Manslaughter K.S.A. 21-3403
16. Involuntary Manslaughter K.S.A. 21-3404
17. Involuntary Manslaughter while DUI K.S.A. 21-3442
18. Sexual Battery K.S.A. 21-3517
19. Aggravated Sexual Battery K.S.A. 21-3518
20. D.U.I in violation of K.S.A. 8-1567
21. Driving a Commercial Vehicle while Under the Influence K.S.A 8-2,144
22. 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:** 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.

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

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

**07-01-14**

(Arrest – Dismissal)

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS CRIMINAL DEPARTMENT

Click here to enter text. )

 Plaintiff, )

 Vs. ) Case No. Click here to enter text.

 )

Click here to enter text. )

 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:

Click here to enter text.

1. The defendant's sex is Click here to enter text.; the defendant's race is Click here to enter text. and the defendant's date of birth is Click here to enter text..
2. The defendant's social security number is Click here to enter text.
3. The crime for which the defendant was arrested was a violation of Click here to enter text. a severity level Click here to enter text. in violation of K.S.A. Click here to enter text.
4. The defendant was arrested on the Click here to enter text. day of Click here to enter text. by the Click here to enter text. (arresting agency) in Wyandotte County, Kansas.
5. The defendant's FBI number is Click here to enter text.
6. The defendant's KBI number is Click here to enter text.
7. 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

1. Charges have been dismissed or

(B) No charges have been or are likely to be filed

 Click here to enter text.

 Defendant

 Address Click here to enter text.

 Click here to enter text.

 Phone Click here to enter text.

Click here to enter text.

Attorney for Defendant

STATE OF KANSAS

) ss:

COUNTY OF WYANDOTTE

Click here to enter text. 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

Click here to enter text.

Defendant

Subscribed and sworn to before me this Click here to enter text. day of Click here to enter text., 20Click here to enter text..

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

 NOTARY PUBLIC

My Commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS CRIMINAL DEPARTMENT

IN THE MATTER OF:

Click here to enter text. )

 Petitioner, )
 ) Case No Click here to enter text.

ORDER OF EXPUNGEMENT

 NOW, on this Click here to enter text. day of Click here to enter text. 20Click here to enter text., 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: Click here to enter text.
2. The defendant's sex is Click here to enter text.; the defendant race is Click here to enter text. and the defendant's date of birth is Click here to enter text.
3. The defendant's social security number is Click here to enter text.
4. The crime for which the defendant was arrested was a violation of Click here to enter text. a severity level Click here to enter text. in violation of K.S.A. Click here to enter text..
5. The defendant was arrested on the Click here to enter text. day of Click here to enter text., 20Click here to enter text. by the Click here to enter text. in Wyandotte County, Kansas.
6. The defendant's FBI number is Click here to enter text..
7. The defendant's KBI number is Click here to enter text.
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 [ ] [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 WYANDOTIE COUNTY

APPROVED:

Click here to enter text.

Click here to enter text. # Click here to enter text. Assistant District Attorney

Wyandotte County District Attorney's Office 710 N 7'h Street

Kansas City, Kansas 66101 (913) 573-2851

Click here to enter text.
Attorney for Defendant