

PLEASE READ!

Before You Even Think About Doing an Expungement



What is an Expungement? Are forms available?

It is a legal instrument consisting of a “**Motion**”, “**Order**”, and in some cases a “**Certificate of Service**”, whereby a Petitioner can make a formal appeal to a Court for the review and removal of a previous Arrest Record. **NO. FORMS ARE ILLEGAL!** *Do not bring in a form, no fill in the blanks, or copy and pasted works.* The ones attached to this document are for the purposes of a “**PATTERN ONLY**”. You will need to start from scratch, using only the below given Motion, Order, and Certificate of Service as an Example. They must be typed, neat, and on clean paper. Yes, you can use a word processor, and when you complete your work, be sure to keep a copy of all your material for your personal files.

Does submitting an Expungement guarantee the removal of a record?

NO! It will guarantee the Petitioner a Judicial Review of only the charge(s) the Petitioner list on his/her Expungement. Only the Judge and the Judge alone is vested with the authority to accept or reject the Petitioners Expungement.

Can I Expunge a Record if it has not gone to Trial?

NO! In fact, if you have current outstanding warrants, tickets, or other such related fines and fees which have not been paid, your Expungement will not be forwarded for review until all such fines and fees have been paid in full.

I was arrested years ago, but I didn't go to trial, do I have a record?

YES! Anytime there is an “Arrest”, even if you were Field Released, an Arrest Record is generated by the local Police Department, and reported to other police agencies, including but not limited to the *National Criminal Information Center*, where most background checks are run. An “Arrest Record” is not ***automatically*** removed after so many years, or even if you were found not guilty in court, or even if you went to court. Once an “Arrest Record” is generated, it will take a Judge’s Order to get it removed, period. Hence the “Order of Expungement” is included in the paperwork you will need to turn in when you file, and should it be later signed by a Judge, it will then become a Judge’s Order to Expunge your record.

I think I was arrested but the Police Department did not pursue it, how can I find out if I have an arrest record?

Most Police Departments has an “Identification Unit” or ID Unit. They should be able to tell you if you have an arrest record with them. They should also be able to provide you with your arrest date(s) and possibly your case number(s). Once you have this information, you can research the Docket Book per the year and Month you were arrested to obtain other such information such as the “Final Disposition” or the Judgment of the Court. For example the Disposition may reflect a Not-Guilty verdict, or a Guilty verdict with all fines and fee paid, or N/A’ed by the Police Department. **ALL EXPUNGEMENT PAPERWORK MUST CONTAIN THE DISPOSITION!** If you cannot find a “Disposition” listed, you may want to check with the Division within the Police Department (in which the charge is housed) to see if they have officially N/A’ed (No Actioned) the charge. If they have not, it just means that your charge has no closure, and you would need to make a request to the Police Department for them to “Officially” N/A the charge, just another way of saying they are not going to pursue it.

What is an Abstract? Do I need to obtain one?

Once you are satisfied that you have taken care of all accounts, such as tickets, fines, and other court ordered items such as completed counseling, work programs, and have a Final Disposition on your charge, then you are almost ready to begin. At this point I would highly recommend the Petitioner secure an “**Abstract of Court**” from the Court’s Services area. An “**Abstract of Court**” is a one page Legal Instrument/Letter, which provides an overview of the charge(s) you are requesting to be expunged, with each individual charge being reflected on a single page. If you have three charges, you would need three Abstracts. The “**Abstract of Court**” will serve to affirm/backup that the information you provide on your Expungement is true and correct per the records of the Court. For example, if you turn in your Motion and Order without an Abstract, we have to guess that the information reflected on you Expungement is correct. With an Abstract, there is no guess work. The information on you Abstract must be reflective of the information on your Expungement. (Let say for example you submit your Expungement, without an Abstract enclosed: The Judge signs off on the Order, and the Judge’s Order is sent to the National Criminal Information Center, where they are showing a different year of birth, could be one digit off. With no Abstract, there is no way to confirm the records of the Court as to your actual year date of birth. The Abstract serves to “verify” the information you put on your Expungement, and should there be inconsistencies in recorded data, the Abstract being a legal letter, will provide the necessary affirmation as to the correct information, and will not hold up processing.)

Do I need an Attorney or can I do it myself?

You would make inquiry with the individual Court. Some do require an Attorney, others do not. Attorneys would be responsible for its content, its correctness in description, and follow up. When citizens choose to do their own Expungements, they **must** realize that responsibility of content, correctness, and follow up is in their hands and their hands alone. If there is a mistake, it is on the citizen and as such, it is the citizen which will have to take care of it.

NOT A FORM! NOT A FORM! NOT A FORM!

IN THE MUNICIPAL COURT OF THE
CITY OF *(City Name)*, MISSISSIPPI

CITY OF *NAME CITY*

CASE NO: *List Case Number(s)*

VS

YOUR FULL NAME HERE

MOTION FOR EXPUNGEMENT OF RECORDS

Comes now the Defendant, *Your Entire Name Here*, by and through *(enter the one that applies: his/her Attorney, or himself/herself)* does hereby request the Municipal Court of the City of *(Name of City)* to Expunge its record of *his/her* arrest in accordance with the Statutory Authority of the Mississippi Code of 1972, sections 21-23-7. *(Or, the Statutory Authority of the Mississippi Code of 1972, sections 99-19-71, if it is prior to your 23rd Birthday)*

My full name at the time of arrest was: _____

My date of Birth is: _____

My Social Security Number is: _____

Said Defendant was arrested *Date of Arrest / Must be Exact*, and charged with the offense of *Charge(s) At Arrest*.

- *(If you have more than one arrest and charge, repeat this line).*

I am requesting the Court of the City of *Name City*, to Expunge the following charges:

1. *List Charge to Expunge & Case Number and Arresting Agency/Police Department & also include the Disposition, or outcome of the case.*
- *(If you have more than one charge, repeat this line).*

Said Defendant is a *(RACE & GENDER / Male or Female)* and my current address and phone number is as follows:

Name, Address, City, State, Zip Code, Phone Number, Email, Cell

That said charges have been disposed of against said Defendant, *(List your Entire Name)*, and that the Defendant is entitled to have *his/her* record expunged according to the law as set out in the aforementioned 1972 Code of the State of Mississippi.

That all proceedings have been disposed of against the Defendant, that it would be in the best interest of Society that the record of *his/her* arrest be expunged, along with all fingerprints, photographs, files, and material relating to the aforementioned charges and arrest.

WHEREFORE, PREMISES CONSIDERED, the Defendant moves the Court to enter an "Order" directing all concerned parties to Expunge their record as set forth by law and this "Order".

Respectfully Submitted: *(Sign Your Name, in your Regular Handwriting)*

IN THE MUNICIPAL COURT OF THE
CITY OF *(City Name)*, MISSISSIPPI

CITY OF *NAME CITY*

CASE NO: *List Case Number(s) Here*

VS

YOUR FULL NAME HERE

ORDER FOR EXPUNGEMENT OF RECORDS

This Cause having come on for hearing a request for Expungement by the City of *(Give the Name of City)* Prosecutor's Office, and the Court having heard and considered the circumstances, is of the opinion that said request is well taken and should be sustained, in accordance with the Statutory Authority of the Mississippi Code of 1972, sections 21-23-7. *(Or, the Statutory Authority of the Mississippi Code of 1972, sections 99-19-71, if it is prior to your 23rd Birthday)*

My full name at the time of arrest was: _____

My date of Birth is: _____

My Social Security Number is: _____

Said Defendant is a *(RACE & GENDER / Male or Female)* and currently a resident of the State of _____.

Said Defendant was arrested *Date of Arrest / Must be Exact*, and charged with the offense of *Charge(s) At Arrest*.

- *(If you have more than one arrest and charge, repeat this line).*

I am petitioning the Court of the City of *Name City*, to Expunge the following charge(s):

1. *List Charge to Expunge & Case Number and Arresting Agency/Police Department & also include the Disposition of each charge. (The Disposition reflects the outcome of your case)*
- *(If you have more than one charge, repeat this line listing the other charge(s)).*

My Current contact information is as follows:

Name, Address, City, State, Zip Code, Phone Number, Email, Cell

IT IS THEREFORE ORDERED AND ADJUDGED that the records of *(Your Entire Name Here)*, reflecting the above stated arrest, and arrest dates, be hereby expunged. This act of Expungement should include the deletion of all reports, fingerprints, photographs, and references to said arrest and charges.

SO ORDERED AND ADJUDGED, this the _____, day of _____, 20_____.

MUNICIPAL COURT JUDGE

PROSECUTOR'S SIGNATURE

NOT A FORM! NOT A FORM! NOT A FORM!

CERTIFICATE OF SERVICE

I, *(State your entire name here)*, do hereby certify that I personally delivered a true copy of the above and foregoing motion for Expungement to *(List the name of the Court Officer you are submitting it to, as well as the address and location)*.

This, the _____ day of _____, 20_____.

Court Officer