

INSTRUCTION SHEET
PETITION FOR DESTRUCTION OF INDICIA OF ARREST
OR EXPUNGEMENT OF RECORDS
UNDER TITLE 11 DEL. C. §4371-4374

**PLEASE REVIEW ATTACHED §4372 TO BE SURE YOUR CASE QUALIFIES FOR
EXPUNGEMENT**

- The petition must be filed in the County where the case was terminated, disposed of or concluded.
- If the arrest occurred in Kent County or Sussex County, you should contact the Prothonotary Office in that County for a copy of the correct form.
Kent County 1-302-739-3184 Sussex County 1-302-856-5740
- If petitioner was a minor (under 18 years of age) at the time of arrest, the petition must be obtained and filed in Family Court in the proper county. If petitioner is an adult arrested under the jurisdiction of Family Court, refer to Family Court's 10 Del. C. §1025.

I. FILING INSTRUCTIONS:

- A. No petition will be accepted for filing unless all forms are completed, signed, notarized and stapled together in proper order.
1. The "set" of forms includes:
 - a) the Petition
 - b) order
 - c) verification
 - d) affidavit of mailing - ONLY required if processing by mail
- B. After completing the set and before making the copies:
1. Have the verification form notarized
 2. Have the affidavit of mailing form notarized, if applicable
 3. Make four (4) copies of the entire set
- C. If hand delivering, take the original set and two (2) copies of the set to:

Attorney General's Office
Carvel State Building
820 French Street
Wilmington, DE 19801

The Attorney General will keep two (2) copies and will stamp the original as being received on that date. The stamped original set will be returned to you. Take to the Prothonotary's Office:

1. The stamped/receipted original set
2. Two (2) copies of the set (made previously)
3. \$75.00 filing fee

D. If completing by mail:

Mail two (2) copies of completed forms to the Attorney General's Office. Send the original petition with affidavit of mailing, two (2) copies of the petition, and \$75.00 filing fee to the Prothonotary's Office.

II. COURT PROCEDURES:

- A. The Prothonotary will docket and maintain the petition until the Department of Justice sends a letter to the Court indicating its position. The Prothonotary will send the petition to the Criminal Office Judge, who will grant or deny the petition.
- B. If the Attorney General opposes the petition, a letter may be sent to the court by petitioner or petitioner's attorney, if any, requesting that a hearing be scheduled.
- C. If the petition is granted, the Prothonotary will deliver, by regular mail, certified copies of the signed order to the petitioner or petitioner's attorney, the Department of Justice, the Delaware State Police, the local arresting police agency, the criminal department of the Prothonotary's Office, and any other agency so directed by the order.
- D. Approximately eight (8) weeks are needed to completely process the petition.

IF YOU HAVE ANY QUESTIONS REGARDING THIS PROCEDURE

PLEASE CALL THE CIVIL DIVISION AT 302-255-0823

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

Petitioner

vs

Civil Action No. _____

STATE OF DELAWARE,

Respondent.

VERIFICATION

STATE OF DELAWARE:

COUNTY OF NEW CASTLE:

BE IT REMEMBERED that on this _____ day of _____, _____, personally appeared before me, a Notary Public for the State and County aforesaid, (name) _____, Petitioner in the foregoing action, who, being duly sworn by me, did depose and say that he/she is the Petitioner in the foregoing action and the facts recited in the Petition are true and correct to the best of his/her knowledge and belief.

Petitioner

SWORN TO AND SUBSCRIBED before me the day and year aforesaid.

Notary Public

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

AFFIDAVIT OF MAILING

Petitioner

vs

Civil Action No. _____

STATE OF DELAWARE,

Respondent

I, _____, do hereby certify that I have mailed a copy of the document within to the following addresses:

Attorney General's Office
Carvel State Building
820 French Street
Wilmington, DE 19801

and

Office of the Prothonotary
Superior Court
500 N. King Street
Suite 1500, Lower Level 1
Wilmington, DE 19801-3746

postage prepaid, by regular mail, this ____ day of _____, _____.

Affiant

SWORN TO AND SUBSCRIBED before me this ____ day of _____, _____.

Notary Public

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

Petitioner

vs

Civil Action No. _____

STATE OF DELAWARE,

Respondent

PETITION FOR EXPUNGEMENT OF CRIMINAL RECORD

Pursuant to 11 Del. C. § 4372, _____, hereby petitions this Honorable Court for
(Name)
expungement of their criminal record. In support of this Petition, Petitioner shows that:

1. Full name at time of arrest: _____
2. Current address: _____

3. Date of Birth: _____
4. Telephone Number: () _____
5. On or about (date) _____, Petitioner was arrested by the:

(Indicate by "X", the arresting agency):

- _____ Delaware State Police Troop No. _____
- _____ New Castle County Police
- _____ Wilmington Police
- _____ Newark Police
- _____ University of Delaware Police
- _____ Elsmere Police
- _____ Other (name of arresting agency) _____

List all charges: _____

(Indicate by "X", all courts associated with the arrests):

- | | |
|---|--|
| _____ Superior Court | _____ No. 14 - 1010 Concord Avenue |
| _____ Municipal Court/Court of Common Pleas | _____ No. 15 - c/o JP Court 11 (temporary) |
| _____ Newark Alderman's Court | _____ No. 18 - 1301 E. 12 Street (Gander Hill) |
| Justice of the Peace Courts: | |
| _____ No. 9 - 5355 Summit Bridge Road | |
| _____ No. 10 - 210 Greenbank Road | |
| _____ No. 11 - 61 Christiana Road | |
| _____ No. 12 - 212 Greenbank Road | |
| _____ No. 13 - Carvel State Office Building | |

6. The disposition of the charge(s) previously listed is as follows:

7. The Petitioner has no prior criminal record. Furthermore, the continued existence and possible dissemination of information relating to the arrest of Petitioner causes, or may cause, circumstances which constitute a manifest injustice to Petitioner.

WHEREFORE, Petitioner prays that this Court enter an order directing:

A. That all indicia of arrest contained in the police records and the Court records relating to the previously mentioned charges be expunged and removed from the files and placed in the control of the supervisor of the State Bureau of Identification as provided for in 11 Del. C. §4374.

B. That certified copies of this Court's Order be delivered to the Petitioner, the Delaware Department of Justice, The State Bureau of Identification, the Delaware State Police and (arresting agency) _____ and court(s) as indicated.

C. That a certified copy of this Court's Order be forwarded to the Prothonotary for the Superior Court of the State of Delaware in and for New Castle County.

D. That the Department of Justice and the Prothonotary of the Superior Court of the State of Delaware in and for New Castle County take appropriate steps to see that all records not destroyed pursuant to this Order be handled in such a manner as to insure that they not be opened to public inspection, or disclosure.

E. That it shall not be necessary for (name) _____ to report or acknowledge in any manner whatsoever his arrest on the previously mentioned charge(s).

_____ Petitioner or Petitioner's Attorney

DATE:

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

Petitioner

vs

Civil Action No. _____

STATE OF DELAWARE,

Respondent

ORDER

AND NOW, TO WIT, this ____ day of _____, _____, it appearing that Petitioner, was born on _____, and resides at _____, and has no other criminal record except as set forth herein; and it appearing that Petitioner was arrested on _____ by _____ on charge(s) of _____ and it appearing that the charge(s) (were/were not) transferred to the Superior Court and assigned criminal action numbers _____ and it appearing that the charge(s) were disposed of as follows: _____ and it appearing that the Petitioner now seeks to have all indicia of arrest on the aforesaid charge(s) expunged; and it appearing that the Attorney General has been served with the Petition herein, and that the Attorney General has no opposition thereto;

IT IS SO ORDERED:

1. That all indicia of arrest contained in the police records and the Court records relating to the above-mentioned charge(s) be expunged and removed from the files and placed in the control of the supervisor of the State Bureau of Identification as provided for in 11 Del. C. §4374.
2. That certified copies of this Court's Order be delivered to the New Castle County Prothonotary, Petitioner or Petitioner's Attorney, the Delaware Department of Justice, the State Bureau of Identification, the Delaware State Police, (arresting agency) _____ and court(s) as indicated.
3. That the Department of Justice and the Prothonotary for the Superior Court of the State of Delaware in and for New Castle County take appropriate steps to see that all records not destroyed pursuant to this Order be handled in such a manner as to insure that they not be opened to public inspection or disclosure.
4. That it shall not be necessary for (Petitioner's name) _____ to report or acknowledge in any manner whatsoever the arrest(s) on the above-mentioned charge(s).

JUDGE