

**IN THE CRIMINAL COURT OF DAVIDSON COUNTY, TENNESSEE, DIVISION _____
AND THE GENERAL SESSIONS COURT OF DAVIDSON COUNTY, TENNESSEE**

STATE OF TENNESSEE

INDICTMENT # _____

vs.

CHARGE: _____

WARRANT #: _____

CHARGE: _____

**PETITION TO EXPUNGE RECORDS OF CONVICTION PURSUANT TO
T.C.A. § 40-32-101(k)**

Petitioner respectfully petitions this Honorable Court to order that all public records of the convictions for _____ and _____ under indictment/warrant number(s) _____ and _____ be expunged pursuant to T.C.A. § 40-32-101(k) and in support would state to the Court as follows:

1. The statute authorizes the subject convictions to be expunged.
2. The offenses for which the Petitioner is seeking expunction occurred prior to any conviction for a criminal offense that is ineligible for expunction, including convictions for federal offenses and offenses in other states that would be ineligible for expunction in this state; provided, that any moving or non-moving traffic offense(s) shall not be considered an offense as used in this subdivision.
3. Each of the offenses are eligible for expunction under T.C.A. § 40-32-101(g) and are either two (2) misdemeanors or one (1) felony and one (1) misdemeanor. Petitioner, if convicted of a felony or misdemeanor committed prior to November 1, 1989, has never been on pre-trial diversion or judicial diversion wherein the record has been expunged.
4. At least five (5) years have elapsed since the completion of the sentence imposed for a misdemeanor or a Class E felony conviction. At least (10) years have elapsed since the completion of the sentence imposed for a Class C or Class D felony conviction.
5. All fines, restitution, court costs and other assessments have been paid. All terms of imprisonment, probation and parole have been completed. All conditions of supervised or unsupervised release have been met.
6. Petitioner has not previously been granted expunction under subsection (g), subsection (k), or subsection (m) for another criminal offense.
7. Petitioner understands that the District Attorney, by assisting in the completion of the petition and the order to expunge, is not giving legal advice, but is performing an administrative function pursuant to T.C.A. § 40-32-101(k), and further, in some instances, the District Attorney may stand in opposition to the granting of the petition. Petitioner understands that he/she should contact an attorney for any legal advice.
8. Petitioner understands that statements made by Petitioner in this document are made under penalty of perjury in connection with an official proceeding.

WHEREFORE, petitioner prays that this Court order that all public records of the convictions be expunged pursuant to T.C.A. § 40-32-101(k).

Respectfully submitted,

Petitioner

**CHECKLIST: PETITION FOR EXPUNCTION OF RECORDS OF CONVICTION PURSUANT
TO T.C.A. § 40-32-101(k)**

Before any petition to expunge a record pursuant to T.C.A. § 40-32-101(k) can be filed, the following steps must be successfully completed and the required documents attached.

- The offenses for which you are seeking expunction must have occurred prior to any conviction for a criminal offense that is ineligible for expunction, including convictions for federal offenses and offenses in other states that would be ineligible for expunction in this state. Each of the offenses must be eligible for expunction under T.C.A. § 40-32-101(g) and are either two (2) misdemeanors or one (1) felony and one (1) misdemeanor.
- At least five (5) years must have elapsed since the completion of the sentence imposed for a misdemeanor or a Class E felony conviction. At least ten (10) years have elapsed since the completion of the sentence imposed for a Class C or D felony conviction. If the sentence included probation or parole, the sentence was completed at the end of the probation or parole.
- You must have met all conditions of supervised or unsupervised release, such as parole, probation, or community service, as evidenced by an official statement from the agency responsible for supervising your release, such as the State parole office, the State or County probation or community service agency.
- You must have paid all fines, court costs, and other assessments. You must have completed payment of any restitution and provide evidence of the payment(s).
- If the conviction was for an offense committed on or after November 1, 1989, the conviction must be for a felony included in the inclusion lists attached or for a misdemeanor that is NOT included on the exclusion list attached.
- If the conviction was for an offense committed prior to November 1, 1989, the conviction must meet the additional requirements on the list attached.
- If so required by the conditions of the sentence imposed, you must have remained free from dependency on or abuse of alcohol or a controlled substance or other prohibited substance for a period of not less than one (1) year.
- Petitioner has not previously been granted expunction under subsection (g), subsection (k), or subsection (m) for another criminal offense.
- List the cities and states where you have lived.

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- You understand that the District Attorney is not giving legal advice, but is performing an administrative function pursuant to T.C.A. § 40-32-101(k).
 - If the Court grants this petition to expunge, it will not alter voting rights or any citizenship rights. Further action would be required to have those rights restored.
 - You understand that filing a petition to expunge a conviction under T.C.A. § 40-32-101(k) does not guarantee that the petition will be granted by the Court.
 - You understand that statements made in the filed petition to expunge are made under penalty of perjury in connection with an official proceeding.

Petitioner

FELONY INCLUSION LISTS

A **Class E felony** committed **on or after November 1, 1989**, may be expunged if the conviction offense appears in the below list. (If the conviction is for a class E felony committed on or after November 1, 1989, and is not on this list, it cannot be expunged.)

- 39-11-411 Accessory after the fact
- 39-13-306 Custodial interference where person not voluntarily returned by defendant
- 39-13-604(c)(2) Knowing dissemination of illegally recorded cellular communication
- 39-13-1002 Burglary of an auto
- 39-14-105(a)(2) Theft
- 39-14-114(c) Forgery
- 39-14-115 Criminal simulation
- 39-14-116(c) Hindering secured creditors
- 39-14-117(b) Fraud in insolvency
- 39-14-118 Fraudulent use of credit card or debit card
- 39-14-121 Worthless checks
- 39-14-130 Destruction of valuable papers
- 39-14-131 Destruction or concealment of will
- 39-14-133 Fraudulent or false insurance claim
- 39-14-137(b) Fraudulent qualifying for set aside programs
- 39-14-138 Theft of trade secrets
- 39-14-139 Sale of recorded live performances without consent
- 39-14-143 Unauthorized solicitation for police, judicial or safety associations
- 39-14-147(f) Fraudulent transfer of motor vehicle with value of less than \$20,000
- 39-14-149 Communication theft (fine only)
- 39-14-152 Use of a counterfeit mark or logo
- 39-14-154 Home improvement fraud
- 39-14-402 Burglary of an automobile
- 39-14-408 Vandalism
- 39-14-411 Utility service interruption or property damage
- 39-14-505 Aggravated criminal littering (2nd and 3rd offenses involving certain weight or volume)
- 39-14-602 Violation of Tennessee Personal and Commercial Computer Act
- 39-14-603 Unsolicited bulk electronic mail
- 39-14-903 Money laundering offenses
- 39-16-201 Taking telecommunication device into penal institution;
- 39-16-302 Impersonation of licensed professional
- 39-16-603 Evading arrest in motor vehicle where no risk to bystanders
- 39-16-609(e) Failure to appear (felony)
- 39-17-106 Gifts of adulterated candy or food
- 39-17-417(t) Manufacture, delivery, sale or possession of Schedule V drug (fine not greater than \$5,000)
- 39-17-417(g)(l) Manufacture, delivery, sale or possession of not less than 1/2 ounce and not more than 10 pounds of Schedule VI drug marijuana (fine not greater than \$2,500)
- 39-17-417(h) Manufacture, delivery, sale or possession of Schedule VII drug (fine not greater than \$1,000)
- 39-17-418(e) Simple possession or casual exchange (3rd offense)
- 39-17-422(c) Selling glue for unlawful purpose
- 39-17-423(c) Counterfeit controlled substance
- 39-17-425(b)(1), (2), (3) Unlawful drug paraphernalia uses and activities

A **Class D felony** committed **on or after November 1, 1989**, may be expunged if the conviction offense appears in the below list. *(If the conviction is for a class D felony committed on or after November 1, 1989, and is not on this list, it cannot be expunged.)*

- 39-14-103 Theft of property
- 39-14-104 Theft of services
- 39-14-112 Extortion
- 39-14-114 Forgery
- 39-14-115 Criminal simulation
- 39-14-118 Illegal possession or fraudulent use of credit card or debit card
- 39-14-121 Worthless checks
- 39-14-130 Destruction of valuable papers
- 39-14-133 False or fraudulent insurance claims
- 39-14-137 Fraudulent qualifying for set-aside programs
- 39-14-138 Theft of trade secrets
- 39-14-139 Sale of recorded live performances without consent
- 39-14-147 Fraudulent transfer of motor vehicle valued at twenty thousand dollars (\$20,000) or more
- 39-14-149 Communication theft
- 39-14-150(b) Identity theft
- 39-14-152 Use of a counterfeit mark or logo
- 39-14-154 Home improvement fraud
- 39-14-402 Burglary-other than habitation or automobile
- 39-14-408 Vandalism
- 39-14-602(a)-(c) Violation of Tennessee Personal and Commercial Computer Act
- 39-14-603 Unsolicited bulk electronic mail
- 39-16-502(a)(1) or (a)(2) False report to law enforcement not involving bomb, fire, or emergency;
- 39-17-417(d) Manufacture, deliver, sale, or possession of Schedule III drug (fine not greater than fifty thousand dollars (\$50,000))
- 39-17-417(e) Manufacture, deliver, sale, or possession of Schedule IV drug (fine not greater than fifty thousand dollars (\$50,000))
- 39-17-417(g)(2) Manufacture, deliver, sale, or possession of certain Schedule VI drugs (fine not greater than fifty thousand dollars (\$50,000))
- 39-17-430 Prescribing or selling steroid for unlawful purpose
- 39-17-433 Promoting manufacture of methamphetamine
- 39-17-438 Produce, manufacture, delivery, sale, or possession of hallucinogenic plant *salvia divinorum* or the synthetic cannabinoids (first violation)
- 39-17-454(c) Manufacture, deliver, dispense, sell, or possess with intent to manufacture, deliver, dispense, or sell a controlled substance analogue (first violation)
- 39-17-607(a) Making counterfeit or altering lottery ticket (fine not greater than fifty thousand dollars (\$50,000))
- 39-17-608 Making material false statement on lottery application or record
- 39-17-654(c) Unauthorized person conducting charitable gaming event
- 53-11-402(a)(3) Drug fraud

A **Class C felony** committed **on or after November 1, 1989**, may be expunged if the conviction offense appears in the below list. (If the conviction is for a class C felony committed on or after November 1, 1989, and is not on this list, it cannot be expunged.)

- 39-14-103 Theft of property
- 39-14-104 Theft of services
- 39-14-114 Forgery
- 39-14-115 Criminal simulation
- 39-14-118 Illegal possession or fraudulent use of a credit card or debit card
- 39-14-121 Worthless checks
- 39-14-130 Destruction of valuable papers
- 39-14-133 Fraudulent or false insurance claims
- 39-14-137 Fraudulent qualifying for set-aside programs
- 39-14-138 Theft of trade secrets
- 39-14-139 Sale of recorded live performances without consent
- 39-14-149 Communication theft
- 39-14-150(c) Identity theft trafficking
- 39-14-152 Use of a counterfeit mark or logo
- 39-14-154 Home improvement fraud
- 39-14-408 Vandalism
- 39-14-602(b)(5) Violation of Tennessee Personal and Commercial Computer Act
- 39-14-603 Unsolicited bulk electronic mail
- 39-14-804 Theft of animal from or damage to an animal facility
- 39-17-417(c) Manufacture, deliver, sale, or possession of Schedule II drug, including cocaine or methamphetamine in an amount less than point five (0.5) grams (fine not greater than one hundred thousand dollars (\$100,000))
- 39-17-417(e) Manufacture, deliver, sale, or possession of flunitrazepam (fine not greater than one hundred thousand dollars (\$100,000))
- 39-17-417(g)(3) Manufacture, deliver, sale, or possession of Schedule VI controlled substance (fine not greater than one hundred thousand dollars (\$100,000))
- 39-17-454(c) Manufacture, delivery, dispense, or sale or possession with the intent to manufacture, deliver, dispense, or sale of a controlled substance analogue (second or subsequent violation)
- 39-17-607(b) Influencing or attempting to influence lottery

MISDEMEANOR EXCLUSION LIST

If the conviction is for a **misdemeanor** committed **on or after November 1, 1989**, and is on this list, then that conviction **cannot** be expunged.

- 39-13-101(a)(1) and (2) Assault; - if the offense was committed prior to July 1, 2000
- 39-13-102 Aggravated assault of public employee
- 39-13-111 Domestic assault
- 39-13-113(g) Violation of protective or restraining order
- 39-13-113(h) Possession of firearm while order of protection in effect
- 39-13-511 Public indecency 3rd or subsequent offense
- 39-13-511 Indecent exposure (victim under 13 years of age) or by person in penal institution exposing to a guard
- 39-13-526(b)(1) and (2) Violation of community supervision by sex offender not constituting offense or constituting misdemeanor
- 39-13-528 Soliciting minor to engage in Class E sexual offense
- 39-13-509 Unlawful sexual contact by authority figure
- 39-13-514(b)(3)(A) Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability
- 39-14-304 Reckless burning
- 39-14-406 Aggravated criminal trespass of a habitation, hospital, or on the campus of any public or private school, or on railroad property
- 39-15-201(b)(3) Coercion - abortion
- 39-15-210 Third or subsequent violation of "Child Rape Protection Act of 2006"
- 39-15-401(a) Child abuse (where child is between ages 7- 17)
- 39-15-401(b) Child neglect and endangerment (where child is between ages 7-13)
- 39-15-404 Enticing a child to purchase intoxicating liquor - purchasing alcoholic beverage for child
- 39-15-404 Allow a minor to consume alcohol on person's premises
- 39-15-414 Harboring or hiding a runaway child
- 39-17-315 Stalking
- 39-17-431 Unlawful dispensing of immediate methamphetamine precursor, sale of meth precursor to person on methamphetamine registry or purchase by someone on registry, possess meth precursor with intent to sell to another for unlawful use, purchase meth precursor for another for unlawful use, purchase meth precursor at different times and places to circumvent limits, and use false ID to purchase meth precursor for purpose of circumventing limits
- 39-17-437 Using substance or device to falsify drug test results and selling synthetic urine
- 39-17-438 Possession of the hallucinogenic plant Salvia Divinorum or the synthetic cannabinoids
- 39-17-452 Sale or possession of synthetic derivatives or analogues of methcathinone
- 39-17-902(a) Importing, preparing, distributing, processing, or appearing in obscene material or Class A misdemeanors
- 39-17-907 Unlawful exhibition of obscene material
- 39-17-911 Sale or loan to minors of harmful materials
- 39-17-918 Unlawful massage or exposure of erogenous areas
- 39-17-1307(f)(1)(A) Possession of firearm after being convicted of misdemeanor crime of domestic violence
- 39-17-1307(f)(1)(B) Possession of firearm while order of protection is in effect
- 39-17-1307(f)(1)(C) Possession of firearm while prohibited by state or federal law
- 39-17-1312 Failure of adult to report juvenile carrying gun in school
- 39-17-1320(a) Nonparent providing handgun to a juvenile
- 39-17-1352 Failure to surrender handgun carry permit upon suspension
- 39-17-1363 Violent felon owning or possessing vicious dog
- 39-13-101(a)(3) Assault (offensive or provocative physical contact)
- 39-13-511(a) Public indecency -- first or second offense (punishable by \$500 fine only)
- 39-13-511 (b)(2) Indecent exposure (victim 13 years old or older)
- 39-15-412(b) Disseminating smoking paraphernalia to minor after 3 prior violations
- 39-16-404 Misuse of official information by public servant
- 39-17-317 Disorderly conduct at funerals
- 39-17-715 Possession of or consuming alcoholic beverages on K-12 school premises
- 39-17-914 Display for sale or rental of material harmful to minors
- 55-10-401 Driving under the influence of an intoxicant

ADDITIONAL REQUIREMENTS

You would not be eligible if you were convicted of an offense involving the manufacture, delivery, sale, or possession of a controlled substance and at the time of the offense you held:

- (A) A commercial driver license, as defined in § 55-50-102, and the offense was committed within a motor vehicle, as defined in § 55-50-102; or
- (B) Any driver license and the offense was committed within a commercial motor vehicle, as defined in § 55-50-102.

OFFENSE COMMITTED BEFORE NOVEMBER 1, 1989

If the conviction is for an offense committed before November 1, 1989, the below criteria must be met.

1. The convicted person has never had a previous conviction expunged as the result of the successful completion of a diversion program pursuant to §§ 40-15-102--40-15-106 or § 40-35-313;
2. The convicted offense did not have as an element the use, attempted use, or threatened use of physical force against the person of another;
3. The convicted offense did not involve, by its nature, a substantial risk that physical force against the person of another would be used in the course of committing the offense;
4. The convicted offense did not involve the use or possession of a deadly weapon;
5. The convicted offense was not a sexual offense for which the offender is required to register as a sexual offender or violent sexual offender under title 40, chapter 39 part 2; or any sexual offense involving a minor;
6. The convicted offense did not result in the death, serious bodily injury, or bodily injury of a person;
7. The convicted offense did not involve the use of alcohol or drugs and a motor vehicle;
8. The convicted offense did not involve the sale or distribution of a Schedule I controlled substance or a Schedule II controlled substance in an amount listed in § 39-17-417(i);
9. The convicted offense did not involve a minor as the victim of the offense;
10. The convicted offense did not result in causing the victim or victims to sustain a loss of sixty thousand dollars (\$60,000) or more.

Petitioner's Contact Information

Petitioner's Name: _____

Other Names/Aliases: _____

Petitioner's Mailing Address: _____

Phone Number: _____

Email Address: _____

Date of Birth: _____

Social Security Number: _____

Optional: Attorney's Contact Information

(Please leave this section blank if you are completing this expungement petition without an attorney)

Attorney's Name: _____

Phone Number: _____

Email Address: _____

Mailing Address for Expungement Order: _____

Notes: _____

Petition Complete:

Yes

No