

STATE OF TENNESSEE

CASE #(s): _____

VS.

CHARGE(S): _____

**PETITION TO EXPUNGE RECORDS OF CONVICTION PURSUANT TO
T.C.A. § 40-32-105**

Petitioner respectfully petitions this Honorable Court to order that all public records for the conviction(s) of the Petitioner which resulted from the Petitioner's status as a victim of human trafficking under T.C.A. § 39-13-314 be expunged, with the warrant number(s) for said conviction(s) being _____, and in support would show the Court as follows:

1. At the time of the filing of this petition for expunction at least one (1) year has elapsed since the completion of the sentence imposed for the petitioner's most recent criminal offense.
2. The petitioner has fulfilled the following requirements of the sentence imposed by any court in which the Petitioner was convicted of an offense:
 - a. Completion of any term of imprisonment or probation,
 - b. Met all conditions of supervised or unsupervised release, and
 - c. If so required by the conditions of any of the sentences imposed, has 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.
3. The petitioner has not been convicted of any criminal offense during the one (1) year prior to filing this petition and is not subject to any pending criminal charges.
4. The petitioner has not had public records previously expunged pursuant to § 40-32-105.
5. The convictions to be expunged:
 - a. Did not have as an element the use, attempted use, or threatened use of physical force against the person of another,
 - b. Did not involve the use or possession of a deadly weapon, and
 - c. Are individually eligible for expunction under § 40-32-107(a) or for the offense of aggravated prostitution, under § 39-13-516.

6. Each of the convictions to be expunged resulted from the petitioner's status as a victim of human trafficking, under § 39-13-314. To support the proposition that each of the convictions to be expunged resulted from the petitioner's status as a victim of human trafficking, under § 39-13-314 the Petitioner would show as follows:

Insert Petitioner's narrative to show each of the convictions to be expunged resulted from the Petitioner's status as a victim of human trafficking under § 39-13-314. If additional space is needed for the narrative, attach additional pages as needed to this Petition. Make sure to sign any additional pages added.

7. Petitioner would show that the offense(s) to be expunged occurred on or after the date on which the petitioner became a victim of human trafficking and prays that the same be determined by the court as is required under § 40-32-105.
8. This Court is the one in which the person was most recently convicted of an offense.
9. Petitioner has made the Court Clerk aware of the requirement that the Clerk serve this petition on the District Attorney General for each jurisdiction in which the Petitioner has been convicted of an offense that is to be expunged.
10. Petitioner understands that statements made in this petition for Expungement are made under penalty of perjury in connection with an official proceeding.
11. Petitioner has attached copies of the judgment of conviction for each of the matters which are the subject of this Petition.

WHEREFORE, Petitioner prays that this Court determine that the Petitioner meets the requirements of 40-32-105(b); that expunction of these particular records is in the best interests of justice and public safety, and order the Petitioner's records involving these particular conviction(s) resulting from the person's status as a victim of human trafficking be expunged.

Respectfully submitted,

Petitioner

CHECKLIST: FOR EXPUNCTION PURSUANT TO T.C.A. § 40-32-107(a)

- ☐ 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 below.
- ☐ You understand that the District Attorney is not giving legal advice, but is performing an administrative function pursuant to T.C.A. § 40-32-107(a).
- ☐ 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. § 40-32-107(a) does not guarantee that the petition will be granted by the Court

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 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
- 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 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

FELONY INCLUSION LISTS

A **Class E felony**, including an attempt, conspiracy, facilitation, or solicitation, 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
- 39-14-105(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
- 39-13-1002 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
- 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
- 39-17-417(h) Manufacture, delivery, sale or possession of Schedule VII drug
- 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** including an attempt, conspiracy, facilitation, or solicitation, 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 or 39-13-1002 as applicable, 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
- 39-17-417(e) Manufacture, deliver, sale, or possession of Schedule IV drug
- 39-17-417(g)(2) Manufacture, deliver, sale, or possession of certain Schedule VI drugs
- 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
- 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**, including an attempt, conspiracy, facilitation, or solicitation, 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

39-17-417(e) Manufacture, deliver, sale, or possession of flunitrazepam

39-17-417(g)(3) Manufacture, deliver, sale, or possession of Schedule VI controlled substance

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
- 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

PLEASE PRINT CLEARLY

Petitioner's Contact Information

Petitioner's Name: _____

Other Names/Aliases: _____

Petitioner's Mailing Address: _____

City, State, Zip Code: _____

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: _____

City, State, Zip Code: _____

Petition Complete:

☐

Yes

☐

No