

STATE OF TENNESSEE

CASE #: _____

vs.

CHARGE: _____

**PETITION TO EXPUNGE RECORDS OF CONVICTION PURSUANT TO
T.C.A. § 40-32-107(a)**

Petitioner respectfully petitions this Honorable Court to order that all public records of the conviction for _____ under indictment/warrant number _____ be expunged pursuant to T.C.A. § 40-32-107(a) and in support would state to the Court as follows:

1. The statute authorizes the subject conviction to be expunged.
2. The offense for which the Petitioner is seeking expunction is an offense that 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;
3. 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 or ten (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 (a), subsection (b), or subsection (c) 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. § 40-32-107(a), and further, in some instances, the District Attorney may stand in opposition to the granting of the petition. Petitioner understands that they 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 this conviction be expunged pursuant to T.C.A. § 40-32-107(a).

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

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No