

Guide to Expungement in Kentucky

By Julie Kaelin and Molly Rose Green
July 19, 2016

Expungement can help Kentuckians with criminal records find housing and employment, among a host of other benefits. If expungement is granted, the person “shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.” KRS 431.073(6).

Table of Contents

Misdemeanor Convictions	Page 2
Felony Convictions	Page 2
Fees	Page 4
Non-convictions	Pages 4-5
Diverted Charges	Page 5
Possession Sealing	Page 5
Pardons	Page 5
Expungement Process	Page 6
Not Eligible?	Page 6

Attachments:

Misdemeanor Eligibility Chart	Page 7
Felony Eligibility Chart	Page 8
Eligible Class D Felonies	Pages 9-10
Expungement Statute (KRS 431.073)	Pages 11-12
Segregation of Criminal Records Statute (KRS 17.142)	Page 13
Sample Segregation Motion and Order	Pages 14-16
Possession Sealing Statute (KRS 218A.275)	Pages 17-18
Request for Certificate of Eligibility (AOC RU 009)	Page 19
Sample <i>In Forma Pauperis</i> Motion and Order	Pages 20-22
Affidavit of Indigency	Pages 23-25
Motion and Order for Appointment of Counsel	Pages 26-27
Petition for Misdemeanor Expungement (AOC 496.2)	Pages 28-29
Application to Vacate and Expunge Felony (AOC 496.3)	Pages 30-31
Petition for Expungement of Nonp Conviction (AOC 497.2)	Pages 32-33
Application for Pardon	Pages 34-37
Application for Restoration of Rights	Pages 38-39

Misdemeanor Convictions

2016's House Bill 40 significantly alters misdemeanor expungement. Before HB40, a person could only expunge a misdemeanor if he or she had no convictions at all after it, no convictions for the five years before it, and no felony convictions ever. This generally meant that only a person with a single misdemeanor conviction was eligible for expungement. The new law alters or removes those requirements.

Under the new law, a person may apply to expunge an unlimited number of misdemeanors, and they may seek misdemeanor expungement an unlimited number of times. For a person with only a single misdemeanor or only one case of misdemeanors, expungement is mandatory. KRS 431.073(4). However, expungement of multiple sets of misdemeanors is now discretionary. KRS 431.073(5).

Misdemeanor expungement costs \$100 *per case* (not per charge), \$50 of which is refundable if the expungement is denied. KRS 431.073(6).

Determining eligibility for misdemeanor expungement

A person can expunge misdemeanor(s), if the following circumstances are met:

- No criminal charges currently pending. KRS 431.073(4)(c), KRS 431.073(5)(c).
- Completion of 5 year waiting period. KRS 431.073(2).
 - If the person was only fined, their eligibility date will be 5 years from the date of sentencing/imposition of the fine.
 - If the person received a conditionally discharged sentence, their eligibility date will be 5 years from the date of their discharge.
- No misdemeanor or felony convictions in the five years prior to filing a petition for expungement. KRS 431.073(4)(b), KRS 431.073(5)(b).
 - Violations, traffic infractions, or non-convictions do not count.
 - The person no longer needs a "clean slate" ever since their last conviction.
- The offense was not a sex offense or an offense against a child. KRS 431.073(4)(a), KRS 431.073(5)(a).
 - These terms are not defined in the statute.
- The offense may not have been subject to enhancement for a second or subsequent offense or the time for the enhancement has expired. KRS 431.073(4)(d), KRS 431.073(5)(d). It is unclear how this will be interpreted.
 - Because the look-back period for DUI's was extended to 10 years, a person must now wait 10 years (from when they were charged) to expunge a misdemeanor DUI. KRS 189A.010.

Felony Convictions

Before HB40, felonies were not expungeable in Kentucky. The law creates a specific list of Class D felonies that are now eligible for expungement. KRS 431.073(1). The list of expungeable felonies covers between 60-70% of Class D felony charges. Some of the most commonly charged felonies that are expungeable include: Possession of a Controlled

Substance, Possession of a Forged Instrument, Theft by Unlawful Taking, Criminal Mischief, Tampering with Physical Evidence, Burglary in the Third Degree, and Flagrant Nonsupport. Some of the most commonly charged felonies that are not expungeable under HB40 include: Trafficking in a Controlled Substance, Wanton Endangerment, Promoting Contraband, and Fleeing or Evading Police.

A person may take advantage of Class D felony expungement under this statute only once.¹ KRS 431.073(4)(a). AOC will preserve expungement records solely for this purpose. KRS 431.073(8). A person who has previously had a felony conviction voided and sealed is not prevented from receiving felony expungement. A person may expunge multiple eligible Class D felonies if they are part of a series/arise from the same incident. KRS 431.073 (1). What this means exactly is yet to be determined.

HB40 also creates a new expungement process. Under the law, a person applies (via AOC form) to have their conviction vacated. If that petition is granted, the conviction will be vacated, dismissed with prejudice, then expunged. KRS 431.073(4). This helps with the interaction with federal law, etc. Felony expungement is discretionary, so a judge may deny the petition even if a person meets the statutory requirements. KRS 431.073(4).

If a person is otherwise eligible, an expungement under this section will automatically restore voting rights. KRS 431.073(6).

The felony expungement process costs \$500, \$450 of which is refundable if the expungement is denied. KRS 431.073(9). This fee covers all expungeable offenses in the case (misdemeanors included).

Determining eligibility for felony expungement

A person can expunge Class D felonies if the following circumstances are met:

- Their felony is on the eligibility felonies list. KRS 431.073(1).
- No criminal charges currently pending. KRS 431.073 (4)(c).
- Completion of 5 year waiting period. KRS 431.073(2).
 - If the person was only fined, their eligibility date will be 5 years from the date of sentencing/imposition of the fine.
 - If the person received a conditionally discharged sentence, their eligibility date will be 5 years from the date of their discharge.
- The person must not have been convicted of any misdemeanors or felonies in the five years prior to filing a petition for expungement. KRS 431.073(4)(b).
 - Violations and traffic infractions do not count.
 - The person no longer needs a “clean slate” ever since conviction.
- The person has not already had a Class D felony expunged under KRS 431.073. KRS 431.073(4)(a).

The mere presence of ineligible felonies on a person’s record (such as ineligible Class D felonies, or Class A/B/C felonies), do not prevent the expungement of an eligible felony.

¹ The law does not prevent someone from applying again if they were denied.

Immigration consequences: Non-U.S. citizens should speak with an immigration attorney before filing for expungement. Expungement can complicate the ability to prove “good moral character” on a naturalization application.

Fees

Misdemeanor case: \$100; Felony case: \$500; Acquittal/dismissal: no charge

This cost of felony expungement is very high compared to the national average.² However, the law does **not** say the fee is not waivable. Attorneys working on behalf of low-income and indigent clients who cannot afford the fee should attempt to waive the fee with an *in forma pauperis* motion. See KRS 453.190 (“A court shall allow a poor person residing in this state to file or defend any action or appeal therein without paying costs.”)

Non-convictions

Acquittals:

If a person was acquitted, charges may be expunged 60 days from the date of acquittal. KRS 431.076(1), (2).

Dismissals:

If charges were dismissed with prejudice and not in exchange for a plea on another charge or case (also called “dismissed/merged”), they may be expunged 60 days from the date of dismissal. KRS 431.076(1), (2).

If charges were dismissed without prejudice or in exchange for a plea on another charge or case (also called “dismissed/merged”), the person is not technically eligible for expungement. KRS 431.076(1). However, sometimes the KSP record report will show the charge as eligible. Therefore, you could go ahead and request the KSP report for these.

Grand Jury Indictments:

Under HB40, a person against whom felony charges were originally filed in District Court and was not indicted by the grand jury will be eligible to expunge those charges after 12 months. KRS 431.076(1), (2).

Segregation as last resort option:

If you have a client who had a felony charge dismissed without prejudice, and you cannot get the Commonwealth to agree to change it to a dismissal with prejudice, or get creative in another way, you can ask for the records related to the dismissed charge(s) to be

² Kentucky’s felony expungement fee is the second highest in the country. Many states’ fees are between \$150 and \$250. See also “Here’s why many Americans don’t clear their criminal records,” www.pbs.org/newshour/rundown/heres-why-many-americans-dont-clear-their-criminal-records/; “Want to Clear Your Record? It’ll Cost You \$450,” www.themarshallproject.org/2016/05/31/want-to-clear-your-record-it-ll-cost-you-450#.vEZvPwHPK.

segregated. Make sure you get a similar order in district court if there was an accompanying district court case. KRS 17.142.

Diverted Charges

If a charge was diverted, it should be dismissed, but the Court must enter the dismissal, which usually requires an attorney or the defendant moving for the dismissal to be entered. Occasionally you will find a case where the defendant agreed to do diversion (i.e., defendant to stay out of trouble for 6 months, dismiss if no new offenses), but then no one ever went back to court for them to secure the dismissal. In these cases, you will need to redocket the case to request that the charge(s) be officially dismissed. You can also ask the prosecutor to do this nunc pro tunc, which can backdate the effective date of dismissal, which could mean a much sooner expungement eligibility date. KRS 431.076.

Possession sealing

Certain first time drug possession convictions under KRS 218A.1415, 218A.1416, or 218A.1417 may be voided and sealed, using a different process. KRS 218A.275(9). A court may void these convictions upon successful completion of the sentence, and the records can then be sealed. A person does not need to disclose a sealed conviction, but it is not as complete as expungement because it is still available to the court. To seal one of these convictions, file a motion pursuant to KRS 218A.275(9).

HB40 does not prevent a person from receiving both expungement and a void and seal. If you have a client with an possession conviction and an expungement-eligible felony in a separate case, you could consider pursuing both to clear their record.

Pardons

Before HB40, a person who received a pardon from the governor was unable to expunge their pardoned conviction(s). Under HB40, a person who has received a pardon may now apply for expungement. KRS 431.073 (1). Anyone requesting expungement of their pardoned record should note that they have been pardoned when requesting their Certificate of Eligibility and submit a copy of their letter of pardon when filing their expungement request in court. *This also means that a pardon is a route to expungement for those who are otherwise ineligible under the law.*

Expungement Process

STEP 1: Get a Certificate of Eligibility.

Any person seeking expungement must first request a Certificate of Eligibility. This costs \$40, and you can request it online here: courts.ky.gov/expungement/Pages/default.aspx. You can also order the certificate by mail. Send the Certification Form with a \$40 money order to: Records Unit, Administrative Office of the Courts, 1001 Vandalay Drive, Frankfort, KY 40601.

AOC and KSP prepare these documents, and they are working under a significant backlog. KSP processes these requests on a first come, first serve basis. If the packet says that your client is ineligible, its possible there was a mistake. You may still file for expungement.

STEP 2: File the certification packet and expungement petition with the court within 30 days.

You have 30 days to file your documents with the court in the county where the charges originated. After 30 days, the certification packet will expire. There is a different form for acquittals/dismissals, misdemeanors, or felonies.

The form asks where the expungement request should be sent. Benjamin Pugh (www.prlaw.legal) submitted this suggested list: "All federal databases, including Dept. of Homeland Security & Immigration (ICE), Courtnet, County Detention Center/Jail, FBI database a.k.a NCIC, Cabinet for Health and Family Services, any KY educational database, County Board of Education, Jailtracker, City Police Department, County Sheriff's office, County or local Expungement & Information Processing Dept. (EIP), County Police, AOC."

Not Eligible?

Sometimes you will have a client who is technically ineligible because of some failure to meet every requirement laid out in the statutes. In these cases, it may be worth your while to ask for a meeting with a prosecutor and ask if they are willing to get creative to ensure the person gets an expungement.

It is essential in these types of cases to really go to bat for your client – to show the prosecutor why he or she is deserving of this "creative legal maneuvering." For example, has the client completed rehab, volunteered, changed their life around, etc.? Did they not have an attorney when they agreed to be convicted of the offenses, and thus didn't understand how it might affect their future? Think of all the reasons they deserve a clean record, and be ready to present them succinctly, along with information about why the offenses sought to be expunged were not of such a grave nature that expunging them would undermine our system of laws.

Authors

Julie Kaelin is a partner at Faulkner Kaelin Law, www.faulknerkaelinlaw.com, 514 S. 5th Street, Suite 102, Louisville, KY 40202, (502) 584-0969.

Molly Rose Green is the founder of Clean Slate Kentucky and was the 2015-2016 Expungement Fellow at the Department of Public Advocacy.

Additional resources are available at www.CleanSlateKentucky.com.

Expungement Process

STEP 1: Get a Certificate of Eligibility.

Any person seeking expungement must first request a Certificate of Eligibility. This costs \$40, and you can request it online here: courts.ky.gov/expungement/Pages/default.aspx You can also order it by mail. Send the Certification Form with a \$40 money order to: Records Unit, AOC, 1001 Vandalay Drive, Frankfort, KY 40601.

AOC and KSP prepare these documents, and they are working under a significant backlog. KSP processes these requests on a first come, first serve basis. If the packet says that your client is ineligible, it is possible there was a mistake. You may still file for expungement.

STEP 2: File the packet and expungement petition with the court within 30 days.

You have 30 days to file your documents with the court in the county where the charges originated before the certification packet will expire. There is a different form for acquittals/dismissals, misdemeanors, or felonies.

The form asks where the request should be sent. Benjamin Pugh submitted this suggested list: "All federal databases, including Dept. of Homeland Security & Immigration (ICE), any and all Kentucky court, agency, database of same, along with any federal counterpart, Courtnet, County Detention Center/Jail, FBI database a.k.a. NCIC, Cabinet for Health and Family Services, any educational database affiliated with Kentucky or the County Board of Education, Jailtracker, City Police Department, County Sheriff's office, County or local Expungement & Information Processing Department (EIP), County Police, AOC."

Not Eligible?

Sometimes you will have a client who is technically ineligible under the law. In these cases, it may be worth your while to ask for a meeting with a prosecutor and ask if they are willing to get creative to ensure the person gets an expungement.

It is essential in these types of cases to really go to bat for your client – to show the prosecutor why he or she is deserving of this "creative legal maneuvering." For example, has the client completed rehab, volunteered, turn their life around? Did they not have an attorney when they pled guilty, and thus didn't understand how it might affect their future? Think of all the reasons they deserve a clean record, and be ready to present them succinctly, along with information about why the offenses sought to be expunged were not of such a grave nature that expunging them would undermine our system of laws.

Authors

Julie Kaelin is a partner at Faulkner Kaelin Law, www.faulknerkaelinlaw.com, 514 S. 5th Street, Suite 102, Louisville, KY 40202, (502) 584-0969.

Molly Rose Green is the founder of Clean Slate Kentucky and was the 2015-2016 Expungement Fellow at the Department of Public Advocacy.
Additional resources are available at www.CleanSlateKentucky.com.

Use this chart if you were convicted of misdemeanors.

You can apply to expunge an unlimited number of misdemeanors, even if they were in different cases or counties.

Are there any criminal charges currently pending against you?

YES → You are not currently eligible.

NO →

Have you been convicted of any misdemeanors or felonies in the past five years?

YES → You are not yet eligible.

NO →

You cannot have any misdemeanor or felony convictions on your record for the five years before you apply for expungement.

Have five years passed since the completion of your sentence (including payment of fines and probation)?

NO → You are not yet eligible.

YES →

You must wait five years after you complete your sentence, pay any fines/fees, or complete probation - whichever was later.

Do you have a conviction for a sex offense or an offense against a child?

YES → You are not eligible to expunge that misdemeanor.

NO →

Was your offense subject to enhancement for a second or subsequent offense?

YES → You may be eligible. Contact an attorney.

NO → You are eligible for expungement.

Use this chart if you were convicted of Class D felonies (Class A, B, and C felonies are not eligible).

You can expunge more than one Class D felony conviction only if they are part of the same case or arose from the same incident.

Does your Class D felony appear on the eligible felonies list (pages 6-7)?

NO → You are not eligible.

YES →

Are there any criminal charges currently pending against you?

YES → You are not currently eligible.

NO →

Have you been convicted of any misdemeanors or felonies in the past five years?

YES → You are not yet eligible.

NO →

You cannot have any misdemeanor or felony convictions on your record for the five years before you apply for expungement.

Have five years passed since the completion of your sentence (including payment of fines and probation)?

NO → You are not yet eligible.

YES →

You must wait five years after you complete your sentence, pay any fines/fees, or complete probation - whichever was later

Have you ever expunged a Class D felony from your record before?

YES → You are not eligible.

NO → You are eligible for expungement.



Class D Felonies eligible for expungement under HB40

Statute	Offense
218A.1415	Possession of controlled substance, 1st degree
530.050	Flagrant non support
516.060	Criminal possession of forged instrument, 2nd degree
514.030	Theft by unlawful taking
512.020	Criminal mischief, 1st degree
514.110	Receiving stolen property under \$10,000
511.040	Burglary, 3rd degree
524.100	Tampering with physical evidence
516.030	Forgery, 2nd degree
514.040	Theft by deception under \$10,000
514.160	Theft of identity
514.070	Theft by failure to make required disposition of property
218A.140	Prohibited acts relating to controlled substances
218A.140(1A)	Attempting to obtain a prescription for a controlled substance by fraud or forgery
218A.140(1B)	Making a false statement to procure a controlled substance
218A.140(1C)	Use of false name or address to procure a controlled substance
218A.140(1D)	Making a false statement regarding a prescription
218A.140(2)	Possess, manufacture, sell, dispense, etc. a counterfeit substance
218A.140(3)	Obtain a prescription without having formed a practitioner-patient relationship
218A.284	Criminal possession of a forged prescription
186.990	Theft of motor vehicle plates/decal
514.140	Theft of mail matter
218A.1418	Theft of controlled substance
218A.282	Forgery of a prescription for a controlled substance, 1st offense
218A.286	Theft, criminal possession, or trafficking of a prescription for controlled substance
514.060	Theft of services
217.181	Theft of a legend drug
514.150	Possession of stolen mail matter
218A.1423	Cultivation of marijuana
218A.1416	Possession of controlled substance in 2nd degree *ENH*
514.050	Theft of property lost, mislaid, or delivered by mistake
218A.1417	Possession of controlled substance in 3rd degree *ENH*
516.090	Possession of a forgery device
217.208	Forgery of a prescription for a legend drug, 1st offense
530.010	Bigamy
514.080	Theft by extortion
514.100	Unauthorized use of automobile or other propelled vehicle

www.CleanSlateKentucky.com

Disclaimer of Liability: This information is provided as a public service. The information is not legal advice or legal representation.



Class D Felonies eligible for expungement under HB40

17.175	Unauthorized use/dissemination/receipt of DNA info
217.207	Theft, criminal possession, or trafficking of a prescription for legend drug
218A.1439	Trafficking in or transferring a dietary supplement
528.020	Promoting gambling Unlawful sale/shipment of alcoholic beverages by out-of-state seller to a KY consumer
244.165	
365.241	Counterfeiting intellectual property
434.155	Filing illegal lien
434.675	Use of scanning device or reencoder to obtain payment card information
434.872	Disclosure of information from financial information repository
514.065	Possession, use, or transfer of device for theft of telecommunication services
516.108	Criminal simulation in the first degree
525.113	Institutional vandalism
194A.505	False statement or misrepresentation to receive benefits under \$100 False statement or misrepresentation to receive benefits under \$100 (repealed in 2005)
194B.505	
218A.320	Criminal possession of a medical record
218A.322	Theft of a medical record
218A.324	Criminal falsification of a medical record
286.11-057	False Statement/Certification in money transmission record
304.47-025	Felony offense involving dishonesty or breach of trust -- Fraudulent Insurance Act
324.990	Engaging in real estate brokerage without license
434.850	Unlawful access to a computer in the second degree
514.090	Theft of labor
514.120	Obscuring identity of machine or other property
517.120	Operating a sham or front company
518.040	Sports bribery
522.040	Misuse of confidential information
526.020	Eavesdropping
526.030	Installing eavesdropping device
528.040	Conspiracy to promote gambling
528.050	Possession of gambling records in the first degree

431.073 Certain felony convictions may be vacated and the records expunged -- Application -- Hearing -- Vacating conviction without a hearing -- Order to vacate and expunge -- Application form and fee -- Retroactivity. (Effective July 15, 2016)

- (1) Any person who has been convicted of a Class D felony violation of KRS 17.175, 186.990, 194A.505, 194B.505, 217.181, 217.207, 217.208, 218A.140, 218A.1415, 218A.1416, 218A.1417, 218A.1418, 218A.1423, 218A.1439, 218A.282, 218A.284, 218A.286, 218A.320, 218A.322, 218A.324, 244.165, 286.11-057, 304.47-025, 324.990, 365.241, 434.155, 434.675, 434.850, 434.872, 511.040, 512.020, 514.030, 514.040, 514.050, 514.060, 514.065, 514.070, 514.080, 514.090, 514.100, 514.110, 514.120, 514.140, 514.150, 514.160, 516.030, 516.060, 516.090, 516.108, 517.120, 518.040, 522.040, 524.100, 525.113, 526.020, 526.030, 528.020, 528.040, 528.050, 530.010, or 530.050, or a series of Class D felony violations of one (1) or more statutes enumerated in this section arising from a single incident, or who has been granted a full pardon, may file with the court in which he or she was convicted an application to have the judgment vacated. The application shall be filed as a motion in the original criminal case. The person shall be informed of the right at the time of adjudication.
- (2) A verified application to have the judgment vacated under this section shall be filed no sooner than five (5) years after the completion of the person's sentence, or five (5) years after the successful completion of the person's probation or parole, whichever occurs later. Upon the payment of the filing fee and the filing of the application, the Circuit Court clerk shall serve a notice of filing upon the office of the Commonwealth's attorney or county attorney that prosecuted the case and the county attorney of the county where the judgment was entered. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall file a response within sixty (60) days after being served with the notice of filing. That time period may be extended for good cause, but the hearing on the application to vacate the judgment shall occur no later than one hundred twenty (120) days following the filing of the application. The inability to determine the location of the crime victim shall constitute good cause for an extension of time. No hearing upon the merits of the application shall be scheduled until the Commonwealth's response has been filed, or if no response is received, no later than one hundred twenty (120) days after the filing of the application.
- (3) Upon the filing of the Commonwealth's response to an application, or if no response is received, no later than one hundred twenty (120) days after the filing of the application, the court shall set a date for a hearing and the Circuit Court clerk shall notify the office of the Commonwealth's attorney or county attorney that prosecuted the case. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall notify the victim of the crime, if there was an identified victim. The Commonwealth's attorney or county attorney shall be authorized to obtain without payment of any fee information from the Transportation Cabinet regarding the crime victim's address on file regarding any vehicle operator's license issued to that person.

- (4) The court may order the judgment vacated, and if the judgment is vacated the court shall dismiss with prejudice any charges which are eligible for expungement under subsection (1) of this section or KRS 431.076 or 431.078, and order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if the court finds that:
 - (a) The person had not previously had a felony conviction vacated and the record expunged pursuant to this section;
 - (b) The person had not in the five (5) years prior to the filing of the application to have the judgment vacated been convicted of a felony or a misdemeanor; and
 - (c) No proceeding concerning a felony or misdemeanor is pending or being instituted against the person.
- (5) If the court has received a response from the office of the Commonwealth's attorney or county attorney that prosecuted the case stating no objection to the application to have the judgment vacated, or if one hundred twenty (120) days have elapsed since the filing of the application and no response has been received, the court may, without a hearing, vacate the judgment in the manner established in subsection (4) of this section.
- (6) Upon entry of an order vacating and expunging a conviction, the original conviction shall be vacated and the record shall be expunged. The court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state-performed background checks. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. If the person is not prohibited from voting for any other reason, the person's ability to vote shall be restored and the person may register to vote.
- (7) An order vacating a conviction under this section shall not extend or revive an expired statute of limitations, shall not constitute a finding of legal error regarding the proceedings leading to or resulting in the conviction, shall not nullify any findings of fact or conclusions of law made by the trial court or any appellate court regarding the conviction, and shall not constitute a finding of innocence regarding the conviction.
- (8) The Administrative Office of the Courts shall establish a form application to be used in filing an application to have judgment vacated and records expunged.
- (9) The filing fee for an application to have judgment vacated and records expunged shall be five hundred dollars (\$500). The first fifty dollars (\$50) of each fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks and shall not be refundable.
- (10) This section shall be retroactive.

Effective: July 15, 2016

History: Created 2016 Ky. Acts ch. 94, sec. 1, effective July 15, 2016.

17.142 Segregation of criminal records.

- (1) Each law enforcement or other public agency in possession of arrest records, fingerprints, photographs, or other data whether in documentary or electronic form shall upon written request of the arrestee as provided herein segregate all records relating to the arrestee in its files in a file separate and apart from those of convicted persons, if the person who is the subject of the records:
 - (a) Is found innocent of the offense for which the records were made; or
 - (b) Has had all charges relating to the offense dismissed; or
 - (c) Has had all charges relating to the offense withdrawn.
- (2) A person who has been arrested and then has come within the purview of subsection (1) of this section may apply to the court in which the case was tried, or in which it would have been tried in the event of a dismissal or withdrawal of charges, for segregation of the records in the case. Upon receipt of such application the court shall forthwith issue an order to all law enforcement agencies in possession of such records to segregate the records in accordance with the provisions of this section.
- (3) Each law enforcement agency receiving an order to segregate records shall forthwith:
 - (a) Segregate the records in its possession in a file separate and apart from records of convicted persons;
 - (b) Notify all agencies with which it has shared the records or to which it has provided copies of the records to segregate records; and
 - (c) All records segregated pursuant to this section shall show disposition of the case.
- (4) Records subject to the provisions of KRS 431.076 or 431.078 shall be sealed as provided in those statutes.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 374, sec. 2, effective July 15, 1996. -- Created 1980 Ky. Acts ch. 127, sec. 1, effective July 15, 1980.

NO. 12CR0123

JEFFERSON CIRCUIT COURT
DIVISION TWENTY (20)
JUDGE JOHN DOE

COMMONWEALTH OF KENTUCKY

PLAINTIFF

V.

NOTICE-MOTION-ORDER

JANE PLAIN

DEFENDANT

* * * * *

NOTICE

TO: Honorable Prosecutor Person, or her agent, Commonwealth's Attorney

Please take notice that the following Motion will be made on _____, or as soon thereafter as counsel may be heard, in the above Courtroom.

MOTION TO SEGREGATE RECORDS

Comes now Jane Plain (hereinafter referred to as "Ms. Plain"), by and through counsel, Julie Kaelin, and pursuant to KRS 17.142 (1) and (2), and requests that this Court enter the Attached Order directing the Jefferson County Clerk's Office to segregate all records relating to the arrestee, Jane Plain, and place them in a file separate and apart from those of convicted persons, and to thereby restrict such records from public view. In support thereof, Ms. Plain states as follows:

1) Ms. Plain was previously indicted on several charges before this Court under the above Indictment Number, which originated with district court case number 12F01234. The charges were later dismissed without prejudice by Agreed Order entered by this Court on January 1, 2012.

2) KRS 17.142 (1) states as follows:

"Each law enforcement **or other public agency** in possession of arrest records, fingerprints, photographs, or other data whether in documentary or electronic form shall upon written request of the

arrestee as provided herein segregate all records relating to the arrestee in its files in a file separate and apart from those of convicted persons, if the person who is the subject of the records:

- a) is found innocent of the offense for which the records were made; or
- b) has had all charges relating to the offense dismissed; or
- c) has had all charges related to the offense withdrawn."

Emphasis added. Subsection (2) applies to Ms. Plain. It does not matter whether the charges were dismissed with or without prejudice. "We note that Holloway does have another remedy that is provided by statutory authority. KRS 17.142 permits application for the segregation of records when all charges have been dismissed, without the requirement of a dismissal with prejudice." *Commonwealth v. Holloway*, 225 S.W. 3d 404, 407 (Ky. App. 2007).

- 6) Ms. Plain therefore requests this Court enter the attached order forthwith.

Respectfully submitted by:

FAULKNER KAELIN LAW OFFICE
Julie M. Kaelin
514 S. 5th St., Ste. 102
Louisville, KY 40202
(502) 584-0969
Fax: (502) 337-3167
julie@faulknerkaelinlaw.com

CERTIFICATE

The foregoing was delivered via U.S.P.S. to Prosecutor Person, 514 West Liberty Street, Louisville, KY 40202.

Julie M. Kaelin

NO. 12CR0123

JEFFERSON CIRCUIT COURT
DIVISION TWENTY (20)
JUDGE JOHN DOE

COMMONWEALTH OF KENTUCKY

PLAINTIFF

V.

ORDER

JANE PLAIN

DEFENDANT

* * * * *

Counsel for the defendant having filed a Motion for Segregation of the Records, and the Court being sufficiently advised,

IT IS HEREBY ORDERED that the Jefferson County Clerk's Office shall segregate all records relating to Jane Plain (cases 12-CR-0123 and 12-F-01234) from public view by:

- 1) segregating the records in its possession in a file separate and apart from records of convicted persons;
- 2) notifying all agencies with which it has shared the records or to which it has provided copies of the records to segregate records; and
- 3) ensuring that all records segregated pursuant to this section shall show disposition of the case.

JUDGE, JEFFERSON CIRCUIT COURT

DATE

cc: LMPD, LMDC, AOC, KSP, FBI, CHFS

Julie Kaelin, 514 S. 5th St., Ste. 102, Louisville, KY 40202

Commonwealth Attorney

218A.275 Assessment and treatment program for first offenders of possession of controlled substance -- Rescission of treatment order -- Voiding of conviction -- Sealing of records.

- (1) A court may request the Division of Probation and Parole to perform a risk and needs assessment for any person found guilty of possession of a controlled substance pursuant to KRS 218A.1415, 218A.1416, or 218A.1417. The assessor shall make a recommendation to the court as to whether treatment is indicated by the assessment, and, if so, the most appropriate treatment or recovery program environment. If treatment is indicated for the person, the court may order him or her to the appropriate treatment or recovery program that will effectively respond to the person's level of risk, criminal risk factors, and individual characteristics as designated by the secretary of the Cabinet for Health and Family Services where a program of treatment or recovery not to exceed one (1) year in duration may be prescribed. The person ordered to the designated treatment or recovery program shall present himself or herself for registration and initiation of the treatment or recovery program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated treatment or recovery program within the specified time, or if at any time during the program of treatment or recovery prescribed, the authorized director of the treatment or recovery program finds that the person is unwilling to participate in his or her treatment, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment, or may rescind the treatment order and impose a sentence for the possession offense. Upon discharge of the person from the treatment or recovery program by the secretary of the Cabinet for Health and Family Services, or his or her designee, prior to the expiration of the one (1) year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his or her designee, shall notify the sentencing court of the date of such discharge from the treatment or recovery program.
- (2) The secretary of the Cabinet for Health and Family Services, or his or her designee, shall inform each court of the identity and location of the treatment or recovery program to which the person is sentenced.
- (3) Transportation to an inpatient facility shall be provided by order of the court when the court finds the person unable to convey himself or herself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.
- (4) The sentencing court shall immediately notify the designated treatment or recovery program of the sentence and its effective date.
- (5) The secretary for health and family services, or his or her designee, may authorize transfer of the person from the initially designated treatment or recovery program to another treatment or recovery program for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating treatment or recovery program and shall be notified by the secretary of the new treatment or recovery program to which the person was transferred.
- (6) Responsibility for payment for treatment services rendered to persons pursuant to

this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the Cabinet for Health and Family Services, unless the person and the treatment or recovery program shall arrange otherwise.

- (7) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.
- (8) Except as provided in subsection (12) of this section, in the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of a conviction under this subsection and dismissal may occur only once with respect to any person.
- (9) If the court voids a conviction under this section, the court shall order the sealing of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, except as provided in KRS 27A.099. The court shall order the sealing on a form provided by the Administrative Office of the Courts. Every agency with records relating to the arrest, charge, or other matters arising out of the arrest or charge that is ordered to seal records, shall certify to the court within sixty (60) days of the entry of the order that the required sealing action has been completed.
- (10) After the sealing of the record, the proceedings in the matter shall not be used against the defendant except for the purposes of determining the person's eligibility to have his or her conviction voided under subsection (8) of this section. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record has been sealed shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.
- (11) Inspection of the sealed records may thereafter be permitted by the court pursuant to KRS 27A.099 or upon a motion by the person who is the subject of the records and only to those persons named in the motion or upon a motion of the prosecutor to verify a defendant's eligibility to have his or her conviction voided under subsection (8) of this section.
- (12) A person who has previously had a charge of possession of controlled substances dismissed after completion of a deferred prosecution under KRS 218A.14151 shall not be eligible for voiding of conviction under this section.

Effective: July 12, 2012

History: Amended 2012 Ky. Acts ch. 156, sec. 8, effective July 12, 2012. -- Amended 2011 Ky. Acts ch. 2, sec. 21, effective June 8, 2011. -- Amended 2005 Ky. Acts ch. 99, sec. 549, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 489, effective July 15, 1998. -- Created 1992 Ky. Acts ch. 441, sec. 9, effective July 28, 1992.

**ADMINISTRATIVE OFFICE OF THE COURTS
RECORDS UNIT
1001 VANDALAY DRIVE
FRANKFORT, KENTUCKY 40601
502-573-1682 or 800-928-6381
records@kycourts.net**



The process for INDIVIDUALS and ATTORNEYS requesting records for the purpose of expungement:

A fee of \$40.00 is to be paid to the order of the KENTUCKY STATE TREASURER by check or money order ONLY. FAILURE TO COMPLY WITH THESE PROCEDURES WILL RESULT IN THE REQUEST BEING RETURNED UNPROCESSED. If you suspect information contained on the record is incorrect, please contact the Records Unit at (502) 573-1682 or (800) 928-6381.

PLEASE **PRINT OR TYPE** THE INDIVIDUAL'S INFORMATION **CLEARLY**.

SOCIAL SECURITY NUMBER: _____ DLN: _____

NAME: _____

MAIDEN NAME(S) AND/OR ALIAS: _____

DATE OF BIRTH: _____

STREET ADDRESS / P.O. BOX: _____

CITY, STATE, ZIP CODE: _____

I understand the information supplied by me must be truthful and falsification with an intent to mislead may result in my prosecution under KRS 523.100. I have provided the basic information necessary to qualify for record processing and exemption of fees - if applicable.

*** ALL INFORMATION BELOW IS REQUIRED.**

Individual's Signature

Date

Company

Telephone Number

Requestor/Contact Person

Please denote which purpose applies to this request:

Address

Expungement

City, State, Zip

COMMONWEALTH OF KENTUCKY
BULLITT CIRCUIT COURT
Honorable Judge So and So
Indictment No. 12-CR-0123

COMMONWEALTH OF KENTUCKY

PLAINTIFF

V.

NOTICE-MOTION-ORDER

JANE PLAIN

DEFENDANT

* * * * *

TO:

Please take notice that the following motion will be made on _____, 2016,
at _____ a.m., in the above Court.

MOTION TO PROCEED IN FORMA PAUPERIS

Comes now the defendant, Jane Plain (hereinafter "Ms. Plain"), by counsel,
_____, and moves the court for an order to proceed with her Petition for Expungement
in forma pauperis, it appearing that the defendant is a pauper within the meaning of KRS
453.190 and KRS 31.110(2)(b). In support thereof, Ms. Plain states as follows:

1. Ms. Plain is a resident of _____ County, Kentucky.
2. Ms Plain is presently unemployed/employed at _____ earning \$_____.
3. Ms. Plain has _____ dependents, and no other sources of income.
4. Ms. Plain does not own any real property, or other property which she could reasonably
sell in order to afford an attorney.

WHEREFORE, Ms. Plain moves the Court to enter the attached order allowing her to
proceed with her Motion to Expunge in forma pauperis.

Respectfully Submitted,

/s/ Attorney Feelgood
Attorney Feelgood
Counsel for Jane Plain

CERTIFICATE OF SERVICE

I certify I e-filed the above Motion to Proceed in Form Pauperis on this the ____ day of _____, 2016, and that the e-filing system will cause a copy to be served to A.H. Prosecutor.

/s/ Attorney Feelgood
Attorney Feelgood

COMMONWEALTH OF KENTUCKY
BULLITT CIRCUIT COURT
Honorable Judge So and So
Indictment No. 12-CR-0123

COMMONWEALTH OF KENTUCKY

PLAINTIFF

V.

ORDER TO PROCEED IN FORMA PAUPERIS

JANE PLAIN

DEFENDANT

* * * * *

The Defendant having moved the court for an order to proceed with her Petition for Expungement in forma pauperis, and it appearing that the defendant is a pauper within the meaning of KRS 453.190 and KRS 31.110(2)(b).

IT IS HEREBY ORDERED AND ADJUDGED that the defendant may move forward with her Petition without payment of costs. Whether the Petition is granted or not, any costs which could be assessed shall be waived.

JUDGE, BULLITT CIRCUIT COURT

DATE: _____

cc: Counsel for Defendant
Clerk's Office
AOC
KSP



**FINANCIAL STATEMENT, AFFIDAVIT OF
INDIGENCY, REQUEST FOR COUNSEL AND
ORDER (CRIMINAL CASES)**

Case No. _____
Court _____
County _____

Name: _____ Age: _____

Address: _____

Telephone: (_____) _____ Charges: _____

FINANCIAL STATEMENT:

1. Income:
Employed? Yes No
If Yes: Full-time Part-time Temporary/Seasonal Length of Employment: _____
Income from Employment:
 monthly biweekly hourly \$ _____
If No, date last employed: _____

Married? Yes No If Yes, Spouse Employed? Yes No
If Yes, Spouse's Income from Employment: monthly biweekly hourly \$ _____

Total Income from ALL other source(s) and amount received per month:
 Welfare: \$ _____ Food Stamps: \$ _____ Social Security/Disability: \$ _____
 Worker's Comp: \$ _____ Unemployment: \$ _____ Retirement: \$ _____
 Child Support/Maintenance: \$ _____ Stocks, Trusts, Bonds: \$ _____
 Child Care Assistance: \$ _____ Other : _____

Total Income from ALL other source(s): \$ _____

TOTAL MONTHLY INCOME: \$ _____

2. Property:
Own Real Estate? Yes No
If Yes, Value of Real Estate: \$ _____ Amount owed : \$ _____
Own Mobile Home? Yes No
If Yes, Value of Mobile Home: \$ _____ Amount owed : \$ _____

Own Personal Property:
Motor Vehicles in Operable Condition (including motor cycles, riding lawn mowers, ATVs, etc.):
Make/Model Year: _____ Value: \$ _____ Amount Owed: \$ _____
Make/Model Year: _____ Value: \$ _____ Amount Owed: \$ _____
Make/Model Year: _____ Value: \$ _____ Amount Owed: \$ _____

Bank Accounts: Yes No
If Yes, total balance of all accounts: \$ _____

Other Asset(s) (i.e., boat, jewelry, cash)
Asset type: _____ Value: \$ _____ Amount owed: \$ _____

Asset type: _____ Value: \$ _____ Amount owed: \$ _____

3. Dependents: Yes No

If Yes, Number of Dependent(s) (including children, elderly, or disabled): _____

Relationship of dependent(s): _____ Age(s) of Dependent(s) _____

4. Monthly Expenditures:

Mortgage payment/ Rent: Yes No

If Yes, amount of payment: \$ _____

Child support obligation: Yes No

If Yes, amount of payment: \$ _____

Other out-of-pocket monthly bills (FOR HOUSEHOLD):

utilities: \$ _____ water: \$ _____ telephone service (land or cell): \$ _____

internet service: \$ _____ cable/satellite: \$ _____ car payment: \$ _____

credit card payments: \$ _____ car / health/home owners/ renters insurance payments: \$ _____

unreimbursed childcare: \$ _____ tuition: \$ _____ medical debts: \$ _____

student loan payments: \$ _____ Other Financial Obligations: \$ _____

Total of other out-of-pocket monthly bills: \$ _____

TOTAL MONTHLY EXPENDITURES: \$ _____

5. Cash bond posted: Yes No If Yes, amount of bond: \$ _____

Posted by (Name of Surety): _____

Request for Appointment of Counsel: I state to the Court that:

(1) I am not now represented by an attorney and

(2) I am without sufficient financial means or assets to afford a private attorney; or

(3) I have retained or intend to retain private counsel. _____

Name of Counsel

PERJURY WARNING: I understand that **knowingly** making **any false statement** in this Financial Statement, Affidavit of Indigency and Request for Appointment of Counsel will subject me to the penalties for perjury as contained in KRS Chapter 523, **exposing me to a maximum sentence of five (5) years imprisonment.** I declare under the penalty of perjury that I have read or have had read to me the above Financial Statement, Affidavit of Indigency and Request for Appointment of Counsel and that the information contained within is true, complete, and accurate to the best of my knowledge.

Affiant's Signature

Date

Being sworn to tell the truth, I certify that the facts and information stated in the above Financial Statement, Affidavit of Indigency and Request for Appointment of Counsel are true, complete, and accurate to the best of my knowledge. I also further swear to timely inform the Court of any significant changes in any of the information in the above Affidavit of Indigency.

Affiant's Signature

Date

Signature/Title of Officer Administering Oath

Date



**FINANCIAL STATEMENT; AFFIDAVIT OF
INDIGENCY; REQUEST FOR COUNSEL; AND
ORDER (CRIMINAL CASES)**

Case No. _____

Court _____

County _____

ORDER

Based upon the above attested statements, IT IS HEREBY ORDERED:

1. The Affiant, _____,

is NOT indigent pursuant to KRS Chapter 31 and the Request for Appointment of Counsel is DENIED.

is indigent pursuant to KRS Chapter 31 and the Request for Appointment of Counsel is GRANTED. The Court appoints the Department of Public Advocacy to represent the Defendant in the above-styled case.

2. A partial fee for representation

is NOT assessed.

is assessed in the amount of \$ _____ to be paid in full no later than the _____ day of _____, 2_____.

may be reserved for a later date.

DATE: _____, 2_____

JUDGE

District/Circuit (*Circle one*) Division _____

COMMONWEALTH OF KENTUCKY
COURT

CASE NO. ____ - ____ - _____

COMMONWEALTH OF KENTUCKY

PLAINTIFF

vs.

**MOTION FOR APPOINTMENT OF
THE DEPARTMENT OF PUBLIC ADVOCACY
FOR PURPOSES OF EXPUNGEMENT**

DEFENDANT

* * * * *

Comes now the Defendant, *pro se*, and moves this Court, pursuant to KRS 31.110(2)(c), for an order appointing the Department of Public Advocacy as counsel for the purposes of reviewing my eligibility for expungement and, if appropriate, filing a motion for expungement in the above-styled case and any other eligible cases. I have filed with this motion an Affidavit of Indigency in support of this motion and have tendered an Order of Appointment for the Court's consideration.

Respectfully submitted,

_____ (signature)

_____ (Name)

_____ (Address)

_____ (City, State ZIP)

COMMONWEALTH OF KENTUCKY

COURT
CASE NO. ____ - ____ - _____

COMMONWEALTH OF KENTUCKY

PLAINTIFF

**ORDER OF APPOINTMENT OF
THE DEPARTMENT OF PUBLIC ADVOCACY
FOR PURPOSES OF EXPUNGEMENT**

vs.

DEFENDANT

* * * * *

On the Defendant's *pro se* motion, and the Court being sufficiently advised, **IT IS HEREBY ORDERED AND ADJUDGED** that the Department of Public Advocacy is appointed to represent the Defendant for purposes of reviewing the Defendant's eligibility for expungement and taking such actions as are appropriate in seeking relief from the conviction in this case or other cases before this Court.

SO ORDERED THIS _____ DAY OF _____, _____.

Judge

Distribution:

Department of Public Advocacy, _____ Trial Office

Commonwealth Attorney's Office

County Attorney's Office

NOTE: A SEPARATE PETITION MUST BE FILED FOR EACH CRIMINAL CASE AND THE CHARGE(S) MUST BE LISTED IN THIS PETITION FOR THE CHARGE(S) TO BE EXPUNGED. ADDITIONALLY, A COPY OF YOUR CURRENT EXPUNGEMENT ELIGIBILITY CERTIFICATION MUST BE ATTACHED TO THIS PETITION.

AOC-496.2 Doc. Code: PEXC
 Rev. 7-16
 Page 1 of 2
 Commonwealth of Kentucky
 Court of Justice www.courts.ky.gov
 KRS 431.078; 218A.275(8);
 218A.276(8); 431.079



PETITION FOR EXPUNGEMENT
 (FOR MISDEMEANOR, VIOLATION, OR
 TRAFFIC INFRACTION CONVICTION)

Case No. _____
 Court _____
 County _____
 Division _____

COMMONWEALTH OF KENTUCKY
 VS.

PLAINTIFF

_____ NAME

DEFENDANT

_____ ADDRESS

() _____ PHONE NUMBER

Jail ID Number _____ (optional)

Defendant's Birthdate: _____ Defendant's SSN: _____ Violation/Arrest Date: _____

Comes now the Defendant herein, and petitions the Court, pursuant to KRS 431.078, to expunge the following misdemeanor, violation, or traffic infraction charge(s) in the above-referenced case:

CHARGE: _____ CHARGE: _____
 CHARGE: _____ CHARGE: _____
 CHARGE: _____ CHARGE: _____

In support of this Petition, the Defendant states as follows:

1. The Defendant was convicted of the misdemeanor(s), violation(s) or traffic infraction(s) charged above.
2. The above-stated offense(s) is/are not a sex offense(s) or an offense(s) committed against a child.
3. The Defendant has not, been convicted of a felony or misdemeanor in the five years prior to the filing of this Petition.
4. The offense(s) is/are not subject to enhancement for a second or subsequent offense or the time for such enhancement has expired.
5. No proceeding concerning a felony or misdemeanor is pending or being instituted against Defendant.
6. This petition is filed no sooner than five (5) years after completion of Defendant's sentence or five (5) years after successful completion of the Defendant's probation, whichever is later; **OR** involves Defendant's 1st conviction for possession of controlled substances voided under KRS 218A.275(8); **OR** involves a conviction for possession of marijuana or synthetic drugs or salvia voided under KRS 218A.276(8).
7. List the names and addresses of all victims of the crimes listed above and any other person(s) whom Defendant/Petitioner has reason to believe may have information relevant to the expungement:

Victims: _____

Persons with relevant information: _____

The Defendant prays that this Petition for Expungement of a Misdemeanor, Violation, or Traffic Infraction Conviction be granted and that this Court enter an Order that the following agencies expunge any records in the agencies custody regarding these charges: **LIST AGENCIES AND ADRESSES HERE:**

Note: Defendant/Petitioner must sign this petition **in the presence of** a notary **or** the circuit court clerk so that the notary/clerk can notarize his/her signature.

Date: _____, _____.
_____ Defendant/Petitioner Signature

Subscribed and sworn to before me by _____
this _____ day of _____, _____.

Notary/Clerk

My commission expires: _____, _____. By: _____ D.C.

THERE IS A \$100 FEE PER CASE, PAYABLE AT THE TIME OF FILING. THE CLERK CANNOT TAKE YOUR PETITION WITHOUT PROPER PAYMENT OF THE FEE. IF AN EXPUNGEMENT ORDER IS NOT GRANTED, \$50.00 OF THIS FEE IS NOT REFUNDABLE.

NOTIFICATION OF EXPUNGEMENT HEARING

This case is set for a hearing on _____, _____, at the hour of _____ a.m. p.m. at the _____ District Circuit Court.

Dated this _____ day of _____, _____.

Clerk

By: _____ D.C.

FOR CLERK USE ONLY

This Petition for Expungement was sent on the _____ day of _____, _____, to Defendant/Petitioner or his/her attorney; the County Attorney; all crime victim(s) identified by Defendant/Petitioner or in the court record sought to be expunged; and all other person(s) whom Defendant/Petitioner has reason to believe may have information relevant to the expungement.

Clerk

By: _____ D.C.

AOC-496.3 Doc Code: AFEX
Rev. 7-16
Page 1 of 2
Commonwealth of Kentucky
Court of Justice *www.courts.ky.gov*
KRS 431.073; 431.079



**APPLICATION TO VACATE AND
EXPUNGE FELONY CONVICTION**

Case No. _____
Court _____
County _____
Division _____

COMMONWEALTH OF KENTUCKY
VS.

PLAINTIFF

_____ NAME

DEFENDANT

_____ ADDRESS

() _____ PHONE NUMBER Jail ID Number _____ (optional)

Defendant's Birthdate: _____ Defendant's SSN: _____ Violation/Arrest Date: _____

Comes now the Defendant herein and moves this Court, pursuant to KRS 431.073, to vacate the conviction and expunge the following offense(s) in the above-referenced case: *(If there are non-felony charges in the same case to be expunged, list as well.)*

CHARGE: _____ CHARGE: _____
CHARGE: _____ CHARGE: _____
CHARGE: _____ CHARGE: _____

In support of this Application, the Defendant states as follows:

1. The Defendant was charged with or convicted of the offense(s) listed above.
2. The above-stated offense(s) is/are eligible to be vacated and expunged pursuant to KRS 431.073 or the defendant has been granted a full pardon by the Governor, a copy of which is attached.
3. The Defendant has not, in the five (5) years prior to the filing of this Application, been convicted of a felony or misdemeanor.
4. No proceeding concerning a felony or misdemeanor is pending or being instituted against the Defendant.
5. This Application is filed no sooner than five (5) years after completion of the Defendant's sentence or successful completion of the defendant's probation or parole, whichever occurs later.
6. The Defendant has not previously had a felony conviction vacated and expunged pursuant to KRS 431.073.

List the names of all victims of the crimes listed above (if known):

Victims: _____

The Defendant moves that this Application to Vacate and Expunge a Felony Conviction be granted and that this Court enter an Order that the Kentucky State Police, the Kentucky Department of Libraries and Archives, and the following agencies expunge any records in the agencies' custody regarding these charges: **LIST AGENCIES AND ADDRESSES HERE:**

I hereby state that the information provided above is true and accurate to the best of my knowledge.

Note: Defendant/Petitioner must sign this application **in the presence of** a notary **or** the circuit court clerk so that the notary/clerk can witness his/her signature.

Date: _____, _____.
_____ Defendant/Petitioner Signature

Subscribed and sworn to before me by _____
this _____ day of _____, _____.

Notary/Clerk
My commission expires: _____, _____ By: _____ D.C.

THERE IS A \$500 FEE PER CASE, PAYABLE AT THE TIME OF FILING. THE CLERK CANNOT TAKE YOUR APPLICATION WITHOUT PROPER PAYMENT OF THE FEE. IF AN EXPUNGEMENT ORDER IS NOT GRANTED, \$50.00 OF THIS FEE IS NOT REFUNDABLE. A COPY OF YOUR CURRENT EXPUNGEMENT ELIGIBILITY CERTIFICATION MUST BE ATTACHED TO THIS APPLICATION.

NOTICE TO COMMONWEALTH/COUNTY ATTORNEY

Pursuant to KRS 431.073(2), the office of the Commonwealth's Attorney or County Attorney who prosecuted the case shall file a response to this Application within sixty (60) days after being served with this notice. An extension may be granted for good cause, but a hearing on the application shall occur no later than one hundred twenty 120 days following the filing of the application. The office of the Commonwealth or County Attorney shall notify the victim of the crime if there was an identified victim.

FOR CLERK USE ONLY
This Application to Vacate and Expunge a Felony Conviction was sent on the _____ day of _____, _____, to the Commonwealth or County Attorney who prosecuted the case and the County Attorney of the County where the Judgment was entered.

Clerk
By: _____ D.C.

NOTE: A SEPARATE PETITION MUST BE FILED FOR EACH CRIMINAL CASE AND THE CHARGE(S) MUST BE LISTED IN THIS MOTION FOR THE CHARGE(S) TO BE EXPUNGED. ADDITIONALLY, A COPY OF YOUR CURRENT EXPUNGEMENT CERTIFICATION MUST BE ATTACHED TO THIS PETITION.

AOC-497.2 Doc. Code: PEXA
 Rev. 7-16
 Page 1 of 2

Commonwealth of Kentucky
 Court of Justice www.courts.ky.gov
 KRS 431.076; 431.079



PETITION FOR EXPUNGEMENT
 (FOR ACQUITTAL, DISMISSAL WITH PREJUDICE,
 OR FAILURE TO INDICT)

Case No. _____
 Court _____
 County _____
 Division _____

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS.

_____ NAME

DEFENDANT

_____ ADDRESS

() _____ PHONE NUMBER

Defendant's Birthdate: _____ Defendant's SSN: _____ Violation/Arrest Date: _____

Jail ID Number _____ (optional)

Comes now the Defendant herein and petitions the Court, pursuant to KRS 431.076, to expunge the following charges which were either acquitted, dismissed with prejudice or did not result in indictment in the above-referenced case:

CHARGE: _____ CHARGE: _____

CHARGE: _____ CHARGE: _____

CHARGE: _____ CHARGE: _____

In support of this Petition, the Defendant states as follows: *(Check all that apply)*

1. At least sixty (60) days prior to filing this petition, the Defendant was acquitted of the above-listed charge(s); or
 - At least sixty (60) days prior to filing this petition, the above-referenced charge(s) was/were dismissed with prejudice and said dismissal was NOT in exchange for a guilty plea to another offense;
 - The above listed felony charges originally filed in district court have not resulted in an indictment by the grand jury and twelve (12) months have elapsed since the date of the District Court decision to hold the matter to the grand jury.

AND

2. There are no current charges or proceedings pending in the above-styled case.

The Defendant prays that this Petition for Expungement for Acquittal, Dismissal with Prejudice, or Failure to Indict be granted and that this Court enter an Order that the following agencies expunge any records in the agencies' custody regarding these charges:

LIST AGENCIES AND ADDRESSES HERE:

Note: Defendant/Movant must sign this petition **in the presence of** a notary **or** the circuit court clerk so that the clerk can witness his/her signature.

Date: _____, _____.

Defendant/Petitioner Signature

Subscribed and sworn to before me by _____

this _____ day of _____, _____.

Notary/Clerk

My commission expires: _____, _____ By: _____ D.C.

ORDER

Having considered this Petition for Expungement:

- the court hereby orders the circuit court clerk to set a date for an expungement hearing.
- no hearing is required.

Judge

NOTIFICATION OF EXPUNGEMENT HEARING

This case is set for a hearing on _____, _____ at the hour of _____

a.m. p.m. at the _____ District Circuit Court. Dated this _____ day of _____, _____. The County or Commonwealth's attorney, as appropriate, may respond to this Petition. If the criminal charge(s) relates to the abuse or neglect of a child, the Office of General Counsel of the Cabinet for Health and Family Services (CHFS) shall respond within twenty (20) days of receipt of this notification if the CHFS has custody of records that reflect that Defendant/Petitioner has been determined by the CHFS or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect.

Clerk

By: _____ D.C.

For Clerk Use Only

If the court ordered an expungement hearing, this Petition for Expungement was sent on the _____ day of _____, _____ to Defendant/Petitioner or his/her Attorney; the County or Commonwealth's Attorney, as appropriate; and, if the criminal charge(s) relates to the abuse or neglect of a child, to the CHFS. If the court did not order a hearing, this Petition was sent on the _____ day of _____, _____, to Defendant/Petitioner.

Clerk

By: _____ D.C.

OFFICE OF THE GOVERNOR
APPLICATION FOR GUBERNATORIAL PARDON
AND/OR COMMUTATION OF SENTENCE

The applicant **MUST** complete this Application in full-- use extra paper where necessary.

Answer every question that applies to you:

CONSIDERATION OF AN APPLICATION FOR GUBERNATORIAL PARDON AND/OR COMMUTATION OF SENTENCE WILL NOT NECESSARILY RESULT IN THE REQUEST BEING GRANTED. ADDITIONAL RESPONSES MAY BE REQUIRED.

1. Name of Applicant: _____
Last First Middle

2. Name used at Time of Conviction: _____
Last First Middle

3. Aliases Used: _____

4. Social Security No.: _____

5. Date of Birth: _____

6. Address: _____

City/State: _____ Zip: _____

7. Phone: (____) _____

8. Marital Status: _____ Spouse's Name & Address: _____

9. Names and Ages of Dependent Children: _____

10. Criminal Charges or Convictions. **BEGINNING WITH MOST RECENT**, list **ALL** past and pending charges, felony or misdemeanor, regardless of conviction, excluding traffic violations – use extra paper if necessary.

i. Charge _____
Court of Conviction _____ City, County & State _____
Conviction Received _____
Date Convicted _____
Judge _____ Prosecutor _____ Defense Attorney _____
Length of Sentence _____ Probated for _____ years
Federal Sentence Yes No Federal Number _____
Period of Incarceration _____ Place of Incarceration _____
Institution Number _____ Date entered institution of jail _____
Conditional Release Date _____ Date Paroled _____ Date of Final Discharge _____
Date Probated _____ Date Probation Expired _____ Probation Number _____
Probation/Supervising Officer's Name and County _____

ii. Charge _____
Court of Conviction _____ City, County & State _____
Conviction Received _____
Date Convicted _____
Judge _____ Prosecutor _____ Defense Attorney _____
Length of Sentence _____ Probated for _____ years
Federal Sentence Yes No Federal Number _____
Period of Incarceration _____ Place of Incarceration _____
Institution Number _____ Date entered institution of jail _____
Conditional Release Date _____ Date Paroled _____ Date of Final Discharge _____
Date Probated _____ Date Probation Expired _____ Probation Number _____
Probation/Supervising Officer's Name and County _____

iii. Charge _____
 Court of Conviction _____ City, County & State _____
 Conviction Received _____
 Date Convicted _____
 Judge _____ Prosecutor _____ Defense Attorney _____
 Length of Sentence _____ Probated for _____ years
 Federal Sentence Yes No Federal Number _____
 Period of Incarceration _____ Place of Incarceration _____
 Institution Number _____ Date entered institution of jail _____
 Conditional Release Date _____ Date Paroled _____ Date of Final Discharge _____
 Date Probated _____ Date Probation Expired _____ Probation Number _____
 Probation/Supervising Officer's Name and County _____

11. Has the Applicant ever been found in violation of any terms or conditions of parole? Yes No. If yes, explain on extra paper.

12. Has the Applicant ever been found in violation of any terms or conditions of probation? Yes No. If yes, explain on extra paper.

13. Are you under Indictment? Yes No Explain: _____

14. Do you have any Outstanding Fines? Explain: _____

15. Do you have any Unpaid Restitution? Yes No Explain: _____

16. If ever incarcerated, state each instance the Applicant was incarcerated. (Include the basis for the action and discipline received) _____

 Conviction(s) for which relief is sought: _____

17. Education – Complete for the highest grade or year completed at all levels of school below.

i. High School
 Name and Address of School _____
 Dates Attended _____ to _____ Date of Graduation _____ Diploma Yes No

ii. Under Graduate College or University
 Name and Address of School _____
 Dates Attended _____ to _____ Date of Graduation _____ Degree _____

iii. Graduate College or University
 Name and Address of School _____
 Dates Attended _____ to _____ Date of Graduation _____ Degree _____

iv. Vocational, Business or Technical School
 Name and Address of School _____
 Dates Attended _____ to _____ Date of Graduation _____ Degree _____

v. GED Yes No Date _____

18. Applicant's five most recent employers (begin with most recent)

- a. Employer's Name _____
Employer's Address _____
Supervisor's Name _____
Period of Employment _____ Reason for Leaving _____
- b. Employer's Name _____
Employer's Address _____
Supervisor's Name _____
Period of Employment _____ Reason for Leaving _____
- c. Employer's Name _____
Employer's Address _____
Supervisor's Name _____
Period of Employment _____ Reason for Leaving _____
- d. Employer's Name _____
Employer's Address _____
Supervisor's Name _____
Period of Employment _____ Reason for Leaving _____
- e. Employer's Name _____
Employer's Address _____
Supervisor's Name _____
Period of Employment _____ Reason for Leaving _____

19. Military record (include branch of military, date of service, and type of discharge): _____

20. Names, addresses and relationship of three non-family references:

- 1) _____
- 2) _____
- 3) _____

21. Has the Applicant ever previously applied for a pardon/commutation? Yes No
If yes, in what year was application made? _____ (Provide copy)

22. Has the Applicant ever received a pardon/commutation? Yes No

23. **In a separate letter, which must accompany the Application**, please describe in your own words the reason(s) you are seeking relief and state the extenuating circumstances supporting the basis for the request.

24. **A minimum of three (3) letters of recommendation in support of the request for relief must accompany the Application.** Additional letters are recommended and may be submitted from all sources, including but not limited to the following: neighbors, employers, co-workers, pastors, church members, elected officials, judges, prosecutors, family members, etc.

25. Name, address and phone number of person(s) to contact if we need to contact you on an emergency basis.

I hereby authorize the Office of the Governor and any of its representatives to make all necessary investigations of my work, character, personal history, and financial, credit, and other records through investigative or credit agencies, or through communication with persons including, but not limited to, the following: (a) anyone connected with my current employer, (b) any former supervisor, official, or co-worker at my prior employers, (c) my neighbors, friends, or others with whom I am acquainted, or (d) individual references, schools, or other organizations, including law enforcement agencies, named in this application. I hereby authorize all parties referenced in the preceding sentence to release in any manner any and all information which may be pertinent to my application, whether such information is public record or not. I also hereby release all persons, employers, agencies, schools, companies, or other parties from any damages resulting from furnishing such information.

I swear or affirm that the information reported in this application and any accompanying material is complete and accurate.

Date

Signature

Additional responses may be required of an applicant.

COMPLETION OF THE APPLICATION FOR GUBERNATORIAL PARDON AND/OR COMMUTATION OF SENTENCE, WHICH MUST BE IN FULL, MEANS ONLY THAT THE APPLICANT MAY BE CONSIDERED FOR A PARDON AND/OR COMMUTATION, NOT THAT ONE WILL BE GRANTED.

Promptly notify us concerning any change of address or change in telephone listing.

Return completed Application for Gubernatorial Pardon and/or Commutation of Sentence with required attachments to:

Office of the Governor
700 Capitol Avenue
Frankfort, Kentucky 40601
ATTN: Office of the General Counsel

DIVISION OF PROBATION AND PAROLE
APPLICATION FOR RESTORATION OF CIVIL RIGHTS

*****Please allow up to 12 weeks to process your application*****

Answer every question that applies to you:

1. Name Used at Time of Conviction: _____ Aliases Used: _____
Institution or Federal Number: _____
Case Number (Probation): _____
2. Address: _____
City/State: _____ Zip: _____
County: _____
3. Phone: (_____) _____ - _____
4. Date of Birth: ____/____/____ Social Security Number: ____-____-____
5. What is your **most recent** felony conviction? **List Charges:** _____

6. Length of Sentence: _____ Probated for _____ Years
7. Court of Conviction: _____ City, County & State: _____
8. Date of Conviction: _____
9. Institution or Jail **released** from: _____
Date Entered Institution or Jail: _____
Date Paroled: _____ Date of Final Discharge or Serve Out: _____
10. Date Probated: _____ Date Probation Expired: _____
Name of **Last** Supervising Officer and County: _____
11. **Federal Sentences:** Date Probation Supervised or Parole Release Terminated? _____
12. Are you under Indictment? Yes No Explain: _____
13. Do you have any Outstanding Fines? Yes No Explain: _____
14. Do you have any Unpaid Restitution? Yes No Explain: _____
15. Do you have any previous felony convictions other than the one(s) above? Yes No
List any previous Felony Convictions: (A) Number, Institution, State (B) Crime (C) Sentence (D) Date of Conviction (E) Date & Method of Release (F) Date of Final Discharge: _____

Restoration of Civil Rights DOES NOT give a convicted felon the right to purchase, own or have in possession a firearm or other weapon.

To the best of my knowledge the above information is correct.

Applicant Signature/Date

Notary Public or Probation & Parole Officer

- All persons who have been convicted of a felony in any court in this or any other state loses the right to vote and to hold public office. It is the prerogative of the Governor afforded him or her under the Kentucky Constitution to restore these rights.
- To be eligible for restoration of civil rights, applicants must have received a Final Discharge from parole or their sentence must have expired, whichever is applicable. Applicants must not be under felony indictment, must not have pending charges or owe any outstanding fines or restitution.
- Registering to vote **prior** to receiving restoration of civil rights is a violation of the law. This violation may impose a maximum penalty of five (5) years in prison.
- If you had a **Federal Conviction**, answer all questions that apply to your probation or parole conviction.
- If you had an **Out-of-State Conviction**, answer questions that apply to your probation or parole conviction.
- **For those convicted in a federal or out-of-state court, you must provide a copy of the conviction/judgment of final sentence, a letter from the former parole officer attesting to the final discharge, and proof that fines or restitution ordered has been paid.**
- If you do not answer all of the questions that apply to you, submit any documents that may be required or fail to sign; your application will be returned to you for completion. Please assist us in processing your application as quickly as possible by completing the questions applicable to your case.
- Return the completed application to:

Department of Corrections
Division of Probation & Parole
P.O. Box 2400
Frankfort, KY 40602-2400
Attn: Restoration of Civil Rights