6TH JUDICIAL DISTRICT • KNOX COUNTY, TENNESSEE

CHARME P. ALLEN

OFFICE of the DISTRICT ATTORNEY GENERAL

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MEMORANDUM

TO: PETITIONERS SEEKING EXPUNGEMENT OF CONVICTION(S) AND/OR ATTORNEYS SEEKING TO FILE A PETITION

FROM: DISTRICT ATTORNEY GENERAL CHARME P. ALLEN

RE: EXPUNGEMENT OF CONVICTION(S) PACKET

DATE: JULY 1, 2019

Pursuant to T.C.A. § 40-32-101(g), certain convictions are eligible for Expungement. If your conviction occurred within Knox County, Tennessee, please carefully follow the instructions on the attached coversheet and in the packet for your initial request to be evaluated and processed by the Knox County District Attorney General's Office.

If you require legal advice, please contact a licensed attorney as the District Attorney General's Office does not represent you and is prohibited from providing you with legal advice.

If you are an attorney filing the Petition on your client's behalf, the District Attorney General's Office will not evaluate the request until the Petition (including required documentation as per the Expungement Packet), proposed Order, and fee of $100 are filed with the Clerk of the Court. Please contact the DA's Office prior to filing your Petition for further instructions.

EXPUNGEMENT OF CONVICTION(S) PURSUANT TO T.C.A. § 40-32-101(g) or T.C.A. § 40-32-101(k)

In this packet of information, you will find:

- Demographic Form
- Petition Checklist with required information and documentation (3 pages)
- An INCLUSION list of the Class E Felonies and the Class D Felony that can be expunged
- An EXCLUSION list of the Misdemeanors that cannot be expunged (2 pages)
- A listing of criteria that must be met for offenses committed prior to November 1, 1989 to be eligible for Expungement
- The Petition and Proposed Order to be filed in Court (2 pages each)

INSTRUCTIONS

1. Review the attached lists of offenses to determine if your conviction can be expunged.

2. Complete the Demographic Form.

3. Complete the Petition Checklist and attach all required documentation.

4. Failure to fully complete the Demographic Form and Petition Checklist prevents the DA's Office from processing your paperwork.

5. Return your completed forms and required supporting documentation to the Knox County District Attorney General's Office.

6. The DA's Office will review your request and notify you if you are eligible to file a Petition for Expungement.

7. If eligible, an Assistant District Attorney General will contact you to assist you in preparing your Petition. Please note that in some instances the District Attorney General may stand in opposition to the granting of the Petition and/or the Court may not grant your Petition for Expungement.

8. File your Petition for Expungement at the appropriate Court Clerk's Office.

9. A **NON-REFUNDABLE** filing fee of $100 payable to the Knox County Criminal Court Clerk's Office is required.

10. The Clerk's Office or District Attorney General will provide you with further instructions.

EXPUNGEMENT DEMOGRAPHIC FORM

(Please Print)

NAME ON CONVICTION(S): _____
(First) (Middle) (Last)

OTHER NAMES (ALIASES): _____

_____

CURRENT ADDRESS: _____
(Street Number, Street Name, P.O. Box, Apt, #, etc.)

_____
(City) (State) (Zip Code)

DATE OF BIRTH: _____
(Month/Day/Year)

SOCIAL SECURITY NUMBER: _____

PHONE NUMBER: _____
(Including Area Code)

EMAIL ADDRESS: _____

PETITION CHECKLIST FOR EXPUNCTION OF RECORD OF CONVICTION(S) PURSUANT TO T.C.A. § 40-32-101(g) or T.C.A. § 40-32-101(k)

***NOTE: IF YOU WERE CONVICTED OF OR PLED GUILTY TO THREE (3) OR MORE CRIMES ARISING FROM SEPARATE CRIMINAL EVENTS, THEN YOU CANNOT HAVE ANY CONVICTIONS EXPUNGED.**

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

- [ ] You must have no other convictions in this or any other jurisdiction other than the one(s) to be expunged; however, any moving or non-moving traffic offense shall not be considered a criminal offense as used in T.C.A. § 40-32-101(g)(2)(A). If petitioning for Expungement of two (2) convictions from separate incidents pursuant to TCA § 40-32-101(k), the offenses must be two (2) eligible misdemeanors or one (1) eligible felony and one (1) eligible misdemeanor.

- [ ] You must have completed all terms of imprisonment, probation, or parole. At least five (5) years must have elapsed since the completion of the sentence imposed for the offense. If petitioning for Expungement of two (2) convictions from separate incidents pursuant to TCA § 40-32-101(k), at least five (5) years must have elapsed since the completion of the sentence imposed for the most recent offense. If one (1) of the offenses was drug fraud pursuant to T.C.A. § 53-11-402(a)(3), at least 10 years must have elapsed since the completion of the sentence imposed for that offense. If the sentence included probation or parole, the sentence was completed at the end of the probationary period.

- [ ] You must have met all conditions of supervised or unsupervised release, such as parole, probation, or community service, as evidenced by an official statement from the agency responsible for supervising your release, such as the State parole office, the State or County probation or community service agency.

- [ ] You must have a copy of the record of the conviction to be expunged. *(This copy may be obtained from either the Criminal Court Clerk or the General Sessions Court Clerk, depending on which Court entered the conviction.)*

- [ ] You must have paid all fines, restitution, court costs, and other assessments as evidenced by a statement from the appropriate Court Clerk, or other documentary evidence showing that the obligation has been satisfied. *(This statement may be obtained from either the Criminal Court Clerk or the General Sessions Court Clerk, depending on which Court entered the conviction.)*

☐ The conviction must be for either a Class E Felony listed on the inclusion list attached, or the Class D Felony listed on the inclusion list attached, or a Misdemeanor that is NOT listed on the exclusion list attached, or a conviction that occurred prior to November 1, 1989 and meets all the listed criteria. If petitioning for Expungement of two (2) offenses from separate incidents, the offenses must be two (2) eligible misdemeanors or one (1) eligible felony and one (1) eligible misdemeanor.

☐ If so required by the conditions of the sentence imposed, you must have remained free from dependency on or abuse of alcohol or a controlled substance or other prohibited substance for a period of not less than one (1) year.

☐ You must have photo identification or government-issued ID. *(Must attach a copy.)*

☐ You must pay a non-refundable fee of $100 at the time of filing the Petition to the Clerk of the Court where the conviction was entered.

☐ You must submit a self-addressed stamped business or legal-size envelope with your Petition so that the Clerk can mail you a certified copy of your Expungement Order if the Judge grants your Petition. You should keep this certified copy forever as proof that your case was expunged.

☐ If you are seeking the Expungement of convictions for more than one (1) of the offenses listed in subdivision (g)(1), the conduct upon which each conviction is based must have occurred contemporaneously, at the same location, representing a single continuous criminal episode with a single criminal intent <u>and</u> all such convictions must be eligible for expunction under subdivision (g)(1). **This subsection does not apply to those petitioning for Expungement of two (2) convictions from separate incidents pursuant to TCA § 40-32-101(k).**

☐ List the cities and states where you have lived:

_____

_____

_____

_____

_____

_____

* If you are a victim of human trafficking, then you may be eligible to have multiple, nonviolent convictions for offenses that resulted from your status as a victim of human trafficking expunged if the expunction is in the best interest of justice and public safety and other requirements are met. Please speak with the District Attorney General for further information.

By signing below, you certify that you have fully read and truthfully completed this packet. You understand and acknowledge that the District Attorney is not your attorney and is not providing legal advice. You understand that the District Attorney is performing an administrative function pursuant to TCA § 40-32-101(g) by assisting in the completion of the Petition to Expunge and the Order of Expungement. You understand that the District Attorney has advised you that you may seek independent legal counsel to assist you with the Expungement process. You further understand that the Order granting Expungement does not reinstate your voting rights or other citizenship rights and that further action may be required to have any of those rights restored. You understand that the filing of the Petition for Expungement does not guarantee that the Petition will be granted by the Court. You further understand that statements made in the Petition for Expungement are made under penalty of perjury in connection with an official proceeding.

_____ _____

Petitioner's Signature Date

FELONY INCLUSION LIST

A Class E Felony committed after November 1, 1989, may be expunged if the sentence was for three (3) years or less and appears in the below list. ***(If the conviction is for a Class E Felony committed after November 1, 1989, and is not on this list, it cannot be expunged. If the sentence was for more than three (3) years 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(2) Theft ($501-$999);
39-14-114(c) Forgery (up to $1,000);
39-14-115 Criminal simulation (up to $1,000);
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 ($501-$999);
39-14-121 Worthless checks ($501-$999);
39-14-130 Destruction of valuable papers ($501-$999);
39-14-131 Destruction or concealment of will;
39-14-133 Fraudulent or false insurance claim ($501-$999);
39-14-137(b) Fraudulent qualifying for set aside programs ($501-$999);
39-14-138 Theft of trade secrets ($501-$999);
39-14-139 Sale of recorded live performances without consent ($501-$999);
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 ($501-$999 (fine only);
39-14-153 False information in applying for housing project accommodations;
39-14-402 Burglary of an auto;
39-14-408 Vandalism ($501-$999);
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 ($501-$999);
39-14-603 Unsolicited bulk electronic mail ($500- $999);
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(f) Manufacture, delivery, sale or possession of Schedule V drug (fine not greater than $5,000);
39-17-417(g)(1) Manufacture, delivery, sale or possession of not less than ½ ounce and not more than 10 pounds of Schedule VI; drug marijuana (fine not greater than $2,500);
39-17-417(h) Manufacture, delivery, sale or possession of Schedule VII drug (fine not greater than $1,000);
39-17-418(e) Simple possession or casual exchange (3rd offense);
39-17-422(c) Selling glue for unlawful purpose;
39-17-423(c) Counterfeit controlled substance; and
39-17-425(b)(1), (2), (3) Unlawful drug paraphernalia uses and activities.

The following Class D Felony may be expunged: 53-11-402(a)(3) Drug Fraud - if the person was convicted of drug fraud pursuant to § 53-11-402(a)(3) and sentenced to imprisonment for a term of four (4) years or less for an offense committed on or after November 1, 1989; provided, however, that at least ten (10) years have elapsed since completion of the sentence imposed for the offense.

MISDEMEANOR EXCLUSION LIST

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

39-13-101(a)(1) and (2) Assault;
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)(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;
39-13-533 Unlawful sexual contact by authority figure;
39-14-118 Fraudulent use of credit/debit card (up to $500);
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 person 18-21 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 exhibition – Distribution to or employment of minors;
39-17-907 Unlawful exhibition of obscene material;
39-17-911 Sale or loan to minors of harmful materials;
39-17-918 Unlawful massage or exposure of erogenous areas;
39-17-1307(f)(1)(A) Possession of firearm after being convicted of misdemeanor crime of domestic violence;
39-17-1307(f)(1)(B) Possession of firearm while order of protection is in effect;
39-17-1307(f)(1)(C) Possession of firearm while prohibited by state or federal law;
39-17-1312 Failure of adult to report juvenile carrying gun in school;
39-17-1320(a) Nonparent providing handgun to a juvenile;

39-17-1352 Failure to surrender handgun carry permit upon suspension;
39-17-1363 Violent felon owning or possessing vicious dog;
39-13-101(a)(3) Assault (offensive or provocative physical contact);
39-13-511(a) Public indecency — first or second offense (punishable by $500 fine only);
39-13-511(b)(2) Indecent exposure (victim 13 years old or older);
39-15-412(b) Disseminating smoking paraphernalia to minor after 3 prior violations;
39-16-404 Misuse of official information by public servant;
39-17-317 Disorderly conduct at funerals;
39-17-715 Possession of or consuming alcoholic beverages on K-12 school premises;
39-17-914 Display for sale or rental of material harmful to minors; and
55-10-401 Driving under the influence of an intoxicant.

OFFENSE COMMITTED BEFORE NOVEMBER 1, 1989

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

1. The sentence was either a determinate sentence, of three (3) years or less OR sentenced to an indeterminate sentence for which the person served three (3) years or less;
2. The convicted person 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;
3. The convicted offense did not have as an element the use, attempted use, or threatened use of physical force against the person of another;
4. 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;
5. The convicted offense did not involve the use or possession of a deadly weapon;
6. The convicted offense was not a sex 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 sex offense involving a minor;
7. The convicted offense did not result in the death, serious bodily injury or bodily injury to a person;
8. The convicted offense did not involve the use of alcohol or drugs and a motor vehicle;
9. The convicted offense did not involve the sale or distribution of a Schedule I, II, III or IV controlled substance;
10. The convicted offense did not involve a minor as the victim of the offense; or
11. The convicted offense did not result in causing the victim or victims to sustain a loss of fifty thousand dollars ($50,000) or more.

IN THE _____ COURT OF KNOX COUNTY, TENNESSEE
DIVISION _____

STATE OF TENNESSEE

vs.

_____, ALIAS

WARRANT NO(S): _____
DOCKET NO(S): _____
DEFENDANT'S IDN: _____
DATE(S) OF ARREST: _____
ARRESTING AGENCY: _____
DATE OF BIRTH: _____
GENDER: _____
RACE: _____
ORIGINAL CHARGE(S): _____
_____
FINAL CHARGE(S): _____
_____

PETITION TO EXPUNGE RECORDS OF CONVICTION(S)

PURSUANT TO T.C.A. § 40-32-101(g) or T.C.A. § 40-32-101(k)

Petitioner respectfully petitions this Honorable Court to order that all public records of the conviction(s) for _____ under Warrant/Docket No(s). _____ be expunged pursuant to T.C.A. § 40-32-101(g) or T.C.A. § 40-32-101(k) and in support would state to the Court as follows:

1. The statute authorizes the subject conviction(s) to be expunged.
2. Petitioner has no other conviction in this or any other jurisdiction other than the one(s) to be expunged.
3. At least five (5) years have elapsed since the completion of the sentence(s) imposed for the offense(s).
4. All fines, restitution, court costs, and other Court-ordered assessments have been paid.
5. All terms of imprisonment, probation, and parole have been completed.
6. All conditions of supervised or unsupervised release have been met.

7. If so required by the conditions of the sentence(s) imposed, Petitioner 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.
8. Petitioner understands that the order granting Expungement does not reinstate his/her voting rights or other citizenship rights and that further action may be required to have any of those rights restored. Petitioner understands that the filing of the petition for Expungement does not guarantee that the petition will be granted by the Court.
9. Petitioner further understands that statements made in the petition for Expungement 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 (or these convictions) be expunged pursuant to T.C.A. § 40-32-101(g) or T.C.A. § 40-32-101(k).

Respectfully submitted,

_____

PETITIONER'S SIGNATURE

PETITIONER'S MAILING ADDRESS:

_____

_____

_____

IN THE _____ COURT OF KNOX COUNTY, TENNESSEE
DIVISION _____

STATE OF TENNESSEE

vs.

_____, ALIAS

WARRANT NO(S): _____
DOCKET NO(S): _____
DEFENDANT'S IDN: _____
DATE(S) OF ARREST: _____
ARRESTING AGENCY: _____
DATE OF BIRTH: _____
GENDER: _____
RACE: _____
ORIGINAL CHARGE(S): _____
_____
FINAL CHARGE(S): _____
_____

ORDER GRANTING PETITION TO EXPUNGE RECORDS OF CONVICTION(S) PURSUANT TO T.C.A. § 40-32-101(g) or T.C.A. § 40-32-101(k)

This cause came on for hearing on the written Petition To Expunge Records Of Conviction(s) Pursuant To T.C.A. § 40-32-101(g) or T.C.A. § 40-32-101(k) and the entire record, from all of which the Court finds that:

1. The statute authorizes the subject conviction(s) to be expunged.
2. Petitioner has no other conviction in this or any other jurisdiction other than the one(s) to be expunged.
3. At least five (5) years have elapsed since the completion of the sentence(s) imposed for the offense(s).
4. All fines, restitution, court costs, and other Court-ordered assessments have been paid.
5. All terms of imprisonment, probation, and parole have been completed.
6. All conditions of supervised or unsupervised release have been met.
7. If so required by the conditions of the sentence(s) imposed, Petitioner 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.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that all public records of the subject conviction(s) be removed and destroyed in accordance with T.C.A. § 40-32-101(g) or T.C.A. § 40-32-101(k). The Clerk shall send or cause to be sent a copy of the Order of Expungement to the Tennessee Bureau of Investigation for entry into its expunged offenders' database. Pursuant to T.C.A. § 40-32-101(g) or T.C.A. § 40-32-101(k) the Clerk shall keep a confidential record of Expungement that can only be used to enhance a sentence should the Petitioner be charged and convicted of another crime.

ENTER this the _____day of _____, 20_____.

_____, JUDGE

DIVISION _____, _____ COURT,
KNOX COUNTY, TENNESSEE

APPROVED FOR ENTRY:

CHARME P. ALLEN
DISTRICT ATTORNEY GENERAL

BY: _____
Assistant District Attorney General

_____
Attorney for Petitioner