

INFORMATION PACKET FOR PERSONS SEEKING EXPUNGEMENT
PURSUANT TO T.C.A. § 40-32-101(g)

Beginning July 1, 2012, individuals who were previously convicted of certain non-violent, non-sexual misdemeanors and class E felonies may be eligible to have their convictions expunged pursuant to T.C.A. 40-32-101(g). Attached to this letter you will find several documents along with a checklist that sets forth all of the documentation that must be obtained prior to filing a petition to expunge a conviction. If after reviewing these materials you believe that you are eligible to have your conviction expunged you must complete all of the following steps in order to successfully file a petition:

- 1) Obtain a certified copy of your conviction from the Clerk of the court where you were convicted;
- 2) Obtain a printout or receipt from the Clerk of the court where you were convicted showing that all fines, costs, restitution, and other assessments associated with your conviction have been paid;
- 3) Provide the attached Affidavit to the probation/parole office that supervised you and have them certify that successfully completed all the requirements of your supervised released;
- 4) Fill out the attached Personal Information sheet providing us with current contact information;
- 5) Make a copy of your photo identification or government issued identification card;
- 6) Provide a self-addressed stamped envelope with your current mailing address;
- 7) Bring all of the items listed in paragraphs 1 through 7 back to the District Attorney's office in Blountville;
- 8) We will review all of the materials that you provide us and notify you by mail within sixty (60) days whether you are eligible to file a petition for expungement;
- 9) If you are not eligible, you will receive a letter stating why your application has been rejected;
- 10) If you are eligible, you will receive a letter directing you to call our office and make an appointment to complete your petition;
- 11) On the day of your appointment you will need to bring with you the \$350 filing fee and pay any additional administrative fees assessed by the Clerk's office;

12) An Assistant District Attorney will meet with you on the day of your appointment to complete your petition. You will then take the completed petition along with your filing fee to the Clerk's office.

13) Once the petition is filed in the Clerk's office, the Clerk will assign your petition a docket number and set a date for you to appear before a Criminal Court judge. You must be present on the date your petition is scheduled in order for your expungement to be granted.

14) If, at any time during this process, you want legal advice, then you must contact an attorney. The Office of the District Attorney does not represent you, and we will not give you legal advice.

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

***Note: If you were convicted of or pled guilty to two (2) or more crimes arising from separate criminal events, you cannot have the convictions expunged ***

Before any petition to expunge a conviction pursuant to T.C.A. § 40-32-101(g) can be filed the following steps must be successfully completed and the required documents attached and returned to the District Attorney's Office in Blountville.

- You must not have any other convictions in this or any other jurisdiction other than the one to be expunged.
- 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 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. *An Affidavit is attached that you must take with you to the appropriate probation office to have them complete.*
- You must have a copy of the record of the conviction to be expunged. *(This 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 *(this may be obtained from either the Criminal Court Clerk or the General Sessions Court Clerk, depending on which court entered the conviction)*, or other documentary evidence showing that the obligation has been satisfied.
- The conviction must be for either a class E felony included on the inclusion list or a misdemeanor that is NOT included on the attached exclusion list.
- If 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 a government issued ID and bring a copy that we can attach to your petition.

- You must pay a fee of \$350 and any other administrative fees assessed by the Clerk's Office at the time of filing your Petition.
- You understand and agree that the District Attorney is not giving legal advice in providing these forms and information relating to the filing of the petition, but is performing an administrative function pursuant to T.C.A. § 40-32-101(g) by assisting in the completion of the petition to expunge and the order of expungement.
- You further understand that the order granting expungement does not affect 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 all statements made in the petition for expungement are made under penalty of perjury in connection with an official proceeding.

NAME: _____

OTHER NAMES (ALIASES): _____

CURRENT ADDRESS: _____

DATE OF BIRTH: _____

SOCIAL SECURITY NUMBER : _____

PHONE NUMBER: _____

CITIES AND STATES WHERE
YOU HAVE LIVED
SINCE YOUR CONVICTION

PROBATION AFFIDAVIT

Comes the Affiant, _____, being duly sworn would depose and state as follows:

1. I am a probation officer employed by _____.
2. The petitioner was on probation with our agency from _____ to _____.
3. I have reviewed the records maintained by our office and hereby certify that the petitioner has fulfilled all conditions imposed by the Court as a condition of the sentence, specifically including:
 - a) Payment of all fines, restitution, court costs, and other assessments;
 - b) Serving any mandatory jail time;
 - c) Any other conditions of probation;
 - d) Community service work;
 - e) If required by the conditions of the sentence imposed, remaining 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.
5. I am over eighteen years of age and competent to testify.

Further Affiant Saith Not.

Name

Sworn and subscribed before me this the _____ day of _____ 2012.

Notary Public

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 Home improvement fraud (\$500-\$1,000);
- 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 \$1,000);
- 39-17-417(h) Manufacture, delivery, sale or possession of Schedule VII drug (fine not greater than \$1,000);
- 39-17-418(e) Simple possession or casual exchange (3rd offense);
- 39-17-422(c) Selling glue for unlawful purpose;
- 39-17-423(c) Counterfeit controlled substance;
- 39-17-425(b)(1), (2), (3) Unlawful drug paraphernalia uses and activities;

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 A misdemeanors;
- 39-17-907 Unlawful exhibition of obscene material;
- 39-17-911 Sale or loan to minors of harmful materials;
- 39-17-918 Unlawful massage or exposure of erogenous areas;
- 39-17-1307(f)(1)(A) Possession of firearm after being convicted of misdemeanor crime of domestic violence;
- 39-17-1307(f)(1)(B) Possession of firearm while order of protection is in effect;
- 39-17-1307(f)(1)(C) Possession of firearm while prohibited by state or federal law;
- 39-17-1312 Failure of adult to report juvenile carrying gun in school;
- 39-17-1320(a) Non parent 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 of 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 twenty-five thousand dollars (\$25,000) or more.