

Downtown
525 N. Main, Ste 235
Wichita, Kansas 67203

Office of the District Attorney
18th Judicial District of Kansas

Juvenile
1900 East Morris
Wichita, KS 67211

GENERAL INFORMATION

Kansas statutes allow expungement of some conviction and diversions after a certain time frame has passed since the sentence or diversion was completed. Other offenses are not eligible for expungement. The statutes that apply are KSA 21-6614 for offenses committed on or after July 1, 2010 and KSA 21-4619 for offenses committed prior to July 1, 2010. The expungement statute in effect at the time of the offense governs.

The Office of the Sedgwick County District Attorney reviews for expungement only those cases that were prosecuted by this office. Requests for expungements on convictions prosecuted by other agencies, including the Wichita City Prosecutor's Office and other municipal court prosecutors, should be sent to that prosecuting agency or court of conviction for review.

ELIGIBILITY

Per statute, some convictions are eligible for expungement after a required time has elapsed since the person satisfied the sentence imposed, diversion agreement or was discharged from probation, community correctional services program, parole, post-release supervision, conditional release or a suspended sentence, as follows:

Per statute, the following are eligible to be considered for expungement if **three** years have elapsed:

- Traffic or tobacco infractions
- Misdemeanors
- Class D or E felonies, severity level 6-10 non –drug offenses, severity level 4 drug offenses committed prior to July 1, 2012, and severity level 5 drug offenses

To following are eligible to be considered for expungement if **five** years have elapsed:

- Class A, B or C felonies or off-grid felonies
- Severity level 1-5 non-drug offenses, severity level 1-3 drug offenses, and severity level 4 drug offenses committed on or after July 1, 2012
- Vehicular homicide
- Driving with a canceled, suspended or revoked license
- Perjury
- Applying for a title of a motor vehicle under a false name or address
- Any crime punishable as a felony wherein a motor vehicle was used
- Failure to stop at a scene of an accident
- Failure to have motor vehicle insurance
- Violation of K.S.A. 21-3405b (vehicular homicide) prior to its repeal

A person convicted of **prostitution** or **selling sexual relations** may be eligible to be considered for expungement after **one** year has elapsed if such person can prove that at the time of the offenses he/she was acting under coercion caused by the act of another. Coercion means threats of harm or physical restraint against any person, a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person, or the abuse or threatened abuse of the legal process.

First violation **DUI** offenses occurring on or after 1982 are eligible to be considered for expungement if **five** years have elapsed.

Second or subsequent violation **DUI** offenses occurring on or after July 1, 2014 but prior to July 1, 2015 are eligible to be considered for expungement if **seven** years have elapsed.

Second or subsequent violation **DUI** offenses occurring on or after July 1, 2006 to June 30, 2014, and on or after July 1, 2015 to present are eligible to be considered for expungement if **ten** years have elapsed.

A person who has completed a specialty court program is eligible to be considered for expungement immediately upon completion of such specialty court program if the crime of conviction would fall into the three-year lookback noted above. K.S.A. 20-173 defines specialty court as “a district court program that uses therapeutic or problem solving procedures to address underlying factors that may be contributing to a person’s involvement in the judicial system including, but not limited to, mental illness or drug, alcohol or other addictions.”

INELIGIBILITY

Kansas statutes **prohibit** expungement of convictions of the following offenses:

- Rape
- Indecent liberties with a child or aggravated indecent liberties with a child
- Criminal sodomy or aggravated criminal sodomy
- Indecent solicitation of a child or aggravated indecent solicitation of a child
- Sexual exploitation of a child
- Internet trading in child pornography or aggravated internet trading in child pornography
- Aggravated incest
- Endangering a child or aggravated endangering a child
- Abuse of a child
- Capital murder, murder in the first degree, murder in the second degree, voluntary manslaughter, involuntary manslaughter and involuntary manslaughter when driving under the influence
- Sexual battery when the victim was less than 18 years of age or aggravated sexual battery
- Driving a commercial vehicle while under the influence
- Convictions of offenses comparable to those above that occurred prior to July 1, 2011

If the appropriate time has elapsed that applies to the convictions, the person may nonetheless be **ineligible** for expungement if:

- The petitioner has been convicted of a felony in the past two years or has proceedings involving felony offense(s) pending or being instituted against the petitioner;
- The circumstances or behavior of the petitioner do not warrant the expungement;
- The expungement is not consistent with public welfare; or
- With respect to petitions seeking expungement of felony conviction, possession of a firearm by the petitioner is likely to pose a threat to the safety of the public.

Any offender who is required to register as provided in the **Kansas offender registration act** is not eligible for expungement of any conviction or any part of the offender's criminal record while the offender is required to register as provided in the Kansas offender registration act. A registered drug offender may be eligible to petition for relief from the duty to register pursuant to K.S.A. 22-4908.

DOCUMENTS AND PROCEDURE

The following documents can be used as a guideline in preparing expungement pleadings. The forms include a petition, a personal information report and an order of expungement. You can fill out the documents online and print to submit.

In completing the documents, please provide the requested information in the order listed. Your name must appear as it was written on the original charge. A separate petition and order must be completed for every case you want to have expunged. When you have completed the forms, please send them to the Office of the District Attorney at the downtown address.

Once the required records check has been completed and an attorney has reviewed your pleadings, facts of the case and your criminal history or background, a decision will be made regarding the appropriateness of expungement. If we agree to the expungement, our attorney will sign the Order and return it to you for further handling. You will then need to obtain a judge's signature and file the Petition and Order with the Clerk of the Criminal Court on the 7th floor of the Sedgwick County Courthouse, 525 North Main Street, Wichita. The Clerk's office will advise you regarding how many copies of each document that they require. You may be required to pay a filing fee.

If the reviewing attorney decides to object to the expungement, you will be notified and the documents you submitted will be returned to you. You have the right to file your petition with the court and set the matter for hearing before a Judge for determination of your eligibility for expungement. Should you decided to set the matter for hearing, please notify our office in writing no less than 21 days prior to the hearing date. That amount of time is necessary to provide victim notification as required by statute.

RESOURCES FOR COMPLETING THE EXPUNGEMENT PROCESS

For information on dates and charges, you can contract the District Court Clerk's Office, Records Department, on the 6th floor of the Sedgwick County Courthouse. (316) 660-5720

For arrest records you must contact the agency who arrested you:

Sedgwick County Sheriff's Department, 141 West Elm, Wichita (316) 660-3888)

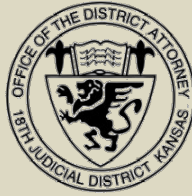
Wichita Police Department, Records, 455 North Main, Wichita (316) 268-4186)

Kansas Highway Patrol, Records, 122 SW 7th, Topeka, KS 66603 (785) 296-6800 (#2)

Completed and signed forms can be mailed or hand-delivered to:

Office of the District Attorney, 525 N. Main, Ste 235, Wichita, KS 67203

The Office of the District Attorney cannot give you legal advice. If you need legal assistance consider using the "Find a Lawyer" Service that can be found on the Wichita Bar Association website: www.wichitabar.org.



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Personal Information Report for Expungement Applicants

Note: all questions must be completed. If not applicable, put N/A in the box

1. First Name	2. Middle Name	3. Last Name
4. Maiden Name/Other Name used	5. Date of Birth	6. Race/Sex
7. Social Security Number	8. Driver's License Number	9. State of Issuance
10. Present Street Address	11. City, State and Zip	12. Phone Number
13 Have you had any law enforcement contact since your conviction on this case?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
14. If yes, please list each occurrence, date of occurrence and the circumstances of the contact. Attach additional sheets of paper if necessary.		
Law Enforcement Contact and Date	Nature of Contact	
15. Present Employer		
Employer	Telephone number	Address
Date of Employment	Occupation	
16. Why are you seeking an expungement?		

I swear or affirm that the above and foregoing information in support of my application for expungement is true and correct to the best of my knowledge and belief.

Signature

Date

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT OF SEDGWICK COUNTY, KANSAS
CRIMINAL DEPARTMENT

THE STATE OF KANSAS

vs.

Case No. _____

_____ [Name]
Defendant

PETITION FOR EXPUNGEMENT OF CONVICTION OR DIVERSION

COMES NOW, the defendant and petitions the Court for an Order of Expungement pursuant to K.S.A. 21-6614.
In support of this request, petitioner states the following:

1. Petitioner's full name is _____;
2. Petitioner's full name at the time of his/her arrest or conviction, if different than #1, was _____;
3. Petitioner is a _____ [Race] _____ [Sex] who was born in _____ [Year of Birth];
4. Petitioner was arrested in Sedgwick County, Kansas on _____ [Date] by _____ [Law Enforcement Agency]
5. Petitioner was convicted or granted diversion on _____ [Date], before The Honorable _____, Judge of the District Court, of the following crimes [list charges, severity level or class of felony, person/nonperson felony/misdemeanor, and statute number]:

6. *Check the applicable box below*

Petitioner fulfilled the terms of a diversion agreement, satisfied the sentence imposed, or was discharged from probation, a community services program, parole, post-release supervision, conditional release or a suspended sentence on _____ [Date], which is more than _____ years prior to the filing of this petition; *and* petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against petitioner.

OR

Petitioner successfully completed a specialty court program on _____ [Date] and petitioner's conviction was for an offense that would normally be eligible for expungement after three years. No proceeding involving a felony is presently pending or being instituted against petitioner.

OR

Petitioner was convicted or granted diversion for prostitution or selling sexual relations and can prove he/she was acting under coercion.

Coercion means: threats of harm or physical restraint against any person; a scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in bodily harm or physical restraint against any person; or the abuse or threatened abuse of the legal process.

7. The conviction or diversion for which expungement is sought is not one of the offenses set out in K.S.A. 21-6614(e), for which no expungement is permitted.

Petitioner affirms under penalty of perjury that the statements in this Petition are accurate to the best of petitioner's knowledge and petitioner respectfully request that the Court set this matter for hearing and grant the expungement.

Defendant
Name (Print):_____

Attorney for Defendant (if applicable)
Name (Print):_____
Supreme Court No. _____

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT OF SEDGWICK COUNTY, KANSAS
CRIMINAL DEPARTMENT

THE STATE OF KANSAS

vs.

Case No. _____

_____ [Name]
Defendant

ORDER FOR EXPUNGEMENT

NOW on this ____ day of _____ 20____, the Court considers the Petition for Expungement filed herein. The State represented by _____, Assistant District Attorney Petitioner is **pro se** **represented by** _____ [Attorney's name]. Others appearing, _____ if _____ any, _____ are:

_____.

The Court finds jurisdiction and venue are proper. Notice to parties and those required to receive notice has been given as required by law.

The Court, upon agreement of the parties, having reviewed the file, having received evidence, and/or having heard statements of counsel, finds as follows:

1. The full name of the petitioner is _____;
2. The full name of the petitioner at the time of his/her arrest or conviction, if different than #1, was _____;
3. Petitioner is a _____ [Race] _____ [Sex] who was born in _____ [Year of Birth];
4. Petitioner was arrested in Sedgwick County, Kansas on _____ [Date] by _____ [Law Enforcement Agency];

5. Petitioner was convicted or granted diversion on _____ [Date], before The Honorable _____, Judge of the District Court, of the following crimes (list charges, severity level or class of felony, person/nonperson felony/misdemeanor, and statute number):

6. *Check the applicable box below*

Petitioner fulfilled the terms of a diversion agreement, satisfied the sentence imposed, or was discharged from probation, a community services program, parole, post-release supervision, conditional release or a suspended sentence on _____ [Date], which is more than _____ years prior to the filing of this petition; *and* petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against petitioner.

OR

Petitioner successfully completed a specialty court program on _____ [Date] and petitioner's conviction was for an offense that would normally be eligible for expungement after three years. No proceeding involving a felony is presently pending or being instituted against petitioner.

OR

Petitioner was convicted or granted diversion for prostitution or selling sexual relations and proved he/she was acting under coercion.

7. The conviction for which expungement is sought is not one of the offenses set out in K.S.A. 21- 6614(e), for which no expungement is permitted.
8. Petitioner's current circumstances and behavior warrant this expungement and this expungement is consistent with public welfare.
9. If petitioner is seeking expungement of a felony conviction, the possession of a firearm by petitioner is not likely to pose a threat to the safety of the public.

10. Petitioner shall disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions:

- A. in any application for licensure as a private detective, private detective agency, certification as a firearms trainer pursuant to K.S.A. 75-7b21, and amendments thereto, or employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01, and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with an institution as defined in K.S.A. 76-12a01, and amendments thereto, of the department for aging and disability services;
- B. in any application for admission, or for an order of reinstatement, to the practice of law in this state;
- C. to aid in determining petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- D. to aid in determining petitioner's qualifications for executive director of the Kansas racing and gaming commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;
- E. to aid in determining petitioner's qualifications for the following under the Kansas expanded lottery act: (i) Lottery gaming facility manager or prospective manager, racetrack gaming facility manager or prospective manager, licensee or certificate holder; or (ii) an officer, director, employee, owner, agent or contractor thereof;
- F. upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142, and amendments thereto;
- G. to aid in determining petitioner's qualifications to be an employee of the state gaming agency;
- H. to aid in determining petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact;
- I. in any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative all as defined in K.S.A. 17-12a102, and amendments thereto;
- J. in any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or K.S.A. 74-5602, and amendments thereto; or

K. for applications received on and after July 1, 2016, to aid in determining petitioner's qualifications for a license to act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A. 50-6,141, and amendments thereto.

L. Petitioner shall also disclose that the arrest, conviction or diversion occurred in the following circumstances as deemed appropriate by the Court:

IT IS THEREFORE ORDERED that petitioner's arrest record, conviction or diversion record herein, named above, shall be expunged. The Clerk of the District Court, upon receipt and filing herein, shall send a certified copy of the Order of Expungement to the Kansas Bureau of Investigation which shall notify the Federal Bureau of Investigation, the Secretary of Corrections, and any other criminal justice agency which may have a record of the arrest, conviction or diversion described herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Order of Expungement shall not affect any previous Court Order pertaining to costs, fees, and restitution. All amount unpaid are still due and owing unless otherwise specified within this Order.

IT IS SO ORDERED this ____ day of _____, 20____.

Judge of the District Court
Eighteenth Judicial District, Division _____

Submitted by:

Signature of Defendant/Defendant's Attorney
Name(Print): _____
[Supreme Court Number]: _____

Approved by:

Assistant District Attorney
Name(Print): _____
[Supreme Court Number]: _____