

EXPUNGEMENT INSTRUCTIONS

1. Review the eligibility requirements and frequently asked questions (FAQs) to determine if you qualify for a discretionary expungement pursuant to 11 *Del. C.* § 4374 Discretionary expungement or 11 *Del. C.* § 4375 Discretionary expungement following a pardon.
2. Obtain the Expungement filing forms and instructions from the Court or the Court's website. The forms include:
 - a. The Petition
 - b. Proposed Order
3. Request criminal history report from the State Bureau of Identification (SBI).
 - a. All requests for a criminal history report must be made to SBI.
 - b. You must submit your fingerprints with your request for a criminal history report.
 - c. The fee to obtain your fingerprints and your criminal history report is \$52.50.
 - d. A certified copy of your Criminal History Report and SBI's Cover Letter will be mailed to you in approximately 4-6 weeks.
 - e. Contact and additional information is available from SBI by calling 302-739-2528 (New Castle and Sussex Counties), 302-739-5871 (Kent County) or through SBI's website
4. FILING IN PERSON
 - a. Preparing to file your Petition IN PERSON –
 - i. Complete the Petition **BUT DO NOT SIGN IT.**
 - ii. Make three copies of the Petition, Proposed Order, Certified Criminal History Report and SBI's Cover Letter.
 - iii. Create three packets by placing the above documents in the following order:
 1. Petition (notarized)
 2. Proposed Order
 3. SBI's Cover Letter
 4. Certified Criminal History
 - iv. You should have one original and two copy packets.

- b. FILING IN PERSON with the Prothonotary's Office (Superior Court)
 - i. Bring the three packets to the Prothonotary's Office (one original and two copies) along with your identification.
 - ii. Bring the non-refundable filing fee of \$75.00 to the Prothonotary's Office. If you are writing a check for the filing fee, please make the check payable to the State of Delaware.
 - iii. Give the Prothonotary Clerk the three packets and the non-refundable filing fee.
 - iv. The Prothonotary Clerk will check your packets.
 - v. If the packets are in order, the Prothonotary Clerk will ask you for identification, will ask you to sign the Petitions and will notarize your signature. **YOU MUST SIGN THE PETITION IN FRONT OF THE NOTARY.**
 - vi. The Prothonotary Clerk will clock-in the three packets.
 - vii. The Prothonotary Clerk will give you back a clocked-in packet for your records.
 - viii. The Prothonotary Clerk will place a clocked-in packet in the Attorney General's mailbox for pick-up.
 - ix. Contact and additional information is available from the Prothonotary's Office by calling 302-255-0574 (New Castle County) 302-735-1919 (Kent County) 302-855-7055 (Sussex County) or visiting the Superior Court's website.

5. FILING BY MAIL

- a. Preparing to file your Petition – BY MAIL
 - i. Complete the Petition and have it notarized.
 - ii. Make two copies of the notarized Petition, Proposed Order, Certified Criminal History Report and SBI's Cover Letter.
 - iii. Create three packets by placing the above documents in the following order:
 - 1. Petition (notarized)
 - 2. Proposed Order
 - 3. SBI's Cover Letter
 - 4. Certified Criminal History
 - iv. You should have one original and two copy packets.

- b. FILING BY MAIL with the Prothonotary's Office (Superior Court)
- i. Put the two packets to the Prothonotary's Office (one original and one copy) into a mailing envelope.
 - ii. Put the non-refundable filing fee of \$75.00 in the same mailing envelope. If you are writing a check for the filing fee, please make the check payable to the State of Delaware.
 - iii. Mail the envelope to the Prothonotary at one of the below addresses:

Prothonotary Expungement Clerk 500 N. King Street Suite 500 Wilmington, DE 19801	Prothonotary Expungement Clerk 38 The Green Dover, DE 19901	Prothonotary Expungement Clerk 1 The Circle Suite 2 Georgetown, DE 19947
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- iv. When received the Prothonotary Clerk will check your packets.
- v. If the packets are in order, the Prothonotary Clerk will clock-in the two packets.
- vi. The Prothonotary Clerk will **NOT** send you a copy for your records.
- vii. The Prothonotary Clerk will place a clocked-in packet in the Attorney General's mailbox for pick-up.
- viii. Contact and additional information is available from the Prothonotary's Office by calling 302-255-0574 (New Castle County) 302-735-1919 (Kent County) 302-855-7055 (Sussex County) or visiting the Superior Court's website.

6. Court Procedures

- a. The Prothonotary's Office will docket and maintain your Petition in a file.
- b. The Attorney General has 120 days from the date of filing to provide a response to your Petition to the Court.
- c. When the Attorney General files its response, that response will be placed in the file along with your Petition. The Attorney General will send you a copy of its response.

- d. If the Attorney General opposes your Petition, you have 30 days to file a response with the Court. If filing your response in person bring an original and a copy of the response. The Court Clerk will place a copy of your response in the Attorney General mailbox for pick-up. If filing your response by mail, you must send a copy of your response to the Attorney General.
- e. After receipt of all required responses, the Prothonotary's Office will send your file to a Judicial Officer for a decision.
- f. Unless the Judicial Officer deems necessary, no hearing will be scheduled on your Petition. The Judicial Officer will make a determination based on your Petition and the Attorney General's response.
- g. If the Judicial Officer decides that a hearing is necessary, the Court will contact you, in the manner you requested, to notify you of the hearing date and time. The Court will also mail to you, at the address provided in your Petition, a notice setting forth the hearing date and time.
- h. If your Petition is granted, the Prothonotary's Office will mail a copy of the signed Order to you or your attorney, the Attorney General and the State Bureau of Identification.