ADULT EXPUNGEMENT INSTRUCTION PACKET



<https://courts.state.de.us/family>

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:
	1. The Petition (Form 281)
	2. Proposed Order (Form 283)
3. Request criminal history report from the State Bureau of Identification (SBI).
	1. To obtain a copy of the Certified State Criminal History, you must

schedule a fingerprinting appointment in advance at one of the SBI

locations. Walk-in services will not be accepted.

* 1. **Scheduling:** To schedule an appointment, go to

<https://dsp.delaware.gov/obtaining-a-certified-criminal-history/>. Don’t have

access to the internet? You can still schedule an appointment by calling

***866-761-8069.***

* 1. **Fees:** The fee to obtain your fingerprints and your criminal history

report is $72.00. Personal checks or cash will NOT be accepted at

any location.

* 1. **Receiving Results:** You will receive your criminal history report

through email. You will receive a letter in the mail from SBI with your expungement eligibility. The correspondence will not include another

copy of your criminal history.

* 1. **Additional Information** can be found at

<https://dsp.delaware.gov/obtaining-a-certified-criminal-history/>

1. FILING IN PERSON
	1. Preparing to file your Petition IN PERSON –
		1. Complete the Petition **BUT DO NOT SIGN IT.**
		2. Make one copy of the Petition, Proposed Order, Certified Criminal History Report and SBI’s Cover Letter.
		3. Create two packets by placing the above documents in the following order:
			1. Petition (notarized) (Form 281)
			2. Proposed Order (Form 283)
			3. SBI’s Cover Letter
			4. Certified Criminal History
		4. You should have two packets: one original and one copy.
	2. FILING IN PERSON with Family Court
		1. Bring the two packets to the Intake Office (one original and one copy) along with your identification. In Kent and Sussex Counties, the Intake Office is located on the first floor of the Family Court Building. In New Castle County, the Intake Office is located on Lower Level 1 (LL1) of the Leonard L. Williams Justice Center.
		2. Give the Court Clerk the two packets.
		3. The Court Clerk will check your packets.
		4. If the packets are in order, the Court 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.
		5. The Court Clerk will clock-in the two packets.
		6. The Court Clerk will give you back a clocked-in packet for your records.
		7. The Court Clerk will provide to the Attorney General’s Office a clocked-in packet.
		8. Additional information is available at the Family Court Resource Center or by visiting the Family Court’s website at<https://courts.delaware.gov/family/>
2. FILING BY MAIL WITH FAMILY COURT
	1. Preparing to file your Petition – BY MAIL
		1. Complete the Petition and have it notarized.
		2. Make one copy of the notarized Petition, Proposed Order, SBI’s Cover Letter and Certified Criminal History Report.
		3. Create two packets by placing the above documents in the following order:
			1. Petition (notarized) (Form 281)
			2. Proposed Order (Form 283)
			3. SBI’s Cover Letter
			4. Certified Criminal History
		4. You should have two packets: one original and one copy.
	2. FILING BY MAIL with Family Court
		1. Put the original packet to the Family Court into a mailing envelope.
		2. Mail the envelope to the Family Court at one of the below addresses:

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| --- | --- | --- |
| Family Court – New Castle County Expungement Clerk500 N. King Street Wilmington, DE 19801 | Family Court – Kent County Expungement Clerk 400 Court StreetDover, DE 19901 | Family Court – Sussex CountyExpungement Clerk 22 The CircleGeorgetown, DE 19947 |

* + 1. When received, the Court Clerk will check your packet.
		2. If the packet is in order, the Court Clerk will clock-in the packet.
		3. The Court Clerk will **NOT** send you a copy for your records.
		4. The Court Clerk will provide the Attorney General’s Office with a clocked-in packet.
		5. Additional information is available at the Family Court Resource Center or by visiting the Family Court’s website at<https://courts.delaware.gov/family/>
1. FILING BY EMAIL
	1. Complete the petition and have it notarized.
	2. Rule 79.2 of the Family Court Rules of Civil Procedure provides that signatures on pleadings and papers filed by email can be either handwritten or electronic. If an electronic signature is used, it must be in the format of “/s/Full Legal Name.”
	3. Email filing to FC\_Expungement@Delaware.gov
		1. Filing to include:
			1. Petition (notarized) (Form 281)
			2. Proposed Order (Form 283)
			3. SBI’s Cover Letter
			4. Certified Criminal History
2. Court Procedures
	1. The Court will docket and maintain your Petition in a file.
	2. The Attorney General has 120 days from the date of filing to provide a response to your Petition to the Court.
	3. 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.
	4. If the Attorney General opposes your Petition, you have 30 days to file a reply with the Court. If filing your reply in person, the Court Clerk will provide a copy of your reply to the Attorney General’s Office. If filing your reply by mail, you must send a copy of your reply to the Attorney

General’s Office.

* 1. After receipt of all required responses, the Court will send your file to a Judicial Officer for consideration.
	2. 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, the Attorney General’s response, and, if filed, your reply.
	3. If the Judicial Officer decides that a hearing is necessary, the Court will mail to you, at the address provided in your Petition, a notice setting forth the hearing date and time.
	4. If your Petition is granted, the Court will mail a copy of the signed Order to you or your attorney, the Attorney General, and the State Bureau of Identification.