

EXPUNGEMENT OF POLICE AND COURT RECORDS PACKAGE

NOTICE

You are first advised to consult an attorney. The information provided in this package is not intended to be legal advice and you should not rely on it as such. The staff of the Circuit Court Clerk's Office and the judicial law clerks can not assist you by answering legal questions or questions regarding what the law is or what your rights are, etc.

This package is provided as a guide if you should decide to represent yourself before the Court in your Petition for Expungement. **YOU** will be responsible for following the instructions. We take no responsibility beyond making this package available to you, and these samples may not be suitable for some situations.

This sample package is **NOT** intended to be used as a fill-in the blank form. **You must type all your papers in the acceptable format.**

Clerk of the Circuit Court
Prince William County
Civil Division—Room 314
9311 Lee Avenue
Manassas, Virginia 20110-5598
(703) 792-6029

Revised: 9/15/09

GENERAL INFORMATION FOR ALL PETITION FOR EXPUNGEMENT
(Virginia Code Section 19.2-392.2)

There are no specific forms to fill out to complete your Petition for Expungement. Instead, all documents are prepared by you and only you. Should you not meet the requirements for expungement as set forth below, we highly recommend you contact an attorney to assist you. We can not make recommendations for specific attorneys, but you may call the Virginia Lawyer's Referral Service at 1-800-552-7977 or the Prince William County Bar Association at 703-393-2306 for referral to an attorney.

Each document you submit must be typed and double-spaced, on 8 ½ inch by 11 inch white paper, allowing proper margins in all directions. Each document submitted must contain your name, address, and a **daytime phone number**, and you must sign each document. Provide information specific to your situation and change the documents as necessary. If you submit materials which are lacking in either substance or form, you may be asked to correct and re-submit your documents. Each document must be submitted at the proper time.

Before you begin, you may wish to review the appropriate expungement laws in the Code of Virginia. These books may be found at your local library, in the Law Library at the Judicial Center on the lower level, or online. A review of these laws may be helpful in your understanding of the expungement process.

Send all mail to: Clerk of the Circuit Court, Civil Division, Room 314, 9311 Lee Avenue, Manassas, Virginia 20110-5598. If you bring in your papers in person, take them to Room 314. Direct all questions as to the status of your case to the Civil File Room at 703-792-6029.

If any of your pleadings or orders are incorrect, you will be notified by a Judicial Law Clerk. The Law Clerk **CANNOT** give you legal advice or help you with preparation of your documents. Once advised that you have a problem, it is your responsibility to correct it. You may wish to contact an attorney if there is a problem. **You will be representing yourself "pro se" if you make the decision to move ahead and not hire an attorney. We can not assist you beyond this hand out and sample forms.**

INSTRUCTIONS FOR FILING:

As you will be representing yourself, you will be responsible for following the format of the samples provided in typing your pleadings. You must follow the samples exactly as to content, spacing and margins. **Spell out all names correctly, do not use initials for middle names. If there is no middle name, type (NMN).**

1. Where to File:

Prince William County Circuit Court Civil Division, 9311 Lee Avenue, Room 314, Manassas, VA 20110-5598. Office hours are 8:30 a.m. to 5:00 a.m. weekdays.

2. Filing Fee:

\$96.00 Make checks payable to: Clerk of the Circuit Court.

3. Materials To Be Submitted For Filing:

1) An original Petition and five copies; 2) Five certified copies of the record(s) to be expunged (records(s) can be obtained from the court in which the charge was originally heard); 3) Original Order to expunge; and 4) Original notice of Hearing and two copies.

INSTRUCTIONS FOR EXPUNGEMENT OF RECORDS

The following individuals are qualified to file a Petition for Expungement in the Commonwealth of Virginia:

1. If a person is charged with the commission of a crime: **AND**
 - a. Is acquitted, **OR**
 - b. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and satisfaction, **OR**
 - c. Is granted an absolute pardon for the commission of a crime for which he has been unjustly convicted.
2. If any person whose name or other identification has been used without his consent or authorization by another person who has been charged or arrested using such name or identification.

If you fall under either Category 1 or 2 above, you may file a petition with the court setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge. The petition (and four copies of the same) with five certified copies of the warrant or indictment, if reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed. You should also request five certified copies of the disposition of the charge should it not be listed on the warrant.

The petition shall contain, except where not reasonably available, **1)** the date of arrest, and **2)** the name of the arresting agency. Where this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state: **1)** specific criminal charge to be expunged, **2)** date of final disposition of the charge, **3)** your date of birth, and **4)** full name used by you at the time of arrest.

You should submit all requested materials to the Clerk of the Circuit Court. The court will return one copy of your petition and attachments to you with a case number and a file stamp. These materials are to be submitted to the appropriate law enforcement agency: i.e., Prince William County, City of Manassas or City of Manassas Park police departments. At the time you submit the materials to the appropriate law enforcement agency, you are also required to obtain one complete set of your fingerprints from that agency. The law enforcement agency will then submit your set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of the petition for expungement attached. The CCRE will then forward under seal to the court: **1)** a copy of your criminal history, **2)** a copy of the source documents that resulted in the CCRE entry that you wish to expunge, and **3)** the set of fingerprints. Upon completion of the hearing, the court will return the fingerprint card to you.

The petition will also need to be served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may then file an objection or answer to the petition within twenty-one days after it is served on him/her. The court will serve the Commonwealth Attorney with the petition. The filing fee of \$96.00 includes the fee for this service.

Once the CCRE forwards the required materials to the court, you will need to submit a Notice to set your case on the docket to be heard by the court. You must select a date that is on a Friday. All petitions for expungement are heard at 9:00 a.m. on a Friday. You may call the clerk's office to check if the required materials have been forwarded to the clerk's office by the CCRE. It usually takes about

four weeks for the records to be forwarded to the clerk's office. At the time you submit your notice to the court, you will also be required to send a copy of the notice to the Commonwealth Attorney's office. **It will be your responsibility to send the notice to the Commonwealth Attorney's office notifying them of the hearing date.**

On the Friday date you pick, you should arrive at the courthouse well before 9:00 a.m. so that you can determine the courtroom in which your case will be heard. Court begins at 9:00 a.m. and you **MUST** be in the courtroom at that time. If your case is called and you are not present in the courtroom, your case will be passed over, continued or dismissed. When your case is called, you should come forward and answer any questions the Judge or the Commonwealth Attorney may have for you. You should know that the Commonwealth Attorney's office is there to represent the community and may object to the expungement if he/she believes your offense is not eligible for expungement.

If the Judge finds that the continued existence and possible dissemination of information relating to your arrest causes or may cause circumstances which constitute a manifest injustice, he will enter the order requiring the expungement of the records relating to the charge. Otherwise, he may deny the petition. However, if you have no prior criminal record and the arrest was for a misdemeanor violation, you are entitled, in the absence of good cause shown to the contrary by the Commonwealth Attorney, to expungement of the records relating to the charge.

If the Judge finds that you are entitled to expungement and signs the order, the clerk's office will send the order to the State Police who will begin the process necessary to expunge the record(s). This process may take up to several weeks.

*** * * THIS IS A SAMPLE ONLY AND NOT TO BE USED AS A FILL IN THE BLANK FORM. DO NOT retype the language in the parenthesis () when you retype this form. The information in each paragraph needs to be changed as necessary for your particular case. This form is NOT intended to be legal advice and should NOT be relied upon as such. You are encouraged to consult Virginia Code §19.2-392.2. * * ***

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

_____)	
<i>(Your Full Name)</i>)	
Petitioner)	
v.)	CL No. _____ <i>(No. will be assigned)</i>
_____)	
COMMONWEALTH OF VIRGINIA,)	
Defendant)	
_____)	
SERVE: Paul B. Ebert)	
Commonwealth Attorney)	
Prince William County)	
9311 Lee Avenue)	
Manassas, Virginia 20110)	

PETITION FOR EXPUNGEMENT OF RECORDS PURSUANT TO SECTION 19.2-392.2 OF THE VIRGINIA CODE

This is a Petition for Expungement of police and court records pursuant to § 19.2-392.2 of the Code of Virginia, as amended. Petitioner, _____ *(your full name)*, *pro se*, respectfully represents to the Court as follows:

1. The Petitioner was arrested on _____ *(date of arrest)* by _____ *(name of the arresting agency)*.

(If the information required in #1 above is not reasonably available, please state the specific reason for such unavailability).

2. The Petitioner was charged with _____ *(specific criminal charge to be expunged)*.

3. The charged was _____ (*list the disposition of the charge, i.e., dismissed, nolle prosequie, etc.*) by _____ (*list the full name of the court disposing of the charge*) and the date of the final disposition of the charge was _____.

4. The Petitioner's date of birth is _____.

5. The full name used by the Petitioner at the time of arrest was _____.

6. Petitioner has no prior record and no good cause exists as to why Petitioner's record of arrest should not be expunged.

(If you have a prior criminal record, this package may not be suitable for your particular case and you are advised to contact an attorney.)

7. The continued existence and possible dissemination of information relating to the arrest of the Petitioner causes or may cause circumstances which constitute a manifest injustice to the Petitioner.

8. The Petitioner is entitled to relief as provided under Section 19.2-392.2 of the Code of Virginia, as amended, and is entitled to have the police and court records relating to the criminal charge set forth and the warrant expunged.

WHEREFORE, your Petitioner, _____ (*your full name*), respectfully moves this Court to enter an order requiring expungement of the police and court records relating to the charge provided by statute and such further relief as the Court may deem appropriate.

I ASK FOR THIS:

(*Signature*)

(*Typed name of Petitioner*)

(*Type your complete address*)

(*Type your phone number*)

*** * * THIS IS A SAMPLE ONLY AND NOT TO BE USED AS A FILL IN THE BLANK FORM. DO NOT retype the language in the parenthesis () when you retype this form. The information in each paragraph needs to be changed as necessary for your particular case. This**

form is **NOT** intended to be legal advice and should **NOT** be relied upon as such. You are encouraged to consult Virginia Code §8.01-217. * * *

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

_____))
(*Your Full Name*))
Petitioner)
v.) CL No. _____ (*No. will be assigned*)
))
COMMONWEALTH OF VIRGINIA,)
Defendant)

NOTICE OF HEARING

**TO: Paul B. Ebert
Commonwealth Attorney
Prince William County
9311 Lee Avenue
Manassas, Virginia 20110**

On _____ (*pick a Friday date*) at 9:00 a.m., the Petitioner,

(*your full name*), will hereby move the Court to grant the Petition for
Expungement filed in this case.

(*Typed name of Petitioner*)
(*Type your complete address*)
(*Type your phone number*)

CERTIFICATE OF SERVICE

I certify that I mailed a copy of this Notice to the Office of the Commonwealth Attorney,
9311 Lee Avenue, Manassas, Virginia 20110 on _____ (*date you mailed
this notice*).

(*Signature*)

*** * * THIS IS A SAMPLE ONLY AND NOT TO BE USED AS A FILL IN THE BLANK FORM. DO NOT retype the language in the parenthesis () when you retype this form. The information in each paragraph needs to be changed as necessary for your particular case. This form is NOT intended to be legal advice and should NOT be relied upon as such. You are encouraged to consult Virginia Code §8.01-217. * * ***

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

_____))
(*Your Full Name*))
Petitioner)
v.) CL No. _____ (*No. will be assigned*)
))
COMMONWEALTH OF VIRGINIA,)
Defendant)

ORDER OF EXPUNGEMENT OF RECORDS PURSUANT TO SECTION 19.2-392.2 OF THE VIRGINIA CODE

THIS MATTER came before the Court on _____ (*hearing date*) upon Petitioner's, _____ (*your full name*), Petition for Expungement of Records Pursuant to Section 19.2-392.2 of the Code of Virginia, as amended.

IT APPEARING that the Petitioner appeared, *pro se*, and the Commonwealth appeared through her counsel; that Petitioner filed a Petition for Expungement of Records Pursuant to Section 19.2-392.2 of the Code of Virginia, as amended; that Petitioner has obtained from the _____ (*name of law enforcement agency who took your fingerprints*) one complete set of his/her (*circle one*) fingerprints; that the Central Criminal Records Exchange (CCRE) has filed with the Court a copy of Petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry that Petitioner wishes to expunge, and a set of Petitioner's fingerprints; and

IT FURTHER APPEARING that the Court makes the following findings of fact:

1. The Petitioner was arrested on _____ (date of arrest) by _____
(name of the arresting agency);

(If the information required in #1 above is not reasonably available, please state the specific reason for such unavailability).

2. The Petitioner was charged with _____ (specific criminal charge to be expunged);

3. The charged was _____ (list the disposition of the charge, i.e., dismissed, nolle prosequie, etc.) by _____ (list the full name of the court disposing of the charge) and the date of the final disposition of the charge was _____;

4. The Petitioner's date of birth is _____;

5. The full name used by the Petitioner at the time of arrest was _____;

6. Petitioner has no prior record and no good cause exists as to why Petitioner's record of arrest should not be expunged;

(If you have a prior criminal record, this package may not be suitable for your particular case and you are advised to contact an attorney.)

7. The continued existence and possible dissemination of information relating to the arrest of the Petitioner causes or may cause circumstances which constitute a manifest injustice to the Petitioner;

8. The Petitioner is entitled to relief as provided under Section 19.2-392.2 of the Code of Virginia, as amended, and is entitled to have the police and court records relating to the criminal charge set forth and the warrant expunged; and it is therefore,

ADJUDGED, ORDERED AND DECREED the following:

1. The Petition for Expungement is hereby granted.
2. The fingerprint card be returned to the Petitioner.

3. The Department of State Police shall, in accordance with rules and regulations adopted pursuant to Section 9.1-134 of the Code of Virginia, as amended, direct the manner by which the appropriate expungement or removal of such records shall be effected.

4. That the Clerk of Court forward a copy of this Order to the Petitioner, the Commonwealth Attorney's Office and Department of State Police,

Entered on _____

Judge of the Circuit Court of Prince William County

REQUESTED BY:

SEEN AND AGREED:

(Typed name of Petitioner)
(Type your complete address)
(Type your phone number)

Assistant Commonwealth Attorney