Petitioner's Instructions for Expungement
(Sealing) of Criminal Records
(Minn. Stat. §§ 609A.01 - .03)

Please read all instructions before filling out paperwork. You will need to make additional copies if you are seeking to expunge more than one file.

- **A Motion to Expunge is a complicated procedure.**
- **If you have any questions or are in need of more assistance, you should contact an attorney** (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx)**.**
- **The court administrator's office cannot give you legal advice.**

You may also want to view the "What is Criminal Expungement" video, as well as the tutorial on how to complete the expungement forms. These materials are available on the Minnesota Judicial Branch website at www.mncourts.gov under Help Topics / Criminal Expungement. Contact a Self-Help Center (www.mncourts.gov/selfhelp) if you have questions about these instructions or the criminal expungement process.

EXPUNGEMENT OR SEALING OF A RECORD – WHAT IT MEANS

Minn. Stat. ch. 609A (revisor.mn.gov/statutes/cite/609A) states that the expungement of criminal records is limited to a court order sealing records and prohibiting disclosure of their existence or their opening except under court order or statutory authority. Nothing in the law authorizes destruction of records or their return to you. A judicial officer must decide this petition.

Once sealed/expunged, a record will not be available to the general public. However, for orders issued before January 1, 2015, Minn. Stat. § 609A.03, subd. 7 (revisor.mn.gov/statutes/cite/609A.03), states that law enforcement agencies, prosecution or correctional authorities, may seek an order signed by a judicial officer to re-open a sealed case for the purpose of a criminal investigation, prosecution or sentencing. The records may be opened for the purposes of evaluating a prospective employee of a criminal justice agency, without a court order, pursuant to Minn. Stat. § 609A.03, subd. 7, or for certain social services licensing purposes. For orders issued on or after January 1, 2015, Minn. Stat. § 609A.03, subd. 7a, states the limitations of an expungement order and provides authority for certain agencies to access and share expunged records under certain circumstances.

YOU MAY QUALIFY FOR AN EXPUNGEMENT UNDER MINNESOTA STATUTE ch. 609A IF:

- The charges were dismissed, you were found not guilty, or the case did not otherwise result in a guilty plea or finding, or a conviction.
- You successfully completed the terms of a diversion or stay of adjudication, or were convicted of a crime that qualifies for expungement under Minn. Stat. § 609A.02, subd. 3 (revisor.mn.gov/statutes/cite/609A.02), and the required amount of time has passed.

- You were charged with a controlled substance offense - the proceedings have been dismissed and discharged.
- You were a juvenile prosecuted as an adult.
- The Board of Pardons has granted you a pardon extraordinary.

In the situations listed above, the court can order all records of that criminal case kept in Minnesota to be sealed. If there is no court file (the prosecutor did not file formal charges or the grand jury did not file an indictment) and you have not been convicted of any felony or gross misdemeanor in any state for the preceding 10 years, a petition to the court is not necessary to expunge your arrest record. You should contact the arresting agency and/or the BCA [Minn. Stat. § 299C.11, subd. 1(b), revisor.mn.gov/statutes/cite/299C.11].

If you were convicted in any other situation, your case does not meet the criteria under Minn. Stat. ch. 609A (revisor.mn.gov/statutes/cite/609A). Expungement of a conviction not meeting the 609A criteria is possible, but rare and can only be granted for the court's records. Records of your arrest and prosecution held by the police, sheriff's office, prosecutors and the BCA would not be affected by such an expungement order. Certain crimes can be expunged only if you can convince the court that you have made changes in your life that demonstrate you are very unlikely to commit another crime, and that the benefit to you from an expungement outweighs the burden of sealing the records.

To request expungement of a conviction not meeting the 609A criteria, check the last box of item #9 of the Petition which states "I was convicted of an offense that does not qualify for expungement under Minn. Stat. § 609A.02, subd. 3, but I have rehabilitated myself. The benefit to me outweighs the disadvantage to the public and the burden on the court." An order expunging a conviction under these circumstances may provide only for expungement of the record held by state courts and may not expunge records held by state or local law enforcement and prosecution agencies.

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

PROCEDURES FOR EXPUNGEMENTS

A. COMPLETELY FILL OUT A SEPARATE PETITION AND ORDER FOR EACH CASE YOU WANT EXPUNGED:

1. NOTICE OF HEARING AND PETITION FOR EXPUNGEMENT

   You must fill out this document completely and sign your name. IT IS MANDATORY that you list all prior and pending criminal charges in this or any other state on this petition as well as any stays of adjudication, continuances for

dismissal, or pretrial diversions in any jurisdiction. If you are unsure about your court records, all Minnesota counties have public access terminals where you may look up your case information. The Minnesota Bureau of Criminal Apprehension (BCA) will provide a printed record for a fee. You may contact the BCA at 651-793-2400 for more information.

Obtain a hearing date from Court Administration to be inserted in the notice. This date must be more than 60 days from the date notice is mailed plus 3 days for mailing.

2. PROPOSED ORDER TO EXPUNGE CRIMINAL RECORDS

You must complete a separate order for each case that you want expunged. There are three types of orders (court form EXP105, court form EXP106, or court form EXP107). Use the one appropriate to your situation, as indicated on the petition (court form EXP102).

3. REQUEST FOR WAIVER OF FILING FEE—IN FORMA PAUPERIS (IFP) If you are not requesting expungement of an action or proceeding that was resolved in your favor, and you will be seeking waiver of the filing fee, additional papers need to be completed. See section D to see if you qualify for fee waiver. You will need to ask for a waiver form (IFP) specifically. Fee waiver forms are available at https://mncourts.gov/GetForms.aspx?c=19&p=69. You will have to provide financial information to have the court determine whether you qualify to have the fee waived. The fee or the order waiving the fee must be submitted when the petition is filed.

B. MAKE COPIES OF THE COMPLETED FORMS YOU WILL NEED FOR SERVICE ON EACH AGENCY AND THEIR ATTORNEYS.

Minn. Stat. § 609A.03, subd. 3 (revisor.mn.gov/statutes/cite/609A.03), requires that a Notice of Hearing and Petition and unsigned proposed expungement order on ALL state and local agencies and their attorneys that might have a record of the offense you want to expunge. Most people need to serve **at least 6 agencies**; for example, the Minnesota Bureau of Criminal Apprehension, the Attorney General's Office, the local police department, the prosecuting attorney, the sheriff's department, county attorney, and county department of corrections (probation).

Items to copy and serve:

1. Notice of Hearing and Petition(with the scheduled hearing date completed)
2. The unsigned proposed Order you are seeking to have the judicial officer issue.

IMPORTANT! Get legal advice about serving **OTHER** agencies such as the MN Dept. of Human Services (regulates employment in health care, education, day care, foster care, etc.) or licensing agencies (for teaching, nursing, real estate, etc.) Depending on your situation, serving those agencies may or may not be in your best interest.

C. PROCESS FOR SERVICE

You are responsible to see that service is done properly. Court staff cannot serve the documents for you. Service can be done by another adult, or by you. The server must mail a copy of all required documents and fill out the Proof of Service. Service must be complete at least 63 days before the scheduled hearing date.

1. Fill out these parts of the *Proof of Service* form:

Get a **separate** *Proof of Service* form for **each court case** you want to expunge. ***Example:*** If you want to expunge 3 different court cases, you must prepare a separate *Proof of Service* form for each case, for a total of 3 service forms.

YOU must fill in the blanks for the **government agency addresses** on the *Proof of Service* form. Write the County name and the City name where the offense happened (or where you were arrested), and write the address for each local government agency related to that case. If you decide to serve the MN Dept. of Human Services and/or Dept. of Health, check the box next to their address listed on the form. If you are serving other agencies, write their names and addresses in the extra spaces on the form and check those boxes.

Using the **same court information** from your criminal case, you must fill in the blanks at the top of the *Proof of Service* form with the County, Judicial District and Court File Number. **STOP!** The server must fill out the other blanks on the form. See #3 below called **"How the server must complete the *Proof of Service* form."**

2. Get copies of your expungement papers ready to be served.

Your expungement papers can be **served by first class U.S. mail**. Copies of the *Proof of Service* do **not** have to be mailed to the government agencies.

STEP 1: Make copies of your completed *Petition* and proposed *Order*.

Make one copy of your completed *Petition* (and any attachments) and proposed *Order* for **each government agency**, and make one copy for yourself. Copies can be double-sided to save on cost. ***Example:*** If you are serving 8 agencies checked in your *Proof of Service*, you need to make 9 copies of your papers (1 for each agency + 1 for you).

Do not count your ORIGINALS as a "copy" in the total. **Keep the ORIGINAL *Petition* and proposed *Order*** to file with the court as soon as possible after service of your papers is complete.

STEP 2: Address an envelope for each government agency checked on your *Proof of Service* form.

If you want to expunge only one case, a set of copies should fit into a regular business-size envelope. You need larger envelopes to hold expungement papers for two or more cases. Most people need at least **6 envelopes**, or more if they serve a City Attorney and regulatory/licensing agencies. You should write **your return address** on the envelopes.

NOTE: If you want to expunge more than one case in the **same County**, you can put copies for each case into the same envelope addressed to a government office. ***Example***: If you are asking to expunge 5 cases, you can put a set of copies for each case into one large envelope addressed to the BCA; then do the same for the other government agencies. **STOP!** If any of the 5 offenses happened in **different cities** within the County, be sure to serve the correct copy of **expungement** papers on the correct **local** government agencies (police & prosecutor) where **each** offense happened.

STEP 3: Add enough postage to each envelope to send by 1st class U.S. Mail.
The amount of postage you need depends on the number of pages in each envelope. It's a good idea to weigh your envelopes at a Post Office, and buy the correct postage. You **do not** need to use "certified" or "return receipt" mail. **STOP!** **Do not** let a Post Office employee put the envelopes in the mailbox!

STEP 4: The server mails the envelopes.
The server puts your envelopes in a U.S. mailbox and follows the instructions below to complete the *Proof of Service* form.

STEP 5: After mailing, the server must complete the *Proof of Service* form.
When the form is completed, you will file it with the court.

3. How the server must complete the *Proof of Service* form.

AFTER the server places your envelopes in a U.S. mailbox, the server must fill out the blanks on the P*roof of Service* form as follows:

- write in the name of the **County** where the *Proof of Service* form is **signed** (can be different from where case is filed);
- write **the server's name** in the blank for the person who mailed the envelopes;
- write the **date** they mailed the envelopes. This date must be **at least 63 days BEFORE** the hearing date;

- write in the name of the **City** where they mailed the envelopes; and
- **sign** the *Proof of Service*.

If another adult served for you, then after completing these steps, they should give the signed *Proof of Service* form **back to YOU.**

D. FILING THE PAPERWORK WITH DISTRICT COURT

After copies of the documents have been served on all required agencies and their attorneys, the Notice of Hearing and Petition for Expungement, the proposed order along with written proof (Proof of Service) that all agencies have been served must be filed with the court administrator's office. File your documents as soon as you have completed the service process.

- A filing fee is not required for cases that were "resolved in your favor." This means no filing fee is required if you were not convicted, were not found guilty, and did not plead guilty in the case, or you were exonerated under Minn. Stat. § 590.11. If the case was "resolved in your favor," inform court personnel that the filing fee is waived by statute.
- A filing fee is required for cases in which you were convicted or where you were found guilty by the court or entered a guilty plea, even if you were not convicted or the conviction was later vacated.

Check with the court administrator in the county where you are filing for the correct filing fee amount. If you do not qualify for fee waiver under statute, you may ask the court to waive the filing fee by completing a form called "Affidavit for Proceeding In Forma Pauperis" and following the instructions given to you by court personnel.

Write the **court date and time** on your calendar! The court may not send you a reminder. If you don't go to your hearing, you might have to start over from the beginning.

E. AGENCY OPPORTUNITY TO OBJECT

Each agency that you serve with the petition and proposed order has an opportunity to provide information to the court for its consideration of your request. If an agency chooses to provide information to the court, it must send you a copy of what it submits and will use the address you list in the petition.

F. THE COURT HEARING

You must appear at the hearing. Bring your copies of the documents along with you to court for your own reference. The original documents should already be in the court file.

At the hearing, the judicial officer will review your petition and any attachments you have submitted. The judicial officer will also consider any information presented by the prosecutor, any of the various government agencies and any victim. A victim has the right to submit an oral or written statement to the court. You may be required to testify and be cross examined by attorneys for any agency or office that opposes your request.

The judicial officer may not make a decision at the time of the hearing and may or may not grant the expungement. The judicial officer may sign the proposed order that you have provided (granting or denying your request) or may prepare his or her own order. The judicial officer may deny expungement if your request does not meet the necessary qualifications even if no one objects.

When the order is signed, the court administrator's office will send a copy of the order to all the agencies named in the order to receive notice. If your request was granted, these agencies have 60 days to appeal the order. Your record remains public during this period, while any appeal is pending, and while any financial obligation owed on the case remains unpaid. Any party whose records will be affected by the order may file an appeal to the Minnesota Court of Appeals. If an appeal is filed, you will be responsible for representing yourself or retaining an attorney to represent you. If no appeal is filed, and you do not owe any financial obligation, the record will be sealed 60 days after the filing of the order. It is a good idea to obtain a certified copy of this order for your own records. A certified copy fee will be charged unless you have an in forma pauperis (IFP) order.

REMINDER: CONTACT AN ATTORNEY IF YOU NEED MORE ASSISTANCE.

See Instructions (EXP101) for help in filling out this form.

State of Minnesota **District Court**

County of: _____ Court File Number: _____

Judicial District: _____ Case Type: Criminal

State of Minnesota
Plaintiff

VS

_____
Defendant

Notice of Hearing and Petition for Expungement (EXP102)

Minn. Stat. § 609A.03 or Inherent Authority

Notice to Law Enforcement / Government Agency / Prosecutor: Any objection to an expungement in this case shall be filed with the court as soon as possible, and within 60 days.

Hearing Information

The hearing in this case is scheduled on:

Date: _____, at _____ ☐ **a.m. /** ☐ **p.m.**

The hearing will be:

☐ **Remote using Zoom** (See the "Remote Hearing Information" Help Topic online at www.mncourts.gov/Remote-Hearings.aspx.)

Zoom meeting ID: _____

Passcode: _____

OR

☐ **In Person**

Courthouse address: _____

Courtroom number: _____

Petition for Expungement

1. List your full name:

   First: _____

   Middle: _____

   Last: _____

2. List any other legal names or aliases you have been known as: _____

   _____

   _____

3. List your date of birth: _____

4. List your current address:

   Street Address: _____

   City, State, Zip: _____

5. List all the other addresses you have lived at since the date of the offense for which you are seeking an expungement: (give the street address, city, and state)

   ☐ Check this box if you have only lived at your current address (listed in #4) since the date of the offense.

   _____

   _____

   _____

6. **Reasons for this Request**.

   Why are you asking for an expungement?

   Include the following information:

   - Whether you are asking for an expungement for employment, housing, or licensure reasons;
   - The statutory or other legal authority under which you are seeking an expungement; and
   - Why an expungement should be granted (give specific details).

   I am asking for an expungement because:

   _____

   _____

_____

_____

_____

_____

_____

_____

Add another sheet if needed.

7. **Criminal Record.** Minnesota law requires you to give the full record of all your criminal convictions for misdemeanors, gross misdemeanors, or felonies; and criminal charges (including all criminal charges that have been continued for dismissal, stayed for adjudication, or have been the subject of pretrial diversion).

   Give the following details about your criminal record (include information from Minnesota and any other state, federal court, and foreign countries):

   - All charges, convictions, stays of adjudication or impositions of sentence, whether the conviction happened before or after the offense for which you are seeking expungement; and
   - All pending charges or actions for misdemeanors, gross misdemeanors, or felonies.

Case #	County-State	Type of Charge	Date of Offense	Conviction Yes/No	Date of Conviction (if Yes)

Add another sheet if needed.

8. **Past Requests**. Have you ever asked for an expungement, pardon, or sealing of a criminal record before (whether for this offense or for any other offense, and whether it was granted or not)? ☐ Yes ☐ No

   If yes, list each other request for an expungement, pardon, or sealing of a criminal record you have made: _____

   _____

   _____

   Add another sheet if needed.

9. **Qualification for Expungement**.

Why do you qualify for an expungement?

☐ A criminal case against you for a controlled substance violation has been dismissed and the proceedings have been discharged. [Use *Order Concerning Sealing/Expunging of Record - Minn. Stat. § 609A.02, subd. 1 or 2* (court form EXP106).]

☐ You were certified or referenced for prosecution as an adult for a crime you committed when you were a juvenile. [Use *Order Concerning Sealing/Expunging of Record - Minn. Stat. § 609A.02, subd. 1 or 2* (court form EXP106).]

☐ A criminal matter was resolved your favor. [Use *Order Concerning Sealing/Expunging of Records - Minn. Stat. § 609A.02, subd. 3* (court form EXP105).]

☐ You successfully completed the terms of a diversion program or stay of adjudication, and you have not been charged with a new crime for at least one year since completion of the diversion program or stay of adjudication. [Use *Order Concerning Sealing/Expunging of Records - Minn. Stat. § 609A.02, subd. 3* (court form EXP105).]

☐ You were convicted of a petty misdemeanor or misdemeanor, or the sentence imposed was within the limits provided by law for a misdemeanor, and you have not been convicted of a new crime for at least two years since discharge of the sentence for the crime. [Use *Order Concerning Sealing/Expunging of Records - Minn. Stat. § 609A.02, subd. 3* (court form EXP105).]

☐ You were convicted of a gross misdemeanor, or the sentence imposed was within the limits provided by law for a gross misdemeanor, and you have not been convicted of a new crime for at least three years since discharge of the sentence for the crime. [Use *Order Concerning Sealing/Expunging of Records - Minn. Stat. § 609A.02, subd. 3* (court form EXP105)].

☐ You were convicted of a gross misdemeanor that is deemed to be for a misdemeanor pursuant to Minn. Stat. § 609.13, subd. 2(2), and you have not been convicted of a new crime for at least three years since discharge of the sentence for the crime. [Use *Order Concerning Sealing/Expunging of Records - Minn. Stat. § 609A.02, subd. 3* (court form EXP105)].

☐ You were convicted of a felony violation of Minn. Stat. § 152.025, and you have not been convicted of a new crime for at least four years since discharge of the sentence for the crime. [Use *Order Concerning Sealing/Expunging of Records - Minn. Stat. § 609A.02, subd. 3* (court form EXP105)].

☐ You were convicted of a felony that is deemed to be for a gross misdemeanor or misdemeanor pursuant to Minn. Stat. § 609.13, subd. 1(2), and I have not been convicted of a new crime for at least five years since discharge of the sentence for the crime. [Use *Order Concerning Sealing/Expunging of Records - Minn. Stat. § 609A.02, subd. 3* (court form EXP105)].

☐ You were convicted of a felony violation of an offense listed in Minn. Stat. § 609A.02, subd. 3(b), and have not been convicted of a new crime for at least four years since discharge of the sentence for the crime. [Use *Order Concerning Sealing/Expunging of Records - Minn. Stat. § 609A.02, subd. 3* (court form EXP105)].

☐ You were convicted of an offense that does not qualify for expungement under Minn. Stat. § 609A.02, subd. 3, but you believe you have rehabilitated yourself. You believe that the benefit to you outweighs the disadvantage to the public and the burden on the court. [Use *Findings of Fact, Conclusions of Law and Order to Seal/Expunge Judicial Records Only* (court form EXP107).]

10. **Offense Details**. What is the offense you want to expunge?

    Case #: _____

    Jurisdiction/City where the offense occurred: _____

    Type of offense: _____

    Date of offense: _____

11. **Victims**. Were there any identifiable victims in this case? ☐ Yes ☐ No

    If Yes, list the names of the victims: _____

12. **Protection, Restraining, or No-Contact Orders.** Is there now, or has there ever been, an Order for Protection, Restraining Order, or other No-Contact Order prohibiting you from contacting the victims?

    ☐ Yes. [Include copies of any orders with this *Petition*.]
    ☐ No.
    ☐ N/A (not applicable because there were no identifiable victims in this case).

13. **Personal Rehabilitation**. Describe what steps you have taken since the time of the offense toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation.

I have taken the following steps toward personal rehabilitation:

_____

_____

_____

_____

_____

Add another sheet if needed.

14. Do you want to ask the court to seal any private or confidential data submitted by the responding agencies or other jurisdictions? [Minn. Stat. § 609A.03, subd. 3(d)]
☐ Yes ☐ No

15. Do you want to ask that, if an expungement is ordered, each agency and jurisdiction that receives the order must send a letter to you at the address provided confirming receipt of the expungement order and that the record has been expunged? [Minn. Stat. § 609A.03, subd. 8(b)]: ☐ Yes ☐ No

16. **Mitigating or Aggravating Factors**. Explain any mitigating or aggravating factors relating to the underlying crime, including your level of participation, the context and circumstances of the underlying crime, and what risk, if any, you pose to individuals or society. _____

_____

_____

_____

_____

_____

Add another sheet if needed.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116

Date: _____

County and state where signed:

_____

Signature: _____

Name: _____

Address: _____

City/State/Zip: _____

Phone: _____

Email: _____

State of Minnesota **District Court**

County of:_____ Court File Number:_____

Judicial District:_____ Case Type: Criminal

State of Minnesota
Plaintiff

VS

_____
Defendant

Date of Birth: _____

Order Concerning Sealing/Expunging of Records (EXP105)

Minn. Stat. § 609A.02, subd. 3

On _____ (date), the Court considered the *Petition for Expungement* in the above matter.

Appearances were:

- ☐ Petitioner (Petitioner is the same person as the Defendant in the underlying criminal matter)
- ☐ Prosecuting Authority: _____
- ☐ Other: _____
- ☐ Waived

The Court finds:

1. The Petitioner was charged with the crime(s) of: _____
   _____

2. ☐ The above-entitled criminal action was determined in favor of the Petitioner;

   ☐ The Petitioner successfully completed the terms of a diversion program or stay of adjudication and has not been charged with a new crime for at least one year since completion of the diversion program or stay of adjudication;

   ☐ The Petitioner was convicted of a petty misdemeanor or misdemeanor, or the sentence imposed was within the limits provided by law for a misdemeanor, and the Petitioner has not been convicted of a new crime for at least two years since discharge of the sentence for the crime;

☐ The Petitioner was convicted of a gross misdemeanor, or the sentence imposed was within the limits provided by law for a gross misdemeanor, and the Petitioner has not been convicted of a new crime for at least three years since discharge of the sentence for the crime;

☐ The Petitioner was convicted of a gross misdemeanor that is deemed to be for a misdemeanor pursuant to Minn. Stat. § 609.13, subd. 2 (2), and has not been convicted of a new crime for at least three years since discharge of the sentence for the crime;

☐ The Petitioner was convicted of a felony violation of Minn. Stat. § 152.025 and has not been convicted of a new crime for at least four years since discharge of the sentence for the crime;

☐ The Petitioner was convicted of a felony that is deemed to be for a gross misdemeanor or misdemeanor pursuant to Minn. Stat. § 609.13, subd. 1(2), and has not been convicted of a new crime for at least five years since discharge of the sentence for the crime; or

☐ The Petitioner was convicted of a felony violation of an offense listed in Minn. Stat. § 609A.02, subd. 3(b): _____ and has not been convicted of a new crime for at least four years since discharge of the sentence for the crime.

3. The Petitioner has petitioned for the sealing of all records relating to an arrest, indictment or information, trial, or verdict.

4. Petitioner was not convicted of an offense that requires registration under Minn. Stat. § 243.166.

5. ☐ The Petitioner has established that they have not been convicted of a felony or gross misdemeanor, either within or without the state, within the ten years immediately before the dismissal prior to a determination of probable cause, the prosecuting authority's decision to decline to file charges, or the grand jury's decision not to return an indictment.

6. Proper notice ☐ has / ☐ has not been given including notice to any victim if required.

7. ☐ For petitions filed under Minn. Stat. § 609A.02, subd. 3(a)(3-8) (petitioner was convicted), the Petitioner ☐ has / ☐ has not established by clear and convincing evidence that expunging the record would yield a benefit to the petitioner commensurate with the disadvantages to the public and public safety of sealing the record and burdening the court and public authorities to issue, enforce, and monitor an expungement order, as required by Minn. Stat. § 609A.03, subd. 5(a): _____

_____

_____

_____

_____

OR

☐ For petitions filed under Minn. Stat. § 609A.02, subd. 3(a)(1) (all actions or proceedings resolved in petitioner's favor), or subd. 3(a)(2) (petitioner successfully completed terms of diversion or stay of adjudication), the law enforcement agency, government agency, or jurisdiction whose records would be affected ☐ has / ☐ has not established by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the Petitioner of not sealing the record, as required in Minn. Stat. § 609A.03, subd. 5(b): _____

_____

_____

_____

_____

8. There ☐ is / ☐ is not a nexus between the criminal record to be expunged and the Petitioner's status as a crime victim.

IT IS ORDERED:

☐ 1. Petitioner's request for sealing/expunging of records is denied.

☐ 2. Petitioner's request for sealing/expunging of records is granted. All official records, including all records relating to the arrest, indictment or complaint, trial, and dismissal, shall be sealed by the agencies indicated in paragraph 4 below and the existence not disclosed without court order, except as authorized by law.

☐ 3. That for this offense only, all fingerprints and thumbprints, photographs and other identification data except for DNA samples, and all copies of duplicates thereof, shall be sealed by the agencies indicated in paragraph 4 below.

☐ 4. This order applies to the following agencies:

☐ District Court
☐ _____ County Sheriff
☐ _____ City Attorney
☐ Bureau of Criminal Apprehension
☐ Department of Corrections
☐ Department of Public Safety
☐ Minnesota Attorney General
☐ _____ County Attorney
☐ _____ City Police Dept.
☐ Probation/Court Services Dept: _____
☐ Department of Human Services
☐ Department of Natural Resources
☐ _____

☐ 5. This order, which finds a nexus between the criminal record and the Petitioner's status as a crime victim, restores the Petitioner to the status occupied before the arrest. The Petitioner will not be guilty of perjury for failure to acknowledge the arrest or proceeding in response to any inquiry made for any purpose.

☐ 6. The court administrator shall send a copy of this expungement order to each agency and jurisdiction whose records are affected, and send a copy of this order to the Petitioner along with notice identifying each agency that was sent a copy of the order.

7. The Petitioner shall continue to be prohibited from shipping, transporting, possessing, or receiving a firearm for the remainder of the Petitioner's lifetime if the conviction was for a crime of violence and an order was not issued under Minn. Stat. § 609.165, subd. 1d.

☐ 8. Other: _____

_____

NOTE: This order is stayed for 60 days, during any appeal, and until any remaining restitution or other financial obligation on the case is paid in full. Records will not be sealed until after this time.

Dated: _____ _____

Judge of District Court

State of Minnesota **District Court**

County of:

Judicial District: _____
Court File Number: _____
Case Type: Criminal

State of Minnesota,
Plaintiff

vs.

_____
Defendant (first, middle, last)

Order Concerning Sealing / Expunging of Records

(Minn. Stat. § 609A.02, subd. 1 or 2)

Date of Birth _____

On _____ (date), the Court considered the Petition for Expungement in the above matter.

Appearances were:

☐ Petitioner (Petitioner is the same as the Defendant in the underlying criminal matter)

☐ Prosecuting Authority _____

☐ Other _____

☐ Waived

Upon the files and records, the court finds:

1. On _____ (date) in the District Court of County, the Petitioner:

   ☐ Entered a plea or was found guilty of the crime of _____ _____ and was sentenced pursuant to Minn. Stat. §152.18.

   OR

   ☐ Entered a plea or was found guilty of _____ following certification or reference to district court for prosecution pursuant to Minn. Stat. § 260B.125.

2. Petitioner was not convicted of an offense that requires registration under Minn. Stat. § 243.166.

3. The Petitioner was discharged by the commissioner of corrections, or was placed on probation and an order discharging the Petitioner from probation has been filed and/or the proceedings dismissed.

4. Proper service ☐ has ☐ has not been given including notice to any victim(s) if required.

5. There ☐ is ☐ is not clear and convincing evidence that sealing the record would yield a benefit to Petitioner commensurate with the disadvantages to the public and public safety of: (1) sealing the record; and (2) burdening the court and public authorities to issue, enforce, and monitor an expungement order. (Minn. Stat. § 609A.03, subd. 5(a)):

_____

_____

_____

_____

6. There ☐ is ☐ is not a nexus between the criminal record to be expunged and the Petitioner's status as a crime victim.

Upon the Findings of the Court and the files and records herein,

IT IS ORDERED:

☐ 1. Petitioner's request for sealing/expunging of records is denied.

☐ 2. Petitioner's request for sealing/expunging of records is granted. All official records, including all records relating to the arrest, indictment or complaint, trial and dismissal, shall be sealed by the agencies indicated in paragraph 4 below and the existence not disclosed without court order, except as authorized by law.

☐ 3. That for this offense only, all finger and thumb prints, photographs and other identification data except for DNA samples, and all copies of duplicates thereof, shall be sealed by the agencies indicated in paragraph 4 below.

☐ 4. This order applies to the following agencies:

☐ District Court	☐ _____ County Attorney
☐ _____ County Sheriff	☐ _____ City Police Dept.
☐ _____ City Attorney	☐ Probation / Court Services Department
☐ Bureau of Criminal Apprehension	_____
☐ Department of Corrections	☐ Department of Human Services
☐ Department of Public Safety	☐ Department of Natural Resources
☐ Minnesota Attorney General	☐ _____

☐ 5. This order, which ☐ seals the record of proceedings under section 152.18 or ☐ finds a nexus between the criminal record and the Petitioner's status as a crime victim, restores the Petitioner to the status occupied before the arrest or charge. The Petitioner will not be guilty of perjury for failure to acknowledge the arrest or proceeding in response to any inquiry made for any purpose.

☐ 6. The court administrator shall send a copy of this expungement order to each agency and jurisdiction whose records are affected, and send a copy of this order to the Petitioner along with notice identifying each agency that was sent a copy of the order.

7. The Petitioner shall continue to be prohibited from shipping, transporting, possessing, or receiving a firearm for the remainder of the Petitioner's lifetime if the conviction was for a crime of violence and an order was not issued under Minn. Stat. § 609.165, subd. 1d.

☐ 8. Other:

_____

_____

_____

_____

NOTE: This order is stayed for 60 days, during any appeal, and until any remaining restitution or other financial obligation on the case is paid in full. Records will not be sealed until after this time.

Dated: _____

_____
Judge of District Court

State of Minnesota **District Court**

County of:

Judicial District: _____
Court File Number: _____
Case Type: Criminal

State of Minnesota,
Plaintiff

vs.

_____
Defendant (first, middle, last)

Date of Birth _____

Findings of Fact, Conclusions of Law and Order to Seal/Expunge Judicial Records Only

FINDINGS OF FACT

1. Petitioner (the Defendant named above) was charged with _____ _____ on _____ from an offense date on or about _____ .

2. On _____ , the Petitioner pleaded guilty to the charge / amended charge of _____

   OR

   On _____ , the Petitioner was found guilty by the court / a jury of the charge.

3. A petition for expungement was properly filed on _____ . The Petitioner has given proper notice to all parties and agencies as required in Minn. Stat. § 609A.03, subd. 3.

4. This case was not resolved in the Petitioner's favor, and the Petitioner does not qualify for expungement under any of the grounds set forth in Minn. Stat. § 609A.02, subd. 3, therefore the Petitioner is not entitled to an expungement under Minnesota Statute Chapter 609A.

5. There is not an infringement of the Petitioner's constitutional rights.

6. The benefits to the Petitioner of receiving an expungement are

_____

_____

_____

7. There is a strong public interest in maintaining accurate public records. The disadvantages to the public of expungement are that the criminal justice system will have inaccurate files about offenders and prosecutors and courts will not know whether or not a defendant is a first time offender.

8. The County / City further argues as clear and convincing evidence why the records should not be sealed that _____ . [ONLY USE IF THERE IS SOMETHING IN THE LETTER THAT IS NOT INCLUDED IN #7 ABOVE]

9. There is clear and convincing evidence that the benefit to the Petitioner is greater than disadvantage to the public:

_____

_____

_____

_____

CONCLUSIONS OF LAW

1. Minnesota courts have the inherent power to expunge criminal records in two situations. See State v. C.A., 304 N.W.2d 353, 358 (Minn. 1981); In re R.L.F., 256 N.W.2d 803, 807-08 (Minn. 1977). First, courts may use their inherent expungement power "where the Petitioner's constitutional rights may be seriously infringed by retention of his records." State v. Ambaye, 616 N.W.2d 256, 258 (Minn. 2000). Second, when a Petitioner's constitutional rights are not involved, "the court must decide whether expungement will yield a benefit to the Petitioner commensurate with the disadvantages to the public from the elimination of the record and the burden on the court in issuing, enforcing and monitoring an expungement order." Ambaye, 616 N.W.2d at 258.

2. If the charge is dismissed following a stay of imposition of sentence, it is not a determination in the defendant's favor. City of St. Paul v. Froysland, 246 N.W.2d 435, 439 (Minn. 1976). [USE ONLY FOR CASES WITH STAY OF IMPOSITION]

3. A stay of adjudication with probation is not a resolution in favor of the Petitioner. See State v. Davisson, 624 N.W.2d 292, 296 (Minn. App. 2001). [USE ONLY FOR CASES WITH A STAY OF ADJUDICATION]

4. Where there is no infringement of the Petitioner's constitutional rights, the judicial branch does not have the authority to order non-judicial records sealed in situations where the court used its inherent authority to expunge a record. See State v. Schultz, 676 N.W.2d 337, 345 (Minn. App. 2004).

ORDER

1. Petitioner's request is **GRANTED**.
2. All judicial branch records concerning the above-entitled matter, including records of arrest, citation, and charges, relative to the offense(s) shall be sealed/expunged.
3. The Court Administrator shall seal all files and records relating to the offenses, and refrain from disclosing or revealing the contents thereof without Order of the Court; said officials shall remove references to Petitioner from all index books and computers open to public examination under the caption of these cases or as it relates to the cases.
4. This Order is subject to the limitations set forth in Minn. Stat. § 609A.03.
5. This Order shall be stayed for 60 days from the date of filing to allow any affected party to file an appeal. If any appeal is filed, this Order is stayed during the pendency of that appeal. This Order is also stayed until any remaining restitution or other financial obligation is paid in full.

Date: _____

_____
Judge of District Court

State of Minnesota | **District Court**

County

Judicial District: _____
Court File Number: _____
Case Type: Criminal

State of Minnesota

vs

_____
Defendant

Proof of Service

I, _____ (name of person who mailed the documents), state that on _____ (date), I served the attached documents, *Notice of Hearing and Petition for Expungement* and proposed *Order,* by mailing true and correct copies to the parties checked below at the addresses listed by putting envelopes with sufficient postage in the U.S. Mail in the City of _____.

1 ☑	**MN Bureau of Criminal Apprehension** CJIS-CCH-Court Orders / Petitions 1430 Maryland Avenue East St. Paul, MN 55106 *(Required)*	5 ☑	_____ **County Dept. of Corrections (Probation)** _____ _____ _____ *(Required)*	9 ☐	**MN Dept. of Human Services** Office of Inspector General, Legal Counsel Office P.O. Box 64953 St. Paul, MN 55164-0953 *(check box & use if related to your case)*
2 ☑	**Office of the MN Attorney General** Suite 1800 NCL Towers 445 Minnesota Street St. Paul, MN 55101 *(Required)*	6 ☑	_____ **County Sheriff's Office** Attn: Records _____ _____ _____ *(Required)*	10 ☐	**MN Dept. of Health** 85 E. 7th Place, #220 P.O. Box 64970 St. Paul, MN 55164-0970 *(check box & use if related to your case)*
3 ☑	**MN Dept. of Corrections** Attn: Records 1450 Energy Park Drive, Ste. 200 St. Paul, MN 55108-5219 *(Required)*	7 ☐	_____ **Police Dept.** Attn: Records _____ _____ _____ *(check box & use if related to your case)*	11 ☐	**MN Dept. of Natural Resources** 500 Lafayette Road Box # 47 St. Paul, MN 55155-4040 *(check box & use if related to your case)*
4 ☑	_____ **County Attorney's Office** Attn: Criminal Records _____ _____ _____ *(Required)*	8 ☐	_____ **City Attorney's Office (Prosecutor)** Attn: Criminal Division _____ _____ _____ *(check box & use if related to your case)*	12 ☐	**MN Department of Public Safety** _____Division 445 Minnesota Street St. Paul, MN 55101-5155 *(check box & use if related to your case)*

13 ❒	14 ❒	15 ❒
_____ _____ _____ _____ *(check box & use if related to your case)*	_____ _____ _____ _____ *(check box & use if related to your case)*	_____ _____ _____ _____ *(check box & use if related to your case)*

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

_____
Date

County and state where signed:

_____

_____
Signature (person who mailed the papers)

Printed Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____