

Indiana Second Chance Law Expungement and Sealing Manual



The Initiative for Northwest Indiana (INWIN)

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What is INWIN?

The **Initiative for Northwest Indiana (INWIN)** is a community economic development law project engaging community organizations, entrepreneurs, businesses, attorneys, and civic leaders for the greater good of the Northwest Indiana regional community. INWIN provides pro bono legal support to spur economic development and create more opportunities for Northwest Indiana citizens.

What is Sealing/Expungement of Record?

When a record is sealed, the public will not have access to it through the government databases. That means most employers will not have access to the information. However, city, county, state and federal government and agencies, including the police and military, have a legal right to access criminal history records even if they are sealed. When a record is expunged, agencies that would have access to a sealed record will be able to know that criminal information has been expunged from the record, and would only have access to the record through a court order.

Why Get an Expungement?

When you apply for some jobs, apartments, and licenses, the people reviewing your application might look at your criminal record. If you have a conviction on your record, it is unlikely that you will be chosen for the job, given the apartment to rent, or allowed to get a license. Once your record is expunged, nothing will show up when your record is checked. After expungement is finished, when asked about your past criminal record, you can honestly say that you have none. You can act as if the arrest and conviction never took place. However, even if your record is expunged, if you commit another crime, your sealed record can still be used against you in the new proceeding.

Who Can Use This Packet?

This packet can be used by pro se clients, advocates, and volunteer or low-bono attorneys filing a petition to seal or expunge a criminal record in the state of Indiana. The information herein does not apply to juvenile Expungement.

WARNING:

By completing these forms, you are serving as your own attorney. The purpose of this packet is to help you represent yourself in this expungement. No attorney/client relationship has been created, and INWIN is not representing you by providing this resource.



PRELIMINARY STEPS: Getting Started

Criminal History: If you are filing in Lake County you will need a copy of your “rap sheet.” In Lake County, and other counties in Northwest Indiana, it is helpful to obtain a copy of your arrest and conviction information to ensure you are listing all cases on your petition.

Contact the police department of the city/town to request your “Criminal History Record Information” (CHRI), commonly known as a “rap sheet.” These records can be obtained directly from the City Police Department that arrested you, or at the County Clerk’s Office. The Lake County Clerk’s Office provides a criminal history report at the Bureau of Investigation, 2293 North Main

Street, Crown Point, Indiana 46307, for **\$7**. To obtain the records from the Hammond Police Department, go to: 509 Douglas Street, Hammond, Indiana 46320, and bring your State I.D. To obtain your records from the East Chicago Police Department, go to: 2301 East Columbus Drive, East Chicago, Indiana 46312. Bring **\$10** if you are a Hammond citizen, **\$15** if you are not, and bring your State I.D.

You may also obtain your limited criminal history from the Indiana State Police (ISP). You can go online to obtain this record at: <http://www.in.gov/ai/appfiles/isp-lch/>, or you may go to the Indiana State Police headquarters at 100 North Senate Avenue, #301,



Indiana Government Center North,
Indianapolis, Indiana 46204. The
fee online is **\$16.32**. *It is
recommended* that you instead go
directly to the source of the
records: the police agency and/or
the County Clerk's Office to
obtain your criminal history report.

Certified Copies of Dispositions:

If you are filing in Lake County
you will need to purchase certified
copies of your criminal
dispositions from the Clerk's
Office to attach to your petition. If
you are filing in other counties,
you may still want to view copies
of your dispositions to ensure you
are listing all cases on your
petition.

Official Driving Record (ODR):

In order to get an expungement or
seal your records, you need to
obtain a copy of your Official
Driving Record. You may do this
by printing a copy online at:
<http://www.in.gov/bmv/2331.htm>,
or by going to your local BMV and
obtaining a copy of your ODR.
There is a fee of **\$4** online.

Do I need a lawyer?

The law was designed to let people
clear their criminal records without
having to hire an attorney.
However, you can contact the
Lake County Bar Association, 291
W. 84th Dr. Merrillville, IN 46410,
(219) 738-1905, for an attorney
referral.



Checklist for Expungement

Obtain an official copy of your Criminal History Record Information.

Obtain an official copy of your driving records.

Fill out the petition forms and read them over to make sure they are complete.

Make three copies of your completed papers.

Be prepared to pay the \$130 filing fee.

Take your forms to the Clerk's office and file them. Make sure the Clerk gives one copy back to you. Keep it in a safe place.

Serve a copy of the petition on the Prosecutor's Office in the jurisdiction.

Be sure to check your mail regularly for correspondence from the court, including information on a potential court date.



SECTION ONE: Can I Get My Criminal Record Sealed or Expunged?

Do Any of My Cases Qualify for Sealing?

If your entire record does not qualify for expungement, you may still be able to seal some or all of the cases on your record. Sealing unlike expungement, can be done on a case by case basis. So, you can ask for certain cases on your record to be sealed even if there are other case(s) on your record that do not qualify for expungement or sealing.

If you have been arrested, but there was no conviction, then:

1. There is no filing fee
2. You must wait one year after the date of arrest
3. The records are sealed from:
 - Department of Correction's files
 - Court Files
 - Files of the bureau of motor vehicles (BMV);
 - Any service agency that provided treatment under court order
 - State Police Department-Central Repository
4. You can file a petition in:
 - The sentencing court (if you were sentenced)
 - The court in which you were charged (if you were charged), or
 - Any court exercising criminal jurisdiction in Indiana (If you were not charged or convicted)
5. The standard is to show "clear and convincing evidence" that an arrest did not result in conviction AND no charges are currently pending
6. Only Criminal Justice Agencies may access the sealed records without a court order



If you have been convicted, but the conviction was vacated on appeal, then:

1. There is no filing fee
2. You must wait one year after the finalized vacated order entered
3. The records are sealed from:
 - Department of Correction's files
 - Court Files
 - Files of the bureau of motor vehicles (BMV);
 - Any service agency that provided treatment under court order
 - State Police Department-Central Repository
4. You can file a petition in:
 - The sentencing court in which you were convicted

The standard is to show “clear and convincing evidence” that the conviction was vacated on appeal AND no charges are currently pending

Only Criminal Justice Agencies may access the sealed records without a court order.

Does my Entire Record Qualify for Expungement?

Your criminal record qualifies for Expungement IF and ONLY IF:

- 1) The period required by this section has elapsed for ALL charges (see below);
- 2) There are no charges currently pending against you;
- 3) Your driver's license is in good standing;
- 4) You have successfully completed your sentence(s), including any term of supervised release and satisfied all other obligations; AND
- 5) You have not been convicted of a subsequent crime. .

Step 1. Check the disposition (the result of the case) on every case in the chart that you completed (see previous page).



Step 2. Be sure the waiting period has elapsed for ALL charges.

Misdemeanors → Five Year Waiting Period

Misdemeanors (or Class D Felonies converted to misdemeanors) may be expunged no sooner than five years after the **date of conviction** (unless the prosecuting attorney consents in writing to earlier date).

Misdemeanors include (not limited to):

1. Battery
2. Criminal Mischief
3. Criminal Trespass
4. Disorderly Conduct
5. DUI
6. Possession of Marijuana
7. Providing Alcohol or Tobacco to a Minor
8. Public Indecency
9. Unlicensed Possession of a Handgun

Class D Felonies → Eight Year Waiting Period

Class D felonies may be expunged no sooner than eight years after the **date of conviction** (unless prosecuting attorney consents in writing to an earlier date).

Class D felonies often include:

1. Confinement
2. Counterfeiting
3. Fraud
4. Money Laundering
5. Neglect
6. Possession of Controlled Substance
7. Stalking
8. Theft

Class D felonies do not include:

1. Class D felonies that were reduced to Misdemeanors (see Misdemeanors)



2. An elected official convicted of an offense while serving the official's term or as a candidate for public office

Less Serious Felonies → Eight Year Waiting Period

Less serious felonies may be expunged no sooner than eight years after the **completion of the person's sentence** (including the completion of any term of supervised release and the satisfaction of all other obligations as part of the sentence, unless prosecuting attorney consents in writing to an earlier date).

Such felonies include:

- 1) Arson
- 2) Burglary
- 3) Dealing a Controlled Substance
- 4) Forgery
- 5) Robbery

Less serious felonies do not include:

- 1) An elected official convicted of an offense while serving the official's term or as a candidate for public office
- 2) Sex or violent offender
- 3) A person convicted of a felony that resulted in bodily injury

Other Felonies → Ten Year Waiting Period

Same process as felony expungement as above, but cannot file for expungement till ten years after the **completion of the person's sentence** (including the completion of any term of supervised release and the satisfaction of all other obligations as part of the sentence, unless prosecuting attorney consents in writing to an earlier date).

Such Felonies Include:

- 1) An elected official convicted of an offense while serving the official's term or as a candidate for public office; and
- 2) A person convicted of a felony that resulted in serious bodily injury to another person



Felonies that DO NOT QUALIFY for Expungement:

- 1) Murder
- 2) Voluntary Homicide
- 3) Involuntary Homicide
- 4) Reckless Homicide
- 5) Human and Sexual Trafficking
- 6) Sex Crimes (as defined in IC 35-42-4)
- 7) Sex or violent offender (as defined in IC 11-8-8-5)

Step 3. Be prepared to pay the filing fee.

A petition to expunge conviction records requires civil action filing fee of \$130. There is no fee waiver or reduction of fees upon showing indigency.

If an Expungement petition is granted the conviction records contained in the following will be expunged:

1. Court files;
2. Department of correction's files;
3. Files of the bureau of motor vehicles (BMV); AND
4. Any service agency that provided treatment under court order.



SECTION TWO: Definitions

CONVICTION – a final judgment of guilt by the court. A conviction includes terms such as PROBATION, CONDITIONAL DISCHARGE, FINE (without the term “supervision”), TIME CONSIDERED SERVED, JAIL TIME, and FINDING OF GUILTY by a judge or jury (without the term “supervision”). SUPERVISION or first offender drug PROBATION that was terminated unsatisfactorily is also considered a conviction.

CRIMINAL OFFENSE – a petty offense, business offense, misdemeanor, felony, or municipal ordinance violation. A minor traffic offense is not a criminal offense, but a Class A or B misdemeanor traffic offense is a criminal offense.

DISPOSITION – the result of your criminal case.

EXPUNGE – when the arresting agency and/or the Indiana State Police physically destroys your criminal records or returns the records to you. It also means that the Clerk’s Office will erase your name from the Clerk’s Office’s electronic docket system from that day forward. However, the Clerk’s Office always impounds the court file (removes it from public view and access) and is not permitted to destroy it.

FELONY – a crime that may be punished by imprisonment for more than one year in a state prison. A felony is more serious than a misdemeanor.

HEARING – If an objection is filed, you will receive a notice in the mail from the Clerk’s Office contacting your court hearing date. At this hearing, the parties are in the courtroom with the judge, who hears evidence from you and the other present parties about whether your petition should be granted or denied.

LAST SENTENCE – If you are petitioning to seal your criminal record, “last sentence” means the sentence, order of supervision, or order of qualified



probation for a criminal offense that terminates last in time, regardless of whether you have listed that offense on your petition.

MINOR TRAFFIC OFFENSE – a petty offense, business offense, or Class C misdemeanor under the Indiana Vehicle Code or a similar provision of a municipal or local ordinance. A minor traffic offense is not a criminal offense and cannot be expunged or sealed unless you were released without charging.

MISDEMEANOR – a crime that may be punished by confinement in a county jail for a term of up to one year.

MOTION TO VACATE, MODIFY OR RECONSIDER – a written motion filed with the Clerk’s Office by you or by the prosecutor, arresting agency, chief legal officer of the unit of local government that arrested you, or Indiana State Police if you or one of these agencies disagrees with the judge’s decision to grant or deny your petition. You must file a motion to vacate, modify, or reconsider within 60 days after you receive our copy of the order granting or denying your petition.

MUNICIPAL ORDINANCE VIOLATION – an offense defined by a city, village, or other local ordinance that is criminal in nature.

NOTICE OF APPEAL – a document you or the prosecutor, arresting agency, chief legal officer of the unit of local government that arrested you, or Indiana State Police files with the Clerk’s Office to begin an appeal of the judge’s decision granting or denying your petition. The order granting or denying your petition does not become a final and appealable order until 30 days after service of the order by the Clerk’s Office on you and the prosecutor, arresting agency, chief legal officer of the unit of local government that arrested you, or Indiana State Police.

OBJECTION – a written protest against your petition made by the prosecutor, arresting agency, chief legal officer of the unit of local government that arrested you, or Indiana State Police. It means that the objector does not want your record to be expunged or sealed. Objections must be files by the above-listed entities within 60 days after they receive a



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copy of your petition. Objections must be in writing and must state with specificity the nature of the objection. An objection is not the same as a denial. Only the judge can deny your petition.

PARDON – a type of executive clemency granted by the Governor. It is considered to be an extraordinary remedy and is rarely granted. It only applies to cases that have resulted in a conviction. The clemency process is administered by the Prisoner Review Board (even if you never went to prison).

SEAL – to physically and electronically maintain the records, unless the records would be otherwise destroyed due to age, but to make the records unavailable without a court order, except that the law allows police agencies and prosecutors certain access to your sealed records. If your record is sealed, your name will also be erased from the Clerk’s Office’s electronic docket system from that day forward.

SUPERVISION – a court order holding the case open for a specific period of time, usually between 6 months and 2 years. During that time, no judgment of guilt is entered. If all of the conditions of the supervision are followed, the case is dismissed and no conviction is ever entered against you.



SECTION THREE: Frequently Asked Questions

1. How much does it cost to file my petition?

The non-refundable filing fee of \$130.00 per district is payable to the Clerk of the Circuit Court by cash, money order, certified check, cashier's check, or personal check. (Indiana Statute) Your Driver's License, State I.D., telephone number, and case number should be written on the face of the check. There may be additional filing fees determined by the jurisdiction.

If required in the District in which you are filing (see answer to Question #3), you will also be charged \$1 per certified copy (IC 33-37-5-3) for each disposition (copy of the Clerk's Office's Docket for each criminal case on your record). This is also payable to the Clerk of the Circuit Court.

2. What if I can't afford the filing fee?

In Indiana there is no fee waiver for indigent citizens to apply for expungement petitions.

For record sealing petitions there is no filing fee.

3. Do I have to attach a copy of my rap sheet and certified copies of my dispositions to my petition?

Yes, you need a copy of your criminal history to make sure the Clerk's Office can easily find any and all offenses you may have committed in order to alter your records. Certified copies may not be necessary depending on the location where you file, so be prepared to produce Certified Copies of your dispositions if needed.

4. Where do I file my petition?



The City and County Clerk's Offices have four locations for Lake County. The different locations are:

- 1) Crown Point: Courts Building, 1st Floor, 2293 North Main Street, Crown Point, Indiana 46307.
- 2) Hammond: 232 Russell Street, Hammond, Indiana 46320.
- 3) East Chicago: 3711 Main Street, East Chicago, Indiana 46312.
- 4) Gary: 15 West 4th Avenue, Gary, Indiana 46402

5. What information do I need to bring with me to the courthouse (or City Clerk's Office) to file my petition?

In addition to a copy of your up to Criminal History Report and Official Driving Record, you will need the titles and addresses of all legal entities involved in your case(s), even if you were never prosecuted. These entities include:

- *The arresting authority*: The law enforcement agency that arrested you. This is usually a police department or sheriff's department. If you were never arrested and were instead only given notice to appear in court, there will not be an arresting authority.
- *The "Chief legal officer of the unit of local government that affected the arrest."* This is usually the attorney who represented the municipality or county that arrested you (It is NOT the Chief of Police). This attorney usually is called the "Corporation Counsel," "Village Attorney," "or "City Attorney." For example, if you were arrested by the Gary Police Department, you will need the name and address of the City Attorney for the City of Gary.
- *The States Attorney or prosecutor that prosecuted your case*: If charges were brought against you, you will need to know the



address for the State’s Attorney or prosecutor that prosecuted the case. You only need the office and the address – you do not need the name of the particular individual who prosecuted your case. If you are unclear about which office prosecuted your case, check your paperwork from the Clerk’s Office.

6. Can I expunge or seal an Order of Protection?

No. The expungement statute only applies to certain criminal offenses and traffic records. It does not apply to orders of protection, non-criminal minor traffic tickets (unless you were released without charging), divorces, or other civil matters.

7. Can the Clerk’s Office help me fill out my petition?

No. Employees of the Clerk’s Office are absolutely prohibited by law from giving legal advice or assisting customers to fill out court forms. Only Indiana licensed attorneys are permitted by law to give you legal advice. As the official keeper of the record for the Circuit Court, the Clerk’s Office, can, however, provide you with copies of your dispositions and provide the expungement forms for you to fill out.

8. What is a conviction?

A conviction is a final judgment of guilt by the court. A conviction includes terms such as PROBATION (except first-offender drug probation), CONDITIONAL DISCHARGE, FINE (without the term “supervision”), TIME CONSIDERED SERVED, JAIL TIME, and FINDING OF GUILTY by a judge or jury (without the term “supervision”). SUPERVISION or first-offender drug PROBATION that was terminated unsatisfactorily is also considered a conviction.

9. What is NOT a conviction?

The following are not considered to be convictions: SUPERVISION completed satisfactorily, STRICKEN OFF WITH LEAVE TO



REINSTATE (SOL), FINDING OF NO PROBABLE CAUSE (FNPC), NON-SUIT, DISMISSED, NOT GUILTY.

10. What if I was charged as a juvenile?

See the Guidelines for Juvenile Expungement available at the Clerk's Office. There is a separate process for expungement of juvenile records.

11. If I wait long enough, isn't my record automatically expunged?

No. There is no such thing as an "automatic expungement." Once you get arrested, you will have an arrest record even if you were never charged, the case was dismissed, you were found not guilty, or you successfully completed court supervision. The only way to remove the arrest from your record is to file a petition to expunge or seal your record.

12. If I was found not guilty, do I still need to file a petition?

Yes. Your criminal record contains all your arrests, whether you were found guilty or innocent.

13. I was pressured into pleading guilty even though I was innocent. Does that qualify me for expungement?

No. Once you plead guilty, any presumption of innocence is waived. Please see Section One to determine whether your record qualifies for expungement or sealing.

14. My case could be expunged but the time period has not passed yet. If it is also eligible for sealing, can I seal it now and expunge it later?

Yes.



15. I live out of town can I do this by mail?

Yes, mail to the clerk by registered, certified or express mail return receipt requested (Ind. R. Trial P. 5).

16. How do the police agency that arrested me, the prosecutor who prosecuted me, and any other required parties find out that I filed a petition?

Depending on the type of petition you will file in the (1) sentencing court (2) in the court where the person was charged or (3) in any court with criminal jurisdiction, you will have to file with those clerk's offices. For sealing an arrest record the prosecutor does not need to be notified. While for expungement of a conviction you must serve the prosecutor with a copy of the petition in accordance with the Indiana Rules of Trial Procedure (subject to change from county to county).

17. What happens if an objection to my petition is filed with the court?

If the prosecutor objects, the court will set the matter for a hearing not sooner than sixty days after the service of the petition to the prosecuting attorney, <http://www.in.gov/judiciary/2706.htm> (Subject to change from county to county).

18. Do I have to appear in court?

Depending on if a hearing is scheduled, it will be set no sooner than sixty days after the prosecutor has been served, <http://www.in.gov/judiciary/2706.htm> (subject to change from county to county).

19. How long does it take?

The procedure generally involves a petition to the court, which will



then be reviewed by a judge. Having the petition served to the parties concerned, documents prepared and for the judge to sign off will take time. If done incorrectly, the process can take much longer than need be or can possibly even be denied because improper procedure was followed. Expunging a criminal record may take months; a general estimate could be from two months to a year (subject to change from county to county).

20. What is the difference between expungement and sealing?

When a record is sealed, the public will not have access to it through the government databases. That means most employers will not have access to the information. However, city, county, state and federal government and agencies, including the police and military, have a legal right to access criminal history records even if they are sealed.

When a record is expunged, agencies that would have access to a sealed record will be able to know that criminal information has been expunged from the record, and would only have access to the record through a court order.

21. How do I find out if the judge has granted or denied my petition?

Once the Judge has filed an order on the petition, either granting or denying it, the order will be sent by the clerk to inform you.

22. If the court orders my record expunged or sealed, do I have to take any action?

No, once the expungement is granted, the court records and other public records relating to the arrest, conviction, or sentence will be clearly and visibly marked or identified as expunged, however, they remain public records and will remain on public access. (I.C. 35-38-9-7(b)). The state police department, the BMV and any other law enforcement agency in possession of records that relate to the conviction ordered to be marked as expunged shall add an entry to the person's record of arrest, conviction or sentence in the criminal



history data base stating that the record is marked expunged. (I.C. 35-38-9-7(c)) (Subject to change from county to county).

23. Once my petition is granted, should I get a certified copy of the court's order?

Yes, a certified copy should be sent to you by the clerk office.

24. Once my Record is expunged or sealed, do I have to tell employers about it?

No.

25. What if my petition is denied?

If the petition is denied, you may (1) appeal the court's decision or (2) if the original petition is denied, in whole or in part, the petitioner must wait at least three years to file a subsequent petition that pertains to the convictions listed in the original denied petition. A subsequent petition for expungement may not include any conviction that as not included in the initial expungement petition (subject to change from county to county).

26. What is a pardon?

If you are unable to have your criminal record expunged or sealed, you should see if you qualify for a pardon. A pardon is different from petitioning the court for expungement of your records. It is a type of executive clemency granted by the Governor. For Indiana there is a clemency packet with the procedure and forms needed.

http://www.in.gov/idoc/files/first_page_pardon_pkg.pdf

27. What constitutes a serious offence?

A felony would be considered a serious offense; a felony is defined as, a crime that may be punished by imprisonment for more than one year in a state prison. A felony is more serious than a misdemeanor; a



misdemeanor is defined as, a crime that may be punished by confinement in a county jail for a term of up to one year.

28. Is manslaughter an expugnable offense?

No.

29. What if I have convictions in other states?

If you have convictions in other states, you will have to follow that states' expungement procedure.

30. Time frame to file a petition?

You can file to seal an arrest one year after the arrest, if there was no conviction. To expunge you must wait the allotted time listed above for the offense listed on your "rap sheet."

31. What help is available for the unemployed?

There is no filing fee for sealing a record. There is a \$130 filing fee for expunging a record. It is around \$7 to get your criminal history. For those who cannot afford an attorney, The Initiative for Northwest Indiana (INWIN) Second Chance Help Desk is available at the Lake County Clerk's Office. Please contact (219) 576-4041 for more information.

32. What if there is also a Child Productive Services charge, will that be expunged too?

Depending on the severity of the charge, you will follow the procedure above for an arrest, misdemeanor or felony specific to the charge.

33. Why are sex offenses not eligible if no subsequent offenses were committed over a period of time?



Sex offences are considered a more restrictive felony that is not allowed for expungement.

34. How does the Second Chance Law apply to offenders who are currently serving their time?

Offenders who are currently serving time must wait till after their sentence is served and wait the allotted time stated above for the specific offense.

35. What if probation, restitution or other conditions from the Court have not been met?

You must wait till all obligations have been met, then you must wait the allotted time stated above for the specific offense before filing a petition.

36. Does the Second Chance law expungement cover all applications and gun permits for life?

Your expunged criminal history will not be accessible to state officials who regulate gun permits.

37. Why is hiring an attorney suggested?

It is suggested because the law is and the process is difficult to understand. Also you only have one chance during your lifetime to apply for expungement.

38. Does the Second Chance law cover federal cases and convictions?

No, the Second Chance Law only applies to Indiana offenses.

39. How does a person rectify license issues in order to move forward with the petition process?



You must go to the BMV and ask what is the process or avenues available to rectify license issues.

40. Should the petition reference and derive from the charging status or the conviction status?

The conviction status.

41. How does a person resolve the petition denial due to a driver's license being suspended?

A person petitioning for expungement should ensure their driver's license is in good standing before petitioning for an expungement. You only get one chance to petition for expungement, so it is important to ensure everything is taken care of before starting the process.

42. After records have been expunged does a person have to answer "yes" to felonies or misdemeanors?

No, you do not have to answer "yes" to felonies or misdemeanors that have been expunged.

43. Before starting the petition does a person have to obtain their criminal background from other states?

No. You only need to obtain criminal history for Indiana. However, it may be important to obtain your entire criminal history to keep record of all charges that have been made against you to file for petitions in other states.

44. Does a signed plea agreement waive a person's rights to have charges or convictions expunged?

No. You cannot waive your right to expunge your criminal record.



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Appendices

SAMPLE PETITION FOR SEALING ARREST RECORD
UNDER I.C. 35-38-9-1

This Sample Petition was created jointly by the Indiana Supreme Court Division of State Court Administration and the Indiana Judicial Center and is intended to be an example of the information that should be included in a Petition filed under I.C. 35-38-9-1. This form may be subject to change.

The procedure to seal or expunge records under I.C. 35-38-9 is extremely complex, has not yet been fully litigated and contains severe consequences if mistakes are made. The Indiana Supreme Court Division of State Court Administration and the Indiana Judicial Center strongly recommend that you seek legal advice from an attorney before filing a petition on your own especially if you are seeking to seal or expunge more than one record.

INSTRUCTIONS FOR CLERKS AND COURTS

1. This form should only be used to seal arrest records if the arrest did not result in a conviction or juvenile adjudication or the arrest resulted in a conviction or juvenile adjudication and the conviction or adjudication was vacated on appeal.
2. Petitioner should complete the petition in its entirety.
3. The petitioner needs to choose between alternatives (indicated by an **[OR]**) in the introductory statement and paragraphs 2, 7 and 8. The petitioner should choose the alternative that best describes his/her situation and delete or redact the other choices. Do not include more than one paragraph option for any numbered paragraph in the Verified Petition.
4. Paragraph 10 is optional. It is the Petitioner's decision whether to share additional information with the Court.
5. Waiting Period:
At least one year after date of arrest if the Petitioner was not convicted or adjudicated a delinquent child OR at least one year after date of an appellate opinion vacating the conviction or delinquency adjudication becomes final.
6. Case Type:
The petition should be filed in the existing criminal or juvenile case, if the arrest resulted in a case being filed in a court. If the arrest did not result in a case being filed and there is no existing case, then the Clerk should assign a new MC - miscellaneous criminal case number to the Petition.
7. Filing Fees:
There are no filing fees for a petition filed under I.C. 35-38-9-1.

8. Where Petition should be filed:
By statute, the petition to seal arrest records should be filed (1) in the sentencing court, if the person was sentenced or the juvenile was adjudicated to be a delinquent; (2) in the court where the person was charged or a delinquency petition was filed against a child if the defendant was acquitted or the child was found not to be a delinquent, or (3) in any court with criminal jurisdiction if the arrest did not result in the filing of a criminal or juvenile case.
9. Notice to Prosecutor:
The statute does not require notice to the prosecutor.
10. Burden of Proof Required by Petitioner:
The petitioner must prove his/her petition by clear and convincing evidence.
11. Hearing:
The court does not have to hear the petition and may rule on it without a hearing.
12. Court Discretion with finding:
The Court has no discretion if the statute is met. If the court finds that the petitioner has met each of the requirements set out in the statute, the court is required to order the arrest records described in the petition sealed so that only a criminal justice agency may access the record without a court order.
13. Result if Petition is Granted:
The described arrest records will be sealed so that only a criminal justice agency may access the record. If those arrest records have become part of a court record, "sealing" means that they will be excluded from public access as provided in Administrative Rule 9(G). Future access to such sealed court records will be available to law enforcement agencies (as described in the statute) but access by other parties shall be governed by Administrative Rule 9(I), which requires for a petition, notice and hearing. **The records will not be on public access.**

STATE OF INDIANA)	IN THE _____ COURT	
	) SS:	
COUNTY OF _____	)	CAUSE NO. _____
)	
STATE OF INDIANA, <i>existing</i>	)	<i>Petition should be filed in</i>
	)	<i>criminal case. If there is no</i>
<i>existing</i>	)	<i>criminal case, Clerk should</i>
v.	)	<i>new MC - Miscellaneous</i>
<i>open a</i>	)	<i>case. No filing fees are</i>
<i>Criminal</i>)	
_____,)	
<i>required.</i>)	
Petitioner.)	

VERIFIED PETITION FOR SEALING OF ARREST RECORDS
I.C. 35-38-9-1

Petitioner, _____, by counsel/pro se, respectfully moves the Court to seal Petitioner’s arrest record pursuant to I.C. 35-38-9-1. The Petitioner was arrested on the ____ day of _____, _____. Charges were filed under cause number _____, and the case was captioned either: In Re the Matter of _____ **OR** State of Indiana vs. _____.

[OR]

There is no relevant criminal case.

Petitioner affirms under the penalties of perjury:

1. Petitioner’s full name is _____.
2. Petitioner has no other legal names or aliases by which Petitioner is or has been known.

[OR]

APPENDIX 1

2. Petitioner has other legal names and aliases by which Petitioner is or has been known and they include:

_____.

3. Petitioner's date of birth is _____.

4. Petitioner's addresses from the date of the arrest to the date of this Petition are/ have been (list most current address first):

_____;
_____;
_____.

5. There are no current criminal charges pending against Petitioner.

6. Petitioner was arrested in _____ (Name of County and State) on _____ (date of arrest) for the offense of _____.

7. No charges were filed as a result of this arrest.

[OR]

7. This arrest resulted in charges being filed that were ultimately dismissed.

[OR]

7. This arrest resulted in a case being filed however the case did not result in a conviction or there was no finding of adjudication as a delinquent child on all counts.

[OR]

7. Petitioner was convicted or there was a finding of adjudication as a delinquent child but on _____ this conviction or adjudication was vacated on appeal.

8. At least one (1) year has passed since the date of arrest.

[OR]

- 8. At least one (1) year has passed since the date the conviction or finding of adjudication as a delinquent child was vacated on appeal.
- 9. As a result of the arrest, Petitioner received services or treatment from the following providers under court order:

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

- 10. **(Optional)** The Petitioner wishes to provide the following information to assist the Court:

WHEREFORE, Petitioner respectfully requests this Court to seal the arrest records contained in:

- (1) the Court's files;
- (2) the files of the Indiana Department of Correction;
- (3) the files of the Indiana Bureau of Motor Vehicles; and

APPENDIX 1

- (4) the files of any other person who provided treatment or services to
Petitioner under a court order;
- (5) the central repository for criminal history information maintained by the
Indiana State Police

that relate to the Petitioner's arrest, and all other relief that is just and proper.

Signature of Petitioner

Printed Name of Petitioner/Counsel

I affirm under the penalties of perjury that the foregoing representations are true.

Signed: _____

Printed: _____
Petitioner

SAMPLE PETITION FOR EXPUNGEMENT (SEALING)
MISDEMEANOR OR CLASS D FELONY REDUCED TO CLASS A
MISDEMEANOR
UNDER I.C. 35-38-9-2

This Sample Petition was created jointly by the Indiana Supreme Court Division of State Court Administration and the Indiana Judicial Center and is intended to be an example of the information that should be included in a Petition filed under I.C. 35-38-9-2. This form may be subject to change.

The procedure to seal or expunge records under I.C. 35-38-9 is extremely complex, has not yet been fully litigated and contains severe consequences if mistakes are made. The Indiana Supreme Court Division of State Court Administration and the Indiana Judicial Center strongly recommend that you seek legal advice from an attorney before filing a petition on your own especially if you are seeking to seal or expunge more than one record.

INSTRUCTIONS FOR CLERKS AND COURTS

14. This form should only be used for a misdemeanor conviction or Class D felony conviction that has been reduced to a misdemeanor.
15. Petitioner should complete the petition in its entirety.
16. The petitioner needs to choose between alternatives (indicated by an **[OR]**) in the introductory statement and paragraphs 2, 8 and 9. The petitioner should choose the alternative that best describes his/her situation and delete or redact the other choices. Do not include more than one paragraph option for any numbered paragraph in the Verified Petition.
17. Paragraph 15 is optional. It is the Petitioner's decision whether to share additional information with the Court.
18. Waiting Period:
At least five (5) years after the date of conviction unless the Prosecuting Attorney consents in writing to an earlier period.
19. Case Type:
The petition should be filed in a MI – miscellaneous civil case.
20. Filing Fees:
Regular civil filing fees are required by the statute.
21. Where Petition should be filed:
By statute, the petition should be filed in the sentencing court.

22. Notice to Prosecutor:
The petitioner must serve a copy of the petition on the Prosecuting Attorney in accordance with the Indiana Rules of Trial Procedure.
23. Response from Prosecutor:
The prosecuting attorney shall respond to the petition not less than 30 days after receipt.
24. Victim Notification:
The prosecuting attorney shall promptly forward a copy of the petition to the last known address of the victim and inform the victim of the victim's right to be present and address the court.
25. Burdon of Proof to be met by the Petitioner:
The petitioner must prove his/her petition by clear and convincing evidence.
26. Hearing:
If the prosecuting attorney does not object, the court may grant the petition without a hearing. If the prosecuting attorney does object, the court shall set the matter for hearing not sooner than sixty (60) days after service of the petition on the prosecuting attorney.
27. Court Discretion with finding:
The court may summarily deny a petition if the petition does not meet the requirements of I.C. 35-38-9-8 or if the statements contained in the petition demonstrate that the petitioner is not entitled to relief.
28. Lifetime Limit:
A petitioner may file only one (1) petition for expungement during the petitioner's lifetime. All petitions for expungement filed in separate counties for offenses committed in those counties count as one (1) petition if they are filed in one (1) three hundred sixty-five (365) day period. The only exception to the lifetime limit is if the petitioner's petition was denied on its merits. See I.C. 35-38-9-9(i) and I.C. 35-38-9-9(j).
29. Result if Petition is Granted:
As used in the statutes, "expunged" means restricting access to or restricting the use of the person's records. If the court orders the conviction records for a misdemeanor or minor Class D felony expunged, these records will be sealed and therefore excluded from public access as provided in Administrative Rule 9(G). Future access to such sealed court records will be available to a prosecuting attorney under certain conditions as described in the statute (I.C.35-38-9-6(d)), law enforcement officers acting in the course of the officer's official duty (I.C. 35-38-9-6(a)(1)) and the FBI and Department of Homeland Security (I.C. 35-38-9-6(a)(2)(B)). Access by other parties shall be governed by Administrative Rule 9(I) which requires a petition, notice and hearing. **The records will not be on public access.**
- 17 Result of Petition is Denied:
A. The petitioner may appeal the court's decision or
B. if the original petition is denied, in whole or in part, the petitioner must wait at least three (3) years to file a subsequent petition that pertains to the convictions listed in the original denied petition. A subsequent petition for expungement may not include any

conviction that was not included in the initial expungement petition.

18. Multiple Convictions:

A petitioner may petition to expunge more than one conviction (but not arrest) at a time. The convictions must be consolidated by county and the petitioner must file a petition in each county in which a conviction was entered. The petitioner is given a 365 day “window” to file all petitions for expungement of convictions (not arrests). See Indiana Code 35-38-9-9(h) and (i). The sample petition provides space for only one conviction. When appropriate, the petitioner may amend the sample petition to accommodate requests to expunge multiple convictions.

19. Attachments:

The Petitioner may wish to provide additional attachments and include them with the Verified Petition; however, these are not required. Attachments may include:

- Criminal history for Indiana: Updated to date of filing of the petition
- Criminal history for other venues if Verified Petition states residency in other States: Updated to date of filing of the petition
- Indiana Driving Record from the Bureau of Motor Vehicles: Updated to date of filing of the petition
- Out of State Driving Record for out of State BMVs if Verified Petition states residency in other States: Updated to date of filing of the petition
- Official documents from Probation, Community Corrections, and/or Indiana Parole that pertain to the successful completion of probation, community corrections and/or parole or Official documents from Probation, Community Corrections and/or Indiana Parole that state that records regarding the successful completion of their programs no longer exist.
- Official documentation from out of state probation, parole and/or community corrections if the Petitioner was convicted in another state.

STATE OF INDIANA	)	IN THE _____ COURT
	) SS:	
COUNTY OF _____	)	CAUSE NO. _____
)	
IN RE: THE MATTER OF THE PETITION	)	<i>This will be opened as an MI -</i>
TO RESTRICT DISCLOSURE OF	)	<i>Miscellaneous Civil case.</i>
RECORDS)	
)	
_____)	
Petitioner.)	

VERIFIED PETITION FOR EXPUNGEMENT (Restrict Access/Disclosure) OF MISDEMEANOR OR CLASS D FELONY REDUCED TO CLASS A MISDEMEANOR CONVICTION
I.C. 35-38-9-2

Petitioner, _____, by counsel/pro se, pursuant to I.C. 35-38-9-2 respectfully moves the Court to expunge Petitioner’s misdemeanor records filed under cause number(s) _____ and captioned State of Indiana vs. _____.

Petitioner affirms under the penalties of perjury:

1. Petitioner’s full name is _____.
2. Petitioner has no other legal names or aliases by which Petitioner is or has been known.

[OR]

2. Petitioner has other legal names and aliases by which Petitioner is or has been known and they include: _____.
3. Petitioner’s date of birth is _____.
4. Petitioner’s addresses from the date of the offense/first offense to the date of this Petition are/ have been (list most current address first):

_____.
5. There are no current criminal investigations or charges pending against Petitioner.
6. Petitioner has not committed any crime within the past five (5) years and has not been convicted of a crime within the past five (5) years.
7. Petitioner has been convicted of the following offense(s) in this County (list all convictions with most recent conviction listed first):

_____	_____
Offense	Date

13. Petitioner has served a copy of this Verified Petition for Expungement upon the Prosecuting Attorney in accordance with the Indiana Rules of Trial Procedure.

14. The case(s) that Petitioner is requesting be sealed has/has not been appealed. If the answer is affirmative, please provide the caption and date of filing of appellate case(s): _____

15. **(Optional)** The Petitioner wishes to provide the following information to assist the Court:

WHEREFORE, Petitioner respectfully requests this Court to expunge (restrict access/disclosure) the conviction records contained in:

- (1) the Court's files;
- (2) the files of the Indiana Department of Correction;
- (3) the files of the Indiana Bureau of Motor Vehicles; and
- (4) the files of any other person who provided treatment or services to Petitioner under a court order;
- (5) the central repository for criminal history information maintained by the Indiana State Police

that relate to the Petitioner's misdemeanor or Class D felony reduced to Class A misdemeanor conviction(s) as required by I.C. 35-38-9-6, and all other relief that is just and proper.

Signed: _____

Printed: _____

Petitioner

I affirm under the penalties of perjury that the foregoing representations are true.

Signed: _____

Printed: _____

Petitioner

CERTIFICATE OF SERVICE

I certify that on the _____ day of _____, 20____, a true and complete copy of this Verified Petition for Expungement was served on the following by first class, United States mail, postage prepaid or by other means set forth in Trial Rule 6E, specifically _____.

State of Indiana _____, Prosecuting Attorney

**SAMPLE PETITION FOR RESTRICTING ACCESS TO
D FELONY CONVICTION RECORDS (EXPUNGEMENT) UNDER I.C.
35-38-9-3**

This Sample Petition was created jointly by the Indiana Supreme Court Division of State Court Administration and the Indiana Judicial Center and is intended to be an example of the information that should be included in a Petition filed under I.C. 35-38-9-3. This form may be subject to change.

The procedure to seal or expunge records under I.C. 35-38-9 is extremely complex, has not yet been fully litigated and contains severe consequences if mistakes are made. The Indiana Supreme Court Division of State Court Administration and the Indiana Judicial Center strongly recommend that you seek legal advice from an attorney before filing a petition on your own especially if you are seeking to seal or expunge more than one record.

INSTRUCTIONS FOR CLERKS AND COURTS

1. This form should be used for any D felony conviction other than:
 - A. A D felony reduced to Class A Misdemeanor
 - B. An elected official convicted of an offense while serving the official's term or as a candidate for public office;
 - C. A sex or violent offender (as defined in I.C. 11-8-8-5);
 - D. A person convicted of:
 1. a felony that resulted in serious bodily injury to another person;
 2. Official Misconduct (I.C. 35-44.1-1-1);
 3. Homicide Crimes in addition to those in I.C. 11-8-8-5 (I.C. 35-42-1)
 4. Human and Sexual Trafficking Crimes in addition to those in I.C. 11-8-8-5 (I.C. 35-42-3.5), and
 5. Sex Crimes in addition to those in I.C. 11-8-8-5 (I.C. 35-42-4).
2. Petitioner should complete the petition in its entirety.
3. The petitioner needs to choose between alternatives (indicated by an **[OR]**) in paragraphs 2, 8 and 9. The petitioner should choose the alternative that best describes his/her situation and delete or redact the other choices. Do not include more than one paragraph option for any numbered paragraph in the Verified Petition.
4. Paragraph 11 is optional. It is the Petitioner's decision whether to share additional information with the Court.
5. Waiting Period:
At least eight (8) years after the date of conviction unless the Prosecuting Attorney consents in writing to an earlier period. The Petitioner must indicate that the Prosecuting Attorney has given this written consent in paragraph 8 and a copy of the written consent must be attached to this petition as an exhibit.

6. Case Type:
The petition should be filed in a MI – miscellaneous civil case.
7. Filing Fees:
Regular civil filing fees are required by the statute.
8. Where Petition should be filed:
By statute, the petition should be filed in the sentencing court.
9. Notice to Prosecutor:
The petitioner must serve a copy of the petition on the Prosecuting Attorney in accordance with the Indiana Rules of Trial Procedure.
10. Response from Prosecutor:
The prosecuting attorney shall respond to the petition not less than 30 days after receipt.
11. Victim Notification:
The prosecuting attorney shall promptly forward a copy of the petition to the last known address of the victim and inform the victim of the victim’s right to be present and address the court.
12. Burdon of Proof to be met by the Petitioner:
The petitioner must prove his/her petition by clear and convincing evidence.
13. Hearing:
If the prosecuting attorney does not object, the court may grant the petition without a hearing. If the prosecuting attorney does object, the court shall set the matter for hearing not sooner than sixty (60) days after service of the petition on the prosecuting attorney.
14. Court Discretion with finding:
The court may summarily deny a petition if the petition does not meet the requirements of I.C. 35-38-9-8 or if the statements contained in the petition demonstrate that the petitioner is not entitled to relief.
15. Lifetime Limit:
A petitioner may file only one (1) petition for expungement during the petitioner’s lifetime. All petitions for expungement filed in separate counties for offenses committed in those counties count as one (1) petition if they are filed in one (1) three hundred sixty-five (365) day period. The only exception to the lifetime limit is if the petitioner’s petition was denied on its merits. See I.C. 35-38-9-9(i) and I.C. 35-38-9-9(j).
16. Result if Petition is Granted:
As used in the statutes, “expunged” means restricting access to or restricting the use of the person’s records. If the court orders the conviction records for a misdemeanor or minor Class D felony expunged, these records will be sealed and therefore excluded from public access as provided in Administrative Rule 9(G). Future access to such sealed court records will be available to a prosecuting attorney under certain conditions as described in the statute (I.C.35-38-9-6(d)), law enforcement officers acting in the course of the officer’s official duty (I.C. 35-38-9-6(a)(1)) and the FBI and Department of Homeland Security (I.C. 35-38-9-6(a)(2)(B)). Access by other parties shall be governed by Administrative Rule 9(I) which requires a petition, notice and hearing. **The records will not be on public access.**

17. Result of Petition is Denied:
- A. The petitioner may appeal the court’s decision or
 - B. if the original petition is denied, in whole or in part, the petitioner must wait at least three (3) years to file a subsequent petition that pertains to the convictions listed in the original denied petition. A subsequent petition for expungement may not include any conviction that was not included in the initial expungement petition.
18. Multiple Convictions:
A petitioner may petition to expunge more than one conviction (but not arrest) at a time. The convictions must be consolidated by county and the petitioner must file a petition in each county in which a conviction was entered. The petitioner is given a 365 day “window” to file all petitions for expungement of convictions (not arrests). See Indiana Code 35-38-9-9(h) and (i). The sample petition provides space for only one conviction. When appropriate, the petitioner may amend the sample petition to accommodate requests to expunge multiple convictions.
19. Attachments:
The Petitioner may wish to provide additional attachments and include them with the Verified Petition; however, these are not required. Attachments may include:
- Criminal history for Indiana: Updated to date of filing of the petition
 - Criminal history for other venues if Verified Petition states residency in other States: Updated to date of filing of the petition
 - Indiana Driving Record from the Bureau of Motor Vehicles: Updated to date of filing of the petition
 - Out of State Driving Record for out of State BMVs if Verified Petition states residency in other States: Updated to date of filing of the petition
 - Official documents from Probation, Community Corrections, and/or Indiana Parole that pertain to the successful completion of probation, community corrections and/or parole or Official documents from Probation, Community Corrections and/or Indiana Parole that state that records regarding the successful completion of their programs no longer exist.
 - Official documentation from out of state probation, parole and/or community corrections if the Petitioner was convicted in another state.

STATE OF INDIANA)
)
 COUNTY OF _____) SS:
)
 IN RE: THE MATTER OF THE PETITION)
 TO RESTRICT DISCLOSURE OF RECORDS)
)
)
 _____)
 Petitioner.)

IN THE _____ COURT

CAUSE NO. _____

This will be opened as an MI case

VERIFIED PETITION TO RESTRICT DISCLOSURE OF D FELONY CONVICTION RECORDS
(EXPUNGEMENT)

Petitioner, _____, by counsel/pro se, respectfully moves the Court to restrict disclosure of Petitioner’s D felony conviction records pursuant to I.C. 35-38-9-3. The relevant conviction cause number(s) is/are

_____, and the case(s) is/are captioned State of Indiana vs. _____.

Petitioner affirms under the penalties of perjury:

1. Petitioner’s full name is _____.
2. Petitioner has no other legal names or aliases by which Petitioner is or has been known.

[OR]

2. Petitioner has had other legal names and/or aliases by which Petitioner is or has been known and they are: _____.
3. Petitioner’s date of birth is _____.
4. Petitioner’s addresses from the date of the offense/first offense to the date of this Verified Petition are/ have been (list most current address first):

 _____;
 _____.

5. There are no current criminal investigations or charges pending against Petitioner.

APPENDIX 3

6. Petitioner has not committed a crime within the past eight (8) years, and has not been convicted of a crime within the past eight (8) years. Further, there exist no pending suspensions or current suspensions of Petitioner's driving privileges.

7. Petitioner has been convicted of the following offenses (list all convictions):

_____	_____
Offense	Date
_____	_____
Offense	Date
_____	_____
Offense	Date

8. At least eight (8) years have elapsed since the date of the conviction(s).

[OR]

8. The Prosecuting Attorney has provided written consent for a shorter elapsed time period, which is evidenced as an exhibit to this Verified Petition to Restrict Access.

9. Petitioner has filed no other petitions under I.C. 35-38-9.

[OR]

9. Petitioner has filed other petitions under I.C. 35-38-9 to seal records or expunge convictions; specifically, a petition filed in _____ County, Indiana, under cause number _____ on the ____ day of _____, 20____.

10. Petitioner has successfully completed all terms of the sentence(s) previously imposed for the conviction(s) for which restricted access is sought, including the payment of restitution, fines, and court costs; and completion of any terms of probation, parole, or community corrections.

11. **[Optional]** Petitioner wishes to provide the following information to assist the Court:

APPENDIX 3

12. The case(s) that Petitioner is requesting be sealed has/has not been appealed. If the answer is affirmative, please provide the caption and date of filing of appellate case(s): _____

13. Petitioner has served a copy of this Verified Petition to Restrict Disclosure of Conviction Records upon the Prosecuting Attorney in accordance with the Indiana Rules of Trial Procedure.

WHEREFORE, Petitioner respectfully requests this Court to restrict access to/seal records contained in:

- (1) the Court’s files;
- (2) the files of the department of correction;
- (3) the files of the bureau of motor vehicles; and
- (4) the files of these entities who provided treatment or services to Petitioner under a court order:

Name: _____

Address: _____

that relate to the Petitioner’s felony convictions, and all other relief that is just and proper. I affirm under the penalty of perjury that the foregoing representations are true.

Respectfully Submitted,

[Signature of Petitioner]

Name of Petitioner

CERTIFICATE OF SERVICE

I certify that on the ___ day of _____, 20__, a true and complete copy of this Verified Petition to Restrict Access to Conviction Records was served on the following by first class, United States mail, postage prepaid or by other means set out in Trial Rule 6E, specifically_____.

State of Indiana: _____, Prosecuting Attorney

**SAMPLE PETITION FOR RESTRICTING ACCESS TO
C FELONY CONVICTION RECORDS (EXPUNGEMENT)
UNDER I.C. 35-38-9-4**

This Sample Petition was created jointly by the Indiana Supreme Court Division of State Court Administration and the Indiana Judicial Center and is intended to be an example of the information that should be included in a Petition filed under I.C. 35-38-9-4. This form may be subject to change.

The procedure to seal or expunge records under I.C. 35-38-9 is extremely complex, has not yet been fully litigated and contains severe consequences if mistakes are made. The Indiana Supreme Court Division of State Court Administration and the Indiana Judicial Center strongly recommend that you seek legal advice from an attorney before filing a petition on your own especially if you are seeking to seal or expunge more than one record.

INSTRUCTIONS FOR CLERKS AND COURTS

1. This form should be used for any felony conviction other than:
 - A. An elected official convicted of an offense while serving the official's term or as a candidate for public office;
 - B. A sex or violent offender (as defined in I.C. 11-8-8-5);
 - C. A person convicted of:
 1. a felony that resulted in serious bodily injury to another person;
 2. Official Misconduct (I.C. 35-44.1-1-1);
 3. Homicide Crimes in addition to those in I.C. 11-8-8-5 (I.C. 35-42-1)
 4. Human and Sexual Trafficking Crimes in addition to those in I.C. 11-8-8-5 (I.C. 35-42-3.5), and
 5. Sex Crimes in addition to those in I.C. 11-8-8-5 (I.C. 35-42-4).
2. Petitioner should complete the petition in its entirety.
3. The petitioner needs to choose between alternatives (indicated by an **[OR]**) in paragraphs 2, 8 and 9. The petitioner should choose the alternative that best describes his/her situation and delete or redact the other choices. Do not include more than one paragraph option for any numbered paragraph in the Verified Petition.
4. Paragraph 11 is optional. It is the Petitioner's decision whether to share additional information with the Court.
5. **Waiting Period:**
At least eight (8) years after the date of completion of the Petitioner's sentence unless the Prosecuting Attorney consents in writing to an earlier period. The Petitioner must indicate that the Prosecuting Attorney has given this written consent in paragraph 8 and a copy of the written consent must be attached to this petition as an exhibit.
6. **Case Type:**
The petition should be filed in a MI – miscellaneous civil case.

7. Filing Fees:
Regular civil filing fees are required by the statute.
8. Where Petition should be filed:
By statute, the petition should be filed in the sentencing court.
9. Notice to Prosecutor:
The petitioner must serve a copy of the petition on the Prosecuting Attorney in accordance with the Indiana Rules of Trial Procedure.
10. Response from Prosecutor:
The prosecuting attorney shall respond to the petition not less than 30 days after receipt.
11. Victim Notification:
The prosecuting attorney shall promptly forward a copy of the petition to the last known address of the victim and inform the victim of the victim's right to be present and address the court.
12. Burdon of Proof to be met by the Petitioner:
The petitioner must prove his/her petition by clear and convincing evidence.
13. Hearing:
If the prosecuting attorney does not object, the court may grant the petition without a hearing. If the prosecuting attorney does object, the court shall set the matter for hearing not sooner than sixty (60) days after service of the petition on the prosecuting attorney.
14. Court Discretion with finding:
The court may summarily deny a petition if the petition does not meet the requirements of I.C. 35-38-9-8 or if the statements contained in the petition demonstrate that the petitioner is not entitled to relief.
15. Lifetime Limit:
A petitioner may file only one (1) petition for expungement during the petitioner's lifetime. All petitions for expungement filed in separate counties for offenses committed in those counties count as one (1) petition if they are filed in one (1) three hundred sixty-five (365) day period. The only exception to the lifetime limit is if the petitioner's petition was denied on its merits. See I.C. 35-38-9-9(i) and I.C. 35-38-9-9(j).
16. Result if Petition is Granted:
As used in the statutes, "expunged" means restricting access to or restricting the use of the person's records. If the petition to expunge is granted, the court records and other public records relating to the arrest, conviction, or sentence will be clearly and visibly marked or identified as expunged however **they remain public records and will remain on public access.** (I.C. 35-38-9-7(b)). The state police department, the BMV and any other law enforcement agency in possession of records that relate to the conviction ordered to be marked as expunged shall add an entry to the person's record of arrest, conviction or sentence in the criminal history data base stating that the record is marked as expunged. (I.C. 35-38-9-7(c)).
17. Result of Petition is Denied:
 - A. The petitioner may appeal the court's decision or
 - B. if the original petition is denied, in whole or in part, the petitioner must wait at least three (3) years to file a subsequent petition that pertains to the convictions listed in the original

denied petition. A subsequent petition for expungement may not include any conviction that was not included in the initial expungement petition.

18. **Multiple Convictions:**

A petitioner may petition to expunge more than one conviction (but not arrest) at a time. The convictions must be consolidated by county and the petitioner must file a petition in each county in which a conviction was entered. The petitioner is given a 365 day “window” to file all petitions for expungement of convictions (not arrests). See Indiana Code 35-38-9-9(h) and (i). The sample petition provides space for only one conviction. When appropriate, the petitioner may amend the sample petition to accommodate requests to expunge multiple convictions.

19. The Petitioner may wish to provide additional attachments and include them with the Verified Petition; however, these are not required. Attachments may include:

- Criminal history for Indiana: Updated to date of filing of the petition
- Criminal history for other venues if Verified Petition states residency in other States: Updated to date of filing of the petition
- Indiana Driving Record from the Bureau of Motor Vehicles: Updated to date of filing of the petition
- Out of State Driving Record for out of State BMVs if Verified Petition states residency in other States: Updated to date of filing of the petition
- Official documents from Probation, Community Corrections, and/or Indiana Parole that pertain to the successful completion of probation, community corrections and/or parole or Official documents from Probation, Community Corrections and/ or Indiana Parole that state that records regarding the successful completion of their programs no longer exist.
- Official documentation from out of state probation, parole and/or community corrections if the Petitioner was convicted in another state.

STATE OF INDIANA) IN THE _____ COURT
) SS:
 COUNTY OF _____) CAUSE NO. _____
)
 IN RE: THE MATTER OF THE PETITION) *This will be opened as an MI case*
 TO RESTRICT DISCLOSURE OF RECORDS)
)
)
 _____,)
 Petitioner.)

VERIFIED PETITION TO RESTRICT DISCLOSURE OF FELONY CONVICTION RECORDS
(EXPUNGEMENT)
I.C. 35-38-9-4

Petitioner, _____, by counsel/pro se, respectfully moves the Court to restrict disclosure of Petitioner’s felony conviction records pursuant to I.C. 35-38-9-4. The relevant conviction cause number(s) is/are _____, and the case(s) is/are captioned State of Indiana vs. _____.

Petitioner affirms under the penalties of perjury:

1. Petitioner’s full name is _____.

2. Petitioner has no other legal names or aliases by which Petitioner is or has been known.

[OR]

2. Petitioner has had other legal names and/or aliases by which Petitioner is or has been known and they are: _____.

3. Petitioner’s date of birth is _____.

4. Petitioner’s addresses from the date of the offense/first offense to the date of this Verified Petition are/ have been (list most current address first):

_____;
 _____;
 _____.

5. There are no current criminal investigations or charges pending against Petitioner.

6. Petitioner has not committed a crime within the past eight (8) years, and has not been convicted of a crime within the past eight (8) years. Further, there exist no pending

suspensions or current suspensions of Petitioner's driving privileges.

7. Petitioner has been convicted of the following offenses (list all convictions):

_____	_____
Offense	Date
_____	_____
Offense	Date
_____	_____
Offense	Date

8. At least eight (8) years have elapsed since the completion of Petitioner's sentence, which include the completion of any term of supervised release and the satisfaction of all other obligations placed on Petitioner as part of the sentence.

[OR]

8. The Prosecuting Attorney has provided written consent for a shorter elapsed time period, which is evidenced as an exhibit to this Verified Petition for Restricted Access.

9. Petitioner has filed no other petitions under I.C. 35-38-9.

[OR]

9. Petitioner has filed other petitions under I.C. 35-38-9 to seal records or expunge convictions; specifically, a petition filed in _____ County, Indiana, under cause number _____ on the _____ day of _____, 20_____.

10. Petitioner has successfully completed all terms of the sentence(s) previously imposed for the conviction(s) for which restricted access is sought, including the payment of restitution, fines, and court costs; and completion of any terms of probation, parole, or community corrections.

11. **[Optional]** Petitioner wishes to provide the following information to assist the Court:

12. The case(s) that Petitioner is requesting be sealed has/has not been appealed. If the answer is affirmative, please provide the caption and date of filing of appellate case(s):

13. Petitioner has served a copy of this Verified Petition to Restrict Disclosure of Conviction Records upon the Prosecuting Attorney in accordance with the Indiana Rules of Trial Procedure.

WHEREFORE, Petitioner respectfully requests this Court to restrict access to/seal records contained in:

- (1) the Court’s files;
- (2) the files of the department of correction;
- (3) the files of the bureau of motor vehicles; and
- (4) the files of these entities who provided treatment or services to Petitioner under a court order:

Name: _____

Address: _____

Name: _____

Address: _____

that relate to the Petitioner’s felony conviction(s), and all other relief that is just and proper. I affirm under the penalty of perjury that the foregoing representations are true.

Respectfully Submitted,

[Signature of Petitioner]

Name of Petitioner

CERTIFICATE OF SERVICE

I certify that on the ___ day of _____, 20___, a true and complete copy of this Verified Petition to Restrict Access to Conviction Records was served on the following by first class, United States mail, postage prepaid by other means provided in Indiana Trial Rule 6E, specifically

_____.

State of Indiana: _____, Prosecuting Attorney