

INSTRUCTION SHEET
PETITION FOR DESTRUCTION OF INDICIA OF ARREST
EXPUNGEMENT OF RECORDS
UNDER TITLE 11 DEL. C. §4371 – §4374

PLEASE REVIEW ATTACHED STATUTE TO BE SURE YOUR CASE QUALIFIES FOR EXPUNGEMENT

- ❖ The petition and all supporting documents must be filed in the County where the case was terminated, disposed of or concluded.

New Castle County: (302)255-0825 Kent County: (302)739-3184 Sussex County: (302)856-5742

- ❖ If petitioner was a minor (under 18 years of age) at the time of the arrest, the petition must be obtained and filed in Family Court in the proper county. If petitioner is an adult arrested under the jurisdiction of Family Court, petition must be filed in county where case was terminated, disposed of or concluded.
- ❖ Should your name have changed from the time of arrest, please list that name and your current name.
- ❖ At the time of filing, the *certified criminal history report and letter (which you have obtained from the State Bureau of Identification ("SBI"), must be attached. The criminal history report cannot be over forty-five (45) days old. If the criminal history report is older than forty-five (45) days, the petition will be rejected.

*Information on obtaining a certified copy of your criminal history, is included in this packet

I. FILING INSTRUCTIONS:

A. No petition will be accepted for filing unless all forms are completed, signed, notarized and stapled in proper order. The "set" of forms include:

- (1) the Petition
- (2) order
- (3) verification
- (4) affidavit of mailing (only required if processing by mail)
- (5) SBI Criminal History and SBI letter (no older than 45 days)

B. After completing the set and before making copies:

- (1) have the verification form notarized;
- (2) have the affidavit of mailing form notarized, if applicable;
- (3) make four (4) copies of the entire set.

C. When all documents are completed and ready for filing you may file either by bringing documents to the Prothonotary's Office or by mail. The Attorney General must also be served. Addresses for Prothonotary's Office and Attorney General's Office are listed on the next page.

(1) Filing in the Prothonotary's Office:

Before filing in the Prothonotary you must take the original set and one (1) copy of the set to the Attorney General's Office in the county in which you are filing. The Attorney General will keep (1) one copy and will stamp the original set as being received on that date. The stamped original set will be returned to you.

Bring the stamped original set and (2) two copies of the set to the Prothonotary's Office for filing. The filing fee is \$75.00 and is non-refundable. Please make check payable to State of Delaware.

(2) Filing by Mail:

- Mail one (1) copy of the completed set to the Attorney General's Office.
- Send the original set and (2) copies of the set to the Prothonotary's Office along with the filing fee of \$75.00 which is non-refundable. Please make checks payable to the State of Delaware.

NEW CASTLE COUNTY	
Attorney General's Office	Prothonotary's Office
Department of Justice 820 French Street Wilmington, DE 19801	Office of the Prothonotary New Castle County Courthouse 500 North King Street Suite 500, Lower Level 1 Wilmington, DE 19801

II. COURT PROCEDURES:

- A. The Prothonotary's Office will docket and maintain the Petition until the Attorney General sends a response to the Court indicating its position.
- If the Attorney General does not oppose the petition, the Prothonotary's Office will send the petition to the assigned Judge/Commissioner, who will grant or deny the petition.
 - If the Attorney General opposes the petition, the petitioner will have 20 days to file a response. After 20 days the Prothonotary's Office will send the petition (and response, if filed) to the Judge/Commissioner for decision. If the Court deems necessary, a hearing will be scheduled.
- B. If the petition is granted, the Prothonotary's Office will send, by regular mail, certified copies of the signed Order to the petitioner or petitioner's attorney, the Department of Justice, the State Bureau of Identification, and all Courts associated with the arrest.
- C. The process takes approximately eight (8) to twelve (12) weeks.
- D. If you have any questions regarding the procedure, please call the Civil Unit of the New Castle County Prothonotary's Office at: (302) 255-0709.