

## EXPUNGEMENT INSTRUCTIONS

1. Review the eligibility requirements and frequently asked questions (FAQs) to determine if you qualify for a discretionary expungement pursuant to 11 Del C. 4374 Discretionary expungement or 11 Del C. 4375 Discretionary Expungement following a Pardon. (See Exhibit 1)
2. Request Criminal History Report (Background check)
  - a. Go online to **[dsp.delaware.gov](https://dsp.delaware.gov)**
  - b. search “criminal history”
  - c. choose 1<sup>st</sup> one
    - i. “Obtaining Certified Criminal History”
    - ii. Scroll down and choose “Expungements or Pardons”
    - iii. In the blue box at top, click on the link:
      1. **<https://uenroll.identogo.com>**
      2. Service code: **27S23V (for expungements only)**
      3. Locate the closest enrollment center by inserting your zip code.
      4. To schedule an appointment, go to previous screen and choose “Schedule or Manage Appointment”
      5. **\$72 fee to obtain criminal history (or could be a little more depending on where you choose to have it done)**
  - d. You will receive your certified criminal history by email.
    - i. You will only be able to open it once, so make sure you are on a computer that will allow you to print them out. While you have them open, be sure to save them to your computer by PDF, or word document, otherwise you will not have access to them again.
  - e. You will receive a letter from SBI within 2 weeks that tells you if you are eligible for a mandatory expungement, with instructions, or if you will need to file a discretionary expungement with Superior Court.
    - i. If qualify for mandatory expungement will need to follow directions received with criminal history, with \$75.00 filing fee.
    - ii. If you must file a discretionary expungement, the directions begin below; the filing fee with Superior Court is \$75.00.
      1. courts.delaware.gov

2. search “expungement”
    3. choose 1<sup>st</sup> one
  - iii. If no access to internet, call 866-761-8069
3. Obtain the Expungement filing forms and instructions from the Court or the Court’s website.
  - a. If filling out form online, go to <https://courts.delaware.gov> and scroll to bottom of page and under Superior Court Heading select Expungement and then Expungement Petition Form. (See Exhibit 2)
4. FILING IN PERSON
  - a. Preparing to file your Petition IN PERSON-
    - i. Complete the Petition **BUT DO NOT SIGN IT**
    - ii. Keep the filing in this order:
      1. Petition (you will get notarized when you file)
      2. Proposed Order
      3. SBI’s Cover Letter
      4. Certified Criminal History
    - iii. Make a copy of the above lists of documents in the filing.
    - iv. You should have 1 original and 1 copy.
  - b. Bring packet, along with your identification, to Prothonotary’s Office, with the \$75.00 filing fee. If you are writing a check, make payable to State of Delaware.
  - c. The Prothonotary’s Front Desk Clerk will review your packet, to ensure it is filled out completely, and in its entirety.
  - d. If the packet is in order, the clerk will ask you for identification, have you sign the Petition, and notarize your signature. **YOU MUST SIGN THE PETITION IN FRONT OF THE NOTARY.**
  - e. The Prothonotary clerk will clock in the 2 packets.
  - f. She will give you back 1 clocked in copy for your records.
  - g. The Expungement Clerk will send the AG’s office, via email, a copy of the filing, once it has a case number assigned.
5. FILING BY MAIL
  - a. Preparing to file your Petition BY MAIL-
    - i. Complete the Petition **AND HAVE IT NOTARIZED.**
    - ii. Keep the filing in this order:

1. Petition (that you have gotten notarized)
      2. Proposed Order
      3. SBI's Cover Letter
      4. Certified Criminal History
    - iii. Make a copy of the above list of documents in the filing.
    - iv. You should have 1 original and 1 copy.
  - b. Place the 2 packets in a mailing envelope, along with the \$75 filing fee, to Prothonotary's Office, make checks payable to State of Delaware. Mail to the Prothonotary's Office in your county.
    - i. New Castle: Prothonotary's Office, Superior Court, 500 North King Street, Suite 500, Wilmington, DE 19801
    - ii. Kent: Prothonotary's Office, Superior Court, 38 The Green, Dover, DE 19901
    - iii. Sussex: Prothonotary's Office, Superior Court, One The Circle, Suite 2, Georgetown DE 19947.
  - c. When received, the Prothonotary's front desk clerk will review your packet, to ensure it is filled out completely, and in its entirety.
  - d. If the packet is in order, the clerk will clock in the 2 packets.
  - e. He/She will give the 2 clocked in copies to the expungement clerk.
  - f. The expungement clerk will send the AG's office, via email, a copy of the filing, once it has a case number assigned. The original filing will go in the Prothonotary file and the 2<sup>nd</sup> copy will be mailed to the Petitioner, once a case number has been assigned, for their record.
6. Court Procedures
- a. Prothonotary's Office will docket and maintain your Petition in a file.
  - b. The AG's office has 120 days from the date of the filing to provide a response to your Petition to the Court.
  - c. When the AG files its response, the response will be placed in the file along with your Petition. The AG's office will send you a copy of its response.
  - d. If the AG opposed your Petition, you have 30 days to file a response with the Court. If filing your response in person, bring an original and a copy of the response. The expungement clerk will send a copy of your response, via email, to the AG.

- e. After receipt of all required responses, the expungement clerk will send your file to a Judicial Officer for a decision.
- f. Unless the Judicial Officer deems necessary, no hearing will be scheduled on your Petition. The Judicial Officer will make a determination based on your Petition and the AG's response.
- g. If the Judicial Officer decides that a hearing is necessary, the Court will mail to you, at the address provided in your Petition, a notice setting forth the hearing date and time.
- h. If your Petition is granted, the expungement clerk will mail a certified copy of the signed Order to you, or your attorney, the AG and SBI.