

INSTRUCTIONS FOR PETITION FOR EXPUNGEMENT FILED IN A CIRCUIT COURT – ACQUITTAL/DISMISSAL

Virginia Code § 19.2-392.2, relating to the expungement of police and court records, provides in pertinent part as follows:

- Pursuant to § 19.2-392.2 A, a person charged with the commission of a crime may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge IF one of the following is true:
 1. The person is acquitted, or
 2. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and satisfaction pursuant to § 19.2-151 or an original charge that was reduced or a charge that is dismissed after a plea or stipulation of the facts that would justify a finding of guilt pursuant to § 19.2-298.02, or
 3. The person is granted an absolute pardon for the commission of a crime for which he has been unjustly convicted.

- Pursuant to § 19.2-392.2 C, the petition with a copy of the warrant or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain, except where not reasonably available:
 1. The date of arrest and the name of the arresting agency. Where this information is not reasonably available, the petition shall state the reason for such unavailability;
 2. A statement of the specific criminal charge to be expunged;
 3. The date of final disposition of the charge as set forth in the petition;
 4. The petitioner's date of birth; and
 5. The full name used by the petitioner at the time of arrest.

- Pursuant to § 19.2-392.2 D, the petitioner must have a copy of the petition served on the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within twenty-one days after it is served on him.

- Pursuant to § 19.2-392.2 E, the petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for expungement. The law-enforcement agency shall submit the set of fingerprints to the Central Criminal Records Exchange (CCRE) with a copy of the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the petitioner's criminal history, a copy of the source documents that resulted in the CCRE entry that the petitioner wishes to expunge, and the set of fingerprints. Upon completion of the hearing, the court shall return the fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement or an order denying the petition for expungement, the court shall cause the fingerprint card to be destroyed unless, within 30 days of the date of entry of the order, the petitioner requests the return of the fingerprint card in person from the clerk of the court or provides the clerk of the court a self-addressed, stamped envelope for the return of the fingerprint card.

- Circuit court form CC-1473, PETITION FOR EXPUNGEMENT FILED IN A CIRCUIT COURT – ACQUITTAL/DISMISSAL, may be completed and filed by the petitioner in the appropriate circuit court according to these instructions. A completed COVER SHEET FOR FILING CIVIL ACTIONS, circuit court form CC-1416, also may be required by the clerk of the court. Pursuant to § 19.2-392.2 L, costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth.

- Different procedures for expungement may apply to a petition or motion filed pursuant to § 19.2-392.2 B or § 19.2-392.2 H.