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**FAIRFAX CIRCUIT COURT**

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SERVING THE RESIDENTS OF FAIRFAX COUNTY AND THE CITY OF FAIRFAX

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**EXPUNGEMENT PROCEDURE GUIDELINE**

An Expungement is an action used to delete all police and court records pertaining to a criminal case when any of the following has occurred: acquittal, *nolle prosequi*, dismissal, absolute pardon, or an individual's name used in error. When a record is expunged, the record is **not** destroyed but removed from public access and sealed. (Note: Once the record is expunged it can only be accessed by Court Order.)

All petitioners are required to **obtain a new set of fingerprints** for the expungement process. The police department will fingerprint the petitioner as requested. After the fingerprint cards are completed the police department will forward the Petition for Expungement with the set of fingerprint cards to the State Police to perform a criminal history check

**CODE REFERENCE: §19.2-392.2****DOCUMENT TYPE: PETITION FOR EXPUNGEMENT****REQUIRED DOCUMENTS:**

- An original Petition for Expungement of Record.
- A certified copy of the charge (s) with the disposition of the charge(s) that is requested to be expunged.
- Five (5) additional copies of the Petition for Expungement and charge(s) with disposition of the charge(s) that is requested to be expunged.
- Order of Expungement.
- Two (2) self-addressed stamped envelopes for the return of the fingerprint card and a certified copy of the final order. These are sent at different times.
- The copies will be used for the following:
  - One (1) copy to be attached to the Summons will be served on the Commonwealth Attorney.

Three (3) copies will be returned to the petitioner to do the following:

- Two (2) of the date stamped copies with attachments are to be taken to the Fairfax County Police Department with one (1) copy to be attached to a complete set of petitioner's fingerprints to be mailed to the VA State Police for the criminal history background check. The second copy of the petition will be retained by the police department.
- The remaining set is for the petitioner to retain as proof of filing with the court.

## OBTAINING FORMS AND DOCUMENTS:

The Supreme Court's web-site [www.courts.state.va.us/forms/circuit/civil.html](http://www.courts.state.va.us/forms/circuit/civil.html)

The Legal Services of Northern Virginia also provides forms for filing a Petition for Expungement on their web-site under the Employment and Civil Rights Section.

<http://www.lsnv.org/Employment.pdf>

## JURISDICTION:

The Petition for Expungement 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 the following:

- File Number**
- Date of Arrest**
- Name of Arresting Agency**
- Specific Charge/Offense to be expunged**
- Date of Final Disposition of the Charge/Offense to be Expunged**
- Petitioners Date of Birth**
- Petitioners Social Security Number**
- Full Name used by Petitioner at the time of arrest**
- Indicate if the Petitioner has any prior criminal record**

For unavailable records that are over ten (10) years old, a destruction letter must be obtained from the court where the disposition was rendered.

## FILING THE PETITION FOR EXPUNGEMENT:

The Petition for Expungement and other required documents may be filed in person at Fairfax Circuit Court or mailed to:

**Fairfax Circuit Court  
Attention: Civil Intake 3<sup>rd</sup> Floor  
4110 Chain Bridge Road  
Fairfax, Virginia 22030**

The case will be assigned a Civil Action case number. This is a number by which the court references your case and must appear on any future documents regarding your Expungement. The case number will consist of CL, a 4 digit year indicator & the case number. (e.g., CL-2006-0000001)

## FILING AND SERVICE FEES:

The filing fee and service fees must be paid at the time of filing.

**FILING FEE:           SEE CURRENT FEE SCHEDULE**  
**SERVICE FEE:       SEE CURRENT FEE SCHEDULE**

<http://www.fairfaxcounty.gov/courts/circuit/pdf/CCR-A-20.pdf>

**Payment is to be made by cash, money order or cashiers check payable to the Clerk of the Circuit Court. No personal checks are accepted.**

## SERVICE OF THE PETITION:

A copy of the petition shall be served on the attorney for the Commonwealth. The attorney for the Commonwealth may file an objection or answer to the petition within twenty-one (21) days after it is served. (§19.2-392.2(D) & Rule 3:5)

## FINGERPRINT CARDS: §19.2-392.2(E &F)

All petitioners are required to **obtain a new set of fingerprints** for the Expungement process. The petitioner shall obtain from a law enforcement agency one (1) complete set of their fingerprints and shall provide that law enforcement agency with two (2) copies of the **date stamped petition** showing proof that a petition for Expungement has been filed with a Circuit Court.

To request fingerprint cards you must provide the law enforcement agency with two (2) forms of identification with name and date of birth. One form of identification must be photo identification.

After completing the fingerprint cards, the police department will forward one (1) copy of the Petition for Expungement with the set of fingerprint cards to the State Police to perform a criminal history check. The State Police will then forward the criminal record check under seal to the court. One (1) copy of the Petition for Expungement will be retained at the local Police Department.

## OBTAINING FINGERPRINT CARDS:

Petitioners may obtain their fingerprint cards from the Fairfax County Police Department – Central Records Division. The office hours are **Monday through Friday from 8:00 a.m. to 4:00 p.m.** The cost of the fingerprint card is \$10.00 for the first card and \$5.00 for each additional card, payable by cash, check or credit card (VISA and MasterCard only).

**Fairfax County Police Department  
10600 Page Ave.  
Fairfax, Virginia 22030  
703-246-2272**

- **Out of State Individuals** may obtain a new set of fingerprints from their local law enforcement agency.
- Contact the local law enforcement agency to determine the costs of obtaining a fingerprint card.
- The petitioner must provide a copy of the Petition for Expungement and two (2) forms of identification to their local law enforcement agency.
- The local law enforcement agency shall mail a copy of the petition with the set of fingerprint cards to the Virginia State Police to perform a criminal record check.

## **Mailing of Fingerprint cards and petition for Criminal History Check:**

The law enforcement agency will mail the fingerprint card along with the date stamped filed petition to:

**Virginia State Police  
PO Box 27472  
Richmond, VA 23261**

## SETTING A HEARING DATE:

***After the Criminal History Check has been filed with the Court, a hearing may be set.*** It is the responsibility of the petitioner to confirm the fingerprint card and criminal history has been received by the court.

To confirm whether the criminal history and fingerprint card have been received, call Circuit Court Civil Case Information:

**703-691-7320 press 3, 1, and 0.**

Hearing dates for expungement cases are set on the Circuit Court Criminal Docket Monday through Thursday at 10:00 am.

An original "***Notice of Hearing***" must be filed in the Criminal Division, located on the 4<sup>th</sup> floor, no less than three (3) days prior to the hearing date. The Notice of Hearing form can be obtained in the Fairfax Circuit Court Clerks Office or on the Courts web-site:

<http://www.fairfaxcounty.gov/courts/circuit/pdf/CCR-A-36.PDF>

To file a Notice of hearing the petitioner may appear in person at the Fairfax Circuit Court or mail the original "Notice of Hearing" to:

**Fairfax Circuit Court  
Attention: Criminal Division – 4<sup>th</sup> floor  
4110 Chain Bridge Road  
Fairfax, Virginia 22030**

A copy of the Notice of Hearing must be mailed or hand delivered to the Commonwealth Attorney's Office. A copy of the Notice of Hearing must be filed with the Court and Commonwealth Attorney no less than three days' prior to the hearing date to:

**Commonwealth Attorney's Office  
4110 Chain Bridge Road, Room 114  
Fairfax, Virginia 22030**

***You must appear in Court on the date that your case is set to be heard.***

## FINAL ORDER:

After the final order either granting or denying the Petition for Expungement is entered, the clerk shall mail a certified copy of the final order to the petitioner in the self-addressed stamped envelope provided at the time of filing of the petition.

**REMOVAL OF RECORDS FROM PUBLIC ACCESS:**

Granted petitions for Expungement are forwarded to the Department of State Police.

**STATE POLICE PROCESSING ORDER TO EXPUNGE:**

- Documents and the Order to Expunge are received from the Courts.
- Reviews the documentation and the Order to Expunge.
- Letter is sent to the Court(s) directing that the records be removed from public access.

**COURTS PROCESSING ORDER TO EXPUNGE:**

- Letter is received from State Police directing the removal of the record(s) from public access.
- Courts remove record(s) from public access.
- Letter is sent to State Police advising that the Court has complied with the directive to remove the records from public access.
- Fingerprint card is returned to the petitioner.

It can take anywhere from 90 to 180 days from the date the State Police receive the Order to Expunge for the record(s) to be removed from public access.

## EXPUNGEMENT PROCESS CHECK LIST

### PRIOR TO FILING:

- Obtain certified copy of each charge with disposition to be expunged
- Make five (5) additional copies of each charge with disposition
- Prepare an original petition with five (5) additional copies
- Prepare an Order for Expungement
- Prepare two (2) self-addressed stamped envelopes

### FILING WITH CIRCUIT COURT

- Original Petition plus five (5) copies
- Certified copy of charge & disposition plus five (5) copies
- Order of Expungement
- Two (2) self-addressed stamped envelopes
- Filing & service fee payable by certified check or money order to Fairfax Circuit Court

### OBTAINING FINGERPRINT CARD FOR CRIMINAL HISTORY CHECK:

- Go to local police to obtain a fingerprint card for criminal history
- Give local police two (2) date stamped copies of the Petition for Expungement
- Pay processing fee of \$10.00 to local police by cash or check

### CHECK WITH COURT TO DETERMINE IF CRIMINAL HISTORY FILED:

- Two to Four weeks after filing petition, contact:

**Circuit Court CIVIL CASE INFORMATION  
703-691-7320 PRESS 3, 1, AND 0**

- If the record has been filed – you are now ready to file your notice of hearing.

### SETTING OF A HEARING:

- File Notice of Hearing
- Appear on court date