

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ (County), \_\_\_\_\_ (State)

\_\_\_\_\_  
(Name of State/Respondent)

PLAINTIFF

V.

CAUSE NO. \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Name of Defendant/Petitioner)

DEFENDANT

**Petition for Writ of Mandamus**

COMES NOW \_\_\_\_\_ (Name of Defendant), Petitioner in the above-styled and numbered cause, by and through his attorney, and files this his Petition against Plaintiff/Respondent, \_\_\_\_\_ (Name of State), and in support thereof would show unto the Court the following matters and facts:

1. On \_\_\_\_\_ (date of arrest), Petitioner was arrested in \_\_\_\_\_ (Name of city), \_\_\_\_\_ (Name of county), \_\_\_\_\_ (Name of state) for (description of crime) \_\_\_\_\_

2. Petitioner's case for \_\_\_\_\_ (nature of crime) was assigned to (description of court) \_\_\_\_\_, and Judge \_\_\_\_\_ (Name of Judge) presided in that court.

3. On \_\_\_\_\_ (date of plea), Petitioner appeared before Judge \_\_\_\_\_ (Name of Judge) in the (description of court) \_\_\_\_\_, and entered a plea of guilty for \_\_\_\_\_ (nature of crime). Judge \_\_\_\_\_ (Name of Judge) accepted Petitioner's plea of guilty and placed Petitioner on probation for one year.

4. Petitioner has successfully completed the probation of one year.

5. On \_\_\_\_\_ (date), Petitioner, in compliance with \_\_\_\_\_ (citation of statute), filed a Motion for an Order to Expunge Official Records with the Clerk of the (description of court) \_\_\_\_\_

A copy of the Motion is attached as **Exhibit A**, and incorporated by reference.

6. Petitioner has met all of the conditions and qualifications specified in \_\_\_\_\_ (citation of statute), in that:

A. More than six months have passed from the time Petitioner was placed on probation by the Court, Petitioner being placed on probation on \_\_\_\_\_ (date), and Petitioner's motion was filed on \_\_\_\_\_ (date of motion);

B. Petitioner applied to the Court which sentenced Petitioner for an order to

expunge all official records, the Court which sentenced Petitioner being **(description of court)** \_\_\_\_\_; and

C. Petitioner has not been guilty of any offenses or repeated violations of the conditions of Petitioner's probation.

7. On \_\_\_\_\_ **(date of hearing)**, Petitioner's Motion for an Order to Expunge Official Records was heard before Judge \_\_\_\_\_ **(Name of Judge)** in the **(description of court)** \_\_\_\_\_.

8. Judge \_\_\_\_\_ **(Name of Judge)** found that Petitioner met all of the conditions specified in \_\_\_\_\_ **(citation of statute)**, and asked that Petitioner's counsel prepare an order to expunge official records for the signature of the Judge.

9. Petitioner's counsel, \_\_\_\_\_ **(Name of attorney)**, prepared an order that the official records be "expunged and eradicated," but the Judge refused to sign the order as prepared.

10. Judge \_\_\_\_\_ **(Name of Judge)** added the phrase to the end of the order, "and sealed, to be opened on court order only," and signed the order as changed. A copy of the order as signed is attached as **Exhibit B**, and incorporated by reference.

11. The Legislature of \_\_\_\_\_ **(Name of state)** used the term "expunge" as it is normally used in the English language in \_\_\_\_\_ **(citation of statute)**, and intended that the records be physically destroyed.

12. By signing the Order to expunge official records, marked **Exhibit B**, Judge \_\_\_\_\_ **(Name of Judge)** has acknowledged that Petitioner complied with \_\_\_\_\_ **(citation of statute)**, and therefore, Respondent is without further discretion and must comply with \_\_\_\_\_ **(citation of statute)** by entering an order that all records of Petitioner's arrest, trial, and conviction for \_\_\_\_\_ **(nature of crime)** be physically destroyed.

13. Petitioner states that time is of the essence in this matter and unless there is an immediate judicial determination issuing an alternative writ of mandamus and thereafter, a peremptory writ is promptly issued by this Court, Petitioner will suffer irreparable harm and damage, in that **(description of nature of harm)** \_\_\_\_\_

WHEREFORE, Petitioner requests that this Court issue a Writ of Mandamus to Respondent and, on a full hearing, that this Court immediately sign and execute an Order to expunge the official court records and thereby order that all records of Petitioner's arrest, trial, and conviction for \_\_\_\_\_ **(nature of crime)** be expunged, eradicated, and physically destroyed.

Respectfully submitted,

\_\_\_\_\_  
**(Name of Defendant)**

By: \_\_\_\_\_  
**(Printed Name of Attorney)**

\_\_\_\_\_  
**(Signature of Attorney)**  
Petitioner's Attorney  
State Bar No. \_\_\_\_\_

**Certificate of Service**

This is to certify that I, \_\_\_\_\_ **(Name of Attorney)**, attorney for  
Petitioner \_\_\_\_\_ **(Name of Petitioner)**, have this date served a true and  
correct copy of the above and foregoing **Petition** by U.S. Mail, postage fully prepaid, to the  
following counsel of record for the State:

\_\_\_\_\_  
**(Name of Attorney)**  
Post Office Box \_\_\_\_\_

\_\_\_\_\_  
**City, State, Zip Code**

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Respectfully Submitted,

\_\_\_\_\_  
**(Printed Name of Attorney)**

\_\_\_\_\_  
**(Signature of Attorney)**  
Petitioner's Attorney  
State Bar No. \_\_\_\_\_

OF COUNSEL:

\_\_\_\_\_  
**(Name of Attorney)**  
Post Office Box \_\_\_\_\_ - \_\_\_\_\_

\_\_\_\_\_  
City, State, Zip Code  
Telephone: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_