

**Effective 5/13/2014**

**77-40-103 Expungement procedure overview.**

The process for the expungement of records under this chapter regarding the arrest, investigation, detention, and conviction of a petitioner is as follows:

- (1) The petitioner shall apply to the bureau for a certificate of eligibility for expungement and pay the application fee established by the department.
- (2) Once the eligibility process is complete, the bureau shall notify the petitioner.
- (3) If the petitioner is qualified to receive a certificate of eligibility for expungement, the petitioner shall pay the issuance fee established by the department.
- (4) The petitioner shall file the certificate of eligibility with a petition for expungement in the court in which the proceedings occurred. If there were no court proceedings, or the court no longer exists, the petition may be filed in the district court where the arrest occurred. If a certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk or the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.
- (5) The petitioner shall deliver a copy of the petition and certificate to the prosecutorial office that handled the court proceedings. If there were no court proceedings, the copy of the petition and certificate shall be delivered to the county attorney's office in the jurisdiction where the arrest occurred.
- (6) If an objection to the petition is filed by the prosecutor or victim, a hearing shall be set by the court and the prosecutor and victim notified of the date.
- (7) If the court requests a response from Adult Probation and Parole and a response is received, the petitioner may file a written reply to the response within 15 days of receipt of the response.
- (8) An expungement may be granted without a hearing if no objection is received.
- (9) Upon receipt of an order of expungement, the petitioner shall deliver copies to all government agencies in possession of records relating to the expunged matter.

Amended by Chapter 263, 2014 General Session