

## INSTRUCTIONS AND FORMS ON MOTION FOR EXPUNGEMENT

This form references specific South Dakota Codified Laws (SDCL), and you can find these laws on the South Dakota Legislature website. If you have any legal questions, it is highly recommended that you consult with an attorney. Court staff are unable to provide you with legal advice or assist you in completing this form. For specific questions related to the forms, you can contact the Legal Form Helpline at 1-855-784-0004 or email UJS staff at [ujssrlhelp@uds.state.sd.us](mailto:ujssrlhelp@uds.state.sd.us).

### **To complete these forms, you will need to:**

- Complete the Motion for Expungement UJS-391A by:
  - Fill in the caption by entering the name of the county you are filing in and listing your name on the line provided as the Petitioner. (The county you file in will be the same county where the arrest record or case is filed in.)
  - The case number will be provided to you by the Clerk of Court at the time of filing.
  - Fill in the remainder of UJS-391A on the lines provided and select the appropriate basis for the Motion.
  - Sign, date, and file with the Clerk of Court along with the Case Filing Statement UJS-232 and pay the \$72 filing fee.
  
- Complete only the caption of the Admission of Service UJS-391B. The remainder of the form will need to be completed by the States Attorney and/or their office who handled your criminal case.
  
- Mail a copy of the Motion for Expungement UJS-391A, the partially completed Admission of Service UJS-391B, and a self-addressed stamped envelope to the States Attorney and/or their office who handled your criminal case.
  - The States Attorney will need to sign the Admission of Service UJS-391B as proof of service that they received your Motion for Expungement.
  
- Complete the Affidavit of Mailing UJS-391C and sign in front of a notary or Clerk of Court once you have mailed a copy of your Motion for Expungement UJS-391A and Admission of Service UJS-391B to the States Attorney.
  
- File the Affidavit of Mailing UJS-391C with the Clerk of Court.
  
- File the Admission of Service UJS-391B with the Clerk of Court once you receive it back from the States Attorney.

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL CIRCUIT

<p>IN THE MATTER OF THE EXPUNGEMENT OF RECORDS RELATED TO:</p> <p>_____</p> <p><i>(Name of Applicant for Expungement)</i> Petitioner.</p>	<p>Case No.: _____</p> <p><b>MOTION FOR EXPUNGEMENT</b></p>
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Pursuant to SDCL § 23A-3-27, Petitioner, whose date of birth is \_\_\_\_\_, (enter your date of birth) hereby moves this court for entry of an order expunging the record of the Petitioner's arrest or ticket, which occurred on \_\_\_\_\_, (insert the date of your arrest or date you received your ticket). The arrest or ticket was for the following charge(s): \_\_\_\_\_, (enter what you were charged with). The criminal docket number is: \_\_\_\_\_.

The basis for this motion is *(check the applicable line)*:

- It has been one year from the date of the arrest and no accusatory instrument has been filed;
- The prosecuting attorney formally dismissed the entire criminal case on the record AND *(if this option is checked, check one of the options below)*:
  - It has been more than a year since the formal dismissal; **or**
  - Compelling necessity exists;
- I was acquitted of all charges at trial on \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Petitioner Signature

\_\_\_\_\_  
Petitioner Name

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Phone Number

STATE OF SOUTH DAKOTA  
COUNTY OF \_\_\_\_\_

IN CIRCUIT COURT  
\_\_\_\_\_ JUDICIAL CIRCUIT

IN THE MATTER OF THE EXPUNGEMENT OF RECORDS RELATED TO:  _____ <i>(Name of Applicant for Expungement)</i> Petitioner.	Case No.: _____  <b>ADMISSION OF SERVICE</b>
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I, \_\_\_\_\_, who was or is now the South Dakota States Attorney assigned to the criminal matter involving the above-named Petitioner in criminal case number \_\_\_\_\_, admit to receiving the Motion for Expungement and will mail this Admission of Service back to the Petitioner in the self-addressed stamped envelope that was provided.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Sworn/affirmed before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary/Deputy Clerk/Clerk of Court  
  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
States Attorney Signature

\_\_\_\_\_  
States Attorney Name

\_\_\_\_\_  
States Attorney Address

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

\_\_\_\_\_  
Phone Number

STATE OF SOUTH DAKOTA  
COUNTY OF \_\_\_\_\_

IN CIRCUIT COURT  
\_\_\_\_\_ JUDICIAL CIRCUIT

IN THE MATTER OF THE EXPUNGEMENT  
OF RECORDS RELATED TO:

Case No.: \_\_\_\_\_

**AFFIDAVIT OF MAILING**

\_\_\_\_\_  
(Name of Applicant for Expungement)  
Petitioner.

**THE UNDERSIGNED**, being sworn, state that on this date \_\_\_\_\_, I did personally mail, postage prepaid, a true and correct copy of the Motion for Expungement and Admission of Service in an envelope addressed to:

\_\_\_\_\_  
(State's Attorney Name)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State, Zip Code)

and mailing, with sufficient postage, in the United States Mail from \_\_\_\_\_.  
(City and State)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Petitioner Signature

\_\_\_\_\_  
Petitioner Name

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Phone Number

Sworn/affirmed before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary/Deputy Clerk/Clerk of Court

My Commission Expires: \_\_\_\_\_