

## INSTRUCTIONS AND FORM ON WAIVER OF HEARING

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).

### **IMPORTANT NOTICE**

If you are seeking to waive the hearing on your Motion for Expungement, it will need to be agreed upon by the States Attorney and/or the office who was assigned to your criminal case as well as the victim in your case, if there was one. The defendant of the criminal case, the State's Attorney, and the victim, if there was one, will each need to complete and sign their own waiver.

### **As the Petitioner you will need to complete this form you will need to:**

- ☐ Fill in the caption.
- ☐ Fill in your name on the line provided.
- ☐ Enter your criminal case number.
- ☐ Mark the Petitioner's Box
- ☐ Sign and date.
- ☐ Provide a Waiver of Hearing UJS-392 to the States Attorney and victim, if there was one, for their signature by completing the following:
  - ☐ Fill in the caption.
  - ☐ Enter in the case number where prompted.
  - ☐ Mail a copy to each with a self-addressed stamped envelope.
  - ☐ File with the Clerk of Court once you receive the document(s) back.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

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

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

IN THE MATTER OF THE EXPUNGEMENT  
OF RECORDS RELATED TO:

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

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

**WAIVER OF HEARING**

Pursuant to SDCL § 23A-3-29 I, \_\_\_\_\_, voluntarily waive my  
right to a hearing on the Motion for Expungement that was filed regarding criminal  
case \_\_\_\_\_. I am the: (check one)

☐

Petitioner

☐

Prosecutor

☐

Victim

I understand and acknowledge that I have a right to a hearing in this matter. I  
further understand that the court may require the filing of affidavits and may  
require the taking of evidence as it deems necessary.

I declare under penalty of perjury under the law of South Dakota that the foregoing is  
true and correct. Signed on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at  
(Date) (Month) (Year)

\_\_\_\_\_  
(City or other location, and State)

\_\_\_\_\_  
Petitioner / Prosecutor / Victim Signature  
(circle one)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

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

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