

CHAPTER 609A

EXPUNGEMENT

609A.02 Grounds for order.

609A.03 Petition to expunge criminal records.

609A.02 GROUNDS FOR ORDER.

[For text of subs 1 and 2, see M.S.2000]

Subd. 3. **Certain criminal proceedings not resulting in a conviction.** A petition may be filed under section 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict if the records are not subject to section 299C.11, paragraph (b), and if all pending actions or proceedings were resolved in favor of the petitioner. For purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution in favor of the petitioner.

[For text of subd 4, see M.S.2000]

History: 2001 c 209 s 1

609A.03 PETITION TO EXPUNGE CRIMINAL RECORDS.

[For text of subd 1, see M.S.2000]

Subd. 2. **Contents of petition.** (a) A petition for expungement shall be signed under oath by the petitioner and shall state the following:

(1) the petitioner's full name and all other legal names or aliases by which the petitioner has been known at any time;

(2) the petitioner's date of birth;

(3) all of the petitioner's addresses from the date of the offense or alleged offense in connection with which an expungement order is sought, to the date of the petition;

(4) why expungement is sought, if it is for employment or licensure purposes, the statutory or other legal authority under which it is sought, and why it should be granted;

(5) the details of the offense or arrest for which expungement is sought, including the date and jurisdiction of the occurrence, either the names of any victims or that there were no identifiable victims, whether there is a current order for protection, restraining order, or other no contact order prohibiting the petitioner from contacting the victims or whether there has ever been a prior order for protection or restraining order prohibiting the petitioner from contacting the victims, the court file number, and the date of conviction or of dismissal;

(6) in the case of a conviction, what steps the petitioner has taken since the time of the offense toward personal rehabilitation, including treatment, work, or other personal history that demonstrates rehabilitation;

(7) petitioner's criminal conviction record indicating all convictions for misdemeanors, gross misdemeanors, or felonies in this state, and for all comparable convictions in any other state, federal court, or foreign country, whether the convictions occurred before or after the arrest or conviction for which expungement is sought;

(8) petitioner's criminal charges record indicating all prior and pending criminal charges against the petitioner in this state or another jurisdiction, including all criminal charges that have been continued for dismissal or stayed for adjudication, or have been the subject of pretrial diversion; and

(9) all prior requests by the petitioner, whether for the present offense or for any other offenses, in this state or any other state or federal court, for pardon, return of arrest records, or expungement or sealing of a criminal record, whether granted or not, and all stays of adjudication or imposition of sentence involving the petitioner.

(b) If there is a current order for protection, restraining order, or other no contact order prohibiting the petitioner from contacting the victims or there has ever been a prior order for protection or restraining order prohibiting the petitioner from contacting the victims, the petitioner shall attach a copy of the order to the petition.

Subd. 3. **Service of petition and proposed order.** (a) The petitioner shall serve by mail the petition for expungement and a proposed expungement order on the prosecutorial office that had jurisdiction over the offense for which expungement is sought and all other state and local government agencies and jurisdictions whose records would be affected by the proposed order. The petitioner shall also serve by mail the attorney for each agency and jurisdiction.

(b) The prosecutorial office that had jurisdiction over the offense for which expungement is sought shall serve by mail the petition for expungement and a proposed expungement order on any victims of the offense for which expungement is sought who have requested notice of expungement pursuant to section 611A.06. Service under this paragraph does not constitute a violation of an existing order for protection, restraining order, or other no contact order.

(c) The prosecutorial office's notice to victims of the offense under this subdivision must specifically inform the victims of the victims' right to be present and to submit an oral or written statement at the expungement hearing described in subdivision 4.

Subd. 4. **Hearing.** A hearing on the petition shall be held no sooner than 60 days after service of the petition. A victim of the offense for which expungement is sought has a right to submit an oral or written statement to the court at the time of the hearing describing the harm suffered by the victim as a result of the crime and the victim's recommendation on whether expungement should be granted or denied. The judge shall consider the victim's statement when making a decision.

Subd. 5. **Nature of remedy; standard; firearms restriction.** (a) Except as otherwise provided by paragraph (b), expungement of a criminal record is an extraordinary remedy to be granted only upon clear and convincing evidence that it would yield a benefit to the petitioner commensurate with the disadvantages to the public and public safety of:

(1) sealing the record; and

(2) burdening the court and public authorities to issue, enforce, and monitor an expungement order.

(b) Except as otherwise provided by this paragraph, if the petitioner is petitioning for the sealing of a criminal record under section 609A.02, subdivision 3, the court shall grant the petition to seal the record unless the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record.

(c) If the court issues an expungement order it may require that the criminal record be sealed, the existence of the record not be revealed, and the record not be opened except as required under subdivision 7. Records must not be destroyed or returned to the subject of the record.

[For text of subs 5a to 9, see M.S.2000]

History: 2001 c 209 s 2-5