

APPLICATION FOR EXPUNGEMENT OF ARREST RECORDS

You may leave blank the spaces on this form that call for your social security number and right thumbprint. There is presently no law or regulation that requires you to provide them. If you do provide your social security number, right thumbprint, or both, we will use them only to verify that the correct arrest record is expunged, if you are entitled to an expungement under Hawaii Revised Statutes, Section 831-3.2.

Current

Name: _____ Sex: M ____ F ____
(Last, First, Middle)

Other Names Used: _____ Date of Birth: _____

Social Security Number: _____ Place of Birth: _____

Home Address _____ City _____ State _____ Zip Code _____ Telephone Number _____

In accordance with the provisions of Section 831-3.2, Hawaii Revised Statutes, I hereby submit this application to have my arrest record expunged for the following alleged offense(s) for which no conviction has been secured:

<u>Offense</u>	<u>Date of Arrest</u>	<u>Place of Arrest</u>	<u>Date of Last Court Appearance</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

If I am found to have no record of conviction, I also request the return of fingerprints and photographs. I hereby declare that I am not a fugitive from justice.

Mailing Address for all correspondence:

Date: _____ Applicant's Signature _____

Fee Amount: First Time Applicant \$35.00 All Others \$50.00

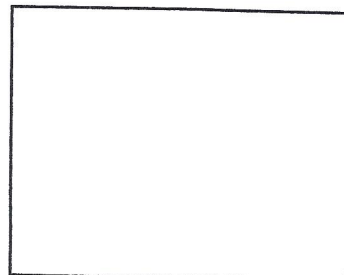
Cash or Money Order made payable to State of Hawaii.

NO PERSONAL OR BUSINESS CHECKS ACCEPTED

Return application and money order to:

Arrest Records Expunger
Hawaii Criminal Justice Data Center
Department of the Attorney General
465 S. King Street, Room 101
Honolulu, Hawaii 96813
HCJDC 159 (5/11/2009)

Right Thumbprint



Expungements

If you are arrested or charged with, but not convicted of a crime, you can apply to have that arrest "expunged" or erased from your criminal history record. Your arrest record must meet certain criteria as specified by Hawaii Revised Statutes Section 831-3.2. The process takes 120 days. Arrest records that have been expunged from your criminal history record are confidential and not available to the general public.

- Application for Expungement of Arrest Records

§831-3.2 Expungement orders. (a) The attorney general, or the attorney general's duly authorized representative within the department of the attorney general, upon written application from a person arrested for, or charged with but not convicted of a crime, shall issue an expungement order annulling, canceling, and rescinding the record of arrest; provided that an expungement order shall not be issued:

- (1) In the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture;
- (2) For a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture;
- (3) In the case of an arrest of any person for any offense where conviction has not been obtained because the person has rendered prosecution impossible by absenting oneself from the jurisdiction;
- (4) In the case of a person acquitted by reason of a mental or physical defect under chapter 704; and
- (5) For a period of one year upon discharge of the defendant and dismissal of the charge against the defendant in the case of a deferred acceptance of guilty plea or nolo contendere plea, in accordance with chapter 853.

Any person entitled to an expungement order hereunder may by written application also request return of all fingerprints or photographs taken in connection with the person's arrest. The attorney general or the attorney general's duly authorized representative within the department of the attorney general, within 120 days after receipt of the written application, shall, when so requested, deliver, or cause to be delivered, all fingerprints or photographs of the person, unless the person has a record of conviction or is a fugitive from justice, in which case the photographs or fingerprints may be retained by the agencies holding such records.

(b) Upon the issuance of the expungement certificate, the person applying for the order shall be treated as not having been arrested in all respects not otherwise provided for in this section.

(c) Upon the issuance of the expungement order, all arrest records pertaining to the arrest which are in the custody or control of any law enforcement agency of the state or any county government, and which are capable of being forwarded to the attorney general without affecting other records not pertaining to the arrest, shall be so forwarded for placement of the arrest records in a confidential file.

(d) Records filed under subsection (c) shall not be divulged except upon inquiry by:

- (1) A court of law or an agency thereof which is preparing a presentence investigation for the court;
- (2) An agency of the federal or state government which is considering the subject person for a position immediately

and directly affecting the national or state security; or

- (3) A law enforcement agency acting within the scope of their duties.

Response to any other inquiry shall not be different from responses made about persons who have no arrest records.

(e) The attorney general or the attorney general's duly authorized representative within the department of the attorney general shall issue to the person for whom an expungement order has been entered, a certificate stating that the order has been issued and that its effect is to annul the record of a specific arrest. The certificate shall authorize the person to state, in response to any question or inquiry, whether or not under oath, that the person has no record regarding the specific arrest. Such a statement shall not make the person subject to any action for perjury, civil suit, discharge from employment, or any other adverse action.

(f) The meaning of the following terms as used in this section shall be as indicated:

- (1) "Conviction" means a final determination of guilt whether by plea of the accused in open court, by verdict of the jury or by decision of the court.
- (2) "Arrest record" means any existing photographic and fingerprint cards relating to the arrest.

(g) The attorney general shall adopt rules pursuant to chapter 91 necessary for the purpose of this section.

(h) Nothing in this section shall affect the compilation of crime statistics or information stored or disseminated as provided in chapter 846. [L 1974, c 92, §2; am L 1975, c 103, §1; am L 1976, c 116, §§1, 2; am L 1980, c 12, §1; am L 1983, c 78, §4; gen ch 1985; am L 1987, c 322, §1; am L 1993, c 7, §§1, 2]

Case Notes

In Federal prosecution, error in admitting evidence of expunged prior arrest for interfering with local police officers did not justify reversal of conviction where there was overwhelming evidence of guilt. 614 F.2d 214.

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