

H15

**Petition to Expunge Marijuana-
Related Offense Records and
Restore Civil Rights, Including
Firearm Rights, Pursuant to
ARS § 36-2862**

FORMS AND INSTRUCTIONS

Completing and Filing the Court Papers

INSTRUCTIONS FOR COMPLETING A PETITION TO EXPUNGE MARIJUANA-RELATED OFFENSE RECORDS PURSUANT TO A.R.S. SECTION 36-2862.

(The petition form may be found online at: www.azcourts.gov/selfservicecenter/Forms)

Please read the following before completing the petition form.

WHO CAN USE THE PETITION FORM:

You may seek expungement of your marijuana-related criminal records by filing the petition form, if you were either arrested, charged, convicted or acquitted of any of the following offenses:

1. Possessing, consuming, or transporting *two and one-half ounces or less* of marijuana*, of which not more than twelve and one-half grams was in the form of marijuana concentrate.
2. Possessing, transporting, cultivating, or processing *not more than six marijuana plants* at your primary residence for personal use.
3. Possessing, using, or transporting *paraphernalia* related to the cultivation, manufacture, processing, or consumption of marijuana.

If you are seeking expungement of case records, and you had more than one eligible offense under more than one case number, file a separate petition for each case number.

**marijuana includes cannabis*

REQUIRED INFORMATION:

To complete the petition, you must, at a minimum, provide the court with the following information as required by Rule 36, Arizona rules of criminal procedure:

- Your name, address, date of birth, and email address, if you have an email address;
- A description of the offense for which you are seeking expungement as stated on the petition form;
- The name of the law enforcement agency that arrested you for the marijuana-related offense; and
- The court's case number if your arrest resulted in a criminal complaint being filed with the court.

Failure to provide enough details about the records you want to have expunged may result in the court dismissing your petition. If that occurs, you may file a new petition with additional details about your records. The court cannot order expungement of any arresting agency records if you do not identify the arresting agency.

If you were represented in court by an attorney, your defense attorney may be able to provide any information needed to fill out the petition. You may find information about your case on the supreme court's case lookup website ([Public Access Case Lookup \(az.gov\)](http://Public Access Case Lookup (az.gov))). In addition, the Federal Bureau of Investigation (<https://www.fbi.gov/services/cjis/identity-history-summary-checks>) or the Arizona Department of Public Safety (<https://www.azdps.gov/services/public/records/criminal>) may assist you.

WHERE TO FILE YOUR PETITION:

If you are seeking expungement of ONLY law enforcement records relating to an arrest that did not result in a criminal complaint being filed in court, then you must file your petition in the superior court located in the county where you were arrested. Otherwise, you must file your petition in the court where the case was resolved by either dismissal or conviction.

TYPE OR PRINT NEATLY USING BLACK INK. FILL OUT ALL FIELDS REQUIRED BY THE PETITION. PROVIDE ANY OPTIONAL INFORMATION KNOWN TO YOU:

- Identify the court where you will be filing. If you will file in a municipal court or justice court, use the petition form for municipal/justice court. If you will file in the superior court, use the petition form for superior court.
- At the top of the first page, type or print the name, mailing address, email address, and phone numbers of the person filing this form.
- Print the name of the court where you are filing the petition.
- Inside the box print your first name, middle initial, last name, and date of birth above the line for Defendant. Print the case number of the case that you want the court to expunge. If you are seeking to expunge ONLY an arrest record, leave the case number blank, the court will assign a case number when you file your petition.
- Fill in the other blanks and check boxes with the information requested.
- Date and sign your name and provide the contact information requested below the signature line.

PLEASE NOTE:

- If you owe fines, fees, or other monetary penalties on other non-eligible charges in the same case for which you are seeking expungement, if the court grants your petition, you will need to ask the court for a new payment plan.
- If you were convicted of a felony in superior court, and the court grants your petition and restores your civil rights, in order to be eligible to vote, you must complete and submit a new voter registration form. Please refer to your County Recorder's Office for additional questions about voter registration.

Person Filing: _____
 Mailing Address: _____
 City, State, Zip Code: _____
 Email Address: _____
 Telephone Number(s): _____
 (Attorney or LDP only):
 State Bar or LDP Number: _____
 Party you are representing: _____

In the Superior Court of Arizona for Graham County

State of Arizona, Plaintiff vs. _____ Defendant (<i>FIRST, MI, LAST</i>) Date of Birth: _____	Case Number: _____ <p align="center">Petition to Expunge Marijuana-Related Offense Records and Restore Civil Rights, Including Firearm Rights, Pursuant to ARS § 36-2862</p>
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The above-named Petitioner, pursuant to ARS § 36-2862, hereby requests that the Court order expungement of Petitioner’s criminal history records and, if applicable, restoration of Petitioner’s civil rights. As grounds for this petition, Petitioner states as follows:

A. REQUIRED INFORMATION

1. Eligible Charge. I hereby request that the law enforcement and court records for the following offense, eligible under ARS § 36-2862, be expunged (*choose from the following; if you had more than one eligible offense under more than one case number, file a separate petition for each offense*):

- :
- Possessing, consuming, or transporting two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate.
 - Possessing, transporting, cultivating, or processing not more than six marijuana plants at my primary residence for personal use.
 - Possessing, using, or transporting paraphernalia related to the cultivation, manufacture, processing, or consumption of marijuana.

2. Name of citing or arresting law enforcement agency: _____.

3. Superior court case number: _____.

B. ADDITIONAL INFORMATION RELATED TO THE ELIGIBLE CHARGE(S)

(Complete all fields known to you)

1. I was arrested on [insert date]: _____.
2. My court case began in a Justice Court [] **Yes** [] **No**. If Yes, insert name of Justice Court here: _____, and the Justice Court case number here: _____.
3. Name of prosecuting agency: _____.
4. I was convicted of the offense [] **Yes** [] **No**. If Yes, insert date of conviction here: _____.
5. One or more non-eligible charges were filed against me in this same case [] **Yes** [] **No**.
6. My sentence included a term of probation [] **Yes** [] **No**.
7. My case was dismissed [] **Yes** [] **No**. If Yes, insert date of dismissal here: _____.
8. There is an outstanding arrest warrant in this case [] **Yes** [] **No**.
9. There is an active payment plan on my case [] **Yes** [] **No**.

C. SUPPORTING DOCUMENTATION (Optional)

Attached is documentation that supports my petition *(The court may find it helpful to have documents that support your request for expungement, for example, the complaint against you, judgment and sentencing order, payment plan, or any other official document showing a superior court case number, crime lab report showing weight of marijuana seized; or DPS or FBI case extract. However, you are not required to provide any supporting documents):*

D. HEARING REQUEST

I understand that I can request a hearing on my petition, but the court may choose to proceed without a hearing. I hereby request a hearing [] **Yes** [] **No**.

E. ACKNOWLEDGEMENT REGARDING RESTORATION OF FIREARM RIGHTS

I understand that even if I am granted restoration of my civil rights, including firearm rights pursuant to this petition, I may still be prohibited from having my civil rights restored or the right to possess and carry a firearm under other state or federal laws.

DECLARATION

I declare under penalty of perjury that the information I have provided in this petition and any attachments is true and correct to the best of my knowledge.

I understand that this petition may be dismissed if the information I have provided is insufficient. I also understand that this petition may be denied if information in this petition is found to be inaccurate.

(Petitioner's Signature)

(Date)

(Petitioner's Mailing Address)

(Petitioner's Email Address)

(Petitioner's Phone Number)

To the best of my knowledge, the information provided in this petition is true and correct.

(Attorney's name printed)

(Attorney's signature)

(Attorney's Bar Number)

(Attorney's Mailing Address)

(Attorney's Phone Number and Email Address)

**IN THE SUPERIOR COURT
IN GRAHAM COUNTY, ARIZONA**

State of Arizona, Plaintiff vs. _____ Defendant (<i>FIRST, MI, LAST</i>) Address: _____ Date of Birth: _____	Case Number: _____ <hr style="border: 0.5px solid black;"/> <p style="text-align: center;">Order Regarding Petition to Expunge Marijuana-Related Offense Records and to Restore Civil Rights, Including Firearm Rights, Pursuant to ARS § 36-2862</p>
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Based on the information presented to the court, pursuant to ARS § 36-2862, the petition requests expungement of the following records and **requests** **does not request** restoration of civil rights:
(check only those that apply)

- Arrest records of an arrest occurring on or about [insert date] by the following law enforcement agency: _____.
- Charging documents created by the following prosecuting agency: _____.
- All court records relating to the eligible charge(s) in the case number identified above.

I. THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- The Court is initially unable to act on the petition because it lacks a sufficient description of the records to be expunged. *(If this statement is selected, go directly to the Ordering section to dismiss the petition)*
- The offense described in the petition is not eligible for expungement under ARS § 36-2862.

The petition was filed by the Prosecutor.

OR

A copy of the petition in this matter was provided to the Prosecutor.

AND

The Prosecutor timely responded to the petition.

The Prosecutor has not responded to the petition and 45 days have elapsed since a copy of the petition was provided.

The subject of the petition timely replied to the Prosecutor’s response.

Pursuant to ARS § 36-2862(B)(3), the State **has not** established by clear and convincing evidence that the subject of the petition is not entitled to expungement of the requested records.

Pursuant to ARS § 36-2862(B)(3), the State **has** established by clear and convincing evidence that the subject of the petition is not entitled to expungement of the requested records for the following reason(s):

II. THEREFORE, IT IS ORDERED (*check one*):

A. **DISMISSING** the petition for lack of sufficient information. A new petition may be filed with additional information.

B. **DENYING** the petition.

C. **GRANTING** the petition.

(1) IT IS FURTHER ORDERED, in accordance with A.R.S. § 36-2862

Expunging any record of the arrest, charge, conviction, adjudication and sentence identified above.

Transmitting a copy of this Order to the Arizona Department of Public Safety, the arresting law enforcement agency and prosecuting agency identified above, if applicable.

(If a charge was filed, complete the following):

(2) IT IS FURTHER ORDERED,

- Vacating the judgment of conviction and any remaining terms of sentence that the subject of the petition has not yet completed in case number: _____ as to the following expungement-eligible charge(s) only (*check all that apply*):

- [] Count(s) _____, ARS § 13-3405 Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- [] Count(s) _____, ARS § 13-3405(A) Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- [] Count(s) _____, ARS § 13-3405(A)(1) Possession or use of marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- [] Count(s) _____, A.R.S. § 13-3405(A)(3) Producing marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- [] Count(s) _____, A.R.S. § 13-3405(A)(4) Transporting marijuana, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- [] Count(s) _____, A.R.S. § 13-3408 Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- [] Count(s) _____, A.R.S. § 13-3408(A) Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- [] Count(s) _____, A.R.S. § 13-3408(A)(1) Possession or use of cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- [] Count(s) _____, A.R.S. § 13-3408(A)(4) Manufacturing cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.
- [] Count(s) _____, A.R.S. § 13-3408(A)(7) Transporting cannabis, which involved two and one-half ounces or less of marijuana, of which not more than twelve and one-half grams was in the form of marijuana concentrate, or not more than six marijuana plants.

Count(s) _____, ARS § 13-3415 Possession or use of drug paraphernalia related to marijuana.

Count(s) _____, A.R.S. § 13-3415(A) Possession or use of drug paraphernalia related to marijuana.

Count(s) _____, A.R.S. § 13-3415(B) Transporting delivering or manufacturing with intent to deliver drug paraphernalia related to marijuana.

- Cancelling all outstanding court-ordered financial obligations attached to the eligible charge(s), if applicable; and
- Sealing all court records relating to the expunged charge, adjudication, conviction or sentence, including the Petition to Expunge and related records, and permitting access only by the subject of the petition or that person's attorney.

(Check all that apply):

The _____ Justice Court shall seal all case records relating to the eligible charge(s) in Justice Court case number: _____.

The Probation Department shall seal all probation records relating to the eligible charge(s).

(Check one):

The subject of the petition **is restored** his/her civil rights including the right to possess a firearm, as to this case only. **PLEASE NOTE: Even if you are granted the right to possess a firearm pursuant to this Order you may still be prohibited from possessing a firearm under other state or federal laws or as a result of another case.**

The subject of the petition **is not restored** his/her civil rights including the right to possess a firearm because the Court finds there is an ineligible conviction under this case number.

Dated this _____ day of _____, _____

Judicial Officer