

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ESTABLISHING PROCEDURES FOR) Administrative Order
EXPUNGEMENT PETITIONS FILED) No. 2021 - 157
PURSUANT TO A.R.S. § 36-2862(A)) (Replacing Administrative Order
) No. 2021-82)
)
_____)

In the November 3, 2020, election, by ballot initiative, Arizona voters approved the Smart and Safe Arizona Act (the Act), which legalizes and regulates the production, sale, possession, and consumption of recreational marijuana by persons age 21 and older within the state. Among the provisions of Proposition 207 is one that allows a person who has been arrested for, charged with, adjudicated or convicted by trial or plea of, or sentenced for specified offenses to petition the court to have the record of the arrest, charge, adjudication, conviction, or sentence expunged.

Effective July 12, 2021, persons who are eligible for expungement may petition the court for relief as provided by the Act. This administrative order establishes standardized procedures for municipal and justice of the peace courts and the superior court to implement the expungement process pursuant to Rule 36, Rules of Criminal Procedure.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that, in addition to the requirements of A.R.S. § 36-2862 and Rule 36, Rules of Criminal Procedure, all courts, including clerks, shall comply with the following procedures for processing expungement petitions and expungement orders that are granted:

1. Assign a civil case number to the petition if the applicable criminal case file has been purged and no pre-existing criminal case number can be located, the court has converted to a new case management system and the case does not exist in the new system, or the petition seeks to expunge an arrest record that did not lead to the filing of a complaint, information, or indictment. If the petition for expungement is granted, the civil case must be sealed.
2. Seal the entire case file if the charges being expunged constitute the entirety of the complaint, information, or indictment, including the petition to expunge and related responses, motions, and orders, and allow the records to be accessed only by the person whose record was expunged or the person's attorney.
3. Seal all records contained within the case file relating to the expunged arrest, charge, adjudication, conviction, and sentence, including the petition to expunge and related

responses, motions, and orders as to the applicable counts if the charges being expunged constitute less than the entirety of the complaint, information, or indictment. Upon receipt of a public records request, the court must withhold case records related solely to the expunged charges, redact references to the expunged portions of the case file, and allow public access to the records containing information concerning the charges that were not expunged

4. Mark the individual charge in the case management system as expunged, sending a standard disposition code (EX) to the Administrative Office of the Courts (AOC) Central Case Index to remove all references to the expunged charge from public access and e-access.
5. Quash any outstanding warrants related to the expunged charges, issue a new warrant listing the charges not expunged and for which a warrant should remain valid, adjust the bond required as appropriate, reduce any outstanding monetary obligation balance to zero (including arrearages) for only the offenses subject to expungement, terminate any remaining probation sentence for only the offenses subject to expungement, adjust any outstanding payment contracts, and update the FARE program, if applicable.
6. Comply with Rule 123(c)(2)(C), Rules of the Supreme Court, by ensuring that all sealed information related to the expunged charge is redacted from any record provided in response to a public record request.
7. Protect from public access any verbatim recording of a court proceeding involving an expunged charge.
8. Insert the petition and the order for expungement into the applicable criminal case file and maintain the case file in compliance with the applicable retention schedule. Issuance of an expungement order does not extend retention of the underlying case record, if any. If no underlying case record exists, either because it was purged or because no charge was ever filed, retain all records related to the expungement petition for the applicable retention period.

IT IS FURTHER ORDERED that courts will provide statistical data on expungement cases to the AOC in a manner prescribed by the Administrative Director.

Dated this 6th day of October, 2021.

FOR THE COURT:

ROBERT BRUTINEL
Chief Justice