

Petition to Expunge (identity theft)

INSTRUCTIONS AND ALL FORMS

If you do not have a lawyer, you must use the forms in this packet to start your case for Expungement

THIS PACKET IS NOT A SUBSTITUTE FOR PROFESSIONAL LEGAL ADVICE

Inside are fill-in-the-blank forms for Self-Represented Litigants. They do not deal with every situation. **Expungement** can be complicated and using legal forms without a lawyer's help can harm your legal rights. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents.

In this packet you will find...

- ✓ Steps to Filing your Petition for Expungement (identity theft) (4 pages)
- ✓ Form 4-951 Petition to Expunge New Mexico Arrest Records and Public Records (identity theft) (3 pages)
- ✓ Notice of Hearing (3 Pages)
- ✓ Order on Petition to Expunge New Mexico Arrest Records and Public Records (identity theft) (5 pages)

STEPS TO FILING YOUR PETITION TO EXPUNGE (IDENTITY THEFT)

Step 1: Gather all of your arrest and court records

- **Obtain your New Mexico Arrest Record from the Department of Public Safety ("DPS")**
 - Print a DPS "Authorization for Release of Information" form found online at: <https://www.dps.nm.gov/index.php/top-links-for-nm-residents/fingerprinting-andbackground-checks>.
 - Available in Spanish at: https://www.dps.nm.gov/templates/g5_hydrogen/custom/PDFs/FingerprintingBackgroundChecks/Authorization-for-Release-of-Info-in-Spanish.pdf
 - Complete and have your signature notarized.
 - Mail the form with your original, notarized signature to DPS with \$15.00 (money order or cashier 's check only — no personal check) to:
Department of Public Safety
P.O. Box 1628
Santa Fe, NM 87504-1628
- **Obtain your Federal Arrest Record, or "RAP" sheet, from the FBI**
 - Follow the instructions online at either:
<http://www.fbi.gov/services/cjis/identity-history -summary-checks> or
<http://www.edo.cjis.gov/#/>
- **Obtain all of your criminal court records from any state, tribal or federal court**
 - For New Mexico courts, some records may be available online at: <http://www.nmcourts.gov>
 1. Click on **Find a Case** at the top right, enter your last name then first name (without a comma).
 2. Entering your birth date is helpful in case there is another person with the same name as you.
 3. You will be able to view and print out information about your specific case(s).
 - You will most likely need to contact the court(s) where your case was heard to get copies of court documents. The court(s) will charge to make copies.
 - **For the arrest and court records you are seeking to expunge, make sure your records show:**

- The date of the arrest
- The date of the offense (may be the same as the arrest date)
- The arrest number from fingerprint cards (if any)
- The name of the crime(s) you are seeking to expunge
- The statute or city ordinance number for the crime(s)
- Whether the crime(s) is a municipal ordinance violation, misdemeanor or felony •
The court case number
- The final disposition, verdict, sentence, etc.
- The date of final disposition

Step 2: Prepare the *Petition to Expunge* to file in the District Court

- Your Petition to Expunge must be filed in the District Court in the county where the arrest took place even if the court case was in a municipal or magistrate court.
- You may request expungement of multiple court cases and arrest records in the Petition to Expunge.
- You are the "Petitioner." At the top left corner of the petition form, enter your full name as Petitioner in the In re space provided.
- A case number will be assigned to your Petition to Expunge by the court clerk when you file it at the District Court.
- Check the boxes that apply and fill in all the necessary information in the blanks. Be as specific as possible.
- Attach all relevant documents relating to the arrest records and public records you are seeking to expunge. The District Court does not need every document related to the arrest or court case. However, the documents provided must support what you state in your Petition to Expunge.
- **Sign the Petition.** Your signature is an affirmation that all of the information contained in the petition is accurate to the best of your knowledge.

Step 3: Prepare:

Notice of Hearing

- Enter your full name as Petitioner in the In re space provided.

- Do not fill in anything about the time and location of the hearing. The time and location of any hearing will be provided by the court.

Order on Petition to Expunge Arrest Records and Public Records (Identity Theft)

- Enter your full name as Petitioner in the In re space provided.
- If there was a court case, fill in the blanks in paragraph #1. Take the information about the court case from your Petition to Expunge.
- For any arrest you seek to expunge, fill in the blanks in paragraph #2. Take the information about the arrest from your Petition to Expunge
- Fill in the blanks in paragraph #9. Except for the address of the court, the names and addresses will be those you listed in your Petition to Expunge. If there was a court case, you will need to get the address of that court so you can enter it in paragraph #9.
- The court will complete the rest of this form.

One (1) self-addressed, stamped envelope.

Step 3: File the *Petition to Expunge* in the District Court

- It costs \$132.00 to file your Petition to Expunge. The District Court can accept cash, cashier's check or money order only. No checks, debit cards or credit cards are accepted.
- If you are indigent and unable to pay the filing fee, you may apply for "free process." An application for free process is available at the Court or on the Court's website at <https://eleventhdistrictcourt.nmcourts.gov>. Complete this form and provide the necessary paperwork. Your application will be reviewed and you will be told whether or not you qualify for free process. If you are granted free process, you are not required to pay the filing fee.
- Give to the clerk:
 - The Petition
 - The Notice of Hearing that you have prepared
 - The Order on Petition to Expunge that you have prepared
 - A self-addressed stamped envelope
- Once your Petition to Expunge is filed, make a copy of the filed petition with all attachments for your records. (The court clerk can make copies for \$0.35 per page paid by cash, cashier's check or money order only. No checks, debit cards or credit cards are accepted. You can also make your own copies elsewhere.)

Step 5: The Court will review your Petition

- The Judge will now review your petition and the supporting documents. The judge may grant or deny the petition without a hearing. The envelope you provided will be used to mail you the Judge's order. The Judge may also choose to set a hearing using the form you provided. The Notice of Hearing will be sent to you using the envelope provided. You must go to the hearing.

Step 6: The hearing, if any

Be prepared for your hearing!

- Show up early for your hearing. More than one case may be scheduled at the same time.
- During the hearing, you may be asked questions about your Petition to Expunge and any objections to your Petition that may have been filed.

Step 7: After the hearing

After the hearing, the district court will either grant or deny the petition.

- The court has 60 days from the hearing to file a written order granting or denying the petition.
- The court may grant or deny the petition on the day of the hearing.
- If granted, the order will set forth the time period in which the records must be expunged.
- If denied, the matter will be closed.
- You may appeal the denial of your petition to the Court of Appeals.
- You might consider following up with all agencies to make certain that your expungement has taken effect.

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT COURT

In re _____,
Petitioner. No.D-1116-EX-_____

**PETITION TO EXPUNGE ARREST RECORDS AND PUBLIC RECORDS UNDER
SECTION 29-3A-3 NMSA 1978
(Identity Theft)**

Petitioner, unrepresented by counsel/ represented by counsel (select one),
under Section 29-3A-3 NMSA 1978, respectfully moves the Court to expunge the arrest
records and public records related to the cases/charges below.

1. Information about Petitioner:

Date of Birth: _____
Current Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Home Phone #: _____ Work Phone #: _____ Cell #: _____
Other names or aliases by which Petitioner has been known (include prior
names, nicknames, or aliases, especially if your arrest records may reflect a
different name):

2. Petitioner has no pending expungement cases in the Eleventh Judicial District.
 Petitioner has the following pending expungement cases in the Eleventh
Judicial District Court (provide expungement case numbers for any expungement
cases that may be currently pending before the Eleventh Judicial District Court):

3. Petitioner has never applied for expungement and been denied.
 Petitioner has applied for expungement and been denied in the following
expungement cases (provide the expungement case numbers): _____

4 As the result of identity theft, Petitioner has been improperly named in the
following criminal case or cases:
Case name: _____

Case number: _____
Date of filing: _____

Please attach copies of any records in your possession associated with this case.

5. Petitioner asks this Court for an Order to Expunge Arrest and Criminal Records for information in the custody of the following agencies:
[] District Court in the Eleventh Judicial District;
[] San Juan County Sheriff's Department;
[] District Attorney for the Eleventh Judicial District;
[] New Mexico Department of Public Safety;
[] Law Enforcement Agency (name of agency) _____;
[] Metropolitan/Magistrate/Municipal Court in _____ (location);
[] New Mexico State Police Investigations Bureau;
[] Other _____
6. The charges sought to be expunged were originally disposed of or originated in (select one)
[] District Court in the Eleventh Judicial District
[] Metropolitan Court in _____ (location)
[] Magistrate Court in _____ (location)
[] Municipal Court in _____ (location)
7. [] Petitioner wishes to attend any hearings in this matter by telephonic or other electronic means as provided for in Rule 1-077.1(J) NMRA.

SIGNATURE SECTION

I, Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that the statements herein are true and correct.

Printed name of Petitioner

Date

Signature of Petitioner

Mailing Address

Telephone Number

Email

Attorney Name (if applicable)

Date

Attorney Signature

Mailing Address

Telephone Number

Email

[Provisionally adopted by Supreme Court Order No. 21-8300-033, effective for all cases filed or pending on or after January 28, 2022.]

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT COURT

In re _____,
Petitioner. No.D-1116-EX-_____

4-960.1. Notice of hearing.

NOTICE OF HEARING

Petitioner may be entitled to expungement of arrest records or public records under the Criminal Record Expungement Act, Sections 29-3A-1 to -9 NMSA 1978. A hearing in this matter is set before the Honorable _____ as follows:

1. *Date of Hearing:* _____
2. *Time of Hearing:* _____
3. *Length of Hearing:* _____
4. *Place of Hearing:* _____

5. *Matter(s) to be heard:* _____

HONORABLE _____
By _____
TCAA

PARTIES ENTITLED TO NOTICE:

Petitioner Name

Petitioner Address

Petitioner Telephone Number

Petitioner Email Address

Name

Agency (if applicable)

Address

Telephone Number

Email Address

Name

Agency (if applicable)

Address

Telephone Number

Email Address

Name

Agency (if applicable)

Address

Telephone Number

Email Address

Name

Agency (if applicable)

Address

Telephone Number

Email Address

USE NOTES

For the purpose of this form, the parties entitled to notice include the petitioner and any party that filed and served objections to the petition for expungement pursuant to Rule [1-077.1\(G\)\(1\)](#) NMRA no later than sixty-three (63) days from the date of service. See Rule [1-077.1\(G\)\(1\)](#) (providing sixty (60) days for a party entitled to notice to file an objection); Rule [1-077.1\(E\)\(3\)](#) NMRA (providing for service by mail for actions filed pursuant to Rule [1-077.1](#)); Rule [1-006\(C\)](#) (providing for three (3) additional days where service is made by mail).

[Provisionally adopted by Supreme Court Order No. 21-8300-033, effective for all cases filed or pending on or after January 28, 2022.]

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT COURT

In re _____,
Petitioner.

No.D-1116-EX-_____

ORDER ON PETITION TO EXPUNGE NEW MEXICO
ARREST RECORDS AND PUBLIC RECORDS
(Identity Theft)

THIS MATTER came before the Court on Petitioner's Petition to Expunge New Mexico Arrest Records and Public Records (Identity Theft) pursuant to the Criminal Record Expungement Act, NMSA 1978 Sections 29-3A-4 to -7 (2019). The Court, having reviewed the Petition with attachments, other papers filed in this case, and having considered any evidence presented, now FINDS as follows:

1. Petitioner seeks to expunge arrest records and public records associated with the following criminal court case:

Name of Court: _____

Court case name: _____

Court case number: _____

Name of arresting law enforcement agency: _____

2. Petitioner seeks to expunge arrest records and public records associated with the following arrest:

Date of arrest: _____

Name of arresting law enforcement agency: _____

Law enforcement agency case number: _____

Arrest number and date from fingerprint card: _____

Date of arrest: _____

Name of arresting law enforcement agency: _____

Law enforcement agency case number: _____

Arrest number and date from fingerprint card: _____

Date of arrest: _____

Name of arresting law enforcement agency: _____

Law enforcement agency case number: _____

Arrest number and date from fingerprint card: _____

3. Venue is proper in this Court OR Venue is improper in this Court because the charges Petitioner seeks to expunge did not originate in this County.

4. A hearing was convened in this Court on _____ (date).

This Court CONCLUDES:

1. Petitioner's Petition is inadequate under the law and should be summarily denied without prejudice.

2. There is insufficient evidence to demonstrate that Petitioner was the victim of identity theft and the petition should be denied without prejudice.

3. Petitioner was not the victim of identity theft.

4. Petitioner was the victim of identity theft.

IT IS THEREFORE HEREBY ADJUDGED, ORDERED AND DECREED that, as to the arrest records and public records in the court case, if any, identified in the Petition and in Finding of Fact #1 of this Order and/or unprosecuted arrests also identified in the Petition and above:

1. Petitioner's Petition is summarily denied WITHOUT PREJUDICE.

2. Petitioner's Petition is DENIED on the merits as to all records sought to be expunged.

3. Petitioner's Petition is DENIED on the merits as to the following charges sought to be expunged. These charges are not expunged:

Name of offense: _____

Statute/ordinance number of offense: _____

Court case number, if any: _____

Name of arresting law enforcement agency: _____

Law enforcement agency case number: _____

Name of offense: _____

Statute/ordinance number of offense: _____

Court case number, if any: _____

Name of arresting law enforcement agency: _____

Law enforcement agency case number: _____

Name of offense: _____

Statute/ordinance number of offense: _____

Court case number, if any: _____

Name of arresting law enforcement agency: _____

Law enforcement agency case number: _____

4. Petitioner's Petition is GRANTED on the merits as to the following charges sought to be expunged. These convictions are expunged:

Name of offense: _____

Statute/ordinance number of offense: _____

Court case number, if any: _____

Name of arresting law enforcement agency: _____

Law enforcement agency case number: _____

Name of offense: _____

Statute/ordinance number of offense: _____

Court case number, if any: _____

Name of arresting law enforcement agency: _____

Law enforcement agency case number: _____

Name of offense: _____

Statute/ordinance number of offense: _____
Court case number, if any: _____
Name of arresting law enforcement agency: _____
Law enforcement agency case number: _____

5. Petitioner's Petition is GRANTED on the merits as to all charges sought to be expunged.

IT IS SO ORDERED. (District Court Judge's signature appears below)

IT IS THEREFORE THE FURTHER ORDER OF THE COURT that:

6. All arrest records and public records held by any New Mexico state or local governmental entity, whether executive, legislative or judicial, related to the court case and/or arrest records identified above as expunged are hereby expunged.
7. With the following exception, all New Mexico state or local governmental entities may properly reply to an inquiry from the public concerning the expunged records that "no such records exist with respect to" the Petitioner. They shall not release copies of any expunged records to any person except upon order of this Court.
8. Exception to expungement: New Mexico state or local governmental entities shall disclose• arrest and conviction records in response to a public inquiry regarding Petitioner's qualification for employment or association with any regulated financial institution or the securities and exchange commission.
9. The Court shall cause a copy of this Order to be delivered to:
- a) Name and address of arresting law enforcement agency:
- _____
- _____
- _____
- b) Name and address of the prosecuting attorney/entity, if any
- _____
- _____

c) Name and address of the court where charges were prosecuted, if any

d) Name and address of any other agency named in the Petition to Expunge

1,

10. The above New Mexico governmental entities shall expunge the necessary records within _____ days of the date of this Order.

11. Petitioner is responsible for delivering a copy of this Order to any other New Mexico state or local governmental entity, whether executive, legislative or judicial that may hold records that have hereby been expunged.

Date

District Court Judge