

GUIDELINES FOR PRESENTING EXPUNGEMENT PETITION
UNDER MCA §99-19-71

- (1) **MCA §99-19-71(2)(a):** Petition for Expungement may be filed in the Court in which the conviction was had, five (5) years after successful completion of all terms and conditions of the sentence for the conviction.

New felonies eligible for expungement:

- Bad Check (MCA §97-19-55)
- Possession of controlled substance or paraphernalia (MCA § 41-29-139(c) or (d))
- False Pretense (MCA §97-19-39)
- Larceny (MCA §97-17-41)
- Malicious Mischief (MCA §97-17-67)
- Shoplifting (MCA §97-23-93)

- (2) **MCA §99-19-71(2)(b):**

- The Petitioner shall give ten (10) days written notice to the District Attorney before any hearing on the petition.
- Granting or denying the petition for expungement is within the discretion of the court. The Court may grant the Petition if the Court determines, either on the record or in writing, that the Petitioner is rehabilitated from the offense which is the subject of the petition. (The Court interprets this to mean that the petitioner has rehabilitated his life and has become a productive citizen.)
- In those cases where the court denies the petition, the specific findings of the Court shall be identified, on the record or in writing.
- The burden of proof is on the petitioner to convince the court that the person has rehabilitated his life.

(3) The following is a list of information which the Court requires the petitioner to produce at the hearing:

- A sworn affidavit from the attorney for the petitioner to verify that the attorney has checked for arrests and convictions in the municipality and county of the petitioner. The affidavit must reveal the findings, including any pending charges that have yet to be indicted. (Including municipal and justice courts, circuit court, and local sheriff and police departments, EMDTF, MBN.)
- An affidavit from the petitioner stating that they have not used this procedure to procure any other expungement in any other felony cases, including cases under MCA §41-29-150.
- Any other pertinent information pertaining to the Petitioner, demonstrating to the Court that the petitioner has been rehabilitated; i.e. family, employment, etc.