

COURT OF COMMON PLEAS OF CLINTON COUNTY, PENNSYLVANIA

**Guidance for Filing for Expungement Pursuant to
Pennsylvania Rules of Criminal Procedure 319/320
(ARD Dismissal & Expungement):**

Note: This document is to be used as a guideline only and is not a substitute for trained legal counsel. The Court and its officers assume no liability for any inaccuracy of the information provided herein and such information is to be utilized at a Petitioner's own peril.

Explanation of Rule 319/320 ARD Dismissal and Expungement:

Rule 300, et seq., of the Pennsylvania Rules of Criminal Procedure governs the procedures of cases involving the Accelerated Rehabilitative Disposition (ARD) pretrial diversion program. Rules 319 and 320 of the Pennsylvania Rules of Criminal Procedure respectively provide for dismissal of charges and expungement of arrest records associated with an offense for which the Defendant has been placed on ARD and has successfully completed the requirements imposed under the program.

There are certain offenses for which ARD expungement is NOT available. These are set forth at 18 Pa.C.S. § 9122(b.1):

18 Pa.C.S.A. § 3121 (relating to rape)

18 Pa.C.S.A. § 3122.1 (relating to statutory sexual assault)

18 Pa.C.S.A. § 3123 (relating to involuntary deviate sexual intercourse)

18 Pa.C.S.A. § 3124.1 (relating to sexual assault)

18 Pa.C.S.A. § 3125 (relating to aggravated indecent assault)

18 Pa.C.S.A. § 3126 (relating to indecent assault)

18 Pa.C.S.A. § 3127 (relating to indecent exposure)

18 Pa.C.S.A. § 5902(b) (relating to prostitution and related offenses)

18 Pa.C.S.A. § 5903 (relating to obscene and other sexual materials and performances)

If you have been admitted to the ARD program for an offense, other than the above-listed offenses set forth at 18 Pa.C.S. § 9122(b.1), and you have successfully completed all of the terms and conditions Ordered as part of the ARD program, the charges against you may be dismissed and the arrest and court records relating to the criminal offense expunged

However, please note that: 18 Pa.C.S. § 9122(c) provides "Notwithstanding any other provision of this chapter, the prosecuting attorney and the central repository shall, and the court may, maintain a list of the names and other criminal history record information of persons whose records are required by law or court rule to be expunged where the individual has successfully completed the conditions of any pretrial or post-trial diversion or probation program

or where the court has ordered expungement under this section. Such information shall be used solely for the purposes of determining subsequent eligibility for such programs, identifying persons in criminal investigations or determining the grading of subsequent offenses. Such information shall be made available to any court or law enforcement agency upon request.”

Instructions for Completing and Filing Rule 319/320 ARD Expungement Packet:

1. On the first page of the ARD Dismissal/Expungement packet, fill in name of Defendant/ Petitioner on the line indicated.
2. Beneath where it states “A.K.A. (provide any aliases below)” provide any aliases or nicknames Defendant/ Petitioner goes by or went by in the past.
3. Complete each and every piece of requested information on the right hand side of the first page of the packet. This is the first page of the Form Order the Court will sign to Order the Expungement of your charges. Every piece of information must be provided. Where you have been charged with more than one offense in the criminal charging instrument (the citation or complaint), you must list every charge you want to have expunged. The Administrative Offices of Pennsylvania Courts may view the Expungement Order as accomplishing only a partial expungement where each and every charge is not specifically and individually listed. This means that no language such as “et al,” “etc,” or its equivalent should be used, but rather, you must specifically list each and every charge to be expunged.
4. On the second page of the packet, under where it says “Order,” fill in the name of Defendant/ Petitioner where indicated and list Defendant/Petitioner’s current address where indicated. In paragraph 3 of the Form Order, fill in the date upon which the incident leading to the filing of charges occurred.
DO NOT FILL IN THE DATE at the top of the page following the language “AND NOW”. The Court will fill in that date when it issues the Order.
5. The fourth page of the packet provided is the Petition for Dismissal of Charges and Expungement of Arrest Records. List Defendant/Petitioner’s name in the caption at the top of the page, also in the criminal docket number in the top right next to “No _____.” Next, list Defendant/Petitioner’s name again before “respectfully represents:” and circle whether the Petition is being filed by an attorney or pro se (by yourself). Then, list the date Defendant was accepted into the ARD program. Defendant/Petitioner’s attorney or Defendant/Petitioner himself or herself, if pro se, should sign the line at the bottom of the Petition. Below the signature line, circle either “Attorney for Petitioner” or “Petitioner Pro Se.”
6. The last page of the packet contains blank fields which must be completed prior to filing the completed packet with the Clerk of Courts. Fill in the criminal docket number in the top right next to “No. _____.” Fill in Defendant/Petitioner’s Name under where indicated. Defendant/Petitioner must sign and date the **bottom** of this page, verifying that the statements made in the Petition are true and correct.
7. Petitioner should then submit the entire packet to Clinton County Adult Probation Services. A representative of Clinton County Adult Probation will sign and date the form, certifying that Defendant/Petitioner has satisfactorily completed the ARD program. Clinton County Adult Probation will then forward this packet to the Clinton County District Attorney. The District Attorney will sign and date the form if he/she has no objection to either the dismissal of charges or expungement of arrest record. The District

Attorney will then return the packet to Defendant/Petitioner to file with the Clerk of Courts.

8. File the Original packet, along with seven (7) copies of the completed packet, with the Clinton County Clerk of Courts. There will be a filing fee associated with this, please remember to bring cash or check at the time of filing.

NOTE: In the event that the District Attorney does not sign the last page of this packet and waive the 30-day objection period, the District Attorney must be served with a time-stamped copy of the Petition which has been filed with the Clerk of Courts. It is your responsibility to serve the District Attorney with a copy of the Petition AFTER filing it with the Clerk of Courts. The district attorney will then have thirty (30) days to object from the date you served him with a copy of the Petition. If no such objections are filed within that time, the Court shall grant dismissal of the charges and expungement of the arrest record. If objections are filed, a hearing will be scheduled and all parties will have an opportunity to be heard.

ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of the within Petition to Dismiss and to Expunge Criminal Record and the accompanying court file and upon motion of _____,
(Name of Petitioner/Petitioner's Attorney)

for Defendant/Petitioner, who currently resides at the following address,

(Address of Petitioner)

with the agreement of the Clinton County District Attorney, and with the Certification of the Adult Probation Office, IT IS HEREBY ORDERED as follows:

1. That the charges pending against the Petitioner are dismissed by reason of defendant's successful completion of the Accelerated Rehabilitative Disposition. (ARD) program and the payment of all fines, costs and/or restitution.
2. All criminal history record information, including fingerprint records but excluding those public records listed in Section 9104(a)-(b) of the Criminal History Record Information Act of 1979 as amended 1982, and those records required to be maintained by the prosecuting attorney and central repository under 18 Pa.C.S.A. 9122(c) are hereby ordered to be expunged.
3. (Where applicable) The City Manager of the City of Lock Haven or other appropriate municipal official is hereby directed to destroy all the records in the files of the appropriate Municipal Police Department pertaining to the arrest of Defendant for an incident alleged to have occurred on _____, including
(date of incident leading to ARD)
fingerprint information except for those items listed in 18 Pa.C.S.A. 9104(a).
4. The Commissioner of the Pennsylvania State Police is directed to destroy all the records in the files of the Pennsylvania State Police pertaining to the arrest of Defendant held by the Federal Bureau of Investigation or any other police agency to which said records have been forwarded, except those records required to be maintained under 18 Pa.C.S.A. 9122(c), and those excluded by 18 Pa.C.S.A. 9104(a), upon receipt of which he will destroy the same.
5. The appropriate District Judge, Pennsylvania State Police, Lock Haven City Police or other appropriate Municipal Police Department and the Clerk of Courts are ordered to file an Affidavit within thirty (30) days that such records have been expunged or destroyed, together with the Expungement Order and to retain no copies thereof.

6. The Clerk of Courts is ordered to notify the Central Repository (as defined by 18 Pa.C.S.A. 9102) the Pennsylvania State Police; the Lock Haven City Police or other appropriate Municipal Police Department, the appropriate District Judge Office and the District Attorney that Defendant's record was expunged pursuant to Pa. R.Crim.P. Rule 320 Expungement upon Successful Completion of ARD Program and 18 Pa.C.S.A. 9122(d).

BY THE COURT:

J.

Certified copies shall be served upon the following:

Municipal Police Department
Central Repository
Pennsylvania State Police
District Judge
District Attorney
Defendant's Counsel **or** Petitioner, if Pro Se
Clinton County Adult Probation
Administrative Office of Pennsylvania Courts

