

## FORM SUMMARY

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| <b>Name of Form:</b>          | <b>Petition to Expunge Court Record of Adjudication/Recommendation of District Attorney</b>   |
| <b>Form Number:</b>           | <b>JD-1780</b>  |
| <b>Statutory Reference:</b>   | 938.355(4m), Wisconsin Statutes   |
| <b>Benchbook Reference:</b>   | JV 11 & 12  |
| <b>Purpose of Form:</b>       | To provide a standardized form for requesting expunction of the court record of the adjudication. It also provides a means for the district attorney to make a recommendation on the petition prior to filing with the court.   |
| <b>Who Completes It:</b>      | The party seeking the expungement will complete the top portion. That person would then transmit it to the district attorney for review and recommendation before filing with the court.  |
| <b>Distribution of Form:</b>  | Original is filed with the court. The person requesting the expungement may also wish to retain a copy, as may the district attorney.   |
| <b>Accompanying Forms:</b>    | Generally none.   |
| <b>New Form/Modification:</b> | Modified; last update 05/03.  |
| <b>Modifications:</b>         | Added lines for address and phone number under signature area.<br>Updated notary signature area.  |
| <b>Comments:</b>              | <p>A juvenile adjudicated delinquent after reaching age 17 may petition the court to expunge the record of the adjudication. The court may expunge the court's record of the adjudication if it finds that:</p> <ul style="list-style-type: none"><li>• the provisions of the dispositional order have been satisfactorily completed; and,</li><li>• the juvenile will benefit; and,</li><li>• society will not be harmed by the expungement.</li></ul> <p>To clarify what the current legal interpretation of what expunction means, paragraph one states in a bulleted format the actual effect of expunction. An issue may develop over the breadth of expunction. The statute refers merely to the "court's record of the juvenile's adjudication." Does the expunction order cover the entire record, including the petition, etc., or does everything else remain on file</p> |

except for the dispositional order? In the adult criminal code, the language of expunction is significantly different:

"...the court may order ... that the record be expunged..."  
(§973.015)

RMC has interpreted the adult expunction to refer to the entire record. RMC does not believe this broad interpretation can be applied to the juvenile code because of the limiting language. In juvenile matters, *only the record of the adjudication* is expunged. This would include:

- the dispositional order (which is the formal document of adjudication),
- minutes of the adjudication hearings,
- court reports prepared for disposition,
- extensions/revisions/changes of placement that refer to the adjudication, and,
- other documents which refer to the adjudication.

Although the statute does not provide any particular procedure to be followed, RMC believed it appropriate to place the burden on the petitioner to first obtain a recommendation from the district attorney as a representative of the public. If the district attorney does not oppose the recommendation, the court may choose to approve the petition without a hearing. If the district attorney opposes the recommendation, several alternatives may occur:

- the petitioner may decide not to file the petition;
- the court may choose to approve the petition notwithstanding the district attorney's objection;
- the court may schedule a hearing.

**About this Form:**

This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference.

**If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.**