

Application for Destruction of Records, Restoration of Civil Rights, etc. Instructional Materials

GENERAL INSTRUCTIONS:

1. **Read all materials** prior to filing to determine if you meet the statutory requirements for the request you are making.
2. Complete the affidavit and application form **legibly** using **BLACK INK**.
3. Sign the application after completing the form. **NOTE:** By signing the application, you are stating that the information is **true** under **penalty of perjury**.
4. **You must file the original and two (2) copies** of the application, affidavit and order with the Cochise County Clerk of the Superior Court, Juvenile Division, 100 Colonia de Salud, Sierra Vista, AZ 85635.
 - ◆ Copies can be purchased from the Clerk of the Court for 50 cents per page.
 - ◆ Pursuant to A.R.S. §§ 8-348(A), 8-349(B),(D) and 13-912.01(B), the County Attorney shall be served with a copy of the Application for Destruction of Records and may file an objection to the destruction of your juvenile records. The Clerk of the Court will serve the County Attorney.
5. Make or purchase a copy of the affidavit and application before filing if you want one for your records.

STATUTORY REQUIREMENTS

Restoration of civil right to possess a firearm pursuant to A.R.S. § 13-912.01:

If your adjudication was for a **felony offense** other than one of the felonies listed below (or for a misdemeanor between July 17, 1994 and September 21, 2006), you will be eligible to file for the restoration of the right to possess or carry a gun or firearm **two years after being released from probation** (you must wait 2 years after your release from probation).

If you were adjudicated delinquent for **burglary** in the first or second degree, **arson**, a **dangerous offense** (below), a **serious offense** (below), you may not apply until you reach **age 30**.

A.R.S. § 13-105(13): “Dangerous offense” means an offense involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another.

A.R.S. § 13-706(F)(1): “Serious offense” means any of the following offenses:

- First or second degree murder, or manslaughter.
- Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
- Sexual assault, or Sexual conduct with a minor under fifteen years of age.
- Any dangerous crime against children.
- Arson of an occupied structure.
- Armed robbery.
- Burglary in the first degree.
- Kidnapping.
- Child prostitution.

STATUTORY REQUIREMENTS

Destruction of Juvenile Records: Destruction of records means your *court* records are *physically destroyed*. You may be able to apply to have your records destroyed as soon as you turn 18 if your juvenile adjudications were most (not all) misdemeanors or less serious felonies. For the more serious felony adjudications (and certain misdemeanors), you will need to wait until you are age 25.

Pursuant to A.R.S. § 8-349(B) (most misdemeanors and less serious felonies): You may apply for destruction of your juvenile records **IF** the records concern a referral or citation that did not result in further action or that resulted in diversion, placement in a community based alternative program or an adjudication for an offense *other than* one of the offenses listed below and you can certify under oath that all of the following facts are true:

1. You are at least 18 years of age; *and*
2. You have not been **convicted** of a felony offense (in an **adult court**); *and*
3. A **criminal charge is not pending** against you in an adult court; *and*
4. You have **successfully completed** all of the conditions of court-ordered **probation**, OR you have received an absolute discharge from the Arizona Department of Juvenile Corrections pursuant to A.R.S. § 41-2820 on successful completion of an individualized treatment plan; *and*
5. All **restitution and monetary assessments** have been **paid in full**; *and*
6. You have not been adjudicated delinquent (in juvenile court) for an offense listed in Title 28 Chapter 4 (DUI) or A.R.S. 13-501 subsection A or B (see below).

A.R.S. § 13-501(A)

13-1105	First degree murder.
13-1104	Second degree murder.
13-1406	Forcible sexual assault.
13-1904	Armed robbery.
13-1204(A)(1)	Aggravated assault / serious injury
13-1204(A)(2)	Aggravated assault / deadly weapon.
13-1209	Drive by shooting.
13-1211	Discharging a firearm at a structure.

Any felony offense committed by a chronic felony offender.

A.R.S. § 13-501(B)

- Any class 1 felony.
- Any class 2 felony.
- A class 3 felony in violation of any offense in chapters 10 – 17, 19 or 23 of Title 13. (Includes most crimes *except* theft, forgery and Fraud.)
- A class 3, 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
- Any felony offense committed by a chronic felony offender.

STATUTORY REQUIREMENTS

Destruction of Juvenile Records pursuant to A.R.S. § 8-349(D) (continued) (you may not apply until age 25 for serious felonies):

If you are ineligible to apply for the destruction of your juvenile delinquency records under A.R.S. § 8-349(B) (above), you may apply to have your juvenile delinquency records destroyed when you turn 25 years of age IF you can certify under oath that all of the following facts are true:

1. You are at least **25 years of age**; *and*
2. You have not been **convicted** of a felony offense (in **adult court**); *and*
3. A **criminal charge is not pending** against you in an adult court; *and*
4. You have **successfully completed** all of the conditions of court-ordered **probation**, or you have received an absolute discharge from the Arizona Department of Juvenile Corrections pursuant to A.R.S. § 41-2820 on successful completion of an individualized treatment plan; *and*
5. **All restitution and monetary assessments** have been **paid in full**.

Setting Aside your Adjudication (A.R.S. § 8-348): When your adjudication is set aside, you are released from all penalties and disabilities resulting from the adjudication except those imposed by the department of motor vehicles (e.g., the loss of your license). However, the adjudication may be used for any purpose as provided in section 8-207 or 13-501 (for example, it can be used in any criminal or juvenile case).

You may apply to have your juvenile adjudication set aside if all of the following apply:

1. You are at least 18 years of age; *and*
2. You have not been **convicted** of any criminal offense in an **adult court**; *and*
3. You do not have a **criminal charge pending** in an adult court; *and*
4. You have **successfully completed** all of the conditions of court-ordered **probation** or the applicant has received an absolute discharge from the Arizona Department of Juvenile Corrections pursuant to A.R.S. § 41-2820 on successful completion of an individualized treatment plan; *and*
5. **All restitution and monetary assessments** have been **paid in full**; *and*
6. The offense you are seeking to set aside is not one of the **excluded offenses** identified in A.R.S. § 8-348(D) (see below).

A.R.S. § 8-348(D): You may NOT apply to have the adjudication set aside if the adjudication involved any of the following:

- An offense involving the infliction of serious physical injury as defined in § 13-105.
- An offense involving the use or exhibition of a deadly weapon or dangerous instrument as defined in § 13-105.
- An offense in violation of title 13, chapter 14 (sex offense).
- An offense in violation of § 28-1381, 28-1382, 28-1383 or 28-3473 (DUI or suspension of driver's license).
- A civil traffic violation under title 28, chapter 3.

**SUPERIOR COURT OF ARIZONA
IN AND FOR COCHISE COUNTY JUVENILE COURT**

IN THE MATTER OF:

JV _____
(if applicable)

(Applicant's Name)

APPLICATION FOR DESTRUCTION
OF JUVENILE DELINQUENCY RECORDS,
SETTING ASIDE ADJUDICATION, and/or
RESTORATION OF CIVIL RIGHTS

Last Name

First Name

Middle Name

Street Address

City, State

Zip Code

Mailing Address (if different)

City, State

Zip Code

Phone Number: () ____ - ____

Alternate Phone Number: () ____ - ____

Date of Birth: _____

Email address: _____

I hereby apply for relief as indicated below:

Restoration of Civil Rights under A.R.S. § 13-912.01:

I request the court restore my civil right to carry or possess a gun or firearm pursuant to A.R.S. § 13-912.01. I certify that the following statement is true (*choose only one*):

It has been at least two years since I was discharged from probation after being adjudicated delinquent, and I have not been adjudicated delinquent for a dangerous offense under A.R.S. § 13-704, a serious offense as defined in A.R.S. § 13-706, burglary in the first degree, burglary in the second degree, or arson (see page 1 of informational sheet for description of excluded offenses).

OR

I have reached age 30.

Destruction of Records under A.R.S. § 8-349(B):

- I request the destruction of juvenile records (including Arizona Department of Juvenile Corrections records) pursuant to A.R.S. § 8-349(B) and certify under oath that **all** of the following are true:
 - I am at least 18 years of age; *and*
 - I have not been convicted of a felony offense (in an adult court) or adjudicated delinquent (in juvenile court) for an offense listed in A.R.S. § 13-501(A) or (B) (see page 2 of the informational sheet) or Title 28 Chapter 4 (DUI); *and*
 - A criminal charge is not pending against me in an adult court; *and*
 - I have successfully completed all of the conditions of court-ordered probation, OR I have received an absolute discharge from the Arizona Department of Juvenile Corrections pursuant to A.R.S. § 41-2820 on successful completion of my individualized treatment plan; *and*
 - All restitution and monetary assessments have been paid in full.

- OR -

Destruction of Records under A.R.S. § 8-349(D):

- I request the destruction of juvenile records (including Arizona Department of Juvenile Corrections records) pursuant to A.R.S. § 8-349(D) and certify under oath that **all** of the following are true:
 - I am at least 25 years of age; *and*
 - I have not been convicted of a felony offense (in adult court); *and*
 - A criminal charge is not pending against me in an adult court; *and*
 - I have successfully completed all of the conditions of court-ordered probation, or I have received an absolute discharge from the Arizona Department of Juvenile Corrections pursuant to A.R.S. § 41-2820 on successful completion of my individualized treatment plan; *and*
 - All restitution and monetary assessments have been paid in full.

Set Aside under A.R.S. § 8-348:

Pursuant to A.R.S. § 8-348, I request the Court to set aside the adjudication(s) on the petition(s) filed on _____ and that I be released from all penalties and disabilities resulting from that adjudication, except those imposed by the Department of Transportation pursuant to A.R.S. §§ 28-3304, 28-3306, 28-3307, or 28-3308 (involving suspension revocation of license or order to attend traffic school).

(**Note:** Enter specific date(s). Requests to set aside “ALL” adjudications will be denied.)

I Certify that **all** of the following are true:

- I am at least 18 years of age; *and*
- The adjudication did not involve an **excluded offense** listed in A.R.S. § 8-348(D):
 - ◆ An offense involving the infliction of serious physical injury as defined in § 13-105.
 - ◆ An offense involving the use or exhibition of a deadly weapon or dangerous instrument;
 - ◆ An offense in violation of title 13, chapter 14 (sex offense);
 - ◆ An offense in violation of section 28-1381, 28-1382, 28-1383 (involving any DUI) or 28-3473 (involving the suspension of your driver’s license);
 - ◆ A civil traffic violation under title 28, chapter 3; *and*
- I have not been convicted of any criminal offense in an adult court; *and*
- I do not have a criminal charge pending in an adult court; *and*
- I have successfully completed all of the conditions of my court-ordered probation or I have received an absolute discharge from the Arizona Department of Juvenile Corrections pursuant to A.R.S. § 41-2820 on successful completion of my individualized treatment plan; *and*
- All restitution and monetary assessments have been paid in full.

I am submitting this application on my own behalf.

I am submitting this application on behalf of the person listed above as his/her attorney or as his/her probation officer and his/her written authorization is attached to this application.

Signing this form is a statement to the court that the foregoing information is true and correct to the best of your knowledge and belief and you so certify **under the penalty of perjury.**

Signature

Date

**SUPERIOR COURT OF ARIZONA
IN AND FOR COCHISE COUNTY JUVENILE COURT**

IN THE MATTER OF:

JV _____

ORDER

An Application for Destruction of Records, Setting Aside Adjudication and/or Restoration of Civil Rights having been submitted by Petitioner,

IT IS ORDERED as follows:

- ___ The Application for **Restoration of Civil Rights** is GRANTED and the Petitioner's right to possess or carry a gun or firearm is hereby RESTORED.
- ___ The Application for **Restoration of Civil Rights** is DENIED.

- ___ The Court having found that the Petitioner has met the statutory requirements for the destruction of his/her records, and that the destruction of such records is in the interests of justice and would further the rehabilitative process of the applicant, the **Application for Destruction of Records** is hereby GRANTED.
- ___ The **Application for Destruction of Records** is DENIED.

- ___ The Application to **Set Aside the Adjudication** on Petition(s) _____ filed on _____, is GRANTED and the Petitioner is hereby released from all penalties and disabilities resulting from the adjudication *except* those imposed by the department of transportation pursuant to sections 28-3304, 28-3306, 28-3307 and/or 28-3308. (However, the adjudication may be used for any purpose as provided in section A.R.S. §§ 8-207 and 13-501.)
- ___ The Application to **Set Aside the Adjudication** on Petition(s) _____ filed on _____, is DENIED.

IT IS FURTHER ORDERED: _____.

DONE this _____ day of _____, 20____,

JUDGE OF THE SUPERIOR COURT

Mailed/Distributed: _____ (date) _____ (initials)

- xc: ___ County Attorney's Office
 ___ Juvenile Probation Office
 ___ Applicant