

**Information and Instructions for Petition for Expungement of DNA Profiles and Samples:**

NOTE: Clerks cannot advise or render assistance in the completion of this petition.

**Pursuant to Penal Code § 299 (c)(1): The person requesting the data bank entry to be expunged must send a copy of his or her request to the trial court of the county where the arrest occurred, or that entered the conviction, or rendered the disposition in the case, to the DNA Laboratory of the Department of Justice, and to the prosecuting agency of the county in which he or she was arrested, or convicted or adjudicated, with proof of service on all parties. The court has the discretion to grant or deny the request for expungement. *The denial of a request for expungement is a nonappealable order and shall not be reviewed by petition for writ.***

1. Complete the **Petition for Expungement of DNA Profiles and Samples (Pen. Code, § 299) form CR-185/JV-796** and the top portion of the **Order for Expungement of DNA Profiles and Samples (Pen. Code, § 299) form CR-186/JV-798** (*Incomplete forms will not be filed and will be returned for correction.*)
2. Prior to filing your petition, you must contact the clerk's office to obtain a tentative hearing date. For Madera Criminal Cases contact the Madera Superior Court Calendar Division at 559-416-5540.
3. Place the hearing date on page one of your petition and make 3 copies of the petition and order for filing.
4. The original petition and 3 copies of the petition and order must be filed at the clerk's office at least 180 days prior to your hearing date. (1 copy for you, 1 copy for DA, 1 copy for DOJ)
  - a. **The hearing date will not be set on the Court's Calendar until the documents are filed.**
  - b. Madera county criminal cases are to be filed at the Criminal Division (2<sup>nd</sup> floor) of the Madera Superior Court – 200 South G Street, Madera, CA 93637.
5. A conformed copy of the petition must be served upon the offices of the District Attorney and the DNA Laboratory of the California Department of Justice.
  - a. Service may be affected by mail or personal delivery.
    - i. Personal Service must be affected by someone other than yourself and by someone who is 18 years of age or older.
  - b. The address to the two agencies are as follows:

**Madera County District Attorney  
209 W. Yosemite Avenue  
Madera, CA 93637**

**Department of Justice  
Jan Bashinski DNA Laboratory  
CAL-DNA Data Bank Program  
1001 West. Cutting Blvd, Ste. 110  
Richmond, CA 94804  
Attn: Linton von Beroldingen**

6. When Service has been affected upon the agencies a Proof of Service must be filed with the Court. A Proof of Service form is included in this packet (Local Form MAD-CRM-021).
7. You must be either personally present or represented by counsel at the hearing date or your request may be denied or taken off calendar.
8. After attending the hearing, if the Court granted your petition, you will be mailed two certified copies of the **Order for Expungement of DNA Profiles and Samples (Pen. Code, § 299)**. It is your responsibility to forward a certified copy to the California Department of Justice at the following address:

**Department of Justice  
Jan Bashinski DNA Laboratory  
CAL-DNA Data Bank Program  
1001 West. Cutting Blvd, Ste. 110  
Richmond, CA 94804  
Attn: Linton von Beroldingen**

ATTORNEY OR PETITIONER WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): <b>In Pro Per</b>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MADERA</b> STREET ADDRESS: <b>200 South G Street</b> MAILING ADDRESS: <b>same</b> CITY AND ZIP CODE: <b>Madera, CA 93637</b> BRANCH NAME: <b>Criminal Division</b>	Court or Arresting Agency Case Number: _____
<b>PETITION FOR EXPUNGEMENT OF DNA PROFILES AND SAMPLES (Pen. Code, §299)</b>	
NAME:  CII:  DRIVER'S LICENSE #:  SSN # (Last four digits only):  DATE OF BIRTH:	<b>PETITIONER'S INFORMATION</b>

**PETITION**

1. Petitioner has been included in the California Department of Justice's DNA and Forensic Identification Database and Data Bank Program as required by Penal Code section 296.
2. No past or present offense or pending charge qualifies petitioner for inclusion in the California Department of Justice's DNA and Forensic Identification Database and Data Bank Program, nor is there any legal basis for the continued retention of petitioner's specimen, sample, or searchable profile.
3. Petitioner requests that the California Department of Justice destroy petitioner's DNA sample or specimen, or both, and expunge petitioner's searchable DNA database profile as provided for in Penal Code section 299 on the following grounds (check one):
  - a.  No qualifying charges were filed within the applicable period allowed by law following petitioner's arrest.
  - b.  The qualifying charges were dismissed before adjudication.
  - c.  The qualifying conviction has been reversed and the case dismissed.
  - d.  Petitioner has been found factually innocent of the qualifying offense under Penal Code section 851.8 or Welfare and Institutions Code section 781.5.
  - e.  Petitioner was acquitted or found not guilty of the qualifying offense.
  - f.  Petitioner's previously sustained delinquency petition alleging an offense that would be a felony if committed by an adult has been reversed and dismissed.
4. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: \_\_\_\_\_ at \_\_\_\_\_, California.  
(DATE) (CITY)

\_\_\_\_\_  
(PETITIONER'S SIGNATURE)

\_\_\_\_\_  
(PETITIONER'S ADDRESS) (CITY) (STATE) (ZIP CODE)

**ADDITIONAL INSTRUCTIONS:** Penal Code section 299(c)(1) requires petitioner to send a copy of this petition to the DNA Laboratory of the California Department of Justice, and the trial court and prosecuting attorney of the county where petitioner was arrested, convicted, adjudicated, or had the disposition rendered, and to provide the court with proof of service on all parties.

ATTORNEY OR PETITIONER WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): <b>In Pro Per</b>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MADERA</b> STREET ADDRESS: <b>200 South G Street</b> MAILING ADDRESS: <b>same</b> CITY AND ZIP CODE: <b>Madera, CA 93637</b> BRANCH NAME: <b>Criminal Division</b>	Court or Arresting Agency Case Number: _____
<b>ORDER FOR EXPUNGEMENT OF DNA PROFILES AND SAMPLES (Pen. Code, § 299)</b>	
NAME: CII: DRIVER'S LICENSE #: SSN # (Last four digits only): DATE OF BIRTH:	<b>PETITIONER'S INFORMATION</b>

**ORDER**

- The court denies the petition.
- The court grants the petition and orders that petitioner's DNA specimen and sample be destroyed and petitioner's searchable database profile be expunged from the California Department of Justice's DNA and Forensic Identification Database and Data Bank Program as required by Penal Code Section 299. Additionally, the court finds (a) that petitioner has made the necessary showing at a noticed hearing, (b) no retrial or appeal of the qualifying case (if any) is pending, (c) at least 180 days have passed since petitioner notified the prosecuting attorney and the Department of Justice of petitioner's request for expungement, and (d) the court has not received an objection from the Department of Justice or the prosecuting attorney. (Pen. Code, §299(c)(2).)

**FOR COURT USE ONLY**

Date: \_\_\_\_\_  
(JUDICIAL OFFICER)

**ADDITIONAL INSTRUCTIONS:**  
 As required by Penal Code section 299(c)(2), the California Department of Justice must destroy petitioner's specimen and sample and expunge petitioner's searchable DNA database profile on receipt of this court order, which must also include the written petition for expungement, proof of written notice of the petition to the California Department of Justice and the prosecuting attorney, and one of the following:

- a. A certified copy of the court order reversing and dismissing the conviction or case; or
- b. A letter from the prosecuting attorney certifying that:
  - (1) no accusatory pleading has been filed;
  - (2) the qualifying charges have been dismissed before adjudication;
  - (3) petitioner has been found factually innocent;
  - (4) petitioner has been found not guilty;
  - (5) petitioner has been acquitted of the underlying offense;
  - (6) the qualifying conviction has been reversed and the case dismissed; or
  - (7) the qualifying sustained delinquency petition has been reversed and the case dismissed.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF MADERA</b> 200 South G Street Madera, CA 93637 Criminal Division	
PEOPLE OF THE STATE OF CALIFORNIA  VS.  DEFENDANT: _____	
<b>PROOF OF SERVICE</b> <input type="checkbox"/> <b>PERSONAL SERVICE</b> <input type="checkbox"/> <b>SERVICE BY MAIL</b>	
CASE NUMBER: _____	

**This is a proof of service of a Petition for Expungement of DNA Profiles and Samples Penal Code § 299**

**DIRECTIONS:** A copy of the Petition must be served upon the District Attorney who prosecuted your case AND to the DNA Laboratory of the California Department of Justice (DOJ). After the petition has been served, the original and a copy of this form (Proof of Service) must be filed with the court.

1. Person serving. I am over the age of 18 and not a party to this action.

Name: \_\_\_\_\_  
 Address \_\_\_\_\_

Telephone: \_\_\_\_\_

2. I served a copy of the Petition for Expungement of DNA Profiles and Samples Penal Code § 299 as follows:  
 (check either *a* or *b* below):

a.  **Personal Service:**  
 to the person or agency at the address listed below:

- (1) Name of person or agency served:
- (2) Address where served:

- (3) Date served:
- (4) Time served:

b.  **Service by mail:**  
 in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

- (1) Name of person or agency served:
- (2) Address:

- (3) Date of mailing:
- (4) Place of mailing (city and state):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*(Type or print name)*

\_\_\_\_\_  
*(Signature)*