

# Clean Slate Pratt Project

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This project is a partnership between the Pratt County Court, Pratt County Attorney, Pratt Municipal Court, and Pratt Municipal Attorney.

***Disclaimer: This is an educational presentation on expungement for general information purposes. For specific advice on individual matters, you should consult an attorney.***

# What *is* an Expungement?

- ▶ Expungement: the removal of an arrest or conviction from a person's criminal record. (Black's Law Dictionary (9<sup>th</sup>))
- ▶ When a person's record is expunged, no information related to the arrest or conviction may be disclosed, with certain exceptions.



# An Expunged Arrest or Conviction Can Still Be Disclosed Upon Request By:

- ▶ You
- ▶ A court, upon showing of a subsequent conviction
- ▶ Specific employers for job interviews (private detective, Department of Children and Families, Kansas Lottery, Kansas Racing Commission)
- ▶ The Kansas Sentencing Commission
- ▶ Anyone given permission in the court order

# Types of Expungements

- ▶ Arrest Records
- ▶ Juvenile Adjudications
- ▶ Criminal Convictions or Diversions
  
- ▶ **Note:**
  - ▶ **The biggest hurdles are unpaid fines and registration requirements**

# Arrest Records (no conviction)

Only granted when one of the four is true:

1. Arrest due to a mistaken identity
2. No probable cause was found for arrest
3. Defendant found not guilty in proceedings
4. When in the best interests of justice and charges are dismissed or not likely to be filed

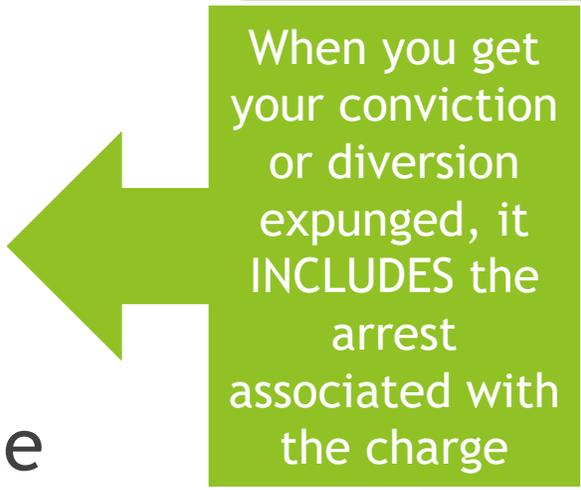
**\*\*Any arrest can be expunged if the criteria are met.\*\***

There is no time limit on when an arrest can be expunged if the criteria are met.

# Conviction or Diversion Expungement:

If your conviction qualifies, you can petition the Court for an expungement and expungement will be granted *if the following conditions are met*:

- ▶ You have not been convicted of a felony in the past 2 years and no such proceeding is pending;
- ▶ Your circumstances and behavior warrant the expungement; and
- ▶ The expungement is consistent with the public welfare.
- ▶ **MUST HAVE FINES PAID**



When you get your conviction or diversion expunged, it **INCLUDES** the arrest associated with the charge

# Criminal Conviction Wait Time:

If it has been more than **3 years** since your sentence was satisfied or you were discharged from post-release supervision then the following convictions can be expunged:

- ▶ Traffic infractions
- ▶ Cigarette or tobacco infractions
- ▶ Misdemeanors
- ▶ Class D or E felonies
- ▶ And for crimes committed on or after July 1, 1993:
  - ▶ Any non-drug crimes ranked in severity levels 6 through 10
  - ▶ Any drug crimes ranked in severity level 5 (sometimes 4)

# Criminal Conviction Wait Time:

If it has been more than **5 years** since your sentence was satisfied or you were discharged from post-release supervision then the following convictions can be expunged:

- ▶ Class A, B, or C felony
- ▶ Off-grid felony
- ▶ Severity level 1-5 non-drug felony
- ▶ Severity level 1-3 drug crime (sometimes 4)
- ▶ Vehicular homicide
- ▶ Driving while cancelled/suspended/revoked
- ▶ Perjury
- ▶ Applying for title of motor vehicle under false name/address
- ▶ Any crime punishable as felony where motor vehicle used
- ▶ Failing to stop at scene of accident
- ▶ Failing to have motor vehicle insurance

# DUI Convictions

► As of July 1, 2017 (HB 2085):

Year of Conviction	Wait time
Prior to June 30, 2006	5 years (K.S.A. 21-4619(b)(2))
July 1, 2006-June 30, 2014	5 years first conviction, 10 years second or subsequent (K.S.A. 21-6614(d)(1) or (2))
July 1, 2014-June 30, 2015	5 years for first conviction, 7 years or second or subsequent (K.S.A. 21-6614(d)(3))
July 1, 2015-present	5 years first conviction, 10 years second or subsequent (K.S.A. 21-6614(d)(1) or (2))

# NOT Expungeable:

## Criminal Convictions that CANNOT be Expunged:

- ▶ Rape
- ▶ Indecent Liberties with a child
- ▶ Aggravated indecent liberties with a child
- ▶ Criminal sodomy
- ▶ Aggravated criminal sodomy
- ▶ Indecent solicitation of a child
- ▶ Aggravated incest
- ▶ Endangering a child
- ▶ Aggravated endangering a child
- ▶ Abuse of a child
- ▶ Capital Murder
- ▶ Murder in first degree
- ▶ Murder in second degree
- ▶ Voluntary manslaughter
- ▶ Involuntary manslaughter
- ▶ Involuntary manslaughter while driving under the influence
- ▶ Sexual battery (victim less than 18)
- ▶ Aggravated sexual battery
- ▶ Commercial driving under the influence
- ▶ Any comparable offense

# Juvenile Adjudications

The court must find that

- (a) The juvenile has reached 23 or two years have elapsed since final discharge
- (b) Since final discharge, no pending charges or convictions or adjudications of felonies or misdemeanors other than traffic.
- (c) The circumstances and behavior of petitioner warrant expungement.

# Juvenile Adjudications

## Excluded adjudications:

Murder

Manslaughter

Rape

Indecent liberties

Criminal Sodomy

Indecent solicitation

Sexual exploitation

Aggravated incest

Endangering a child

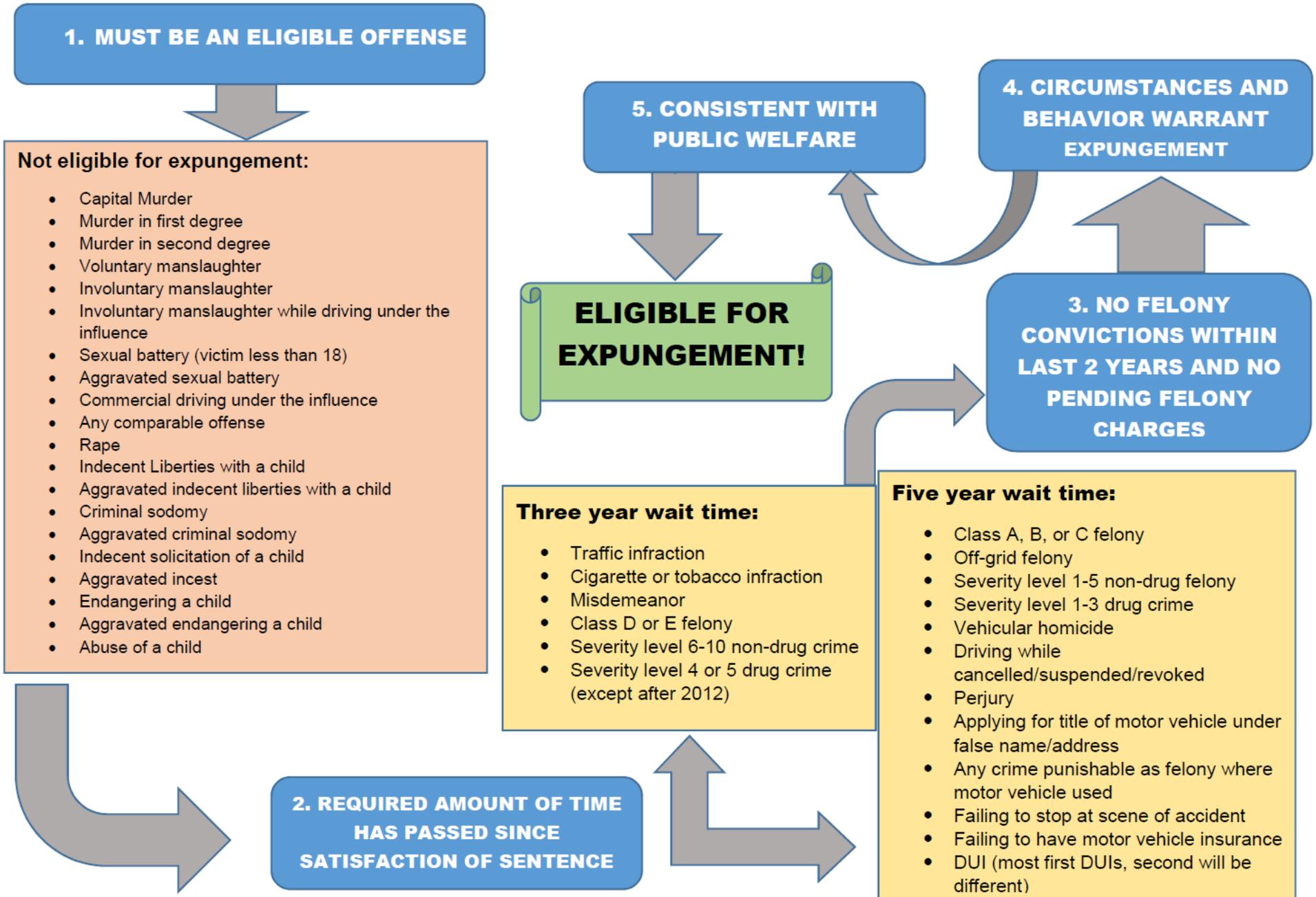
Abuse of a child

# Expungement Process Step 1: (to do this on your own!)

1. Be in need of an expungement
2. Qualify for expungement
3. Fill out the forms provided by the Kansas Judicial Council Website or on the local court's webpage
4. File the Petition and send a copy to the County Attorney (and arresting agency)
5. Court Services reviews for eligibility
6. Hearing set, or if agreed to by all parties, can be granted without a hearing

# Are you eligible?

## TO BE ELIGIBLE FOR EXPUNGEMENT ON YOUR CONVICTION OR DIVERSION:



# Are you eligible?



## No New or Pending Felonies

You cannot have had any new felony convictions within the past two years. You also cannot have any felony charges pending against you.



## Waiting Period Has Expired

You must wait a certain number of years since the date the sentence was completed (usually the date you finished probation or parole). How long depends on the severity of the crime, and is usually 3 or 5 years. For some DUIs, it is 7 or 10 years.

## No Registration Requirement

The case to be expunged cannot have a current requirement to register on an offender database. This applies even if you have moved out of state to avoid registering.



## Case is Paid Off

The case to be expunged cannot have any unpaid fines, fees, restitution, etc. It is VERY common to be unaware of outstanding court debt, even after release from supervision.



It is highly recommended to call the court of conviction to double check.

## Expungeable Crime

Under Kansas law, there are certain crimes which cannot be expunged. Generally these are any crimes which involve sexual offenses, children, or murder/manslaughter.





# Pratt Clean Slate 2021

--a VIRTUAL clinic--

# HOW TO APPLY:

CALL

OR

ONLINE

1-800-723-6953

(expect wait times)

[www.kansaslegalservices.org](http://www.kansaslegalservices.org)

(Click on “How to Get Help”)

Apply by phone or online between February 1-19, 2021

**\*\*Be sure to mention the Clean Slate Pratt when you apply!\*\***

# Clean Slate Screenings

## What to know:

- ❑ We are screening for initial eligibility
- ❑ The more information you have about your records and cases, the more we will be able to assist
  - ❑ Get a KBI background check
  - ❑ Go to the courthouse and get your records in advance
  - ❑ All of these things will help us screen your case for eligibility
- ❑ We will have attorneys willing to represent you for free if you qualify
- ❑ While filing fees can be reduced with a poverty affidavit, prepare to pay a filing fee (roughly \$195 per case)

# REMEMBER:

- ▶ BE SURE to get as much information about your case BEFORE you apply, such as:
  - ▶ Case Number
  - ▶ Dates (of arrest, of charging, of completion of sentence, etc.)
  - ▶ Offense charged with and convicted of

# QUESTIONS?

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[campbellc@klsinc.org](mailto:campbellc@klsinc.org)  
**316-290-8230**

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