
INSTRUCTIONS FOR CRIMINAL OFFENSE REDUCTION PACKET

[W. Va. Code §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4, and §61-11B-5]

Completing Your Criminal Offense Reduction Packet

Your Criminal Offense Reduction Packet (SCA-C910/C911) consists of four sections: (1) the Instructions, (2) the Petition, (3) the Certificate of Service, and (4) the Notice of Opposition. You must complete sections 1-3 of the packet before you can file it with the court. Section 4 will be included in your service to the interested parties/entities identified in your Certificate of Service. Carefully read these instructions before completing each section of your packet. All of the statements included in the packet must apply to you, and must be true, in order for you to be eligible for a reduced misdemeanor as set forth in the code sections listed above. At any hearing related to your petition, you will have the burden of proof to demonstrate by clear and convincing evidence that the statements you provide in this packet are true.

Step 1 - Completing Your Petition for Criminal Offense Reduction

Legibly print or type your answers in the blanks provided in the petition. Note that, in order to stay eligible for a criminal offense reduction under this petition, you can have NO criminal charges pending against you from the time you file your petition and while petition is pending.

Statement Number 4 deals with specific offenses which are not eligible for a reduced misdemeanor. Unless all of the boxes apply to your offense(s) and you check ALL of them, you are not eligible for a criminal offense reduction.

If you answered *There **ARE** current or former orders* in Statement Number 10, then you must attach the requested copy of the Order(s) described.

If you answered *I **HAVE** attached* in Statement Number 14, then you must attach any supporting documentation as described in this section.

Review all of your responses for accuracy. Print, sign, and date the petition.

Note: You must sign the Verification before a notary public, circuit clerk, or deputy circuit clerk.

Print, sign, and date the verification.

Step 2 - Filing and Service of the Petition

You must file this petition in the West Virginia Circuit Court in the county in which your offense took place and/or where you were convicted, and you must serve this entire packet to each of the individuals/entities listed in the six checkboxes of the Certificate of Service in compliance with Rule 4 of the *West Virginia Rules of Civil Procedure*.

Step 3 - Service of the Petition

YOU MUST COMPLETE THE CERTIFICATE OF SERVICE.

Be sure to check all applicable boxes and include the method of delivery used for each service, then sign and date the Certificate of Service.

Step 4 - Filing Your Packet

You will need to have the following with you when you file your packet in the circuit clerk's office.

- Completed Packet
- Completed *Civil Case Information Statement* (SCA-C-100 - available at the circuit clerk's office or on the West Virginia Judiciary Website at www.courtswv.gov under Court Forms).
- Copies of any current orders, if applicable; i.e.: restitution, protection, restraining, no-contact, etc.
- Supporting documentation, if applicable; i.e.: sworn statements, affidavits, etc.
- Fees to be paid when filing: \$300; which include:
 - Civil Filing Fee: \$200.00 - pursuant to *W. Va. Code §59-1-11(a)(1)*;
 - State Police Criminal History Account Fee: \$100 - pursuant to *W. Va. Code §61-11B-4*.

If you feel you cannot afford the fees, ask the circuit clerk's office for a financial affidavit to complete. You may qualify for a waiver of these fees.

Step 5 - What to Expect After You File

The prosecuting attorney of the county in which you filed your petition will serve your packet by first class mail to any identified victims from Statement Number 9 of your petition.

All parties having received your packet (including those you served) will have thirty (30) days to oppose your *Petition for Criminal Offense Reduction* by filing the *Notice of Opposition* included in your packet.

If a *Notice of Opposition* to the petition is filed, you will be notified by the circuit court and provided with instructions on how to proceed. You will have fifteen (15) days to reply.

After the filing of your petition, the circuit court shall do one of the following:

- Grant the petition;
- Set the matter for hearing; or,
- Deny the petition.

WARNING

The legislative intent for this criminal offense reduction is for the purpose of improving your employment possibilities while allowing the public notice of your actual conduct and prior transgressions without further penalty or diminution of employment opportunities.

W. Va. Code §61-11B-1

This order does not address, in any manner, your right to possess firearms under state or federal law.

You should consult a lawyer with regard to restoration of your firearms rights.

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

IN RE: Criminal Offense Reduction

Circuit Court Case No. _____ -P-

Criminal Case No. _____ -F-

Petitioner (First/Middle/Last)

PETITION FOR CRIMINAL OFFENSE REDUCTION

[W. Va. Code §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4, and §61-11B-5]

I, _____, in compliance with the provisions of *W. Va. Code §61-11B-4(c)* and *(g)*, make the following statements of fact, which I affirm and verify are true to the best of my personal knowledge and belief, and submit them for the consideration of this Court for Criminal Offense Reduction.

(Name of Petitioner)

1. On ____ / ____ / ____ , I was convicted of the non-violent "qualifying felony offense(s)" as defined in *W. Va. Code §61-11B-2(5)* of:

(MM/DD/YYYY)

in the Circuit Court of _____ County, under assigned case number(s) _____ . The conviction(s) for which criminal offense reduction is sought is/are the qualifying offense(s) and is/are the only conviction(s) against me.

2. The "requisite time period" of ten (10) years after completion of any sentence of incarceration or period of supervision or probation, whichever is later, has passed, during which time there has been no commission and conviction for a violation of law by me, other than for a minor traffic offense (*W. Va. Code §61-11B-2(2)*).

3. There are no criminal charges currently pending against me.

4. I affirm and state that the above-noted charge(s) is/are eligible for the Criminal Offense Reduction Program under this statute as they are not excluded offenses rendering them ineligible under *W. Va. Code §61-11B-2*. More specifically, I affirm the following with regard to my conviction(s).

The offense(s) of which I was convicted (*Check all that apply.*)

- DID NOT involve the infliction of serious bodily injury;
- DID NOT involve a sexual offense, including, but not limited to, a violation of the felony provisions of *W. Va. Code §61-8, §61-8B, §61-8C, or §61-8D*;
- DID NOT involve the use or exhibition of a deadly weapon or dangerous instrument;
- DID NOT involve a felony violation of the provisions of *W. Va. Code §61-2-9* involving assault and battery;
- DID NOT involve a felony violation of the provisions of *W. Va. Code §61-2-28* involving domestic violence;
- OR
- DID NOT involve a felony violation of the provisions of *W. Va. Code §17B-4* involving violations of licensing provisions.

5. My current name and all previous or other legal names or aliases by which I am and/or have been known are as follows: _____

6. All addresses at which I have resided are listed as follows, in chronological order, from the date of the offense(s) to the present date:

7. My date of birth is / / , and my Social Security Number is - - .
(MM/DD/YYYY)

8. History of my "qualifying felony offense(s)":

a.) The date of my arrest for the "qualifying felony offense(s)" is / / ; the court of jurisdiction in
(MM/DD/YYYY)
which the criminal offense(s) was prosecuted is the Circuit Court of _____
County; and, the criminal case number is _____.

b.) The offense(s) with which I was charged is/are (*include statutory citation; for example: grand larceny is
W. Va. Code §61-3-13(b)*)

c.) The offense(s) for which I was convicted is/are (*include statutory citation*)

d.) Upon my conviction, the sentence imposed for the "qualifying felony offense(s)" in the criminal case in the
Circuit Court of _____ County was as follows:

e.) As of the following date / / , I have completed my Sentence, Period of Supervision,
(MM/DD/YYYY)
OR Probation (*Check all that apply, include effective date(s), and explain as necessary.*)

9. There **Are** OR **Are Not** identifiable victims for the crime(s) of which I was convicted. If there are identifiable victims, list all of the victim names.

10. There **Are** OR **Are Not** current or former orders for restitution, protection, restraining orders or other no-contact orders prohibiting the petitioner from contacting the victims. If there are any such orders, attach a copy(s) to the petition. *Check this box if any such order(s) has been attached.*

11. I request a Criminal Offense Reduction for the following reasons (*such as, but not limited to, employment or licensure purposes, and arguments in support thereof*):

Complete with as much detail as possible.

12. I have taken the following actions since the time of my offense(s) toward personal rehabilitation including treatment, work, or made other personal progress that demonstrates rehabilitation.

13. I **Have** OR **Have Not** been previously granted Criminal Offense Reduction, expungement, or other similar relief regarding a criminal conviction by any court in this state, in any other state, or by any federal court. Please explain.

14. I **Have** OR **Have Not** attached supporting documents, sworn statements, affidavits, or other information in support of my *Petition for Criminal Offense Reduction*. Please list any such documents attached.

The facts as stated in this petition support my request for this Court to vacate the referenced non-violent "qualifying felony" conviction(s) and to order that my records reflect my criminal conviction status as "reduced misdemeanor" in accordance with the provisions of *W. Va. Code §61-11B, et seq.* as amended, and that I have fully complied with all other applicable provisions of said article.

I respectfully make this request with the full belief that it is consistent with the public welfare.

/ /
Date

Signature of Petitioner/Counsel

Printed Name of Petitioner/Counsel

VERIFICATION

You must sign this Verification before a notary public, circuit clerk, or deputy circuit clerk.

I, the petitioner for Criminal Offense Reduction, after making an oath or affirmation to tell the truth, state that the facts I have asserted in my *Petition for Criminal Offense Reduction* are true to the best of my knowledge and belief, and if I have provided information given to me by others for this purpose, I believe that information to be true. I further understand that in signing below, under oath, I do so pursuant to the West Virginia Code.

Signature of Petitioner

_____/_____/_____
Date

Printed Name of Petitioner

This Verification was sworn to or affirmed before me on the _____ day of _____, 20____.

Signature of Notary Public/Other Official

My commission expires: _____.

CERTIFICATE OF SERVICE

[W. Va. Code §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4, and §61-11B-5]

I certify that I have provided a true and correct copy of my *Petition for Criminal Offense Reduction*, all supporting documentation, and a blank *Notice of Opposition* to the following:

The Superintendent of the State Police, located at:

WV State Police Headquarters, Criminal Records Section, 701 Jefferson Road, South Charleston, WV 25309

by the following method: hand delivery/personal service;

first class mail by the circuit clerk - \$5.00;

certified mail-return receipt by the circuit clerk - \$20.00.

The prosecuting attorney of the county of your conviction, located at:

by the following method: hand delivery/personal service;

first class mail by the circuit clerk - \$5.00;

certified mail-return receipt by the circuit clerk - \$20.00.

The chief of police (or other executive head of the municipal police department) where your offense was committed, located at: _____

by the following method: hand delivery/personal service;

first class mail by the circuit clerk - \$5.00;

certified mail-return receipt by the circuit clerk - \$20.00.

The chief law enforcement officer of any other law enforcement agency which participated in your arrest, located at: _____

by the following method: hand delivery/personal service;

first class mail by the circuit clerk - \$5.00;

certified mail-return receipt by the circuit clerk - \$20.00.

The superintendent or warden of any state correctional facility in which you were imprisoned, located at:

by the following method: hand delivery/personal service;

first class mail by the circuit clerk - \$5.00;

certified mail-return receipt by the circuit clerk - \$20.00.

Any state or local government agencies, the records of which would be affected by this proposed criminal offense reduction, located at: _____

by the following method: hand delivery/personal service;

first class mail by the circuit clerk - \$5.00;

certified mail-return receipt by the circuit clerk - \$20.00.

_____/_____/_____
Date

Signature of Petitioner/Counsel

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

IN RE: Criminal Offense Reduction Circuit Court Case No. _____ -P- _____

_____ Criminal Case No. _____ -F- _____

Petitioner (First/Middle/Last)

**NOTICE OF OPPOSITION TO
PETITION FOR CRIMINAL OFFENSE REDUCTION**

[W. Va. Code §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4, and §61-11B-5]

Please be advised that you have been identified as an interested party/entity in Criminal Case Number _____ in the Circuit Court of _____, wherein _____ is the defendant. The defendant has requested that the felony conviction be reclassified as a reduced misdemeanor. If you oppose this action, please set forth below the reasons for your opposition and return this form with any supporting documentation and sworn statements for filing to the circuit clerk within thirty (30) days of receipt of the petition. You must also serve a copy of same upon the petitioner or his/her counsel in accordance with West Virginia Rules of Civil Procedure. The petitioner may file a reply no later than fifteen (15) days after service of your Notice of Opposition.

Failure to reply within the time set forth herein will result in no further notice, other than a copy of the final order granting or denying the petition, being sent to you or to the entity you represent.

Reasons for Opposition (add additional pages, if necessary):

Date

Signature of Interested Party/Entity