

Adult record sealing and expungement

A GUIDE TO POST-CONVICTION REMEDIES IN OHIO



STEP

1 WHO CAN APPLY TO SEAL A CONVICTION?

To apply for record sealing or expungement, the applicant must not have any open or pending criminal cases, including warrants and traffic cases which may include warrants, traffic cases, and community control.

Sealing vs. Expungement

SEALING:

Sealing removes the record from public view, but it still may be visible to certain groups, such as law enforcement, government, or specific types of employers.

Sealing is like locking the record in a filing cabinet and only certain people have the key.

STEP

2 WHICH RECORDS ARE ELIGIBLE?

Any **dismissal** can be **SEALED**.

Any conviction **EXCEPT**:

- Traffic and motor vehicle convictions in Table 3
- Felonies of the first or second degree
- Felonies of the third degree when the applicant has more than 2
- Felony offenses of violence in Table 1
- Sex offenses when the offender is subject to requirements of Chapter 2950 (Table 2)
- Offenses where the victim was under 13 (except non-support R.C. 2919.21)
- Domestic Violence (R.C. 2919.25)
- Violations of a Protection Order (R.C. 2919.27)

EXPUNGEMENT:

Expungement removes the record entirely.

Expungement is like putting the record in a paper shredder

BUT

Records may be accessed if there are future criminal proceedings.

TABLE 1: Offenses of Violence (2901.01(9)(a))

| | | | | | |
|-----------------------------|---------------------|---|--|--|------------------------|
| 2905.01 | Abduction | 2919.22 (B)(1), (2), (3), or (4) Endangering children | 2903.02 | Murder | |
| 2909.02 | Aggravated arson | 2921.34 | Escape | 29034(A)(1) Patient Abuse or Neglect | |
| 2903.12 | Aggravated assault | 2905.11 | Extortion | 2903.15 | Permitting child abuse |
| 2911.11 | Aggravated burglary | 2903.11 | Felonious assault | 2907.02 | Rape |
| 2903.21 | Aggravated menacing | 2923.161 | Improperly discharging a firearm | 2911.02 | Robbery |
| 2903.01 | Aggravated murder | 2917.01 | Inciting to violence | 2907.03 | Sexual battery |
| 2917.02 | Aggravated riot | 921.03 | Intimidation | 2903.18 | Strangulation |
| 2911.01 | Aggravated robbery | 2921.04 | Intimidation of attorney, victim, or witness | 2909.24 | Terrorism |
| 2909.03 | Arson | 2903.04 | Involuntary manslaughter | 2905.32 | Trafficking in persons |
| 2903.13 | Assault | 2905.01 | Kidnapping | 2903.03 | Voluntary manslaughter |
| 2911.12 (A)(1), (2), or (3) | Burglary | 2903.22 | Menacing | Attempt, conspiracy, or complicity of any listed offense | |
| 2912.25 | Domestic violence | 2903.211 | Menacing by stalking | | |

TABLE 2: Example Requirements of Chapter 2950

| Classification | Example offenses | Requirement |
|----------------|---|---|
| Tier III | Rape Sexual Battery GSI/victim under 12 | Offenders are required to register every 90 days for life |
| Tier II | Compelling prostitution Trafficking in persons | Offenders are required to register every 180 days for 25 years |
| Tier I | Importuning Voyeurism Pandering obscenity | Offenders are subject to registration once every 12 months for up to 15 years |

TABLE 3: Traffic + Motor Vehicle Offenses

The following offenses cannot be sealed or expunged:

Chapter 4511: speed, OVI, driving while texting, etc.

Chapter 4506: CDL related offenses

Chapter 4507: driver's license-related offenses

Chapter 4510: drivers license suspensions

Chapter 4549: hit-skip, fictitious license plates, etc.

Local Rules:

Offenses charged under local statutes that are the same or substantially similar to state statutes can never be sealed or expunged.

R.C. 2953.61(B)(1) exception:

When charged with multiple and connected traffic offenses and only ONE of the offenses results in a conviction under 4507, 4510, 4511, or 4549 (except OVI or physical control) the court can seal or expunge the whole record if all other offenses are eligible.

» WHEN CAN A PERSON APPLY?

All convictions on the application must reach final discharge and the applicable waiting period. Final discharge means there is a final judgment and may include completing of community control and paying fines/restitution. Waiting periods vary based on the offense. There is no waiting period for dismissals.

How Long Do I Wait After My Case Is Discharged?

| Level of Offense | Sealing | Expungement |
|---|--|--|
| Minor Misdemeanor | 6 months | 6 months |
| Misdemeanor (M4-M1) | 1 year | 1 year |
| 4th or 5th degree Felonies | 1 year | sealing time period + 10 years (=11 years) |
| 3rd degree Felonies | 3 years | sealing time period + 10 years (= 13 years) |
| Offenses subject to 2950 reporting (sex offenses) | 5 years after reporting requirements end or are terminated | 5 years after reporting requirements end or are terminated (+10 years for felonies) |
| Theft in office 2921.43 | 7 years | 7 years |
| Bail forfeiture | Any time after the date which the forfeiture was entered upon the court minutes or journal | 3 years after the date the forfeiture was entered upon the court minutes or journal |
| No bill | 2 years after the decision is reported | N/A |

» HOW DOES A PERSON APPLY?

Applications must be filed in the court where the conviction or dismissal occurred. Applicants may need to apply in more than one court.

Every court has its own application forms and processes. The Clerk of Courts can provide information about what documents are needed and how to file them. The Clerk can usually disclose a person's case number, name and degree of the offense, date of conviction, and date of case discharge.

The filing fee cannot be more than \$50 per court, even if a person files to seal multiple cases. A person can ask the court to waive this fee by completing a poverty affidavit (sometimes called an "affidavit of indigence"). Applications to seal dismissals should be free. If a hearing is scheduled, the applicant must attend.

What if Your Record Is Already Sealed?

Applicants who have sealed records can apply to expunge those records. They will likely need to request a copy of the judgment entries.

« PREPARING FOR A HEARING

The court will hold a hearing 45-90 days after the application is filed. Applicants may receive a written objection from the prosecutor. Even if the prosecutor objects, applicants must still attend the hearing to explain why they would like to seal or expunge their records.

At the hearing, the court will make sure that the applicant has no open or pending cases, that all cases on the application have reached final discharge, and that each offense is eligible for sealing or expungement.

Applicants should be prepared to discuss steps they have taken toward rehabilitation, including any therapy, substance abuse counseling, etc. Applicants will need to show that their interest in having the record sealed or expunged outweighs the government's interest in keeping the record public. This can be any reason the applicant wants the record addressed, such as better job opportunities, housing, volunteering, etc.

Document updated: April 6, 2023

Disclaimer: This guide is a general source of information about criminal record sealing and expungement. It is not legal advice. If you have more questions, contact an attorney or your local legal aid.

The information in this document was adapted from material produced by the Ohio Justice and Policy Center.