

EXPUNGEMENTS

Who Is Eligible?

If you are a first-time offender who has only one conviction for either a felony or a misdemeanor and who has no charge pending, you are eligible. You are not eligible if you were convicted of certain crimes, including murder, rape, vehicular homicide and crimes committed while you were armed.

When Can You File?

At least three years from the time you are off probation, parole or straight release from prison for a felony **and** after all court costs and any fines, restitution or community service have been paid or completed.

At least one year from the time you were convicted of a misdemeanor.

At least two years from the time that a grand jury failed to indict you **and** the jury's report of "no bill" was returned.

Any time after you were found not guilty or your case was dismissed **and** that information has been recorded in the court's journal.

What Does It Cost to File?

It usually costs between \$50 and \$80 to file a motion to expunge a conviction record. However, if you are a low-income person, you may file a poverty affidavit instead. There is no filing fee for expunging a record where the case was dismissed, you were found not guilty, the grand jury found a "no bill" or nolle your case or you were in a diversion program.

Does Everyone Who Files Get an Expungement?

No. The prosecutor may object. It is up to the court to decide whether to grant an expungement.

What Does an Expungement Mean?

It means that your record is sealed and that when you apply for most jobs or for housing, you don't have to disclose that you have been convicted, arrested or charged.

If you need help to file for a felony expungement, go to the Public Defenders Office at 1200 West Third Street. For a misdemeanor expungement, phone The Legal Aid Society of Cleveland at 216-687-1900 or come to its office at 1223 West Sixth Street.

(Conviction)

EXPUNGEMENTS
OR
SEALING OF RECORDS

As you know, our office will not be able to represent you in your Application for Expungement (now known as Sealing of Records). Because our resources are limited, we are not able to assist everyone who makes application for our services. We can, however, provide you with information and forms so you will have an opportunity to apply to have your first time criminal record sealed.

USE THIS PACKET ONLY IF YOU ARE TRYING TO HAVE RECORDS OF A CONVICTION OF A CRIME SEALED. IF YOU WERE NOT CONVICTED, DO NOT USE THIS PACKET.

WHAT IS SEALING OF RECORDS?

Expungement is now known as Sealing of Records. Sealing of records is a way to have your criminal record cleared and your court file is sealed. It is just as if you never were convicted of a crime.

Sealing your record can be very helpful. For example, many applications for a job or an apartment ask if you have a criminal record. If your conviction has been sealed, you can truthfully answer "No" to this questions.

WHO CAN HAVE THEIR CONVICTION SEALED?

Not everyone qualifies for sealing of records. To have your record sealed, you must meet all the following conditions:

1. You must be a first time offender. This means that you cannot have been convicted of more than one criminal act. However, if there were two or more convictions based on the same action, you may have both convictions sealed. For example, if you were convicted of shoplifting and resisting arrest as a result of the shoplifting, you can get both records sealed.

Minor misdemeanors, including most traffic offenses, do not count as criminal convictions. These charges should not prevent you from having your record sealed.

2. You cannot have current criminal charges pending against you.

3. If you were convicted of a misdemeanor, one (1) year must have passed since your final discharge. For a felony, the wait is three (3) years. "Final Discharge" means the date of your release from jail or prison, or the end of your probation or parole, whichever comes later. (Example: if you get out of jail in June, 1996, and are put on probation until December, 1996, you must wait until December, 1997 to have a misdemeanor expunged).

4. If you are not eligible for probation or have been convicted of certain crimes, you cannot have your criminal record sealed. If you were convicted under ORC §2907.02 (rape); §2907.04 (corrupting a minor); §2907.05 (gross sexual imposition); §2907.06 (sexual imposition); §2907.321 (obscenity involving a minor); §2907.322 (pornography involving a minor); or §2907.323 (illegal use of a minor in pornography); or Chapter 4507 (all driver's license violations); Chapter 4511 (motor vehicle violations); Chapter 4509 (violations of the financial responsibility laws); or bail forfeitures in a traffic case as defined in Traffic Rule 2.

5. You must convince the Judge that you have been rehabilitated, and that it would be just and fair to have your record sealed. It is up to the Judge whether to order your record sealed.

FILING FEE

The Clerk can charge a \$50.00 filing fee for your Application for Sealing of Record. However, if you cannot pay the fee, the Court has to take your application and bill you for the costs later. If you cannot afford the fee, fill out and file the enclosed Poverty Affidavit and file it along with your Application for Sealing. Please let us know if the Court will not take your Application without charging you a filing fee.

THE HEARING

After you have filed your Application for Sealing of Record, the Court will set your case for a hearing. At that hearing you will have the opportunity to tell the judge why your record should be sealed. The prosecutor can object to your record being sealed. The prosecutor also has a chance to tell the Judge whether the prosecutor thinks your record should be sealed, and why or why not.

Prior to the hearing, the Court will order the Probation Department to make inquiries and written reports.

Go to the hearing dressed neatly and cleanly. Be respectful and courteous to the Judge and to the Prosecutor, if there. Be prepared to explain the charges, your rehabilitation and why it is important to you to have your record sealed.

After the hearing, the Judge will make a decision. To make its decision, the Court will consider any objections of the prosecutor. The Court will "weigh the interests of the applicant in having the records... sealed against the legitimate needs, if any, of the government to maintain the records". Sometimes the Judge gives his or her decision in Court. However, it is possible that he or she will give their decision later, after having an opportunity to think about the case. You will be sent a copy of the decision.

OTHER IMPORTANT INFORMATION

- If your record is sealed, and you commit any crime, your past record, although sealed, can be used against you.
- Although your record may be sealed, law enforcement agencies, prosecutors or other authorized agencies can look at your sealed records.

IF ANYTHING HAPPENS DIFFERENTLY FROM WHAT IS CONTAINED IN THIS PACKET, YOU MAY WISH TO CALL THIS OFFICE IMMEDIATELY. Good Luck!

PRINT OR TYPE

PLEASE READ BEFORE COMPLETING FORMS

INSTRUCTIONS FOR APPLICATION FOR SEALING OF RECORDS

Attached are the forms you need to apply to the Court to have a criminal conviction sealed. These instructions are intended to be a general guide to help you fill out the forms, file them with the Court, and get your request properly before the Judge. These instructions are not intended to be a legal analysis of your request or whether the Court will grant your request. They are merely to assist you in preparing your application. We will not be representing you in Court.

The attached forms are:

1. Application for Sealing of a Criminal Record Pursuant to ORC §2953.32.
2. Judgment Entry for Sealing.

These forms must be filled out and submitted to the Clerk of the Court together. You must file your application in the court in which you were convicted.

INSTRUCTIONS FOR COMPLETING APPLICATION

Get a certified copy of the Judgment Order of Conviction(s) you wish to have sealed. The Clerk of the Court in which you were convicted will provide you one for a small fee (a dollar or two). Take a look at the order of conviction. On the order will be some of the information you will need to fill in the blanks on this application. Fill in the blanks on the application form as follows:

1. Fill in the name of the court where you are filing this application.
2. Fill in the county where you are filing this application.

3. Fill in the caption in the original case.
4. If you are filing this application in the same court where you were convicted, fill in the case number on the order of conviction. Otherwise, leave blank.
5. Fill in your address.
6. Fill in your Social Security number.
7. Fill in your date of birth.
8. Fill in the blanks as completely as you can.
9. State your reason for wanting your criminal record sealed.
10. Sign your name.
11. Mail a copy of this application to the prosecuting attorney. Fill in the date when you mailed the copy in blank number 11.
12. Sign your name.

INSTRUCTIONS FOR JUDGMENT ENTRY OF SEALING

1, 2, 3, 4. Fill these in exactly the way you did in the application to seal the criminal record.

5. Fill in as many of the blanks as you can. If you do not know what goes in one of the blanks, leave it blank and ask the Judge about it at the hearing.

Make three copies of the completed application and entry, attach to the application a certified copy of the Judgment Order of Conviction that you want to have sealed, and take them all to the Clerk of the court where you wish to file it. Take your Poverty Affidavit too. This form will let you file your Application without the pre-payment of costs. Tell the Clerk you want to file it and after the Clerk has filed it, make sure you get a time-stamped copy of your application to keep for your records.

IF THE CLERK REFUSES TO TAKE YOUR APPLICATION FOR SEALING OR TRIES TO CHARGE A FEE, PLEASE CONTACT US IMMEDIATELY.

YOU SHOULD GO TO ALL HEARINGS AND COMPLY WITH ALL COURT ORDERS. IF YOU HAVE ANY FURTHER QUESTIONS, YOU SHOULD CONTACT A PRIVATE ATTORNEY.

GOOD LUCK! REMEMBER OUR OFFICE WILL NOT REPRESENT YOU, THIS IS ONLY TO HELP YOU REPRESENT YOURSELF.

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IN THE _____ COURT

_____ COUNTY, OHIO

_____,
Plaintiff,

Case No. _____

Judge _____

vs.

_____,

APPLICATION TO SEAL A CRIMINAL
RECORD PURSUANT TO ORC §2953.32

Defendant.

Defendant moves for an order sealing the record of Defendant's conviction(s) including the sealing of all criminal records pursuant to Ohio Revised Code §2953.32.

CHARGE(S) : _____

DATE OF CONVICTION(S) : _____

DATE OF TERMINATION OF PROBATION: _____

The record of Defendant's conviction should be sealed and all record should be sealed because _____

Respectfully submitted,

DEFENDANT

ADDRESS: _____

SOCIAL SECURITY NUMBER: ____-____-____

DATE OF BIRTH: _____

NOTICE OF HEARING

IT IS HEREBY ORDERED that Defendant's Application to Sea; Record will be heard the _____ day of _____, 19____, at _____ .M.

JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document was served upon the Prosecuting Attorney, by regular U.S. mail on _____.

DEFENDANT

TYPE OR PRINT ONLY

INSTRUCTIONS FOR POVERTY AFFIDAVIT FOR COURT

1. Fill in the name of the county of the court in which you are filing the papers.
2. Fill in the case number.
3. Fill in your name on the Defendant Line.
4. Sign your name in front of a notary if the affidavit is correct.

MAKE 3 COPIES AND TAKE WITH YOUR PAPERS TO COURT

IN THE _____ COURT

_____, OHIO

CASE NO. _____

Plaintiff

vs.

Defendant

AFFIDAVIT OF INABILITY TO
PREPAY OR GIVE SECURITY
FOR COSTS.

STATE OF OHIO)
) SS
_____ COUNTY)

I, the undersigned, defendant in the above case, being first duly sworn, represent to the Court that I am unable either to prepay or give security for costs in this action and request the Clerk to accept the attached pleading herein without prepaying or giving security for costs as provided by Sec. 2323.31 of the Revised Code.

In support of this request, I submit answers to the following questions:

1. What is your age? _____ years

2. Do you have any children? _____ If so, give names and ages. _____

3. What is your occupation or business? _____

4. Are you employed?_____ If so, give name and address of your employer. _____

5. What did you earn during the past year? _____

6. What are your parent's names and ages? _____

7. Do you own any real estate?_____ If so, give its value_____. Is it mortgaged?_____ If so, give the amount of the mortgage. _____

8. Do you own an automobile? _____ If so, what is the value? _____

9. What other things do you own? _____
_____ What debts are against it? _____

10. Have you made an advance payment to your attorney for his services in this case?_____ If so, how much? _____ Who paid it? _____.

11. Do you have any securities or bank accounts? _____
If so, give its value _____

12. Are you receiving public assistance? _____ If so, what kind? _____ How much? _____

Defendant

STATE OF OHIO

_____ COUNTY, SS

Before me a Notary Public personally appeared _____,
_____ who being first duly cautioned and sworn,
says the facts in the foregoing affidavit are true.

NOTARY PUBLIC

P:\DEB\PROSE\Conviction\conv-4-poverty affidavit.wpd

IN THE _____ COURT

_____, OHIO

_____,

Plaintiff,

Case No. _____

Judge _____

vs.

_____ /

Defendant.

JUDGMENT ENTRY

This matter came on before the Court for hearing on the application for sealing of the Applicant's conviction. Upon consideration thereof, the evidence and arguments, the Court finds that the Applicant is a first offender, that there is no criminal proceeding against the Applicant, that the Applicant's rehabilitation has been attained to the satisfaction of the Court, and that the sealing of the record of Applicant's conviction is consistent with the public interest.

THEREFORE, IT IS HEREBY ORDERED that all official records pertaining to this case shall be sealed and all indexed references thereto shall be sealed, that the proceedings in said case shall be deemed not to have occurred, and that the Applicant's conviction shall be expunged, subject to the exceptions and provisions set forth in Revised Code Chapter 2953, as now enacted and hereinafter amended.

IT IS FURTHER ORDERED that the Applicant is hereby restored to all rights and privileges not otherwise restored by termination of sentence or probation or by final release on parole.

IT IS FURTHER ORDERED that no officer or employee of the State, or any political subdivision thereof, except as authorized by Division (D) and (E) of Section 2953.32 of Ohio Revised code, shall release, disseminate, or make available for any purpose involving employment, bonding, or licensing in connection with any business, trade, or profession to any person, or to any department, agency, or other instrumentality of the State Government or any political subdivision thereof, any information or other data concerning any arrest, indictment, trial hearing, conviction, or correctional supervision.

IT IS FURTHER ORDERED that copies of this Entry shall be served by Clerk of Courts on the following by certified mail, return receipt requested:

1. The Ohio State Highway Patrol
2. The Prosecuting Attorney of _____ County, Ohio
3. The Adult Probation Department of this Court
4. The Bureau of Criminal Investigation in the office of the Attorney General of the State of Ohio
5. Records Department of the _____ Police Department
6. Records Department of the _____ County Sheriff's Department
7. FBI, Washington, DC
8. Common Pleas Court of _____ County, Ohio
9. Municipal Court of _____, Ohio
10. _____ County Court.

IT IS FURTHER ORDERED that none of the foregoing persons shall inspect or use said records not permit the inspection or use of said records except as provided in Revised Code Chapter 2953 as now enacted and as hereinafter amended.

For purpose of identification, the information is provided for the arresting agency and any custodians of arrest and conviction date:

Applicant's full name: _____
Maiden name: _____
Address: _____
Sex: _____
Race: _____
Date of Birth: _____
Court Case No.: _____
Charge: _____
Convicted of: _____
Ohio BCI Number: _____
FBI Number: _____
Social Security Number: _____

By Court ORDER, Defendant requests that all fingerprint cards and other identifying indexes be destroyed.

JUDGE