

Instructions for Sealing a Criminal Record

(Expungement)



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What is Expungement/Sealing of Record?

Expungement is the same as sealing a record. It is a court process that allows you to have any and all reference to a prior criminal conviction cleared and your court file sealed. It is just as if you were never convicted of the crime.

Why Get an Expungement?



When you apply for some jobs, apartments, and licenses, the people reviewing your application might look at your criminal record. If you have a conviction on your record, it is unlikely that you will be chosen for the job, given the apartment to rent, or allowed to get a license.

When you appear as a witness in court, they will ask about your past criminal record. If you have a conviction, they are unlikely to believe that your testimony is true.



Once your record is expunged, nothing will show up when your record is checked. After expungement is finished, when asked about your past criminal record, you can honestly say that you have none. You can act as if the arrest and conviction never took place.

However, even if your record is sealed:

- 1) law enforcement agencies, prosecutors, and other agencies can look at your sealed record; and
- 2) if you commit another crime, your sealed record can still be used against you in sentencing.

Who Can Use This Packet?

Only if you have been convicted will you need to get your record “expunged.” If you were arrested, but never convicted, this packet is not for you.

WARNING:

By completing these forms, you are serving as your own attorney. The purpose of this packet is to help you represent yourself in this expungement. In no way is any legal service office representing you in this action. No attorney/client relationship has been created, and legal aid is not representing you before this court.

Can I Get My Record Expunged?

If all of the following six statements are true for your situation, you will be able to get an expungement:



- 1) The conviction you are trying to expunge is **NOT** for one of the crimes or categories of crimes listed. (Convictions of the crimes listed **CANNOT** be sealed.)

If you don't know the crime for which you were convicted, contact the Clerk of the Courts. Remember your case was "criminal," so be sure to go to the appropriate part of the Clerk's office. Request a certified copy of the Judgment Order of Conviction(s). You will need to give the Clerk your case number. If you do not have the number, ask the Clerk to use the computer to look it up. For a small fee (one or two dollars), the Clerk will give you a copy. If the Judgment Order of Conviction mentions one of the crimes listed below, you cannot get your record sealed.

rape (ORC §2907.02)

sexual battery (ORC §2907.03)

corrupting a minor (ORC §2907.04)

gross sexual imposition (ORC §2907.05)

sexual imposition (ORC §2907.06)

obscenity involving a minor (ORC §2907.321)

pornography involving a minor (ORC §2907.322)

illegal use of a minor in pornography (ORC §2907.323)

all driver's license violations (ORC Chapter 4507)

motor vehicle violations (ORC Chapter 4511)

bail forfeitures in traffic cases (Traffic Rule 2)

misdemeanors of first degree or felonies where victim is under the age of 18

felonies of the first or second degree

offenses of violence that are misdemeanors of first degree or felonies (**except** the following offenses of violence can be expunged: convictions for riot (2917.03) and misdemeanor convictions for assault (2903.13), inciting to violence (2917.01), and inducing panic (2917.31))



- 2) You were **NOT** subject to a mandatory prison term for the conviction you seek to expunge (in other

words, you were eligible for probation for that conviction). Even if you were actually sentenced to prison time, as long as you were eligible for probation.

#1

- 3) This was your first and only conviction. You have never been convicted of the same crime or any other crime in this or any other state.

UNLESS:

- a) You were convicted of two or more crimes based upon the same action. In that case, all of these convictions will be considered your first and all can be erased from your record. *For example*, if you were convicted of shoplifting and resisting arrest as a result of the shoplifting, you can get both records sealed.
OR
- b) Your other convictions are for minor misdemeanors. Minor misdemeanors, including most traffic offenses, do not count as criminal convictions. These charges should not prevent you from having your record sealed.

DISCHARGE

- 4) You were convicted of a misdemeanor **and** more than one year has passed since your “final discharge,” or you were convicted of a felony **and** more than three years have passed since your “final discharge.” Final discharge means completion of jail time and/or probation.

NO PENDING

- 5) You currently do not have any criminal or traffic proceedings pending against you.

NO OTHER CASE

- 6) You have not had any other case expunged.

Even if all of these six statements are true for you, the Judge can still refuse to seal your record. You must convince the Judge that you have been rehabilitated and that it is fair to seal your record.

Steps You Must Follow to Get Your Record Sealed

FILE COPY

- 1) You need a copy of the final order of the conviction you wish to have sealed. Contact the Clerk of the Court in which you were convicted. Remember your case was “criminal,” so be sure to go to the appropriate part of the Clerk’s office. Request a certified copy of the Judgment

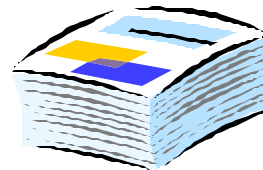
Order of Conviction(s). You will need to give the Clerk your case number. If you do not have the number, ask the Clerk to use the computer to look it up. For a small fee (one or two dollars), the Clerk will give you a certified copy. Make sure it is certified (stamped with court seal).

- 2) Fill in the blanks on the two forms included in this packet:
(a) "Application for Sealing of a Criminal Record Pursuant to ORC §2953.32"; and (b) "Judgment Entry for Sealing." To help you fill out the forms correctly, follow the instructions provided for each form.

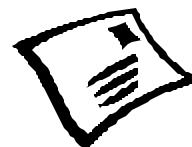
- 4) To apply to have your record sealed, you will have to pay \$50 to the Court. If you cannot pay the fee, fill out the form called "Poverty Affidavit." When completing this form, follow the instruction provided. If you do not complete this form, be prepared to pay the \$50 fee.



- 5) After the forms are filled out, attach the "Judgment Order of Conviction" to the "Application for Sealing of a Criminal Record." Make three copies of everything. Take the original and the three copies of the "Application for Sealing of a Criminal Record" and the "Poverty Affidavit" or the \$50 fee to the Clerk of Courts in the Court where you were convicted. (Do NOT file the "Judgment Entry"—bring this completed form with you to the hearing. If you are successful at the hearing, the Judge will sign it.) Tell the Clerk that you would like to file your documents. The Clerk will take all copies, stamp them, and give one copy back to you. **KEEP THIS COPY!** You will need it later.



- 6) The Court will set your case for a hearing. You will be notified by mail of the date set for the hearing. Mark the date on your calendar and don't forget about it.



- 7) Before the hearing date, prepare what you will say to the Judge. You must convince the Judge that you are no longer someone who would commit a crime (you have been rehabilitated). Explain that you are sorry for what you did and explain how you have changed since that time. For example, if you were using drugs and alcohol at the time when you committed the crime and have since gone sober, tell this to the Judge. If you have seen a psychiatrist since your conviction, tell the Judge.



- 8) On the day of your hearing, show up at the Court on time and dressed neatly and cleanly. Be respectful and courteous to the Judge and Prosecutor. The Bailiff will call your name and ask you to present your case. Tell the Judge that you want to have your criminal record sealed, explain the charges you wish to erase from your record and that the proper time has passed. Explain to the Judge that you have been rehabilitated and why it is important to have your record sealed. The Prosecutor will be given the chance to object to your request.
- 9) The Judge must make a decision weighing your interests in having the records sealed against the government's need to keep these records. The Judge may give a decision in Court or take time to think about the case and make a decision later. If no decision is made in Court, a copy of the decision will be mailed to you. **Make sure the Court has your current address!**



Checklist for Your Expungement

- " Obtain a copy of your Judgment Order of Your Conviction(s).

- " Fill out the forms and read them over to make sure they are complete.

- " Make two copies of your completed papers.

- " Get your "Poverty Affidavit" notarized. If you are not using the Affidavit, be prepared to pay the \$50 filing fee.

- " Take your forms to the Clerk's office and file them. Make sure the Clerk gives one copy back to you. Keep it.

- " Go to court on the day of your hearing. Get there early and dress neatly.

Instructions for Completion of Forms

Please read these instructions before completing any forms. Print neatly with a black pen or use a typewriter. You are the applicant and the defendant in this action.

Instructions for Application to Seal A Criminal Record Pursuant to ORC §2953.32

Look at the copy of the *Judgment Order of Conviction* that you got from the Clerk of Courts. On the *Order* will be some of the information you will need to fill in the blanks on the *Application*.

Two copies of this form are provided. One copy has a number in each blank line on the form. If you are confused about what to write in a blank space, check below for the number corresponding to the blank. These instructions explain what information to put in each blank.

Top of Form/Caption:

- Ø Fill in the name of the Court where you are filing this application. (look on the *Judgment Order of Conviction* for this information—you need to file expungement in the same Court where you were convicted).
- Ù Fill in the County where this Court is located (look in *Order*).
- Ú On the Plaintiff line, fill in the name of the Prosecutor who prosecuted you for the crime. (look in *Order*).
- Û Fill in the case number for your prior conviction (look in *Order*).
- Ü Leave the space for the Judge's name blank.
- Ý Fill in your name on the Defendant line.

In the Document:

- Ø Fill in your name.
- Ù Fill in the charges for which you seek to have records sealed (for example: petty theft under ORC §2913.02).
- Ú Fill in the case number(s) for the conviction(s) (look in *Order*).
- Û Fill in the date of conviction(s) (look to *Order*).
- Ü Fill in the date on which your probation was terminated.
- Ý Fill in your name.
- Ð Check the box that applies to your situation.
- Ë Explain how you have been rehabilitated (why you are unlikely to commit future crimes) and why you wish to have your record expunged (to apply for a job, etc..)
- à Sign your name.
- á Print your name.
- ØØ Fill in your address.

Notice of Hearing (allows Judge to set hearing date):

Leave this section blank—the Judge will complete it.

Instructions for Service:

This lets the other party (City Law Director or City or County Prosecutor) know that you are asking the Court to seal your record. If the other party has any objections to your record being expunged, they will have to file an objection and appear in court at the hearing to explain to the Judge.

Fill in the name of the City or County Prosecutor or City Law Director (look in *Order* to see who was other party) and sign your name at bottom.

Instructions for Judgment Entry

This form is what the Judge will sign if he/she decides to seal your record. Filing this form is like saying to the Judge, “Here’s what you should say, now all you have to do is sign it.”

Two copies of this form are provided. One copy has a number in each blank line on the form. If you are confused about what to write in a blank space, check below for the number corresponding to the blank. These instructions explain what information to put in each blank.

Caption:

Fill in the caption just as you did for the *Application to Seal a Criminal Record*.

Document:

- Ø Fill in the crime for which you were convicted
(for example—petty theft under ORC §2913.02).
- Ù This is a list of agencies that may have information on your criminal conviction in their records. For all those agencies that may have information regarding your conviction, check the box. Check as many boxes as you think apply.
- Ú Fill in the information requested as best you can. If you do not have or know your BCI or FBI number, simply leave it blank.

IN THE _____Ø_____ COURT OF
_____Û_____, OHIO

_____Ú_____) Case No. _____Û_____)
Plaintiff))
) Judge _____Û_____)
))
vs.))
))
_____Ý_____) **APPLICATION TO SEAL A**)
Defendant.) **CRIMINAL RECORD PURSUANT**)
) **TO ORC §2953.32**

Now comes the Defendant _____Ø_____, pro se, and 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. Defendant seeks expungement of the following convictions:

Charge(s): _____Û_____

Case No(s): _____Û_____

Date of Convictions: _____Û_____

Date of Termination of Probation: _____Û_____

The applicant, _____Ý_____ qualifies as a first time offender as defined in ORC §2953.31(A). No criminal or traffic charges are pending against Defendant.

(Check the one that applies to your situation)

This was defendant's first and only conviction. Defendant has never been convicted of the same crime or any other crime in this or any other state.

P Q Defendant seeks expungement of more than one conviction and all convictions arise from the same set of facts, that occurred on the same date.

Q Defendant has other convictions, but they are minor misdemeanors.

The record of Defendant's conviction should be expunged and all records should be sealed because Defendant has been rehabilitated, as evident by the following facts: _____

B

Respectfully submitted,

_____ à _____
Defendant's Signature

_____ á _____
Defendant's Printed Name

_____ øø _____

Defendant's Address

NOTICE OF HEARING

The foregoing Application to Seal a Criminal Record will be heard the _____ day of _____, 20____, at _____.

Judge

INSTRUCTIONS FOR SERVICE

TO THE CLERK

Please serve a copy of this Application to Seal a Criminal Record on _____
_____ by certified mail, return receipt requested.

Defendant's Signature

IN THE _____ COURT OF
_____, OHIO

_____) Case No. _____
Plaintiff,)
) Judge _____
)
)
vs.)
)
) **JUDGMENT ENTRY**
)
_____)
Defendant.)

The Defendant having applied to the Court for sealing of record of conviction, and the Court being sufficiently informed, finds as follows:

- 1) The applicant is a first time offender
- 2) No criminal proceedings are pending against the applicant.
- 3) The applicant has been rehabilitated to the satisfaction of this Court
- 4) It is in the best interests of the applicant to have the records pertaining to his/her conviction(s) sealed and there is no legitimate need for the government to maintain these records.

Therefore, **it is hereby ordered** that all official records pertaining to this case shall be sealed and all indexed references thereto shall be deleted, except as otherwise provided in ORC §2953.32. The proceedings of the case will be considered not to have occurred and the conviction of _____Ø_____ shall be sealed, subject to the exceptions set forth in Ohio Revised Code Chapter 2953.

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 §2953.32 of the 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's Government of 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 Court on the following by certified mail, return receipt requested (check all that apply):

- The Ohio State Highway Patrol,
- The Prosecuting Attorney of _____ County, Ohio
- The Adult Probation Department of this Court
- The Bureau of Criminal Investigation in the office of the Attorney General of the State of Ohio
- Records Department of the _____ Police Department
- Records Department of the _____ County Sheriff's Department
- FBI, Washington, D.C.
- Common Pleas Court of _____ County, Ohio
- Municipal Court of _____, Ohio
- _____ County Court

It is further ordered that none of the foregoing persons shall inspect or use said records nor permit the inspection or use of said records except as provided in Revised ORC Chapter 2953.

For purposes of identification of the records to be expunged, the following information is provided for arresting agencies and any and all custodians of arrest and conviction records:

Ú Applicant's full name: _____

Applicant's maiden name: _____

Applicant's address: _____

Applicant's sex: _____

Applicant's race: _____

Applicant's date of birth: _____

Court Case No: _____

Charge: _____

Convicted of: _____

Ohio BCI number: _____

FBI number: _____

Applicant's Social Security Number: _____

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

Judge

IN THE _____ COURT OF
_____, OHIO

_____) Case No. _____
Plaintiff)
) Judge _____
)
)
vs.)
)
) **APPLICATION TO SEAL A**
_____) **CRIMINAL RECORD PURSUANT**
Defendant.) **TO ORC §2953.32**

Now comes the Defendant _____, pro se, and 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. Defendant seeks expungement of the following convictions:

Charge(s): _____

Case No(s): _____

Date of Convictions: _____

Date of Termination of Probation: _____

The applicant, _____ qualifies as a first time offender as defined in ORC §2953.31(A). No criminal or traffic charges are pending against Defendant.

(Check the one that applies to your situation)

Q This was defendant's first and only conviction. Defendant has never been convicted of the same crime or any other crime in this or any other state.

Q Defendant seeks expungement of more than one conviction and all convictions arise from the same set of facts, that occurred on the same date.

Q Defendant has other convictions, but they are minor misdemeanors.

The record of Defendant's conviction should be expunged and all records should be sealed because Defendant has been rehabilitated, as evident by the following facts: _____

Respectfully submitted,

Defendant's Signature

Defendant's Printed Name

Defendant's Address

NOTICE OF HEARING

The foregoing Application to Seal a Criminal Record will be heard the _____ day of _____, 20____, at _____.

Judge

INSTRUCTIONS FOR SERVICE

TO THE CLERK

Please serve a copy of this Application to Seal a Criminal Record on _____
_____ by certified mail, return receipt requested.

Defendant's Signature

IN THE _____ COURT OF
_____, OHIO

_____) Case No. _____
Plaintiff,)
) Judge _____
)
)
vs.)
)
) **JUDGMENT ENTRY**
)
_____)
Defendant.)

The Defendant having applied to the Court for sealing of record of conviction, and the Court being sufficiently informed, finds as follows:

- 1) The applicant is a first time offender.
- 2) No criminal proceedings are pending against the applicant.
- 3) The applicant has been rehabilitated to the satisfaction of this Court
- 4) It is in the best interests of the applicant to have the records pertaining to his/her conviction(s) sealed and there is no legitimate need for the government to maintain these records.

Therefore, **it is hereby ordered** that all official records pertaining to this case shall be sealed and all indexed references thereto shall be deleted, except as otherwise provided in ORC §2953.32. The proceedings of the case will be considered not to have occurred and the conviction of _____ shall be sealed, subject to the exceptions set forth in Ohio Revised Code Chapter 2953.

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 §2953.32 of the 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's Government of 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 Court on the following by certified mail, return receipt requested (check all that apply):

- The Ohio State Highway Patrol,
- The Prosecuting Attorney of _____ County, Ohio
- The Adult Probation Department of this Court
- The Bureau of Criminal Investigation in the Office of the Attorney General of the State of Ohio
- Records Department of the _____ Police Department
- Records Department of the _____ County Sheriff's Department
- FBI, Washington, D.C.
- Common Pleas Court of _____ County, Ohio
- Municipal Court of _____, Ohio
- _____ County Court

It is further ordered that none of the foregoing persons shall inspect or use said records nor permit the inspection or use of said records except as provided in Revised ORC Chapter 2953.

For purposes of identification of the records to be expunged, the following information is provided for arresting agencies and any and all custodians of arrest and conviction records:

Applicant's full name _____

Applicant's maiden name: _____

Applicant's address: _____

Applicant's sex: _____

Applicant's race: _____

Applicant's date of birth: _____

Court Case No: _____

Charge: _____

Convicted of: _____

Ohio BCI number: _____

FBI number: _____

Applicant's Social Security Number: _____

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

Judge

Instructions for Poverty Affidavit

WARNING

Use this form ONLY if you are UNABLE to pay the \$50 filing fee. This page is an “Affidavit” which means you are swearing before a Notary Public that you cannot afford to pay the Court’s filing fee. If you are able to pay the fee, you must do so.

To fill out this form:

1. Fill out the caption like you have done for all of the other forms.
2. Answer questions 1 through 12 honestly and to the best of your ability. Do not sign the form yet. Leave the bottom part blank.
3. **DO NOT SIGN THIS FORM** until you are in the presence of a Notary Public. Take the completed form to a Notary Public and sign it in front of them on the line that says AFFIANT. The Notary Public will then notarize it for you. Most libraries and banks have Notaries. If you cannot find one, contact your local Legal Aid and someone there may notarize it for you.

IN THE _____ COURT OF
_____, OHIO

_____) Case No. _____
Plaintiff,)
)
) Judge _____
vs.)
)
) **POVERTY AFFIDAVIT**
_____)
Defendant.)

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 the costs in this action and request the Clerk to accept the attached pleading herein without prepaying or giving security for costs as provided by §2323.31 of the Ohio 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? ' Yes ' No

If so, give names and ages. _____

3. What is your occupation or business? _____

4. Are you employed? ' Yes ' No

If you are employed, give the name and address of your employer.

5. How much did you earn during the past year? \$ _____

6. What are your parents' names and ages? _____

7. Do you own any real estate (land)? ' Yes ' No

If you do own real estate, give its value. \$ _____

Is the land subject to a mortgage? ' Yes ' No

If it is subject to a mortgage, give the amount of the mortgage. \$ _____

8. Do you own an automobile? ' Yes ' No

If you do own an automobile, what is its value? \$ _____

9. What other items do you own (washer, dryer, motorcycle, etc.)?

Are any of these items subject to a lien? ' Yes ' No

10. Have you made an advance payment to your attorney for his/her services in this case?

' Yes ' No

If you have made an advance payment, how much was paid? \$ _____

Who paid it? _____

11. Do you have any bank accounts, stock, other investments? ' Yes ' No

If yes, give the value of each account/security. \$ _____

\$ _____

12. Are you receiving public assistance? ' Yes ' No

If you do get public assistance, what kind and how much?

AFFIANT

State of Ohio)
_____ County) SS

Sworn to before me as true and subscribed in my presence by _____

on this _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires _____