

WHO CAN APPLY FOR **SAFE HARBOR** **EXPUNGEMENT?**

A Guide for Ohio's Human Trafficking Survivors



THE APPLICANT MUST BE A VICTIM OF HUMAN TRAFFICKING

The applicant must have been subjected to involuntary servitude or compelled to engage in sexual activity for hire through “force, fear, duress, intimidation, or fraud.” A person can be a victim of human trafficking even if no one has been convicted for victimizing the person.



CRIMES MUST BE THE RESULT OF TRAFFICKING

An expungement can only be granted for offenses that result from human trafficking. A person can apply to expunge ANY record [felony, misdemeanor, convictions, or dismissed/ignored non-convictions]
EXCEPT FOR aggravated murder, murder, or rape.



THE APPLICANT MUST PASS THE INTEREST TEST

The court will determine whether the interests of the applicant in having the record expunged are not outweighed by any legitimate needs of the government to maintain the record.



FOR CONVICTIONS

To have convictions expunged, the applicant must have (or have had) a conviction of at least one of the following: soliciting, loitering to engage in solicitation, or prostitution. These offenses do not have to be from the same court or happen at the same time as the convictions that are being applied for.

FOR NONCONVICTIONS

To have non-convictions expunged, the applicant does not have to have a conviction of soliciting, loitering to engage in solicitation, or prostitution, in order to apply. Non-convictions include “not guilty” findings, or dismissed complaints, indictments, or information. If applying to expunge a dismissal without prejudice, the period of limitations applicable to the offense must have expired.

BACKGROUND

Human trafficking is a fast-growing, under-reported form of modern-day slavery. When survivors escape, their long criminal records create lifelong barriers to employment, housing, education, civic participation, and family reunification. In Ohio, over 900 “collateral consequences” limit all aspects of life, from jobs to recreation, for people with records.

In June 2012, the Ohio Legislature created a new expungement process under the Safe Harbor Law (H.B. 262; R.C. 2953.38). The law recognizes that sex trafficking victims are compelled through force, fear, duress, intimidation, or fraud to participate in illegal acts. Consequently, survivors can erase records of convictions. Then, in 2018, the Ohio Legislature clarified the options for trafficking survivors to expunge their records (S.B. 4; R.C. 2953.38 and 2953.521).

Expunged records are completely destroyed, so no one can ever see them again. Expungement opens doors to empowerment, recovery, employment, housing, education, family relationships, and successful reintegration into the community.

EXPUNGEMENT VS. RECORD SEALING

Expungement and record sealing both reduce who has access to criminal records. Sealing a record “hides” the record from most people but keeps it accessible for certain entities (such as, law enforcement, courts, probation officers, and background checks for some employment/licensing purposes.) Expungement completely destroys and permanently deletes criminal records, never to be seen by anyone in any circumstance.

HOW DO I APPLY?

1. Applications must be filed in the sentencing court for each offense. There is a \$50 filing fee that can be waived with a poverty affidavit (or “affidavit of indigency”).
2. The prosecutor reviews the application and may have objections before the hearing.
3. At the hearing, the court will consider the prosecutor’s objections (if any) and consider the requirements for Safe Harbor Expungement explained on the first page. For expungement of 1st and 2nd degree felonies, there are additional factors that the court considers.
4. The court grants or denies the application. If an expungement is granted, the court must give notice of the order to relevant public offices/agencies that may have an official record pertaining to the case. After that, records related to the conviction must be destroyed, deleted, or erased in all physical or electronic forms.

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