

Sealing Adult Criminal Records: Convictions

Question 1: Are you trying to get a prohibited offense sealed?

The law is very clear that the following convictions can **never** be sealed:

- **Any first or second degree felony**
 - Any offense with a **mandatory prison term**
 - Any **first degree misdemeanor or felony** offense where the **victim was under 18 years old** except for the **non-support of dependents** (Revised Code 2919.21; This offense became sealable under SB 337)
 - Any **offense of violence**, as defined by Revised Code 2901.01(A)(9):
- 2903.01- Aggravated murder
- 2903.02-Murder
- 2903.03-Voluntary manslaughter
- 2903.04-Involuntary manslaughter
- 2903.11-Felonious assault
- 2903.12-Aggravated assault
- 2903.13-Assault
- 2903.15-Permitting child abuse
- 2903.21-Aggravated menacing
- 2903.211-Menacing by stalking
- 2903.22-Menacing
- 2905.01-Kidnapping
- 2905.02-Abduction
- 2905.11-Extortion
- 2907.02-Rape
- 2907.03-Sexual battery
- 2907.05-Gross sexual imposition
- 2907.12-(former) Felonious sexual penetration
- 2909.02-Aggravated arson
- 2909.03-Arson
- 2909.24-Terrorism
- 2911.01-Aggravated robbery
- 2911.02-Robbery
- 2911.11-Aggravated burglary
- 2917.01-Inciting to violence
- 2917.02-Aggravated riot
- 2917.03-Riot*
- 2917.31-Inducing panic*
- 2919.25-Domestic violence
- 2921.03-Intimidation
- 2921.04-Intimidation of attorney, victim or witness in criminal case

- 2921.34-Escape
- 2923.161-Improperly discharging firearm at or into a habitation, in a school safety zone or with the intent to cause harm or panic to persons in a school building or at a school function
- 2911.12 (A) (1), (2) or (3) Burglary
- 2919.22(B) (1),(2),(3) or (4) Endangering children

***Exception:** these offenses are not prohibited if they are misdemeanors

Also any sexual offense not already listed, including:

- Unlawful sexual contact with a minor
- Illegal use of a minor in nudity-oriented material or performance
- Sexual imposition
- Importuning
- Pandering obscenity involving a minor
- Pandering sexually oriented matter involving a minor

Traffic offenses can never be sealed, but they are not counted as a criminal conviction unless it is one of the traffic or automobile offenses listed below.

If you were convicted of any offenses listed below, you **CANNOT** have those convictions sealed, however...

If you have only one prohibited offense but have other offenses you want sealed, or if you do not have any of the prohibited offenses, go on to **Question 2**.

- Knowingly offering to sell a car where the odometer was tampered with
- Tampering with an odometer
- Sale or possession of a master key designed to fit more than one vehicle
- Driving under suspension related to a DUI or refusal to take a breathalyzer/chemical test
- Offenses with purpose to conceal or destroy identity of car or its parts
- DUI
- Street racing
- All types of hit-and-runs
- Leaving the scene of an accident

Question 2: How many convictions do you have?

The number of convictions you have must fit the law's definition of an "**eligible offender**" (Revised Code 2953.31 as amended by SB 337, effective 9/28/12). To determine whether you fit that definition, you need to know several rules about how offenses are counted:

THE BASIC RULE: An eligible offender can have **at most two misdemeanor convictions or one misdemeanor and one felony conviction.**

Convictions from anywhere in the United States are counted in this process, not just convictions from Ohio. The court will have its probation department do a national background check to verify the number of convictions you have.

Traffic offenses are not counted towards your total number of convictions, unless they are any of the more serious vehicle-related offenses listed under Question 1 as a prohibited offense.

Minor misdemeanors are not counted towards your total number of convictions. A minor misdemeanor is a ticket-only offense; it is less than a fourth-degree misdemeanor. To be a minor misdemeanor, jail-time or probation could not have been a possible sentence and the maximum possible fine was \$150.

Examples: tickets for open flask, after hours in the park, minor misdemeanor drug possession (a.k.a. weed tickets), jaywalking, loud noise, and disorderly conduct.

There is **no legal limit on the number of minor misdemeanors you can have sealed**, as long as the number of non-minor misdemeanors or felonies on your record are still within the eligible offender limits. Even if your two non-minor misdemeanors, or one non-minor misdemeanor and a felony, are prohibited offense, you can still have your minor misdemeanors sealed.

If you **have two or more convictions based on the same criminal incident**, the multiple convictions **will be treated like one conviction** when you apply to have the records sealed.

Example: You were convicted of shoplifting and resisting arrest in the same incident. The court will consider the two separate convictions as one conviction when you apply to seal the records. These charges may be charged under the same case number or separate case numbers, so long as they arose out of the same set of facts.

If you have **two or three convictions not based on the same criminal act**, but that resulted from the same court proceeding and the convictions were for related criminal acts committed within three months of each other, the multiple convictions *may* be treated like one conviction.

Example: You have two convictions for passing bad checks on March 1st and May 10th, and you were convicted of both at the same court proceeding, **the court has the discretion** to treat the two convictions as one if you apply to have the records sealed. The court can also decide that it is not in the public interest to treat the multiple convictions as one.

If you exceed the eligible offender limits on the number of convictions, you **CANNOT** have any of your criminal convictions sealed.

If you do meet the eligible offender limits, go to **Question 3**.

Question 3: Are any other criminal charges pending against you?

The court will not seal your conviction record if you have any criminal charges pending against you at this time. Wait until those charges are completely dealt with.

If you have **no charges pending** against you, go on to **Question 4**.

Question 4: How many years since you completed your sentence?

You must wait a certain amount of time after the **final discharge** of the sentence for your conviction before you may apply for the record to be sealed. *Final discharge* means you finished serving any jail or prison sentence, any term of probation or parole, and paid fines or court costs.

For misdemeanors (including minor misdemeanors) you must wait **one year** after the final discharge of your conviction to apply to have your conviction record sealed.

For felonies you must wait **three years** after the final discharge of your conviction to apply.

If you haven't satisfied the waiting period yet, wait to apply until you do.

If you have satisfied the waiting period.....CONGRATULATIONS:

You are now eligible to get your record sealed!

IN THE COMMON PLEAS COURT
OF GREENE COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO,
PLAINTIFF

CASE NO. _____

CHARGES: _____

VS.

DATE OF
CONVICTION _____

DATE OF
TERMINATION FROM PROBATION OR
PAROLE (If Applicable) _____

DEFENDANT

APPLICATION FOR SEALING OF
RECORD OF CONVICTION (FELONY)
O.R.C. 2953.32 (A) (1)

The defendant in the above captioned case respectfully moves the Court for an order sealing the record of conviction under sections 2953.31 through 2953.35 of the Ohio Revised Code because more than three (3) years have passed since the final discharge of said defendant from the sentence imposed in this case and there are no criminal proceedings pending against said defendant in any Court.

Respectfully submitted,

Name

SSN

DOB

Address

City, State, Zip

Area code and phone number

(Submit Original and 3 copies)

**** IMPORTANT NOTICE ****

SHOULD THE COURT ORDER YOUR RECORD SEALED, WE STRONGLY SUGGEST THAT YOU FAX THE FOLLOWING COMPANIES YOUR CERTIFIED COPY OF THE COURT ORDER SO YOUR CASE WILL BE REMOVED FROM THEIR DATABASE. THESE COMPANIES CONDUCT BACKGROUND CHECKS FOR MANY EMPLOYERS, SO IT IS IMPORTANT THAT YOU CONTACT THEM DIRECTLY.

EXPERIAN
ATTN: KIM JARAMILLO
FAX (714) 459-8272
kimberly.jaramillo@experian.com

GENUINE DATA SERVICES
FAX (803) 932-3357
ATT: CHRISTINA

CORELOGIC SAFERENT
CONSUMER RELATIONS
FAX (888) 560-6729
7300 WESTMERE ROAD, STE 3
ROCKVILLE, MD 20850
WWW.RESIDENTSCREENING.COM

INNOVATIVE ENTERPRISES
FAX (757) 772-0054
Compliance@knowthefacts.com

CBC COMPANIES
ATTN: CHERYL MCMAHAN
FAX (614) 538-6102
1651 NW PROFESSIONAL PLAZA
COLUMBUS, OHIO 43220-3866

CREDIT BUREAUS:

Experian: toll free 1-888-397-3742
Equifax : toll free 1-800-6856-1111
Transunion: toll free 1-800-916-8800

INTELLICORP RECORDS INC
ATTN: COMPLIANCE DEPARTMENT
FAX (216) 450-5279
3000 AUBURN DR
SUITE 410
BEACHWOOD, OH 44122

ASURINT
ATTN: COMPLIANCE DEPARTMENT
FAX (800) 906-2034
1501 EUCLID AVE
SUITE 900
CLEVELAND, OH 44115

LEXIS NEXIS
Call for further instructions: 866-491-0873

2953.32 Sealing of conviction record or bail forfeiture record.

(A)

(1) Except as provided in section 2953.61 of the Revised Code, an eligible offender may apply to the sentencing court if convicted in this state, or to a court of common pleas if convicted in another state or in a federal court, for the sealing of the record of the case that pertains to the conviction. Application may be made at the expiration of three years after the offender's final discharge if convicted of a felony, or at the expiration of one year after the offender's final discharge if convicted of a misdemeanor.

(2) Any person who has been arrested for any misdemeanor offense and who has effected a bail forfeiture for the offense charged may apply to the court in which the misdemeanor criminal case was pending when bail was forfeited for the sealing of the record of the case that pertains to the charge. Except as provided in section 2953.61 of the Revised Code, the application may be filed at any time after the expiration of one year from the date on which the bail forfeiture was entered upon the minutes of the court or the journal, whichever entry occurs first.

(B) Upon the filing of an application under this section, the court shall set a date for a hearing and shall notify the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court shall direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant. If the applicant was convicted of or pleaded guilty to a violation of division (A)(2) or (B) of section 2919.21 of the Revised Code, the probation officer or county department of probation that the court directed to make inquiries concerning the applicant shall contact the child support enforcement agency enforcing the applicant's obligations under the child support order to inquire about the offender's compliance with the child support order.

(C)

(1) The court shall do each of the following:

(a) Determine whether the applicant is an eligible offender or whether the forfeiture of bail was agreed to by the applicant and the prosecutor in the case. If the applicant applies as an eligible offender pursuant to division (A)(1) of this section and has two or three convictions that result from the same indictment, information, or complaint, from the same plea of guilty, or from the same official proceeding, and result from related criminal acts that were committed within a three-month period but do not result from the same act or from offenses committed at the same time, in making its determination under this division, the court initially shall determine whether it is not in the public interest for the two or three convictions to be counted as one conviction. If the court determines that it is not in the public interest for the two or three convictions to be counted as one conviction, the court shall determine that the applicant is not an eligible offender; if the court does not make that determination, the court shall determine that the offender is an eligible offender.

(b) Determine whether criminal proceedings are pending against the applicant;

(c) If the applicant is an eligible offender who applies pursuant to division (A)(1) of this section, determine whether the applicant has been rehabilitated to the satisfaction of the court;

(d) If the prosecutor has filed an objection in accordance with division (B) of this section, consider the reasons against granting the application specified by the prosecutor in the objection;

(e) Weigh the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed against the legitimate needs, if any, of the government to maintain those records.

(2) If the court determines, after complying with division (C)(1) of this section, that the applicant is an eligible offender or the subject of a bail forfeiture, that no criminal proceeding is pending against the applicant, and that the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed are not outweighed by any legitimate governmental needs to maintain those records, and that the rehabilitation of an applicant who is an eligible offender applying pursuant to division (A)(1) of this section has been attained to the satisfaction of the court, the court, except as provided in divisions (G) , (H), or (I) of this section, shall order all official records of the case that pertain to the conviction or bail forfeiture sealed and, except as provided in division (F) of this section, all index references to the case that pertain to the conviction or bail forfeiture deleted and, in the case of bail forfeitures, shall dismiss the charges in the case. The proceedings in the case that pertain to the conviction or bail forfeiture shall be considered not to have occurred and the conviction or bail forfeiture of the person who is the subject of the proceedings shall be sealed, except that upon conviction of a subsequent offense, the sealed record of prior conviction or bail forfeiture may be considered by the court in determining the sentence or other appropriate disposition, including the relief provided for in sections 2953.31 to 2953.33 of the Revised Code.

(3) An applicant may request the sealing of the records of more than one case in a single application under this section. Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars, regardless of the number of records the application requests to have sealed. The court shall pay thirty dollars of the fee into the state treasury. It shall pay twenty dollars of the fee into the county general revenue fund if the sealed conviction or bail forfeiture was pursuant to a state statute, or into the general revenue fund of the municipal corporation involved if the sealed conviction or bail forfeiture was pursuant to a municipal ordinance.

(D) Inspection of the sealed records included in the order may be made only by the following persons or for the following purposes:

(1) By a law enforcement officer or prosecutor, or the assistants of either, to determine whether the nature and character of the offense with which a person is to be charged would be affected by virtue of the person's previously having been convicted of a crime;

(2) By the parole or probation officer of the person who is the subject of the records, for the exclusive use of the officer in supervising the person while on parole or under a community control sanction or a post-release control sanction, and in making inquiries and written reports as requested by the court or adult parole authority;

(3) Upon application by the person who is the subject of the records, by the persons named in the application;

(4) By a law enforcement officer who was involved in the case, for use in the officer's defense of a civil action arising out of the officer's involvement in that case;

- (5) By a prosecuting attorney or the prosecuting attorney's assistants, to determine a defendant's eligibility to enter a pre-trial diversion program established pursuant to section 2935.36 of the Revised Code;
- (6) By any law enforcement agency or any authorized employee of a law enforcement agency or by the department of rehabilitation and correction as part of a background investigation of a person who applies for employment with the agency as a law enforcement officer or with the department as a corrections officer;
- (7) By any law enforcement agency or any authorized employee of a law enforcement agency, for the purposes set forth in, and in the manner provided in, section 2953.321 of the Revised Code;
- (8) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of providing information to a board or person pursuant to division (F) or (G) of section 109.57 of the Revised Code;
- (9) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of performing a criminal history records check on a person to whom a certificate as prescribed in section 109.77 of the Revised Code is to be awarded;
- (10) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of conducting a criminal records check of an individual pursuant to division (B) of section 109.572 of the Revised Code that was requested pursuant to any of the sections identified in division (B)(1) of that section;
- (11) By the bureau of criminal identification and investigation, an authorized employee of the bureau, a sheriff, or an authorized employee of a sheriff in connection with a criminal records check described in section 311.41 of the Revised Code;
- (12) By the attorney general or an authorized employee of the attorney general or a court for purposes of determining a person's classification pursuant to Chapter 2950. of the Revised Code;
- (13) By a court, the registrar of motor vehicles, a prosecuting attorney or the prosecuting attorney's assistants, or a law enforcement officer for the purpose of assessing points against a person under section 4510.036 of the Revised Code or for taking action with regard to points assessed.

When the nature and character of the offense with which a person is to be charged would be affected by the information, it may be used for the purpose of charging the person with an offense.

(E) In any criminal proceeding, proof of any otherwise admissible prior conviction may be introduced and proved, notwithstanding the fact that for any such prior conviction an order of sealing previously was issued pursuant to sections 2953.31 to 2953.36 of the Revised Code.

(F) The person or governmental agency, office, or department that maintains sealed records pertaining to convictions or bail forfeitures that have been sealed pursuant to this section may maintain a manual or computerized index to the sealed records. The index shall contain only the name of, and alphanumeric identifiers that relate to, the persons who are the subject of the sealed records, the word "sealed," and the name of the person, agency, office, or department that has custody of the sealed records, and shall not contain the name of the crime committed. The index shall be made available by the person who has custody of the sealed records only for the purposes set forth in divisions (C), (D), and (E) of this section.

(G) Notwithstanding any provision of this section or section 2953.33 of the Revised Code that requires otherwise, a board of education of a city, local, exempted village, or joint vocational school district that maintains records of an individual who has been permanently excluded under sections 3301.121 and 3313.662 of the Revised Code is permitted to maintain records regarding a conviction that was used as the basis for the individual's permanent exclusion, regardless of a court order to seal the record. An order issued under this section to seal the record of a conviction does not revoke the adjudication order of the superintendent of public instruction to permanently exclude the individual who is the subject of the sealing order. An order issued under this section to seal the record of a conviction of an individual may be presented to a district superintendent as evidence to support the contention that the superintendent should recommend that the permanent exclusion of the individual who is the subject of the sealing order be revoked. Except as otherwise authorized by this division and sections 3301.121 and 3313.662 of the Revised Code, any school employee in possession of or having access to the sealed conviction records of an individual that were the basis of a permanent exclusion of the individual is subject to section 2953.35 of the Revised Code.

(H) For purposes of sections 2953.31 to 2953.36 of the Revised Code, DNA records collected in the DNA database and fingerprints filed for record by the superintendent of the bureau of criminal identification and investigation shall not be sealed unless the superintendent receives a certified copy of a final court order establishing that the offender's conviction has been overturned. For purposes of this section, a court order is not "final" if time remains for an appeal or application for discretionary review with respect to the order.

(I) The sealing of a record under this section does not affect the assessment of points under section 4510.036 of the Revised Code and does not erase points assessed against a person as a result of the sealed record.

Amended by 130th General Assembly File No. TBD, SB 143, §1, eff. 9/19/2014.

Amended by 129th General Assembly File No. 131, SB 337, §1, eff. 9/28/2012.

Amended by 128th General Assembly File No. 30, SB 77, §1, eff. 7/6/2010.

Effective Date: 04-08-2004; 2007 SB10 07-01-2007; 2007 HB104 03-24-2008; 2008 HB195 09-30-2008

Related Legislative Provision: See 129th General Assembly File No. 127, HB 487, §610.10.