

# Adult record sealing and expungement

## A GUIDE TO POST-CONVICTION REMEDIES IN OHIO



**LEGAL AID**

of Southeast and Central 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**. If the charge can be expunged as a conviction the **dismissal can also be expunged**

Any **CONVICTION** can be **sealed or expunged EXCEPT**:

- Traffic and motor vehicle convictions in Table 3
- 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)
- Felonies of the first or second degree
- Domestic Violence (R.C. 2919.25) (except for M4)
- Violations of a Protection Order (R.C. 2919.27)
- Felonies of the third degree (F3s) when the applicant has more than one felony of any degree or if the applicant has two F3s + two misdemeanors + any other conviction.

#### 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
2919.25 Domestic violence	2903.211 Menacing by stalking	

**TABLE 2: Example Requirements of Chapter 2950**

Classification	Example offenses	Requirement
<b>Tier III</b>	Rape Sexual Battery GSI/victim under 12	Offenders are required to register every 90 days for life
<b>Tier II</b>	Compelling prostitution Trafficking in persons	Offenders are required to register every 180 days for 25 years
<b>Tier I</b>	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	5 years after reporting requirements end <b>(+10 years for felonies)</b>
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	M1-M4: 1 year after the decision is entered MM: 6 months after the decisions is entered
No bill	2 years after the decision is reported	2 years after the decision is reported

## » 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 is \$50 per application, and courts can charge up to \$50 for local court costs. The applicant file multiple multiple cases on the application without paying an additional fee.

Applicants can ask the court to waive the pre-collection of 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 the 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.

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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.

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