

Instructions for Sealing a Criminal Record (Expungement)



“R.C. 2953.31 to R.C. 2953.36 governs the expungement of convictions. Current statutory law requires that the defendant seeking expungement be a “first offender”, which generally means that the defendant has only one conviction. The current definition of “first offender” sets forth narrow exceptions allowing multiple convictions to be treated as “one conviction”.

Effective September 28, 2012, S.B. 337 amends the expungement statutes to delete the requirement that the offender be a “first offender”. The Act replaces the “first offender” requirement with an “eligible offender”, the offender cannot have more than one felony conviction, more than two misdemeanor convictions, or more than one felony and one misdemeanor conviction. R.C. 2953.31(A). The narrow exceptions allowing multiple convictions to be treated as “one conviction” are left in place.

Another amendment involves R.C. 2953.36(F), which currently provides that convictions involving a victim under 18 years old cannot be expunged. The Act leaves that language in place but makes an exception allowing expungement of criminal non-support convictions.

These statutory changes are effective September 28, 2021. Under the Ohio Supreme Court decision of *State v. LaSalle*, 96 Ohio St. 3d 178, 2002-Ohio-4009, an application for expungement is governed by the statutory law in effect at the time of the *filing* of the application. Nothing in S.B. 337 alters the *LaSalle* rule. Therefore, any already pending applications for expungement will remain subject to the current law, even after September 28, 2012.”

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?

APPLICATION

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?

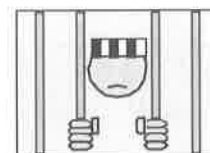
If all of the following six statements are true for your situation, you will be able to get an expungement:

- 1) The conviction you are trying to expunge is **NOT** for one of the crimes or categories of crimes listed (NOTE: 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 except criminal – nonsupport convictions (ORC Chapter 2919.21)
- 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.



- 3) Has not more than one felony conviction, not more than two misdemeanor convictions if the convictions are not of the same offense or not more than one felony conviction

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

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:

1. 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).
2. Fill in the County where this Court is located (look in *Order*).
3. On the Plaintiff line, fill in the name of the Prosecutor who prosecuted you for the crime (look in *Order*).
4. Fill in the case number for your prior conviction (look in *Order*).
5. Leave the space for the Judge's name blank.
6. Fill in your name on the Defendant line.

- 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:

Explain how you have been rehabilitated (why you are unlikely to commit future crimes)

and why you should have your record expunged (ex. To apply for a job, etc.)

Respectfully Submitted,

Sign your name

Defendant's Signature

Print your name

Defendant's Printed Name

Fill in your address & phone number

Defendant's Address & Phone Number

Leave this section blank – the Judge will complete. (Allows Judge to set hearing date)

NOTICE OF HEARING

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

Judge

IN THE _____ COURT OF
_____, OHIO

Plaintiff(s)) Case No: _____
vs.) Judge _____

Defendant(s)) APPLICATION TO SEAL A
CRIMINAL RECORD PURSUANT
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 Conviction(s): _____

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).**

Not more than one felony conviction, not more than two misdemeanor convictions if the convictions are not of the same offense, or not more than one felony conviction and one misdemeanor conviction in this State or any other State.

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

- 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 & Phone Number

NOTICE OF HEARING

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

Judge

HIGHLAND COUNTY COURT OF COMMON PLEAS
GENERAL DIVISION
CIVIL AND DOMESTIC CASES

PLEASE COMPLETE AND SUBMIT WITH APPLICATION

PERSONAL IDENTIFIERS

Pursuant to Rule 45 of the Rules of Superintendence

RULE 45. Court Records – Public Access.

(D) Omission of personal identifiers prior to submission or filing

(1) When submitting a case document to a court or filing a case document with a clerk of court, a party to a judicial action or proceeding shall omit personal identifiers from the document.

(2) **When personal identifiers are omitted from a case document submitted to a court or filed with a clerk of court pursuant to division (D)(1) of this rule, the party shall submit or file that information on a separate form.** The court or clerk may provide a standard form for parties to use. Redacted or omitted personal identifiers shall be provided to the court or clerk upon request or a party to the judicial action or proceeding upon motion.

Applicant/Defendant Name

SSN _____

DOB _____

Current Address

Street Address/P O Box

City, State, Zip Code

Phone Number

Email Address