Can I seal or expunge my criminal record?

A guide to adult conviction sealing and expungement in Ohio

OHIO JUSTICE POLICY CENTER

STEP 1:

WHAT OFFENSES CANNOT BE SEALED OR EXPUNGED?

Dhio Revised Code (R.C) 2953.32 to 2953.34 do not apply to any of the following:

- 1st or 2nd degree felonies
- · 3 or more 3rd degree felonies
- Traffic convictions
- Felony offenses of violence that are not sexually oriented offenses
- Sexually oriented offenses when the applicant is subject to the requirements of Chapter 2950 of R.C. (sex offender registry)
- Offenses in which the victim of the offense was less than 13 years old (Note: This does not apply to nonsupport of dependents.)
- Domestic Violence convictions
- Violating Protection Order convictions

Sexually Oriented Offenses (per R.C. 2950.01)

29	05.02(B)	Abduction	2907.321	Pandering obscenity involving a minor or
29	03.01	Aggravated murder*		impaired person
29	907.21	Compelling prostitution	2907.322	Pandering sexually oriented matter involving a
29	05.05(B)	Criminal child enticement	0007.00	minor or impaired person
29	19.22(B)(5)	Endangering children	2907.22	Promoting prostitution
29	03.11	Felonious assault*	2907.09	Public indecency*
29	07.05	Gross sexual imposition	2907.02	Rape
29	07.323	Illegal use of minor in nudity-oriented	2907.06	Sexual battery
		material or performance		Sexual imposition
29	07.07	Importuning	2905.32	Trafficking in persons*
29	03.04(A)	Involuntary manslaughter*	2905.03(B)	Unlawful restraint
29	05.01	Kidnapping*	2907.04	Unlawful sexual conduct with minor*
29	903,211(A)(3)	Menacing by stalking	2903.03(B)	Voluntary manslaughter
	03.02	Murder*	2907.08	Voyeurism
29	07.32	Pandering obscenity	*Check R.	C. 2950.01 for extended definition.

Offenses of Violence (per R.C. 2901.01)

2905.01	Abduction				
2909,02	Aggravated arson				
2903.12	Aggravated assault				
2911,11	Aggravated burglary				
2903.21	Aggravated menacing				
2903.01	Aggravated murder				
2917.02	Aggravated riot				
2911.01	Aggravated robbery				
2909.03	Arson				
2903,13	Assault				
2911,12 (A)	(1), (2), or (3) Burglary				
2919,25	Domestic violence				
2919,22(B)(1), (2), (3), or (4) Endangering children					
2921.34	Escape				
2905.11	Extortion				
2903.11	Felonious assault				
2907.12	(former) Felonious sexual penetration				
2907.05	Gross sexual imposition				
2923.161	Improperly discharging firearm				
2917.01	Inciting to violence				
2917,31	Inducing panic				
2921.03	Intimidation				
2921.04	Intimidation of attorney, victim, or witness				
2903.04	Involuntary Manslaughter				
2905.01	Kidnapping				
2903.22	Menacing				
2903.211	Menacing by stalking				
2903.02	Murder				
2903.34(A)(1) Patient Abuse or Neglect					
2903.15	Permitting child abuse				
2907.02	Rape				
2917.03	Riot				
2911.02	Robbery				
2907.03	Sexual battery				
2903.18	Strangulation or suffocation				
2909.24	Terrorism				
2905.32	Trafficking in Persons				
2903.03	Voluntary Manslaughter				

STEP 2: HAVE YOU SATISFIED THE WAITING PERIOD?

SEALING WAITING PERIODS:

If applying to seal a minor misdemeanor Wait six months after discharge.

If applying to seal a misdemeanor

Wait one year after the misdemeanor* is discharged.

If applying to seal a fourth or fifth degree felony

Wait one year after the fourth or fifth degree felony* is discharged.

If applying to seal one or two

Wait three years after the third degree felony* is discharged.

third degree felonies

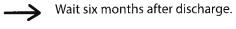
If applicant subject to Chapter 2950 (sex offender registry)

Wait five years after requirements have ended.

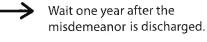
*So long as none of the offenses is a violation of R.C. 2921. 43. If the record includes a violation of R.C. 2921.43, applicant must wait seven years.

EXPUNGEMENT WAITING PERIODS:

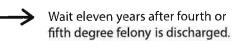
If applying to expunge a minor misdemeanor



If applying to expunge a **misdemeanor**



If applying to expunge a fourth or fifth degree felony



If applying to seal one or two



Wait thirteen years after the thirc degree felony is discharged.

third degree felonies

A case is "discharged" when a person has fully completed any jail or priso sentence, any terms of probation or parole, and all payments of fine or fees that were a penalty for the conviction. Court costs are not part of a sentence, and unpaid court costs should not block an application

STEP 3:

WHEN CAN A PERSON APPLY?

Are there pending criminal charges? The court will <u>not</u> seal or expunge any record if the applicant is facing <u>pending</u> charges. Applicants should wait until any pending cases have resolved. Depending on where in Ohio their records are, that could include completing requirements like probation.

Is the applicant unlikely to re-offend? Applicants must be able to show that they have been "rehabilitated to the satisfaction of the court." Applicants must also show that their interest in sealing a record is greater than any legitimate government needs to maintain those records.

STEP 4:

HOW DOES A PERSON APPLY?

For each offense, complete an application in each court where there is a case to be sealed or expunged.

Every court has its own application forms and processes, so contact the Clerk of Courts to find out what documents to file and how to file them. The Clerk of Courts 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 will be \$50. A person can ask the court to waive this fee by completing a poverty affidavit (sometimes called an "affidavit of indigence"). If a hearing is scheduled, the applicant must attend.

STEP 5:

WHY SHOULD A PERSON APPLY?

Sealed records will not show up on most background checks. Landlords, schools, and the general public cannot see the sealed record. Note, however, that certain "collateral consequences" allow some employers and professional licensing boards to see sealed conviction records (e.g. nursing, childcare, and security-related employment).

NOTE:

DIFFERENCE BETWEEN SEALING & EXPUNGEMENT

"Sealing" and "expungement" are words that certain jurisdictions sometimes use interchangeably, but they are not the same thing. A granted expungement deletes and destroys a record and treats it as if it never occurred—sealing does not do this. Ohio Senate Bill 288 created a new expungement process, but no definition was included for how cases will be treated once expunged. It is unclear what effect an expungement will have if granted under R.C. 2953.32.

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If you have questions about record sealing, eligibility and other ways to overcome the barriers of a criminal conviction, register to participate in the Ohio Justice & Policy Center's Second Chance Virtual Legal Clinic at www.ohiojpc.org.

Disclaimer: This guide is a general source of information about criminal record sealing, It is not a substitute for individualized legal advice, For answers to specific questions, it is best to consult an attorney.

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