

## **Expungement/Sealing Information**

The statutes authorizing expungement/sealing are Ohio Revised Code sections 2953.32 & 2953.33. This area of the law changes often, and it will be necessary for you to retain the services of an attorney to see if you qualify for an expungement and file the necessary paperwork.

Record sealing is an act of grace created by the state – it is a privilege, not a right. Applicants must meet statutory criteria in order to be eligible for sealing of their record.

## **Frequently Asked Questions**

### **What is a Sealing?**

The “sealing” of criminal records from view of most entities in most circumstances. Records are not physically destroyed, legal reason to access and use records allowed in certain circumstances.

Certain individuals may still have access to the information:

1. Law enforcement agencies, prosecutors, and other agencies can look at your sealed record.
2. If you commit another crime – your sealed record can still be used against you in sentencing.

### **What is an Expungement?**

An expungement is the actual physical destruction of criminal records so that no one may access the records ever. Legally, it’s as if the criminal case never happened.

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.

Dismissals and acquittals are NOT eligible for expungement, only convictions.

### **Why expunge a criminal record?**

There are several very good reasons to seek to expunge a criminal record. When you apply for some jobs, apartments, and licenses they will 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, you may be asked about your past criminal record. If you have a conviction, your testimony may be questioned or disregarded.

### **Who is eligible to seal or expunge a criminal record?**

SB 288 removed definition of “eligible offender” and instead the court only looks at the convictions for which application is filed and whether the convictions are excluded from sealing and expungement. R.C.2953.32(A)(1) – (6) lists offense ineligible for sealing or expungement. Most misdemeanor convictions are eligible for sealing/expungement except: DV, VPO, victim less than 13, Sexually Oriented Offense, Traffic convictions, multiple charges out of the same act.

In addition to eligible offenses an offender must also wait the required time period before a criminal record can be sealed or expunged, as discussed fully below.

### **What offenses are prohibited from sealing or expungement?**

The following conviction records are ineligible for sealing or expungement:

- Any **first- or second-degree felony, or more than two third- degree felonies**
- Convictions under,  
All driver’s license law, license suspension/cancellation/revocation  
Traffic Violations (OVI and moving violations),  
Motor Vehicle Crime Law,  
Commercial Driver’s License Law,  
And any substantially similar municipal ordinances
- Felony offense of violence that is not a sexually oriented offense
- Convictions of a sexually oriented offense when the applicant is still subject to SORN requirements
- Convictions of an offense in which the victim was less than 13 years old, except for nonsupport of dependents
- Convictions of DV or VPO

**How long from a conviction must an offender wait before sealing or expunging a record?**

Offender must wait one year from conviction for sealing a misdemeanors and F-4/F-5, three years after F-3 conviction;

Conviction “send date” is the end of probation/community control, post-release control, and full payment of any restitution or fines and costs ordered as part of sentence.

Misdemeanor expungement wait time is the same time as sealing, felony expungement wait time is 10 years after sealing eligibility.

Time for Sealing or Expungement from final discharge. R.C. 2953.32(B)(1)

	<u>Sealed</u>	<u>Expunged</u>
F3	3 years	13 years
F4/F5	1 year	11 years
Misd.(1-4)	1 year	1 year
Minor misd	6 months	6 months
Felony Theft in office	7 years	17 years

**Is there a waiting period for sealing cases which were dismissed or a finding of not guilty?**

There is no waiting period for application to seal a not guilty finding or dismissal of criminal complaint.

**Fees for Application to seal/expunge a conviction**

Offender must apply to court for sealing and expungement. Application may request the sealing of more than one case in a single application. Applicant shall pay a fee of not more than \$100.00, regardless of the number of cases the application requests to have sealed.