

SEALING A CRIMINAL CONVICTION RECORD


If your criminal record shows you were **CONVICTED** of a felony or misdemeanor, answer the following questions to determine if you are eligible to have the conviction record sealed.

QUESTION #1 - Was the conviction your **FIRST OFFENSE**?

You may only apply to have your conviction record sealed if it was your 1st conviction in Ohio or any other state.

- If you have **2 or more convictions based on the same criminal act**, the multiple convictions will be treated like 1 conviction when you apply to have the records sealed.
 - **EXAMPLE:** If you were convicted of shoplifting and resisting arrest immediately after shoplifting, the court will consider the 2 separate convictions as 1 conviction when you apply to seal the records.
- If your **2 or 3 convictions were not based on the same criminal act**, but resulted from the same court proceeding and the convictions were for related criminal acts committed within 3 months of each other, the multiple convictions *may* be treated like 1 conviction.
 - **EXAMPLE:** If you have 2 convictions for passing bad checks on March 1st and May 10th, and you were convicted of both at the same court proceeding, the court *may* treat the 2 convictions as 1 if you apply to have records sealed. **BUT**, the court can decide that it is not in the public interest to treat the multiple convictions as 1.
- Convictions for violating most **driver's license and traffic laws** are NOT considered convictions when applying for sealing records.
 - **EXAMPLE:** If you had a conviction for driving with an expired license 6 years ago and a conviction for theft 5 years ago, the theft conviction is considered your first offense and you may apply to have your record sealed.
 - **EXCEPTIONS:** convictions for DUI, street racing, failure to stop after a traffic accident, vehicle identification number fraud, odometer rollback violations, driving under suspension for DUI, and refusal to take a breathalyzer **ARE** considered convictions for purposes of sealing criminal records.




 **NO** - if the conviction record you want sealed was not your first offense, you **CANNOT** have your criminal conviction record sealed.

 **YES** - if it was your first offense, go on to **QUESTION #2**.

QUESTION #2 - Have you had any convictions since your first offense? Are there any other criminal charges pending against you right now?

The court will not seal your conviction record if you have had any other convictions (besides minor traffic misdemeanors) since your first conviction. Also, the court will not seal your conviction record if you have any criminal charges pending against you.

 **YES** - you **CANNOT** have your criminal conviction record sealed.

 **NO** - go on to **QUESTION #3**.

QUESTION #3 - What was the underlying crime you were convicted of?

You can find the crime you were convicted of on your criminal record. Your record will also tell you if your conviction was for a felony or misdemeanor and the degree of the felony or misdemeanor. Conviction records for certain felonies and misdemeanors are not allowed to be sealed. The following questions will help determine if you were convicted of a "sealable" crime.

- A. Was your conviction for a first or second degree felony?
- B. Was your conviction for a felony or a first degree misdemeanor AND the victim was under the age of 18 when the crime took place?
- C. Was your conviction for a felony or a first degree misdemeanor AND the conviction was for a violent crime?
- D. Was your conviction for any of the following crimes?
 - Rape or Sexual Battery
 - Unlawful Sexual Conduct with a Minor
 - Sexual Imposition
 - Pandering Sexually Oriented Matter or Obscenity Involving a Minor
 - Illegal Use of a Minor in Nudity Oriented Material or Performance
 - Driver's License or Traffic Violations



YES - if you answered yes to any part of QUESTION #3, you CANNOT have your conviction record sealed.



NO - if you answered no to all parts of QUESTION #3, go on to **QUESTION #4**.

QUESTION #4 - Were you subject to a mandatory prison term for your conviction?

If you served a mandatory prison sentence for the crime you were convicted of, you cannot have your record sealed. If you were told that you were not eligible for parole, you were subject to a mandatory prison sentence.



YES - you CANNOT have your conviction record sealed.



NO - go on to **QUESTION #5**.

QUESTION #5 - How many years has it been since you completed your jail sentence, prison sentence, probation, or parole for the conviction?

You must wait a certain amount of time after the "final discharge" of your conviction before you may apply for the record to be sealed. Final discharge means you finished serving your punishment for the conviction (jail or prison sentence, probation, parole, or any combination).

- **MISDEMEANOR** - you must wait 1 year after the final discharge of your conviction to apply to have your conviction record sealed
- **FELONY** - you must wait 3 years after the final discharge of your conviction to apply.

**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)

§ 2953.32. Sealing of record of conviction or bail forfeiture.

(A) (1) Except as provided in section 2953.61 of the Revised Code, a first 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 conviction record. 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 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. 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.

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

(a) Determine whether the applicant is a first offender or whether the forfeiture of bail was agreed to by the applicant and the prosecutor in the case. If the applicant applies as a first 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 a first offender; if the court does not make that determination, the court shall determine that the offender is a first offender.

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

(c) If the applicant is a first 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 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 a first 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 a first 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 division (G) of this section, shall order all official records pertaining to the case sealed and, except as provided in division (F) of this section, all index references to the case deleted and, in the case of bail forfeitures, shall dismiss the charges in the case. The proceedings in the case 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) Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars. 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 [2953.32.1] 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, an authorized employee of the bureau, a sheriff, or an authorized employee of the sheriff in connection with a criminal records check described in section 311.41 of the Revised Code.

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 [3301.12.1 and 3313.66.2] 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 [3301.12.1 and 3313.66.2] 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.

HISTORY: 135 v S 5 (Eff 1-1-74); 137 v H 219 (Eff 11-1-77); 138 v H 105 (Eff 10-25-79); 140 v H 227 (Eff 9-26-84); 142 v H 8 (Eff 7-31-87); 142 v H 175 (Eff 6-29-88); 143 v S 140 (Eff 10-2-89); 144 v H 154 (Eff 7-31-92); 145 v H 571 (Eff 10-6-94); 146 v H 566 (Eff 10-16-96); 146 v S 160 (Eff 1-27-97); 148 v S 13. Eff 3-23-2000; 149 v H 490, § 1, eff. 1-1-04; 150 v H 12, §§ 1, 3, eff. 4-8-04/D.