

Instructions for Sealing a Criminal Record



Judge J.J. Costello

Cleveland Heights Municipal Court
40 Severance Circle
Cleveland Heights, Ohio 44118

What is the Sealing of a Criminal Record?

In Ohio, an adult criminal record can be sealed so that the conviction or criminal charge is filed separately from a person's record. A record sealing can occur after a conviction, after a finding of not guilty, or after a dismissal of proceedings. Once an eligible offender's record is sealed, generally speaking, no record will appear on a record check. However, the record can never be completely erased. It is still available to some, for instance, judges, law enforcement, certain employers (such as schools), and most professional licensing boards can gain access to the sealed record, but most employers, landlords, and the public cannot see the record.

SEALING OF RECORDS AFTER NOT GUILTY FINDING, DISMISSAL OF PROCEEDINGS, OR NO BILL BY GRAND JURY (R.C. 2953.52)

1. Any person, who is found not guilty of an offense by a jury or a court or who is the defendant named in a dismissed complaint, indictment, or information, may apply to the court for an order to seal the person's official records in the case.
2. Any person, against whom a no bill is entered by a grand jury, may apply to the court for an order to seal his official records in the case.
3. You currently do not have any criminal or traffic proceedings pending against you.

Even if your record is sealed certain employers, officials, and agencies are allowed by law to see sealed records on Ohio Bureau of Criminal Identification and Investigation checks:

- Prosecutors, judges, and police if there are future criminal investigations;
- Judges considering convictions for sentencing in future crimes;
- Employers in law enforcement, jobs working with children or the elderly (e.g. schools, daycares, and health-care services), and some jobs in real-estate and financial institutions; and
- Most state professional-licensing boards, such the State Accountancy Board, State Medical Board, State Dental Board, State Board of Nursing, State Board of Psychology, and others, for the purposes of license denial, suspension, or revocation.

SEALING OF RECORD OF CONVICTION (R.C. 2953.31)

To have a record of conviction sealed, you must be an eligible offender. An "eligible offender" means either of the following:

1. Anyone who has been convicted of one or more offenses, in this state or any other jurisdiction;
2. Not convicted of more than five felonies;
3. All of the offenses in this state are felonies of the fourth or fifth degree or misdemeanors;
4. None of those offenses are an offense of violence or a felony sex offense; and

5. All of the offenses in another jurisdiction, if committed in this state, would be felonies of the fourth or fifth degree or misdemeanors, and none of those offenses would be an offense of violence or a felony sex offense. (R.C. 2953.31(A)(1)(a))

Or:

1. Anyone who has been convicted of an offense in this state or any other jurisdiction; and
2. Has not more than one felony conviction; or
3. Not more than two misdemeanor convictions or;
4. Not more than one felony conviction and one misdemeanor conviction in this state or any other jurisdiction. (R.C. 2953.31 (A)(1)(b))

NOTE: If you were convicted of two or more crimes based upon the same action all of these convictions may be considered a single conviction for purposes of counting convictions above. For example, if you were convicted of shoplifting and resisting arrest as a result of the shoplifting, you may be able to get both records sealed. (R.C. 2953.31)

I am an Eligible Offender, can I get my record sealed?

If all of the following statements are true for your situation, you may be able to request that your record be sealed:

1. The conviction you are trying to seal is **NOT** for one of the crimes or categories of crime listed below (convictions of the crimes listed **CANNOT** be sealed). (R.C. 2953.36)
 - Rape (R.C. 2907.02)
 - Sexual battery (R.C. 2907.03)
 - Corrupting a minor (R.C. 2907.04)
 - Gross sexual imposition (R.C. 2907.05)
 - Sexual imposition (R.C. 2907.06)
 - Obscenity involving a minor (R.C. 2907.321)
 - Pornography involving a minor (R.C. 2907.322)
 - Illegal use of a minor in pornography (R.C. 2907.323)
 - All driver's license violations (R.C. 4507)
 - Driver's License Suspension, Cancellation, Revocation Chapter 4510
 - Motor vehicle violations (R.C. Chapter 4511)
 - Motor Vehicle Crimes Chapter 4549
 - Bail forfeitures in traffic cases (Traffic Rule 2)
 - Misdemeanors of the first degree or felonies where the victim is under the age of 18
 - Felonies of the first or second degree
 - Convictions on or after October 10, 2007 of sex offenses under R.C. 2907.07 or any violation of a municipal ordinance that is substantially similar to that section.
 - Convictions on or after October 10, 2007 under R.C. 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 2907.311, 2907.32, or 2907.33 when the victim of the offense was under eighteen years of age

- Convictions of an offense in circumstances in which the victim of the offense was under eighteen years of age when the offense is a misdemeanor of the first degree or a felony, except for convictions under R.C. 2919.21
 - Convictions of an offense of violence when the offense is a misdemeanor of the first degree or a felony. Exceptions to this are convictions for riot (R.C. 2917.03); and misdemeanor convictions for assault (R.C. 2903.13); inciting to violence (R.C. 2917.01); and inducing panic (R.C. 2917.31)
2. You were NOT subject to a mandatory prison term for the conviction you seek to seal (in other words, you were eligible for probation for that conviction). Even if you were actually sentenced to prison time, your conviction can be sealed as long as you were eligible for probation. (R.C. 2953.31 (A)(1)(b))
 3. The following amount of time has passed since your final discharge:
 - One year for a misdemeanor;
 - Three years for a single felony;
 - Four years for two felonies; or
 - Five years for three, four, or five felonies.

“Final discharge” means completion of all parts of the sentence as well as jail time and/or probation. (R.C. 2953.32 (A)(1)(a);(c))

4. You currently do not have any criminal or traffic proceedings pending against you.

Steps You Must Follow to Get Your Record Sealed

1. Obtain a copy of the “final order(s)” on the conviction you wish to have sealed. Contact the Clerk’s office in the court in which you were convicted. Remember, your case was “criminal” so be sure to go to the appropriate part of the office. Request a certified copy of the judgment order of conviction (there is a fee for this copy). You will need to give the clerk your case number. If you do not know the number you can locate it on the Court computer system or the internet (www.clevelandheightscourt.com). If your conviction was before October of 1990, you will have to do a manual search of the docket books to determine your case number.
2. Fill in the blanks on the form included in this packet called “Application to Seal a Criminal Record.” AT LEAST ONE YEAR FROM THE TERMINATION OF YOUR PROBATION MUST HAVE PASSED. **The Probation Department MUST sign your application before filing it with the Court.**
3. Pay a nonrefundable filing fee (see cost schedule).
4. Complete the application form and attach a copy of the judgment entry of conviction.

5. Make three (3) copies of the application and all supporting documents.
6. File the original and the copies with the clerk's office in the court in which you were convicted.
7. Complete an interview with the Probation Department.
8. Appear for the hearing and present any verbal or written proof of rehabilitation.

ADDITIONAL INFORMATION

- Even if all information is true for you, the Judge can still refuse to seal your record.
- The Judge must make a decision weighing the interests in having the records sealed against the government's need to keep these records. The Judge may make a decision at the hearing or later. If no decision is made in court, a copy of the decision will be mailed to you. Be sure the Court has your current address.
- Once the sealing of the record is granted the information will be sent to Ohio Bureau of Criminal Identification and Investigation.
- Even though the Court may grant the sealing of your record/arrest, there are certain occupations which require a background check and fingerprinting. In those instances, the Ohio Bureau of Criminal Identification and Investigation will be required by R.C. 109.57 and 109.572 to reveal the sealed records. A few of these professions are teaching, nursing, law enforcement, child or elderly care.
- By completing the attached forms forms, you are serving as your own attorney. The purpose of this packet is to help you represent yourself in the sealing of your record. No attorney/client relationship has been created and this material is not to be considered legal advice. If at any point you feel that the process is too confusing or intimidating, you should speak to an attorney. The Legal Aid Society of Cleveland may assist with record sealing for qualified low-income people. Otherwise, you can contact the local bar associations to find an attorney to assist you. This packet provides general information and is not a substitute for individualized legal advice. For answers to specific questions, you should consult an attorney.

IN THE CLEVELAND HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

State of Ohio / City of Cleveland Heights,
Plaintiff

vs.

Defendant

Case No. CRB _____

Judge J.J. Costello

**APPLICATION TO SEAL A CRIMINAL RECORD
OF CONVICTION PURSUANT TO R.C. 2953.32**

Now comes the Defendant, pro se, and respectfully moves for an order pursuant to Section 2953.32 of the Ohio Revised Code sealing the record of the following conviction(s):

Charge(s): _____

Case Number(s): _____

Date of Conviction(s): _____

Date of Termination of Probation: _____

No criminal or traffic charges are pending against Defendant.

The applicant as stated above qualifies as an eligible offender as defined in Section 2953.31(A) of the Ohio Revised Code (please check the appropriate box).

Under R.C. 2953.31(A)(1)(a) because all of the following are true:

- Not more than five felonies in this state or another jurisdiction.
- All of the offenses in this state are felonies of the fourth or fifth degree or misdemeanors.
- None of the offenses are an offense of violence or a felony sex offense.
- All of the offenses in another jurisdiction, if committed in this state, would be felonies of the fourth or fifth degree or misdemeanors and none of those offenses would be an offense of violence or a felony sex offense.

The Defendant has no more than two misdemeanor convictions.

Defendant has only one felony conviction and one misdemeanor conviction.

The interest of the Defendant in having Defendant's record sealed outweighs the legitimate needs, if any, of the government to maintain the record(s). The Defendant gives the following reason(s) for filing a motion for sealing of his/her official record:

Respectfully submitted,

Signature: _____

Name: _____

Address: _____

Phone: _____

Email: _____

CERTIFICATE OF SERVICE

A copy of the foregoing was sent to the Cleveland Heights Prosecutor on _____ (date)
by _____ (method of service).

Signature: _____

IN THE CLEVELAND HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

State of Ohio / City of Cleveland Heights,
Plaintiff

vs.

Defendant

Case No. CRB _____

Judge J.J. Costello

**APPLICATION TO SEAL A CRIMINAL RECORD
PURSUANT TO R.C. 2953.52 (after not guilty
finding or dismissal of proceedings)**

Now comes the Defendant, pro se, and respectfully moves for an order pursuant to Section 2953.52 of the Ohio Revised Code sealing the following arrests in which the determination of the case was a DISMISSAL or NOT GUILTY entry:

Charge(s): _____

Case Number(s): _____ Date of Dismissal/Not Guilty Order: _____

No criminal charges are pending against Defendant. The record of the Defendant's arrest should be expunged and all records should be sealed because Defendant has been rehabilitated, as evident by the following facts:

Respectfully submitted,

Signature: _____

Name: _____

Address: _____

Phone: _____

Email: _____

CERTIFICATE OF SERVICE

A copy of the foregoing was sent to the Cleveland Heights Prosecutor on _____ (date)
by _____ (method of service).

Signature: _____

ADDITIONAL INFORMATION RECORD

For purposes of identification of the record to be sealed, the following information will be provided to arresting agencies and any and all known custodians of arrest and conviction records. This information must be filled out to the best of your knowledge. Please print all information.

Full Name: _____

Maiden name (or other names known as): _____

Address: _____

City: _____ State: _____ Zip: _____

Court Case Number(s): _____

Charge(s) at Arrest: _____

Charge(s) CONVICTED of: _____

Ohio BCI Number (if known): _____

FBI Number (if known): _____

Social Security Number: _____

**THIS MUST BE FILED WITH EITHER THE APPLICATION TO SEAL A CRIMINAL RECORD
PURSUANT TO R.C. 2953.32 OR THE APPLICATION TO SEAL A CRIMINAL RECORD PURSUANT
TO R.C. 2953.52 RECORD OF CONVICTION**

DO NOT WRITE IN THIS BOX. TO BE COMPLETED ONLY BY PROBATION.

After interviewing the applicant and upon thorough review, I have determined that the applicant IS IS NOT an Eligible Offender and I DO DO NOT recommend that the record be sealed.

Probation Officer's Signature

Probation Officer's Name

Date