

# **BARBERTON MUNICIPAL COURT**

# **The Expungement/Sealing Process**

The laws governing expungements/sealing of records are set by the Ohio Revised Code (RC) in Sections 2953.31 through 2953.34. Employees of the Clerk's office cannot give you legal advice. If you are in need of legal advice regarding your expungement or sealing application, please contact an attorney.

- Filing an application and paying the filing fee does not guarantee the Court will order your matter be sealed or expunged.
- There will be a mandatory hearing date, and your absence could result in the denial your sealing or expungement motion
- **1. Who can file?** As it concerns types of cases handled in the Barberton Municipal Court, RC 2953.32 to 2953.34 does not apply to any of the following:
  - Traffic convictions under RC Chapters 4506, 4507, 4510, 4511, or 4549, or a substantially similar municipal ordinance
  - Sexually oriented offenses when the applicant is subject to RC 2950 (registry)
  - Offenses in which victim of offense less than 13 years of age
  - Domestic Violence convictions (4<sup>th</sup> degree misdemeanor DV sealings permitted)
  - Violating Protection Order convictions
- 2. When can the application be filed?
  - If applying to seal a minor misdemeanor six months after final discharge
  - If applying to seal a misdemeanor one year after final discharge
  - If applying to seal conviction under RC2921.43 seven years after final discharge
  - If applying to expunge a minor misdemeanor six months after final discharge
  - If applying to expunge a misdemeanor one year after discharge
  - Final discharge (FD) means completing of probation, and any sentenced programming. All fines must be paid in full prior to filing.

If you were found not guilty or your case was dismissed you may file at any time.

You cannot have any pending charges or unpaid tickets in any court.

3. What is the filing fee? There is a \$100.00 <u>non-refundable</u> filing fee for applications to seal or expunge records of conviction. There is no filing fee applications to seal or expunge dismissal/not-guilty findings.

- **4. Are there any convictions that can never be sealed?** Yes. You are not eligible to have your criminal record sealed if the conviction is for any of the following offenses:
  - An offense that is a felony of the first or second degree
  - Three or more third degree felonies
  - Any felony offenses of violence that are not sexually oriented offenses.
  - Sexually oriented offenses when the applicant is subject to RC 2950 (registry)
  - Any case in which the victim of the offense was under 13 years of age.
  - All driver's license violations
  - All motor vehicle violations unless offense is in connection with the same act as the criminal offenses.
  - Domestic Violence convictions (fourth degree misdemeanor DV cases are permitted).
  - Violating a Protection Order convictions.
- 5. What if my case was a felony? If the case was completely dismissed by this court, and/or reduced to a misdemeanor, you can file to have the case sealed. If the case was a felony and transferred to the Summit County Common Pleas Court, an eligible offender may apply to the Court of Common Pleas. You may contact the Court of Common Pleas at 330-643-2282.
- 6. What happens after the application is filed?
  - You will need to go to the Probation Department to answer a brief set of questions. The Probation Department is located on the 2nd floor of the Municipal Building in Room 208.
  - If you live out of state and file your application by mail you must provide your social security number, maiden name and/or name at the time of conviction, current address and telephone number with your application. The Probation Department completes a thorough background report for all applicants.
  - The Court will notify you of the mandatory hearing date on your motion. Your absence could result in the denial your sealing or expungement motion
- 7. It is up to the municipal court judge to either grant or deny your application. If the applicant meets the requirements to have a case sealed, it is for the court to determine whether interests of the applicant in having the records pertaining to the applicant's conviction sealed or expunged outweighs the legitimate needs, if any, of the government to maintain those records. In some circumstances the prosecutor and or victim may file an objection to the application.

After the background check is completed, and if your application is approved, a copy of the judge's entry granting the sealing and/or expungement will be sent to you and any agencies connected to the case.

Please note the sealing order applies only to governmental agencies, not private databases – it is still possible for your record to appear on private background company records for a period of time. In addition, governmental agencies do have the right to inspect sealed records for various purposes including licensing and employment. Sealed records may be released to potential employers if you apply for a job working with children (Senate Bill 38) or the elderly (House Bill 160).

PLEASE CONTACT THE BARBERTON CLERK OF COURTS OFFICE BETWEEN THE HOURS OF 8:00 TO 4:00 PM MONDAY – FRIDAY AT (330) 753-2261 WITH QUESTIONS.

www.cityofbarberton.com/clerkofcourts

# Record Sealing and Expungement in Ohio

A guide for adult convictions - UPDATED: October 2023

# **STEP 1:** WHAT OFFENSES CANNOT BE SEALED OR EXPUNGED?

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

- 1st or 2nd degree felonies
- A 3rd degree felony if applicant has (2) or more felonies of any degree
- A 3rd degree felony if applicant has exactly (2) 3rd degree felonies + (2) misdemeanors + any other convictions
- · 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 (Note: 4th degree misdemeanor sealing is allowed.)
- · Violating Protection Order convictions

#### Sexually Oriented Offenses (per R.C. 2950.01)

	•	•				
2905.02(B) 2903.01	Abduction Aggravated murder*	2907.321	Pandering obscenity involving a minor or impaired person			
2907.21 2905.05(B)	Compelling prostitution Criminal child enticement	2907.322	Pandering sexually oriented matter involving a minor or impaired person			
2919.22(B)(5)	Endangering children	2907.22	Promoting prostitution			
2903.11	Felonious assault*	2907.09 2907.02	Public indecency* Rape			
2907.05 2907.323	Gross sexual imposition Illegal use of minor in nudity-oriented	2907.03	Sexual battery			
2001.020	material or performance	2907.06	Sexual imposition			
2907.07	Importuning	2905.32 2905.03(B)	Trafficking in persons* Unlawful restraint			
2903.04(A) 2905.01	Involuntary manslaughter* Kidnapping*	2907.04	Unlawful sexual conduct with minor*			
2903.211(A)(3)	Menacing by stalking	2903.03(B)	Voluntary manslaughter			
2903.02	Murder*	2907.08	Voyeurism			
2907.32	Pandering obscenity	*Check R.C. 2950.01 for extended definition.				

#### Offenses of Violence (per R.C. 2901.01)

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JUSTICE & POLICY CENTER

2905.02	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
٠,	(1) Patient Abuse or Neglect
2903.15	Permitting child abuse
2907.02	Rape
2917.03 2911.02	Riot Robbery
2907.03	Sexual battery
2903.18	Strangulation or suffocation
2917.321	Swatting
2909.24	Terrorism
2909.24	Trafficking in Persons
2905.32	Voluntary Manslaughter
2903.03	voluntary iviansiaugnier

# **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.

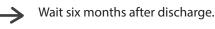
third degree felonies

If applicant subject to Chapter 2950 (sex offender registry) Wait five years after requirements have ended.

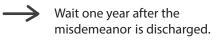
\*So long as none of the offenses is a violation of R.C. 2921. 43. If the record includes a violation of R.C. 2921.43, applicant must wait seven years.

#### **EXPUNGEMENT WAITING PERIODS:**

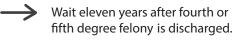
If applying to expunge a minor misdemeanor



If applying to expunge a misdemeanor



If applying to expunge a fourth or fifth degree felony



If applying to expunge one or two



Wait thirteen years after the third degree felony is discharged.

third degree felonies

A case is "discharged" when a person has fully completed any jail or prison sentence, any terms of probation or parole, and all payments of fines 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 <u>in each court where there is a case to be sealed or</u> expunged. **The filing fee may be between \$50-100 per court, not per case number.** 

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.

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?

"Sealing" and "expungement" are words that certain jurisdictions sometimes use interchangeably, but they are not the same thing. A granted expungement deletes, destroys, and erases a record—sealing does not do this. Some employers and professional licensing boards may still be able to see sealed conviction records (e.g. nursing, childcare, and security-related employment). Further investigation may be needed to evaluate individual circumstances.

# NOTE:

# CHANGES TO NON-CONVICTION SEALING/EXPUNGEMENT

As of October 2023, Ohio law was expanded to allow for non-convictions (not guilty, dismissals, no bills) to be sealed AND expunged. Previously, only sealing was available. There are no exceptions to what non-conviction can be sealed, but there are exceptions to what non-conviction can be expunged. Please consult R.C. 2953.33 or an attorney.

Document updated: October 2023

If you have questions about record sealing/expungement, eligibility and other ways to overcome the barriers of a criminal conviction, register to participate in OJPC's Second Chance 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.

Ohio Justice & Policy Center 215 East Ninth Street Suite 601 Cincinnati, OH 45202 513-421-1108 ohiojpc.org



# In the Barberton Municipal Court Summit County, Ohio

City/State of Ohio	Judge:				
V.	Case No				
Defendant					
Address	Record of Conviction				
the conviction in the above-captioned ma	uant to Ohio Revised Code §2953.32 for the sealing of atter. Defendant represents on the day of fendant was convicted of or plead guilty to:				
obligations required of the Court in the abov	dered jail term, any probation term, and all other re-captioned matter, receiving a full and final discharge filing for a misdemeanor offense, or six-months in the				
	ninal charge pending in this or any other jurisdiction; the interests in having the records pertaining to this overnmental need to maintain the records.				
	ng be set upon such motion and that an investigation ermine Defendant has attained rehabilitation to the gible for the relief sought.				
	pplemental Sealing Information form and understands t and update the information provided as necessary.				
Defendant has paid to the Clerk of Court attached an Affidavit declaring indigency.	t the required non-refundable the filing fee, or has				
Defendant wherefore prays for an Order of Sections 2953.31, et seq.	Sealing of the record of conviction pursuant to O.R.C.				
Defe	ndant's Signature				

cc: Probation Department Prosecutor's Office

# SUPPLEMENTAL SEALING/EXPUNGEMENT INFORMATION FORM

NAME:		AGI	E:1	DOB:
AKA:	TELEPHONE:			
ADDRESS:				
CITY:	STATE:		ZIP CC	DDE:
PLACE OF BIRTH:			SSN: _	
RACE: HT:	WT.:	HAIR		EYES:
EMPLOYMENT HISTORY EMPLOYED BY AND HOW LONG:				
EDUCATION  LAST SCHOOL ATTENDED:  MILITARY HISTORY				
BRANCH OF SERVICE:				
HAVE YOU EVER LIVED IN ANOTH COUNTY, OHIO? IF SO, PLEASE LIS	ST BELOW:			
HAVE YOU EVER BEEN CONVICTE ANY OTHER COURT? IF YES, PLEA	ED OF ANY OT	THER CRIMIN	NAL CH	
DO YOU NOW HAVE ANYTHING PL		Y OTHER CC	OURT?	
HAVE YOU EVER APPLIED FOR OF DATE: Yes		GRANTED A	N EXPUI	NGEMENT PRIOR TO THIS
HAVE YOU EVER BEEN CONVICTE Yes				
	SIGNA	ATURE		

# Need Help with Your Criminal Record or Restoring Your Driver's License?

Have you been denied a job, housing, or other government benefits because of your criminal record?

Do you need help getting your driver's license back? Volunteers can help *YOU!* 

# FREE Reentry and VALID Clinics Sponsored by the University of Akron Law School

Please visit <a href="https://www.uakron.edu/law/curriculum/clinical-programs/reentry.dot">https://www.uakron.edu/law/curriculum/clinical-programs/reentry.dot</a>
for date and location.



#### **EXPUNGEMENT/SEALING**

\*The law has changed and you might qualify for sealing even if you did not qualify in the past

#### **CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT (CQE)**

\*Please bring information for employment history, 3 non-relative references, and 3 family references

#### **CLEMENCY**

Please visit <a href="http://www.drc.ohio.gov/clemency">http://www.drc.ohio.gov/clemency</a> to learn about the pardon process

#### **LICENSE RESTORATION**

\*We can NOT pay associated fees!





