

**Filing Fee
\$117.00**

Instructions for Sealing a Criminal Record



This packet is to be used to assist you in filing an application to seal your criminal record.

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The staff of the Elyria Municipal Court Clerk's Office, by law, is prohibited from offering ANY legal advice. Please contact an attorney with any questions regarding the sealing/expungement application process.

Sealing of a Record

In Ohio, records of conviction, bail forfeiture, not guilty or dismissal may be sealed. Sealing of a record, is the act or practice of officially preventing access to court records. In most instances after sealing, the record of conviction is treated as if it never occurred.

(See 2953.32 ORC in the appendix for exceptions.)

If you wish to seal a case/record where **ALL of the charges** have been dismissed or you were found not guilty to **ALL of the charges**, please refer to OHIO REVISED CODE SECTIONS 2953.51 – 2953.56 for information on sealing a record of not guilty or dismissal.

If you wish to seal a case/record where you were convicted of one or all of the charges PLEASE REFER TO OHIO REVISED CODE SECTIONS 2953.31 – 2953.37 for information on sealing a record of conviction.

There is no guarantee that your application will be approved and your case sealed. Further there is no guarantee that the case, once sealed, cannot be re-opened for inspection (refer to the appendix and the other sections of the Ohio Revised Code).

WARNING: By completing this form, you are serving as your own attorney. The purpose of this packet is to help you represent yourself in this process. In no way is any legal service office representing you in this action. No attorney/client relationship has been created, and Legal Aid is not representing you before this court. The outcome is not guaranteed to result in the approval of your application.

Sealing a not guilty or dismissed record

If you were found not guilty to **ALL CHARGES** in your case, or your case was dismissed, you will need to completely fill out the application form found in this packet (**there is no charge**). Other than the “no charge” fee, the court process is the same. You will be notified of the hearing date.

Sealing a record of conviction or bond forfeiture

Please read this packet carefully. Once you file your application and pay the application fee, there is no refund.

If all of the following statements are true your record may be considered for sealing.

- 1) The conviction you are trying to seal is **NOT** for one of the crimes or categories listed in Ohio Revised Code Section 2953.36, below.

2953.36. Exceptions to preceding sections [Effective September 19, 2014]

Sections 2953.31 to 2953.35 of the Revised Code do not apply to any of the following:

- (A) Convictions when the offender is subject to a mandatory prison term;
- (B) Convictions under section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former section 2907.12, or Chapter 4507., 4510., 4511., or 4549. of the Revised Code, or a conviction for a violation of a municipal ordinance that is substantially similar to any section contained in any of those chapters, except as otherwise provided in *section 2953.61 of the Revised Code*;
- (C) Convictions of an offense of violence when the offense is a misdemeanor of the first degree or a felony and when the offense is not a violation of *section 2917.03 of the Revised Code* and is not a violation of *section 2903.13, 2917.01, or 2917.31 of the Revised Code* that is a misdemeanor of the first degree;
- (D) Convictions on or after October 10, 2007, under *section 2907.07 of the Revised Code* or a conviction on or after October 10, 2007, for a violation of a municipal ordinance that is substantially similar to that section;
- (E) Convictions on or after October 10, 2007, under *section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 2907.311, 2907.32, or 2907.33 of the Revised Code* when the victim of the offense was under eighteen years of age;
- (F) 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 *section 2919.21 of the Revised Code*;
- (G) Convictions of a felony of the first or second degree;
- (H) Bail forfeitures in a traffic case as defined in *Traffic Rule 2*.

- 2) You are an "eligible offender" (ORC 2953.31)

2953.31. Definitions [Effective September 19, 2014]

As used in *sections 2953.31 to 2953.36 of the Revised Code*:

- (A) "Eligible offender" means anyone who has been convicted of an offense in this state or any other jurisdiction and who has not more than one felony conviction, not more than two misdemeanor convictions, or not more than one felony conviction and one misdemeanor conviction in this state or any other jurisdiction. When two or more convictions result from or are connected with the same act or result from offenses committed at the same time, they shall be counted as one conviction. When two or three convictions 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, they shall be counted as one conviction, provided that a court may decide as provided in division (C)(1)(a) of *section 2953.32 of the Revised Code* that it is not in the public interest for the two or three convictions to be counted as one conviction.

For purposes of, and except as otherwise provided in, this division, a conviction for a minor misdemeanor, for a violation of any section in Chapter 4507., 4510., 4511., 4513., or 4549. of the Revised Code, or for a violation of a municipal ordinance that is substantially similar to any section in those chapters is not a conviction. However, a conviction for a violation of *section 4511.19, 4511.251, 4549.02, 4549.021, 4549.03, 4549.042, or 4549.62* or *sections 4549.41 to 4549.46 of the Revised Code*, for a violation of *section 4510.11 or 4510.14 of the Revised Code* that is based upon the offender's operation of a vehicle during a suspension imposed under *section 4511.191 or 4511.196 of the Revised Code*, for a violation of a substantially equivalent municipal ordinance, for a felony violation of Title XLV of the Revised Code, or for a violation of a substantially equivalent former law of this state or former municipal ordinance shall be considered a conviction.

- 3) You were convicted of a misdemeanor **and** more than one year has passed since your “final discharge”, or you were convicted of a felony **and** more than three years have passed since your “final discharge”. Final discharge means completion of jail and or probation.
- 4) There are no fines or costs owed on the case.

Sealing the record process

- 1) Fill out an application form included in this packet.
- 2) File the application with the Clerk of Elyria Municipal Court.
- 3) Pay the application fee. (For each case)
- 4) If you cannot pay the fee, you will need to go to the local public defender/legal aid office and obtain a “Poverty Affidavit” form and turn it in with your application.
- 5) Ask for a time stamped copy of your application.
- 6) You will be notified of the hearing date.
- 7) Appear in court for your hearing.
- 8) If the application is approved, the court will order your case sealed.

The clerk’s office **cannot** give you an estimate of the time it will take to seal your record.

Once the court approves your application and orders your record sealed, all agencies involved will be notified.

The amount of time these agencies need to process a request is beyond the control of the clerk’s office or the court.



ELYRIA MUNICIPAL COURT
APPLICATION TO SEAL THE RECORD

City/State of Ohio (Please Print)

* Case #(s):

VS.

Defendant/Applicant (Please Print)

* Judge

APPLICATION FOR ORDER SEALING RECORD OF CONVICTION(S), FINDING(S) OF NOT GUILTY AND/OR DISMISSAL(S)

Defendant hereby makes application to the Court pursuant to Ohio Revised Code §2953.32 and/or §2953.52 for the sealing of the conviction, finding of not guilty, and/or dismissal record in the above-stated case(s). Defendant hereby provides the following information:

- 1. Case(s) to be sealed:
2. Date(s) of conviction/dismissal/not guilty:
3. If Probation, date terminated:
4. Current address of applicant:
5. Applicant's telephone #:
6. Applicant's Driver's License No.:

Defendant states that he/she is an eligible offender, that any rehabilitation has been attained to the satisfaction of the court; and, that the interests of defendant in having the records pertaining to this conviction, dismissal and/or finding of not guilty are not outweighed by any legitimate governmental needs to maintain those records.

Defendant/Applicant Signature

NOTICE

If the Court grants your request to seal this record, the Court will order the public records be sealed including, but not necessarily limited to prosecutor's offices, police departments, the Ohio Bureau of Criminal Identification and Investigations, and the Ohio Department of Rehabilitation and Correction. The Court records are public documents and as such available to the general public in person and on-line. Certain organizations may have obtained these public records concerning your particular case prior to any Order sealing them. The Court has no way of knowing whether that occurred and has no control over the use of those records.

§ 2953.32. Sealing of record of conviction or bail forfeiture [Effective September 19, 2014]

(A) (1) Except as provided in *section 2953.61 of the Revised Code*, an eligible 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 record of the case that pertains to the conviction. 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 for the offense charged 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 that pertains to the charge. 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. If the applicant was convicted of or pleaded guilty to a violation of division (A)(2) or (B) of *section 2919.21 of the Revised Code*, the probation officer or county department of probation that the court directed to make inquiries concerning the applicant shall contact the child support enforcement agency enforcing the applicant's obligations under the child support order to inquire about the offender's compliance with the child support order.

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

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

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

(c) If the applicant is an eligible 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 or bail forfeiture 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 an eligible 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 an eligible 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 divisions (G), (H), or (I) of this section, shall order all official records of the case that pertain to the conviction or bail forfeiture sealed and, except as provided in division (F) of this section, all index references to the case

that pertain to the conviction or bail forfeiture deleted and, in the case of bail forfeitures, shall dismiss the charges in the case. The proceedings in the case that pertain to the conviction or bail forfeiture 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) An applicant may request the sealing of the records of more than one case in a single application under this section. Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars, regardless of the number of records the application requests to have sealed. 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 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 or any authorized employee of the bureau for the purpose of conducting a criminal records check of an individual pursuant to division (B) of *section 109.572 of the Revised Code* that was requested pursuant to any of the sections identified in division (B)(1) of that section;

(11) By the bureau of criminal identification and investigation, an authorized employee of the bureau, a sheriff, or an authorized employee of a sheriff in connection with a criminal records check described in *section 311.41 of the Revised Code*;

(12) By the attorney general or an authorized employee of the attorney general or a court for purposes of determining a person's classification pursuant to Chapter 2950. of the Revised Code;

(13) By a court, the registrar of motor vehicles, a prosecuting attorney or the prosecuting attorney's assistants, or a law enforcement officer for the purpose of assessing points against a person under *section 4510.036 of the Revised Code* or for taking action with regard to points assessed.

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 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 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*.

(H) For purposes of *sections 2953.31 to 2953.36 of the Revised Code*, DNA records collected in the DNA database and fingerprints filed for record by the superintendent of the bureau of criminal identification and investigation shall not be sealed unless the superintendent receives a certified copy of a final court order establishing that the offender's conviction has been overturned. For purposes of this section, a court order is not "final" if time remains for an appeal or application for discretionary review with respect to the order.

(I) The sealing of a record under this section does not affect the assessment of points under *section 4510.036 of the Revised Code* and does not erase points assessed against a person as a result of the sealed record.

2953.61. Sealing of records in cases of multiple charges [Effective September 19, 2014]

(A) Except as provided in division (B) of this section, a person charged with two or more offenses as a result of or in connection with the same act may not apply to the court pursuant to *section 2953.32 or 2953.52 of the Revised Code* for the sealing of the person's record in relation to any of the charges when at least one of the charges has a final disposition that is different from the final disposition of the other charges until such time as the person would be able to apply to the court and have all of the records pertaining to all of those charges sealed pursuant to *section 2953.32 or 2953.52 of the Revised Code*.

(B) When a person is charged with two or more offenses as a result of or in connection with the same act and the final disposition of one, and only one, of the charges is a conviction under any section of Chapter 4507., 4510., 4511., or 4549., other than *section 4511.19 or 4511.194 of the Revised Code*, or under a municipal ordinance that is substantially similar to any section other than *section 4511.19 or 4511.194 of the Revised Code* contained in any of those chapters, and if the records pertaining to all the other charges would be eligible for sealing under *section 2953.52 of the Revised Code* in the absence of that conviction, the court may order that the records pertaining to all the charges be sealed. In such a case, the court shall not order that only a portion of the records be sealed.