



KATIE REED, CLERK OF COURTS

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
- 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 \$50.00 **non-refundable** filing fee for sealing or expungement of conviction. There is no filing fee for sealing of dismissal.

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.
- 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

Can I seal or expunge my criminal record?

A guide to adult conviction sealing and expungement in Ohio



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
- 3 or more 3rd degree felonies
- 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
- Violating Protection Order convictions

Sexually Oriented Offenses (per R.C. 2950.01)

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

***Check R.C. 2950.01 for extended definition.**

Offenses of Violence (per R.C. 2901.01)

| | |
|---------------------------------|--|
| 2905.01 | 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 |
| 2903.34(A)(1) | Patient Abuse or Neglect |
| 2903.15 | Permitting child abuse |
| 2907.02 | Rape |
| 2917.03 | Riot |
| 2911.02 | Robbery |
| 2907.03 | Sexual battery |
| 2903.18 | Strangulation or suffocation |
| 2909.24 | Terrorism |
| 2905.32 | Trafficking in Persons |
| 2903.03 | Voluntary Manslaughter |

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 **third degree felonies** → Wait three years after the third degree felony* is discharged.
- 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** → Wait six months after discharge.
- If applying to expunge a **misdemeanor** → Wait one year after the misdemeanor is discharged.
- If applying to expunge a **fourth or fifth degree felony** → Wait eleven years after fourth or fifth degree felony is discharged.
- If applying to seal one or two **third degree felonies** → Wait thirteen years after the third degree felony is discharged.

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 not seal or expunge any record if the applicant is facing pending 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 in each court where there is a case to be sealed or expunged.

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. The Clerk of Courts can usually disclose a person’s case number, name and degree of the offense, date of conviction, and date of case discharge.

The filing fee will be \$50. 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?

Sealed records will not show up on most background checks. Landlords, schools, and the general public cannot see the sealed record. Note, however, that certain “collateral consequences” allow some employers and professional licensing boards to see sealed conviction records (e.g. nursing, childcare, and security-related employment).

NOTE: DIFFERENCE BETWEEN SEALING & EXPUNGEMENT

“Sealing” and “expungement” are words that certain jurisdictions sometimes use interchangeably, but they are not the same thing. A granted expungement deletes and destroys a record and treats it as if it never occurred—sealing does not do this. Ohio Senate Bill 288 created a new expungement process, but no definition was included for how cases will be treated once expunged. It is unclear what effect an expungement will have if granted under R.C. 2953.32.

Document updated: April 2023

If you have questions about record sealing, eligibility and other ways to overcome the barriers of a criminal conviction, register to participate in the Ohio Justice & Policy Center’s Second Chance Virtual 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



**OHIO JUSTICE &
POLICY CENTER**

**In the Barberton Municipal Court
Summit County, Ohio**

City of _____
State of Ohio

Judge: _____

v.

Defendant _____

Case No. _____

Address _____

**Application for Sealing
Record of Dismissal**

Now comes Defendant in the above captioned matter and herein represents:

- Defendant was charged with _____
_____ in the City/Township/Village of _____,
County of Summit, State of Ohio;
occurring on the _____ day of _____, _____; and,
- further, that said charge was either dismissed or resulted in a finding of not
guilty on or about the _____ day of _____, _____.

Defendant further represents to the Court that there are presently no other criminal charges pending against the Defendant, and that Defendant's interest in having the official records herein sealed outweigh the government's interest in maintaining said records.

Wherefore, Defendant prays for an Order Sealing all official records pertaining to the case pursuant to O.R.C. Section 2953.33.

Defendant's Signature: _____

cc: Probation Department
Prosecutor's Office

SUPPLEMENTAL SEALING/EXPUNGEMENT INFORMATION FORM

NAME: _____ AGE: _____ DOB: _____

AKA: _____ TELEPHONE: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

PLACE OF BIRTH: _____ SSN: _____

RACE: _____ HT: _____ WT.: _____ HAIR _____ EYES: _____

FAMILY HISTORY

HUSBAND(s) OR WIFE(s): _____

CHILDREN: _____

EMPLOYMENT HISTORY

EMPLOYED BY AND HOW LONG: _____

EDUCATION

LAST SCHOOL ATTENDED: _____

MILITARY HISTORY

BRANCH OF SERVICE: _____

HAVE YOU EVER LIVED IN ANOTHER CITY, COUNTY, OR STATE OTHER THAN SUMMIT COUNTY, OHIO? IF SO, PLEASE LIST BELOW:

HAVE YOU EVER BEEN CONVICTED OF ANY OTHER CRIMINAL CHARGE IN THIS COURT OR ANY OTHER COURT? IF YES, PLEASE LIST COURT AND CHARGE:

DO YOU NOW HAVE ANYTHING PENDING IN ANY OTHER COURT?

_____ YES _____ NO

HAVE YOU EVER APPLIED FOR OR HAVE BEEN GRANTED AN EXPUNGEMENT PRIOR TO THIS DATE: _____ Yes _____ No

HAVE YOU EVER BEEN CONVICTED OF A DUI?

_____ Yes _____ No

SIGNATURE

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 <https://www.uakron.edu/law/curriculum/clinical-programs/reentry.dot>
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 <http://www.drc.ohio.gov/clemency> to learn about the pardon process

LICENSE RESTORATION

***We can NOT pay associated fees!**



Department of Job and Family Services