



DIANA M. STEVENSON, CLERK OF COURTS

BARBERTON MUNICIPAL COURT

The Expungement Process/Sealing the Record

The laws governing expungements/sealing of records are set by the Ohio Revised Code. 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 that your matter will be sealed or, where applicable, expunged.**

- 1. Who can file?** You must be an "**eligible offender**" as defined under Ohio Revised Code §2953.31(A)(1) to qualify for a sealing of a conviction. You are an "**eligible offender**" if you have been convicted of a sealable or expungable offense and one of the two scenarios below applies to you:

2953.31(A)(1)(a)

- You have been convicted of one or more offenses, but not more than five felonies; **and**
- **all** convictions are felonies of the fourth or fifth degree or misdemeanors; **and**
- **none** of the convictions are for an offense of violence or a felony sex offense; **and**
- any other jurisdiction offenses would be felonies of the fourth or fifth degree or misdemeanors in this state and none of those offenses would be an offense of violence or a felony sex offense in this state

- or -

2953.31(A)(1)(b)

- have only one prior felony conviction; **or** have no more than two misdemeanor convictions; **or** have one felony conviction and one misdemeanor conviction.

Generally, traffic cases do not count as a conviction for purposes of sealing or expungement. However certain traffic offenses, such as OVI/DUI, do count. Criminal minor misdemeanors (MM) also do not disqualify you. If you have questions regarding offenses which count as convictions, seek legal advice.

When two or more convictions result from the same act or offense committed at the same time, they may be counted as one conviction. When two or three convictions result from the same complaint, guilty plea or official proceeding and result from related criminal acts that were committed within a three-month period, they may be counted as one conviction unless the judge decides that it is not in the public interest to count them as one conviction.

- 2. When can the application be filed?** If you were convicted of a misdemeanor, you must wait until **one year has passed** from the date you received your final discharge and your case was closed. This includes any time on probation and final payment of all fines and costs. You cannot have any pending charges or unpaid tickets in any court.

If you were found not guilty or your case was dismissed you may file at any time after payment of all costs, if any.

- 3. What is the filing fee?** There is a \$100.00 **non-refundable** filing fee for sealing of conviction. For sealing the record of dismissal, there is a **non-refundable** \$50.00 filing fee.

- 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 of violence, including domestic violence, when the offense is a misdemeanor of the first degree or a felony. This does not include convictions for riot assault, inciting to violence of inducing panic, which are eligible.
 - Any case in which the victim of the offense was under 18 years of age when the offense is a misdemeanor of the first degree or a felony.
 - An offense that is a felony of the first or second degree.
 - All driver's license violations
 - All motor vehicle violations unless offense is in connection with the same act as the criminal offenses that ended in non-conviction.
 - Most convictions for sex offenses under Ohio Revised Code 2907
 - Convictions when the offender is subject to a mandatory prison term.
- 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?** The Probation Department will review your application and may contact you to review any questions. 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 and, upon completion, will schedule the matter before the judge.
- 7. The municipal court judge has complete discretion to grant or deny your application.** If the applicant meets the requirements to have a case sealed, Section 2953.32 of the O.R.C. states that it is for the court to determine whether the applicant has been rehabilitated to the satisfaction of the court. In some circumstances the prosecutor may file an objection to the granting of your application. The objection will contain the reasons why the prosecutor believes a denial is warranted. The court may request a hearing on the matter.

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 by regular mail to you and any agencies connected to the case by the Probation Department. The entire sealing/expungement process takes **at least eight (8) weeks**.

Please note that a sealing order applies only to governmental agencies, not private databases. 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

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

City/State of Ohio

Judge: _____

v.

Case No. _____

Defendant _____

Address _____

**Application for Sealing
Record of Conviction**

Defendant hereby applies to the Court pursuant to Ohio Revised Code §2953.32 for the sealing of the conviction in the above-captioned matter. Defendant represents on the _____ day of _____, _____, he/she was convicted of or plead guilty to: _____

_____ and that his/her probation became final or that he/she otherwise received final discharge from the Court more than one year prior to the date of this filing.

Defendant states that he/she is an eligible offender; that there is now no criminal charge pending in this or any other jurisdiction; that he/she is rehabilitated; and, that the interests in having the records pertaining to this conviction sealed outweigh any legitimate governmental need to maintain the records.

Defendant further requests that a date of hearing be set upon such motion and that an investigation be conducted pursuant to statute to determine Defendant has attained rehabilitation to the satisfaction of the Court and is otherwise eligible for the relief sought.

Defendant has completed the required Supplemental Sealing Information form and understands there exists a continuing duty to supplement and update the information provided as necessary.

Defendant has paid to the Clerk of Court the required non-refundable the filing fee, or has attached an Affidavit declaring indigency.

Defendant wherefore prays for an Order of Sealing of the record of conviction pursuant to O.R.C. Sections 2953.31, et seq.

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