

# ELIGIBILITY AND INSTRUCTIONS FOR SEALING OF CRIMINAL RECORDS

Based upon Ohio Revised Code §2953.31-§2953.61

The Clerk of Courts, Common Pleas Court and Adult Probation Department personnel are not permitted to answer legal questions. Please contact an attorney if you need clarification.

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## **WHEN CAN YOU FILE?**

1. If convicted of a Felony, you will not be able to file the motion to get your record sealed until three (3) years after your final discharge from probation, prison or post-release control.
2. If convicted of a Misdemeanor, you must wait one (1) year after your final discharge from probation and/or jail.
3. If you were given diversion or an intervention in lieu of conviction, you may qualify to have your record sealed after completing the Richland County Diversion Program, an Intervention in Lieu or a *not guilty finding or dismissal of proceedings* has been filed. You may file for ensealment at any time after the finding of not guilty or the dismissal of the indictment.
4. If the prosecutor took your case to the grand jury and they decided there is not enough evidence to indict you, then your case was what is called a “no bill.” You must wait two (2) years after the “no bill” is recorded.

## **ARE YOU AN INELIGIBLE OFFENDER?**

You are ineligible if any of the following apply:

1. You have more than one felony conviction.
2. You have more than two misdemeanor convictions.
3. You have more than one felony conviction and one misdemeanor conviction.
4. If you have criminal proceedings pending against you.

Under the law, multiple convictions may be considered as one conviction if they result from, or are connected with, the same act or result from offenses committed at the same time. Convictions which result from related criminal acts that were committed within a three month period may also be considered as a single conviction. Whether multiple convictions shall be considered as one conviction is a decision made by the Court.

## **DOES YOUR CRIME QUALIFY FOR SEALING?**

Certain offenses may not be sealed, including but not limited to the below list:

1. Convictions when the offender is subject to mandatory prison time;
2. Convictions for offenses that are of a sexual nature;
3. Convictions of an offense of violence;
4. Convictions of a felony of the first or second degree;
5. Conviction of a felony (other than nonsupport) in which the victim was less than 18 years old.

### **WHAT DOES THE COURT CONSIDER?**

1. Whether the applicant is an eligible offender, whether a person was not convicted, and/or whether a no bill was reported.
2. Whether there are any criminal proceedings pending against the applicant.
3. Whether the eligible offender has been rehabilitated to the satisfaction of the Court.
4. Whether the prosecutor filed an objection to granting the application, and
5. Whether the interest of the applicant in having the records sealed outweighs the State's interest in keeping them open.

### **IF YOU THINK YOU ARE ELIGIBLE:**

If you think you are eligible to have your record sealed, you need to do the following:

1. Complete the Application to Seal Record which can be found on our website at <http://richlandcourtsOH.us> under the Ensealments tab or can be picked up at the Richland County Court of Common Pleas, located on the third floor of the County Administration Building at 50 Park Avenue East, Mansfield, Ohio.
2. File the Application with the Clerk of Courts of the Richland County Common Pleas Court located on the second floor of the County Administration Building at 50 Park Avenue East, Mansfield, Ohio.
3. Pay a filing fee of \$50.00 to the Clerk of Courts and a deposit of \$30.00 to cover postage. The filing fee will be waived if the applicant has filed an application of indigency and the Court has granted that waiver.

## **WHAT HAPPENS AFTER FILING THE APPLICATION?**

1. The Court will set your case for a hearing about six (6) weeks later. Your attendance is not required. A decision will be issued after the hearing and a copy will be mailed to you.
2. The Court will also refer your application to the Richland County Adult Probation Department for an investigation.
3. The Richland County Adult Probation Department will contact you and ask you to provide information. This information must be returned promptly.

## **IF THE APPLICATION IS APPROVED:**

If all of these conditions have been satisfied, the Court shall order all official records and index references pertaining to the case sealed.

## **SEALED RECORDS CAN BE OPENED:**

Upon the conviction of a subsequent offense, the sealed record of a prior conviction or bail forfeiture may be considered by the Court in determining sentence or other appropriate disposition.

Inspection of sealed records may be made by the following persons or for the following purposes:

1. By a law enforcement officer or prosecutor, or the assistants of either;
2. By the parole or probation officer for the exclusive use of the officer in supervising the person;
3. Upon application by the person who is the subject of the records;
4. By the Bureau of Criminal Identification and Investigation or an authorized employee;
5. By the Attorney General or an authorized employee;
6. By a court or the registrar of motor vehicles.

### **THE EFFECT OF SEALING RECORDS:**

An order to seal the record of a person's conviction restores the person to all rights and privileges not otherwise restored by the termination of sentence or by final release from probation, parole or other supervision in that case.

State of Ohio

Case No. \_\_\_\_\_

v.

**APPLICATION TO SEAL RECORD**

\_\_\_\_\_  
SSN: \_\_\_\_\_

(last 4 digits only)

DOB: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Phone Number: \_\_\_\_\_

Defendant,

The defendant named above applies to the Court to seal all official records in this case because currently there are no criminal proceedings pending against the defendant and (mark the appropriate alternative):

( ) Defendant qualifies as an eligible offender as defined in Revised Code §2953.31(A). Defendant was convicted of the crime(s) of \_\_\_\_\_ in this case. Defendant was discharged from supervision or prison at least three years ago for defendant's felony convictions or one year ago for defendant's misdemeanor convictions and defendant has deposited the \$50.00 application fee and \$30 deposit required.

( ) Defendant qualifies as an eligible offender as defined in Revised Code §2953.31(A). Defendant was not convicted because defendant's case was (select one): \_\_\_\_\_ no billed, \_\_\_\_\_ was dismissed after diversion or drug treatment in lieu of conviction, \_\_\_\_\_ defendant was found not guilty \_\_\_\_\_ otherwise dismissed, and defendant meets the requirements to have the records sealed under Revised Code §2953.52.

\_\_\_\_\_  
Attorney or Applicant

Certificate of Service

I hereby certify a true and correct copy of the foregoing Application for Ensealment of Record was mailed by regular U. S. Mail or hand delivered this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to Richland County Prosecuting Attorney, 38 South Park Street, Mansfield, Ohio 44902.

\_\_\_\_\_  
Attorney or Applicant

**RICHLAND COUNTY CLERK OF COURTS  
LINDA H. FRARY  
50 Park Avenue East  
Mansfield OH 44902  
419-774-5549**

**IMPORTANT NOTICE**

**To: Individual Filing a Motion to Seal/Expunge a Record**

**To: Richland County Adult Court Services Probation Officers on behalf of Substance Abuse Court Participants**

**To: Counsel Filing a Motion to Seal/Expunge Record on a client's behalf**

**You recently filed a Motion to Seal or Expunge a Record or you are a participant in Richland County Substance Abuse Treatment Court. Enclosed is a form entitled "Information About the Expedited Record Update Service & Notice of Right to Opt Out."**

**Please read this form carefully.** It explains a fee that you may wish to pay (\$45.00 – made payable to the Richland County Clerk of Courts) if you wish to have a vendor (Higbee & Associates) selected by the Ohio Attorney General to instruct background check companies to promptly remove your sealed or expunged records. **This fee is in addition to the fee you paid at the time you filed your motion.**

**IF YOU WISH TO PARTICIPATE IN THIS PROGRAM or "OPT IN":** You must send payment of \$45.00 payable to the Richland County Clerk of Courts immediately. This fee will be refunded to you ONLY IF THE COURT DENIES YOUR MOTION. If the Court grants your Motion, notice will be sent to Higbee & Associates along with the \$45.00 fee. As explained in the enclosed **NOTICE OF RIGHT TO OPT OUT.** You may later wish to "opt out" and must do so in writing with your original signature to this office prior to the date the Court grants or denies your motion. If you do not do this prior to the date the Court grants your motion, no refund can be made to you and this office will proceed to send notice to Higbee & Associates along with the \$45.00 fee.

**IF YOU DO NOT WISH TO PARTICIPATE IN THIS PROGRAM or "OPT OUT":** You must immediately complete the enclosed form and mail it to the Clerk's office at the address noted above.

**IF YOU DO NOT RETURN THE ENCLOSED FORM TO THE CLERK'S OFFICE AT THE ADDRESS NOTED ABOVE BY THE DATE THE COURT ISSUES ITS ORDER DENYING OR GRANTING YOUR MOTION TO HAVE YOUR RECORD SEALED OR EXPUNGED:** The Clerk's office will do nothing other than serve the order on the you and parties the Court orders the Clerk's office to serve.

**Note to Counsel:** Please send this information to your client as we do not have a mailing address for your client. If you do not send the information to your client, we will not accept any responsibility for your client not being aware of this program.

**Note to Richland County Adult Court Services and Drug Court Participants:** You **MUST** pay this \$45.00 fee if you wish to participate in this program and it **MUST** be paid prior to the Order of the Court expunging a case/record. Please remember: If you "opt in" to this program and later do not wish to

participate in it – you must advise us in writing with your original signature that you now wish to “opt out.” If you do not “opt out” prior to the date the Court orders your record to be expunged/sealed, no refund can be made to you and this office will proceed to send notice to Higbee & Associates along with the \$45.00 fee. If a participant completes the form “opting out,” the original MUST be given to the Clerk’s office to time-stamp and docket/file in the case. Individuals who have had their record expunged/sealed in the past are not allowed to participate in this program. They will need to go to [www.RecordGone.com](http://www.RecordGone.com) to determine if they are eligible to participate in this program retroactively – that will be between the individual and RecordGone.

## Information About The Expedited Record Update Service & Notice of Right To Opt Out

After you have had your criminal record expunged or sealed by the court, private background check companies could still be reporting your criminal record for up to a year or more to potential employers, landlords, or anyone else who purchases a background check on you.

The Ohio legislature passed a law (O.R.C. 109.38) which authorized the Attorney General to select a vendor to instruct background check companies to promptly remove your sealed or expunged records. The \$45 fee for this service is separate from the filing fee and is payable to the clerk when you apply for a record sealing or expungement.

### Benefits of the Service:

- Quickly get your expunged or sealed record cleared from more than 600 private background check providers.
- Have your record promptly removed from background checks, instead of in a year or more.
- Greatly reduces the chance that an expunged or sealed record will appear on a background check and thereby results in you being denied a job, housing or other opportunity.

### Risks of Opting Out of the Service:

- Private sector background check companies that take a year or more to purchase updated data from the courts may not discover your criminal record has been sealed or expunged until they purchase their next update.
- When background check databases are not updated in a timely manner, it can result in denied employment, housing, and other opportunities.

### How The Process Works

If the court grants your petition and the \$45 fee is paid, the court will notify the Law Firm of Higbee & Associates (RecordGone.com Division). Higbee & Associates will then promptly instruct background check companies to remove your sealed or expunged record from all future background check reports. If your request to seal or expunge a record is denied, then the \$45 fee for this service is returned to you by the court.

### To Learn More Or To Check On The Status of Your Expedited Record Update Service

Go to <http://www.RecordGone.com/erus>

**Notice of Right To Opt Out** If you wish to opt out of this service, sign below and provide this document to court clerk when you file your request to seal or expunge your record.

Please **do not** instruct background check companies to remove my sealed or expunged record.

Full Name \_\_\_\_\_ Case # \_\_\_\_\_ Signature \_\_\_\_\_  
Date \_\_\_\_\_