

# **Community Legal Aid**

A non-profit law firm serving the legal needs of low-income individuals and families in central northeast Ohio



[www.communitylegalaid.org](http://www.communitylegalaid.org)

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## **I want to seal my criminal record.**

**If you are looking into sealing your criminal record, there are several things you'll need to know before you get started. The links below will help you get all the information you need to get started in the record sealing process.**

**Step 2: Click on the section that is most important to you or read through the all of the information below.**

[Is record sealing the same as expungement?](#)

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## **Is record sealing the same as expungement?**

Most people refer to these two things as being the same, but there is a slight difference between the two.

Record sealing means that any electronic or paper records of your criminal conviction are kept separate and secure from other files. Basically, it's treated like the criminal case never happened.

Record sealing also gives you back your rights and privileges, including:

- Being able to tell an employer you don't have a criminal past
- Being able to tell a landlord you don't have a criminal past
- Being able to tell a bank or financial lender that you don't have a criminal past

If you qualify to get your record sealed, it can open a lot of doors that may have been closed to you before. But it's important to know that there are some people who still may be able to access your record, even after it's been sealed.

These could include:

- If you apply for a job working with vulnerable populations, like kids or the elderly, the employer may be able to access your record
- If you apply for a job where you need to get a certain type of license, the licensing board can still see your record
- If you are arrested and/or charged with a crime, the police can still see your record

Expungement, on the other hand, actually completely destroys the files of your record, so that no one can ever access them again. This is rare and only happens in specific cases, like juvenile court records or survivors of human trafficking who have convictions related to their time being trafficked.

If the difference between expungement and record sealing still seems confusing, think of it this way: expungement is like putting your criminal record through a shredder, whereas record sealing is like locking it in a filing cabinet that only certain people have the key to.

Record sealing is more common than expungement and easier to get. It can still be a long process, though, because the court wants to make sure you are truly committed to a fresh start. So regardless of which path you choose, you will have to fill out a lot of paperwork and jump through some hoops to prove your case.

# How do I know if I qualify to get my record sealed?

Only certain people can apply to get their record sealed. And for people who can apply, only certain types of offenses are able to be sealed.

First, you need to determine if you are eligible to apply. This can be a complicated process, but there are basically two ways you can be eligible:

1. You have five (5) or fewer felonies, only 4th or 5th degree, and any number of misdemeanors; or
2. You have no more than two (2) convictions, with no more than one (1) of these being a felony charge, including some 3rd degree felonies

When the court is looking at your eligibility, they will first look to see if you qualify under the first “pathway” listed above. If you don’t, they will look to see if you qualify under the second.

There are some nuances to these rules. For example, two or more convictions from the same incident are sometimes treated like one conviction. Multiple convictions for related crimes that happened within a short time span (say, a few months) could also be treated as one conviction. So if you think you don’t qualify based on the numbers listed above, you should still talk to a lawyer to see if you may qualify.

Next, you need to determine if your offenses are ones that can actually be sealed.

Usually, any offense can be sealed except for:

- Convictions with mandatory prison terms
- 1st or 2nd degree felonies
- Traffic offenses
- Most violent offenses
- Most sex offenses, especially those involving a minor

To learn more about who can apply to get their record sealed, and which offenses can be sealed,

[click here.](#)

## When can I apply to seal my record?

There are a few questions to consider when trying to figure out when is the right time to apply to seal your record:

### 1. Do you have pending criminal charges?

The court will not seal your record if you have any pending criminal charges. This means you will need to wait until all charges on your record are completely dealt with, including fulfilling any sentences.

### 2. Are you likely to reoffend?

The court will want to see proof that you have been rehabilitated and aren't likely to commit another crime in the future. You also need to show that your interest in sealing your record is greater than the government's interest in keeping those records.

### 3. Has your waiting period ended?

You cannot have your record sealed until your case is "discharged." This just means that all of your sentence requirements have been fulfilled, including any waiting period that is related to your type of offense. [This chart shows the waiting periods for the different types of offenses.](#)

## Do you have any outstanding court fees or fines?

Unpaid court costs can block your record from being sealed. If you aren't able to pay the money you owe to the court, you can ask them to waive your fee, or "discharge" your debt. You'll need to fill out special paperwork to do this, sometimes called a "poverty affidavit," and ask for a special "Ability to Pay" hearing. At this hearing, the court will decide whether you need to pay what you owe, or if there's some other alternative you can do, like community service. In addition to your "poverty affidavit", you'll need to fill out a Motion to Cancel Fines and Costs, which you can find [here](#). Both this form and the Poverty Affidavit form need to be turned in to the court. You can visit [this website](#) to fill out a Poverty Affidavit Form, which can be used to file for an "Ability to Pay" hearing in any common pleas, county, or municipal court in Ohio. If you prefer to be able to print the form and write out your answers, you can find a version suitable for that [here](#).

Answering all these questions can help you determine when the time is right for you to apply to have your records sealed.

## What is the court process for record sealing?

If you are eligible to seal your record, you can fill out your application and file it with the court.

You will have to pay a fee to file your application, typically between \$50- \$100. If you can't afford this fee, you can file paperwork to ask the court to waive it. This is called a "poverty affidavit," and [you can download a sample here](#). You can also visit [this website](#) to fill out the form online. Sometimes, the court will set a separate hearing to decide if you need to pay it or not. If they do, make sure you attend that hearing and bring proof of why you can't afford to pay it.

The type of application you file will depend on what you are trying to seal:

- If you want to seal a conviction, there is a specific application for that.
- If you want to seal a case that was dismissed or where you were found not guilty, there is a separate application for that.

While filing out your application, you will need to share your full criminal record, including any charges brought against you anywhere in the United States. It's important to be honest and include your full criminal history. To make sure you aren't missing anything, you can request a [background check for yourself through the Ohio Attorney General's Office](#).

You will need to submit your application with the court where your conviction took place. This means that if you have convictions in multiple different courts, you will have to file individually with each court. Even if you want to seal multiple convictions that took place in the same court, you will need to submit separate applications to the court for each record.

After you file your application with the court, they will let the prosecutor know about your application. The prosecutor is allowed to file an objection, if they believe you aren't eligible or if you haven't met the correct waiting period.

The court will conduct a record search and then order a written report, which will include fingerprints, if they were taken at your arrest, and the status of your child support, if you were convicted of failure to pay your child support.

Your case will then be scheduled for a court hearing.

If the court grants your application, a court order will be sent to the clerk of court, prosecutors, local law departments, probation officers, the police and sheriff, as well as record keepers, like BCCI and the FBI. This will let them know that your records are sealed. Your records will not be

destroyed, but most people (excluding court and police personnel) will not have access to them.

## **Can my sealed record be seen?**

Once your record is sealed, there are only a few groups of people who can still access it.

Law enforcement and police can see your sealed records in their work. This could include police investigating a new crime, as well as judges, prosecutors, probations officers, or other professionals.

Some employers also are required to get special background checks that can show your sealed record. This is common for jobs where you'll be working with vulnerable populations (like kids, senior citizens, or those who are sick), or where you'll have to operate special machinery or equipment, like a commercial license. These special exceptions are run through the Bureau of Criminal Investigation, which other employers wouldn't have access to.

In all other instances, though, your record isn't available to the public. So, if you are applying for a job or for rental housing, when the application asks if you have a criminal background, you are legally allowed to answer "no."

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<http://www.communitylegalaid.org/expungement/sealing>

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