

EXPUNGEMENT

Generally

Ohio Revised Code 2953.31 provides that a defendant may apply to a court to seal the official record, including the record of arrest, in the following criminal cases.

1. A conviction if the defendant is a first offender as defined in R.C. 2953.31(A), and the offense that is the subject of the conviction is not prohibited from being expunged and sealed under R.C. 2953.36;
2. A verdict or finding of not guilty;
3. A dismissal of a complaint, indictment, or information;
4. A no bill entered by the grand jury.

Exclusions

Under Ohio Revised Code 2953.36, expungement is not available for the following:

1. Convictions when the offender is subject to a mandatory prison term;
2. 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;
3. 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;
4. 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;
5. Convictions of a felony of the first or second degree;
6. Bail forfeitures in a traffic case as defined in Traffic Rule 2.

Procedure for Expungement of a Criminal Conviction

Application for expungement of a conviction in the Huron Municipal Court must be made in writing to the Court. The application must be accompanied by a \$75.00 filing fee. A

defendant seeking expungement must meet the statutory requirements.

The application for expungement may not be filed until one year after the person's final discharge. "Final discharge" means the date of conviction, or the date the defendant's community control sanctions ends, whichever is the later. The Court will set a date for hearing on the application, with notice to the prosecutor, who can file specific objections to the application before the date of hearing. Appearance by the applicant is not required at the hearing.

In deciding whether to grant the expungement, the Court will consider several factors such as whether the applicant is a first offender, whether criminal proceedings are pending against him or her, whether the person has been rehabilitated to the Court's satisfaction, whether the prosecutor objects, and the person's interest in having the record sealed versus the legitimate needs of the government in maintaining the records.

Effect of Expungement of Criminal Conviction

In the event the Court grants the application, it shall order all official records pertaining to the case sealed, and, with certain exceptions, order all index references to the case deleted. In essence, the proceedings shall be considered not to have occurred.