

THE EXPUNGEMENT PROCESS

(Sealing of the records of convictions, dismissals, not guilty findings, and bail forfeitures)

The Portage County Municipal Court and Portage County Common Pleas Court Clerk's Office, Linda K Fankhauser, Clerk, is responsible for accurate and timely court record keeping. The proper filing, processing, and maintaining of expungement applications, and subsequent sealing of court records, is one of the many tasks within the clerk's office. Although professional public service is offered to assist you in filing for an application for expungement in the division, employees of the clerk's office can not give you legal advice. Our goal is to help you through the process in an impartial way by delivering excellent public service while complying with state legal requirements.

1. WHO CAN FILE?

Currently, "pursuant to applicable sections of the Ohio Revised Code, to Qualify for an expungement of a conviction, you must be a **"FIRST OFFENDER."** (R.C. 2953.32)

A **"FIRST OFFENDER"** is a person convicted of **one offense** in this or any other jurisdiction (R.C. 2953.31) and who has **No previous or subsequent record of conviction.**

When two or more convictions result from or are connected with the same act or result from offenses committed at the same time, they shall be counted as **one conviction.**

2953.32 C.2. If you have **two or three convictions** resulting from the same charges, guilty plea, or official proceeding **and** resulting from related criminal acts that were committed **within a three month** period but do not result from the same act or from offenses committed at the same time, **you may apply to the court for "first offender" status.**

Please be aware that granting of "first offender" status is not automatic; it is up to the judge to determine whether or not it is in the public interest to allow your two or three convictions to be counted as one conviction for the purposes of expungement.

If you fit the above description **and** obtain "first offender" status, this means that your two or three convictions will be considered as only one conviction by the court, thereby enabling you to potentially qualify for an expungement.

- A. The following are **not considered convictions** for the purpose of determining if you have "first offender" status (R.C. 2953.31):
1. Bail Forfeiture (BF), Dismissals, or minor misdemeanor
 2. Traffic Laws – Chapter 4511 O.R.C
 3. Traffic Laws concerning equipment, loads Chapter 4513 O.R.C
 4. Motor Vehicle Crimes- Chapter 4549 O.R.C.
 5. Any substantially similar municipal ordinance

You may apply for an expungement on as many dismissals, bail forfeitures, and/or minor misdemeanors as you would like. This is because these three charge dispositions are not considered "convictions." **It is up to the Municipal Court Judge or Common Pleas Judge to either grant or deny any such application.** A section of the law (R.C. 2953.32) says 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 objections will contain the reasons why the Prosecutor believes a denial is warranted.

B. You are not a “first offender” and are ineligible for expungement of a conviction if you have one or more convictions for any of the following (R.C.2953.32):

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| 1. OMVI | 4511.19 |
| 2. OMVI Suspension | 4511.192 |
| 3. Drag Racing | 4511.251 |
| 4. Hit & Skip | 4549.02 |
| 5. Hit & Skip w/ injury to person(s) | 4549.021 |
| 6. Hit & Skip w/ property damage | 4549.03 |
| 7. Master Key sale or possession | 4549.042 |
| 8. Motor Vehicle concealed identity | 4549.042 |
| 9. Violations of the odometer rollback and Disclosure Act. | 4549.41 through 4549.46 |
| 10. Any substantially similar municipal ordinance | |

2. ARE THERE ANY CONVICTIONS THAT CAN NEVER BE EXPUNGED?

You are not eligible for expungement of a conviction if the conviction is for any of the following offenses: (R.C. 2953.36)

- A. Domestic Violence, felony or misdemeanor of the first degree
- B. An offense of violence when the offense is a misdemeanor of the first degree or a felony
- C. An offense under circumstance 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
- D. An offense that is a felony of the first or second degree
- E. Any of the violations listed under heading 1.B.
- F. An offense of 2907.02 (Rape), 2907.03 (Sexual Battery), 2907.04 (Corruption of a Minor), 2907.05 (Gross Sexual Imposition), 2907.06 (Sexual Imposition), 2907.321 (Pandering Obscenity Involving a Minor), 2907.323 (Using Minor in Nudity Material), and 2907.12 (Felonious Sexual Penetration).
- G. Any offense of chapters 4507, 4511, or 4549 of the Ohio Revised Code or any similar municipal ordinance.
- H. Bail forfeitures in a traffic case as defined in Traffic Rule 2.

Please note 2.B. does not include convictions for riot, assault, inciting to violence or inducing panic.

You are not eligible for expungement of a conviction or bail forfeiture if you have any pending charges or unpaid fines or court costs in any court. You are also not eligible for expungement of a conviction if you have already had a conviction (other than a minor misdemeanor) expunged.

3. WHEN CAN THE APPLICATION BE FILED?

You must wait until one year has passed from the date of the discharge of your conviction, the date of the entry of the bail forfeiture, or the conviction date of the minor misdemeanor (MM) charge. This includes any time on probation, non-reporting probation, and suspended sentence involving no similar offense for a period of time.

A first offender may apply to Common Pleas Court for an expungement at the expiration of three years if convicted of a felony (2953.32) in this state, another state, or in Federal Court. **Contact Common Pleas Court Clerk's Office at 330-297-3648.**

There is **no waiting period on dismissals and not guilty findings**, unless it is a felony charge that has been dismissed for indictment of any type. There is a two-year waiting period on a No Bill from Grand Jury.

4. WHAT IS THE FILING FEE?

There is a fifty-dollar (US currency) filing fee for each case involving either a conviction or a bail forfeiture. In some circumstances there may be multiple \$50.00 filing fees. **Cash (US currency), Personal checks, money orders, and attorney checks are accepted in all courts. Master Card or Visa is accepted in Municipal Court only.**

There is no charge for filing an application for the expungement of the record of a dismissal, not guilty finding, or no bill from the grand jury.

***There are no guarantees that an expungement will be ordered. Your filing fee is not refundable.**

5. WHAT HAPPENS AFTER THE APPLICATION IS FILED

Upon filing your application with the Clerk's Office, you are to immediately contact, either in person or via telephone, the Portage County Adult Probation Department located on the third floor, 209 South Chestnut Street, Ravenna OH, 330-297-3650. **It is necessary to complete an interview with a Probation Officer before your application will be considered.**

Pursuant to 2953.32 B, the Adult Probation Department must complete a thorough background report for all applicants seeking an expungement. It is in your best interest to promptly contact the Portage County Adult Probation Department. **Failure to do so shall result in denial of your expungement.**

Felony Convictions

After the application has been processed by the Probation Department, the file will be sent to the assignment office at Common Pleas Court to be set for court date. You and/or your attorney will receive a notice of hearing in the mail. Hearing dates are currently running approximately six weeks from the filing date.

After the court date, a copy of the Judge's entry will be sent to you and any agencies related to the case. The entire notification process takes **at least eight weeks.**

Please note that once an expungement has been granted and your records have been sealed, if you, as the defendant, wish to view your original case records, you may file a motion with the court requesting your case to be re-opened. You will be required to present positive identification, such as a driver's license, at the time. It is extremely helpful if you have your expungement case number and the name of the sealing Judge in order to assist the Clerk's office in obtaining this information for you. For this reason, it is recommended that you keep your granted entry and expungement case number indefinitely. As a courtesy, the Clerk's office presents a copy of the original case to the defendant or defendant's attorney at the time the expungement application is filed. You should also keep your copy of the original case indefinitely as you may need it at a later date.

Also, note that an expungement order applies only to Governmental Agencies, not private databases (R.C. 2953.32 C2 and 2953.35). In addition, Governmental Agencies have the **right to inspect for various purposes, including licensing and for employment, records that have been expunged** (R.C. 2953.32 D and G).

If you have any questions concerning any of this material, please feel free to contact the Portage County Municipal Court clerk's office, Ravenna Branch, at 330-297-3639, Portage County Municipal Court Clerk's office, Kent Branch, at 330-678-9100, or the Portage County Common Pleas Court Clerk's office at 330-297-3648, **between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.**

Ask for the Expungement Clerk.