

XXXVII. SEALING AND EXPUNGING JUVENILE RECORDS

Definitions

Seal a record: To remove a record from the main file of similar records and to secure it in a separate file area that contains only sealed records accessible only to the juvenile court.¹ The sealed record can be inspected in extremely limited circumstances.²

Expunge a record: To destroy, delete, and erase a record, as appropriate, so that the record is permanently irretrievable. Paper records are physically destroyed and electronic records are irretrievably deleted and cannot be inspected by anyone.

Sealing

The court shall consider the sealing of records upon the court's own motion or upon the application of a person.³ There also are certain situations where the court must order the prompt and immediate sealing of records.⁴

The court cannot seal or expunge aggravated murder, murder or rape charges.⁵

Application to Seal⁶

- A person under 18 may file an application to seal 6 months after:
 - The termination of any order made by the court;
 - The unconditional discharge from the department of youth services; or
 - Upon the court's order that the juvenile is no longer a sex-offender registrant.
- A person over 18 does not need to wait 6 months and may file when the requirements set forth above are met.

Automatic Sealing⁷

- The juvenile court shall promptly order the immediate sealing of records, without an application, hearing, or prosecutor in certain situations including:
 - Unofficial cases;
 - Certain minor offenses, situations where there was police contact but no complaint was filed against the juvenile and the juvenile was not brought to the court for the commission of the act;
 - Charges involving possession or purchase of alcohol and the person has successfully complete a diversion program;
 - After a trial on the merits of the case, the court dismisses the complaint alleging the person is a delinquent child, an unruly child, or a juvenile traffic offender, or the court finds the person not to be delinquent, unruly or a traffic offender; and
 - When a person adjudicated an unruly child has reached age 18 and is not under the jurisdiction of the court in relation to a complaint alleging the person to be a delinquent child.

Rules for special case types (e.g., when the defendant was a victim of human trafficking or adjudicated for underage possession of alcohol) can be found in [R.C. 2151.356](#) and [R.C. 2151.358](#).

Expunging

The juvenile court shall expunge all sealed records 5 years after the court issues a sealing order or upon the 23rd birthday of the person who is the subject of the sealing order, whichever date is earlier.

The juvenile, or the court upon its own motion, may apply for an early expungement before the 5-year waiting period. The process is the same as for sealing applications, with notice to the prosecutor and a similar hearing by the court.⁸

PRACTICE TIP: Clerks should use a tickler file or other calendaring method to track sealed records for automatic expungement. Many clerks maintain a calendar to track these cases. Some courts file the records by the date to be expunged so they are easily identified and timely destroyed.

How is a record sealed and expunged?

- **The sealing and expunging process begins at disposition:**
 - Upon the disposition of the case in which a person has been adjudicated a delinquent child, an unruly child, or a juvenile traffic offender, the court shall provide written notice to the juvenile regarding the sealing and expunging of records. Written notice is mandatory.⁹
- **NOTE:** Courts cannot charge a filing fee for sealing or expunging juvenile records.¹⁰
- **Sealing and expunging a record is a two-step process:**¹¹
 1. When eligible, a juvenile record may be sealed; and
 2. Five years later or at age 23, those sealed records are automatically expunged.
 - **NOTE:** It is possible to expunge records earlier in certain cases.¹²

What must the written notice include?¹³

- The written notice must:
 - State that the juvenile may apply to the court for an order to seal the record;
 - Explain what sealing a record means;
 - State that the juvenile may apply to the court for an order to expunge the record under [R.C. 2151.358](#); and
 - Explain what expunging a record means.

PRACTICE TIP: The court may include the notice in the dispositional entry, provide a separate notice, or include the notice within the probation termination process. **An example of written notice is included at the end of this section.**

What is the procedure to determine whether a record should be sealed?¹³

When determining whether to seal records, the court:

- May require a person filing an application to submit any relevant documentation;
- May cause an investigation to be made to determine if the person has been rehabilitated to a satisfactory degree; and/or
- Shall promptly notify the prosecuting attorney of any proceedings to seal records.¹⁴
 - The prosecuting attorney may file a response with the court within 30 days of receiving notice of the sealing proceedings;
 - If the prosecuting attorney does not file a response with the court or does not object to the sealing of the records, the court may order the records to be sealed without conducting a hearing;
 - If the prosecuting attorney files a response with the court objecting to the sealing of the records, the court shall conduct a hearing within 30 days after the court receives the response;
 - The court shall give notice of the hearing, by regular mail, to the prosecuting attorney and to the person who is the subject of the records.

After conducting a hearing or after due consideration when a hearing is not conducted, the court may order the records to be sealed if it finds that the person has been rehabilitated to a satisfactory degree.

What happens to records once they have been sealed?¹⁵

- The court must keep sealed records in a separate file in which only sealed records are maintained.
- The court may retain un-identifying data in an index. Each entry regarding a sealed record in the index shall contain all of the following:
 - The name of the person who is the subject of the sealed record;
 - An identifier relating to the person who is the subject of the sealed record;
 - The word “sealed”; and
 - The name of the court that has custody of the sealed record.
- The court may maintain a manual or computerized index of the sealed records and shall make the index available only for certain purposes, outlined in [R.C. 2151.357\(E\)](#), and listed below.

Who can access sealed records?¹⁶

Sealed records may only be inspected by certain persons including:

- The court;
- Upon application of person subject to the records;
- Law enforcement and prosecutor (if the record is a felony offense of violence, or to determine eligibility for certain diversion);
- Party in a civil action that is based on the case; or
- The attorney general.

What other actions must a court take once records have been sealed?¹⁷

In addition to maintaining sealed records in a separate file, as outlined above, once records have been sealed, the court shall do all of the following:

- Order that the proceedings in a case be deemed never to have occurred;
- Delete all index references to the case and the person so that the references are permanently irretrievable;
- Order that all original records of the case maintained by any office or agency be delivered to the court;¹⁸
 - Order each agency, upon the delivering of records to the court, to expunge remaining records of the case except fingerprints, DNA specimens, and DNA records;
- Send notice of the order to seal to any office or agency that the court has reason to believe may have a record of the sealed information (e.g., the [Bureau of Criminal Identification and Investigation \(BCI\)](#); and
- Seal all of the records delivered to the court in a separate file in which only sealed records are maintained.

Notification to BCI: When the court orders the sealing or expungement of an arrest, or case information previously sent to the superintendent of BCI (pursuant to [R.C. 109.57](#)), the court must complete the BCI form “Re: Sealing and/or Expungements” and attach the form to the court order. The form must be sent to the Identification Section at BCI in order to ensure complete accuracy of records. The court may submit sealing information to BCI via email (expungement.submissions@ohioattorneygeneral.gov), fax (740.845.2633), or mail.

This form is included at the end of this section.

NOTE: Courts must include enough information on the order so that BCI can find the record that is being sealed or expunged at BCI. If the information is incomplete, BCI will not be able to identify the record and the record will not be sealed.

How are adult cases handled in juvenile court?

Adult cases follow a similar process as outlined above and the same procedural requirements apply (e.g., hearing with notification to prosecutor, all agencies must send their records, person can respond that case never happened, etc.).¹⁹

- Special considerations for adult cases: Any first-degree misdemeanor (or higher) offense where the victim was a child can never be sealed.
 - Contributing to the delinquency of a minor; child endangerment; and criminal child support convictions are not eligible.²⁰
- If convicted of a felony, application to seal records may be made 3 years after the offender’s final discharge
- If convicted of a misdemeanor, application to seal may be made 1 year after the offender’s final discharge.
- If there is a finding of not guilty or the complaint is dismissed, the application to seal may be filed at any time after the finding or dismissal is entered upon the court journal.²¹

Adults still must pay a \$50.00 filing fee for sealing.²²

What if the court receives an inquiry about a sealed or expunged record?

If the court orders a record sealed or expunged, the person may, and the court must respond to inquiries that “no record” exists with respect to the person.²³ The court shall order that the proceedings in the case be “deemed never to have occurred.”²⁴

ENDNOTES

- 1 [R.C. 2151.355\(B\)](#)
- 2 [R.C. 2151.357](#)
- 3 [R.C. 2151.355\(A\)](#)
- 4 [R.C. 2151.356\(C\)\(1\)](#)
- 5 [R.C. 2151.356\(A\)](#)
- 6 [R.C. 2151.356\(C\)\(1\)](#)
- 7 [R.C. 2151.356\(B\)](#)
- 8 [R.C. 2151.358\(B\)](#)
- 9 [R.C. 2151.356\(D\)\(2\)](#)
- 10 [R.C. 2151.356\(C\)\(1\)](#)
- 11 [R.C. 2151.358\(A\)](#)
- 12 [R.C. 2151.358\(B\)](#)
- 13 [R.C. 2151.356\(D\)\(2\)](#)
- 14 [Juv.R. 34\(J\)](#)

ENDNOTES - *cont.*

- 15 [R.C. 2151.357\(A\)\(6\) & \(C\)](#)
- 16 [R.C. 2151.357\(E\)](#)
- 17 [R.C. 2151.357\(A\)](#)
- 18 Exceptions: Fingerprints held by a law enforcement agency, DNA specimens collected pursuant to [R.C. 2152.74](#), and DNA records derived from DNA specimens pursuant to [R.C. 109.573](#).
- 19 [R.C. 2953.32\(B\)](#)
- 20 [R.C. 2953.36\(F\)](#)
- 21 [R.C. 2953.52\(A\)](#)
- 22 [R.C. 2953.32\(A\)\(1\)](#)
- 23 [R.C. 2151.357\(A\)](#)
- 24 [R.C. 2151.357](#)

EXAMPLE: WRITTEN NOTICE REGARDING SEALING AND EXPUNGEMENT OF RECORDS

See the [Ohio Revised Code, § 2151.356\(D\)\(2\)](#) and [Juvenile Rule 34\(J\)](#)

Because you were charged with an offense as a juvenile, Ohio law allows you to have your juvenile record sealed or expunged. The following is an explanation of the process that you must follow to seal or expunge your record.

1. You may apply to this Juvenile Court for an order to seal your record six months after any order made by the Court has ended. If you have been placed in a juvenile institution or other facility, you may not apply until six months after you have received an unconditional discharge from such institution or facility.
2. “Seal a record” means to remove a record from the main file of similar records and to secure it in a separate file that contains only sealed records accessible only to the Juvenile Court.
3. Applying to seal your record doesn’t automatically mean that it will be sealed. The Juvenile Court must find that you have been rehabilitated to a satisfactory degree. If your offense was aggravated murder, murder, or rape, your record cannot be sealed.
4. If your record is sealed by the Juvenile Court and someone asks you if you have a record, you may properly reply that no record exists. If asked, the Court will also reply that no record exists.
5. After your record has been sealed, your record will automatically be expunged after a period of 5 years or when you reach age 23, whichever occurs sooner. You may apply to the Juvenile Court to have your sealed record expunged sooner.
6. How is “expunging” a record different from “sealing” a record? “Expunge a record” means to destroy, delete, and erase a record, as appropriate for the record’s physical or electronic form or characteristic. This means that the record is permanently irretrievable.
7. You may obtain an application to either seal or expunge your record from the Juvenile Court Clerk’s Office at _____, Anywhere, Ohio. That is also the location to file the application after you have completed filling it out.
8. You may wish to read portions of the Ohio Revised Code, § [2151.355](#); [2151.356](#); [2151.357](#) and [2151.358](#) for further details, available at most libraries and on the internet.



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TO ALL POLICE DEPARTMENTS, SHERIFF'S OFFICES & CLERKS OF COURTS

RE: SEALING AND/OR EXPUNGEMENTS

When submitting court orders for Sealing or Expungement of an arrest, BCI requests this form be completed and attached to the court order to assure accuracy of our records.

Defendant's Names: _____

Date of Birth: _____ Social Security Number: _____

Arresting Agency: _____ Arrest No.: _____

Arrest Charge: _____ Date of Arrest: _____

Felony: _____ Misdemeanor: _____ ITN: _____

DNA Collected: Yes OR No

Ohio BCI&I No.: _____ FBI No.: _____

Common Pleas/Juvenile Court Case No.: _____

Municipal Court Case No.: _____

Conviction Dismissal Juvenile

Conviction Charge: _____

Final Disposition of Conviction/Adjudication: _____

Send to the Attention of:

Identification Section