

STARK COUNTY FAMILY COURT SEALING & EXPUNGING PROCEDURE

Juvenile Records in Juvenile Court :

NOTICE TO APPLICANT:

Ohio Law allows you to have your juvenile record sealed and/or expunged. As a practical matter, however, the younger you are the less likely you are to have your case sealed and/or expunged at the same time. Additionally, the court has discretion to seal a case, without expunging a case, based upon the circumstances of the case and applicant.

There is no filing fee to seal or expunge juvenile records. You may wish to read portions of the Ohio Revised Code, sections 2151.355, 2151.356, 2151.357, and 2151.358 for further details, available at most libraries or online here: codes.ohio.gov.

Aggravated murder, murder and rape are charges that are not eligible to be sealed.

The following is an explanation of the process you must follow in order to seal and/or expunge your record(s). This applies to charges involving delinquency, unruly, or traffic offenses you have had in this Court. It is a two-step process: first a record may be sealed, then, second, it may be expunged.

STEP 1: SEALING A RECORD

“Sealing” a record means the record still exists, but the file is hidden from public view. If someone asks you if you have a record, you may properly reply that no record exists. That’s what we will say if someone asks us. It is as if it never occurred. A sealed record can be inspected in extremely limited circumstances (i.e. the Court, you, law enforcement and prosecutor, party in a civil action that is based on the case, and the attorney general).

Automatic Sealing: we will promptly order the immediate sealing of records, without an application, hearing or prosecutor input in certain situations including:

- Unofficial cases;
- Situations where there was police contact but no complaint was filed and the juvenile was not brought to court;
- Cases that were referred to a diversion program and there was successful completion;
- Cases that were dismissed after a trial where the juvenile was found not true;
- Unruly cases where the juvenile has turned 18 and has no pending delinquency matters.

Discretionary Sealing: in these cases, the Court is permitted to seal records but is not required to. These are cases where a person was adjudicated as being delinquent, unruly or a juvenile traffic offender. You must follow these steps to have your record sealed in such cases:

1. Wait at least six (6) months from: the termination of the case (all court costs, fines and restitution paid, and community service completed); unconditional discharge from DYS/other facility in relation to a dispositional order (not on probation or parole); or the Court enters sex offender declassification order. Then you may file an application with the Court. (Note: a person over 18 does not need to wait 6 months and may file after their case is concluded.) An application is found on the Court's website and is available for printing from the court's kiosk located in the Clerk's office.
2. Provide any information that the Court requests.
3. Appear in Court upon request from the Court.

Prohibited Sealing: we are not permitted to seal a record if there is a civil lawsuit pending involving the case. Also, we are prohibited from sealing records in cases where a juvenile is adjudicated delinquent for committing an act that would be an aggravated murder, murder, or rape offenses if the act had been committed by an adult.

THE PROCESS INVOLVED FOR SEALING A RECORD

1. An application to seal must be submitted to the assignment office.
2. Any documentation requested must be submitted along with the application.
3. The Court will conduct a background investigation to determine if the person has been rehabilitated to a satisfactory degree.
4. If the person satisfactorily completes the background investigation their application will be returned to them and they will be directed to file the application in the clerk's office.
5. The prosecutor's office shall be promptly notified of the application to seal has been filed.
 - The prosecutor's office may file a response with the Court within 30 days of receiving notice of the application;
 - If the prosecutor does not file a response with the Court or does not object to the application to seal, the Court may order the record sealed without conducting a hearing;
 - If the prosecutor files a response with the Court objecting to the sealing of the records, the Court shall conduct a hearing.

THE STANDARD TO DECIDE THE APPLICATION

In making a determination about whether to seal a record, the Court may consider any information that it believes is relevant, including:

- The person's age;
- The person's education or employment history;
- The nature of the case;

- The person's subsequent delinquent, unruly or criminal behavior;
- New juvenile offender classifications; and
- Any other circumstance that may relate to the rehabilitation of the person.

Records that are "sealed" are eligible for "expungement".

STEP 2: EXPUNGING A RECORD

"Expunging" a record means the record is completely destroyed, and it is as if it never existed.

Automatic Expungement: we shall promptly order the immediate expungement of any case that has been previously sealed. This must occur either five years after the date on which the records are sealed or on the person's twenty-third birthday, whichever is earlier.

Discretionary Expungement: in these cases, the Court may expunge a case at an earlier time upon application of the person whose record it is. An application is found on the Court's website and is available for printing from the court's kiosk located in the Clerk's office.

Prohibited Expungement: we are not permitted to seal a record if there is a civil lawsuit pending involving the case. Also, since the Court is prohibited from sealing records in cases where a juvenile is adjudicated delinquent for committing an act that would be an aggravated murder, murder, or rape offenses if the act had been committed by an adult, then it is also true that juvenile court is not permitted to expunge these offenses as well.

The Court will employ the same procedure explained above to determine if you have been rehabilitated to the extent your record should be expunged.

Sealing of Adult Records in Juvenile Court :

You may request the Stark County Juvenile Court issue an order to seal and expunge your record whether you are found guilty or not guilty, or your case is dismissed. This will erase your record in the eyes of the law and will make it not publicly available.

There is no filing fee for the sealing of adult records in the Stark County Juvenile Court.

There are several exceptions to this law, which are outlined in detail in Ohio Revised Code Chapter 2953; namely any misdemeanor of the first degree or higher when the victim is a child under the age of 16.

If this application is being made to expunge a conviction, the Defendant states that they have fulfilled all sentencing provisions and that more than one year has passed since the Defendant was released from the Court's jurisdiction (all fines and costs have been paid and community service has been served). Further, by submitting the application, Defendant contends that he/she is entitled to the relief requested because he/she meets all of the prerequisites provided in the Ohio Revised Code; to wit, (1) Defendant is an eligible offender; (2) that there are no criminal

proceedings pending against the Defendant; (3) that the Defendant's rehabilitation has been attained; and (4) that the expungement of this record is consistent with the public interest.

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.

Upon the filing of an application for the sealing of a record, the Court shall set a date for a hearing and notify the prosecutor for the case of the hearing on the application. The prosecutor may then object to the granting of the application and shall specify in the objection the reasons for believing a denial of the application is justified.

**IN THE COURT OF COMMON PLEAS
FAMILY COURT DIVISION
STARK COUNTY, OHIO**

IN THE MATTER OF _____ : CASE NO. _____
 _____ : _____
 (Name) _____ : _____
 _____ : JUDGE _____
 SS# _____ : _____
 DOB: _____ : _____
 _____ : **APPLICATION**
 Juvenile Delinquent Offender : **TO EXPUNGE RECORD**
 _____ : (O.R.C. §2151.358)

The case(s) requested to be expunged are: (list all case numbers and all charges)

<u>Case Number</u>	<u>Charge(s)</u>	<u>Date Closed</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

The undersigned Applicant hereby requests that the Applicant's record be expunged.
 Applicant states that his/her record has already been sealed.
 Applicant requests an early expungement for the following reasons: _____

 Date

 Signature of Applicant

Current street address: _____
 City, State, Zip _____
 Telephone number _____
 Email address _____

APPLICANT INFORMATION SHEET

In order to expunge the Applicant's record, the Court must determine that the Applicant has been rehabilitated to a satisfactory degree. The Court will look at a number of factors in determining whether or not the Applicant has been successfully rehabilitated:

General Information

Age of Applicant _____

Has the Applicant been charged with other delinquencies or unruly offenses as a juvenile, or criminal offenses as an adult? -Yes -No

If Yes, please list all: _____

Has Applicant paid in full all outstanding court costs and fines owed to Stark County?

-Yes -No

Is Applicant currently under investigation, on probation or parole or incarcerated?

-Yes -No

It has been at least 6 months since the termination of the last court order on Applicant's case(s) or since being unconditionally discharged from the Department of Youth Services with respect to a dispositional order made as a result of the adjudication, or from an institution or facility to which Applicant was committed pursuant to a dispositional order made in relation to the adjudication. -Yes -No

Was the Applicant granted a new tier of classification or declassification from the Juvenile Offender Registry, except for public registry-qualified juvenile offender registrants?

-Yes -No If yes, please explain: _____

Did the Applicant complete high school or a high school equivalency? -Yes -No

If yes, when and where? _____

Did the Applicant complete or attempt to complete post-secondary education? -Yes -No

If yes, when and where? _____

Applicant's Employment History:

Employer: _____ Dates Employed _____ to _____
Nature of Employment (duties/job description) _____

Employer: _____ Dates Employed _____ to _____
Nature of Employment (duties/job description) _____

Employer: _____ Dates Employed _____ to _____
Nature of Employment (duties/job description) _____

Military Service _____ Entry Date: _____
Discharge Date: _____ Type of Discharge: _____

Please explain any other circumstances that Applicant feels are related to his/her rehabilitation (including, but not limited to substance abuse treatment, mental health treatment, other):

By signing this document, Applicant verifies that all above statements are true to the best of Applicant's knowledge.

Applicant

STATE OF OHIO:
COUNTY OF _____: SS

Before me, a Notary Public, in and for above County and State, the above Applicant, _____, appeared and acknowledged that the above information is true to the best of his/her knowledge and placed his/her signature in my presence this _____ day of _____, 20____.

(seal)

Notary Public
My Commission Expires _____

CONSENT OF APPLICANT
TO RELEASE, OBTAIN & UTILIZE INFORMATION

Applicant Name: _____

SS# _____

DOB: _____

I, the undersigned Applicant, authorize release of records and information to the Stark County Family Court and the Stark County Juvenile Prosecutor.

- School _____
(Attendance Records, Grade Reports, Discipline Reports)
- Post-Secondary Schooling/Vocational School/College _____
(Attendance Records, Grade Reports, Discipline Reports, Degrees/Certifications)
- Alcohol / Drug Treatment Facility _____
(Assessment, Recommendations, Summary of Treatment, Compliance, Toxicology/Drug Screen Results, Reports, Discharge Summary)
- Mental Health Treatment Facility _____
(Assessment, Diagnoses, Recommendations, Summary of Treatment, Compliance, Discharge Summary)
- Current Employer: _____
Address/Telephone _____
(Dates of Employment, Job Title, Discipline Record)
- Stark County Probation Department
Other Probation or Parole Board _____
- Police/Law Enforcement Reports _____
- Other: _____

The undersigned Applicant acknowledges the following:

1. I had an opportunity to seek legal counsel, but declined, and have elected not to do so.

2. I understand that this authorization extends to all or any part of the records designated above which may include treatment for mental illness (O.R.C. §5122.31), alcohol/drug use/and/or abuse (42 CFR Part 2) and/or Human Immunodeficiency Virus Test result or diagnoses. (O.R.C. §3701.243).

3. I understand that I may revoke this authorization by providing written notice to the releasing agency/individual at any time except to the extent that action has already been taken in reliance on it, and I also understand that the authorization period can be modified by me.

4. I voluntarily consent to the release of designated information. I understand my records are protected under federal and state regulations governing confidentiality and cannot be disclosed without my written consent unless otherwise provided for in the regulations (42 CFR Part 2, 20 USC 1232g, O.R.C. §2151.14, O.R.C. §3701.243 and O.R.C. §5122.31)

Unless otherwise contained in this document, this consent expires automatically upon the release of the requested information.

Date

Signature of Applicant

Date

Parent/Guardian if Applicant is less than 18 years old.

This information has been disclosed from records protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit further disclosure or dissemination of the information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient. Ohio law (Mental Health 5122.31), (HIV/AIDS 3701.243) also prohibits further disclosure of this information without the specific written consent of the person to whom it pertains. These conditions apply to every page disclosed and a copy of this authorization will accompany every disclosure. A photostatic copy of this authorization shall be considered valid.

NOTICE OF HEARING FOR EXPUNGEMENT

Pursuant to O.R.C. §2151.356(C)(2)(d)(ii) and (iii), or O.R.C. §2151.358(B)(4)(b) and (c), you are hereby notified that a hearing on Applicant's request for expungement (or early expungement) of the record will be held on _____ at _____ am/pm in the Stark County Family Court located at 110 Central Plaza S., 6th Floor, Canton, Ohio 44702.

Said hearing shall be no less than 60 days from the date of filing of the Application.

- ➔ *After conducting the hearing, the Court may order the records of the person that are the subject of the motion or application to be sealed or expunged if it finds that the person has been rehabilitated to a satisfactory degree. In determining whether the person has been rehabilitated to a satisfactory degree, the Court may consider all of the following:*
- (1) The age of the person; (2) The nature of the case; (3) The cessation or continuation of delinquent, unruly, or criminal behavior; (4) The education and employment history of the person; (5) Any other circumstances that may relate to the rehabilitation of the person who is the subject of the records under consideration.*
- ➔ *The Stark County Juvenile Prosecutor may waive and/or cancel the hearing at any time prior to the hearing date by filing a Notice to this Court if they do not oppose Applicant's request to expunge. If the Stark County Juvenile Prosecutor waives and/or cancels the hearing, the court may expunge the case without a hearing.*

INSTRUCTIONS FOR SERVICE

To the Clerk:

Please serve a copy of the foregoing Application for Expungement of Record, Applicant Information Sheet, Consent to Release Form and Notice of Hearing to the Stark County Juvenile Prosecutor and the Assigned Judge's Bailiff forthwith.