

Expungement Application Packet

If you cannot afford to hire your own attorney, the Cuyahoga County Public Defender may be able to assist you with sealing (often called “expunging”) a criminal record from Cuyahoga County Common Pleas Court.

A person’s ability to seal a **criminal conviction** is determined by statute and depends on several factors including: 1) the type and offense level of the conviction sought to be sealed (not all convictions can be sealed); 2) the completion of the sentence (including payment all fines and restitution); 3) the time that has elapsed since completion of your sentence; and, 4) the entire criminal record of the applicant. **In particular, you cannot seal any conviction unless you have satisfied the entire sentence (including full payment of fines and restitution) or if you have any pending criminal cases (even misdemeanors).**

A person’s ability to seal an **arrest record in a case that was dismissed, no billed, or the subject of a not guilty verdict** is more expansive. Although there are some limitations on timing or present eligibility (if, for instance, you have a pending criminal case), cases involving dismissed (no billed or not guilty verdicts) can generally be sealed regardless of the type of offense.

A person’s eligibility to have his or her record sealed is only the first hurdle in getting a record sealed. Even if you are eligible to have your record sealed, the State has the right to oppose the sealing of the record and the judge has discretion on whether or not to seal the record.

Because there are so many considerations involved in a decision to file an application for expungement, the Public Defender cannot tell you right away if you are eligible and whether the Office will represent you. After submitting your application, you should expect to hear from us within 4 weeks about whether or not we are going to file to seal your record. **There are, however, several other steps in the expungement process and, from start to finish, that process usually takes 6 to 8 months.**

Instructions:

Step One: Fill out the attached forms.

Step Two: Return these forms to the Public Defender’s Office in person, by mail or email pdgeneral@cuyahogacounty.us.

Cuyahoga County Public Defender’s Office
Attn: Expungement Application
310 W. Lakeside, Suite 200
Cleveland, OH 44113
(216) 443-7580

Step Three: The Public Defender's office will do a preliminary assessment of your eligibility for expungement.

We do a preliminary check of your criminal record using the information that you provide. We are not a law enforcement agency; we cannot run a full background check. Therefore, it is very important that the information you provide is accurate. List the names of all the court systems you have appeared. Please fill out the attached forms *completely*.

Step Four: Our office will notify you if we are able to assist you. If you appear to be eligible, we will tell you what the next steps are. If you are not, we will explain some alternative options.

Important Information on Filing Fees:

The Cuyahoga County Public Defender's Office does not charge any fees for representing individuals in expungement proceedings. Our representation is provided for free. And there is no filing fee to seal cases that were dismissed, no billed, or not guilty verdicts.

There is, however, a **\$50 filing fee** if you are seeking to seal cases involving **criminal convictions (a case in which you either pleaded guilty/no contest or were found guilty via a trial)**. This filing fee can be **waived by the completion of the indigency affidavit attached to this application.**

Thus, if you are trying to seal a conviction, you must either:

- Complete the attached **affidavit of indigency**, get it notarized, and return it with your application. If you would like our office to notarize your affidavit, you must appear in person. We cannot use an affidavit that is not properly notarized;
- or,
- Indicate on the application that you **will pay the filing fee** to the Clerk's Office. **DO NOT SEND ANY MONEY** with the application. If we make a preliminary determination that you are eligible, we will advise you that a motion has been drafted and provide you instructions on how to pay the filing fee. Because our office does not handle money, you (or someone on your behalf) will need to file the motion in person and pay the filing fee.

Application for Representation

Date of Application: _____

CONTACT INFORMATION

First and Last Name: _____ Middle Name: _____

Any other names you have used (aliases, maiden names, etc.): _____

Address: _____ City/State: _____

Zip Code: _____ Cell Phone: _____ Other phone: _____

EMAIL _____

Social Security Number: _____ Date of Birth: _____

What is the name and phone number of another person who we can leave a message with if we cannot get in touch with you?

Name: _____ Phone number: _____

INFORMATION ABOUT YOUR CRIMINAL HISTORY

Please list any and all places you have had criminal cases (including DUI/OVIs) other than the Justice Center in downtown Cleveland, Ohio: We need this information even if that record has been expunged OR if that case was dismissed/charges were dropped.

In order to determine your eligibility for expungement, we must contact the Cuyahoga County Probation Department to confirm that all fines, fees, and restitution (if ordered) were paid in your case. Do we have your permission to do so? YES NO

Do we have your permission to use a commercial background check service to run a background check?
 YES NO

Do we have permission to release your contact information to an outside agency if your record is expunged? The agency will conduct a brief confidential survey to examine how an expungement might impact individual lives. We will review and process your application whether you agree to this request or not.

YES NO

FILING FEE INFORMATION FOR CRIMINAL CONVICTIONS

If you are applying to seal a criminal conviction (as opposed to a dismissed case or no bill), please indicate one of the following:

I am returning a **notarized** poverty affidavit to waive the \$50 filing fee

I will pay the \$50 filing fee to the Clerk of Courts after contacted by Public Defender's Office (**Do not include any money with the application**)

Representation Acknowledgement Form

I, _____, (print name) want the Public Defender's Office to assist me with an application to seal my criminal record (often called an expungement).

- I understand that I must provide the Public Defender's Office with an accurate description of my criminal record.
- I understand that the Public Defender's Office only makes a preliminary assessment of my eligibility at the time it files a motion to seal my record.
- I understand that that Public Defender's Office can only provide me with a final assessment of my eligibility for expungement after my attorney receives a copy of the background check conducted by the Probation Department.
- I understand that my attorney may need to withdraw my motion to seal my record if the background check provides information that makes me ineligible to have my record sealed.
- I understand that just because I am eligible for an expungement by law does NOT mean that the Judge is *required* to grant my application. I understand that it is ultimately up to the Judge to determine whether my record will be sealed.
- I understand that if the Public Defender's Office cannot reach me or if I do not attend my expungement hearing, my attorney may be forced to withdraw my application for expungement.
- I understand that there is a \$50 filing fee for expungement of a conviction that must be paid to the Clerk of Courts if I do not qualify for a poverty affidavit. I understand that this \$50 filing fee is NONREFUNDABLE. I understand that this filing fee WILL NOT BE RETURNED TO ME UNDER ANY CIRCUMSTANCES, EVEN IF MY APPLICATION IS DENIED OR WITHDRAWN.
- I understand that a Certified Legal Intern may represent me at my expungement hearing. I understand that a Certified Legal Intern is a law student who has completed two years of school and who has received an Intern's License from the Ohio Supreme Court and can represent clients in court with supervision from a licensed attorney.
- I understand that even if my expungement is granted, certain employers and government agencies will still be able to see my criminal record on a background check.
- **I understand that it is MY responsibility to notify the Public Defender's Office if my phone number or address changes.**

I have read and understood everything on this page.

Signature

FINANCIAL DISCLOSURE / AFFIDAVIT OF INDIGENCY

(\$25.00 application fee may be assessed—see notice on reverse side)

I. PERSONAL INFORMATION

| | | | |
|------------------|-----------|---|----------|
| Applicant's Name | D.O.B. | Person Represented's Name (if juvenile) | D.O.B. |
| Mailing Address | City | State | Zip Code |
| Case No. | Phone () | Cell Phone () | |

II. OTHER PERSONS LIVING IN HOUSEHOLD

| | | | | | |
|---------|--------|--------------|---------|--------|--------------|
| Name 1) | D.O.B. | Relationship | Name 3) | D.O.B. | Relationship |
| 2) | | | 4) | | |

III. PRESUMPTIVE ELIGIBILITY

The appointment of counsel is presumed if the person represented meets any of the qualifications below. Please place an 'X'

Ohio Works First / TANF: ___ SSI: ___ SSD: ___ Medicaid: ___ Poverty Related Veterans' Benefits: ___ Food Stamps: ___

Refugee Settlement Benefits: ___ Incarcerated in state penitentiary: ___ Committed to a Public Mental Health Facility: ___

Other (please describe): _____ Juvenile: ___ (if juvenile, please continue at Section VIII)

IV. INCOME AND EMPLOYER

| | | | |
|---|-----------|---|--------------|
| | Applicant | Spouse <small>(Do not include spouse's income if spouse is alleged victim)</small> | Total Income |
| Gross Monthly Employment Income | | | |
| Unemployment, Worker's Compensation, Child Support, Other Types of Income | | | |
| TOTAL INCOME | | | \$ |

Employer's Name: _____ Phone Number: _____

Employer's Address: _____

V. LIQUID ASSETS

| | |
|--|------------------------|
| Type of Asset | Estimated Value |
| Checking, Savings, Money Market Accounts | \$ |
| Stocks, Bonds, CDs | \$ |
| Other Liquid Assets or Cash on Hand | \$ |
| Total Liquid Assets | \$ |

VI. MONTHLY EXPENSES

| | | | |
|--|---------------|---|---------------|
| Type of Expense | Amount | Type of Expense | Amount |
| Child Support Paid Out | | Telephone | |
| Child Care (if working only) | | Transportation / Fuel | |
| Insurance (medical, dental, auto, etc.) | | Taxes Withheld or Owed | |
| Medical / Dental Expenses or Associated Costs of Caring for Infirm Family Member | | Credit Card, Other Loans | |
| Rent / Mortgage | | Utilities (Gas, Electric, Water / Sewer, Trash) | |
| Food | | Other (Specify) | |
| EXPENSES | \$ | EXPENSES | \$ |

VII. DETERMINATION OF INDIGENCY

If applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.

For applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines, see recoupment notice in Section XI.

If applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied if applicant can employ counsel using those liquid assets.

If applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but applicant is financially unable to employ counsel after paying monthly expenses in Section VI, counsel must be appointed.

VIII. \$25.00 APPLICATION FEE NOTICE

By submitting this Financial Disclosure / Affidavit of Indigency Form, you will be assessed a non-refundable \$25.00 application fee unless waived or reduced by the court. If assessed, the fee is to be paid to the clerk of courts within seven (7) days of submitting this form to the entity that will make a determination regarding your indigency. No applicant may be denied counsel based upon failure or inability to pay this fee.

IX. AFFIDAVIT OF INDIGENCY

I, _____ (applicant or alleged delinquent child) being duly sworn, state:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform the public defender or appointed attorney if my financial situation should change before the disposition of the case(s) for which representation is being provided.
3. I understand that if it is determined by the county or the court that legal representation should not have been provided, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
4. I understand that I am subject to criminal charges for providing false financial information in connection with this application for legal representation, pursuant to Ohio Revised Code sections 120.05 and 2921.13.
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

Affiant's signature

Date

Notary Public / Individual duly authorized to administer oath:

Subscribed and duly sworn before me according to law, by the above named applicant this ____ day of _____, _____, at _____, County of _____, State of Ohio.

Signature of person administering oath

Title (example: Notary, Deputy Clerk of Courts, etc.)

X. JUDGE CERTIFICATION

I hereby certify that above-noted applicant is unable to fill out and / or sign this financial disclosure / affidavit for the following reason: _____. I have determined that the party represented meets the criteria for receiving court-appointed counsel.

Judge's signature

Date

XI. NOTICE OF RECOUPMENT

ORC. §120.03 allows for county recoupment programs. Any such program may not jeopardize the quality of defense provided or act to deny representation to qualified applicants. No payments, compensation, or in-kind services shall be required from an applicant or client whose income falls below 125% of the federal poverty guidelines. See OAC 120-1-05.

Through recoupment, an applicant or client may be required to pay for **part** of the cost of services rendered, if he or she can reasonably be expected to pay. See ORC §2941.51(D)

XII. JUVENILE'S PARENTS' INCOME* – FOR RECOUPMENT PURPOSES ONLY – NOT FOR APPOINTMENT OF COUNSEL

| | Custodial Parents' Income (Do not include parents' income if parent or relative is alleged victim) | Total |
|--|--|-----------|
| Employment Income (Gross) | | |
| Unemployment, Workers Compensation, Child Support, Other Types of Income | | |
| TOTAL INCOME | | \$ |

*Please complete Section VI on page 1 of this form if you would like the court to consider your monthly expenses when determining the amount of recoupment which you can reasonably be expected to pay.