

EXPUNGEMENT KIT: GUIDE TO OBTAINING EXPUNGEMENT IN OHIO

Eric Willison

Andrew Ruzicho

Copyright 2003, all rights reserved

TABLE OF CONTENTS	Page
Chapter 1 - Questions and answers concerning expungement	3
Application for expungement	9
Application for expungement with completion suggestions	11
Application for expungement of not guilty findings or dismissals	13
Chapter 2 - What constitutes a first offense?	15
Chapter 3 - When can you apply for an expungement	22
Chapter 4 - How the prosecutor will contest your application	25
Guide to Ohio clerks of court and sheriff offices	29

Disclaimer

Please understand that by ordering this kit, you are not retaining a lawyer for legal advice, nor are you retaining the services of either Andrew J. Ruzicho or Eric E. Willison. This kit is provided to you for informational purposes only. Further, please understand that the information in this kit is specific to the State of Ohio, and that the laws of other states may vary quite a bit from Ohio's laws. Using this kit to file a case outside of Ohio is a bad idea.

Nothing in this kit is a substitute for retaining an attorney to work on your case. It is recommended that you seek out an attorney rather than trying to obtain an expungement yourself. However, if you cannot find an attorney to work for you, then the information herein may be of some assistance to you regarding the process for seeking expungement.

CHAPTER 1

Introduction - Common questions concerning the expungement process.

What is an expungement?

An expungement is the act of sealing criminal records so that others do not have access to them. Ideally, an expungement would erase all trace of criminal records; however, certain individuals including law enforcement officers, prosecutors, parole and probation officers, and agencies may still have access to the criminal records for specific purposes. Expungement does not completely erase the criminal record but seals those records from individuals and entities not listed above. In other words, access to them is extremely limited.

Why seek expungement?

If you qualify for an expungement, it may prove valuable to you when applying for a job, seeking credit, applying for college, renting an apartment, etc. Sealing the record of your conviction would generally prevent the discovery of your criminal conviction.

Do I qualify for expungement?

In general, expungement is a one-time freebie. You get one chance to use it and that's it. In order to take advantage of the process, you must be a first offender in the eyes of the law. So don't plan on saving your shot at expungement if you already have one conviction. If you are convicted of another crime in the meantime, you generally become ineligible for expungement.

How do I determine if I am a first offender?

What is important is that you have actually been convicted of a crime. Charges that were dismissed are not convictions. Charges that were never pursued are not convictions. Generally, you must have only one conviction to be eligible. In certain situations, more than one conviction may be considered only one conviction. A detailed discussion of that will follow. Further qualifications are that convictions for certain crimes are not eligible for expungement and a certain amount of time must pass before you can apply for expungement.

How much time must pass before I can apply for an expungement?

The answer to the question depends upon two things. First, was your conviction a misdemeanor or a felony? If it was felony, you have to wait three years before you can apply for the sealing of the record of your conviction. If it was a misdemeanor, then you must wait one year before applying for the sealing of the record of your conviction.

The second thing it depends upon is when you finished the last part of your punishment. Judges can sentence you to a lot more than jail time. They can sentence you to probation, they can order you to make restitution, they can order you to take counseling sessions or attend anger management courses. You must fulfill all of the things that the judge sentenced you to before the clock on your one year or three year period starts to tick.

What type of convictions cannot be expunged from my record?

The following are convictions that cannot be expunged:

- Convictions when the offender is subject to a mandatory prison term;
- Convictions under section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.321 [2907.32.1], 2907.322 [2907.32.2], or 2907.323 [2907.32.3], former section 2907.12 (Chapter 2907. deals with three main categories of crimes: sexual assaults and displays; prostitution offenses; and offenses related to the dissemination of obscenity and matter harmful to juveniles), or Chapter 4507. (Driver's License Law), 4511. (Operation of a Motor Vehicle), or 4549. (Motor Vehicle Crimes) 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;
- 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 (Riot) of the Revised Code and is not a violation of section 2903.13 (Assault to an unborn child), 2917.01 (Inciting violence) or 2917.31 (Inducing panic) of the Revised Code that is a misdemeanor of the first degree;
- 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;
- Convictions of a felony of the first or second degree;
- Bail forfeitures in a traffic case as defined in Traffic Rule 2.

What will hurt my application for expungement?

- If you have already been granted an expungement, you will be ineligible.