



OHIO

CRIMINAL SENTENCING COMMISSION

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ADULT RIGHTS RESTORATION & RECORD SEALING

The charts that follow detail the methods by which an individual may seek to have rights restored or the collateral consequences of criminal charges ameliorated through sealing, expungement, or other types of relief. It includes the provisions of recent legislative enactments regarding state-issued employment licenses which have historically been denied on the basis of criminal convictions. Information regarding Certificates of Qualification for Employment (CQE) is also included.

*Prepared in Collaboration with
the Ohio Judicial Conference*

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ADULT RIGHTS RESTORATION

A. Sealing Records of Conviction¹ [\[R.C. 2953.32\]](#)

1. Who is Eligible?	<ul style="list-style-type: none"> Any person can seek to have the records of any number of convictions sealed, provided that they are F4 or F5 felonies or misdemeanors, and are not felony sex offenses or offenses of violence [R.C. 2953.31(A)(1)(a)]. Offenders with convictions for F1, F2, or F3 offenses, or F4, F5, or misdemeanor sex offenses or offenses of violence are eligible to apply for sealing if they have [R.C. 2953.31(A)(1)(b)]: <ul style="list-style-type: none"> Up to 2 felony convictions; Up to 4 misdemeanor convictions, or; Exactly two felony convictions and two misdemeanor convictions. 2+ convictions arising out of the same act are counted as 1 conviction; 2+ convictions within a 3-month period, but not arising from same act MAY be counted as 1. [R.C. 2953.32(C)(1)(a)] Note that the offender must be eligible to apply for sealing, and that the convictions themselves must also be sealable as described in "Exceptions." [R.C. 2953.36(A)(7)].
2. Exceptions	<p>Offenses not eligible for sealing are:</p> <ul style="list-style-type: none"> F1s and F2s [R.C. 2953.36(A)(8)]; Any crime with a mandatory prison sentence [R.C. 2953.36(A)(1)]; Offenses of violence, subject to limited exception for misdemeanors [R.C. 2953.36(A)(4)]; Listed sex offenses? [R.C. 2953.36(A)(2)]; Certain automobile offenses [R.C. 2953.36(A)(2)]; All traffic offenses, including OVI or DUS [R.C. 2953.36(A)(2) and (9)]; Listed sex offenses with a victim under 18 [R.C. 2953.36(A)(6)]; and Any offense with a victim under 16, except for non-support [R.C. 2953.36 (A)(7)].
3. Timing for Eligibility	<ul style="list-style-type: none"> F3: 3 years after final discharge; F4 or F5: 1 year after final discharge; Misdemeanors: 1 year after final discharge [R.C. 2953.32]; or Convictions for violations of R.C. 2924.43: 7 years after final discharge [R.C. 2921.43].
4. What Else May Prevent Relief?	<p>Pending criminal charges [R.C. 2953.32(C)(1)(b)].</p>
5. Considerations Required of the Court	<ul style="list-style-type: none"> Rehabilitation of the applicant [R.C. 2953.32(C)(1)(c)]; If the needs of the government to maintain the record outweigh the interests of the applicant to seal the record [R.C. 2953.32(C)(1)(e)]; Objections of the prosecutor [R.C. 2953.32(C)(1)(d)]; and If the applicant is an eligible offender of the type described in R.C. 2953.36(A)(3), whether the offender has been rehabilitated to a satisfactory degree.
6. What Happens to the Record?	<p>Kept in a separate file, but not permanently deleted. Law enforcement and government officials have access to the record for new criminal investigations; employers in law enforcement, schools, health care, etc. can see sealed records. Criminal record checks for teachers are limited to the list of offenses dictated by the Ohio Department of Education. Records related to violations of R.C. 2921.43 where the offender has been forever disqualified from public office may be maintained.</p>

1 The Supreme Court of Ohio has a [bench card](#) outlining what records can be sealed and how to consider indigence in filings to seal records.

2 Eligible offenders convicted of unlawful sexual conduct with minor offenses committed while under the age of 21 may apply under the Conviction Record Sealing Law if the court issues an order to terminate the offender's SORN Law duties pursuant to R.C. 2950.151 and the offender otherwise satisfies existing criteria to be an eligible offender [\[R.C. 2953.36\(A\)\(3\)\]](#).

B. Sealing Records of Dismissal [\[R.C. 2953.52\]](#)

1. Who is Eligible?	Anyone found not guilty of an offense, any defendant named in a dismissed complaint, indictment, or information or any defendant who has successfully completed an intervention in lieu of conviction program pursuant to [R.C. 2951.041] .
2. Exceptions	If multiple charges resulting from or in connection with the same act have different dispositions (e.g. a conviction on one charge and a dismissal on another), in order for the dismissal to be eligible for sealing, the conviction also must be eligible for sealing, UNLESS the conviction is a single, non-OVI traffic offense. In that circumstance, the court MAY seal the entire record after consideration of the factors in section 5, “Considerations Required of the Court,” below ³ [R.C. 2953.61] .
3. Timing for Eligibility	<ul style="list-style-type: none"> Findings of not guilty, dismissals with prejudice, or successful completion of intervention in lieu of conviction: at any time; Dismissals without prejudice: when the statute of limitations has expired; or No bills: after 2 years.
4. What Else May Prevent Relief?	Pending criminal charges [R.C. 2953.52(B)(2)(b)] .
5. Considerations Required of the Court	<ul style="list-style-type: none"> If the needs of the government to maintain the record outweigh the interests of the applicant to seal the record [R.C. 2953.52(B)(2)(d) and (B)(4)] or; Objections of the prosecutor [R.C. 2953.52(B)(2)(c)].
6. What Happens to the Record?	Kept in a separate file, but not permanently deleted. Accessible by an officer, or by law enforcement for civil actions relating to the officer’s involvement in the case, as well as by prosecuting attorneys to determine a defendant’s eligibility for pretrial diversion pursuant to R.C. 2935.36 and R.C. 4301.69 .

C. Relief from Weapons Disability [\[R.C. 2923.14\]](#)

1. Who is Eligible?	Someone who has full discharge from prison or community supervision or release on bail, no other prohibition from owning a firearm, and law abidance with likelihood of continued law abidance. If disability resulted from a factor other than a conviction or indictment, that factor must have been resolved.
2. Exceptions	May be revoked at any time for good cause shown and with notice; is automatically void if an offense of violence or drug trafficking is committed by applicant.
3. Timing for Eligibility	At any time after full discharge from imprisonment, community control [R.C. 2929.15] , post-release control [R.C. 2967.28] , or parole, or being released on bail or recognizance; or at any time after the factor that led to the disability no longer applies.
4. What Else May Prevent Relief?	Firearms that are illegally acquired, possessed, or used.
5. Considerations Required of the Court	The applicant meets the criteria described in section 1 of this chart.
6. What Happens to the Record?	No change to records.

3 [R.C. 2953.61](#) allows a court the discretion to seal a conviction for a non-OVI traffic offense that otherwise would be unsealable, but only when that non-OVI traffic conviction is the sole impediment to the sealing of dismissed charges that otherwise would be permissible under [R.C. 2953.52](#).

D. Expungement [[R.C. 2953.38](#) and [R.C. 2953.521](#)]

1. Who is Eligible?	A person with a conviction under R.C. 2907.24 , 2907.241 , or 2907.25 (soliciting when HIV+, loitering to solicit when HIV+, prostitution when HIV+) if the person's participation in the offense was a result of having been a victim of human trafficking; anyone who is found to be a victim of human trafficking and has been found not guilty of a charge or named in a dismissed complaint, indictment, or information of above charges.
2. Exceptions	Murder, aggravated murder, and rape convictions cannot be expunged [R.C. 2953.38(B)].
3. Timing for Eligibility	At any time.
4. What Else May Prevent Relief?	Failure to assert grounds on which relief can be granted [R.C. 2953.38(C)].
5. Considerations Required of the Court	<ul style="list-style-type: none"> • Applicant must show by a preponderance of the evidence that the offense was a result of being a victim of human trafficking [R.C. 2953.38(E)]; • Objections of the prosecutor [R.C. 2953.38(E)(1)(a)]; or • For all F1 and F2 convictions, the court must determine whether the needs of the government to maintain the record outweigh the interests of the applicant to expunge the record [R.C. 2953.38(E)(2)].
6. What Happens to the Record?	The record cannot be used for any purpose, including a criminal background check; all index references are to be deleted; proceedings shall be considered not to have occurred.

F. Post-Conviction DNA Testing [\[R.C. 2953.71-.81\]](#)

1. Who is Eligible?	An offender sentenced to death, to a prison term, to a community-control sanction, or to SORN registration for a felony and currently is in prison, on parole, on probation, on post-release control, on community control, or on the SORN registry regarding that felony [R.C. 2953.72(C)] . An offender is not eligible if dead [R.C. 2953.72(C)(3)] .
2. Exceptions	The application cannot be in regard to any offense for which the offender pleaded guilty or no contest.
3. Timing for Eligibility	At any time after conviction.
4. What Else May Prevent Relief?	Specific considerations at R.C. 2953.74 ; ⁴ generally, the offender could not have had a prior “definitive” ⁵ DNA test and must show that a DNA test, which results in an exclusion, would have been outcome determinative at trial.
5. Considerations Required of the Court	Review is expedited [R.C. 2953.73(D)] . Under R.C. 2953.74(C) , all of the following must apply: biological material must have been collected and a parent sample must still exist, a testing authority must determine that testing can still take place, the identity of the person who committed the crime must have been at issue at trial, the defense must have asserted a theory at trial that would have made a DNA exclusion outcome determinative, the court must decide that a DNA exclusion would have been outcome determinative, and the court must validate the chain of custody of the DNA parent and extracted sample.
6. What Happens to the Record?	The state must maintain the results of the testing and the samples used; the result of the testing remains state’s evidence [R.C. 2953.81(A)] .

- 4 Under [R.C. 2953.74\(A\)](#), there can have been no prior definitive DNA test. Under [R.C. 2953.74\(B\)](#), either (1) no DNA test was taken at the trial stage, the offender shows that a DNA exclusion would have been outcome determinative, and the DNA test was not taken because DNA testing was unavailable, the DNA was inadmissible, or DNA evidence was not generally accepted at the time; or (2) a DNA test was done at the trial stage, but the offender can show that in context of all available admissible evidence, the test would have been outcome determinative.
- 5 “Definitive DNA test” means a DNA test that clearly establishes that biological material from the perpetrator of the crime was recovered from the crime scene and also clearly establishes whether or not the biological material is that of the eligible offender. A prior DNA test is not definitive if the eligible offender proves by a preponderance of the evidence that because of advances in DNA technology, there is a possibility of discovering new biological material from the perpetrator that the prior DNA test may have failed to discover. Prior testing may have been a prior “definitive DNA test” as to some biological evidence, but may not have been a prior “definitive DNA test” as to other biological evidence. [R.C. 2953.71\(U\)](#)

G. Professional Licensure Applications (Limitations Related to Licensing Refusal)

<p>1. Who is Eligible?</p>	<ul style="list-style-type: none"> • Limitations are placed on a state licensing authority's ability to deny a license and apply to every profession or occupation that requires a license. • A licensing authority cannot refuse an initial license to an individual based solely or in part on a conviction of, judicial finding of guilt of, or plea of guilty to an offense; a criminal charge that does not result in a conviction, judicial finding of guilt, or plea of guilty; a nonspecific qualification such as "moral turpitude" or lack of "moral character"; or a disqualifying offense included on the list of specific offenses if consideration of that offense occurs after the applicable statutory waiting period [R.C. 9.79(C)(1)].
<p>2. Exceptions</p>	<ul style="list-style-type: none"> • Limitations do not apply to exempt occupations [See R.C. 9.79(I)]. • Any individual may be disqualified if they are convicted of, found guilty pursuant to a judicial finding of, or plead guilty to a disqualifying offense included on the state licensing authority's list of specific disqualifying criminal offenses [R.C. 9.79(B)]. • Applies to initial licensure only and does not affect any law related to renewing a license. However, a licensing authority cannot refuse to renew a license based on a conviction of, judicial finding of guilt of, or guilty plea to an offense if the licensing authority issued the initial license after considering the conviction, judicial finding of guilt, of guilty plea [R.C. 9.79(K)].
<p>3. Timing for Eligibility</p>	<p>If an individual has been convicted of, found guilty pursuant to a judicial finding of, or pleaded guilty to a disqualifying offense included in the state licensing authority's list, the licensing authority may consider the disqualifying offense only during certain time periods:</p> <ul style="list-style-type: none"> • For an offense not involving breach of fiduciary duty that is not a sex offense or offense of violence: within 5 years of the date of conviction, release, or sanction; • For an offense that is a breach of fiduciary duty but not a sex offense or offense of violence: within 10 years of the date of conviction, release, or sanction; and • For sex offenses and offenses of violence: any time [R.C. 9.79(D)(2)].
<p>4. What Else May Prevent Relief?</p>	<p>A licensing authority may consider past discipline when deciding whether to issue a license to an individual [R.C. 9.79(I)].</p>
<p>5. Considerations Required of the Court</p>	<p>The licensing authority must consider:</p> <ul style="list-style-type: none"> • The nature and seriousness of the offense; • The passage of time since the individual committed the offense; • The relationship of the offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation; • Any mitigating evidence of rehabilitation or treatment undertaken by the individual, including whether the individual has been issued a certificate of qualification for employment or a certificate of achievement and employability; and • Whether the denial of a license is reasonably necessary to ensure public safety [R.C. 9.79(D)(1)].
<p>6. What Happens to the Record?</p>	<p>Licensing Authorities must provide the Department of Administrative Services (DAS) detailed annual reports related to licensing procedure, which will be compiled by DAS and published as a searchable website [R.C. 9.78(C)].</p>

H. Certificates of Qualification for Employment (CQE) [R.C. 2953.25]

1. Who is Eligible?	<ul style="list-style-type: none"> Individuals with felony or misdemeanor convictions who are subject to one or more collateral sanctions as defined in R.C. 2953.25(A)(1). More information on CQE application is available on ODRC's website.
2. Exceptions	<p>Pursuant to R.C. 2953.25(C)(7) relief cannot be granted for:</p> <ul style="list-style-type: none"> SORN requirements imposed under R.C. 2950. Suspension of a driver's license or commercial driver's license for specified offenses where other relief is available. Restrictions on employment as a prosecuting attorney or law enforcement officer or at a pain clinic. Health care professional licensure decisions: <ul style="list-style-type: none"> For offenders granted intervention in lieu of conviction under R.C. 2951.041 for offenses specified in R.C. 2953.25(C)(7)(d); For individuals found to be addicted to or illegally distributing controlled substances under R.C. 3719.121; and For individuals in default on child support orders under R.C. 3123.43 (license suspension is mandatory).
3. Timing for Eligibility	<ul style="list-style-type: none"> For felony convictions: If sent to prison, one year after final release from incarceration and any postrelease supervision. If placed on community control, one year after final release from all community control sanctions. Some individuals may be eligible to apply early under O.A.C. 5120-15-1(C). For misdemeanor convictions: If incarcerated, six months after final release from incarceration and all supervision after release, If not incarcerated, six months after the offender is released from all sanctions imposed.
4. What Else May Prevent Relief?	<p>Failure to include in the petition all information required under R.C. 2953.25(F).</p>
5. Considerations Required of the Court	<p>A court has discretion to grant an application under [R.C. 2953.25(C)(3)] if it finds by a preponderance of the evidence that:</p> <ul style="list-style-type: none"> The petition would materially assist the individual in finding a job or obtaining a license for employment; There is a substantial need for the CQE in order for the petitioner to lead a law-abiding life; or A grant of the petition would not pose an unreasonable risk to the safety of the public or any individual. <p>There is a rebuttable presumption in favor of granting the CQE for petitions filed in accordance with the timing requirements once three years have passed since a felony petitioner's final release or one year has passed from a misdemeanor petitioner's final release [R.C. 2953.25(C)(5)]. A denial of such an application requires proof by clear and convincing evidence that the applicant has not been rehabilitated [R.C. 2953.25(C)(6)].</p> <p>The Court must file written notice of a petition denial and may include in that notice conditions necessary for any subsequent CQE petition. The denial may be appealed if abuse of discretion is alleged [R.C. 2953.25(C)(8)].</p>
6. What Happens to the Record?	<p>The record of the criminal conviction remains intact; however, a granted application lifts most automatic bars to employment or licensure based on the conviction, and the hiring or licensure entity may then consider the applicant without reconsideration of any [R.C. 2953.25(C)(3)] factors. A CQE is not a guarantee of employment or licensure [R.C. 2953.25(D)].</p> <p>Hiring of individuals with CQE provides limited civil immunity for an employer [R.C. 2953.25(G)].</p> <p>A subsequent felony conviction results in revocation of the CQE [R.C. 2953.25(H)].</p>