

WHO CAN APPLY FOR SAFE HARBOR EXPUNGEMENT? A GUIDE FOR OHIO'S HUMAN TRAFFICKING SURVIVORS

THE APPLICANT MUST
BE A VICTIM OF
HUMAN TRAFFICKING

+

CRIMES MUST BE THE
RESULT OF TRAFFICKING

+

THE APPLICANT
MUST PASS THE
INTEREST TEST

The applicant must have been subjected to involuntary servitude or compelled to engage in sexual activity for hire through “force, fear, duress, intimidation, or fraud.” A person can be a victim of human trafficking even if no one has been convicted for victimizing the person.

An expungement can only be granted for offenses that result from human trafficking. A person can apply to expunge ANY record [felony, misdemeanor, convictions, or dismissed/ignored non-convictions] **EXCEPT FOR** aggravated murder, murder, or rape.

The court will determine whether the interests of the applicant in having the record expunged are not outweighed by any legitimate needs of the government to maintain the record.

FOR CONVICTIONS

To have convictions expunged, the applicant must have (or have had) a conviction of at least one of the following: soliciting, loitering to engage in solicitation, or prostitution. These offenses do not have to be from the same court or happen at the same time as the convictions that are being applied for.

FOR NONCONVICTIONS

To have non-convictions expunged, the applicant does not have to have a conviction of soliciting, loitering to engage in solicitation, or prostitution, in order to apply. Non-convictions include “not guilty” findings, or dismissed complaints, indictments, or information. If applying to expunge a dismissal without prejudice, the period of limitations applicable to the offense must have expired.

Disclaimer: This guide is a general source of information about expungement. It is not a substitute for individualized legal advice. For answers to specific questions, it is best to consult an attorney.

Document created by:



HOW DO I APPLY?

1. Applications must be filed in the sentencing court for each offense.

There is a \$50 filing fee that can be waived with a poverty affidavit (or “affidavit of indigency”).

2. The prosecutor reviews the application and may have objections before the hearing.

3. At the hearing, the court will consider the prosecutor’s objections (if any) and consider the requirements for Safe Harbor Expungement explained on the first page. For expungement of 1st and 2nd degree felonies, there are additional factors that the court considers.

4. The court grants or denies the application. If an expungement is granted, the court must give notice of the order to relevant public offices/agencies that may have an official record pertaining to the case. After that, records related to the conviction must be destroyed, deleted, or erased in all physical or electronic forms.

BACKGROUND

Human trafficking is a fast-growing, under-reported form of modern-day slavery. Last year, 289 trafficking cases from Ohio were reported to national hotlines – a tiny fraction of the actual trafficked population.

When survivors escape, their long criminal records create lifelong barriers to employment, housing, education, civic participation, and family reunification. In Ohio, over 900 ‘collateral consequences’ limit all aspects of life, from jobs to recreation, for people with records.

In June 2012, the Ohio Legislature created a new expungement process under the Safe Harbor Law (H.B. 262; R.C. 2953.38). The law recognizes that sex trafficking victims are compelled through force, fear, duress, intimidation, or fraud to participate in illegal acts. Consequently, survivors can erase records of convictions. Then, in 2018, the Ohio Legislature clarified the options for trafficking survivors to expunge and seal their records (S.B. 4; R.C. 2953.38 and 2953.521).

Expunged records are completely destroyed, so no one can ever see them ever again. Expungement opens doors to empowerment, recovery, employment, housing, education, family relationships, and successful reintegration into the community.

WE CAN HELP

The Ohio Justice & Policy Center is a non-profit law firm serving people in Ohio with criminal records. OJPC’s Women’s Project specializes in helping survivors of human trafficking, among other marginalized groups of women who face barriers to a productive life as a result of a touch with the criminal justice system.

You can contact the Ohio Justice & Policy Center to set up an appointment with an attorney:

Ohio Justice & Policy Center
215 East Ninth Street
Cincinnati, OH 45202
513-421-1108
contact@ohiojpc.org



EXPUNGEMENT VS. RECORD SEALING

Expungement and record sealing both reduce who has access to criminal records. Sealing a record “hides” the record from most people but keeps it accessible for certain entities (such as, law enforcement, courts, probation officers, and background checks for some employment/licensing purposes.) **Expungement completely destroys and permanently deletes criminal records, never to be seen by anyone in any circumstance.**

Disclaimer: This guide is a general source of information about expungement. It is not a substitute for individualized legal advice. For answers to specific questions, it is best to consult an attorney.