



**OHIO**

CRIMINAL SENTENCING COMMISSION

Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

## ADULT RIGHTS RESTORATION<sup>1</sup>

	A. Sealing Convictions <sup>2</sup> [R.C. 2953.32]	B. Sealing Dismissals/ Findings of Not Guilty/No Bills [R.C. 2953.52]	C. Relief from Weapons Disability [R.C. 2923.14]	D. Expungement for Certain Firearms Convictions [R.C. 2953.37]	E. Expungement for Human Trafficking Victims of Convictions and Dismissals [R.C. 2953.38 and R.C. 2953.52]	F. Post-Conviction DNA Testing [R.C. 2953.71-81]
<b>1. Who is Eligible?</b>	<ul style="list-style-type: none"> <li>Anyone with no more than 5 F4 or F5 non-violent convictions [R.C. 2953.31(A)(1)(a)]</li> <li>For misdemeanor convictions, there is no numerical limit unless the misdemeanor is an offense of violence [R.C. 2953.31(A)(1)(a)] If a violent misdemeanor, then the limit is 2 misdemeanors (Note: Violent MIs cannot be sealed, with 3 exceptions, per R.C. 2953.36(A)(3))</li> <li>For F3 convictions, the limits are 1 felony, or 1 felony + 1 misdemeanor [R.C. 2953.31(A)(1)(b)] (Note: F1s and F2s are not sealing-eligible, per R.C. 2953.36(A)(7))</li> <li>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: This does not apply to the 5 F4s and/or F5s that can be sealed, above.)</li> </ul>	Anyone found not guilty of an offense or any defendant named in a dismissed complaint, indictment, or information	Full discharge from prison or community-control 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	A conviction under R.C. 2923.16 (Improper Handling of Firearm in Motor Vehicle), if it predates 9.30.2011 and if a 2-part exception applies: (1) the person had a concealed-carry permit; and (2) was not knowingly in a place where guns are not allowed even with a permit [R.C. 2953.37(B)]	A person with a conviction under R.C. 2907.24, 2907.241, or 2907.25 (Soliciting, Loitering to Solicit, Soliciting with 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	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 PRC, on community control, or on the SORN registry regarding that felony [R.C. 2953.72(C)]

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<b>2. Exceptions</b>	FIs and FZs [R.C. 2953.36(G)]; any crime with a mandatory prison sentence [R.C. 2953.36(A)]; any offense of violence [R.C. 2953.36(C)]; any sex offense [R.C. 2953.36(B)]; certain automobile offenses [R.C. 2953.36(A)(2)]; all traffic offenses, including OVI or DUS [R.C. 2953.36(B)]; listed sex offenses with a victim under 18 [R.C. 2953.36(E)]; and any offense with a victim under 16, except for non-support [R.C. 2953.36]	If two charges resulting from or in connection with the same act have different dispositions (one a conviction and one a dismissal or not-guilty finding), 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; the traffic offense will remain unsealable, but the dismissed offense may be sealed [R.C. 2953.61]	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	No exceptions	Murder, aggravated murder, and rape convictions cannot be expunged	The application cannot be in regard to any offense for which the offender pleaded guilty or no contest
<b>3. Timing for Eligibility</b>	<ul style="list-style-type: none"> <li>• 1 Felony: 3 years after final discharge</li> <li>• 2 Felonies: 4 years after final discharge</li> <li>• 3, 4, or 5 Felonies: 5 years after final discharge</li> <li>• Misdemeanors (any number): 1 year after final discharge [R.C. 2953.31]</li> </ul>	<ul style="list-style-type: none"> <li>• Findings of not guilty and dismissals with prejudice: At any time;</li> <li>• Dismissals without prejudice: When the statute of limitations has expired;</li> <li>• No bills: After 2 years</li> </ul>	At any time after full discharge from imprisonment, community control, PRC, or parole, or being released on bail or recognizance; or at any time after the factor that led to the disability no longer applies	Any time on or after 9.30.2011 [R.C. 2953.37(B)]	At any time	At any time after conviction
<b>4. What Else Can Prevent Relief Sought?</b>	Pending criminal charges [R.C. 2953.32(C)(1)(b)]	Pending criminal charges [R.C. 2953.52(B)(2)(b)]	Firearms that are illegally acquired, possessed, or used	Nothing	Failure to assert grounds on which relief can be granted [R.C. 2953.38(C)]	An offender is not eligible if dead [R.C. 2953.72(C)(3)]

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<b>5. Considerations the Court Must Make</b>	<ul style="list-style-type: none"> <li>Rehabilitation of the applicant [R.C. 2925.32(C)(1)(c)];</li> <li>Do 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)];</li> <li>Objections of the prosecutor [R.C. 2953.32(C)(1)(d)]</li> </ul>	<ul style="list-style-type: none"> <li>Do 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)];</li> <li>Objections of the prosecutor [R.C. 2953.52(B)(2)(c)]</li> </ul>	The applicant meets the criteria described in C1	<ul style="list-style-type: none"> <li>Conviction for R.C. 2923.16(B), (C), or (E) before 9.30.11 and would no longer be a crime under R.C. 2923.16 (see E1);</li> <li>Do the interests of the applicant to seal the record outweigh the need to maintain the record? [R.C. 2953.37(D)(1)(d)];</li> <li>Objections of the prosecutor [R.C. 2953.37(C)]</li> </ul>	<ul style="list-style-type: none"> <li>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)(2)]</li> <li>Objections of the prosecutor [R.C. 2953.38(E)(1)]</li> <li>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 seal the record</li> </ul>	Specific considerations at R.C. 2953.74; <sup>3</sup> generally, the offender could not have had a prior “definitive” <sup>4</sup> DNA test and must show that a DNA test, which results in an exclusion, would have been outcome determinative at trial; review is expedited [R.C. 2953.73(D)]
<b>6. What Happens to the Record?</b>	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	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	No change to records	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	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	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)]

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## NOTES to ADULT RIGHTS RESTORATION

- 1 This chart depicts rights restoration under [Ohio Revised Code Chapter 2953](#) and includes a relief from weapons disability in [R.C. 2923.14](#). An additional restoration of a right should be mentioned. 2016 SB 204 made mandatory license suspensions for drug charges discretionary and allows drivers who had their license suspended before the enactment of the law to petition to lift the suspensions (see [R.C. 2925.02\(D\)\(2\)](#) and [\(F\)](#); [2925.03\(G\)](#); [2925.04\(D\)\(2\)](#) and [\(H\)](#); [2925.041\(D\)\(2\)](#) and [\(E\)](#); [2925.05\(D\)\(2\)](#) and [\(F\)](#); [2925.06\(D\)](#); [2925.11\(I\)](#); [2925.12\(D\)\(2\)](#); [2925.13\(D\)\(2\)](#); [2925.14\(G\)\(2\)](#); [2925.141\(G\)\(2\)](#); [2925.22\(C\)\(2\)](#); [2925.23\(G\)\(2\)](#); [2925.31\(C\)\(2\)](#); [2925.32\(D\)\(1\)\(b\)](#); [2925.36\(D\)\(2\)](#); and [2925.37\(L\)\(2\)](#)). Similarly, 2018 HB 336 requires the BMV to create a temporary license suspension amnesty program for everyone who has had a license suspension for more than 18 months, except if the suspension was the result of a charge involving alcohol, drugs, or weapons.
- 2 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.
- 3 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. 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.
- 4 “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\(U\)](#)