



## Ohio Revised Code

Section 2953.35 [Former R.C. 2953.37, amended and renumbered by S.B. 288, 134th General Assembly, effective 4/4/2023] Expungement of certain convictions relating to firearms.

Effective: April 4, 2023

Legislation: Senate Bill 288 - 134th General Assembly

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(A) Any person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B), (C), or (E) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, or a violation of division (E)(1) or (2) of section 2923.16 of the Revised Code as the division existed prior to June 13, 2022, and who is authorized by division (H)(2)(a) of that section to file an application under this section for the expungement of the conviction record may apply to the sentencing court for the expungement of the record of conviction. Any person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B)(1) of section 2923.12 of the Revised Code as it existed prior to June 13, 2022, and who is authorized by division (E)(2) of that section may apply to the sentencing court for the expungement of the record of conviction. The person may file the application at any time on or after September 30, 2011, with respect to violations of division (B), (C), or (E) of section 2923.16 of the Revised Code as they existed prior to that date, or at any time on or after June 13, 2022, with respect to a violation of division (B)(1) of section 2923.12 of the Revised Code or of division (E)(1) or (2) of section 2923.16 of the Revised Code as the particular division existed prior to June 13, 2022. The application shall do all of the following:

- (1) Identify the applicant, the offense for which the expungement is sought, the date of the conviction of or plea of guilty to that offense, and the court in which the conviction occurred or the plea of guilty was entered;
- (2) Include evidence that the offense was a violation of division (B), (C), or (E) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, or was a violation of division (B)(1) of section 2923.12 of the Revised Code or of division (E)(1) or (2) of section 2923.16 of the Revised Code as the particular division existed prior to June 13, 2022, and that the applicant is authorized by division (H)(2)(a) of section 2923.16 or division (E)(2) of section 2923.12 of the Revised Code, whichever is applicable, to file an application under this section;



(3) Include a request for expungement of the record of conviction of that offense under this section.

(B) Upon the filing of an application under division (A) of this section and the payment of the fee described in division (C)(3) of this section if applicable, the court shall set a date for a hearing and shall notify the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court shall direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant. The court shall hold the hearing scheduled under this division.

(C)(1) At the hearing held under division (B) of this section, the court shall do each of the following:

(a) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (E) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011;

(b) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, due to the application of division (F)(5) of that section as it exists on and after September 30, 2011;

(c) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (B)(1) of section 2923.12 of the Revised Code or of division (E)(1) or (2) of section 2923.16 of the Revised Code as the particular division existed prior to June 13, 2022;

(d) If the prosecutor has filed an objection in accordance with division (B) of this section, consider the reasons against granting the application specified by the prosecutor in the objection;



(e) Weigh the interests of the applicant in having the records pertaining to the applicant's conviction or guilty plea expunged against the legitimate needs, if any, of the government to maintain those records.

(2)(a) The court may order the expungement of all official records pertaining to the case and the deletion of all index references to the case and, if it does order the expungement, shall send notice of the order to each public office or agency that the court has reason to believe may have an official record pertaining to the case if the court, after complying with division (C)(1) of this section, determines both of the following:

(i) That the applicant has been convicted of or pleaded guilty to a violation of division (E) of section 2923.16 of the Revised Code as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011; that the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, due to the application of division (F)(5) of that section as it exists on and after September 30, 2011; or that the applicant has been convicted of or pleaded guilty to a violation of division (B)(1) of section 2923.12 of the Revised Code or of division (E)(1) or (2) of section 2923.16 of the Revised Code as the particular division existed prior to June 13, 2022;

(ii) That the interests of the applicant in having the records pertaining to the applicant's conviction or guilty plea expunged are not outweighed by any legitimate needs of the government to maintain those records.

(b) The proceedings in the case that is the subject of an order issued under division (C)(2)(a) of this section shall be considered not to have occurred and the conviction or guilty plea of the person who is the subject of the proceedings shall be expunged. The record of the conviction shall not be used for any purpose, including, but not limited to, a criminal records check under section 109.572 of the Revised Code or a determination under section 2923.125 or 2923.1213 of the Revised Code of eligibility for a concealed handgun license. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.



(3) Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars. The court shall pay thirty dollars of the fee into the state treasury and shall pay twenty dollars of the fee into the county general revenue fund.