

## **Expungement Application Packet**

If you cannot afford to hire your own attorney, the Cuyahoga County Public Defender may be able to assist you with sealing (often called “expunging”) a criminal record from Cuyahoga County Common Pleas Court.

To be eligible for expungement, a person can only have **one felony and one misdemeanor OR two misdemeanors** across their entire criminal record. Minor misdemeanors and most traffic offenses do not count. Although this is the most basic requirement, there are many other restrictions and exceptions. Because of this, the Public Defender cannot tell you right away if you are eligible for an expungement.

***From start to finish, the expungement process usually takes 6-8 months.***

### **Instructions:**

Step One: Fill out the attached forms.

Step Two: Return these forms to the Public Defender’s Office in person, by mail or email [pdgeneral@cuyahogacounty.us](mailto:pdgeneral@cuyahogacounty.us).

Cuyahoga County Public Defender’s Office  
Attn: Expungement Application  
310 W. Lakeside, Suite 200  
Cleveland, OH 44113  
(216) 443-7580, FAX (216) 443-6911

Step Three: The Public Defender’s office will do a preliminary assessment of your eligibility for expungement.

We do a preliminary check of your criminal record using the information that you provide. We are not a law enforcement agency; we cannot run a full background check. Therefore, it is very important that the information you provide is accurate. List the names of all the court systems you have appeared. Please fill out the attached forms *completely*.

Step Four: Our office will notify you if we are able to assist you. If you appear to be eligible, we will tell you what the next steps are. If you are not, we will explain some alternative options.

## **Important Information on Fees:**

The Cuyahoga County Public Defender's Office does not charge any fees for representing individuals in expungement proceedings. Our representation is provided for free. There are, however, two possible expenses that may be associated with filing an expungement motion.

### **1. Filing Fees to seal a criminal conviction**

If you are filing to seal a **criminal conviction (a case in which you either pleaded guilty or were found guilty via a trial)**, the Cuyahoga County Clerk of Courts imposes a \$50 filing fee for individuals who are not indigent. If you cannot afford the filing fee, the fee can be waived.

Thus, if you are trying to seal a conviction, you must either:

- Complete the attached **affidavit of indigency**, get it notarized, and return it with your application. If you would like our office to notarize your affidavit, you must appear in person. We cannot use an affidavit that is not properly notarized;
- or,
- Indicate on the application that you **will pay the filing fee** to the Clerk's Office. **DO NOT SEND ANY MONEY** with the application. If we make a preliminary determination that you are eligible, we will advise you that a motion has been drafted and provide you instructions on how to pay the filing fee. Because our office does not handle money, you (or someone on your behalf) will need to file the motion in person and pay the filing fee.

### **2. Optional Fee for handling of sealed records.**

When you get your record expunged, the Court issues an order directing the government to seal your record so that most private individuals and companies cannot see the record. There are some employers, officials and agencies that are allowed by law to see sealed records.

After your record is sealed, it is promptly removed from government sources. However, private background check providers may be slower to update your records. The State of Ohio has contracted with a private company who will notify some, but not all, private background check companies that your record has been expunged and update the information in their system. The service offered by this private company is called the "Expedited Record Update Service."

You are not required to participate in the "Expedited Record Update Service" offered by the private company. If you want the service offered by this private company, you will need to pay a \$45 fee to the Clerk's Office at some point before your expungement motion is granted. We have been advised that this \$45 fee cannot be waived even if the applicant is indigent.

Our office has no relationship with the private company offering the "Expedited Record Update Service" and has no information on the effectiveness of the service. Your decision on whether or not to use this service will have no effect on the representation provided by our office.

## **Application for Representation**

Date of Application: \_\_\_\_\_

### **CONTACT INFORMATION**

First and Last Name: \_\_\_\_\_ Middle Name: \_\_\_\_\_

Any other names you have used (aliases, maiden names, etc.): \_\_\_\_\_

Address: \_\_\_\_\_ City/State: \_\_\_\_\_

Zip Code: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Other phone: \_\_\_\_\_

EMAIL \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

What is the name and phone number of another person who we can leave a message with if we cannot get in touch with you?

Name: \_\_\_\_\_ Phone number: \_\_\_\_\_

### **INFORMATION ABOUT YOUR CRIMINAL HISTORY**

Please list any and all places you have had criminal cases (including DUI/OVIs) other than the Justice Center in downtown Cleveland, Ohio: We need this information even if that record has been expunged OR if that case was dismissed/charges were dropped.

In order to determine your eligibility for expungement, we must contact the Cuyahoga County Probation Department to confirm that all fines, fees, and restitution (if ordered) were paid in your case. Do we have your permission to do so? ☐ YES ☐ NO

Do we have your permission to use a commercial background check service to run a background check?

☐ YES ☐ NO

Do we have permission to release your contact information to an outside agency if your record is expunged? The agency will conduct a brief confidential survey to examine how an expungement might impact individual lives. We will review and process your application whether you agree to this request or not.

☐ YES ☐ NO

### **FILING FEE INFORMATION FOR CRIMINAL CONVICTIONS**

If you are applying to seal a criminal conviction (as opposed to a dismissed case or no bill), please indicate one of the following:

☐ I am returning a **notarized** poverty affidavit to waive the \$50 filing fee

☐ I will pay the \$50 filing fee to the Clerk of Courts after contacted by Public Defender's Office (**Do not include any money with the application**)

**FINANCIAL DISCLOSURE / AFFIDAVIT OF INDIGENCY**

(\$25.00 application fee may be assessed—see notice on reverse side)

**I. PERSONAL INFORMATION**

Applicant's Name	D.O.B.	Person Represented's Name <i>(if juvenile)</i>	D.O.B.
Mailing Address	City	State	Zip Code
Case No.	Phone (    )	Cell Phone (    )	

**II. OTHER PERSONS LIVING IN HOUSEHOLD**

Name 1)	D.O.B.	Relationship	Name 3)	D.O.B.	Relationship
2)			4)		

**III. PRESUMPTIVE ELIGIBILITY**

The appointment of counsel is presumed if the person represented meets any of the qualifications below. Please place an 'X'

Ohio Works First / TANF: \_\_\_\_ SSI: \_\_\_\_ SSD: \_\_\_\_ Medicaid: \_\_\_\_ Poverty Related Veterans' Benefits: \_\_\_\_ Food Stamps: \_\_\_\_

Refugee Settlement Benefits: \_\_\_\_ Incarcerated in state penitentiary: \_\_\_\_ Committed to a Public Mental Health Facility: \_\_\_\_

Other (please describe): \_\_\_\_\_ Juvenile: \_\_\_\_ *(if juvenile, please continue at Section VIII)*

**IV. INCOME AND EMPLOYER**

	Applicant	Spouse <small>(Do not include spouse's income if spouse is alleged victim)</small>	Total Income
Gross Monthly Employment Income			
Unemployment, Worker's Compensation, Child Support, Other Types of Income			
<b>TOTAL INCOME</b>			<b>\$</b>

Employer's Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Employer's Address: \_\_\_\_\_

**V. LIQUID ASSETS**

<b>Type of Asset</b>	<b>Estimated Value</b>
Checking, Savings, Money Market Accounts	\$
Stocks, Bonds, CDs	\$
Other Liquid Assets or Cash on Hand	\$
<b>Total Liquid Assets</b>	<b>\$</b>

**VI. MONTHLY EXPENSES**

<b>Type of Expense</b>	<b>Amount</b>	<b>Type of Expense</b>	<b>Amount</b>
Child Support Paid Out		Telephone	
Child Care (if working only)		Transportation / Fuel	
Insurance (medical, dental, auto, etc.)		Taxes Withheld or Owed	
Medical / Dental Expenses or Associated Costs of Caring for Infirm Family Member		Credit Card, Other Loans	
Rent / Mortgage		Utilities (Gas, Electric, Water / Sewer, Trash)	
Food		Other (Specify)	
<b>EXPENSES</b>	<b>\$</b>	<b>EXPENSES</b>	<b>\$</b>

**VII. DETERMINATION OF INDIGENCY**

If applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.

For applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines, see recoupment notice in Section XI.

If applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied if applicant can employ counsel using those liquid assets.

If applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but applicant is financially unable to employ counsel after paying monthly expenses in Section VI, counsel must be appointed.

### VIII. \$25.00 APPLICATION FEE NOTICE

By submitting this Financial Disclosure / Affidavit of Indigency Form, you will be assessed a non-refundable \$25.00 application fee unless waived or reduced by the court. If assessed, the fee is to be paid to the clerk of courts within seven (7) days of submitting this form to the entity that will make a determination regarding your indigency. No applicant may be denied counsel based upon failure or inability to pay this fee.

### IX. AFFIDAVIT OF INDIGENCY

I, \_\_\_\_\_ (applicant or alleged delinquent child) being duly sworn, state:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform the public defender or appointed attorney if my financial situation should change before the disposition of the case(s) for which representation is being provided.
3. I understand that if it is determined by the county or the court that legal representation should not have been provided, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
4. I understand that I am subject to criminal charges for providing false financial information in connection with this application for legal representation, pursuant to Ohio Revised Code sections 120.05 and 2921.13.
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

\_\_\_\_\_  
Affiant's signature

\_\_\_\_\_  
Date

#### Notary Public / Individual duly authorized to administer oath:

Subscribed and duly sworn before me according to law, by the above named applicant this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_, County of \_\_\_\_\_, State of Ohio.

\_\_\_\_\_  
Signature of person administering oath

\_\_\_\_\_  
Title (example: Notary, Deputy Clerk of Courts, etc.)

### X. JUDGE CERTIFICATION

I hereby certify that above-noted applicant is unable to fill out and / or sign this financial disclosure / affidavit for the following reason: \_\_\_\_\_. I have determined that the party represented meets the criteria for receiving court-appointed counsel.

\_\_\_\_\_  
Judge's signature

\_\_\_\_\_  
Date

### XI. NOTICE OF RECOUPMENT

ORC. §120.03 allows for county recoupment programs. Any such program may not jeopardize the quality of defense provided or act to deny representation to qualified applicants. No payments, compensation, or in-kind services shall be required from an applicant or client whose income falls below 125% of the federal poverty guidelines. See OAC 120-1-05.

Through recoupment, an applicant or client may be required to pay for **part** of the cost of services rendered, if he or she can reasonably be expected to pay. See ORC §2941.51(D)

### XII. JUVENILE'S PARENTS' INCOME\* – FOR RECOUPMENT PURPOSES ONLY – NOT FOR APPOINTMENT OF COUNSEL

	Custodial Parents' Income (Do not include parents' income if parent or relative is alleged victim)	Total
Employment Income (Gross)		
Unemployment, Workers Compensation, Child Support, Other Types of Income		
<b>TOTAL INCOME</b>		<b>\$</b>

\*Please complete Section VI on page 1 of this form if you would like the court to consider your monthly expenses when determining the amount of recoupment which you can reasonably be expected to pay.