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EXPUNGEMENT / SEALING RECORDS

Who is eligible? -- Only first time offenders (i.e. individuals with one, and only one, conviction) are eligible. However, most minor misdemeanor traffic offenses do not count as an offense for purposes of Expungement. Additionally, if two or more convictions resulted from offenses are connected with the same act or result from offenses committed at the same time, the convictions count as one conviction. An exception may apply for multiple convictions for conduct within a three-month period, if charged in the same Complaint or Indictment, or as a result of the same guilty plea. *See R.C. § 2953.31(A).*

What offenses cannot be expunged/sealed? The following offenses cannot be expunged/sealed:

- Convictions with mandatory prison terms
- Rape (R.C. § 2907.02)
- Sexual Battery (R.C. § 2907.03)
- Corrupting a Minor (R.C. § 2907.04)
- Gross Sexual Imposition (R.C. § 2907.05)
- Sexual Imposition (R.C. § 2907.06)
- Importuning (R.C. 2907.07)
- Voyeurism (R.C. § 2907.08) when the victim is under the age of 18
- Public Indecency (R.C. § 2907.09) when the victim is under the age of 18
- Compelling Prostitution (R.C. § 2907.21) when the victim is under the age of 18
- Promoting Prostitution (R.C. § 2907.22) when the victim is under the age of 18
- Procuring (R.C. § 2907.23) when the victim is under the age of 18
- Disseminating Matter Harmful to Juveniles (R.C. § 2907.31) when the victim is under the age of 18
- Displaying Matter Harmful to Juveniles (R.C. § 2907.311) when the victim is under the age of 18
- Pandering Obscenity (R.C. § 2907.32) when the victim is under the age of 18

- Deception to Obtain Matter Harmful to Juveniles (R.C. § 2907.33) when the victim is under the age of 18
- Obscenity Involving a Minor (R.C. § 2907.321)
- Pornography Involving a Minor (R.C. § 2907.322)
- Illegal Use of a Minor in Pornography (R.C. § 2907.323)
- Driver's License Violations (R.C. Chapter 4507)
- Motor Vehicle Violations (R.C. Chapter 4511)
- Motor Vehicle Crimes (R.C. Chapter 4549)
- Bail Forfeitures in Traffic Cases
- Convictions for crimes of violence (first degree misdemeanors and felonies)
- Conviction for first degree misdemeanors and felonies when the victim of the offense is under the age of 18
- Convictions for felonies of the first or second degree

When can an offense be expunged/sealed? An eligible person convicted of a misdemeanor may apply after one year have passed following the final discharge. An eligible person convicted of a misdemeanor may apply after three years have passed following the final discharge. "Final discharge" means that the eligible person has completed all jail time, probation, and/or community service, and all fines and costs have been paid. *See R.C. § 2953.32(A)(1)*.

What will the Court consider? First, the Court will determine when the applicant is a first offender. Then, the Court will determine whether any criminal proceedings are currently pending against the applicant. If the Prosecutor has filed an objection to the application, the Court will then consider the reasons presented by the Prosecutor. Finally, the Court will weigh the interests of the applicant in having the records sealed against the Government's need, if any, to maintain the records. *See R.C. § 2953.32(C)(1)*.

What happens if the Application is approved? If the Court approves the Application to Seal the Records, the Court will order all official records of the conviction be sealed, all index referring to the conviction be deleted, and the proceedings will be considered to have never occurred. However, the records may be unsealed upon the conviction of a subsequent offense for the purpose of determining a sentence in the subsequent conviction. The Order to seal the conviction will restore all rights and privileges that were not restored by the final discharge.

If you are interested in filing an Application, please contact Tyler W. Kahler, Esq. by telephone (330 800-3980) or email (tyler@lucaslawcounsel.com) to discuss your case.