



# Sealing or Expunging Civil Protection Order

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## **Sealing and Expungement of Court Records Pertaining to Civil Protective Orders**

Sealing, expungement, or shielding of a civil protection order typically refers to the removal of court records associated with the order from public inspection. In contrast to criminal cases, which often have established sealing and expungement procedures, civil protection orders are generally considered public records, including temporary orders.

Only eight nine (Hawaii, Indiana, Iowa, Kentucky, Maryland, Ohio, Oklahoma, Pennsylvania, and West Virginia) have statutory provisions for sealing or expunging court records and orders specific to civil protection proceedings. One state (Massachusetts) has recognized the provision in case law.

Of these nine states with specific provisions, four states (Hawaii, Kentucky, Maryland, and Oklahoma) stipulate that only records in cases where the petition for a protective order was denied, withdrawn, or vacated are eligible to be sealed or redacted. Four of the nine states (Kentucky, Maryland, Oklahoma, and West Virginia) require the court to find a good cause or a compelling interest in sealing the records when weighed against varying public access considerations and often considering whether the action is narrowly tailored.

Massachusetts is unique, requiring a finding that the protective order was obtained through fraud for the records to be eligible for expungement. Pennsylvania's provisions apply only to consent agreements under certain conditions. Oklahoma is the only state with a provision to expunge records if one party is deceased, whereas Nevada and Illinois specifically do not allow domestic violence records to be sealed. Ohio has provisions specific to minors.

STATE	RECORDS ELIGIBLE FOR SHIELDING/ SEALING/EXPUNGEMENT	SUMMARY OF PROGRAM	STATUTE
<b>HAWAII</b>	Protective order or extended protective order record.	The records will be withheld from the public if the protective order or extended protective order is denied, upon the oral request of the respondent. <u>Exception:</u> the records will still be available to law enforcement without need for a court order.	HRS § 586-5.5
<b>INDIANA</b>	Subject of a protection order may petition to expunge the protection order records.	At any time after a court dismisses or denies an order for protection following issuance of an order for protection ex parte, the subject of the protection order may petition to expunge protection order records. A petition seeking to expunge protection order records must be filed under seal, verified, and include certain information.	Burns Ind. Code Ann. §34-26-7.5-3
<b>IOWA</b>	Records of a domestic abuse case shall be sealed	The entire file or a portion of the file in a domestic abuse case shall be sealed by the clerk of court as ordered by the court to protect the privacy interest or safety of any person.	Iowa Code §236.10
<b>KENTUCKY</b>	Records in the petition for a non-temporary interpersonal protective order if such an order was not issued.	The respondent may request that the court expunge the records for good cause if 6 months have passed since the case was dismissed and the respondent has not been bound by any order of protection issued in the 6 months prior to the request.	KRS § 456.070
<b>MARYLAND</b>	<p>Court records relating to petitions filed under the Domestic Violence subtitle of the Maryland Family Code, if the petition was denied or dismissed at the interim, temporary, or at the final protective order stage of a proceeding.</p> <p>Court records include an index, docket entry, petition, memorandum, transcription of proceeding, electronic recording, order, judgement, or any electronic information about a proceeding on the Maryland Judiciary website.</p>	<p>In all requests for shielding, the court will balance the privacy of the petitioner or the respondent and potential danger or adverse consequences to the petitioner or respondent against the potential risk of future harm and danger to the petitioner and the community.</p> <p><u>Persons Eligible:</u> The petitioner or the respondent may request shielding</p> <p><u>Timing:</u> Request may not be filed within 3 years after the denial or dismissal of the petition or the consent to the entry of the protection order, unless you file a general waiver and release of all party's tort claims related to the proceeding</p> <p><u>Exceptions.</u> The following people may access a shielded record for a legitimate reason: law enforcement officer, attorney who represents or has represented the petitioner or the respondent in a proceeding, a State's Attorney, an employee of a local department, or a victim services provider. Other persons may subpoena or file a motion for access to a shielded record, and may be granted access if the court finds they have a legitimate reason by balancing the need for access with the petitioner's or respondent's right to privacy and the potential harm of unwarranted adverse consequences that disclosure may create.</p>	Md. FAMILY LAW Code Ann. § 4-512
<b>MASSACHUSETTS</b>	Records of a civil abuse protection order in limited circumstances.	A District Judge may expunge records from the Statewide Domestic Violence Registry System if there is clear evidence the order was obtained through fraud, vacating or sealing of the order would not be a sufficient remedy, and potential harm to the courts and victim of the order outweighs any governmental interest in maintaining the order.	Comm'r of Prob. v. Adams, 843 N.E.2d 1101 (Mass. App. Ct. 2006)

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<b>OHIO</b>	When the respondent is a minor, all records of the proceeding in which a protection order is issued or a consent agreement approved.	The records will be automatically sealed on the date of the respondent's nineteenth birthday.	ORC Ann. 3113.31
<b>OKLAHOMA</b>	<p>(1) Ex parte victim protective orders if:</p> <p>(a) terminated due to dismissal of the petition before the full hearing;</p> <p>(b) petition is denied upon full hearing; or</p> <p>(c) plaintiff failed to appear for the full hearing and at least 90 days have passed.</p> <p>(2) Victim protective orders when the plaintiff filed an application and failed to appear for the full hearing, and at least 90 days have passed.</p> <p>(3) Victim protective orders if the plaintiff or defendant had the order vacated and 3 years have passed since the order to vacate was entered.</p> <p>(4) Victim protective orders if the plaintiff or defendant is deceased.</p>	Upon a petition for expungement, the court may expunge/ seal the court record from public inspection if there is no objection from the other party, or upon finding that the harm to the privacy of the petitioner or dangers of unwarranted adverse consequences outweigh the public and safety interests of the other parties in retaining the record.	22 Okl. St. § 60.18
<b>PENNSYLVANIA</b>	Records pertaining to a consent agreement that has expired at least 10 years prior.	<p>Upon a petition by a party bound by the consent agreement, the court may seal the record from public view if the individual seeking relief:</p> <p>(1) has never been subject to any other consent agreement;</p> <p>(2) did not violate an order or consent agreement during the period it was effective;</p> <p>(3) has not been subject to another final protection order from abuse; and</p> <p>(4) has not been convicted of certain domestic violence cases where the victim is a family or household member.</p>	23 Pa.C.S. § 6108.7

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WEST VIRGINIA	Final protective orders and reference to the order.	Two years after the entry of a final protective order and upon motion, the court may order the records be purged from the file maintained by any law-enforcement agency. The court may also order that the file maintained by the court be sealed except upon order of the court when it is in the interest of justice.	W. Va. Code § 48-27-511