



OHIO LEGISLATIVE SERVICE COMMISSION

Sub. Bill Comparative Synopsis

Dennis M. Papp

H.B. 64

132nd General Assembly
(H. Community and Family Advancement)

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Topic	Previous Version (H.B. 64, As Introduced)	Sub. Version L_132_0738-1
Mistaken identity expungement or redaction mechanism	<p>Provides a mechanism for the <i>expungement</i> of official records related to the apprehension, arrest, charging, or trial of a person for a criminal offense based on the "mistaken identity of the person with respect to the commission/charging of the offense," as defined in the bill (<i>R.C. 2953.52(A)(3) and (C); also R.C. 2953.51(H)</i>).</p> <p>Defines "expungement" as the destruction, deletion, or erasure of a record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable (<i>R.C. 2953.51(G)</i>).</p>	<p>Provides a mechanism for the <i>redaction</i> of information that identifies the person that is contained in official records related to the apprehension, arrest, charging, or trial of a person for a criminal offense based on the "mistaken identity of the person with respect to the commission/charging of the offense," as defined in the bill in the same manner as in the As Introduced version (<i>R.C. 2953.521; also R.C. 2952.51(G)</i>).</p> <p>No provision.</p>

Topic	Previous Version (H.B. 64, As Introduced)	Sub. Version L_132_0738-1
Mistaken identity arrest, when no charges are filed	If a person is arrested as a result of mistaken identity of the person with respect to the commission of an offense, no charges are filed against the person for that offense, and the person is released from custody, requires the arresting law enforcement agency, immediately upon the release, to notify a specified prosecutor (see below) of the mistaken identity arrest and the release. Upon receipt of the notice, the prosecutor promptly must provide the same notice to the court in which that charge would have been filed. The prosecutor who must be notified is the one who would have handled the case involving the most serious offense for which the person was arrested (<i>R.C. 2953.52(A)(3)(a)</i>).	If a person is arrested as a result of mistaken identity of the person with respect to the commission of an offense, no charges are filed in court against the person for that offense, and the arresting law enforcement agency determines that the person is to be released from custody, upon the release, requires the agency to search diligently for and <i>redact</i> from its official records all information that identifies that person with respect to that offense and <i>destroy</i> all photographs and fingerprints of that person that are in its records for that offense. Upon the person's release, the agency must notify the person of its redaction duty and that the person may apply for a court order to require the agency to comply with that duty. The person may apply for such a court order by filing the application in the court in which a charge of the most serious offense for which the person was arrested would have been filed. If the court makes specified findings with respect to the mistaken identity arrest and lack of charges, it must issue an order requiring the law enforcement agency to comply with the duty. (<i>R.C. 2953.521(A)</i> .)
Mistaken identity charging, when charge is dismissed	If a person is named in a charge of a criminal offense as a result of mistaken identity of the person with respect to the charge and the charge is dismissed, requires the prosecutor in the case, immediately upon the dismissal, to notify the court in which the charge was pending of the dismissal (<i>R.C. 2953.52(A)(3)(b)</i>).	Same as the As Introduced version, except that it clarifies that the reference to a charge against the person is to a <i>court charge</i> (<i>R.C. 2953.521(B)(1)</i>).

Topic	Previous Version (H.B. 64, As Introduced)	Sub. Version L_132_0738-1
<p>Court duties, upon notification by prosecutor</p>	<p>Upon receipt of a notice from a prosecutor in either circumstance described above (i.e., mistaken identity arrest and no charges filed or mistaken identity charging and charges dismissed), requires the court to issue two types of <i>expungement</i> orders. The issuance of the orders is automatic upon receipt of the notice, and the court will not conduct a hearing before issuing them. The orders are as follows (R.C. 2953.52(C)):</p> <p>(1) One order must direct that all official records containing any entry relating to the subject person's apprehension, arrest, charging, or trial with respect to the mistaken identity arrest or charge be <i>expunged</i> and that the proceedings with respect to that arrest or charge be deemed not to have occurred.</p> <p>(2) One order must be issued to BCII and direct that the DNA-related official records relating to the mistaken identity arrest or charge against the person that BCII possesses be <i>expunged</i>.</p>	<p>Upon receipt of a notice from a prosecutor in the circumstance described above (i.e., mistaken identity charging and charges dismissed), requires the court to issue three types of orders requiring <i>redaction</i> of specified information. The issuance of the orders is automatic upon receipt of the notice, and the court will not conduct a hearing before issuing them. The orders, designated as "redaction orders," are as follows (R.C. 2953.521(B)(2) and (3); also R.C. 2953.51(H)):</p> <p>(1) One order must direct that all official records of the court, and all official records of any other public office or agency other than the law enforcement agency described in (3), below, containing any entry relating to the subject person's apprehension, arrest, charging, or trial with respect to the mistaken identity arrest or charge be diligently searched and that all information in the records that identifies that person with respect to that offense be <i>redacted</i>, with the redaction including the <i>destruction</i> of all photographs and fingerprints of that person in the records with respect to that offense.</p> <p>(2) One order must be issued to BCII and direct that all information in the official records it possesses that relate to the subject person's mistaken identity apprehension, arrest, charging, or trial and that identifies the person with respect to that offense, including DNA-related records, be <i>redacted</i>.</p>

Topic	Previous Version (H.B. 64, As Introduced)	Sub. Version L_132_0738-1
		(3) One order must require the law enforcement agency that arrested the person as a result of the mistaken identity of the person with respect to the subject offense to search diligently for and <i>redact</i> from the official records it possesses all information that identifies the subject person with respect to that offense and <i>destroy</i> all photographs and fingerprints of that person that are in its records with respect to that offense.
Court action after issuance of order and effect of court order	<p>Requires the court that issues an <i>expungement</i> order to send notice of the order to BCII and to any public office or agency that the court knows or has reason to believe may have any record relating to the mistaken identity arrest or charge that is the subject of the order. The subject person may present the <i>expungement</i> order to any office or agency. An office or agency that receives or otherwise is aware of the order must <i>expunge</i> the records in accordance with the order, and the office or agency may maintain certain information only for statistical purposes (R.C. 2953.53(A)).</p> <p>No provision.</p>	<p>Same as the As Introduced version, except that, in the provisions, it refers to the <i>redaction</i> order and to the <i>redaction</i> of information in accordance with the order (R.C. 2953.53(A)).</p> <p>Specifies that a <i>redaction</i> order under the bill is not an expungement order and does not require the recipient office, agency, or bureau to redact, delete, or destroy any information other than the information that identifies the subject person with respect to the subject offense and that is to be redacted and the photographs, fingerprints, DNA specimens, DNA records, and DNA profiles of that person with respect to that offense that are to be destroyed (R.C. 2953.521(C)).</p>

Topic	Previous Version (H.B. 64, As Introduced)	Sub. Version L_132_0738-1
	No provision.	Specifies that the procedures under the bill for the <i>redaction</i> of information and materials regarding a person who is arrested or charged as a result of mistaken identity of the person are separate from the existing procedures, unchanged by the bill, for the sealing of official records in a case of a person who is a defendant in a dismissed complaint, indictment, or information (<i>R.C. 2953.52(A) and 2953.521(D)</i>).
Investigatory work product	Modifies the existing provisions regarding possible retention and use of law enforcement agency specific investigatory work product that is not an "official record" that currently apply with respect to a sealing order so that they also apply with respect to an expungement order issued under the bill's mechanism (<i>R.C. 2953.54</i>).	Specifies that the duties under the existing provisions referred to in the column describing the As Introduced version do not apply with respect to (<i>R.C. 2953.54</i>): (1) Any record or report regarding an offense that is possessed by a law enforcement agency that arrested a person as a result of mistaken identity with respect to the commission of the offense, provided that the agency, when required under the bill's provisions, has redacted from the record or report all information that identifies that person, and destroyed all photographs or fingerprints of that person, with respect to that offense. (2) The issuance of a redaction order under the bill's mechanism.

Topic	Previous Version (H.B. 64, As Introduced)	Sub. Version L_132_0738-1
<p>Effect of order for subject person</p>	<p>Specifies that, in any application for employment, license, or any other right or privilege, any appearance as a witness, or any other inquiry, a person may not be questioned with respect to any record that has been <i>expunged</i> under the bill's mechanism, and the record may not be used for any purpose related to employment, license, any other right or privilege, or appearance as a witness, including a criminal records check, a determination as to whether the person is authorized to obtain or possess a firearm or is eligible for a concealed handgun license, or a determination as to whether the person is eligible to hold public office or to be an elector, law enforcement officer, or school employee.</p> <p>If an inquiry is made in violation of this provision, the person whose official record was <i>expunged</i> may respond as if the mistaken identity apprehension, arrest, charging, or trial to which the expunged records pertain and all other proceedings related to that activity did not occur, and the person is not subject to any adverse action because of the mistaken identity activity or the person's response.</p> <p>An existing prohibition regarding a government officer's or employee's divulging of information or data covered by a sealing order in specified circumstances applies regarding the divulging of information or data covered by an <i>expungement</i> order under the bill's mechanism. (R.C. 2953.55.)</p>	<p>Same as the As Introduced version, except that it refers to information or material that has been <i>redacted</i> under the bill's redaction mechanism instead of to a record that has been expunged under the As Introduced version's expungement mechanism (R.C. 2953.55).</p>

Topic	Previous Version (H.B. 64, As Introduced)	Sub. Version L_132_0738-1
Multiple charge provisions	Specifies that existing provisions that pertain to the sealing of records of a person charged with two or more offenses as a result of or in connection with the same act do not apply with respect to the <i>expungement</i> of official records under the bill's mechanism (R.C. 2953.61).	Specifies that the existing provisions referred to in the column describing the As Introduced version do not apply with respect to the <i>redaction</i> of information or material in official records under the bill's mechanism (R.C. 2953.61).
Definition of "court" and "official records"	Modifies the existing definitions of "court" and "official records" that apply regarding sealing orders to reflect the details of the bill's <i>expungement</i> mechanism (R.C. 2953.51(C) and (D)).	Same as the As Introduced version, except that it modifies the definitions to reflect the details of the bill's <i>redaction</i> mechanism (R.C. 2953.51(C) and (D)).

H0064-I-132.docx/ts

