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132nd General Assembly
Regular Session
2017-2018

Sub. H. B. No. 56

A BILL

To amend sections 2152.021, 2951.041, and 2953.38 1
and to enact sections 2953.39, 2953.40, and 2
2953.521 of the Revised Code to permit a person 3
who is found not guilty or is the defendant in a 4
dismissed case to apply for an expungement of 5
the person's records in the case if the 6
complaint, indictment, or finding of not guilty 7
resulted from the applicant having been a victim 8
of human trafficking; to permit a person 9
convicted of certain prostitution-related 10
offenses to apply for the expungement or sealing 11
of any record of conviction of an offense, with 12
certain exceptions, if the person's 13
participation in the offense was a result of 14
having been a victim of human trafficking; to 15
authorize intervention in lieu of conviction for 16
persons charged with committing an offense while 17
a victim of compelling prostitution; and to 18
revise provisions regarding juvenile court 19
proceedings being held in abeyance when an 20
alleged delinquent child was a victim of 21
trafficking in persons. 22



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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2152.021, 2951.041, and 2953.38 23
be amended and sections 2953.39, 2953.40, and 2953.521 of the 24
Revised Code be enacted to read as follows: 25

Sec. 2152.021. (A) (1) Subject to division (A) (2) of this 26
section, any person having knowledge of a child who appears to 27
be a juvenile traffic offender or to be a delinquent child may 28
file a sworn complaint with respect to that child in the 29
juvenile court of the county in which the child has a residence 30
or legal settlement or in which the traffic offense or 31
delinquent act allegedly occurred. The sworn complaint may be 32
upon information and belief, and, in addition to the allegation 33
that the child is a delinquent child or a juvenile traffic 34
offender, the complaint shall allege the particular facts upon 35
which the allegation that the child is a delinquent child or a 36
juvenile traffic offender is based. 37

If a child appears to be a delinquent child who is 38
eligible for a serious youthful offender dispositional sentence 39
under section 2152.11 of the Revised Code and if the prosecuting 40
attorney desires to seek a serious youthful offender 41
dispositional sentence under section 2152.13 of the Revised Code 42
in regard to the child, the prosecuting attorney of the county 43
in which the alleged delinquency occurs may initiate a case in 44
the juvenile court of the county by presenting the case to a 45
grand jury for indictment, by charging the child in a bill of 46
information as a serious youthful offender pursuant to section 47
2152.13 of the Revised Code, by requesting a serious youthful 48
offender dispositional sentence in the original complaint 49
alleging that the child is a delinquent child, or by filing with 50

the juvenile court a written notice of intent to seek a serious 51
youthful offender dispositional sentence. This paragraph does 52
not apply regarding the imposition of a serious youthful 53
offender dispositional sentence pursuant to section 2152.121 of 54
the Revised Code. 55

(2) Any person having knowledge of a child who appears to 56
be a delinquent child for violating a court order regarding the 57
child's adjudication as an unruly child for being an habitual 58
truant, may file a sworn complaint with respect to that child, 59
or with respect to that child and the parent, guardian, or other 60
person having care of the child, in the juvenile court of the 61
county in which the child has a residence or legal settlement or 62
in which the child is supposed to attend public school. The 63
sworn complaint may be upon information and belief and shall 64
allege that the child is a delinquent child for violating a 65
court order regarding the child's prior adjudication as an 66
unruly child for being a habitual truant and, in addition, the 67
particular facts upon which that allegation is based. If the 68
complaint contains allegations regarding the child's parent, 69
guardian, or other person having care of the child, the 70
complaint additionally shall allege that the parent, guardian, 71
or other person having care of the child has failed to cause the 72
child's attendance at school in violation of section 3321.38 of 73
the Revised Code and, in addition, the particular facts upon 74
which that allegation is based. 75

(B) Any person with standing under applicable law may file 76
a complaint for the determination of any other matter over which 77
the juvenile court is given jurisdiction by section 2151.23 of 78
the Revised Code. The complaint shall be filed in the county in 79
which the child who is the subject of the complaint is found or 80
was last known to be found. 81

(C) Within ten days after the filing of a complaint or the issuance of an indictment, the court shall give written notice of the filing of the complaint or the issuance of an indictment and of the substance of the complaint or indictment to the superintendent of a city, local, exempted village, or joint vocational school district if the complaint or indictment alleges that a child committed an act that would be a criminal offense if committed by an adult, that the child was sixteen years of age or older at the time of the commission of the alleged act, and that the alleged act is any of the following:

(1) A violation of section 2923.122 of the Revised Code that relates to property owned or controlled by, or to an activity held under the auspices of, the board of education of that school district;

(2) A violation of section 2923.12 of the Revised Code, of a substantially similar municipal ordinance, or of section 2925.03 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district;

(3) A violation of section 2925.11 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district, other than a violation of that section that would be a minor drug possession offense if committed by an adult;

(4) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2907.02, or 2907.05 of the Revised Code, or a violation of former section 2907.12 of the Revised Code, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of

education of that school district, if the victim at the time of 112
the commission of the alleged act was an employee of the board 113
of education of that school district; 114

(5) Complicity in any violation described in division (C) 115
(1), (2), (3), or (4) of this section that was alleged to have 116
been committed in the manner described in division (C)(1), (2), 117
(3), or (4) of this section, regardless of whether the act of 118
complicity was committed on property owned or controlled by, or 119
at an activity held under the auspices of, the board of 120
education of that school district. 121

(D) A public children services agency, acting pursuant to 122
a complaint or an action on a complaint filed under this 123
section, is not subject to the requirements of section 3127.23 124
of the Revised Code. 125

(E) For purposes of the record to be maintained by the 126
clerk under division (B) of section 2152.71 of the Revised Code, 127
when a complaint is filed that alleges that a child is a 128
delinquent child, the court shall determine if the victim of the 129
alleged delinquent act was sixty-five years of age or older or 130
permanently and totally disabled at the time of the alleged 131
commission of the act. 132

(F)(1) At any time after the filing of a complaint 133
alleging that a child is a delinquent child and before 134
adjudication, the court may hold a hearing to determine whether 135
to hold the complaint in abeyance pending the child's successful 136
completion of actions that constitute a method to divert the 137
child from the juvenile court system if the child agrees to the 138
hearing and either of the following applies: 139

(a) The act charged ~~would be~~ is a violation of section 140

2907.24, 2907.241, or 2907.25 of the Revised Code ~~if the child~~ 141
~~were an adult.~~ 142

(b) The court has reason to believe that the child is a 143
victim of a violation of section 2905.32 of the Revised Code, 144
regardless of whether any person has been convicted of a 145
violation of that section or of any other section for 146
victimizing the child, and the act charged is related to the 147
child's victimization. 148

(2) The prosecuting attorney has the right to participate 149
in any hearing held under division (F)(1) of this section, to 150
object to holding the complaint that is the subject of the 151
hearing in abeyance, and to make recommendations related to 152
diversion actions. No statement made by a child at a hearing 153
held under division (F)(1) of this section is admissible in any 154
subsequent proceeding against the child. 155

(3) If either division (F)(1)(a) or (b) of this section 156
applies, the court shall promptly appoint a guardian ad litem 157
for the child. The court shall not appoint the child's attorney 158
as guardian ad litem. If the court decides to hold the complaint 159
in abeyance, the guardian ad litem shall make recommendations 160
that are in the best interest of the child to the court. 161

(4) If after a hearing the court decides to hold the 162
complaint in abeyance, the court may make any orders regarding 163
placement, services, supervision, diversion actions, and 164
conditions of abeyance, including, but not limited to, 165
engagement in trauma-based behavioral health services or 166
education activities, that the court considers appropriate and 167
in the best interest of the child. The court may hold the 168
complaint in abeyance for up to ninety days while the child 169
engages in diversion actions. If the child violates the 170

conditions of abeyance or does not complete the diversion 171
actions to the court's satisfaction within ninety days, the 172
court may extend the period of abeyance ~~for not more than two~~ 173
~~additional ninety-day periods~~ until such time as the court is 174
satisfied that the child has complied with the conditions of 175
abeyance and has completed the diversion actions. 176

(5) If the court holds the complaint in abeyance and the 177
child complies with the conditions of abeyance and completes the 178
diversion actions to the court's satisfaction, the court shall 179
dismiss the complaint and order that the records pertaining to 180
the case be expunged immediately. If the child fails to complete 181
the diversion actions to the court's satisfaction, the court 182
shall proceed upon the complaint. 183

Sec. 2951.041. (A) (1) If an offender is charged with a 184
criminal offense, including but not limited to a violation of 185
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 186
of the Revised Code, and the court has reason to believe that 187
drug or alcohol usage by the offender was a factor leading to 188
the criminal offense with which the offender is charged or that, 189
at the time of committing that offense, the offender had a 190
mental illness, was a person with an intellectual disability, or 191
was a victim of a violation of section 2905.32 or 2907.21 of the 192
Revised Code and that the mental illness, status as a person 193
with an intellectual disability, or fact that the offender was a 194
victim of a violation of section 2905.32 or 2907.21 of the 195
Revised Code was a factor leading to the offender's criminal 196
behavior, the court may accept, prior to the entry of a guilty 197
plea, the offender's request for intervention in lieu of 198
conviction. The request shall include a statement from the 199
offender as to whether the offender is alleging that drug or 200
alcohol usage by the offender was a factor leading to the 201

criminal offense with which the offender is charged or is 202
alleging that, at the time of committing that offense, the 203
offender had a mental illness, was a person with an intellectual 204
disability, or was a victim of a violation of section 2905.32 or 205
2907.21 of the Revised Code and that the mental illness, status 206
as a person with an intellectual disability, or fact that the 207
offender was a victim of a violation of section 2905.32 or 208
2907.21 of the Revised Code was a factor leading to the criminal 209
offense with which the offender is charged. The request also 210
shall include a waiver of the defendant's right to a speedy 211
trial, the preliminary hearing, the time period within which the 212
grand jury may consider an indictment against the offender, and 213
arraignment, unless the hearing, indictment, or arraignment has 214
already occurred. The court may reject an offender's request 215
without a hearing. If the court elects to consider an offender's 216
request, the court shall conduct a hearing to determine whether 217
the offender is eligible under this section for intervention in 218
lieu of conviction and shall stay all criminal proceedings 219
pending the outcome of the hearing. If the court schedules a 220
hearing, the court shall order an assessment of the offender for 221
the purpose of determining the offender's eligibility for 222
intervention in lieu of conviction and recommending an 223
appropriate intervention plan. 224

If the offender alleges that drug or alcohol usage by the 225
offender was a factor leading to the criminal offense with which 226
the offender is charged, the court may order that the offender 227
be assessed by a community addiction services provider or a 228
properly credentialed professional for the purpose of 229
determining the offender's eligibility for intervention in lieu 230
of conviction and recommending an appropriate intervention plan. 231
The community addiction services provider or the properly 232

credentialed professional shall provide a written assessment of 233
the offender to the court. 234

(2) The victim notification provisions of division (C) of 235
section 2930.06 of the Revised Code apply in relation to any 236
hearing held under division (A) (1) of this section. 237

(B) An offender is eligible for intervention in lieu of 238
conviction if the court finds all of the following: 239

(1) The offender previously has not been convicted of or 240
pleaded guilty to a felony offense of violence or previously has 241
been convicted of or pleaded guilty to any felony that is not an 242
offense of violence and the prosecuting attorney recommends that 243
the offender be found eligible for participation in intervention 244
in lieu of treatment under this section, previously has not been 245
through intervention in lieu of conviction under this section or 246
any similar regimen, and is charged with a felony for which the 247
court, upon conviction, would impose a community control 248
sanction on the offender under division (B) (2) of section 249
2929.13 of the Revised Code or with a misdemeanor. 250

(2) The offense is not a felony of the first, second, or 251
third degree, is not an offense of violence, is not a violation 252
of division (A) (1) or (2) of section 2903.06 of the Revised 253
Code, is not a violation of division (A) (1) of section 2903.08 254
of the Revised Code, is not a violation of division (A) of 255
section 4511.19 of the Revised Code or a municipal ordinance 256
that is substantially similar to that division, and is not an 257
offense for which a sentencing court is required to impose a 258
mandatory prison term, a mandatory term of local incarceration, 259
or a mandatory term of imprisonment in a jail. 260

(3) The offender is not charged with a violation of 261

section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not 262
charged with a violation of section 2925.03 of the Revised Code 263
that is a felony of the first, second, third, or fourth degree, 264
and is not charged with a violation of section 2925.11 of the 265
Revised Code that is a felony of the first, second, or third 266
degree. 267

(4) If an offender alleges that drug or alcohol usage by 268
the offender was a factor leading to the criminal offense with 269
which the offender is charged, the court has ordered that the 270
offender be assessed by a community addiction services provider 271
or a properly credentialed professional for the purpose of 272
determining the offender's eligibility for intervention in lieu 273
of conviction and recommending an appropriate intervention plan, 274
the offender has been assessed by a community addiction services 275
provider of that nature or a properly credentialed professional 276
in accordance with the court's order, and the community 277
addiction services provider or properly credentialed 278
professional has filed the written assessment of the offender 279
with the court. 280

(5) If an offender alleges that, at the time of committing 281
the criminal offense with which the offender is charged, the 282
offender had a mental illness, was a person with an intellectual 283
disability, or was a victim of a violation of section 2905.32 or 284
2907.21 of the Revised Code and that the mental illness, status 285
as a person with an intellectual disability, or fact that the 286
offender was a victim of a violation of section 2905.32 or 287
2907.21 of the Revised Code was a factor leading to that 288
offense, the offender has been assessed by a psychiatrist, 289
psychologist, independent social worker, licensed professional 290
clinical counselor, or independent marriage and family therapist 291
for the purpose of determining the offender's eligibility for 292

intervention in lieu of conviction and recommending an 293
appropriate intervention plan. 294

(6) The offender's drug usage, alcohol usage, mental 295
illness, or intellectual disability, or the fact that the 296
offender was a victim of a violation of section 2905.32 or 297
2907.21 of the Revised Code, whichever is applicable, was a 298
factor leading to the criminal offense with which the offender 299
is charged, intervention in lieu of conviction would not demean 300
the seriousness of the offense, and intervention would 301
substantially reduce the likelihood of any future criminal 302
activity. 303

(7) The alleged victim of the offense was not sixty-five 304
years of age or older, permanently and totally disabled, under 305
thirteen years of age, or a peace officer engaged in the 306
officer's official duties at the time of the alleged offense. 307

(8) If the offender is charged with a violation of section 308
2925.24 of the Revised Code, the alleged violation did not 309
result in physical harm to any person, and the offender 310
previously has not been treated for drug abuse. 311

(9) The offender is willing to comply with all terms and 312
conditions imposed by the court pursuant to division (D) of this 313
section. 314

(10) The offender is not charged with an offense that 315
would result in the offender being disqualified under Chapter 316
4506. of the Revised Code from operating a commercial motor 317
vehicle or would subject the offender to any other sanction 318
under that chapter. 319

(C) At the conclusion of a hearing held pursuant to 320
division (A) of this section, the court shall enter its 321

determination as to whether the offender is eligible for 322
intervention in lieu of conviction and as to whether to grant 323
the offender's request. If the court finds under division (B) of 324
this section that the offender is eligible for intervention in 325
lieu of conviction and grants the offender's request, the court 326
shall accept the offender's plea of guilty and waiver of the 327
defendant's right to a speedy trial, the preliminary hearing, 328
the time period within which the grand jury may consider an 329
indictment against the offender, and arraignment, unless the 330
hearing, indictment, or arraignment has already occurred. In 331
addition, the court then may stay all criminal proceedings and 332
order the offender to comply with all terms and conditions 333
imposed by the court pursuant to division (D) of this section. 334
If the court finds that the offender is not eligible or does not 335
grant the offender's request, the criminal proceedings against 336
the offender shall proceed as if the offender's request for 337
intervention in lieu of conviction had not been made. 338

(D) If the court grants an offender's request for 339
intervention in lieu of conviction, the court shall place the 340
offender under the general control and supervision of the county 341
probation department, the adult parole authority, or another 342
appropriate local probation or court services agency, if one 343
exists, as if the offender was subject to a community control 344
sanction imposed under section 2929.15, 2929.18, or 2929.25 of 345
the Revised Code. The court shall establish an intervention plan 346
for the offender. The terms and conditions of the intervention 347
plan shall require the offender, for at least one year from the 348
date on which the court grants the order of intervention in lieu 349
of conviction, to abstain from the use of illegal drugs and 350
alcohol, to participate in treatment and recovery support 351
services, and to submit to regular random testing for drug and 352

alcohol use and may include any other treatment terms and 353
conditions, or terms and conditions similar to community control 354
sanctions, which may include community service or restitution, 355
that are ordered by the court. 356

(E) If the court grants an offender's request for 357
intervention in lieu of conviction and the court finds that the 358
offender has successfully completed the intervention plan for 359
the offender, including the requirement that the offender 360
abstain from using illegal drugs and alcohol for a period of at 361
least one year from the date on which the court granted the 362
order of intervention in lieu of conviction, the requirement 363
that the offender participate in treatment and recovery support 364
services, and all other terms and conditions ordered by the 365
court, the court shall dismiss the proceedings against the 366
offender. Successful completion of the intervention plan and 367
period of abstinence under this section shall be without 368
adjudication of guilt and is not a criminal conviction for 369
purposes of any disqualification or disability imposed by law 370
and upon conviction of a crime, and the court may order the 371
sealing of records related to the offense in question in the 372
manner provided in sections 2953.31 to 2953.36 of the Revised 373
Code. 374

(F) If the court grants an offender's request for 375
intervention in lieu of conviction and the offender fails to 376
comply with any term or condition imposed as part of the 377
intervention plan for the offender, the supervising authority 378
for the offender promptly shall advise the court of this 379
failure, and the court shall hold a hearing to determine whether 380
the offender failed to comply with any term or condition imposed 381
as part of the plan. If the court determines that the offender 382
has failed to comply with any of those terms and conditions, it 383

shall enter a finding of guilty and shall impose an appropriate 384
sanction under Chapter 2929. of the Revised Code. If the court 385
sentences the offender to a prison term, the court, after 386
consulting with the department of rehabilitation and correction 387
regarding the availability of services, may order continued 388
court-supervised activity and treatment of the offender during 389
the prison term and, upon consideration of reports received from 390
the department concerning the offender's progress in the program 391
of activity and treatment, may consider judicial release under 392
section 2929.20 of the Revised Code. 393

(G) As used in this section: 394

(1) "Community addiction services provider" has the same 395
meaning as in section 5119.01 of the Revised Code. 396

(2) "Community control sanction" has the same meaning as 397
in section 2929.01 of the Revised Code. 398

(3) "Intervention in lieu of conviction" means any court- 399
supervised activity that complies with this section. 400

(4) "Intellectual disability" has the same meaning as in 401
section 5123.01 of the Revised Code. 402

(5) "Peace officer" has the same meaning as in section 403
2935.01 of the Revised Code. 404

(6) "Mental illness" and "psychiatrist" have the same 405
meanings as in section 5122.01 of the Revised Code. 406

(7) "Psychologist" has the same meaning as in section 407
4732.01 of the Revised Code. 408

Sec. 2953.38. (A) As used in this section and section 409
2953.39 of the Revised Code: 410

(1) "Expunge" means to destroy, delete, or erase a record 411
as appropriate for the record's physical or electronic form or 412
characteristic so that the record is permanently irretrievable. 413

(2) "Prosecutor" has the same meaning as in section 414
2953.31 of the Revised Code. 415

(3) "Record of conviction" means ~~the any~~ record related to 416
a conviction of or plea of guilty to an offense. 417

(4) "Victim of human trafficking" means a person who is or 418
was a victim of a violation of section 2905.32 of the Revised 419
Code, regardless of whether anyone has been convicted of a 420
violation of that section or of any other section for 421
victimizing the person. 422

(B) Any person who is or was convicted of a violation of 423
section 2907.24, 2907.241, or 2907.25 of the Revised Code may 424
apply to the sentencing court for the expungement of ~~the any~~ 425
record of conviction, other than a record of conviction 426
specified in section 2953.36 of the Revised Code, if the 427
person's participation in the offense was a result of the person 428
having been a victim of human trafficking. The person may file 429
the application at any time. The application may request an 430
order to expunge the record of conviction for more than one 431
offense, but if it does, the court shall consider the request 432
for each offense separately as if a separate application had 433
been made for each offense and all references in divisions (B) 434
to (H) of this section to "the offense" or "that offense" mean 435
each of those offenses that are the subject of the application. 436
The application shall do all of the following: 437

(1) Identify the applicant, the offense for which the 438
expungement is sought, the date of the conviction of that 439

offense, and the ~~court case~~ in which the conviction occurred; 440

(2) Describe the evidence and provide copies of any 441
documentation showing that the person is entitled to relief 442
under this section; 443

(3) Include a request for expungement of the record of 444
conviction of that offense under this section. 445

(C) The court may deny an application made under division 446
(B) of this section if it finds that the application fails to 447
assert grounds on which relief may be granted. 448

(D) If the court does not deny an application under 449
division (C) of this section, it shall set a date for a hearing 450
and shall notify the prosecutor for the case from which the 451
record of conviction resulted of the hearing on the application. 452
The prosecutor may object to the granting of the application by 453
filing an objection with the court prior to the date set for the 454
hearing. The prosecutor shall specify in the objection the 455
reasons for believing a denial of the application is justified. 456
The court may direct its regular probation officer~~7~~ or request a 457
state probation officer~~7~~ or the department of probation of the 458
county in which the applicant resides to make inquiries and 459
written reports as the court requires concerning the applicant. 460

(E) At the hearing held under division (D) of this 461
section, the court shall do both of the following: 462

(1) If the prosecutor has filed an objection, consider the 463
reasons against granting the application specified by the 464
prosecutor in the objection; 465

(2) Determine whether the applicant has demonstrated by a 466
preponderance of the evidence that the applicant's participation 467
in the offense that is the subject of the application was a 468

result of the applicant having been a victim of human 469
trafficking. 470

(F) If after a hearing held under division (D) of this 471
section the court finds that the applicant has demonstrated by a 472
preponderance of the evidence that the applicant's participation 473
in the offense that is the subject of the application was the 474
result of the applicant having been a victim of human 475
trafficking, the court shall grant the application and order 476
that the record of conviction be expunged. 477

(G) (1) The court shall send notice of the order of 478
expungement issued under division (F) of this section to each 479
public office or agency that the court has reason to believe may 480
have an official record pertaining to the case if the court, 481
after complying with division (E) of this section, determines 482
both of the following: 483

(a) That the applicant has been convicted of a violation 484
of section 2907.24, 2907.241, or 2907.25 of the Revised Code and 485
the offense that is the subject of the application if it is not 486
the same offense; 487

(b) That the interests of the applicant in having the 488
records pertaining to the applicant's conviction expunged are 489
not outweighed by any legitimate needs of the government to 490
maintain those records. 491

(2) The proceedings in the case that is the subject of an 492
order of expungement issued under division (F) of this section 493
shall be considered not to have occurred and the conviction of 494
the person who is the subject of the proceedings shall be 495
expunged. The record of the conviction shall not be used for any 496
purpose, including, but not limited to, a criminal records check 497

under section 109.572 of the Revised Code. The applicant may, 498
and the court shall, reply that no record exists with respect to 499
the applicant upon any inquiry into the matter. 500

(H) Upon the filing of an application under this section, 501
the applicant, unless indigent, shall pay a fee of fifty 502
dollars. The court shall pay thirty dollars of the fee into the 503
state treasury and shall pay twenty dollars of the fee into the 504
county general revenue fund. 505

(I) At the time an applicant files an application under 506
division (B) of this section, the following shall apply: 507

(1) The clerk of court shall notify the applicant in 508
writing that the court will send notice of any order under 509
division (F) of this section to the qualified third party 510
selected by the attorney general under section 109.38 of the 511
Revised Code and shall inform the applicant of the procedures 512
under section 109.381 of the Revised Code. 513

(2) The applicant shall then notify the clerk if the 514
applicant wishes to opt out of receiving the benefits of having 515
the court send notice of its order under division (F) of this 516
section to the qualified third party and having the procedures 517
under section 109.381 of the Revised Code apply to the records 518
that are subject to the order. 519

(3) If the applicant does not opt out under division (I) 520
(2) of this section, the applicant shall pay to the clerk of 521
court the fee provided in the contract between the attorney 522
general and the qualified third party under division (D) (2) (b) 523
of section 109.38 of the Revised Code. 524

(J) (1) Upon the issuance of an order under division (F) of 525
this section, and unless the applicant opts out under division 526

(I) (2) of this section, the clerk shall remit the fee paid by 527
the applicant under division (I) (3) of this section to the 528
qualified third party. The court shall send notice of the order 529
under division (F) of this section to the qualified third party. 530

(2) If the applicant's application under division (B) of 531
this section is denied for any reason or if the applicant 532
informs the clerk of court in writing, before the issuance of 533
the order under division (F) of this section, that the applicant 534
wishes to opt out of having the court send notice of its order 535
under division (F) of this section to the qualified third party, 536
the clerk shall remit the fee paid by the applicant under 537
division (I) (3) of this section that is intended for the 538
qualified third party back to the applicant. 539

Sec. 2953.39. (A) As used in this section and section 540
2953.40 of the Revised Code: 541

(1) "Excluded offense" means any of the following: 542

(a) A violation of section 2903.01, 2903.02, 2903.03, 543
2903.06, 2907.02, 2909.02, 2909.24, or 2909.27 of the Revised 544
Code, a violation of division (B) of section 2909.26 of the 545
Revised Code, or a violation of division (B) of section 2927.24 546
of the Revised Code; 547

(b) A violation of section 2903.15 of the Revised Code if 548
the offense resulted in the child's death; 549

(c) A violation of section 2921.32 of the Revised Code if 550
the crime or act committed by the person or child aided is an 551
act of terrorism and the act of terrorism resulted in the death 552
of a person who was not a participant in the act of terrorism. 553

(2) "Official records" has the same meaning as in section 554
2953.51 of the Revised Code. 555

(B) Any person who is or was convicted of a violation of 556
section 2907.24, 2907.241, or 2907.25 of the Revised Code may 557
apply to the sentencing court for the sealing of any record of 558
conviction, other than a record of conviction of an excluded 559
offense, if the person's participation in the offense was a 560
result of the person having been a victim of human trafficking. 561
The person may file the application at any time. The application 562
may request an order to seal the record of conviction for more 563
than one offense, but if it does, the court shall consider the 564
request for each offense separately as if a separate application 565
had been made for each offense and all references in divisions 566
(B) to (H) of this section to "the offense" or "that offense" 567
mean each of those offenses that are the subject of the 568
application. The application shall do all of the following: 569

(1) Identify the applicant, the offense for which sealing 570
is sought, the date of the conviction of that offense, and the 571
case in which the conviction occurred; 572

(2) Describe the evidence and provide copies of any 573
documentation showing that the person is entitled to relief 574
under this section; 575

(3) Include a request for sealing of the record of 576
conviction of that offense under this section. 577

(C) The court may deny an application made under division 578
(B) of this section if it finds that the application fails to 579
assert grounds on which relief may be granted. 580

(D) If the court does not deny an application under 581
division (C) of this section, it shall set a date for a hearing 582
and shall notify the prosecutor for the case from which the 583
record of conviction resulted of the hearing on the application. 584

The prosecutor may object to the granting of the application by 585
filing an objection with the court prior to the date set for the 586
hearing. The prosecutor shall specify in the objection the 587
reasons for believing a denial of the application is justified. 588
The court may direct its regular probation officer or request a 589
state probation officer or the department of probation of the 590
county in which the applicant resides to make inquiries and 591
written reports as the court requires concerning the applicant. 592

(E) (1) At the hearing held under division (D) of this 593
section, the court shall do both of the following: 594

(a) If the prosecutor has filed an objection, consider the 595
reasons against granting the application specified by the 596
prosecutor in the objection; 597

(b) Determine whether the applicant has demonstrated by a 598
preponderance of the evidence that the applicant's participation 599
in the offense that is the subject of the application was a 600
result of the applicant having been a victim of human 601
trafficking. 602

(2) If the court at the hearing held under division (D) of 603
this section determines that the applicant's participation in 604
the offense that is the subject of the application was a result 605
of the applicant having been a victim of human trafficking and 606
if that subject offense is a felony of the first or second 607
degree, other than an excluded offense, the court at the hearing 608
also shall consider all of the following factors and, upon 609
consideration of the factors, shall determine whether the 610
interests of the applicant in having the record of the 611
conviction of that offense sealed are outweighed by any 612
legitimate needs of the government to maintain that record of 613
conviction: 614

(a) The degree of force, fear, duress, intimidation, or fraud under which the applicant acted in committing the subject offense, including the history of the use of force or threatened use of force against the applicant or another person, whether the applicant's judgment or control was impaired by the administration to the applicant of any intoxicant, drug, or controlled substance, and the threat of withholding from the applicant food, water, or any drug; 615
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(b) The seriousness of the subject offense; 623

(c) The relative degree of physical harm done to any person in the commission of the subject offense; 624
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(d) The length of time that has expired since the commission of the subject offense; 626
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(e) Whether the prosecutor represents to the court that criminal proceedings are likely to still be initiated against the applicant for a felony offense for which the period of limitations has not expired; 628
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(f) Whether the applicant at the time of the hearing is subject to supervision as a result of the subject offense. 632
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(F) If after a hearing held under division (D) of this section the court finds that the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense that is the subject of the application was the result of the applicant having been a victim of human trafficking, and, if the offense that is the subject of the application is a felony of the first or second degree other than an excluded offense, after consideration of the factors required under division (E) (2) of this section, it finds that the interests of the applicant in having the record of the 634
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conviction of that offense sealed are not outweighed by any 644
legitimate needs of the government to maintain that record of 645
conviction, the court shall grant the application and order that 646
the official records of conviction be sealed. 647

(G) The proceedings in the case that is the subject of an 648
order of sealing issued under division (F) of this section shall 649
be considered not to have occurred and the official records of 650
conviction of the person who is the subject of the proceedings 651
shall be sealed, except that upon conviction of a subsequent 652
offense, the sealed record of a prior conviction may be 653
considered by the court in determining the sentence or other 654
appropriate disposition, including the relief provided for in 655
sections 2953.31 to 2953.33 of the Revised Code. 656

(H) Upon the filing of an application under this section, 657
the applicant, unless indigent, shall pay a fee of fifty 658
dollars. The court shall pay thirty dollars of the fee into the 659
state treasury and shall pay twenty dollars of the fee into the 660
county general revenue fund. 661

Sec. 2953.40. (A) (1) The court shall send notice of an 662
order of sealing issued under division (F) of section 2953.39 of 663
the Revised Code to each public office or agency that the court 664
has reason to believe may have an official record pertaining to 665
the case if the court, after complying with division (E) of that 666
section, determines both of the following: 667

(a) That the applicant has been convicted of a violation 668
of section 2907.24, 2907.241, or 2907.25 of the Revised Code and 669
the offense that is the subject of the application if it is not 670
the same offense; 671

(b) That the interests of the applicant in having the 672

records pertaining to the applicant's conviction sealed are not 673
outweighed by any legitimate needs of the government to maintain 674
those records. 675

(2) At the time an applicant files an application under 676
section 2953.39 of the Revised Code, the following shall apply: 677

(a) The clerk of court shall notify the applicant in 678
writing that the court will send notice of any order under 679
division (F) of section 2953.39 of the Revised Code to the 680
qualified third party selected by the attorney general under 681
section 109.38 of the Revised Code and shall inform the 682
applicant of the procedures under section 109.381 of the Revised 683
Code. 684

(b) The applicant shall then notify the clerk if the 685
applicant wishes to opt out of receiving the benefits of having 686
the court send notice of its order under division (F) of section 687
2953.39 of the Revised Code to the qualified third party and 688
having the procedures under section 109.381 of the Revised Code 689
apply to the records that are subject to the order. 690

(c) If the applicant does not opt out under division (A) 691
(2)(b) of this section, the applicant shall pay to the clerk of 692
court the fee provided in the contract between the attorney 693
general and the qualified third party under division (D)(2)(b) 694
of section 109.38 of the Revised Code. 695

(B)(1) Upon the issuance of an order under division (F) of 696
section 2953.39 of the Revised Code, and unless the applicant 697
opts out under division (A)(2)(b) of this section, the clerk 698
shall remit the fee paid by the applicant under division (A)(2) 699
(c) of this section to the qualified third party. The court 700
shall send notice of the order issued under section 2953.39 of 701

the Revised Code to the qualified third party. 702

(2) If the applicant's application under section 2953.39 703
of the Revised Code is denied for any reason or if the applicant 704
informs the clerk of court in writing, before the issuance of 705
the order under division (F) of section 2953.39 of the Revised 706
Code, that the applicant wishes to opt out of having the court 707
send notice of its order to the qualified third party, the clerk 708
shall remit the fee paid by the applicant under division (A) (2) 709
(c) of this section that is intended for the qualified third 710
party back to the applicant. 711

(C) A person whose official records have been sealed 712
pursuant to an order issued under section 2953.39 of the Revised 713
Code may present a copy of that order and a written request to 714
comply with it, to a public office or agency that has a record 715
of the case that is the subject of the order. 716

(D) An order to seal official records issued under section 717
2953.39 of the Revised Code applies to every public office or 718
agency that has a record of the case that is the subject of the 719
order, regardless of whether it receives notice of the hearing 720
on the application for the order to seal the official records or 721
receives a copy of the order to seal the official records. 722

(E) Upon receiving a copy of an order to seal official 723
records or upon otherwise becoming aware of an applicable order 724
to seal official records issued under section 2953.39 of the 725
Revised Code, a public office or agency shall comply with the 726
order, except that it may maintain a record of the case that is 727
the subject of the order if the record is maintained for the 728
purpose of compiling statistical data only and does not contain 729
any reference to the person who is the subject of the case and 730
the order. 731

A public office or agency also may maintain an index of sealed official records, in a form similar to that for sealed records of conviction as set forth in division (F) of section 2953.32 of the Revised Code, access to which may not be afforded to any person other than the person who has custody of the sealed official records. The sealed official records to which such an index pertains shall not be available to any person, except that the official records of a case that have been sealed may be made available to the persons and for the purposes described in division (D) of section 2953.32 of the Revised Code. 732
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Sec. 2953.521. (A) As used in this section, "expunge" has the same meaning as in section 2953.38 of the Revised Code. 743
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(B) Any person who is found not guilty of an offense by a jury or a court or who is the defendant named in a dismissed complaint, indictment, or information may apply to the court for an order to expunge the person's official records in the case if the complaint, indictment, information, or finding of not guilty that is the subject of the application was the result of the applicant having been a victim of human trafficking. The application may be filed at any time after the finding of not guilty or the dismissal of the complaint, indictment, or information is entered upon the minutes of the court or the journal, whichever entry occurs first. The application may request an order to expunge official records for more than one offense, but if it does, the court shall consider the request for each offense separately as if a separate application had been made for each offense and all references in divisions (B) to (H) of this section to "the offense" or "that offense" mean each of those offenses that are the subject of the application. 745
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(C) The court may deny an application made under division 762
(B) of this section if it finds that the application fails to 763
assert grounds on which relief may be granted. 764

(D) If the court does not deny an application under 765
division (C) of this section, the court shall set a date for a 766
hearing and shall notify the prosecutor for the case of the 767
hearing on the application. The prosecutor may object to the 768
granting of the application by filing an objection with the 769
court prior to the date set for the hearing. The prosecutor 770
shall specify in the objection the reasons for believing a 771
denial of the application is justified. 772

(E) At the hearing held under division (D) of this 773
section, the court shall do all of the following: 774

(1) If the prosecutor has filed an objection, consider the 775
reasons against granting the application specified by the 776
prosecutor in the objection; 777

(2) Determine whether the applicant has demonstrated by a 778
preponderance of the evidence that the complaint, indictment, 779
information, or finding of not guilty that is the subject of the 780
application was the result of the applicant having been a victim 781
of human trafficking; 782

(3) If the application pertains to a dismissed complaint, 783
indictment, or information, determine whether the dismissal was 784
with prejudice or without prejudice and, if the dismissal was 785
without prejudice, whether the period of limitations applicable 786
to the offense that was the subject of that complaint, 787
indictment, or information has expired; 788

(4) Determine whether any criminal proceedings are pending 789
against the applicant. 790

(F) (1) Subject to division (F) (2) of this section, if the 791
court finds that the applicant has demonstrated by a 792
preponderance of the evidence that the complaint, indictment, 793
information, or finding of not guilty that is the subject of the 794
application was the result of the applicant having been a victim 795
of human trafficking, the court shall grant the application and 796
order that the official records be expunged. 797

(2) The court shall not grant the application and order 798
that the official records be expunged unless the court 799
determines that the interests of the applicant in having the 800
official records pertaining to the complaint, indictment, or 801
information or finding of not guilty that is the subject of the 802
application expunged are not outweighed by any legitimate needs 803
of the government to maintain those records. 804

(G) If an expungement is ordered under division (F) of 805
this section, the court shall send notice of the order of 806
expungement to each public office or agency that the court has 807
reason to believe may have an official record pertaining to the 808
case. 809

(H) The proceedings in the case that is the subject of an 810
order issued under division (F) of this section shall be 811
considered not to have occurred and the official records shall 812
be expunged. The official records shall not be used for any 813
purpose, including a criminal records check under section 814
109.572 of the Revised Code. The applicant may, and the court 815
shall, reply that no record exists with respect to the applicant 816
upon any inquiry into the matter. 817

Section 2. That existing sections 2152.021, 2951.041, and 818
2953.38 of the Revised Code are hereby repealed. 819