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132nd General Assembly
Regular Session
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Sub. H. B. No. 56

A BILL

To amend sections 2152.021 and 2953.38 of the
Revised Code to revise the procedures by which a
person convicted of certain prostitution-related
offenses may apply for the expungement of the
record of conviction if the person's
participation in the offense was a result of
having been a victim of human trafficking and to
revise provisions regarding juvenile court
proceedings being held in abeyance when an
alleged delinquent child was a victim of
trafficking in persons.

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

Section 1. That sections 2152.021 and 2953.38 of the
Revised Code be amended to read as follows:

Sec. 2152.021. (A) (1) Subject to division (A) (2) of this
section, any person having knowledge of a child who appears to
be a juvenile traffic offender or to be a delinquent child may
file a sworn complaint with respect to that child in the
juvenile court of the county in which the child has a residence



or legal settlement or in which the traffic offense or 19
delinquent act allegedly occurred. The sworn complaint may be 20
upon information and belief, and, in addition to the allegation 21
that the child is a delinquent child or a juvenile traffic 22
offender, the complaint shall allege the particular facts upon 23
which the allegation that the child is a delinquent child or a 24
juvenile traffic offender is based. 25

If a child appears to be a delinquent child who is 26
eligible for a serious youthful offender dispositional sentence 27
under section 2152.11 of the Revised Code and if the prosecuting 28
attorney desires to seek a serious youthful offender 29
dispositional sentence under section 2152.13 of the Revised Code 30
in regard to the child, the prosecuting attorney of the county 31
in which the alleged delinquency occurs may initiate a case in 32
the juvenile court of the county by presenting the case to a 33
grand jury for indictment, by charging the child in a bill of 34
information as a serious youthful offender pursuant to section 35
2152.13 of the Revised Code, by requesting a serious youthful 36
offender dispositional sentence in the original complaint 37
alleging that the child is a delinquent child, or by filing with 38
the juvenile court a written notice of intent to seek a serious 39
youthful offender dispositional sentence. This paragraph does 40
not apply regarding the imposition of a serious youthful 41
offender dispositional sentence pursuant to section 2152.121 of 42
the Revised Code. 43

(2) Any person having knowledge of a child who appears to 44
be a delinquent child for violating a court order regarding the 45
child's adjudication as an unruly child for being an habitual 46
truant, may file a sworn complaint with respect to that child, 47
or with respect to that child and the parent, guardian, or other 48
person having care of the child, in the juvenile court of the 49

county in which the child has a residence or legal settlement or 50
in which the child is supposed to attend public school. The 51
sworn complaint may be upon information and belief and shall 52
allege that the child is a delinquent child for violating a 53
court order regarding the child's prior adjudication as an 54
unruly child for being a habitual truant and, in addition, the 55
particular facts upon which that allegation is based. If the 56
complaint contains allegations regarding the child's parent, 57
guardian, or other person having care of the child, the 58
complaint additionally shall allege that the parent, guardian, 59
or other person having care of the child has failed to cause the 60
child's attendance at school in violation of section 3321.38 of 61
the Revised Code and, in addition, the particular facts upon 62
which that allegation is based. 63

(B) Any person with standing under applicable law may file 64
a complaint for the determination of any other matter over which 65
the juvenile court is given jurisdiction by section 2151.23 of 66
the Revised Code. The complaint shall be filed in the county in 67
which the child who is the subject of the complaint is found or 68
was last known to be found. 69

(C) Within ten days after the filing of a complaint or the 70
issuance of an indictment, the court shall give written notice 71
of the filing of the complaint or the issuance of an indictment 72
and of the substance of the complaint or indictment to the 73
superintendent of a city, local, exempted village, or joint 74
vocational school district if the complaint or indictment 75
alleges that a child committed an act that would be a criminal 76
offense if committed by an adult, that the child was sixteen 77
years of age or older at the time of the commission of the 78
alleged act, and that the alleged act is any of the following: 79

(1) A violation of section 2923.122 of the Revised Code 80
that relates to property owned or controlled by, or to an 81
activity held under the auspices of, the board of education of 82
that school district; 83

(2) A violation of section 2923.12 of the Revised Code, of 84
a substantially similar municipal ordinance, or of section 85
2925.03 of the Revised Code that was committed on property owned 86
or controlled by, or at an activity held under the auspices of, 87
the board of education of that school district; 88

(3) A violation of section 2925.11 of the Revised Code 89
that was committed on property owned or controlled by, or at an 90
activity held under the auspices of, the board of education of 91
that school district, other than a violation of that section 92
that would be a minor drug possession offense if committed by an 93
adult; 94

(4) A violation of section 2903.01, 2903.02, 2903.03, 95
2903.04, 2903.11, 2903.12, 2907.02, or 2907.05 of the Revised 96
Code, or a violation of former section 2907.12 of the Revised 97
Code, that was committed on property owned or controlled by, or 98
at an activity held under the auspices of, the board of 99
education of that school district, if the victim at the time of 100
the commission of the alleged act was an employee of the board 101
of education of that school district; 102

(5) Complicity in any violation described in division (C) 103
(1), (2), (3), or (4) of this section that was alleged to have 104
been committed in the manner described in division (C) (1), (2), 105
(3), or (4) of this section, regardless of whether the act of 106
complicity was committed on property owned or controlled by, or 107
at an activity held under the auspices of, the board of 108
education of that school district. 109

(D) A public children services agency, acting pursuant to 110
a complaint or an action on a complaint filed under this 111
section, is not subject to the requirements of section 3127.23 112
of the Revised Code. 113

(E) For purposes of the record to be maintained by the 114
clerk under division (B) of section 2152.71 of the Revised Code, 115
when a complaint is filed that alleges that a child is a 116
delinquent child, the court shall determine if the victim of the 117
alleged delinquent act was sixty-five years of age or older or 118
permanently and totally disabled at the time of the alleged 119
commission of the act. 120

(F) (1) At any time after the filing of a complaint 121
alleging that a child is a delinquent child and before 122
adjudication, the court may hold a hearing to determine whether 123
to hold the complaint in abeyance pending the child's successful 124
completion of actions that constitute a method to divert the 125
child from the juvenile court system if the child agrees to the 126
hearing and either of the following applies: 127

(a) The act charged ~~would be~~ is a violation of section 128
2907.24, 2907.241, or 2907.25 of the Revised Code ~~if the child~~ 129
~~were an adult.~~ 130

(b) The court has reason to believe that the child is a 131
victim of a violation of section 2905.32 of the Revised Code, 132
regardless of whether any person has been convicted of a 133
violation of that section or of any other section for 134
victimizing the child, and the act charged is related to the 135
child's victimization. 136

(2) The prosecuting attorney has the right to participate 137
in any hearing held under division (F) (1) of this section, to 138

object to holding the complaint that is the subject of the 139
hearing in abeyance, and to make recommendations related to 140
diversion actions. No statement made by a child at a hearing 141
held under division (F)(1) of this section is admissible in any 142
subsequent proceeding against the child. 143

(3) If either division (F)(1)(a) or (b) of this section 144
applies, the court shall promptly appoint a guardian ad litem 145
for the child. The court shall not appoint the child's attorney 146
as guardian ad litem. If the court decides to hold the complaint 147
in abeyance, the guardian ad litem shall make recommendations 148
that are in the best interest of the child to the court. 149

(4) If after a hearing the court decides to hold the 150
complaint in abeyance, the court may make any orders regarding 151
placement, services, supervision, diversion actions, and 152
conditions of abeyance, including, but not limited to, 153
engagement in trauma-based behavioral health services or 154
education activities, that the court considers appropriate and 155
in the best interest of the child. The court may hold the 156
complaint in abeyance for up to ninety days while the child 157
engages in diversion actions. If the child violates the 158
conditions of abeyance or does not complete the diversion 159
actions to the court's satisfaction within ninety days, the 160
court may extend the period of abeyance ~~for not more than two~~ 161
additional ninety day periods until such time as the court is 162
satisfied that the child has complied with the conditions of 163
abeyance and has completed the diversion actions. 164

(5) If the court holds the complaint in abeyance and the 165
child complies with the conditions of abeyance and completes the 166
diversion actions to the court's satisfaction, the court shall 167
dismiss the complaint and order that the records pertaining to 168

the case be expunged immediately. If the child fails to complete 169
the diversion actions to the court's satisfaction, the court 170
shall proceed upon the complaint. 171

Sec. 2953.38. (A) As used in this section: 172

(1) "Expunge" means to destroy, delete, or erase a record 173
as appropriate for the record's physical or electronic form or 174
characteristic so that the record is permanently irretrievable. 175

(2) "Prosecutor" has the same meaning as in section 176
2953.31 of the Revised Code. 177

(3) "Record of conviction" means the record related to a 178
conviction of or plea of guilty to an offense. 179

(4) "Victim of human trafficking" means a person who is or 180
was a victim of a violation of section 2905.32 of the Revised 181
Code, regardless of whether anyone has been convicted of a 182
violation of that section or of any other section for 183
victimizing the person. 184

(B) Any person who is or was convicted of a violation of 185
section 2907.24, 2907.241, or 2907.25 of the Revised Code may 186
apply to the sentencing court for the expungement of the record 187
of conviction if the person's participation in the offense was a 188
result of the person having been a victim of human trafficking. 189
The person may file the application at any time. The application 190
shall do all of the following: 191

(1) Identify the applicant, the offense for which the 192
expungement is sought, the date of the conviction of that 193
offense, and the ~~court~~-case in which the conviction occurred; 194

(2) Describe the evidence and provide copies of any 195
documentation showing that the person is entitled to relief 196

under this section;	197
(3) Include a request for expungement of the record of conviction of that offense under this section.	198 199
(C) The court may deny an application made under division (B) of this section if it finds that the application fails to assert grounds on which relief may be granted.	200 201 202
(D) If the court does not deny an application under division (C) of this section, it shall set a date for a hearing and shall notify the prosecutor for the case from which the record of conviction resulted of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court may direct its regular probation officer, <u>or request</u> a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant.	203 204 205 206 207 208 209 210 211 212 213 214
(E) At the hearing held under division (D) of this section, the court shall do both of the following:	215 216
(1) If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection;	217 218 219
(2) Determine whether the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense was a result of having been a victim of human trafficking.	220 221 222 223
(F) If after a hearing the court finds that the applicant has demonstrated by a preponderance of the evidence that the	224 225

applicant's participation in the offense that is the subject of 226
the application was the result of the applicant having been a 227
victim of human trafficking, the court shall grant the 228
application and order that the record of conviction be expunged. 229

(G) (1) The court shall send notice of the order of 230
expungement to each public office or agency that the court has 231
reason to believe may have an official record pertaining to the 232
case if the court, after complying with division (E) of this 233
section, determines both of the following: 234

(a) That the applicant has been convicted of a violation 235
of section 2907.24, 2907.241, or 2907.25 of the Revised Code; 236

(b) That the interests of the applicant in having the 237
records pertaining to the applicant's conviction expunged are 238
not outweighed by any legitimate needs of the government to 239
maintain those records. 240

(2) The proceedings in the case that is the subject of an 241
order issued under division (F) of this section shall be 242
considered not to have occurred and the conviction of the person 243
who is the subject of the proceedings shall be expunged. The 244
record of the conviction shall not be used for any purpose, 245
including, but not limited to, a criminal records check under 246
section 109.572 of the Revised Code. The applicant may, and the 247
court shall, reply that no record exists with respect to the 248
applicant upon any inquiry into the matter. 249

(H) Upon the filing of an application under this section, 250
the applicant, unless indigent, shall pay a fee of fifty 251
dollars. The court shall pay thirty dollars of the fee into the 252
state treasury and shall pay twenty dollars of the fee into the 253
county general revenue fund. 254

(I) At the time an applicant files an application under 255
division (B) of this section, the following shall apply: 256

(1) The clerk of court shall notify the applicant in 257
writing that the court will send notice of any order under 258
division (F) of this section to the qualified third party 259
selected by the attorney general under section 109.38 of the 260
Revised Code and shall inform the applicant of the procedures 261
under section 109.381 of the Revised Code. 262

(2) The applicant shall then notify the clerk if the 263
applicant wishes to opt out of receiving the benefits of having 264
the court send notice of its order under division (F) of this 265
section to the qualified third party and having the procedures 266
under section 109.381 of the Revised Code apply to the records 267
that are subject to the order. 268

(3) If the applicant does not opt out under division (I) 269
(2) of this section, the applicant shall pay to the clerk of 270
court the fee provided in the contract between the attorney 271
general and the qualified third party under division (D) (2) (b) 272
of section 109.38 of the Revised Code. 273

(J) (1) Upon the issuance of an order under division (F) of 274
this section, and unless the applicant opts out under division 275
(I) (2) of this section, the clerk shall remit the fee paid by 276
the applicant under division (I) (3) of this section to the 277
qualified third party. The court shall send notice of the order 278
under division (F) of this section to the qualified third party. 279

(2) If the applicant's application under division (B) of 280
this section is denied for any reason or if the applicant 281
informs the clerk of court in writing, before the issuance of 282
the order under division (F) of this section, that the applicant 283

wishes to opt out of having the court send notice of its order 284
under division (F) of this section to the qualified third party, 285
the clerk shall remit the fee paid by the applicant under 286
division (I) (3) of this section that is intended for the 287
qualified third party back to the applicant. 288

Section 2. That existing sections 2152.021 and 2953.38 of 289
the Revised Code are hereby repealed. 290