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H.B. 87
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Antani

Jeff Hobday, Attorney

Summary

- Allows the sealing of criminal records pertaining to charges that were dismissed due to successful completion of an intervention plan when all of the following apply:
 - The person is charged with multiple offenses related to the same act;
 - One, and only one, of the charges is a conviction for operating a vehicle while under the influence of alcohol, a drug of abuse, or both (OVI) or having physical control of a vehicle while under the influence of illicit drugs or alcohol; and
 - At least one year has elapsed since the charge or charges were dismissed due to successful completion of the intervention plan.

Detailed Analysis

Sealing criminal records – multiple charges arising from one act

The bill allows the sealing of criminal records pertaining to charges dismissed due to successful completion of an intervention plan when a person is charged with multiple offenses related to the same act, and the final disposition of one, and only one, of the charges is a conviction for OVI (R.C. 4511.19) or having physical control of a vehicle while under the influence (R.C. 4511.194). The records may not be sealed until at least one year after the charges have been dismissed. Consistent with current law, the bill does not allow the court to seal the record of conviction for OVI or having physical control of a vehicle while under the influence.¹

The provision described above creates an exception to the general rule that a record involving multiple charges arising out of the same act may not be sealed until all the charges are eligible for sealing. Current law provides that if a person is charged with two or more offenses arising from the same act and at least one of the charges has a final disposition that is

¹ R.C. 2953.61(B)(2) and R.C. 2953.36(A)(2), not in the bill.

different from the rest, the person may not apply to seal the records until the person would be eligible to apply to have all of the records sealed. The only existing exception to the rule is when the following conditions apply:²

- The final disposition of one, and only one, of the charges is an otherwise unsealable conviction for a motor vehicle offense, other than OVI or having physical control of a vehicle while under the influence; and
- The records pertaining to all the other charges would be eligible for sealing under the Not Guilty/Dismissed Charge/No Bill Record Sealing Law (R.C. 2953.52) in the absence of that conviction.

Under the existing exception, the court may seal the records pertaining to all the charges. The court may not seal only a portion of the records. However, a person who holds a commercial driver's license (CDL) or CDL temporary instruction permit may not have such records sealed.³

Application to previously dismissed charges

The bill specifies that its provisions apply to any application for the sealing of a person's record on or after the bill's effective date, regardless of whether the charges subject to the application were dismissed prior to the bill's effective date.⁴

Background: intervention in lieu of conviction

As a condition of record sealing, the bill requires that the person had one or more charges dismissed due to successful completion of an intervention plan. The intervention plan is part of a procedure known as intervention in lieu of conviction (ILC). When a court grants a defendant's request for ILC, it places the person under the supervision of an appropriate local or state probation, parole, or court services agency, as if the person was subject to a community control sanction, and establishes an intervention plan for the person. The intervention plan must, at a minimum, require the offender to abstain from illegal drugs and alcohol for at least one year, to participate in treatment and recovery support services, and to submit to random testing for drug and alcohol use. If the person successfully completes the intervention plan, the court must dismiss the charges against the person.⁵

History

Action	Date
Introduced	02-20-19

H0087-I-133/ts

² R.C. 2953.61(A) and (B)(1).

³ R.C. 2953.61(B)(1) and (C).

⁴ Section 3.

⁵ R.C. 2951.041(D) and (E), not in the bill.