

As Reported by the Senate Criminal Justice Committee

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 164

Representatives Pelanda, Rogers

Cosponsors: Representatives Becker, Fedor, Rezabek, Smith, K., Lepore-Hagan, Sykes, Antonio, Ashford, Baker, Boyce, Boyd, Brenner, Buchy, Cera, Clyde, Craig, Grossman, Howse, Johnson, G., Johnson, T., Kuhns, Leland, Manning, McClain, O'Brien, M., O'Brien, S., Patterson, Perales, Phillips, Ramos, Reece, Retherford, Sheehy, Slesnick, Sprague, Stinziano, Sweeney, Young

Senator Eklund

A BILL

To amend sections 2953.36 and 2953.51 of the 1
Revised Code to allow a person who is convicted 2
of an offense that may not be sealed to apply to 3
have the conviction sealed if, before the person 4
makes that application, the offense is changed 5
so that it may be sealed and to specify that 6
investigation reports the Inspector General 7
maintains are not official records sealable 8
under the Not Guilty/Dismissed Charges/No Bill 9
Record Sealing Law. 10

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

Section 1. That sections 2953.36 and 2953.51 of the 11
Revised Code be amended to read as follows: 12

Sec. 2953.36. ~~Sections~~ (A) Except as otherwise provided in 13
division (B) of this section, sections 2953.31 to 2953.35 of the 14

Revised Code do not apply to any of the following: 15

~~(A)~~ (1) Convictions when the offender is subject to a 16
mandatory prison term; 17

~~(B)~~ (2) Convictions under section 2907.02, 2907.03, 18
2907.04, 2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, 19
former section 2907.12, or Chapter 4507., 4510., 4511., or 4549. 20
of the Revised Code, or a conviction for a violation of a 21
municipal ordinance that is substantially similar to any section 22
contained in any of those chapters, except as otherwise provided 23
in section 2953.61 of the Revised Code; 24

~~(C)~~ (3) Convictions of an offense of violence when the 25
offense is a misdemeanor of the first degree or a felony and 26
when the offense is not a violation of section 2917.03 of the 27
Revised Code and is not a violation of section 2903.13, 2917.01, 28
or 2917.31 of the Revised Code that is a misdemeanor of the 29
first degree; 30

~~(D)~~ (4) Convictions on or after October 10, 2007, under 31
section 2907.07 of the Revised Code or a conviction on or after 32
October 10, 2007, for a violation of a municipal ordinance that 33
is substantially similar to that section; 34

~~(E)~~ (5) Convictions on or after October 10, 2007, under 35
section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 36
2907.311, 2907.32, or 2907.33 of the Revised Code when the 37
victim of the offense was under eighteen years of age; 38

~~(F)~~ (6) Convictions of an offense in circumstances in 39
which the victim of the offense was under eighteen years of age 40
when the offense is a misdemeanor of the first degree or a 41
felony, except for convictions under section 2919.21 of the 42
Revised Code; 43

~~(G)~~ (7) Convictions of a felony of the first or second degree; 44
45

~~(H)~~ (8) Bail forfeitures in a traffic case as defined in Traffic Rule 2. 46
47

(B) Sections 2953.31 to 2953.35 of the Revised Code apply to a conviction listed in this section if, on the date of the conviction, those sections did not apply to the conviction, but after the date of the conviction, the penalty for or classification of the offense was changed so that those sections apply to the conviction. 48
49
50
51
52
53

Sec. 2953.51. As used in sections 2953.51 to 2953.56 of the Revised Code: 54
55

(A) "No bill" means a report by the foreperson or deputy foreperson of a grand jury that an indictment is not found by the grand jury against a person who has been held to answer before the grand jury for the commission of an offense. 56
57
58
59

(B) "Prosecutor" has the same meaning as in section 2953.31 of the Revised Code. 60
61

(C) "Court" means the court in which a case is pending at the time a finding of not guilty in the case or a dismissal of the complaint, indictment, or information in the case is entered on the minutes or journal of the court, or the court to which the foreperson or deputy foreperson of a grand jury reports, pursuant to section 2939.23 of the Revised Code, that the grand jury has returned a no bill. 62
63
64
65
66
67
68

(D) "Official records" means all records that are possessed by any public office or agency that relate to a criminal case, including, but not limited to: the notation to the case in the criminal docket; all subpoenas issued in the 69
70
71
72

case; all papers and documents filed by the defendant or the 73
prosecutor in the case; all records of all testimony and 74
evidence presented in all proceedings in the case; all court 75
files, papers, documents, folders, entries, affidavits, or writs 76
that pertain to the case; all computer, microfilm, microfiche, 77
or microdot records, indices, or references to the case; all 78
index references to the case; all fingerprints and photographs; 79
all DNA specimens, DNA records, and DNA profiles; all records 80
and investigative reports pertaining to the case that are 81
possessed by any law enforcement officer or agency, except that 82
any records or reports that are the specific investigatory work 83
product of a law enforcement officer or agency are not and shall 84
not be considered to be official records when they are in the 85
possession of that officer or agency; and all investigative 86
records and reports other than those possessed by a law 87
enforcement officer or agency pertaining to the case. "Official 88
records" does not include records or reports maintained pursuant 89
to section 2151.421 of the Revised Code by a public children 90
services agency or the department of job and family services or 91
reports of investigations maintained by the inspector general 92
pursuant to section 121.42 of the Revised Code. 93

(E) "DNA database," "DNA record," "DNA specimen," and "law 94
enforcement agency" have the same meanings as in section 109.573 95
of the Revised Code. 96

(F) "Fingerprints filed for record" has the same meaning 97
as in section 2953.31 of the Revised Code. 98

Section 2. That existing sections 2953.36 and 2953.51 of 99
the Revised Code are hereby repealed. 100