

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 235**

**Senator Eklund**

**Cosponsors: Senators Skindell, Lehner**

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**A BILL**

To amend sections 2929.17, 2953.32, and 2953.36 and 1  
to enact section 2950.151 of the Revised Code to 2  
create a procedure for certain tier II sex 3  
offenders convicted of unlawful sexual conduct 4  
with a minor to petition a court for 5  
reclassification or removal from the sex 6  
offender registry and to permit record sealing 7  
in those cases. 8

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

**Section 1.** That sections 2929.17, 2953.32, and 2953.36 be 9  
amended and section 2950.151 of the Revised Code be enacted to 10  
read as follows: 11

**Sec. 2929.17.** Except as provided in this section, the 12  
court imposing a sentence for a felony upon an offender who is 13  
not required to serve a mandatory prison term may impose any 14  
nonresidential sanction or combination of nonresidential 15  
sanctions authorized under this section. If the court imposes 16  
one or more nonresidential sanctions authorized under this 17  
section, the court shall impose as a condition of the sanction 18

that, during the period of the nonresidential sanction, the 19  
offender shall abide by the law and shall not leave the state 20  
without the permission of the court or the offender's probation 21  
officer. 22

The court imposing a sentence for a fourth degree felony 23  
OVI offense under division (G) (1) or (2) of section 2929.13 of 24  
the Revised Code or for a third degree felony OVI offense under 25  
division (G) (2) of that section may impose upon the offender, in 26  
addition to the mandatory term of local incarceration or 27  
mandatory prison term imposed under the applicable division, a 28  
nonresidential sanction or combination of nonresidential 29  
sanctions under this section, and the offender shall serve or 30  
satisfy the sanction or combination of sanctions after the 31  
offender has served the mandatory term of local incarceration or 32  
mandatory prison term required for the offense. The court shall 33  
not impose a term in a drug treatment program as described in 34  
division (D) of this section until after considering an 35  
assessment by a properly credentialed treatment professional, if 36  
available. Nonresidential sanctions include, but are not limited 37  
to, the following: 38

(A) A term of day reporting; 39

(B) A term of house arrest with electronic monitoring or 40  
continuous alcohol monitoring or both electronic monitoring and 41  
continuous alcohol monitoring, a term of electronic monitoring 42  
or continuous alcohol monitoring without house arrest, or a term 43  
of house arrest without electronic monitoring or continuous 44  
alcohol monitoring; 45

(C) A term of community service of up to five hundred 46  
hours pursuant to division (B) of section 2951.02 of the Revised 47  
Code or, if the court determines that the offender is 48

financially incapable of fulfilling a financial sanction	49
described in section 2929.18 of the Revised Code, a term of	50
community service as an alternative to a financial sanction;	51
(D) A term in a drug treatment program with a level of	52
security for the offender as determined by the court;	53
(E) A term of intensive probation supervision;	54
(F) A term of basic probation supervision;	55
(G) A term of monitored time;	56
(H) A term of drug and alcohol use monitoring, including	57
random drug testing;	58
(I) A curfew term;	59
(J) A requirement that the offender obtain employment;	60
(K) A requirement that the offender obtain education or	61
training;	62
(L) Provided the court obtains the prior approval of the	63
victim, a requirement that the offender participate in victim-	64
offender mediation;	65
(M) A license violation report;	66
(N) If the offense is a violation of section 2919.25 or a	67
violation of section 2903.11, 2903.12, or 2903.13 of the Revised	68
Code involving a person who was a family or household member at	69
the time of the violation, if the offender committed the offense	70
in the vicinity of one or more children who are not victims of	71
the offense, and if the offender or the victim of the offense is	72
a parent, guardian, custodian, or person in loco parentis of one	73
or more of those children, a requirement that the offender	74
obtain counseling. This division does not limit the court in	75

requiring the offender to obtain counseling for any offense or 76  
in any circumstance not specified in this division. 77

(0) If the offense is a violation of section 2907.04 of 78  
the Revised Code and the offender was under twenty-one years of 79  
age at the time of committing the offense, a requirement that 80  
the offender participate in a sex offender treatment program 81  
certified by the department of rehabilitation and correction 82  
pursuant to section 2950.16 of the Revised Code. 83

**Sec. 2950.151.** (A) As used in this section, "eligible 84  
offender" means an offender who was convicted of or pleaded 85  
guilty to a violation of section 2907.04 of the Revised Code to 86  
whom all of the following apply: 87

(1) The sentencing court found the offender at low risk of 88  
reoffending based on a presentence investigation report that 89  
included a risk assessment, assessed by the single validated 90  
risk assessment tool selected by the department of 91  
rehabilitation and correction under section 5120.114 of the 92  
Revised Code; 93

(2) The sentencing court imposed a community control 94  
sanction or combination of community control sanctions instead 95  
of a prison term and the offender has fulfilled every condition 96  
of every community control sanction imposed by the sentencing 97  
court; 98

(3) The offender was under twenty-one years of age at the 99  
time of committing the offense; 100

(4) The offender has not otherwise been convicted of or 101  
pleaded guilty to a violation of section 2907.02, 2907.03, 102  
former section 2907.12 of the Revised Code, or another violation 103  
of section 2907.04 of the Revised Code; 104

(5) The minor with whom the offender engaged in sexual 105  
conduct was at least fourteen years of age at the time of the 106  
offense and consented to the sexual conduct, with no evidence of 107  
coercion, force, or threat of force; 108

(6) The offender was not in a position of authority over 109  
the minor with whom the offender engaged in sexual conduct. 110

(B) Upon completion of all community control sanctions 111  
imposed by the sentencing court, the offender may petition the 112  
appropriate court specified in division (C) of this section to 113  
review the effectiveness of the offender's participation in 114  
community control sanctions and to determine whether to 115  
terminate the offender's duty to comply with sections 2950.04, 116  
2950.05, and 2950.06 of the Revised Code, reclassify the 117  
offender as a tier I sex offender/child-victim offender, or 118  
continue the offender's current classification. 119

(C) Except as otherwise provided in this division, the 120  
eligible offender shall file the petition described in division 121  
(B) of this section in the court in which the eligible offender 122  
was convicted of or pleaded guilty to the offense. If the 123  
eligible offender was convicted of or pleaded guilty to the 124  
offense in a jurisdiction other than this state, the eligible 125  
offender shall file the petition in whichever of the following 126  
courts is applicable: 127

(1) If the eligible offender is a resident of this state, 128  
in the court of common pleas of the county in which the offender 129  
resides; 130

(2) If the eligible offender is not a resident of this 131  
state, in the court of common pleas of the county in which the 132  
offender has registered pursuant to section 2950.04 of the 133

Revised Code. If the offender has registered addresses of that 134  
nature in more than one county, the offender may file a petition 135  
in the court of only one of those counties. 136

(D) An eligible offender who files a petition under 137  
division (B) of this section shall include all of the following 138  
with the petition: 139

(1) A certified copy of the judgment entry and any other 140  
documentation of the sentence given for the offense for which 141  
the eligible offender was convicted or pleaded guilty; 142

(2) Documentation of the date of discharge from probation 143  
supervision, if applicable; 144

(3) Evidence that the eligible offender has completed a 145  
sex offender treatment program certified by the department of 146  
rehabilitation and correction pursuant to section 2950.16 of the 147  
Revised Code; 148

(4) Any other evidence necessary to show that the offender 149  
meets the qualifications listed in division (A) of this section; 150

(5) Evidence that the eligible offender has been 151  
rehabilitated to a satisfactory degree by successful completion 152  
of community control sanctions. 153

(E) An eligible offender may obtain, at the offender's 154  
expense, a risk assessment or professional opinion recommending 155  
relief under this section from a licensed clinical psychologist, 156  
social worker, or other professional certified in sex offender 157  
treatment. The professional opinion or risk assessment may be 158  
submitted with the petition as additional evidence of 159  
rehabilitation. 160

(F) After a hearing to review the offender's petition and 161

all evidence of rehabilitation accompanying the petition, the 162  
court shall enter one of the following orders: 163

(1) An order to terminate the offender's duty to comply 164  
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 165

(2) An order to reclassify the offender from a tier II sex 166  
offender/child-victim offender classification to a tier I sex 167  
offender/child-victim offender classification; 168

(3) An order to continue the offender's classification as 169  
a tier II sex offender/child-victim offender required to comply 170  
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 171

(G) After issuing an order pursuant to division (F) of 172  
this section, the court shall provide a copy of the order to the 173  
offender and the bureau of criminal identification and 174  
investigation. The bureau, upon receipt of the copy, shall 175  
promptly notify the sheriff with whom the offender most recently 176  
registered under section 2950.04 or 2950.05 of the Revised Code 177  
of the court's order. 178

(H) (1) An order issued under division (F) (2) or (3) of 179  
this section shall remain in effect for the duration of the 180  
offender's duty to comply with sections 2950.04, 2950.05, and 181  
2950.06 of the Revised Code, as specified in section 2950.07 of 182  
the Revised Code, except that an eligible offender may refile a 183  
petition under this section at the time prescribed under 184  
division (H) (2) of this section. An order issued under division 185  
(F) (2) or (3) of this section shall not increase the duration of 186  
the offender's duty to comply with sections 2950.04, 2950.05, 187  
and 2950.06 of the Revised Code. 188

(2) After the offender's initial petition filed under this 189  
section, if the court entered an order continuing the offender's 190

classification or reclassifying the offender, the offender may 191  
file a second petition not earlier than three years after the 192  
court entered the first order. After the second petition, the 193  
offender may file one subsequent petition not earlier than five 194  
years after the most recent order continuing the offender's 195  
classification or reclassifying the offender. A petition filed 196  
under this division shall comply with the requirements described 197  
in divisions (C), (D), and (E) of this section. 198

(3) Upon the filing of a petition pursuant to division (H) 199  
(2) of this section, the court shall schedule a hearing and 200  
review any previous order entered under this section, consider 201  
all of the documents previously submitted, and evaluate any new 202  
evidence of rehabilitation presented with the petition. After a 203  
hearing on the petition, the court may deny the petition or do 204  
either of the following: 205

(a) If the previous order continued the offender's 206  
classification as a tier II sex offender/child-victim offender, 207  
reclassify the offender as a tier I sex offender/child-victim 208  
offender or terminate the offender's duty to comply with 209  
sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 210

(b) If the previous order reclassified the offender as a 211  
tier I sex offender/child-victim offender, terminate the 212  
offender's duty to comply with sections 2950.04, 2950.05, and 213  
2950.06 of the Revised Code. 214

**Sec. 2953.32.** (A) (1) Except as provided in section 2953.61 215  
of the Revised Code, an eligible offender may apply to the 216  
sentencing court if convicted in this state, or to a court of 217  
common pleas if convicted in another state or in a federal 218  
court, for the sealing of the record of the case that pertains 219  
to the conviction. Application may be made at the expiration of 220



three years after the offender's final discharge if convicted of 221  
a felony, or at the expiration of one year after the offender's 222  
final discharge if convicted of a misdemeanor. 223

(2) Any person who has been arrested for any misdemeanor 224  
offense and who has effected a bail forfeiture for the offense 225  
charged may apply to the court in which the misdemeanor criminal 226  
case was pending when bail was forfeited for the sealing of the 227  
record of the case that pertains to the charge. Except as 228  
provided in section 2953.61 of the Revised Code, the application 229  
may be filed at any time after the expiration of one year from 230  
the date on which the bail forfeiture was entered upon the 231  
minutes of the court or the journal, whichever entry occurs 232  
first. 233

(B) Upon the filing of an application under this section, 234  
the court shall set a date for a hearing and shall notify the 235  
prosecutor for the case of the hearing on the application. The 236  
prosecutor may object to the granting of the application by 237  
filing an objection with the court prior to the date set for the 238  
hearing. The prosecutor shall specify in the objection the 239  
reasons for believing a denial of the application is justified. 240  
The court shall direct its regular probation officer, a state 241  
probation officer, or the department of probation of the county 242  
in which the applicant resides to make inquiries and written 243  
reports as the court requires concerning the applicant. The 244  
probation officer or county department of probation that the 245  
court directs to make inquiries concerning the applicant shall 246  
determine whether or not the applicant was fingerprinted at the 247  
time of arrest or under section 109.60 of the Revised Code. If 248  
the applicant was so fingerprinted, the probation officer or 249  
county department of probation shall include with the written 250  
report a record of the applicant's fingerprints. If the 251

applicant was convicted of or pleaded guilty to a violation of 252  
division (A) (2) or (B) of section 2919.21 of the Revised Code, 253  
the probation officer or county department of probation that the 254  
court directed to make inquiries concerning the applicant shall 255  
contact the child support enforcement agency enforcing the 256  
applicant's obligations under the child support order to inquire 257  
about the offender's compliance with the child support order. 258

(C) (1) The court shall do each of the following: 259

(a) Determine whether the applicant is an eligible 260  
offender or whether the forfeiture of bail was agreed to by the 261  
applicant and the prosecutor in the case. If the applicant 262  
applies as an eligible offender pursuant to division (A) (1) of 263  
this section and has two or three convictions that result from 264  
the same indictment, information, or complaint, from the same 265  
plea of guilty, or from the same official proceeding, and result 266  
from related criminal acts that were committed within a three- 267  
month period but do not result from the same act or from 268  
offenses committed at the same time, in making its determination 269  
under this division, the court initially shall determine whether 270  
it is not in the public interest for the two or three 271  
convictions to be counted as one conviction. If the court 272  
determines that it is not in the public interest for the two or 273  
three convictions to be counted as one conviction, the court 274  
shall determine that the applicant is not an eligible offender; 275  
if the court does not make that determination, the court shall 276  
determine that the offender is an eligible offender. 277

(b) Determine whether criminal proceedings are pending 278  
against the applicant; 279

(c) If the applicant is an eligible offender who applies 280  
pursuant to division (A) (1) of this section, determine whether 281

the applicant has been rehabilitated to the satisfaction of the 282  
court; 283

(d) If the prosecutor has filed an objection in accordance 284  
with division (B) of this section, consider the reasons against 285  
granting the application specified by the prosecutor in the 286  
objection; 287

(e) Weigh the interests of the applicant in having the 288  
records pertaining to the applicant's conviction or bail 289  
forfeiture sealed against the legitimate needs, if any, of the 290  
government to maintain those records. 291

(f) If the applicant is an eligible offender of the type 292  
described in division (A) (3) of section 2953.36 of the Revised 293  
Code, determine whether the offender has been rehabilitated to a 294  
satisfactory degree. The court may consider all of the 295  
following: 296

(i) The age of the offender; 297

(ii) The facts and circumstances of the offense; 298

(iii) The cessation or continuation of criminal behavior; 299

(iv) The education and employment history of the offender; 300

(v) Any other circumstances that may relate to the 301  
offender's rehabilitation. 302

(2) If the court determines, after complying with division 303  
(C) (1) of this section, that the applicant is an eligible 304  
offender or the subject of a bail forfeiture, that no criminal 305  
proceeding is pending against the applicant, that the interests 306  
of the applicant in having the records pertaining to the 307  
applicant's conviction or bail forfeiture sealed are not 308  
outweighed by any legitimate governmental needs to maintain 309

those records, and that the rehabilitation of an applicant who 310  
is an eligible offender applying pursuant to division (A) (1) of 311  
this section has been attained to the satisfaction of the court, 312  
the court, except as provided in division (C) (4), (G), (H), or 313  
(I) of this section, shall order all official records of the 314  
case that pertain to the conviction or bail forfeiture sealed 315  
and, except as provided in division (F) of this section, all 316  
index references to the case that pertain to the conviction or 317  
bail forfeiture deleted and, in the case of bail forfeitures, 318  
shall dismiss the charges in the case. The proceedings in the 319  
case that pertain to the conviction or bail forfeiture shall be 320  
considered not to have occurred and the conviction or bail 321  
forfeiture of the person who is the subject of the proceedings 322  
shall be sealed, except that upon conviction of a subsequent 323  
offense, the sealed record of prior conviction or bail 324  
forfeiture may be considered by the court in determining the 325  
sentence or other appropriate disposition, including the relief 326  
provided for in sections 2953.31 to 2953.33 of the Revised Code. 327

(3) An applicant may request the sealing of the records of 328  
more than one case in a single application under this section. 329  
Upon the filing of an application under this section, the 330  
applicant, unless indigent, shall pay a fee of fifty dollars, 331  
regardless of the number of records the application requests to 332  
have sealed. The court shall pay thirty dollars of the fee into 333  
the state treasury. It shall pay twenty dollars of the fee into 334  
the county general revenue fund if the sealed conviction or bail 335  
forfeiture was pursuant to a state statute, or into the general 336  
revenue fund of the municipal corporation involved if the sealed 337  
conviction or bail forfeiture was pursuant to a municipal 338  
ordinance. 339

(4) If the court orders the official records pertaining to 340

the case sealed, the court shall do one of the following: 341

(a) If the applicant was fingerprinted at the time of 342  
arrest or under section 109.60 of the Revised Code and the 343  
record of the applicant's fingerprints was provided to the court 344  
under division (B) of this section, forward a copy of the 345  
sealing order and the record of the applicant's fingerprints to 346  
the bureau of criminal identification and investigation. 347

(b) If the applicant was not fingerprinted at the time of 348  
arrest or under section 109.60 of the Revised Code, or the 349  
record of the applicant's fingerprints was not provided to the 350  
court under division (B) of this section, but fingerprinting was 351  
required for the offense, order the applicant to appear before a 352  
sheriff to have the applicant's fingerprints taken according to 353  
the fingerprint system of identification on the forms furnished 354  
by the superintendent of the bureau of criminal identification 355  
and investigation. The sheriff shall forward the applicant's 356  
fingerprints to the court. The court shall forward the 357  
applicant's fingerprints and a copy of the sealing order to the 358  
bureau of criminal identification and investigation. 359

Failure of the court to order fingerprints at the time of 360  
sealing does not constitute a reversible error. 361

(5) At the time an applicant files an application under 362  
division (A) of this section, the following shall apply: 363

(a) The clerk of court shall notify the applicant in 364  
writing that the court will send notice of any order under 365  
division (C)(2) of this section to the qualified third party 366  
selected by the attorney general under section 109.38 of the 367  
Revised Code and shall inform the applicant of the procedures 368  
under section 109.381 of the Revised Code. 369

(b) The applicant shall then notify the clerk if the 370  
applicant wishes to opt out of receiving the benefits of having 371  
the court send notice of its order under division (C) (2) of this 372  
section to the qualified third party and having the procedures 373  
under section 109.381 of the Revised Code apply to the records 374  
that are subject to the order. 375

(c) If the applicant does not opt out under division (C) 376  
(5) (b) of this section, the applicant shall pay to the clerk of 377  
court the fee provided in the contract between the attorney 378  
general and the qualified third party under division (D) (2) (b) 379  
of section 109.38 of the Revised Code. 380

(6) (a) Upon the issuance of an order under division (C) (2) 381  
of this section, and unless the applicant opts out under 382  
division (C) (5) (b) of this section, the clerk shall remit the 383  
fee paid by the applicant under division (C) (5) (c) of this 384  
section to the qualified third party. The court shall send 385  
notice of the order under division (C) (2) of this section to the 386  
qualified third party. 387

(b) If the applicant's application under division (A) of 388  
this section is denied for any reason or if the applicant 389  
informs the clerk of court in writing, before the issuance of 390  
the order under division (C) (2) of this section, that the 391  
applicant wishes to opt out of having the court send notice of 392  
its order under division (C) (2) of this section to the qualified 393  
third party, the clerk shall remit the fee paid by the applicant 394  
under division (C) (5) (c) of this section that is intended for 395  
the qualified third party back to the applicant. 396

(D) Inspection of the sealed records included in the order 397  
may be made only by the following persons or for the following 398  
purposes: 399

(1) By a law enforcement officer or prosecutor, or the 400  
assistants of either, to determine whether the nature and 401  
character of the offense with which a person is to be charged 402  
would be affected by virtue of the person's previously having 403  
been convicted of a crime; 404

(2) By the parole or probation officer of the person who 405  
is the subject of the records, for the exclusive use of the 406  
officer in supervising the person while on parole or under a 407  
community control sanction or a post-release control sanction, 408  
and in making inquiries and written reports as requested by the 409  
court or adult parole authority; 410

(3) Upon application by the person who is the subject of 411  
the records, by the persons named in the application; 412

(4) By a law enforcement officer who was involved in the 413  
case, for use in the officer's defense of a civil action arising 414  
out of the officer's involvement in that case; 415

(5) By a prosecuting attorney or the prosecuting 416  
attorney's assistants, to determine a defendant's eligibility to 417  
enter a pre-trial diversion program established pursuant to 418  
section 2935.36 of the Revised Code; 419

(6) By any law enforcement agency or any authorized 420  
employee of a law enforcement agency or by the department of 421  
rehabilitation and correction or department of youth services as 422  
part of a background investigation of a person who applies for 423  
employment with the agency or with the department; 424

(7) By any law enforcement agency or any authorized 425  
employee of a law enforcement agency, for the purposes set forth 426  
in, and in the manner provided in, section 2953.321 of the 427  
Revised Code; 428

(8) By the bureau of criminal identification and 429  
investigation or any authorized employee of the bureau for the 430  
purpose of providing information to a board or person pursuant 431  
to division (F) or (G) of section 109.57 of the Revised Code; 432

(9) By the bureau of criminal identification and 433  
investigation or any authorized employee of the bureau for the 434  
purpose of performing a criminal history records check on a 435  
person to whom a certificate as prescribed in section 109.77 of 436  
the Revised Code is to be awarded; 437

(10) By the bureau of criminal identification and 438  
investigation or any authorized employee of the bureau for the 439  
purpose of conducting a criminal records check of an individual 440  
pursuant to division (B) of section 109.572 of the Revised Code 441  
that was requested pursuant to any of the sections identified in 442  
division (B)(1) of that section; 443

(11) By the bureau of criminal identification and 444  
investigation, an authorized employee of the bureau, a sheriff, 445  
or an authorized employee of a sheriff in connection with a 446  
criminal records check described in section 311.41 of the 447  
Revised Code; 448

(12) By the attorney general or an authorized employee of 449  
the attorney general or a court for purposes of determining a 450  
person's classification pursuant to Chapter 2950. of the Revised 451  
Code; 452

(13) By a court, the registrar of motor vehicles, a 453  
prosecuting attorney or the prosecuting attorney's assistants, 454  
or a law enforcement officer for the purpose of assessing points 455  
against a person under section 4510.036 of the Revised Code or 456  
for taking action with regard to points assessed. 457



When the nature and character of the offense with which a person is to be charged would be affected by the information, it may be used for the purpose of charging the person with an offense.

(E) In any criminal proceeding, proof of any otherwise admissible prior conviction may be introduced and proved, notwithstanding the fact that for any such prior conviction an order of sealing previously was issued pursuant to sections 2953.31 to 2953.36 of the Revised Code.

(F) The person or governmental agency, office, or department that maintains sealed records pertaining to convictions or bail forfeitures that have been sealed pursuant to this section may maintain a manual or computerized index to the sealed records. The index shall contain only the name of, and alphanumeric identifiers that relate to, the persons who are the subject of the sealed records, the word "sealed," and the name of the person, agency, office, or department that has custody of the sealed records, and shall not contain the name of the crime committed. The index shall be made available by the person who has custody of the sealed records only for the purposes set forth in divisions (C), (D), and (E) of this section.

(G) Notwithstanding any provision of this section or section 2953.33 of the Revised Code that requires otherwise, a board of education of a city, local, exempted village, or joint vocational school district that maintains records of an individual who has been permanently excluded under sections 3301.121 and 3313.662 of the Revised Code is permitted to maintain records regarding a conviction that was used as the basis for the individual's permanent exclusion, regardless of a

court order to seal the record. An order issued under this 488  
section to seal the record of a conviction does not revoke the 489  
adjudication order of the superintendent of public instruction 490  
to permanently exclude the individual who is the subject of the 491  
sealing order. An order issued under this section to seal the 492  
record of a conviction of an individual may be presented to a 493  
district superintendent as evidence to support the contention 494  
that the superintendent should recommend that the permanent 495  
exclusion of the individual who is the subject of the sealing 496  
order be revoked. Except as otherwise authorized by this 497  
division and sections 3301.121 and 3313.662 of the Revised Code, 498  
any school employee in possession of or having access to the 499  
sealed conviction records of an individual that were the basis 500  
of a permanent exclusion of the individual is subject to section 501  
2953.35 of the Revised Code. 502

(H) For purposes of sections 2953.31 to 2953.36 of the 503  
Revised Code, DNA records collected in the DNA database and 504  
fingerprints filed for record by the superintendent of the 505  
bureau of criminal identification and investigation shall not be 506  
sealed unless the superintendent receives a certified copy of a 507  
final court order establishing that the offender's conviction 508  
has been overturned. For purposes of this section, a court order 509  
is not "final" if time remains for an appeal or application for 510  
discretionary review with respect to the order. 511

(I) The sealing of a record under this section does not 512  
affect the assessment of points under section 4510.036 of the 513  
Revised Code and does not erase points assessed against a person 514  
as a result of the sealed record. 515

**Sec. 2953.36.** (A) Except as otherwise provided in division 516  
(B) of this section, sections 2953.31 to 2953.35 of the Revised 517

Code do not apply to any of the following:	518
(1) Convictions when the offender is subject to a mandatory prison term;	519 520
(2) Convictions under section 2907.02, 2907.03, <del>2907.04,</del> 2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former section 2907.12, or Chapter 4506., 4507., 4510., 4511., or 4549. of the Revised Code, or a conviction for a violation of a municipal ordinance that is substantially similar to any section contained in any of those chapters, except as otherwise provided in section 2953.61 of the Revised Code;	521 522 523 524 525 526 527
(3) <u>Convictions under section 2907.04 of the Revised Code, unless a court has issued an order pursuant to section 2950.151 of the Revised Code to terminate the offender's duty to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code;</u>	528 529 530 531
<u>(4)</u> Convictions of an offense of violence when the offense is a misdemeanor of the first degree or a felony and when the offense is not a violation of section 2917.03 of the Revised Code and is not a violation of section 2903.13, 2917.01, or 2917.31 of the Revised Code that is a misdemeanor of the first degree;	532 533 534 535 536 537
<del>(4)</del> <u>(5)</u> Convictions on or after October 10, 2007, under section 2907.07 of the Revised Code or a conviction on or after October 10, 2007, for a violation of a municipal ordinance that is substantially similar to that section;	538 539 540 541
<del>(5)</del> <u>(6)</u> Convictions on or after October 10, 2007, under section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 2907.311, 2907.32, or 2907.33 of the Revised Code when the victim of the offense was under eighteen years of age;	542 543 544 545
<del>(6)</del> <u>(7)</u> Convictions of an offense in circumstances in	546

which the victim of the offense was less than sixteen years of 547  
age when the offense is a misdemeanor of the first degree or a 548  
felony, except for convictions under section 2919.21 of the 549  
Revised Code; 550

~~(7)~~(8) Convictions of a felony of the first or second 551  
degree; 552

~~(8)~~(9) Bail forfeitures in a traffic case as defined in 553  
Traffic Rule 2. 554

(B) Sections 2953.31 to 2953.35 of the Revised Code apply 555  
to a conviction listed in this section if, on the date of the 556  
conviction, those sections did not apply to the conviction, but 557  
after the date of the conviction, the penalty for or 558  
classification of the offense was changed so that those sections 559  
apply to the conviction. 560

**Section 2.** That existing sections 2929.17, 2953.32, and 561  
2953.36 of the Revised Code are hereby repealed. 562

**Section 3.** Section 2953.36 of the Revised Code is 563  
presented in this act as a composite of the section as amended 564  
by Sub. H.B. 53, Sub. H.B. 56, and Am. Sub. H.B. 164, all of the 565  
131st General Assembly. The General Assembly, applying the 566  
principle stated in division (B) of section 1.52 of the Revised 567  
Code that amendments are to be harmonized if reasonably capable 568  
of simultaneous operation, finds that the composite is the 569  
resulting version of the section in effect prior to the 570  
effective date of the section as presented in this act. 571