

**As Reported by the Senate Judiciary Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. S. B. No. 47**

**Senator Eklund**

**Cosponsors: Senators Thomas, Manning, Coley, Gavarone**

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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 offenders 3  
convicted of unlawful sexual conduct with a 4  
minor to petition a court for reclassification 5  
or removal from duties under the Sex Offender 6  
Registration and Notification Law and to permit 7  
record sealing 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

(O) 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 either of the following: 85

(1) An offender who was convicted of or pleaded guilty to 86  
a violation of section 2907.04 of the Revised Code to whom all 87  
of the following apply: 88

(a) The sentencing court found the offender to be at low 89  
risk of reoffending based on a presentence investigation report 90  
that included a risk assessment, assessed by the single 91  
validated risk assessment tool selected by the department of 92  
rehabilitation and correction under section 5120.114 of the 93  
Revised Code; 94

(b) The sentencing court imposed a community control 95  
sanction or combination of community control sanctions instead 96  
of a prison term and the offender has fulfilled every condition 97  
of every community control sanction imposed by the sentencing 98  
court; 99

(c) The offender was under twenty-one years of age at the 100  
time of committing the offense; 101

(d) The offender has not otherwise been convicted of or 102  
pleaded guilty to another violation of section 2907.04 of the 103  
Revised Code or any sexually oriented offense or child-victim 104

oriented offense other than the violation of section 2907.04 of 105  
the Revised Code; 106

(e) The minor with whom the offender engaged in sexual 107  
conduct was at least fourteen years of age at the time of the 108  
offense and consented to the sexual conduct, with no evidence of 109  
coercion, force, or threat of force; 110

(f) The offender was not in a position of authority, 111  
including a position of a type described in divisions (A) (5) to 112  
(13) of section 2907.03 of the Revised Code, over the minor with 113  
whom the offender engaged in sexual conduct. 114

(2) An offender who was convicted of or pleaded guilty to 115  
a violation of any former law of this state, any existing or 116  
former municipal ordinance or law of another state or the United 117  
States, any existing or former law applicable in a military 118  
court or in an Indian trial court, or any existing or former law 119  
of any nation other than the United States that is or was 120  
substantially equivalent to a violation of section 2907.04 of 121  
the Revised Code and to whom all of the factors described in 122  
divisions (A) (1) (a) to (f) of this section apply. For purposes 123  
of this division: 124

(a) The reference in division (A) (1) (b) of this section to 125  
a community control sanction shall be construed as including non 126  
prison sanctions under the law of the jurisdiction in which the 127  
offender was convicted of or pleaded guilty to the violation 128  
that is or was substantially equivalent to a violation of 129  
section 2907.04 of the Revised Code; 130

(b) The reference in division (A) (1) (d) of this section to 131  
the violations specified in that division shall be construed as 132  
including substantially equivalent violations under the law of 133

the jurisdiction in which the offender was convicted of or 134  
pleaded guilty to the violation that is or was substantially 135  
equivalent to a violation of section 2907.04 of the Revised 136  
Code. 137

(B) Upon completion of all community control sanctions 138  
imposed by the sentencing court for the violation of section 139  
2907.04 of the Revised Code or the violation of the 140  
substantially equivalent law or ordinance, whichever is 141  
applicable, an eligible offender may petition the appropriate 142  
court specified in division (C) of this section to review the 143  
effectiveness of the offender's participation in community 144  
control sanctions and to determine whether to terminate the 145  
offender's duty to comply with sections 2950.04, 2950.05, and 146  
2950.06 of the Revised Code, reclassify the offender as a tier I 147  
sex offender/child-victim offender, or continue the offender's 148  
current classification. 149

(C) Except as otherwise provided in this division, the 150  
eligible offender shall file the petition described in division 151  
(B) of this section in the court in which the eligible offender 152  
was convicted of or pleaded guilty to the offense. If the 153  
eligible offender was convicted of or pleaded guilty to the 154  
offense in a jurisdiction other than this state, the eligible 155  
offender shall file the petition in whichever of the following 156  
courts is applicable: 157

(1) If the eligible offender is a resident of this state, 158  
in the court of common pleas of the county in which the offender 159  
resides; 160

(2) If the eligible offender is not a resident of this 161  
state, in the court of common pleas of the county in which the 162  
offender has registered pursuant to section 2950.04 of the 163

Revised Code. If the offender has registered addresses of that 164  
nature in more than one county, the offender may file a petition 165  
in the court of only one of those counties. 166

(D) An eligible offender who files a petition under 167  
division (B) of this section shall include all of the following 168  
with the petition: 169

(1) A certified copy of the judgment entry and any other 170  
documentation of the sentence given for the offense for which 171  
the eligible offender was convicted or pleaded guilty; 172

(2) Documentation of the date of discharge from probation 173  
supervision or other supervision, if applicable; 174

(3) Evidence that the eligible offender has completed a 175  
sex offender treatment program certified by the department of 176  
rehabilitation and correction pursuant to section 2950.16 of the 177  
Revised Code; 178

(4) Any other evidence necessary to show that the offender 179  
meets the qualifications listed in division (A) of this section; 180

(5) Evidence that the eligible offender has been 181  
rehabilitated to a satisfactory degree by successful completion 182  
of community control sanctions. 183

(E) An eligible offender may obtain, at the offender's 184  
expense, a risk assessment or professional opinion, recommending 185  
relief under this section, from a licensed clinical 186  
psychologist, social worker, or other professional certified in 187  
sex offender treatment. The professional opinion or risk 188  
assessment may be submitted with the petition as additional 189  
evidence of rehabilitation. 190

(F) Upon the filing of a petition under division (B) of 191

this section, the court shall schedule a hearing to review the 192  
eligible offender's petition and all evidence of rehabilitation 193  
accompanying the petition. The court shall notify the offender 194  
and the prosecutor of the county in which the petition is filed 195  
of the date, time, and place of the hearing. Upon receipt of the 196  
notice, the prosecutor shall notify the victim of the date, 197  
time, and place of the hearing. The victim may submit a written 198  
statement to the prosecutor regarding any knowledge the victim 199  
has of the eligible offender's conduct while subject to the 200  
duties imposed by sections 2950.04, 2950.05, and 2950.06 of the 201  
Revised Code. At least seven days before the hearing date, the 202  
prosecutor may file an objection to the petition with the court 203  
and serve a copy of the objection to the petition on the 204  
eligible offender or the eligible offender's attorney. In 205  
addition to considering the evidence and information included 206  
with the petition as described in division (D) of this section 207  
and any risk assessment or professional opinion submitted as 208  
described in division (E) of this section, in determining the 209  
type of order to enter in response to the petition, the court 210  
shall consider any objections submitted by the prosecutor and 211  
any written statement submitted by the victim. After the 212  
hearing, the court shall enter one of the following orders: 213

(1) An order to terminate the offender's duty to comply 214  
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 215

(2) If the offender is classified a tier II sex 216  
offender/child-victim offender, an order to reclassify the 217  
offender from a tier II sex offender/child-victim offender 218  
classification to a tier I sex offender/child-victim offender 219  
classification; 220

(3) If the offender is classified a tier I sex 221



offender/child-victim offender or a tier II sex offender/child- 222  
victim offender, an order to continue the offender's 223  
classification as a tier I sex offender/child-victim offender or 224  
tier II sex offender/child-victim offender, whichever is 225  
applicable, required to comply with sections 2950.04, 2950.05, 226  
and 2950.06 of the Revised Code. 227

(G) After issuing an order pursuant to division (F) of 228  
this section, the court shall provide a copy of the order to the 229  
eligible offender and the bureau of criminal identification and 230  
investigation. The bureau, upon receipt of the copy, shall 231  
promptly notify the sheriff with whom the offender most recently 232  
registered under section 2950.04 or 2950.05 of the Revised Code 233  
of the court's order. 234

(H) (1) An order issued under division (F) (2) or (3) of 235  
this section shall remain in effect for the duration of the 236  
eligible offender's duty to comply with sections 2950.04, 237  
2950.05, and 2950.06 of the Revised Code under the 238  
reclassification or continuation, whichever is applicable, as 239  
specified in section 2950.07 of the Revised Code, except that an 240  
eligible offender may refile a petition under this section at 241  
the time prescribed under division (H) (2) of this section. An 242  
order issued under division (F) (2) or (3) of this section shall 243  
not increase the duration of the offender's duty to comply with 244  
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 245

(2) After the eligible offender's initial petition filed 246  
under this section, if the court entered an order continuing the 247  
offender's classification or reclassifying the offender, the 248  
offender may file a second petition not earlier than three years 249  
after the court entered the first order. After the second 250  
petition, the offender may file one subsequent petition not 251

earlier than five years after the most recent order continuing 252  
the offender's classification or reclassifying the offender. A 253  
petition filed under this division shall comply with the 254  
requirements described in divisions (C), (D), and (E) of this 255  
section. 256

(3) Upon the filing of a second or subsequent petition by 257  
an eligible offender pursuant to division (H) (2) of this 258  
section, the court shall schedule a hearing to review any 259  
previous order entered under this section, consider all of the 260  
documents previously submitted, and evaluate any new evidence of 261  
rehabilitation presented with the petition. The court shall 262  
notify the offender and the prosecutor of the county in which 263  
the petition is filed of the date, time, and place of the 264  
hearing. Upon receipt of the notice, the prosecutor shall notify 265  
the victim of the date, time, and place of the hearing. The 266  
victim may submit a written statement to the prosecutor 267  
regarding any knowledge the victim has of the eligible 268  
offender's conduct while subject to the duties imposed by 269  
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. At 270  
least seven days before the hearing date, the prosecutor may 271  
file an objection to the petition with the court and serve a 272  
copy of the objection to the petition on the eligible offender 273  
or the eligible offender's attorney. In addition to reviewing 274  
any previous order, considering the documents previously 275  
submitted, and evaluating any new evidence of rehabilitation 276  
presented with the petition as described in this division, in 277  
determining whether to deny the petition or the type of order to 278  
enter in response to the petition, the court shall consider any 279  
objections submitted by the prosecutor and any written statement 280  
submitted by the victim. After the hearing on the petition, the 281  
court may deny the petition or enter either of the following 282

<u>orders:</u>	283
<u>(a) If the previous order continued the offender's</u>	284
<u>classification as a tier II sex offender/child-victim offender,</u>	285
<u>an order to reclassify the offender as a tier I sex</u>	286
<u>offender/child-victim offender or terminate the offender's duty</u>	287
<u>to comply with sections 2950.04, 2950.05, and 2950.06 of the</u>	288
<u>Revised Code;</u>	289
<u>(b) If the previous order reclassified the offender as a</u>	290
<u>tier I sex offender/child-victim offender or continued the</u>	291
<u>offender's classification as a tier I sex offender/child-victim</u>	292
<u>offender, an order to terminate the offender's duty to comply</u>	293
<u>with sections 2950.04, 2950.05, and 2950.06 of the Revised Code.</u>	294
<b>Sec. 2953.32.</b> (A) (1) Except as provided in section 2953.61	295
of the Revised Code, an eligible offender may apply to the	296
sentencing court if convicted in this state, or to a court of	297
common pleas if convicted in another state or in a federal	298
court, for the sealing of the record of the case that pertains	299
to the conviction. Application may be made at one of the	300
following times:	301
(a) At the expiration of three years after the offender's	302
final discharge if convicted of one felony;	303
(b) When division (A) (1) (a) of section 2953.31 of the	304
Revised Code applies to the offender, at the expiration of four	305
years after the offender's final discharge if convicted of two	306
felonies, or at the expiration of five years after final	307
discharge if convicted of three, four, or five felonies;	308
(c) At the expiration of one year after the offender's	309
final discharge if convicted of a misdemeanor.	310
(2) Any person who has been arrested for any misdemeanor	311

offense and who has effected a bail forfeiture for the offense 312  
charged may apply to the court in which the misdemeanor criminal 313  
case was pending when bail was forfeited for the sealing of the 314  
record of the case that pertains to the charge. Except as 315  
provided in section 2953.61 of the Revised Code, the application 316  
may be filed at any time after the expiration of one year from 317  
the date on which the bail forfeiture was entered upon the 318  
minutes of the court or the journal, whichever entry occurs 319  
first. 320

(B) Upon the filing of an application under this section, 321  
the court shall set a date for a hearing and shall notify the 322  
prosecutor for the case of the hearing on the application. The 323  
prosecutor may object to the granting of the application by 324  
filing an objection with the court prior to the date set for the 325  
hearing. The prosecutor shall specify in the objection the 326  
reasons for believing a denial of the application is justified. 327  
The court shall direct its regular probation officer, a state 328  
probation officer, or the department of probation of the county 329  
in which the applicant resides to make inquiries and written 330  
reports as the court requires concerning the applicant. The 331  
probation officer or county department of probation that the 332  
court directs to make inquiries concerning the applicant shall 333  
determine whether or not the applicant was fingerprinted at the 334  
time of arrest or under section 109.60 of the Revised Code. If 335  
the applicant was so fingerprinted, the probation officer or 336  
county department of probation shall include with the written 337  
report a record of the applicant's fingerprints. If the 338  
applicant was convicted of or pleaded guilty to a violation of 339  
division (A) (2) or (B) of section 2919.21 of the Revised Code, 340  
the probation officer or county department of probation that the 341  
court directed to make inquiries concerning the applicant shall 342

contact the child support enforcement agency enforcing the 343  
applicant's obligations under the child support order to inquire 344  
about the offender's compliance with the child support order. 345

(C) (1) The court shall do each of the following: 346

(a) Determine whether the applicant is an eligible 347  
offender or whether the forfeiture of bail was agreed to by the 348  
applicant and the prosecutor in the case. If the applicant 349  
applies as an eligible offender pursuant to division (A) (1) of 350  
this section and has two or three convictions that result from 351  
the same indictment, information, or complaint, from the same 352  
plea of guilty, or from the same official proceeding, and result 353  
from related criminal acts that were committed within a three- 354  
month period but do not result from the same act or from 355  
offenses committed at the same time, in making its determination 356  
under this division, the court initially shall determine whether 357  
it is not in the public interest for the two or three 358  
convictions to be counted as one conviction. If the court 359  
determines that it is not in the public interest for the two or 360  
three convictions to be counted as one conviction, the court 361  
shall determine that the applicant is not an eligible offender; 362  
if the court does not make that determination, the court shall 363  
determine that the offender is an eligible offender. 364

(b) Determine whether criminal proceedings are pending 365  
against the applicant; 366

(c) If the applicant is an eligible offender who applies 367  
pursuant to division (A) (1) of this section, determine whether 368  
the applicant has been rehabilitated to the satisfaction of the 369  
court; 370

(d) If the prosecutor has filed an objection in accordance 371

with division (B) of this section, consider the reasons against 372  
granting the application specified by the prosecutor in the 373  
objection; 374

(e) Weigh the interests of the applicant in having the 375  
records pertaining to the applicant's conviction or bail 376  
forfeiture sealed against the legitimate needs, if any, of the 377  
government to maintain those records; 378

(f) If the applicant is an eligible offender of the type 379  
described in division (A) (3) of section 2953.36 of the Revised 380  
Code, determine whether the offender has been rehabilitated to a 381  
satisfactory degree. In making the determination, the court may 382  
consider all of the following: 383

(i) The age of the offender; 384

(ii) The facts and circumstances of the offense; 385

(iii) The cessation or continuation of criminal behavior; 386

(iv) The education and employment of the offender; 387

(v) Any other circumstances that may relate to the 388  
offender's rehabilitation. 389

(2) If the court determines, after complying with division 390  
(C) (1) of this section, that the applicant is an eligible 391  
offender or the subject of a bail forfeiture, that no criminal 392  
proceeding is pending against the applicant, that the interests 393  
of the applicant in having the records pertaining to the 394  
applicant's conviction or bail forfeiture sealed are not 395  
outweighed by any legitimate governmental needs to maintain 396  
those records, and that the rehabilitation of an applicant who 397  
is an eligible offender applying pursuant to division (A) (1) of 398  
this section has been attained to the satisfaction of the court, 399

the court, except as provided in division (C) (4), (G), (H), or 400  
(I) of this section, shall order all official records of the 401  
case that pertain to the conviction or bail forfeiture sealed 402  
and, except as provided in division (F) of this section, all 403  
index references to the case that pertain to the conviction or 404  
bail forfeiture deleted and, in the case of bail forfeitures, 405  
shall dismiss the charges in the case. The proceedings in the 406  
case that pertain to the conviction or bail forfeiture shall be 407  
considered not to have occurred and the conviction or bail 408  
forfeiture of the person who is the subject of the proceedings 409  
shall be sealed, except that upon conviction of a subsequent 410  
offense, the sealed record of prior conviction or bail 411  
forfeiture may be considered by the court in determining the 412  
sentence or other appropriate disposition, including the relief 413  
provided for in sections 2953.31 to 2953.33 of the Revised Code. 414

(3) An applicant may request the sealing of the records of 415  
more than one case in a single application under this section. 416  
Upon the filing of an application under this section, the 417  
applicant, unless indigent, shall pay a fee of fifty dollars, 418  
regardless of the number of records the application requests to 419  
have sealed. The court shall pay thirty dollars of the fee into 420  
the state treasury. It shall pay twenty dollars of the fee into 421  
the county general revenue fund if the sealed conviction or bail 422  
forfeiture was pursuant to a state statute, or into the general 423  
revenue fund of the municipal corporation involved if the sealed 424  
conviction or bail forfeiture was pursuant to a municipal 425  
ordinance. 426

(4) If the court orders the official records pertaining to 427  
the case sealed, the court shall do one of the following: 428

(a) If the applicant was fingerprinted at the time of 429

arrest or under section 109.60 of the Revised Code and the 430  
record of the applicant's fingerprints was provided to the court 431  
under division (B) of this section, forward a copy of the 432  
sealing order and the record of the applicant's fingerprints to 433  
the bureau of criminal identification and investigation. 434

(b) If the applicant was not fingerprinted at the time of 435  
arrest or under section 109.60 of the Revised Code, or the 436  
record of the applicant's fingerprints was not provided to the 437  
court under division (B) of this section, but fingerprinting was 438  
required for the offense, order the applicant to appear before a 439  
sheriff to have the applicant's fingerprints taken according to 440  
the fingerprint system of identification on the forms furnished 441  
by the superintendent of the bureau of criminal identification 442  
and investigation. The sheriff shall forward the applicant's 443  
fingerprints to the court. The court shall forward the 444  
applicant's fingerprints and a copy of the sealing order to the 445  
bureau of criminal identification and investigation. 446

Failure of the court to order fingerprints at the time of 447  
sealing does not constitute a reversible error. 448

(D) Inspection of the sealed records included in the order 449  
may be made only by the following persons or for the following 450  
purposes: 451

(1) By a law enforcement officer or prosecutor, or the 452  
assistants of either, to determine whether the nature and 453  
character of the offense with which a person is to be charged 454  
would be affected by virtue of the person's previously having 455  
been convicted of a crime; 456

(2) By the parole or probation officer of the person who 457  
is the subject of the records, for the exclusive use of the 458



officer in supervising the person while on parole or under a 459  
community control sanction or a post-release control sanction, 460  
and in making inquiries and written reports as requested by the 461  
court or adult parole authority; 462

(3) Upon application by the person who is the subject of 463  
the records, by the persons named in the application; 464

(4) By a law enforcement officer who was involved in the 465  
case, for use in the officer's defense of a civil action arising 466  
out of the officer's involvement in that case; 467

(5) By a prosecuting attorney or the prosecuting 468  
attorney's assistants, to determine a defendant's eligibility to 469  
enter a pre-trial diversion program established pursuant to 470  
section 2935.36 of the Revised Code; 471

(6) By any law enforcement agency or any authorized 472  
employee of a law enforcement agency or by the department of 473  
rehabilitation and correction or department of youth services as 474  
part of a background investigation of a person who applies for 475  
employment with the agency or with the department; 476

(7) By any law enforcement agency or any authorized 477  
employee of a law enforcement agency, for the purposes set forth 478  
in, and in the manner provided in, section 2953.321 of the 479  
Revised Code; 480

(8) By the bureau of criminal identification and 481  
investigation or any authorized employee of the bureau for the 482  
purpose of providing information to a board or person pursuant 483  
to division (F) or (G) of section 109.57 of the Revised Code; 484

(9) By the bureau of criminal identification and 485  
investigation or any authorized employee of the bureau for the 486  
purpose of performing a criminal history records check on a 487

person to whom a certificate as prescribed in section 109.77 of 488  
the Revised Code is to be awarded; 489

(10) By the bureau of criminal identification and 490  
investigation or any authorized employee of the bureau for the 491  
purpose of conducting a criminal records check of an individual 492  
pursuant to division (B) of section 109.572 of the Revised Code 493  
that was requested pursuant to any of the sections identified in 494  
division (B) (1) of that section; 495

(11) By the bureau of criminal identification and 496  
investigation, an authorized employee of the bureau, a sheriff, 497  
or an authorized employee of a sheriff in connection with a 498  
criminal records check described in section 311.41 of the 499  
Revised Code; 500

(12) By the attorney general or an authorized employee of 501  
the attorney general or a court for purposes of determining a 502  
person's classification pursuant to Chapter 2950. of the Revised 503  
Code; 504

(13) By a court, the registrar of motor vehicles, a 505  
prosecuting attorney or the prosecuting attorney's assistants, 506  
or a law enforcement officer for the purpose of assessing points 507  
against a person under section 4510.036 of the Revised Code or 508  
for taking action with regard to points assessed. 509

When the nature and character of the offense with which a 510  
person is to be charged would be affected by the information, it 511  
may be used for the purpose of charging the person with an 512  
offense. 513

(E) In any criminal proceeding, proof of any otherwise 514  
admissible prior conviction may be introduced and proved, 515  
notwithstanding the fact that for any such prior conviction an 516

order of sealing previously was issued pursuant to sections 517  
2953.31 to 2953.36 of the Revised Code. 518

(F) The person or governmental agency, office, or 519  
department that maintains sealed records pertaining to 520  
convictions or bail forfeitures that have been sealed pursuant 521  
to this section may maintain a manual or computerized index to 522  
the sealed records. The index shall contain only the name of, 523  
and alphanumeric identifiers that relate to, the persons who are 524  
the subject of the sealed records, the word "sealed," and the 525  
name of the person, agency, office, or department that has 526  
custody of the sealed records, and shall not contain the name of 527  
the crime committed. The index shall be made available by the 528  
person who has custody of the sealed records only for the 529  
purposes set forth in divisions (C), (D), and (E) of this 530  
section. 531

(G) Notwithstanding any provision of this section or 532  
section 2953.33 of the Revised Code that requires otherwise, a 533  
board of education of a city, local, exempted village, or joint 534  
vocational school district that maintains records of an 535  
individual who has been permanently excluded under sections 536  
3301.121 and 3313.662 of the Revised Code is permitted to 537  
maintain records regarding a conviction that was used as the 538  
basis for the individual's permanent exclusion, regardless of a 539  
court order to seal the record. An order issued under this 540  
section to seal the record of a conviction does not revoke the 541  
adjudication order of the superintendent of public instruction 542  
to permanently exclude the individual who is the subject of the 543  
sealing order. An order issued under this section to seal the 544  
record of a conviction of an individual may be presented to a 545  
district superintendent as evidence to support the contention 546  
that the superintendent should recommend that the permanent 547

exclusion of the individual who is the subject of the sealing 548  
order be revoked. Except as otherwise authorized by this 549  
division and sections 3301.121 and 3313.662 of the Revised Code, 550  
any school employee in possession of or having access to the 551  
sealed conviction records of an individual that were the basis 552  
of a permanent exclusion of the individual is subject to section 553  
2953.35 of the Revised Code. 554

(H) For purposes of sections 2953.31 to 2953.36 of the 555  
Revised Code, DNA records collected in the DNA database and 556  
fingerprints filed for record by the superintendent of the 557  
bureau of criminal identification and investigation shall not be 558  
sealed unless the superintendent receives a certified copy of a 559  
final court order establishing that the offender's conviction 560  
has been overturned. For purposes of this section, a court order 561  
is not "final" if time remains for an appeal or application for 562  
discretionary review with respect to the order. 563

(I) The sealing of a record under this section does not 564  
affect the assessment of points under section 4510.036 of the 565  
Revised Code and does not erase points assessed against a person 566  
as a result of the sealed record. 567

**Sec. 2953.36.** (A) Except as otherwise provided in division 568  
(B) of this section, sections 2953.31 to 2953.35 of the Revised 569  
Code do not apply to any of the following: 570

(1) Convictions when the offender is subject to a 571  
mandatory prison term; 572

(2) Convictions under section 2907.02, 2907.03, ~~2907.04,~~ 573  
2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former 574  
section 2907.12, or Chapter 4506., 4507., 4510., 4511., or 4549. 575  
of the Revised Code, or a conviction for a violation of a 576

municipal ordinance that is substantially similar to any section 577  
contained in any of those chapters, except as otherwise provided 578  
in section 2953.61 of the Revised Code; 579

(3) Convictions under section 2907.04 of the Revised Code, 580  
unless a court has issued an order pursuant to section 2950.151 581  
of the Revised Code to terminate the offender's duty to comply 582  
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 583

(4) Convictions of an offense of violence when the offense 584  
is a misdemeanor of the first degree or a felony and when the 585  
offense is not a violation of section 2917.03 of the Revised 586  
Code and is not a violation of section 2903.13, 2917.01, or 587  
2917.31 of the Revised Code that is a misdemeanor of the first 588  
degree; 589

~~(4)~~(5) Convictions on or after October 10, 2007, under 590  
section 2907.07 of the Revised Code or a conviction on or after 591  
October 10, 2007, for a violation of a municipal ordinance that 592  
is substantially similar to that section; 593

~~(5)~~(6) Convictions on or after October 10, 2007, under 594  
section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 595  
2907.311, 2907.32, or 2907.33 of the Revised Code when the 596  
victim of the offense was under eighteen years of age; 597

~~(6)~~(7) Convictions of an offense in circumstances in 598  
which the victim of the offense was less than sixteen years of 599  
age when the offense is a misdemeanor of the first degree or a 600  
felony, except for convictions under section 2919.21 of the 601  
Revised Code; 602

~~(7)~~(8) Convictions of a felony of the first or second 603  
degree; 604

~~(8)~~(9) Bail forfeitures in a traffic case as defined in 605

Traffic Rule 2. 606

(B) Sections 2953.31 to 2953.35 of the Revised Code apply 607  
to a conviction listed in this section if, on the date of the 608  
conviction, those sections did not apply to the conviction, but 609  
after the date of the conviction, the penalty for or 610  
classification of the offense was changed so that those sections 611  
apply to the conviction. 612

**Section 2.** That existing sections 2929.17, 2953.32, and 613  
2953.36 of the Revised Code are hereby repealed. 614

**Section 3.** Section 2953.36 of the Revised Code is 615  
presented in this act as a composite of the section as amended 616  
by Sub. H.B. 53, Sub. H.B. 56, and Am. Sub. H.B. 164, all of the 617  
131st General Assembly. The General Assembly, applying the 618  
principle stated in division (B) of section 1.52 of the Revised 619  
Code that amendments are to be harmonized if reasonably capable 620  
of simultaneous operation, finds that the composite is the 621  
resulting version of the section in effect prior to the 622  
effective date of the section as presented in this act. 623