

AN ACT

To amend sections 317.24 and 2913.49 and to enact section 317.42 of the Revised Code to revise the elements of and the penalty for taking the identity of another and rename the offense as identity fraud, to permit a discharged member of the armed forces to expunge specified items from the county recorder's record of discharge and other service-related documents, and to require a county recorder to post a notice stating that anything filed in the recorder's office is a public record.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 317.24 and 2913.49 be amended and section 317.42 of the Revised Code be enacted to read as follows:

Sec. 317.24. (A) Upon request of any discharged member of the armed forces of the United States and presentation of the member's discharge, the county recorder shall record the discharge in a book to be furnished by the board of county commissioners for that purpose. There shall be no fee for the recording. The record of discharge, or a certified copy of the record, shall be received in evidence in all cases where the original discharge would be received.

(B) Upon application by a person whose discharge has been recorded pursuant to this section, the county recorder shall, without fee, expunge the person's record of discharge ~~or~~, expunge the person's separation program number or separation code from the person's record of discharge and from any of the person's other service-related documents that have been recorded, or expunge the person's social security number from the person's record of discharge and from any of the person's other service-related documents that have been recorded. The application shall be in the following form:

"APPLICATION FOR EXPUNGEMENT

OF DISCHARGE RECORD OR OTHER INFORMATION

I, (Name of Applicant), the undersigned, hereby request the County Recorder of the County of (Name of County), state of Ohio,

to expunge my (Insert ~~either~~ Record of Discharge or Separation Program Number or Separation Code from my Record of Discharge and other service-related documents, or Social Security Number from my Record of Discharge and other service-related documents).

Dated this day of,

.....
(Signature of Applicant)

Sworn to and subscribed before me by (Name of Applicant) on
.....,

.....
Notary Public

My commission expires,"

(C) "Separation As used in this section:

(1) "Separation code" or "separation program number" means the coded number or numbers used to specify the reasons for a person's separation from active duty, as contained in one of the following:

(a) Regarding a separation code, as contained in line 23 or 26 of a veteran's discharge paper, United States department of defense form DD-214;

(b) Regarding a separation program number, as contained in line 9 (c) or line 11 (c) of a veteran's discharge paper, under prior versions of United States department of defense form DD-214.

(2) "Service-related document" means any United States department of defense form DD-215 or DD-220, or any National Guard Bureau form NGB-22 or NGB-22A.

(D) Upon the request of any person who served during World War I or World War II as a member of any armed force of the government of Poland or Czechoslovakia and participated while so serving in armed conflict with an enemy of the United States and who has been a citizen of the United States for at least ten years, and the presentation of the person's discharge, the county recorder shall record the person's discharge in a book to be furnished by the board of county commissioners for that purpose. No fee shall be charged for the recording. The record, or a certified copy of it, shall be received in evidence in all cases where the original would be received.

Sec. 317.42. (A) The county recorder shall display at all times, in a conspicuous place in the office of the recorder, a printed card that shall read substantially as follows:

"WARNING

Documents recorded in the recorder's office generally are considered to be public records. Other persons have access to the information contained in

recorded documents."

(B) If the county recorder fails to post a card in accordance with division (A) of this section, the county recorder is not liable in a civil action for injury, death, or loss to person or property that allegedly results from that failure.

Sec. 2913.49. (A) As used in this section, "personal identifying information" includes, but is not limited to, the following: the name, address, telephone number, driver's license, driver's license number, commercial driver's license, commercial driver's license number, state identification card, state identification card number, social security card, social security number, birth certificate, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password, or credit card number of a living or dead individual.

(B) No person, without the express or implied consent of the other person, shall use, obtain, or possess, or use any personal identifying information of any living or dead individual with the intent to fraudulently obtain credit, property, or services or avoid the payment of a debt or any other legal obligation another person with intent to do either of the following:

(1) Hold the person out to be the other person;

(2) Represent the other person's personal identifying information as the person's own personal identifying information.

(C) No person shall create, obtain, possess, or use the personal identifying information of any ~~living or dead individual~~ person with the intent to aid or abet another person in violating division (B) of this section.

(D) No person, with intent to defraud, shall permit another person to use the person's own personal identifying information.

(E) No person who is permitted to use another person's personal identifying information as described in division (D) of this section shall use, obtain, or possess the other person's personal identifying information with intent to defraud any person by doing any act identified in division (B)(1) or (2) of this section.

(F)(1) It is an affirmative defense to a charge under division (B) of this section that the person using the personal identifying information is acting in accordance with a legally recognized guardianship or conservatorship or as a trustee or fiduciary.

(2) It is an affirmative defense to a charge under division (B), (D), or

(E) of this section that either of the following applies:

(a) The person or entity using the personal identifying information is a law enforcement agency, authorized fraud personnel, or a representative of or attorney for a law enforcement agency or authorized fraud personnel and is using the personal identifying information in a bona fide investigation, an information security evaluation, a pretext calling evaluation, or a similar matter.

(b) The personal identifying information was obtained, possessed, or used for a lawful purpose.

(G) It is not a defense to a charge under this section that the person whose personal identifying information was obtained, possessed, or used was deceased at the time of the offense.

(H)(1) If the violation of division (B), (D), or (E) of this section occurs as part of a course of conduct involving other violations of division (B), (D), or (E) of this section or violations of, attempts to violate, conspiracies to violate, or complicity in violations of division (C) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the court, in determining the degree of the offense pursuant to division (E)(I) of this section, may aggregate all credit, property, or services obtained or sought to be obtained by the offender and all debts or other legal obligations avoided or sought to be avoided by the offender in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

(2) If the violation of division (C) of this section occurs as part of a course of conduct involving other violations of division (C) of this section or violations of, attempts to violate, conspiracies to violate, or complicity in violations of division (B), (D), or (E) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the court, in determining the degree of the offense pursuant to division (E)(I) of this section, may aggregate all credit, property, or services obtained or sought to be obtained by the person aided or abetted and all debts or other legal obligations avoided or sought to be avoided by the person aided or abetted in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

(E)(I) Whoever violates this section is guilty of taking the identity of another fraud. Except as otherwise provided in this division, taking the identity of another fraud is a misdemeanor of the first degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is five hundred dollars or more and is less

han five thousand dollars, ~~taking the identity of another~~ fraud is a felony of the ~~fifth~~ fourth degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is five thousand dollars or more and is less than one hundred thousand dollars, ~~taking the identity of another~~ fraud is a felony of the ~~fourth~~ third degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is one hundred thousand dollars or more, ~~taking the identity of another~~ fraud is a felony of the ~~third~~ second degree.

SECTION 2. That existing sections 317.24 and 2913.49 of the Revised Code are hereby repealed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 309

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____