

As Introduced

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Representatives Hall, Dever

Cosponsors: Representatives Anielski, Baker, Barnes, Becker, Boose, Conditt, DeVitis, Green, Grossman, Hambley, Johnson, T., Kraus, LaTourette, Maag, McColley, O'Brien, S., Patmon, Rezabek, Ruhl, Ryan, Schuring, Slaby, Sprague, Thompson, Young

A BILL

To amend sections 2151.358, 2907.21, 2907.22, 1
2951.041, and 2953.38 of the Revised Code to 2
expand the list of human trafficking-related 3
convictions and delinquency adjudications that 4
may be expunged, to increase the penalties for 5
compelling prostitution and promoting 6
prostitution, and to authorize intervention in 7
lieu of conviction for persons charged with 8
committing an offense while a victim of 9
compelling prostitution. 10

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

Section 1. That sections 2151.358, 2907.21, 2907.22, 11
2951.041, and 2953.38 of the Revised Code be amended to read as 12
follows: 13

Sec. 2151.358. (A) The juvenile court shall expunge all 14
records sealed under section 2151.356 of the Revised Code five 15
years after the court issues a sealing order or upon the twenty- 16
third birthday of the person who is the subject of the sealing 17

order, whichever date is earlier. 18

(B) Notwithstanding division (A) of this section, upon 19
application by the person who has had a record sealed under 20
section 2151.356 of the Revised Code, the juvenile court may 21
expunge a record sealed under section 2151.356 of the Revised 22
Code. In making the determination whether to expunge records, 23
all of the following apply: 24

(1) The court may require a person filing an application 25
for expungement to submit any relevant documentation to support 26
the application. 27

(2) The court may cause an investigation to be made to 28
determine if the person who is the subject of the proceedings 29
has been rehabilitated to a satisfactory degree. 30

(3) The court shall promptly notify the prosecuting 31
attorney of any proceedings to expunge records. 32

(4) (a) The prosecuting attorney may file a response with 33
the court within thirty days of receiving notice of the 34
expungement proceedings. 35

(b) If the prosecuting attorney does not file a response 36
with the court or if the prosecuting attorney files a response 37
but indicates that the prosecuting attorney does not object to 38
the expungement of the records, the court may order the records 39
of the person that are under consideration to be expunged 40
without conducting a hearing on the application. If the court 41
decides in its discretion to conduct a hearing on the 42
application, the court shall conduct the hearing within thirty 43
days after making that decision and shall give notice, by 44
regular mail, of the date, time, and location of the hearing to 45
the prosecuting attorney and to the person who is the subject of 46

the records under consideration. 47

(c) If the prosecuting attorney files a response with the 48
court that indicates that the prosecuting attorney objects to 49
the expungement of the records, the court shall conduct a 50
hearing on the application within thirty days after the court 51
receives the response. The court shall give notice, by regular 52
mail, of the date, time, and location of the hearing to the 53
prosecuting attorney and to the person who is the subject of the 54
records under consideration. 55

(5) After conducting a hearing in accordance with division 56
(B) (4) of this section or after due consideration when a hearing 57
is not conducted, the court may order the records of the person 58
that are the subject of the application to be expunged if it 59
finds that the person has been rehabilitated to a satisfactory 60
degree. In determining whether the person has been rehabilitated 61
to a satisfactory degree, the court may consider all of the 62
following: 63

(a) The age of the person; 64

(b) The nature of the case; 65

(c) The cessation or continuation of delinquent, unruly, 66
or criminal behavior; 67

(d) The education and employment history of the person; 68

(e) Any other circumstances that may relate to the 69
rehabilitation of the person who is the subject of the records 70
under consideration. 71

(C) If the juvenile court is notified by any party in a 72
civil action that a civil action has been filed based on a case 73
the records for which are the subject of a sealing order, the 74

juvenile court shall not expunge a record sealed under section 75
2151.356 of the Revised Code until the civil action has been 76
resolved and is not subject to further appellate review, at 77
which time the records shall be expunged pursuant to division 78
(A) of this section. 79

(D) (1) A juvenile court that issues a protection order or 80
approves a consent agreement under section 2151.34 or 3113.31 of 81
the Revised Code shall automatically seal all of the records of 82
the proceeding in which the order was issued or agreement 83
approved on the date the person against whom the protection 84
order was issued or the consent agreement approved attains the 85
age of nineteen years if the court determines that the person 86
has complied with all of the terms of the protection order or 87
consent agreement. 88

(2) In a proceeding under section 2151.34 of the Revised 89
Code, if the juvenile court does not issue any protection order 90
under division (E) of that section, the court shall 91
automatically seal all of the records in that proceeding. In a 92
proceeding under section 3113.31 of the Revised Code, if the 93
juvenile court does not issue any protection order or approve 94
any consent agreement under division (E) of that section, the 95
court shall automatically seal all of the records in that 96
proceeding. 97

(3) (a) If a juvenile court that issues a protection order 98
or approves a consent agreement under section 2151.34 or 3113.31 99
of the Revised Code determines that the person against whom the 100
protection order was issued or the consent agreement approved 101
has not complied with all of the terms of the protection order 102
or consent agreement, the court shall consider sealing all of 103
the records of the proceeding in which the order was issued or 104

agreement approved upon the court's own motion or upon the application of a person. The court may make the motion or the person who is the subject of the records under consideration may apply for an order sealing the records of the proceeding at any time after two years after the expiration of the protection order or consent agreement.

(b) In making a determination whether to seal records pursuant to division (D) (3) of this section, all of the following apply:

(i) The court may require a person filing an application under division (D) (3) of this section to submit any relevant documentation to support the application.

(ii) The court shall promptly notify the victim or the victim's attorney of any proceedings to seal records initiated pursuant to division (D) (3) of this section.

(iii) The victim or the victim's attorney may file a response with the court within thirty days of receiving notice of the sealing proceedings.

If the victim or the victim's attorney does not file a response with the court or if the victim or the victim's attorney files a response but indicates that the victim or the victim's attorney does not object to the sealing of the records, the court may order the records of the person that are under consideration to be sealed without conducting a hearing on the motion or application. If the court decides in its discretion to conduct a hearing on the motion or application, the court shall conduct the hearing within thirty days after making that decision and shall give notice, by regular mail, of the date, time, and location of the hearing to the victim or the victim's

attorney and to the person who is the subject of the records 134
under consideration. 135

If the victim or the victim's attorney files a response 136
with the court that indicates that the victim or the victim's 137
attorney objects to the sealing of the records, the court shall 138
conduct a hearing on the motion or application within thirty 139
days after the court receives the response. The court shall give 140
notice, by regular mail, of the date, time, and location of the 141
hearing to the victim or the victim's attorney and to the person 142
who is the subject of the records under consideration. 143

(iv) After conducting a hearing in accordance with 144
division (D) (3) (b) (iii) of this section or after due 145
consideration when a hearing is not conducted, the court may 146
order the records of the person that are the subject of the 147
motion or application to be sealed. 148

(4) Inspection of the records sealed pursuant to division 149
(D) (1), (2), or (3) of this section may be made only by the 150
following persons or for the following purposes: 151

(a) By a law enforcement officer or prosecutor, or the 152
assistants of either, to determine whether the nature and 153
character of the offense with which a person is to be charged 154
would be affected by virtue of the person's previously having 155
been convicted of a crime; 156

(b) By the parole or probation officer of the person who 157
is the subject of the records, for the exclusive use of the 158
officer in supervising the person while on parole or under a 159
community control sanction or a post-release control sanction, 160
and in making inquiries and written reports as requested by the 161
court or adult parole authority; 162

- (c) Upon application by the person who is the subject of the records, by the persons named in the application; 163
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- (d) By a law enforcement officer who was involved in the case, for use in the officer's defense of a civil action arising out of the officer's involvement in that case; 165
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- (e) By a prosecuting attorney or the prosecuting attorney's assistants, to determine a defendant's eligibility to enter a pre-trial diversion program established pursuant to section 2935.36 of the Revised Code; 168
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- (f) By any law enforcement agency or any authorized employee of a law enforcement agency or by the department of rehabilitation and correction as part of a background investigation of a person who applies for employment with the agency as a law enforcement officer or with the department as a corrections officer; 172
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- (g) By any law enforcement agency or any authorized employee of a law enforcement agency, for the purposes set forth in, and in the manner provided in, section 2953.321 of the Revised Code; 178
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- (h) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of providing information to a board or person pursuant to division (F) or (G) of section 109.57 of the Revised Code; 182
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- (i) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of performing a criminal history records check on a person to whom a certificate as prescribed in section 109.77 of the Revised Code is to be awarded; 186
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- (j) By the bureau of criminal identification and 191

investigation or any authorized employee of the bureau for the 192
purpose of conducting a criminal records check of an individual 193
pursuant to division (B) of section 109.572 of the Revised Code 194
that was requested pursuant to any of the sections identified in 195
division (B)(1) of that section; 196

(k) By the bureau of criminal identification and 197
investigation, an authorized employee of the bureau, a sheriff, 198
or an authorized employee of a sheriff in connection with a 199
criminal records check described in section 311.41 of the 200
Revised Code; 201

(l) By the attorney general or an authorized employee of 202
the attorney general or a court for purposes of determining a 203
person's classification pursuant to Chapter 2950. of the Revised 204
Code. 205

When the nature and character of the offense with which a 206
person is to be charged would be affected by the information, it 207
may be used for the purpose of charging the person with an 208
offense. 209

(E) (1) In addition to the methods of expungement provided 210
for in divisions (A) and (B) of this section, a person who has 211
been adjudicated a delinquent child for having committed an act 212
that would be a drug abuse offense, a sex offense, a theft 213
offense, or an offense of violence if the child were an adult or 214
for a violation of division (A) of section 2907.24, 2907.241, or 215
2907.25-3701.81 of the Revised Code ~~if the child were an adult~~ 216
may apply to the adjudicating court for the expungement of the 217
record of adjudication if the person's participation in the act 218
was a result of the person having been a victim of human 219
trafficking. The application shall be made in the same manner as 220
an application for expungement under section 2953.38 of the 221

Revised Code, and all of the provisions of that section shall	222
apply to the expungement procedure.	223
<u>(2) As used in division (E)(1) of this section:</u>	224
<u>(a) "Drug abuse offense" has the same meaning as in</u>	225
<u>section 2925.01 of the Revised Code.</u>	226
<u>(b) "Sex offense" means a violation of any section in</u>	227
<u>Chapter 2907. of the Revised Code.</u>	228
<u>(c) "Theft offense" has the same meaning as in section</u>	229
<u>2913.01 of the Revised Code.</u>	230
(F) After the records have been expunged under this	231
section, the person who is the subject of the expunged records	232
properly may, and the court shall, reply that no record exists	233
with respect to the person upon any inquiry in the matter.	234
Sec. 2907.21. (A) No person shall knowingly do any of the	235
following:	236
(1) Compel another to engage in sexual activity for hire;	237
(2) Induce, procure, encourage, solicit, request, or	238
otherwise facilitate either of the following:	239
(a) A minor to engage in sexual activity for hire, whether	240
or not the offender knows the age of the minor;	241
(b) A person the offender believes to be a minor to engage	242
in sexual activity for hire, whether or not the person is a	243
minor.	244
(3) (a) Pay or agree to pay a minor, either directly or	245
through the minor's agent, so that the minor will engage in	246
sexual activity, whether or not the offender knows the age of	247
the minor;	248

(b) Pay or agree to pay a person the offender believes to be a minor, either directly or through the person's agent, so that the person will engage in sexual activity, whether or not the person is a minor.

(4) (a) Pay a minor, either directly or through the minor's agent, for the minor having engaged in sexual activity pursuant to a prior agreement, whether or not the offender knows the age of the minor;

(b) Pay a person the offender believes to be a minor, either directly or through the person's agent, for the person having engaged in sexual activity pursuant to a prior agreement, whether or not the person is a minor.

(5) (a) Allow a minor to engage in sexual activity for hire if the person allowing the child to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the minor;

(b) Allow a person the offender believes to be a minor to engage in sexual activity for hire if the person allowing the person to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the person the offender believes to be a minor, whether or not the person is a minor.

(B) For a prosecution under division (A) (1) of this section, the element "compel" does not require that the compulsion be openly displayed or physically exerted. The element "compel" has been established if the state proves that the victim's will was overcome by force, fear, duress, or intimidation.

(C) Whoever violates this section is guilty of compelling

~~prostitution. Except as otherwise provided in this division,~~ 278
~~compelling prostitution is a felony of the third degree. If the~~ 279
~~offender commits a violation of division (A) (1) of this section~~ 280
~~and the person compelled to engage in sexual activity for hire~~ 281
~~in violation of that division is sixteen years of age or older~~ 282
~~but less than eighteen years of age, compelling prostitution is~~ 283
~~a felony of the second degree. If the offender commits a~~ 284
~~violation of division (A) (1) of this section and the person~~ 285
~~compelled to engage in sexual activity for hire in violation of~~ 286
~~that division is less than sixteen years of age, compelling~~ 287
~~prostitution is,~~ a felony of the first degree. If the offender 288
in any case also is convicted of or pleads guilty to a 289
specification as described in section 2941.1422 of the Revised 290
Code that was included in the indictment, count in the 291
indictment, or information charging the offense, the court shall 292
sentence the offender to a mandatory prison term as provided in 293
division (B) (7) of section 2929.14 of the Revised Code and shall 294
order the offender to make restitution as provided in division 295
(B) (8) of section 2929.18 of the Revised Code. 296

Sec. 2907.22. (A) No person shall knowingly: 297

(1) Establish, maintain, operate, manage, supervise, 298
control, or have an interest in a brothel or any other 299
enterprise a purpose of which is to facilitate engagement in 300
sexual activity for hire; 301

(2) Supervise, manage, or control the activities of a 302
prostitute in engaging in sexual activity for hire; 303

(3) Transport another, or cause another to be transported, 304
in order to facilitate the other person's engaging in sexual 305
activity for hire; 306

(4) For the purpose of violating or facilitating a 307
violation of this section, induce or procure another to engage 308
in sexual activity for hire. 309

(B) Whoever violates this section is guilty of promoting 310
prostitution. ~~Except as otherwise provided in this division,~~ 311
~~promoting prostitution is a felony of the fourth degree. If any~~ 312
~~prostitute in the brothel involved in the offense, or the~~ 313
~~prostitute whose activities are supervised, managed, or~~ 314
~~controlled by the offender, or the person transported, induced,~~ 315
~~or procured by the offender to engage in sexual activity for~~ 316
~~hire, is a minor, whether or not the offender knows the age of~~ 317
~~the minor, then promoting prostitution is, a felony of the~~ 318
~~third~~first degree. If the offender in any case also is 319
convicted of or pleads guilty to a specification as described in 320
section 2941.1422 of the Revised Code that was included in the 321
indictment, count in the indictment, or information charging the 322
offense, the court shall sentence the offender to a mandatory 323
prison term as provided in division (B) (7) of section 2929.14 of 324
the Revised Code and shall order the offender to make 325
restitution as provided in division (B) (8) of section 2929.18 of 326
the Revised Code. 327

Sec. 2951.041. (A) (1) If an offender is charged with a 328
criminal offense, including but not limited to a violation of 329
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 330
of the Revised Code, and the court has reason to believe that 331
drug or alcohol usage by the offender was a factor leading to 332
the criminal offense with which the offender is charged or that, 333
at the time of committing that offense, the offender had a 334
mental illness, was a person with intellectual disability, or 335
was a victim of a violation of section 2905.32 or 2907.21 of the 336
Revised Code and that the mental illness, status as a person 337

with intellectual disability, or fact that the offender was a 338
victim of a violation of section 2905.32 or 2907.21 of the 339
Revised Code was a factor leading to the offender's criminal 340
behavior, the court may accept, prior to the entry of a guilty 341
plea, the offender's request for intervention in lieu of 342
conviction. The request shall include a statement from the 343
offender as to whether the offender is alleging that drug or 344
alcohol usage by the offender was a factor leading to the 345
criminal offense with which the offender is charged or is 346
alleging that, at the time of committing that offense, the 347
offender had a mental illness, was a person with intellectual 348
disability, or was a victim of a violation of section 2905.32 or 349
2907.21 of the Revised Code and that the mental illness, status 350
as a person with intellectual disability, or fact that the 351
offender was a victim of a violation of section 2905.32 or 352
2907.21 of the Revised Code was a factor leading to the criminal 353
offense with which the offender is charged. The request also 354
shall include a waiver of the defendant's right to a speedy 355
trial, the preliminary hearing, the time period within which the 356
grand jury may consider an indictment against the offender, and 357
arraignment, unless the hearing, indictment, or arraignment has 358
already occurred. The court may reject an offender's request 359
without a hearing. If the court elects to consider an offender's 360
request, the court shall conduct a hearing to determine whether 361
the offender is eligible under this section for intervention in 362
lieu of conviction and shall stay all criminal proceedings 363
pending the outcome of the hearing. If the court schedules a 364
hearing, the court shall order an assessment of the offender for 365
the purpose of determining the offender's eligibility for 366
intervention in lieu of conviction and recommending an 367
appropriate intervention plan. 368

If the offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court may order that the offender be assessed by an addiction services provider certified pursuant to section 5119.36 of the Revised Code or a properly credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan. The addiction services provider or the properly credentialed professional shall provide a written assessment of the offender to the court.

(2) The victim notification provisions of division (C) of section 2930.08 of the Revised Code apply in relation to any hearing held under division (A) (1) of this section.

(B) An offender is eligible for intervention in lieu of conviction if the court finds all of the following:

(1) The offender previously has not been convicted of or pleaded guilty to a felony offense of violence or previously has been convicted of or pleaded guilty to any felony that is not an offense of violence and the prosecuting attorney recommends that the offender be found eligible for participation in intervention in lieu of treatment under this section, previously has not been through intervention in lieu of conviction under this section or any similar regimen, and is charged with a felony for which the court, upon conviction, would impose a community control sanction on the offender under division (B) (2) of section 2929.13 of the Revised Code or with a misdemeanor.

(2) The offense is not a felony of the first, second, or third degree, is not an offense of violence, is not a violation of division (A) (1) or (2) of section 2903.06 of the Revised Code, is not a violation of division (A) (1) of section 2903.08

of the Revised Code, is not a violation of division (A) of 399
section 4511.19 of the Revised Code or a municipal ordinance 400
that is substantially similar to that division, and is not an 401
offense for which a sentencing court is required to impose a 402
mandatory prison term, a mandatory term of local incarceration, 403
or a mandatory term of imprisonment in a jail. 404

(3) The offender is not charged with a violation of 405
section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not 406
charged with a violation of section 2925.03 of the Revised Code 407
that is a felony of the first, second, third, or fourth degree, 408
and is not charged with a violation of section 2925.11 of the 409
Revised Code that is a felony of the first, second, or third 410
degree. 411

(4) If an offender alleges that drug or alcohol usage by 412
the offender was a factor leading to the criminal offense with 413
which the offender is charged, the court has ordered that the 414
offender be assessed by an addiction services provider certified 415
pursuant to section 5119.36 of the Revised Code or a properly 416
credentialed professional for the purpose of determining the 417
offender's eligibility for intervention in lieu of conviction 418
and recommending an appropriate intervention plan, the offender 419
has been assessed by an addiction services provider of that 420
nature or a properly credentialed professional in accordance 421
with the court's order, and the addiction services provider or 422
properly credentialed professional has filed the written 423
assessment of the offender with the court. 424

(5) If an offender alleges that, at the time of committing 425
the criminal offense with which the offender is charged, the 426
offender had a mental illness, was a person with intellectual 427
disability, or was a victim of a violation of section 2905.32 or 428

2907.21 of the Revised Code and that the mental illness, status 429
as a person with intellectual disability, or fact that the 430
offender was a victim of a violation of section 2905.32 or 431
2907.21 of the Revised Code was a factor leading to that 432
offense, the offender has been assessed by a psychiatrist, 433
psychologist, independent social worker, licensed professional 434
clinical counselor, or independent marriage and family therapist 435
for the purpose of determining the offender's eligibility for 436
intervention in lieu of conviction and recommending an 437
appropriate intervention plan. 438

(6) The offender's drug usage, alcohol usage, mental 439
illness, or intellectual disability, or the fact that the 440
offender was a victim of a violation of section 2905.32 or 441
2907.21 of the Revised Code, whichever is applicable, was a 442
factor leading to the criminal offense with which the offender 443
is charged, intervention in lieu of conviction would not demean 444
the seriousness of the offense, and intervention would 445
substantially reduce the likelihood of any future criminal 446
activity. 447

(7) The alleged victim of the offense was not sixty-five 448
years of age or older, permanently and totally disabled, under 449
thirteen years of age, or a peace officer engaged in the 450
officer's official duties at the time of the alleged offense. 451

(8) If the offender is charged with a violation of section 452
2925.24 of the Revised Code, the alleged violation did not 453
result in physical harm to any person, and the offender 454
previously has not been treated for drug abuse. 455

(9) The offender is willing to comply with all terms and 456
conditions imposed by the court pursuant to division (D) of this 457
section. 458

(10) The offender is not charged with an offense that 459
would result in the offender being disqualified under Chapter 460
4506. of the Revised Code from operating a commercial motor 461
vehicle or would subject the offender to any other sanction 462
under that chapter. 463

(C) At the conclusion of a hearing held pursuant to 464
division (A) of this section, the court shall enter its 465
determination as to whether the offender is eligible for 466
intervention in lieu of conviction and as to whether to grant 467
the offender's request. If the court finds under division (B) of 468
this section that the offender is eligible for intervention in 469
lieu of conviction and grants the offender's request, the court 470
shall accept the offender's plea of guilty and waiver of the 471
defendant's right to a speedy trial, the preliminary hearing, 472
the time period within which the grand jury may consider an 473
indictment against the offender, and arraignment, unless the 474
hearing, indictment, or arraignment has already occurred. In 475
addition, the court then may stay all criminal proceedings and 476
order the offender to comply with all terms and conditions 477
imposed by the court pursuant to division (D) of this section. 478
If the court finds that the offender is not eligible or does not 479
grant the offender's request, the criminal proceedings against 480
the offender shall proceed as if the offender's request for 481
intervention in lieu of conviction had not been made. 482

(D) If the court grants an offender's request for 483
intervention in lieu of conviction, the court shall place the 484
offender under the general control and supervision of the county 485
probation department, the adult parole authority, or another 486
appropriate local probation or court services agency, if one 487
exists, as if the offender was subject to a community control 488
sanction imposed under section 2929.15, 2929.18, or 2929.25 of 489

the Revised Code. The court shall establish an intervention plan 490
for the offender. The terms and conditions of the intervention 491
plan shall require the offender, for at least one year from the 492
date on which the court grants the order of intervention in lieu 493
of conviction, to abstain from the use of illegal drugs and 494
alcohol, to participate in treatment and recovery support 495
services, and to submit to regular random testing for drug and 496
alcohol use and may include any other treatment terms and 497
conditions, or terms and conditions similar to community control 498
sanctions, which may include community service or restitution, 499
that are ordered by the court. 500

(E) If the court grants an offender's request for 501
intervention in lieu of conviction and the court finds that the 502
offender has successfully completed the intervention plan for 503
the offender, including the requirement that the offender 504
abstain from using illegal drugs and alcohol for a period of at 505
least one year from the date on which the court granted the 506
order of intervention in lieu of conviction, the requirement 507
that the offender participate in treatment and recovery support 508
services, and all other terms and conditions ordered by the 509
court, the court shall dismiss the proceedings against the 510
offender. Successful completion of the intervention plan and 511
period of abstinence under this section shall be without 512
adjudication of guilt and is not a criminal conviction for 513
purposes of any disqualification or disability imposed by law 514
and upon conviction of a crime, and the court may order the 515
sealing of records related to the offense in question in the 516
manner provided in sections 2953.31 to 2953.36 of the Revised 517
Code. 518

(F) If the court grants an offender's request for 519
intervention in lieu of conviction and the offender fails to 520

comply with any term or condition imposed as part of the 521
intervention plan for the offender, the supervising authority 522
for the offender promptly shall advise the court of this 523
failure, and the court shall hold a hearing to determine whether 524
the offender failed to comply with any term or condition imposed 525
as part of the plan. If the court determines that the offender 526
has failed to comply with any of those terms and conditions, it 527
shall enter a finding of guilty and shall impose an appropriate 528
sanction under Chapter 2929. of the Revised Code. If the court 529
sentences the offender to a prison term, the court, after 530
consulting with the department of rehabilitation and correction 531
regarding the availability of services, may order continued 532
court-supervised activity and treatment of the offender during 533
the prison term and, upon consideration of reports received from 534
the department concerning the offender's progress in the program 535
of activity and treatment, may consider judicial release under 536
section 2929.20 of the Revised Code. 537

(G) As used in this section: 538

(1) "Community control sanction" has the same meaning as 539
in section 2929.01 of the Revised Code. 540

(2) "Intervention in lieu of conviction" means any court- 541
supervised activity that complies with this section. 542

(3) "Peace officer" has the same meaning as in section 543
2935.01 of the Revised Code. 544

(4) "Mental illness" and "psychiatrist" have the same 545
meanings as in section 5122.01 of the Revised Code. 546

(5) "Person with intellectual disability" means a person 547
having significantly subaverage general intellectual functioning 548
existing concurrently with deficiencies in adaptive behavior, 549

manifested during the developmental period. 550

(6) "Psychologist" has the same meaning as in section 551
4732.01 of the Revised Code. 552

(H) Whenever the term "mentally retarded person" is used 553
in any statute, rule, contract, grant, or other document, the 554
reference shall be deemed to include a "person with intellectual 555
disability," as defined in this section. 556

Sec. 2953.38. (A) As used in this section: 557

(1) "Expunge" means to destroy, delete, or erase a record 558
as appropriate for the record's physical or electronic form or 559
characteristic so that the record is permanently irretrievable. 560

(2) "Prosecutor" has the same meaning as in section 561
2953.31 of the Revised Code. 562

(3) "Record of conviction" means the record related to a 563
conviction of or plea of guilty to an offense. 564

(4) "Victim of human trafficking" means a person who is or 565
was a victim of a violation of section 2905.32 of the Revised 566
Code, regardless of whether anyone has been convicted of a 567
violation of that section or of any other section for 568
victimizing the person. 569

(5) "Drug abuse offense" has the same meaning as in 570
section 2925.01 of the Revised Code. 571

(6) "Sex offense" means a violation of any section in 572
Chapter 2907. of the Revised Code. 573

(7) "Theft offense" has the same meaning as in section 574
2913.01 of the Revised Code. 575

(B) Any person who is or was convicted of a drug abuse 576

~~offense, a sex offense, a theft offense, an offense of violence,~~ 577
~~or a violation of division (A) of section 2907.24, 2907.241, or~~ 578
~~2907.25-3701.81~~ of the Revised Code may apply to the sentencing 579
court for the expungement of the record of conviction if the 580
person's participation in the offense was a result of the person 581
having been a victim of human trafficking. The person may file 582
the application at any time. The application shall do all of the 583
following: 584

(1) Identify the applicant, the offense for which the 585
expungement is sought, the date of the conviction of that 586
offense, and the court in which the conviction occurred; 587

(2) Describe the evidence and provide copies of any 588
documentation showing that the person is entitled to relief 589
under this section; 590

(3) Include a request for expungement of the record of 591
conviction of that offense under this section. 592

(C) The court may deny an application made under division 593
(B) of this section if it finds that the application fails to 594
assert grounds on which relief may be granted. 595

(D) If the court does not deny an application under 596
division (C) of this section, it shall set a date for a hearing 597
and shall notify the prosecutor for the case from which the 598
record of conviction resulted of the hearing on the application. 599
The prosecutor may object to the granting of the application by 600
filing an objection with the court prior to the date set for the 601
hearing. The prosecutor shall specify in the objection the 602
reasons for believing a denial of the application is justified. 603
The court may direct its regular probation officer, a state 604
probation officer, or the department of probation of the county 605

in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant.

(E) At the hearing held under division (D) of this section, the court shall do both of the following:

(1) If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection;

(2) Determine whether the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense was a result of having been a victim of human trafficking.

(F) If after a hearing the court finds that the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense that is the subject of the application was the result of the applicant having been a victim of human trafficking, the court shall grant the application and order that the record of conviction be expunged.

(G) (1) The court shall send notice of the order of expungement to each public office or agency that the court has reason to believe may have an official record pertaining to the case if the court, after complying with division (E) of this section, determines both of the following:

(a) That the applicant has been convicted of a drug abuse offense, a sex offense, a theft offense, an offense of violence, or a violation of division (A) of section 2907.24, 2907.241, or 2907.25-3701.81 of the Revised Code;

(b) That the interests of the applicant in having the records pertaining to the applicant's conviction expunged are not outweighed by any legitimate needs of the government to

maintain those records. 635

(2) The proceedings in the case that is the subject of an 636
order issued under division (F) of this section shall be 637
considered not to have occurred and the conviction of the person 638
who is the subject of the proceedings shall be expunged. The 639
record of the conviction shall not be used for any purpose, 640
including, but not limited to, a criminal records check under 641
section 109.572 of the Revised Code. The applicant may, and the 642
court shall, reply that no record exists with respect to the 643
applicant upon any inquiry into the matter. 644

(H) Upon the filing of an application under this section, 645
the applicant, unless indigent, shall pay a fee of fifty 646
dollars. The court shall pay thirty dollars of the fee into the 647
state treasury and shall pay twenty dollars of the fee into the 648
county general revenue fund. 649

Section 2. That existing sections 2151.358, 2907.21, 650
2907.22, 2951.041, and 2953.38 of the Revised Code are hereby 651
repealed. 652