

As Introduced

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H. B. No. 427

Representative Antani

Cosponsors: Representatives Manning, Becker, Sweeney, Fedor, Sheehy

A BILL

To amend sections 2953.32, 2953.37, 2953.38, and 1
2953.53 and to enact sections 109.38 and 109.381 2
of the Revised Code to require the Attorney 3
General to select a qualified third party to 4
receive court notices of sealed or expunged 5
criminal records and to require identified data 6
repositories and web sites that receive those 7
notices from the qualified third party to remove 8
those records from their databases. 9

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

Section 1. That sections 2953.32, 2953.37, 2953.38, and 10
2953.53 be amended and sections 109.38 and 109.381 of the 11
Revised Code be enacted to read as follows: 12

Sec. 109.38. (A) As used in this section and section 13
109.381 of the Revised Code: 14

(1) "Consumer reporting agency" has the same meaning as in 15
section 1681a(f) of the Fair Credit Reporting Act. 16

(2) "Conviction of crime" means a conviction of, or a plea 17
of guilty to, an offense. 18

(3) "Fair Credit Reporting Act" means 15 U.S.C. 1681 et 19
seq., as amended. 20

(4) "Identified data repository" means either of the 21
following: 22

(a) A person or entity that is a consumer reporting agency 23
and is known to a qualified third party as having a database 24
that includes publicly available records of convictions of crime 25
and from which consumer reports are prepared pursuant to the 26
Fair Credit Reporting Act; 27

(b) Any person or entity, other than a consumer reporting 28
agency, that is known to a qualified third party as having a 29
database that includes publicly available records of convictions 30
of crime and that registers with a qualified third party for the 31
purpose of receiving notices of court orders of sealed or 32
expunged records under section 2953.32, 2953.37, 2953.38, or 33
2953.53 of the Revised Code and agreeing to remove those records 34
and any references to and information from those records from 35
the person's or entity's database. 36

(5) "Qualified third party" means a private entity that is 37
selected by the attorney general pursuant to this section. 38

(B) The attorney general shall select a private entity as 39
a qualified third party for the purpose of receiving notices of 40
court orders of sealed or expunged records under section 41
2953.32, 2953.37, 2953.38, or 2953.53 of the Revised Code. A 42
qualified third party selected by the attorney general shall 43
have the following qualifications: 44

(1) The entity has specific knowledge and expertise 45
regarding the operation of the Fair Credit Reporting Act. 46

(2) The entity has prior experience in interacting and 47

cooperating with consumer reporting agencies regarding their 48
obligations for accuracy under section 1681e(b) of the Fair 49
Credit Reporting Act and reinvestigations of disputed 50
information under section 1681i of the Fair Credit Reporting Act 51
to ensure the accomplishment of the goal of updating the 52
records, files, or databases of the consumer reporting agencies 53
that contain references to, or information on, convictions of 54
crime. 55

(3) The entity has relationships with data aggregators, 56
public record vendors, and other companies that collect and 57
compile from various sources data or information in records of 58
convictions of crime to ensure their cooperation in maintaining 59
the legitimacy, accuracy, completeness, and security of that 60
data or information. 61

(4) The entity has at least two years' experience in 62
processing and sending notices of sealed or expunged records of 63
convictions of crime to identified data repositories. 64

(5) The entity is not an identified data repository or an 65
entity that is owned or controlled by an identified data 66
repository. 67

(6) The entity meets all security clearances and security 68
requirements imposed by the attorney general to ensure that the 69
entity does not misuse any information received from the courts 70
under section 109.381 of the Revised Code and that other persons 71
do not have unauthorized access to that information. 72

(C)(1) The qualified third party selected by the attorney 73
general under this section shall serve as such qualified third 74
party for a minimum of three years. The attorney general may 75
either select another qualified third party at the end of any 76

three-year period or retain the existing qualified third party 77
for another three-year period. 78

(2) Upon the selection or retention of a qualified third 79
party under division (C)(1) of this section, the attorney 80
general and the qualified third party shall enter into a 81
contract that shall include all of the following: 82

(a) The duties of the qualified third party under section 83
109.381 of the Revised Code; 84

(b) The amount of the fee to be paid by an applicant for a 85
court order to seal or expunge records under section 2953.32, 86
2953.37, 2953.38, or 2953.53 of the Revised Code who wishes to 87
have the court send notice of the order to the qualified third 88
party and to have the procedures under section 109.381 of the 89
Revised Code apply to the records; 90

(c) Any other provisions as determined by the attorney 91
general in the rules promulgated under division (E) of this 92
section. 93

(3) The attorney general shall determine the proportion of 94
the fee described in division (C)(2)(b) of this section that the 95
qualified third party shall retain for its services under 96
section 109.381 of the Revised Code and each proportion of the 97
fee that the qualified third party shall remit to the clerk of 98
the court that sent the notice of the order under section 99
2953.32, 2953.37, 2953.38, or 2953.53 of the Revised Code, the 100
attorney general, and the state treasury. 101

(D) The attorney general shall have oversight of the 102
functions and activities of the qualified third party under 103
section 109.381 of the Revised Code. 104

(E) The attorney general shall promulgate rules pursuant 105

to Chapter 119. of the Revised Code to implement this section 106
and section 109.381 of the Revised Code. 107

Sec. 109.381. (A) Upon receiving a notice of a court order 108
under section 2953.32, 2953.37, 2953.38, or 2953.53 of the 109
Revised Code sealing or expunging the records subject to the 110
order, the qualified third party shall send a notice of that 111
order to all of the following: 112

(1) Identified data repositories; 113

(2) Web sites and publications that the qualified third 114
party knows utilize, display, publish, or disseminate any 115
information from those records. 116

(B) Immediately upon receipt of the notice from the 117
qualified third party under division (A) of this section, the 118
following shall apply: 119

(1) An identified data repository that received the notice 120
shall remove from its database all of the records that are 121
subject to the court order sealing or expunging the records and 122
all references to, and information from, those records. 123

(2) The web sites and publications that received the 124
notice shall remove from the web site or publication all of the 125
records that are subject to the court order sealing or expunging 126
the records and all references to, and information from, those 127
records. 128

Sec. 2953.32. (A) (1) Except as provided in section 2953.61 129
of the Revised Code, an eligible offender may apply to the 130
sentencing court if convicted in this state, or to a court of 131
common pleas if convicted in another state or in a federal 132
court, for the sealing of the record of the case that pertains 133
to the conviction. Application may be made at the expiration of 134

three years after the offender's final discharge if convicted of 135
a felony, or at the expiration of one year after the offender's 136
final discharge if convicted of a misdemeanor. 137

(2) Any person who has been arrested for any misdemeanor 138
offense and who has effected a bail forfeiture for the offense 139
charged may apply to the court in which the misdemeanor criminal 140
case was pending when bail was forfeited for the sealing of the 141
record of the case that pertains to the charge. Except as 142
provided in section 2953.61 of the Revised Code, the application 143
may be filed at any time after the expiration of one year from 144
the date on which the bail forfeiture was entered upon the 145
minutes of the court or the journal, whichever entry occurs 146
first. 147

(B) Upon the filing of an application under this section, 148
the court shall set a date for a hearing and shall notify the 149
prosecutor for the case of the hearing on the application. The 150
prosecutor may object to the granting of the application by 151
filing an objection with the court prior to the date set for the 152
hearing. The prosecutor shall specify in the objection the 153
reasons for believing a denial of the application is justified. 154
The court shall direct its regular probation officer, a state 155
probation officer, or the department of probation of the county 156
in which the applicant resides to make inquiries and written 157
reports as the court requires concerning the applicant. If the 158
applicant was convicted of or pleaded guilty to a violation of 159
division (A)(2) or (B) of section 2919.21 of the Revised Code, 160
the probation officer or county department of probation that the 161
court directed to make inquiries concerning the applicant shall 162
contact the child support enforcement agency enforcing the 163
applicant's obligations under the child support order to inquire 164
about the offender's compliance with the child support order. 165

(C) (1) The court shall do each of the following:	166
(a) Determine whether the applicant is an eligible offender or whether the forfeiture of bail was agreed to by the applicant and the prosecutor in the case. If the applicant applies as an eligible offender pursuant to division (A) (1) of this section and has two or three convictions that result from the same indictment, information, or complaint, from the same plea of guilty, or from the same official proceeding, and result from related criminal acts that were committed within a three-month period but do not result from the same act or from offenses committed at the same time, in making its determination under this division, the court initially shall determine whether it is not in the public interest for the two or three convictions to be counted as one conviction. If the court determines that it is not in the public interest for the two or three convictions to be counted as one conviction, the court shall determine that the applicant is not an eligible offender; if the court does not make that determination, the court shall determine that the offender is an eligible offender.	167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184
(b) Determine whether criminal proceedings are pending against the applicant;	185 186
(c) If the applicant is an eligible offender who applies pursuant to division (A) (1) of this section, determine whether the applicant has been rehabilitated to the satisfaction of the court;	187 188 189 190
(d) If the prosecutor has filed an objection in accordance with division (B) of this section, consider the reasons against granting the application specified by the prosecutor in the objection;	191 192 193 194

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

(2) If the court determines, after complying with division (C) (1) of this section, that the applicant is an eligible offender or the subject of a bail forfeiture, that no criminal proceeding is pending against the applicant, ~~and~~ that the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed are not outweighed by any legitimate governmental needs to maintain those records, and that the rehabilitation of an applicant who is an eligible offender applying pursuant to division (A) (1) of this section has been attained to the satisfaction of the court, the court, except as provided in divisions (G), (H), or (I) of this section, shall order all official records of the case that pertain to the conviction or bail forfeiture sealed and, except as provided in division (F) of this section, all index references to the case that pertain to the conviction or bail forfeiture deleted and, in the case of bail forfeitures, shall dismiss the charges in the case. The proceedings in the case that pertain to the conviction or bail forfeiture shall be considered not to have occurred and the conviction or bail forfeiture of the person who is the subject of the proceedings shall be sealed, except that upon conviction of a subsequent offense, the sealed record of prior conviction or bail forfeiture may be considered by the court in determining the sentence or other appropriate disposition, including the relief provided for in sections 2953.31 to 2953.33 of the Revised Code.

(3) An applicant may request the sealing of the records of more than one case in a single application under this section.

Upon the filing of an application under this section, the 226
applicant, unless indigent, shall pay a fee of fifty dollars, 227
regardless of the number of records the application requests to 228
have sealed. The court shall pay thirty dollars of the fee into 229
the state treasury. It shall pay twenty dollars of the fee into 230
the county general revenue fund if the sealed conviction or bail 231
forfeiture was pursuant to a state statute, or into the general 232
revenue fund of the municipal corporation involved if the sealed 233
conviction or bail forfeiture was pursuant to a municipal 234
ordinance. 235

(4) At the time an applicant files an application under 236
division (A) of this section, the following shall apply: 237

(a) The clerk of court shall notify the applicant in 238
writing that the court will send notice of any order under 239
division (C) (2) of this section to the qualified third party 240
selected by the attorney general under section 109.38 of the 241
Revised Code and shall inform the applicant of the procedures 242
under section 109.381 of the Revised Code. 243

(b) The applicant shall then notify the clerk if the 244
applicant wishes to opt out of receiving the benefits of having 245
the court send notice of its order under division (C) (2) of this 246
section to the qualified third party and having the procedures 247
under section 109.381 of the Revised Code apply to the records 248
that are subject to the order. 249

(c) If the applicant does not opt out under division (C) 250
(4) (b) of this section, the applicant shall pay to the clerk of 251
court the fee provided in the contract between the attorney 252
general and the qualified third party under division (C) (2) (b) 253
of section 109.38 of the Revised Code. 254

(5) (a) Upon the issuance of an order under division (C) (2) 255
of this section, and unless the applicant opts out under 256
division (C) (4) (b) of this section, the clerk shall remit the 257
fee paid by the applicant under division (C) (4) (c) of this 258
section to the qualified third party. The court shall send 259
notice of the order under division (C) (2) of this section to the 260
qualified third party. 261

(b) If the applicant's application under division (A) of 262
this section is denied for any reason or if the applicant 263
informs the clerk of court in writing, before the issuance of 264
the order under division (C) (2) of this section, that the 265
applicant wishes to opt out of having the court send notice of 266
its order under division (C) (2) of this section to the qualified 267
third party, the clerk shall remit the fee paid by the applicant 268
under division (C) (4) (c) of this section that is intended for 269
the qualified third party back to the applicant. 270

(D) Inspection of the sealed records included in the order 271
may be made only by the following persons or for the following 272
purposes: 273

(1) By a law enforcement officer or prosecutor, or the 274
assistants of either, to determine whether the nature and 275
character of the offense with which a person is to be charged 276
would be affected by virtue of the person's previously having 277
been convicted of a crime; 278

(2) By the parole or probation officer of the person who 279
is the subject of the records, for the exclusive use of the 280
officer in supervising the person while on parole or under a 281
community control sanction or a post-release control sanction, 282
and in making inquiries and written reports as requested by the 283
court or adult parole authority; 284

(3) Upon application by the person who is the subject of	285
the records, by the persons named in the application;	286
(4) By a law enforcement officer who was involved in the	287
case, for use in the officer's defense of a civil action arising	288
out of the officer's involvement in that case;	289
(5) By a prosecuting attorney or the prosecuting	290
attorney's assistants, to determine a defendant's eligibility to	291
enter a pre-trial diversion program established pursuant to	292
section 2935.36 of the Revised Code;	293
(6) By any law enforcement agency or any authorized	294
employee of a law enforcement agency or by the department of	295
rehabilitation and correction as part of a background	296
investigation of a person who applies for employment with the	297
agency as a law enforcement officer or with the department as a	298
corrections officer;	299
(7) By any law enforcement agency or any authorized	300
employee of a law enforcement agency, for the purposes set forth	301
in, and in the manner provided in, section 2953.321 of the	302
Revised Code;	303
(8) By the bureau of criminal identification and	304
investigation or any authorized employee of the bureau for the	305
purpose of providing information to a board or person pursuant	306
to division (F) or (G) of section 109.57 of the Revised Code;	307
(9) By the bureau of criminal identification and	308
investigation or any authorized employee of the bureau for the	309
purpose of performing a criminal history records check on a	310
person to whom a certificate as prescribed in section 109.77 of	311
the Revised Code is to be awarded;	312
(10) By the bureau of criminal identification and	313

investigation or any authorized employee of the bureau for the 314
purpose of conducting a criminal records check of an individual 315
pursuant to division (B) of section 109.572 of the Revised Code 316
that was requested pursuant to any of the sections identified in 317
division (B)(1) of that section; 318

(11) By the bureau of criminal identification and 319
investigation, an authorized employee of the bureau, a sheriff, 320
or an authorized employee of a sheriff in connection with a 321
criminal records check described in section 311.41 of the 322
Revised Code; 323

(12) By the attorney general or an authorized employee of 324
the attorney general or a court for purposes of determining a 325
person's classification pursuant to Chapter 2950. of the Revised 326
Code; 327

(13) By a court, the registrar of motor vehicles, a 328
prosecuting attorney or the prosecuting attorney's assistants, 329
or a law enforcement officer for the purpose of assessing points 330
against a person under section 4510.036 of the Revised Code or 331
for taking action with regard to points assessed. 332

When the nature and character of the offense with which a 333
person is to be charged would be affected by the information, it 334
may be used for the purpose of charging the person with an 335
offense. 336

(E) In any criminal proceeding, proof of any otherwise 337
admissible prior conviction may be introduced and proved, 338
notwithstanding the fact that for any such prior conviction an 339
order of sealing previously was issued pursuant to sections 340
2953.31 to 2953.36 of the Revised Code. 341

(F) The person or governmental agency, office, or 342

department that maintains sealed records pertaining to 343
convictions or bail forfeitures that have been sealed pursuant 344
to this section may maintain a manual or computerized index to 345
the sealed records. The index shall contain only the name of, 346
and alphanumeric identifiers that relate to, the persons who are 347
the subject of the sealed records, the word "sealed," and the 348
name of the person, agency, office, or department that has 349
custody of the sealed records, and shall not contain the name of 350
the crime committed. The index shall be made available by the 351
person who has custody of the sealed records only for the 352
purposes set forth in divisions (C), (D), and (E) of this 353
section. 354

(G) Notwithstanding any provision of this section or 355
section 2953.33 of the Revised Code that requires otherwise, a 356
board of education of a city, local, exempted village, or joint 357
vocational school district that maintains records of an 358
individual who has been permanently excluded under sections 359
3301.121 and 3313.662 of the Revised Code is permitted to 360
maintain records regarding a conviction that was used as the 361
basis for the individual's permanent exclusion, regardless of a 362
court order to seal the record. An order issued under this 363
section to seal the record of a conviction does not revoke the 364
adjudication order of the superintendent of public instruction 365
to permanently exclude the individual who is the subject of the 366
sealing order. An order issued under this section to seal the 367
record of a conviction of an individual may be presented to a 368
district superintendent as evidence to support the contention 369
that the superintendent should recommend that the permanent 370
exclusion of the individual who is the subject of the sealing 371
order be revoked. Except as otherwise authorized by this 372
division and sections 3301.121 and 3313.662 of the Revised Code, 373

any school employee in possession of or having access to the 374
sealed conviction records of an individual that were the basis 375
of a permanent exclusion of the individual is subject to section 376
2953.35 of the Revised Code. 377

(H) For purposes of sections 2953.31 to 2953.36 of the 378
Revised Code, DNA records collected in the DNA database and 379
fingerprints filed for record by the superintendent of the 380
bureau of criminal identification and investigation shall not be 381
sealed unless the superintendent receives a certified copy of a 382
final court order establishing that the offender's conviction 383
has been overturned. For purposes of this section, a court order 384
is not "final" if time remains for an appeal or application for 385
discretionary review with respect to the order. 386

(I) The sealing of a record under this section does not 387
affect the assessment of points under section 4510.036 of the 388
Revised Code and does not erase points assessed against a person 389
as a result of the sealed record. 390

Sec. 2953.37. (A) As used in this section: 391

(1) "Expunge" means to destroy, delete, and erase a record 392
as appropriate for the record's physical or electronic form or 393
characteristic so that the record is permanently irretrievable. 394

(2) "Official records" has the same meaning as in section 395
2953.51 of the Revised Code. 396

(3) "Prosecutor" has the same meaning as in section 397
2953.31 of the Revised Code. 398

(4) "Record of conviction" means the record related to a 399
conviction of or plea of guilty to an offense. 400

(B) Any person who is convicted of, was convicted of, 401

pleads guilty to, or has pleaded guilty to a violation of 402
division (B), (C), or (E) of section 2923.16 of the Revised Code 403
as the division existed prior to September 30, 2011, and who is 404
authorized by division (H) (2) (a) of that section to file an 405
application under this section for the expungement of the 406
conviction record may apply to the sentencing court for the 407
expungement of the record of conviction. The person may file the 408
application at any time on or after September 30, 2011. The 409
application shall do all of the following: 410

(1) Identify the applicant, the offense for which the 411
expungement is sought, the date of the conviction of or plea of 412
guilty to that offense, and the court in which the conviction 413
occurred or the plea of guilty was entered; 414

(2) Include evidence that the offense was a violation of 415
division (B), (C), or (E) of section 2923.16 of the Revised Code 416
as the division existed prior to September 30, 2011, and that 417
the applicant is authorized by division (H) (2) (a) of that 418
section to file an application under this section; 419

(3) Include a request for expungement of the record of 420
conviction of that offense under this section. 421

(C) Upon the filing of an application under division (B) 422
of this section and the payment of the fee described in division 423
(D) (3) of this section if applicable, the court shall set a date 424
for a hearing and shall notify the prosecutor for the case of 425
the hearing on the application. The prosecutor may object to the 426
granting of the application by filing an objection with the 427
court prior to the date set for the hearing. The prosecutor 428
shall specify in the objection the reasons for believing a 429
denial of the application is justified. The court shall direct 430
its regular probation officer, a state probation officer, or the 431

department of probation of the county in which the applicant 432
resides to make inquiries and written reports as the court 433
requires concerning the applicant. The court shall hold the 434
hearing scheduled under this division. 435

(D) (1) At the hearing held under division (C) of this 436
section, the court shall do each of the following: 437

(a) Determine whether the applicant has been convicted of 438
or pleaded guilty to a violation of division (E) of section 439
2923.16 of the Revised Code as the division existed prior to 440
September 30, 2011, and whether the conduct that was the basis 441
of the violation no longer would be a violation of that division 442
on or after September 30, 2011; 443

(b) Determine whether the applicant has been convicted of 444
or pleaded guilty to a violation of division (B) or (C) of 445
section 2923.16 of the Revised Code as the division existed 446
prior to September 30, 2011, and whether the conduct that was 447
the basis of the violation no longer would be a violation of 448
that division on or after September 30, 2011, due to the 449
application of division (F) (5) of that section as it exists on 450
and after September 30, 2011; 451

(c) If the prosecutor has filed an objection in accordance 452
with division (C) of this section, consider the reasons against 453
granting the application specified by the prosecutor in the 454
objection; 455

(d) Weigh the interests of the applicant in having the 456
records pertaining to the applicant's conviction or guilty plea 457
expunged against the legitimate needs, if any, of the government 458
to maintain those records. 459

(2) (a) The court may order the expungement of all official 460

records pertaining to the case and the deletion of all index 461
references to the case and, if it does order the expungement, 462
shall send notice of the order to each public office or agency 463
that the court has reason to believe may have an official record 464
pertaining to the case if the court, after complying with 465
division (D) (1) of this section, determines both of the 466
following: 467

(i) That the applicant has been convicted of or pleaded 468
guilty to a violation of division (E) of section 2923.16 of the 469
Revised Code as it existed prior to September 30, 2011, and the 470
conduct that was the basis of the violation no longer would be a 471
violation of that division on or after September 30, 2011, or 472
that the applicant has been convicted of or pleaded guilty to a 473
violation of division (B) or (C) of section 2923.16 of the 474
Revised Code as the division existed prior to September 30, 475
2011, and the conduct that was the basis of the violation no 476
longer would be a violation of that division on or after 477
September 30, 2011, due to the application of division (F) (5) of 478
that section as it exists on and after September 30, 2011; 479

(ii) That the interests of the applicant in having the 480
records pertaining to the applicant's conviction or guilty plea 481
expunged are not outweighed by any legitimate needs of the 482
government to maintain those records. 483

(b) The proceedings in the case that is the subject of an 484
order issued under division (D) (2) (a) of this section shall be 485
considered not to have occurred and the conviction or guilty 486
plea of the person who is the subject of the proceedings shall 487
be expunged. The record of the conviction shall not be used for 488
any purpose, including, but not limited to, a criminal records 489
check under section 109.572 of the Revised Code or a 490

determination under section 2923.125 or 2923.1212 of the Revised Code of eligibility for a concealed handgun license. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.

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

(4) At the time an applicant files an application under division (B) of this section, the following shall apply:

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

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

(c) If the applicant does not opt out under division (D) (4) (b) of this section, the applicant shall pay to the clerk of court the fee provided in the contract between the attorney general and the qualified third party under division (C) (2) (b) of section 109.38 of the Revised Code.

(5) (a) Upon issuance of an order under division (D) (2) (a)

of this section, and unless the applicant opts out under 520
division (D) (4) (b) of this section, the clerk shall remit the 521
fee paid by the applicant under division (D) (4) (c) of this 522
section to the qualified third party. The court shall send 523
notice of the order under division (D) (2) (a) of this section to 524
the qualified third party. 525

(b) If the applicant's application under division (B) of 526
this section is denied for any reason or if the applicant 527
informs the clerk of court in writing, before the issuance of 528
the order under division (D) (2) (a) of this section, that the 529
applicant wishes to opt out of having the court send notice of 530
its order under division (D) (2) (a) of this section to the 531
qualified third party, the clerk shall remit the fee paid by the 532
applicant under division (D) (4) (c) of this section that is 533
intended for the qualified third party back to the applicant. 534

Sec. 2953.38. (A) As used in this section: 535

(1) "Expunge" means to destroy, delete, or erase a record 536
as appropriate for the record's physical or electronic form or 537
characteristic so that the record is permanently irretrievable. 538

(2) "Prosecutor" has the same meaning as in section 539
2953.31 of the Revised Code. 540

(3) "Record of conviction" means the record related to a 541
conviction of or plea of guilty to an offense. 542

(4) "Victim of human trafficking" means a person who is or 543
was a victim of a violation of section 2905.32 of the Revised 544
Code, regardless of whether anyone has been convicted of a 545
violation of that section or of any other section for 546
victimizing the person. 547

(B) Any person who is or was convicted of a violation of 548

section 2907.24, 2907.241, or 2907.25 of the Revised Code may 549
apply to the sentencing court for the expungement of the record 550
of conviction if the person's participation in the offense was a 551
result of the person having been a victim of human trafficking. 552
The person may file the application at any time. The application 553
shall do all of the following: 554

(1) Identify the applicant, the offense for which the 555
expungement is sought, the date of the conviction of that 556
offense, and the court in which the conviction occurred; 557

(2) Describe the evidence and provide copies of any 558
documentation showing that the person is entitled to relief 559
under this section; 560

(3) Include a request for expungement of the record of 561
conviction of that offense under this section. 562

(C) The court may deny an application made under division 563
(B) of this section if it finds that the application fails to 564
assert grounds on which relief may be granted. 565

(D) If the court does not deny an application under 566
division (C) of this section, it shall set a date for a hearing 567
and shall notify the prosecutor for the case from which the 568
record of conviction resulted of the hearing on the application. 569
The prosecutor may object to the granting of the application by 570
filing an objection with the court prior to the date set for the 571
hearing. The prosecutor shall specify in the objection the 572
reasons for believing a denial of the application is justified. 573
The court may direct its regular probation officer, a state 574
probation officer, or the department of probation of the county 575
in which the applicant resides to make inquiries and written 576
reports as the court requires concerning the applicant. 577

(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 violation of section 2907.24, 2907.241, or 2907.25 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.

(2) The proceedings in the case that is the subject of an order issued under division (F) of this section shall be considered not to have occurred and the conviction of the person

who is the subject of the proceedings shall be expunged. The 607
record of the conviction shall not be used for any purpose, 608
including, but not limited to, a criminal records check under 609
section 109.572 of the Revised Code. The applicant may, and the 610
court shall, reply that no record exists with respect to the 611
applicant upon any inquiry into the matter. 612

(H) Upon the filing of an application under this section, 613
the applicant, unless indigent, shall pay a fee of fifty 614
dollars. The court shall pay thirty dollars of the fee into the 615
state treasury and shall pay twenty dollars of the fee into the 616
county general revenue fund. 617

(I) At the time an applicant files an application under 618
division (B) of this section, the following shall apply: 619

(1) The clerk of court shall notify the applicant in 620
writing that the court will send notice of any order under 621
division (F) of this section to the qualified third party 622
selected by the attorney general under section 109.38 of the 623
Revised Code and shall inform the applicant of the procedures 624
under section 109.381 of the Revised Code. 625

(2) The applicant shall then notify the clerk if the 626
applicant wishes to opt out of receiving the benefits of having 627
the court send notice of its order under division (F) of this 628
section to the qualified third party and having the procedures 629
under section 109.381 of the Revised Code apply to the records 630
that are subject to the order. 631

(3) If the applicant does not opt out under division (I) 632
(2) of this section, the applicant shall pay to the clerk of 633
court the fee provided in the contract between the attorney 634
general and the qualified third party under division (C) (2) (b) 635

of section 109.38 of the Revised Code. 636

(J) (1) Upon the issuance of an order under division (F) of 637
this section, and unless the applicant opts out under division 638
(I) (2) of this section, the clerk shall remit the fee paid by 639
the applicant under division (I) (3) of this section to the 640
qualified third party. The court shall send notice of the order 641
under division (F) of this section to the qualified third party. 642

(2) If the applicant's application under division (B) of 643
this section is denied for any reason or if the applicant 644
informs the clerk of court in writing, before the issuance of 645
the order under division (F) of this section, that the applicant 646
wishes to opt out of having the court send notice of its order 647
under division (F) of this section to the qualified third party, 648
the clerk shall remit the fee paid by the applicant under 649
division (I) (3) of this section that is intended for the 650
qualified third party back to the applicant. 651

Sec. 2953.53. (A) (1) The court shall send notice of any 652
order to seal official records issued pursuant to division (B) 653
(3) of section 2953.52 of the Revised Code to the bureau of 654
criminal identification and investigation and shall send notice 655
of any order issued pursuant to division (B) (4) of that section 656
to any public office or agency that the court knows or has 657
reason to believe may have any record of the case, whether or 658
not it is an official record, that is the subject of the order. 659

(2) (a) At the time an applicant files an application under 660
division (A) of section 2953.52 of the Revised Code, the 661
following shall apply: 662

(i) The clerk of court shall notify the applicant in 663
writing that the court will send notice of any order under 664

division (B) (4) of section 2953.52 of the Revised Code to the 665
qualified third party selected by the attorney general under 666
section 109.38 of the Revised Code and shall inform the 667
applicant of the procedures under section 109.381 of the Revised 668
Code. 669

(ii) The applicant shall then notify the clerk if the 670
applicant wishes to opt out of receiving the benefits of having 671
the court send notice of its order under division (B) (4) of 672
section 2953.52 of the Revised Code to the qualified third party 673
and having the procedures under section 109.381 of the Revised 674
Code apply to the records that are subject to the order. 675

(iii) If the applicant does not opt out under division (A) 676
(2) (a) (ii) of this section, the applicant shall pay to the clerk 677
of court the fee provided in the contract between the attorney 678
general and the qualified third party under division (C) (2) (b) 679
of section 109.38 of the Revised Code. 680

(b) Upon the issuance of an order under division (B) (4) of 681
section 2953.52 of the Revised Code, and unless the applicant 682
opts out under division (A) (2) (a) (ii) of this section, the clerk 683
shall remit the fee paid by the applicant under division (A) (2) 684
(a) (iii) of this section to the qualified third party. The court 685
shall send notice of the order under division (B) (4) of section 686
2953.52 of the Revised Code to the qualified third party. 687

(c) If the applicant's application under division (A) of 688
section 2953.52 of the Revised Code is denied for any reason or 689
if the applicant informs the clerk of court in writing, before 690
the issuance of the order under division (B) (4) of that section, 691
that the applicant wishes to opt out of having the court send 692
notice of its order under division (B) (4) of that section to the 693
qualified third party, the clerk shall remit the fee paid by the 694

applicant under division (A) (2) (a) (iii) of this section that is 695
intended for the qualified third party back to the applicant. 696

(B) A person whose official records have been sealed 697
pursuant to an order issued pursuant to section 2953.52 of the 698
Revised Code may present a copy of that order and a written 699
request to comply with it, to a public office or agency that has 700
a record of the case that is the subject of the order. 701

(C) An order to seal official records issued pursuant to 702
section 2953.52 of the Revised Code applies to every public 703
office or agency that has a record of the case that is the 704
subject of the order, regardless of whether it receives notice 705
of the hearing on the application for the order to seal the 706
official records or receives a copy of the order to seal the 707
official records pursuant to division (A) or (B) of this 708
section. 709

(D) Upon receiving a copy of an order to seal official 710
records pursuant to division (A) or (B) of this section or upon 711
otherwise becoming aware of an applicable order to seal official 712
records issued pursuant to section 2953.52 of the Revised Code, 713
a public office or agency shall comply with the order and, if 714
applicable, with the provisions of section 2953.54 of the 715
Revised Code, except that it may maintain a record of the case 716
that is the subject of the order if the record is maintained for 717
the purpose of compiling statistical data only and does not 718
contain any reference to the person who is the subject of the 719
case and the order. 720

A public office or agency also may maintain an index of 721
sealed official records, in a form similar to that for sealed 722
records of conviction as set forth in division (F) of section 723
2953.32 of the Revised Code, access to which may not be afforded 724

to any person other than the person who has custody of the 725
sealed official records. The sealed official records to which 726
such an index pertains shall not be available to any person, 727
except that the official records of a case that have been sealed 728
may be made available to the following persons for the following 729
purposes: 730

(1) To the person who is the subject of the records upon 731
written application, and to any other person named in the 732
application, for any purpose; 733

(2) To a law enforcement officer who was involved in the 734
case, for use in the officer's defense of a civil action arising 735
out of the officer's involvement in that case; 736

(3) To a prosecuting attorney or the prosecuting 737
attorney's assistants to determine a defendant's eligibility to 738
enter a pre-trial diversion program established pursuant to 739
section 2935.36 of the Revised Code; 740

(4) To a prosecuting attorney or the prosecuting 741
attorney's assistants to determine a defendant's eligibility to 742
enter a pre-trial diversion program under division (E) (2) (b) of 743
section 4301.69 of the Revised Code. 744

Section 2. That existing sections 2953.32, 2953.37, 745
2953.38, and 2953.53 of the Revised Code are hereby repealed. 746