

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 1**

**Representatives Plummer, Hicks-Hudson**

---

**A BILL**

To amend sections 2951.041, 2953.31, and 2953.32 of 1  
the Revised Code to modify the requirements for 2  
intervention in lieu of conviction and for 3  
sealing records of conviction. 4

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

**Section 1.** That sections 2951.041, 2953.31, and 2953.32 of 5  
the Revised Code be amended to read as follows: 6

**Sec. 2951.041.** (A) (1) If an offender is charged with a 7  
criminal offense, including but not limited to a violation of 8  
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 9  
of the Revised Code, and the court has reason to believe that 10  
drug or alcohol usage by the offender was a factor leading to 11  
the criminal offense with which the offender is charged or that, 12  
at the time of committing that offense, the offender had a 13  
mental illness, was a person with an intellectual disability, or 14  
was a victim of a violation of section 2905.32 or 2907.21 of the 15  
Revised Code and that the mental illness, status as a person 16  
with an intellectual disability, or fact that the offender was a 17  
victim of a violation of section 2905.32 or 2907.21 of the 18  
Revised Code was a factor leading to the offender's criminal 19

behavior, the court may accept, prior to the entry of a guilty 20  
plea, the offender's request for intervention in lieu of 21  
conviction. The request shall include a statement from the 22  
offender as to whether the offender is alleging that drug or 23  
alcohol usage by the offender was a factor leading to the 24  
criminal offense with which the offender is charged or is 25  
alleging that, at the time of committing that offense, the 26  
offender had a mental illness, was a person with an intellectual 27  
disability, or was a victim of a violation of section 2905.32 or 28  
2907.21 of the Revised Code and that the mental illness, status 29  
as a person with an intellectual disability, or fact that the 30  
offender was a victim of a violation of section 2905.32 or 31  
2907.21 of the Revised Code was a factor leading to the criminal 32  
offense with which the offender is charged. The request also 33  
shall include a waiver of the defendant's right to a speedy 34  
trial, the preliminary hearing, the time period within which the 35  
grand jury may consider an indictment against the offender, and 36  
arraignment, unless the hearing, indictment, or arraignment has 37  
already occurred. ~~The~~ Unless an offender alleges that drug or 38  
alcohol usage by the offender was a factor leading to the 39  
criminal offense with which the offender is charged, the court 40  
may reject an offender's request without a hearing. If the court 41  
elects to consider an offender's request or the offender alleges 42  
that drug or alcohol usage by the offender was a factor leading 43  
to the criminal offense with which the offender is charged, the 44  
court shall conduct a hearing to determine whether the offender 45  
is eligible under this section for intervention in lieu of 46  
conviction and shall stay all criminal proceedings pending the 47  
outcome of the hearing. If the court schedules a hearing, the 48  
court shall order an assessment of the offender for the purpose 49  
of determining the offender's program eligibility for 50  
intervention in lieu of conviction and recommending an 51

appropriate intervention plan. 52

If the offender alleges that drug or alcohol usage by the 53  
offender was a factor leading to the criminal offense with which 54  
the offender is charged, the court may order that the offender 55  
be assessed by a community addiction services provider or a 56  
properly credentialed professional for the purpose of 57  
determining the offender's program eligibility for intervention 58  
in lieu of conviction and recommending an appropriate 59  
intervention plan. The community addiction services provider or 60  
the properly credentialed professional shall provide a written 61  
assessment of the offender to the court. 62

(2) The victim notification provisions of division (C) of 63  
section 2930.06 of the Revised Code apply in relation to any 64  
hearing held under division (A)(1) of this section. 65

(B) An offender is eligible for intervention in lieu of 66  
conviction if the court finds all of the following: 67

(1) The offender previously has not been convicted of or 68  
pleaded guilty to any felony offense of violence. 69

(2) The offense is not a felony of the first, second, or 70  
third degree, is not an offense of violence, is not a felony sex 71  
offense, is not a violation of division (A)(1) or (2) of section 72  
2903.06 of the Revised Code, is not a violation of division (A) 73  
(1) of section 2903.08 of the Revised Code, is not a violation 74  
of division (A) of section 4511.19 of the Revised Code or a 75  
municipal ordinance that is substantially similar to that 76  
division, and is not an offense for which a sentencing court is 77  
required to impose a mandatory prison term. 78

(3) The offender is not charged with a violation of 79  
section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not 80

charged with a violation of section 2925.03 of the Revised Code 81  
that is a felony of the first, second, third, or fourth degree, 82  
and is not charged with a violation of section 2925.11 of the 83  
Revised Code that is a felony of the first or second degree. 84

(4) If an offender alleges that drug or alcohol usage by 85  
the offender was a factor leading to the criminal offense with 86  
which the offender is charged, the court has ordered that the 87  
offender be assessed by a community addiction services provider 88  
or a properly credentialed professional for the purpose of 89  
determining the offender's program eligibility for intervention 90  
in lieu of conviction and recommending an appropriate 91  
intervention plan, the offender has been assessed by a community 92  
addiction services provider of that nature or a properly 93  
credentialed professional in accordance with the court's order, 94  
and the community addiction services provider or properly 95  
credentialed professional has filed the written assessment of 96  
the offender with the court. 97

(5) If an offender alleges that, at the time of committing 98  
the criminal offense with which the offender is charged, the 99  
offender had a mental illness, was a person with an intellectual 100  
disability, or was a victim of a violation of section 2905.32 or 101  
2907.21 of the Revised Code and that the mental illness, status 102  
as a person with an intellectual disability, or fact that the 103  
offender was a victim of a violation of section 2905.32 or 104  
2907.21 of the Revised Code was a factor leading to that 105  
offense, the offender has been assessed by a psychiatrist, 106  
psychologist, independent social worker, licensed professional 107  
clinical counselor, or independent marriage and family therapist 108  
for the purpose of determining the offender's program 109  
eligibility for intervention in lieu of conviction and 110  
recommending an appropriate intervention plan. 111

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

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

(8) If the offender is charged with a violation of section 2925.24 of the Revised Code, the alleged violation did not result in physical harm to any person.

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

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

(C) At the conclusion of a hearing held pursuant to division (A) of this section, the court shall ~~enter its determination as to determine~~ whether the offender will be granted intervention in lieu of conviction. In making this determination, the court shall presume that intervention in lieu

of conviction is appropriate. If the court finds under this 141  
division and division (B) of this section that the offender is 142  
eligible for intervention in lieu of conviction ~~and grants the~~ 143  
~~offender's request,~~ the court shall grant the offender's request 144  
unless the court finds specific reasons to believe that the 145  
candidate's participation in intervention in lieu of conviction 146  
would be inappropriate. 147

If the court denies an eligible offender's request for 148  
intervention in lieu of conviction, the court shall state the 149  
reasons for the denial, with particularity, in a written entry. 150

If the court grants the offender's request, the court 151  
shall accept the offender's plea of guilty and waiver of the 152  
defendant's right to a speedy trial, the preliminary hearing, 153  
the time period within which the grand jury may consider an 154  
indictment against the offender, and arraignment, unless the 155  
hearing, indictment, or arraignment has already occurred. In 156  
addition, the court then may stay all criminal proceedings and 157  
order the offender to comply with all terms and conditions 158  
imposed by the court pursuant to division (D) of this section. 159  
If the court finds that the offender is not eligible or does not 160  
grant the offender's request, the criminal proceedings against 161  
the offender shall proceed as if the offender's request for 162  
intervention in lieu of conviction had not been made. 163

(D) If the court grants an offender's request for 164  
intervention in lieu of conviction, the court shall place the 165  
offender under the general control and supervision of the county 166  
probation department, the adult parole authority, or another 167  
appropriate local probation or court services agency, if one 168  
exists, as if the offender was subject to a community control 169  
sanction imposed under section 2929.15, 2929.18, or 2929.25 of 170

the Revised Code. The court shall establish an intervention plan 171  
for the offender. The terms and conditions of the intervention 172  
plan shall require the offender, for at least one year, but not 173  
more than five years, from the date on which the court grants 174  
the order of intervention in lieu of conviction, to abstain from 175  
the use of illegal drugs and alcohol, to participate in 176  
treatment and recovery support services, and to submit to 177  
regular random testing for drug and alcohol use and may include 178  
any other treatment terms and conditions, or terms and 179  
conditions similar to community control sanctions, which may 180  
include community service or restitution, that are ordered by 181  
the court. 182

(E) If the court grants an offender's request for 183  
intervention in lieu of conviction and the court finds that the 184  
offender has successfully completed the intervention plan for 185  
the offender, including the requirement that the offender 186  
abstain from using illegal drugs and alcohol for a period of at 187  
least one year, but not more than five years, from the date on 188  
which the court granted the order of intervention in lieu of 189  
conviction, the requirement that the offender participate in 190  
treatment and recovery support services, and all other terms and 191  
conditions ordered by the court, the court shall dismiss the 192  
proceedings against the offender. Successful completion of the 193  
intervention plan and period of abstinence under this section 194  
shall be without adjudication of guilt and is not a criminal 195  
conviction for purposes of any disqualification or disability 196  
imposed by law and upon conviction of a crime, and the court may 197  
order the sealing of records related to the offense in question 198  
in the manner provided in sections 2953.31 to 2953.36 of the 199  
Revised Code. 200

(F) If the court grants an offender's request for 201

intervention in lieu of conviction and the offender fails to 202  
comply with any term or condition imposed as part of the 203  
intervention plan for the offender, the supervising authority 204  
for the offender promptly shall advise the court of this 205  
failure, and the court shall hold a hearing to determine whether 206  
the offender failed to comply with any term or condition imposed 207  
as part of the plan. If the court determines that the offender 208  
has failed to comply with any of those terms and conditions, it 209  
may continue the offender on intervention in lieu of conviction, 210  
continue the offender on intervention in lieu of conviction with 211  
additional terms, conditions, and sanctions, or enter a finding 212  
of guilty and impose an appropriate sanction under Chapter 2929. 213  
of the Revised Code. If the court sentences the offender to a 214  
prison term, the court, after consulting with the department of 215  
rehabilitation and correction regarding the availability of 216  
services, may order continued court-supervised activity and 217  
treatment of the offender during the prison term and, upon 218  
consideration of reports received from the department concerning 219  
the offender's progress in the program of activity and 220  
treatment, may consider judicial release under section 2929.20 221  
of the Revised Code. 222

(G) As used in this section: 223

(1) "Community addiction services provider" has the same 224  
meaning as in section 5119.01 of the Revised Code. 225

(2) "Community control sanction" has the same meaning as 226  
in section 2929.01 of the Revised Code. 227

(3) "Intervention in lieu of conviction" means any court- 228  
supervised activity that complies with this section. 229

(4) "Intellectual disability" has the same meaning as in 230



section 5123.01 of the Revised Code.	231
(5) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	232 233
(6) "Mental illness" and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code.	234 235
(7) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.	236 237
<u>(8) "Felony sex offense" means a violation of a section contained in Chapter 2907. of the Revised Code that is a felony.</u>	238 239
<b>Sec. 2953.31.</b> As used in sections 2953.31 to 2953.36 of the Revised Code:	240 241
(A) (1) "Eligible offender" means either of the following:	242
(a) Anyone who has been convicted of one or more offenses, <del>but not more than five felonies,</del> in this state or any other jurisdiction, if all of the offenses in this state are felonies of the fourth or fifth degree or misdemeanors and none of those offenses are an offense of violence or a felony sex offense and all of the offenses in another jurisdiction, if committed in this state, would be felonies of the fourth or fifth degree or misdemeanors and none of those offenses would be an offense of violence or a felony sex offense;	243 244 245 246 247 248 249 250 251
(b) Anyone who has been convicted of an offense in this state or any other jurisdiction, to whom division (A) (1) (a) of this section does not apply, and who has not more than <del>one two</del> <u>felony conviction convictions</u> , not more than <del>two four</del> <u>misdemeanor convictions</u> , or not more than <del>one two</del> <u>felony conviction convictions</u> and <del>one two</del> <u>misdemeanor conviction convictions</u> in this state or any other jurisdiction. <u>The</u>	252 253 254 255 256 257 258

conviction that is requested to be sealed shall be a conviction 259  
that is eligible for sealing as provided in section 2953.36 of 260  
the Revised Code. When two or more convictions result from or 261  
are connected with the same act or result from offenses 262  
committed at the same time, they shall be counted as one 263  
conviction. When two or three convictions result from the same 264  
indictment, information, or complaint, from the same plea of 265  
guilty, or from the same official proceeding, and result from 266  
related criminal acts that were committed within a three-month 267  
period but do not result from the same act or from offenses 268  
committed at the same time, they shall be counted as one 269  
conviction, provided that a court may decide as provided in 270  
division (C) (1) (a) of section 2953.32 of the Revised Code that 271  
it is not in the public interest for the two or three 272  
convictions to be counted as one conviction. 273

(2) For purposes of, and except as otherwise provided in, 274  
division (A) (1) (b) of this section, a conviction for a minor 275  
misdemeanor, for a violation of any section in Chapter 4507., 276  
4510., 4511., 4513., or 4549. of the Revised Code, or for a 277  
violation of a municipal ordinance that is substantially similar 278  
to any section in those chapters is not a conviction. However, a 279  
conviction for a violation of section 4511.19, 4511.251, 280  
4549.02, 4549.021, 4549.03, 4549.042, or 4549.62 or sections 281  
4549.41 to 4549.46 of the Revised Code, for a violation of 282  
section 4510.11 or 4510.14 of the Revised Code that is based 283  
upon the offender's operation of a vehicle during a suspension 284  
imposed under section 4511.191 or 4511.196 of the Revised Code, 285  
for a violation of a substantially equivalent municipal 286  
ordinance, for a felony violation of Title XLV of the Revised 287  
Code, or for a violation of a substantially equivalent former 288  
law of this state or former municipal ordinance shall be 289

considered a conviction.	290
(B) "Prosecutor" means the county prosecuting attorney,	291
city director of law, village solicitor, or similar chief legal	292
officer, who has the authority to prosecute a criminal case in	293
the court in which the case is filed.	294
(C) "Bail forfeiture" means the forfeiture of bail by a	295
defendant who is arrested for the commission of a misdemeanor,	296
other than a defendant in a traffic case as defined in Traffic	297
Rule 2, if the forfeiture is pursuant to an agreement with the	298
court and prosecutor in the case.	299
(D) "Official records" has the same meaning as in division	300
(D) of section 2953.51 of the Revised Code.	301
(E) "Official proceeding" has the same meaning as in	302
section 2921.01 of the Revised Code.	303
(F) "Community control sanction" has the same meaning as	304
in section 2929.01 of the Revised Code.	305
(G) "Post-release control" and "post-release control	306
sanction" have the same meanings as in section 2967.01 of the	307
Revised Code.	308
(H) "DNA database," "DNA record," and "law enforcement	309
agency" have the same meanings as in section 109.573 of the	310
Revised Code.	311
(I) "Fingerprints filed for record" means any fingerprints	312
obtained by the superintendent of the bureau of criminal	313
identification and investigation pursuant to sections 109.57 and	314
109.571 of the Revised Code.	315
<b>Sec. 2953.32.</b> (A) (1) Except as provided in section 2953.61	316
of the Revised Code, an eligible offender may apply to the	317

sentencing court if convicted in this state, or to a court of 318  
common pleas if convicted in another state or in a federal 319  
court, for the sealing of the record of the case that pertains 320  
to the conviction, except for convictions listed under section 321  
2953.36 of the Revised Code. Application may be made at one of 322  
the following times: 323

(a) At the expiration of three years after the offender's 324  
final discharge if convicted of ~~one~~ a felony of the third 325  
degree; 326

~~(b) When division (A) (1) (a) of section 2953.31 of the~~ 327  
~~Revised Code applies to the offender, at the expiration of four~~ 328  
~~years after the offender's final discharge if convicted of two~~ 329  
~~felonies, or at the expiration of five years after final~~ 330  
~~discharge if convicted of three, four, or five felonies;~~ 331

~~(c)~~ At the expiration of one year after the offender's 332  
final discharge if convicted of a felony of the fourth or fifth 333  
degree or a misdemeanor. 334

(2) Any person who has been arrested for any misdemeanor 335  
offense and who has effected a bail forfeiture for the offense 336  
charged may apply to the court in which the misdemeanor criminal 337  
case was pending when bail was forfeited for the sealing of the 338  
record of the case that pertains to the charge. Except as 339  
provided in section 2953.61 of the Revised Code, the application 340  
may be filed at any time after the expiration of one year from 341  
the date on which the bail forfeiture was entered upon the 342  
minutes of the court or the journal, whichever entry occurs 343  
first. 344

(B) Upon the filing of an application under this section, 345  
the court shall set a date for a hearing and shall notify the 346

prosecutor for the case of the hearing on the application. The 347  
prosecutor may object to the granting of the application by 348  
filing an objection with the court prior to the date set for the 349  
hearing. The prosecutor shall specify in the objection the 350  
reasons for believing a denial of the application is justified. 351  
The court shall direct its regular probation officer, a state 352  
probation officer, or the department of probation of the county 353  
in which the applicant resides to make inquiries and written 354  
reports as the court requires concerning the applicant. The 355  
probation officer or county department of probation that the 356  
court directs to make inquiries concerning the applicant shall 357  
determine whether or not the applicant was fingerprinted at the 358  
time of arrest or under section 109.60 of the Revised Code. If 359  
the applicant was so fingerprinted, the probation officer or 360  
county department of probation shall include with the written 361  
report a record of the applicant's fingerprints. If the 362  
applicant was convicted of or pleaded guilty to a violation of 363  
division (A) (2) or (B) of section 2919.21 of the Revised Code, 364  
the probation officer or county department of probation that the 365  
court directed to make inquiries concerning the applicant shall 366  
contact the child support enforcement agency enforcing the 367  
applicant's obligations under the child support order to inquire 368  
about the offender's compliance with the child support order. 369

(C) (1) The court shall do each of the following: 370

(a) Determine whether the applicant is an eligible 371  
offender or whether the forfeiture of bail was agreed to by the 372  
applicant and the prosecutor in the case. If the applicant 373  
applies as an eligible offender pursuant to division (A) (1) of 374  
this section and has two or three convictions that result from 375  
the same indictment, information, or complaint, from the same 376  
plea of guilty, or from the same official proceeding, and result 377

from related criminal acts that were committed within a three- 378  
month period but do not result from the same act or from 379  
offenses committed at the same time, in making its determination 380  
under this division, the court initially shall determine whether 381  
it is not in the public interest for the two or three 382  
convictions to be counted as one conviction. If the court 383  
determines that it is not in the public interest for the two or 384  
three convictions to be counted as one conviction, the court 385  
shall determine that the applicant is not an eligible offender; 386  
if the court does not make that determination, the court shall 387  
determine that the offender is an eligible offender. 388

(b) Determine whether criminal proceedings are pending 389  
against the applicant; 390

(c) If the applicant is an eligible offender who applies 391  
pursuant to division (A) (1) of this section, determine whether 392  
the applicant has been rehabilitated to the satisfaction of the 393  
court; 394

(d) If the prosecutor has filed an objection in accordance 395  
with division (B) of this section, consider the reasons against 396  
granting the application specified by the prosecutor in the 397  
objection; 398

(e) Weigh the interests of the applicant in having the 399  
records pertaining to the applicant's conviction or bail 400  
forfeiture sealed against the legitimate needs, if any, of the 401  
government to maintain those records. 402

(2) If the court determines, after complying with division 403  
(C) (1) of this section, that the applicant is an eligible 404  
offender or the subject of a bail forfeiture, that no criminal 405  
proceeding is pending against the applicant, that the interests 406

of the applicant in having the records pertaining to the 407  
applicant's conviction or bail forfeiture sealed are not 408  
outweighed by any legitimate governmental needs to maintain 409  
those records, and that the rehabilitation of an applicant who 410  
is an eligible offender applying pursuant to division (A)(1) of 411  
this section has been attained to the satisfaction of the court, 412  
the court, except as provided in division (C)(4), (G), (H), or 413  
(I) of this section, shall order all official records of the 414  
case that pertain to the conviction or bail forfeiture sealed 415  
and, except as provided in division (F) of this section, all 416  
index references to the case that pertain to the conviction or 417  
bail forfeiture deleted and, in the case of bail forfeitures, 418  
shall dismiss the charges in the case. The proceedings in the 419  
case that pertain to the conviction or bail forfeiture shall be 420  
considered not to have occurred and the conviction or bail 421  
forfeiture of the person who is the subject of the proceedings 422  
shall be sealed, except that upon conviction of a subsequent 423  
offense, the sealed record of prior conviction or bail 424  
forfeiture may be considered by the court in determining the 425  
sentence or other appropriate disposition, including the relief 426  
provided for in sections 2953.31 to 2953.33 of the Revised Code. 427

(3) An applicant may request the sealing of the records of 428  
more than one case in a single application under this section. 429  
Upon the filing of an application under this section, the 430  
applicant, unless indigent, shall pay a fee of fifty dollars, 431  
regardless of the number of records the application requests to 432  
have sealed. The court shall pay thirty dollars of the fee into 433  
the state treasury. It shall pay twenty dollars of the fee into 434  
the county general revenue fund if the sealed conviction or bail 435  
forfeiture was pursuant to a state statute, or into the general 436  
revenue fund of the municipal corporation involved if the sealed 437

conviction or bail forfeiture was pursuant to a municipal ordinance. 438  
439

(4) If the court orders the official records pertaining to the case sealed, the court shall do one of the following: 440  
441

(a) If the applicant was fingerprinted at the time of arrest or under section 109.60 of the Revised Code and the record of the applicant's fingerprints was provided to the court under division (B) of this section, forward a copy of the sealing order and the record of the applicant's fingerprints to the bureau of criminal identification and investigation. 442  
443  
444  
445  
446  
447

(b) If the applicant was not fingerprinted at the time of arrest or under section 109.60 of the Revised Code, or the record of the applicant's fingerprints was not provided to the court under division (B) of this section, but fingerprinting was required for the offense, order the applicant to appear before a sheriff to have the applicant's fingerprints taken according to the fingerprint system of identification on the forms furnished by the superintendent of the bureau of criminal identification and investigation. The sheriff shall forward the applicant's fingerprints to the court. The court shall forward the applicant's fingerprints and a copy of the sealing order to the bureau of criminal identification and investigation. 448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459

Failure of the court to order fingerprints at the time of sealing does not constitute a reversible error. 460  
461

(D) Inspection of the sealed records included in the order may be made only by the following persons or for the following purposes: 462  
463  
464

(1) By a law enforcement officer or prosecutor, or the assistants of either, to determine whether the nature and 465  
466



character of the offense with which a person is to be charged 467  
would be affected by virtue of the person's previously having 468  
been convicted of a crime; 469

(2) By the parole or probation officer of the person who 470  
is the subject of the records, for the exclusive use of the 471  
officer in supervising the person while on parole or under a 472  
community control sanction or a post-release control sanction, 473  
and in making inquiries and written reports as requested by the 474  
court or adult parole authority; 475

(3) Upon application by the person who is the subject of 476  
the records, by the persons named in the application; 477

(4) By a law enforcement officer who was involved in the 478  
case, for use in the officer's defense of a civil action arising 479  
out of the officer's involvement in that case; 480

(5) By a prosecuting attorney or the prosecuting 481  
attorney's assistants, to determine a defendant's eligibility to 482  
enter a pre-trial diversion program established pursuant to 483  
section 2935.36 of the Revised Code; 484

(6) By any law enforcement agency or any authorized 485  
employee of a law enforcement agency or by the department of 486  
rehabilitation and correction or department of youth services as 487  
part of a background investigation of a person who applies for 488  
employment with the agency or with the department; 489

(7) By any law enforcement agency or any authorized 490  
employee of a law enforcement agency, for the purposes set forth 491  
in, and in the manner provided in, section 2953.321 of the 492  
Revised Code; 493

(8) By the bureau of criminal identification and 494  
investigation or any authorized employee of the bureau for the 495

purpose of providing information to a board or person pursuant	496
to division (F) or (G) of section 109.57 of the Revised Code;	497
(9) By the bureau of criminal identification and	498
investigation or any authorized employee of the bureau for the	499
purpose of performing a criminal history records check on a	500
person to whom a certificate as prescribed in section 109.77 of	501
the Revised Code is to be awarded;	502
(10) By the bureau of criminal identification and	503
investigation or any authorized employee of the bureau for the	504
purpose of conducting a criminal records check of an individual	505
pursuant to division (B) of section 109.572 of the Revised Code	506
that was requested pursuant to any of the sections identified in	507
division (B)(1) of that section;	508
(11) By the bureau of criminal identification and	509
investigation, an authorized employee of the bureau, a sheriff,	510
or an authorized employee of a sheriff in connection with a	511
criminal records check described in section 311.41 of the	512
Revised Code;	513
(12) By the attorney general or an authorized employee of	514
the attorney general or a court for purposes of determining a	515
person's classification pursuant to Chapter 2950. of the Revised	516
Code;	517
(13) By a court, the registrar of motor vehicles, a	518
prosecuting attorney or the prosecuting attorney's assistants,	519
or a law enforcement officer for the purpose of assessing points	520
against a person under section 4510.036 of the Revised Code or	521
for taking action with regard to points assessed.	522
When the nature and character of the offense with which a	523
person is to be charged would be affected by the information, it	524

may be used for the purpose of charging the person with an 525  
offense. 526

(E) In any criminal proceeding, proof of any otherwise 527  
admissible prior conviction may be introduced and proved, 528  
notwithstanding the fact that for any such prior conviction an 529  
order of sealing previously was issued pursuant to sections 530  
2953.31 to 2953.36 of the Revised Code. 531

(F) The person or governmental agency, office, or 532  
department that maintains sealed records pertaining to 533  
convictions or bail forfeitures that have been sealed pursuant 534  
to this section may maintain a manual or computerized index to 535  
the sealed records. The index shall contain only the name of, 536  
and alphanumeric identifiers that relate to, the persons who are 537  
the subject of the sealed records, the word "sealed," and the 538  
name of the person, agency, office, or department that has 539  
custody of the sealed records, and shall not contain the name of 540  
the crime committed. The index shall be made available by the 541  
person who has custody of the sealed records only for the 542  
purposes set forth in divisions (C), (D), and (E) of this 543  
section. 544

(G) Notwithstanding any provision of this section or 545  
section 2953.33 of the Revised Code that requires otherwise, a 546  
board of education of a city, local, exempted village, or joint 547  
vocational school district that maintains records of an 548  
individual who has been permanently excluded under sections 549  
3301.121 and 3313.662 of the Revised Code is permitted to 550  
maintain records regarding a conviction that was used as the 551  
basis for the individual's permanent exclusion, regardless of a 552  
court order to seal the record. An order issued under this 553  
section to seal the record of a conviction does not revoke the 554

adjudication order of the superintendent of public instruction 555  
to permanently exclude the individual who is the subject of the 556  
sealing order. An order issued under this section to seal the 557  
record of a conviction of an individual may be presented to a 558  
district superintendent as evidence to support the contention 559  
that the superintendent should recommend that the permanent 560  
exclusion of the individual who is the subject of the sealing 561  
order be revoked. Except as otherwise authorized by this 562  
division and sections 3301.121 and 3313.662 of the Revised Code, 563  
any school employee in possession of or having access to the 564  
sealed conviction records of an individual that were the basis 565  
of a permanent exclusion of the individual is subject to section 566  
2953.35 of the Revised Code. 567

(H) For purposes of sections 2953.31 to 2953.36 of the 568  
Revised Code, DNA records collected in the DNA database and 569  
fingerprints filed for record by the superintendent of the 570  
bureau of criminal identification and investigation shall not be 571  
sealed unless the superintendent receives a certified copy of a 572  
final court order establishing that the offender's conviction 573  
has been overturned. For purposes of this section, a court order 574  
is not "final" if time remains for an appeal or application for 575  
discretionary review with respect to the order. 576

(I) The sealing of a record under this section does not 577  
affect the assessment of points under section 4510.036 of the 578  
Revised Code and does not erase points assessed against a person 579  
as a result of the sealed record. 580

**Section 2.** That existing sections 2951.041, 2953.31, and 581  
2953.32 of the Revised Code are hereby repealed. 582

**Section 3.** Section 2951.041 of the Revised Code is 583  
presented in this act as a composite of the section as amended 584

by Sub. S.B. 4, Sub. S.B. 33, and Am. Sub. S.B. 66, all of the 585  
132nd General Assembly. The General Assembly, applying the 586  
principle stated in division (B) of section 1.52 of the Revised 587  
Code that amendments are to be harmonized if reasonably capable 588  
of simultaneous operation, finds that the composite is the 589  
resulting version of the section in effect prior to the 590  
effective date of the section as presented in this act. 591