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Am. H. B. No. 50

Representatives Humphrey, Seitz

Cosponsors: Representatives Brent, Isaacsohn, Williams, Forhan, Stewart, Blackshear, Russo, Miller, A., White, Jarrells, Abrams, Galonski, Hillyer, Schmidt, Abdullahi, Baker, Brennan, Brewer, Carruthers, Cross, Cutrona, Dell'Aquila, Demetriou, Dobos, Ghanbari, Grim, Holmes, Lightbody, Liston, Mathews, Miller, J., Miranda, Pizzulli, Robb Blasdel, Rogers, Skindell, Somani, Swearingen, Sweeney, Thomas, C., Weinstein, Willis, Young, B., Young, T.



A BILL

To amend section 120.54 and to enact section 1
2953.26 of the Revised Code to create a 2
mechanism by which an individual who is subject 3
to a collateral sanction for housing may obtain 4
a certificate of qualification for housing that 5
may provide relief from certain bars on housing. 6

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

Section 1. That section 120.54 be amended and section 7
2953.26 of the Revised Code be enacted to read as follows: 8

Sec. 120.54. (A) A legal aid society that receives 9
financial assistance from the legal aid fund under section 10
120.53 of the Revised Code shall use the financial assistance 11
for only the following purposes: 12

(1) To defray the costs of providing legal services to 13
indigents; 14

(2) To provide legal training and legal technical assistance to other eligible legal aid societies; and

(3) If the legal aid society has entered into an agreement pursuant to division (H) of section 120.53 of the Revised Code and in accordance with the description and list of conditions set forth in its application pursuant to division (B) (9) of that section, to provide funds for the services, programs, training, and legal technical assistance provided to the legal aid society under the contract.

(B) No financial assistance received by a legal aid society from the legal aid fund pursuant to section 120.53 of the Revised Code shall be used for the provision of legal services in ~~relation to~~ any criminal case or proceeding or in ~~relation to~~ the provision of legal assistance in any fee generating case.

Sec. 2953.26. (A) As used in this section:

(1) "Collateral sanction for housing" means a penalty, disability, or disadvantage that is related to housing as a result of the individual's conviction of or plea of guilty to an offense and that applies by operation of law in this state whether or not the penalty, disability, or disadvantage is included in the sentence or judgment imposed.

"Collateral sanction for housing" does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

(2) "Decision-maker" means a housing provider in this state of residential premises as defined in section 1923.01 of the Revised Code, including a landlord as defined in section 1923.01 of the Revised Code and a metropolitan housing authority

established in Chapter 3735. of the Revised Code. 44

(3) "Department-funded program" means a residential or 45
nonresidential program that is not a term in a state 46
correctional institution, that is funded in whole or part by the 47
department of rehabilitation and correction, and that is imposed 48
as a sanction for an offense, as part of a sanction that is 49
imposed for an offense, or as a term or condition of any 50
sanction that is imposed for an offense. 51

(4) "Designee" means the person designated by the deputy 52
director of the division of parole and community services to 53
perform the duties designated in division (B) of this section. 54

(5) "Division of parole and community services" means the 55
division of parole and community services of the department of 56
rehabilitation and correction. 57

(6) "Offense" means any felony or misdemeanor under the 58
laws of this state. 59

(7) "Tort action" means a civil action for injury, death, 60
or loss to person or property. 61

(B) (1) An individual who is subject to one or more 62
collateral sanctions for housing as a result of being convicted 63
of or pleading guilty to an offense and who either has served a 64
term in a state correctional institution for any offense or has 65
spent time in a department-funded program for any offense may 66
file a petition with the designee of the deputy director of the 67
division of parole and community services for a certificate of 68
qualification for housing. 69

(2) An individual who is subject to one or more collateral 70
sanctions for housing as a result of being convicted of or 71
pleading guilty to an offense and who is not in a category 72

described in division (B)(1) of this section may file for a 73
certificate of qualification for housing by doing either of the 74
following: 75

(a) In the case of an individual who resides in this 76
state, filing a petition with the court of common pleas of the 77
county in which the person resides or with the designee of the 78
deputy director of the division of parole and community 79
services; 80

(b) In the case of an individual who resides outside of 81
this state, filing a petition with the court of common pleas of 82
any county in which any conviction or plea of guilty from which 83
the individual seeks relief was entered or with the designee of 84
the deputy director of the division of parole and community 85
services. 86

(3) A petition under division (B)(1) or (2) of this 87
section shall be made on a copy of the form prescribed by the 88
division of parole and community services under division (I) of 89
this section, shall contain all of the information described in 90
division (E) of this section, and, except as provided in 91
division (B)(6) of this section, shall be accompanied by an 92
application fee of fifty dollars. 93

(4)(a) Except as provided in division (B)(4)(b) of this 94
section, an individual may file a petition under division (B)(1) 95
or (2) of this section at any time after the expiration of 96
whichever of the following is applicable: 97

(i) If the offense that resulted in the collateral 98
sanction for housing from which the individual seeks relief is a 99
felony, at any time after the expiration of one year from the 100
date of release of the individual from any period of 101

incarceration in a state or local correctional facility that was 102
imposed for that offense or, if the individual was not 103
incarcerated for that offense, at any time after the expiration 104
of one year from the date of the individual's final release from 105
all other sanctions imposed for that offense; 106

(ii) If the offense that resulted in the collateral 107
sanction for housing from which the individual seeks relief is a 108
misdemeanor, at any time after the expiration of six months from 109
the date of release of the individual from any period of 110
incarceration in a local correctional facility that was imposed 111
for that offense and all periods of supervision imposed after 112
release from the period of incarceration or, if the individual 113
was not incarcerated for that offense, at any time after the 114
expiration of six months from the date of the final release of 115
the individual from all sanctions imposed for that offense 116
including any period of supervision. 117

(b) The department of rehabilitation and correction may 118
establish criteria by rule adopted under Chapter 119. of the 119
Revised Code that, if satisfied by an individual, would allow 120
the individual to file a petition before the expiration of six 121
months or one year from the date of final release, whichever is 122
applicable under division (B)(4)(a) of this section. 123

(5)(a) A designee that receives a petition for a 124
certificate of qualification for housing from an individual 125
under division (B)(1) or (2) of this section shall review the 126
petition to determine whether it is complete. If the petition is 127
complete, the designee shall forward the petition, the 128
application fee, and any other information the designee 129
possesses that relates to the petition, to the court of common 130
pleas of the county in which the individual resides if the 131

individual submitting the petition resides in this state or, if 132
the individual resides outside of this state, to the court of 133
common pleas of the county in which the conviction or plea of 134
guilty from which the individual seeks relief was entered. 135

(b) A court of common pleas that receives a petition for a 136
certificate of qualification for housing from an individual 137
under division (B) (2) of this section, or that is forwarded a 138
petition for such a certificate under division (B) (5) (a) of this 139
section, shall attempt to determine all other courts in this 140
state in which the individual was convicted of or pleaded guilty 141
to an offense other than the offense from which the individual 142
is seeking relief. The court that receives or is forwarded the 143
petition shall notify all other courts in this state that it 144
determines under this division were courts in which the 145
individual was convicted of or pleaded guilty to an offense 146
other than the offense from which the individual is seeking 147
relief that the individual has filed the petition and that the 148
court may send comments regarding the possible issuance of the 149
certificate. 150

A court of common pleas that receives a petition for a 151
certificate of qualification for housing under division (B) (2) 152
of this section shall notify the county's prosecuting attorney 153
that the individual has filed the petition. 154

A court of common pleas that receives a petition for a 155
certificate of qualification for housing under division (B) (2) 156
of this section, or that is forwarded a petition for 157
qualification under division (B) (5) (a) of this section may 158
direct the clerk of court to process and record all notices 159
required in or under this section. Except as provided in 160
division (B) (6) of this section, the court shall pay thirty 161

dollars of the application fee into the state treasury and 162
twenty dollars of the application fee into the county general 163
revenue fund. 164

(6) Upon receiving a petition for a certificate of 165
qualification for housing filed by an individual under division 166
(B) (1) or (2) of this section, a court of common pleas or the 167
designee of the deputy director of the division of parole and 168
community services who receives the petition may waive all or 169
part of the fifty-dollar-filing fee for an applicant who is 170
indigent. If an application fee is partially waived, the first 171
twenty dollars of the fee that is collected shall be paid into 172
the county general revenue fund. Any partial fee collected in 173
excess of twenty dollars shall be paid into the state treasury. 174

(C) (1) Upon receiving a petition for a certificate of 175
qualification for housing filed by an individual under division 176
(B) (2) of this section or being forwarded a petition for such a 177
certificate under division (B) (5) (a) of this section, the court 178
shall review the individual's petition, the individual's 179
criminal history, except for information contained in any record 180
that has been sealed under section 2953.32 of the Revised Code, 181
all filings submitted by the prosecutor or by the victim in 182
accordance with rules adopted by the division of parole and 183
community services, the applicant's military service record, if 184
applicable, and whether the applicant has an emotional, mental, 185
or physical condition that is traceable to the applicant's 186
military service in the armed forces of the United States and 187
that was a contributing factor in the commission of the offense 188
or offenses, and all other relevant evidence. The court may 189
order any report, investigation, or disclosure by the individual 190
that the court believes is necessary for the court to reach a 191
decision on whether to approve the individual's petition for a 192

certificate of qualification for housing, except that the court 193
shall not require an individual to disclose information about 194
any record sealed under section 2953.32 of the Revised Code. 195

(2) Upon receiving a petition for a certificate of 196
qualification for housing filed by an individual under division 197
(B) (2) of this section or being forwarded a petition for such a 198
certificate under division (B) (5) (a) of this section, except as 199
otherwise provided in this division, the court shall decide 200
whether to issue the certificate within sixty days after the 201
court receives or is forwarded the completed petition and all 202
information requested for the court to make that decision. Upon 203
request of the individual who filed the petition, the court may 204
extend the sixty-day period specified in this division. 205

(3) Except as provided in division (C) (5) of this section 206
and subject to division (C) (7) of this section, a court that 207
receives an individual's petition for a certificate of 208
qualification for housing under division (B) (2) of this section 209
or that is forwarded a petition for such a certificate under 210
division (B) (5) (a) of this section may issue a certificate of 211
qualification for housing, at the court's discretion, if the 212
court finds that the individual has established all of the 213
following by a preponderance of the evidence: 214

(a) Granting the petition will materially assist the 215
individual in obtaining housing. 216

(b) The individual has a substantial need for the relief 217
requested in order to live a law-abiding life. 218

(c) Granting the petition would not pose an unreasonable 219
risk to the safety of the public or any individual. 220

(4) The submission of an incomplete petition by an 221

individual shall not be grounds for the designee or court to 222
deny the petition. 223

(5) Subject to division (C)(6) of this section, an 224
individual is rebuttably presumed to be eligible for a 225
certificate of qualification for housing if the court that 226
receives the individual's petition under division (B)(2) of this 227
section or that is forwarded a petition under division (B)(5)(a) 228
of this section finds all of the following: 229

(a) The application was filed after the expiration of the 230
applicable waiting period prescribed in division (B)(4) of this 231
section. 232

(b) If the offense that resulted in the collateral 233
sanction for housing from which the individual seeks relief is a 234
felony, at least three years have elapsed since the date of 235
release of the individual from any period of incarceration in a 236
state or local correctional facility that was imposed for that 237
offense and all periods of supervision imposed after release 238
from the period of incarceration or, if the individual was not 239
incarcerated for that offense, at least three years have elapsed 240
since the date of the individual's final release from all other 241
sanctions imposed for that offense; 242

(c) If the offense that resulted in the collateral 243
sanction for housing from which the individual seeks relief is a 244
misdemeanor, at least one year has elapsed since the date of 245
release of the individual from any period of incarceration in a 246
local correctional facility that was imposed for that offense 247
and all periods of supervision imposed after release from the 248
period of incarceration or, if the individual was not 249
incarcerated for that offense, at least one year has elapsed 250
since the date of the final release of the individual from all 251

sanctions imposed for that offense including any period of 252
supervision. 253

(6) An application that meets all of the requirements for 254
the presumption under division (C) (5) of this section shall be 255
denied only if the court that receives the petition finds that 256
the evidence reviewed under division (C) (1) of this section 257
rebutts the presumption of eligibility for issuance by 258
establishing, by clear and convincing evidence, that the 259
applicant has not been rehabilitated. 260

(7) A certificate of qualification for housing does not 261
create relief from requirements imposed by Chapter 2950. of the 262
Revised Code and rules adopted under sections 2950.13 and 263
2950.132 of the Revised Code. 264

(8) If a court that receives an individual's petition for 265
a certificate of qualification for housing under division (B) (2) 266
of this section or that is forwarded a petition for such a 267
certificate under division (B) (5) (a) of this section denies the 268
petition, the court shall provide written notice to the 269
individual of the court's denial. The court may place conditions 270
on the individual regarding the individual's filing of any 271
subsequent petition for a certificate of qualification for 272
housing. The written notice must notify the individual of any 273
conditions placed on the individual's filing of a subsequent 274
petition for a certificate of qualification for housing. 275

If a court of common pleas that receives an individual's 276
petition for a certificate of qualification for housing under 277
division (B) (2) of this section or that is forwarded a petition 278
for such a certificate under division (B) (5) (a) of this section 279
denies the petition, the individual may appeal the decision to 280
the court of appeals only if the individual alleges that the 281

denial was an abuse of discretion on the part of the court of 282
common pleas. 283

(D) (1) A certificate of qualification for housing issued 284
to an individual lifts the automatic bar of a collateral 285
sanction for housing and a decision-maker shall consider on a 286
case-by-case basis whether to provide or deny housing, 287
notwithstanding the individual's possession of the certificate, 288
without, however, reconsidering or rejecting any finding made by 289
a designee or court under division (C) (3) of this section. 290

(2) The certificate constitutes a rebuttable presumption 291
that the person's criminal convictions are insufficient evidence 292
that the person is unfit for the housing in question. 293
Notwithstanding the presumption established under this division, 294
the decision-maker may deny the housing to the person if it 295
determines that the person is unfit for the housing. 296

(E) A petition for a certificate of qualification for 297
housing filed by an individual under division (B) (1) or (2) of 298
this section shall include all of the following: 299

(1) The individual's name, date of birth, and social 300
security number; 301

(2) All aliases of the individual and all social security 302
numbers associated with those aliases; 303

(3) The individual's current residential address, 304
including the length of time that the individual has resided in 305
the current residence, expressed in years and months, and the 306
city, county, state, and zip code of the residence; 307

(4) A history of the individual's residential address or 308
addresses for the past ten years, including the length of time 309
that the individual has resided at the address, expressed in 310

<u>years and months of residence, and the city, county, state, and</u>	311
<u>zip code of residence;</u>	312
<u>(5) A general statement as to why the individual has filed</u>	313
<u>the petition and how the certificate of qualification for</u>	314
<u>housing would assist the individual;</u>	315
<u>(6) A summary of the individual's criminal history, except</u>	316
<u>for information contained in any record that has been sealed</u>	317
<u>under section 2953.32 of the Revised Code, with respect to each</u>	318
<u>offense that is a disqualification from housing, including the</u>	319
<u>years of each conviction or plea of guilty for each of those</u>	320
<u>offenses;</u>	321
<u>(7) A summary of the individual's employment history,</u>	322
<u>specifying the name of, and dates of employment with, each</u>	323
<u>employer;</u>	324
<u>(8) Verifiable references and endorsements;</u>	325
<u>(9) The name of one or more immediate family members of</u>	326
<u>the individual, or other persons with whom the individual has a</u>	327
<u>close relationship, who support the individual's reentry plan;</u>	328
<u>(10) A summary of the reason the individual believes the</u>	329
<u>certificate of qualification for housing should be granted;</u>	330
<u>(11) Any other information required by rule by the</u>	331
<u>department of rehabilitation and correction.</u>	332
<u>(F) (1) In a tort action, a certificate of qualification</u>	333
<u>for housing issued to an individual under this section may be</u>	334
<u>introduced as evidence of a decision-maker's due care in leasing</u>	335
<u>to the individual to whom the certificate of qualification for</u>	336
<u>housing was issued if the decision-maker knew of the certificate</u>	337
<u>at the time of the alleged negligence or other fault.</u>	338

(2) In a tort action against a decision-maker for 339
negligent leasing, a certificate of qualification for housing 340
issued to an individual under this section provides immunity for 341
the decision-maker as to the claim if the decision-maker knew of 342
the certificate at the time of the alleged negligence. 343

(3) If a decision-maker leases to an individual who has 344
been issued a certificate of qualification for housing under 345
this section, if the individual, after being leased to, 346
subsequently demonstrates dangerousness or is convicted of or 347
pleads guilty to a felony or a misdemeanor offense of violence, 348
and if the decision-maker retains the individual as a lessee 349
after the demonstration of dangerousness or the conviction or 350
guilty plea, the decision-maker may be held liable in a tort 351
action that is based on or relates to the retention of the 352
individual as a lessee only if it is proved by a preponderance 353
of the evidence that both of the following apply: 354

(a) The decision-maker had actual knowledge that the 355
lessee was dangerous or had been convicted of or pleaded guilty 356
to the felony or the misdemeanor offense of violence. 357

(b) The decision-maker was willful in retaining the 358
individual as a lessee after the demonstration of dangerousness 359
or the conviction or guilty plea of which the decision-maker has 360
actual knowledge. 361

(G) A certificate of qualification for housing issued 362
under this section shall be revoked if the individual to whom 363
the certificate of qualification for housing was issued is 364
convicted of or pleads guilty to a felony or a misdemeanor 365
offense of violence committed subsequent to the issuance of the 366
certificate of qualification for housing. 367

(H) A designee's forwarding, or failure to forward, a 368
petition for a certificate of qualification for housing to a 369
court or a court's issuance, or failure to issue, a petition for 370
a certificate of qualification for housing to an individual 371
under division (B) of this section does not give rise to a claim 372
for damages against the department of rehabilitation and 373
correction or court. 374

(I) The division of parole and community services shall 375
adopt rules in accordance with Chapter 119. of the Revised Code 376
for the implementation and administration of this section and 377
shall prescribe the form for the petition to be used under 378
division (B) (1) or (2) of this section. The form for the 379
petition shall include places for all of the information 380
specified in division (E) of this section. 381

(J) Nothing in this section shall be construed to create 382
or provide a private right of action. 383

Section 2. That existing section 120.54 of the Revised 384
Code is hereby repealed. 385