

As Introduced

136th General Assembly

Regular Session

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H. B. No. 509

Representative Teska

To amend section 2953.32 of the Revised Code to 1
exclude certain financial records held by clerks 2
of court from destruction upon ordered 3
expungement of a criminal record. 4

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

Section 1. That section 2953.32 of the Revised Code be 5
amended to read as follows: 6

Sec. 2953.32. (A) (1) Sections 2953.32 and 2953.34 of the 7
Revised Code do not apply to any of the following: 8

(a) Convictions under Chapter 4506., 4507., 4510., 4511., 9
or 4549. of the Revised Code, or a conviction for a violation of 10
a municipal ordinance that is substantially similar to any 11
section contained in any of those chapters; 12

(b) Convictions of a felony offense of violence that is 13
not a sexually oriented offense; 14

(c) Convictions of a sexually oriented offense when the 15
offender is subject to the requirements of Chapter 2950. of the 16
Revised Code or Chapter 2950. of the Revised Code as it existed 17
prior to January 1, 2008; 18

(d) Convictions of an offense in circumstances in which 19

the victim of the offense was less than thirteen years of age, 20
except for convictions under section 2919.21 of the Revised 21
Code; 22

(e) Convictions for a violation of section 2921.41 of the 23
Revised Code; 24

(f) Convictions of a felony of the first or second degree; 25

(g) Convictions for a violation of section 2919.25 of the 26
Revised Code that is a misdemeanor of the first or second degree 27
or convictions for a violation of a municipal ordinance that is 28
substantially similar to that section; 29

(h) Convictions of a felony of the third degree if the 30
offender has more than one other conviction of any felony or, if 31
the person has exactly two convictions of a felony of the third 32
degree, has more convictions in total than those two third 33
degree felony convictions and two misdemeanor convictions. 34

(2) Sections 2953.32 to 2953.34 of the Revised Code apply 35
to the following for purposes of sealing, but not for purposes 36
of expungement of the record of the case: 37

(a) Convictions for a violation of section 2919.25 of the 38
Revised Code that is a misdemeanor of the third or fourth degree 39
or convictions for a violation of a municipal ordinance that is 40
substantially similar to that section; 41

(b) Convictions for a violation of section 2919.27 of the 42
Revised Code or convictions for a violation of a municipal 43
ordinance that is substantially similar to that section. 44

(3) For purposes of division (A) (1) (h) of this section, 45
both of the following apply: 46

(a) When two or more convictions result from or are 47

connected with the same act or result from offenses committed at 48
the same time, they shall be counted as one conviction. 49

(b) When two or three convictions result from the same 50
indictment, information, or complaint, from the same plea of 51
guilty, or from the same official proceeding, and result from 52
related criminal acts that were committed within a three-month 53
period but do not result from the same act or from offenses 54
committed at the same time, they shall be counted as one 55
conviction, provided that a court may decide as provided in 56
division (D) (1) (i) of this section that it is not in the public 57
interest for the two or three convictions to be counted as one 58
conviction. 59

(B) (1) Except as provided in section 2953.61 of the 60
Revised Code or as otherwise provided in division (B) (1) (a) (iii) 61
of this section, an eligible offender may apply to the 62
sentencing court if convicted in this state, or to a court of 63
common pleas if convicted in another state or in a federal 64
court, for the sealing or expungement of the record of the case 65
that pertains to the conviction, except for convictions listed 66
in division (A) (1) of this section. Application may be made at 67
whichever of the following times is applicable regarding the 68
offense: 69

(a) An application for sealing under this section may be 70
made at whichever of the following times is applicable regarding 71
the offense: 72

(i) Except as otherwise provided in division (B) (1) (a) (iv) 73
of this section, at the expiration of three years after the 74
offender's final discharge if convicted of one or two felonies 75
of the third degree, so long as none of the offenses is a 76
violation of section 2921.43 of the Revised Code; 77

(ii) Except as otherwise provided in division (B) (1) (a) 78
(iv) of this section, at the expiration of one year after the 79
offender's final discharge if convicted of one or more felonies 80
of the fourth or fifth degree or one or more misdemeanors, so 81
long as none of the offenses is a violation of section 2921.43 82
of the Revised Code or a felony offense of violence; 83

(iii) At the expiration of seven years after the 84
offender's final discharge if the record includes one or more 85
convictions of soliciting improper compensation in violation of 86
section 2921.43 of the Revised Code; 87

(iv) If the offender was subject to the requirements of 88
Chapter 2950. of the Revised Code or Chapter 2950. of the 89
Revised Code as it existed prior to January 1, 2008, at the 90
expiration of five years after the requirements have ended under 91
section 2950.07 of the Revised Code or section 2950.07 of the 92
Revised Code as it existed prior to January 1, 2008, or are 93
terminated under section 2950.15 or 2950.151 of the Revised 94
Code; 95

(v) At the expiration of six months after the offender's 96
final discharge if convicted of a minor misdemeanor. 97

(b) An application for expungement under this section may 98
be made at whichever of the following times is applicable 99
regarding the offense: 100

(i) Except as otherwise provided in division (B) (1) (b) (ii) 101
of this section, if the offense is a misdemeanor, at the 102
expiration of one year after the offender's final discharge; 103

(ii) If the offense is a minor misdemeanor, at the 104
expiration of six months after the offender's final discharge; 105

(iii) If the offense is a felony, at the expiration of ten 106

years after the time specified in division (B) (1) (a) of this 107
section at which the person may file an application for sealing 108
with respect to that felony offense. 109

(2) Any person who has been arrested for any misdemeanor 110
offense and who has effected a bail forfeiture for the offense 111
charged may apply to the court in which the misdemeanor criminal 112
case was pending when bail was forfeited for the sealing or 113
expungement of the record of the case that pertains to the 114
charge. Except as provided in section 2953.61 of the Revised 115
Code, the application may be filed at whichever of the following 116
times is applicable regarding the offense: 117

(a) An application for sealing under this section may be 118
made at any time after the date on which the bail forfeiture was 119
entered upon the minutes of the court or the journal, whichever 120
entry occurs first. 121

(b) An application for expungement under this section may 122
be made at whichever of the following times is applicable 123
regarding the offense: 124

(i) Except as provided in division (B) (2) (b) (ii) of this 125
section, at any time after the expiration of one year from the 126
date on which the bail forfeiture was entered upon the minutes 127
of the court or the journal, whichever entry occurs first; 128

(ii) If the offense is a minor misdemeanor, at any time 129
after the expiration of six months from the date on which the 130
bail forfeiture was entered upon the minutes of the court or the 131
journal, whichever entry occurs first. 132

(C) Upon the filing of an application under this section, 133
the court shall set a date for a hearing and shall notify the 134
prosecutor for the case of the hearing on the application not 135

less than sixty days prior to the hearing. Pursuant to the Ohio 136
Constitution, the prosecutor shall provide timely notice of the 137
application and the date and time of the hearing to a victim and 138
victim's representative, if applicable, if the victim or 139
victim's representative requested notice of the proceedings in 140
the underlying case. The court shall hold the hearing not less 141
than forty-five days and not more than ninety days from the date 142
of the filing of the application. The prosecutor may object to 143
the granting of the application by filing a written objection 144
with the court not later than thirty days prior to the date set 145
for the hearing. The prosecutor shall specify in the objection 146
the reasons for believing a denial of the application is 147
justified. The victim, victim's representative, and victim's 148
attorney, if applicable, may be present and heard orally, in 149
writing, or both at any hearing under this section. The court 150
shall direct its regular probation officer, a state probation 151
officer, or the department of probation of the county in which 152
the applicant resides to make inquiries and written reports as 153
the court requires concerning the applicant. The probation 154
officer or county department of probation that the court directs 155
to make inquiries and written reports as the court requires 156
concerning the applicant shall determine whether or not the 157
applicant was fingerprinted at the time of arrest or under 158
section 109.60 of the Revised Code. If the applicant was so 159
fingerprinted, the probation officer or county department of 160
probation shall include with the written report a record of the 161
applicant's fingerprints. If the applicant was convicted of or 162
pleaded guilty to a violation of division (A) (2) or (B) of 163
section 2919.21 of the Revised Code, the probation officer or 164
county department of probation that the court directed to make 165
inquiries concerning the applicant shall contact the child 166
support enforcement agency enforcing the applicant's obligations 167

under the child support order to inquire about the offender's 168
compliance with the child support order. 169

(D) (1) At the hearing held under division (C) of this 170
section, the court shall do each of the following: 171

(a) Determine whether the applicant is pursuing sealing or 172
expunging a conviction of an offense that is prohibited under 173
division (A) of this section or whether the forfeiture of bail 174
was agreed to by the applicant and the prosecutor in the case, 175
and determine whether the application was made at the time 176
specified in division (B) (1) (a) or (b) or division (B) (2) (a) or 177
(b) of this section that is applicable with respect to the 178
application and the subject offense; 179

(b) Determine whether criminal proceedings are pending 180
against the applicant; 181

(c) Determine whether the applicant has been rehabilitated 182
to the satisfaction of the court; 183

(d) If the prosecutor has filed an objection in accordance 184
with division (C) of this section, consider the reasons against 185
granting the application specified by the prosecutor in the 186
objection; 187

(e) If the victim objected, pursuant to the Ohio 188
Constitution, consider the reasons against granting the 189
application specified by the victim in the objection; 190

(f) Weigh the interests of the applicant in having the 191
records pertaining to the applicant's conviction or bail 192
forfeiture sealed or expunged against the legitimate needs, if 193
any, of the government to maintain those records; 194

(g) Consider the oral or written statement of any victim, 195

victim's representative, and victim's attorney, if applicable; 196

(h) If the applicant was an eligible offender of the type 197
described in division (A) (3) of section 2953.36 of the Revised 198
Code as it existed prior to April 4, 2023, determine whether the 199
offender has been rehabilitated to a satisfactory degree. In 200
making the determination, the court may consider all of the 201
following: 202

(i) The age of the offender; 203

(ii) The facts and circumstances of the offense; 204

(iii) The cessation or continuation of criminal behavior; 205

(iv) The education and employment of the offender; 206

(v) Any other circumstances that may relate to the 207
offender's rehabilitation. 208

(i) If the court is required to determine whether an 209
applicant for sealing or expungement has two or three 210
convictions that result from the same indictment, information, 211
or complaint, from the same plea of guilty, or from the same 212
official proceeding, and result from related criminal acts that 213
were committed within a three-month period but do not result 214
from the same act or from offenses committed at the same time, 215
in making its determination, the court initially shall determine 216
whether it is not in the public interest for the two or three 217
convictions to be counted as one conviction. If the court 218
determines that it is not in the public interest for the two or 219
three convictions to be counted as one conviction, the court 220
shall determine whether, when counting the convictions 221
individually, the applicant is pursuing sealing or expunging a 222
conviction that is prohibited under division (A) of this 223
section. 224

(2) If the court determines, after complying with division 225
(D) (1) of this section, that the offender is not pursuing 226
sealing or expunging a conviction of an offense that is 227
prohibited under division (A) of this section or that the 228
forfeiture of bail was agreed to by the applicant and the 229
prosecutor in the case, that the application was made at the 230
time specified in division (B) (1) (a) or (b) or division (B) (2) 231
(a) or (b) of this section that is applicable with respect to 232
the application and the subject offense, that no criminal 233
proceeding is pending against the applicant, that the interests 234
of the applicant in having the records pertaining to the 235
applicant's conviction or bail forfeiture sealed or expunged are 236
not outweighed by any legitimate governmental needs to maintain 237
those records, and that the rehabilitation of the applicant has 238
been attained to the satisfaction of the court, both of the 239
following apply: 240

(a) The court, except as provided in division (D) (4) or 241
(5) of this section or division (D), (F), or (G) of section 242
2953.34 of the Revised Code, shall order all official records of 243
the case that pertain to the conviction or bail forfeiture 244
sealed if the application was for sealing or expunged if the 245
application was for expungement and, except as provided in 246
division (C) of section 2953.34 of the Revised Code, all index 247
references to the case that pertain to the conviction or bail 248
forfeiture deleted and, in the case of bail forfeitures, shall 249
dismiss the charges in the case. 250

(b) The proceedings in the case that pertain to the 251
conviction or bail forfeiture shall be considered not to have 252
occurred and the conviction or bail forfeiture of the person who 253
is the subject of the proceedings shall be sealed if the 254
application was for sealing or expunged if the application was 255

for expungement, except that upon conviction of a subsequent 256
offense, a sealed record of prior conviction or bail forfeiture 257
may be considered by the court in determining the sentence or 258
other appropriate disposition, including the relief provided for 259
in sections 2953.31, 2953.32, and 2953.34 of the Revised Code. 260

(3) An applicant may request the sealing or expungement of 261
the records of more than one case in a single application under 262
this section. Upon the filing of an application under this 263
section, the applicant, unless the applicant presents a poverty 264
affidavit showing that the applicant is indigent, shall pay an 265
application fee of fifty dollars and may pay a local court fee 266
of not more than fifty dollars, regardless of the number of 267
records the application requests to have sealed or expunged. If 268
the applicant pays a fee, the court shall pay three-fifths of 269
the fee collected into the state treasury, with half of that 270
amount credited to the attorney general reimbursement fund 271
created by section 109.11 of the Revised Code. If the applicant 272
pays a fee, the court shall pay two-fifths of the fee collected 273
into the county general revenue fund if the sealed or expunged 274
conviction or bail forfeiture was pursuant to a state statute, 275
or into the general revenue fund of the municipal corporation 276
involved if the sealed or expunged conviction or bail forfeiture 277
was pursuant to a municipal ordinance. 278

(4) If the court orders the official records pertaining to 279
the case sealed or expunged, the court shall do one of the 280
following: 281

(a) If the applicant was fingerprinted at the time of 282
arrest or under section 109.60 of the Revised Code and the 283
record of the applicant's fingerprints was provided to the court 284
under division (C) of this section, forward a copy of the 285

sealing or expungement order and the record of the applicant's 286
fingerprints to the bureau of criminal identification and 287
investigation. 288

(b) If the applicant was not fingerprinted at the time of 289
arrest or under section 109.60 of the Revised Code, or the 290
record of the applicant's fingerprints was not provided to the 291
court under division (C) of this section, but fingerprinting was 292
required for the offense, order the applicant to appear before a 293
sheriff to have the applicant's fingerprints taken according to 294
the fingerprint system of identification on the forms furnished 295
by the superintendent of the bureau of criminal identification 296
and investigation. The sheriff shall forward the applicant's 297
fingerprints to the court. The court shall forward the 298
applicant's fingerprints and a copy of the sealing or 299
expungement order to the bureau of criminal identification and 300
investigation. 301

Failure of the court to order fingerprints at the time of 302
sealing or expungement does not constitute a reversible error. 303

~~(5)~~ (5) (a) Notwithstanding any other provision of the 304
Revised Code to the contrary, when the bureau of criminal 305
identification and investigation receives notice from a court 306
that the record of a conviction or bail forfeiture has been 307
expunged under this section, the bureau of criminal 308
identification and investigation shall maintain a record of the 309
expunged conviction record for the limited purpose of 310
determining an individual's qualification or disqualification 311
for employment in law enforcement. The bureau of criminal 312
identification and investigation shall not be compelled by the 313
court to destroy, delete, or erase those records so that the 314
records are permanently irretrievable. These records may only be 315

disclosed or provided to law enforcement for the limited purpose 316
of determining an individual's qualification or disqualification 317
for employment in law enforcement. 318

(b) Notwithstanding any other provision of the Revised 319
Code to the contrary, when a clerk of courts receives notice 320
from a court that the record of a conviction or bail forfeiture 321
has been expunged under this section, the clerk of courts shall 322
destroy, delete, and erase the record as appropriate for the 323
record's physical or electronic form or characteristic so that 324
the record is permanently irretrievable, except that the clerk 325
of courts may maintain the following financial records related 326
to the case: 327

(i) The amount of a transaction; 328

(ii) The date and time of a transaction; 329

(iii) The purpose of a transaction, absent any identifying 330
information; 331

(iv) A clerical notation that the transaction was the 332
result of a case that has been expunged. 333

(c) When any other entity other than the bureau of 334
criminal identification and investigation or a clerk of courts 335
receives notice from a court that the record of a conviction or 336
bail forfeiture has been expunged under this section, the entity 337
shall destroy, delete, and erase the record as appropriate for 338
the record's physical or electronic form or characteristic so 339
that the record is permanently irretrievable. 340

Section 2. That existing section 2953.32 of the Revised 341
Code is hereby repealed. 342