

Sub. H. B. No. 96
As Passed by the Senate
JSCCD13

_____ moved to amend as follows:

After line 41913, insert:

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

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

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

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

(d) Convictions of an offense in circumstances in which
the victim of the offense was less than thirteen years of age,
except for convictions under section 2919.21 of the Revised
Code;

- (e) Convictions for a violation of section 2921.41 of the Revised Code; 18
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- (f) Convictions of a felony of the first or second degree; 20
- (g) Convictions for a violation of section 2919.25 of the Revised Code that is a misdemeanor of the first or second degree or convictions for a violation of a municipal ordinance that is substantially similar to that section; 21
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- (h) Convictions of a felony of the third degree if the offender has more than one other conviction of any felony or, if the person has exactly two convictions of a felony of the third degree, has more convictions in total than those two third degree felony convictions and two misdemeanor convictions. 25
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- (2) Sections 2953.32 to 2953.34 of the Revised Code apply to the following for purposes of sealing, but not for purposes of expungement of the record of the case: 30
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- (a) Convictions for a violation of section 2919.25 of the Revised Code that is a misdemeanor of the third or fourth degree or convictions for a violation of a municipal ordinance that is substantially similar to that section; 33
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- (b) Convictions for a violation of section 2919.27 of the Revised Code or convictions for a violation of a municipal ordinance that is substantially similar to that section. 37
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- (3) For purposes of division (A) (1) (h) of this section, both of the following apply: 40
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- (a) When two or more convictions result from or are connected with the same act or result from offenses committed at the same time, they shall be counted as one conviction. 42
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- (b) When two or three convictions result from the same 45

indictment, information, or complaint, from the same plea of 46
guilty, or from the same official proceeding, and result from 47
related criminal acts that were committed within a three-month 48
period but do not result from the same act or from offenses 49
committed at the same time, they shall be counted as one 50
conviction, provided that a court may decide as provided in 51
division (D) (1) (i) of this section that it is not in the public 52
interest for the two or three convictions to be counted as one 53
conviction. 54

(B) (1) Except as provided in section 2953.61 of the 55
Revised Code or as otherwise provided in division (B) (1) (a) (iii) 56
of this section, an eligible offender may apply to the 57
sentencing court if convicted in this state, or to a court of 58
common pleas if convicted in another state or in a federal 59
court, for the sealing or expungement of the record of the case 60
that pertains to the conviction, except for convictions listed 61
in division (A) (1) of this section. Application may be made at 62
whichever of the following times is applicable regarding the 63
offense: 64

(a) An application for sealing under this section may be 65
made at whichever of the following times is applicable regarding 66
the offense: 67

(i) Except as otherwise provided in division (B) (1) (a) (iv) 68
of this section, at the expiration of three years after the 69
offender's final discharge if convicted of one or two felonies 70
of the third degree, so long as none of the offenses is a 71
violation of section 2921.43 of the Revised Code; 72

(ii) Except as otherwise provided in division (B) (1) (a) 73
(iv) of this section, at the expiration of one year after the 74
offender's final discharge if convicted of one or more felonies 75

of the fourth or fifth degree or one or more misdemeanors, so 76
long as none of the offenses is a violation of section 2921.43 77
of the Revised Code or a felony offense of violence; 78

(iii) At the expiration of seven years after the 79
offender's final discharge if the record includes one or more 80
convictions of soliciting improper compensation in violation of 81
section 2921.43 of the Revised Code; 82

(iv) If the offender was subject to the requirements of 83
Chapter 2950. of the Revised Code or Chapter 2950. of the 84
Revised Code as it existed prior to January 1, 2008, at the 85
expiration of five years after the requirements have ended under 86
section 2950.07 of the Revised Code or section 2950.07 of the 87
Revised Code as it existed prior to January 1, 2008, or are 88
terminated under section 2950.15 or 2950.151 of the Revised 89
Code; 90

(v) At the expiration of six months after the offender's 91
final discharge if convicted of a minor misdemeanor. 92

(b) An application for expungement under this section may 93
be made at whichever of the following times is applicable 94
regarding the offense: 95

(i) Except as otherwise provided in division (B) (1) (b) (ii) 96
of this section, if the offense is a misdemeanor, at the 97
expiration of one year after the offender's final discharge; 98

(ii) If the offense is a minor misdemeanor, at the 99
expiration of six months after the offender's final discharge; 100

(iii) If the offense is a felony, at the expiration of ten 101
years after the time specified in division (B) (1) (a) of this 102
section at which the person may file an application for sealing 103

with respect to that felony offense. 104

(2) Any person who has been arrested for any misdemeanor 105
offense and who has effected a bail forfeiture for the offense 106
charged may apply to the court in which the misdemeanor criminal 107
case was pending when bail was forfeited for the sealing or 108
expungement of the record of the case that pertains to the 109
charge. Except as provided in section 2953.61 of the Revised 110
Code, the application may be filed at whichever of the following 111
times is applicable regarding the offense: 112

(a) An application for sealing under this section may be 113
made at any time after the date on which the bail forfeiture was 114
entered upon the minutes of the court or the journal, whichever 115
entry occurs first. 116

(b) An application for expungement under this section may 117
be made at whichever of the following times is applicable 118
regarding the offense: 119

(i) Except as provided in division (B) (2) (b) (ii) of this 120
section, at any time after the expiration of one year from the 121
date on which the bail forfeiture was entered upon the minutes 122
of the court or the journal, whichever entry occurs first; 123

(ii) If the offense is a minor misdemeanor, at any time 124
after the expiration of six months from the date on which the 125
bail forfeiture was entered upon the minutes of the court or the 126
journal, whichever entry occurs first. 127

(C) Upon the filing of an application under this section, 128
the court shall set a date for a hearing and shall notify the 129
prosecutor for the case of the hearing on the application not 130
less than sixty days prior to the hearing. Pursuant to the Ohio 131
Constitution, the prosecutor shall provide timely notice of the 132

application and the date and time of the hearing to a victim and 133
victim's representative, if applicable, if the victim or 134
victim's representative requested notice of the proceedings in 135
the underlying case. The court shall hold the hearing not less 136
than forty-five days and not more than ninety days from the date 137
of the filing of the application. The prosecutor may object to 138
the granting of the application by filing a written objection 139
with the court not later than thirty days prior to the date set 140
for the hearing. The prosecutor shall specify in the objection 141
the reasons for believing a denial of the application is 142
justified. The victim, victim's representative, and victim's 143
attorney, if applicable, may be present and heard orally, in 144
writing, or both at any hearing under this section. The court 145
shall direct its regular probation officer, a state probation 146
officer, or the department of probation of the county in which 147
the applicant resides to make inquiries and written reports as 148
the court requires concerning the applicant. The probation 149
officer or county department of probation that the court directs 150
to make inquiries and written reports as the court requires 151
concerning the applicant shall determine whether or not the 152
applicant was fingerprinted at the time of arrest or under 153
section 109.60 of the Revised Code. If the applicant was so 154
fingerprinted, the probation officer or county department of 155
probation shall include with the written report a record of the 156
applicant's fingerprints. If the applicant was convicted of or 157
pleaded guilty to a violation of division (A) (2) or (B) of 158
section 2919.21 of the Revised Code, the probation officer or 159
county department of probation that the court directed to make 160
inquiries concerning the applicant shall contact the child 161
support enforcement agency enforcing the applicant's obligations 162
under the child support order to inquire about the offender's 163

compliance with the child support order. 164

(D) (1) At the hearing held under division (C) of this 165
section, the court shall do each of the following: 166

(a) Determine whether the applicant is pursuing sealing or 167
expunging a conviction of an offense that is prohibited under 168
division (A) of this section or whether the forfeiture of bail 169
was agreed to by the applicant and the prosecutor in the case, 170
and determine whether the application was made at the time 171
specified in division (B) (1) (a) or (b) or division (B) (2) (a) or 172
(b) of this section that is applicable with respect to the 173
application and the subject offense; 174

(b) Determine whether criminal proceedings are pending 175
against the applicant; 176

(c) Determine whether the applicant has been rehabilitated 177
to the satisfaction of the court; 178

(d) If the prosecutor has filed an objection in accordance 179
with division (C) of this section, consider the reasons against 180
granting the application specified by the prosecutor in the 181
objection; 182

(e) If the victim objected, pursuant to the Ohio 183
Constitution, consider the reasons against granting the 184
application specified by the victim in the objection; 185

(f) Weigh the interests of the applicant in having the 186
records pertaining to the applicant's conviction or bail 187
forfeiture sealed or expunged against the legitimate needs, if 188
any, of the government to maintain those records; 189

(g) Consider the oral or written statement of any victim, 190
victim's representative, and victim's attorney, if applicable; 191

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

- (i) The age of the offender;
- (ii) The facts and circumstances of the offense;
- (iii) The cessation or continuation of criminal behavior;
- (iv) The education and employment of the offender;
- (v) Any other circumstances that may relate to the offender's rehabilitation.

(i) If the court is required to determine whether an applicant for sealing or expungement 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, 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 whether, when counting the convictions individually, the applicant is pursuing sealing or expunging a conviction that is prohibited under division (A) of this section.

(2) If the court determines, after complying with division 220
(D) (1) of this section, that the offender is not pursuing 221
sealing or expunging a conviction of an offense that is 222
prohibited under division (A) of this section or that the 223
forfeiture of bail was agreed to by the applicant and the 224
prosecutor in the case, that the application was made at the 225
time specified in division (B) (1) (a) or (b) or division (B) (2) 226
(a) or (b) of this section that is applicable with respect to 227
the application and the subject offense, that no criminal 228
proceeding is pending against the applicant, that the interests 229
of the applicant in having the records pertaining to the 230
applicant's conviction or bail forfeiture sealed or expunged are 231
not outweighed by any legitimate governmental needs to maintain 232
those records, and that the rehabilitation of the applicant has 233
been attained to the satisfaction of the court, both of the 234
following apply: 235

(a) The court, except as provided in division (D) (4) or 236
(5) of this section or division (D), (F), or (G) of section 237
2953.34 of the Revised Code, shall order all official records of 238
the case that pertain to the conviction or bail forfeiture 239
sealed if the application was for sealing or expunged if the 240
application was for expungement and, except as provided in 241
division (C) of section 2953.34 of the Revised Code, all index 242
references to the case that pertain to the conviction or bail 243
forfeiture deleted and, in the case of bail forfeitures, shall 244
dismiss the charges in the case. 245

(b) The proceedings in the case that pertain to the 246
conviction or bail forfeiture shall be considered not to have 247
occurred and the conviction or bail forfeiture of the person who 248
is the subject of the proceedings shall be sealed if the 249

application was for sealing or expunged if the application was 250
for expungement, except that upon conviction of a subsequent 251
offense, a sealed record of prior conviction or bail forfeiture 252
may be considered by the court in determining the sentence or 253
other appropriate disposition, including the relief provided for 254
in sections 2953.31, 2953.32, and 2953.34 of the Revised Code. 255

(3) An applicant may request the sealing or expungement of 256
the records of more than one case in a single application under 257
this section. Upon the filing of an application under this 258
section, the applicant, unless the applicant presents a poverty 259
affidavit showing that the applicant is indigent, shall pay an 260
application fee of fifty dollars and may pay a local court fee 261
of not more than fifty dollars, regardless of the number of 262
records the application requests to have sealed or expunged. If 263
the applicant pays a fee, the court shall pay three-fifths of 264
the fee collected into the state treasury, with half of that 265
amount credited to the attorney general reimbursement fund 266
created by section 109.11 of the Revised Code. If the applicant 267
pays a fee, the court shall pay two-fifths of the fee collected 268
into the county general revenue fund if the sealed or expunged 269
conviction or bail forfeiture was pursuant to a state statute, 270
or into the general revenue fund of the municipal corporation 271
involved if the sealed or expunged conviction or bail forfeiture 272
was pursuant to a municipal ordinance. 273

(4) If the court orders the official records pertaining to 274
the case sealed or expunged, the court shall do one of the 275
following: 276

(a) If the applicant was fingerprinted at the time of 277
arrest or under section 109.60 of the Revised Code and the 278
record of the applicant's fingerprints was provided to the court 279

under division (C) of this section, forward a copy of the 280
sealing or expungement order and the record of the applicant's 281
fingerprints to the bureau of criminal identification and 282
investigation. 283

(b) If the applicant was not fingerprinted at the time of 284
arrest or under section 109.60 of the Revised Code, or the 285
record of the applicant's fingerprints was not provided to the 286
court under division (C) of this section, but fingerprinting was 287
required for the offense, order the applicant to appear before a 288
sheriff to have the applicant's fingerprints taken according to 289
the fingerprint system of identification on the forms furnished 290
by the superintendent of the bureau of criminal identification 291
and investigation. The sheriff shall forward the applicant's 292
fingerprints to the court. The court shall forward the 293
applicant's fingerprints and a copy of the sealing or 294
expungement order to the bureau of criminal identification and 295
investigation. 296

Failure of the court to order fingerprints at the time of 297
sealing or expungement does not constitute a reversible error. 298

(5) Notwithstanding any other provision of the Revised 299
Code to the contrary, when the bureau of criminal identification 300
and investigation receives notice from a court that the record 301
of a conviction or bail forfeiture has been expunged under this 302
section, the bureau of criminal identification and investigation 303
shall maintain a record of the expunged conviction record for 304
the limited purpose of determining an individual's qualification 305
or disqualification for employment in law enforcement. The 306
bureau of criminal identification and investigation shall not be 307
compelled by the court to destroy, delete, or erase those 308
records so that the records are permanently irretrievable. These 309

records may only be disclosed or provided to law enforcement for 310
the limited purpose of determining an individual's qualification 311
or disqualification for employment in law enforcement. 312

When any other entity other than the bureau of criminal 313
identification and investigation receives notice from a court 314
that the record of a conviction or bail forfeiture has been 315
expunged under this section, the entity shall destroy, delete, 316
and erase the record as appropriate for the record's physical or 317
electronic form or characteristic so that the record is 318
permanently irretrievable." 319

Update the title, amend, enact, or repeal clauses accordingly 320

The motion was _____ agreed to.

SYNOPSIS

321

Sealing and expungement

322

R.C. 2953.32

323

Removes a reference to conviction records that cannot be 324
sealed or expunged that previously applied to sealing and 325
expunging of official records in which a person is found not 326
guilty, proceedings are dismissed, a grand jury no bill is 327
entered, or a pardon is granted. 328