

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

\_\_\_\_\_ moved to amend as follows:

After line 37992, insert:

"**Sec. 2151.356.** (A) The records of a case in which a person was adjudicated a delinquent child for committing a violation of section 2903.01, 2903.02, or 2907.02 of the Revised Code shall not be sealed under this section.

(B) (1) The juvenile court shall promptly order the immediate sealing of records pertaining to a juvenile in any of the following circumstances:

(a) If the court receives a record from a public office or agency under division (B) (2) of this section;

(b) If a person was brought before or referred to the court for allegedly committing a delinquent or unruly act and the case was resolved without the filing of a complaint against the person with respect to that act pursuant to section 2151.27 of the Revised Code;

(c) If a person was charged with violating division (E) (1) of section 4301.69 of the Revised Code and the person has successfully completed a diversion program under division (E) (2) (a) of section 4301.69 of the Revised Code with respect to that



charge; 20

(d) If a complaint was filed against a person alleging 21  
that the person was a delinquent child, an unruly child, or a 22  
juvenile traffic offender and the court ~~dismisses~~ does both of 23  
the following: 24

(i) Dismisses the complaint after a trial on the merits of 25  
the case or finds the person not to be a delinquent child, an 26  
unruly child, or a juvenile traffic offender; 27

(ii) Finds that the harm to the person alleged to be a 28  
delinquent child, an unruly child, or a juvenile traffic 29  
offender in having the records pertaining to the case disclosed 30  
is not outweighed by the potential benefits to the public in 31  
having access to those records. 32

(e) Notwithstanding division (C) of this section and 33  
subject to section 2151.358 of the Revised Code, if a person has 34  
been adjudicated an unruly child, ~~that~~ and both of the following 35  
apply: 36

(i) The person has attained eighteen years of age, and the 37  
person is not under the jurisdiction of the court in relation to 38  
a complaint alleging the person to be a delinquent child. 39

(ii) The court finds that the harm to the person in having 40  
the records pertaining to the case disclosed is not outweighed 41  
by the potential benefits to the public in having access to 42  
those records. 43

(2) The appropriate public office or agency shall 44  
immediately deliver all original records at that public office 45  
or agency pertaining to a juvenile to the court, if the person 46  
was arrested or taken into custody for allegedly committing a 47

delinquent or unruly act, no complaint was filed against the 48  
person with respect to the commission of the act pursuant to 49  
section 2151.27 of the Revised Code, and the person was not 50  
brought before or referred to the court for the commission of 51  
the act. The records delivered to the court as required under 52  
this division shall not include fingerprints, DNA specimens, and 53  
DNA records described under division (A)(3) of section 2151.357 54  
of the Revised Code. 55

(C)(1) The juvenile court shall consider the sealing of 56  
records pertaining to a juvenile upon the court's own motion or 57  
upon the application of a person if the person has been 58  
adjudicated a delinquent child for committing an act other than 59  
a violation of section 2903.01, 2903.02, or 2907.02 of the 60  
Revised Code, an unruly child, or a juvenile traffic offender 61  
and if, at the time of the motion or application, the person is 62  
not under the jurisdiction of the court in relation to a 63  
complaint alleging the person to be a delinquent child. The 64  
court shall not require a fee for the filing of the application. 65  
The motion or application may be made on or after the time 66  
specified in whichever of the following is applicable: 67

(a) If the person is under eighteen years of age, at any 68  
time after six months after any of the following events occur: 69

(i) The termination of any order made by the court in 70  
relation to the adjudication; 71

(ii) The unconditional discharge of the person from the 72  
department of youth services with respect to a dispositional 73  
order made in relation to the adjudication or from an 74  
institution or facility to which the person was committed 75  
pursuant to a dispositional order made in relation to the 76  
adjudication; 77

(iii) The court enters an order under section 2152.84 or 78  
2152.85 of the Revised Code that contains a determination that 79  
the child is no longer a juvenile offender registrant. 80

(b) If the person is eighteen years of age or older, at 81  
any time after the later of the following: 82

(i) The person's attainment of eighteen years of age; 83

(ii) The occurrence of any event identified in divisions 84  
(C) (1) (a) (i) to (iii) of this section. 85

(2) In making the determination whether to seal records 86  
pursuant to division (C) (1) of this section, all of the 87  
following apply: 88

(a) The court may require a person filing an application 89  
under division (C) (1) of this section to submit any relevant 90  
documentation to support the application. 91

(b) The court may cause an investigation to be made to 92  
determine if the person who is the subject of the proceedings 93  
has been rehabilitated to a satisfactory degree. 94

(c) The court shall promptly, but not less than thirty 95  
days prior to the hearing, notify the prosecuting attorney of 96  
any proceedings to seal records initiated pursuant to division 97  
(C) (1) of this section. The prosecutor shall provide timely 98  
notice to a victim and a victim's representative, if applicable, 99  
if the victim or victim's representative requested notice of the 100  
proceedings in the underlying case. 101

(d) (i) The prosecuting attorney may file a response with 102  
the court within thirty days of receiving notice of the sealing 103  
proceedings. 104

(ii) If the prosecuting attorney does not file a response 105

with the court or if the prosecuting attorney files a response 106  
but indicates that the prosecuting attorney does not object to 107  
the sealing of the records, the court may order the records of 108  
the person that are under consideration to be sealed without 109  
conducting a hearing on the motion or application. If the court 110  
decides in its discretion to conduct a hearing on the motion or 111  
application, the court shall conduct the hearing within thirty 112  
days after making that decision and shall give notice, by 113  
regular mail, of the date, time, and location of the hearing to 114  
the prosecuting attorney and to the person who is the subject of 115  
the records under consideration. The victim, the victim's 116  
representative, and the victim's attorney, if applicable, may be 117  
present and heard orally, in writing, or both at any hearing 118  
under this division. The court shall consider the oral and 119  
written statement of any victim, victim's representative, and 120  
victim's attorney, if applicable. 121

(iii) If the prosecuting attorney files a response with 122  
the court that indicates that the prosecuting attorney objects 123  
to the sealing of the records, the court shall conduct a hearing 124  
on the motion or application within thirty days after the court 125  
receives the response. The court shall give notice, by regular 126  
mail, of the date, time, and location of the hearing to the 127  
prosecuting attorney and to the person who is the subject of the 128  
records under consideration. The victim, the victim's 129  
representative, and the victim's attorney, if applicable, may be 130  
present and heard orally, in writing, or both at any hearing 131  
under this division. The court shall consider the oral and 132  
written statement of any victim, victim's representative, and 133  
victim's attorney, if applicable. 134

(e) After conducting a hearing in accordance with division 135

(C) (2) (d) of this section or after due consideration when a hearing is not conducted, except as provided in division (B) (1) (c) of this section, the court may order the records of the person that are the subject of the motion or application to be sealed if it finds that the person has been rehabilitated to a satisfactory degree. In determining whether the person has been rehabilitated to a satisfactory degree, the court may consider all of the following:

- (i) The age of the person;
- (ii) The nature of the case;
- (iii) The cessation or continuation of delinquent, unruly, or criminal behavior;
- (iv) The education and employment history of the person;
- (v) The granting of a new tier classification or declassification from the juvenile offender registry pursuant to section 2152.85 of the Revised Code, except for public registry-qualified juvenile offender registrants;
- (vi) Any other circumstances that may relate to the rehabilitation of the person who is the subject of the records under consideration.

(D) (1) (a) The juvenile court shall provide verbal notice to a person whose records are sealed under division (B) of this section, if that person is present in the court at the time the court issues a sealing order, that explains what sealing a record means, states that the person may apply to have those records expunged under section 2151.358 of the Revised Code, and explains what expunging a record means.

(b) The juvenile court shall provide written notice to a

person whose records are sealed under division (B) of this 164  
section by regular mail to the person's last known address, if 165  
that person is not present in the court at the time the court 166  
issues a sealing order and if the court does not seal the 167  
person's record upon the court's own motion, that explains what 168  
sealing a record means, states that the person may apply to have 169  
those records expunged under section 2151.358 of the Revised 170  
Code, and explains what expunging a record means. 171

(2) Upon final disposition of a case in which a person has 172  
been adjudicated a delinquent child for committing an act other 173  
than a violation of section 2903.01, 2903.02, or 2907.02 of the 174  
Revised Code, an unruly child, or a juvenile traffic offender, 175  
the juvenile court shall provide written notice to the person 176  
that does all of the following: 177

(a) States that the person may apply to the court for an 178  
order to seal the record; 179

(b) Explains what sealing a record means; 180

(c) States that the person may apply to the court for an 181  
order to expunge the record under section 2151.358 of the 182  
Revised Code; 183

(d) Explains what expunging a record means. 184

(3) The department of youth services and any other 185  
institution or facility that unconditionally discharges a person 186  
who has been adjudicated a delinquent child, an unruly child, or 187  
a juvenile traffic offender shall immediately give notice of the 188  
discharge to the court that committed the person. The court 189  
shall note the date of discharge on a separate record of 190  
discharges of those natures." 191

Update the title, amend, enact, or repeal clauses accordingly 192

The motion was \_\_\_\_\_ agreed to.

### SYNOPSIS

	193
<b>Juvenile sealing - balancing test</b>	194
<b>R.C. 2151.356</b>	195
Before sealing a juvenile record, requires the juvenile	196
court to find that the harm to the person in having the records	197
pertaining to the case disclosed is not outweighed by the	198
potential benefits to the public in having access to those	199
records in the following circumstances:	200
- If a complaint is filed against a delinquent child, an	201
unruly child, or a juvenile traffic offense and the court	202
dismisses the complaint, or finds the person to not be a	203
delinquent child, an unruly child, or a juvenile traffic	204
offender;	205
- If a person has been adjudicated an unruly child and the	206
person has attained 18 years of age, and the person is not under	207
the jurisdiction of the court in relation to a complaint	208
alleging the person to be a delinquent child.	209