

As Reported by the House Criminal Justice Committee

133rd General Assembly

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H. B. No. 1

Representatives Plummer, Hicks-Hudson

**Cosponsors: Representatives Leland, Crossman, Galonski, Rogers, Smith, T.,
West**

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 112
illness, or intellectual disability, or the fact that the 113
offender was a victim of a violation of section 2905.32 or 114
2907.21 of the Revised Code, whichever is applicable, was a 115
factor leading to the criminal offense with which the offender 116
is charged, intervention in lieu of conviction would not demean 117
the seriousness of the offense, and intervention would 118
substantially reduce the likelihood of any future criminal 119
activity. 120

(7) The alleged victim of the offense was not sixty-five 121
years of age or older, permanently and totally disabled, under 122
thirteen years of age, or a peace officer engaged in the 123
officer's official duties at the time of the alleged offense. 124

(8) If the offender is charged with a violation of section 125
2925.24 of the Revised Code, the alleged violation did not 126
result in physical harm to any person. 127

(9) The offender is willing to comply with all terms and 128
conditions imposed by the court pursuant to division (D) of this 129
section. 130

(10) The offender is not charged with an offense that 131
would result in the offender being disqualified under Chapter 132
4506. of the Revised Code from operating a commercial motor 133
vehicle or would subject the offender to any other sanction 134
under that chapter. 135

(C) At the conclusion of a hearing held pursuant to 136
division (A) of this section, the court shall ~~enter its~~ 137
~~determination as to~~ determine whether the offender will be 138
granted intervention in lieu of conviction. In making this 139

determination, the court shall presume that intervention in lieu 140
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 intervention in lieu of conviction and the offender fails to comply with any term or condition imposed as part of the intervention plan for the offender, the supervising authority for the offender promptly shall advise the court of this failure, and the court shall hold a hearing to determine whether the offender failed to comply with any term or condition imposed as part of the plan. If the court determines that the offender has failed to comply with any of those terms and conditions, it may continue the offender on intervention in lieu of conviction, continue the offender on intervention in lieu of conviction with additional terms, conditions, and sanctions, or enter a finding of guilty and impose an appropriate sanction under Chapter 2929. of the Revised Code. If the court sentences the offender to a prison term, the court, after consulting with the department of rehabilitation and correction regarding the availability of services, may order continued court-supervised activity and treatment of the offender during the prison term and, upon consideration of reports received from the department concerning the offender's progress in the program of activity and treatment, may consider judicial release under section 2929.20 of the Revised Code.

(G) As used in this section: 223

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

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

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

(4) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code.	230 231
(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
Sec. 2953.31. 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, but not more than five felonies, 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 one two <u>felony conviction convictions,</u> not more than two four <u>misdemeanor convictions,</u> or not more than one two <u>felony conviction convictions</u> and one two <u>misdemeanor conviction</u>	252 253 254 255 256 257

convictions in this state or any other jurisdiction. The 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
Sec. 2953.32. (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 438
ordinance. 439

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

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

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

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

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

(1) By a law enforcement officer or prosecutor, or the 465

assistants of either, to determine whether the nature and 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