

As Reported by the Senate Judiciary Committee

133rd General Assembly

Regular Session

2019-2020

Sub. H. B. No. 1

Representatives Plummer, Hicks-Hudson

Cosponsors: Representatives Leland, Crossman, Galonski, Rogers, Smith, T., West, Blair, Blessing, Boggs, Boyd, Brent, Brown, Callender, Clites, Crawley, Cross, Denson, Ghanbari, Green, Greenspan, Holmes, A., Howse, Ingram, Lang, Lepore-Hagan, Liston, Miller, A., Miller, J., Miranda, O'Brien, Oelslager, Perales, Russo, Ryan, Seitz, Sheehy, Skindell, Smith, K., Smith, R., Sobeki, Strahorn, Sykes, Upchurch, Weinstein

Senators Eklund, Manning, Coley, Gavarone

A BILL

To amend sections 109.11, 2951.041, 2953.31, and 1
2953.32 of the Revised Code to modify the 2
requirements for intervention in lieu of 3
conviction and for sealing records of conviction 4
and provide for deposit of some of the sealing 5
application fee into the Attorney General 6
Reimbursement Fund and the use of that amount 7
for expenses related to sealing and expungement. 8

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

Section 1. That sections 109.11, 2951.041, 2953.31, and 9
2953.32 of the Revised Code be amended to read as follows: 10

Sec. 109.11. There is hereby created in the state treasury 11
the attorney general reimbursement fund that shall be used for 12
the expenses of the office of the attorney general in providing 13
legal services and other services on behalf of the state. ~~All~~ 14

Except as otherwise provided in this division, all amounts 15
received by the attorney general as reimbursement for legal 16
services and other services that have been rendered to other 17
state agencies shall be paid into the state treasury to the 18
credit of the attorney general reimbursement fund. All amounts 19
awarded by a court to the attorney general for attorney's fees, 20
investigation costs, expert witness fees, fines, and all other 21
costs and fees associated with representation provided by the 22
attorney general and all amounts awarded to the attorney general 23
by a court shall be paid into the state treasury to the credit 24
of the attorney general reimbursement fund. All amounts paid 25
into the state treasury under division (C) (3) of section 2953.32 26
of the Revised Code and that are required under that division to 27
be credited to the attorney general reimbursement fund shall be 28
credited to the fund, and the amounts so credited shall be used 29
by the bureau of criminal identification and investigation for 30
expenses related to the sealing or expungement of records. 31

Sec. 2951.041. (A) (1) If an offender is charged with a 32
criminal offense, including but not limited to a violation of 33
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 34
of the Revised Code, and the court has reason to believe that 35
drug or alcohol usage by the offender was a factor leading to 36
the criminal offense with which the offender is charged or that, 37
at the time of committing that offense, the offender had a 38
mental illness, was a person with an intellectual disability, or 39
was a victim of a violation of section 2905.32 or 2907.21 of the 40
Revised Code and that the mental illness, status as a person 41
with an intellectual disability, or fact that the offender was a 42
victim of a violation of section 2905.32 or 2907.21 of the 43
Revised Code was a factor leading to the offender's criminal 44
behavior, the court may accept, prior to the entry of a guilty 45

plea, the offender's request for intervention in lieu of 46
conviction. The request shall include a statement from the 47
offender as to whether the offender is alleging that drug or 48
alcohol usage by the offender was a factor leading to the 49
criminal offense with which the offender is charged or is 50
alleging that, at the time of committing that offense, the 51
offender had a mental illness, was a person with an intellectual 52
disability, or was a victim of a violation of section 2905.32 or 53
2907.21 of the Revised Code and that the mental illness, status 54
as a person with an intellectual disability, or fact that the 55
offender was a victim of a violation of section 2905.32 or 56
2907.21 of the Revised Code was a factor leading to the criminal 57
offense with which the offender is charged. The request also 58
shall include a waiver of the defendant's right to a speedy 59
trial, the preliminary hearing, the time period within which the 60
grand jury may consider an indictment against the offender, and 61
arraignment, unless the hearing, indictment, or arraignment has 62
already occurred. ~~The Unless an offender alleges that drug or~~ 63
~~alcohol usage by the offender was a factor leading to the~~ 64
~~criminal offense with which the offender is charged, the court~~ 65
may reject an offender's request without a hearing. If the court 66
elects to consider an offender's request or the offender 67
alleges that drug or alcohol usage by the offender was a factor 68
leading to the criminal offense with which the offender is 69
charged, the court shall conduct a hearing to determine whether 70
the offender is eligible under this section for intervention in 71
lieu of conviction and shall stay all criminal proceedings 72
pending the outcome of the hearing. If the court schedules a 73
hearing, the court shall order an assessment of the offender for 74
the purpose of determining the offender's program eligibility 75
for intervention in lieu of conviction and recommending an 76
appropriate intervention plan. 77

If the offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court may order that the offender be assessed by a community addiction services provider or a properly credentialed professional for the purpose of determining the offender's program eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan. The community addiction services provider or the properly credentialed professional shall provide a written assessment of the offender to the court.

(2) The victim notification provisions of division (C) of section 2930.06 of the Revised Code apply in relation to any hearing held under division (A)(1) of this section.

(B) An offender is eligible for intervention in lieu of conviction if the court finds all of the following:

(1) The offender previously has not been convicted of or pleaded guilty to any felony offense of violence.

(2) The offense is not a felony of the first, second, or third degree, is not an offense of violence, is not a felony sex offense, is not a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code, is not a violation of division (A)(1) of section 2903.08 of the Revised Code, is not a violation of division (A) of section 4511.19 of the Revised Code or a municipal ordinance that is substantially similar to that division, and is not an offense for which a sentencing court is required to impose a mandatory prison term.

(3) The offender is not charged with a violation of section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not charged with a violation of section 2925.03 of the Revised Code

that is a felony of the first, second, third, or fourth degree, 107
and is not charged with a violation of section 2925.11 of the 108
Revised Code that is a felony of the first or second degree. 109

(4) If an offender alleges that drug or alcohol usage by 110
the offender was a factor leading to the criminal offense with 111
which the offender is charged, the court has ordered that the 112
offender be assessed by a community addiction services provider 113
or a properly credentialed professional for the purpose of 114
determining the offender's program eligibility for intervention 115
in lieu of conviction and recommending an appropriate 116
intervention plan, the offender has been assessed by a community 117
addiction services provider of that nature or a properly 118
credentialed professional in accordance with the court's order, 119
and the community addiction services provider or properly 120
credentialed professional has filed the written assessment of 121
the offender with the court. 122

(5) If an offender alleges that, at the time of committing 123
the criminal offense with which the offender is charged, the 124
offender had a mental illness, was a person with an intellectual 125
disability, or was a victim of a violation of section 2905.32 or 126
2907.21 of the Revised Code and that the mental illness, status 127
as a person with an intellectual disability, or fact that the 128
offender was a victim of a violation of section 2905.32 or 129
2907.21 of the Revised Code was a factor leading to that 130
offense, the offender has been assessed by a psychiatrist, 131
psychologist, independent social worker, licensed professional 132
clinical counselor, or independent marriage and family therapist 133
for the purpose of determining the offender's program 134
eligibility for intervention in lieu of conviction and 135
recommending an appropriate intervention plan. 136

(6) The offender's drug usage, alcohol usage, mental illness, or intellectual disability, or the fact that the offender was a victim of a violation of section 2905.32 or 2907.21 of the Revised Code, whichever is applicable, was a factor leading to the criminal offense with which the offender is charged, intervention in lieu of conviction would not demean the seriousness of the offense, and intervention would substantially reduce the likelihood of any future criminal activity.

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

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

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

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

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

of conviction is appropriate. If the court finds under this 166
division and division (B) of this section that the offender is 167
eligible for intervention in lieu of conviction ~~and grants the~~ 168
~~offender's request,~~ the court shall grant the offender's request 169
unless the court finds specific reasons to believe that the 170
candidate's participation in intervention in lieu of conviction 171
would be inappropriate. 172

If the court denies an eligible offender's request for 173
intervention in lieu of conviction, the court shall state the 174
reasons for the denial, with particularity, in a written entry. 175

If the court grants the offender's request, the court 176
shall accept the offender's plea of guilty and waiver of the 177
defendant's right to a speedy trial, the preliminary hearing, 178
the time period within which the grand jury may consider an 179
indictment against the offender, and arraignment, unless the 180
hearing, indictment, or arraignment has already occurred. In 181
addition, the court then may stay all criminal proceedings and 182
order the offender to comply with all terms and conditions 183
imposed by the court pursuant to division (D) of this section. 184
If the court finds that the offender is not eligible or does not 185
grant the offender's request, the criminal proceedings against 186
the offender shall proceed as if the offender's request for 187
intervention in lieu of conviction had not been made. 188

(D) If the court grants an offender's request for 189
intervention in lieu of conviction, the court shall place the 190
offender under the general control and supervision of the county 191
probation department, the adult parole authority, or another 192
appropriate local probation or court services agency, if one 193
exists, as if the offender was subject to a community control 194
sanction imposed under section 2929.15, 2929.18, or 2929.25 of 195

the Revised Code. The court shall establish an intervention plan 196
for the offender. The terms and conditions of the intervention 197
plan shall require the offender, for at least one year, but not 198
more than five years, from the date on which the court grants 199
the order of intervention in lieu of conviction, to abstain from 200
the use of illegal drugs and alcohol, to participate in 201
treatment and recovery support services, and to submit to 202
regular random testing for drug and alcohol use and may include 203
any other treatment terms and conditions, or terms and 204
conditions similar to community control sanctions, which may 205
include community service or restitution, that are ordered by 206
the court. 207

(E) If the court grants an offender's request for 208
intervention in lieu of conviction and the court finds that the 209
offender has successfully completed the intervention plan for 210
the offender, including the requirement that the offender 211
abstain from using illegal drugs and alcohol for a period of at 212
least one year, but not more than five years, from the date on 213
which the court granted the order of intervention in lieu of 214
conviction, the requirement that the offender participate in 215
treatment and recovery support services, and all other terms and 216
conditions ordered by the court, the court shall dismiss the 217
proceedings against the offender. Successful completion of the 218
intervention plan and period of abstinence under this section 219
shall be without adjudication of guilt and is not a criminal 220
conviction for purposes of any disqualification or disability 221
imposed by law and upon conviction of a crime, and the court may 222
order the sealing of records related to the offense in question, 223
as a dismissal of the charges, in the manner provided in 224
sections ~~2953.31~~ 2953.51 to ~~2953.36~~ 2953.56 of the Revised Code. 225

(F) If the court grants an offender's request for 226

intervention in lieu of conviction and the offender fails to 227
comply with any term or condition imposed as part of the 228
intervention plan for the offender, the supervising authority 229
for the offender promptly shall advise the court of this 230
failure, and the court shall hold a hearing to determine whether 231
the offender failed to comply with any term or condition imposed 232
as part of the plan. If the court determines that the offender 233
has failed to comply with any of those terms and conditions, it 234
may continue the offender on intervention in lieu of conviction, 235
continue the offender on intervention in lieu of conviction with 236
additional terms, conditions, and sanctions, or enter a finding 237
of guilty and impose an appropriate sanction under Chapter 2929. 238
of the Revised Code. If the court sentences the offender to a 239
prison term, the court, after consulting with the department of 240
rehabilitation and correction regarding the availability of 241
services, may order continued court-supervised activity and 242
treatment of the offender during the prison term and, upon 243
consideration of reports received from the department concerning 244
the offender's progress in the program of activity and 245
treatment, may consider judicial release under section 2929.20 246
of the Revised Code. 247

(G) As used in this section: 248

(1) "Community addiction services provider" has the same 249
meaning as in section 5119.01 of the Revised Code. 250

(2) "Community control sanction" has the same meaning as 251
in section 2929.01 of the Revised Code. 252

(3) "Intervention in lieu of conviction" means any court- 253
supervised activity that complies with this section. 254

(4) "Intellectual disability" has the same meaning as in 255

section 5123.01 of the Revised Code.	256
(5) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	257 258
(6) "Mental illness" and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code.	259 260
(7) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.	261 262
<u>(8) "Felony sex offense" means a violation of a section contained in Chapter 2907. of the Revised Code that is a felony.</u>	263 264
Sec. 2953.31. As used in sections 2953.31 to 2953.36 of the Revised Code:	265 266
(A) (1) "Eligible offender" means either of the following:	267
(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;	268 269 270 271 272 273 274 275 276
(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, has not more than two four</u> misdemeanor convictions, <u>or, if the person has exactly two felony convictions, has not more than one those two felony conviction convictions and one two</u> misdemeanor conviction	277 278 279 280 281 282 283

convictions in this state or any other jurisdiction. The 284
conviction that is requested to be sealed shall be a conviction 285
that is eligible for sealing as provided in section 2953.36 of 286
the Revised Code. When two or more convictions result from or 287
are connected with the same act or result from offenses 288
committed at the same time, they shall be counted as one 289
conviction. When two or three convictions result from the same 290
indictment, information, or complaint, from the same plea of 291
guilty, or from the same official proceeding, and result from 292
related criminal acts that were committed within a three-month 293
period but do not result from the same act or from offenses 294
committed at the same time, they shall be counted as one 295
conviction, provided that a court may decide as provided in 296
division (C) (1) (a) of section 2953.32 of the Revised Code that 297
it is not in the public interest for the two or three 298
convictions to be counted as one conviction. 299

(2) For purposes of, and except as otherwise provided in, 300
division (A) (1) (b) of this section, a conviction for a minor 301
misdemeanor, for a violation of any section in Chapter 4507., 302
4510., 4511., 4513., or 4549. of the Revised Code, or for a 303
violation of a municipal ordinance that is substantially similar 304
to any section in those chapters is not a conviction. However, a 305
conviction for a violation of section 4511.19, 4511.251, 306
4549.02, 4549.021, 4549.03, 4549.042, or 4549.62 or sections 307
4549.41 to 4549.46 of the Revised Code, for a violation of 308
section 4510.11 or 4510.14 of the Revised Code that is based 309
upon the offender's operation of a vehicle during a suspension 310
imposed under section 4511.191 or 4511.196 of the Revised Code, 311
for a violation of a substantially equivalent municipal 312
ordinance, for a felony violation of Title XLV of the Revised 313
Code, or for a violation of a substantially equivalent former 314

law of this state or former municipal ordinance shall be 315
considered a conviction. 316

(B) "Prosecutor" means the county prosecuting attorney, 317
city director of law, village solicitor, or similar chief legal 318
officer, who has the authority to prosecute a criminal case in 319
the court in which the case is filed. 320

(C) "Bail forfeiture" means the forfeiture of bail by a 321
defendant who is arrested for the commission of a misdemeanor, 322
other than a defendant in a traffic case as defined in Traffic 323
Rule 2, if the forfeiture is pursuant to an agreement with the 324
court and prosecutor in the case. 325

(D) "Official records" has the same meaning as in division 326
(D) of section 2953.51 of the Revised Code. 327

(E) "Official proceeding" has the same meaning as in 328
section 2921.01 of the Revised Code. 329

(F) "Community control sanction" has the same meaning as 330
in section 2929.01 of the Revised Code. 331

(G) "Post-release control" and "post-release control 332
sanction" have the same meanings as in section 2967.01 of the 333
Revised Code. 334

(H) "DNA database," "DNA record," and "law enforcement 335
agency" have the same meanings as in section 109.573 of the 336
Revised Code. 337

(I) "Fingerprints filed for record" means any fingerprints 338
obtained by the superintendent of the bureau of criminal 339
identification and investigation pursuant to sections 109.57 and 340
109.571 of the Revised Code. 341

Sec. 2953.32. (A) (1) Except as provided in section 2953.61 342

of the Revised Code, an eligible offender may apply to the 343
sentencing court if convicted in this state, or to a court of 344
common pleas if convicted in another state or in a federal 345
court, for the sealing of the record of the case that pertains 346
to the conviction, except for convictions listed under section 347
2953.36 of the Revised Code. Application may be made at one of 348
the following times: 349

(a) At the expiration of three years after the offender's 350
final discharge if convicted of ~~one~~ a felony of the third 351
degree; 352

~~(b) When division (A)(1)(a) of section 2953.31 of the~~ 353
~~Revised Code applies to the offender, at the expiration of four~~ 354
~~years after the offender's final discharge if convicted of two~~ 355
~~felonies, or at the expiration of five years after final~~ 356
~~discharge if convicted of three, four, or five felonies;~~ 357

~~(c)~~ At the expiration of one year after the offender's 358
final discharge if convicted of a felony of the fourth or fifth 359
degree or a misdemeanor. 360

(2) Any person who has been arrested for any misdemeanor 361
offense and who has effected a bail forfeiture for the offense 362
charged may apply to the court in which the misdemeanor criminal 363
case was pending when bail was forfeited for the sealing of the 364
record of the case that pertains to the charge. Except as 365
provided in section 2953.61 of the Revised Code, the application 366
may be filed at any time after the expiration of one year from 367
the date on which the bail forfeiture was entered upon the 368
minutes of the court or the journal, whichever entry occurs 369
first. 370

(B) Upon the filing of an application under this section, 371

the court shall set a date for a hearing and shall notify the 372
prosecutor for the case of the hearing on the application. The 373
prosecutor may object to the granting of the application by 374
filing an objection with the court prior to the date set for the 375
hearing. The prosecutor shall specify in the objection the 376
reasons for believing a denial of the application is justified. 377
The court shall direct its regular probation officer, a state 378
probation officer, or the department of probation of the county 379
in which the applicant resides to make inquiries and written 380
reports as the court requires concerning the applicant. The 381
probation officer or county department of probation that the 382
court directs to make inquiries concerning the applicant shall 383
determine whether or not the applicant was fingerprinted at the 384
time of arrest or under section 109.60 of the Revised Code. If 385
the applicant was so fingerprinted, the probation officer or 386
county department of probation shall include with the written 387
report a record of the applicant's fingerprints. If the 388
applicant was convicted of or pleaded guilty to a violation of 389
division (A) (2) or (B) of section 2919.21 of the Revised Code, 390
the probation officer or county department of probation that the 391
court directed to make inquiries concerning the applicant shall 392
contact the child support enforcement agency enforcing the 393
applicant's obligations under the child support order to inquire 394
about the offender's compliance with the child support order. 395

(C) (1) The court shall do each of the following: 396

(a) Determine whether the applicant is an eligible 397
offender or whether the forfeiture of bail was agreed to by the 398
applicant and the prosecutor in the case. If the applicant 399
applies as an eligible offender pursuant to division (A) (1) of 400
this section and has two or three convictions that result from 401
the same indictment, information, or complaint, from the same 402

plea of guilty, or from the same official proceeding, and result 403
from related criminal acts that were committed within a three- 404
month period but do not result from the same act or from 405
offenses committed at the same time, in making its determination 406
under this division, the court initially shall determine whether 407
it is not in the public interest for the two or three 408
convictions to be counted as one conviction. If the court 409
determines that it is not in the public interest for the two or 410
three convictions to be counted as one conviction, the court 411
shall determine that the applicant is not an eligible offender; 412
if the court does not make that determination, the court shall 413
determine that the offender is an eligible offender. 414

(b) Determine whether criminal proceedings are pending 415
against the applicant; 416

(c) If the applicant is an eligible offender who applies 417
pursuant to division (A) (1) of this section, determine whether 418
the applicant has been rehabilitated to the satisfaction of the 419
court; 420

(d) If the prosecutor has filed an objection in accordance 421
with division (B) of this section, consider the reasons against 422
granting the application specified by the prosecutor in the 423
objection; 424

(e) Weigh the interests of the applicant in having the 425
records pertaining to the applicant's conviction or bail 426
forfeiture sealed against the legitimate needs, if any, of the 427
government to maintain those records. 428

(2) If the court determines, after complying with division 429
(C) (1) of this section, that the applicant is an eligible 430
offender or the subject of a bail forfeiture, that no criminal 431

proceeding is pending against the applicant, that the interests 432
of the applicant in having the records pertaining to the 433
applicant's conviction or bail forfeiture sealed are not 434
outweighed by any legitimate governmental needs to maintain 435
those records, and that the rehabilitation of an applicant who 436
is an eligible offender applying pursuant to division (A)(1) of 437
this section has been attained to the satisfaction of the court, 438
the court, except as provided in division (C)(4), (G), (H), or 439
(I) of this section, shall order all official records of the 440
case that pertain to the conviction or bail forfeiture sealed 441
and, except as provided in division (F) of this section, all 442
index references to the case that pertain to the conviction or 443
bail forfeiture deleted and, in the case of bail forfeitures, 444
shall dismiss the charges in the case. The proceedings in the 445
case that pertain to the conviction or bail forfeiture shall be 446
considered not to have occurred and the conviction or bail 447
forfeiture of the person who is the subject of the proceedings 448
shall be sealed, except that upon conviction of a subsequent 449
offense, the sealed record of prior conviction or bail 450
forfeiture may be considered by the court in determining the 451
sentence or other appropriate disposition, including the relief 452
provided for in sections 2953.31 to 2953.33 of the Revised Code. 453

(3) An applicant may request the sealing of the records of 454
more than one case in a single application under this section. 455
Upon the filing of an application under this section, the 456
applicant, unless indigent, shall pay a fee of fifty dollars, 457
regardless of the number of records the application requests to 458
have sealed. The court shall pay thirty dollars of the fee into 459
the state treasury, with fifteen dollars of that amount credited 460
to the attorney general reimbursement fund created by section 461
109.11 of the Revised Code. It shall pay twenty dollars of the 462

fee into the county general revenue fund if the sealed 463
conviction or bail forfeiture was pursuant to a state statute, 464
or into the general revenue fund of the municipal corporation 465
involved if the sealed conviction or bail forfeiture was 466
pursuant to a municipal ordinance. 467

(4) If the court orders the official records pertaining to 468
the case sealed, the court shall do one of the following: 469

(a) If the applicant was fingerprinted at the time of 470
arrest or under section 109.60 of the Revised Code and the 471
record of the applicant's fingerprints was provided to the court 472
under division (B) of this section, forward a copy of the 473
sealing order and the record of the applicant's fingerprints to 474
the bureau of criminal identification and investigation. 475

(b) If the applicant was not fingerprinted at the time of 476
arrest or under section 109.60 of the Revised Code, or the 477
record of the applicant's fingerprints was not provided to the 478
court under division (B) of this section, but fingerprinting was 479
required for the offense, order the applicant to appear before a 480
sheriff to have the applicant's fingerprints taken according to 481
the fingerprint system of identification on the forms furnished 482
by the superintendent of the bureau of criminal identification 483
and investigation. The sheriff shall forward the applicant's 484
fingerprints to the court. The court shall forward the 485
applicant's fingerprints and a copy of the sealing order to the 486
bureau of criminal identification and investigation. 487

Failure of the court to order fingerprints at the time of 488
sealing does not constitute a reversible error. 489

(D) Inspection of the sealed records included in the order 490
may be made only by the following persons or for the following 491

purposes:	492
(1) By a law enforcement officer or prosecutor, or the assistants of either, to determine whether the nature and character of the offense with which a person is to be charged would be affected by virtue of the person's previously having been convicted of a crime;	493 494 495 496 497
(2) By the parole or probation officer of the person who is the subject of the records, for the exclusive use of the officer in supervising the person while on parole or under a community control sanction or a post-release control sanction, and in making inquiries and written reports as requested by the court or adult parole authority;	498 499 500 501 502 503
(3) Upon application by the person who is the subject of the records, by the persons named in the application;	504 505
(4) By a law enforcement officer who was involved in the case, for use in the officer's defense of a civil action arising out of the officer's involvement in that case;	506 507 508
(5) By a prosecuting attorney or the prosecuting attorney's assistants, to determine a defendant's eligibility to enter a pre-trial diversion program established pursuant to section 2935.36 of the Revised Code;	509 510 511 512
(6) By any law enforcement agency or any authorized employee of a law enforcement agency or by the department of rehabilitation and correction or department of youth services as part of a background investigation of a person who applies for employment with the agency or with the department;	513 514 515 516 517
(7) By any law enforcement agency or any authorized employee of a law enforcement agency, for the purposes set forth in, and in the manner provided in, section 2953.321 of the	518 519 520

Revised Code;	521
(8) By the bureau of criminal identification and	522
investigation or any authorized employee of the bureau for the	523
purpose of providing information to a board or person pursuant	524
to division (F) or (G) of section 109.57 of the Revised Code;	525
(9) By the bureau of criminal identification and	526
investigation or any authorized employee of the bureau for the	527
purpose of performing a criminal history records check on a	528
person to whom a certificate as prescribed in section 109.77 of	529
the Revised Code is to be awarded;	530
(10) By the bureau of criminal identification and	531
investigation or any authorized employee of the bureau for the	532
purpose of conducting a criminal records check of an individual	533
pursuant to division (B) of section 109.572 of the Revised Code	534
that was requested pursuant to any of the sections identified in	535
division (B) (1) of that section;	536
(11) By the bureau of criminal identification and	537
investigation, an authorized employee of the bureau, a sheriff,	538
or an authorized employee of a sheriff in connection with a	539
criminal records check described in section 311.41 of the	540
Revised Code;	541
(12) By the attorney general or an authorized employee of	542
the attorney general or a court for purposes of determining a	543
person's classification pursuant to Chapter 2950. of the Revised	544
Code;	545
(13) By a court, the registrar of motor vehicles, a	546
prosecuting attorney or the prosecuting attorney's assistants,	547
or a law enforcement officer for the purpose of assessing points	548
against a person under section 4510.036 of the Revised Code or	549

for taking action with regard to points assessed. 550

When the nature and character of the offense with which a 551
person is to be charged would be affected by the information, it 552
may be used for the purpose of charging the person with an 553
offense. 554

(E) In any criminal proceeding, proof of any otherwise 555
admissible prior conviction may be introduced and proved, 556
notwithstanding the fact that for any such prior conviction an 557
order of sealing previously was issued pursuant to sections 558
2953.31 to 2953.36 of the Revised Code. 559

(F) The person or governmental agency, office, or 560
department that maintains sealed records pertaining to 561
convictions or bail forfeitures that have been sealed pursuant 562
to this section may maintain a manual or computerized index to 563
the sealed records. The index shall contain only the name of, 564
and alphanumeric identifiers that relate to, the persons who are 565
the subject of the sealed records, the word "sealed," and the 566
name of the person, agency, office, or department that has 567
custody of the sealed records, and shall not contain the name of 568
the crime committed. The index shall be made available by the 569
person who has custody of the sealed records only for the 570
purposes set forth in divisions (C), (D), and (E) of this 571
section. 572

(G) Notwithstanding any provision of this section or 573
section 2953.33 of the Revised Code that requires otherwise, a 574
board of education of a city, local, exempted village, or joint 575
vocational school district that maintains records of an 576
individual who has been permanently excluded under sections 577
3301.121 and 3313.662 of the Revised Code is permitted to 578
maintain records regarding a conviction that was used as the 579

basis for the individual's permanent exclusion, regardless of a 580
court order to seal the record. An order issued under this 581
section to seal the record of a conviction does not revoke the 582
adjudication order of the superintendent of public instruction 583
to permanently exclude the individual who is the subject of the 584
sealing order. An order issued under this section to seal the 585
record of a conviction of an individual may be presented to a 586
district superintendent as evidence to support the contention 587
that the superintendent should recommend that the permanent 588
exclusion of the individual who is the subject of the sealing 589
order be revoked. Except as otherwise authorized by this 590
division and sections 3301.121 and 3313.662 of the Revised Code, 591
any school employee in possession of or having access to the 592
sealed conviction records of an individual that were the basis 593
of a permanent exclusion of the individual is subject to section 594
2953.35 of the Revised Code. 595

(H) For purposes of sections 2953.31 to 2953.36 of the 596
Revised Code, DNA records collected in the DNA database and 597
fingerprints filed for record by the superintendent of the 598
bureau of criminal identification and investigation shall not be 599
sealed unless the superintendent receives a certified copy of a 600
final court order establishing that the offender's conviction 601
has been overturned. For purposes of this section, a court order 602
is not "final" if time remains for an appeal or application for 603
discretionary review with respect to the order. 604

(I) The sealing of a record under this section does not 605
affect the assessment of points under section 4510.036 of the 606
Revised Code and does not erase points assessed against a person 607
as a result of the sealed record. 608

Section 2. That existing sections 109.11, 2951.041, 609

2953.31, and 2953.32 of the Revised Code are hereby repealed. 610

Section 3. Section 2951.041 of the Revised Code is 611
presented in this act as a composite of the section as amended 612
by Sub. S.B. 4, Sub. S.B. 33, and Am. Sub. S.B. 66, all of the 613
132nd General Assembly. The General Assembly, applying the 614
principle stated in division (B) of section 1.52 of the Revised 615
Code that amendments are to be harmonized if reasonably capable 616
of simultaneous operation, finds that the composite is the 617
resulting version of the section in effect prior to the 618
effective date of the section as presented in this act. 619