

As Reported by the House Criminal Justice Committee

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Sub. H. B. No. 17

**REPRESENTATIVES Willamowski, Hartnett, Flowers, Jerse, Setzer, Redfern,
Williams, Allen**

A B I L L

To amend sections 2151.358, 2953.52, 2953.53, 1
4301.638, 4301.69, and 4301.99 and to repeal 2
section 4301.632 of the Revised Code to prohibit an 3
underage person from being under the influence of 4
beer or intoxicating liquor, to revise the 5
prohibitions regarding an underage person ordering, 6
paying for, sharing the cost of, attempting to 7
purchase, or consuming or possessing beer or 8
intoxicating liquor, and to provide a diversion 9
program for persons charged with violating these 10
prohibitions and to maintain the provisions of this 11
act on and after January 1, 2002, by amending the 12
version of section 2151.358 of the Revised Code 13
that takes effect on that date. 14

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

Section 1. That sections 2151.358, 2953.52, 2953.53, 15
4301.638, 4301.69, and 4301.99 be amended to read as follows: 16

Sec. 2151.358. (A) As used in this section, "seal a record" 17
means to remove a record from the main file of similar records and 18
to secure it in a separate file that contains only sealed records 19

and that is accessible only to the juvenile court. A record that 20
is sealed shall be destroyed by all persons and governmental 21
bodies except the juvenile court. 22

(B) The department of youth services and any other 23
institution or facility that unconditionally discharges a person 24
who has been adjudicated a delinquent child, an unruly child, or a 25
juvenile traffic offender shall immediately give notice of the 26
discharge to the court that committed the person. The court shall 27
note the date of discharge on a separate record of discharges of 28
those natures. 29

(C)(1)(a) Two years after the termination of any order made 30
by the court or two years after the unconditional discharge of a 31
person from the department of youth services or another 32
institution or facility to which the person may have been 33
committed, the court that issued the order or committed the person 34
shall do whichever of the following is applicable: 35

(i) If the person was adjudicated an unruly child, order the 36
record of the person sealed; 37

(ii) If the person was adjudicated a delinquent child for 38
committing an act other than a violation of section 2903.01, 39
2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or was 40
adjudicated a juvenile traffic offender, either order the record 41
of the person sealed or send the person notice of the person's 42
right to have that record sealed. 43

(b) Division (C)(1)(a) of this section does not apply 44
regarding a person who was adjudicated a delinquent child for 45
committing a violation of section 2903.01, 2903.02, 2907.02, 46
2907.03, or 2907.05 of the Revised Code. 47

(2) The court shall send the notice described in division 48
(C)(1)(a)(ii) of this section within ninety days after the 49
expiration of the two-year period described in division (C)(1)(a) 50

of this section by certified mail, return receipt requested, to
the person's last known address. The notice shall state that the
person may apply to the court for an order to seal the person's
record, explain what sealing a record means, and explain the
possible consequences of not having the person's record sealed.

(D)(1) At any time after the two-year period described in
division (C)(1)(a) of this section has elapsed, any person who has
been adjudicated a delinquent child for committing an act other
than a violation of section 2903.01, 2903.02, 2907.02, 2907.03, or
2907.05 of the Revised Code or who has been adjudicated a juvenile
traffic offender may apply to the court for an order to seal the
person's record. The court shall hold a hearing on each
application within sixty days after the application is received.
Notice of the hearing on the application shall be given to the
prosecuting attorney and to any other public office or agency
known to have a record of the prior adjudication. If the court
finds that the rehabilitation of the person who was adjudicated a
delinquent child or a juvenile traffic offender has been attained
to a satisfactory degree, the court may order the record of the
person sealed.

(2) Division (D)(1) of this section does not apply regarding
a person who was adjudicated a delinquent child for committing a
violation of section 2903.01, 2903.02, 2907.02, 2907.03, or
2907.05 of the Revised Code.

(3) If a child who was charged with violating division (E)(1)
of section 4301.69 of the Revised Code successfully completes a
diversion program under division (E)(2)(a) of section 4301.69 of
the Revised Code with respect to that charge, the court shall
order the person's record in that case sealed.

(E)(1) If the court orders the adjudication record or other
record of a person sealed pursuant to division (C) or (D) of this
section, the court, except as provided in division (K) of this

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section, shall order that the proceedings in the case in which the person was adjudicated a juvenile traffic offender, a delinquent child, or an unruly child, or in which the person was the subject of a complaint alleging the person to have violated division (E)(1) of section 4301.69 of the Revised Code, be deemed never to have occurred. Except as provided in division (G)(2) of this section, all index references to the case and the person shall be deleted, and the person and the court properly may reply that no record exists with respect to the person upon any inquiry in the matter.

(2) Inspection of records that have been ordered sealed under division (E)(1) of this section may be made only by the following persons or for the following purposes:

(a) If the records in question pertain to an act that would be an offense of violence that would be a felony if committed by an adult, by any law enforcement officer or any prosecutor, or the assistants of a law enforcement officer or prosecutor, for any valid law enforcement or prosecutorial purpose;

(b) Upon application by the person who is the subject of the sealed records, by the persons that are named in that application;

(c) If the records in question pertain to an alleged violation of division (E)(1) of section 4301.69 of the Revised Code, by any law enforcement officer or any prosecutor, or the assistants of a law enforcement officer or prosecutor, for the purpose of determining whether the person is eligible for diversion under division (E)(2) of section 4301.69 of the Revised Code.

(F) Any person who has been arrested and charged with being a delinquent child or a juvenile traffic offender and who is adjudicated not guilty of the charges in the case or has the charges in the case dismissed may apply to the court for an expungement of the record in the case. The application may be

filed at any time after the person is adjudicated not guilty or
the charges against the person are dismissed. The court shall give
notice to the prosecuting attorney of any hearing on the
application. The court may initiate the expungement proceedings on
its own motion.

Any person who has been arrested and charged with being an
unruly child and who is adjudicated not guilty of the charges in
the case or has the charges in the case dismissed may apply to the
court for an expungement of the record in the case. The court
shall initiate the expungement proceedings on its own motion if an
application for expungement is not filed.

If the court upon receipt of an application for expungement
or upon its own motion determines that the charges against any
person in any case were dismissed or that any person was
adjudicated not guilty in any case, the court shall order that the
records of the case be expunged and that the proceedings in the
case be deemed never to have occurred. If the applicant for the
expungement order, with the written consent of the applicant's
parents or guardian if the applicant is a minor and with the
written approval of the court, waives in writing the applicant's
right to bring any civil action based on the arrest for which the
expungement order is applied, the court shall order the
appropriate persons and governmental agencies to delete all index
references to the case; destroy or delete all court records of the
case; destroy all copies of any pictures and fingerprints taken of
the person pursuant to the expunged arrest; and destroy, erase, or
delete any reference to the arrest that is maintained by the state
or any political subdivision of the state, except a record of the
arrest that is maintained for compiling statistical data and that
does not contain any reference to the person.

If the applicant for an expungement order does not waive in
writing the right to bring any civil action based on the arrest

for which the expungement order is applied, the court, in addition 147
to ordering the deletion, destruction, or erasure of all index 148
references and court records of the case and of all references to 149
the arrest that are maintained by the state or any political 150
subdivision of the state, shall order that a copy of all records 151
of the case, except fingerprints held by the court or a law 152
enforcement agency, be delivered to the court. The court shall 153
seal all of the records delivered to the court in a separate file 154
in which only sealed records are maintained. The sealed records 155
shall be kept by the court until the statute of limitations 156
expires for any civil action based on the arrest, any pending 157
litigation based on the arrest is terminated, or the applicant 158
files a written waiver of the right to bring a civil action based 159
on the arrest. After the expiration of the statute of limitations, 160
the termination of the pending litigation, or the filing of the 161
waiver, the court shall destroy the sealed records. 162

After the expungement order has been issued, the court shall, 163
and the person may properly, reply that no record of the case with 164
respect to the person exists. 165

(G)(1) The court shall send notice of the order to expunge or 166
seal to any public office or agency that the court has reason to 167
believe may have a record of the expunged or sealed record. Except 168
as provided in division (K) of this section, an order to seal or 169
expunge under this section applies to every public office or 170
agency that has a record of the prior adjudication or arrest, 171
regardless of whether it receives notice of the hearing on the 172
expungement or sealing of the record or a copy of the order to 173
expunge or seal the record. Except as provided in division (K) of 174
this section, upon the written request of a person whose record 175
has been expunged and the presentation of a copy of the order to 176
expunge, a public office or agency shall destroy its record of the 177
prior adjudication or arrest, except a record of the adjudication 178

or arrest that is maintained for compiling statistical data and 179
that does not contain any reference to the person who is the 180
subject of the order to expunge. 181

(2) The person, or the public office or agency, that 182
maintains sealed records pertaining to an adjudication of a child 183
as a delinquent child may maintain a manual or computerized index 184
to the sealed records. The index shall contain only the name of, 185
and alphanumeric identifiers that relate to, the persons who are 186
the subject of the sealed records, the word "sealed," and the name 187
of the person, or the public office or agency that has custody of 188
the sealed records and shall not contain the name of the 189
delinquent act committed. The person who has custody of the sealed 190
records shall make the index available only for the purposes set 191
forth in divisions (E)(2) and (H) of this section. 192

(H) The judgment rendered by the court under this chapter 193
shall not impose any of the civil disabilities ordinarily imposed 194
by conviction of a crime in that the child is not a criminal by 195
reason of the adjudication and no child shall be charged with or 196
convicted of a crime in any court except as provided by this 197
chapter. The disposition of a child under the judgment rendered or 198
any evidence given in court shall not operate to disqualify a 199
child in any future civil service examination, appointment, or 200
application. Evidence of a judgment rendered and the disposition 201
of a child under the judgment is not admissible to impeach the 202
credibility of the child in any action or proceeding. Otherwise, 203
the disposition of a child under the judgment rendered or any 204
evidence given in court is admissible as evidence for or against 205
the child in any action or proceeding in any court in accordance 206
with the Rules of Evidence and also may be considered by any court 207
as to the matter of sentence or to the granting of probation, and 208
a court may consider the judgment rendered and the disposition of 209
a child under that judgment for purposes of determining whether 210

the child, for a future criminal conviction or guilty plea, is a repeat violent offender, as defined in section 2929.01 of the Revised Code.

(I) In any application for employment, license, or other right or privilege, any appearance as a witness, or any other inquiry, a person may not be questioned with respect to any arrest for which the records were expunged. If an inquiry is made in violation of this division, the person may respond as if the expunged arrest did not occur, and the person shall not be subject to any adverse action because of the arrest or the response.

(J) An officer or employee of the state or any of its political subdivisions who knowingly releases, disseminates, or makes available for any purpose involving employment, bonding, licensing, or education to any person or to any department, agency, or other instrumentality of the state or of any of its political subdivisions any information or other data concerning any arrest, complaint, trial, hearing, adjudication, or correctional supervision, the records of which have been expunged or sealed pursuant to this section and the release, dissemination, or making available of which is not expressly permitted by this section, is guilty of divulging confidential information, a misdemeanor of the fourth degree.

(K) Notwithstanding any provision of this section that requires otherwise, a board of education of a city, local, exempted village, or joint vocational school district that maintains records of an individual who has been permanently excluded under sections 3301.121 and 3313.662 of the Revised Code is permitted to maintain records regarding an adjudication that the individual is a delinquent child that was used as the basis for the individual's permanent exclusion, regardless of a court order to seal the record. An order issued under this section to seal the record of an adjudication that an individual is a

delinquent child does not revoke the adjudication order of the
superintendent of public instruction to permanently exclude the
individual who is the subject of the sealing order. An order
issued under this section to seal the record of an adjudication
that an individual is a delinquent child may be presented to a
district superintendent as evidence to support the contention that
the superintendent should recommend that the permanent exclusion
of the individual who is the subject of the sealing order be
revoked. Except as otherwise authorized by this division and
sections 3301.121 and 3313.662 of the Revised Code, any school
employee in possession of or having access to the sealed
adjudication records of an individual that were the basis of a
permanent exclusion of the individual is subject to division (J)
of this section.

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Sec. 2953.52. (A)(1) Any person, who is found not guilty of
an offense by a jury or a court or who is the defendant named in a
dismissed complaint, indictment, or information, may apply to the
court for an order to seal his official records in the case.
Except as provided in section 2953.61 of the Revised Code, the
application may be filed at any time after the finding of not
guilty or the dismissal of the complaint, indictment, or
information is entered upon the minutes of the court or the
journal, whichever entry occurs first.

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(2) Any person, against whom a no bill is entered by a grand
jury, may apply to the court for an order to seal his official
records in the case. Except as provided in section 2953.61 of the
Revised Code, the application may be filed at any time after the
expiration of two years after the date on which the foreman or
deputy foreman of the grand jury reports to the court that the
grand jury has reported a no bill.

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(B)(1) Upon the filing of an application pursuant to division

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(A) of this section, the court shall set a date for a hearing and shall notify the prosecutor in the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons he believes justify a denial of the application.

(2) The court shall do each of the following:

(a) Determine whether the person was found not guilty in the case, or the complaint, indictment, or information in the case was dismissed, or a no bill was returned in the case and a period of two years or a longer period as required by section 2953.61 of the Revised Code has expired from the date of the report to the court of that no bill by the foreman or deputy foreman of the grand jury;

(b) Determine whether criminal proceedings are pending against the person;

(c) If the prosecutor has filed an objection in accordance with division (B)(1) of this section, consider the reasons against granting the application specified by the prosecutor in the objection;

(d) Weigh the interests of the person in having the official records pertaining to the case sealed against the legitimate needs, if any, of the government to maintain those records.

(3) If the court determines, after complying with division (B)(2) of this section, that the person was found not guilty in the case, that the complaint, indictment, or information in the case was dismissed, or that a no bill was returned in the case and that the appropriate period of time has expired from the date of the report to the court of the no bill by the foreman or deputy foreman of the grand jury; that no criminal proceedings are

pending against the person; and the interests of the person in 305
having the records pertaining to the case sealed are not 306
outweighed by any legitimate governmental needs to maintain such 307
records, or if division (E)(2)(b) of section 4301.69 of the 308
Revised Code applies, the court shall issue an order directing 309
that all official records pertaining to the case be sealed and 310
that, except as provided in section 2953.53 of the Revised Code, 311
the proceedings in the case be deemed not to have occurred. 312

Sec. 2953.53. (A) The court shall send notice of any order to 313
seal official records issued pursuant to section 2953.52 of the 314
Revised Code to any public office or agency that the court knows 315
or has reason to believe may have any record of the case, whether 316
or not it is an official record, that is the subject of the order. 317
The notice shall be sent by certified mail, return receipt 318
requested. 319

(B) A person whose official records have been sealed pursuant 320
to an order issued pursuant to section 2953.52 of the Revised Code 321
may present a copy of that order and a written request to comply 322
with it, to a public office or agency that has a record of the 323
case that is the subject of the order. 324

(C) An order to seal official records issued pursuant to 325
section 2953.52 of the Revised Code applies to every public office 326
or agency that has a record of the case that is the subject of the 327
order, regardless of whether it receives notice of the hearing on 328
the application for the order to seal the official records or 329
receives a copy of the order to seal the official records pursuant 330
to division (A) or (B) of this section. 331

(D) Upon receiving a copy of an order to seal official 332
records pursuant to division (A) or (B) of this section or upon 333
otherwise becoming aware of an applicable order to seal official 334
records issued pursuant to section 2953.52 of the Revised Code, a 335

public office or agency shall comply with the order and, if applicable, with the provisions of section 2953.54 of the Revised Code, except that it may maintain a record of the case that is the subject of the order if the record is maintained for the purpose of compiling statistical data only and does not contain any reference to the person who is the subject of the case and the order.

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A public office or agency also may maintain an index of sealed official records, in a form similar to that for sealed records of conviction as set forth in division (F) of section 2953.32 of the Revised Code, access to which may not be afforded to any person other than the person who has custody of the sealed official records. The sealed official records to which such an index pertains shall not be available to any person, except that the official records of a case that have been sealed may be made available to the following persons for the following purposes:

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(1) To the person who is the subject of the records upon written application, and to any other person named in the application, for any purpose;

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(2) To 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;

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(3) To a prosecuting attorney or ~~his~~ 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;

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(4) To a prosecuting attorney or his or her assistants to determine a defendant's eligibility to enter a pre-trial diversion program under division (E)(2)(b) of section 4301.69 of the Revised Code.

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Sec. 4301.638. Sections ~~4301.632~~ 4301.633 to 4301.637 of the Revised Code shall not be deemed to modify or affect division (A) of section 4301.22 or section 4301.69 of the Revised Code.

Sec. 4301.69. (A) Except as otherwise provided in this chapter, no person shall sell beer or intoxicating liquor to an underage person, shall buy beer or intoxicating liquor for an underage person, or shall furnish it to an underage person, unless given by a physician in the regular line of the physician's practice or given for established religious purposes or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

In proceedings before the liquor control commission, no permit holder, or the employee or agent of a permit holder, charged with a violation of this division shall be charged, for the same offense, with a violation of division (A)(1) of section 4301.22 of the Revised Code.

(B) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian and the parent, spouse who is not an underage person, or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(C) No person shall engage or use accommodations at a hotel, inn, cabin, campground, or restaurant when the person knows or has

reason to know either of the following:

(1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and who is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;

(2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs and has the drug of abuse in the original container in which it was dispensed to the person.

(D)(1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin, or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not accompanied by a parent, spouse who is not an underage person, or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

(2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin, or campground by presenting identification that falsely indicates that the underage person is twenty-one years of age or older for the purpose of violating this section.

(E)(1) No underage person shall knowingly order, pay for,

share the cost of, attempt to purchase, possess, or consume any 428
beer or intoxicating liquor, in any public or private place, 429
unless. No underage person shall knowingly be under the influence 430
of any beer or intoxicating liquor in any public place. Division 431
(E)(1) of this section shall not apply if the underage person is 432
accompanied by a parent, spouse who is not an underage person, or 433
legal guardian, or unless the beer or intoxicating liquor is given 434
by a physician in the regular line of the physician's practice or 435
given for established religious purposes. 436

(2)(a) If a person is charged with violating division (E)(1) 437
of this section in a complaint filed under section 2151.27 of the 438
Revised Code, the court may order the child into a diversion 439
program specified by the court and hold the complaint in abeyance 440
pending successful completion of the diversion program. A child is 441
ineligible to enter into a diversion program under division 442
(E)(2)(a) of this section if the child previously has been 443
diverted pursuant to division (E)(2)(a) of this section. If the 444
child completes the diversion program to the satisfaction of the 445
court, the court shall dismiss the complaint and order the child's 446
record in the case sealed under division (D)(3) of section 447
2151.358 of the Revised Code. If the child fails to satisfactorily 448
complete the diversion program, the court shall proceed with the 449
complaint. 450

(b) If a person is charged in a criminal complaint with 451
violating division (E)(1) of this section, section 2935.36 of the 452
Revised Code shall apply to the offense, except that a person is 453
ineligible for diversion under that section if the person 454
previously has been diverted pursuant to division (E)(2)(a) or (b) 455
of this section. If the person completes the diversion program to 456
the satisfaction of the court, the court shall dismiss the 457
complaint and order the record in the case sealed under section 458
2953.52 of the Revised Code. If the person fails to satisfactorily 459

complete the diversion program, the court shall proceed with the 460
complaint. 461

(F) No parent, spouse who is not an underage person, or legal 462
guardian of a minor shall knowingly permit the minor to violate 463
this section or section 4301.63, 4301.632, 4301.633, or 4301.634 464
of the Revised Code. 465

(G) The operator of any hotel, inn, cabin, or campground 466
shall make the provisions of this section available in writing to 467
any person engaging or using accommodations at the hotel, inn, 468
cabin, or campground. 469

(H) As used in this section: 470

(1) "Drug of abuse" has the same meaning as in section 471
3719.011 of the Revised Code. 472

(2) "Hotel" has the same meaning as in section 3731.01 of the 473
Revised Code. 474

(3) "Licensed health professional authorized to prescribe 475
drugs" and "prescription" have the same meanings as in section 476
4729.01 of the Revised Code. 477

(4) "Minor" means a person under the age of eighteen years. 478

(5) "Underage person" means a person under the age of 479
twenty-one years. 480

Sec. 4301.99. (A) Whoever violates section 4301.47, 4301.48, 481
4301.49, 4301.62, or 4301.70 or division (B) of section 4301.691 482
of the Revised Code is guilty of a minor misdemeanor. 483

(B) Whoever violates section 4301.15, division (A)(2) or (D) 484
of section 4301.22, division (C), (D), (E), (F), (G), (H), or (I) 485
of section 4301.631, or section 4301.64 or 4301.67 of the Revised 486
Code is guilty of a misdemeanor of the fourth degree. 487

If an offender who violates section 4301.64 of the Revised 488

Code was under the age of eighteen years at the time of the 489
offense, the court, in addition to any other penalties it imposes 490
upon the offender, shall suspend the offender's temporary 491
instruction permit, probationary driver's license, or driver's 492
license for a period of six months. If the offender is fifteen 493
years and six months of age or older and has not been issued a 494
temporary instruction permit or probationary driver's license, the 495
offender shall not be eligible to be issued such a license or 496
permit for a period of six months. If the offender has not 497
attained the age of fifteen years and six months, the offender 498
shall not be eligible to be issued a temporary instruction permit 499
until the offender attains the age of sixteen years. 500

(C) Whoever violates division (D) of section 4301.21, or 501
section 4301.251, 4301.58, 4301.59, 4301.60, ~~4301.632~~, 4301.633, 502
4301.66, 4301.68, or 4301.74, division (B), (C), (D), (E)(1), or 503
(F) of section 4301.69 of the Revised Code, or division (C), (D), 504
(E), (F), (G), or (I) of section 4301.691 of the Revised Code is 505
guilty of a misdemeanor of the first degree. 506

If an offender who violates division (E)(1) of section 507
~~4301.632~~ 4301.69 of the Revised Code was under the age of eighteen 508
years at the time of the offense and the offense occurred while 509
the offender was the operator of or a passenger in a motor 510
vehicle, the court, in addition to any other penalties it imposes 511
upon the offender, shall suspend the offender's temporary 512
instruction permit or probationary driver's license for a period 513
of six months. If the offender is fifteen years and six months of 514
age or older and has not been issued a temporary instruction 515
permit or probationary driver's license, the offender shall not be 516
eligible to be issued such a license or permit for a period of six 517
months. If the offender has not attained the age of fifteen years 518
and six months, the offender shall not be eligible to be issued a 519
temporary instruction permit until the offender attains the age of 520

sixteen years. 521

(D) Whoever violates division (B) of section 4301.14, or 522
division (A)(1) or (3), (B), or (C) of section 4301.22 of the 523
Revised Code is guilty of a misdemeanor of the third degree. 524

(E) Whoever violates section 4301.63 or division (B) of 525
section 4301.631 of the Revised Code shall be fined not less than 526
twenty-five nor more than one hundred dollars. The court imposing 527
a fine for a violation of section 4301.63 or division (B) of 528
section 4301.631 of the Revised Code may order that the fine be 529
paid by the performance of public work at a reasonable hourly rate 530
established by the court. The court shall designate the time 531
within which the public work shall be completed. 532

(F)(1) Whoever violates section 4301.634 of the Revised Code 533
is guilty of a misdemeanor of the first degree. If, in committing 534
a first violation of that section, the offender presented to the 535
permit holder or the permit holder's employee or agent a false, 536
fictitious, or altered identification card, a false or fictitious 537
driver's license purportedly issued by any state, or a driver's 538
license issued by any state that has been altered, the offender is 539
guilty of a misdemeanor of the first degree and shall be fined not 540
less than two hundred fifty and not more than one thousand 541
dollars, and may be sentenced to a term of imprisonment of not 542
more than six months. 543

(2) On a second violation in which, for the second time, the 544
offender presented to the permit holder or the permit holder's 545
employee or agent a false, fictitious, or altered identification 546
card, a false or fictitious driver's license purportedly issued by 547
any state, or a driver's license issued by any state that has been 548
altered, the offender is guilty of a misdemeanor of the first 549
degree and shall be fined not less than five hundred nor more than 550
one thousand dollars, and may be sentenced to a term of 551
imprisonment of not more than six months. The court also may 552

suspend the offender's driver's or commercial driver's license or 553
permit or nonresident operating privilege or deny the offender the 554
opportunity to be issued a driver's or commercial driver's license 555
for a period not exceeding sixty days. 556

(3) On a third or subsequent violation in which, for the 557
third or subsequent time, the offender presented to the permit 558
holder or the permit holder's employee or agent a false, 559
fictitious, or altered identification card, a false or fictitious 560
driver's license purportedly issued by any state, or a driver's 561
license issued by any state that has been altered, the offender is 562
guilty of a misdemeanor of the first degree and shall be fined not 563
less than five hundred nor more than one thousand dollars, and may 564
be sentenced to a term of imprisonment of not more than six 565
months. The court also shall suspend the offender's driver's or 566
commercial driver's license or permit or nonresident operating 567
privilege or deny the offender the opportunity to be issued a 568
driver's or commercial driver's license for a period of ninety 569
days, and the court may order that the suspension or denial remain 570
in effect until the offender attains the age of twenty-one years. 571
The court also may order the offender to perform a determinate 572
number of hours of community service, with the court determining 573
the actual number of hours and the nature of the community service 574
the offender shall perform. 575

(G) Whoever violates section 4301.636 of the Revised Code is 576
guilty of a felony of the fifth degree. 577

(H) Whoever violates division (A)(1) of section 4301.22 of 578
the Revised Code is guilty of a misdemeanor, shall be fined not 579
less than five hundred and not more than one thousand dollars, 580
and, in addition to the fine, may be imprisoned for a definite 581
term of not more than sixty days. 582

(I) Whoever violates division (A) of section 4301.69 or 583
division (H) of section 4301.691 of the Revised Code is guilty of 584

a misdemeanor, shall be fined not less than five hundred and not
more than one thousand dollars, and, in addition to the fine, may
be imprisoned for a definite term of not more than six months.

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Section 2. That existing sections 2151.358, 2953.52, 2953.53,
4301.638, 4301.69, and 4301.99 and section 4301.632 of the Revised
Code are hereby repealed.

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Section 3. That the version of section 2151.358 of the
Revised Code that is scheduled to take effect on January 1, 2002,
be amended to read as follows:

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Sec. 2151.358. (A) As used in this section, "seal a record"
means to remove a record from the main file of similar records and
to secure it in a separate file that contains only sealed records
and that is accessible only to the juvenile court. A record that
is sealed shall be destroyed by all persons and governmental
bodies except the juvenile court.

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

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(C)(1)(a) Two years after the termination of any order made
by the court or two years after the unconditional discharge of a
person from the department of youth services or another
institution or facility to which the person may have been
committed, the court that issued the order or committed the person
shall do whichever of the following is applicable:

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(i) If the person was adjudicated an unruly child, order the

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record of the person sealed;

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(ii) If the person was adjudicated a delinquent child for committing an act other than a violation of section 2903.01, 2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or was adjudicated a juvenile traffic offender, either order the record of the person sealed or send the person notice of the person's right to have that record sealed.

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(b) Division (C)(1)(a) of this section does not apply regarding a person who was adjudicated a delinquent child for committing a violation of section 2903.01, 2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code.

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(2) The court shall send the notice described in division (C)(1)(a)(ii) of this section within ninety days after the expiration of the two-year period described in division (C)(1)(a) of this section by certified mail, return receipt requested, to the person's last known address. The notice shall state that the person may apply to the court for an order to seal the person's record, explain what sealing a record means, and explain the possible consequences of not having the person's record sealed.

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(D)(1) At any time after the two-year period described in division (C)(1)(a) of this section has elapsed, any person who has been adjudicated a delinquent child for committing an act other than a violation of section 2903.01, 2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or who has been adjudicated a juvenile traffic offender may apply to the court for an order to seal the person's record. The court shall hold a hearing on each application within sixty days after the application is received. Notice of the hearing on the application shall be given to the prosecuting attorney and to any other public office or agency known to have a record of the prior adjudication. If the court finds that the rehabilitation of the person who was adjudicated a delinquent child or a juvenile traffic offender has been attained

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to a satisfactory degree, the court may order the record of the person sealed.

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(2) Division (D)(1) of this section does not apply regarding a person who was adjudicated a delinquent child for committing a violation of section 2903.01, 2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code.

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(3) If a child who was charged with violating division (E)(1) of section 4301.69 of the Revised Code successfully completes a diversion program under division (E)(2)(a) of section 4301.69 of the Revised Code with respect to that charge, the court shall order the person's record in that case sealed.

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(E)(1) If the court orders the adjudication record or other record of a person sealed pursuant to division (C) or (D) of this section, the court, except as provided in division (K) of this section, shall order that the proceedings in the case in which the person was adjudicated a juvenile traffic offender, a delinquent child, or an unruly child, or in which the person was the subject of a complaint alleging the person to have violated division (E)(1) of section 4301.69 of the Revised Code, be deemed never to have occurred. Except as provided in division (G)(2) of this section, all index references to the case and the person shall be deleted, and the person and the court properly may reply that no record exists with respect to the person upon any inquiry in the matter.

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(2) Inspection of records that have been ordered sealed under division (E)(1) of this section may be made only by the following persons or for the following purposes:

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(a) If the records in question pertain to an act that would be an offense of violence that would be a felony if committed by an adult, by any law enforcement officer or any prosecutor, or the assistants of a law enforcement officer or prosecutor, for any

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valid law enforcement or prosecutorial purpose;

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(b) Upon application by the person who is the subject of the sealed records, by the persons that are named in that application;

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(c) If the records in question pertain to an alleged violation of division (E)(1) of section 4301.69 of the Revised Code, by any law enforcement officer or any prosecutor, or the assistants of a law enforcement officer or prosecutor, for the purpose of determining whether the person is eligible for diversion under division (E)(2) of section 4301.69 of the Revised Code.

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(F) Any person who has been arrested and charged with being a delinquent child or a juvenile traffic offender and who is adjudicated not guilty of the charges in the case or has the charges in the case dismissed may apply to the court for an expungement of the record in the case. The application may be filed at any time after the person is adjudicated not guilty or the charges against the person are dismissed. The court shall give notice to the prosecuting attorney of any hearing on the application. The court may initiate the expungement proceedings on its own motion.

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Any person who has been arrested and charged with being an unruly child and who is adjudicated not guilty of the charges in the case or has the charges in the case dismissed may apply to the court for an expungement of the record in the case. The court shall initiate the expungement proceedings on its own motion if an application for expungement is not filed.

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If the court upon receipt of an application for expungement or upon its own motion determines that the charges against any person in any case were dismissed or that any person was adjudicated not guilty in any case, the court shall order that the records of the case be expunged and that the proceedings in the

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case be deemed never to have occurred. If the applicant for the
expungement order, with the written consent of the applicant's
parents or guardian if the applicant is a minor and with the
written approval of the court, waives in writing the applicant's
right to bring any civil action based on the arrest for which the
expungement order is applied, the court shall order the
appropriate persons and governmental agencies to delete all index
references to the case; destroy or delete all court records of the
case; destroy all copies of any pictures and fingerprints taken of
the person pursuant to the expunged arrest; and destroy, erase, or
delete any reference to the arrest that is maintained by the state
or any political subdivision of the state, except a record of the
arrest that is maintained for compiling statistical data and that
does not contain any reference to the person.

If the applicant for an expungement order does not waive in
writing the right to bring any civil action based on the arrest
for which the expungement order is applied, the court, in addition
to ordering the deletion, destruction, or erasure of all index
references and court records of the case and of all references to
the arrest that are maintained by the state or any political
subdivision of the state, shall order that a copy of all records
of the case, except fingerprints held by the court or a law
enforcement agency, be delivered to the court. The court shall
seal all of the records delivered to the court in a separate file
in which only sealed records are maintained. The sealed records
shall be kept by the court until the statute of limitations
expires for any civil action based on the arrest, any pending
litigation based on the arrest is terminated, or the applicant
files a written waiver of the right to bring a civil action based
on the arrest. After the expiration of the statute of limitations,
the termination of the pending litigation, or the filing of the
waiver, the court shall destroy the sealed records.

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After the expungement order has been issued, the court shall, 740
and the person may properly, reply that no record of the case with 741
respect to the person exists. 742

(G)(1) The court shall send notice of the order to expunge or 743
seal to any public office or agency that the court has reason to 744
believe may have a record of the expunged or sealed record. Except 745
as provided in division (K) of this section, an order to seal or 746
expunge under this section applies to every public office or 747
agency that has a record of the prior adjudication or arrest, 748
regardless of whether it receives notice of the hearing on the 749
expungement or sealing of the record or a copy of the order to 750
expunge or seal the record. Except as provided in division (K) of 751
this section, upon the written request of a person whose record 752
has been expunged and the presentation of a copy of the order to 753
expunge, a public office or agency shall destroy its record of the 754
prior adjudication or arrest, except a record of the adjudication 755
or arrest that is maintained for compiling statistical data and 756
that does not contain any reference to the person who is the 757
subject of the order to expunge. 758

(2) The person, or the public office or agency, that 759
maintains sealed records pertaining to an adjudication of a child 760
as a delinquent child may maintain a manual or computerized index 761
to the sealed records. The index shall contain only the name of, 762
and alphanumeric identifiers that relate to, the persons who are 763
the subject of the sealed records, the word "sealed," and the name 764
of the person, or the public office or agency that has custody of 765
the sealed records and shall not contain the name of the 766
delinquent act committed. The person who has custody of the sealed 767
records shall make the index available only for the purposes set 768
forth in divisions (E)(2) and (H) of this section. 769

(H) The judgment rendered by the court under this chapter 770
shall not impose any of the civil disabilities ordinarily imposed 771

by conviction of a crime in that the child is not a criminal by 772
reason of the adjudication and no child shall be charged with or 773
convicted of a crime in any court except as provided by this 774
chapter. The disposition of a child under the judgment rendered or 775
any evidence given in court shall not operate to disqualify a 776
child in any future civil service examination, appointment, or 777
application. Evidence of a judgment rendered and the disposition 778
of a child under the judgment is not admissible to impeach the 779
credibility of the child in any action or proceeding. Otherwise, 780
the disposition of a child under the judgment rendered or any 781
evidence given in court is admissible as evidence for or against 782
the child in any action or proceeding in any court in accordance 783
with the Rules of Evidence and also may be considered by any court 784
as to the matter of sentence or to the granting of probation, and 785
a court may consider the judgment rendered and the disposition of 786
a child under that judgment for purposes of determining whether 787
the child, for a future criminal conviction or guilty plea, is a 788
repeat violent offender, as defined in section 2929.01 of the 789
Revised Code. 790

(I) In any application for employment, license, or other 791
right or privilege, any appearance as a witness, or any other 792
inquiry, a person may not be questioned with respect to any arrest 793
for which the records were expunged. If an inquiry is made in 794
violation of this division, the person may respond as if the 795
expunged arrest did not occur, and the person shall not be subject 796
to any adverse action because of the arrest or the response. 797

(J) An officer or employee of the state or any of its 798
political subdivisions who knowingly releases, disseminates, or 799
makes available for any purpose involving employment, bonding, 800
licensing, or education to any person or to any department, 801
agency, or other instrumentality of the state or of any of its 802
political subdivisions any information or other data concerning 803

any arrest, complaint, indictment, information, trial, hearing, 804
adjudication, or correctional supervision, the records of which 805
have been expunged or sealed pursuant to this section and the 806
release, dissemination, or making available of which is not 807
expressly permitted by this section, is guilty of divulging 808
confidential information, a misdemeanor of the fourth degree. 809

(K) Notwithstanding any provision of this section that 810
requires otherwise, a board of education of a city, local, 811
exempted village, or joint vocational school district that 812
maintains records of an individual who has been permanently 813
excluded under sections 3301.121 and 3313.662 of the Revised Code 814
is permitted to maintain records regarding an adjudication that 815
the individual is a delinquent child that was used as the basis 816
for the individual's permanent exclusion, regardless of a court 817
order to seal the record. An order issued under this section to 818
seal the record of an adjudication that an individual is a 819
delinquent child does not revoke the adjudication order of the 820
superintendent of public instruction to permanently exclude the 821
individual who is the subject of the sealing order. An order 822
issued under this section to seal the record of an adjudication 823
that an individual is a delinquent child may be presented to a 824
district superintendent as evidence to support the contention that 825
the superintendent should recommend that the permanent exclusion 826
of the individual who is the subject of the sealing order be 827
revoked. Except as otherwise authorized by this division and 828
sections 3301.121 and 3313.662 of the Revised Code, any school 829
employee in possession of or having access to the sealed 830
adjudication records of an individual that were the basis of a 831
permanent exclusion of the individual is subject to division (J) 832
of this section. 833

Section 4. That the existing version of section 2151.358 of 834
the Revised Code that is scheduled to take effect January 1, 2002, 835

is hereby repealed.

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Section 5. Sections 3 and 4 of this act shall take effect
January 1, 2002.

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