

**As Passed by the Senate**

**124th General Assembly**

**Regular Session**

**2001-2002**

**Sub. H. B. No. 309**

**REPRESENTATIVES Hughes, Calvert, Carmichael, Collier, Fessler,  
Goodman, Hoops, Latta, Lendrum, Olman, Reidelbach, Schaffer, Schmidt,  
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Manning, Krupinski, Roman, Kearns, Reinhard, Damschroder, Widowfield,  
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**SENATORS Herington, Amstutz, Armbruster, Espy, Goodman, Hagan, Harris,  
Hottinger, Jacobson, Mallory, Mead, Oelslager, Roberts, Spada, Wachtmann,**

**White**

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**A B I L L**

To amend sections 317.24 and 2913.49 and to enact 1  
section 317.42 of the Revised Code to revise the 2  
elements of and the penalty for taking the identity 3  
of another and rename the offense as identity 4  
fraud, to permit a discharged member of the armed 5  
forces to expunge specified items from the county 6  
recorder's record of discharge and other 7  
service-related documents, and to require a county 8  
recorder to post a notice stating that anything 9  
filed in the recorder's office is a public record. 10

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

Section 1. That sections 317.24 and 2913.49 be amended and 11  
section 317.42 of the Revised Code be enacted to read as follows: 12

Sec. 317.24. (A) Upon request of any discharged member of the 13  
armed forces of the United States and presentation of the member's 14  
discharge, the county recorder shall record the discharge in a 15  
book to be furnished by the board of county commissioners for that 16  
purpose. There shall be no fee for the recording. The record of 17  
discharge, or a certified copy of the record, shall be received in 18  
evidence in all cases where the original discharge would be 19  
received. 20

(B) Upon application by a person whose discharge has been 21  
recorded pursuant to this section, the county recorder shall, 22  
without fee, expunge the person's record of discharge ~~or~~, expunge 23  
the person's separation program number or separation code from the 24  
person's record of discharge and from any of the person's other 25  
service-related documents that have been recorded, or expunge the 26  
person's social security number from the person's record of 27  
discharge and from any of the person's other service-related 28  
documents that have been recorded. The application shall be in the 29  
following form: 30

"APPLICATION FOR EXPUNGEMENT 31  
OF DISCHARGE RECORD OR OTHER INFORMATION 32

I, ..... (Name of Applicant), the undersigned, 33  
hereby request the County Recorder of the County of ..... 34  
(Name of County), state of Ohio, to expunge my ..... (Insert 35  
~~either~~ Record of Discharge ~~or~~, Separation Program Number or 36  
Separation Code from my Record of Discharge and other 37  
service-related documents, or Social Security Number from my 38  
Record of Discharge and other service-related documents). 39

Dated this ..... day of ....., ..... 40

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(Signature of Applicant)

Sworn to and subscribed before me by ..... (Name of 41  
Applicant) on ....., ..... 42

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Notary Public 43

My commission expires ....., ....."

(C) "~~Separation~~ As used in this section: 44

(1) "Separation code" or "separation program number" means 45  
the coded number or numbers used to specify the reasons for a 46  
person's separation from active duty, as contained in one of the 47  
following: 48

(a) Regarding a separation code, as contained in line 23 or 49  
26 of a veteran's discharge paper, United States department of 50  
defense form DD-214; 51

(b) Regarding a separation program number, as contained in 52  
line 9 (c) or line 11 (c) of a veteran's discharge paper, under 53  
prior versions of United States department of defense form DD-214. 54

(2) "Service-related document" means any United States 55  
department of defense form DD-215 or DD-220, or any National Guard 56  
Bureau form NGB-22 or NGB-22A. 57

(D) Upon the request of any person who served during World 58  
War I or World War II as a member of any armed force of the 59  
government of Poland or Czechoslovakia and participated while so 60  
serving in armed conflict with an enemy of the United States and 61  
who has been a citizen of the United States for at least ten 62  
years, and the presentation of the person's discharge, the county 63  
recorder shall record the person's discharge in a book to be 64  
furnished by the board of county commissioners for that purpose. 65  
No fee shall be charged for the recording. The record, or a 66  
certified copy of it, shall be received in evidence in all cases 67

where the original would be received.

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Sec. 317.42. (A) The county recorder shall display at all times, in a conspicuous place in the office of the recorder, a printed card that shall read substantially as follows:

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"WARNING

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Documents recorded in the recorder's office generally are considered to be public records. Other persons have access to the information contained in recorded documents."

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(B) If the county recorder fails to post a card in accordance with division (A) of this section, the county recorder is not liable in a civil action for injury, death, or loss to person or property that allegedly results from that failure.

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Sec. 2913.49. (A) As used in this section, "personal identifying information" includes, but is not limited to, the following: the name, address, telephone number, driver's license, driver's license number, commercial driver's license, commercial driver's license number, state identification card, state identification card number, social security card, social security number, birth certificate, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password, or credit card number of a living or dead individual.

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(B) No person, without the express or implied consent of the other person, shall use, obtain, or possess, or use any personal identifying information of any living or dead individual with the intent to fraudulently obtain credit, property, or services or avoid the payment of a debt or any other legal obligation another person with intent to do either of the following:

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<u>(1) Hold the person out to be the other person;</u>	98
<u>(2) Represent the other person's personal identifying information as the person's own personal identifying information.</u>	99 100
(C) No person shall create, obtain, possess, or use the personal identifying information of any <del>living or dead individual person</del> with the intent to aid or abet another person in violating division (B) of this section.	101 102 103 104
(D) <u>No person, with intent to defraud, shall permit another person to use the person's own personal identifying information.</u>	105 106
<u>(E) No person who is permitted to use another person's personal identifying information as described in division (D) of this section shall use, obtain, or possess the other person's personal identifying information with intent to defraud any person by doing any act identified in division (B)(1) or (2) of this section.</u>	107 108 109 110 111 112
<u>(F)(1) It is an affirmative defense to a charge under division (B) of this section that the person using the personal identifying information is acting in accordance with a legally recognized guardianship or conservatorship or as a trustee or fiduciary.</u>	113 114 115 116 117
<u>(2) It is an affirmative defense to a charge under division (B), (D), or (E) of this section that either of the following applies:</u>	118 119 120
<u>(a) The person or entity using the personal identifying information is a law enforcement agency, authorized fraud personnel, or a representative of or attorney for a law enforcement agency or authorized fraud personnel and is using the personal identifying information in a bona fide investigation, an information security evaluation, a pretext calling evaluation, or a similar matter.</u>	121 122 123 124 125 126 127

(b) The personal identifying information was obtained, 128  
possessed, or used for a lawful purpose. 129

(G) It is not a defense to a charge under this section that 130  
the person whose personal identifying information was obtained, 131  
possessed, or used was deceased at the time of the offense. 132

(H)(1) If the violation of division (B), (D), or (E) of this 133  
section occurs as part of a course of conduct involving other 134  
violations of division (B), (D), or (E) of this section or 135  
violations of, attempts to violate, conspiracies to violate, or 136  
complicity in violations of division (C) of this section or 137  
section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 138  
2913.43, or 2921.13 of the Revised Code, the court, in determining 139  
the degree of the offense pursuant to division ~~(E)~~(I) of this 140  
section, may aggregate all credit, property, or services obtained 141  
or sought to be obtained by the offender and all debts or other 142  
legal obligations avoided or sought to be avoided by the offender 143  
in the violations involved in that course of conduct. The course 144  
of conduct may involve one victim or more than one victim. 145

(2) If the violation of division (C) of this section occurs 146  
as part of a course of conduct involving other violations of 147  
division (C) of this section or violations of, attempts to 148  
violate, conspiracies to violate, or complicity in violations of 149  
division (B), (D), or (E) of this section or section 2913.02, 150  
2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 151  
of the Revised Code, the court, in determining the degree of the 152  
offense pursuant to division ~~(E)~~(I) of this section, may aggregate 153  
all credit, property, or services obtained or sought to be 154  
obtained by the person aided or abetted and all debts or other 155  
legal obligations avoided or sought to be avoided by the person 156  
aided or abetted in the violations involved in that course of 157  
conduct. The course of conduct may involve one victim or more than 158  
one victim. 159

~~(E)~~(I) Whoever violates this section is guilty of ~~taking the~~ 160  
identity of ~~another~~ fraud. Except as otherwise provided in this 161  
division, ~~taking the~~ identity of ~~another~~ fraud is a misdemeanor of 162  
the first degree. If the value of the credit, property, services, 163  
debt, or other legal obligation involved in the violation or 164  
course of conduct is five hundred dollars or more and is less than 165  
five thousand dollars, ~~taking the~~ identity of ~~another~~ fraud is a 166  
felony of the ~~fifth~~ fourth degree. If the value of the credit, 167  
property, services, debt, or other legal obligation involved in 168  
the violation or course of conduct is five thousand dollars or 169  
more and is less than one hundred thousand dollars, ~~taking the~~ 170  
identity of ~~another~~ fraud is a felony of the ~~fourth~~ third degree. 171  
If the value of the credit, property, services, debt, or other 172  
legal obligation involved in the violation or course of conduct is 173  
one hundred thousand dollars or more, ~~taking the~~ identity of 174  
~~another~~ fraud is a felony of the ~~third~~ second degree. 175

**Section 2.** That existing sections 317.24 and 2913.49 of the 176  
Revised Code are hereby repealed. 177