

As Introduced

**126th General Assembly
Regular Session
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H. B. No. 137

Representatives Gilb, Willamowski, Latta, Wagoner, McGregor, Fessler

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A BILL

To amend sections 2151.313, 2151.358, and 4301.69 of
the Revised Code to revise the procedure by which
a juvenile court may seal records of alleged and
adjudicated delinquent and unruly children and
adjudicated juvenile traffic offenders.

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

Section 1. That sections 2151.313, 2151.358, and 4301.69 of
the Revised Code be amended to read as follows:

Sec. 2151.313. (A)(1) Except as provided in division (A)(2)
of this section and in sections 109.57, 109.60, and 109.61 of the
Revised Code, no child shall be fingerprinted or photographed in
the investigation of any violation of law without the consent of
the juvenile judge.

(2) Subject to division (A)(3) of this section, a law
enforcement officer may fingerprint and photograph a child without
the consent of the juvenile judge when the child is arrested or
otherwise taken into custody for the commission of an act that
would be an offense, other than a traffic offense or a minor
misdemeanor, if committed by an adult, and there is probable cause
to believe that the child may have been involved in the commission
of the act. A law enforcement officer who takes fingerprints or

photographs of a child under division (A)(2) of this section
immediately shall inform the juvenile court that the fingerprints
or photographs were taken and shall provide the court with the
identity of the child, the number of fingerprints and photographs
taken, and the name and address of each person who has custody and
control of the fingerprints or photographs or copies of the
fingerprints or photographs.

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(3) This section does not apply to a child to whom either of
the following applies:

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(a) The child has been arrested or otherwise taken into
custody for committing, or has been adjudicated a delinquent child
for committing, an act that would be a felony if committed by an
adult or has been convicted of or pleaded guilty to committing a
felony.

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(b) There is probable cause to believe that the child may
have committed an act that would be a felony if committed by an
adult.

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(B)(1) Subject to divisions (B)(4), (5), and (6) of this
section, all fingerprints and photographs of a child obtained or
taken under division (A)(1) or (2) of this section, and any
records of the arrest or custody of the child that was the basis
for the taking of the fingerprints or photographs, initially may
be retained only until the expiration of thirty days after the
date taken, except that the court may limit the initial retention
of fingerprints and photographs of a child obtained under division
(A)(1) of this section to a shorter period of time and except
that, if the child is adjudicated a delinquent child for the
commission of an act described in division (B)(3) of this section
or is convicted of or pleads guilty to a criminal offense for the
commission of an act described in division (B)(3) of this section,
the fingerprints and photographs, and the records of the arrest or

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52 custody of the child that was the basis for the taking of the
53 fingerprints and photographs, shall be retained in accordance with
54 division (B)(3) of this section. During the initial period of
55 retention, the fingerprints and photographs of a child, copies of
56 the fingerprints and photographs, and records of the arrest or
57 custody of the child shall be used or released only in accordance
58 with division (C) of this section. At the expiration of the
59 initial period for which fingerprints and photographs of a child,
60 copies of fingerprints and photographs of a child, and records of
61 the arrest or custody of a child may be retained under this
62 division, if no complaint, indictment, or information is pending
63 against the child in relation to the act for which the
64 fingerprints and photographs originally were obtained or taken and
65 if the child has neither been adjudicated a delinquent child for
66 the commission of that act nor been convicted of or pleaded guilty
67 to a criminal offense based on that act subsequent to a transfer
68 of the child's case for criminal prosecution pursuant to section
69 2152.12 of the Revised Code, the fingerprints and photographs of
70 the child, all copies of the fingerprints and photographs, and all
71 records of the arrest or custody of the child that was the basis
72 of the taking of the fingerprints and photographs shall be removed
73 from the file and delivered to the juvenile court.

74 (2) If, at the expiration of the initial period of retention
75 set forth in division (B)(1) of this section, a complaint,
76 indictment, or information is pending ~~against~~ against the child in
77 relation to the act for which the fingerprints and photographs
78 originally were obtained or the child either has been adjudicated
79 a delinquent child for the commission of an act other than an act
80 described in division (B)(3) of this section or has been convicted
81 of or pleaded guilty to a criminal offense for the commission of
82 an act other than an act described in division (B)(3) of this
83 section subsequent to transfer of the child's case, the

fingerprints and photographs of the child, copies of the 84
fingerprints and photographs, and the records of the arrest or 85
custody of the child that was the basis of the taking of the 86
fingerprints and photographs may further be retained, subject to 87
division (B)(4) of this section, until the earlier of the 88
expiration of two years after the date on which the fingerprints 89
or photographs were taken or the child attains eighteen years of 90
age, except that, if the child is adjudicated a delinquent child 91
for the commission of an act described in division (B)(3) of this 92
section or is convicted of or pleads guilty to a criminal offense 93
for the commission of an act described in division (B)(3) of this 94
section, the fingerprints and photographs, and the records of the 95
arrest or custody of the child that was the basis for the taking 96
of the fingerprints and photographs, shall be retained in 97
accordance with division (B)(3) of this section. 98

Except as otherwise provided in division (B)(3) of this 99
section, during this additional period of retention, the 100
fingerprints and photographs of a child, copies of the 101
fingerprints and photographs of a child, and records of the arrest 102
or custody of a child shall be used or released only in accordance 103
with division (C) of this section. At the expiration of the 104
additional period, if no complaint, indictment, or information is 105
pending against the child in relation to the act for which the 106
fingerprints originally were obtained or taken or in relation to 107
another act for which the fingerprints were used as authorized by 108
division (C) of this section and that would be a felony if 109
committed by an adult, the fingerprints of the child, all copies 110
of the fingerprints, and all records of the arrest or custody of 111
the child that was the basis of the taking of the fingerprints 112
shall be removed from the file and delivered to the juvenile 113
court, and, if no complaint, indictment, or information is pending 114
against the child concerning the act for which the photographs 115
originally were obtained or taken or concerning an act that would 116

be a felony if committed by an adult, the photographs and all
copies of the photographs, and, if no fingerprints were taken at
the time the photographs were taken, all records of the arrest or
custody that was the basis of the taking of the photographs shall
be removed from the file and delivered to the juvenile court. In
either case, if, at the expiration of the applicable additional
period, such a complaint, indictment, or information is pending
against the child, the photographs and copies of the photographs
of the child, or the fingerprints and copies of the fingerprints
of the child, whichever is applicable, and the records of the
arrest or custody of the child may be retained, subject to
division (B)(4) of this section, until final disposition of the
complaint, indictment, or information, and, upon final disposition
of the complaint, indictment, or information, they shall be
removed from the file and delivered to the juvenile court, except
that, if the child is adjudicated a delinquent child for the
commission of an act described in division (B)(3) of this section
or is convicted of or pleads guilty to a criminal offense for the
commission of an act described in division (B)(3) of this section,
the fingerprints and photographs, and the records of the arrest or
custody of the child that was the basis for the taking of the
fingerprints and photographs, shall be retained in accordance with
division (B)(3) of this section.

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(3) If a child is adjudicated a delinquent child for
violating section 2923.42 of the Revised Code or for committing an
act that would be a misdemeanor offense of violence if committed
by an adult, or is convicted of or pleads guilty to a violation of
section 2923.42 of the Revised Code, a misdemeanor offense of
violence, or a violation of an existing or former municipal
ordinance or law of this state, another state, or the United
States that is substantially equivalent to section 2923.42 of the
Revised Code or any misdemeanor offense of violence, both of the

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following apply:

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(a) Originals and copies of fingerprints and photographs of the child obtained or taken under division (A)(1) of this section, and any records of the arrest or custody that was the basis for the taking of the fingerprints or photographs, may be retained for the period of time specified by the juvenile judge in that judge's grant of consent for the taking of the fingerprints or photographs. Upon the expiration of the specified period, all originals and copies of the fingerprints, photographs, and records shall be delivered to the juvenile court or otherwise disposed of in accordance with any instructions specified by the juvenile judge in that judge's grant of consent. During the period of retention of the photographs and records, all originals and copies of them shall be retained in a file separate and apart from all photographs taken of adults. During the period of retention of the fingerprints, all originals and copies of them may be maintained in the files of fingerprints taken of adults. If the juvenile judge who grants consent for the taking of fingerprints and photographs under division (A)(1) of this section does not specify a period of retention in that judge's grant of consent, originals and copies of the fingerprints, photographs, and records may be retained in accordance with this section as if the fingerprints and photographs had been taken under division (A)(2) of this section.

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(b) Originals and copies of fingerprints and photographs taken under division (A)(2) of this section, and any records of the arrest or custody that was the basis for the taking of the fingerprints or photographs, may be retained for the period of time and in the manner specified in division (B)(3)(b) of this section. Prior to the child's attainment of eighteen years of age, all originals and copies of the photographs and records shall be retained and shall be kept in a file separate and apart from all

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photographs taken of adults. During the period of retention of the
fingerprints, all originals and copies of them may be maintained
in the files of fingerprints taken of adults. Upon the child's
attainment of eighteen years of age, all originals and copies of
the fingerprints, photographs, and records shall be disposed of as
follows:

(i) If the juvenile judge issues or previously has issued an
order that specifies a manner of disposition of the originals and
copies of the fingerprints, photographs, and records, they shall
be delivered to the juvenile court or otherwise disposed of in
accordance with the order.

(ii) If the juvenile judge does not issue and has not
previously issued an order that specifies a manner of disposition
of the originals and copies of the fingerprints not maintained in
adult files, photographs, and records, the law enforcement agency,
in its discretion, either shall remove all originals and copies of
them from the file in which they had been maintained and transfer
them to the files that are used for the retention of fingerprints
and photographs taken of adults who are arrested for, otherwise
taken into custody for, or under investigation for the commission
of a criminal offense or shall remove them from the file in which
they had been maintained and deliver them to the juvenile court.
If the originals and copies of any fingerprints of a child who
attains eighteen years of age are maintained in the files of
fingerprints taken of adults or if pursuant to division
(B)(3)(b)(ii) of this section the agency transfers the originals
and copies of any fingerprints not maintained in adult files,
photographs, or records to the files that are used for the
retention of fingerprints and photographs taken of adults who are
arrested for, otherwise taken into custody for, or under
investigation for the commission of a criminal offense, the
originals and copies of the fingerprints, photographs, and records

may be maintained, used, and released after they are maintained in 213
the adult files or after the transfer as if the fingerprints and 214
photographs had been taken of, and as if the records pertained to, 215
an adult who was arrested for, otherwise taken into custody for, 216
or under investigation for the commission of a criminal offense. 217

(4) If a sealing ~~or expungement~~ order issued under section 218
2151.358 of the Revised Code requires the sealing or destruction 219
of any fingerprints or photographs of a child obtained or taken 220
under division (A)(1) or (2) of this section or of the records of 221
an arrest or custody of a child that was the basis of the taking 222
of the fingerprints or photographs prior to the expiration of any 223
period for which they otherwise could be retained under division 224
(B)(1), (2), or (3) of this section, the fingerprints, 225
photographs, and arrest or custody records that are subject to the 226
order and all copies of the fingerprints, photographs, and arrest 227
or custody records shall be sealed or destroyed in accordance with 228
the order. 229

(5) All fingerprints of a child, photographs of a child, 230
records of an arrest or custody of a child, and copies delivered 231
to a juvenile court in accordance with division (B)(1), (2), or 232
(3) of this section shall be destroyed by the court, provided 233
that, if a complaint is filed against the child in relation to any 234
act to which the records pertain, the court shall maintain all 235
records of an arrest or custody of a child so delivered for at 236
least three years after the final disposition of the case or after 237
the case becomes inactive. 238

(6)(a) All photographs of a child and records of an arrest or 239
custody of a child retained pursuant to division (B) of this 240
section and not delivered to a juvenile court shall be kept in a 241
file separate and apart from fingerprints, photographs, and 242
records of an arrest or custody of an adult. All fingerprints of a 243
child retained pursuant to division (B) of this section and not 244

delivered to a juvenile court may be maintained in the files of
fingerprints taken of adults.

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(b) If a child who is the subject of photographs or
fingerprints is adjudicated a delinquent child for the commission
of an act that would be an offense, other than a traffic offense
or a minor misdemeanor, if committed by an adult or is convicted
of or pleads guilty to a criminal offense, other than a traffic
offense or a minor misdemeanor, all fingerprints not maintained in
the files of fingerprints taken of adults and all photographs of
the child, and all records of the arrest or custody of the child
that is the basis of the taking of the fingerprints or
photographs, that are retained pursuant to division (B) of this
section and not delivered to a juvenile court shall be kept in a
file separate and apart from fingerprints, photographs, and arrest
and custody records of children who have not been adjudicated a
delinquent child for the commission of an act that would be an
offense, other than a traffic offense or a minor misdemeanor, if
committed by an adult and have not been convicted of or pleaded
guilty to a criminal offense other than a traffic offense or a
minor misdemeanor.

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(C) Until they are delivered to the juvenile court or sealed,
transferred in accordance with division (B)(3)(b) of this section,
or destroyed pursuant to a sealing ~~or expungement~~ order, the
originals and copies of fingerprints and photographs of a child
that are obtained or taken pursuant to division (A)(1) or (2) of
this section, and the records of the arrest or custody of the
child that was the basis of the taking of the fingerprints or
photographs, shall be used or released only as follows:

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(1) During the initial thirty-day period of retention,
originals and copies of fingerprints and photographs of a child,
and records of the arrest or custody of a child, shall be used,
prior to the filing of a complaint or information against or the

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obtaining of an indictment of the child in relation to the act for 277
which the fingerprints and photographs were originally obtained or 278
taken, only for the investigation of that act and shall be 279
released, prior to the filing of the complaint, only to a court 280
that would have jurisdiction of the child's case under this 281
chapter. Subsequent to the filing of a complaint or information or 282
the obtaining of an indictment, originals and copies of 283
fingerprints and photographs of a child, and records of the arrest 284
or custody of a child, shall be used or released during the 285
initial thirty-day period of retention only as provided in 286
division (C)(2)(a), (b), or (c) of this section. 287

(2) Originals and copies of fingerprints and photographs of a 288
child, and records of the arrest or custody of a child, that are 289
retained beyond the initial thirty-day period of retention 290
subsequent to the filing of a complaint or information or the 291
obtaining of an indictment, a delinquent child adjudication, or a 292
conviction of or guilty plea to a criminal offense shall be used 293
or released only as follows: 294

(a) Originals and copies of photographs of a child, and, if 295
no fingerprints were taken at the time the photographs were taken, 296
records of the arrest or custody of the child that was the basis 297
of the taking of the photographs, may be used only as follows: 298

(i) They may be used for the investigation of the act for 299
which they originally were obtained or taken; if the child who is 300
the subject of the photographs is a suspect in the investigation, 301
for the investigation of any act that would be an offense if 302
committed by an adult; and for arresting or bringing the child 303
into custody. 304

(ii) If the child who is the subject of the photographs is 305
adjudicated a delinquent child for the commission of an act that 306
would be a felony if committed by an adult or is convicted of or 307

pleads guilty to a criminal offense that is a felony as a result 308
of the arrest or custody that was the basis of the taking of the 309
photographs, a law enforcement officer may use the photographs for 310
a photo line-up conducted as part of the investigation of any act 311
that would be a felony if committed by an adult, whether or not 312
the child who is the subject of the photographs is a suspect in 313
the investigation. 314

(b) Originals and copies of fingerprints of a child, and 315
records of the arrest or custody of the child that was the basis 316
of the taking of the fingerprints, may be used only for the 317
investigation of the act for which they originally were obtained 318
or taken; if a child is a suspect in the investigation, for the 319
investigation of another act that would be an offense if committed 320
by an adult; and for arresting or bringing the child into custody. 321

(c) Originals and copies of fingerprints, photographs, and 322
records of the arrest or custody that was the basis of the taking 323
of the fingerprints or photographs shall be released only to the 324
following: 325

(i) Law enforcement officers of this state or a political 326
subdivision of this state, upon notification to the juvenile court 327
of the name and address of the law enforcement officer or agency 328
to whom or to which they will be released; 329

(ii) A court that has jurisdiction of the child's case under 330
Chapters 2151. and 2152. of the Revised Code or subsequent to a 331
transfer of the child's case for criminal prosecution pursuant to 332
section 2152.12 of the Revised Code. 333

(D) No person shall knowingly do any of the following: 334

(1) Fingerprint or photograph a child in the investigation of 335
any violation of law other than as provided in division (A)(1) or 336
(2) of this section or in sections 109.57, 109.60, and 109.61 of 337
the Revised Code; 338

(2) Retain fingerprints or photographs of a child obtained or taken under division (A)(1) or (2) of this section, copies of fingerprints or photographs of that nature, or records of the arrest or custody that was the basis of the taking of fingerprints or photographs of that nature other than in accordance with division (B) of this section;

(3) Use or release fingerprints or photographs of a child obtained or taken under division (A)(1) or (2) of this section, copies of fingerprints or photographs of that nature, or records of the arrest or custody that was the basis of the taking of fingerprints or photographs of that nature other than in accordance with division (B) or (C) of this section.

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.

(B) A juvenile court may order records pertaining to a juvenile to be sealed under the conditions and in the manner set out in this section.

(C) 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.

~~(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:~~

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

~~(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.~~

~~(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.~~

~~(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.~~

~~(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. 400
Notice of the hearing on the application shall be given to the 401
prosecuting attorney and to any other public office or agency 402
known to have a record of the prior adjudication. If the court 403
finds that the rehabilitation of the person who was adjudicated a 404
delinquent child or a juvenile traffic offender has been attained 405
to a satisfactory degree, the court may order the record of the 406
person sealed. 407~~

~~(2) Division (D)(1) of this section does not apply regarding 408
a person who was adjudicated a delinquent child for committing a 409
violation of section 2903.01, 2903.02, 2907.02, 2907.03, or 410
2907.05 of the Revised Code. 411~~

~~(3) If a child (D) A juvenile court shall consider the 412
sealing of records pertaining to a juvenile in any of the 413
following circumstances: 414~~

~~(1) Upon the court's own motion or upon the application of a 415
person if a complaint was filed against the person alleging that 416
the person was a delinquent child or an unruly child and the court 417
dismisses the complaint or finds the person not to be a delinquent 418
child or an unruly child. The motion or application may be filed 419
immediately or at anytime after the dismissal or finding. 420~~

~~(2) Upon the court's own motion or upon the application of a 421
person if the person was arrested or taken into custody for 422
allegedly committing a delinquent act or unruly act but was not 423
brought before or referred to the court for the commission of the 424
act and if no complaint was filed against the person with respect 425
to the commission of the act pursuant to section 2151.27 of the 426
Revised Code. The motion or application may be filed if at least 427
two years have elapsed after the final resolution of the matter 428
for which the person was arrested or taken into custody and if, at 429
the time of the motion or application, the person is not under the 430~~

jurisdiction of the court in relation to a complaint alleging the 431
person to be a delinquent child. 432

(3) Upon the court's own motion or upon the application of a 433
person if the person was brought before or referred to the court 434
for allegedly committing a delinquent or unruly act and if the 435
case was resolved without the filing of a complaint against the 436
person with respect to that act pursuant to section 2151.27 of the 437
Revised Code. The motion or application may be filed if at least 438
two years have elapsed after the final resolution of the matter 439
for which the person was brought before or referred to the court 440
and if, at the time of the motion or application, the person is 441
not under the jurisdiction of the court in relation to a complaint 442
alleging the person to be a delinquent child. 443

(4) Upon the court's own motion or upon the application of a 444
person if the person has been adjudicated a delinquent child for 445
committing an act other than a violation of section 2903.01, 446
2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code, an 447
unruly child, or a juvenile traffic offender and if, at the time 448
of the motion or application, the person is not under the 449
jurisdiction of the court in relation to a complaint alleging the 450
person to be a delinquent child. The motion or application may be 451
made at any time after two years after the later of the following: 452

(a) The termination of any order made by the court in 453
relation to the adjudication; 454

(b) The unconditional discharge of the person from the 455
department of youth services with respect to a dispositional order 456
made in relation to the adjudication or from an institution or 457
facility to which the person was committed pursuant to a 458
dispositional order made in relation to the adjudication. 459

(E) In making the determination whether to seal records 460
pertaining to a juvenile, all of the following apply: 461

(1) The court may require a person filing an application 462
under division (D) of this section to submit any relevant 463
documentation to support the application. 464

(2) The court may cause an investigation to be made to 465
determine if the person who is the subject of the proceedings has 466
been rehabilitated to a satisfactory degree. 467

(3) The court shall promptly notify the prosecuting attorney 468
of any proceedings to seal records initiated pursuant to division 469
(D) of this section. 470

(4)(a) The prosecuting attorney may file a response with the 471
court within thirty days of receiving notice of the sealing 472
proceedings. 473

(b) If the prosecuting attorney does not file a response with 474
the court or if the prosecuting attorney files a response but 475
indicates that the prosecuting attorney does not object to the 476
sealing of the records, the court may order the records of the 477
person that are under consideration to be sealed without 478
conducting a hearing on the motion or application. If the court 479
decides in its discretion to conduct a hearing on the motion or 480
application, the court shall conduct the hearing within thirty 481
days after making that decision and shall give notice, by regular 482
mail, of the date, time, and location of the hearing to the 483
prosecuting attorney and to the person who is the subject of the 484
records under consideration. 485

(c) If the prosecuting attorney files a response with the 486
court that indicates that the prosecuting attorney objects to the 487
sealing of the records, the court shall conduct a hearing on the 488
motion or application within thirty days after the court receives 489
the response. The court shall give notice, by regular mail, of the 490
date, time, and location of the hearing to the prosecuting 491
attorney and to the person who is the subject of the records under 492

consideration. 493

(5) After conducting a hearing in accordance with division (E)(4) of this section or after due consideration when a hearing is not conducted, except as provided in division (E)(6) of this section, the court may order the records of the person that are the subject of the motion or application to be sealed if it finds that the person has been rehabilitated to a satisfactory degree. In determining whether the person has been rehabilitated to a satisfactory degree, the court may consider all of the following: 494 495 496 497 498 499 500 501

(a) The age of the person; 502

(b) The nature of the case; 503

(c) The cessation or continuation of delinquent, unruly, or criminal behavior; 504 505

(d) The education and employment history of the person; 506

(e) Any other circumstances that may relate to the rehabilitation of the person who is the subject of the records under consideration. 507 508 509

(6) If the motion or application pursuant to division (D) of this section concerns a person who was charged with violating division (E)(1) of section 4301.69 of the Revised Code and who has successfully ~~completes~~ completed 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. 510 511 512 513 514 515 516

(7) The court records of a case in which a person 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 shall not be sealed under this section. 517 518 519 520

~~(E)~~(F)(1) If the court orders the adjudication record or other record of a person sealed pursuant to division ~~(C) or (D)~~(E) 521 522

of this section, the court, except as provided in division (K) of 523
this section, shall order that the proceedings in the case in 524
which the person was adjudicated a juvenile traffic offender, a 525
delinquent child, or an unruly child, or in which the person was 526
the subject of a complaint alleging the person to have violated 527
division (E)(1) of section 4301.69 of the Revised Code, be deemed 528
never to have occurred. Except as provided in division (G)~~(2)~~(3) 529
of this section, all index references to the case and the person 530
shall be deleted, and the person and the court properly may reply 531
that no record exists with respect to the person upon any inquiry 532
in the matter. 533

(2) Inspection of records that have been ordered sealed under 534
division (E)~~(1)~~ of this section may be made only by the following 535
persons or for the following purposes: 536

(a) If the records in question pertain to an act that would 537
be an offense of violence that would be a felony if committed by 538
an adult, by any law enforcement officer or any prosecutor, or the 539
assistants of a law enforcement officer or prosecutor, for any 540
valid law enforcement or prosecutorial purpose; 541

(b) Upon application by the person who is the subject of the 542
sealed records, by the persons that are named in that application; 543

(c) As may be required by federal law; 544

(d) If the records in question pertain to an alleged 545
violation of division (E)(1) of section 4301.69 of the Revised 546
Code, by any law enforcement officer or any prosecutor, or the 547
assistants of a law enforcement officer or prosecutor, for the 548
purpose of determining whether the person is eligible for 549
diversion under division (E)(2) of section 4301.69 of the Revised 550
Code. 551

(3) Records that have been ordered sealed under division (E) 552
of this section shall be available at the request of a defendant 553

in a civil action that is based on the arrest or taking into 554
custody that was the subject of the order to seal records. 555

The defendant may inspect and copy the records as needed for 556
the civil action. The sealed records shall be used solely in the 557
civil action and are otherwise confidential and subject to the 558
provisions of this section. 559

~~(F) Any person who has been arrested and charged with being a~~ 560
~~delinquent child or a juvenile traffic offender and who is~~ 561
~~adjudicated not guilty of the charges in the case or has the~~ 562
~~charges in the case dismissed may apply to the court for an~~ 563
~~expungement of the record in the case. The application may be~~ 564
~~filed at any time after the person is adjudicated not guilty or~~ 565
~~the charges against the person are dismissed. The court shall give~~ 566
~~notice to the prosecuting attorney of any hearing on the~~ 567
~~application. The court may initiate the expungement proceedings on~~ 568
~~its own motion.~~ 569

~~Any person who has been arrested and charged with being an~~ 570
~~unruly child and who is adjudicated not guilty of the charges in~~ 571
~~the case or has the charges in the case dismissed may apply to the~~ 572
~~court for an expungement of the record in the case. The court~~ 573
~~shall initiate the expungement proceedings on its own motion if an~~ 574
~~application for expungement is not filed.~~ 575

~~If the court upon receipt of an application for expungement~~ 576
~~or upon its own motion determines that the charges against any~~ 577
~~person in any case were dismissed or that any person was~~ 578
~~adjudicated not guilty in any case, the court shall order that the~~ 579
~~records of the case be expunged and that the proceedings in the~~ 580
~~case be deemed never to have occurred. If the applicant for the~~ 581
~~expungement order, with the written consent of the applicant's~~ 582
~~parents or guardian if the applicant is a minor and with the~~ 583
~~written approval of the court, waives in writing the applicant's~~ 584

~~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.~~

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~~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~~

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(G)(1) After an order to seal records has been issued, the
court shall order the deletion, destruction, or erasure of all
index references and court records of the case that is the subject
of the order 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, period for~~
maintaining juvenile court records under Rule 26.03 of the Rules
of Superintendence for the Courts of Ohio or any other applicable

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statute or court rule elapses at which time the court shall 617
destroy the sealed records. 618

After the ~~expungement~~ order to seal records has been issued, 619
the court shall, and the person may properly, reply that no record 620
of the case with respect to the person exists. 621

~~(G)(1)~~(2) The court shall send notice of the order to ~~expunge~~ 622
~~or~~ seal to any public office or agency that the court has reason 623
to believe may have a record of the ~~expunged or~~ sealed record. 624
Except as provided in division (K) of this section, an order to 625
seal ~~or expunge~~ under this section applies to every public office 626
or agency that has a record of the prior adjudication ~~or, the~~ 627
arrest, the taking into custody, or the referral to the court, 628
regardless of whether it receives notice of the hearing on the 629
~~expungement or~~ sealing of the record or a copy of the order to 630
~~expunge or~~ seal the record. Except as provided in division (K) of 631
this section, upon the written request of a person whose record 632
has been ~~expunged~~ sealed and the presentation of a copy of the 633
order to ~~expunge~~ seal, a public office or agency shall destroy its 634
record of the prior adjudication ~~or, the~~ arrest, the taking into 635
custody, or the referral to the court, except a record of the 636
adjudication or arrest that is maintained for compiling 637
statistical data and that does not contain any reference to the 638
person who is the subject of the order to ~~expunge~~ seal. 639

~~(2)~~(3) The person, or the public office or agency, that 640
maintains sealed records pertaining to an adjudication of a child 641
as a delinquent child may maintain a manual or computerized index 642
to the sealed records. The index shall contain only the name of, 643
and alphanumeric identifiers that relate to, the persons who are 644
the subject of the sealed records, the word "sealed," and the name 645
of the person, or the public office or agency that has custody of 646
the sealed records and shall not contain the name of the 647
delinquent act committed. The person who has custody of the sealed 648

records shall make the index available only for the purposes set 649
forth in divisions ~~(E)~~(F)(2) and (H) of this section. 650

(H) The judgment rendered by the court under this chapter 651
shall not impose any of the civil disabilities ordinarily imposed 652
by conviction of a crime in that the child is not a criminal by 653
reason of the adjudication, and no child shall be charged with or 654
convicted of a crime in any court except as provided by this 655
chapter. The disposition of a child under the judgment rendered or 656
any evidence given in court shall not operate to disqualify a 657
child in any future civil service examination, appointment, or 658
application. Evidence of a judgment rendered and the disposition 659
of a child under the judgment is not admissible to impeach the 660
credibility of the child in any action or proceeding. Otherwise, 661
the disposition of a child under the judgment rendered or any 662
evidence given in court is admissible as evidence for or against 663
the child in any action or proceeding in any court in accordance 664
with the Rules of Evidence and also may be considered by any court 665
as to the matter of sentence or to the granting of probation, and 666
a court may consider the judgment rendered and the disposition of 667
a child under that judgment for purposes of determining whether 668
the child, for a future criminal conviction or guilty plea, is a 669
repeat violent offender, as defined in section 2929.01 of the 670
Revised Code. 671

(I) In any application for employment, license, or other 672
right or privilege, any appearance as a witness, or any other 673
inquiry, a person may not be questioned with respect to any arrest 674
for which the records were ~~expunged~~ sealed. If an inquiry is made 675
in violation of this division, the person may respond as if the 676
~~expunged~~ sealed arrest did not occur, and the person shall not be 677
subject to any adverse action because of the arrest or the 678
response. 679

(J) An officer or employee of the state or any of its 680

political subdivisions who knowingly releases, disseminates, or 681
makes available for any purpose involving employment, bonding, 682
licensing, or education to any person or to any department, 683
agency, or other instrumentality of the state or of any of its 684
political subdivisions any information or other data concerning 685
any arrest, complaint, indictment, information, trial, hearing, 686
adjudication, or correctional supervision, the records of which 687
have been ~~expunged or~~ sealed pursuant to this section and the 688
release, dissemination, or making available of which is not 689
expressly permitted by this section, is guilty of divulging 690
confidential information, a misdemeanor of the fourth degree. 691

(K) Notwithstanding any provision of this section that 692
requires otherwise, a board of education of a city, local, 693
exempted village, or joint vocational school district that 694
maintains records of an individual who has been permanently 695
excluded under sections 3301.121 and 3313.662 of the Revised Code 696
is permitted to maintain records regarding an adjudication that 697
the individual is a delinquent child that was used as the basis 698
for the individual's permanent exclusion, regardless of a court 699
order to seal the record. An order issued under this section to 700
seal the record of an adjudication that an individual is a 701
delinquent child does not revoke the adjudication order of the 702
superintendent of public instruction to permanently exclude the 703
individual who is the subject of the sealing order. An order 704
issued under this section to seal the record of an adjudication 705
that an individual is a delinquent child may be presented to a 706
district superintendent as evidence to support the contention that 707
the superintendent should recommend that the permanent exclusion 708
of the individual who is the subject of the sealing order be 709
revoked. Except as otherwise authorized by this division and 710
sections 3301.121 and 3313.662 of the Revised Code, any school 711
employee in possession of or having access to the sealed 712

adjudication records of an individual that were the basis of a 713
permanent exclusion of the individual is subject to division (J) 714
of this section. 715

Sec. 4301.69. (A) Except as otherwise provided in this 716
chapter, no person shall sell beer or intoxicating liquor to an 717
underage person, shall buy beer or intoxicating liquor for an 718
underage person, or shall furnish it to an underage person, unless 719
given by a physician in the regular line of the physician's 720
practice or given for established religious purposes or unless the 721
underage person is accompanied by a parent, spouse who is not an 722
underage person, or legal guardian. 723

In proceedings before the liquor control commission, no 724
permit holder, or the employee or agent of a permit holder, 725
charged with a violation of this division shall be charged, for 726
the same offense, with a violation of division (A)(1) of section 727
4301.22 of the Revised Code. 728

(B) No person who is the owner or occupant of any public or 729
private place shall knowingly allow any underage person to remain 730
in or on the place while possessing or consuming beer or 731
intoxicating liquor, unless the intoxicating liquor or beer is 732
given to the person possessing or consuming it by that person's 733
parent, spouse who is not an underage person, or legal guardian 734
and the parent, spouse who is not an underage person, or legal 735
guardian is present at the time of the person's possession or 736
consumption of the beer or intoxicating liquor. 737

An owner of a public or private place is not liable for acts 738
or omissions in violation of this division that are committed by a 739
lessee of that place, unless the owner authorizes or acquiesces in 740
the lessee's acts or omissions. 741

(C) No person shall engage or use accommodations at a hotel, 742

inn, cabin, campground, or restaurant when the person knows or has
reason to know either of the following:

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(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;

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(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.

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(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.

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(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.

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(E)(1) No underage person shall knowingly order, pay for, 774
share the cost of, attempt to purchase, possess, or consume any 775
beer or intoxicating liquor in any public or private place. No 776
underage person shall knowingly be under the influence of any beer 777
or intoxicating liquor in any public place. The prohibitions set 778
forth in division (E)(1) of this section against an underage 779
person knowingly possessing, consuming, or being under the 780
influence of any beer or intoxicating liquor shall not apply if 781
the underage person is accompanied by a parent, spouse who is not 782
an underage person, or legal guardian, or the beer or intoxicating 783
liquor is given by a physician in the regular line of the 784
physician's practice or given for established religious purposes. 785

(2)(a) If a person is charged with violating division (E)(1) 786
of this section in a complaint filed under section 2151.27 of the 787
Revised Code, the court may order the child into a diversion 788
program specified by the court and hold the complaint in abeyance 789
pending successful completion of the diversion program. A child is 790
ineligible to enter into a diversion program under division 791
(E)(2)(a) of this section if the child previously has been 792
diverted pursuant to division (E)(2)(a) of this section. If the 793
child completes the diversion program to the satisfaction of the 794
court, the court shall dismiss the complaint and order the child's 795
record in the case sealed under division ~~(D)(3)~~(E)(6) of section 796
2151.358 of the Revised Code. If the child fails to satisfactorily 797
complete the diversion program, the court shall proceed with the 798
complaint. 799

(b) If a person is charged in a criminal complaint with 800
violating division (E)(1) of this section, section 2935.36 of the 801
Revised Code shall apply to the offense, except that a person is 802
ineligible for diversion under that section if the person 803
previously has been diverted pursuant to division (E)(2)(a) or (b) 804
of this section. If the person completes the diversion program to 805

the satisfaction of the court, the court shall dismiss the 806
complaint and order the record in the case sealed under section 807
2953.52 of the Revised Code. If the person fails to satisfactorily 808
complete the diversion program, the court shall proceed with the 809
complaint. 810

(F) No parent, spouse who is not an underage person, or legal 811
guardian of a minor shall knowingly permit the minor to violate 812
this section or section 4301.63, 4301.633, or 4301.634 of the 813
Revised Code. 814

(G) The operator of any hotel, inn, cabin, or campground 815
shall make the provisions of this section available in writing to 816
any person engaging or using accommodations at the hotel, inn, 817
cabin, or campground. 818

(H) As used in this section: 819

(1) "Drug of abuse" has the same meaning as in section 820
3719.011 of the Revised Code. 821

(2) "Hotel" has the same meaning as in section 3731.01 of the 822
Revised Code. 823

(3) "Licensed health professional authorized to prescribe 824
drugs" and "prescription" have the same meanings as in section 825
4729.01 of the Revised Code. 826

(4) "Minor" means a person under the age of eighteen years. 827

(5) "Underage person" means a person under the age of 828
twenty-one years. 829

Section 2. That existing sections 2151.313, 2151.358, and 830
4301.69 of the Revised Code are hereby repealed. 831