

As Introduced

**128th General Assembly
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S. B. No. 291

Senator Smith

Cosponsors: Senators Fedor, Miller, D., Seitz, Morano, Turner

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A B I L L

To amend sections 2937.06, 2947.07, 2953.32, 1
2953.321, 2953.33, 2953.35, 2953.36, 2953.52, 2
2953.53, 2953.54, and 2953.61 and to enact 3
sections 2307.43 and 2953.322 of the Revised Code, 4
under specified circumstances, to preclude a civil 5
action against an employer that is based on the 6
employer's failure to do a criminal background 7
investigation unless an investigation is required 8
by statute; to modify the list of offenses the 9
official records of which may not be sealed; to 10
require a court to inform a defendant before 11
accepting a guilty plea and before sentencing of 12
the circumstances under which the official records 13
in the case may be sealed; to require the sealing 14
of the official records of a person who is found 15
not guilty of an offense, who is the defendant 16
named in a dismissed complaint, indictment, or 17
information, or against whom a no bill is entered 18
by a grand jury; to prohibit an employer from 19
inquiring into the criminal history of a job 20
applicant until the applicant has been selected 21
for an interview except as otherwise required by 22
statute; to prohibit an employer from refusing to 23

hire a job applicant because the applicant 24
committed an offense unrelated to the job except 25
as otherwise provided by statute; to prohibit the 26
release by private individuals or entities of 27
information contained in sealed official records; 28
and to permit certain offenders who are not first 29
offenders to apply for an order sealing their 30
official records. 31

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

Section 1. That sections 2937.06, 2947.07, 2953.32, 2953.321, 32
2953.33, 2953.35, 2953.36, 2953.52, 2953.53, 2953.54, and 2953.61 33
be amended and sections 2307.43 and 2953.322 of the Revised Code 34
be enacted to read as follows: 35

Sec. 2307.43. (A) No person has a civil cause of action 36
against an employer for injury, death, or loss to person or 37
property that is caused by an employee or former employee of that 38
employer and is based on either of the following: 39

(1) The employer's failure, before hiring the employee or 40
former employee, to conduct or request a criminal background 41
investigation of the employee or former employee; 42

(2) The employer's failure to discover a criminal record of 43
the employee or former employee that has been sealed by court 44
order. 45

(B) Division (A) of this section does not apply to an 46
employer who had a statutory duty to conduct or request a criminal 47
records check of an employee or former employee before the cause 48
of action arose. 49

(C) Nothing in this section shall be construed to create a 50
cause of action against an employer. 51

(D) This section does not apply to any action that is pending 52
on the effective date of this section. 53

Sec. 2937.06. (A) After all motions are disposed of or if no 54
motion is presented, the court or magistrate shall require the 55
accused to plead to the charge. 56

(1) In cases of felony, only a plea of not guilty or a 57
written plea of guilty shall be received and if the defendant 58
declines to plead, a plea of not guilty shall be entered for the 59
defendant and further proceedings had as set forth in sections 60
2937.09 to 2937.12 of the Revised Code. 61

(2) In cases of misdemeanor, the following pleas may be 62
received: 63

(a) Guilty; 64

(b) Not guilty; 65

(c) No contest; 66

(d) Once in jeopardy, which includes the defenses of former 67
conviction or former acquittal. 68

(B) Prior to accepting a plea of guilty or a plea of no 69
contest under division (A) of this section, the court shall comply 70
with sections 2943.031 and 2943.032 of the Revised Code and shall 71
inform the defendant of the circumstances under which official 72
records may be sealed under sections 2953.31 to 2953.36 of the 73
Revised Code. 74

(C) Entry of any plea pursuant to this section shall 75
constitute a waiver of any objection that could be taken advantage 76
of by motion pursuant to section 2937.04 of the Revised Code. 77

Sec. 2947.07. If a convicted defendant does not show 78
sufficient cause as to why judgment should not be pronounced, the 79
court shall first inform the defendant of the circumstances under 80

which official records may be sealed under sections 2953.31 to 81
2953.36 of the Revised Code and then shall pronounce the judgment. 82

Sec. 2953.32. (A)(1) Except as provided in section 2953.61 of 83
the Revised Code, a first offender may apply to the sentencing 84
court if convicted in this state, or to a court of common pleas if 85
convicted in another state or in a federal court, for the sealing 86
of the conviction record. Application may be made at the 87
expiration of three years after the offender's final discharge if 88
convicted of a felony, or at the expiration of one year after the 89
offender's final discharge if convicted of a misdemeanor. 90

(2) Any person who has been arrested for any misdemeanor 91
offense and who has effected a bail forfeiture may apply to the 92
court in which the misdemeanor criminal case was pending when bail 93
was forfeited for the sealing of the record of the case. Except as 94
provided in section 2953.61 of the Revised Code, the application 95
may be filed at any time after the expiration of one year from the 96
date on which the bail forfeiture was entered upon the minutes of 97
the court or the journal, whichever entry occurs first. 98

(B) Upon the filing of an application under this section, the 99
court shall set a date for a hearing and shall notify the 100
prosecutor for the case of the hearing on the application. The 101
prosecutor may object to the granting of the application by filing 102
an objection with the court prior to the date set for the hearing. 103
The prosecutor shall specify in the objection the reasons for 104
believing a denial of the application is justified. The court 105
shall direct its regular probation officer, a state probation 106
officer, or the department of probation of the county in which the 107
applicant resides to make inquiries and written reports as the 108
court requires concerning the applicant. 109

(C)(1) The court shall do each of the following: 110

(a) Determine whether the applicant is a first offender or 111

whether the forfeiture of bail was agreed to by the applicant and 112
the prosecutor in the case. If the applicant applies as a first 113
offender pursuant to division (A)(1) of this section and has two 114
or three convictions that result from the same indictment, 115
information, or complaint, from the same plea of guilty, or from 116
the same official proceeding, and result from related criminal 117
acts that were committed within a three-month period but do not 118
result from the same act or from offenses committed at the same 119
time, in making its determination under this division, the court 120
initially shall determine whether it is not in the public interest 121
for the two or three convictions to be counted as one conviction. 122
If the court determines that it is not in the public interest for 123
the two or three convictions to be counted as one conviction, the 124
court shall determine that the applicant is not a first offender; 125
if the court does not make that determination, the court shall 126
determine that the offender is a first offender. 127

(b) Determine whether criminal proceedings are pending 128
against the applicant; 129

(c) If the applicant is a first offender who applies pursuant 130
to division (A)(1) of this section, determine whether the 131
applicant has been rehabilitated to the satisfaction of the court; 132

(d) If the prosecutor has filed an objection in accordance 133
with division (B) of this section, consider the reasons against 134
granting the application specified by the prosecutor in the 135
objection; 136

(e) Weigh the interests of the applicant in having the 137
records pertaining to the applicant's conviction sealed against 138
the legitimate needs, if any, of the government to maintain those 139
records. 140

(2) If the court determines, after complying with division 141
(C)(1) of this section, that the applicant is a first offender or 142

the subject of a bail forfeiture, that no criminal proceeding is 143
pending against the applicant, and that the interests of the 144
applicant in having the records pertaining to the applicant's 145
conviction or bail forfeiture sealed are not outweighed by any 146
legitimate governmental needs to maintain those records, and that 147
the rehabilitation of an applicant who is a first offender 148
applying pursuant to division (A)(1) of this section has been 149
attained to the satisfaction of the court, the court, except as 150
provided in divisions (G) and (H) of this section, shall order all 151
official records pertaining to the case sealed and, except as 152
provided in division (F) of this section, all index references to 153
the case deleted and, in the case of bail forfeitures, shall 154
dismiss the charges in the case. The proceedings in the case shall 155
be considered not to have occurred and the conviction or bail 156
forfeiture of the person who is the subject of the proceedings 157
shall be sealed, except that upon conviction of a subsequent 158
offense, the sealed record of prior conviction or bail forfeiture 159
may be considered by the court in determining the sentence or 160
other appropriate disposition, including the relief provided for 161
in sections 2953.31 to 2953.33 of the Revised Code. 162

(3) If a court denies an application made under this section, 163
the applicant may file a new application at any time after one 164
year from the date of the denial. 165

(4) Upon the filing of an application under this section, the 166
applicant, unless indigent, shall pay a fee of fifty dollars. The 167
court shall pay thirty dollars of the fee into the state treasury. 168
It shall pay twenty dollars of the fee into the county general 169
revenue fund if the sealed conviction or bail forfeiture was 170
pursuant to a state statute, or into the general revenue fund of 171
the municipal corporation involved if the sealed conviction or 172
bail forfeiture was pursuant to a municipal ordinance. 173

(D) Inspection of the sealed records included in the order 174

may be made only by the following persons or for the following 175
purposes: 176

(1) By a law enforcement officer or prosecutor, or the 177
assistants of either, to determine whether the nature and 178
character of the offense with which a person is to be charged 179
would be affected by virtue of the person's previously having been 180
convicted of a crime; 181

(2) By the parole or probation officer of the person who is 182
the subject of the records, for the exclusive use of the officer 183
in supervising the person while on parole or under a community 184
control sanction or a post-release control sanction, and in making 185
inquiries and written reports as requested by the court or adult 186
parole authority; 187

(3) Upon application by the person who is the subject of the 188
records, by the persons named in the application; 189

(4) By a law enforcement officer who was involved in the 190
case, for use in the officer's defense of a civil action arising 191
out of the officer's involvement in that case; 192

(5) By a prosecuting attorney or the prosecuting attorney's 193
assistants, to determine a defendant's eligibility to enter a 194
pre-trial diversion program established pursuant to section 195
2935.36 of the Revised Code; 196

(6) By any law enforcement agency or any authorized employee 197
of a law enforcement agency or by the department of rehabilitation 198
and correction as part of a background investigation of a person 199
who applies for employment with the agency as a law enforcement 200
officer or with the department as a corrections officer; 201

(7) By any law enforcement agency or any authorized employee 202
of a law enforcement agency, for the purposes set forth in, and in 203
the manner provided in, section 2953.321 of the Revised Code; 204

(8) By the bureau of criminal identification and 205
investigation or any authorized employee of the bureau for the 206
purpose of providing information to a board or person pursuant to 207
division (F) or (G) of section 109.57 of the Revised Code; 208

(9) By the bureau of criminal identification and 209
investigation or any authorized employee of the bureau for the 210
purpose of performing a criminal history records check on a person 211
to whom a certificate as prescribed in section 109.77 of the 212
Revised Code is to be awarded; 213

(10) By the bureau of criminal identification and 214
investigation or any authorized employee of the bureau for the 215
purpose of conducting a criminal records check of an individual 216
pursuant to division (B) of section 109.572 of the Revised Code 217
that was requested pursuant to any of the sections identified in 218
division (B)(1) of that section; 219

(11) By the bureau of criminal identification and 220
investigation, an authorized employee of the bureau, a sheriff, or 221
an authorized employee of a sheriff in connection with a criminal 222
records check described in section 311.41 of the Revised Code; 223

(12) By the attorney general or an authorized employee of the 224
attorney general or a court for purposes of determining a person's 225
classification pursuant to Chapter 2950. of the Revised Code. 226

When the nature and character of the offense with which a 227
person is to be charged would be affected by the information, it 228
may be used for the purpose of charging the person with an 229
offense. 230

(E) In any criminal proceeding, proof of any otherwise 231
admissible prior conviction may be introduced and proved, 232
notwithstanding the fact that for any such prior conviction an 233
order of sealing previously was issued pursuant to sections 234
2953.31 to 2953.36 of the Revised Code. 235

(F) The person or governmental agency, office, or department 236
that maintains sealed records pertaining to convictions or bail 237
forfeitures that have been sealed pursuant to this section may 238
maintain a manual or computerized index to the sealed records. The 239
index shall contain only the name of, and alphanumeric identifiers 240
that relate to, the persons who are the subject of the sealed 241
records, the word "sealed," and the name of the person, agency, 242
office, or department that has custody of the sealed records, and 243
shall not contain the name of the crime committed. The index shall 244
be made available by the person who has custody of the sealed 245
records only for the purposes set forth in divisions (C), (D), and 246
(E) of this section. 247

(G) Notwithstanding any provision of this section or section 248
2953.33 of the Revised Code that requires otherwise, a board of 249
education of a city, local, exempted village, or joint vocational 250
school district that maintains records of an individual who has 251
been permanently excluded under sections 3301.121 and 3313.662 of 252
the Revised Code is permitted to maintain records regarding a 253
conviction that was used as the basis for the individual's 254
permanent exclusion, regardless of a court order to seal the 255
record. An order issued under this section to seal the record of a 256
conviction does not revoke the adjudication order of the 257
superintendent of public instruction to permanently exclude the 258
individual who is the subject of the sealing order. An order 259
issued under this section to seal the record of a conviction of an 260
individual may be presented to a district superintendent as 261
evidence to support the contention that the superintendent should 262
recommend that the permanent exclusion of the individual who is 263
the subject of the sealing order be revoked. Except as otherwise 264
authorized by this division and sections 3301.121 and 3313.662 of 265
the Revised Code, any school employee in possession of or having 266
access to the sealed conviction records of an individual that were 267
the basis of a permanent exclusion of the individual is subject to 268

section 2953.35 of the Revised Code. 269

(H) For purposes of sections 2953.31 to 2953.36 of the 270
Revised Code, DNA records collected in the DNA database and 271
fingerprints filed for record by the superintendent of the bureau 272
of criminal identification and investigation shall not be sealed 273
unless the superintendent receives a certified copy of a final 274
court order establishing that the offender's conviction has been 275
overturned. For purposes of this section, a court order is not 276
"final" if time remains for an appeal or application for 277
discretionary review with respect to the order. 278

Sec. 2953.321. (A) As used in this section, "investigatory 279
work product" means any records or reports of a law enforcement 280
officer or agency that are excepted from the definition of 281
"official records" contained in section 2953.51 of the Revised 282
Code and that pertain to a case the records of which have been 283
ordered sealed pursuant to division (C)(2) of section 2953.32 or 284
division (E)(2) of section 2953.322 of the Revised Code. 285

(B) Upon the issuance of an order by a court pursuant to 286
division (C)(2) of section 2953.32 or division (E)(2) of section 287
2953.322 of the Revised Code directing that all official records 288
pertaining to a case be sealed: 289

(1) Every law enforcement officer who possesses investigatory 290
work product immediately shall deliver that work product to the 291
law enforcement officer's employing law enforcement agency. 292

(2) Except as provided in division (B)(3) of this section, 293
every law enforcement agency that possesses investigatory work 294
product shall close that work product to all persons who are not 295
directly employed by the law enforcement agency and shall treat 296
that work product, in relation to all persons other than those who 297
are directly employed by the law enforcement agency, as if it did 298
not exist and never had existed. 299

(3) A law enforcement agency that possesses investigatory work product may permit another law enforcement agency to use that work product in the investigation of another offense if the facts incident to the offense being investigated by the other law enforcement agency and the facts incident to an offense that is the subject of the case are reasonably similar. The agency that permits the use of investigatory work product may provide the other agency with the name of the person who is the subject of the case if it believes that the name of the person is necessary to the conduct of the investigation by the other agency.

(C)(1) Except as provided in division (B)(3) of this section, no law enforcement officer or other person employed by a law enforcement agency shall knowingly release, disseminate, or otherwise make the investigatory work product or any information contained in that work product available to, or discuss any information contained in it with, any person not employed by the employing law enforcement agency.

(2) No law enforcement agency, or person employed by a law enforcement agency, that receives investigatory work product pursuant to division (B)(3) of this section shall use that work product for any purpose other than the investigation of the offense for which it was obtained from the other law enforcement agency, or disclose the name of the person who is the subject of the work product except when necessary for the conduct of the investigation of the offense, or the prosecution of the person for committing the offense, for which it was obtained from the other law enforcement agency.

(3) It is not a violation of division (C)(1) or (2) of this section for the bureau of criminal identification and investigation or any authorized employee of the bureau participating in the investigation of criminal activity to release, disseminate, or otherwise make available to, or discuss

with, a person directly employed by a law enforcement agency DNA 332
records collected in the DNA database or fingerprints filed for 333
record by the superintendent of the bureau of criminal 334
identification and investigation. 335

(D) Whoever violates division (C)(1) or (2) of this section 336
is guilty of divulging confidential investigatory work product, a 337
misdemeanor of the fourth degree. 338

Sec. 2953.322. (A) Except as otherwise provided in division 339
(C) of this section, a person who has not been convicted of or 340
pleaded guilty to a felony in this state or any other 341
jurisdiction, who is not a first offender under section 2953.31 of 342
the Revised Code, who has been convicted of or pleaded guilty in 343
this state to one or more misdemeanor offenses, and who for at 344
least five years following the date of sentencing for the most 345
recent misdemeanor offense has not been convicted of or pleaded 346
guilty to a misdemeanor or felony offense in this or any other 347
jurisdiction may apply to each court in which the person was 348
convicted of or pleaded guilty to a misdemeanor offense for the 349
sealing of the official records in that court of each case that is 350
a subject of the application. 351

(B) Except as otherwise provided in division (C) of this 352
section, a person who has been convicted of or pleaded guilty to 353
one or more felony offenses in this state, whether or not the 354
person has been convicted of or pleaded guilty to one or more 355
misdemeanor offenses in this state, who is not a first offender 356
under section 2953.31 of the Revised Code, and who for at least 357
five years following the person's final discharge from the most 358
recent conviction for a felony or misdemeanor offense has not been 359
convicted of or pleaded guilty to a misdemeanor or felony offense 360
in this or any other jurisdiction may apply to each court in which 361
the person was convicted of or pleaded guilty to a felony or 362

misdemeanor offense for the sealing of the official records in 363
that court of each case that is a subject of the application. 364

(C) No person whose official records have been sealed 365
pursuant to this section and who subsequently is convicted of or 366
pleads guilty to a misdemeanor or felony offense in this or any 367
other jurisdiction may apply again to any court in this state to 368
have the person's official records sealed pursuant to this 369
section. 370

(D) Upon the filing of an application under this section, the 371
court shall set a date for a hearing and shall notify the 372
prosecutor for each case of the hearing on the application. The 373
prosecutor may object to the granting of the application by filing 374
an objection with the court prior to the date set for the hearing. 375
The prosecutor shall specify in the objection the reasons for 376
believing a denial of the application is justified. The court 377
shall direct its regular probation officer, a state probation 378
officer, or the department of probation of the county in which the 379
applicant resides to make inquiries and written reports as the 380
court requires concerning the applicant. 381

(E)(1) The court shall do each of the following: 382

(a) Determine whether the applicant has been charged with the 383
commission of, convicted of, or pleaded guilty to any offense in 384
this state or any other jurisdiction since the applicant's final 385
discharge from all offenses; 386

(b) Determine whether the applicant has been rehabilitated to 387
the satisfaction of the court; 388

(c) If the prosecutor has filed an objection in accordance 389
with division (D) of this section, consider the reasons against 390
granting the application specified by the prosecutor in the 391
objection; 392

(d) Weigh the interests of the applicant in having the 393

official records pertaining to the applicant's conviction or bail 394
forfeiture sealed against the legitimate needs, if any, of the 395
government to maintain those records. 396

(2) If the court determines, after complying with division 397
(E)(1) of this section that the applicant has not been charged 398
with the commission of, convicted of, or pleaded guilty to any 399
offense in this state or any other jurisdiction, whichever is 400
applicable, since the date of sentencing or final discharge from 401
those offenses, whichever is applicable, and that the interests of 402
the applicant in having the official records pertaining to the 403
applicant's conviction sealed are not outweighed by any legitimate 404
governmental needs to maintain those records, and that the 405
rehabilitation of the applicant has been attained to the 406
satisfaction of the court, the court, except as provided in 407
division (I) of this section, shall order all official records 408
pertaining to the cases sealed and, except as provided in division 409
(H) of this section, all index references to the cases deleted. 410
The proceedings in the cases shall be considered not to have 411
occurred, and the convictions of the person who is the subject of 412
the proceedings shall be sealed, except that upon conviction of a 413
subsequent offense, the sealed record of prior convictions may be 414
considered by the court in determining the sentence or other 415
appropriate disposition. 416

(3) Upon the filing of an application under this section, the 417
applicant, unless indigent, shall pay a fee of fifty dollars. The 418
court shall pay thirty dollars of the fee into the state treasury. 419
It shall pay twenty dollars of the fee into the county general 420
revenue fund if the sealed conviction was pursuant to a state 421
statute, or into the general revenue fund of the municipal 422
corporation involved if the sealed conviction was pursuant to a 423
municipal ordinance. 424

(F) Inspection of the sealed records included in the order 425

may be made only by the persons or for the purposes specified in 426
division (D) of section 2953.32 of the Revised Code. 427

(G) In any criminal proceeding, proof of any otherwise 428
admissible prior conviction may be introduced and proved, 429
notwithstanding the fact that for any such prior conviction an 430
order of sealing previously was issued pursuant to this section. 431

(H) The person or governmental agency, office, or department 432
that maintains sealed records pertaining to convictions that have 433
been sealed pursuant to this section may maintain a manual or 434
computerized index to the sealed records. The index shall contain 435
only the name of, and alphanumeric identifiers that relate to, the 436
persons who are the subject of the sealed records, the word 437
"sealed," and the name of the person, agency, office, or 438
department that has custody of the sealed records and shall not 439
contain the name of the crime committed. The index shall be made 440
available by the person who has custody of the sealed records only 441
for the purposes set forth in divisions (E), (F), and (G) of this 442
section. 443

(I) Notwithstanding any provision of this section that 444
requires otherwise, a board of education of a city, local, 445
exempted village, or joint vocational school district that 446
maintains records of an individual who has been permanently 447
excluded under sections 3301.121 and 3313.662 of the Revised Code 448
is permitted to maintain records regarding a conviction that was 449
used as the basis for the individual's permanent exclusion, 450
regardless of a court order to seal the record. An order issued 451
under this section to seal the record of a conviction does not 452
revoke the adjudication order of the superintendent of public 453
instruction to permanently exclude the individual who is the 454
subject of the sealing order. An order issued under this section 455
to seal the record of a conviction of an individual may be 456
presented to a district superintendent as evidence to support the 457

contention that the superintendent should recommend that the 458
permanent exclusion of the individual who is the subject of the 459
sealing order be revoked. Except as otherwise authorized by this 460
division and sections 3301.121 and 3313.662 of the Revised Code, 461
any school employee in possession of or having access to the 462
sealed conviction records of an individual that were the basis of 463
a permanent exclusion of the individual is subject to section 464
2953.35 of the Revised Code. 465

Sec. 2953.33. (A) Except as provided in division (G) of 466
section 2953.32 and division (I) of section 2953.322 of the 467
Revised Code, an order to seal the record of a person's conviction 468
restores the person who is the subject of the order to all rights 469
and privileges not otherwise restored by termination of the 470
sentence or community control sanction or by final release on 471
parole or post-release control. 472

(B) In any application for ~~employment, a license, or other~~ 473
right or privilege, any appearance as a witness, or any other 474
inquiry that is not related to an application for employment, 475
except as provided in division (E) of section 2953.32, in division 476
(G) of section 2953.322, and in section 3319.292 of the Revised 477
Code, a person may be questioned only with respect to convictions 478
not sealed, bail forfeitures not expunged under section 2953.42 of 479
the Revised Code as it existed prior to June 29, 1988, and bail 480
forfeitures not sealed, ~~unless the question bears a direct and~~ 481
~~substantial relationship to the position for which the person is~~ 482
~~being considered.~~ 483

(C)(1) Except as provided in division (C)(2) of this section, 484
an employer may not inquire into or consider the criminal record 485
or criminal history of an applicant for employment until the 486
applicant has been selected for an interview by the employer. At 487
an initial interview, an employer may ask an applicant about the 488

applicant's criminal record or criminal history but may not 489
require the applicant to respond. An employer may not request a 490
criminal records check of an applicant until after the initial 491
interview. 492

(2) Division (C)(1) of this section does not apply to the 493
department of rehabilitation and correction or to any employer 494
that has a statutory duty to conduct a criminal records check or 495
otherwise take into consideration a potential employee's criminal 496
history during the hiring process. 497

(3) Division (C)(1) of this section does not prohibit an 498
employer from notifying applicants that law or the employer's 499
policy will disqualify an individual with a particular criminal 500
history background from employment in particular positions. 501

(4) Except as otherwise provided in this division, no 502
employer may refuse to hire an applicant for employment solely 503
because of the applicant's criminal history unless the applicant 504
has been convicted of or pleaded guilty to an offense that is 505
directly related to the position for which the applicant has 506
applied. Division (C)(4) of this section does not apply to the 507
department of rehabilitation and correction or to any employer 508
that has a statutory right or obligation to refuse to hire a 509
person because of the person's criminal history. 510

Sec. 2953.35. (A) Except as authorized by divisions (D), (E), 511
and (F) of section 2953.32 of the Revised Code, by divisions (F), 512
(G), and (H) of section 2953.322 of the Revised Code, or by 513
Chapter 2950. of the Revised Code, any officer or employee of the 514
state, or a political subdivision of the state, who releases or 515
otherwise disseminates or makes available for any purpose 516
involving employment, bonding, or licensing in connection with any 517
business, trade, or profession to any person, or to any 518
department, agency, or other instrumentality of the state, or any 519

political subdivision of the state, any information or other data 520
concerning any arrest, complaint, indictment, trial, hearing, 521
adjudication, conviction, or correctional supervision the records 522
with respect to which the officer or employee had knowledge of 523
were sealed by an existing order issued pursuant to sections 524
2953.31 to 2953.36 of the Revised Code, or were expunged by an 525
order issued pursuant to section 2953.42 of the Revised Code as it 526
existed prior to June 29, 1988, is guilty of divulging 527
confidential information, a misdemeanor of the fourth degree. 528

(B) Any person who, in violation of section 2953.32 of the 529
Revised Code, uses, disseminates, or otherwise makes available any 530
index prepared pursuant to division (F) of section 2953.32 or 531
division (H) of section 2953.322 of the Revised Code is guilty of 532
a misdemeanor of the fourth degree. 533

(C)(1) Within thirty days after the entry of an order sealing 534
official records issued pursuant to section 2953.32, 2953.322, or 535
2953.52 of the Revised Code, any private individual, business 536
organization, or other nongovernmental entity having records that 537
include information concerning any arrest, complaint, indictment, 538
trial, hearing, adjudication, conviction, or correctional 539
supervision derived from or in substance identical to information 540
in the official records that have been ordered sealed shall delete 541
the information from the records or destroy the records. 542

(2) No private individual, business organization, or other 543
nongovernmental entity, more than thirty days after the entry of 544
an order sealing official records issued pursuant to section 545
2953.32, 2953.322, or 2953.52 of the Revised Code, shall knowingly 546
release or otherwise disseminate or make available for any purpose 547
information concerning any arrest, complaint, indictment, trial, 548
hearing, adjudication, conviction, or correctional supervision 549
that is included in the official records that have been ordered 550
sealed. 551

(3)(a) Whoever violates division (C)(1) of this section is 552
guilty of releasing sealed records and shall be fined two hundred 553
fifty thousand dollars. 554

(b) Except as provided in division (C)(3)(c) of this section, 555
whoever violates division (C)(2) of this section is guilty of 556
releasing sealed records and shall be fined five hundred thousand 557
dollars. 558

(c) Whoever violates division (C)(2) of this section by 559
knowingly releasing or otherwise disseminating or making available 560
information over the internet is guilty of releasing sealed 561
records and shall be fined one million dollars. 562

(D) It is not a violation of this section for the bureau of 563
criminal identification and investigation or any authorized 564
employee of the bureau participating in the investigation of 565
criminal activity to release, disseminate, or otherwise make 566
available to, or discuss with, a person directly employed by a law 567
enforcement agency DNA records collected in the DNA database or 568
fingerprints filed for record by the superintendent of the bureau 569
of criminal identification and investigation. 570

Sec. 2953.36. Sections 2953.31 to 2953.35 of the Revised Code 571
do not apply to any of the following: 572

(A) Convictions ~~when the offender is subject to a mandatory~~ 573
~~prison term;~~ 574

~~(B) Convictions under section 2907.02, 2907.03 2905.05,~~ 575
~~2907.04, 2907.05, 2907.06, 2907.21, 2907.321, 2907.322, or~~ 576
~~2907.323, 2909.09, 2909.10, 2909.101, 2923.131, 2923.162, or~~ 577
~~2927.24, division (B) of section 2907.24, division (B) of section~~ 578
~~2907.25, division (B) of section 2909.26, division (B) of section~~ 579
~~2919.22, or former section 2907.12, or Chapter 4507., 4510.,~~ 580
~~4511., or 4549. of the Revised Code, or a conviction for a~~ 581

~~violation of a municipal ordinance that is substantially similar 582
to any section contained in any of those chapters; 583~~

~~(C)(B) Convictions of an offense of violence when the offense 584
is a misdemeanor of the first degree or a felony and when the 585
offense is not a violation of section 2917.03 of the Revised Code 586
and is not a violation of section 2903.13, 2917.01, or 2917.31 of 587
the Revised Code that is a misdemeanor of the first degree; 588~~

~~(D)(C) Convictions on or after the effective date of this 589
amendment October 10, 2007, under section 2907.07 of the Revised 590
Code or a conviction on or after the effective date of this 591
amendment for a violation of a municipal ordinance that is 592
substantially similar to that section; 593~~

~~(E)(D) Convictions on or after the effective date of this 594
amendment October 10, 2007, under section 2907.08, 2907.09, 595
2907.21, 2907.22, 2907.23, 2907.31, 2907.311, 2907.32, or 2907.33 596
of the Revised Code when the victim of the offense was under 597
eighteen years of age; 598~~

~~(F) Convictions of an offense in circumstances in which the 599
victim of the offense was under eighteen years of age when the 600
offense is a misdemeanor of the first degree or a felony; 601~~

~~(G)(E) Convictions of a felony of the first or second degree; 602~~

~~(H) Bail forfeitures in a traffic case as defined in Traffic 603
Rule 2. 604~~

Sec. 2953.52. ~~(A)(1) Any Except as otherwise provided in this 605
section or in section 2953.61 of the Revised Code, the court shall 606
issue an order sealing the official records in the case of any 607
person, who is found not guilty of an offense by a jury or a court 608
~~or~~, who is the defendant named in a dismissed complaint, 609
indictment, or information, ~~may apply to the court for an order to 610~~
seal his official records in the case. Except as provided in 611~~

~~section 2953.61 of the Revised Code, the application may be filed 612
at any time after the finding of not guilty or the dismissal of 613
the complaint, indictment, or information is entered upon the 614
minutes of the court or the journal, whichever entry occurs first. 615~~

~~(2) Any person, or against whom a no bill is entered by a 616
grand jury, may apply to the court for an order to seal his 617
official records in the case. Except as provided in section 618
2953.61 of the Revised Code, the application may be filed at any 619
time after the expiration of two years after the date on which the 620
foreman or deputy foreman of the grand jury reports to the court 621
that the grand jury has reported a no bill. Except in a case in 622
which the complaint, indictment, or information is dismissed 623
without prejudice, the court shall issue the order upon the 624
expiration of the time to take an appeal in the case if an appeal 625
is not taken or upon final determination of the appeal sustaining 626
a finding of not guilty or a dismissal in the case if an appeal is 627
taken. In a case in which the complaint, indictment, or 628
information is dismissed without prejudice, the court shall not 629
issue the order with regard to the dismissed complaint, 630
indictment, or information if the complaint or information is 631
refiled or the person is reindicted before the expiration of the 632
period of limitation for the offense that is the basis of the 633
case. 634~~

~~(B)(1) Upon the filing of an application pursuant to division 635
(A) of this section, the court shall set a date for a hearing and 636
shall notify the prosecutor in the case of the hearing on the 637
application. The prosecutor may object to the granting of the 638
application by filing an objection with the court prior to the 639
date set for the hearing. The prosecutor shall specify in the 640
objection the reasons he believes justify a denial of the 641
application. 642~~

~~(2) The court shall do each of the following: 643~~

~~(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;~~ 644
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~~(b) Determine whether criminal proceedings are pending against the person;~~ 651
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~~(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;~~ 653
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~~(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.~~ 657
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~~(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 having the records pertaining to the case sealed are not outweighed by any legitimate governmental needs to maintain such records, or if division (E)(2)(b) of section 4301.69 of the Revised Code applies, the court shall issue an order directing that all official records pertaining to the case be sealed and that, except Division (A) of this section does not apply to either of the following:~~ 660
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(1) Any record pertaining to a case in which the defendant was found not guilty by reason of insanity; 675
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(2) Any record pertaining to a case in which there was an intervention in lieu of conviction under section 2951.041 of the Revised Code. 677
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(C) Except as provided in section 2953.53 of the Revised Code, the proceedings in the a case in which the official records have been sealed pursuant to this section shall be deemed not to have occurred. 680
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(D) Any person who before the effective date of this amendment was found not guilty in a case, was the defendant named in a complaint, indictment, or information in a case that was dismissed, or was the person against whom a no bill was entered in a case by a grand jury may at any time apply to the court for an order to seal the person's official records in the case. The person shall make the application in writing, shall sign and acknowledge it before a notary public, and shall include in the application a case number or other information from which the court may readily identify the case to which the application pertains. Upon receipt of an application that complies with this division, a determination that the applicant is authorized by this division to file the application, and a determination that the applicant would have been entitled to an order sealing the official records in the case if the applicant had been found not guilty, the complaint, indictment, or information had been dismissed, or the grand jury had entered a no bill after the effective date of this amendment, the court shall issue an order sealing the applicant's official records in the case. 684
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Sec. 2953.53. (A) The court shall send notice of any order to seal the official records of a person in a case that was issued 703
pursuant to section 2953.52 of the Revised Code to any public 704
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office or agency that the court knows or has reason to believe may 706
have any record of the case, whether or not it is an official 707
record, ~~that is the subject of the order~~. The court shall send the 708
notice ~~shall be sent~~ by certified mail, return receipt requested. 709

(B) A person whose official records have been sealed pursuant 710
to ~~an order issued pursuant to~~ section 2953.52 of the Revised Code 711
may present a copy of ~~that~~ the order issued under that section and 712
a written request to comply with ~~it~~, that section to a public 713
office or agency that has a record of the case ~~that is the subject~~ 714
~~of the order~~. 715

(C) ~~An order to seal~~ The requirement that the official 716
records issued of a person in a case be sealed pursuant to section 717
2953.52 of the Revised Code applies to every public office or 718
agency that has a record of the case ~~that is the subject of the~~ 719
~~order~~, regardless of whether it receives notice of the ~~hearing on~~ 720
~~the application for the order to seal~~ sealing of the official 721
records or receives a ~~copy of the order to seal the official~~ 722
~~records~~ written request to comply with section 2953.52 of the 723
Revised Code pursuant to division (A) or (B) of this section. 724

(D) Upon ~~receiving a copy of an order to seal official~~ 725
~~records pursuant to division (A) or (B) of this section or upon~~ 726
~~otherwise becoming aware of an applicable order to seal~~ that the 727
official records issued in a case have been sealed pursuant to 728
section 2953.52 of the Revised Code, a public office or agency 729
shall comply with the ~~order and, if applicable, with the~~ 730
provisions of section 2953.52 and, if applicable, section 2953.54 731
of the Revised Code, except that it may maintain a record of the 732
case ~~that is the subject of the order~~ if the record is maintained 733
for the purpose of compiling statistical data only and does not 734
contain any reference to the person who is the subject of the case 735
~~and the order~~. 736

A public office or agency also may maintain an index of 737

sealed official records, in a form similar to that for sealed 738
records of conviction as set forth in division (F) of section 739
2953.32 of the Revised Code, access to which may not be afforded 740
to any person other than the person who has custody of the sealed 741
official records. The sealed official records to which such an 742
index pertains shall not be available to any person, except that 743
the official records of a case that have been sealed may be made 744
available to the following persons for the following purposes: 745

(1) To the person who is the subject of the records upon 746
written application, and to any other person named in the 747
application, for any purpose; 748

(2) To a law enforcement officer who was involved in the 749
case, for use in the officer's defense of a civil action arising 750
out of the officer's involvement in that case; 751

(3) ~~To a~~ In a case in which the complaint, indictment, or 752
information is dismissed without prejudice, to the complainant, 753
the prosecuting attorney, or the prosecuting attorney's assistants 754
~~to determine a defendant's eligibility to enter a pre-trial~~ 755
~~diversion program established pursuant to section 2935.36 of the~~ 756
~~Revised Code;~~ 757

~~(4) To a prosecuting attorney or the prosecuting attorney's~~ 758
~~assistants to determine a defendant's eligibility to enter a~~ 759
~~pre-trial diversion program under division (E)(2)(b) of section~~ 760
~~4301.69 of the Revised Code~~ for the purpose of refiling the 761
complaint or information or reindicting the person. 762

Sec. 2953.54. (A) Except as otherwise provided in Chapter 763
2950. of the Revised Code, upon the issuance of an order by a 764
court under division ~~(B)~~ (A) or (D) of section 2953.52 of the 765
Revised Code directing that all official records pertaining to a 766
case be sealed and that the proceedings in the case be deemed not 767
to have occurred: 768

(1) Every law enforcement officer possessing records or 769
reports pertaining to the case that are the officer's specific 770
investigatory work product and that are excepted from the 771
definition of "official records" contained in section 2953.51 of 772
the Revised Code shall immediately deliver the records and reports 773
to the officer's employing law enforcement agency. Except as 774
provided in division (A)(3) of this section, no such officer shall 775
knowingly release, disseminate, or otherwise make the records and 776
reports or any information contained in them available to, or 777
discuss any information contained in them with, any person not 778
employed by the officer's employing law enforcement agency. 779

(2) Every law enforcement agency that possesses records or 780
reports pertaining to the case that are its specific investigatory 781
work product and that are excepted from the definition of 782
"official records" contained in section 2953.51 of the Revised 783
Code, or that are the specific investigatory work product of a law 784
enforcement officer it employs and that were delivered to it under 785
division (A)(1) of this section shall, except as provided in 786
division (A)(3) of this section, close the records and reports to 787
all persons who are not directly employed by the law enforcement 788
agency and shall, except as provided in division (A)(3) of this 789
section, treat the records and reports, in relation to all persons 790
other than those who are directly employed by the law enforcement 791
agency, as if they did not exist and had never existed. Except as 792
provided in division (A)(3) of this section, no person who is 793
employed by the law enforcement agency shall knowingly release, 794
disseminate, or otherwise make the records and reports in the 795
possession of the employing law enforcement agency or any 796
information contained in them available to, or discuss any 797
information contained in them with, any person not employed by the 798
employing law enforcement agency. 799

(3) A law enforcement agency that possesses records or 800

reports pertaining to the case that are its specific investigatory 801
work product and that are excepted from the definition of 802
"official records" contained in division (D) of section 2953.51 of 803
the Revised Code, or that are the specific investigatory work 804
product of a law enforcement officer it employs and that were 805
delivered to it under division (A)(1) of this section may permit 806
another law enforcement agency to use the records or reports in 807
the investigation of another offense, if the facts incident to the 808
offense being investigated by the other law enforcement agency and 809
the facts incident to an offense that is the subject of the case 810
are reasonably similar. The agency that provides the records and 811
reports may provide the other agency with the name of the person 812
who is the subject of the case, if it believes that the name of 813
the person is necessary to the conduct of the investigation by the 814
other agency. 815

No law enforcement agency, or person employed by a law 816
enforcement agency, that receives from another law enforcement 817
agency records or reports pertaining to a case the records of 818
which have been ordered sealed pursuant to division (B) of section 819
2953.52 of the Revised Code shall use the records and reports for 820
any purpose other than the investigation of the offense for which 821
they were obtained from the other law enforcement agency, or 822
disclose the name of the person who is the subject of the records 823
or reports except when necessary for the conduct of the 824
investigation of the offense, or the prosecution of the person for 825
committing the offense, for which they were obtained from the 826
other law enforcement agency. 827

(B) Whoever violates division (A)(1), (2), or (3) of this 828
section is guilty of divulging confidential information, a 829
misdemeanor of the fourth degree. 830

(C) It is not a violation of this section for the bureau of 831
criminal identification and investigation or any authorized 832

employee of the bureau participating in the investigation of 833
criminal activity to release, disseminate, or otherwise make 834
available to, or discuss with, a person directly employed by a law 835
enforcement agency DNA records collected in the DNA database or 836
fingerprints filed for record by the superintendent of the bureau 837
of criminal identification and investigation. 838

Sec. 2953.61. When a person is charged with two or more 839
offenses as a result of or in connection with the same act and at 840
least one of the charges has a final disposition that is different 841
than the final disposition of the other charges, the ~~person may~~ 842
~~not apply to the court for the sealing of his person's official~~ 843
record shall not be sealed in any of the cases until such time as 844
~~he would be able to apply to the court and have all of the records~~ 845
in ~~all~~ each of the cases pertaining to those charges may be or 846
would otherwise be required to be sealed pursuant to divisions 847
(A)(1) and (2) of section 2953.32 and ~~divisions (A)(1) and (2) of~~ 848
section 2953.52 of the Revised Code. 849

Section 2. That existing sections 2937.06, 2947.07, 2953.32, 850
2953.321, 2953.33, 2953.35, 2953.36, 2953.52, 2953.53, 2953.54, 851
and 2953.61 of the Revised Code are hereby repealed. 852