

2953.31 Sealing of record of conviction definitions.

As used in sections [2953.31](#) to [2953.36](#) of the Revised Code:

(A)

(1) "Eligible offender" means either of the following:

(a) Anyone who has been convicted of one or more offenses, but not more than five felonies, in this state or any other jurisdiction, if all of the offenses in this state are felonies of the fourth or fifth degree or misdemeanors and none of those offenses are an offense of violence or a felony sex offense and all of the offenses in another jurisdiction, if committed in this state, would be felonies of the fourth or fifth degree or misdemeanors and none of those offenses would be an offense of violence or a felony sex offense;

(b) Anyone who has been convicted of an offense in this state or any other jurisdiction, to whom division (A)(1)(a) of this section does not apply, and who has not more than one felony conviction, not more than two misdemeanor convictions, or not more than one felony conviction and one misdemeanor conviction in this state or any other jurisdiction. When two or more convictions result from or are connected with the same act or result from offenses committed at the same time, they shall be counted as one conviction. When two or three convictions result from the same indictment, information, or complaint, from the same plea of guilty, or from the same official proceeding, and result from related criminal acts that were committed within a three-month period but do not result from the same act or from offenses committed at the same time, they shall be counted as one conviction, provided that a court may decide as provided in division (C)(1)(a) of section [2953.32](#) of the Revised Code that it is not in the public interest for the two or three convictions to be counted as one conviction.

(2) For purposes of, and except as otherwise provided in, division (A)(1)(b) of this section, a conviction for a minor misdemeanor, for a violation of any section in Chapter 4507., 4510., 4511., 4513., or 4549. of the Revised Code, or for a violation of a municipal ordinance that is substantially similar to any section in those chapters is not a conviction. However, a conviction for a violation of section [4511.19](#), [4511.251](#), [4549.02](#), [4549.021](#), [4549.03](#), [4549.042](#), or [4549.62](#) or sections [4549.41](#) to [4549.46](#) of the Revised Code, for a violation of section [4510.11](#) or [4510.14](#) of the Revised Code that is based upon the offender's operation of a vehicle during a suspension imposed under section [4511.191](#) or [4511.196](#) of the Revised Code, for a violation of a substantially equivalent municipal ordinance, for a felony violation of Title XLV of the Revised Code, or for a violation of a substantially equivalent former law of this state or former municipal ordinance shall be considered a conviction.

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

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

(D) "Official records" has the same meaning as in division (D) of section [2953.51](#) of the Revised Code.

(E) "Official proceeding" has the same meaning as in section [2921.01](#) of the Revised Code.

(F) "Community control sanction" has the same meaning as in section [2929.01](#) of the Revised Code.

(G) "Post-release control" and "post-release control sanction" have the same meanings as in section [2967.01](#) of the Revised Code.

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

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

Amended by 132nd General Assembly File No. TBD, SB 66, §1, eff. 10/29/2018.

Amended by 130th General Assembly File No. TBD, SB 143, §1, eff. 9/19/2014.

Amended by 129th General Assembly File No. 131, SB 337, §1, eff. 9/28/2012.

Amended by 128th General Assembly File No. 30, SB 77, §1, eff. 7/6/2010.

Effective Date: 01-01-2004 .

2953.32 Sealing of conviction record or bail forfeiture record.

(A)

(1) Except as provided in section [2953.61](#) of the Revised Code, an eligible offender may apply to the sentencing court if convicted in this state, or to a court of common pleas if convicted in another state or in a federal court, for the sealing of the record of the case that pertains to the conviction. Application may be made at one of the following times:

(a) At the expiration of three years after the offender's final discharge if convicted of one felony;

(b) When division (A)(1)(a) of section [2953.31](#) of the Revised Code applies to the offender, at the expiration of four years after the offender's final discharge if convicted of two felonies, or at the expiration of five years after final discharge if convicted of three, four, or five felonies;

(c) At the expiration of one year after the offender's final discharge if convicted of a misdemeanor.

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

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

the application is justified. The court shall direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant. The probation officer or county department of probation that the court directs to make inquiries concerning the applicant shall determine whether or not the applicant was fingerprinted at the time of arrest or under section [109.60](#) of the Revised Code. If the applicant was so fingerprinted, the probation officer or county department of probation shall include with the written report a record of the applicant's fingerprints. If the applicant was convicted of or pleaded guilty to a violation of division (A)(2) or (B) of section [2919.21](#) of the Revised Code, the probation officer or county department of probation that the court directed to make inquiries concerning the applicant shall contact the child support enforcement agency enforcing the applicant's obligations under the child support order to inquire about the offender's compliance with the child support order.

(C)

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

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

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

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

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

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

(2) If the court determines, after complying with division (C)(1) of this section, that the applicant is an eligible offender or the subject of a bail forfeiture, that no criminal proceeding is pending against the applicant, that the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed are not outweighed by any legitimate governmental needs to maintain those records, and that the rehabilitation of an applicant who is an eligible offender applying pursuant to division (A)(1) of this section has been attained to the satisfaction of the court, the court, except as provided in division (C)(4), (G), (H), or (I) of this section, shall order all official records of the case that pertain to the conviction or bail forfeiture sealed and, except as provided in division (F) of this section, all index references to the case that pertain to the conviction or bail forfeiture deleted and, in the case of bail forfeitures, shall dismiss the charges in the case. The proceedings in the case that pertain to the conviction or bail

forfeiture shall be considered not to have occurred and the conviction or bail forfeiture of the person who is the subject of the proceedings shall be sealed, except that upon conviction of a subsequent offense, the sealed record of prior conviction or bail forfeiture may be considered by the court in determining the sentence or other appropriate disposition, including the relief provided for in sections [2953.31](#) to [2953.33](#) of the Revised Code.

(3) An applicant may request the sealing of the records of more than one case in a single application under this section. Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars, regardless of the number of records the application requests to have sealed. The court shall pay thirty dollars of the fee into the state treasury. It shall pay twenty dollars of the fee into the county general revenue fund if the sealed conviction or bail forfeiture was pursuant to a state statute, or into the general revenue fund of the municipal corporation involved if the sealed conviction or bail forfeiture was pursuant to a municipal ordinance.

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

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

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

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

(5) At the time an applicant files an application under division (A) of this section, the following shall apply:

(a) The clerk of court shall notify the applicant in writing that the court will send notice of any order under division (C)(2) of this section to the qualified third party selected by the attorney general under section [109.38](#) of the Revised Code and shall inform the applicant of the procedures under section [109.381](#) of the Revised Code.

(b) The applicant shall then notify the clerk if the applicant wishes to opt out of receiving the benefits of having the court send notice of its order under division (C)(2) of this section to the qualified third party and having the procedures under section [109.381](#) of the Revised Code apply to the records that are subject to the order.

(c) If the applicant does not opt out under division (C)(5)(b) of this section, the applicant shall pay to the clerk of court the fee provided in the contract between the attorney general and the qualified third party under division (D)(2)(b) of section [109.38](#) of the Revised Code.

(6)

(a) Upon the issuance of an order under division (C)(2) of this section, and unless the applicant opts out under division (C)(5)(b) of this section, the clerk shall remit the fee paid by the applicant under division (C)(5)(c) of this section to the qualified third party. The court shall send notice of the order under division (C)(2) of this section to the qualified third party.

(b) If the applicant's application under division (A) of this section is denied for any reason or if the applicant informs the clerk of court in writing, before the issuance of the order under division (C)(2) of this section, that the applicant wishes to opt out of having the court send notice of its order under division (C)(2) of this section to the qualified third party, the clerk shall remit the fee paid by the applicant under division (C)(5)(c) of this section that is intended for the qualified third party back to the applicant.

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

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

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

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

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

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

(6) By any law enforcement agency or any authorized employee of a law enforcement agency or by the department of rehabilitation and correction or department of youth services as part of a background investigation of a person who applies for employment with the agency or with the department;

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

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

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

(10) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of conducting a criminal records check of an individual pursuant to

division (B) of section [109.572](#) of the Revised Code that was requested pursuant to any of the sections identified in division (B)(1) of that section;

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

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

(13) By a court, the registrar of motor vehicles, a prosecuting attorney or the prosecuting attorney's assistants, or a law enforcement officer for the purpose of assessing points against a person under section [4510.036](#) of the Revised Code or for taking action with regard to points assessed.

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

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

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

(G) Notwithstanding any provision of this section or section [2953.33](#) of the Revised Code that requires otherwise, a board of education of a city, local, exempted village, or joint vocational school district that maintains records of an individual who has been permanently excluded under sections [3301.121](#) and [3313.662](#) of the Revised Code is permitted to maintain records regarding a conviction that was used as the basis for the individual's permanent exclusion, regardless of a court order to seal the record. An order issued under this section to seal the record of a conviction does not revoke the adjudication order of the superintendent of public instruction to permanently exclude the individual who is the subject of the sealing order. An order issued under this section to seal the record of a conviction of an individual may be presented to a district superintendent as evidence to support the contention that the superintendent should recommend that the permanent exclusion of the individual who is the subject of the sealing order be revoked. Except as otherwise authorized by this division and sections [3301.121](#) and [3313.662](#) of the Revised Code, any school employee in possession of or having access to the sealed conviction records of an individual that were the basis of a permanent exclusion of the individual is subject to section [2953.35](#) of the Revised Code.

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

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

Amended by 132nd General Assembly File No. TBD, SB 66, §1, eff. 10/29/2018.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 131st General Assembly File No. TBD, SB 227, §1, eff. 4/6/2017.

Amended by 130th General Assembly File No. TBD, SB 143, §1, eff. 9/19/2014.

Amended by 129th General Assembly File No. 131, SB 337, §1, eff. 9/28/2012.

Amended by 128th General Assembly File No. 30, SB 77, §1, eff. 7/6/2010.

Effective Date: 04-08-2004; 2007 SB10 07-01-2007; 2007 HB104 03-24-2008; 2008 HB195 09-30-2008 .

2953.321 Divulging confidential investigatory work product.

(A) As used in this section, "investigatory work product" means any records or reports of a law enforcement officer or agency that are excepted from the definition of "official records" contained in section 2953.51 of the Revised Code and that pertain to a conviction or bail forfeiture the records of which have been ordered sealed pursuant to division (C)(2) of section 2953.32 of the Revised Code or that pertain to a conviction or delinquent child adjudication the records of which have been ordered expunged pursuant to division (E) of section 2151.358, division (D)(2) of section 2953.37, or division (G) of section 2953.38 of the Revised Code.

(B) Upon the issuance of an order by a court pursuant to division (C)(2) of section 2953.32 of the Revised Code directing that all official records of a case pertaining to a conviction or bail forfeiture be sealed or an order by a court pursuant to division (E) of section 2151.358, division (D)(2) of section 2953.37, or division (G) of section 2953.38 of the Revised Code directing that all official records of a case pertaining to a conviction or delinquent child adjudication be expunged:

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

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

(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 records collected in the DNA database or fingerprints filed for record by the superintendent of the bureau of criminal identification and investigation.

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

Amended by 130th General Assembly File No. TBD, SB 143, §1, eff. 9/19/2014.

Amended by 129th General Assembly File No.142, HB 262, §1, eff. 6/27/2012.

Amended by 129th General Assembly File No.34, SB 17, §1, eff. 9/30/2011.

Amended by 128th General Assembly File No.30, SB 77, §1, eff. 7/6/2010.

Effective Date: 06-29-1988 .

2953.33 Restoration of rights and privileges.

(A) An order issued under section [2953.37](#) of the Revised Code to expunge the record of a person's conviction or, except as provided in division (G) of section [2953.32](#) of the Revised Code, an order issued under that section to seal the record of a person's conviction restores the person who is the subject of the order to all rights and privileges not otherwise restored by termination of the sentence or community control sanction or by final release on parole or post-release control.

(B)

(1) In any application for employment, license, or other right or privilege, any appearance as a witness, or any other inquiry, except as provided in division (E) of section [2953.32](#) and in section [3319.292](#) of the Revised Code and subject to division (B)(2) of this section, a person may be questioned only with respect to convictions not sealed, bail forfeitures not expunged under section 2953.42 of the Revised Code as it existed prior to June 29, 1988, and bail forfeitures not

sealed, unless the question bears a direct and substantial relationship to the position for which the person is being considered.

(2) A person may not be questioned in any application, appearance, or inquiry of a type described in division (B)(1) of this section with respect to any conviction expunged under section [2953.37](#) of the Revised Code.

Amended by 129th General Assembly File No. 34, SB 17, §1, eff. 9/30/2011.

Effective Date: 01-01-2004; 2008 HB428 09-12-2008

2953.34 Sealing record not to affect appeal rights of eligible offender.

Nothing in sections [2953.31](#) to [2953.33](#) of the Revised Code precludes an eligible offender from taking an appeal or seeking any relief from the eligible offender's conviction or from relying on it in lieu of any subsequent prosecution for the same offense.

Amended by 129th General Assembly File No. 131, SB 337, §1, eff. 9/28/2012.

Effective Date: 01-01-1974 .

2953.35 Divulging confidential information.

(A)

(1) As used in divisions (A)(2) and (3) of this section, "law enforcement or justice system matter" means an arrest, complaint, indictment, trial, hearing, adjudication, conviction, or correctional supervision.

(2) Except as authorized by divisions (D), (E), and (F) of section 2953.32 of the Revised Code or by Chapter 2950. of the Revised Code and subject to division (A)(3) of this section, any officer or employee of the state, or a political subdivision of the state, who releases or otherwise disseminates or makes available for any purpose involving employment, bonding, or licensing in connection with any business, trade, or profession to any person, or to any department, agency, or other instrumentality of the state, or any political subdivision of the state, any information or other data concerning any law enforcement or justice system matter the records with respect to which the officer or employee had knowledge of were sealed by an existing order issued pursuant to sections 2953.31 to 2953.36 of the Revised Code, were expunged by an order issued pursuant to division (E) of section 2151.358, section 2953.37, or section 2953.38 of the Revised Code, or were expunged by an order issued pursuant to section 2953.42 of the Revised Code as it existed prior to June 29, 1988, is guilty of divulging confidential information, a misdemeanor of the fourth degree.

(3) Division (A)(2) of this section does not apply to an officer or employee of the state, or a political subdivision of the state, who releases or otherwise disseminates or makes available for any purpose specified in that division any information or other data concerning a law enforcement or justice system matter the records of which the officer had knowledge were sealed or expunged by an order of a type described in that division, if all of the following apply:

(a) The officer or employee released, disseminated, or made available the information or data from the sealed or expunged records together with information or data concerning another law enforcement or justice system matter.

(b) The records of the other law enforcement or justice matter were not sealed or expunged by any order of a type described in division (A)(2) of this section.

(c) The law enforcement or justice matter covered by the information or data from the sealed or expunged records and the other law enforcement or justice matter covered by the information or data from the records that were not sealed or expunged resulted from or were connected to the same act.

(d) The officer or employee made a good faith effort to not release, disseminate, or make available any information or other data concerning any law enforcement or justice matter from the sealed or expunged records, and the officer or employee did not release, disseminate, or make available the information or other data from the sealed or expunged records with malicious purpose, in bad faith, or in a wanton or reckless manner.

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

(C) It is not a violation 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 records collected in the DNA database or fingerprints filed for record by the superintendent of the bureau of criminal identification and investigation.

Amended by 130th General Assembly File No. TBD, SB 143, §1, eff. 9/19/2014.

Amended by 129th General Assembly File No. 142, HB 262, §1, eff. 6/27/2012.

Amended by 129th General Assembly File No. 34, SB 17, §1, eff. 9/30/2011.

Amended by 128th General Assembly File No. 30, SB 77, §1, eff. 7/6/2010.

Effective Date: 07-01-1997 .

2953.36 Sealing of record of conviction exceptions.

(A) Except as otherwise provided in division (B) of this section, sections [2953.31](#) to [2953.35](#) of the Revised Code do not apply to any of the following:

(1) Convictions when the offender is subject to a mandatory prison term;

(2) Convictions under section [2907.02](#), [2907.03](#), [2907.04](#), [2907.05](#), [2907.06](#), [2907.321](#), [2907.322](#), or [2907.323](#), former section [2907.12](#), or Chapter 4507., 4510., 4511., or 4549. of the Revised Code, or a conviction for a violation of a municipal ordinance that is substantially similar to any section contained in any of those chapters, except as otherwise provided in section [2953.61](#) of the Revised Code;

(3) Convictions of an offense of violence when the offense is a misdemeanor of the first degree or a felony and when the offense is not a violation of section [2917.03](#) of the Revised Code and is not a violation of section [2903.13](#), [2917.01](#), or [2917.31](#) of the Revised Code that is a misdemeanor of the first degree;

(4) Convictions on or after October 10, 2007, under section [2907.07](#) of the Revised Code or a conviction on or after October 10, 2007, for a violation of a municipal ordinance that is substantially similar to that section;

(5) Convictions on or after October 10, 2007, under section [2907.08](#), [2907.09](#), [2907.21](#), [2907.22](#), [2907.23](#), [2907.31](#), [2907.311](#), [2907.32](#), or [2907.33](#) of the Revised Code when the victim of the offense was under eighteen years of age;

(6) Convictions of an offense in circumstances in which the victim of the offense was less than sixteen years of age when the offense is a misdemeanor of the first degree or a felony, except for convictions under section [2919.21](#) of the Revised Code;

(7) Convictions of a felony of the first or second degree;

(8) Bail forfeitures in a traffic case as defined in Traffic Rule 2.

(B) Sections [2953.31](#) to [2953.35](#) of the Revised Code apply to a conviction listed in this section if, on the date of the conviction, those sections did not apply to the conviction, but after the date of the conviction, the penalty for or classification of the offense was changed so that those sections apply to the conviction.

Amended by 131st General Assembly File No. TBD, HB 164, §1, eff. 9/14/2016.

Amended by 131st General Assembly File No. TBD, HB 56, §1, eff. 3/23/2016.

Amended by 131st General Assembly File No. TBD, HB 53, §101.01, eff. 7/1/2015.

Amended by 130th General Assembly File No. TBD, SB 143, §1, eff. 9/19/2014.

Amended by 129th General Assembly File No. 131, SB 337, §1, eff. 9/28/2012.

Effective Date: 01-01-2004; 2007 SB18 10-10-2007

[2953.37 Expungement of certain convictions relating to firearms.](#)

(A) As used in this section:

(1) "Expunge" means to destroy, delete, and erase a record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.

(2) "Official records" has the same meaning as in section [2953.51](#) of the Revised Code.

(3) "Prosecutor" has the same meaning as in section [2953.31](#) of the Revised Code.

(4) "Record of conviction" means the record related to a conviction of or plea of guilty to an offense.

(B) Any person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B), (C), or (E) of section [2923.16](#) of the Revised Code as the division existed prior to September 30, 2011, and who is authorized by division (H)(2)(a) of that section to file an application under this section for the expungement of the conviction record may apply

to the sentencing court for the expungement of the record of conviction. The person may file the application at any time on or after September 30, 2011. The application shall do all of the following:

(1) Identify the applicant, the offense for which the expungement is sought, the date of the conviction or plea of guilty to that offense, and the court in which the conviction occurred or the plea of guilty was entered;

(2) Include evidence that the offense was a violation of division (B), (C), or (E) of section [2923.16](#) of the Revised Code as the division existed prior to September 30, 2011, and that the applicant is authorized by division (H)(2)(a) of that section to file an application under this section;

(3) Include a request for expungement of the record of conviction of that offense under this section.

(C) Upon the filing of an application under division (B) of this section and the payment of the fee described in division (D)(3) of this section if applicable, the court shall set a date for a hearing and shall notify the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court shall direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant. The court shall hold the hearing scheduled under this division.

(D)

(1) At the hearing held under division (C) of this section, the court shall do each of the following:

(a) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (E) of section [2923.16](#) of the Revised Code as the division existed prior to September 30, 2011, and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011;

(b) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section [2923.16](#) of the Revised Code as the division existed prior to September 30, 2011, and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, due to the application of division (F)(5) of that section as it exists on and after September 30, 2011;

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

(d) Weigh the interests of the applicant in having the records pertaining to the applicant's conviction or guilty plea expunged against the legitimate needs, if any, of the government to maintain those records.

(2)

(a) The court may order the expungement of all official records pertaining to the case and the deletion of all index references to the case and, if it does order the expungement, shall send

notice of the order to each public office or agency that the court has reason to believe may have an official record pertaining to the case if the court, after complying with division (D)(1) of this section, determines both of the following:

(i) That the applicant has been convicted of or pleaded guilty to a violation of division (E) of section [2923.16](#) of the Revised Code as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, or that the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section [2923.16](#) of the Revised Code as the division existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, due to the application of division (F)(5) of that section as it exists on and after September 30, 2011;

(ii) That the interests of the applicant in having the records pertaining to the applicant's conviction or guilty plea expunged are not outweighed by any legitimate needs of the government to maintain those records.

(b) The proceedings in the case that is the subject of an order issued under division (D)(2)(a) of this section shall be considered not to have occurred and the conviction or guilty plea of the person who is the subject of the proceedings shall be expunged. The record of the conviction shall not be used for any purpose, including, but not limited to, a criminal records check under section [109.572](#) of the Revised Code or a determination under section [2923.125](#) or [2923.1212](#) of the Revised Code of eligibility for a concealed handgun license. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.

(3) Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars. The court shall pay thirty dollars of the fee into the state treasury and shall pay twenty dollars of the fee into the county general revenue fund.

(4) At the time an applicant files an application under division (B) of this section, the following shall apply:

(a) The clerk of court shall notify the applicant in writing that the court will send notice of any order under division (D)(2)(a) of this section to the qualified third party selected by the attorney general under section 109.38 of the Revised Code and shall inform the applicant of the procedures under section 109.381 of the Revised Code.

(b) The applicant shall then notify the clerk if the applicant wishes to opt out of receiving the benefits of having the court send notice of its order under division (D)(2)(a) of this section to the qualified third party and having the procedures under section 109.381 of the Revised Code apply to the records that are subject to the order.

(c) If the applicant does not opt out under division (D)(4)(b) of this section, the applicant shall pay to the clerk of court the fee provided in the contract between the attorney general and the qualified third party under division (D)(2)(b) of section 109.38 of the Revised Code.

(5)

(a) Upon issuance of an order under division (D)(2)(a) of this section, and unless the applicant opts out under division (D)(4)(b) of this section, the clerk shall remit the fee paid by the applicant under division (D)(4)(c) of this section to the qualified third party. The court shall send notice of the order under division (D)(2)(a) of this section to the qualified third party.

(b) If the applicant's application under division (B) of this section is denied for any reason or if the applicant informs the clerk of court in writing, before the issuance of the order under division (D)(2)(a) of this section, that the applicant wishes to opt out of having the court send notice of its order under division (D)(2)(a) of this section to the qualified third party, the clerk shall remit the fee paid by the applicant under division (D)(4)(c) of this section that is intended for the qualified third party back to the applicant.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Amended by 129th General Assembly File No. 190, HB 495, §1, eff. 3/27/2013.

Added by 129th General Assembly File No. 34, SB 17, §1, eff. 9/30/2011.

2953.38 Expungement of certain crimes for victims of human trafficking.

(A) As used in this section:

(1) "Expunge" means to destroy, delete, or erase a record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.

(2) "Prosecutor" has the same meaning as in section [2953.31](#) of the Revised Code.

(3) "Record of conviction" means any record related to a conviction of or plea of guilty to an offense.

(4) "Victim of human trafficking" means a person who is or was a victim of a violation of section [2905.32](#) of the Revised Code, regardless of whether anyone has been convicted of a violation of that section or of any other section for victimizing the person.

(B) Any person who is or was convicted of a violation of section [2907.24](#), [2907.241](#), or [2907.25](#) of the Revised Code may apply to the sentencing court for the expungement of the record of conviction of any offense, other than a record of conviction of a violation of section [2903.01](#), [2903.02](#), or [2907.02](#) of the Revised Code, the person's participation in which was a result of the person having been a victim of human trafficking. The person may file the application at any time. The application may request an order to expunge the record of conviction for more than one offense, but if it does, the court shall consider the request for each offense separately as if a separate application had been made for each offense and all references in divisions (B) to (H) of this section to "the offense" or "that offense" mean each of those offenses that are the subject of the application. The application shall do all of the following:

(1) Identify the applicant, the offense for which the expungement is sought, the date of the conviction of that offense, and the court in which the conviction occurred;

(2) Describe the evidence and provide copies of any documentation showing that the person is entitled to relief under this section;

(3) Include a request for expungement of the record of conviction of that offense under this section.

(C) The court may deny an application made under division (B) of this section if it finds that the application fails to assert grounds on which relief may be granted.

(D) If the court does not deny an application under division (C) of this section, it shall set a date for a hearing and shall notify the prosecutor for the case from which the record of conviction resulted of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court may direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant.

(E)

(1) At the hearing held under division (D) of this section, the court shall do both of the following:

(a) If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection;

(b) Determine whether the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense that is the subject of the application was a result of the applicant having been a victim of human trafficking.

(2) If the court at the hearing held under division (D) of this section determines that the applicant's participation in the offense that is the subject of the application was a result of the applicant having been a victim of human trafficking and if that subject offense is a felony of the first or second degree, the court at the hearing also shall consider all of the following factors and, upon consideration of the factors, shall determine whether the interests of the applicant in having the record of the conviction of that offense expunged are outweighed by any legitimate needs of the government to maintain that record of conviction:

(a) The degree of duress under which the applicant acted in committing the subject offense, including, but not limited to, the history of the use of force or threatened use of force against the applicant or another person, whether the applicant's judgment or control was impaired by the administration to the applicant of any intoxicant, drug, or controlled substance, and the threat of withholding from the applicant food, water, or any drug;

(b) The seriousness of the subject offense;

(c) The relative degree of physical harm done to any person in the commission of the subject offense;

(d) The length of time that has expired since the commission of the subject offense;

(e) Whether the prosecutor represents to the court that criminal proceedings are likely to still be initiated against the applicant for a felony offense for which the period of limitations has not expired;

(f) Whether the applicant at the time of the hearing is subject to supervision as a result of the subject offense.

(F) If after a hearing held under division (D) of this section the court finds that the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense that is the subject of the application was the result of the applicant having been a victim of human trafficking, and, if the offense that is the subject of the application is a felony of the first or second degree, after consideration of the factors required under division (E)(2) of this

section, it finds that the interests of the applicant in having the record of the conviction of that offense expunged are not outweighed by any legitimate needs of the government to maintain that record of conviction, the court shall grant the application and order that the record of conviction be expunged.

(G)

(1) The court shall send notice of the order of expungement issued under division (F) of this section to each public office or agency that the court has reason to believe may have an official record pertaining to the case if the court, after complying with division (E) of this section, determines both of the following:

(a) That the applicant has been convicted of a violation of section [2907.24](#), [2907.241](#), or [2907.25](#) of the Revised Code;

(b) That the interests of the applicant in having the records pertaining to the applicant's conviction expunged are not outweighed by any legitimate needs of the government to maintain those records.

(2) The proceedings in the case that is the subject of an order of expungement issued under division (F) of this section shall be considered not to have occurred and the conviction of the person who is the subject of the proceedings shall be expunged. The record of the conviction shall not be used for any purpose, including, but not limited to, a criminal records check under section [109.572](#) of the Revised Code. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.

(H) Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars. The court shall pay thirty dollars of the fee into the state treasury and shall pay twenty dollars of the fee into the county general revenue fund.

(I) At the time an applicant files an application under division (B) of this section, the following shall apply:

(1) The clerk of court shall notify the applicant in writing that the court will send notice of any order under division (F) of this section to the qualified third party selected by the attorney general under section 109.38 of the Revised Code and shall inform the applicant of the procedures under section 109.381 of the Revised Code.

(2) The applicant shall then notify the clerk if the applicant wishes to opt out of receiving the benefits of having the court send notice of its order under division (F) of this section to the qualified third party and having the procedures under section 109.381 of the Revised Code apply to the records that are subject to the order.

(3) If the applicant does not opt out under division (I)(2) of this section, the applicant shall pay to the clerk of court the fee provided in the contract between the attorney general and the qualified third party under division (D)(2)(b) of section 109.38 of the Revised Code.

(J)

(1) Upon the issuance of an order under division (F) of this section, and unless the applicant opts out under division (I)(2) of this section, the clerk shall remit the fee paid by the applicant under division (I)(3) of this section to the qualified third party. The court shall send notice of the order under division (F) of this section to the qualified third party.

(2) If the applicant's application under division (B) of this section is denied for any reason or if the applicant informs the clerk of court in writing, before the issuance of the order under division (F) of this section, that the applicant wishes to opt out of having the court send notice of its order under division (F) of this section to the qualified third party, the clerk shall remit the fee paid by the applicant under division (I)(3) of this section that is intended for the qualified third party back to the applicant.

Amended by 132nd General Assembly File No. TBD, SB 4, §1, eff. 9/28/2018.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Added by 129th General Assembly File No. 142, HB 262, §1, eff. 6/27/2012.