

As Introduced

133rd General Assembly

Regular Session

2019-2020

S. B. No. 47

Senator Eklund

Cosponsor: Senator Thomas

A BILL

To amend sections 2929.17, 2953.32, and 2953.36 and 1
to enact section 2950.151 of the Revised Code to 2
create a procedure for certain offenders 3
convicted of unlawful sexual conduct with a 4
minor to petition a court for reclassification 5
or removal from duties under the Sex Offender 6
Registration and Notification Law and to permit 7
record sealing in those cases. 8

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

Section 1. That sections 2929.17, 2953.32, and 2953.36 be 9
amended and section 2950.151 of the Revised Code be enacted to 10
read as follows: 11

Sec. 2929.17. Except as provided in this section, the 12
court imposing a sentence for a felony upon an offender who is 13
not required to serve a mandatory prison term may impose any 14
nonresidential sanction or combination of nonresidential 15
sanctions authorized under this section. If the court imposes 16
one or more nonresidential sanctions authorized under this 17
section, the court shall impose as a condition of the sanction 18

that, during the period of the nonresidential sanction, the
offender shall abide by the law and shall not leave the state
without the permission of the court or the offender's probation
officer.

The court imposing a sentence for a fourth degree felony
OVI offense under division (G)(1) or (2) of section 2929.13 of
the Revised Code or for a third degree felony OVI offense under
division (G)(2) of that section may impose upon the offender, in
addition to the mandatory term of local incarceration or
mandatory prison term imposed under the applicable division, a
nonresidential sanction or combination of nonresidential
sanctions under this section, and the offender shall serve or
satisfy the sanction or combination of sanctions after the
offender has served the mandatory term of local incarceration or
mandatory prison term required for the offense. The court shall
not impose a term in a drug treatment program as described in
division (D) of this section until after considering an
assessment by a properly credentialed treatment professional, if
available. Nonresidential sanctions include, but are not limited
to, the following:

(A) A term of day reporting;

(B) A term of house arrest with electronic monitoring or
continuous alcohol monitoring or both electronic monitoring and
continuous alcohol monitoring, a term of electronic monitoring
or continuous alcohol monitoring without house arrest, or a term
of house arrest without electronic monitoring or continuous
alcohol monitoring;

(C) A term of community service of up to five hundred
hours pursuant to division (B) of section 2951.02 of the Revised
Code or, if the court determines that the offender is

financially incapable of fulfilling a financial sanction	49
described in section 2929.18 of the Revised Code, a term of	50
community service as an alternative to a financial sanction;	51
(D) A term in a drug treatment program with a level of	52
security for the offender as determined by the court;	53
(E) A term of intensive probation supervision;	54
(F) A term of basic probation supervision;	55
(G) A term of monitored time;	56
(H) A term of drug and alcohol use monitoring, including	57
random drug testing;	58
(I) A curfew term;	59
(J) A requirement that the offender obtain employment;	60
(K) A requirement that the offender obtain education or	61
training;	62
(L) Provided the court obtains the prior approval of the	63
victim, a requirement that the offender participate in victim-	64
offender mediation;	65
(M) A license violation report;	66
(N) If the offense is a violation of section 2919.25 or a	67
violation of section 2903.11, 2903.12, or 2903.13 of the Revised	68
Code involving a person who was a family or household member at	69
the time of the violation, if the offender committed the offense	70
in the vicinity of one or more children who are not victims of	71
the offense, and if the offender or the victim of the offense is	72
a parent, guardian, custodian, or person in loco parentis of one	73
or more of those children, a requirement that the offender	74
obtain counseling. This division does not limit the court in	75

requiring the offender to obtain counseling for any offense or
in any circumstance not specified in this division.

(O) If the offense is a violation of section 2907.04 of
the Revised Code and the offender was under twenty-one years of
age at the time of committing the offense, a requirement that
the offender participate in a sex offender treatment program
certified by the department of rehabilitation and correction
pursuant to section 2950.16 of the Revised Code.

Sec. 2950.151. (A) As used in this section, "eligible
offender" means either of the following:

(1) An offender who was convicted of or pleaded guilty to
a violation of section 2907.04 of the Revised Code to whom all
of the following apply:

(a) The sentencing court found the offender to be at low
risk of reoffending based on a presentence investigation report
that included a risk assessment, assessed by the single
validated risk assessment tool selected by the department of
rehabilitation and correction under section 5120.114 of the
Revised Code;

(b) The sentencing court imposed a community control
sanction or combination of community control sanctions instead
of a prison term and the offender has fulfilled every condition
of every community control sanction imposed by the sentencing
court;

(c) The offender was under twenty-one years of age at the
time of committing the offense;

(d) The offender has not otherwise been convicted of or
pleaded guilty to a violation of section 2907.02, 2907.03,
former section 2907.12 of the Revised Code, or another violation

<u>of section 2907.04 of the Revised Code;</u>	105
<u>(e) The minor with whom the offender engaged in sexual</u>	106
<u>conduct was at least fourteen years of age at the time of the</u>	107
<u>offense and consented to the sexual conduct, with no evidence of</u>	108
<u>coercion, force, or threat of force;</u>	109
<u>(f) The offender was not in a position of authority,</u>	110
<u>including a position of a type described in divisions (A) (5) to</u>	111
<u>(13) of section 2907.03 of the Revised Code, over the minor with</u>	112
<u>whom the offender engaged in sexual conduct.</u>	113
<u>(2) An offender who was convicted of or pleaded guilty to</u>	114
<u>a violation of any former law of this state, any existing or</u>	115
<u>former municipal ordinance or law of another state or the United</u>	116
<u>States, any existing or former law applicable in a military</u>	117
<u>court or in an Indian trial court, or any existing or former law</u>	118
<u>of any nation other than the United States that is or was</u>	119
<u>substantially equivalent to a violation of section 2907.04 of</u>	120
<u>the Revised Code and to whom all of the factors described in</u>	121
<u>divisions (A) (1) (a) to (f) of this section apply. For purposes</u>	122
<u>of this division:</u>	123
<u>(a) The reference in division (A) (1) (b) of this section to</u>	124
<u>a community control sanction shall be construed as including non</u>	125
<u>prison sanctions under the law of the jurisdiction in which the</u>	126
<u>offender was convicted of or pleaded guilty to the violation</u>	127
<u>that is or was substantially equivalent to a violation of</u>	128
<u>section 2907.04 of the Revised Code;</u>	129
<u>(b) The reference in division (A) (1) (d) of this section to</u>	130
<u>the violations specified in that division shall be construed as</u>	131
<u>including substantially equivalent violations under the law of</u>	132
<u>the jurisdiction in which the offender was convicted of or</u>	133

<u>pleaded guilty to the violation that is or was substantially equivalent to a violation of section 2907.04 of the Revised Code.</u>	134
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<u>(B) Upon completion of all community control sanctions imposed by the sentencing court for the violation of section 2907.04 of the Revised Code or the violation of the substantially equivalent law or ordinance, whichever is applicable, an eligible offender may petition the appropriate court specified in division (C) of this section to review the effectiveness of the offender's participation in community control sanctions and to determine whether to terminate the offender's duty to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code, reclassify the offender as a tier I sex offender/child-victim offender, or continue the offender's current classification.</u>	137
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<u>(C) Except as otherwise provided in this division, the eligible offender shall file the petition described in division (B) of this section in the court in which the eligible offender was convicted of or pleaded guilty to the offense. If the eligible offender was convicted of or pleaded guilty to the offense in a jurisdiction other than this state, the eligible offender shall file the petition in whichever of the following courts is applicable:</u>	149
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<u>(1) If the eligible offender is a resident of this state, in the court of common pleas of the county in which the offender resides;</u>	157
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<u>(2) If the eligible offender is not a resident of this state, in the court of common pleas of the county in which the offender has registered pursuant to section 2950.04 of the Revised Code. If the offender has registered addresses of that</u>	160
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<u>nature in more than one county, the offender may file a petition</u>	164
<u>in the court of only one of those counties.</u>	165
<u>(D) An eligible offender who files a petition under</u>	166
<u>division (B) of this section shall include all of the following</u>	167
<u>with the petition:</u>	168
<u>(1) A certified copy of the judgment entry and any other</u>	169
<u>documentation of the sentence given for the offense for which</u>	170
<u>the eligible offender was convicted or pleaded guilty;</u>	171
<u>(2) Documentation of the date of discharge from probation</u>	172
<u>supervision or other supervision, if applicable;</u>	173
<u>(3) Evidence that the eligible offender has completed a</u>	174
<u>sex offender treatment program certified by the department of</u>	175
<u>rehabilitation and correction pursuant to section 2950.16 of the</u>	176
<u>Revised Code;</u>	177
<u>(4) Any other evidence necessary to show that the offender</u>	178
<u>meets the qualifications listed in division (A) of this section;</u>	179
<u>(5) Evidence that the eligible offender has been</u>	180
<u>rehabilitated to a satisfactory degree by successful completion</u>	181
<u>of community control sanctions.</u>	182
<u>(E) An eligible offender may obtain, at the offender's</u>	183
<u>expense, a risk assessment or professional opinion, recommending</u>	184
<u>relief under this section, from a licensed clinical</u>	185
<u>psychologist, social worker, or other professional certified in</u>	186
<u>sex offender treatment. The professional opinion or risk</u>	187
<u>assessment may be submitted with the petition as additional</u>	188
<u>evidence of rehabilitation.</u>	189
<u>(F) Upon the filing of a petition under division (B) of</u>	190
<u>this section, the court shall schedule a hearing to review the</u>	191

<u>eligible offender's petition and all evidence of rehabilitation accompanying the petition. The court shall notify the offender and, if the offender was convicted of or pleaded guilty to the offense in this state, the prosecutor who prosecuted the offense, of the date, time, and place of the hearing. After the hearing, the court shall enter one of the following orders:</u>	192
<u>(1) An order to terminate the offender's duty to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code;</u>	193
<u>(2) If the offender is classified a tier II sex offender/child-victim offender, an order to reclassify the offender from a tier II sex offender/child-victim offender classification to a tier I sex offender/child-victim offender classification;</u>	194
<u>(3) If the offender is classified a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender, an order to continue the offender's classification as a tier I sex offender/child-victim offender or tier II sex offender/child-victim offender, whichever is applicable, required to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code.</u>	195
<u>(G) After issuing an order pursuant to division (F) of this section, the court shall provide a copy of the order to the eligible offender and the bureau of criminal identification and investigation. The bureau, upon receipt of the copy, shall promptly notify the sheriff with whom the offender most recently registered under section 2950.04 or 2950.05 of the Revised Code of the court's order.</u>	196
<u>(H) (1) An order issued under division (F) (2) or (3) of this section shall remain in effect for the duration of the</u>	197

eligible offender's duty to comply with sections 2950.04, 221
2950.05, and 2950.06 of the Revised Code under the 222
reclassification or continuation, whichever is applicable, as 223
specified in section 2950.07 of the Revised Code, except that an 224
eligible offender may refile a petition under this section at 225
the time prescribed under division (H) (2) of this section. An 226
order issued under division (F) (2) or (3) of this section shall 227
not increase the duration of the offender's duty to comply with 228
sections 2950.04, 2950.05, and 2950.06 of the Revised Code. 229

(2) After the eligible offender's initial petition filed 230
under this section, if the court entered an order continuing the 231
offender's classification or reclassifying the offender, the 232
offender may file a second petition not earlier than three years 233
after the court entered the first order. After the second 234
petition, the offender may file one subsequent petition not 235
earlier than five years after the most recent order continuing 236
the offender's classification or reclassifying the offender. A 237
petition filed under this division shall comply with the 238
requirements described in divisions (C), (D), and (E) of this 239
section. 240

(3) Upon the filing of a second or subsequent petition by 241
an eligible offender pursuant to division (H) (2) of this 242
section, the court shall schedule a hearing to review any 243
previous order entered under this section, consider all of the 244
documents previously submitted, and evaluate any new evidence of 245
rehabilitation presented with the petition. The court shall 246
notify the offender and, if the offender was convicted of or 247
pledged guilty to the offense in this state, the prosecutor who 248
prosecuted the offense, of the date, time, and place of the 249
hearing. After the hearing on the petition, the court may deny 250
the petition or do either of the following: 251

<u>(a) If the previous order continued the offender's classification as a tier II sex offender/child-victim offender, reclassify the offender as a tier I sex offender/child-victim offender or terminate the offender's duty to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code;</u>	252
<u>(b) If the previous order reclassified the offender as a tier I sex offender/child-victim offender or continued the offender's classification as a tier I sex offender/child-victim offender, terminate the offender's duty to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code.</u>	257
Sec. 2953.32. (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:	262
(a) At the expiration of three years after the offender's final discharge if convicted of one felony;	269
(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;	271
(c) At the expiration of one year after the offender's final discharge if convicted of a misdemeanor.	276
(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	278
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case was pending when bail was forfeited for the sealing of the 281
record of the case that pertains to the charge. Except as 282
provided in section 2953.61 of the Revised Code, the application 283
may be filed at any time after the expiration of one year from 284
the date on which the bail forfeiture was entered upon the 285
minutes of the court or the journal, whichever entry occurs 286
first. 287

(B) Upon the filing of an application under this section, 288
the court shall set a date for a hearing and shall notify the 289
prosecutor for the case of the hearing on the application. The 290
prosecutor may object to the granting of the application by 291
filing an objection with the court prior to the date set for the 292
hearing. The prosecutor shall specify in the objection the 293
reasons for believing a denial of the application is justified. 294
The court shall direct its regular probation officer, a state 295
probation officer, or the department of probation of the county 296
in which the applicant resides to make inquiries and written 297
reports as the court requires concerning the applicant. The 298
probation officer or county department of probation that the 299
court directs to make inquiries concerning the applicant shall 300
determine whether or not the applicant was fingerprinted at the 301
time of arrest or under section 109.60 of the Revised Code. If 302
the applicant was so fingerprinted, the probation officer or 303
county department of probation shall include with the written 304
report a record of the applicant's fingerprints. If the 305
applicant was convicted of or pleaded guilty to a violation of 306
division (A) (2) or (B) of section 2919.21 of the Revised Code, 307
the probation officer or county department of probation that the 308
court directed to make inquiries concerning the applicant shall 309
contact the child support enforcement agency enforcing the 310
applicant's obligations under the child support order to inquire 311

about the offender's compliance with the child support order. 312

(C) (1) The court shall do each of the following: 313

(a) Determine whether the applicant is an eligible 314
offender or whether the forfeiture of bail was agreed to by the 315
applicant and the prosecutor in the case. If the applicant 316
applies as an eligible offender pursuant to division (A) (1) of 317
this section and has two or three convictions that result from 318
the same indictment, information, or complaint, from the same 319
plea of guilty, or from the same official proceeding, and result 320
from related criminal acts that were committed within a three- 321
month period but do not result from the same act or from 322
offenses committed at the same time, in making its determination 323
under this division, the court initially shall determine whether 324
it is not in the public interest for the two or three 325
convictions to be counted as one conviction. If the court 326
determines that it is not in the public interest for the two or 327
three convictions to be counted as one conviction, the court 328
shall determine that the applicant is not an eligible offender; 329
if the court does not make that determination, the court shall 330
determine that the offender is an eligible offender. 331

(b) Determine whether criminal proceedings are pending 332
against the applicant; 333

(c) If the applicant is an eligible offender who applies 334
pursuant to division (A) (1) of this section, determine whether 335
the applicant has been rehabilitated to the satisfaction of the 336
court; 337

(d) If the prosecutor has filed an objection in accordance 338
with division (B) of this section, consider the reasons against 339
granting the application specified by the prosecutor in the 340

objection;	341
(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;	342 343 344 345
(f) <u>If the applicant is an eligible offender of the type described in division (A) (3) of section 2953.36 of the Revised Code, determine whether the offender has been rehabilitated to a satisfactory degree. In making the determination, the court may consider all of the following:</u>	346 347 348 349 350
(i) <u>The age of the offender;</u>	351
(ii) <u>The facts and circumstances of the offense;</u>	352
(iii) <u>The cessation or continuation of criminal behavior;</u>	353
(iv) <u>The education and employment of the offender;</u>	354
(v) <u>Any other circumstances that may relate to the offender's rehabilitation.</u>	355 356
(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	357 358 359 360 361 362 363 364 365 366 367 368

case that pertain to the conviction or bail forfeiture sealed 369
and, except as provided in division (F) of this section, all 370
index references to the case that pertain to the conviction or 371
bail forfeiture deleted and, in the case of bail forfeitures, 372
shall dismiss the charges in the case. The proceedings in the 373
case that pertain to the conviction or bail forfeiture shall be 374
considered not to have occurred and the conviction or bail 375
forfeiture of the person who is the subject of the proceedings 376
shall be sealed, except that upon conviction of a subsequent 377
offense, the sealed record of prior conviction or bail 378
forfeiture may be considered by the court in determining the 379
sentence or other appropriate disposition, including the relief 380
provided for in sections 2953.31 to 2953.33 of the Revised Code. 381

(3) An applicant may request the sealing of the records of 382
more than one case in a single application under this section. 383
Upon the filing of an application under this section, the 384
applicant, unless indigent, shall pay a fee of fifty dollars, 385
regardless of the number of records the application requests to 386
have sealed. The court shall pay thirty dollars of the fee into 387
the state treasury. It shall pay twenty dollars of the fee into 388
the county general revenue fund if the sealed conviction or bail 389
forfeiture was pursuant to a state statute, or into the general 390
revenue fund of the municipal corporation involved if the sealed 391
conviction or bail forfeiture was pursuant to a municipal 392
ordinance. 393

(4) If the court orders the official records pertaining to 394
the case sealed, the court shall do one of the following: 395

(a) If the applicant was fingerprinted at the time of 396
arrest or under section 109.60 of the Revised Code and the 397
record of the applicant's fingerprints was provided to the court 398

under division (B) of this section, forward a copy of the 399
sealing order and the record of the applicant's fingerprints to 400
the bureau of criminal identification and investigation. 401

(b) If the applicant was not fingerprinted at the time of 402
arrest or under section 109.60 of the Revised Code, or the 403
record of the applicant's fingerprints was not provided to the 404
court under division (B) of this section, but fingerprinting was 405
required for the offense, order the applicant to appear before a 406
sheriff to have the applicant's fingerprints taken according to 407
the fingerprint system of identification on the forms furnished 408
by the superintendent of the bureau of criminal identification 409
and investigation. The sheriff shall forward the applicant's 410
fingerprints to the court. The court shall forward the 411
applicant's fingerprints and a copy of the sealing order to the 412
bureau of criminal identification and investigation. 413

Failure of the court to order fingerprints at the time of 414
sealing does not constitute a reversible error. 415

(D) Inspection of the sealed records included in the order 416
may be made only by the following persons or for the following 417
purposes: 418

(1) By a law enforcement officer or prosecutor, or the 419
assistants of either, to determine whether the nature and 420
character of the offense with which a person is to be charged 421
would be affected by virtue of the person's previously having 422
been convicted of a crime; 423

(2) By the parole or probation officer of the person who 424
is the subject of the records, for the exclusive use of the 425
officer in supervising the person while on parole or under a 426
community control sanction or a post-release control sanction, 427

and in making inquiries and written reports as requested by the court or adult parole authority;	428 429
(3) Upon application by the person who is the subject of the records, by the persons named in the application;	430 431
(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;	432 433 434
(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;	435 436 437 438
(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;	439 440 441 442 443
(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;	444 445 446 447
(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;	448 449 450 451
(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;	452 453 454 455 456

(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;	457 458 459 460 461 462
(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;	463 464 465 466 467
(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;	468 469 470 471
(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.	472 473 474 475 476
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.	477 478 479 480
(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.	481 482 483 484 485

(F) The person or governmental agency, office, or 486
department that maintains sealed records pertaining to 487
convictions or bail forfeitures that have been sealed pursuant 488
to this section may maintain a manual or computerized index to 489
the sealed records. The index shall contain only the name of, 490
and alphanumeric identifiers that relate to, the persons who are 491
the subject of the sealed records, the word "sealed," and the 492
name of the person, agency, office, or department that has 493
custody of the sealed records, and shall not contain the name of 494
the crime committed. The index shall be made available by the 495
person who has custody of the sealed records only for the 496
purposes set forth in divisions (C), (D), and (E) of this 497
section. 498

(G) Notwithstanding any provision of this section or 499
section 2953.33 of the Revised Code that requires otherwise, a 500
board of education of a city, local, exempted village, or joint 501
vocational school district that maintains records of an 502
individual who has been permanently excluded under sections 503
3301.121 and 3313.662 of the Revised Code is permitted to 504
maintain records regarding a conviction that was used as the 505
basis for the individual's permanent exclusion, regardless of a 506
court order to seal the record. An order issued under this 507
section to seal the record of a conviction does not revoke the 508
adjudication order of the superintendent of public instruction 509
to permanently exclude the individual who is the subject of the 510
sealing order. An order issued under this section to seal the 511
record of a conviction of an individual may be presented to a 512
district superintendent as evidence to support the contention 513
that the superintendent should recommend that the permanent 514
exclusion of the individual who is the subject of the sealing 515
order be revoked. Except as otherwise authorized by this 516

division and sections 3301.121 and 3313.662 of the Revised Code, 517
any school employee in possession of or having access to the 518
sealed conviction records of an individual that were the basis 519
of a permanent exclusion of the individual is subject to section 520
2953.35 of the Revised Code. 521

(H) For purposes of sections 2953.31 to 2953.36 of the 522
Revised Code, DNA records collected in the DNA database and 523
fingerprints filed for record by the superintendent of the 524
bureau of criminal identification and investigation shall not be 525
sealed unless the superintendent receives a certified copy of a 526
final court order establishing that the offender's conviction 527
has been overturned. For purposes of this section, a court order 528
is not "final" if time remains for an appeal or application for 529
discretionary review with respect to the order. 530

(I) The sealing of a record under this section does not 531
affect the assessment of points under section 4510.036 of the 532
Revised Code and does not erase points assessed against a person 533
as a result of the sealed record. 534

Sec. 2953.36. (A) Except as otherwise provided in division 535
(B) of this section, sections 2953.31 to 2953.35 of the Revised 536
Code do not apply to any of the following: 537

(1) Convictions when the offender is subject to a 538
mandatory prison term; 539

(2) Convictions under section 2907.02, 2907.03, ~~2907.04~~, 540
2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former 541
section 2907.12, or Chapter 4506., 4507., 4510., 4511., or 4549. 542
of the Revised Code, or a conviction for a violation of a 543
municipal ordinance that is substantially similar to any section 544
contained in any of those chapters, except as otherwise provided 545

in section 2953.61 of the Revised Code;	546
(3) <u>Convictions under section 2907.04 of the Revised Code, unless a court has issued an order pursuant to section 2950.151 of the Revised Code to terminate the offender's duty to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code;</u>	547
(4) 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;	551
(4)–(5) 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;	557
(5)–(6) 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;	561
(6)–(7) 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;	565
(7)–(8) Convictions of a felony of the first or second degree;	570
(8)–(9) Bail forfeitures in a traffic case as defined in Traffic Rule 2.	572
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(B) Sections 2953.31 to 2953.35 of the Revised Code apply	574
to a conviction listed in this section if, on the date of the	575
conviction, those sections did not apply to the conviction, but	576
after the date of the conviction, the penalty for or	577
classification of the offense was changed so that those sections	578
apply to the conviction.	579
 Section 2. That existing sections 2929.17, 2953.32, and	580
2953.36 of the Revised Code are hereby repealed.	581
 Section 3. Section 2953.36 of the Revised Code is	582
presented in this act as a composite of the section as amended	583
by Sub. H.B. 53, Sub. H.B. 56, and Am. Sub. H.B. 164, all of the	584
131st General Assembly. The General Assembly, applying the	585
principle stated in division (B) of section 1.52 of the Revised	586
Code that amendments are to be harmonized if reasonably capable	587
of simultaneous operation, finds that the composite is the	588
resulting version of the section in effect prior to the	589
effective date of the section as presented in this act.	590