

As Introduced

132nd General Assembly

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H. B. No. 755

Representatives Brinkman, Lanese

**Cosponsors: Representatives Becker, Gavarone, Romanchuk, Greenspan,
LaTourette**

A BILL

To amend section 2953.32 and to enact sections 1
959.30, 959.31, 959.32, 959.33, and 959.34 of 2
the Revised Code to require the Attorney General 3
to establish an animal abuser registry. 4

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

Section 1. That section 2953.32 be amended and sections 5
959.30, 959.31, 959.32, 959.33, and 959.34 of the Revised Code 6
be enacted to read as follows: 7

Sec. 959.30. As used in this section and sections 959.31 8
to 959.34 of the Revised Code: 9

(A) "Animal shelter" has the same meaning as in section 10
4729.01 of the Revised Code. 11

(B) "Animal abuse offense" means a violation of section 12
959.01, 959.02, 959.03, 959.13, 959.131, 959.14, 959.15, 959.16, 13
959.17, 959.18, or 959.20 of the Revised Code. 14

(C) "Companion animal" has the same meaning as in section 15
959.131 of the Revised Code. 16

(D) "Humane society" and "law enforcement officer" have 17
the same meanings as in section 935.01 of the Revised Code. 18

Sec. 959.31. (A) For purposes of the registry established 19
under section 959.32 of the Revised Code, a court that sentences 20
an individual who is convicted of or has pleaded guilty to an 21
animal abuse offense shall submit the following information to 22
the attorney general not later than sixty days after the date 23
the court imposes the sentence: 24

(1) The individual's name, address, gender, and date of 25
birth; 26

(2) Details of the animal abuse offense, including a 27
description of each animal that was a victim of the offense; 28

(3) The penalty imposed for the offense; 29

(4) The individual's photograph; 30

(5) Any additional information required by the attorney 31
general for purposes of the registry. 32

(B) The court shall collect from the individual a ten- 33
dollar fee. The court shall submit the ten-dollar fee along with 34
the information to the attorney general to be credited to the 35
animal abuser registration fund created in section 959.34 of the 36
Revised Code. 37

Sec. 959.32. (A) The attorney general shall establish and 38
maintain a registry of animal abuse offenses. The attorney 39
general shall make the registry available to local and state law 40
enforcement agencies. In addition, the attorney general shall 41
post the registry on the attorney general's web site. 42

(B) The registry shall include all of the information 43
regarding an individual submitted under section 959.31 of the 44

Revised Code.

(C) (1) For a first animal abuse offense, the attorney
general shall maintain the information regarding the individual
on the registry for two years following the date the individual
was sentenced for the offense. After two years, the attorney
general shall remove the information regarding the individual
from the registry unless the individual has been convicted of or
pleaded guilty to another animal abuse offense during that two-
year period.

(2) For a subsequent animal abuse offense after the first
offense, the attorney general shall maintain the information
regarding the individual on the registry for five years
following the date the individual was sentenced for the
subsequent offense. After five years, the attorney general shall
remove the information regarding the individual from the
registry unless the individual has been convicted of or pleaded
guilty to another animal abuse offense during that five-year
period.

(3) The attorney general shall remove the information
regarding an animal abuse offense if the attorney general has
been notified that the record regarding the animal abuse offense
has been sealed pursuant to section 2953.32 of the Revised Code.

Sec. 959.33. An animal shelter shall not place for
adoption a companion animal that is kept or harbored by the
shelter with an individual whose name is listed on the registry
established under section 959.32 of the Revised Code.

Sec. 959.34. There is hereby created in the state treasury
the animal abuser registration fund. The fund shall consist of
money credited to the fund under section 959.31 of the Revised

Code. The attorney general shall use money in the fund to 74
administer sections 959.30 to 959.34 of the Revised Code. 75

Sec. 2953.32. (A) (1) Except as provided in section 2953.61 76
of the Revised Code, an eligible offender may apply to the 77
sentencing court if convicted in this state, or to a court of 78
common pleas if convicted in another state or in a federal 79
court, for the sealing of the record of the case that pertains 80
to the conviction. Application may be made at the expiration of 81
three years after the offender's final discharge if convicted of 82
a felony, or at the expiration of one year after the offender's 83
final discharge if convicted of a misdemeanor. 84

(2) Any person who has been arrested for any misdemeanor 85
offense and who has effected a bail forfeiture for the offense 86
charged may apply to the court in which the misdemeanor criminal 87
case was pending when bail was forfeited for the sealing of the 88
record of the case that pertains to the charge. Except as 89
provided in section 2953.61 of the Revised Code, the application 90
may be filed at any time after the expiration of one year from 91
the date on which the bail forfeiture was entered upon the 92
minutes of the court or the journal, whichever entry occurs 93
first. 94

(B) Upon the filing of an application under this section, 95
the court shall set a date for a hearing and shall notify the 96
prosecutor for the case of the hearing on the application. The 97
prosecutor may object to the granting of the application by 98
filing an objection with the court prior to the date set for the 99
hearing. The prosecutor shall specify in the objection the 100
reasons for believing a denial of the application is justified. 101
The court shall direct its regular probation officer, a state 102
probation officer, or the department of probation of the county 103

in which the applicant resides to make inquiries and written 104
reports as the court requires concerning the applicant. The 105
probation officer or county department of probation that the 106
court directs to make inquiries concerning the applicant shall 107
determine whether or not the applicant was fingerprinted at the 108
time of arrest or under section 109.60 of the Revised Code. If 109
the applicant was so fingerprinted, the probation officer or 110
county department of probation shall include with the written 111
report a record of the applicant's fingerprints. If the 112
applicant was convicted of or pleaded guilty to a violation of 113
division (A) (2) or (B) of section 2919.21 of the Revised Code, 114
the probation officer or county department of probation that the 115
court directed to make inquiries concerning the applicant shall 116
contact the child support enforcement agency enforcing the 117
applicant's obligations under the child support order to inquire 118
about the offender's compliance with the child support order. 119

(C) (1) The court shall do each of the following: 120

(a) Determine whether the applicant is an eligible 121
offender or whether the forfeiture of bail was agreed to by the 122
applicant and the prosecutor in the case. If the applicant 123
applies as an eligible offender pursuant to division (A) (1) of 124
this section and has two or three convictions that result from 125
the same indictment, information, or complaint, from the same 126
plea of guilty, or from the same official proceeding, and result 127
from related criminal acts that were committed within a three- 128
month period but do not result from the same act or from 129
offenses committed at the same time, in making its determination 130
under this division, the court initially shall determine whether 131
it is not in the public interest for the two or three 132
convictions to be counted as one conviction. If the court 133
determines that it is not in the public interest for the two or 134

three convictions to be counted as one conviction, the court 135
shall determine that the applicant is not an eligible offender; 136
if the court does not make that determination, the court shall 137
determine that the offender is an eligible offender. 138

(b) Determine whether criminal proceedings are pending 139
against the applicant; 140

(c) If the applicant is an eligible offender who applies 141
pursuant to division (A)(1) of this section, determine whether 142
the applicant has been rehabilitated to the satisfaction of the 143
court; 144

(d) If the prosecutor has filed an objection in accordance 145
with division (B) of this section, consider the reasons against 146
granting the application specified by the prosecutor in the 147
objection; 148

(e) Weigh the interests of the applicant in having the 149
records pertaining to the applicant's conviction or bail 150
forfeiture sealed against the legitimate needs, if any, of the 151
government to maintain those records. 152

(2) If the court determines, after complying with division 153
(C)(1) of this section, that the applicant is an eligible 154
offender or the subject of a bail forfeiture, that no criminal 155
proceeding is pending against the applicant, that the interests 156
of the applicant in having the records pertaining to the 157
applicant's conviction or bail forfeiture sealed are not 158
outweighed by any legitimate governmental needs to maintain 159
those records, and that the rehabilitation of an applicant who 160
is an eligible offender applying pursuant to division (A)(1) of 161
this section has been attained to the satisfaction of the court, 162
the court, except as provided in division (C)(4), (G), (H), or 163

(I) of this section, shall order all official records of the 164
case that pertain to the conviction or bail forfeiture sealed 165
and, except as provided in division (F) of this section, all 166
index references to the case that pertain to the conviction or 167
bail forfeiture deleted and, in the case of bail forfeitures, 168
shall dismiss the charges in the case. The proceedings in the 169
case that pertain to the conviction or bail forfeiture shall be 170
considered not to have occurred and the conviction or bail 171
forfeiture of the person who is the subject of the proceedings 172
shall be sealed, except that upon conviction of a subsequent 173
offense, the sealed record of prior conviction or bail 174
forfeiture may be considered by the court in determining the 175
sentence or other appropriate disposition, including the relief 176
provided for in sections 2953.31 to 2953.33 of the Revised Code. 177

(3) An applicant may request the sealing of the records of 178
more than one case in a single application under this section. 179
Upon the filing of an application under this section, the 180
applicant, unless indigent, shall pay a fee of fifty dollars, 181
regardless of the number of records the application requests to 182
have sealed. The court shall pay thirty dollars of the fee into 183
the state treasury. It shall pay twenty dollars of the fee into 184
the county general revenue fund if the sealed conviction or bail 185
forfeiture was pursuant to a state statute, or into the general 186
revenue fund of the municipal corporation involved if the sealed 187
conviction or bail forfeiture was pursuant to a municipal 188
ordinance. 189

(4) If the court orders the official records pertaining to 190
the case sealed, the court shall do one of the following: 191

(a) If the applicant was fingerprinted at the time of 192
arrest or under section 109.60 of the Revised Code and the 193

record of the applicant's fingerprints was provided to the court 194
under division (B) of this section, forward a copy of the 195
sealing order and the record of the applicant's fingerprints to 196
the bureau of criminal identification and investigation. 197

(b) If the applicant was not fingerprinted at the time of 198
arrest or under section 109.60 of the Revised Code, or the 199
record of the applicant's fingerprints was not provided to the 200
court under division (B) of this section, but fingerprinting was 201
required for the offense, order the applicant to appear before a 202
sheriff to have the applicant's fingerprints taken according to 203
the fingerprint system of identification on the forms furnished 204
by the superintendent of the bureau of criminal identification 205
and investigation. The sheriff shall forward the applicant's 206
fingerprints to the court. The court shall forward the 207
applicant's fingerprints and a copy of the sealing order to the 208
bureau of criminal identification and investigation. 209

Failure of the court to order fingerprints at the time of 210
sealing does not constitute a reversible error. 211

(5) At the time an applicant files an application under 212
division (A) of this section, the following shall apply: 213

(a) The clerk of court shall notify the applicant in 214
writing that the court will send notice of any order under 215
division (C) (2) of this section to the qualified third party 216
selected by the attorney general under section 109.38 of the 217
Revised Code and shall inform the applicant of the procedures 218
under section 109.381 of the Revised Code. 219

(b) The applicant shall then notify the clerk if the 220
applicant wishes to opt out of receiving the benefits of having 221
the court send notice of its order under division (C) (2) of this 222

section to the qualified third party and having the procedures 223
under section 109.381 of the Revised Code apply to the records 224
that are subject to the order. 225

(c) If the applicant does not opt out under division (C) 226
(5) (b) of this section, the applicant shall pay to the clerk of 227
court the fee provided in the contract between the attorney 228
general and the qualified third party under division (D) (2) (b) 229
of section 109.38 of the Revised Code. 230

(6) (a) Upon the issuance of an order under division (C) (2) 231
of this section, and unless the applicant opts out under 232
division (C) (5) (b) of this section, the clerk shall remit the 233
fee paid by the applicant under division (C) (5) (c) of this 234
section to the qualified third party. The court shall send 235
notice of the order under division (C) (2) of this section to the 236
qualified third party. 237

(b) If the applicant's application under division (A) of 238
this section is denied for any reason or if the applicant 239
informs the clerk of court in writing, before the issuance of 240
the order under division (C) (2) of this section, that the 241
applicant wishes to opt out of having the court send notice of 242
its order under division (C) (2) of this section to the qualified 243
third party, the clerk shall remit the fee paid by the applicant 244
under division (C) (5) (c) of this section that is intended for 245
the qualified third party back to the applicant. 246

(D) Inspection of the sealed records included in the order 247
may be made only by the following persons or for the following 248
purposes: 249

(1) By a law enforcement officer or prosecutor, or the 250
assistants of either, to determine whether the nature and 251

character of the offense with which a person is to be charged 252
would be affected by virtue of the person's previously having 253
been convicted of a crime; 254

(2) By the parole or probation officer of the person who 255
is the subject of the records, for the exclusive use of the 256
officer in supervising the person while on parole or under a 257
community control sanction or a post-release control sanction, 258
and in making inquiries and written reports as requested by the 259
court or adult parole authority; 260

(3) Upon application by the person who is the subject of 261
the records, by the persons named in the application; 262

(4) By a law enforcement officer who was involved in the 263
case, for use in the officer's defense of a civil action arising 264
out of the officer's involvement in that case; 265

(5) By a prosecuting attorney or the prosecuting 266
attorney's assistants, to determine a defendant's eligibility to 267
enter a pre-trial diversion program established pursuant to 268
section 2935.36 of the Revised Code; 269

(6) By any law enforcement agency or any authorized 270
employee of a law enforcement agency or by the department of 271
rehabilitation and correction or department of youth services as 272
part of a background investigation of a person who applies for 273
employment with the agency or with the department; 274

(7) By any law enforcement agency or any authorized 275
employee of a law enforcement agency, for the purposes set forth 276
in, and in the manner provided in, section 2953.321 of the 277
Revised Code; 278

(8) By the bureau of criminal identification and 279
investigation or any authorized employee of the bureau for the 280

purpose of providing information to a board or person pursuant 281
to division (F) or (G) of section 109.57 of the Revised Code; 282

(9) By the bureau of criminal identification and 283
investigation or any authorized employee of the bureau for the 284
purpose of performing a criminal history records check on a 285
person to whom a certificate as prescribed in section 109.77 of 286
the Revised Code is to be awarded; 287

(10) By the bureau of criminal identification and 288
investigation or any authorized employee of the bureau for the 289
purpose of conducting a criminal records check of an individual 290
pursuant to division (B) of section 109.572 of the Revised Code 291
that was requested pursuant to any of the sections identified in 292
division (B)(1) of that section; 293

(11) By the bureau of criminal identification and 294
investigation, an authorized employee of the bureau, a sheriff, 295
or an authorized employee of a sheriff in connection with a 296
criminal records check described in section 311.41 of the 297
Revised Code; 298

(12) By the attorney general or an authorized employee of 299
the attorney general or a court for purposes of determining a 300
person's classification pursuant to Chapter 2950. of the Revised 301
Code; 302

(13) By a court, the registrar of motor vehicles, a 303
prosecuting attorney or the prosecuting attorney's assistants, 304
or a law enforcement officer for the purpose of assessing points 305
against a person under section 4510.036 of the Revised Code or 306
for taking action with regard to points assessed. 307

When the nature and character of the offense with which a 308
person is to be charged would be affected by the information, it 309

may be used for the purpose of charging the person with an 310
offense. 311

(E) In any criminal proceeding, proof of any otherwise 312
admissible prior conviction may be introduced and proved, 313
notwithstanding the fact that for any such prior conviction an 314
order of sealing previously was issued pursuant to sections 315
2953.31 to 2953.36 of the Revised Code. 316

(F) The person or governmental agency, office, or 317
department that maintains sealed records pertaining to 318
convictions or bail forfeitures that have been sealed pursuant 319
to this section may maintain a manual or computerized index to 320
the sealed records. The index shall contain only the name of, 321
and alphanumeric identifiers that relate to, the persons who are 322
the subject of the sealed records, the word "sealed," and the 323
name of the person, agency, office, or department that has 324
custody of the sealed records, and shall not contain the name of 325
the crime committed. The index shall be made available by the 326
person who has custody of the sealed records only for the 327
purposes set forth in divisions (C), (D), and (E) of this 328
section. 329

(G) Notwithstanding any provision of this section or 330
section 2953.33 of the Revised Code that requires otherwise, a 331
board of education of a city, local, exempted village, or joint 332
vocational school district that maintains records of an 333
individual who has been permanently excluded under sections 334
3301.121 and 3313.662 of the Revised Code is permitted to 335
maintain records regarding a conviction that was used as the 336
basis for the individual's permanent exclusion, regardless of a 337
court order to seal the record. An order issued under this 338
section to seal the record of a conviction does not revoke the 339

adjudication order of the superintendent of public instruction 340
to permanently exclude the individual who is the subject of the 341
sealing order. An order issued under this section to seal the 342
record of a conviction of an individual may be presented to a 343
district superintendent as evidence to support the contention 344
that the superintendent should recommend that the permanent 345
exclusion of the individual who is the subject of the sealing 346
order be revoked. Except as otherwise authorized by this 347
division and sections 3301.121 and 3313.662 of the Revised Code, 348
any school employee in possession of or having access to the 349
sealed conviction records of an individual that were the basis 350
of a permanent exclusion of the individual is subject to section 351
2953.35 of the Revised Code. 352

(H) For purposes of sections 2953.31 to 2953.36 of the 353
Revised Code, DNA records collected in the DNA database and 354
fingerprints filed for record by the superintendent of the 355
bureau of criminal identification and investigation shall not be 356
sealed unless the superintendent receives a certified copy of a 357
final court order establishing that the offender's conviction 358
has been overturned. For purposes of this section, a court order 359
is not "final" if time remains for an appeal or application for 360
discretionary review with respect to the order. 361

(I) The sealing of a record under this section does not 362
affect the assessment of points under section 4510.036 of the 363
Revised Code and does not erase points assessed against a person 364
as a result of the sealed record. 365

(J) For purposes of section 959.32 of the Revised Code, if 366
a record is sealed that pertains to a conviction of section 367
959.01, 959.02, 959.03, 959.13, 959.131, 959.14, 959.15, 959.16, 368
959.17, 959.18, or 959.20 of the Revised Code, the clerk of 369

court shall so notify the attorney general. 370

Section 2. That existing section 2953.32 of the Revised 371
Code is hereby repealed. 372