

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
to enact section 2950.151 of the Revised Code to
create a procedure for certain offenders
convicted of unlawful sexual conduct with a
minor to petition a court for reclassification
or removal from duties under the Sex Offender
Registration and Notification Law and to permit
record sealing in those cases.

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

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

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

that, during the period of the nonresidential sanction, the 19
offender shall abide by the law and shall not leave the state 20
without the permission of the court or the offender's probation 21
officer. 22

The court imposing a sentence for a fourth degree felony 23
OVI offense under division (G) (1) or (2) of section 2929.13 of 24
the Revised Code or for a third degree felony OVI offense under 25
division (G) (2) of that section may impose upon the offender, in 26
addition to the mandatory term of local incarceration or 27
mandatory prison term imposed under the applicable division, a 28
nonresidential sanction or combination of nonresidential 29
sanctions under this section, and the offender shall serve or 30
satisfy the sanction or combination of sanctions after the 31
offender has served the mandatory term of local incarceration or 32
mandatory prison term required for the offense. The court shall 33
not impose a term in a drug treatment program as described in 34
division (D) of this section until after considering an 35
assessment by a properly credentialed treatment professional, if 36
available. Nonresidential sanctions include, but are not limited 37
to, the following: 38

(A) A term of day reporting; 39

(B) A term of house arrest with electronic monitoring or 40
continuous alcohol monitoring or both electronic monitoring and 41
continuous alcohol monitoring, a term of electronic monitoring 42
or continuous alcohol monitoring without house arrest, or a term 43
of house arrest without electronic monitoring or continuous 44
alcohol monitoring; 45

(C) A term of community service of up to five hundred 46
hours pursuant to division (B) of section 2951.02 of the Revised 47
Code or, if the court determines that the offender is 48

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 76
in any circumstance not specified in this division. 77

(O) If the offense is a violation of section 2907.04 of 78
the Revised Code and the offender was under twenty-one years of 79
age at the time of committing the offense, a requirement that 80
the offender participate in a sex offender treatment program 81
certified by the department of rehabilitation and correction 82
pursuant to section 2950.16 of the Revised Code. 83

Sec. 2950.151. (A) As used in this section, "eligible 84
offender" means either of the following: 85

(1) An offender who was convicted of or pleaded guilty to 86
a violation of section 2907.04 of the Revised Code to whom all 87
of the following apply: 88

(a) The sentencing court found the offender to be at low 89
risk of reoffending based on a presentence investigation report 90
that included a risk assessment, assessed by the single 91
validated risk assessment tool selected by the department of 92
rehabilitation and correction under section 5120.114 of the 93
Revised Code; 94

(b) The sentencing court imposed a community control 95
sanction or combination of community control sanctions instead 96
of a prison term and the offender has fulfilled every condition 97
of every community control sanction imposed by the sentencing 98
court; 99

(c) The offender was under twenty-one years of age at the 100
time of committing the offense; 101

(d) The offender has not otherwise been convicted of or 102
pleaded guilty to a violation of section 2907.02, 2907.03, 103
former section 2907.12 of the Revised Code, or another violation 104

of section 2907.04 of the Revised Code; 105

(e) The minor with whom the offender engaged in sexual 106
conduct was at least fourteen years of age at the time of the 107
offense and consented to the sexual conduct, with no evidence of 108
coercion, force, or threat of force; 109

(f) The offender was not in a position of authority, 110
including a position of a type described in divisions (A) (5) to 111
(13) of section 2907.03 of the Revised Code, over the minor with 112
whom the offender engaged in sexual conduct. 113

(2) An offender who was convicted of or pleaded guilty to 114
a violation of any former law of this state, any existing or 115
former municipal ordinance or law of another state or the United 116
States, any existing or former law applicable in a military 117
court or in an Indian trial court, or any existing or former law 118
of any nation other than the United States that is or was 119
substantially equivalent to a violation of section 2907.04 of 120
the Revised Code and to whom all of the factors described in 121
divisions (A) (1) (a) to (f) of this section apply. For purposes 122
of this division: 123

(a) The reference in division (A) (1) (b) of this section to 124
a community control sanction shall be construed as including non 125
prison sanctions under the law of the jurisdiction in which the 126
offender was convicted of or pleaded guilty to the violation 127
that is or was substantially equivalent to a violation of 128
section 2907.04 of the Revised Code; 129

(b) The reference in division (A) (1) (d) of this section to 130
the violations specified in that division shall be construed as 131
including substantially equivalent violations under the law of 132
the jurisdiction in which the offender was convicted of or 133

pleaded guilty to the violation that is or was substantially 134
equivalent to a violation of section 2907.04 of the Revised 135
Code. 136

(B) Upon completion of all community control sanctions 137
imposed by the sentencing court for the violation of section 138
2907.04 of the Revised Code or the violation of the 139
substantially equivalent law or ordinance, whichever is 140
applicable, an eligible offender may petition the appropriate 141
court specified in division (C) of this section to review the 142
effectiveness of the offender's participation in community 143
control sanctions and to determine whether to terminate the 144
offender's duty to comply with sections 2950.04, 2950.05, and 145
2950.06 of the Revised Code, reclassify the offender as a tier I 146
sex offender/child-victim offender, or continue the offender's 147
current classification. 148

(C) Except as otherwise provided in this division, the 149
eligible offender shall file the petition described in division 150
(B) of this section in the court in which the eligible offender 151
was convicted of or pleaded guilty to the offense. If the 152
eligible offender was convicted of or pleaded guilty to the 153
offense in a jurisdiction other than this state, the eligible 154
offender shall file the petition in whichever of the following 155
courts is applicable: 156

(1) If the eligible offender is a resident of this state, 157
in the court of common pleas of the county in which the offender 158
resides; 159

(2) If the eligible offender is not a resident of this 160
state, in the court of common pleas of the county in which the 161
offender has registered pursuant to section 2950.04 of the 162
Revised Code. If the offender has registered addresses of that 163

nature in more than one county, the offender may file a petition 164
in the court of only one of those counties. 165

(D) An eligible offender who files a petition under 166
division (B) of this section shall include all of the following 167
with the petition: 168

(1) A certified copy of the judgment entry and any other 169
documentation of the sentence given for the offense for which 170
the eligible offender was convicted or pleaded guilty; 171

(2) Documentation of the date of discharge from probation 172
supervision or other supervision, if applicable; 173

(3) Evidence that the eligible offender has completed a 174
sex offender treatment program certified by the department of 175
rehabilitation and correction pursuant to section 2950.16 of the 176
Revised Code; 177

(4) Any other evidence necessary to show that the offender 178
meets the qualifications listed in division (A) of this section; 179

(5) Evidence that the eligible offender has been 180
rehabilitated to a satisfactory degree by successful completion 181
of community control sanctions. 182

(E) An eligible offender may obtain, at the offender's 183
expense, a risk assessment or professional opinion, recommending 184
relief under this section, from a licensed clinical 185
psychologist, social worker, or other professional certified in 186
sex offender treatment. The professional opinion or risk 187
assessment may be submitted with the petition as additional 188
evidence of rehabilitation. 189

(F) Upon the filing of a petition under division (B) of 190
this section, the court shall schedule a hearing to review the 191

eligible offender's petition and all evidence of rehabilitation 192
accompanying the petition. The court shall notify the offender 193
and, if the offender was convicted of or pleaded guilty to the 194
offense in this state, the prosecutor who prosecuted the 195
offense, of the date, time, and place of the hearing. After the 196
hearing, the court shall enter one of the following orders: 197

(1) An order to terminate the offender's duty to comply 198
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 199

(2) If the offender is classified a tier II sex 200
offender/child-victim offender, an order to reclassify the 201
offender from a tier II sex offender/child-victim offender 202
classification to a tier I sex offender/child-victim offender 203
classification; 204

(3) If the offender is classified a tier I sex 205
offender/child-victim offender or a tier II sex offender/child- 206
victim offender, an order to continue the offender's 207
classification as a tier I sex offender/child-victim offender or 208
tier II sex offender/child-victim offender, whichever is 209
applicable, required to comply with sections 2950.04, 2950.05, 210
and 2950.06 of the Revised Code. 211

(G) After issuing an order pursuant to division (F) of 212
this section, the court shall provide a copy of the order to the 213
eligible offender and the bureau of criminal identification and 214
investigation. The bureau, upon receipt of the copy, shall 215
promptly notify the sheriff with whom the offender most recently 216
registered under section 2950.04 or 2950.05 of the Revised Code 217
of the court's order. 218

(H) (1) An order issued under division (F) (2) or (3) of 219
this section shall remain in effect for the duration of the 220

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
pleaded 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

(a) If the previous order continued the offender's 252
classification as a tier II sex offender/child-victim offender, 253
reclassify the offender as a tier I sex offender/child-victim 254
offender or terminate the offender's duty to comply with 255
sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 256

(b) If the previous order reclassified the offender as a 257
tier I sex offender/child-victim offender or continued the 258
offender's classification as a tier I sex offender/child-victim 259
offender, terminate the offender's duty to comply with sections 260
2950.04, 2950.05, and 2950.06 of the Revised Code. 261

Sec. 2953.32. (A) (1) Except as provided in section 2953.61 262
of the Revised Code, an eligible offender may apply to the 263
sentencing court if convicted in this state, or to a court of 264
common pleas if convicted in another state or in a federal 265
court, for the sealing of the record of the case that pertains 266
to the conviction. Application may be made at one of the 267
following times: 268

(a) At the expiration of three years after the offender's 269
final discharge if convicted of one felony; 270

(b) When division (A) (1) (a) of section 2953.31 of the 271
Revised Code applies to the offender, at the expiration of four 272
years after the offender's final discharge if convicted of two 273
felonies, or at the expiration of five years after final 274
discharge if convicted of three, four, or five felonies; 275

(c) At the expiration of one year after the offender's 276
final discharge if convicted of a misdemeanor. 277

(2) Any person who has been arrested for any misdemeanor 278
offense and who has effected a bail forfeiture for the offense 279
charged may apply to the court in which the misdemeanor criminal 280

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 342
records pertaining to the applicant's conviction or bail 343
forfeiture sealed against the legitimate needs, if any, of the 344
government to maintain those records; 345

(f) If the applicant is an eligible offender of the type 346
described in division (A) (3) of section 2953.36 of the Revised 347
Code, determine whether the offender has been rehabilitated to a 348
satisfactory degree. In making the determination, the court may 349
consider all of the following: 350

(i) The age of the offender; 351

(ii) The facts and circumstances of the offense; 352

(iii) The cessation or continuation of criminal behavior; 353

(iv) The education and employment of the offender; 354

(v) Any other circumstances that may relate to the 355
offender's rehabilitation. 356

(2) If the court determines, after complying with division 357
(C) (1) of this section, that the applicant is an eligible 358
offender or the subject of a bail forfeiture, that no criminal 359
proceeding is pending against the applicant, that the interests 360
of the applicant in having the records pertaining to the 361
applicant's conviction or bail forfeiture sealed are not 362
outweighed by any legitimate governmental needs to maintain 363
those records, and that the rehabilitation of an applicant who 364
is an eligible offender applying pursuant to division (A) (1) of 365
this section has been attained to the satisfaction of the court, 366
the court, except as provided in division (C) (4), (G), (H), or 367
(I) of this section, shall order all official records of the 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 428
court or adult parole authority; 429

(3) Upon application by the person who is the subject of 430
the records, by the persons named in the application; 431

(4) By a law enforcement officer who was involved in the 432
case, for use in the officer's defense of a civil action arising 433
out of the officer's involvement in that case; 434

(5) By a prosecuting attorney or the prosecuting 435
attorney's assistants, to determine a defendant's eligibility to 436
enter a pre-trial diversion program established pursuant to 437
section 2935.36 of the Revised Code; 438

(6) By any law enforcement agency or any authorized 439
employee of a law enforcement agency or by the department of 440
rehabilitation and correction or department of youth services as 441
part of a background investigation of a person who applies for 442
employment with the agency or with the department; 443

(7) By any law enforcement agency or any authorized 444
employee of a law enforcement agency, for the purposes set forth 445
in, and in the manner provided in, section 2953.321 of the 446
Revised Code; 447

(8) By the bureau of criminal identification and 448
investigation or any authorized employee of the bureau for the 449
purpose of providing information to a board or person pursuant 450
to division (F) or (G) of section 109.57 of the Revised Code; 451

(9) By the bureau of criminal identification and 452
investigation or any authorized employee of the bureau for the 453
purpose of performing a criminal history records check on a 454
person to whom a certificate as prescribed in section 109.77 of 455
the Revised Code is to be awarded; 456

(10) By the bureau of criminal identification and 457
investigation or any authorized employee of the bureau for the 458
purpose of conducting a criminal records check of an individual 459
pursuant to division (B) of section 109.572 of the Revised Code 460
that was requested pursuant to any of the sections identified in 461
division (B)(1) of that section; 462

(11) By the bureau of criminal identification and 463
investigation, an authorized employee of the bureau, a sheriff, 464
or an authorized employee of a sheriff in connection with a 465
criminal records check described in section 311.41 of the 466
Revised Code; 467

(12) By the attorney general or an authorized employee of 468
the attorney general or a court for purposes of determining a 469
person's classification pursuant to Chapter 2950. of the Revised 470
Code; 471

(13) By a court, the registrar of motor vehicles, a 472
prosecuting attorney or the prosecuting attorney's assistants, 473
or a law enforcement officer for the purpose of assessing points 474
against a person under section 4510.036 of the Revised Code or 475
for taking action with regard to points assessed. 476

When the nature and character of the offense with which a 477
person is to be charged would be affected by the information, it 478
may be used for the purpose of charging the person with an 479
offense. 480

(E) In any criminal proceeding, proof of any otherwise 481
admissible prior conviction may be introduced and proved, 482
notwithstanding the fact that for any such prior conviction an 483
order of sealing previously was issued pursuant to sections 484
2953.31 to 2953.36 of the Revised Code. 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) Convictions under section 2907.04 of the Revised Code, 547
unless a court has issued an order pursuant to section 2950.151 548
of the Revised Code to terminate the offender's duty to comply 549
with sections 2950.04, 2950.05, and 2950.06 of the Revised Code; 550

(4) Convictions of an offense of violence when the offense 551
is a misdemeanor of the first degree or a felony and when the 552
offense is not a violation of section 2917.03 of the Revised 553
Code and is not a violation of section 2903.13, 2917.01, or 554
2917.31 of the Revised Code that is a misdemeanor of the first 555
degree; 556

~~(4)~~ (5) Convictions on or after October 10, 2007, under 557
section 2907.07 of the Revised Code or a conviction on or after 558
October 10, 2007, for a violation of a municipal ordinance that 559
is substantially similar to that section; 560

~~(5)~~ (6) Convictions on or after October 10, 2007, under 561
section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 562
2907.311, 2907.32, or 2907.33 of the Revised Code when the 563
victim of the offense was under eighteen years of age; 564

~~(6)~~ (7) Convictions of an offense in circumstances in 565
which the victim of the offense was less than sixteen years of 566
age when the offense is a misdemeanor of the first degree or a 567
felony, except for convictions under section 2919.21 of the 568
Revised Code; 569

~~(7)~~ (8) Convictions of a felony of the first or second 570
degree; 571

~~(8)~~ (9) Bail forfeitures in a traffic case as defined in 572
Traffic Rule 2. 573

(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