

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 427**

**Representative Antani**

**Cosponsors: Representatives Manning, Becker, Sweeney, Fedor, Sheehy**

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**A BILL**

To amend sections 2953.32, 2953.37, 2953.38, and 1  
2953.53 and to enact sections 109.38 and 109.381 2  
of the Revised Code to require the Attorney 3  
General to select a qualified third party to 4  
receive court notices of sealed or expunged 5  
criminal records and to require identified data 6  
repositories and web sites that receive those 7  
notices from the qualified third party to remove 8  
those records from their databases. 9

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

**Section 1.** That sections 2953.32, 2953.37, 2953.38, and 10  
2953.53 be amended and sections 109.38 and 109.381 of the 11  
Revised Code be enacted to read as follows: 12

**Sec. 109.38.** (A) As used in this section and section 13  
109.381 of the Revised Code: 14

(1) "Consumer reporting agency" has the same meaning as in 15  
section 1681a(f) of the Fair Credit Reporting Act. 16

(2) "Conviction of crime" means a conviction of, or a plea 17  
of guilty to, an offense. 18

(3) "Fair Credit Reporting Act" means 15 U.S.C. 1681 et 19  
seq., as amended. 20

(4) "Identified data repository" means either of the 21  
following: 22

(a) A person or entity that is a consumer reporting agency 23  
and is known to a qualified third party as having a database 24  
that includes publicly available records of convictions of crime 25  
and from which consumer reports are prepared pursuant to the 26  
Fair Credit Reporting Act; 27

(b) Any person or entity, other than a consumer reporting 28  
agency, that is known to a qualified third party as having a 29  
database that includes publicly available records of convictions 30  
of crime and that registers with a qualified third party for the 31  
purpose of receiving notices of court orders of sealed or 32  
expunged records under section 2953.32, 2953.37, 2953.38, or 33  
2953.53 of the Revised Code and agreeing to remove those records 34  
and any references to and information from those records from 35  
the person's or entity's database. 36

(5) "Qualified third party" means a private entity that is 37  
selected by the attorney general pursuant to this section. 38

(B) The attorney general shall select a private entity as 39  
a qualified third party for the purpose of receiving notices of 40  
court orders of sealed or expunged records under section 41  
2953.32, 2953.37, 2953.38, or 2953.53 of the Revised Code. A 42  
qualified third party selected by the attorney general shall 43  
have the following qualifications: 44

(1) The entity has specific knowledge and expertise 45  
regarding the operation of the Fair Credit Reporting Act. 46

(2) The entity has prior experience in interacting and 47

cooperating with consumer reporting agencies regarding their 48  
obligations for accuracy under section 1681e(b) of the Fair 49  
Credit Reporting Act and reinvestigations of disputed 50  
information under section 1681i of the Fair Credit Reporting Act 51  
to ensure the accomplishment of the goal of updating the 52  
records, files, or databases of the consumer reporting agencies 53  
that contain references to, or information on, convictions of 54  
crime. 55

(3) The entity has relationships with data aggregators, 56  
public record vendors, and other companies that collect and 57  
compile from various sources data or information in records of 58  
convictions of crime to ensure their cooperation in maintaining 59  
the legitimacy, accuracy, completeness, and security of that 60  
data or information. 61

(4) The entity has at least two years' experience in 62  
processing and sending notices of sealed or expunged records of 63  
convictions of crime to identified data repositories. 64

(5) The entity is not an identified data repository or an 65  
entity that is owned or controlled by an identified data 66  
repository. 67

(6) The entity meets all security clearances and security 68  
requirements imposed by the attorney general to ensure that the 69  
entity does not misuse any information received from the courts 70  
under section 109.381 of the Revised Code and that other persons 71  
do not have unauthorized access to that information. 72

(C)(1) The qualified third party selected by the attorney 73  
general under this section shall serve as such qualified third 74  
party for a minimum of three years. The attorney general may 75  
either select another qualified third party at the end of any 76

three-year period or retain the existing qualified third party 77  
for another three-year period. 78

(2) Upon the selection or retention of a qualified third 79  
party under division (C)(1) of this section, the attorney 80  
general and the qualified third party shall enter into a 81  
contract that shall include all of the following: 82

(a) The duties of the qualified third party under section 83  
109.381 of the Revised Code; 84

(b) The amount of the fee to be paid by an applicant for a 85  
court order to seal or expunge records under section 2953.32, 86  
2953.37, 2953.38, or 2953.53 of the Revised Code who wishes to 87  
have the court send notice of the order to the qualified third 88  
party and to have the procedures under section 109.381 of the 89  
Revised Code apply to the records; 90

(c) Any other provisions as determined by the attorney 91  
general in the rules promulgated under division (E) of this 92  
section. 93

(3) The attorney general shall determine the proportion of 94  
the fee described in division (C)(2)(b) of this section that the 95  
qualified third party shall retain for its services under 96  
section 109.381 of the Revised Code and each proportion of the 97  
fee that the qualified third party shall remit to the clerk of 98  
the court that sent the notice of the order under section 99  
2953.32, 2953.37, 2953.38, or 2953.53 of the Revised Code, the 100  
attorney general, and the state treasury. 101

(D) The attorney general shall have oversight of the 102  
functions and activities of the qualified third party under 103  
section 109.381 of the Revised Code. 104

(E) The attorney general shall promulgate rules pursuant 105

to Chapter 119. of the Revised Code to implement this section 106  
and section 109.381 of the Revised Code. 107

**Sec. 109.381.** (A) Upon receiving a notice of a court order 108  
under section 2953.32, 2953.37, 2953.38, or 2953.53 of the 109  
Revised Code sealing or expunging the records subject to the 110  
order, the qualified third party shall send a notice of that 111  
order to all of the following: 112

(1) Identified data repositories; 113

(2) Web sites and publications that the qualified third 114  
party knows utilize, display, publish, or disseminate any 115  
information from those records. 116

(B) Immediately upon receipt of the notice from the 117  
qualified third party under division (A) of this section, the 118  
following shall apply: 119

(1) An identified data repository that received the notice 120  
shall remove from its database all of the records that are 121  
subject to the court order sealing or expunging the records and 122  
all references to, and information from, those records. 123

(2) The web sites and publications that received the 124  
notice shall remove from the web site or publication all of the 125  
records that are subject to the court order sealing or expunging 126  
the records and all references to, and information from, those 127  
records. 128

**Sec. 2953.32.** (A) (1) Except as provided in section 2953.61 129  
of the Revised Code, an eligible offender may apply to the 130  
sentencing court if convicted in this state, or to a court of 131  
common pleas if convicted in another state or in a federal 132  
court, for the sealing of the record of the case that pertains 133  
to the conviction. Application may be made at the expiration of 134

three years after the offender's final discharge if convicted of 135  
a felony, or at the expiration of one year after the offender's 136  
final discharge if convicted of a misdemeanor. 137

(2) Any person who has been arrested for any misdemeanor 138  
offense and who has effected a bail forfeiture for the offense 139  
charged may apply to the court in which the misdemeanor criminal 140  
case was pending when bail was forfeited for the sealing of the 141  
record of the case that pertains to the charge. Except as 142  
provided in section 2953.61 of the Revised Code, the application 143  
may be filed at any time after the expiration of one year from 144  
the date on which the bail forfeiture was entered upon the 145  
minutes of the court or the journal, whichever entry occurs 146  
first. 147

(B) Upon the filing of an application under this section, 148  
the court shall set a date for a hearing and shall notify the 149  
prosecutor for the case of the hearing on the application. The 150  
prosecutor may object to the granting of the application by 151  
filing an objection with the court prior to the date set for the 152  
hearing. The prosecutor shall specify in the objection the 153  
reasons for believing a denial of the application is justified. 154  
The court shall direct its regular probation officer, a state 155  
probation officer, or the department of probation of the county 156  
in which the applicant resides to make inquiries and written 157  
reports as the court requires concerning the applicant. If the 158  
applicant was convicted of or pleaded guilty to a violation of 159  
division (A)(2) or (B) of section 2919.21 of the Revised Code, 160  
the probation officer or county department of probation that the 161  
court directed to make inquiries concerning the applicant shall 162  
contact the child support enforcement agency enforcing the 163  
applicant's obligations under the child support order to inquire 164  
about the offender's compliance with the child support order. 165

(C) (1) The court shall do each of the following:	166
(a) Determine whether the applicant is an eligible offender or whether the forfeiture of bail was agreed to by the applicant and the prosecutor in the case. If the applicant applies as an eligible offender pursuant to division (A) (1) of this section and has two or three convictions that result from the same indictment, information, or complaint, from the same plea of guilty, or from the same official proceeding, and result from related criminal acts that were committed within a three-month period but do not result from the same act or from offenses committed at the same time, in making its determination under this division, the court initially shall determine whether it is not in the public interest for the two or three convictions to be counted as one conviction. If the court determines that it is not in the public interest for the two or three convictions to be counted as one conviction, the court shall determine that the applicant is not an eligible offender; if the court does not make that determination, the court shall determine that the offender is an eligible offender.	167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184
(b) Determine whether criminal proceedings are pending against the applicant;	185 186
(c) If the applicant is an eligible offender who applies pursuant to division (A) (1) of this section, determine whether the applicant has been rehabilitated to the satisfaction of the court;	187 188 189 190
(d) If the prosecutor has filed an objection in accordance with division (B) of this section, consider the reasons against granting the application specified by the prosecutor in the objection;	191 192 193 194

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

(2) If the court determines, after complying with division (C) (1) of this section, that the applicant is an eligible offender or the subject of a bail forfeiture, that no criminal proceeding is pending against the applicant, ~~and~~ 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 divisions (G), (H), or (I) of this section, shall order all official records of the case that pertain to the conviction or bail forfeiture sealed and, except as provided in division (F) of this section, all index references to the case that pertain to the conviction or bail forfeiture deleted and, in the case of bail forfeitures, shall dismiss the charges in the case. The proceedings in the case that pertain to the conviction or bail forfeiture shall be considered not to have occurred and the conviction or bail forfeiture of the person who is the subject of the proceedings shall be sealed, except that upon conviction of a subsequent offense, the sealed record of prior conviction or bail forfeiture may be considered by the court in determining the sentence or other appropriate disposition, including the relief provided for in sections 2953.31 to 2953.33 of the Revised Code.

(3) An applicant may request the sealing of the records of more than one case in a single application under this section.



Upon the filing of an application under this section, the 226  
applicant, unless indigent, shall pay a fee of fifty dollars, 227  
regardless of the number of records the application requests to 228  
have sealed. The court shall pay thirty dollars of the fee into 229  
the state treasury. It shall pay twenty dollars of the fee into 230  
the county general revenue fund if the sealed conviction or bail 231  
forfeiture was pursuant to a state statute, or into the general 232  
revenue fund of the municipal corporation involved if the sealed 233  
conviction or bail forfeiture was pursuant to a municipal 234  
ordinance. 235

(4) At the time an applicant files an application under 236  
division (A) of this section, the following shall apply: 237

(a) The clerk of court shall notify the applicant in 238  
writing that the court will send notice of any order under 239  
division (C) (2) of this section to the qualified third party 240  
selected by the attorney general under section 109.38 of the 241  
Revised Code and shall inform the applicant of the procedures 242  
under section 109.381 of the Revised Code. 243

(b) The applicant shall then notify the clerk if the 244  
applicant wishes to opt out of receiving the benefits of having 245  
the court send notice of its order under division (C) (2) of this 246  
section to the qualified third party and having the procedures 247  
under section 109.381 of the Revised Code apply to the records 248  
that are subject to the order. 249

(c) If the applicant does not opt out under division (C) 250  
(4) (b) of this section, the applicant shall pay to the clerk of 251  
court the fee provided in the contract between the attorney 252  
general and the qualified third party under division (C) (2) (b) 253  
of section 109.38 of the Revised Code. 254

(5) (a) Upon the issuance of an order under division (C) (2) 255  
of this section, and unless the applicant opts out under 256  
division (C) (4) (b) of this section, the clerk shall remit the 257  
fee paid by the applicant under division (C) (4) (c) of this 258  
section to the qualified third party. The court shall send 259  
notice of the order under division (C) (2) of this section to the 260  
qualified third party. 261

(b) If the applicant's application under division (A) of 262  
this section is denied for any reason or if the applicant 263  
informs the clerk of court in writing, before the issuance of 264  
the order under division (C) (2) of this section, that the 265  
applicant wishes to opt out of having the court send notice of 266  
its order under division (C) (2) of this section to the qualified 267  
third party, the clerk shall remit the fee paid by the applicant 268  
under division (C) (4) (c) of this section that is intended for 269  
the qualified third party back to the applicant. 270

(D) Inspection of the sealed records included in the order 271  
may be made only by the following persons or for the following 272  
purposes: 273

(1) By a law enforcement officer or prosecutor, or the 274  
assistants of either, to determine whether the nature and 275  
character of the offense with which a person is to be charged 276  
would be affected by virtue of the person's previously having 277  
been convicted of a crime; 278

(2) By the parole or probation officer of the person who 279  
is the subject of the records, for the exclusive use of the 280  
officer in supervising the person while on parole or under a 281  
community control sanction or a post-release control sanction, 282  
and in making inquiries and written reports as requested by the 283  
court or adult parole authority; 284

(3) Upon application by the person who is the subject of	285
the records, by the persons named in the application;	286
(4) By a law enforcement officer who was involved in the	287
case, for use in the officer's defense of a civil action arising	288
out of the officer's involvement in that case;	289
(5) By a prosecuting attorney or the prosecuting	290
attorney's assistants, to determine a defendant's eligibility to	291
enter a pre-trial diversion program established pursuant to	292
section 2935.36 of the Revised Code;	293
(6) By any law enforcement agency or any authorized	294
employee of a law enforcement agency or by the department of	295
rehabilitation and correction as part of a background	296
investigation of a person who applies for employment with the	297
agency as a law enforcement officer or with the department as a	298
corrections officer;	299
(7) By any law enforcement agency or any authorized	300
employee of a law enforcement agency, for the purposes set forth	301
in, and in the manner provided in, section 2953.321 of the	302
Revised Code;	303
(8) By the bureau of criminal identification and	304
investigation or any authorized employee of the bureau for the	305
purpose of providing information to a board or person pursuant	306
to division (F) or (G) of section 109.57 of the Revised Code;	307
(9) By the bureau of criminal identification and	308
investigation or any authorized employee of the bureau for the	309
purpose of performing a criminal history records check on a	310
person to whom a certificate as prescribed in section 109.77 of	311
the Revised Code is to be awarded;	312
(10) By the bureau of criminal identification and	313

investigation or any authorized employee of the bureau for the 314  
purpose of conducting a criminal records check of an individual 315  
pursuant to division (B) of section 109.572 of the Revised Code 316  
that was requested pursuant to any of the sections identified in 317  
division (B)(1) of that section; 318

(11) By the bureau of criminal identification and 319  
investigation, an authorized employee of the bureau, a sheriff, 320  
or an authorized employee of a sheriff in connection with a 321  
criminal records check described in section 311.41 of the 322  
Revised Code; 323

(12) By the attorney general or an authorized employee of 324  
the attorney general or a court for purposes of determining a 325  
person's classification pursuant to Chapter 2950. of the Revised 326  
Code; 327

(13) By a court, the registrar of motor vehicles, a 328  
prosecuting attorney or the prosecuting attorney's assistants, 329  
or a law enforcement officer for the purpose of assessing points 330  
against a person under section 4510.036 of the Revised Code or 331  
for taking action with regard to points assessed. 332

When the nature and character of the offense with which a 333  
person is to be charged would be affected by the information, it 334  
may be used for the purpose of charging the person with an 335  
offense. 336

(E) In any criminal proceeding, proof of any otherwise 337  
admissible prior conviction may be introduced and proved, 338  
notwithstanding the fact that for any such prior conviction an 339  
order of sealing previously was issued pursuant to sections 340  
2953.31 to 2953.36 of the Revised Code. 341

(F) The person or governmental agency, office, or 342

department that maintains sealed records pertaining to 343  
convictions or bail forfeitures that have been sealed pursuant 344  
to this section may maintain a manual or computerized index to 345  
the sealed records. The index shall contain only the name of, 346  
and alphanumeric identifiers that relate to, the persons who are 347  
the subject of the sealed records, the word "sealed," and the 348  
name of the person, agency, office, or department that has 349  
custody of the sealed records, and shall not contain the name of 350  
the crime committed. The index shall be made available by the 351  
person who has custody of the sealed records only for the 352  
purposes set forth in divisions (C), (D), and (E) of this 353  
section. 354

(G) Notwithstanding any provision of this section or 355  
section 2953.33 of the Revised Code that requires otherwise, a 356  
board of education of a city, local, exempted village, or joint 357  
vocational school district that maintains records of an 358  
individual who has been permanently excluded under sections 359  
3301.121 and 3313.662 of the Revised Code is permitted to 360  
maintain records regarding a conviction that was used as the 361  
basis for the individual's permanent exclusion, regardless of a 362  
court order to seal the record. An order issued under this 363  
section to seal the record of a conviction does not revoke the 364  
adjudication order of the superintendent of public instruction 365  
to permanently exclude the individual who is the subject of the 366  
sealing order. An order issued under this section to seal the 367  
record of a conviction of an individual may be presented to a 368  
district superintendent as evidence to support the contention 369  
that the superintendent should recommend that the permanent 370  
exclusion of the individual who is the subject of the sealing 371  
order be revoked. Except as otherwise authorized by this 372  
division and sections 3301.121 and 3313.662 of the Revised Code, 373

any school employee in possession of or having access to the 374  
sealed conviction records of an individual that were the basis 375  
of a permanent exclusion of the individual is subject to section 376  
2953.35 of the Revised Code. 377

(H) For purposes of sections 2953.31 to 2953.36 of the 378  
Revised Code, DNA records collected in the DNA database and 379  
fingerprints filed for record by the superintendent of the 380  
bureau of criminal identification and investigation shall not be 381  
sealed unless the superintendent receives a certified copy of a 382  
final court order establishing that the offender's conviction 383  
has been overturned. For purposes of this section, a court order 384  
is not "final" if time remains for an appeal or application for 385  
discretionary review with respect to the order. 386

(I) The sealing of a record under this section does not 387  
affect the assessment of points under section 4510.036 of the 388  
Revised Code and does not erase points assessed against a person 389  
as a result of the sealed record. 390

**Sec. 2953.37.** (A) As used in this section: 391

(1) "Expunge" means to destroy, delete, and erase a record 392  
as appropriate for the record's physical or electronic form or 393  
characteristic so that the record is permanently irretrievable. 394

(2) "Official records" has the same meaning as in section 395  
2953.51 of the Revised Code. 396

(3) "Prosecutor" has the same meaning as in section 397  
2953.31 of the Revised Code. 398

(4) "Record of conviction" means the record related to a 399  
conviction of or plea of guilty to an offense. 400

(B) Any person who is convicted of, was convicted of, 401

pleads guilty to, or has pleaded guilty to a violation of 402  
division (B), (C), or (E) of section 2923.16 of the Revised Code 403  
as the division existed prior to September 30, 2011, and who is 404  
authorized by division (H) (2) (a) of that section to file an 405  
application under this section for the expungement of the 406  
conviction record may apply to the sentencing court for the 407  
expungement of the record of conviction. The person may file the 408  
application at any time on or after September 30, 2011. The 409  
application shall do all of the following: 410

(1) Identify the applicant, the offense for which the 411  
expungement is sought, the date of the conviction of or plea of 412  
guilty to that offense, and the court in which the conviction 413  
occurred or the plea of guilty was entered; 414

(2) Include evidence that the offense was a violation of 415  
division (B), (C), or (E) of section 2923.16 of the Revised Code 416  
as the division existed prior to September 30, 2011, and that 417  
the applicant is authorized by division (H) (2) (a) of that 418  
section to file an application under this section; 419

(3) Include a request for expungement of the record of 420  
conviction of that offense under this section. 421

(C) Upon the filing of an application under division (B) 422  
of this section and the payment of the fee described in division 423  
(D) (3) of this section if applicable, the court shall set a date 424  
for a hearing and shall notify the prosecutor for the case of 425  
the hearing on the application. The prosecutor may object to the 426  
granting of the application by filing an objection with the 427  
court prior to the date set for the hearing. The prosecutor 428  
shall specify in the objection the reasons for believing a 429  
denial of the application is justified. The court shall direct 430  
its regular probation officer, a state probation officer, or the 431

department of probation of the county in which the applicant 432  
resides to make inquiries and written reports as the court 433  
requires concerning the applicant. The court shall hold the 434  
hearing scheduled under this division. 435

(D) (1) At the hearing held under division (C) of this 436  
section, the court shall do each of the following: 437

(a) Determine whether the applicant has been convicted of 438  
or pleaded guilty to a violation of division (E) of section 439  
2923.16 of the Revised Code as the division existed prior to 440  
September 30, 2011, and whether the conduct that was the basis 441  
of the violation no longer would be a violation of that division 442  
on or after September 30, 2011; 443

(b) Determine whether the applicant has been convicted of 444  
or pleaded guilty to a violation of division (B) or (C) of 445  
section 2923.16 of the Revised Code as the division existed 446  
prior to September 30, 2011, and whether the conduct that was 447  
the basis of the violation no longer would be a violation of 448  
that division on or after September 30, 2011, due to the 449  
application of division (F) (5) of that section as it exists on 450  
and after September 30, 2011; 451

(c) If the prosecutor has filed an objection in accordance 452  
with division (C) of this section, consider the reasons against 453  
granting the application specified by the prosecutor in the 454  
objection; 455

(d) Weigh the interests of the applicant in having the 456  
records pertaining to the applicant's conviction or guilty plea 457  
expunged against the legitimate needs, if any, of the government 458  
to maintain those records. 459

(2) (a) The court may order the expungement of all official 460



records pertaining to the case and the deletion of all index 461  
references to the case and, if it does order the expungement, 462  
shall send notice of the order to each public office or agency 463  
that the court has reason to believe may have an official record 464  
pertaining to the case if the court, after complying with 465  
division (D) (1) of this section, determines both of the 466  
following: 467

(i) That the applicant has been convicted of or pleaded 468  
guilty to a violation of division (E) of section 2923.16 of the 469  
Revised Code as it existed prior to September 30, 2011, and the 470  
conduct that was the basis of the violation no longer would be a 471  
violation of that division on or after September 30, 2011, or 472  
that the applicant has been convicted of or pleaded guilty to a 473  
violation of division (B) or (C) of section 2923.16 of the 474  
Revised Code as the division existed prior to September 30, 475  
2011, and the conduct that was the basis of the violation no 476  
longer would be a violation of that division on or after 477  
September 30, 2011, due to the application of division (F) (5) of 478  
that section as it exists on and after September 30, 2011; 479

(ii) That the interests of the applicant in having the 480  
records pertaining to the applicant's conviction or guilty plea 481  
expunged are not outweighed by any legitimate needs of the 482  
government to maintain those records. 483

(b) The proceedings in the case that is the subject of an 484  
order issued under division (D) (2) (a) of this section shall be 485  
considered not to have occurred and the conviction or guilty 486  
plea of the person who is the subject of the proceedings shall 487  
be expunged. The record of the conviction shall not be used for 488  
any purpose, including, but not limited to, a criminal records 489  
check under section 109.572 of the Revised Code or a 490

determination under section 2923.125 or 2923.1212 of the Revised Code of eligibility for a concealed handgun license. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.

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

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

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

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

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

(5) (a) Upon issuance of an order under division (D) (2) (a)

of this section, and unless the applicant opts out under 520  
division (D) (4) (b) of this section, the clerk shall remit the 521  
fee paid by the applicant under division (D) (4) (c) of this 522  
section to the qualified third party. The court shall send 523  
notice of the order under division (D) (2) (a) of this section to 524  
the qualified third party. 525

(b) If the applicant's application under division (B) of 526  
this section is denied for any reason or if the applicant 527  
informs the clerk of court in writing, before the issuance of 528  
the order under division (D) (2) (a) of this section, that the 529  
applicant wishes to opt out of having the court send notice of 530  
its order under division (D) (2) (a) of this section to the 531  
qualified third party, the clerk shall remit the fee paid by the 532  
applicant under division (D) (4) (c) of this section that is 533  
intended for the qualified third party back to the applicant. 534

**Sec. 2953.38.** (A) As used in this section: 535

(1) "Expunge" means to destroy, delete, or erase a record 536  
as appropriate for the record's physical or electronic form or 537  
characteristic so that the record is permanently irretrievable. 538

(2) "Prosecutor" has the same meaning as in section 539  
2953.31 of the Revised Code. 540

(3) "Record of conviction" means the record related to a 541  
conviction of or plea of guilty to an offense. 542

(4) "Victim of human trafficking" means a person who is or 543  
was a victim of a violation of section 2905.32 of the Revised 544  
Code, regardless of whether anyone has been convicted of a 545  
violation of that section or of any other section for 546  
victimizing the person. 547

(B) Any person who is or was convicted of a violation of 548

section 2907.24, 2907.241, or 2907.25 of the Revised Code may 549  
apply to the sentencing court for the expungement of the record 550  
of conviction if the person's participation in the offense was a 551  
result of the person having been a victim of human trafficking. 552  
The person may file the application at any time. The application 553  
shall do all of the following: 554

(1) Identify the applicant, the offense for which the 555  
expungement is sought, the date of the conviction of that 556  
offense, and the court in which the conviction occurred; 557

(2) Describe the evidence and provide copies of any 558  
documentation showing that the person is entitled to relief 559  
under this section; 560

(3) Include a request for expungement of the record of 561  
conviction of that offense under this section. 562

(C) The court may deny an application made under division 563  
(B) of this section if it finds that the application fails to 564  
assert grounds on which relief may be granted. 565

(D) If the court does not deny an application under 566  
division (C) of this section, it shall set a date for a hearing 567  
and shall notify the prosecutor for the case from which the 568  
record of conviction resulted of the hearing on the application. 569  
The prosecutor may object to the granting of the application by 570  
filing an objection with the court prior to the date set for the 571  
hearing. The prosecutor shall specify in the objection the 572  
reasons for believing a denial of the application is justified. 573  
The court may direct its regular probation officer, a state 574  
probation officer, or the department of probation of the county 575  
in which the applicant resides to make inquiries and written 576  
reports as the court requires concerning the applicant. 577

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

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

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

(F) If after a hearing the court finds that the applicant has demonstrated by a preponderance of the evidence that the applicant's participation in the offense that is the subject of the application was the result of the applicant having been a victim of human trafficking, the court shall grant the application and order that the record of conviction be expunged.

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

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

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

(2) The proceedings in the case that is the subject of an order issued under division (F) of this section shall be considered not to have occurred and the conviction of the person

who is the subject of the proceedings shall be expunged. The 607  
record of the conviction shall not be used for any purpose, 608  
including, but not limited to, a criminal records check under 609  
section 109.572 of the Revised Code. The applicant may, and the 610  
court shall, reply that no record exists with respect to the 611  
applicant upon any inquiry into the matter. 612

(H) Upon the filing of an application under this section, 613  
the applicant, unless indigent, shall pay a fee of fifty 614  
dollars. The court shall pay thirty dollars of the fee into the 615  
state treasury and shall pay twenty dollars of the fee into the 616  
county general revenue fund. 617

(I) At the time an applicant files an application under 618  
division (B) of this section, the following shall apply: 619

(1) The clerk of court shall notify the applicant in 620  
writing that the court will send notice of any order under 621  
division (F) of this section to the qualified third party 622  
selected by the attorney general under section 109.38 of the 623  
Revised Code and shall inform the applicant of the procedures 624  
under section 109.381 of the Revised Code. 625

(2) The applicant shall then notify the clerk if the 626  
applicant wishes to opt out of receiving the benefits of having 627  
the court send notice of its order under division (F) of this 628  
section to the qualified third party and having the procedures 629  
under section 109.381 of the Revised Code apply to the records 630  
that are subject to the order. 631

(3) If the applicant does not opt out under division (I) 632  
(2) of this section, the applicant shall pay to the clerk of 633  
court the fee provided in the contract between the attorney 634  
general and the qualified third party under division (C) (2) (b) 635

of section 109.38 of the Revised Code. 636

(J) (1) Upon the issuance of an order under division (F) of 637  
this section, and unless the applicant opts out under division 638  
(I) (2) of this section, the clerk shall remit the fee paid by 639  
the applicant under division (I) (3) of this section to the 640  
qualified third party. The court shall send notice of the order 641  
under division (F) of this section to the qualified third party. 642

(2) If the applicant's application under division (B) of 643  
this section is denied for any reason or if the applicant 644  
informs the clerk of court in writing, before the issuance of 645  
the order under division (F) of this section, that the applicant 646  
wishes to opt out of having the court send notice of its order 647  
under division (F) of this section to the qualified third party, 648  
the clerk shall remit the fee paid by the applicant under 649  
division (I) (3) of this section that is intended for the 650  
qualified third party back to the applicant. 651

**Sec. 2953.53.** (A) (1) The court shall send notice of any 652  
order to seal official records issued pursuant to division (B) 653  
(3) of section 2953.52 of the Revised Code to the bureau of 654  
criminal identification and investigation and shall send notice 655  
of any order issued pursuant to division (B) (4) of that section 656  
to any public office or agency that the court knows or has 657  
reason to believe may have any record of the case, whether or 658  
not it is an official record, that is the subject of the order. 659

(2) (a) At the time an applicant files an application under 660  
division (A) of section 2953.52 of the Revised Code, the 661  
following shall apply: 662

(i) The clerk of court shall notify the applicant in 663  
writing that the court will send notice of any order under 664

division (B) (4) of section 2953.52 of the Revised Code to the 665  
qualified third party selected by the attorney general under 666  
section 109.38 of the Revised Code and shall inform the 667  
applicant of the procedures under section 109.381 of the Revised 668  
Code. 669

(ii) The applicant shall then notify the clerk if the 670  
applicant wishes to opt out of receiving the benefits of having 671  
the court send notice of its order under division (B) (4) of 672  
section 2953.52 of the Revised Code to the qualified third party 673  
and having the procedures under section 109.381 of the Revised 674  
Code apply to the records that are subject to the order. 675

(iii) If the applicant does not opt out under division (A) 676  
(2) (a) (ii) of this section, the applicant shall pay to the clerk 677  
of court the fee provided in the contract between the attorney 678  
general and the qualified third party under division (C) (2) (b) 679  
of section 109.38 of the Revised Code. 680

(b) Upon the issuance of an order under division (B) (4) of 681  
section 2953.52 of the Revised Code, and unless the applicant 682  
opts out under division (A) (2) (a) (ii) of this section, the clerk 683  
shall remit the fee paid by the applicant under division (A) (2) 684  
(a) (iii) of this section to the qualified third party. The court 685  
shall send notice of the order under division (B) (4) of section 686  
2953.52 of the Revised Code to the qualified third party. 687

(c) If the applicant's application under division (A) of 688  
section 2953.52 of the Revised Code is denied for any reason or 689  
if the applicant informs the clerk of court in writing, before 690  
the issuance of the order under division (B) (4) of that section, 691  
that the applicant wishes to opt out of having the court send 692  
notice of its order under division (B) (4) of that section to the 693  
qualified third party, the clerk shall remit the fee paid by the 694



applicant under division (A) (2) (a) (iii) of this section that is 695  
intended for the qualified third party back to the applicant. 696

(B) A person whose official records have been sealed 697  
pursuant to an order issued pursuant to section 2953.52 of the 698  
Revised Code may present a copy of that order and a written 699  
request to comply with it, to a public office or agency that has 700  
a record of the case that is the subject of the order. 701

(C) An order to seal official records issued pursuant to 702  
section 2953.52 of the Revised Code applies to every public 703  
office or agency that has a record of the case that is the 704  
subject of the order, regardless of whether it receives notice 705  
of the hearing on the application for the order to seal the 706  
official records or receives a copy of the order to seal the 707  
official records pursuant to division (A) or (B) of this 708  
section. 709

(D) Upon receiving a copy of an order to seal official 710  
records pursuant to division (A) or (B) of this section or upon 711  
otherwise becoming aware of an applicable order to seal official 712  
records issued pursuant to section 2953.52 of the Revised Code, 713  
a public office or agency shall comply with the order and, if 714  
applicable, with the provisions of section 2953.54 of the 715  
Revised Code, except that it may maintain a record of the case 716  
that is the subject of the order if the record is maintained for 717  
the purpose of compiling statistical data only and does not 718  
contain any reference to the person who is the subject of the 719  
case and the order. 720

A public office or agency also may maintain an index of 721  
sealed official records, in a form similar to that for sealed 722  
records of conviction as set forth in division (F) of section 723  
2953.32 of the Revised Code, access to which may not be afforded 724

to any person other than the person who has custody of the 725  
sealed official records. The sealed official records to which 726  
such an index pertains shall not be available to any person, 727  
except that the official records of a case that have been sealed 728  
may be made available to the following persons for the following 729  
purposes: 730

(1) To the person who is the subject of the records upon 731  
written application, and to any other person named in the 732  
application, for any purpose; 733

(2) To a law enforcement officer who was involved in the 734  
case, for use in the officer's defense of a civil action arising 735  
out of the officer's involvement in that case; 736

(3) To a prosecuting attorney or the prosecuting 737  
attorney's assistants to determine a defendant's eligibility to 738  
enter a pre-trial diversion program established pursuant to 739  
section 2935.36 of the Revised Code; 740

(4) To a prosecuting attorney or the prosecuting 741  
attorney's assistants to determine a defendant's eligibility to 742  
enter a pre-trial diversion program under division (E) (2) (b) of 743  
section 4301.69 of the Revised Code. 744

**Section 2.** That existing sections 2953.32, 2953.37, 745  
2953.38, and 2953.53 of the Revised Code are hereby repealed. 746