



OHIO

CRIMINAL SENTENCING COMMISSION

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RIGHTS RESTORATION & RECORD SEALING

IN THE 133RD OHIO GENERAL ASSEMBLY

The 133rd Ohio General Assembly has undertaken several efforts to alleviate collateral consequences of conviction by introducing legislation to expand eligibility for intervention in lieu of conviction (ILC), record sealing, and expungement. For more information on record-sealing processes in Ohio, see the [Adult Rights Restoration Guide](#) located on the Sentencing Commission resources page.

HOUSE BILL 1

House Bill 1 reflects recommendations of Chief Justice Maureen O’Connor, as discussed at the Sentencing Commission’s December 2018 meeting. It addresses both intervention in lieu of conviction and record sealing procedures. HB1 was introduced by Representatives Phil Plummer and Paula Hicks-Hudson on May 21, 2019, and was passed by the House on June 19, 2019, (91-6). It had a third hearing before the Senate Judiciary Committee on January 29, 2020, and remains pending in Committee as of March 31, 2020.

SUBJECT & REVISED CODE SECTIONS AFFECTED	CURRENT LAW	HB1 PROPOSALS
Intervention in Lieu (ILC) R.C. 2951.041	Court may reject request outright or may grant request, staying proceedings and ordering an eligibility and/or addiction assessment and intervention plan. Lays out eligibility criteria court to consider. After hearing, court may grant or deny ILC.	Requires court to hold a hearing when “offender alleges that drug or alcohol usage ... was a factor leading to the criminal offense.” Excludes felony sex offenses from ILC consideration. Establishes a presumption that ILC be granted “unless court finds specific reasons [ILC] would be inappropriate” and requires those reasons to be memorialized “with particularity, in a written entry.” Limits length of intervention plan under ILC to a maximum 5 years. Modifies the time at which an offender may apply to have a conviction record sealed after completing ILC.
Record Sealing R.C. 2953.31 R.C. 2953.32	All Felony convictions F-4 or F-5: Offender not eligible for sealing if convicted of five or more felonies. F-3 Conviction: Offender may seal one felony, two misdemeanors, or one felony and one misdemeanor. Timing of sealing eligibility: <ul style="list-style-type: none"> • Three years from final discharge¹ if convicted of one felony; • Four years from final discharge if convicted of two felonies; • Five years from final discharge if convicted of three to five felonies. 	All Felony convictions F-4 or F-5: Removes cap of five felonies and allows unlimited sealing of F-4 and F-5 convictions. F-3 Conviction: Offender may seal two felonies, four misdemeanors, or two felonies and two misdemeanors. Timing of sealing eligibility: <ul style="list-style-type: none"> • One year from final discharge for F-4 and F-5 convictions; • Three years from final discharge for F-3 convictions.

¹ “Final Discharge” is not defined by statute, but has been interpreted through case law to mean the completion of any sentence imposed by the court, including payment of restitution and fines, but not court costs. For additional information, see the Ohio Supreme Court [Bench Card on Criminal Record Sealing](#).

SENATE BILL 160

Senate Bill 160 establishes provisions to allow for expungement of a criminal record when an individual has lived a law-abiding life for a substantial period (10, 15 or 20 years, depending on the level of offense of conviction) since final discharge of the offense. Importantly, expungement differs from record sealing in that sealed records are accessible in limited circumstances² whereas expunged records are erased entirely. The bill also eliminates the current two-year waiting period to seal a “no bill” grand jury decision. It was introduced by Senators Sean O’Brien and Michael Rulli on June 10, 2019, and remains pending in the Senate Judiciary Committee following a second hearing on September 25, 2019.

² See Sealed Record Access/Exceptions, p. 10.

SUBJECT & REVISED CODE SECTIONS AFFECTED	CURRENT LAW	PROPOSED CHANGES IN SB160
Record Sealing R.C. 2953.32 R.C. 2953.52	Timing of sealing eligibility – “No bill” Requires 2-year waiting period to apply for sealing of records when a grand jury reports a “no bill.”	Timing of sealing eligibility – “No bill” Removes waiting period, allowing immediate application for sealing when a “no bill” is reported by a grand jury. Adds new provision (1)(2) in R.C. 2953.32 allowing a person who has sealed their record under that section to later apply for expungement under new R.C. 2953.39.
Expungement R.C. 2953.39	Proposed new section: Currently, expungement is only available in very limited circumstances related to human trafficking (R.C. 2953.38) or certain firearm convictions (R.C. 2953.37).	Establishes a mechanism allowing application for expungement of non-excluded misdemeanor or felony offenses after: <ul style="list-style-type: none"> • 10 years from final discharge for F-3, F-4 and F-5 and misdemeanor offenses; • 15 years from final discharge for F-2 offenses; • 20 years from final discharge for F-1 offenses. Expungement petition must state grounds for relief on its face or court can deny petition without a hearing. At a hearing, the court must determine by a preponderance of the evidence that the applicant has not been convicted of a disqualifying offense since the time of final discharge. The court then must consider any objections by the prosecutor, input from the victim, and specific factors laid out in the statute to determine if the applicant represents a threat to society. There is a presumption in favor of granting the application. Excluded Offenses: Aggravated Murder, Murder, Voluntary Manslaughter, Permitting Child Abuse, Patient Abuse, Kidnapping, Abduction, Unlawful Restraint, Aggravated Arson, Terrorism, Domestic Violence, Trafficking in Drugs, Unlawful Sexual Conduct with a Minor, Violations of R.C. 4511.19 (OVI), Sexually oriented offenses or child-victim-oriented offenses, and Substantially equivalent municipal ordinance violations. Disqualifying Offenses: Any felony, any violation of R.C. 4511.19, or a sexually oriented/child-victim-oriented offense or substantially equivalent municipal ordinance violation.

HOUSE BILL 87

Current law prohibits sealing of any records in a case until all the convictions involved are eligible for sealing. Additionally, Operating a Vehicle while Intoxicated (OVI) or Physical Control While Intoxicated offenses are never eligible to be sealed. House Bill 87 creates a partial-sealing option for charges attendant to an OVI or Physical Control complaint or indictment at the discretion of the court one year after completion of an intervention plan as part of the Intervention in Lieu of Conviction (ILC) process. HB87 was introduced by Representative Niraj Antani on February 20, 2019, and remains pending following a third hearing in the House Criminal Justice Committee on March 28, 2019.

SUBJECT & REVISED CODE SECTIONS AFFECTED	CURRENT LAW	PROPOSED CHANGES IN HB87
Record Sealing R.C. 2953.61	<p>Prohibits sealing of cases with OVI (R.C. 4511.19) or Physical Control while Under the Influence (R.C. 4511.194) charges.</p>	<p>Adds a “partial-sealing” option for cases when one and only one conviction is for a violation of R.C. 4511.19 or 4511.194, and the remaining charges in the case were dismissed after successful completion of an ILC program.</p> <p>In order to qualify, ALL of the following are required:</p> <ul style="list-style-type: none"> The case involves multiple offenses, one and only one of which is a violation of R.C. 4511.19 or 4511.194; The remaining charges were dismissed after successful completion of an intervention plan; and One year has passed since that dismissal. <p>The conviction for the R.C. 4511.19 or 4511.194 violation remains ineligible for sealing. The remainder of the record may be sealed at the court’s discretion.</p> <p>Provisions apply for any sealing application after the effective date and are applicable to charges dismissed before that date.</p>

HOUSE BILL 263

House Bill 263 is titled the “Fresh Start Act of 2019” and revises licensing procedures to help people with prior convictions obtain occupational license(s). It requires agencies to specify certain disqualifying convictions and prohibits disqualifications based on vague standards like “moral turpitude.” HB263 was introduced by Representative Kyle Koehler on May 28, 2019, and had a first hearing in the House Commerce and Labor Committee on June 12, 2019. The bill was reported out of the House Commerce and Labor Committee after amendment on February 5, 2020.

SUBJECT & REVISED CODE SECTIONS AFFECTED	CURRENT LAW	PROPOSED CHANGES IN HB263
Determination of Effect of Criminal Conviction by Licensing Authority R.C. 9.79	<p>Grants state licensing authorities the ability to disqualify individuals’ applications for a license due to prior criminal convictions.</p> <p>Requires state licensing authorities to post information about the effect of criminal convictions on licensing applications.</p>	<p>Requires state license authorities to establish and publish a list of disqualifying offenses that must be directly related to the duties and responsibilities of the licensed profession.</p> <p>Prohibits disqualification from licensure solely based on a criminal charge, conviction, or “nonspecific qualifications”; e.g. “moral character,” except for certain disqualifying offenses.</p> <p>Prescribes specific factors for consideration regarding the effect of past convictions on the licensure application: the nature and seriousness of the offense, the time since the offense occurred, how the offense is related to the ability to perform the licensed occupation, any mitigating evidence of treatment or rehabilitation, and public safety concerns. The license authority must prove by clear and convincing evidence that the conviction “directly relates to the individuals ability to engage in the licensed occupation.”</p> <p>Establishes time frame for consideration for disqualifying offenses of five years from date of conviction, except for offenses of violence and sex offenses.</p> <p>Requires state license authorities to provide, in writing, certain information about the denial of an application to the applicant.</p> <p>Exempts certain occupations from the new requirements, including those that require peace officer training certificates and positions for which a conviction would cause federal disqualification.</p>
Criminal Records Checks for Licensures R.C. 109.572	<p>Permits certain state license authorities to request criminal-records checks for certain categories and types of offenses.</p>	<p>Expands the scope of the licensure-related criminal-record check to “any criminal offense” for several specific categories of occupational licensures: home inspectors, notaries public, private investigators/security guards, short-term and second mortgage lenders and real estate appraisers and assistants, community-based long-term care providers, and supported living services providers.</p> <p>Criminal-record checks for teachers would be limited to the scope of offenses dictated by the Ohio Department of Education under the bill.</p>
New Provisions on Reporting Requirements R.C. 9.78	N/A	<p>Requires that state license authorities report the number of license applications, including the numbers granted and denied, a list of criminal convictions for those who were granted licenses and those who were denied them, a list of those with criminal convictions who requested a determination from the licensing authority broken down by the offenses reported and the authority’s determination, as well as other information at the discretion of the director of the Department of Administrative Services.</p> <p>The director must compile the information reported by each state licensing authority and annually publish it in a searchable format on a website created and maintained by the director.</p>

HOUSE BILL 604

House Bill 604 aims to simplify the complex and convoluted record-sealing procedures in Ohio and expand eligibility to seal criminal records. Representative John Rogers introduced the bill on April 10, 2020, which, in part, reflects recommendations from the report of the Ohio Criminal Sentencing Commission Ad Hoc Committee on Rights Restoration and Record Sealing (link inserted). Current law defines “eligible offenders” for record sealing based on the number, type, and offense level of their convictions. HB604 simplifies the eligibility determination by removing the cap on number of convictions, shortens the waiting periods to apply for record sealing, and makes a number of changes to consolidate and streamline the current sealing provisions.

SUBJECT & REVISED CODE SECTIONS AFFECTED	CURRENT LAW	PROPOSED CHANGES IN HB604
Record Sealing Definitions R.C. 2953.31	<p>Defines “Eligible Offender.” Eligibility based upon the offense level of conviction(s) and the number of prior convictions.</p>	<p>Eliminates definition of “Eligible Offender” and instead limits applicability of the record-sealing statutes in R.C. 2953.21 - 34 in amendments to R.C. 2953.32 (below) by excluding specified types of convictions.</p> <p>Provides additional definitions of several terms for sealing purposes, including “official records,” “investigatory work product,” “law enforcement or justice system matter,” “expunge,” “record of conviction,” “victim of human trafficking,” “no bill,” and “court.”</p>
Sealing of Conviction or Bail Forfeiture Record R.C. 2953.32	<p>Specifies waiting period for an “eligible offender” to apply based upon the number and offense level of conviction(s).</p> <p>Current waiting periods (from final discharge³ of case):</p> <ul style="list-style-type: none"> • Three years for one felony • Four years for two felonies • Five years for three to five felonies • One year for misdemeanors • One year for misdemeanor bail forfeiture <p>Timing of hearing on application is left to court’s discretion.</p> <p>Partial sealing of record impermissible (when one offense is not eligible).</p>	<p>Prohibits sealing of certain types of convictions, including those under R.C. 4506, 4507, 4510, 4511, or 4549, convictions for felony offenses of violence, for sexually oriented offenses that are subject to R.C. 2950 registration requirements, convictions for offenses with victims under the age of 13 (except non-support offenses), and for felonies of the first or second degree.</p> <p>Expands sealing eligibility and access by eliminating cap on number of convictions and reducing waiting periods to:</p> <ul style="list-style-type: none"> • Three years from final discharge for F-3 conviction • Five years from final discharge for one or more misdemeanor offenses of violence • One year from final discharge for F-5 and F-5 felonies and non-violent misdemeanors • Six months from final discharge for minor misdemeanors • Anytime after date of record entry for misdemeanor bail forfeiture <p>Adds provisions to allow record sealing in limited circumstances for sexually oriented offenders subject to R.C. 2950 notification requirements five years after their notification requirements end, subject to exceptions above.</p> <p>Requires the court to hold a hearing between 45 and 90 days after the filing date, requires that the prosecutor object in writing 30 days prior to that hearing date, and requires the victim be notified of the date and time of the hearing.</p> <p>Changes considerations of court at the hearing by removing the cap on the number of convictions and simplifies language. Adds a requirement that the court consider victim input.</p> <p>Allows for partial sealing of records for multiple convictions from same act or occurrence and when one offense is otherwise ineligible to be sealed.</p> <p>Moves provisions allowing inspection of sealed records to new section R.C. 2953.34 (below).</p>

³ See footnote 1, p. 2.

HOUSE BILL 604 - *continued*

SUBJECT & REVISED CODE SECTIONS AFFECTED	CURRENT LAW	PROPOSED CHANGES IN HB604
Sealing of Records after Not Guilty Finding, Dismissal of Proceedings, or No Bill by Grand Jury R.C. 2953.52	<p>Allows for sealing of records of dismissal of proceedings or not-guilty finding at anytime after date of record entry, and sealing of no bill by grand jury two years after being reported.</p> <p>Contains no provisions allowing for record sealing after gubernatorial pardon.</p> <p>Timing of hearing for sealing application is left to the discretion of the court.</p>	<p>Renumbers section R.C. 2953.33.</p> <p>Adds provision for record sealing after gubernatorial pardon anytime after pardon granted or after the required conditions of the pardon are satisfied.</p> <p>Requires the court to hold a hearing on sealing application 45 and 90 days after the filing date, requires that the prosecutor object in writing 30 days prior to the hearing, and requires the victim be notified of the date and time of hearing.</p>
Sealing of Record Not to Affect Appeal Rights R.C. 2953.34	<p>Sealing of records is not a bar to appellate relief on conviction.</p>	<p>Moves provisions allowing for inspection of sealed records from current R.C. 2953.32 into this section and consolidates parts of R.C. 2953.53, 2953.32, 2953.54, and 2953.321, including those who can inspect records, sealing records, index of sealed records, and investigatory work product into proposed R.C. 2953.34</p>
Expungement of Certain Firearms Convictions R.C. 2953.37	<p>Allows for expungement of firearms convictions for improper handling of a firearm in a motor vehicle (is no longer a crime).</p>	<p>Renumbers section as R.C. 2953.35.</p>
Expungement for Victims of Human Trafficking R.C. 2953.38	<p>Allows for expungement of convictions for loitering, solicitation, or prostitution when participation in the offense is a result of being a victim of human trafficking.</p>	<p>Renumbers section as R.C. 2953.36.</p>
Violations of R.C. 2953.31-2953.61 Not a Basis to Exclude or Suppress Evidence R.C. 2953.56	<p>Prohibits exclusion or suppression of evidence based on violations of sealing and expungement statutes stemming from DNA or fingerprint evidence kept in databases by the state.</p>	<p>Renumbers section as R.C. 2953.37.</p>

RELATED LEGISLATION

BILL NUMBER	REVISED CODE SECTIONS	CHANGES TO CURRENT LAW	STATUS OF BILL (AS OF DATE OF THIS PUBLICATION)
HB145	New provision: R.C. 2932.32(J)	The bill creates an Animal Abuse Registry, and requires the clerk of court to notify the attorney general when a record pertaining to an animal-abuse offense is sealed. Once notified, the attorney general must remove the information regarding the offense from the Animal Abuse Registry.	Introduced March 19, 2019; first hearing in Agricultural and Rural Development Committee on April 1, 2019.
HB158	R.C. 4509.101	Allows court to grant limited driving privileges after first offense for failure to maintain proof of financial responsibility if the individual presents proof of financial responsibility and is enrolled in a reinstatement-fee payment plan. Waives filing fee for petition for limited driving privileges for indigent individual.	Introduced March 21, 2019; passed by the House Oct. 2, 2019; passed by the Senate Feb. 12, 2020. Signed by the Governor March 10, 2020; effective in 90 days.
HB 178	R.C. 2945.37	HB178 eliminates the requirement under R.C. 2923.12(B) that a person who is carrying a concealed handgun must inform a police officer of the weapon whenever stopped, and allows for expungements of prior convictions for violations of that notification requirement.	Introduced March 29, 2019; was reported by the House Federalism committee on June 26, 2019 and re-referred, with a first hearing in the House Criminal Justice Committee on Feb. 13, 2020.
HB354	R.C. 2151.358	Currently, R.C. 2151.358(A) requires expungement of juvenile records upon the 23rd birthday of the person subject to the sealing order or five years after the sealing order is issued, whichever is earliest. HB354 increases the age of expungement of juvenile records to 28.	Introduced Oct. 1, 2019; had a fifth hearing in the House Finance Committee on Oct. 16, 2019.
HB477	R.C. 2705.031 R.C. 3123.54 R.C. 3123.55 R.C. 4503.233 R.C. 4509.101 New provision: R.C. 4510.023	Currently, courts have discretion to grant limited driving privileges when a driver's license is suspended for a criminal offense that is not related to driving. This bill makes the granting of limited driving privileges mandatory when a suspension is imposed and also applies to those currently under suspension. The bill also makes changes to the administrative license suspension for failure to provide support to a dependent child and institutes requirements for limited driving privileges when a non-support defendant requests those privileges. Also lowers the fees for license reinstatement for driving without insurance and for releasing an immobilized vehicle.	Introduced Jan. 21, 2020; had a first hearing in the House Civil Justice Committee on Feb. 11, 2020.
SB3	R.C. 2953.31 R.C. 2953.32	Comprehensive bill reforming drug possession and trafficking offenses that includes changes to the sealing process for low-level drug offenses. The bill would reclassify low-level possession offenses from felonies to unclassified misdemeanors, and makes those offenses sealable after successful completion of a treatment program. Offenders with prior convictions that would be misdemeanors under SB3 may apply to have those convictions sealed as if they were misdemeanors.	Introduced Feb. 12, 2019; second substitute bill was amended at the tenth hearing in Senate Judiciary on Dec. 17, 2019.
SB5	R.C. 2953.25	The bill sets a maximum \$50.00 application fee when filing for a Certificate of Qualification for Employment (CQE). The fee may be fully or partially waived for indigent persons. It also creates a rebuttable presumption that an applicant qualifies for a CQE if application was filed after the expiration of the applicable waiting period and: 1) For a felony, at least three years have elapsed from date of release; or 2) For a misdemeanor, at least one year has elapsed from date of release.	Introduced Feb. 12, 2019; Senate concurred with House amendments on Nov. 6, 2019. Signed by the Governor on Dec. 12, 2019; effective March 11, 2020.

RELATED LEGISLATION - *continued*

BILL NUMBER	REVISED CODE SECTIONS	CHANGES TO CURRENT LAW	STATUS OF BILL (AS OF DATE OF THIS PUBLICATION)
SB47	R.C. 2953.32 R.C. 2953.36 New Provision: R.C. 2950.151	This bill allows certain offenders convicted of unlawful sexual conduct with a minor to ask a court to have their Sex Offender and Registration Notification (SORN) classification altered and creates a procedure for courts to terminate those duties, reclassify the offender, or to make no changes. It also would allow those offenders who have their SORN duties terminated to apply to have their conviction sealed.	Introduced Feb. 12, 2019; reported out of the Senate Judiciary Committee on April 10, 2019.

EXCEPTIONS TO SEALED RECORD ACCESS

R.C. 2953.32 SEALING OF CONVICTION RECORD OR BAIL FORFEITURE RECORD [EFFECTIVE 4/8/2019]

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

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

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

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

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

(5) By a prosecuting attorney or the prosecuting attorney's assistants, to determine a defendant's eligibility to enter a pre-trial diversion program established pursuant to R.C. 2935.36;

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

(7) By any law enforcement agency or any authorized employee of a law enforcement agency, for the purposes set forth in, and in the manner provided in, R.C. 2953.321;

(8) By the bureau of criminal identification and

investigation or any authorized employee of the bureau for the purpose of providing information to a board or person pursuant to R.C. 109.57(F) or (G);

(9) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of performing a criminal-history-records check on a person to whom a certificate as prescribed in R.C. 109.77 [Certificate of completion of basic training program necessary for appointment] is to be awarded;

(10) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of conducting a criminal-records check of an individual pursuant to division (B) of R.C. 109.572 that was requested pursuant to any of the sections identified in division (B)(1) of that section;

(11) By the bureau of criminal identification and investigation, an authorized employee of the bureau, a sheriff, or an authorized employee of a sheriff in connection with a criminal-records check described in R.C. 311.41;

(12) By the attorney general or an authorized employee of the attorney general or a court for purposes of determining a person's classification pursuant to R.C. 2950 [SEXUAL PREDATORS, HABITUAL SEX OFFENDERS, SEXUALLY ORIENTED OFFENDERS];

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

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

EXCEPTIONS TO SEALED RECORD ACCESS - *continued*

R.C. 2953.321 DIVULGING CONFIDENTIAL INVESTIGATORY WORK PRODUCT.

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

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

(1) Every law enforcement officer who possesses investigatory work product immediately shall deliver that work product to the law enforcement officer’s

employing law enforcement agency.

(2) Except as provided in R.C. 2953.321(B)(3), every law enforcement agency that possesses investigatory work product shall close that work product to all persons who are not directly employed by the law enforcement agency and shall treat that work product, in relation to all persons other than those who are directly employed by the law enforcement agency, as if it did not exist and never had existed.

(3) A law enforcement agency that possesses investigatory work product may permit another law enforcement agency to use that work product in the investigation of another offense if the facts incident to the offense being investigated by the other law enforcement agency and the facts incident to an offense that is the subject of the case are reasonably similar. The agency that permits the use of investigatory work product may provide the other agency with the name of the person who is the subject of the case if it believes that the name of the person is necessary to the conduct of the investigation by the other agency.

EXCEPTIONS TO SEALED RECORD ACCESS - *continued*

R.C. 109.57 DUTIES OF SUPERINTENDENT. [EFFECTIVE 4/8/2019]

(G) In addition to or in conjunction with any request that is required to be made under R.C. 3701.881, 3712.09, or 3721.121 with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult or adult resident, the chief administrator of a home health agency, hospice care program, home licensed under R.C. 3721, or adult day-care program operated pursuant to rules adopted under R.C. 3721.04 may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after Jan. 27, 1997, for employment in a position that does not involve providing direct care to an older adult or adult resident, whether the bureau has any information gathered under R.C. 109.57(A) that pertains to that individual.

In addition to, or in conjunction with, any request that is required to be made under R.C. 173.27 with respect to an individual who has applied for employment in a position that involves providing ombudsman services to residents of long-term care facilities or recipients of community-based, long-term-care services, the state long-term-care ombudsman, the director of aging, a regional long-term care ombudsman program, or the designee of the ombudsman, director, or program may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing such ombudsman services, whether the bureau has any information gathered under R.C. 109.57(A) that pertains to that applicant.

In addition to, or in conjunction with, any request that is required to be made under R.C. 173.38 with respect to an individual who has applied for employment in a direct-care position, the chief administrator of a provider, as defined in R.C. 173.39, may request

that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that is not a direct-care position, whether the bureau has any information gathered under R.C. 109.57(A) that pertains to that applicant.

In addition to, or in conjunction with, any request that is required to be made under R.C. 3712.09 with respect to an individual who has applied for employment in a position that involves providing direct care to a pediatric respite-care patient, the chief administrator of a pediatric respite-care program may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care to a pediatric respite-care patient, whether the bureau has any information gathered under R.C. 109.57(A) that pertains to that individual.

On receipt of a request under this division, the superintendent shall determine whether that information exists and, on request of the individual requesting information, also shall request from the Federal Bureau of Investigation (FBI) any criminal records it has pertaining to the applicant. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in R.C. 109.571. Within 30 days of the date a request is received, subject to R.C. 109.571(E)(2), the superintendent shall send to the requester a report of any information determined to exist, including information contained in records that have been sealed under R.C. 2953.32, and, within 30 days of its receipt, shall send the requester a report of any information received from the FBI, other than information of which the dissemination is prohibited by federal law.

EXCEPTIONS TO SEALED RECORD ACCESS - *continued*

R.C. 109.572 CRIMINAL-RECORDS CHECK. [EFFECTIVE 4/5/2019]

(B) Subject to R.C. 109.572(F), the superintendent shall conduct any criminal records check to be conducted as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under R.C. 109.57(A) that relates to the person who is the subject of the criminal-records check, including if the criminal-records check was requested under R.C. 113.041, 121.08, 124.74, 173.27, 173.38, 173.381, 1121.23, 1315.141, 1321.37, 1321.53, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 3796.12, 3796.13, 4749.03, 4749.06, 4763.05, 4764.07, 4768.06, 5104.013, 5164.34, 5164.341, 5164.342, 5123.081, 5123.169, or 5153.111, any relevant information contained in records that have been sealed under R.C. 2953.32;

(2) If the request received by the superintendent asks for information from the FBI, the superintendent shall request from the FBI any information it has with respect to the person who is the subject of the criminal-records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, if the request is made pursuant to R.C. 2151.86 or 5104.013 or if any other Revised Code section requires fingerprint-based checks of that nature, and shall review or cause to be reviewed any information the superintendent receives from that bureau. If a request under section R.C. 3319.39 asks only for information from the FBI, the superintendent shall not conduct the

review prescribed by R.C. 109.572(B)(1).

(3) The superintendent or the superintendent's designee may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in R.C. 109.571.

(4) The superintendent shall include in the results of the criminal-records check a list or description of the offenses listed or described in R.C. 109.571(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), or (16), whichever division requires the superintendent to conduct the criminal-records check. The superintendent shall exclude from the results any information of which the dissemination is prohibited by federal law.

(5) The superintendent shall send the results of the criminal-records check to the person to whom it is to be sent not later than the following number of days after the date the superintendent receives the request for the criminal-records check, the completed form prescribed under R.C. 109.571(C)(1), and the set of fingerprint impressions obtained in the manner described in R.C. 109.571(C)(2):

(a) Thirty days, if the superintendent is required by R.C. 109.571(A) (other than R.C. 109.571(A)(3)) to conduct the criminal records check;

(b) Sixty days, if the superintendent is required by R.C. 109.571(A)(3) to conduct the criminal records check.

EXCEPTIONS TO SEALED RECORD ACCESS - *continued*

R.C. 311.41 CRIMINAL-RECORDS CHECK AND INCOMPETENCY CHECK OF APPLICANT.

(A)(1) Upon receipt of an application for a concealed handgun license under R.C. 2923.125(C), an application to renew a concealed-handgun license under R.C. 2923.125(F), or an application for a concealed-handgun license on a temporary emergency basis under R.C. 2923.1213, the sheriff shall conduct a criminal-records check and an incompetency check of the applicant to determine whether the applicant fails to meet the criteria described in R.C. 2923.125(D)(1). As part of any such criminal-records check, the sheriff

shall contact the National Instant Criminal Background Check (NICS) system to verify that the applicant is eligible lawfully to receive or possess a firearm in the United States. The sheriff shall conduct the criminal-records check and the incompetency-records check required by this division through use of an electronic fingerprint-reading device or, if the sheriff does not possess and does not have ready access to the use of an electronic fingerprint-reading device, by requesting the Bureau of Criminal Identification and Investigation (BCII) to conduct the checks as described in this division.

EXCEPTIONS TO SEALED RECORD ACCESS - *continued*

R.C. 4510.036 Records of Bureau of Motor Vehicles - Points Assessed.

(C) A court shall assess the following points for an offense based on the following formula:

(1) Aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, aggravated vehicular assault, or vehicular assault when the offense involves the operation of a vehicle, streetcar, or trackless trolley on a highway or street: 6 points

(2) A violation of R.C. 2921.331 or any ordinance prohibiting the willful fleeing or eluding of a law enforcement officer: 6 points

(3) A violation of R.C. 4549.02 or 4549.021 or any ordinance requiring the driver of a vehicle to stop and disclose identity at the scene of an accident: 6 points

(4) A violation of R.C. 4511.251 or any ordinance prohibiting street racing: 6 points

(5) A violation of R.C. 4510.037 or any ordinance prohibiting the operation of a motor vehicle while the driver's or commercial driver's license is under a 12-point suspension: 6 points

(6) A violation of R.C. 4510.14, or any ordinance prohibiting the operation of a motor vehicle upon the public roads or highways within this state while the driver's or commercial driver's license of the person is under suspension and the suspension was imposed under R.C. 4511.19, 4511.191, or 4511.196 or R.C. 4510.07 due to a conviction for a violation of a municipal-OVI ordinance or any ordinance prohibiting the operation of a motor vehicle while the driver's or commercial driver's license is under suspension for an OVI offense: 6 points

(7) A violation of R.C. 4511.19(A), any ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or any ordinance substantially equivalent to R.C. 4511.19(A) prohibiting the operation of a vehicle

with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine: 6 points

(8) A violation of R.C. 2913.03 that does not involve an aircraft or motorboat or any ordinance prohibiting the operation of a vehicle without the consent of the owner: 6 points

(9) Any offense under the motor vehicle laws of this state that is a felony, or any other felony in the commission of which a motor vehicle was used: 6 points

(10) A violation of R.C. 4511.19(B) or any ordinance substantially equivalent to that division prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine: 4 points

(11) A violation of R.C. 4511.20 or any ordinance prohibiting the operation of a motor vehicle in willful or wanton disregard of the safety of persons or property: 4 points

(12) A violation of any law or ordinance pertaining to speed:

(a) Notwithstanding R.C. 4510.036(C)(12)(b) and (c), when the speed exceeds the lawful speed limit by 30 miles per hour or more: 4 points

(b) When the speed exceeds the lawful speed limit of 55 miles per hour or more by more than 10 miles per hour: 2 points

(c) When the speed exceeds the lawful speed limit of less than 55 miles per hour by more than five miles per hour: 2 points

(d) When the speed does not exceed the amounts set forth in R.C. 4510.036(C)(12)(a), (b), or (c) of this section: 0 points