In The
Supreme Court of Ohio

STATE *ex rel.* DENNIS W. SCHREINER,	:	**Case No. 2024-0052**
Relator,	:	**Original Action in Prohibition**
v.	:	**Expedited Election Case Pursuant to S.Ct. Prac.R. 12.08**
ERIE COUNTY BOARD OF ELECTIONS, *et al*.,	:	
Respondents.	:	

RELATOR'S REPLY BRIEF

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INTRODUCTION

Intervenor Steven Kraus ("Intervenor") was convicted of a felony-theft offense. It was not expunged. It still cannot be expunged—and no party to this case disputes it. Yet despite the plain language of R.C. 2961.02(B), rendering Intervenor "incompetent" to hold the office of State Representative due to that conviction, the Erie County Board of Elections and its members ("Respondents") denied Relator's protest and approved Intervenor for the primary election ballot. Respondents rest their argument on the extraordinary claim that, prior to 2023, the "sealing" of a conviction was "the functional equivalent" of "expunging" the conviction, (Resp. Br. 10), and that the terms "sealing" and "expungement" were "interchangeabl[e]." (*Id.* at 9.) Thus, Respondents claim, the language in R.C. 2961.02(C) requiring that a conviction be "reversed, expunged, or annulled" before it is no longer "disqualifying," is *also* satisfied by a conviction being "sealed." This position is contrary to decades of legislation enacted by the General Assembly that treated "sealing" and "expungement" as distinct concepts and established that the General Assembly understood, at all relevant times, the difference between "seal" and "expunge." Respondents were bound to apply the statute as written, and to give effect to the words the General Assembly chose (*i.e.*, that a conviction must be "expunged" to be removed from the disqualification provision of R.C. 2961.02(B)), and Respondents' decision to rewrite the statute and treat a "sealed" conviction as the same as an "expunged" conviction was a clear disregard of the law.

Intervenor's brief echoes the points raised by Respondents and raises a series of poorly articulated statutory-interpretation and constitutional arguments. Those arguments are easily dispatched. Intervenor asserts that a State Representative's responsibilities do not "involve substantial management or control over the property of a state agency" so as to be subject to the bar of R.C. 2961.02(B). But given that the General Assembly has the "power of the purse" over

Ohio's $191 billion-dollar biennial budget, and has legislative oversight responsibilities over the executive branch, his position lacks credibility. Intervenor's constitutional claims fare no better, as they ignore Article V, Section 4 of the Ohio Constitution, which is an *express grant of power to the General Assembly to exclude felons from public office*.

Finally, Respondents and Intervenor assert that Respondents' decision below to certify Intervenor to the ballot serves the public interest, reasoning that democratic principles favor allowing the people to decide at the ballot box. But this position does a grave disservice to Ohio's voters, who rely on election administrators to follow the Revised Code and limit ballot access to those individuals qualified to hold office. The voters of Ohio's 89th House District deserve to know that the candidates who appear on their ballot are lawfully qualified, and they are not simply throwing their votes away by voting to nominate a person who is ineligible to hold office. In all events, Respondents are required to follow the law and not their misguided policy views.

The Court should reject the arguments of Respondents and Intervenor. For the reasons outlined in the Complaint, Relator's merit brief, and this reply, the Court should issue the writ of prohibition.

LAW AND ARGUMENT

Respondents and Intervenor make multiple errors of law in their merit briefs. But these various missteps largely boil down to one. They deny that expungement and sealing were and are distinct legal concepts, as demonstrated by many years of statutory enactments before and after the enactment of R.C. 2961.02. This is not, as Respondents and Intervenor both suggest, a technicality. It is the law.

Respondents agree that Relator has established the first and third requirements for a writ of prohibition. (*See* Resp. Br. 3.) Respondents dispute that the Board erred as a matter of

applicable law in denying Relator's protest. (*See* Resp. Br. 6–9.) But neither Respondents nor Intervenor deny that Intervenor remains ineligible to expunge his record. Nor do their briefs even cite, much less analyze, cases cited by Relator where this Court has issued the writ of prohibition in response to a board of election's decision to certify a statutorily disqualified candidate. *See, e.g., State ex rel. Craig v. Scioto Cty. Bd. of Elections*, 117 Ohio St.3d 158, 2008-Ohio-706, 882 N.E.2d 435, ¶¶ 18, 22; *Wellington v. Mahoning Cty. Bd. of Elections*, 117 Ohio St.3d 143, 2008-Ohio-554, 882 N.E.2d 420, ¶ 48. Instead, they double down on unreasonable statutory-interpretation arguments with bizarre results, *e.g.*, that expungement means expungement everywhere *except* R.C. 2961.02, where sealing also means expungement. Intervenor goes so far as to dispute that a State Representative's job involves substantial control over the property of a state agency. (*See* Intervenor Br. 6–7.) And Intervenor's constitutional arguments—which were not raised before the Board—fall flat because they do not even address plainly controlling law.

In the end, there can be no question that the Board erred as a matter of law when it denied Relator's protest—deciding that Intervenor's criminal record was expunged for purposes of R.C. 2961.02 when it is undisputed that it was only sealed, not expunged. Relator is entitled to the writ.

A. Respondents and Intervenor Ignore Decades of Statutory Amendments Distinguishing Expungement from Sealing.

Respondents argue that R.C. 2953.32, as currently written, has "no relevance" to this case. (*See* Resp. Br. 6.) Respondents and Intervenor insist that "sealing" and "expungement" must be the same for purposes of R.C. 2961.02. (*See* Resp. Br. 10; Intervenor's Br. 11-12.) But these arguments are an attempt to ignore decades of statutory enactments that used these two terms in distinct ways. The Court presumes that the General Assembly is "aware of other statutory provisions concerning the subject matter of [an] enactment even if they are found in separate sections of the Code." *Hulsmeyer v. Hospice of Southwest Ohio, Inc.*, 142 Ohio St.3d 236, 2014-

Ohio-5511, 29 N.E.3d 903, ¶ 26 (Kennedy, J.). Thus, "the use of particular language to modify one part of a statute but not another part demonstrates that the General Assembly knows how to make that modification and has chosen not to make that modification in the latter part of the statute." *Id.* Therefore, the Court should not accept Respondents' and Intervenor's invitation to ignore the General Assembly's long-standing distinction between sealing and expungement.

That distinction between "sealing" and "expungement" has existed for decades. As one example, Ohio law historically permitted expungement of bail forfeitures, but in 1988, the General Assembly repealed former R.C. 2953.41 to 2953.43 and enacted new statutory provisions to "permit sealing, *rather than expungement*, of bail forfeiture records." 117th Am.Sub.H.B. 175, 1988 Ohio Laws File 148, *1 (1988) (emphasis added).

This legislative distinction between "sealing" and "expungement" continued well up to the time of Intervenor's sealing motion, his conviction, and, indeed, before the present version of R.C. 2961.02 came into effect in 2008. Juvenile records were subject to expungement as early as 2006 with the passage of 126th Am.Sub.H.B. 137, 2006 Ohio Laws File 132 (2006), which enacted, *inter alia*, R.C. 2151.355. The resulting statutory scheme clearly differentiated between "seal" and "expunge." (*See* Rel. Br. 13) (citing R.C. 2151.355 and explaining distinction between sealing and expungement). Likewise, convictions for improper handling of firearms in a motor vehicle were subject to expungement as early as 2011, *see* Sub.S.B. 17, 2011 Ohio Laws File 34 (2011) (enacting R.C. 2953.37, subsequently amended and renumbered as R.C. 2953.35). Moreover, the human-trafficking expungement law dates back to at least 2012. *See* Am.Sub.H.B. 262, 2012 Ohio Laws File 142 (2012) (adopting R.C. 2953.38, currently R.C. 2953.36). Finally, as Relator's counsel pointed out at the protest hearing, the Office of the Ohio Public Defender and the Ohio Association of Chiefs of Police both submitted testimony to the General Assembly *before* the

passage of Am.Sub.S.B. 288 in 2022—that is, before Kraus's record was sealed—in which they explained the clear differences between sealing and expungement. (*See* Hr'g Tr. 24:23–26:15.)

And of course, the General Assembly has plainly distinguished between sealing and expungement in the current version of R.C. 2953.32 Respondents and Intervenor argue that the recent reforms to R.C. 2953.32 in Am.Sub.S.B. 288 mean that R.C. 2953.32 has no relevance for interpreting R.C. 2961.02, since the amendments to R.C. 2953.32 post-date the filing of Intervenor's application to seal his criminal record. (*See* Resp. Br. 6-7; Intervenor Br. 7-12.) By taking the position that R.C. 2953.32 is not relevant, Respondents and Intervenor effectively invite this Court to edit R.C. 2961.02(C) to say "expunged *or sealed*" rather than simply "expunged." This Court has firmly declined similar invitations to infer edits where no such edits occurred. *See, e.g.*, *State v. G.K.*, 169 Ohio St.3d 266, 2022-Ohio-2858, 203 N.E.3d 701, ¶ 18 ("The fact that the legislature amended the conviction-sealing statute but declined to amend the nonconviction-sealing statute does not suggest that the legislature wanted the same changes to apply to both statutes; it suggests the exact opposite. We must presume that the legislature chose not to amend the nonconviction-sealing statute for a reason."). And adding words to the text of R.C. 2961.02(C) is flatly inconsistent with this Court's approach to statutory interpretation, pursuant to which the Court "give[s] effect to the words the General Assembly has chosen," and will "neither add to nor delete from the statutory language." *Gabbard v. Madison Loc. Sch. Dist. Bd. of Educ.*, 165 Ohio St.3d 390, 2021-Ohio-2067, 179 N.E.3d 1169, ¶ 13.

The Court should similarly decline here to read additional words into R.C. 2961.02. The analysis above shows that the General Assembly consistently treats "seal" and "expunge" as different, and makes those two forms of relief available in different situations. Those differences reflect considered policy judgments by the General Assembly and not sloppy drafting. Reading

R.C. 2961.02 as Respondents and Intervenor do—treating the word "expunged" in R.C. 2961.02(C) as also meaning "sealed"—would run roughshod over those policy judgments, effectively amending the statute in a way inconsistent with the General Assembly's pre- and post-2008 revisions to Titles 21 and 29, and with the broader scheme of Title 29. And it would create the absurd result that "expungement" would mean destruction of a record, as opposed to mere sealing, everywhere in Ohio criminal law *except* in R.C. 2961.02.

Therefore, the only permissible interpretation of R.C. 2961.02 is one which aligns with the current version of R.C. 2953.32 and the other uses of "expungement" referenced above.

B. Respondents and Intervenor Rely Heavily on Policy Arguments While Ignoring or Misconstruing Relevant Law.

Respondents and Intervenor purport to interpret R.C. 2961.02, but they are actually staking their case on policy arguments—and not persuasive ones. It is not the role of this Court to set policy. The General Assembly has done that. And the policy is this: Am.Sub.S.B. 288 was indeed a major piece of reform. A significantly expanded class of adult offenders can now seek to have their criminal records expunged where they could not before. *See* R.C. 2953.32. But felony-theft offenders have historically faced a high bar if they seek a public office where they will oversee public funds. *See* R.C. 2961.02. That has not changed. And *contra* Intervenor's brief, (*see* Intervenor Br. 6,) Am.Sub.S.B. 288 actually *expanded* Intervenor's ultimate ability to seek public office, by broadening the range of offenses eligible for expungement rather than just sealing. Respondents and Intervenor's arguments ignore this. And in the process, their briefs completely also ignore clearly applicable law confirming that the Board should have affirmed Relator's protest.

Respondents and Intervenor place great emphasis on Ohio's public policy favoring voter choice and competitive elections and argue that applicable statutes should be read liberally to

promote ballot access. (*See* Resp. Br. 4; Intervenor Br. 2, 4, 16.) But as explained in Relator's merit brief, Respondents cannot ignore a controlling statute to advance that policy. Under the scheme set forth in Title 35 of the Revised Code, Ohio's ballot is not a free-for-all where any candidate may appear—it is limited to properly qualified candidates. After all, "as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." *Storer v. Brown*, 415 U.S. 724, 730 (1974). When the "plain language" of an applicable statute precludes a proposed candidacy, the Board must act. (*See* Rel. Br. 11 (collecting cases).) Doing otherwise does Ohio voters a disservice, by essentially cluttering their primary ballots with "false choice" candidates that, if nominated and ultimately elected, could not take the office. Respondents and Intervenor's briefs both conspicuously fail to cite, much less analyze, case law that plainly refutes their arguments. *See, e.g.*, *Craig*, 117 Ohio St.3d 158, 2008-Ohio-706, 882 N.E.2d 435, ¶¶ 18, 22 (granting writ of prohibition where candidate was statutorily ineligible for office).

And it is understandable why Respondents and Intervenor would choose to steer clear of cases like *Craig*. These cases confirm that a board of elections is required to affirm protests directed at candidates who are statutorily unqualified to hold the office they seek. For Respondents and Intervenor, this is fatal. Respondents insist that they did not "clearly disregard" an applicable legal provision. (*See* Resp. Br. 5–7.)[1] But where a statute's meaning is "unequivocal and definite," as here, *Craig* and similar cases teach that Respondents were required to affirm Relator's protest. *See, e.g.*, *Craig*, 117 Ohio St.3d 158, 2008-Ohio-706, 882 N.E.2d 435, ¶ 23 ("The board's reliance

[1] Respondents' assertion that "the statutory law in effect at the time of filing an application to seal criminal records is controlling" is true, but beside the point. (Resp. Br. 6.) What is at issue here is not which version of the statute was applicable to Intervenor's sealing motion. Instead, what is at issue is whether Intervenor was eligible for expungement when he had his record sealed. Notably, neither Respondents nor Intervenor argue that he was.

on the axiom of liberal construction of statutory limitations on the right to be an eligible candidate is misplaced because we must apply the plain language of R.C. 311.01(B)(9), which has an unequivocal and definite meaning."). Here, R.C. 2961.02's meaning is unequivocal and definite—an unexpunged felony-theft offense is disqualifying—despite Respondents' attempt to argue otherwise. (*See* Rel. Br. 11–16.)

Intervenor, for his part, appears to agree with Relator that the statute is unambiguous—he simply argues that cases like *Boykin* and *Pariag* confirm Intervenor's reading. (*See* Intervenor Br. 13.) But as explained in Relator's merit brief, *Boykin* relied on *Pariag* for its characterization of "sealing." (*See* Rel. Br. 14–15.) And to reiterate, *Pariag* agreed that expungement was used as a "common colloquialism" to refer to sealing, but plainly delineated between the two: "[t]he term 'expungement' continues to appear . . . relating to juveniles, and, in contrast to 'sealing' means that no record exists." *State v. Pariag*, 137 Ohio St.3d 81, 2013-Ohio-4010, 998 N.E.2d 401, ¶ 11 n.1.[2] Despite their attempt now to argue that the word "expunged" in R.C. 2961.02 is ambiguous, Respondents agreed during the protest hearing that sealing and expungement are different. (*See* Hr'g Tr. 28:3-21.)

Other arguments raised by Intervenor also fall short. For example, Intervenor asserts that R.C. 2961.02 cannot refer to expungement in any "hyper-technical sense" and that Relator's reading would lead to "absurd" results. (Intervenor Br. 14.) But Relator does not ask the Court to read R.C. 2961.02, or any other statute, in a "hyper-technical sense." The plain language of R.C.

[2] Intervenor's brief collects cases where Ohio courts have used the terms sealing and expungement interchangeably. (*See* Intervenor Br. 3–4 n.1.) The Court's opinion in *Pariag* explains why: it was a "common colloquialism." *Pariag*, 2013-Ohio-4010, at ¶ 11 n.1. But a "common colloquialism" does not overturn plain statutory text. And as explained in Relator's merit brief and herein, R.C. 2961.02 makes no sense in relation to past and present statutory enactments if read to say "expunged *or sealed*."

2961.02, which requires that a felony-theft conviction be "reversed, expunged, or annulled," or subject to a "full pardon," makes clear the General Assembly's intent—the conviction must be effectively erased from existence.[3] In that regard, both Respondents and Intervenor make faulty arguments. Respondents make much of the fact that, when Intervenor had his record sealed in January 2023, sealing was "*his only option*". (Resp. Br. 2.) Intervenor did do "everything that could have been at the time"—and that is precisely the point. (*Id.*) (citation omitted). At that time, and still today, Intervenor could only have his record sealed—not expunged. Because Intervenor could not—and still cannot—have his record expunged, he is not entitled to appear on the ballot under the law as it existed when he filed his sealing motion (and as the law exists today, as the requisite ten years have not yet passed to allow him to qualify for expungement).

Meanwhile, Intervenor incorrectly cites R.C. 2953.35(L)(1) to suggest that, if questioned, Intervenor may respond as if his case did not occur. (*See* Intervenor Br. 14 n.1.) This is a deeply cynical argument. First, there is no such code section. He appears to be referring to R.C. 2953.*34*(L)(1). R.C. 2953.34(L)(1) refers to "any record that has been sealed or expunged pursuant to section 2953.33 of the Revised Code." R.C. 2953.33, in turn, refers to the sealing or expungement of records in a case after a not guilty finding, dismissal of proceedings, entry of no bill by a grand jury, or a pardon. None of those things happened here. And more importantly, there is no section in the Revised Code that formally defines "expungement" as equivalent to

[3] This explains why Intervenor's arguments about federal or out-of-state convictions are not well-founded. (*See* Intervenor Br. 15.) The conviction in question must be "reversed, expunged, or annulled," or fully pardoned. The language is clearly geared toward annihilation of the underlying offense. While the mechanics may vary from jurisdiction to jurisdiction, the intent is clear. Moreover, Intervenor misses that R.C. 2961.02 would allow for an "expungement" of an out-of-state conviction for a disqualifying offense under the expungement laws of the other state. That supports Relator's position, not Intervenor's, as the potential for out-of-state expungements is a reason for the General Assembly's conscious choice of the word "expunge" and not "seal."

"sealing." Second, Intervenor has publicly and repeatedly conceded that his conviction *did* occur and does not contest here that it still cannot be expunged under R.C. 2953.32. (*See* REL. 38.) Plus, Relator's arguments here ultimately rest on Intervenor's own untrue statement made pursuant to R.C. 3513.07: that if elected, he would qualify for the office he seeks.

Fundamentally, Respondents and Intervenor fail to refute the basic points raised in Relator's Complaint. They ignore the relevant law in the process. R.C. 2961.02 requires expungement for Intervenor to run for the Ohio House of Representatives—and that has not happened.

C. Contrary to Intervenor's Assertion, State Representatives' Responsibilities Involve "Substantial Management or Control Over the Property of a State Agency" and Are Subject to R.C. 2961.02.

Interestingly, Intervenor's leading argument—which he did not raise before the Board—is that a State Representative, one of 132 lawmakers in a state of nearly 12 million people, does not involve "substantial management or control over the property of a state agency," and therefore R.C. 2961.02 should not apply to him. (Intervenor Br. 6–7.)

The Ohio House of Representatives is a "state agency." R.C. 1.60 ("As used in Title I of the Revised Code, 'state agency,' except as otherwise provided in the title, means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government.") The 99 members of the House deliberate and vote on the biennial budget that funds *every other state agency*—a budget that for FY 2024-2025 is some $191 billion dollars. Members may make specific requests for budget line-items for projects in their districts. Members sit on committees where they vote for and against bills, offer amendments, and perform legislative oversight activities with respect to state agencies.

At a bare minimum, individual members of the House have an office paid for by the taxpayers. They have a legislative assistant drawing a public salary. They are entrusted with

managing office expenses, mileage and lodging reimbursements, and other uses of state money. The idea that these activities are not "substantial management or control over the property of a state agency" is simply not tenable. Under any reasonable view, members of the General Assembly have responsibilities—weighty ones—that involve "substantial management or control over the property" of the State. Therefore, R.C. 2961.02 must apply to State Representatives.

D. Intervenor's Belated Constitutional Arguments Are Entirely Without Merit.

In the alternative, Intervenor makes two constitutional arguments. Both are plainly wrong.

First, Intervenor argues that "the Ohio constitution does not appear to enable the legislature to change the constitutional criteria for eligibility." (Intervenor Br. 15.) Intervenor reasons that because the federal constitutional qualifications to serve in Congress are fixed and exclusive, and because each house of Congress is the sole judge of its members' qualifications, the same must be true of the General Assembly.[4] (*Id.* at 15-17.) But that argument ignores a provision of Ohio's constitution, Article V, Section 4, which states: "The General Assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of a felony." This express grant of authority in the Ohio Constitution vests the General Assembly with the power to enact R.C. 2961.02(B) and to bar certain felons from eligibility to hold office.

Article V also makes clear that "[a]ll nominations for elective state, district, county and municipal offices shall be made at direct primary elections or by petition *as provided by law*[.]" Ohio Const. art. V, § 7 (emphasis added). Pursuant to that constitutional authority, the General Assembly enacted Chapter 3513 of the Revised Code to govern primary elections. Crucially, R.C.

[4] Of course, there is no requirement that Ohio must interpret the text of its own Constitution to be identical to similar or analogous provisions of the U.S. Constitution. Powerful arguments have been made to the contrary. *See generally* Jeffrey S. Sutton, 51 Imperfect Solutions: States and the Making of American Constitutional Law (2018) (arguing that lockstep interpretations of state constitutional provisions are a "grave threat to independent state constitutions" and "a key impediment to the role of state courts").

3513.05 directs the *Board*—not the General Assembly—to hear protests like Relator's and to make a "final" determination of whether a candidate has complied with Chapter 3513, which includes R.C. 3513.07. R.C. 3513.07, in turn, requires the candidate to certify that "if elected to said office or position, I will qualify therefor[.]" (*See* Rel. Br. 7, 16.) Here, Intervenor submitted a declaration of candidacy under R.C. 3513.07 that asserted that he would "qualify" for the office he seeks. But under R.C. 2961.02(B), Intervenor cannot qualify, so his declaration contains an untrue statement, and therefore fails to comply with Chapter 3513. This Court has previously issued the writ when a candidate is similarly disqualified by statute and where the other conditions for the writ are met. *See, e.g.*, *Craig*, 117 Ohio St.3d 158, 2008-Ohio-706, 882 N.E.2d 435, ¶¶ 18, 22 (granting writ of prohibition where candidate is statutorily ineligible for office).

Second, Intervenor invokes the First Amendment. He fares no better here. Intervenor notes that "'ballot access must be genuinely open to all, *subject to reasonable requirements*.'" (Intervenor Br., 17 (citing *Lubin v. Panish*, 415 U.S. 709, 719 (1974)) (emphasis added).) Intervenor fails to explain how R.C. 2961.02 represents an unreasonable requirement. And, as another of Intervenor's cases acknowledges, "[s]tates have a major role to play in structuring and monitoring the election process, including primaries." *California Democratic Party v. Jones*, 530 U.S. 567, 572 (2000). In particular, it has long been recognized that "each provision of [state election-law] schemes, whether it governs the registration and qualification of voters, the selection and eligibility of candidates, or the voting process itself, inevitably affects—at least to some degree—the individual's right to vote and his right to associate with others to political ends." *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). "Nevertheless, the state's important regulatory interests are generally sufficient to justify reasonable, nondiscriminatory restrictions." *Id.* So too here: Ohio has a compelling interest in limiting ballot access to qualified candidates, and excluding

a candidate whose felony-theft conviction renders him "incompetent," R.C. 2961.02(B), from serving in the office he seeks is well justified by the state's important regulatory interests.

Moreover, the exclusion from office of felony-theft offenders is not unconstitutional. Intervenor cites no specific authority in support of the idea that Ohio cannot bar felony-theft offenders from public office.[5] On the contrary, longstanding precedent allows the State to impose such disability. *See, e.g.*, *Richardson v. Ramirez*, 418 U.S. 24, 48 (1974) (when the Fourteenth Amendment was ratified, "29 States [including Ohio] had provisions in their constitutions which prohibited, or authorized the legislature to prohibit, exercise of the franchise by persons convicted of felonies or infamous crimes."). Intervenor's First Amendment argument is therefore meritless.

CONCLUSION

For the reasons set out in the Complaint and Relator's merit and reply briefs, the Court should grant the relief Relator seeks, issue the writ of prohibition, and grant such further relief as the Court may deem appropriate.

Date: January 22, 2024

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[5] Article V, Section 4, of the Ohio Constitution, which authorizes such exclusion, has been in effect since 1976.

CERTIFICATE OF SERVICE

The undersigned counsel served a copy of the foregoing filing by email on counsel for Respondents and Intervenor:

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Respectfully Submitted,

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APPENDIX

Ohio Constitution, Article V, Section 4. Exclusion from franchise.

The General Assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of a felony.

Ohio Constitution, Article V, Section 7. Primary elections.

All nominations for elective state, district, county and municipal offices shall be made at direct primary elections or by petition as provided by law, and provision shall be made by law for a preferential vote for United States senator; but direct primaries shall not be held for the nomination of township officers or for the officers of municipalities of less than two thousand population, unless petitioned for by a majority of the electors of such township or municipality. All delegates from this state to the national conventions of political parties shall be chosen by direct vote of the electors in a manner provided by law. Each candidate for such delegate shall state his first and second choices for the presidency, but the name of no candidate for the presidency shall be so used without his written authority.

R.C. 1.60. State agency defined.

As used in Title I of the Revised Code, "state agency," except as otherwise provided in the title, means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government. "State agency" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.

R.C. 2151.355. Sealing of juvenile court records - definitions.

As used in sections 2151.356 to 2151.358 of the Revised Code:

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

(B) "Seal a record" means to remove a record from the main file of similar records and to secure it in a separate file that contains only sealed records accessible only to the juvenile court.

R.C. 2953.31. Sealing or expungement of record of conviction or bail forfeiture – definitions.

(A) As used in sections 2953.31 to 2953.521 of the Revised Code:

(1) "Prosecutor" means the county prosecuting attorney, city director of law, village solicitor, or similar chief legal officer, who has the authority to prosecute a criminal case in the court in which the case is filed.

(2) "Bail forfeiture" means the forfeiture of bail by a defendant who is arrested for the commission of a misdemeanor, other than a defendant in a traffic case as defined in Traffic Rule 2, if the forfeiture is pursuant to an agreement with the court and prosecutor in the case.

(3) "Official records" means all records that are possessed by any public office or agency that relate to a criminal case, including, but not limited to: the notation to the case in the criminal docket; all subpoenas issued in the case; all papers and documents filed by the defendant or the prosecutor in the case; all records of all testimony and evidence presented in all proceedings in the case; all court files, papers, documents, folders, entries, affidavits, or writs that pertain to the case; all computer, microfilm, microfiche, or microdot records, indices, or references to the case; all index references to the case; all fingerprints and photographs; all DNA specimens, DNA records, and DNA profiles; all records and investigative reports pertaining to the case that are possessed by any law enforcement officer or agency, except that any records or reports that are the specific investigatory work product of a law enforcement officer or agency are not and shall not be considered to be official records when they are in the possession of that officer or agency; all investigative records and reports other than those possessed by a law enforcement officer or agency pertaining to the case; and all records that are possessed by any public office or agency that relate to an application for, or the issuance or denial of, a certificate of qualification for employment under section 2953.25 of the Revised Code.

"Official records" does not include any of the following:

(a) Records or reports maintained pursuant to section 2151.421 of the Revised Code by a public children services agency or the department of job and family services;

(b) Any report of an investigation maintained by the inspector general pursuant to section 121.42 of the Revised Code, to the extent that the report contains information that pertains to an individual who was convicted of or pleaded guilty to an offense discovered in or related to the investigation and whose conviction or guilty plea was not overturned on appeal;

(c) Records, reports, or audits maintained by the auditor of state pursuant to Chapter 117. of the Revised Code.

(4) "Official proceeding" has the same meaning as in section 2921.01 of the Revised Code.

(5) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(6) "Post-release control" and "post-release control sanction" have the same meanings as in section 2967.01 of the Revised Code.

(7) "DNA database," "DNA record," and "law enforcement agency" have the same meanings as in section 109.573 of the Revised Code.

(8) "Fingerprints filed for record" means any fingerprints obtained by the superintendent of the bureau of criminal identification and investigation pursuant to sections 109.57 and 109.571 of the Revised Code.

(9) "Investigatory work product" means any records or reports of a law enforcement officer or agency that are excepted from the definition of "official records" and that pertain to a conviction or bail forfeiture, the records of which have been ordered sealed or expunged pursuant to division (D)(2) of section 2953.32 or division (F)(1) of section 2953.39 of the Revised Code, or that pertain to a conviction or delinquent child adjudication, the records of which have been ordered expunged pursuant to division (E) of section 2151.358, division (C)(2) of section 2953.35, or division (F) of section 2953.36 of the Revised Code.

(10) "Law enforcement or justice system matter" means an arrest, complaint, indictment, trial, hearing, adjudication, conviction, or correctional supervision.

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

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

(13) "No bill" means a report by the foreperson or deputy foreperson of a grand jury that an indictment is not found by the grand jury against a person who has been held to answer before the grand jury for the commission of an offense.

(14) "Court" means the court in which a case is pending at the time a finding of not guilty in the case or a dismissal of the complaint, indictment, or information in the case is entered on the minutes or journal of the court, or the court to which the foreperson or deputy foreperson of a grand jury reports, pursuant to section 2939.23 of the Revised Code, that the grand jury has returned a no bill.

(B)(1) As used in section 2953.32 of the Revised Code, "expunge" means the expungement process described in section 2953.32 of the Revised Code, including the authority described in division (D)(5) of that section.

(2) As used in sections 2953.33 to 2953.521 of the Revised Code, "expunge" means both of the following:

(a) The expungement process described in sections 2953.35, 2953.36, 2953.39, and 2953.521 of the Revised Code;

(b) To destroy, delete, and erase a record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.

R.C. 2953.32. Sealing or expungement of record of conviction record or bail forfeiture; exceptions.

(A)(1) Sections 2953.32 to 2953.34 of the Revised Code do not apply to any of the following:
(a) Convictions under Chapter 4506., 4507., 4510., 4511., or 4549. of the Revised Code, or a conviction for a violation of a municipal ordinance that is substantially similar to any section contained in any of those chapters;

(b) Convictions of a felony offense of violence that is not a sexually oriented offense;

(c) Convictions of a sexually oriented offense when the offender is subject to the requirements of Chapter 2950. of the Revised Code or Chapter 2950. of the Revised Code as it existed prior to January 1, 2008;

(d) Convictions of an offense in circumstances in which the victim of the offense was less than thirteen years of age, except for convictions under section 2919.21 of the Revised Code;
(e) Convictions of a felony of the first or second degree;

(f) Except as provided in division (A)(2) of this section, convictions for a violation of section 2919.25 or 2919.27 of the Revised Code or a conviction for a violation of a municipal ordinance that is substantially similar to either section;

(g) Convictions of a felony of the third degree if the offender has more than one other conviction of any felony or, if the person has exactly two convictions of a felony of the third degree, has more convictions in total than those two third degree felony convictions and two misdemeanor convictions.

(2) Sections 2953.32 to 2953.34 of the Revised Code apply to a conviction for a violation of section 2919.25 of the Revised Code that is a misdemeanor of the fourth degree for purposes of sealing, but not for purposes of expungement of the record of the case.

(B)(1) Except as provided in section 2953.61 of the Revised Code or as otherwise provided in division (B)(1)(a)(iii) of this section, an eligible offender may apply to the sentencing court if convicted in this state, or to a court of common pleas if convicted in another state or in a federal court, for the sealing or expungement of the record of the case that pertains to the conviction, except for convictions listed in division (A)(1) of this section. Application may be made at whichever of the following times is applicable regarding the offense:
(a) An application for sealing under this section may be made at whichever of the following times is applicable regarding the offense:

(i) Except as otherwise provided in division (B)(1)(a)(iv) of this section, at the expiration of three years after the offender's final discharge if convicted of one or two felonies of the third degree, so long as none of the offenses is a violation of section 2921.43 of the Revised Code;

(ii) Except as otherwise provided in division (B)(1)(a)(iv) of this section, at the expiration of one year after the offender's final discharge if convicted of one or more felonies of the fourth or fifth

degree or one or more misdemeanors, so long as none of the offenses is a violation of section 2921.43 of the Revised Code or a felony offense of violence;
(iii) At the expiration of seven years after the offender's final discharge if the record includes one or more convictions of soliciting improper compensation in violation of section 2921.43 of the Revised Code;

(iv) If the offender was subject to the requirements of Chapter 2950. of the Revised Code or Chapter 2950. of the Revised Code as it existed prior to January 1, 2008, at the expiration of five years after the requirements have ended under section 2950.07 of the Revised Code or section 2950.07 of the Revised Code as it existed prior to January 1, 2008, or are terminated under section 2950.15 or 2950.151 of the Revised Code;

(v) At the expiration of six months after the offender's final discharge if convicted of a minor misdemeanor.

(b) An application for expungement under this section may be made at whichever of the following times is applicable regarding the offense:

(i) Except as otherwise provided in division (B)(1)(b)(ii) of this section, if the offense is a misdemeanor, at the expiration of one year after the offender's final discharge;

(ii) If the offense is a minor misdemeanor, at the expiration of six months after the offender's final discharge;

(iii) If the offense is a felony, at the expiration of ten years after the time specified in division (B)(1)(a) of this section at which the person may file an application for sealing with respect to that felony offense.

(2) Any person who has been arrested for any misdemeanor offense and who has effected a bail forfeiture for the offense charged may apply to the court in which the misdemeanor criminal case was pending when bail was forfeited for the sealing or expungement of the record of the case that pertains to the charge. Except as provided in section 2953.61 of the Revised Code, the application may be filed at whichever of the following times is applicable regarding the offense:
(a) An application for sealing under this section may be made at any time after the date on which the bail forfeiture was entered upon the minutes of the court or the journal, whichever entry occurs first.

(b) An application for expungement under this section may be made at whichever of the following times is applicable regarding the offense:

(i) Except as provided in division (B)(2)(b)(ii) of this section, at any time after the expiration of one year from the date on which the bail forfeiture was entered upon the minutes of the court or the journal, whichever entry occurs first;

(ii) If the offense is a minor misdemeanor, at any time after the expiration of six months from the date on which the bail forfeiture was entered upon the minutes of the court or the journal, whichever entry occurs first.

(C) Upon the filing of an application under this section, the court shall set a date for a hearing and shall notify the prosecutor for the case of the hearing on the application not less than sixty days prior to the hearing. Pursuant to the Ohio Constitution, the prosecutor shall provide timely notice of the application and the date and time of the hearing to a victim and victim's representative, if applicable, if the victim or victim's representative requested notice of the proceedings in the underlying case. The court shall hold the hearing not less than forty-five days and not more than ninety days from the date of the filing of the application. The prosecutor may object to the granting of the application by filing a written objection with the court not later than thirty days prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The victim, victim's representative, and victim's attorney, if applicable, may be present and heard orally, in writing, or both at any hearing under this section. The court shall direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant. The probation officer or county department of probation that the court directs to make inquiries and written reports as the court requires concerning the applicant shall determine whether or not the applicant was fingerprinted at the time of arrest or under section 109.60 of the Revised Code. If the applicant was so fingerprinted, the probation officer or county department of probation shall include with the written report a record of the applicant's fingerprints. If the applicant was convicted of or pleaded guilty to a violation of division (A)(2) or (B) of section 2919.21 of the Revised Code, the probation officer or county department of probation that the court directed to make inquiries concerning the applicant shall contact the child support enforcement agency enforcing the applicant's obligations under the child support order to inquire about the offender's compliance with the child support order.

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

(a) Determine whether the applicant is pursuing sealing or expunging a conviction of an offense that is prohibited under division (A) of this section or whether the forfeiture of bail was agreed to by the applicant and the prosecutor in the case, and determine whether the application was made at the time specified in division (B)(1)(a) or (b) or division (B)(2)(a) or (b) of this section that is applicable with respect to the application and the subject offense;

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

(c) Determine whether the applicant has been rehabilitated to the satisfaction of the court;

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

(e) If the victim objected, pursuant to the Ohio Constitution, consider the reasons against granting the application specified by the victim in the objection;

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

(g) Consider the oral or written statement of any victim, victim's representative, and victim's attorney, if applicable;

(h) If the applicant was an eligible offender of the type described in division (A)(3) of section 2953.36 of the Revised Code as it existed prior to the effective date of this amendment, determine whether the offender has been rehabilitated to a satisfactory degree. In making the determination, the court may consider all of the following:
(i) The age of the offender;

(ii) The facts and circumstances of the offense;

(iii) The cessation or continuation of criminal behavior;

(iv) The education and employment of the offender;

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

(2) If the court determines, after complying with division (D)(1) of this section, that the offender is not pursuing sealing or expunging a conviction of an offense that is prohibited under division (A) of this section or that the forfeiture of bail was agreed to by the applicant and the prosecutor in the case, that the application was made at the time specified in division (B)(1)(a) or (b) or division (B)(2)(a) or (b) of this section that is applicable with respect to the application and the subject offense, that no criminal proceeding is pending against the applicant, that the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed or expunged are not outweighed by any legitimate governmental needs to maintain those records, and that the rehabilitation of the applicant has been attained to the satisfaction of the court, both of the following apply:

(a) The court, except as provided in division (D)(4) or (5) of this section or division (D), (F), or (G) of section 2953.34 of the Revised Code, shall order all official records of the case that pertain to the conviction or bail forfeiture sealed if the application was for sealing or expunged if the application was for expungement and, except as provided in division (C) of section 2953.34 of the Revised Code, 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.

(b) 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 if the application was for sealing or expunged if the

application was for expungement, except that upon conviction of a subsequent offense, a 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, 2953.32, and 2953.34 of the Revised Code.

(3) An applicant may request the sealing or expungement 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 applicant, unless the applicant presents a poverty affidavit showing that the applicant is indigent, shall pay an application fee of fifty dollars and may pay a local court fee of not more than fifty dollars, regardless of the number of records the application requests to have sealed or expunged. If the applicant pays a fee, the court shall pay three-fifths of the fee collected into the state treasury, with half of that amount credited to the attorney general reimbursement fund created by section 109.11 of the Revised Code. If the applicant pays a fee, the court shall pay two-fifths of the fee collected into the county general revenue fund if the sealed or expunged conviction or bail forfeiture was pursuant to a state statute, or into the general revenue fund of the municipal corporation involved if the sealed or expunged conviction or bail forfeiture was pursuant to a municipal ordinance.

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

(a) If the applicant was fingerprinted at the time of arrest or under section 109.60 of the Revised Code and the record of the applicant's fingerprints was provided to the court under division (C) of this section, forward a copy of the sealing or expungement order and the record of the applicant's fingerprints to the bureau of criminal identification and investigation.

(b) If the applicant was not fingerprinted at the time of arrest or under section 109.60 of the Revised Code, or the record of the applicant's fingerprints was not provided to the court under division (C) of this section, but fingerprinting was required for the offense, order the applicant to appear before a sheriff to have the applicant's fingerprints taken according to the fingerprint system of identification on the forms furnished by the superintendent of the bureau of criminal identification and investigation. The sheriff shall forward the applicant's fingerprints to the court. The court shall forward the applicant's fingerprints and a copy of the sealing or expungement order to the bureau of criminal identification and investigation.
Failure of the court to order fingerprints at the time of sealing or expungement does not constitute a reversible error.

(5) Notwithstanding any other provision of the Revised Code to the contrary, when the bureau of criminal identification and investigation receives notice from a court that the record of a conviction or bail forfeiture has been expunged under this section, the bureau of criminal identification and investigation shall maintain a record of the expunged conviction record for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement. The bureau of criminal identification and investigation shall not be compelled by the court to destroy, delete, or erase those records so that the records are permanently irretrievable. These records may only be disclosed or provided to law enforcement

for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement.

When any other entity other than the bureau of criminal identification and investigation receives notice from a court that the record of a conviction or bail forfeiture has been expunged under this section, the entity shall destroy, delete, and erase the record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.

R.C. 2953.33. Sealing of official records after not guilty finding, dismissal of proceedings, grand jury no bill, or pardon.

(A)(1) Any person, who is found not guilty of an offense by a jury or a court or who is the defendant named in a dismissed complaint, indictment, or information, may apply to the court for an order to seal or, except as provided in division (C) of this section, expunge the person's official records in the case. Except as provided in section 2953.61 of the Revised Code, the application may be filed at any time after the finding of not guilty or the dismissal of the complaint, indictment, or information is entered upon the minutes of the court or the journal, whichever entry occurs first.

(2) Any person, against whom a no bill is entered by a grand jury, may apply to the court for an order to seal or, except as provided in division (C) of this section, expunge the person's official records in the case. Except as provided in section 2953.61 of the Revised Code, the application may be filed at any time after the expiration of two years after the date on which the foreperson or deputy foreperson of the grand jury reports to the court that the grand jury has reported a no bill.

(3) Any person who is granted by the governor under division (B) of section 2967.02 of the Revised Code an absolute and entire pardon, a partial pardon, or a pardon upon conditions precedent or subsequent may apply to the court for an order to seal the person's official records in the case in which the person was convicted of the offense for which any of those types of pardons are granted. The application may be filed at any time after an absolute and entire pardon or a partial pardon is granted or at any time after all of the conditions precedent or subsequent to the pardon are met.

(B)(1) Upon the filing of an application pursuant to division (A) of this section, the court shall set a date for a hearing and shall notify the prosecutor in the case of the hearing on the application. The court shall hold the hearing not less than forty-five days and not more than ninety days from the date of the filing of the application. The prosecutor may object to the granting of the application by filing a written objection with the court not later than thirty days prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons the prosecutor believes justify a denial of the application.

(2) The court shall do each of the following, except as provided in division (B)(3) of this section:

(a)(i) Determine whether the person was found not guilty in the case, or the complaint, indictment, or information in the case was dismissed, or a no bill was returned in the case and a period of two years or a longer period as required by section 2953.61 of the Revised Code has expired from the date of the report to the court of that no bill by the foreperson or deputy foreperson of the grand jury;

(ii) If the complaint, indictment, or information in the case was dismissed, determine whether it was dismissed with prejudice or without prejudice and, if it was dismissed without prejudice, determine whether the relevant statute of limitations has expired;

(b) Determine whether criminal proceedings are pending against the person;

(c) If the prosecutor has filed an objection in accordance with division (B)(1) of this section, consider the reasons against granting the application specified by the prosecutor in the objection;

(d) If the person was granted a pardon upon conditions precedent or subsequent for the offense for which the person was convicted, determine whether all of those conditions have been met;

(e) Weigh the interests of the person in having the official records pertaining to the case sealed or expunged, as applicable, against the legitimate needs, if any, of the government to maintain those records.

(3) If the court determines after complying with division (B)(2)(a) of this section that the person was found not guilty in the case, that the complaint, indictment, or information in the case was dismissed with prejudice, that the complaint, indictment, or information in the case was dismissed without prejudice and that the relevant statute of limitations has expired, or the individual was granted by the governor an absolute and entire pardon, a partial pardon, or a pardon upon conditions precedent or subsequent that have been met, the court shall issue an order to the superintendent of the bureau of criminal identification and investigation directing that the superintendent expunge or seal or cause to be sealed, as applicable, the official records in the case consisting of DNA specimens that are in the possession of the bureau and all DNA records and DNA profiles. The determinations and considerations described in divisions (B)(2)(b), (c), and (e) of this section do not apply with respect to a determination of the court described in this division.

(4) The determinations described in this division are separate from the determination described in division (B)(3) of this section. If the court determines, after complying with division (B)(2) of this section, that the person was found not guilty in the case, that the complaint, indictment, or information in the case was dismissed, the individual was granted by the governor an absolute and entire pardon, a partial pardon, or a pardon upon conditions precedent or subsequent that have been met, or that a no bill was returned in the case and that the appropriate period of time has expired from the date of the report to the court of the no bill by the foreperson or deputy foreperson of the grand jury; that no criminal proceedings are pending against the person; and the interests of the person in having the records pertaining to the case sealed or expunged, as applicable, are not outweighed by any legitimate governmental needs to maintain such records, or if division (E)(2)(b) of section 4301.69 of the Revised Code applies, in addition to the order required under division (B)(3) of this section, the court shall issue an order directing that all official records pertaining to the case be sealed or expunged, as applicable, and that, except as provided in section 2953.34 of the Revised Code, the proceedings in the case be deemed not to have occurred.

(5) Any DNA specimens, DNA records, and DNA profiles ordered to be sealed or expunged under this section shall not be sealed or expunged if the person with respect to whom the order applies is otherwise eligible to have DNA records or a DNA profile in the national DNA index system.

(C)(1) A person who is the defendant named in a dismissed complaint, indictment, or information or against whom a no bill is entered by a grand jury is not entitled to have records of the case expunged under this section if the case involves any of the following offenses:

(a) A violation of any section contained in Chapter 4506., 4507., 4510., 4511., or 4549. of the Revised Code, or a violation of a municipal ordinance that is substantially similar to any section contained in any of those chapters;

(b) A felony offense of violence that is not a sexually oriented offense;

(c) A sexually oriented offense when the offender is subject to the requirements of Chapter 2950. of the Revised Code or Chapter 2950. of the Revised Code as it existed prior to January 1, 2008;

(d) An offense involving a victim who is less than thirteen years of age, except for an offense under section 2919.21 of the Revised Code;

(e) A felony of the first or second degree;

(f) A violation of section 2919.25 or 2919.27 of the Revised Code or a violation of a municipal ordinance that is substantially similar to either section;

(g) A violation that is a felony of the third degree if the person has more than one prior conviction of any felony or, if the person has exactly one prior conviction of a felony of the third degree, the person has more prior convictions in total than a third degree felony conviction and two misdemeanor convictions.

(2) As used in division (C) of this section, "sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

R.C. 2953.34. Effect of sealing or expungement order under R.C. 2953.32 or 2953.33.

(A) Inspection of the sealed records included in a sealing 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 or a legal representative of that person, 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 section 2935.36 of the Revised Code;

(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, division (I) of section 2953.34 of the Revised Code;

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

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

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

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

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

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

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.

(B) In any criminal proceeding, proof of any otherwise admissible prior conviction may be introduced and proved, notwithstanding the fact that for any such prior conviction an order of sealing or expungement previously was issued pursuant to sections 2953.31 to 2953.34 of the Revised Code.

(C) The person or governmental agency, office, or department that maintains sealed records pertaining to convictions or bail forfeitures that have been sealed pursuant to section 2953.32 of the Revised Code may maintain a manual or computerized index to the sealed records. The index shall contain only the name of, and alphanumeric identifiers that relate to, the persons who are the subject of the sealed records, the word "sealed," and the name of the person, agency, office, or department that has custody of the sealed records, and shall not contain the name of the crime committed. The index shall be made available by the person who has custody of the sealed records only for the purposes set forth in divisions (A), (B), and (D) of this section.

(D) Notwithstanding any provision of this section or section 2953.32 of the Revised Code that requires otherwise, a board of education of a city, local, exempted village, or joint vocational school district that maintains records of an individual who has been permanently excluded under sections 3301.121 and 3313.662 of the Revised Code is permitted to maintain records regarding a conviction that was used as the basis for the individual's permanent exclusion, regardless of a court order to seal or expunge the record. An order issued under section 2953.32 of the Revised Code to seal or expunge the record of a conviction does not revoke the adjudication order of the director of education and workforce to permanently exclude the individual who is the subject of the sealing or expungement order. An order issued under section 2953.32 of the Revised Code to seal or expunge the record of a conviction of an individual may be presented to a district superintendent as evidence to support the contention that the superintendent should recommend that the permanent exclusion of the individual who is the subject of the sealing or expungement order be revoked. Except as otherwise authorized by this division and sections 3301.121 and 3313.662 of the Revised Code, any school employee in possession of or having access to the sealed or expunged conviction records of an individual that were the basis of a permanent exclusion of the individual is subject to division (J) of this section.

(E) Notwithstanding any provision of this section or section 2953.32 of the Revised Code that requires otherwise, if the auditor of state or a prosecutor maintains records, reports, or audits of an individual who has been forever disqualified from holding public office, employment, or a position of trust in this state under sections 2921.41 and 2921.43 of the Revised Code, or has otherwise been convicted of an offense based upon the records, reports, or audits of the auditor of state, the auditor of state or prosecutor is permitted to maintain those records to the extent they were used as the basis for the individual's disqualification or conviction, and shall not be compelled by court order to seal or expunge those records.

(F) For purposes of sections 2953.31 and 2953.34 of the Revised Code, DNA records collected in the DNA database and fingerprints filed for record by the superintendent of the bureau of criminal identification and investigation shall not be sealed or expunged unless the superintendent receives a certified copy of a final court order establishing that the offender's conviction has been overturned. For purposes of this section, a court order is not "final" if time remains for an appeal or application for discretionary review with respect to the order.

(G)(1) The court shall send notice of any order to seal or expunge official records issued pursuant to section 2953.32 of the Revised Code to the bureau of criminal identification and investigation and to any public office or agency that the court knows or has reason to believe may have any record of the case, whether or not it is an official record, that is the subject of the order.

(2) The sealing of a record under section 2953.32 of the Revised Code does not affect the assessment of points under section 4510.036 of the Revised Code and does not erase points assessed against a person as a result of the sealed record.

(H)(1) The court shall send notice of any order to seal or expunge official records issued pursuant to division (B)(3) of section 2953.33 of the Revised Code to the bureau of criminal identification and investigation and shall send notice of any order issued pursuant to division (B)(4) of that section to any public office or agency that the court knows or has reason to believe may have any record of the case, whether or not it is an official record, that is the subject of the order.

(2) A person whose official records have been sealed or expunged pursuant to an order issued pursuant to section 2953.33 of the Revised Code may present a copy of that order and a written request to comply with it, to a public office or agency that has a record of the case that is the subject of the order.

(3) An order to seal or expunge official records issued pursuant to section 2953.33 of the Revised Code applies to every public office or agency that has a record of the case that is the subject of the order, regardless of whether it receives notice of the hearing on the application for the order to seal or expunge the official records or receives a copy of the order to seal the official records pursuant to division (H)(1) or (2) of this section.

(4) Upon receiving a copy of an order to seal or expunge official records pursuant to division (H)(1) or (2) of this section or upon otherwise becoming aware of an applicable order to seal or

expunge official records issued pursuant to section 2953.33 of the Revised Code, a public office or agency shall comply with the order and, if applicable, with division (K) of this section, except that if the order is a sealing order, the office or agency may maintain a record of the case that is the subject of the order if the record is maintained for the purpose of compiling statistical data only and does not contain any reference to the person who is the subject of the case and the order.

(5) A public office or agency to which division (H)(4) of this section applies also may maintain an index of sealed official records that are the subject of a sealing order, in a form similar to that for sealed records of conviction as set forth in division (C) of this section, access to which may not be afforded to any person other than the person who has custody of the sealed official records. The sealed official records to which such an index pertains shall not be available to any person, except that the official records of a case that have been sealed may be made available to the following persons for the following purposes:

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

(b) To 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;

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

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

(I)(1) Upon the issuance of an order by a court pursuant to division (D)(2) of section 2953.32 of the Revised Code directing that all official records of a case pertaining to a conviction or bail forfeiture be sealed or expunged or an order by a court pursuant to division (E) of section 2151.358, division (C)(2) of section 2953.35, or division (E) of section 2953.36 of the Revised Code directing that all official records of a case pertaining to a conviction or delinquent child adjudication be expunged:

(a) 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.

(b) Except as provided in divisions (I)(1)(c) and (d) of this section, 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.

(c) 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.

(d) The auditor of state may provide to or discuss with other parties investigatory work product maintained pursuant to Chapter 117. of the Revised Code by the auditor of state.

(2)(a) Except as provided in divisions (I)(1)(c) and (d) of this section, no law enforcement officer or other person employed by a law enforcement agency shall knowingly release, disseminate, or otherwise make the investigatory work product or any information contained in that work product available to, or discuss any information contained in it with, any person not employed by the employing law enforcement agency.

(b) No law enforcement agency, or person employed by a law enforcement agency, that receives investigatory work product pursuant to divisions (I)(1)(c) and (d) of this section shall use that work product for any purpose other than the investigation of the offense for which it was obtained from the other law enforcement agency, or disclose the name of the person who is the subject of the work product except when necessary for the conduct of the investigation of the offense, or the prosecution of the person for committing the offense, for which it was obtained from the other law enforcement agency.

(3) Whoever violates division (I)(2)(a) or (b) of this section is guilty of divulging confidential investigatory work product, a misdemeanor of the fourth degree.

(J)(1) Except as authorized by divisions (A) to (C) of this section or by Chapter 2950. of the Revised Code and subject to division (J)(2) and (3) of this section, any officer or employee of the state, or a political subdivision of the state, who releases or otherwise disseminates or makes available for any purpose involving employment, bonding, or licensing in connection with any business, trade, or profession to any person, or to any department, agency, or other instrumentality of the state, or any political subdivision of the state, any information or other data concerning any law enforcement or justice system matter the records with respect to which the officer or employee had knowledge of were sealed by an existing order issued pursuant to section 2953.32 of the Revised Code, division (E) of section 2151.358, section 2953.35, or section 2953.36 of the Revised Code, or were expunged by an order issued pursuant to section 2953.42 of the Revised Code as it existed prior to June 29, 1988, is guilty of divulging confidential information, a misdemeanor of the fourth degree.

(2) Division (J)(1) of this section does not apply to an officer or employee of the state, or a political subdivision of the state, who releases or otherwise disseminates or makes available for any purpose specified in that division any information or other data concerning a law enforcement or justice system matter the records of which the officer had knowledge were sealed or expunged by an order of a type described in that division, if all of the following apply:

(a) The officer or employee released, disseminated, or made available the information or data from the sealed or expunged records together with information or data concerning another law enforcement or justice system matter.

(b) The records of the other law enforcement or justice system matter were not sealed or expunged by any order of a type described in division (J)(1) of this section.

(c) The law enforcement or justice system matter covered by the information or data from the sealed or expunged records and the other law enforcement or justice system matter covered by the information or data from the records that were not sealed or expunged resulted from or were connected to the same act.

(d) The officer or employee made a good faith effort to not release, disseminate, or make available any information or other data concerning any law enforcement or justice system matter from the sealed or expunged records, and the officer or employee did not release, disseminate, or make available the information or other data from the sealed or expunged records with malicious purpose, in bad faith, or in a wanton or reckless manner.

(3) Division (J)(1) of this section does not apply to an officer or employee of the state, or a political subdivision of the state, who releases or otherwise disseminates or makes available for any purpose specified in that division any information or other data concerning a law enforcement or justice system matter the records of which the officer had knowledge were sealed or expunged by an order of a type described in that division, if the records are released or disseminated or access is provided pursuant to an application by the person who is the subject of the information or data or by a legal representative of that person.

(4) Any person who, in violation of this section, uses, disseminates, or otherwise makes available any index prepared pursuant to division (C) of this section is guilty of a misdemeanor of the fourth degree.

(K)(1) Except as otherwise provided in Chapter 2950. of the Revised Code, upon the issuance of an order by a court under division (B) of section 2953.33 of the Revised Code directing that all official records pertaining to a case be sealed or expunged and that the proceedings in the case be deemed not to have occurred:

(a) Every law enforcement officer possessing records or reports pertaining to the case that are the officer's specific investigatory work product and that are excepted from the definition of official records shall immediately deliver the records and reports to the officer's employing law enforcement agency. Except as provided in division (K)(1)(c) or (d) of this section, no such officer shall knowingly release, disseminate, or otherwise make the records and reports or any information contained in them available to, or discuss any information contained in them with, any person not employed by the officer's employing law enforcement agency.

(b) Every law enforcement agency that possesses records or reports pertaining to the case that are its specific investigatory work product and that are excepted from the definition of official records, or that are the specific investigatory work product of a law enforcement officer it

employs and that were delivered to it under division (K)(1)(a) of this section shall, except as provided in division (K)(1)(c) or (d) of this section, close the records and reports to all persons who are not directly employed by the law enforcement agency and shall, except as provided in division (K)(1)(c) or (d) of this section, treat the records and reports, in relation to all persons other than those who are directly employed by the law enforcement agency, as if they did not exist and had never existed. Except as provided in division (K)(1)(c) or (d) of this section, no person who is employed by the law enforcement agency shall knowingly release, disseminate, or otherwise make the records and reports in the possession of the employing law enforcement agency or any information contained in them available to, or discuss any information contained in them with, any person not employed by the employing law enforcement agency.

(c) A law enforcement agency that possesses records or reports pertaining to the case that are its specific investigatory work product and that are excepted from the definition of official records, or that are the specific investigatory work product of a law enforcement officer it employs and that were delivered to it under division (K)(1)(a) of this section may permit another law enforcement agency to use the records or reports 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 provides the records and reports 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.

No law enforcement agency, or person employed by a law enforcement agency, that receives from another law enforcement agency records or reports pertaining to a case the records of which have been ordered sealed or expunged pursuant to division (B) of section 2953.33 of the Revised Code shall use the records and reports for any purpose other than the investigation of the offense for which they were obtained from the other law enforcement agency, or disclose the name of the person who is the subject of the records or reports except when necessary for the conduct of the investigation of the offense, or the prosecution of the person for committing the offense, for which they were obtained from the other law enforcement agency.

(d) The auditor of state may provide to or discuss with other parties records, reports, or audits maintained by the auditor of state pursuant to Chapter 117. of the Revised Code pertaining to the case that are the auditor of state's specific investigatory work product and that are excepted from the definition of "official records" contained in division (C) of section 2953.31 of the Revised Code, or that are the specific investigatory work product of a law enforcement officer the auditor of state employs and that were delivered to the auditor of state under division (K)(1)(a) of this section.

(2) Whoever violates division (K)(1) of this section is guilty of divulging confidential information, a misdemeanor of the fourth degree.

(L)(1) In any application for employment, license, or any other right or privilege, any appearance as a witness, or any other inquiry, a person may not be questioned with respect to any record that has been sealed or expunged pursuant to section 2953.33 of the Revised Code. If an inquiry is made in violation of this division, the person whose official record was sealed may respond as if

the arrest underlying the case to which the sealed official records pertain and all other proceedings in that case did not occur, and the person whose official record was sealed shall not be subject to any adverse action because of the arrest, the proceedings, or the person's response.

(2)(a) Except as provided in division (L)(2)(b) of this section, an officer or employee of the state or any of its political subdivisions who knowingly releases, disseminates, or makes available for any purpose involving employment, bonding, licensing, or education to any person or to any department, agency, or other instrumentality of the state, or of any of its political subdivisions, any information or other data concerning any arrest, complaint, indictment, information, trial, adjudication, or correctional supervision, knowing the records of which have been sealed or expunged pursuant to section 2953.33 of the Revised Code, is guilty of divulging confidential information, a misdemeanor of the fourth degree.

(b) Division (L)(2)(a) of this section does not apply to any release, dissemination, or access to information or data if the records are released or disseminated or access is provided pursuant to an application by the person who is the subject of the information or data or by a legal representative of that person.

(M) It is not a violation of division (I), (J), (K), or (L) of this section for the bureau of criminal identification and investigation or any authorized employee of the bureau participating in the investigation of criminal activity to release, disseminate, or otherwise make available to, or discuss with, a person directly employed by a law enforcement agency DNA records collected in the DNA database or fingerprints filed for record by the superintendent of the bureau of criminal identification and investigation.

(N)(1) An order issued under section 2953.35 of the Revised Code to expunge the record of a person's conviction or, except as provided in division (D) of this section, an order issued under that section to seal the record of a person's conviction restores the person who is the subject of the order to all rights and privileges not otherwise restored by termination of the sentence or community control sanction or by final release on parole or post-release control.

(2)(a) In any application for employment, license, or other right or privilege, any appearance as a witness, or any other inquiry, except as provided in division (B) of this section and in section 3319.292 of the Revised Code and subject to division (N)(2)(c) of this section, a person may be questioned only with respect to convictions not sealed, bail forfeitures not expunged under section 2953.42 of the Revised Code as it existed prior to June 29, 1988, and bail forfeitures not sealed, unless the question bears a direct and substantial relationship to the position for which the person is being considered.

(b) In any application for a certificate of qualification for employment under section 2953.25 of the Revised Code, a person may be questioned only with respect to convictions not sealed and bail forfeitures not sealed.

(c) A person may not be questioned in any application, appearance, or inquiry of a type described in division (N)(2)(a) of this section with respect to any conviction expunged under section 2953.35 of the Revised Code.

(O) Nothing in section 2953.32 or 2953.34 of the Revised Code precludes an offender from taking an appeal or seeking any relief from the offender's conviction or from relying on it in lieu of any subsequent prosecution for the same offense.

R.C. 2953.35. Expungement of certain convictions relating to firearms.

(A) Any person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B), (C), or (E) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, or a violation of division (E)(1) or (2) of section 2923.16 of the Revised Code as the division existed prior to June 13, 2022, and who is authorized by division (H)(2)(a) of that section to file an application under this section for the expungement of the conviction record may apply to the sentencing court for the expungement of the record of conviction. Any person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B)(1) of section 2923.12 of the Revised Code as it existed prior to June 13, 2022, and who is authorized by division (E)(2) of that section may apply to the sentencing court for the expungement of the record of conviction. The person may file the application at any time on or after September 30, 2011, with respect to violations of division (B), (C), or (E) of section 2923.16 of the Revised Code as they existed prior to that date, or at any time on or after June 13, 2022, with respect to a violation of division (B)(1) of section 2923.12 of the Revised Code or of division (E)(1) or (2) of section 2923.16 of the Revised Code as the particular division existed prior to June 13, 2022. The application shall do all of the following:
(1) Identify the applicant, the offense for which the expungement is sought, the date of the conviction of or plea of guilty to that offense, and the court in which the conviction occurred or the plea of guilty was entered;

(2) Include evidence that the offense was a violation of division (B), (C), or (E) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, or was a violation of division (B)(1) of section 2923.12 of the Revised Code or of division (E)(1) or (2) of section 2923.16 of the Revised Code as the particular division existed prior to June 13, 2022, and that the applicant is authorized by division (H)(2)(a) of section 2923.16 or division (E)(2) of section 2923.12 of the Revised Code, whichever is applicable, to file an application under this section;
(3) Include a request for expungement of the record of conviction of that offense under this section.

(B) Upon the filing of an application under division (A) of this section and the payment of the fee described in division (C)(3) of this section if applicable, the court shall set a date for a hearing and shall notify the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court shall direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant. The court shall hold the hearing scheduled under this division.

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

(a) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (E) of section 2923.16 of the Revised Code as the division existed prior to September

30, 2011, and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011;
(b) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, due to the application of division (F)(5) of that section as it exists on and after September 30, 2011;
(c) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (B)(1) of section 2923.12 of the Revised Code or of division (E)(1) or (2) of section 2923.16 of the Revised Code as the particular division existed prior to June 13, 2022;
(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;

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

(2)(a) The court may order the expungement of all official records pertaining to the case and the deletion of all index references to the case and, if it does order the expungement, shall send notice of the order 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 (C)(1) of this section, determines both of the following:

(i) That the applicant has been convicted of or pleaded guilty to a violation of division (E) of section 2923.16 of the Revised Code as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011; that the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, due to the application of division (F)(5) of that section as it exists on and after September 30, 2011; or that the applicant has been convicted of or pleaded guilty to a violation of division (B)(1) of section 2923.12 of the Revised Code or of division (E)(1) or (2) of section 2923.16 of the Revised Code as the particular division existed prior to June 13, 2022;
(ii) That the interests of the applicant in having the records pertaining to the applicant's conviction or guilty plea expunged are not outweighed by any legitimate needs of the government to maintain those records.

(b) The proceedings in the case that is the subject of an order issued under division (C)(2)(a) of this section shall be considered not to have occurred and the conviction or guilty plea of the person who is the subject of the proceedings shall be expunged. The record of the conviction shall not be used for any purpose, including, but not limited to, a criminal records check under section 109.572 of the Revised Code or a determination under section 2923.125 or 2923.1213 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.

R.C. 2953.36. Expungement of certain convictions for victims of human trafficking.

(A) Any person who is or was convicted of a violation of section 2907.24, 2907.241, or 2907.25 of the Revised Code may apply to the sentencing court for the expungement of the record of conviction of any offense, other than a record of conviction of a violation of section 2903.01, 2903.02, or 2907.02 of the Revised Code, the person's participation in which was a result of the person having been a victim of human trafficking. The person may file the application at any time. The application may request an order to expunge the record of conviction for more than one offense, but if it does, the court shall consider the request for each offense separately as if a separate application had been made for each offense and all references in divisions (A) to (G) of this section to "the offense" or "that offense" mean each of those offenses that are the subject of the application. The application shall do all of the following:
(1) Identify the applicant, the offense for which the expungement is sought, the date of the conviction of that offense, and the court in which the conviction occurred;

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

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

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

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

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

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

(b) Determine whether 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 a result of the applicant having been a victim of human trafficking.

(2) If the court at the hearing held under division (C) of this section determines that the applicant's participation in the offense that is the subject of the application was a result of the applicant having been a victim of human trafficking and if that subject offense is a felony of the

first or second degree, the court at the hearing also shall consider all of the following factors and, upon consideration of the factors, shall determine whether the interests of the applicant in having the record of the conviction of that offense expunged are outweighed by any legitimate needs of the government to maintain that record of conviction:

(a) The degree of duress under which the applicant acted in committing the subject offense, including, but not limited to, the history of the use of force or threatened use of force against the applicant or another person, whether the applicant's judgment or control was impaired by the administration to the applicant of any intoxicant, drug, or controlled substance, and the threat of withholding from the applicant food, water, or any drug;

(b) The seriousness of the subject offense;

(c) The relative degree of physical harm done to any person in the commission of the subject offense;

(d) The length of time that has expired since the commission of the subject offense;

(e) Whether the prosecutor represents to the court that criminal proceedings are likely to still be initiated against the applicant for a felony offense for which the period of limitations has not expired;

(f) Whether the applicant at the time of the hearing is subject to supervision as a result of the subject offense.

(E) If after a hearing held under division (C) of this section 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, and, if the offense that is the subject of the application is a felony of the first or second degree, after consideration of the factors required under division (D)(2) of this section, it finds that the interests of the applicant in having the record of the conviction of that offense expunged are not outweighed by any legitimate needs of the government to maintain that record of conviction, the court shall grant the application and order that the record of conviction be expunged.

(F)(1) The court shall send notice of the order of expungement issued under division (E) of this section 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 (D) 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 of expungement issued under division (E) 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 record of the conviction shall not be used for any purpose, including, but not limited to, a criminal records check under section 109.572 of the Revised Code. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.

(G) 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.

R.C. 2961.02. Person convicted of certain offenses may not serve as public official or employee.

(A) As used in this section:

(1) "Disqualifying offense" means an offense that has both of the following characteristics:

(a) It is one of the following:

(i) A theft offense that is a felony;

(ii) A felony under the laws of this state, another state, or the United States, that is not covered by division (A)(1)(a)(i) of this section and that involves fraud, deceit, or theft.

(b) It is an offense for which the laws of this state, another state, or the United States do not otherwise contain a provision specifying permanent disqualification, or disqualification for a specified period, from holding a public office or position of public employment, or from serving as an unpaid volunteer, as a result of conviction of the offense, including, but not limited to, a provision such as that in division (C)(1) of section 2921.41 of the Revised Code.

(2) "Political subdivision" has the same meaning as in section 2744.01 of the Revised Code.

(3) "Private entity" includes an individual, corporation, limited liability company, business trust, estate, trust, partnership, or association that receives any funds from a state agency or political subdivision to perform an activity on behalf of the state agency or political subdivision.

(4) "State agency" has the same meaning as in section 1.60 of the Revised Code.

(5) "Theft offense" has the same meaning as in section 2913.01 of the Revised Code.

(6) "Volunteer" means a person who serves as a volunteer without compensation with a state agency or political subdivision or who serves as a volunteer without compensation with a private entity, including, but not limited to, an uncompensated auxiliary police officer, auxiliary deputy sheriff, or volunteer firefighter.

(B) Any person who pleads guilty to a disqualifying offense and whose plea is accepted by the court or any person against whom a verdict or finding of guilt for committing a disqualifying offense is returned is incompetent to hold a public office or position of public employment or to serve as a volunteer, if holding the public office or position of public employment or serving as the volunteer involves substantial management or control over the property of a state agency, political subdivision, or private entity.

(C) Division (B) of this section does not apply if a plea, verdict, or finding of the type described in that division regarding a disqualifying offense is reversed, expunged, or annulled. The full pardon of a person who has pleaded guilty to a disqualifying offense and whose plea was accepted by the court or a person against whom a verdict or finding of guilt for committing a

disqualifying offense was returned restores the privileges forfeited under division (B) of this section, but the pardon does not release the person from the costs of the person's conviction in this state, unless so specified.

R.C. 3513.07. Form of declaration of candidacy and petition.

The form of declaration of candidacy and petition of a person desiring to be a candidate for a party nomination or a candidate for election to an office or position to be voted for at a primary election shall be substantially as follows:

"DECLARATION OF CANDIDACY PARTY PRIMARY ELECTION

I, _____ (Name of Candidate), the undersigned, hereby declare under penalty of election falsification that my voting residence is in _____ precinct of the _____ (Township) or (Ward and City or Village) in the county of _____, Ohio; that my voting residence is _____ (Street and Number, if any, or Rural Route and Number) of the _____ (City or Village) of _____, Ohio; and that I am a qualified elector in the precinct in which my voting residence is located. I am a member of the _____ Party. I hereby declare that I desire to be _____ (a candidate for nomination as a candidate of the Party for election to the office of _____) (a candidate for election to the office or position of _____) for the _____ in the state, district, (Full term or unexpired term ending _____) county, city, or village of _____, at the primary election to be held on the _____ day of _____, ____, and I hereby request that my name be printed upon the official primary election ballot of the said _____ Party as a candidate for _____ (such nomination) or (such election) as provided by law.

I further declare that, if elected to said office or position, I will qualify therefor, and that I will support and abide by the principles enunciated by the _____ Party.

Dated this _____ day of _____, _____

_____

(Signature of candidate)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

PETITION OF CANDIDATE

We, the undersigned, qualified electors of the state of Ohio, whose voting residence is in the county, city, village, ward, township, or school district, and precinct set opposite our names, and members of the _____ Party, hereby certify that _____ (Name of candidate) whose declaration of candidacy is filed herewith, is a member of the _____ Party, and is, in our opinion, well qualified to perform the duties of the office or position to which that candidate desires to be elected.

Street City,

and Village or Signature Number Township Ward Precinct County Date

(Must use address on file with the board of elections)

_____

_____

_____ - _____

(Name of circulator of petition), declares under penalty of election falsification that the circulator of the petition is a qualified elector of the state of Ohio and resides at the address appearing below the signature of that circulator; that the circulator is a member of the _____ Party; that the circulator is the circulator of the foregoing petition paper containing _____ (Number) signatures; that the circulator witnessed the affixing of every signature; that all signers were to the best of the circulator's knowledge and belief qualified to sign; and that every signature is to the best of the circulator's knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

_____

(Signature of circulator)

_____

(Address of circulator's

permanent residence in this

state)

_____

(If petition is for a

statewide candidate, the

name and address of person

employing to circulate

petition, if any)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."

The secretary of state shall prescribe a form of declaration of candidacy and petition, and the form shall be substantially similar to the declaration of candidacy and petition set forth in this

section, that will be suitable for joint candidates for the offices of governor and lieutenant governor.

The petition provided for in this section shall be circulated only by a member of the same political party as the candidate.