

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 460

Representatives Hillyer, Seitz

A BILL

To amend section 2953.32 and to enact section 1
2953.321 of the Revised Code to enact the 2
Getting Rehabilitated Ohioans Working Act to 3
allow for the automatic sealing of certain 4
criminal records. 5

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

Section 1. That section 2953.32 be amended and section 6
2953.321 of the Revised Code be enacted to read as follows: 7

Sec. 2953.32. (A) (1) Sections 2953.32 to 2953.34 of the 8
Revised Code do not apply to any of the following: 9

(a) Convictions under Chapter 4506., 4507., 4510., 4511., 10
or 4549. of the Revised Code, or a conviction for a violation of 11
a municipal ordinance that is substantially similar to any 12
section contained in any of those chapters; 13

(b) Convictions of a felony offense of violence that is 14
not a sexually oriented offense; 15

(c) Convictions of a sexually oriented offense when the 16
offender is subject to the requirements of Chapter 2950. of the 17
Revised Code or Chapter 2950. of the Revised Code as it existed 18

prior to January 1, 2008; 19

(d) Convictions of an offense in circumstances in which 20
the victim of the offense was less than thirteen years of age, 21
except for convictions under section 2919.21 of the Revised 22
Code; 23

(e) Convictions of a felony of the first or second degree; 24

(f) Except as provided in division (A) (2) of this section, 25
convictions for a violation of section 2919.25 or 2919.27 of the 26
Revised Code or a conviction for a violation of a municipal 27
ordinance that is substantially similar to either section; 28

(g) Convictions of a felony of the third degree if the 29
offender has more than one other conviction of any felony or, if 30
the person has exactly two convictions of a felony of the third 31
degree, has more convictions in total than those two third 32
degree felony convictions and two misdemeanor convictions. 33

(2) Sections 2953.32 to 2953.34 of the Revised Code apply 34
to a conviction for a violation of section 2919.25 of the 35
Revised Code that is a misdemeanor of the fourth degree for 36
purposes of sealing, but not for purposes of expungement of the 37
record of the case. 38

(B) (1) Except as provided in section 2953.61 of the 39
Revised Code or as otherwise provided in division (B) (1) (a) (iii) 40
of this section, an eligible offender may apply to the 41
sentencing court if convicted in this state, or to a court of 42
common pleas if convicted in another state or in a federal 43
court, for the sealing or expungement of the record of the case 44
that pertains to the conviction, except for convictions listed 45
in division (A) (1) of this section. Application may be made at 46
whichever of the following times is applicable regarding the 47

offense: 48

(a) An application for sealing under this section may be 49
made at whichever of the following times is applicable regarding 50
the offense: 51

(i) Except as otherwise provided in division (B) (1) (a) (iv) 52
of this section, at the expiration of three years after the 53
offender's final discharge if convicted of one or two felonies 54
of the third degree, so long as none of the offenses is a 55
violation of section 2921.43 of the Revised Code; 56

(ii) Except as otherwise provided in division (B) (1) (a) 57
(iv) of this section, at the expiration of one year after the 58
offender's final discharge if convicted of one or more felonies 59
of the fourth or fifth degree or one or more misdemeanors, so 60
long as none of the offenses is a violation of section 2921.43 61
of the Revised Code or a felony offense of violence; 62

(iii) At the expiration of seven years after the 63
offender's final discharge if the record includes one or more 64
convictions of soliciting improper compensation in violation of 65
section 2921.43 of the Revised Code; 66

(iv) If the offender was subject to the requirements of 67
Chapter 2950. of the Revised Code or Chapter 2950. of the 68
Revised Code as it existed prior to January 1, 2008, at the 69
expiration of five years after the requirements have ended under 70
section 2950.07 of the Revised Code or section 2950.07 of the 71
Revised Code as it existed prior to January 1, 2008, or are 72
terminated under section 2950.15 or 2950.151 of the Revised 73
Code; 74

(v) At the expiration of six months after the offender's 75
final discharge if convicted of a minor misdemeanor. 76

(b) An application for expungement under this section may 77
be made at whichever of the following times is applicable 78
regarding the offense: 79

(i) Except as otherwise provided in division (B) (1) (b) (ii) 80
of this section, if the offense is a misdemeanor, at the 81
expiration of one year after the offender's final discharge; 82

(ii) If the offense is a minor misdemeanor, at the 83
expiration of six months after the offender's final discharge; 84

(iii) If the offense is a felony, at the expiration of ten 85
years after the time specified in division (B) (1) (a) of this 86
section at which the person may file an application for sealing 87
with respect to that felony offense. 88

(2) Any person who has been arrested for any misdemeanor 89
offense and who has effected a bail forfeiture for the offense 90
charged may apply to the court in which the misdemeanor criminal 91
case was pending when bail was forfeited for the sealing or 92
expungement of the record of the case that pertains to the 93
charge. Except as provided in section 2953.61 of the Revised 94
Code, the application may be filed at whichever of the following 95
times is applicable regarding the offense: 96

(a) An application for sealing under this section may be 97
made at any time after the date on which the bail forfeiture was 98
entered upon the minutes of the court or the journal, whichever 99
entry occurs first. 100

(b) An application for expungement under this section may 101
be made at whichever of the following times is applicable 102
regarding the offense: 103

(i) Except as provided in division (B) (2) (b) (ii) of this 104
section, at any time after the expiration of one year from the 105

date on which the bail forfeiture was entered upon the minutes 106
of the court or the journal, whichever entry occurs first; 107

(ii) If the offense is a minor misdemeanor, at any time 108
after the expiration of six months from the date on which the 109
bail forfeiture was entered upon the minutes of the court or the 110
journal, whichever entry occurs first. 111

(C) Upon the filing of an application under this section, 112
the court shall set a date for a hearing and shall notify the 113
prosecutor for the case of the hearing on the application not 114
less than sixty days prior to the hearing. Pursuant to the Ohio 115
Constitution, the prosecutor shall provide timely notice of the 116
application and the date and time of the hearing to a victim and 117
victim's representative, if applicable, if the victim or 118
victim's representative requested notice of the proceedings in 119
the underlying case. The court shall hold the hearing not less 120
than forty-five days and not more than ninety days from the date 121
of the filing of the application. The prosecutor may object to 122
the granting of the application by filing a written objection 123
with the court not later than thirty days prior to the date set 124
for the hearing. The prosecutor shall specify in the objection 125
the reasons for believing a denial of the application is 126
justified. The victim, victim's representative, and victim's 127
attorney, if applicable, may be present and heard orally, in 128
writing, or both at any hearing under this section. The court 129
shall direct its regular probation officer, a state probation 130
officer, or the department of probation of the county in which 131
the applicant resides to make inquiries and written reports as 132
the court requires concerning the applicant. The probation 133
officer or county department of probation that the court directs 134
to make inquiries and written reports as the court requires 135
concerning the applicant shall determine whether or not the 136

applicant was fingerprinted at the time of arrest or under 137
section 109.60 of the Revised Code. If the applicant was so 138
fingerprinted, the probation officer or county department of 139
probation shall include with the written report a record of the 140
applicant's fingerprints. If the applicant was convicted of or 141
pleaded guilty to a violation of division (A) (2) or (B) of 142
section 2919.21 of the Revised Code, the probation officer or 143
county department of probation that the court directed to make 144
inquiries concerning the applicant shall contact the child 145
support enforcement agency enforcing the applicant's obligations 146
under the child support order to inquire about the offender's 147
compliance with the child support order. 148

(D) (1) At the hearing held under division (C) of this 149
section, the court shall do each of the following: 150

(a) Determine whether the applicant is pursuing sealing or 151
expunging a conviction of an offense that is prohibited under 152
division (A) of this section or whether the forfeiture of bail 153
was agreed to by the applicant and the prosecutor in the case, 154
and determine whether the application was made at the time 155
specified in division (B) (1) (a) or (b) or division (B) (2) (a) or 156
(b) of this section that is applicable with respect to the 157
application and the subject offense; 158

(b) Determine whether criminal proceedings are pending 159
against the applicant; 160

(c) Determine whether the applicant has been rehabilitated 161
to the satisfaction of the court; 162

(d) If the prosecutor has filed an objection in accordance 163
with division (C) of this section, consider the reasons against 164
granting the application specified by the prosecutor in the 165

objection; 166

(e) If the victim objected, pursuant to the Ohio 167
Constitution, consider the reasons against granting the 168
application specified by the victim in the objection; 169

(f) Weigh the interests of the applicant in having the 170
records pertaining to the applicant's conviction or bail 171
forfeiture sealed or expunged against the legitimate needs, if 172
any, of the government to maintain those records; 173

(g) Consider the oral or written statement of any victim, 174
victim's representative, and victim's attorney, if applicable; 175

(h) If the applicant was an eligible offender of the type 176
described in division (A) (3) of section 2953.36 of the Revised 177
Code as it existed prior to the effective date of this 178
amendment, determine whether the offender has been rehabilitated 179
to a satisfactory degree. In making the determination, the court 180
may consider all of the following: 181

(i) The age of the offender; 182

(ii) The facts and circumstances of the offense; 183

(iii) The cessation or continuation of criminal behavior; 184

(iv) The education and employment of the offender; 185

(v) Any other circumstances that may relate to the 186
offender's rehabilitation. 187

(2) If the court determines, after complying with division 188
(D) (1) of this section, that the offender is not pursuing 189
sealing or expunging a conviction of an offense that is 190
prohibited under division (A) of this section or that the 191
forfeiture of bail was agreed to by the applicant and the 192

prosecutor in the case, that the application was made at the 193
time specified in division (B) (1) (a) or (b) or division (B) (2) 194
(a) or (b) of this section that is applicable with respect to 195
the application and the subject offense, that no criminal 196
proceeding is pending against the applicant, that the interests 197
of the applicant in having the records pertaining to the 198
applicant's conviction or bail forfeiture sealed or expunged are 199
not outweighed by any legitimate governmental needs to maintain 200
those records, and that the rehabilitation of the applicant has 201
been attained to the satisfaction of the court, both of the 202
following apply: 203

(a) The court, except as provided in division (D) (4) or 204
(5) of this section or division (D), (F), or (G) of section 205
2953.34 of the Revised Code, shall order all official records of 206
the case that pertain to the conviction or bail forfeiture 207
sealed if the application was for sealing or expunged if the 208
application was for expungement and, except as provided in 209
division (C) of section 2953.34 of the Revised Code, all index 210
references to the case that pertain to the conviction or bail 211
forfeiture deleted and, in the case of bail forfeitures, shall 212
dismiss the charges in the case. 213

(b) The proceedings in the case that pertain to the 214
conviction or bail forfeiture shall be considered not to have 215
occurred and the conviction or bail forfeiture of the person who 216
is the subject of the proceedings shall be sealed if the 217
application was for sealing or expunged if the application was 218
for expungement, except that upon conviction of a subsequent 219
offense, a sealed record of prior conviction or bail forfeiture 220
may be considered by the court in determining the sentence or 221
other appropriate disposition, including the relief provided for 222
in sections 2953.31, 2953.32, and 2953.34 of the Revised Code. 223

(3) An applicant may request the sealing or expungement of 224
the records of more than one case in a single application under 225
this section. Upon the filing of an application under this 226
section, the applicant, unless the applicant presents a poverty 227
affidavit showing that the applicant is indigent, shall pay an 228
application fee of fifty dollars and may pay a local court fee 229
of not more than fifty dollars, regardless of the number of 230
records the application requests to have sealed or expunged. If 231
the applicant pays a fee, the court shall pay three-fifths of 232
the fee collected into the state treasury, with half of that 233
amount credited to the attorney general reimbursement fund 234
created by section 109.11 of the Revised Code. If the applicant 235
pays a fee, the court shall pay two-fifths of the fee collected 236
into the county general revenue fund if the sealed or expunged 237
conviction or bail forfeiture was pursuant to a state statute, 238
or into the general revenue fund of the municipal corporation 239
involved if the sealed or expunged conviction or bail forfeiture 240
was pursuant to a municipal ordinance. 241

(4) If the court orders the official records pertaining to 242
the case sealed or expunged, the court shall do one of the 243
following: 244

(a) If the applicant was fingerprinted at the time of 245
arrest or under section 109.60 of the Revised Code and the 246
record of the applicant's fingerprints was provided to the court 247
under division (C) of this section, forward a copy of the 248
sealing or expungement order and the record of the applicant's 249
fingerprints to the bureau of criminal identification and 250
investigation. 251

(b) If the applicant was not fingerprinted at the time of 252
arrest or under section 109.60 of the Revised Code, or the 253

record of the applicant's fingerprints was not provided to the 254
court under division (C) of this section, but fingerprinting was 255
required for the offense, order the applicant to appear before a 256
sheriff to have the applicant's fingerprints taken according to 257
the fingerprint system of identification on the forms furnished 258
by the superintendent of the bureau of criminal identification 259
and investigation. The sheriff shall forward the applicant's 260
fingerprints to the court. The court shall forward the 261
applicant's fingerprints and a copy of the sealing or 262
expungement order to the bureau of criminal identification and 263
investigation. 264

Failure of the court to order fingerprints at the time of 265
sealing or expungement does not constitute a reversible error. 266

(5) Notwithstanding any other provision of the Revised 267
Code to the contrary, when the bureau of criminal identification 268
and investigation receives notice from a court that the record 269
of a conviction or bail forfeiture has been expunged under this 270
section, the bureau of criminal identification and investigation 271
shall maintain a record of the expunged conviction record for 272
the limited purpose of determining an individual's qualification 273
or disqualification for employment in law enforcement. The 274
bureau of criminal identification and investigation shall not be 275
compelled by the court to destroy, delete, or erase those 276
records so that the records are permanently irretrievable. These 277
records may only be disclosed or provided to law enforcement for 278
the limited purpose of determining an individual's qualification 279
or disqualification for employment in law enforcement. 280

When any other entity other than the bureau of criminal 281
identification and investigation receives notice from a court 282
that the record of a conviction or bail forfeiture has been 283

expunged under this section, the entity shall destroy, delete, 284
and erase the record as appropriate for the record's physical or 285
electronic form or characteristic so that the record is 286
permanently irretrievable. 287

(6) In a civil action or administrative proceeding 288
alleging negligence or other fault, no case that has been sealed 289
or expunged shall be considered as evidence against an employer 290
for negligent hiring or negligent supervision, and the sealing 291
or expungement provides immunity for the employer to the extent 292
that a sealed or expunged record is the basis of a claim against 293
the employer for negligent hiring or negligent supervision. 294

Sec. 2953.321. (A) Beginning three years after the 295
effective date of this section, an individual who is eligible to 296
have records of a case sealed or expunged under sections 2953.32 297
to 2953.521 and section 2953.61 of the Revised Code is eligible 298
to have those criminal records sealed automatically under this 299
section. 300

(B) Each court shall establish procedures to automatically 301
seal criminal records in accordance with division (A) of this 302
section. 303

(C) At least once every calendar month, beginning three 304
years after the effective date of this section, the bureau of 305
criminal identification and investigation shall identify records 306
that are eligible for sealing under division (A) of this section 307
and shall provide to each prosecuting attorney and each court a 308
list of those cases over which the prosecutor or court has 309
jurisdiction. 310

(D) A prosecutor or the bureau of criminal identification 311
and investigation may object to the sealing of a record 312

identified in division (C) of this section for any of the 313
following reasons: 314

(1) After reviewing the records of the case, the bureau or 315
prosecutor determines that the records are not eligible for 316
sealing or expungement under section 2953.32 of the Revised Code 317
or for automatic expungement under division (A) of this section. 318

(2) The bureau or prosecutor determines that the subject 319
of the criminal records has not paid court-ordered restitution 320
to the victim. 321

(3) The bureau or prosecutor has a reasonable belief, 322
grounded in supporting facts, that the subject of the criminal 323
record is continuing to engage in criminal activity, whether or 324
not the individual has been charged with an offense, and whether 325
or not the activity in question takes place within or outside of 326
the state. 327

(E) If, forty-five days after a record has been identified 328
on a list provided to the court and prosecutor under division 329
(C) of this section, the court has not received an objection to 330
the sealing of the record from both the bureau and the 331
prosecutor, the court with jurisdiction over the record shall 332
order the record to be sealed and shall ensure the record is 333
sealed as it would be if the court were to order a record sealed 334
under section 2953.32 of the Revised Code. 335

(F) If, within forty-five days after a record has been 336
identified on a list provided to the court and prosecutor under 337
division (C) of this section, the prosecutor and bureau object 338
to the automatic sealing of a record identified in the list, in 339
accordance with division (D) of this section, that record shall 340
not be automatically sealed under this section. 341

(G) At least once each calendar year, beginning the year 342
that is three years after the effective date of this section, 343
the bureau shall submit a report to the general assembly 344
identifying every case for which a record included on a list for 345
automatic sealing under division (C) of this section was not 346
sealed because of an objection by the prosecutor or bureau under 347
division (D) of this section. 348

(H) The attorney general may adopt rules, in accordance 349
with Chapter 119. of the Revised Code, governing the procedures 350
to be followed by the superintendent of the bureau of criminal 351
identification and investigation in carrying out the 352
superintendent's duties under this section. 353

(I) Nothing in this section shall be construed to do 354
either of the following: 355

(1) Prohibit an individual from applying for sealing or 356
expungement of records under section 2953.32 of the Revised 357
Code. 358

(2) Create an individual cause of action for the bureau of 359
criminal identification and investigation failing to identify 360
records that are eligible for sealing under division (C) of this 361
section. 362

Section 2. That existing section 2953.32 of the Revised 363
Code is hereby repealed. 364

Section 3. This act shall be known as the Getting 365
Rehabilitated Ohioans Working Act. 366