

**As Reported by the House Criminal Justice Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. S. B. No. 10**

**Senator Wilson**

**Cosponsors: Senators Peterson, Uecker, Coley, Hoagland, Gavarone, Antonio, Craig, Dolan, Eklund, Hackett, Hill, Hottinger, Huffman, M., Huffman, S., Kunze, Lehner, Maharath, McColley, Obhof, O'Brien, Roegner, Rulli, Sykes, Thomas, Williams Representatives Plummer, Leland, Crossman, Cupp, Galonski, Rogers, Smith, T., West, Lang, Grendell, Seitz**

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**A BILL**

To amend sections 319.16, 2921.41, 2953.32, 1  
2953.321, 2953.36, 2953.51, 2953.54, and 5747.12 2  
and to enact section 117.116 of the Revised Code 3  
to expand the penalties for theft in office 4  
based on the amount stolen, to include as 5  
restitution audit costs of the entity that 6  
suffered the loss, to modify various aspects of 7  
the laws regarding criminal and delinquency 8  
record sealing and expungement, to expand the 9  
list of debts toward satisfaction of which the 10  
Tax Commissioner may apply a tax refund due to a 11  
taxpayer, and to specify a separate standard for 12  
the issuance of warrants upon presentation of a 13  
court order. 14

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

**Section 1.** That sections 319.16, 2921.41, 2953.32, 15  
2953.321, 2953.36, 2953.51, 2953.54, and 5747.12 be amended and 16

section 117.116 of the Revised Code be enacted to read as follows:

Sec. 117.116. The auditor of state, upon receiving notification that a county auditor has filed a warrant under protest as specified in section 319.16 of the Revised Code, may review that warrant as part of the auditor of state's next regularly scheduled audit of the public office that presented documents under that section that led to issuance of the warrant under protest.

Sec. 319.16. (A) The county auditor shall issue warrants, including electronic warrants authorizing direct deposit for payment of county obligations in accordance with division (F) of section 9.37 of the Revised Code, on the county treasurer for all moneys payable from the county treasury, upon presentation of either of the following:

(1) Any proper order or voucher and evidentiary matter for the moneys, and;

(2) Any proper court order for expenses of any court funded through the county treasury and, upon request of the county auditor, legible copies of any court-approved invoice, bill, receipt, check, or contract related to the order, redacted as required by law, to the extent those documents exist.

(B) When a court order described in division (A) (2) of this section is presented, the auditor shall have no liability for that expenditure. The county auditor shall keep a record of all such warrants showing the number, date of issue, amount for which drawn, in whose favor, for what purpose, and on what fund. The

(C) The auditor shall not issue a warrant for the payment

of any claim against the county, unless it is allowed by the  
board of county commissioners, except where the amount due is  
fixed by law or is allowed by an officer or tribunal, including  
a county board of mental health or county board of developmental  
disabilities, so authorized by law. ~~If~~

(D) If the auditor questions the validity of an  
expenditure under division (A) (2) of this section that is within  
available appropriations and for which a proper order or voucher  
and evidentiary matter is presented, the auditor shall notify  
the court that presented the documents, issue the warrant under  
protest, and notify the auditor of state of the protest. When a  
warrant is issued under division (D) of this section, the  
auditor has no liability for that expenditure. If the auditor  
refuses to issue the warrant, a writ of mandamus may be sought.  
The court shall issue a writ of mandamus for issuance of the  
warrant if the court determines that the claim is valid.

(E) If the auditor questions the validity of an  
expenditure presented under division (A) (1) of this section that  
is within available appropriations, the auditor shall -notify  
the board, officer, or tribunal who presented the  
voucher documents. -If the board, officer, or tribunal determines  
that the expenditure -is valid and the auditor continues to-  
refuse-refuses to issue the appropriate warrant on the county  
treasury, a writ of mandamus may be sought. The court shall  
issue a writ of mandamus for issuance -of the warrant if the  
court determines that the claim is valid.

Evidentiary matter includes original invoices, receipts,  
bills and checks, and legible copies of contracts.

**Sec. 2921.41.** (A) No public official or party official  
shall commit any theft offense, as defined in division (K) of

section 2913.01 of the Revised Code, when either of the 76  
following applies: 77

(1) The offender uses the offender's office in aid of 78  
committing the offense or permits or assents to its use in aid 79  
of committing the offense; 80

(2) The property or service involved is owned by this 81  
state, any other state, the United States, a county, a municipal 82  
corporation, a township, or any political subdivision, 83  
department, or agency of any of them, is owned by a political 84  
party, or is part of a political campaign fund. 85

(B) Whoever violates this section is guilty of theft in 86  
office. Except as otherwise provided in this division, theft in 87  
office is a felony of the fifth degree. If the value of property 88  
or services stolen is one thousand dollars or more and is less 89  
than seven thousand five hundred dollars, theft in office is a 90  
felony of the fourth degree. If the value of property or 91  
services stolen is seven thousand five hundred dollars or more 92  
and is less than one hundred fifty thousand dollars, theft in 93  
office is a felony of the third degree. If the value of property 94  
or services stolen is one hundred fifty thousand dollars or more 95  
and is less than seven hundred fifty thousand dollars, theft in 96  
office is a felony of the second degree. If the value of 97  
property or services stolen is seven hundred fifty thousand 98  
dollars or more, theft in office is a felony of the first 99  
degree. 100

(C) (1) A public official or party official who pleads 101  
guilty to theft in office and whose plea is accepted by the 102  
court or a public official or party official against whom a 103  
verdict or finding of guilt for committing theft in office is 104  
returned is forever disqualified from holding any public office, 105

employment, or position of trust in this state. 106

(2) (a) (i) A court that imposes sentence for a violation of 107  
this section based on conduct described in division (A) (2) of 108  
this section shall require the public official or party official 109  
who is convicted of or pleads guilty to the offense to make 110  
restitution for all of the property or the service that is the 111  
subject of the offense, in addition to the term of imprisonment 112  
and any fine imposed. The total amount of restitution imposed 113  
under this division shall include costs of auditing the public 114  
entities specified in division (A) (2) of this section that own 115  
the property or service involved in the conduct described in 116  
that division that is a violation of this section, but, except 117  
as otherwise provided in a negotiated plea agreement, shall not 118  
exceed the amount of the restitution imposed for all of the 119  
property or the service that is the subject of the offense. 120

(ii) A court that imposes sentence for a violation of this 121  
section based on conduct described in division (A) (1) of this 122  
section and that determines at trial that this state or a 123  
political subdivision of this state if the offender is a public 124  
official, or a political party in the United States or this 125  
state if the offender is a party official, suffered actual loss 126  
as a result of the offense shall require the offender to make 127  
restitution to the state, political subdivision, or political 128  
party for all of the actual loss experienced, in addition to the 129  
term of imprisonment and any fine imposed. The total amount of 130  
restitution imposed under this division shall include costs of 131  
auditing the state, political subdivision, or political party 132  
that suffered the actual loss based on conduct described in that 133  
division that is a violation of this section, but, except as 134  
otherwise provided in a negotiated plea agreement, shall not 135  
exceed the amount of the restitution imposed for all of the 136

actual loss suffered. 137

(b) (i) In any case in which a sentencing court is required 138  
to order restitution under division (C) (2) (a) of this section 139  
and in which the offender, at the time of the commission of the 140  
offense or at any other time, was a member of the public 141  
employees retirement system, the Ohio police and fire pension 142  
fund, the state teachers retirement system, the school employees 143  
retirement system, or the state highway patrol retirement 144  
system; was an electing employee, as defined in section 3305.01 145  
of the Revised Code, participating in an alternative retirement 146  
plan provided pursuant to Chapter 3305. of the Revised Code; was 147  
a participating employee or continuing member, as defined in 148  
section 148.01 of the Revised Code, in a deferred compensation 149  
program offered by the Ohio public employees deferred 150  
compensation board; was an officer or employee of a municipal 151  
corporation who was a participant in a deferred compensation 152  
program offered by that municipal corporation; was an officer or 153  
employee of a government unit, as defined in section 148.06 of 154  
the Revised Code, who was a participant in a deferred 155  
compensation program offered by that government unit, or was a 156  
participating employee, continuing member, or participant in any 157  
deferred compensation program described in this division and a 158  
member of a retirement system specified in this division or a 159  
retirement system of a municipal corporation, the entity to 160  
which restitution is to be made may file a motion with the 161  
sentencing court specifying any retirement system, any provider 162  
as defined in section 3305.01 of the Revised Code, and any 163  
deferred compensation program of which the offender was a 164  
member, electing employee, participating employee, continuing 165  
member, or participant and requesting the court to issue an 166  
order requiring the specified retirement system, the specified 167

provider under the alternative retirement plan, or the specified 168  
deferred compensation program, or, if more than one is specified 169  
in the motion, the applicable combination of these, to withhold 170  
the amount required as restitution from any payment that is to 171  
be made under a pension, annuity, or allowance, under an option 172  
in the alternative retirement plan, under a participant account, 173  
as defined in section 148.01 of the Revised Code, or under any 174  
other type of benefit, other than a survivorship benefit, that 175  
has been or is in the future granted to the offender, from any 176  
payment of accumulated employee contributions standing to the 177  
offender's credit with that retirement system, that provider of 178  
the option under the alternative retirement plan, or that 179  
deferred compensation program, or, if more than one is specified 180  
in the motion, the applicable combination of these, and from any 181  
payment of any other amounts to be paid to the offender upon the 182  
offender's withdrawal of the offender's contributions pursuant 183  
to Chapter 145., 148., 742., 3307., 3309., or 5505. of the 184  
Revised Code. A motion described in this division may be filed 185  
at any time subsequent to the conviction of the offender or 186  
entry of a guilty plea. Upon the filing of the motion, the clerk 187  
of the court in which the motion is filed shall notify the 188  
offender, the specified retirement system, the specified 189  
provider under the alternative retirement plan, or the specified 190  
deferred compensation program, or, if more than one is specified 191  
in the motion, the applicable combination of these, in writing, 192  
of all of the following: that the motion was filed; that the 193  
offender will be granted a hearing on the issuance of the 194  
requested order if the offender files a written request for a 195  
hearing with the clerk prior to the expiration of thirty days 196  
after the offender receives the notice; that, if a hearing is 197  
requested, the court will schedule a hearing as soon as possible 198  
and notify the offender, any specified retirement system, any 199

specified provider under an alternative retirement plan, and any 200  
specified deferred compensation program of the date, time, and 201  
place of the hearing; that, if a hearing is conducted, it will 202  
be limited only to a consideration of whether the offender can 203  
show good cause why the requested order should not be issued; 204  
that, if a hearing is conducted, the court will not issue the 205  
requested order if the court determines, based on evidence 206  
presented at the hearing by the offender, that there is good 207  
cause for the requested order not to be issued; that the court 208  
will issue the requested order if a hearing is not requested or 209  
if a hearing is conducted but the court does not determine, 210  
based on evidence presented at the hearing by the offender, that 211  
there is good cause for the requested order not to be issued; 212  
and that, if the requested order is issued, any retirement 213  
system, any provider under an alternative retirement plan, and 214  
any deferred compensation program specified in the motion will 215  
be required to withhold the amount required as restitution from 216  
payments to the offender. 217

(ii) In any case in which a sentencing court is required 218  
to order restitution under division (C) (2) (a) of this section 219  
and in which a motion requesting the issuance of a withholding 220  
order as described in division (C) (2) (b) (i) of this section is 221  
filed, the offender may receive a hearing on the motion by 222  
delivering a written request for a hearing to the court prior to 223  
the expiration of thirty days after the offender's receipt of 224  
the notice provided pursuant to division (C) (2) (b) (i) of this 225  
section. If a request for a hearing is made by the offender 226  
within the prescribed time, the court shall schedule a hearing 227  
as soon as possible after the request is made and shall notify 228  
the offender, the specified retirement system, the specified 229  
provider under the alternative retirement plan, or the specified 230



deferred compensation program, or, if more than one is specified 231  
in the motion, the applicable combination of these, of the date, 232  
time, and place of the hearing. A hearing scheduled under this 233  
division shall be limited to a consideration of whether there is 234  
good cause, based on evidence presented by the offender, for the 235  
requested order not to be issued. If the court determines, based 236  
on evidence presented by the offender, that there is good cause 237  
for the order not to be issued, the court shall deny the motion 238  
and shall not issue the requested order. If the offender does 239  
not request a hearing within the prescribed time or if the court 240  
conducts a hearing but does not determine, based on evidence 241  
presented by the offender, that there is good cause for the 242  
order not to be issued, the court shall order the specified 243  
retirement system, the specified provider under the alternative 244  
retirement plan, or the specified deferred compensation program, 245  
or, if more than one is specified in the motion, the applicable 246  
combination of these, to withhold the amount required as 247  
restitution under division (C) (2) (a) of this section from any 248  
payments to be made under a pension, annuity, or allowance, 249  
under a participant account, as defined in section 148.01 of the 250  
Revised Code, under an option in the alternative retirement 251  
plan, or under any other type of benefit, other than a 252  
survivorship benefit, that has been or is in the future granted 253  
to the offender, from any payment of accumulated employee 254  
contributions standing to the offender's credit with that 255  
retirement system, that provider under the alternative 256  
retirement plan, or that deferred compensation program, or, if 257  
more than one is specified in the motion, the applicable 258  
combination of these, and from any payment of any other amounts 259  
to be paid to the offender upon the offender's withdrawal of the 260  
offender's contributions pursuant to Chapter 145., 148., 742., 261  
3307., 3309., or 5505. of the Revised Code, and to continue the 262

withholding for that purpose, in accordance with the order, out 263  
of each payment to be made on or after the date of issuance of 264  
the order, until further order of the court. Upon receipt of an 265  
order issued under this division, the public employees 266  
retirement system, the Ohio police and fire pension fund, the 267  
state teachers retirement system, the school employees 268  
retirement system, the state highway patrol retirement system, a 269  
municipal corporation retirement system, the provider under the 270  
alternative retirement plan, and the deferred compensation 271  
program offered by the Ohio public employees deferred 272  
compensation board, a municipal corporation, or a government 273  
unit, as defined in section 148.06 of the Revised Code, 274  
whichever are applicable, shall withhold the amount required as 275  
restitution, in accordance with the order, from any such 276  
payments and immediately shall forward the amount withheld to 277  
the clerk of the court in which the order was issued for payment 278  
to the entity to which restitution is to be made. 279

(iii) Service of a notice required by division (C) (2) (b) 280  
(i) or (ii) of this section shall be effected in the same manner 281  
as provided in the Rules of Civil Procedure for the service of 282  
process. 283

(c) Consistent with the ruling of the supreme court of the 284  
United States in Kelly v. Robinson, 479 U.S. 36 (1986), 285  
restitution imposed under division (C) (2) (a) of this section is 286  
not dischargeable under Chapter 7 of the United States 287  
Bankruptcy Code pursuant to 11 U.S.C. 523, as amended. 288

(D) Upon the filing of charges against a person under this 289  
section, the prosecutor, as defined in section 2935.01 of the 290  
Revised Code, who is assigned the case shall send written notice 291  
that charges have been filed against that person to the public 292

employees retirement system, the Ohio police and fire pension 293  
fund, the state teachers retirement system, the school employees 294  
retirement system, the state highway patrol retirement system, 295  
the provider under an alternative retirement plan, any municipal 296  
corporation retirement system in this state, and the deferred 297  
compensation program offered by the Ohio public employees 298  
deferred compensation board, a municipal corporation, or a 299  
government unit, as defined in section 148.06 of the Revised 300  
Code. The written notice shall specifically identify the person 301  
charged. 302

**Sec. 2953.32.** (A) (1) Except as provided in section 2953.61 303  
of the Revised Code or as otherwise provided in division (A) (1) 304  
(d) of this section, an eligible offender may apply to the 305  
sentencing court if convicted in this state, or to a court of 306  
common pleas if convicted in another state or in a federal 307  
court, for the sealing of the record of the case that pertains 308  
to the conviction. Application may be made at one of the 309  
following times: 310

(a) At the expiration of three years after the offender's 311  
final discharge if convicted of one felony, so long as none of 312  
the offenses is a violation of section 2921.43 of the Revised 313  
Code; 314

(b) When division (A) (1) (a) of section 2953.31 of the 315  
Revised Code applies to the offender, at the expiration of four 316  
years after the offender's final discharge if convicted of two 317  
felonies, or at the expiration of five years after final 318  
discharge if convicted of three, four, or five felonies, so long 319  
as none of the offenses is a violation of section 2921.43 of the 320  
Revised Code; 321

(c) At the expiration of one year after the offender's 322

final discharge if convicted of a misdemeanor, so long as none 323  
of the offenses is a violation of section 2921.43 of the Revised 324  
Code; 325

(d) At the expiration of seven years after the offender's 326  
final discharge if the record includes a conviction of 327  
soliciting improper compensation in violation of section 2921.43 328  
of the Revised Code. 329

(2) Any person who has been arrested for any misdemeanor 330  
offense and who has effected a bail forfeiture for the offense 331  
charged may apply to the court in which the misdemeanor criminal 332  
case was pending when bail was forfeited for the sealing of the 333  
record of the case that pertains to the charge. Except as 334  
provided in section 2953.61 of the Revised Code, the application 335  
may be filed at any time after the expiration of one year from 336  
the date on which the bail forfeiture was entered upon the 337  
minutes of the court or the journal, whichever entry occurs 338  
first. 339

(B) Upon the filing of an application under this section, 340  
the court shall set a date for a hearing and shall notify the 341  
prosecutor for the case of the hearing on the application. The 342  
prosecutor may object to the granting of the application by 343  
filing an objection with the court prior to the date set for the 344  
hearing. The prosecutor shall specify in the objection the 345  
reasons for believing a denial of the application is justified. 346  
The court shall direct its regular probation officer, a state 347  
probation officer, or the department of probation of the county 348  
in which the applicant resides to make inquiries and written 349  
reports as the court requires concerning the applicant. The 350  
probation officer or county department of probation that the 351  
court directs to make inquiries concerning the applicant shall 352

determine whether or not the applicant was fingerprinted at the 353  
time of arrest or under section 109.60 of the Revised Code. If 354  
the applicant was so fingerprinted, the probation officer or 355  
county department of probation shall include with the written 356  
report a record of the applicant's fingerprints. If the 357  
applicant was convicted of or pleaded guilty to a violation of 358  
division (A) (2) or (B) of section 2919.21 of the Revised Code, 359  
the probation officer or county department of probation that the 360  
court directed to make inquiries concerning the applicant shall 361  
contact the child support enforcement agency enforcing the 362  
applicant's obligations under the child support order to inquire 363  
about the offender's compliance with the child support order. 364

(C) (1) The court shall do each of the following: 365

(a) Determine whether the applicant is an eligible 366  
offender or whether the forfeiture of bail was agreed to by the 367  
applicant and the prosecutor in the case. If the applicant 368  
applies as an eligible offender pursuant to division (A) (1) of 369  
this section and has two or three convictions that result from 370  
the same indictment, information, or complaint, from the same 371  
plea of guilty, or from the same official proceeding, and result 372  
from related criminal acts that were committed within a three- 373  
month period but do not result from the same act or from 374  
offenses committed at the same time, in making its determination 375  
under this division, the court initially shall determine whether 376  
it is not in the public interest for the two or three 377  
convictions to be counted as one conviction. If the court 378  
determines that it is not in the public interest for the two or 379  
three convictions to be counted as one conviction, the court 380  
shall determine that the applicant is not an eligible offender; 381  
if the court does not make that determination, the court shall 382  
determine that the offender is an eligible offender. 383

(b) Determine whether criminal proceedings are pending 384  
against the applicant; 385

(c) If the applicant is an eligible offender who applies 386  
pursuant to division (A) (1) of this section, determine whether 387  
the applicant has been rehabilitated to the satisfaction of the 388  
court; 389

(d) If the prosecutor has filed an objection in accordance 390  
with division (B) of this section, consider the reasons against 391  
granting the application specified by the prosecutor in the 392  
objection; 393

(e) Weigh the interests of the applicant in having the 394  
records pertaining to the applicant's conviction or bail 395  
forfeiture sealed against the legitimate needs, if any, of the 396  
government to maintain those records. 397

(2) If the court determines, after complying with division 398  
(C) (1) of this section, that the applicant is an eligible 399  
offender or the subject of a bail forfeiture, that no criminal 400  
proceeding is pending against the applicant, that the interests 401  
of the applicant in having the records pertaining to the 402  
applicant's conviction or bail forfeiture sealed are not 403  
outweighed by any legitimate governmental needs to maintain 404  
those records, and that the rehabilitation of an applicant who 405  
is an eligible offender applying pursuant to division (A) (1) of 406  
this section has been attained to the satisfaction of the court, 407  
the court, except as provided in division (C) (4), (G), (H), or 408  
(I) of this section, shall order all official records of the 409  
case that pertain to the conviction or bail forfeiture sealed 410  
and, except as provided in division (F) of this section, all 411  
index references to the case that pertain to the conviction or 412  
bail forfeiture deleted and, in the case of bail forfeitures, 413

shall dismiss the charges in the case. The proceedings in the 414  
case that pertain to the conviction or bail forfeiture shall be 415  
considered not to have occurred and the conviction or bail 416  
forfeiture of the person who is the subject of the proceedings 417  
shall be sealed, except that upon conviction of a subsequent 418  
offense, the sealed record of prior conviction or bail 419  
forfeiture may be considered by the court in determining the 420  
sentence or other appropriate disposition, including the relief 421  
provided for in sections 2953.31 to 2953.33 of the Revised Code. 422

(3) An applicant may request the sealing of the records of 423  
more than one case in a single application under this section. 424  
Upon the filing of an application under this section, the 425  
applicant, unless indigent, shall pay a fee of fifty dollars, 426  
regardless of the number of records the application requests to 427  
have sealed. The court shall pay thirty dollars of the fee into 428  
the state treasury. It shall pay twenty dollars of the fee into 429  
the county general revenue fund if the sealed conviction or bail 430  
forfeiture was pursuant to a state statute, or into the general 431  
revenue fund of the municipal corporation involved if the sealed 432  
conviction or bail forfeiture was pursuant to a municipal 433  
ordinance. 434

(4) If the court orders the official records pertaining to 435  
the case sealed, the court shall do one of the following: 436

(a) If the applicant was fingerprinted at the time of 437  
arrest or under section 109.60 of the Revised Code and the 438  
record of the applicant's fingerprints was provided to the court 439  
under division (B) of this section, forward a copy of the 440  
sealing order and the record of the applicant's fingerprints to 441  
the bureau of criminal identification and investigation. 442

(b) If the applicant was not fingerprinted at the time of 443

arrest or under section 109.60 of the Revised Code, or the 444  
record of the applicant's fingerprints was not provided to the 445  
court under division (B) of this section, but fingerprinting was 446  
required for the offense, order the applicant to appear before a 447  
sheriff to have the applicant's fingerprints taken according to 448  
the fingerprint system of identification on the forms furnished 449  
by the superintendent of the bureau of criminal identification 450  
and investigation. The sheriff shall forward the applicant's 451  
fingerprints to the court. The court shall forward the 452  
applicant's fingerprints and a copy of the sealing order to the 453  
bureau of criminal identification and investigation. 454

Failure of the court to order fingerprints at the time of 455  
sealing does not constitute a reversible error. 456

(D) Inspection of the sealed records included in the order 457  
may be made only by the following persons or for the following 458  
purposes: 459

(1) By a law enforcement officer or prosecutor, or the 460  
assistants of either, to determine whether the nature and 461  
character of the offense with which a person is to be charged 462  
would be affected by virtue of the person's previously having 463  
been convicted of a crime; 464

(2) By the parole or probation officer of the person who 465  
is the subject of the records, for the exclusive use of the 466  
officer in supervising the person while on parole or under a 467  
community control sanction or a post-release control sanction, 468  
and in making inquiries and written reports as requested by the 469  
court or adult parole authority; 470

(3) Upon application by the person who is the subject of 471  
the records, by the persons named in the application; 472



(4) By a law enforcement officer who was involved in the 473  
case, for use in the officer's defense of a civil action arising 474  
out of the officer's involvement in that case; 475

(5) By a prosecuting attorney or the prosecuting 476  
attorney's assistants, to determine a defendant's eligibility to 477  
enter a pre-trial diversion program established pursuant to 478  
section 2935.36 of the Revised Code; 479

(6) By any law enforcement agency or any authorized 480  
employee of a law enforcement agency or by the department of 481  
rehabilitation and correction or department of youth services as 482  
part of a background investigation of a person who applies for 483  
employment with the agency or with the department; 484

(7) By any law enforcement agency or any authorized 485  
employee of a law enforcement agency, for the purposes set forth 486  
in, and in the manner provided in, section 2953.321 of the 487  
Revised Code; 488

(8) By the bureau of criminal identification and 489  
investigation or any authorized employee of the bureau for the 490  
purpose of providing information to a board or person pursuant 491  
to division (F) or (G) of section 109.57 of the Revised Code; 492

(9) By the bureau of criminal identification and 493  
investigation or any authorized employee of the bureau for the 494  
purpose of performing a criminal history records check on a 495  
person to whom a certificate as prescribed in section 109.77 of 496  
the Revised Code is to be awarded; 497

(10) By the bureau of criminal identification and 498  
investigation or any authorized employee of the bureau for the 499  
purpose of conducting a criminal records check of an individual 500  
pursuant to division (B) of section 109.572 of the Revised Code 501

that was requested pursuant to any of the sections identified in 502  
division (B) (1) of that section; 503

(11) By the bureau of criminal identification and 504  
investigation, an authorized employee of the bureau, a sheriff, 505  
or an authorized employee of a sheriff in connection with a 506  
criminal records check described in section 311.41 of the 507  
Revised Code; 508

(12) By the attorney general or an authorized employee of 509  
the attorney general or a court for purposes of determining a 510  
person's classification pursuant to Chapter 2950. of the Revised 511  
Code; 512

(13) By a court, the registrar of motor vehicles, a 513  
prosecuting attorney or the prosecuting attorney's assistants, 514  
or a law enforcement officer for the purpose of assessing points 515  
against a person under section 4510.036 of the Revised Code or 516  
for taking action with regard to points assessed. 517

When the nature and character of the offense with which a 518  
person is to be charged would be affected by the information, it 519  
may be used for the purpose of charging the person with an 520  
offense. 521

(E) In any criminal proceeding, proof of any otherwise 522  
admissible prior conviction may be introduced and proved, 523  
notwithstanding the fact that for any such prior conviction an 524  
order of sealing previously was issued pursuant to sections 525  
2953.31 to 2953.36 of the Revised Code. 526

(F) The person or governmental agency, office, or 527  
department that maintains sealed records pertaining to 528  
convictions or bail forfeitures that have been sealed pursuant 529  
to this section may maintain a manual or computerized index to 530

the sealed records. The index shall contain only the name of, 531  
and alphanumeric identifiers that relate to, the persons who are 532  
the subject of the sealed records, the word "sealed," and the 533  
name of the person, agency, office, or department that has 534  
custody of the sealed records, and shall not contain the name of 535  
the crime committed. The index shall be made available by the 536  
person who has custody of the sealed records only for the 537  
purposes set forth in divisions (C), (D), and (E) of this 538  
section. 539

(G) Notwithstanding any provision of this section or 540  
section 2953.33 of the Revised Code that requires otherwise, a 541  
board of education of a city, local, exempted village, or joint 542  
vocational school district that maintains records of an 543  
individual who has been permanently excluded under sections 544  
3301.121 and 3313.662 of the Revised Code is permitted to 545  
maintain records regarding a conviction that was used as the 546  
basis for the individual's permanent exclusion, regardless of a 547  
court order to seal the record. An order issued under this 548  
section to seal the record of a conviction does not revoke the 549  
adjudication order of the superintendent of public instruction 550  
to permanently exclude the individual who is the subject of the 551  
sealing order. An order issued under this section to seal the 552  
record of a conviction of an individual may be presented to a 553  
district superintendent as evidence to support the contention 554  
that the superintendent should recommend that the permanent 555  
exclusion of the individual who is the subject of the sealing 556  
order be revoked. Except as otherwise authorized by this 557  
division and sections 3301.121 and 3313.662 of the Revised Code, 558  
any school employee in possession of or having access to the 559  
sealed conviction records of an individual that were the basis 560  
of a permanent exclusion of the individual is subject to section 561

2953.35 of the Revised Code. 562

(H) Notwithstanding any provision of this section or 563  
section 2953.33 of the Revised Code that requires otherwise, if 564  
the auditor of state or a prosecutor maintains records, reports, 565  
or audits of an individual who has been forever disqualified 566  
from holding public office, employment, or position of trust in 567  
this state under sections 2921.41 and 2921.43 of the Revised 568  
Code, or has otherwise been convicted of an offense based upon 569  
the records, reports, or audits of the auditor of state, the 570  
auditor of state or prosecutor is permitted to maintain those 571  
records to the extent they were used as the basis for the 572  
individual's disqualification or conviction, and shall not be 573  
compelled by court order to seal those records. 574

(I) For purposes of sections 2953.31 to 2953.36 of the 575  
Revised Code, DNA records collected in the DNA database and 576  
fingerprints filed for record by the superintendent of the 577  
bureau of criminal identification and investigation shall not be 578  
sealed unless the superintendent receives a certified copy of a 579  
final court order establishing that the offender's conviction 580  
has been overturned. For purposes of this section, a court order 581  
is not "final" if time remains for an appeal or application for 582  
discretionary review with respect to the order. 583

~~(I)~~ (J) The sealing of a record under this section does 584  
not affect the assessment of points under section 4510.036 of 585  
the Revised Code and does not erase points assessed against a 586  
person as a result of the sealed record. 587

**Sec. 2953.321.** (A) As used in this section, "investigatory 588  
work product" means any records or reports of a law enforcement 589  
officer or agency that are excepted from the definition of 590  
"official records" contained in section 2953.51 of the Revised 591

Code and that pertain to a conviction or bail forfeiture the 592  
records of which have been ordered sealed pursuant to division 593  
(C) (2) of section 2953.32 of the Revised Code or that pertain to 594  
a conviction or delinquent child adjudication the records of 595  
which have been ordered expunged pursuant to division (E) of 596  
section 2151.358, division (D) (2) of section 2953.37, or 597  
division (G) of section 2953.38 of the Revised Code. 598

(B) Upon the issuance of an order by a court pursuant to 599  
division (C) (2) of section 2953.32 of the Revised Code directing 600  
that all official records of a case pertaining to a conviction 601  
or bail forfeiture be sealed or an order by a court pursuant to 602  
division (E) of section 2151.358, division (D) (2) of section 603  
2953.37, or division (G) of section 2953.38 of the Revised Code 604  
directing that all official records of a case pertaining to a 605  
conviction or delinquent child adjudication be expunged: 606

(1) Every law enforcement officer who possesses 607  
investigatory work product immediately shall deliver that work 608  
product to the law enforcement officer's employing law 609  
enforcement agency. 610

(2) Except as provided in division (B) (3) or (4) of this 611  
section, every law enforcement agency that possesses 612  
investigatory work product shall close that work product to all 613  
persons who are not directly employed by the law enforcement 614  
agency and shall treat that work product, in relation to all 615  
persons other than those who are directly employed by the law 616  
enforcement agency, as if it did not exist and never had 617  
existed. 618

(3) A law enforcement agency that possesses investigatory 619  
work product may permit another law enforcement agency to use 620  
that work product in the investigation of another offense if the 621

facts incident to the offense being investigated by the other 622  
law enforcement agency and the facts incident to an offense that 623  
is the subject of the case are reasonably similar. The agency 624  
that permits the use of investigatory work product may provide 625  
the other agency with the name of the person who is the subject 626  
of the case if it believes that the name of the person is 627  
necessary to the conduct of the investigation by the other 628  
agency. 629

(4) The auditor of state may provide to or discuss with 630  
other parties investigatory work product maintained pursuant to 631  
Chapter 117. of the Revised Code by the auditor of state. 632

(C) (1) Except as provided in division (B) (3) or (4) of 633  
this section, no law enforcement officer or other person 634  
employed by a law enforcement agency shall knowingly release, 635  
disseminate, or otherwise make the investigatory work product or 636  
any information contained in that work product available to, or 637  
discuss any information contained in it with, any person not 638  
employed by the employing law enforcement agency. 639

(2) No law enforcement agency, or person employed by a law 640  
enforcement agency, that receives investigatory work product 641  
pursuant to division (B) (3) or (4) of this section shall use 642  
that work product for any purpose other than the investigation 643  
of the offense for which it was obtained from the other law 644  
enforcement agency, or disclose the name of the person who is 645  
the subject of the work product except when necessary for the 646  
conduct of the investigation of the offense, or the prosecution 647  
of the person for committing the offense, for which it was 648  
obtained from the other law enforcement agency. 649

(3) It is not a violation of division (C) (1) or (2) of 650  
this section for the bureau of criminal identification and 651

investigation or any authorized employee of the bureau 652  
participating in the investigation of criminal activity to 653  
release, disseminate, or otherwise make available to, or discuss 654  
with, a person directly employed by a law enforcement agency DNA 655  
records collected in the DNA database or fingerprints filed for 656  
record by the superintendent of the bureau of criminal 657  
identification and investigation. 658

(D) Whoever violates division (C) (1) or (2) of this 659  
section is guilty of divulging confidential investigatory work 660  
product, a misdemeanor of the fourth degree. 661

**Sec. 2953.36.** (A) Except as otherwise provided in division 662  
(B) of this section, sections 2953.31 to 2953.35 of the Revised 663  
Code do not apply to any of the following: 664

(1) Convictions when the offender is subject to a 665  
mandatory prison term; 666

(2) Convictions under section 2907.02, 2907.03, 2907.04, 667  
2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former 668  
section 2907.12, or Chapter 4506., 4507., 4510., 4511., or 4549. 669  
of the Revised Code, or a conviction for a violation of a 670  
municipal ordinance that is substantially similar to any section 671  
contained in any of those chapters, except as otherwise provided 672  
in section 2953.61 of the Revised Code; 673

(3) Convictions of an offense of violence when the offense 674  
is a misdemeanor of the first degree or a felony and when the 675  
offense is not a violation of section 2917.03 of the Revised 676  
Code and is not a violation of section 2903.13, 2917.01, or 677  
2917.31 of the Revised Code that is a misdemeanor of the first 678  
degree; 679

(4) Convictions on or after October 10, 2007, under 680

section 2907.07 of the Revised Code or a conviction on or after 681  
October 10, 2007, for a violation of a municipal ordinance that 682  
is substantially similar to that section; 683

(5) Convictions on or after October 10, 2007, under 684  
section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 685  
2907.311, 2907.32, or 2907.33 of the Revised Code when the 686  
victim of the offense was under eighteen years of age; 687

(6) Convictions of an offense in circumstances in which 688  
the victim of the offense was less than sixteen years of age 689  
when the offense is a misdemeanor of the first degree or a 690  
felony, except for convictions under section 2919.21 of the 691  
Revised Code; 692

(7) Convictions of a felony of the first or second degree; 693

(8) Bail forfeitures in a traffic case as defined in 694  
Traffic Rule 2; 695

(9) Convictions of theft in office in violation of section 696  
2921.41 of the Revised Code. 697

(B) Sections 2953.31 to 2953.35 of the Revised Code apply 698  
to a conviction listed in this section if, on the date of the 699  
conviction, those sections did not apply to the conviction, but 700  
after the date of the conviction, the penalty for or 701  
classification of the offense was changed so that those sections 702  
apply to the conviction. 703

**Sec. 2953.51.** As used in sections 2953.51 to 2953.56 of 704  
the Revised Code: 705

(A) "No bill" means a report by the foreperson or deputy 706  
foreperson of a grand jury that an indictment is not found by 707  
the grand jury against a person who has been held to answer 708



before the grand jury for the commission of an offense. 709

(B) "Prosecutor" has the same meaning as in section 710  
2953.31 of the Revised Code. 711

(C) "Court" means the court in which a case is pending at 712  
the time a finding of not guilty in the case or a dismissal of 713  
the complaint, indictment, or information in the case is entered 714  
on the minutes or journal of the court, or the court to which 715  
the foreperson or deputy foreperson of a grand jury reports, 716  
pursuant to section 2939.23 of the Revised Code, that the grand 717  
jury has returned a no bill. 718

(D) "Official records" means all records that are 719  
possessed by any public office or agency that relate to a 720  
criminal case, including, but not limited to: the notation to 721  
the case in the criminal docket; all subpoenas issued in the 722  
case; all papers and documents filed by the defendant or the 723  
prosecutor in the case; all records of all testimony and 724  
evidence presented in all proceedings in the case; all court 725  
files, papers, documents, folders, entries, affidavits, or writs 726  
that pertain to the case; all computer, microfilm, microfiche, 727  
or microdot records, indices, or references to the case; all 728  
index references to the case; all fingerprints and photographs; 729  
all DNA specimens, DNA records, and DNA profiles; all records 730  
and investigative reports pertaining to the case that are 731  
possessed by any law enforcement officer or agency, except that 732  
any records or reports that are the specific investigatory work 733  
product of a law enforcement officer or agency are not and shall 734  
not be considered to be official records when they are in the 735  
possession of that officer or agency; and all investigative 736  
records and reports other than those possessed by a law 737  
enforcement officer or agency pertaining to the case. "Official 738

records" does not include any of the following: 739

(1) Records or reports maintained pursuant to section 740  
2151.421 of the Revised Code by a public children services 741  
agency or the department of job and family services; 742

(2) Any report of an investigation maintained by the 743  
inspector general pursuant to section 121.42 of the Revised 744  
Code, to the extent that the report contains information that 745  
pertains to an individual who was convicted of or pleaded guilty 746  
to an offense discovered in or related to the investigation and 747  
whose conviction or guilty plea was not overturned on appeal; 748

(3) Records, reports, or audits maintained by the auditor 749  
of state pursuant to Chapter 117. of the Revised Code. 750

(E) "DNA database," "DNA record," "DNA specimen," and "law 751  
enforcement agency" have the same meanings as in section 109.573 752  
of the Revised Code. 753

(F) "Fingerprints filed for record" has the same meaning 754  
as in section 2953.31 of the Revised Code. 755

**Sec. 2953.54.** (A) Except as otherwise provided in Chapter 756  
2950. of the Revised Code, upon the issuance of an order by a 757  
court under division (B) of section 2953.52 of the Revised Code 758  
directing that all official records pertaining to a case be 759  
sealed and that the proceedings in the case be deemed not to 760  
have occurred: 761

(1) Every law enforcement officer possessing records or 762  
reports pertaining to the case that are the officer's specific 763  
investigatory work product and that are excepted from the 764  
definition of "official records" contained in section 2953.51 of 765  
the Revised Code shall immediately deliver the records and 766  
reports to the officer's employing law enforcement agency. 767

Except as provided in division (A) (3) or (4) of this section, no 768  
such officer shall knowingly release, disseminate, or otherwise 769  
make the records and reports or any information contained in 770  
them available to, or discuss any information contained in them 771  
with, any person not employed by the officer's employing law 772  
enforcement agency. 773

(2) Every law enforcement agency that possesses records or 774  
reports pertaining to the case that are its specific 775  
investigatory work product and that are excepted from the 776  
definition of "official records" contained in section 2953.51 of 777  
the Revised Code, or that are the specific investigatory work 778  
product of a law enforcement officer it employs and that were 779  
delivered to it under division (A) (1) of this section shall, 780  
except as provided in division (A) (3) or (4) of this section, 781  
close the records and reports to all persons who are not 782  
directly employed by the law enforcement agency and shall, 783  
except as provided in division (A) (3) or (4) of this section, 784  
treat the records and reports, in relation to all persons other 785  
than those who are directly employed by the law enforcement 786  
agency, as if they did not exist and had never existed. Except 787  
as provided in division (A) (3) or (4) of this section, no person 788  
who is employed by the law enforcement agency shall knowingly 789  
release, disseminate, or otherwise make the records and reports 790  
in the possession of the employing law enforcement agency or any 791  
information contained in them available to, or discuss any 792  
information contained in them with, any person not employed by 793  
the employing law enforcement agency. 794

(3) A law enforcement agency that possesses records or 795  
reports pertaining to the case that are its specific 796  
investigatory work product and that are excepted from the 797  
definition of "official records" contained in division (D) of 798

section 2953.51 of the Revised Code, or that are the specific 799  
investigatory work product of a law enforcement officer it 800  
employs and that were delivered to it under division (A) (1) of 801  
this section may permit another law enforcement agency to use 802  
the records or reports in the investigation of another offense, 803  
if the facts incident to the offense being investigated by the 804  
other law enforcement agency and the facts incident to an 805  
offense that is the subject of the case are reasonably similar. 806  
The agency that provides the records and reports may provide the 807  
other agency with the name of the person who is the subject of 808  
the case, if it believes that the name of the person is 809  
necessary to the conduct of the investigation by the other 810  
agency. 811

No law enforcement agency, or person employed by a law 812  
enforcement agency, that receives from another law enforcement 813  
agency records or reports pertaining to a case the records of 814  
which have been ordered sealed pursuant to division (B) of 815  
section 2953.52 of the Revised Code shall use the records and 816  
reports for any purpose other than the investigation of the 817  
offense for which they were obtained from the other law 818  
enforcement agency, or disclose the name of the person who is 819  
the subject of the records or reports except when necessary for 820  
the conduct of the investigation of the offense, or the 821  
prosecution of the person for committing the offense, for which 822  
they were obtained from the other law enforcement agency. 823

(4) The auditor of state may provide to or discuss with 824  
other parties records, reports, or audits maintained by the 825  
auditor of state pursuant to Chapter 117. of the Revised Code 826  
pertaining to the case that are the auditor of state's specific 827  
investigatory work product and that are excepted from the 828  
definition of "official records" contained in division (D) of 829

section 2953.51 of the Revised Code, or that are the specific 830  
investigatory work product of a law enforcement officer the 831  
auditor of state employs and that were delivered to the auditor 832  
of state under division (A)(1) of this section. 833

(B) Whoever violates division (A)(1), (2), or (3) of this 834  
section is guilty of divulging confidential information, a 835  
misdemeanor of the fourth degree. 836

(C) It is not a violation of this section for the bureau 837  
of criminal identification and investigation or any authorized 838  
employee of the bureau participating in the investigation of 839  
criminal activity to release, disseminate, or otherwise make 840  
available to, or discuss with, a person directly employed by a 841  
law enforcement agency DNA records collected in the DNA database 842  
or fingerprints filed for record by the superintendent of the 843  
bureau of criminal identification and investigation. 844

**Sec. 5747.12.** (A) If a person entitled to a refund under 845  
section 5747.11 or 5747.13 of the Revised Code is indebted to 846  
this state for any of the following, the amount refundable may 847  
be applied in satisfaction of the debt: 848

(1) To this state for any tax, workers' compensation 849  
premium due under section 4123.35 of the Revised Code, or 850  
unemployment compensation contribution due under section 4141.25 851  
of the Revised Code; 852

(2) To the state or a political subdivision for a 853  
certified claim under section 131.02 or 131.021 of the Revised 854  
Code; or a finding for recovery included in a certified report 855  
that has been filed with the attorney general pursuant to 856  
sections 117.28 and 117.30 of the Revised Code; 857

(3) For a fee that is paid to the state or to the clerk of 858

courts pursuant to section 4505.06 of the Revised Code, ~~or;~~ 859

(4) For any charge, penalty, collection cost, or interest 860  
arising from ~~such a tax, workers' compensation premium,~~ 861  
~~unemployment compensation contribution, certified claim, or fee,~~ 862  
~~the amount refundable may be applied in satisfaction of the~~ 863  
~~debt~~ a debt listed in divisions (A) (1) to (3) of this section. If 864

(B) If the amount refundable is less than the amount of 865  
the debt owed under division (A) of this section, it may be 866  
applied in partial satisfaction of the debt. If the amount 867  
refundable is greater than the amount of ~~the that~~ debt, the 868  
amount remaining after satisfaction of the debt shall be 869  
refunded. If the person has more than one ~~such debt~~ listed in 870  
division (A) of this section, any debt subject to section 871  
5739.33 or division (G) of section 5747.07 of the Revised Code 872  
or arising under section 5747.063 or 5747.064 of the Revised 873  
Code shall be satisfied first. ~~Except~~ 874

(C) Except as provided in section 131.021 of the Revised 875  
Code, this section applies only to debts that have become final. 876

(D) The tax commissioner may charge each respective agency 877  
of the state for the commissioner's cost in applying refunds to 878  
debts due to the state and may charge the attorney general for 879  
the commissioner's cost in applying refunds to certified claims. 880  
~~The~~ 881

(E) The commissioner may promulgate rules to implement 882  
this section. The rules may address, among other things, 883  
situations such as those where persons may jointly be entitled 884  
to a refund but do not jointly owe a debt or certified claim. 885

(F) The commissioner may, with the consent of the 886  
taxpayer, provide for the crediting, against tax imposed under 887

this chapter or Chapter 5748. of the Revised Code and due for 888  
any taxable year, of the amount of any refund due the taxpayer 889  
under this chapter or Chapter 5748. of the Revised Code, as 890  
appropriate, for a preceding taxable year. 891

**Section 2.** That existing sections 319.16, 2921.41, 892  
2953.32, 2953.321, 2953.36, 2953.51, 2953.54, and 5747.12 of the 893  
Revised Code are hereby repealed. 894

**Section 3.** Section 2953.36 of the Revised Code is 895  
presented in this act as a composite of the section as amended 896  
by H.B. 53, H.B. 56, and H.B. 164, all of the 131st General 897  
Assembly. The General Assembly, applying the principle stated in 898  
division (B) of section 1.52 of the Revised Code that amendments 899  
are to be harmonized if reasonably capable of simultaneous 900  
operation, finds that the composite is the resulting version of 901  
the section in effect prior to the effective date of the section 902  
as presented in this act. 903