

**As Introduced**

**131st General Assembly**

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**H. B. No. 268**

**Representatives Hall, Dever**

**Cosponsors: Representatives Anielski, Baker, Barnes, Becker, Boose, Conditt, DeVitis, Green, Grossman, Hambley, Johnson, T., Kraus, LaTourette, Maag, McColley, O'Brien, S., Patmon, Rezabek, Ruhl, Ryan, Schuring, Slaby, Sprague, Thompson, Young**

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**A BILL**

To amend sections 2151.358, 2907.21, 2907.22, 1  
2951.041, and 2953.38 of the Revised Code to 2  
expand the list of human trafficking-related 3  
convictions and delinquency adjudications that 4  
may be expunged, to increase the penalties for 5  
compelling prostitution and promoting 6  
prostitution, and to authorize intervention in 7  
lieu of conviction for persons charged with 8  
committing an offense while a victim of 9  
compelling prostitution. 10

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

**Section 1.** That sections 2151.358, 2907.21, 2907.22, 11  
2951.041, and 2953.38 of the Revised Code be amended to read as 12  
follows: 13

**Sec. 2151.358.** (A) The juvenile court shall expunge all 14  
records sealed under section 2151.356 of the Revised Code five 15  
years after the court issues a sealing order or upon the twenty- 16  
third birthday of the person who is the subject of the sealing 17

order, whichever date is earlier. 18

(B) Notwithstanding division (A) of this section, upon 19  
application by the person who has had a record sealed under 20  
section 2151.356 of the Revised Code, the juvenile court may 21  
expunge a record sealed under section 2151.356 of the Revised 22  
Code. In making the determination whether to expunge records, 23  
all of the following apply: 24

(1) The court may require a person filing an application 25  
for expungement to submit any relevant documentation to support 26  
the application. 27

(2) The court may cause an investigation to be made to 28  
determine if the person who is the subject of the proceedings 29  
has been rehabilitated to a satisfactory degree. 30

(3) The court shall promptly notify the prosecuting 31  
attorney of any proceedings to expunge records. 32

(4) (a) The prosecuting attorney may file a response with 33  
the court within thirty days of receiving notice of the 34  
expungement proceedings. 35

(b) If the prosecuting attorney does not file a response 36  
with the court or if the prosecuting attorney files a response 37  
but indicates that the prosecuting attorney does not object to 38  
the expungement of the records, the court may order the records 39  
of the person that are under consideration to be expunged 40  
without conducting a hearing on the application. If the court 41  
decides in its discretion to conduct a hearing on the 42  
application, the court shall conduct the hearing within thirty 43  
days after making that decision and shall give notice, by 44  
regular mail, of the date, time, and location of the hearing to 45  
the prosecuting attorney and to the person who is the subject of 46

the records under consideration. 47

(c) If the prosecuting attorney files a response with the 48  
court that indicates that the prosecuting attorney objects to 49  
the expungement of the records, the court shall conduct a 50  
hearing on the application within thirty days after the court 51  
receives the response. The court shall give notice, by regular 52  
mail, of the date, time, and location of the hearing to the 53  
prosecuting attorney and to the person who is the subject of the 54  
records under consideration. 55

(5) After conducting a hearing in accordance with division 56  
(B) (4) of this section or after due consideration when a hearing 57  
is not conducted, the court may order the records of the person 58  
that are the subject of the application to be expunged if it 59  
finds that the person has been rehabilitated to a satisfactory 60  
degree. In determining whether the person has been rehabilitated 61  
to a satisfactory degree, the court may consider all of the 62  
following: 63

(a) The age of the person; 64

(b) The nature of the case; 65

(c) The cessation or continuation of delinquent, unruly, 66  
or criminal behavior; 67

(d) The education and employment history of the person; 68

(e) Any other circumstances that may relate to the 69  
rehabilitation of the person who is the subject of the records 70  
under consideration. 71

(C) If the juvenile court is notified by any party in a 72  
civil action that a civil action has been filed based on a case 73  
the records for which are the subject of a sealing order, the 74

juvenile court shall not expunge a record sealed under section 75  
2151.356 of the Revised Code until the civil action has been 76  
resolved and is not subject to further appellate review, at 77  
which time the records shall be expunged pursuant to division 78  
(A) of this section. 79

(D) (1) A juvenile court that issues a protection order or 80  
approves a consent agreement under section 2151.34 or 3113.31 of 81  
the Revised Code shall automatically seal all of the records of 82  
the proceeding in which the order was issued or agreement 83  
approved on the date the person against whom the protection 84  
order was issued or the consent agreement approved attains the 85  
age of nineteen years if the court determines that the person 86  
has complied with all of the terms of the protection order or 87  
consent agreement. 88

(2) In a proceeding under section 2151.34 of the Revised 89  
Code, if the juvenile court does not issue any protection order 90  
under division (E) of that section, the court shall 91  
automatically seal all of the records in that proceeding. In a 92  
proceeding under section 3113.31 of the Revised Code, if the 93  
juvenile court does not issue any protection order or approve 94  
any consent agreement under division (E) of that section, the 95  
court shall automatically seal all of the records in that 96  
proceeding. 97

(3) (a) If a juvenile court that issues a protection order 98  
or approves a consent agreement under section 2151.34 or 3113.31 99  
of the Revised Code determines that the person against whom the 100  
protection order was issued or the consent agreement approved 101  
has not complied with all of the terms of the protection order 102  
or consent agreement, the court shall consider sealing all of 103  
the records of the proceeding in which the order was issued or 104

agreement approved upon the court's own motion or upon the application of a person. The court may make the motion or the person who is the subject of the records under consideration may apply for an order sealing the records of the proceeding at any time after two years after the expiration of the protection order or consent agreement.

(b) In making a determination whether to seal records pursuant to division (D) (3) of this section, all of the following apply:

(i) The court may require a person filing an application under division (D) (3) of this section to submit any relevant documentation to support the application.

(ii) The court shall promptly notify the victim or the victim's attorney of any proceedings to seal records initiated pursuant to division (D) (3) of this section.

(iii) The victim or the victim's attorney may file a response with the court within thirty days of receiving notice of the sealing proceedings.

If the victim or the victim's attorney does not file a response with the court or if the victim or the victim's attorney files a response but indicates that the victim or the victim's attorney does not object to the sealing of the records, the court may order the records of the person that are under consideration to be sealed without conducting a hearing on the motion or application. If the court decides in its discretion to conduct a hearing on the motion or application, the court shall conduct the hearing within thirty days after making that decision and shall give notice, by regular mail, of the date, time, and location of the hearing to the victim or the victim's

attorney and to the person who is the subject of the records 134  
under consideration. 135

If the victim or the victim's attorney files a response 136  
with the court that indicates that the victim or the victim's 137  
attorney objects to the sealing of the records, the court shall 138  
conduct a hearing on the motion or application within thirty 139  
days after the court receives the response. The court shall give 140  
notice, by regular mail, of the date, time, and location of the 141  
hearing to the victim or the victim's attorney and to the person 142  
who is the subject of the records under consideration. 143

(iv) After conducting a hearing in accordance with 144  
division (D) (3) (b) (iii) of this section or after due 145  
consideration when a hearing is not conducted, the court may 146  
order the records of the person that are the subject of the 147  
motion or application to be sealed. 148

(4) Inspection of the records sealed pursuant to division 149  
(D) (1), (2), or (3) of this section may be made only by the 150  
following persons or for the following purposes: 151

(a) By a law enforcement officer or prosecutor, or the 152  
assistants of either, to determine whether the nature and 153  
character of the offense with which a person is to be charged 154  
would be affected by virtue of the person's previously having 155  
been convicted of a crime; 156

(b) By the parole or probation officer of the person who 157  
is the subject of the records, for the exclusive use of the 158  
officer in supervising the person while on parole or under a 159  
community control sanction or a post-release control sanction, 160  
and in making inquiries and written reports as requested by the 161  
court or adult parole authority; 162

- (c) Upon application by the person who is the subject of the records, by the persons named in the application; 163  
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- (d) 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; 165  
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- (e) 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; 168  
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- (f) By any law enforcement agency or any authorized employee of a law enforcement agency or by the department of rehabilitation and correction as part of a background investigation of a person who applies for employment with the agency as a law enforcement officer or with the department as a corrections officer; 172  
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- (g) 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, section 2953.321 of the Revised Code; 178  
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- (h) 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; 182  
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- (i) 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; 186  
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- (j) By the bureau of criminal identification and 191

investigation or any authorized employee of the bureau for the 192  
purpose of conducting a criminal records check of an individual 193  
pursuant to division (B) of section 109.572 of the Revised Code 194  
that was requested pursuant to any of the sections identified in 195  
division (B)(1) of that section; 196

(k) By the bureau of criminal identification and 197  
investigation, an authorized employee of the bureau, a sheriff, 198  
or an authorized employee of a sheriff in connection with a 199  
criminal records check described in section 311.41 of the 200  
Revised Code; 201

(l) By the attorney general or an authorized employee of 202  
the attorney general or a court for purposes of determining a 203  
person's classification pursuant to Chapter 2950. of the Revised 204  
Code. 205

When the nature and character of the offense with which a 206  
person is to be charged would be affected by the information, it 207  
may be used for the purpose of charging the person with an 208  
offense. 209

(E) (1) In addition to the methods of expungement provided 210  
for in divisions (A) and (B) of this section, a person who has 211  
been adjudicated a delinquent child for having committed an act 212  
that would be a drug abuse offense, a sex offense, a theft 213  
offense, or an offense of violence if the child were an adult or 214  
for a violation of division (A) of section 2907.24, 2907.241, or 215  
2907.25-3701.81 of the Revised Code ~~if the child were an adult~~ 216  
may apply to the adjudicating court for the expungement of the 217  
record of adjudication if the person's participation in the act 218  
was a result of the person having been a victim of human 219  
trafficking. The application shall be made in the same manner as 220  
an application for expungement under section 2953.38 of the 221

Revised Code, and all of the provisions of that section shall	222
apply to the expungement procedure.	223
<u>(2) As used in division (E)(1) of this section:</u>	224
<u>(a) "Drug abuse offense" has the same meaning as in</u>	225
<u>section 2925.01 of the Revised Code.</u>	226
<u>(b) "Sex offense" means a violation of any section in</u>	227
<u>Chapter 2907. of the Revised Code.</u>	228
<u>(c) "Theft offense" has the same meaning as in section</u>	229
<u>2913.01 of the Revised Code.</u>	230
(F) After the records have been expunged under this	231
section, the person who is the subject of the expunged records	232
properly may, and the court shall, reply that no record exists	233
with respect to the person upon any inquiry in the matter.	234
<b>Sec. 2907.21.</b> (A) No person shall knowingly do any of the	235
following:	236
(1) Compel another to engage in sexual activity for hire;	237
(2) Induce, procure, encourage, solicit, request, or	238
otherwise facilitate either of the following:	239
(a) A minor to engage in sexual activity for hire, whether	240
or not the offender knows the age of the minor;	241
(b) A person the offender believes to be a minor to engage	242
in sexual activity for hire, whether or not the person is a	243
minor.	244
(3) (a) Pay or agree to pay a minor, either directly or	245
through the minor's agent, so that the minor will engage in	246
sexual activity, whether or not the offender knows the age of	247
the minor;	248

(b) Pay or agree to pay a person the offender believes to be a minor, either directly or through the person's agent, so that the person will engage in sexual activity, whether or not the person is a minor.

(4) (a) Pay a minor, either directly or through the minor's agent, for the minor having engaged in sexual activity pursuant to a prior agreement, whether or not the offender knows the age of the minor;

(b) Pay a person the offender believes to be a minor, either directly or through the person's agent, for the person having engaged in sexual activity pursuant to a prior agreement, whether or not the person is a minor.

(5) (a) Allow a minor to engage in sexual activity for hire if the person allowing the child to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the minor;

(b) Allow a person the offender believes to be a minor to engage in sexual activity for hire if the person allowing the person to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the person the offender believes to be a minor, whether or not the person is a minor.

(B) For a prosecution under division (A) (1) of this section, the element "compel" does not require that the compulsion be openly displayed or physically exerted. The element "compel" has been established if the state proves that the victim's will was overcome by force, fear, duress, or intimidation.

(C) Whoever violates this section is guilty of compelling

~~prostitution. Except as otherwise provided in this division,~~ 278  
~~compelling prostitution is a felony of the third degree. If the~~ 279  
~~offender commits a violation of division (A) (1) of this section~~ 280  
~~and the person compelled to engage in sexual activity for hire~~ 281  
~~in violation of that division is sixteen years of age or older~~ 282  
~~but less than eighteen years of age, compelling prostitution is~~ 283  
~~a felony of the second degree. If the offender commits a~~ 284  
~~violation of division (A) (1) of this section and the person~~ 285  
~~compelled to engage in sexual activity for hire in violation of~~ 286  
~~that division is less than sixteen years of age, compelling~~ 287  
~~prostitution is,~~ a felony of the first degree. If the offender 288  
in any case also is convicted of or pleads guilty to a 289  
specification as described in section 2941.1422 of the Revised 290  
Code that was included in the indictment, count in the 291  
indictment, or information charging the offense, the court shall 292  
sentence the offender to a mandatory prison term as provided in 293  
division (B) (7) of section 2929.14 of the Revised Code and shall 294  
order the offender to make restitution as provided in division 295  
(B) (8) of section 2929.18 of the Revised Code. 296

**Sec. 2907.22.** (A) No person shall knowingly: 297

(1) Establish, maintain, operate, manage, supervise, 298  
control, or have an interest in a brothel or any other 299  
enterprise a purpose of which is to facilitate engagement in 300  
sexual activity for hire; 301

(2) Supervise, manage, or control the activities of a 302  
prostitute in engaging in sexual activity for hire; 303

(3) Transport another, or cause another to be transported, 304  
in order to facilitate the other person's engaging in sexual 305  
activity for hire; 306

(4) For the purpose of violating or facilitating a 307  
violation of this section, induce or procure another to engage 308  
in sexual activity for hire. 309

(B) Whoever violates this section is guilty of promoting 310  
prostitution. ~~Except as otherwise provided in this division,~~ 311  
~~promoting prostitution is a felony of the fourth degree. If any~~ 312  
~~prostitute in the brothel involved in the offense, or the~~ 313  
~~prostitute whose activities are supervised, managed, or~~ 314  
~~controlled by the offender, or the person transported, induced,~~ 315  
~~or procured by the offender to engage in sexual activity for~~ 316  
~~hire, is a minor, whether or not the offender knows the age of~~ 317  
~~the minor, then promoting prostitution is, a felony of the~~ 318  
~~third~~ first degree. If the offender in any case also is 319  
convicted of or pleads guilty to a specification as described in 320  
section 2941.1422 of the Revised Code that was included in the 321  
indictment, count in the indictment, or information charging the 322  
offense, the court shall sentence the offender to a mandatory 323  
prison term as provided in division (B) (7) of section 2929.14 of 324  
the Revised Code and shall order the offender to make 325  
restitution as provided in division (B) (8) of section 2929.18 of 326  
the Revised Code. 327

**Sec. 2951.041.** (A) (1) If an offender is charged with a 328  
criminal offense, including but not limited to a violation of 329  
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 330  
of the Revised Code, and the court has reason to believe that 331  
drug or alcohol usage by the offender was a factor leading to 332  
the criminal offense with which the offender is charged or that, 333  
at the time of committing that offense, the offender had a 334  
mental illness, was a person with intellectual disability, or 335  
was a victim of a violation of section 2905.32 or 2907.21 of the 336  
Revised Code and that the mental illness, status as a person 337

with intellectual disability, or fact that the offender was a 338  
victim of a violation of section 2905.32 or 2907.21 of the 339  
Revised Code was a factor leading to the offender's criminal 340  
behavior, the court may accept, prior to the entry of a guilty 341  
plea, the offender's request for intervention in lieu of 342  
conviction. The request shall include a statement from the 343  
offender as to whether the offender is alleging that drug or 344  
alcohol usage by the offender was a factor leading to the 345  
criminal offense with which the offender is charged or is 346  
alleging that, at the time of committing that offense, the 347  
offender had a mental illness, was a person with intellectual 348  
disability, or was a victim of a violation of section 2905.32 or 349  
2907.21 of the Revised Code and that the mental illness, status 350  
as a person with intellectual disability, or fact that the 351  
offender was a victim of a violation of section 2905.32 or 352  
2907.21 of the Revised Code was a factor leading to the criminal 353  
offense with which the offender is charged. The request also 354  
shall include a waiver of the defendant's right to a speedy 355  
trial, the preliminary hearing, the time period within which the 356  
grand jury may consider an indictment against the offender, and 357  
arraignment, unless the hearing, indictment, or arraignment has 358  
already occurred. The court may reject an offender's request 359  
without a hearing. If the court elects to consider an offender's 360  
request, the court shall conduct a hearing to determine whether 361  
the offender is eligible under this section for intervention in 362  
lieu of conviction and shall stay all criminal proceedings 363  
pending the outcome of the hearing. If the court schedules a 364  
hearing, the court shall order an assessment of the offender for 365  
the purpose of determining the offender's eligibility for 366  
intervention in lieu of conviction and recommending an 367  
appropriate intervention plan. 368

If the offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court may order that the offender be assessed by an addiction services provider certified pursuant to section 5119.36 of the Revised Code or a properly credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan. The addiction services provider or the properly credentialed professional shall provide a written assessment of the offender to the court.

(2) The victim notification provisions of division (C) of section 2930.08 of the Revised Code apply in relation to any hearing held under division (A) (1) of this section.

(B) An offender is eligible for intervention in lieu of conviction if the court finds all of the following:

(1) The offender previously has not been convicted of or pleaded guilty to a felony offense of violence or previously has been convicted of or pleaded guilty to any felony that is not an offense of violence and the prosecuting attorney recommends that the offender be found eligible for participation in intervention in lieu of treatment under this section, previously has not been through intervention in lieu of conviction under this section or any similar regimen, and is charged with a felony for which the court, upon conviction, would impose a community control sanction on the offender under division (B) (2) of section 2929.13 of the Revised Code or with a misdemeanor.

(2) The offense is not a felony of the first, second, or third degree, is not an offense of violence, is not a violation of division (A) (1) or (2) of section 2903.06 of the Revised Code, is not a violation of division (A) (1) of section 2903.08

of the Revised Code, is not a violation of division (A) of 399  
section 4511.19 of the Revised Code or a municipal ordinance 400  
that is substantially similar to that division, and is not an 401  
offense for which a sentencing court is required to impose a 402  
mandatory prison term, a mandatory term of local incarceration, 403  
or a mandatory term of imprisonment in a jail. 404

(3) The offender is not charged with a violation of 405  
section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not 406  
charged with a violation of section 2925.03 of the Revised Code 407  
that is a felony of the first, second, third, or fourth degree, 408  
and is not charged with a violation of section 2925.11 of the 409  
Revised Code that is a felony of the first, second, or third 410  
degree. 411

(4) If an offender alleges that drug or alcohol usage by 412  
the offender was a factor leading to the criminal offense with 413  
which the offender is charged, the court has ordered that the 414  
offender be assessed by an addiction services provider certified 415  
pursuant to section 5119.36 of the Revised Code or a properly 416  
credentialed professional for the purpose of determining the 417  
offender's eligibility for intervention in lieu of conviction 418  
and recommending an appropriate intervention plan, the offender 419  
has been assessed by an addiction services provider of that 420  
nature or a properly credentialed professional in accordance 421  
with the court's order, and the addiction services provider or 422  
properly credentialed professional has filed the written 423  
assessment of the offender with the court. 424

(5) If an offender alleges that, at the time of committing 425  
the criminal offense with which the offender is charged, the 426  
offender had a mental illness, was a person with intellectual 427  
disability, or was a victim of a violation of section 2905.32 or 428

2907.21 of the Revised Code and that the mental illness, status 429  
as a person with intellectual disability, or fact that the 430  
offender was a victim of a violation of section 2905.32 or 431  
2907.21 of the Revised Code was a factor leading to that 432  
offense, the offender has been assessed by a psychiatrist, 433  
psychologist, independent social worker, licensed professional 434  
clinical counselor, or independent marriage and family therapist 435  
for the purpose of determining the offender's eligibility for 436  
intervention in lieu of conviction and recommending an 437  
appropriate intervention plan. 438

(6) The offender's drug usage, alcohol usage, mental 439  
illness, or intellectual disability, or the fact that the 440  
offender was a victim of a violation of section 2905.32 or 441  
2907.21 of the Revised Code, whichever is applicable, was a 442  
factor leading to the criminal offense with which the offender 443  
is charged, intervention in lieu of conviction would not demean 444  
the seriousness of the offense, and intervention would 445  
substantially reduce the likelihood of any future criminal 446  
activity. 447

(7) The alleged victim of the offense was not sixty-five 448  
years of age or older, permanently and totally disabled, under 449  
thirteen years of age, or a peace officer engaged in the 450  
officer's official duties at the time of the alleged offense. 451

(8) If the offender is charged with a violation of section 452  
2925.24 of the Revised Code, the alleged violation did not 453  
result in physical harm to any person, and the offender 454  
previously has not been treated for drug abuse. 455

(9) The offender is willing to comply with all terms and 456  
conditions imposed by the court pursuant to division (D) of this 457  
section. 458

(10) The offender is not charged with an offense that 459  
would result in the offender being disqualified under Chapter 460  
4506. of the Revised Code from operating a commercial motor 461  
vehicle or would subject the offender to any other sanction 462  
under that chapter. 463

(C) At the conclusion of a hearing held pursuant to 464  
division (A) of this section, the court shall enter its 465  
determination as to whether the offender is eligible for 466  
intervention in lieu of conviction and as to whether to grant 467  
the offender's request. If the court finds under division (B) of 468  
this section that the offender is eligible for intervention in 469  
lieu of conviction and grants the offender's request, the court 470  
shall accept the offender's plea of guilty and waiver of the 471  
defendant's right to a speedy trial, the preliminary hearing, 472  
the time period within which the grand jury may consider an 473  
indictment against the offender, and arraignment, unless the 474  
hearing, indictment, or arraignment has already occurred. In 475  
addition, the court then may stay all criminal proceedings and 476  
order the offender to comply with all terms and conditions 477  
imposed by the court pursuant to division (D) of this section. 478  
If the court finds that the offender is not eligible or does not 479  
grant the offender's request, the criminal proceedings against 480  
the offender shall proceed as if the offender's request for 481  
intervention in lieu of conviction had not been made. 482

(D) If the court grants an offender's request for 483  
intervention in lieu of conviction, the court shall place the 484  
offender under the general control and supervision of the county 485  
probation department, the adult parole authority, or another 486  
appropriate local probation or court services agency, if one 487  
exists, as if the offender was subject to a community control 488  
sanction imposed under section 2929.15, 2929.18, or 2929.25 of 489

the Revised Code. The court shall establish an intervention plan 490  
for the offender. The terms and conditions of the intervention 491  
plan shall require the offender, for at least one year from the 492  
date on which the court grants the order of intervention in lieu 493  
of conviction, to abstain from the use of illegal drugs and 494  
alcohol, to participate in treatment and recovery support 495  
services, and to submit to regular random testing for drug and 496  
alcohol use and may include any other treatment terms and 497  
conditions, or terms and conditions similar to community control 498  
sanctions, which may include community service or restitution, 499  
that are ordered by the court. 500

(E) If the court grants an offender's request for 501  
intervention in lieu of conviction and the court finds that the 502  
offender has successfully completed the intervention plan for 503  
the offender, including the requirement that the offender 504  
abstain from using illegal drugs and alcohol for a period of at 505  
least one year from the date on which the court granted the 506  
order of intervention in lieu of conviction, the requirement 507  
that the offender participate in treatment and recovery support 508  
services, and all other terms and conditions ordered by the 509  
court, the court shall dismiss the proceedings against the 510  
offender. Successful completion of the intervention plan and 511  
period of abstinence under this section shall be without 512  
adjudication of guilt and is not a criminal conviction for 513  
purposes of any disqualification or disability imposed by law 514  
and upon conviction of a crime, and the court may order the 515  
sealing of records related to the offense in question in the 516  
manner provided in sections 2953.31 to 2953.36 of the Revised 517  
Code. 518

(F) If the court grants an offender's request for 519  
intervention in lieu of conviction and the offender fails to 520

comply with any term or condition imposed as part of the 521  
intervention plan for the offender, the supervising authority 522  
for the offender promptly shall advise the court of this 523  
failure, and the court shall hold a hearing to determine whether 524  
the offender failed to comply with any term or condition imposed 525  
as part of the plan. If the court determines that the offender 526  
has failed to comply with any of those terms and conditions, it 527  
shall enter a finding of guilty and shall impose an appropriate 528  
sanction under Chapter 2929. of the Revised Code. If the court 529  
sentences the offender to a prison term, the court, after 530  
consulting with the department of rehabilitation and correction 531  
regarding the availability of services, may order continued 532  
court-supervised activity and treatment of the offender during 533  
the prison term and, upon consideration of reports received from 534  
the department concerning the offender's progress in the program 535  
of activity and treatment, may consider judicial release under 536  
section 2929.20 of the Revised Code. 537

(G) As used in this section: 538

(1) "Community control sanction" has the same meaning as 539  
in section 2929.01 of the Revised Code. 540

(2) "Intervention in lieu of conviction" means any court- 541  
supervised activity that complies with this section. 542

(3) "Peace officer" has the same meaning as in section 543  
2935.01 of the Revised Code. 544

(4) "Mental illness" and "psychiatrist" have the same 545  
meanings as in section 5122.01 of the Revised Code. 546

(5) "Person with intellectual disability" means a person 547  
having significantly subaverage general intellectual functioning 548  
existing concurrently with deficiencies in adaptive behavior, 549

manifested during the developmental period. 550

(6) "Psychologist" has the same meaning as in section 551  
4732.01 of the Revised Code. 552

(H) Whenever the term "mentally retarded person" is used 553  
in any statute, rule, contract, grant, or other document, the 554  
reference shall be deemed to include a "person with intellectual 555  
disability," as defined in this section. 556

**Sec. 2953.38.** (A) As used in this section: 557

(1) "Expunge" means to destroy, delete, or erase a record 558  
as appropriate for the record's physical or electronic form or 559  
characteristic so that the record is permanently irretrievable. 560

(2) "Prosecutor" has the same meaning as in section 561  
2953.31 of the Revised Code. 562

(3) "Record of conviction" means the record related to a 563  
conviction of or plea of guilty to an offense. 564

(4) "Victim of human trafficking" means a person who is or 565  
was a victim of a violation of section 2905.32 of the Revised 566  
Code, regardless of whether anyone has been convicted of a 567  
violation of that section or of any other section for 568  
victimizing the person. 569

(5) "Drug abuse offense" has the same meaning as in 570  
section 2925.01 of the Revised Code. 571

(6) "Sex offense" means a violation of any section in 572  
Chapter 2907. of the Revised Code. 573

(7) "Theft offense" has the same meaning as in section 574  
2913.01 of the Revised Code. 575

(B) Any person who is or was convicted of a drug abuse 576

~~offense, a sex offense, a theft offense, an offense of violence,~~ 577  
~~or a violation of division (A) of section 2907.24, 2907.241, or~~ 578  
~~2907.25-3701.81~~ of the Revised Code may apply to the sentencing 579  
court for the expungement of the record of conviction if the 580  
person's participation in the offense was a result of the person 581  
having been a victim of human trafficking. The person may file 582  
the application at any time. The application shall do all of the 583  
following: 584

(1) Identify the applicant, the offense for which the 585  
expungement is sought, the date of the conviction of that 586  
offense, and the court in which the conviction occurred; 587

(2) Describe the evidence and provide copies of any 588  
documentation showing that the person is entitled to relief 589  
under this section; 590

(3) Include a request for expungement of the record of 591  
conviction of that offense under this section. 592

(C) The court may deny an application made under division 593  
(B) of this section if it finds that the application fails to 594  
assert grounds on which relief may be granted. 595

(D) If the court does not deny an application under 596  
division (C) of this section, it shall set a date for a hearing 597  
and shall notify the prosecutor for the case from which the 598  
record of conviction resulted of the hearing on the application. 599  
The prosecutor may object to the granting of the application by 600  
filing an objection with the court prior to the date set for the 601  
hearing. The prosecutor shall specify in the objection the 602  
reasons for believing a denial of the application is justified. 603  
The court may direct its regular probation officer, a state 604  
probation officer, or the department of probation of the county 605

in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant.

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

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

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

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

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

(a) That the applicant has been convicted of a drug abuse offense, a sex offense, a theft offense, an offense of violence, or a violation of division (A) of section 2907.24, 2907.241, or 2907.25-3701.81 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. 635

(2) The proceedings in the case that is the subject of an 636  
order issued under division (F) of this section shall be 637  
considered not to have occurred and the conviction of the person 638  
who is the subject of the proceedings shall be expunged. The 639  
record of the conviction shall not be used for any purpose, 640  
including, but not limited to, a criminal records check under 641  
section 109.572 of the Revised Code. The applicant may, and the 642  
court shall, reply that no record exists with respect to the 643  
applicant upon any inquiry into the matter. 644

(H) Upon the filing of an application under this section, 645  
the applicant, unless indigent, shall pay a fee of fifty 646  
dollars. The court shall pay thirty dollars of the fee into the 647  
state treasury and shall pay twenty dollars of the fee into the 648  
county general revenue fund. 649

**Section 2.** That existing sections 2151.358, 2907.21, 650  
2907.22, 2951.041, and 2953.38 of the Revised Code are hereby 651  
repealed. 652