



Ohio Revised Code

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

Effective: April 4, 2023

Legislation: Senate Bill 288 - 134th General Assembly

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

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

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

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

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

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

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



(7) By any law enforcement agency or any authorized employee of a law enforcement agency, for the purposes set forth in, and in the manner provided in, division (I) of section 2953.34 of the Revised Code;

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

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

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

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

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

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

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

(B) In any criminal proceeding, proof of any otherwise admissible prior conviction may be introduced and proved, notwithstanding the fact that for any such prior conviction an order of sealing



or expungement previously was issued pursuant to sections 2953.31 to 2953.34 of the Revised Code.

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

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

(E) Notwithstanding any provision of this section or section 2953.32 of the Revised Code that requires otherwise, if the auditor of state or a prosecutor maintains records, reports, or audits of an individual who has been forever disqualified from holding public office, employment, or a position of trust in this state under sections 2921.41 and 2921.43 of the Revised Code, or has otherwise been convicted of an offense based upon the records, reports, or audits of the auditor of state, the auditor of state or prosecutor is permitted to maintain those records to the extent they were used as the basis



for the individual's disqualification or conviction, and shall not be compelled by court order to seal or expunge those records.

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

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

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

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

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

(4) Upon receiving a copy of an order to seal official records pursuant to division (H)(1) or (2) of this section or upon otherwise becoming aware of an applicable order to seal official records issued pursuant to section 2953.33 of the Revised Code, a public office or agency shall comply with the



order and, if applicable, with division (K) of this section, except that it may maintain a record of the case that is the subject of the order if the record is maintained for the purpose of compiling statistical data only and does not contain any reference to the person who is the subject of the case and the order.

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

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

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

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

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

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

(a) Every law enforcement officer who possesses investigatory work product immediately shall



deliver that work product to the law enforcement officer's employing law enforcement agency.

(b) Except as provided in divisions (I)(1)(c) and (d) of this section, every law enforcement agency that possesses investigatory work product shall close that work product to all persons who are not directly employed by the law enforcement agency and shall treat that work product, in relation to all persons other than those who are directly employed by the law enforcement agency, as if it did not exist and never had existed.

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

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

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

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



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

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

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

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

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

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



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

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

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

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

(b) Every law enforcement agency that possesses records or reports pertaining to the case that are its specific investigatory work product and that are excepted from the definition of official records, or that are the specific investigatory work product of a law enforcement officer it employs and that were delivered to it under division (K)(1)(a) of this section shall, except as provided in division (K)(1)(c) or (d) of this section, close the records and reports to all persons who are not directly employed by the law enforcement agency and shall, except as provided in division (K)(1)(c) or (d) of this section, treat the records and reports, in relation to all persons other than those who are directly employed by the law enforcement agency, as if they did not exist and had never existed. Except as provided in division (K)(1)(c) or (d) of this section, no person who is employed by the law enforcement agency shall knowingly release, disseminate, or otherwise make the records and reports



in the possession of the employing law enforcement agency or any information contained in them available to, or discuss any information contained in them with, any person not employed by the employing law enforcement agency.

(c) A law enforcement agency that possesses records or reports pertaining to the case that are its specific investigatory work product and that are excepted from the definition of official records, or that are the specific investigatory work product of a law enforcement officer it employs and that were delivered to it under division (K)(1)(a) of this section may permit another law enforcement agency to use the records or reports in the investigation of another offense, if the facts incident to the offense being investigated by the other law enforcement agency and the facts incident to an offense that is the subject of the case are reasonably similar. The agency that provides the records and reports may provide the other agency with the name of the person who is the subject of the case, if it believes that the name of the person is necessary to the conduct of the investigation by the other agency.

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

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

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



(L)(1) In any application for employment, license, or any other right or privilege, any appearance as a witness, or any other inquiry, a person may not be questioned with respect to any record that has been sealed pursuant to section 2953.33 of the Revised Code. If an inquiry is made in violation of this division, the person whose official record was sealed may respond as if the arrest underlying the case to which the sealed official records pertain and all other proceedings in that case did not occur, and the person whose official record was sealed shall not be subject to any adverse action because of the arrest, the proceedings, or the person's response.

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

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

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

(2)(a) In any application for employment, license, or other right or privilege, any appearance as a witness, or any other inquiry, except as provided in division (B) of this section and in section 3319.292 of the Revised Code and subject to division (N)(2)(c) of this section, a person may be



questioned only with respect to convictions not sealed, bail forfeitures not expunged under section 2953.42 of the Revised Code as it existed prior to June 29, 1988, and bail forfeitures not sealed, unless the question bears a direct and substantial relationship to the position for which the person is being considered.

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

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

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