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## ATTORNEY GENERAL

### Monetary settlements

- Requires the Attorney General (AG) to notify the Director of the Office of Budget and Management (OBM) of the amount of money to be collected or received under, and the terms of, a court order naming Ohio or a state agency or officer as the recipient of the money.
- Provides for the distribution and transfer from the Attorney General Court Order Fund to the appropriate fund of the money ordered by a court to be paid to Ohio or a state agency or officer.
- Prohibits state agencies from agreeing to any monetary settlement that obligates payments from any fund within the state treasury without consulting with the OBM Director.

### Domestic violence programs

#### Domestic Violence Program Fund

- Creates in the state treasury the Domestic Violence Program Fund consisting of appropriated and donated moneys and administered by the AG to provide funding to domestic violence programs, and requires the AG to adopt implementing rules.
- Requires that funding priority be given to domestic violence programs in existence on and after July 1, 2017.
- Specifies the purposes for which the funds received by either type of domestic violence program must be used.

#### State Victims Assistance Advisory Council

- Requires the State Victims Assistance Advisory Council to advise the AG in determining the needs of domestic violence victims, developing a policy for administering the Domestic Violence Program Fund, and making recommendations for distributing the funds.

### Removing sealed or expunged records from databases – pilot

- Establishes a pilot program, to operate through September 29, 2018, that creates a procedure for removing sealed or expunged criminal records from databases, websites, and publications, upon notice of court orders sent to a qualified third party.



### **Third party to receive notices of sealed or expunged records**

- Requires the AG, under the pilot program, to select a private entity as a qualified third party to receive notices of court orders sealing or expunging criminal case records under procedures provided in continuing law.
- Requires the AG and the selected qualified third party to enter into a contract specifying the third party's duties and the fee to be paid by an applicant for the sealing or expungement of records who wishes to have the court send the third party notice of its record sealing or expunging order.
- Specifies that the AG has oversight of the third party's functions and activities.

### **Receipt of notice of court order**

- Requires the qualified third party who receives notice of a court order sealing or expunging the records to send notice of the order to identified data repositories and to websites and publications that the third party knows utilize, display, publish, or disseminate any information from those records.
- Requires an identified data repository that receives the notice to remove from its database, and the websites and publications to remove from the website or publication, all records that are subject to the court order sealing or expunging the records and all references to, and information from, those records.

### **Procedure upon application to have records sealed or expunged**

- Upon an application to have the records of the applicant's criminal case sealed or expunged, requires the clerk of court to notify the applicant in writing that the court will send notice of its order sealing or expunging the records to the qualified third party.
- Requires the applicant to notify the clerk if the applicant wishes to opt out of the benefits of the court sending the notice to the qualified third party and to have data repositories, websites, and publications remove those records from their database, website, or publication.
- If the applicant does not opt out, requires the applicant to pay the fee provided in the contract between the AG and the qualified third party, and the clerk of court to remit the fee to the qualified third party upon issuance of the court order sealing or expunging the records.
- If the application is denied by the court or the applicant opts out before the issuance of a court order, requires the clerk to remit the fee back to the applicant.



## **Credit for drug use prevention training**

- Allows peace officers to earn continuing professional training hours by providing drug use prevention education in K-12 public schools.

## **Peace Officer Training Commission**

- Adds one member from a fraternal organization that represents law enforcement officers to the Ohio Peace Officer Training Commission.

## **Monetary settlements**

(R.C. 109.112 and 126.071)

The act requires the Attorney General (AG) to notify the Director of the Office of Budget and Management (OBM) of the amount of any money to be collected or received under, and the terms of, a court order, if Ohio or any state agency or officer is named as the recipient of the money. The OBM Director must determine, in consultation with the AG, the appropriate distribution of the money. Upon its collection or receipt, the AG must transfer the money from the Attorney General Court Order Fund to the appropriate fund (or funds) as determined by the OBM Director.

The act also prohibits state agencies from agreeing to any monetary settlement that obligates payments from any fund within the state treasury without consulting with the OBM Director.

## **Domestic violence programs**

(R.C. 109.46 and 109.91)

### **Domestic Violence Program Fund**

The act creates in the state treasury the Domestic Violence Program Fund, consisting of money appropriated to it by the General Assembly or donated to it. The AG must administer the Fund, may not use more than 5% of the moneys in it to pay associated administering costs, and must use 95% of the moneys to provide funding to domestic violence programs. "Domestic violence program" means any of the following:

- The nonprofit state domestic violence coalition designated by the Family and Youth Services Bureau of the U.S. Department of Health and Human Services;



- A program operated by a nonprofit entity with the primary purpose of providing a broad range of services to domestic violence victims that may include hotlines, emergency shelters, victim advocacy and support, justice systems advocacy, individual and group counseling for adults and children, or transitional service and education to prevent domestic violence. This program may provide some or all of those services.

The AG must adopt rules establishing procedures for domestic violence programs to apply for funding and for the AG to distribute money to the programs. Priority must be given to the domestic violence programs in existence on and after July 1, 2017.

A domestic violence program must use the funds for the following purposes:

- To provide training and technical assistance to service providers, if the program that receives the funds is the nonprofit state domestic violence coalition;
- To provide services to domestic violence victims, including education to prevent domestic violence, if the program that receives the funds is a nonprofit victim service entity. The funds received may also be used for general operating support, including capital improvements and primary prevention and risk reduction programs for the general population.

### **State Victims Assistance Advisory Council**

The act requires the State Victims Assistance Advisory Council to advise the AG in determining the needs of domestic violence victims, developing a policy for administering the Domestic Violence Program Fund, and making recommendations for distributing the funds.

### **Removing sealed or expunged records from databases – pilot**

(R.C. 109.38, 109.381, 2953.32, 2953.37, 2953.38, and 2953.53)

The act establishes a pilot program, to operate through September 29, 2018, that creates a procedure to remove sealed or expunged criminal records from databases, websites, and publications following the court's issuance of the order to seal or expunge. The pilot procedure involves sending notices of the court orders sealing or expunging records to a qualified third party selected by the AG, and the third party notifying data repositories, websites, and publications to remove the records. The person who applies to have records sealed or expunged must pay a fee for notifying the third party, but may opt out.



## Third party to receive notices of sealed or expunged records

### Appointment and qualifications

The AG must select a private entity as a qualified third party to receive notices of court orders of sealed or expunged records. The entity must have the following qualifications (see "**Definitions**" of terms in quotation marks):

- Specific knowledge and expertise regarding the operation of the Fair Credit Reporting Act (FCRA);<sup>11</sup>
- Prior experience in interacting and cooperating with "consumer reporting agencies" regarding their obligations for accuracy under section 1681e(b) of the FCRA (requirement of maximum possible accuracy of the information concerning the individual about whom the consumer report relates) and reinvestigations of disputed information under section 1681i of the FCRA (procedures in case of disputed accuracy of any information in a consumer's file) to ensure the accomplishment of the goal of updating their records, files, or databases containing references to, or information on, convictions of crime (conviction of, or plea of guilty to, an offense).
- Relationships with data aggregators, public record vendors, and other companies that collect and compile data or information in conviction records to ensure their cooperation in maintaining the legitimacy, accuracy, completeness, and security of that data or information.
- At least two years' experience in processing and sending notices of sealed or expunged conviction records to "identified data repositories."
- Not an identified data repository or an entity that is owned or controlled by an identified data repository.
- Meet all security clearances and requirements imposed by the AG to ensure that the entity does not misuse any information received from the courts under the act and that other persons do not have unauthorized access to that information.

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<sup>11</sup> 15 U.S.C. 1681 *et seq.*, as amended.



### **Term of service**

The selected qualified third party must serve for a minimum of three years. The AG may either select another qualified third party at the end of any three-year period or retain the existing qualified third party for another three-year period.

### **AG's functions**

Upon the selection or retention of a qualified third party, the AG and the party must enter into a contract that includes:

(1) The qualified third party's duties;

(2) The fee to be paid by an applicant for a court order to seal or expunge records who wishes to have the court send notice to the qualified third party and to have the procedures described below in "**Receipt of notice of court order**" apply to the records; and

(3) Any other provisions as determined by the AG in rules.

The AG must determine the portion of the fee described in (2) above that the qualified third party retains for its services and each portion that the third party must remit to the clerk of the court that sent the notice of the court order sealing or expunging the records, the AG, and the state treasury.

The AG has oversight of the functions and activities of the qualified third party, and must promulgate rules to implement the act.

### **Procedure upon application to have records sealed or expunged**

At the time an applicant files an application to have the records of a case sealed or expunged:

- The clerk of court must notify the applicant in writing that the court will send notice of its order granting the application to the qualified third party and inform the applicant of the procedures described below in "**Removal of records after receipt of notice.**"
- The applicant must then notify the clerk if the applicant wishes to opt out of receiving the benefits of having the court send notice of its order to the qualified third party and having those procedures apply to the records that are subject to the order.
- If the applicant does not opt out, the applicant must pay the clerk the fee provided in the contract between the AG and the qualified third party.



Upon issuance of an order granting the application to seal or expunge the records, unless the applicant opts out, the clerk must remit the fee paid by the applicant to the qualified third party, and the court must send notice of its order to the qualified third party. If the application is denied for any reason or if the applicant informs the clerk in writing, before the court issues the order, that the applicant wishes to opt out, the clerk must remit the fee back to the applicant.

### **Removal of records after receipt of notice**

Upon receiving a notice of a court order sealing or expunging the records subject to the order (see below), the qualified third party must send a notice of that order to identified data repositories (see definition below) and to websites and publications that the qualified third party knows utilize, display, publish, or disseminate any information from those records.

Immediately upon receipt of the notice, an identified data repository, website, or publication must remove all records that are subject to the court order sealing or expunging the records and all references to, and information from, those records.

### **Definitions**

The act defines the following terms:

**"Consumer reporting agency"** has the same meaning as in section 1681a(f) of the Fair Credit Reporting Act, that is, any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

**"Identified data repository"** means either:

- A person or entity that is a consumer reporting agency and is known to a qualified third party as having a database that includes publicly available records of convictions of crime and from which consumer reports are prepared pursuant to the FCRA; or
- Any person or entity, other than a consumer reporting agency, that is known to a qualified third party as having a database that includes publicly available records of convictions of crime and registers with a qualified third party for the purpose of receiving notices of court orders of sealed or expunged records and agreeing to remove those records and any



references to and information from those records from the person's or entity's database.

### **Background – sealing or expunging criminal records**

Ohio law, unchanged by the act, permits any of the following to apply to have the records of a case sealed:

- An "eligible offender" generally may apply to the sentencing court if convicted in Ohio or to the court of common pleas if convicted in another state or a federal court for the sealing of the record of the case that pertains to the conviction. "Eligible offender" generally means anyone who has been convicted of an offense in Ohio or any other jurisdiction and who has not more than one felony conviction, not more than two misdemeanor convictions, or not more than one felony conviction and one misdemeanor conviction in Ohio or any other jurisdiction.<sup>12</sup>
- Any person who has been arrested for any misdemeanor offense and who has effected a bail forfeiture for the offense charged may apply to the court in which the misdemeanor criminal case was pending when bail was forfeited for the sealing of the record of the case that pertains to the charge.
- Any person, who is found not guilty of an offense by a jury or a court or who is the defendant named in a dismissed complaint, indictment, or information, may apply to the court for an order to seal the person's official records in the case.<sup>13</sup>
- Any person, against whom a no bill is entered by a grand jury, may apply to the court for an order to seal the person's official records in the case.<sup>14</sup>

The following may apply for expungement of the record of the case under continuing law unchanged by the act:

- Any person who is or was convicted of, or pleaded guilty to, specified violations under the offense of improperly handling firearms in a motor vehicle as they existed prior to September 30, 2011, and is specifically

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<sup>12</sup> R.C. 2953.31(A), not in the act.

<sup>13</sup> R.C. 2953.52(A)(1), not in the act.

<sup>14</sup> R.C. 2953.52(A)(2), not in the act.





authorized by law to file an application may apply to the sentencing court for the expungement of the record of conviction.

- Any person who is or was convicted of any of the following offenses may apply to the sentencing court for the expungement of the record of conviction if the person's participation in the offense was a result of the person having been a victim of human trafficking: soliciting, solicitation after a positive HIV test, loitering to engage in solicitation, loitering to engage in solicitation after a positive HIV test, prostitution, or engaging in prostitution after a positive HIV test.

Ohio law, unchanged by the act, also provides the procedures, including a hearing, for the court to make specified determinations regarding the circumstances of the applicant and issue an order based on its determinations.

### **Expiration of pilot program**

The pilot program ends on September 29, 2018.

### **Credit for drug use prevention training**

(R.C. 109.803)

Under the act, the AG must include, in the AG's rules setting minimum standards for continuing professional training (CPT) for peace officers and troopers, specific rules that:

- Allow peace officers and troopers to earn credit for up to four hours of CPT for time spent on duty providing drug use prevention education training that utilizes evidence-based curricula to students in K-12 public schools;
- Allow peace officers to earn up to four CPT hours for other peace officers in the same law enforcement agency by providing that drug use prevention education in K-12 public schools; and
- Prohibit the use of CPT hours so earned from offsetting any mandatory hands-on training requirement.



## Peace Officer Training Commission

(R.C. 109.71)

The act adds a member to the Ohio Peace Officer Training Commission who represents a fraternal organization representing law enforcement officers. Under continuing law, unchanged by the act, members must be appointed by the Governor with the advice and consent of the Senate. The newly added member increases the Commission's membership to ten.

