
JUDICIARY/SUPREME COURT

Sealing and expungement

- Removes a reference to records of conviction that cannot be sealed or expunged that previously applied to sealing and expunging official records in which a person is found not guilty, proceedings are dismissed, a grand jury no bill is entered, or a pardon is granted.

Sealing juvenile records

- Requires the juvenile court to seal juvenile records if the court, after weighing the interests of the person in having the records sealed against the legitimate needs, if any, of the public to access those records, finds that the interests of a person in having those records are not outweighed by any legitimate needs of the public to access those records.

Sealing and expungement

(R.C. 2953.32)

Under current law, specified records of conviction cannot be sealed or expunged. This provision applies to the following: (1) the sealing and expungement of records of conviction, (2) the sealing and expungement of official records for a not guilty, dismissal, no bill, or pardon, and (3) general sealing and expungement provisions relating to both (1) and (2).

The bill removes the application of the above provision to (2). The sealing and expungement provisions in (2) apply to official records in which a person is found not guilty, proceedings are dismissed, a grand jury no bill is entered, or a pardon is granted, rather than to conviction records. As such, the application of the provision seems unnecessary.

Sealing juvenile records

(R.C. 2151.356)

The bill implements a balancing test that applies to the mandatory and permissive sealing of juvenile records.

Mandatory sealing

Under current law, the juvenile court must promptly order the immediate sealing of certain records pertaining to a juvenile under the circumstances described in the bullet points below. The bill instead requires the juvenile court to seal records pertaining to a juvenile in any of those circumstances if the court, after weighing the interests of the person in having the records sealed against the legitimate needs, if any, of the public to access those records, finds that the interests of a person in having the records sealed are not outweighed by any legitimate needs of the public to access those records:

- If the court receives a records from a public office or agency;

- If a person was brought before or referred to the court for allegedly committing a delinquent or unruly act and the case was resolved without the filing of a complaint against the person with respect to the act;
- If the person was charged with underage consumption and the person has successfully completed a diversion program with respect to that charge;
- If a complaint was filed against a person alleging that the person was a delinquent child, an unruly child, or a juvenile traffic offender and the court dismisses the complaint after a trial on the merits of the case or finds the person not to be a delinquent child, an unruly child, or juvenile traffic offender;
- Subject to certain exceptions, if a person has been adjudicated an unruly child, that person is 18 years old, and that the person is not under the jurisdiction of the court in relation to a complaint alleging the person to be a delinquent child.

Permissive sealing

Under the Juvenile Sealing Law unchanged by the bill, the juvenile court must consider the sealing of records pertaining to a juvenile upon the court's own motion or upon the application of a person if the person has been adjudicated a delinquent child for committing an act other than aggravated murder, murder, or rape, an unruly child, or a juvenile traffic offender. At the time of the motion or application, the person must not be under the jurisdiction of another court in relation to the complaint alleging the person to be a delinquent child.

The Juvenile Sealing Law sets forth various requirements for sealing including the following: (1) timing for filing the motion, (2) submitting any relevant documentation, (3) causing an investigation to be made, (4) notifying the prosecutor of the proceedings, (5) notifying the victim or victim's representative of the hearings, and (6) allowing the prosecutor to file a response.

If the prosecutor does not file a response or does not object to the sealing of the juvenile records, the court may order the records of the person sealed without a hearing.

If the prosecutor does file a response and objects to the sealing of the juvenile records, the court must conduct a hearing. The court may order the records sealed if it finds both of the following: (1) under the bill, after weighing the interests of the person in having the records sealed against the legitimate needs, if any, of the public to access those records, finds that the interests of a person in having the records sealed are not outweighed by any legitimate needs of the public to access those records, and (2) under current law, the person has been rehabilitated to a satisfactory degree.