



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 5*
136th General Assembly

Bill Analysis

[Click here for H.B. 5's Fiscal Note](#)

Version: As Reported by House Judiciary

Primary Sponsors: Reps. Williams and Willis

Sarah A. Maki, Attorney

SUMMARY

Having weapons while under disability

- Except as provided in the below dot point, modifies the penalties for “having weapons while under disability” from a third degree felony to a fourth degree felony or a third degree felony if the offender has previously been convicted of or pleaded guilty to the offense.
- Modifies the penalties for “having weapons while under disability” relating to an indictment for or conviction of a felony offense of violence from a third degree felony to a third degree felony with a presumption of a prison term or a second degree felony if the offender has previously been convicted of or pleaded guilty to the offense.

Relief from disability

- Expands who may receive relief from weapons disability to include persons under a federal weapons disability, persons prohibited from obtaining a concealed handgun license, and persons prohibited from carrying a concealed handgun as a qualifying adult.
- Allows a non-Ohio resident whose disability is based on an indictment, conviction or guilty plea, or delinquent child adjudication to file for relief from disability in the county in which the indictment was entered or in which the conviction, guilty plea, or adjudication occurred.
- Expands who may not receive relief from disability to include persons who, two or more times, have been convicted of or pleaded guilty to a felony and a repeat offender

* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the legislative history may be incomplete.

specification or a specification that the person had an automatic firearm or a muffler or suppressor and displayed or brandished the firearm while committing the offense.

Targeted community alternatives to prison (T-CAP) program

- Provides that if a person is convicted of “having weapons while under disability” and the penalty for the offense is a fourth degree felony, the person is ineligible for the T-CAP program.

Firearm specifications

- Creates a 10-year mandatory prison term for a firearm specification relating to an automatic firearm or muffler or suppressor when the offender displayed or brandished the firearm.
- Creates a 15-year mandatory prison term for a firearm specification relating to an automatic firearm or muffler or suppressor when the offender displayed or brandished the firearm if the offender previously has been convicted of or pleaded guilty to a specified firearm specification.
- Restores the current law firearm specification relating to an automatic firearm or muffler or suppressor to a 6-year mandatory prison and a 9-year mandatory prison term for a subsequent offense.
- Increases the mandatory prison term for a firearm specification relating to displaying or brandishing a firearm from a 54-month mandatory prison term to a 5-year mandatory prison term if the offender previously has been convicted of or pleaded guilty to a specified firearm specification.
- Creates a 5-year mandatory prison term for a firearm specification relating to improper discharge of a firearm while committing an offense.
- Increases the mandatory prison term for a firearm specification relating to improper discharge of a firearm from a motor vehicle from a 5-year mandatory prison term to a 7-year mandatory prison term.

Repeat offender

- Creates a repeat offender classification based on a person’s current commission of or complicity in committing a specified offense involving a firearm and a repeated commission or complicity in committing a specified offense involving a firearm.
- Requires a mandatory 3-, 4-, or 5-year prison term for a repeat offender specification.
- Allows the court to consider sealed juvenile records for purposes of determining whether a child, for a future criminal conviction or guilty plea, is a repeat offender.
- Prohibits a court from considering a previous adjudication of a person as a delinquent child or juvenile traffic offender for purposes of determining whether the person is a repeat offender.

Sealing

- Retains the general Sealing Law provisions in R.C. 2953.32 and relocates the list of convictions that cannot be sealed to R.C. 2953.311.

New sealing mechanism

- Creates a new sealing mechanism for a record of conviction or dismissed complaint, indictment, or information.
- At the expiration of five years after the initial time at which a person may file an application to seal a record of conviction under the general Sealing Law or at the expiration of five years after a person's complaint has been dismissed, allows an eligible record of conviction or dismissed complaint to be sealed.
- Provides that a record of conviction is eligible to be sealed under the new mechanism unless it is a conviction that cannot be sealed under the general Sealing Law or the conviction was committed prior to the effective date of the bill.
- Provides that a dismissed complaint is eligible to be sealed unless the complaint was dismissed prior to the effective date of the bill.
- Requires a probation officer to determine whether a record of conviction or dismissed complaint is eligible for sealing.
- If a probation officer determines a record of conviction or dismissed complaint is eligible for sealing, provides that the person's record of conviction or dismissed complaint is presumed to be eligible for sealing.
- If a probation officer determines a record of conviction or dismissed complaint is eligible for sealing, requires the sentencing court to send a letter to the prosecutor, the subject of the proceedings, and victim or the victim's representative, not more than two weeks after the determination.
- Requires the letter to state that the subject of the proceeding's record of conviction or dismissed complaint, indictment, or information is presumed to be eligible for sealing.
- Requires that the letter sent to the subject of the proceedings be accompanied by an application form to seal a record of conviction or dismissed complaint and a poverty affidavit.
- Regardless of whether the person receives the letter and accompanying documents, still allows a person to apply to the sentencing court to seal an eligible record of conviction or dismissed complaint.
- Requires the applicant to pay a \$50 application fee, unless the applicant presents a poverty affidavit showing that the applicant is indigent.
- Requires the court to notify the prosecutor and the subject of the proceedings of the hearing on the application for the sealing of the record of conviction or the dismissed complaint not less than 60 days before the hearing.

- Requires the prosecutor to notify the victim and victim's representative of the hearing on the application for the sealing of the record of conviction or the dismissed complaint not less than 60 days before the hearing.
- Requires the court to hold the hearing not less than 45 days and not more than 90 days from the date of the filing of the application.
- Allows the prosecutor, victim, or victim's representative to object to the sealing of the record of conviction or dismissed complaint.
- If the court makes certain findings, including that the interests of the applicant in having the record of conviction or dismissed complaint sealed are not substantially outweighed by any legitimate governmental needs to maintain those records, requires the court to order all official records of the case sealed.
- Subject to certain exceptions, if the court seals the official records, requires that the proceedings in the case that pertain to the record of conviction or dismissed complaint are considered not to have occurred.

Expungement

- Relocates the general Expungement Law provisions in R.C. 2953.32 to 2953.322 and relocates the list of convictions that cannot be expunged to R.C. 2953.311.
- Modifies when an offender may file an application to expunge a record of conviction or bail forfeiture under the general Expungement Law to seven years after the offender's final discharge.
- Eliminates a requirement that the Bureau of Criminal Identification and Investigation must maintain a record of the expunged record of conviction for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement.

New expungement mechanism

- Creates a new expungement mechanism for a record of conviction or dismissed complaint, indictment, or information.
- At the expiration of ten years after the initial time at which a person may file an application to expunge a record of conviction under the general Expungement Law or at the expiration of ten years after a person's complaint has been dismissed, allows an eligible record of conviction or dismissed complaint to be expunged under the new mechanism.
- Provides that a record of conviction is eligible to be expunged under the new mechanism unless it is a conviction that cannot be expunged under the general Expungement Law or the conviction was committed prior to the effective date of the bill.

- Provides that a dismissed complaint is eligible to be expunged under the new mechanism unless it is an offense that cannot be expunged or the complaint was dismissed prior to the effective date of the bill.
- Requires a probation officer to determine whether a record of conviction or dismissed complaint is eligible for expungement.
- If a probation officer determines a record of conviction or dismissed complaint is eligible for expungement, provides that the person's record of conviction or dismissed complaint is presumed to be eligible for expungement.
- If a probation officer determines a record of conviction or dismissed complaint is eligible for expungement, requires the sentencing court to send a letter to the prosecutor, the subject of the proceedings, and the victim or the victim's representative, not more than two weeks after the determination.
- Requires the letter to state that the subject of the proceeding's record of conviction or dismissed complaint, indictment, or information is presumed to be eligible for expungement.
- Requires that the letter sent to the subject of the proceedings be accompanied by an application form to expunge a record of conviction or dismissed complaint and a poverty affidavit.
- Regardless of whether the person receives the letter and accompanying documents, still allows a person to apply to the sentencing court to expunge an eligible record of conviction or dismissed complaint.
- Requires the applicant to pay a \$50 application fee, unless the applicant presents a poverty affidavit showing that that applicant is indigent.
- Requires the court to notify the prosecutor and the subject of the proceedings of the hearing on the application for the expungement of the record of conviction or the dismissed complaint not less than 60 days before the hearing.
- Requires the prosecutor to notify the victim and victim's representative of the hearing on the application for the expungement of the record of conviction or the dismissed complaint not less than 60 days before the hearing.
- Requires the court to hold the hearing not less than 45 days and not more than 90 days from the date of the filing of the application.
- Allows the prosecutor, victim, or victim's representative to object to the expungement of the record of conviction or dismissed complaint.
- If the court makes certain findings, including that the interests of the applicant in having the record of conviction or dismissed complaint expunged are not substantially outweighed by any legitimate governmental needs to maintain those records, requires the court to order all official records of the case expunged.

- Subject to certain exceptions, if the court expunges the official records, requires that the proceedings in the case that pertain to the record of conviction or dismissed complaint are considered not to have occurred.

Name of the act

- Names the act the Repeat Offender Act.

TABLE OF CONTENTS

Having weapons while under disability	7
Offense	7
Penalty	8
Relief from disability	8
Relief eligibility	8
Exception to eligibility	9
Concealed handgun license	10
Targeted community alternatives to prison program	10
Firearm specifications	11
Firearm on or about the offender's person	11
First conviction	11
Prior conviction	11
Automatic firearm or muffler or suppressor	12
First conviction	12
Prior conviction	12
First conviction	13
Prior conviction	13
Displayed or brandished the firearm	13
First conviction	14
Prior conviction	14
Improperly discharging a firearm	14
First conviction	15
Prior conviction	15
Specified firearm specifications	16
Repeat offender	16
Classification	16
Definitions	16
Firearm specification – repeat offender	17
Sealed juvenile records	18
Prior adjudication not a conviction	18

Sealing and expungement.....	19
Sealing	19
New sealing mechanism.....	19
Sealing eligibility	19
Sealing letter.....	19
Application for sealing.....	20
Sealing hearing	21
Sealing order.....	22
Fees.....	22
Expungement	23
Expungement eligibility – timing of filing.....	23
Expungement order – employment in law enforcement.....	24
New expungement mechanism	25
Expungement eligibility	25
Expungement letter.....	25
Application for expungement.....	26
Expungement hearing	26
Expungement order.....	28
Fees.....	28
Cross references	29
Name of the act	29

DETAILED ANALYSIS

Having weapons while under disability

Offense

Under current law, the offense of “having weapons while under disability” prohibits a person, unless relieved from disability under operation of law or legal process, from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance, if any of the following apply:¹

1. The person is a fugitive from justice.
2. The person is under indictment for or has been convicted of any felony offense of violence or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been a felony offense of violence.

¹ R.C. 2923.13(A).

3. The person is under indictment for or has been convicted of any felony offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been a felony offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse.
4. The person has a drug dependency, is in danger of drug dependence, or has chronic alcoholism.
5. The person is under adjudication of mental incompetence, has been committed to a mental institution, has been found by a court to be a person with a mental illness subject to court order, or is an involuntary patient, other than one who is a patient only for purposes of observation.

Penalty

The bill modifies the penalties for a violation of having weapons while under disability. Under the bill, a violation of (1), (3), (4), or (5) above is a fourth degree felony.² If the offender has previously been convicted of or pleaded guilty to having weapons while under disability, the penalty is a third degree felony.³

Under the bill, for a violation of (2) above, the penalty is a third degree felony and there is a presumption that a prison term will be imposed on the offender.⁴ If the offender has previously been convicted of or pleaded guilty to having weapons while under disability, the penalty is a second degree felony.⁵

Under current law, the penalty for a violation of having weapons while under disability is a third degree felony.⁶

Relief from disability

Relief eligibility

The bill expands who may receive relief from weapons disability. Under the bill, any of the following persons who are prohibited from carrying firearms, openly or concealed, may apply to the court of common pleas (see below) for relief from such prohibition:⁷

- Any person who is prohibited from acquiring, having, carrying, or using firearms under the offense of “having weapons while under disability.”

² R.C. 2923.13(B)(2).

³ R.C. 2923.13(B)(4).

⁴ R.C. 2923.13(B)(3) and 2929.13(D)(1).

⁵ R.C. 2923.13(B)(5).

⁶ R.C. 2923.13(B).

⁷ R.C. 2923.14(A)(1)(a), by reference to R.C. 2923.13 and 2923.125(D)(1)(e), (f), or (h) and 18 United States Code 922(g), not in the bill.

- Any person who is prohibited from shipping, transporting, receiving, or possessing firearms in interstate or foreign commerce under federal law.
- Any person who is prohibited from obtaining a concealed handgun license or a concealed handgun license on a temporary emergency basis.
- Any person who is prohibited from carrying a concealed handgun as a qualifying adult.

The bill requires an application for relief from the prohibition be filed in the court of common pleas of the county in which the person resides or, if the person is not a resident of Ohio and the prohibition is based on an indictment, a conviction of or plea of guilty to an offense, or a delinquent child adjudication, in the county in which the indictment was entered or in which the conviction, guilty plea, or adjudication occurred.⁸ The bill makes conforming changes by adding the term “guilty plea” throughout the relief from disability section.⁹

Under current law, any person who is prohibited from acquiring, having, carrying, or using firearms may apply to the court of common pleas in the county in which the person resides for relief from such prohibition.¹⁰

Exception to eligibility

The bill expands who may not receive relief from weapons disability to include a person who, two or more times, has been convicted of or pleaded guilty to a felony and a repeat offender specification (see, “**Repeat offender specification**,” below) or a specification that the person had a firearm that is an automatic firearm or that was equipped with a firearm muffler or suppressor on or about the offender’s person or under the offender’s control while committing the offense and displayed or brandished the firearm, indicated that the offender possessed the firearm, or used it to facilitate the offense (see “**Automatic firearm or muffler or suppressor**,” below).¹¹ Under current law, a person is ineligible for relief from disability if either of the following apply:¹²

- The person has been convicted of or pleaded guilty to a violation of “unlawful use of a weapon by a violent career criminal.”
- The person has, two or more times, been convicted of or pleaded guilty to a felony and a specification of the type described below:¹³
 - Firearm on or about the offender’s person or under the offender’s control;
 - Automatic firearm or muffler or suppressor;

⁸ R.C. 2923.14(A)(1)(b).

⁹ R.C. 2923.14.

¹⁰ R.C. 2923.14(A)(1).

¹¹ R.C. 2923.14(A)(2), by reference to R.C. 2941.1427 and 2941.1429.

¹² R.C. 2923.14(A)(2).

¹³ R.C. 2941.141, 2941.144, 2941.145, and 2941.146 and R.C. 2941.1412 and 2941.1424, not in the bill.

- Displayed or brandished a firearm;
- Improperly discharging a firearm from a motor vehicle;
- Discharge of a firearm at a peace officer or corrections officer;
- Violent career criminal.

Concealed handgun license

The bill also provides that if an applicant for a concealed handgun license has been relieved under operation of law or legal process as described above, the sheriff with whom the application has been submitted must not consider the conviction, guilty plea, or adjudication for which relief has been granted in determining whether the person is eligible to receive or renew the person's concealed handgun license.¹⁴

Targeted community alternatives to prison program

The targeted community alternatives to prison (T-CAP) program prohibits a person sentenced by the court of common pleas of a voluntary county for a fourth or fifth degree felony from serving the term in an institution under the control of the Department of Rehabilitation and Correction (DRC). The person must instead serve the sentence as a term of confinement in any of the following:¹⁵

- A county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse;
- A community alternative sentencing center or district community alternative sentencing center;
- A community-based correctional facility;
- If the felony is not an offense of violence, a minimum security jail.

The bill provides that if a person is convicted of a violation of "having weapons while under disability" and the penalty is a fourth degree felony, the person is ineligible for the T-CAP program.¹⁶ Under current law, a person is also ineligible for the T-CAP program if any of the following apply:

- The fourth or fifth degree felony was an offense of violence, a sex offense, aggravated trafficking in drugs, or any offense for which a mandatory prison term is required.¹⁷

¹⁴ R.C. 2923.125(D)(4).

¹⁵ R.C. 2929.34(C) and (D).

¹⁶ R.C. 2929.34(B)(3)(d)(v).

¹⁷ R.C. 2929.34(B)(3)(d)(i) and Chapter 2907 and R.C. 2901.01 and 2925.03, not in the bill.

- The person previously has been convicted of or pleaded guilty to any felony offense of violence, unless the fifth degree felony for which the person is being sentenced is a failure to comply with certain violent offender database enrollment requirements.¹⁸
- The person previously has been convicted of or pleaded guilty to any felony sex offense.¹⁹
- The person's sentence is required to be served concurrently to any other sentence imposed upon the person for a felony that is require to be served in an institution under the control of DRC.²⁰

Firearm specifications

Firearm on or about the offender's person

Firearm specification – firearm on or about the offender's person: The indictment, count in the indictment, or information charging the offense specifies that the offender had a firearm on or about the offender's person or under the offender's control while committing the offense.²¹

First conviction

The bill retains the mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification as a 1-year prison term. The court must impose a 1-year prison term on the offender unless the court imposes an 18-month, 3-year, 5-year, 6 -year, 9-year, 10-year, or 15-year prison term upon the offender for a different firearm specification relative to the same felony. Under current law, the court must impose a 1-year prison term on the offender unless the court imposes an 18-month, 3-year, 54-month, 6-year, or 9-year prison term upon the offender for a different firearm specification relative to the same felony.²²

Prior conviction

The bill retains the mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification as an 18-month prison term if the offender previously has been convicted of or pleaded guilty to a specified firearm specification (see "**Specified firearm specifications**," below). The court must impose an 18-month prison term on the offender unless the court imposes a 1-year, 3-year, 5-year, 6-year, 9-year, 10-year, or 15-year prison term upon the offender for a different firearm specification relative to the same felony. Under current law, the court must impose an 18-month prison term on the offender unless the court imposes a 1-year, 3-year, 54-month, or

¹⁸ R.C. 2929.34(B)(3)(d)(ii) and 2901.01 and 2903.43, not in the bill.

¹⁹ R.C. 2929.34(B)(3)(d)(iii) and Chapter 2907, not in the bill.

²⁰ R.C. 2929.34(B)(3)(d)(iv).

²¹ R.C. 2941.141(A).

²² R.C. 2929.14(B)(1)(a)(iii) and 2941.141(A) and (B).

6-year prison term upon the offender for a different firearm specification relative to the same felony.²³

Automatic firearm or muffler or suppressor

Firearm specification – automatic firearm or muffler or suppressor: the indictment, count in the indictment, or information charging the offense specifies that the offender had a firearm that is an automatic firearm or that was equipped with a firearm muffler or suppressor on or about the offender’s person or under the offender’s control while committing the offense.²⁴

First conviction

The bill retains the mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification as a 6-year prison term. The court must impose a 6-year prison term on the offender unless the court imposes a 1-year, 18-month, 3-year, 5-year, 9-year, 10-year, or 15-year prison term upon the offender for a different firearm specification relative to the same felony. Under current law, the court must impose a 6-year prison term on the offender unless the court imposes a 1-year, 18-month, 3-year, 54-month, or 9-year prison term upon the offender for a different firearm specification relative to the same felony.²⁵

Prior conviction

The bill retains the mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification as a 9-year prison term if the offender previously has been convicted of or pleaded guilty to a specified firearm specification (see “**Specified firearm specifications**,” below). The court must impose a 9-year prison term on the offender unless the court imposes a 1-year, 18-month, 3-year, 5-year, 6-year, 10-year, or 15-year prison term upon the offender for a different firearm specification relative to the same felony. Under current law, the court must impose a 9-year prison term on the offender unless the court imposes a 1-year, 18-month, 3-year, 54-month, or 6-year prison term upon the offender for a different firearm specification relative to the same felony.²⁶

Firearm specification – automatic firearm or muffler or suppressor, displayed or brandished firearm: the indictment, count in the indictment, or information charging the offense specifies that the offender had a firearm that is an automatic firearm or that was equipped with a firearm muffler or suppressor on or about the offender’s person or under the offender’s control while committing the offense and displayed the firearm, brandished the firearm, indicated that the offender possessed the firearm, or used it to facilitate the offense.²⁷

²³ R.C. 2929.14(B)(1)(a)(vi) and 2941.141(D) and (E).

²⁴ R.C. 2941.144(A) and (D).

²⁵ R.C. 2929.14(B)(1)(a)(i) and 2941.144(A) and (B).

²⁶ R.C. 2929.14(B)(1)(a)(iv) and 2941.144(D) and (E).

²⁷ R.C. 2941.1429(A) and (D).

The bill creates the above firearm specification and designates that it must be stated in substantially the following form:²⁸

SPECIFICATION (or SPECIFICATION TO THE FIRST COUNT).

The Grand Jurors (or insert the person's or prosecuting attorney's name when appropriate) further find and specify that (set forth that the offender had a firearm that is an automatic firearm or that was equipped with a firearm muffler or suppressor on or about the offender's person or under the offender's control while committing the offense and displayed the firearm, brandished the firearm, indicated that the offender possessed the firearm, or used it to facilitate the offense).

First conviction

The bill creates a 10-year mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification. The court must impose a 10-year prison term on the offender unless the court imposes a 1-year, 18-month, 3-year, 5-year, 6-year, 9-year, or 15-year prison term upon the offender for a different firearm specification relative to the same felony.²⁹

Prior conviction

The bill creates a 15-year mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification if the offender previously has been convicted of or pleaded guilty to a specified firearm specification (see "**Specified firearm specifications**," below). The court must impose a 15-year prison term on the offender unless the court imposes a 1-year, 18-month, 3-year, 5-year, 6-year, 9-year, or 10-year prison term upon the offender for a different firearm specification relative to the same felony.³⁰

The bill provides that the above specification may be used in a delinquent child proceeding.³¹

Displayed or brandished the firearm

Firearm specification – displayed or brandished a firearm: The indictment, count in the indictment, or information charging the offense specifies that the offender had a firearm on or about the offender's person or under the offender's control while committing the offense and

²⁸ R.C. 2941.1429(A) and (D).

²⁹ R.C. 2929.14(B)(1)(a)(viii) and 2941.1429(B).

³⁰ R.C. 2929.14(B)(1)(a)(ix) and 2941.1429(D) and (E).

³¹ R.C. 2941.1429(C).

displayed the firearm, brandished the firearm, indicated that the offender possessed the firearm, or used it to facilitate the offense.³²

First conviction

The bill retains the mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification as a 3-year prison term. The court must impose a 3-year prison term on the offender unless the court imposes a 1-year, 18-month, 5-year, 6-year, 9-year, 10-year, or 15-year prison term upon the offender for a different firearm specification relative to the same felony. Under current law, the court must impose a 3-year prison term on the offender unless the court imposes a 1-year, 18-month, 6-year, 54-month, or 9-year prison term upon the offender for a different firearm specification relative to the same felony.³³

Prior conviction

The bill increases the mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification from a 54-month prison term to a 5-year prison term if the offender previously has been convicted of or pleaded guilty to a specified firearm specification (see “**Specified firearm specifications**,” below). The court must impose a 5-year prison term on the offender unless the court imposes a 1-year, 18-month, 3-year, 5-year, 6-year, 9-year, 10-year, or 15-year prison term upon the offender for a different firearm specification relative to the same felony. Under current law, the court must impose a 54-month prison term on the offender unless the court imposes a 1-year, 18-month, 3-year, or 9-year prison term upon the offender for a different firearm specification relative to the same felony.³⁴

Improperly discharging a firearm

Firearm specification – improperly discharging a firearm while committing the offense:
The indictment, count in the indictment, or information charging the offense specifies that the offender discharged a firearm while committing the offense.³⁵

The bill creates the above firearm specification and designates that it must be stated in substantially the following form:³⁶

SPECIFICATION (or SPECIFICATION TO THE FIRST COUNT).
The Grand Jurors (or insert the person’s or prosecuting attorney’s
name when appropriate) further find and specify that (set forth

³² R.C. 2941.145(A).

³³ R.C. 2929.14(B)(1)(a)(ii) and 2941.145(A) and (B).

³⁴ R.C. 2929.14(B)(1)(a)(v) and 2941.145(D) and (E).

³⁵ R.C. 2941.1428(A).

³⁶ R.C. 2941.1428(A).

that the offender discharged a firearm while committing the offense).

The bill creates a 5-year mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification. The court must impose a 5-year prison term on the offender unless the court imposes a 1-year, 18-month, 3-year, 5-year, 6-year, 9-year, 10-year, or 15-year prison term upon the offender for a different firearm specification relative to the same felony.³⁷

The bill provides that the above specification may be used in a delinquent child proceeding.³⁸

Firearm specification – improperly discharging a firearm from a motor vehicle: The indictment, count in the indictment, or information charging the offense specifies that the offender committed one of the following offenses by discharging a firearm from a motor vehicle other than a manufactured home:³⁹

1. A violation of “improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function.”
2. A felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another.

First conviction

The bill increases the mandatory prison term for an offender who is convicted of or pleads guilty to one of the offenses specified the preceding paragraph and who also is convicted of or pleads guilty to the above firearm specification from a 5-year prison term to a 7-year prison term.⁴⁰

Prior conviction

The bill retains the mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification as a 90-month prison term if the offender previously has been convicted of or pleaded guilty to a specified firearm specification (see “**Specified firearm specifications**,” below).⁴¹

³⁷ R.C. 2929.14(B)(1)(a)(vii) and 2941.1428(B).

³⁸ R.C. 2941.1428(C).

³⁹ R.C. 2941.146(A), by reference to R.C. 2923.161, not in the bill.

⁴⁰ R.C. 2929.14(B)(1)(c)(i) and 2941.146(A).

⁴¹ R.C. 2929.14(B)(1)(c)(ii) and 2941.146(C).

Specified firearm specifications

As used above, “specified firearm specification” includes the following firearm specifications:⁴²

- Firearm on or about the offender’s person (see above).
- Automatic firearm or muffler or suppressor (see above).
- Automatic firearm or muffler or suppressor, displayed or brandished firearm (added by the bill, see above).
- Displayed or brandished a firearm (see above).
- Improperly discharging a firearm from a motor vehicle (see above).
- Peace officer or corrections officer: The indictment, count in the indictment, or information charging the offense specifies that the offender discharged a firearm at a peace officer or a corrections officer while committing the offense.

Repeat offender

Classification

The bill creates a “repeat offender” classification that refers to a person about whom both of following apply:⁴³

1. The person is being sentenced for committing or for complicity in committing a violation of “having weapons while under disability” or a felony “offense of violence.”
2. The person previously was convicted of or pleaded guilty to one or more offenses in (1) above and the violation involved a firearm.

Definitions

The bill defines “involved a firearm” to mean either of the following:⁴⁴

The offender had a firearm on or about the offender’s person while committing the offense and displayed the firearm, brandished the firearm, indicated that the offender possessed the firearm, or used the firearm to facilitate the offense.

The offender had a firearm under the offender’s control while committing the offense and displayed the firearm, brandished the firearm, indicated that the offender possessed the firearm, or used the firearm to facilitate the offense.

The bill uses the term felony “offense of violence” which means any of the following:⁴⁵

⁴² R.C. 2941.141, 2941.144, 2941.145, 2941.146, and 2941.1429 and R.C. 2941.1412, not in the bill.

⁴³ R.C. 2929.01(CC)(1) and 2941.1427(E).

⁴⁴ R.C. 2929.01(CC)(2).

⁴⁵ R.C. 2901.01(A)(9), not in the bill.

- A felony violation of any of the following offenses: aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, permitting child abuse, strangulation, aggravated menacing, menacing by stalking, menacing, patient abuse or neglect, kidnapping, abduction, extortion, trafficking in persons, rape, sexual battery, gross sexual imposition, aggravated arson, arson, terrorism, aggravated robbery, robbery, aggravated burglary, burglary, inciting to violence, aggravated riot, inducing panic, swatting, endangering children, domestic violence, intimidation, intimidation of an attorney, victim or witness in a criminal case, escape, or improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function.⁴⁶
- A violation of an existing or former municipal ordinance or law of Ohio, another state, or the United States, substantially equivalent to any offense listed above.
- An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio, another state, or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons.
- A conspiracy or attempt to commit, or complicity in committing any of the above offenses.

Firearm specification – repeat offender

Firearm specification – repeat offender: The indictment, count in the indictment, or information charging the offender specifies that the offender is a repeat offender.⁴⁷

The bill creates the above firearm specification and designates that it must be stated in substantially the following form:⁴⁸

SPECIFICATION (or SPECIFICATION TO THE FIRST COUNT).

The Grand Jurors (or insert the person's or prosecuting attorney's name when appropriate) further find and specify that (set forth that the offender is a repeat offender).

The bill requires the court to determine the issue of whether an offender is a repeat offender.⁴⁹ The bill provides that at the arraignment of the defendant or as soon thereafter as practicable, the prosecuting attorney may give notice to the defendant of the prosecuting attorney's intention to use a certified copy of the entry of judgment of a prior conviction as proof of that prior conviction. The defendant must then give notice to the prosecuting attorney of the

⁴⁶ R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.18, 2903.21, 2903.211, 2903.22, 2903.34(A)(1), 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.04, 2911.01, 2911.02, 2911.11, 2911.12(A)(1) to (3), 2917.01, 2917.02, 2917.31, 2917.321, 2919.22(B)(1) to (4), 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, not in the bill.

⁴⁷ R.C. 2941.1427(A).

⁴⁸ R.C. 2941.1427(A).

⁴⁹ R.C. 2941.1427(B).

defendant's intention to object to the use of the entry of judgment. If the defendant pursuant to Criminal Rule 12 does not give notice of that intention to the prosecuting attorney before trial, the defendant waives the objection to the use of an entry of judgment as proof of the defendant's prior conviction, as shown on the entry of judgment.⁵⁰

The bill creates a 3-, 4-, or 5-year mandatory prison term for an offender who is convicted of or pleads guilty to a felony and who also is convicted of or pleads guilty to the above firearm specification. The court must impose a 3-, 4-, or 5-year prison term on the offender unless the court imposes a 1-year, 2-year, 3-year, 4-year, 5-year, 6-year, 7-year, 8-year, 9-year, 10-year, or 11-year prison term upon the offender for a repeat violent offender, major drug offender, or violent career criminal specification relative to the same felony.⁵¹

Sealed juvenile records

The bill adds that a court may consider a sealed record and the disposition of a child under the sealed record for purposes of determining whether the child, for a future criminal conviction or guilty plea, is a repeat offender. Under current law, subject to certain exceptions, the disposition of a child under the judgment rendered or any evidence given in a court is admissible as evidence for or against the child in any action or proceeding in any court in accordance with the Rules of Evidence and also may be considered by any court as to the matter of sentence or to the granting of probation, and a court may consider the judgment rendered and the disposition of a child under that judgment for purposes of determining whether the child, for a future criminal conviction or guilty plea, is a repeat violent offender.⁵²

Prior adjudication not a conviction

The bill provides that a previous adjudication of a person as a delinquent child or juvenile traffic offender for a violation of the law or ordinance is not a conviction for a violation of the law or ordinance for purposes of determining whether a person is a repeat offender or whether the person should be sentenced as a repeat offender.⁵³ Under current law, subject to certain exceptions (including those for a repeat violent offender and a violent career criminal), if a person is alleged to have committed an offense and if the person previously has been adjudicated a delinquent child or juvenile traffic offender for a violation of a law or ordinance, the adjudication as a delinquent child or as a juvenile traffic offender is a conviction for a violation of the law or ordinance for purposes of determining the offense with which the person should be charged and, if the person is convicted of or pleads guilty to an offense, the sentence to be imposed upon the person relative to the conviction or guilty plea.⁵⁴

⁵⁰ R.C. 2941.1427(C).

⁵¹ R.C. 2929.14(B)(12) and 2941.1427(A) and (D).

⁵² R.C. 2151.357(H).

⁵³ R.C. 2901.08(B)(3).

⁵⁴ R.C. 2901.08(A).

Sealing and expungement

Sealing

The bill retains the general Sealing Law provisions in R.C. 2953.32 and relocates the list of convictions that cannot be sealed to R.C. 2953.311.

New sealing mechanism

The bill creates a new sealing mechanism for a record of conviction or dismissed complaint, indictment, or information.⁵⁵

Sealing eligibility

At the expiration of five years after the initial time at which a person may file an application to seal a record of conviction under the general Sealing Law or at the expiration of five years after a person's complaint, indictment, or information has been dismissed, the bill allows an eligible record of conviction or dismissed complaint, indictment, or information to be sealed under the bill's new mechanism. A record of conviction is eligible to be sealed under the new mechanism unless it is a conviction that cannot be sealed under the general Sealing Law or the conviction was committed prior to the effective date of the bill. A dismissed complaint, indictment, or information is eligible to be sealed under the new mechanism unless the complaint, indictment, or information was dismissed prior to the effective date of the bill.⁵⁶

Sealing letter

At the expiration of the above timeframes, the bill requires the sentencing court to order its regular probation officer, a state probation officer, or the department of probation of the county to determine whether a record of conviction or dismissed complaint, indictment, or information is eligible for sealing. If the regular probation officer, a state probation officer, or the department of probation of the county determines that a person's record of conviction or dismissed complaint, indictment, or information is eligible for sealing, then the person's record of conviction or dismissed complaint, indictment, or information is presumed to be eligible for sealing.⁵⁷

Starting on July 1, 2026, if the court's regular probation officer, a state probation officer, or the department of probation of the county determines that a record of conviction or dismissed complaint, indictment, or information is eligible for sealing, the bill requires the sentencing court to send a one-page letter to the prosecutor, the subject of the proceedings, and the victim or the victim's representative, if applicable, if the victim or victim's representative requested notice of the proceedings in the underlying case, not more than two weeks after the determination is

⁵⁵ R.C. 2953.321.

⁵⁶ R.C. 2953.321(A)(1).

⁵⁷ R.C. 2953.321(A)(2)(a).

made. The letter must state that the subject of the proceeding's record of conviction or dismissed complaint, indictment, or information is presumed to be eligible for sealing.⁵⁸

When the sentencing court sends the letter to the subject of the proceedings, the bill also requires the sentencing court to send the following accompanying documents to the subject of the proceedings:⁵⁹

- A one-page application on a form prescribed by the State Criminal Sentencing Commission for sealing a record of conviction or dismissed complaint, indictment, or information.
- A one-page poverty affidavit and a notice that the applicant must pay an application fee of \$50 and may pay a local court fee of not more than \$50, unless the applicant presents a poverty affidavit showing the applicant is indigent.

The bill requires the State Criminal Sentencing Commission to prescribe and make available an application form that is to be used by a person who applies to seal a record of conviction or a dismissed complaint, indictment, or information under the new sealing mechanism. The application form must be one page and must be designed to enable applicants to provide the information that is required to seal a record of conviction or a dismissed complaint, indictment, or information.⁶⁰

The bill does not require the court to send the above letter and accompanying documents if either of the following apply:⁶¹

- After the applicant was convicted of the subject offense or after the complaint, indictment, or information has been dismissed, the applicant has been convicted of any other felony.
- At any time, the applicant has been convicted of any felony that cannot be sealed under the general Sealing Law.

Application for sealing

Regardless of whether the subject of the proceedings received the letter and accompanying documents and except in the case of multiple charges, at the expiration of the above timeframes, the bill still allows a person to apply to the sentencing court if convicted in Ohio, or to a court of common pleas if convicted in another state or in federal court, for the sealing of an eligible record of conviction or dismissed complaint, indictment, or information.⁶²

⁵⁸ R.C. 2953.321(A)(2)(b).

⁵⁹ R.C. 2953.321(A)(2)(b)(i) and (ii).

⁶⁰ R.C. 2953.321(F).

⁶¹ R.C. 2953.321(A)(2)(c).

⁶² R.C. 2953.321(A)(3).

Sealing hearing

Upon the filing of an application and fee, the bill requires the court to set a date and time for a hearing and to notify the prosecutor for the case and the subject of the proceedings of the hearing on the application for the sealing of the record of conviction or dismissed complaint, indictment, or information not less than 60 days before the hearing. The bill requires the prosecutor to provide timely notice of the application for sealing the record of conviction or dismissed complaint, indictment, or information and the date and time of the hearing to a victim and victim's representative, if applicable, if the victim or victim's representative requested notice of the proceedings in the underlying case not less than 60 days before the hearing.⁶³

The bill requires the court to hold the hearing not less than 45 days and not more than 90 days from the date of the filing of the application.⁶⁴

The bill allows the prosecutor or victim or victim's representative, if applicable, to object to the granting of the order to seal the record of conviction or dismissed complaint, indictment, or information by filing a written objection with the court not later than 30 days prior to the hearing. The prosecutor, victim, or victim's representative, must specify in the objection the reasons for believing a denial of the sealing of the applicant's record of conviction or dismissed complaint, indictment, or information is justified.⁶⁵

At the hearing on sealing a record of conviction or dismissed complaint, indictment, or information, the court must do each of the following:⁶⁶

- Determine whether either of the following applies:
 - The applicant's record of conviction is eligible for sealing and whether the application was made at the expiration of five years after the initial time at which an applicant may file an application to seal a record of conviction under the general Sealing Law;
 - The applicant's dismissed complaint, indictment, or information is eligible for sealing, whether the application was made at the expiration of five years after the complaint, indictment, or information was dismissed, and whether the applicant's case was dismissed with prejudice or without prejudice, and if it was dismissed without prejudice, determine whether the relevant statute of limitations has expired.
- Determine whether criminal charges are pending against the applicant.
- If the prosecutor has filed an objection, consider the reasons against granting the sealing order specified by the prosecutor in the objection.

⁶³ R.C. 2953.321(B)(1).

⁶⁴ R.C. 2953.321(B)(2).

⁶⁵ R.C. 2953.321(B)(3).

⁶⁶ R.C. 2953.321(C).

- If the victim or victim's representative has filed an objection, consider the reasons against granting the sealing order specified by the victim or victim's representative in the objection.
- Weigh the interests of the applicant in having the record of conviction or dismissed complaint, indictment, or information sealed against the legitimate needs, if any, of the government to maintain those records.

Sealing order

Subject to certain exceptions, the court must order all official records of the case that pertain to the record of conviction or dismissed complaint, indictment, or information sealed and all index references to the case that pertain to the record of conviction or dismissed complaint, indictment, or information deleted if the court finds all of the following:⁶⁷

- That the applicant is pursuing sealing a record or conviction or a dismissed complaint, indictment, or information that is eligible for sealing.
- That the application was made at the expiration of five years after the initial time at which a person may file an application to seal a record of conviction under the general Sealing Law or at the expiration of five years after the person's complaint, indictment, or information has been dismissed.
- That no criminal proceeding was pending against the applicant.
- That the interests of the applicant in having the record of conviction or dismissed complaint, indictment, or information sealed are not substantially outweighed by any legitimate governmental needs to maintain those records.
- If the sealing relates to a dismissed complaint, indictment, or information, that the complaint, indictment, or information was dismissed with prejudice or that the complaint, indictment, or information was dismissed without prejudice and that the relevant statute of limitations has expired.

The bill provides that the proceedings in the case that pertain to the record of conviction or dismissed complaint, indictment, or information must be considered not to have occurred. The record of conviction or dismissed complaint, indictment, or information of the person who is the subject of the proceedings must be sealed, except that upon conviction of a subsequent offense, a sealed record of a prior conviction may be considered by the court in determining the sentence or other appropriate disposition.⁶⁸

Fees

Upon the filing of an application for sealing under the new mechanism, the bill requires the applicant, unless the applicant presents a poverty affidavit showing that the applicant is indigent, to pay an application fee of \$50 and specifies that the applicant may pay a local court

⁶⁷ R.C. 2953.321(D) and (D)(1) and 2953.34(C), (D), (F), and (G).

⁶⁸ R.C. 2953.31, 2953.32, 2953.321(D)(2), and 2953.34.

fee of not more than \$50. If the applicant pays a fee, the court must pay three-fifths of the fee collected into the state treasury, with half of that amount credited to the Attorney General Reimbursement Fund. If the applicant pays a fee, the court must pay two-fifths of the fee collected into the county general revenue fund if the sealed conviction or dismissed complaint, indictment, or information was pursuant to a state statute, or into the general revenue fund of the municipal corporation involved if the sealed conviction or dismissed complaint, indictment, or information was pursuant to a municipal ordinance.⁶⁹

Expungement

The bill relocates the general Expungement Law provisions in R.C. 2953.32 to 2953.322 and relocates the list of convictions that cannot be expunged to R.C. 2953.311.

Expungement eligibility – timing of filing

The bill modifies when an offender may file an application to expunge a record of conviction under the general Expungement Law to seven years. Except in the case of multiple charges, an offender may apply to the sentencing court if convicted in Ohio or to a court of common pleas if convicted in another state or in a federal court for the expungement of a record of conviction, unless it is a conviction that cannot be expunged. Under the bill, an application to expunge a record of conviction under the general Expungement Law may be filed at the expiration of seven years after the offender's final discharge.⁷⁰

Under current law, an application for expungement of a record of conviction may be filed at whichever of the following times is applicable regarding the offense:⁷¹

- If the offense is a misdemeanor, other than a minor misdemeanor, at the expiration of one year after the offender's final discharge.
- If the offense is a minor misdemeanor, at the expiration of six months after the offender's final discharge.
- If the offense is a felony, at the expiration of ten years after the time at which the person may file an application for sealing with respect to that felony offense.

The bill also modifies when an offender may file an application to expunge a bail forfeiture under the general Expungement Law to seven years. Except in the case of multiple charges, 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 expungement of the record of the case that pertains to the charge. Under the bill, an application to expunge a bail forfeiture may be filed at the expiration of seven years after the offender's final discharge.⁷²

⁶⁹ R.C. 2953.321(E).

⁷⁰ R.C. 2953.322(A)(1) and 2953.61.

⁷¹ R.C. 2953.32(B)(1)(b).

⁷² R.C. 2953.322(A)(2) and 2953.61.

Under current law, an application for expungement of a bail forfeiture may be filed at whichever of the following times is applicable regarding the offense:⁷³

- Except as provided in the below dot point, at any time after the expiration of one year from the date on which the bail forfeiture was entered upon the minutes of the court or the journal, whichever entry occurs first.
- If the offense is a minor misdemeanor, at any time after the expiration of six months from the date on which the bail forfeiture was entered upon the minutes of the court or the journal, whichever entry occurs first.

Expungement order – employment in law enforcement

The bill eliminates a requirement that the Bureau of Criminal Identification and Investigation (BCI) maintain records of expunged conviction records for the limited purpose of determining an individual's qualification for employment in law enforcement. Under current law, when BCI receives notice from a court that a record of a conviction or bail forfeiture has been expunged under the general Expungement Law, BCI must maintain a record of the expunged record of conviction for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement. BCI cannot be compelled by the court to destroy, delete, or erase those records so that the records are permanently irretrievable. These records may only be disclosed or provided to law enforcement for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement.

Under current law, when any other entity other than BCI receives notice from a court that the record of conviction or bail forfeiture has been expunged under the general Expungement Law, the entity must destroy, delete, and erase the record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.⁷⁴

The bill also eliminates the definition of "expungement" that relates to the above provisions. Under current law, "expungement" means the expungement process described under the general Expungement Law, including BCI's authority to maintain a record of the expunged record of conviction for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement as described above.⁷⁵ The bill retains the definition of "expungement" that means to destroy, delete, and erase as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.⁷⁶

⁷³ R.C. 2953.32(B)(2)(b), repealed by the bill.

⁷⁴ R.C. 2953.32(D)(5), repealed by the bill.

⁷⁵ R.C. 2953.31(B)(1), repealed by the bill.

⁷⁶ R.C. 2953.31(O).

New expungement mechanism

The bill creates a new expungement mechanism for a record of conviction or dismissed complaint, indictment, or information.⁷⁷

Expungement eligibility

At the expiration of ten years after the initial time at which a person may file an application to expunge a record of conviction under the general Expungement Law or at the expiration of ten years after a person's complaint, indictment, or information has been dismissed, the bill allows an eligible record of conviction or dismissed complaint, indictment, or information to be expunged under the bill's new mechanism. A record of conviction is eligible to be expunged under the new mechanism unless it is a conviction that cannot be expunged under the general Expungement Law or the conviction was committed prior to the effective date of the bill. A dismissed complaint, indictment, or information is eligible to be expunged unless it is an offense that cannot be expunged or the complaint, indictment, or information was dismissed prior to the effective date of the bill.⁷⁸

Expungement letter

At the expiration of the above timeframes, the bill requires the sentencing court to order its regular probation officer, a state probation officer, or the department of probation of the county to determine whether a record of conviction or dismissed complaint, indictment, or information is eligible for expungement. If the regular probation officer, a state probation officer, or the department of probation of the county determines that a person's record of conviction or dismissed complaint, indictment, or information is eligible for expungement, then the person's record of conviction or dismissed complaint, indictment, or information is presumed to be eligible for expungement.⁷⁹

Starting on July 1, 2026, if the court's regular probation officer, a state probation officer, or the department of probation of the county determines that a record of conviction or dismissed complaint, indictment, or information is eligible for expungement, the bill requires the sentencing court to send a one-page letter to the prosecutor, the subject of the proceedings, and the victim or the victim's representative, if applicable, if the victim or victim's representative requested notice of the proceedings in the underlying case, not more than two weeks after the determination is made. The letter must state that the subject of the proceeding's record of conviction or dismissed complaint, indictment, or information is presumed to be eligible for expungement.⁸⁰

⁷⁷ R.C. 2953.323.

⁷⁸ R.C. 2953.323(A)(1).

⁷⁹ R.C. 2953.323(A)(2)(a).

⁸⁰ R.C. 2953.323(A)(2)(b).

When the sentencing court sends the letter to the subject of the proceedings, the bill also requires the sentencing court to send the following accompanying documents to the subject of the proceedings:⁸¹

- A one-page application on a form prescribed by the State Criminal Sentencing Commission for expunging a record of conviction or dismissed complaint, indictment, or information.
- A one-page poverty affidavit and a notice that the applicant must pay an application fee of \$50 and may pay a local court fee of not more than \$50, unless the applicant presents a poverty affidavit showing the applicant is indigent.

The bill requires the State Criminal Sentencing Commission to prescribe and make available an application form that is to be used by a person who applies to expunge a record of conviction or a dismissed complaint, indictment, or information under the new expungement mechanism. The application form must be one page and must be designed to enable applicants to provide the information that is required to expunge a record of conviction or a dismissed complaint, indictment, or information.⁸²

The bill does not require the court to send the above letter and accompanying documents if either of the following apply:⁸³

- After the applicant was convicted of the subject offense or after the complaint, indictment, or information has been dismissed, the applicant has been convicted of any other felony.
- At any time, the applicant has been convicted of any felony that cannot be expunged under the general Expungement Law.

Application for expungement

Regardless of whether the subject of the proceedings received the letter and accompanying documents and except in the case of multiple charges, at the expiration of the above timeframes, the bill still allows a person to apply to the sentencing court if convicted in Ohio, or to a court of common pleas if convicted in another state or in federal court, for the expungement of an eligible record of conviction or dismissed complaint, indictment, or information.⁸⁴

Expungement hearing

Upon the filing of an application and fee, the bill requires the court to set a date and time for a hearing and to notify the prosecutor for the case and the subject of the proceedings of the hearing of the application for the expungement of the record of conviction or dismissed complaint, indictment, or information not less than 60 days before the hearing. The bill requires

⁸¹ R.C. 2953.323(A)(2)(b)(i) and (ii).

⁸² R.C. 2953.323(F).

⁸³ R.C. 2953.323(A)(2)(c).

⁸⁴ R.C. 2953.323(A)(3).

the prosecutor to provide timely notice of the application for expungement of the record of conviction or dismissed complaint, indictment, or information and the date and time of the hearing to a victim and victim's representative, if applicable, if the victim or victim's representative requested notice of the proceedings in the underlying case not less than 60 days before the hearing.⁸⁵

The bill requires the court to hold the hearing not less than 45 days and not more than 90 days from the date of the filing of the application.⁸⁶

The bill allows the prosecutor or victim or victim's representative, if applicable, to object to the granting of the application to expunge the record of conviction or dismissed complaint, indictment, or information by filing a written objection with the court not later than 30 days prior to the hearing. The prosecutor, victim, or victim's representative, must specify in the objection the reasons for believing a denial of the application to expunge the applicant's the record of conviction or dismissed complaint, indictment, or information is justified.⁸⁷

At the hearing on expunging a record of conviction or dismissed complaint, indictment, or information, the court must do each of the following:⁸⁸

- Determine whether either of the following applies:
 - The applicant's record of conviction is eligible for expungement and whether the application was made at the expiration of ten years after the initial time at which a person may file an application to expunge a record of conviction under the general Expungement Law;
 - The applicant's dismissed complaint, indictment, or information is eligible for expungement, whether the application was made at the expiration of ten years after the complaint, indictment, or information was dismissed, and whether the applicant's case was dismissed with prejudice or without prejudice, and if it was dismissed without prejudice, determine whether the relevant statute of limitations has expired.
- Determine whether criminal charges are pending against the applicant.
- If the prosecutor has filed an objection, consider the reasons against granting the expungement order specified by the prosecutor in the objection.
- If the victim or victim's representative has filed an objection, consider the reasons against granting the expungement order specified by the victim or victim's representative in the objection.

⁸⁵ R.C. 2953.323(B)(1).

⁸⁶ R.C. 2953.323(B)(2).

⁸⁷ R.C. 2953.323(B)(3).

⁸⁸ R.C. 2953.323(C).

- Weigh the interests of the applicant in having the record of conviction or dismissed complaint, indictment, or information expunged against the legitimate needs, if any, of the government to maintain those records.

Expungement order

Subject to certain exceptions, the court must order all official records of the case that pertain to the record of conviction or dismissed complaint, indictment, or information expunged and all index references to the case that pertain to the record of conviction or dismissed complaint, indictment, or information deleted if the court finds all of the following:⁸⁹

- That the applicant is pursuing expunging a record or conviction or a dismissed complaint, indictment, or information that is eligible for expungement.
- That the application was made at the expiration of ten years after the initial time at which a person may file an application to expunge a record of conviction under the general Expungement Law or at the expiration of five years after the applicant's complaint, indictment, or information has been dismissed.
- That no criminal proceeding was pending against the applicant.
- That the interests of the applicant in having the record of conviction or dismissed complaint, indictment, or information expunged are not substantially outweighed by any legitimate governmental needs to maintain those records.
- If the expungement relates to dismissed complaint, indictment, or information, that the complaint, indictment, or information was dismissed with prejudice or that the complaint, indictment, or information was dismissed without prejudice and that the relevant statute of limitations has expired.

The bill provides that the proceedings in the case that pertain to the record of conviction or dismissed complaint, indictment, or information must be considered not to have occurred. The record of conviction or dismissed complaint, indictment, or information of the person who is the subject of the proceedings must be expunged.⁹⁰

Fees

Upon the filing of an application for expungement under the new mechanism, the bill requires the applicant, unless the applicant presents a poverty affidavit showing that the applicant is indigent, to pay an application fee of \$50 and specifies that the applicant may pay a local court fee of not more than \$50. If the applicant pays a fee, the court must pay three-fifths of the fee collected into the state treasury, with half of that amount credited to the Attorney General Reimbursement Fund. If the applicant pays a fee, the court must pay two-fifths of the fee collected into the county general revenue fund if the expunged conviction or dismissed complaint, indictment, or information was pursuant to a state statute, or into the general

⁸⁹ R.C. 2953.323(D) and (D)(1) and 2953.34(C), (D), (F), and (G).

⁹⁰ R.C. 2953.323(D)(2).

revenue fund of the municipal corporation involved if the expunged conviction or dismissed complaint, indictment, or information was pursuant to a municipal ordinance.⁹¹

Cross references

The bill adds cross references pertaining to the bill's sealing and expungement provisions to existing law sealing and expungement provisions in the Revised Code.⁹²

Name of the act

The bill's provisions name the act the Repeat Offender Act.⁹³

HISTORY

Action	Date
Introduced	01-23-25
Reported, H. Judiciary	--

ANHB0005RH-136/ar

⁹¹ R.C. 2953.323(E).

⁹² R.C. 109.11 (fees paid to state treasury); R.C. 109.57, 109.572, 109.578, and 109.579 (criminal records checks); R.C. 2746.02 (fees taxed as costs); R.C. 2930.171 (victim's rights); R.C. 2953.25 (certificate of qualification for employment); R.C. 2953.26 (certificate of qualification for housing); R.C. 2953.31 (definitions); R.C. 2953.34(C) (manual or computerized index); R.C. 2953.34(D) (school records for permanent exclusion); R.C. 2953.34(E) (State Auditor records); R.C. 2953.34(G)(1) and (H) (notice to BCI and public office or agency); R.C. 2953.34(G)(2) (motor vehicle points assessment); R.C. 2953.34(I) and (K) (investigatory work product); R.C. 2953.34(J) and (L)(2) (divulging confidential information); R.C. 2953.34(L)(1) (questioning); R.C. 2953.34(O) (appeals); R.C. 2953.39 (low-level controlled substances); R.C. 2953.61 (multiple charges or offenses); R.C. 4723.28 (nursing licenses); R.C. 4729.16, 4729.56, 4729.57, 4729.96, and 4752.09 (pharmacy licenses and registrations); and R.C. 5120.035 (community-based substance use disorder treatment).

⁹³ Section 3.