



Dennis M. Papp

Final Analysis
Legislative Service Commission

Am. S.B. 18
127th General Assembly
(As Passed by the General Assembly)

Sens. Clancy, Stivers, Cates, Schaffer, Austria, Grendell, Coughlin, Harris, Mason, Mumper, Padgett, Faber, Goodman, Carey, Spada, Wilson, Jacobson

Reps. Bulp, Widowfield, Adams, Bacon, Barrett, Batchelder, Blessing, Budish, Collier, Combs, Core, Dolan, Domenick, Dyer, Evans, Flowers, Gibbs, J. Hagan, Healy, Hottinger, Huffman, Hughes, Jones, Luckie, Lundy, Mandel, J. McGregor, Oelslager, Patton, Raussen, Sayre, Schindel, Setzer, D. Stewart, Uecker, Wagoner, Yuko, Zehringer

Effective date: *

ACT SUMMARY

- Expands the list of convictions and bail forfeitures to which the preexisting criminal conviction and bail forfeiture record-sealing mechanism does not apply so that the mechanism also does not apply to any of the following: (1) convictions on or after the act's effective date of the offense of importuning or a substantially similar municipal ordinance and (2) convictions on or after the act's effective date of the offenses of voyeurism, public indecency, compelling prostitution, promoting prostitution, procuring, disseminating matter harmful to juveniles, displaying matter harmful to juveniles, pandering obscenity, or deception to obtain matter harmful to juveniles when the victim of the offense was under 18 years of age.

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

CONTENT AND OPERATION

Background

Preexisting law, unchanged by the act, contains a mechanism pursuant to which persons convicted of a criminal offense who are "first offenders" (a defined term) may apply to a specified court after the expiration of a specified period of time for the sealing of the conviction record. A similar mechanism is provided for persons arrested for a misdemeanor offense who have effected a bail forfeiture. If the court, after a hearing, issues a sealing order, the proceedings in the case are considered not to have occurred, the person's conviction or bail forfeiture is sealed subject to specified exceptions, the order generally restores the person to all rights and privileges not otherwise restored by termination of the sentence or final release, and the person generally may be questioned in any inquiry only with respect to convictions and bail forfeitures not sealed. (R.C. 2953.32 to 2953.35, not in the act.)

Preexisting law set forth a list of convictions and bail forfeitures, expanded by the act as described below in "Operation of the act" under "Convictions and bail forfeitures to which the record-sealing mechanism does not apply," to which the criminal conviction and bail forfeiture sealing mechanism did not apply (R.C. 2923.36--see "Formerly" under "Convictions and bail forfeitures to which the record-sealing mechanism does not apply," below, for the current list of convictions and bail forfeitures).

Convictions and bail forfeitures to which the record-sealing mechanism does not apply

Operation of the act

The act expands the list of convictions and bail forfeitures to which the preexisting criminal conviction and bail forfeiture record-sealing mechanism set forth in R.C. 2953.31 to 2953.35 does not apply. Under the act, in addition to the convictions and bail forfeitures specified under preexisting law to which the mechanism does not apply, the mechanism also does not apply to any of the following (R.C. 2953.36(D) and (E)):

(1) Convictions on or after the act's effective date under R.C. 2907.07 (the offense of "importuning") or convictions on or after the act's effective date for a violation of a substantially similar municipal ordinance;

(2) Convictions on or after the act's effective date under R.C. 2907.08 (the offense of "voyeurism"), 2907.09 ("public indecency"), 2907.21 ("compelling prostitution"), 2907.22 ("promoting prostitution"), 2907.23 ("procuring"), 2907.31

("disseminating matter harmful to juveniles"), 2907.311 ("displaying matter harmful to juveniles"), 2907.32 ("pandering obscenity"), or 2907.33 ("deception to obtain matter harmful to juveniles") when the victim of the offense was under 18 years of age.

Former law

Formerly, the criminal conviction and bail forfeiture record-sealing mechanism set forth in R.C. 2953.31 to 2953.35 did not apply to any of the following (R.C. 2953.36):

- (1) Convictions when the offender was subject to a mandatory prison term;
- (2) Convictions under R.C. 2907.02 ("rape"), 2907.03 ("sexual battery"), 2907.04 ("unlawful sexual conduct with a minor"), 2907.05 ("gross sexual imposition"), 2907.06 ("sexual imposition"), 2907.321 ("pandering obscenity involving a minor"), 2907.322 ("pandering sexually oriented matter involving a minor"), or 2907.323 ("illegal use of a minor in a nudity-oriented material or performance"), former R.C. 2907.12 (the former offense of "felonious sexual penetration"), or R.C. Chapter 4507., 4510., 4511., or 4549. (driver's license-related and traffic-related offenses), or a conviction for a violation of a municipal ordinance substantially similar to any section contained in any of those chapters;
- (3) Convictions of an offense of violence when the offense was a misdemeanor of the first degree or a felony and when the offense was not a violation of R.C. 2917.03 ("riot") and was not a violation of R.C. 2903.13 ("assault"), 2917.01 ("inciting to violence"), or 2917.31 ("inducing panic") that was a misdemeanor of the first degree;
- (4) Convictions of an offense in circumstances in which the victim of the offense was under 18 years of age when the offense was a misdemeanor of the first degree or a felony;
- (5) Convictions of a felony of the first or second degree;
- (6) Bail forfeitures in a traffic case as defined in Traffic Rule 2.

HISTORY

| ACTION | DATE |
|---|----------|
| Introduced | 02-20-07 |
| Reported, S. Judiciary - Criminal Justice | 03-28-07 |
| Passed Senate (32-1) | 03-28-07 |
| Reported, H. Criminal Justice | 06-27-07 |
| Passed House (94-2) | 06-27-07 |
| Senate concurred in House amendments (32-0) | 06-27-07 |

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