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S.B. 214
135th General Assembly

Final Analysis

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Primary Sponsor: Sen. Kunze

Effective date: October 24, 2024

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SUMMARY

- Allows a victim of human trafficking to apply to expunge records of conviction for a misdemeanor, fourth degree felony, or fifth degree felony.
- Requires the applicant to demonstrate by clear and convincing evidence that the applicant's participation in the offense was the result of the applicant having been a victim of human trafficking.

DETAILED ANALYSIS

Expungement – victim of human trafficking

Eligibility for expungement

The act creates new grounds for expungement eligibility for a victim of human trafficking. Under the act, a person convicted of a misdemeanor or a fourth or fifth degree felony is permitted to apply to the sentencing court for the expungement of the record of conviction for that offense, if the person's participation in the offense was a result of the person having been a "victim of human trafficking."¹

Continuing law contains additional, preexisting grounds for expungement eligibility for victims of human trafficking. A person convicted of soliciting, loitering to engage in solicitation, or prostitution may apply to the sentencing court for the expungement of the conviction record of certain offenses, if the person's participation in the offense was the result of the person having been a "victim of human trafficking."²

¹ R.C. 2953.36(A)(2).

² R.C. 2953.36(A)(1).

Continuing law defines a “**victim of human trafficking**” as a victim of a violation of the offense of trafficking in persons, regardless of whether anyone has been convicted of a violation of the offense of trafficking in persons or of any other offense for victimizing the person.³

Standard of review

Under the new grounds for eligibility, the act requires the court to determine whether the applicant has demonstrated by clear and convincing evidence that the applicant’s participation in the offense was a result of the applicant having been a victim of human trafficking.⁴ Under the preexisting grounds for eligibility, not modified by the act, the court must determine whether the applicant has demonstrated by a preponderance of the evidence that the applicant’s participation in the offense was a result of the applicant having been a victim of human trafficking.⁵

Under the new grounds for eligibility, if after the hearing the court finds that the applicant has demonstrated by clear and convincing evidence that the applicant’s participation in the offense was the result of the applicant having been a victim of human trafficking, the act requires the court to grant the application and order that the record of conviction be expunged. Under the preexisting grounds for eligibility, not modified by the act, if the court finds that the applicant has demonstrated by a preponderance of the evidence that the applicant’s participation in the offense was the result of the applicant having been a victim of human trafficking, the court must grant the application and order that the record of conviction be expunged.⁶

Notice of order of expungement

The act maintains the existing law requirement that the court send notice of the order of expungement to each public office or agency that the court has reason to believe may have an official record pertaining to the case, but removes duplicative references to the findings the court must make.⁷

HISTORY

Action	Date
Introduced	01-23-24
Reported, S. Judiciary	04-24-24
Passed Senate (32-0)	04-24-24

³ R.C. 2953.31(A)(12), not in the act.

⁴ R.C. 2953.36(D)(1)(b).

⁵ R.C. 2953.36(D)(1)(a).

⁶ R.C. 2953.36(E).

⁷ R.C. 2953.36(F)(1).

Action	Date
Reported, H. Criminal Justice	06-25-24
Passed House (97-1)	06-26-24