



Ohio Revised Code

Section 109.38 [Repealed effective 4/8/2019 by H.B. 425, 132nd General Assembly] Pilot program - removing sealed or expunged records from databases.

Effective: September 29, 2017

Legislation: House Bill 49 - 132nd General Assembly

(A) As used in this section and section 109.381 of the Revised Code:

(1) "Consumer reporting agency" has the same meaning as in section 1681a(f) of the Fair Credit Reporting Act.

(2) "Conviction of crime" means a conviction of, or a plea of guilty to, an offense.

(3) "Fair Credit Reporting Act" means 15 U.S.C. 1681 et seq., as amended.

(4) "Identified data repository" means either of the following:

(a) 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 Fair Credit Reporting Act;

(b) 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 that registers with a qualified third party for the purpose of receiving notices of court orders of sealed or expunged records under section 2953.32, 2953.37, 2953.38, or 2953.53 of the Revised Code and agreeing to remove those records and any references to and information from those records from the person's or entity's database.

(5) "Qualified third party" means a private entity that is selected by the attorney general pursuant to this section.

(B) The attorney general shall develop a pilot program comprised of the provisions of sections 109.38 and 109.381 of the Revised Code, as enacted by this act, and the amendments to sections



2953.32, 2953.37, 2953.38, and 2953.53 of the Revised Code made by this act. The pilot program shall end one year after the effective date of this section. Within three months after the pilot program ends, the attorney general shall submit a report of its findings and recommendations to the general assembly.

(C) The attorney general shall select a private entity as a qualified third party for the purpose of receiving notices of court orders of sealed or expunged records under section 2953.32, 2953.37, 2953.38, or 2953.53 of the Revised Code. A qualified third party selected by the attorney general shall have the following qualifications:

(1) The entity has specific knowledge and expertise regarding the operation of the Fair Credit Reporting Act.

(2) The entity has prior experience in interacting and cooperating with consumer reporting agencies regarding their obligations for accuracy under section 1681e(b) of the Fair Credit Reporting Act and reinvestigations of disputed information under section 1681i of the Fair Credit Reporting Act to ensure the accomplishment of the goal of updating the records, files, or databases of the consumer reporting agencies that contain references to, or information on, convictions of crime.

(3) The entity has relationships with data aggregators, public record vendors, and other companies that collect and compile from various sources data or information in records of convictions of crime to ensure their cooperation in maintaining the legitimacy, accuracy, completeness, and security of that data or information.

(4) The entity has at least two years' experience in processing and sending notices of sealed or expunged records of convictions of crime to identified data repositories.

(5) The entity is not an identified data repository or an entity that is owned or controlled by an identified data repository.

(6) The entity meets all security clearances and security requirements imposed by the attorney general to ensure that the entity does not misuse any information received from the courts under section 109.381 of the Revised Code and that other persons do not have unauthorized access to that



information.

(D)(1) The qualified third party selected by the attorney general under this section shall serve as such qualified third party for a minimum of three years. The attorney general 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.

(2) Upon the selection or retention of a qualified third party under division (D)(1) of this section, the attorney general and the qualified third party shall enter into a contract that shall include all of the following:

(a) The duties of the qualified third party under section 109.381 of the Revised Code;

(b) The amount of the fee to be paid by an applicant for a court order to seal or expunge records under section 2953.32, 2953.37, 2953.38, or 2953.53 of the Revised Code who wishes to have the court send notice of the order to the qualified third party and to have the procedures under section 109.381 of the Revised Code apply to the records;

(c) Any other provisions as determined by the attorney general in the rules promulgated under division (F) of this section.

(3) The attorney general shall determine the proportion of the fee described in division (D)(2)(b) of this section that the qualified third party shall retain for its services under section 109.381 of the Revised Code and each proportion of the fee that the qualified third party shall remit to the clerk of the court that sent the notice of the order under section 2953.32, 2953.37, 2953.38, or 2953.53 of the Revised Code, the attorney general, and the state treasury.

(E) The attorney general shall have oversight of the functions and activities of the qualified third party under section 109.381 of the Revised Code.

(F) The attorney general shall promulgate rules pursuant to Chapter 119. of the Revised Code to implement this section and section 109.381 of the Revised Code.