

January 15, 2010

The Honorable Jennifer Brunner  
Ohio Secretary of State  
180 East Broad Street, 15th Floor  
Columbus, Ohio 43215-3726

SYLLABUS:

2010-002

1. R.C. 2961.01(B), as enacted by Am. Sub. H.B. 3, 126th Gen. A. (2006) (eff. May 2, 2006, with certain sections effective on other dates) and amended by Sub. H.B. 195, 127th Gen. A. (2008) (eff. Sept. 30, 2008), does not apply to a person who was convicted of a felony under the laws of Ohio prior to May 2, 2006.
2. R.C. 2967.16(C)(1)(a) restores the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), to a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, and who has served his entire prison term and not had any post-release control sanctions imposed upon him.
3. R.C. 2967.16(C)(1)(b) restores the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), to a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, and who has been granted a final release by the Adult Parole Authority pursuant to R.C. 2967.16(A) or R.C. 2967.16(B).
4. R.C. 2967.16(C)(1)(c) restores the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), to a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, and who has completed the period of a community control sanction or combination of community control sanctions imposed by a sentencing court.



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RICHARD CORDRAY  
OHIO ATTORNEY GENERAL

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January 15, 2010

OPINION NO. 2010-002

The Honorable Jennifer Brunner  
Ohio Secretary of State  
180 East Broad Street, 15th Floor  
Columbus, Ohio 43215-3726

Dear Secretary of State Brunner:

You have requested an opinion whether the provisions of R.C. 2967.16(C)(1) operate to restore to a person who was convicted of a felony under the laws of Ohio the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition.<sup>1</sup> Specifically, you ask:

1. Does R.C. 2967.16(C)(1)(a) restore the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), to a person who was convicted of a felony under the laws of Ohio and who has served his entire prison term and was not placed under any post-release control sanctions?
2. Does R.C. 2967.16(C)(1)(b) restore the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B),

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<sup>1</sup> You have not indicated whether the person has been granted a full pardon by the Governor or had his conviction reversed or annulled or the record of his conviction sealed. We therefore assume, for the purpose of this opinion, that the person has not been granted a full pardon or had his conviction reversed or annulled or the record of his conviction sealed.

to a person who was convicted of a felony under the laws of Ohio and who has been granted a final release by the Adult Parole Authority pursuant to R.C. 2967.16(A) or R.C. 2967.16(B)?

3. Does R.C. 2967.16(C)(1)(c) restore the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), to a person who was convicted of a felony under the laws of Ohio and who has completed the period of a community control sanction or combination of community control sanctions imposed by a sentencing court?

Before we address your specific questions, we note that our obligation in responding to your questions is to read and apply the law as it has been enacted by the General Assembly. *See generally* 1938 Op. Att’y Gen. No. 2854, vol. II, p. 1596, at 1597 (“where legislative intent is clearly and definitely expressed, this office is bound to give effect to it and cannot, however liberal it may wish to be, nullify, change or amend by its rulings the express provisions of a statute”). This opinion therefore reflects a detailed and careful study of R.C. 2961.01(B) and R.C. 2967.16(C)(1) as enacted by the General Assembly. Whether or not a person who has been convicted of a felony under the laws of Ohio *should* be permitted to circulate or serve as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition is a wholly separate question of policy that the Ohio Constitution empowers the General Assembly to decide. Any concerns about the policy reflected in the provisions of R.C. 2961.01(B) and R.C. 2967.16(C)(1) thus should be directed to the General Assembly, as that body alone has the power to change the law.

### **Application of R.C. 2961.01(B) to a Person Who Was Convicted of a Felony**

Because all three of your questions concern the application of the provisions of R.C. 2961.01(B) and R.C. 2967.16(C)(1) to a person who was convicted of a felony under the laws of Ohio, we will consider your questions together.

In Ohio, various provisions of law may divest a person who has been convicted of a felony under the laws of Ohio the capacity to exercise a right or privilege. *See, e.g.*, Ohio Const. art. II, § 5; R.C. 2915.11(B); R.C. 2921.02(F); R.C. 2921.41(C)(1); R.C. 2923.125(D)(1)(e); R.C. 2923.13(A); R.C. 2961.02(B); R.C. 3501.27(A); R.C. 3721.07(A); R.C. 3770.05(C); R.C. 4303.29(A); R.C. 4508.04(B)(1); R.C. 4738.07(D); R.C. 4749.03(A)(1)(a); R.C. 4751.10(D). In your questions, you have specifically asked about the application of R.C. 2961.01(B) to a person who was convicted of a felony under the laws of Ohio.<sup>2</sup>

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<sup>2</sup> Because your questions concern the restoration of the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration

R.C. 2961.01(B), which was enacted on May 2, 2006, *see* Am. Sub. H.B. 3, 126th Gen. A. (2006) (eff. May 2, 2006, with certain sections effective on other dates), states:<sup>3</sup>

A person who pleads guilty to a felony under laws of this state or any other state or the United States and whose plea is accepted by the court or a person against whom a verdict or finding of guilt for committing a felony under any law of that type is returned is incompetent to circulate or serve as a witness for the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition.

R.C. 2961.01(B) thus prohibits a person who was convicted of a felony under the laws of Ohio from circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition.

Prior to the enactment of R.C. 2961.01(B) on May 2, 2006, no statute denied a person who was convicted of a felony under the laws of Ohio and who was on parole, judicial release, a non-jail community control sanction, or a post-release control sanction, or granted a final discharge the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition when the person had his privilege to be an elector restored under R.C. 2961.01.<sup>4</sup>

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application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), to a person who was convicted of a felony under the laws of Ohio, this opinion will limit its analysis to the restoration of the specific privilege forfeited under R.C. 2961.01(B).

<sup>3</sup> R.C. 2961.01(B) has been amended since its enactment in 2006. *See* Sub. H.B. 195, 127th Gen. A. (2008) (eff. Sept. 30, 2008). While the language of R.C. 2961.01(B) was changed, the meaning and effect of R.C. 2961.01(B) remain the same.

<sup>4</sup> Prior to May 2, 2006, a person who was convicted of a felony under the laws of Ohio was incompetent to be an elector and, as such, was not allowed under R.C. 3503.06 to circulate any declaration of candidacy or any nominating, initiative, referendum, or recall petition unless he had his privilege to be an elector restored under R.C. 2961.01. *See* 2001-2002 Ohio Laws, Part V, 9484, 9739 (Am. Sub. H.B. 490, eff. Jan. 1, 2004, with certain sections effective on other dates) (setting forth the version of R.C. 2961.01 that was in effect prior to May 2, 2006); 1995-1996 Ohio Laws, Part I, 549, 621 (Am. Sub. H.B. 99, eff. Aug. 22, 1995, with certain sections effective on other dates) (setting forth the version of R.C. 3503.06 that was in effect prior to May 2, 2006); 1993-1994 Ohio Laws, Part II, 2516, 2543 (Am. Sub. S.B. 300, eff. Nov. 21, 1994) (setting forth the version of R.C. 3503.21 that was in effect prior to May 2, 2006).

R.C. 2961.01, as it existed prior to May 2, 2006, restored the privilege to be an elector to a person who was convicted of a felony under the laws of Ohio when the person was on parole,

With the enactment of R.C. 2961.01(B) on May 2, 2006, the General Assembly has withheld the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition from a person who was convicted of a felony under the laws of Ohio and had his privilege to be an elector restored under R.C. 2961.01.<sup>5</sup>

While R.C. 2961.01(B) clearly bars a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, from circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, we must nevertheless determine whether R.C. 2961.01(B) applies retroactively to a person who was convicted of a felony under the laws of Ohio before R.C. 2961.01(B) became effective on May 2, 2006. *See* Ohio Const. art. II, § 28 (“[t]he general assembly shall have no power to pass retroactive laws”); R.C. 1.48 (“[a] statute is presumed to be prospective in its operation unless expressly made retrospective”).

The test for determining whether a statute may be applied retroactively or retrospectively is well settled:

[T]wo provisions of Ohio law limit the retroactive application of a statute. First, R.C. 1.48 provides that “[a] statute is presumed to be prospective in its operation unless expressly made retrospective.” *Accord Hyle v. Porter*, 117 Ohio St. 3d 165, 2008-Ohio-542, [882 N.E.2d 899,] ¶7 (2008); *State v. Consilio*, 114 Ohio St. 3d 295, 2007-Ohio-4163, 871 N.E.2d 1167, ¶9 (2007); *State v. Cook*, 83 Ohio St. 3d 404, 410, 700 N.E.2d 570 (1998). In addition, Article II, section 28 of the Ohio Constitution prohibits the General Assembly from passing laws that retroactively impair vested substantive rights. *Hyle v. Porter*, at ¶7; *State v. Consilio*, at ¶9; *see State v. Cook*, at 410-11. Instead, the power of the General Assembly to enact retroactive legislation is limited to “legislation that is merely remedial in nature.” *State v. Consilio*, at ¶9; *accord Hyle v. Porter*, at ¶7; *State v. Cook*, at 411.

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judicial release, a non-jail community control sanction, or a post-release control sanction, or granted a final discharge. *See* Am. Sub. H.B. 490. Accordingly, a person who was convicted of a felony under the laws of Ohio prior to May 2, 2006, was competent to be an elector and thus allowed to circulate any declaration of candidacy or any nominating, initiative, referendum, or recall petition when the person was on parole, judicial release, a non-jail community control sanction, or a post-release control sanction, or granted a final discharge.

<sup>5</sup> A person who was convicted of a felony under the laws of Ohio and restored the privilege to be an elector by R.C. 2961.01 is not prohibited by R.C. 3503.06(A) from circulating “any declaration of candidacy or any nominating, or recall petition” on the basis that the felony conviction disqualifies the person from being an elector.

As recently explained in *State v. Consilio*, at ¶10, the Ohio Supreme Court has distilled the foregoing legal provisions into the following two-part test for evaluating whether a statute may be applied retroactively:

First, the reviewing court must determine as a threshold matter whether the statute is expressly made retroactive. The General Assembly's failure to clearly enunciate retroactivity ends the analysis, and the relevant statute may be applied only prospectively. If a statute is clearly retroactive, though, the reviewing court must then determine whether it is substantive or remedial in nature. (Citations omitted.)

*Accord Hyle v. Porter*, at ¶8; *State v. Walls*, 96 Ohio St. 3d 437, 2002-Ohio-5059, 775 N.E.2d 829, at ¶10 (2002). Thus, for purposes of the retroactivity analysis, “[t]he first part of the test determines whether the General Assembly ‘expressly made [the statute] retroactive,’ as required by R.C. 1.48; the second part determines whether it was empowered to do so.” *Hyle v. Porter*, at ¶8 (citing *Van Fossen v. Babcock & Wilcox Co.*, 36 Ohio St. 3d 100, 106, 522 N.E.2d 489 (1988)). (Footnotes omitted.)

2008 Op. Att’y Gen. No. 2008-011 at 2-131 and 2-132.

We must determine first, therefore, whether R.C. 2961.01(B), as enacted by Am. Sub. H.B. 3 and amended by Sub. H.B. 195, was expressly made retroactive by the General Assembly. If R.C. 2961.01(B) is silent on the question of its retroactive application, the presumption in favor of prospective application controls. R.C. 1.48; *Hyle v. Porter*, at ¶10; *State v. Consilio*, at ¶15. In order to overcome this presumption, R.C. 2961.01(B) must “‘clearly proclaim’ its retroactive application.” *Hyle v. Porter*, at ¶10; *accord State v. Consilio*, at ¶15. Moreover, “[t]ext that supports a mere inference of retroactivity is not sufficient to satisfy this standard” since retroactivity is not to be inferred from suggestive language. *Hyle v. Porter*, at ¶10; *accord State v. Consilio*, at ¶15. *See generally Kelley v. State*, 94 Ohio St. 331, 338-39, 114 N.E. 255 (1916) (when “the intention of the legislature is to give to such repealing or amending act a retroactive effect such intention must not be left to inference or construction, but must be manifested by express provision in the repealing or amending act”).

Our review of R.C. 2961.01(B) does not disclose a clear legislative indication of retroactive application. The statute only states that “[a] person who pleads guilty to a felony under laws of this state ... and whose plea is accepted by the court or a person against whom a verdict or finding of guilt for committing a felony ... is returned is incompetent to circulate or serve as a witness for the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition.” Nothing in R.C. 2961.01(B) or elsewhere in the Revised Code suggests that R.C. 2961.01(B) is to be applied retroactively. Further, neither Am. Sub. H.B. 3 nor Sub. H.B. 195, which amended R.C.

2961.01(B), *see* note 3, *supra*, expressly provides or indicates that R.C. 2961.01(B) is to be applied retroactively.

In addition, the Ohio Supreme Court has declared that “[a] statute, employing operative language in the present tense, does not purport to cover past events of a similar nature.’ Absent more express evidence of retroactivity, the general presumption of prospective application controls.” *State v. Consilio*, at ¶17 (quoting *Smith v. Ohio Valley Ins. Co.*, 27 Ohio St. 2d 268, 276, 272 N.E.2d 131 (1971)). The use of the present tense in R.C. 2961.01(B) by the General Assembly thus does not permit us to find that R.C. 2961.01(B) is to be applied retroactively since there is no other explicit evidence of retroactivity.<sup>6</sup> *See State v. Consilio*, at ¶17; 2008 Op. Att’y Gen. No. 2008-011 at 2-133.

Finally, when the General Assembly has intended to give retroactive effect to other statutes, it has used language to refer to convictions and guilty pleas that occurred before those statutes’ effective dates. The absence of such language in R.C. 2961.01(B) demonstrates a legislative intent that R.C. 2961.01(B) not be applied retroactively. *See* 2008 Op. Att’y Gen. No. 2008-011 at 2-133 and 2-134. As explained in *Hyle v. Porter*, at ¶14-19:

Two previous cases serve as examples of clear expressions of retroactivity and underscore the absence of a comparable declaration in former R.C. 2950.031.

In *Van Fossen*, we based our finding of a clearly expressed legislative intent for former R.C. 4121.80 to apply retroactively on the following passage: “This section applies to and governs any action \* \* \* pending in any court on the effective date of this section \* \* \* notwithstanding any provisions of any prior statute or rule of law of this state.” Former R.C. 4121.80(H), 141 Ohio Laws, Part I, 736-737. *Van Fossen*, 36 Ohio St. 3d at 106, 522 N.E.2d 489.

In *State v. Cook* (1998), 83 Ohio St. 3d 404, 700 N.E.2d 570, our finding that the General Assembly specifically made R.C. 2950.09 retroactive was based in part on an express provision making the statute applicable to anyone who “was convicted of or pleaded guilty to a sexually oriented offense prior to the effective date of this section, if the person was not sentenced for the offense on or after” that date. Former R.C. 2950.09(C)(1), 146 Ohio Laws, Part II, 2620. *Id.* at 410, 700 N.E.2d 570.

Both former R.C. 4121.80(H) and former 2950.09(C)(1) expressly make their provisions applicable to acts committed or facts in existence prior to their effective dates. In addition, R.C. 4121.80(H) expressly proclaimed its applicability in spite of contrary preexisting law by including the phrase

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<sup>6</sup> Even if the language of R.C. 2961.01(B) were ambiguous concerning its retroactive application, the Ohio Supreme Court has emphasized that “ambiguous language is not sufficient to overcome the presumption of prospective application.” *Hyle v. Porter*, at ¶13.

“notwithstanding any provisions of any prior statute or rule of law of this state.” Thus, both statutes include strong and unmistakable declarations of retroactivity.

These examples demonstrate that the drafters of legislation know the words to use in order to comply with the Ohio Constitution and the requirement created by the General Assembly (R.C. 1.48).

The text of R.C. 2950.031, by contrast, does not feature a clear declaration of retroactivity in either its description of convicted sex offenders or its description of prohibited acts. The statute does not proclaim its applicability to acts committed or facts in existence prior to the effective date of the statute or otherwise declare its retroactive application. In the present case, the absence of a clear declaration comparable to the two excerpted above precludes the retrospective application of R.C. 2950.031.

Because R.C. 2961.01(B) lacks a clear indication of retroactive application, it may be applied only prospectively to a person who was convicted of a felony under the laws of Ohio on or after its effective date—May 2, 2006.<sup>7</sup> See R.C. 1.48; *Hyle v. Porter*; *State v. Consilio*; 2008 Op. Att’y Gen. No. 2008-011 at 2-134 and 2-135. Accordingly, R.C. 2961.01(B), as enacted by Am. Sub. H.B. 3 and amended by Sub. H.B. 195, does not apply to a person who was convicted of a felony under the laws of Ohio prior to May 2, 2006. Cf. *State ex rel. Corrigan v. Barnes*, 3 Ohio App. 3d 40, 443 N.E.2d 1034 (Cuyahoga County 1982) (syllabus, paragraph 2) (“[a]n amendment to R.C. 2961.01, effective January 1, 1974, which makes the statute applicable to persons convicted of felonies under federal law, may not constitutionally be applied with respect to acts committed prior to January 1, 1974. The amendment, if applied to past acts, would constitute an *ex post facto* law, prohibited under Section 10, Article I of the United States Constitution, and would constitute a retroactive law, prohibited under Section 28, Article II of the Ohio Constitution”).

### **Restoration of the Privilege Forfeited by Operation of R.C. 2961.01(B)**

Having concluded that R.C. 2961.01(B) applies only to a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, we must now determine whether R.C. 2967.16(C)(1) restores to such a person the privilege forfeited by operation of R.C. 2961.01(B). R.C. 2967.16(C)(1) provides:

Except as provided in division (C)(2) of this section, *the following prisoners or person shall be restored to the rights and privileges forfeited by a conviction:*

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<sup>7</sup> Insofar as R.C. 2961.01(B) may not be applied retroactively, it is unnecessary for us in this opinion to address whether the statute is substantive or remedial in nature. See *Hyle v. Porter*, at ¶9; *State v. Consilio*, at ¶10.

- (a) A prisoner who has served the entire prison term that comprises or is part of the prisoner's sentence and has not been placed under any post-release control sanctions;
- (b) A prisoner who has been granted a final release by the adult parole authority pursuant to division (A) or (B) of this section;
- (c) A person who has completed the period of a community control sanction or combination of community control sanctions, as defined in [R.C. 2929.01] that was imposed by the sentencing court. (Emphasis added.)

The plain language of R.C. 2967.16(C)(1) thus unequivocally provides that, except as provided in R.C. 2967.16(C)(2), any person who was convicted of a felony under the laws of Ohio and who satisfies the conditions set forth therein is restored the rights and privileges forfeited by that conviction. Consequently, our opinions have concluded that a person who was convicted of a felony under the laws of Ohio and who satisfies the conditions set forth in R.C. 2967.16(C)(1) is restored the civil rights and privileges forfeited by operation of R.C. 2961.01. 2009 Op. Att'y Gen. No. 2009-011; 2008 Op. Att'y Gen. No. 2008-011; 2006 Op. Att'y Gen. No. 2006-031; 2006 Op. Att'y Gen. No. 2006-030; *see also U.S. v. Zellars*, 334 Fed. Appx. 742, 746 (6th Cir. 2009) (a felon's "civil rights [are] restored as a matter of law upon completion of his sentence and/or upon final release. The restoration of his civil rights [is] automatic"). Accordingly, a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, is restored the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), when the person satisfies the conditions set forth in R.C. 2967.16(C)(1).

Pursuant to R.C. 2967.01(C)(1), one of the conditions is that the person not be excepted from the application of R.C. 2967.16(C) by the language of R.C. 2967.16(C)(2). Because the exception set forth in R.C. 2967.16(C)(2) applies to restoring the privilege of holding an office of honor, trust, or profit, it has no application to the restoration of the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), pursuant to R.C. 2967.16(C)(1).<sup>8</sup> This means that a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, is restored the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and

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<sup>8</sup> R.C. 2967.16(C)(2)(c) states that R.C. 2967.16(C)(1) does not restore a prisoner or person to the privilege of holding a position of honor, trust, or profit if the prisoner or person was convicted of, or pleaded guilty to, committing on or after May 13, 2008, certain felony offenses. The exception set forth in R.C. 2967.16(C)(2)(c) thus does not prohibit the restoration of the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), pursuant to R.C. 2967.16(C)(1).

petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B) when the person (1) has served his entire prison term and not had any post-release control sanctions imposed upon him; (2) has been granted a final release by the Adult Parole Authority pursuant to R.C. 2967.16(A) or R.C. 2967.16(B); or (3) has completed the period of a community control sanction or combination of community control sanctions imposed by a sentencing court. R.C. 2967.16(C)(1)(a)-(c).

Whether a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, has been restored pursuant to R.C. 2967.16(C)(1) the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), is a question of fact that must be addressed on a case-by-case basis by local officials or, ultimately, the courts. *See* 1983 Op. Att'y Gen. No. 83-057 at 2-232 (the Attorney General does not serve as a fact-finding body). If, however, it is determined that a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, has satisfied the conditions set forth in R.C. 2967.16(C)(1), the person is restored the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B).

### **Conclusions**

Based upon the foregoing, it is my opinion, and you are hereby advised as follows:

1. R.C. 2961.01(B), as enacted by Am. Sub. H.B. 3, 126th Gen. A. (2006) (eff. May 2, 2006, with certain sections effective on other dates) and amended by Sub. H.B. 195, 127th Gen. A. (2008) (eff. Sept. 30, 2008), does not apply to a person who was convicted of a felony under the laws of Ohio prior to May 2, 2006.
2. R.C. 2967.16(C)(1)(a) restores the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), to a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, and who has served his entire prison term and not had any post-release control sanctions imposed upon him.
3. R.C. 2967.16(C)(1)(b) restores the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), to a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, and who has been granted a final release by the Adult Parole Authority pursuant to R.C. 2967.16(A) or R.C. 2967.16(B).

4. R.C. 2967.16(C)(1)(c) restores the privilege of circulating or serving as a witness to the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition, which had been forfeited by operation of R.C. 2961.01(B), to a person who was convicted of a felony under the laws of Ohio on or after May 2, 2006, and who has completed the period of a community control sanction or combination of community control sanctions imposed by a sentencing court.

Respectfully,



RICHARD CORDRAY  
Ohio Attorney General