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SUMMARY

Intervention in lieu of conviction

- Broadens the scope of intervention in lieu of conviction (ILC) by requiring an eligibility hearing on an application for intervention in any case in which the offender alleges that drug or alcohol usage was a factor leading to the underlying offense.
- Narrows the scope of ILC by making an offender charged with a felony sex offense ineligible for ILC.
- Modifies the type of record sealing that may be granted under an ILC order.

Sealing a record of conviction

- Broadens the application of the Conviction Record Sealing Law by removing the cap, previously based on total felony convictions, on eligibility for fourth or fifth degree felony and misdemeanor offenses, and by raising the caps on restricted felony and misdemeanor offenses.
- Modifies the time at which an offender may apply to have a conviction record sealed.
- Specifies that $15 of the $30 portion of the conviction record sealing application fee that is paid to the state treasury must be credited to the Attorney General Reimbursement Fund, for use by the Bureau of Criminal Identification and Investigation for expenses related to the sealing or expungement of records.

Prison term for community control sanction violation

- Modifies provisions that impose a 90-day or 180-day limit on the length of the prison term that a court may impose for a violation of a community control sanction or for a violation of a law or leaving the state without the permission of the court or probation officer by:

- Adding a new limitation specifying that if the remaining period of the offender's community control or suspended prison sentence at that time is less than 90 or 180 days, the term may not exceed the length of the remaining period of community control or suspended sentence;
- Specifying that the time the offender spends in prison under the term is credited against the offender's community control or suspended prison sentence being served at the time of the violation and that the offender, upon release, will continue serving the remaining time under the reduced community control or suspended sentence;
- Clarifying the meaning of "technical violation."

- Specifies that a court is not limited in the number of times it may sentence an offender to a prison term for a violation of the conditions of a community control sanction or for a violation of a law or leaving the state without permission.

Involuntary court-ordered treatment for alcohol or drug abuse

- Modifies the criteria governing applications for, granting of, and treatment under a mechanism providing for a probate court order requiring involuntary treatment for a person suffering from alcohol or other drug abuse.
- Provides for the emergency hospitalization of a respondent, separate from the treatment ordered by the court, if the court determines that the respondent presents an imminent danger or imminent threat of danger to self, family, or others as a result of alcohol or other drug abuse.
- Specifies that, in addition to the preexisting sanction of contempt of court, if a respondent fails to complete court-ordered treatment under the mechanism, the court may require the respondent to appear at a specified time and place.

State Criminal Sentencing Commission

- Expands the duties of the State Criminal Sentencing Commission by:
  - Designating the Commission as a criminal justice agency so that it is authorized to apply for access to the computerized databases of the National Crime Information Center or LEADS, and to other computerized databases administered for the purpose of making criminal justice information accessible to state criminal justice agencies;
  - Requiring the Commission to study the impact of sections relevant to the act on an ongoing basis and to make biennial reports to the General Assembly and the Governor, commencing not later than December 31, 2021.

Prohibition against restraints on pregnant delinquent child or pregnant woman offender

- Generally prohibits a law enforcement, court, or corrections official (hereafter designated official) from knowingly restraining or confining a pregnant charged or

adjudicated child or pregnant criminal offender during the child's or woman's pregnancy, hospital transport, labor, delivery, or postpartum recovery.

- Provides that a violation is the offense of "interfering with civil rights," and permits the pregnant child or woman to file a civil action for damages against the designated official who committed the violation, the official's employing agency, or court.
- Requires the Attorney General to provide training materials to law enforcement, court, and corrections officials to train employees on the proper implementation of the requirements regarding restraining or confining a pregnant child or woman.

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DETAILED ANALYSIS

Intervention in lieu of conviction – drug or alcohol usage a factor

The act broadens the scope of the "intervention in lieu of conviction" (ILC) program to require the court, at a minimum, to hold an eligibility hearing for each application for ILC that alleges that drug or alcohol usage by the applicant offender was a factor leading to the underlying criminal offense. For applications alleging a different authorized basis, as under continuing law, the court may reject the application without a hearing. The act also requires the court, in making a decision as to whether to grant ILC at the conclusion of a hearing on an ILC petition alleging any of the authorized bases for the ILC, to presume that ILC is appropriate and, unless the court finds specific reasons to believe that the candidate's participation in ILC would be inappropriate, to grant the ILC. If the court denies an eligible offender's request for ILC, the court must state the reasons for denial, with particularity, in a written entry.[1]

For applications that are approved, the act caps the mandatory terms of the intervention plan established for the offender granted the ILC at no more than five years. Continuing law requires every intervention plan to impose certain mandatory terms and conditions and authorizes every plan to include any other treatment or community control-like terms and conditions ordered by the court. The mandatory terms and conditions must require the offender to do all of the following for at least one year from the date the court grants ILC:[2]

- Abstain from the use of illegal drugs and alcohol;
- Participate in treatment and recovery support services;
- Submit to regular random drug and alcohol testing.

The act also narrows the scope of ILC eligibility by making an offender charged with a felony sex offense (defined as a violation of a prohibition in R.C. Chapter 2907 that is a felony) ineligible for ILC. Continuing law already prohibits an offender charged with a first, second, or third degree felony or an offense of violence, as well as certain other categories of offenders, from being eligible.[3] Other categories of offenders who are ineligible for ILC include offenders who: previously were convicted of a felony offense of violence; are charged with a specified drug offense in specified circumstances; committed the offense against an alleged victim who was age 65 or older or under age 13, was permanently and totally disabled, or was a peace officer engaged in official duties; or are not willing to comply with all terms and conditions the court imposes.[4]

[1] R.C. 2951.041(A)(1) and (C).

[2] R.C. 2951.041(D).

[3] R.C. 2951.041(B)(2) and (G)(8).

[4] R.C. 2951.041(B)(1) and (B)(3) to (10).

ILC procedures and outcomes

Under continuing law, the court may accept an offender's request for ILC, prior to the entry of a guilty plea, if the offender is charged with a criminal offense and the court has reason to believe that drug or alcohol usage by the offender was a factor leading to the offense, or that the offender had a mental illness, was a person with an intellectual disability, or was a victim of the offense of trafficking in persons or of compelling prostitution, and the mental health issue or victimization was a factor leading to the offender's criminal behavior. The procedures regarding a rejection of a request without a hearing, or the conduct of a hearing upon a request, are modified by the act as described above. Under continuing law, if a request is approved by the court, the court must accept the offender's plea of guilty and waiver of rights to a speedy trial, preliminary hearing, time period for consideration of an indictment, and arraignment. The court then may stay all criminal proceedings, order the offender to comply with the terms and conditions of a court-ordered intervention plan, and place the offender under a specified type of supervision. If the court finds that the offender has successfully completed the intervention plan, the court must dismiss the proceedings against the offender with no adjudication of guilt or criminal conviction.

Under former law, the court could order that records related to the offense in question be sealed under the Conviction Record Sealing Law – the act modifies this provision to instead specify that the court may order that records related to the offense in question be sealed under the Not Guilty/Dismissed Charges/No Bill Record Sealing Law.[5]

Sealing a record of conviction

Expansion of eligible offenders

The act expands the Conviction Records Sealing Law[6] so that more offenders are eligible to have their conviction records sealed.

First, it eliminates a cap, previously based on the total number of felony convictions, on the number of fourth and fifth degree felony convictions and misdemeanor convictions that an offender is eligible to seal. Under former law, an offender convicted of one or more offenses, all of which were fourth or fifth degree felonies or misdemeanors and were not offenses of violence or felony sex offenses, generally was eligible to have the record of those convictions sealed; but if the offender had been convicted of more than five felonies of any degree, the offender was not eligible under the provision to have the record of any of the convictions sealed. Under the act, there is no cap on the total number of felony convictions that determine an offender's eligibility. As a result, under the act, anyone who has been convicted of one or more offenses is eligible to have the records of those convictions sealed if all of the offenses are

[5] R.C. 2951.041. The Not Guilty/Dismissed Charges/No Bill Record Sealing Law is located in R.C. 2953.51 to 2953.56, not in the act.

[6] R.C. 2953.31 to 2953.36, not in the act except for R.C. 2953.31 and 2953.32.

fourth and fifth degree felonies or misdemeanors and none of them are offenses of violence or felony sex offenses.[7]

The act also expands the alternative provision that qualifies an offender to whom the above eligibility provision does not apply to have sealed one felony conviction, up to two misdemeanor convictions, or one felony conviction and one misdemeanor conviction. Under the act, a person who cannot utilize the above sealing eligibility provision is eligible to have sealed not more than two felony convictions, not more than four misdemeanor convictions, or, if the person has exactly two felony convictions, has not more than those two felony convictions and two misdemeanor convictions. The act specifies that the conviction that is requested to be sealed must be one that is not ineligible for sealing under continuing law, as described in the next paragraph.[8]

The following criminal records may not be sealed under continuing law:[9]

- Convictions when the offender is subject to a mandatory prison term;
- Convictions for rape, sexual battery, unlawful sexual conduct with a minor,[10] gross sexual imposition, sexual imposition, pandering obscenity involving a minor, pandering sexually oriented material involving a minor, illegal use of a minor in a nudity-oriented material or performance, or various traffic laws;
- Convictions of an offense of violence when the offense is a first degree misdemeanor or felony and is not a first degree misdemeanor riot, assault, or inciting to violence, or inducing panic offense;
- Convictions on or after October 10, 2007, of importuning or a municipal ordinance similar to that offense;
- Convictions on or after October 10, 2007, 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 was a person under 18 years old;
- Convictions of a first degree misdemeanor or felony offense against a victim who was 16 years old or younger, other than convictions for nonsupport or contributing to nonsupport of dependents;

[7] R.C. 2953.31(A)(1)(a).

[8] R.C. 2953.31(A)(1)(b).

[9] R.C. 2953.36, not in the act.

[10] H.B. 431 of the 133rd General Assembly, which passed on the same day as H.B. 1, authorizes record sealing for offenders convicted of the offense of unlawful sexual conduct with a minor, if the offender was under age 21 at the time of committing the offense and the court issues an order pursuant to H.B. 431 terminating the offender's duties under the Sex Offender Registration and Notification (SORN) Law. The final analysis of H.B. 431 is available on the General Assembly's website.

- Convictions for first degree felonies or second degree felonies;
- Bail forfeitures in traffic cases.

Timing of application

The act modifies the time at which an offender may apply to have a record sealed under the Conviction Record Sealing Law, such that an offender convicted of a third degree felony may apply at the expiration of three years after the offender's final discharge, and an offender convicted of a fourth or fifth degree felony or a misdemeanor may apply at the expiration of one year after final discharge.[11]

Under former law, application could be made at one of the following times:

- At the expiration of three years after the offender's final discharge if convicted of one felony;
- If convicted of one or more offenses, but not more than five felonies, that are fourth or fifth degree felonies or misdemeanors and none of which are an offense of violence or a felony sex offense, at the expiration of four years after the offender's final discharge if convicted of two felonies, or at the expiration of five years after final discharge if convicted of three, four, or five felonies;
- At the expiration of one year after the offender's final discharge if convicted of a misdemeanor.

Application fees – Attorney General Reimbursement Fund

Continuing law, modified in part by the act, specifies that an applicant may request the sealing of the records of more than one case in a single application and, upon filing an application, the applicant, unless indigent, must pay a fee of $50, regardless of the number of records the application requests to have sealed. Of the fee paid, the court must pay $30 into the state treasury, and $20 into the county general revenue fund, if the sealed conviction or bail forfeiture was pursuant to a state statute, or into the general revenue fund of the municipal corporation involved, if the sealed conviction or bail forfeiture was pursuant to a municipal ordinance. The act modifies this to specify that $15 of the $30 paid into the state treasury must be credited to the Attorney General Reimbursement Fund. The $15 amounts credited to the fund must be used by the Bureau of Criminal Identification and Investigation for expenses related to the sealing or expungement of records.[12]

[11] R.C. 2953.32(A)(1)(a) and (b).

[12] R.C. 109.11 and 2953.32(C)(3).

Prison term for community control sanction violation

Prison term as a sanction

The act specifies that a court is not limited in the number of times it may sentence an offender to a prison term as a penalty for a violation of the conditions of a community control sanction or for a violation of a law or leaving the state without the permission of the court or the offender's probation officer. If a court sentences an offender to a prison term as such a penalty, if the offender is released from the term after serving it, and if the offender subsequently violates the conditions of the sanction or violates a law or leaves the state without the permission of the court or the offender's probation officer, the court may impose a new prison term sanction on the offender for the subsequent violation or conduct.[13]

The act also modifies the application of the 90-day and 180-day limitations on the use of a prison term as a sanction for a technical violation of community control, as follows:[14]

1. If the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a fifth degree felony, the prison term may not exceed 90 days. If the remaining period of community control at the time of the violation or the remaining period of the suspended prison sentence at that time is less than 90 days, the prison term may not exceed the remaining period of community control or of the suspended prison sentence. If the court imposes a prison term as described in this paragraph, the rules described in paragraph (3), below, apply.
2. If the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a fourth degree felony that is not an offense of violence and is not a sexually oriented offense, the prison term may not exceed 180 days. If the remaining period of community control at the time of the violation or the remaining period of the suspended prison sentence at that time is less than 180 days, the prison term may not exceed the remaining period of community control or of the suspended prison sentence. If the court imposes a prison term as described in this paragraph, the rules described in paragraph (3), below, apply.
3. If a court imposes a prison term on an offender as described in paragraph (1) or (2) for a technical violation of the conditions of a community control sanction, one of the following applies with respect to the time that the offender spends in prison under the term: (a) subject to the rule in clause (b), the time spent in prison must be credited against the offender's community control sanction that was being served at the time of the violation, the remaining time under that community control sanction must be reduced by the time that the offender spends in prison under the prison term, and the offender upon release from the prison term will continue serving the remaining time under the community control sanction, as reduced as described in this clause, and (b) if

[13] R.C. 2929.15(B)(2)(c).

[14] R.C. 2929.15(B)(1) and (2)(b).

the offender at the time of the violation was serving a community control sanction as part of a suspended prison sentence, the time spent in prison must be credited against the offender's community control sanction that was being served at the time of the violation and against the suspended prison sentence, the remaining time under that community control sanction and suspended prison sentence must be reduced by the time that the offender spends in prison under the prison term, and the offender upon release from the prison term will continue serving the remaining time under the community control sanction, as reduced as described in this clause.

Definition of "technical violation"

Significant to the act's limitation provisions described above, the act defines a "technical violation" as a violation of the conditions of a community control sanction imposed for a fifth degree felony, or for a fourth degree felony that is not an offense of violence and is not a sexually oriented offense, and to which neither of the following applies: (a) the violation consists of a new criminal offense that is a felony or that is a misdemeanor other than a minor misdemeanor, and the violation is committed while under the community control sanction, and (b) the violation consists of or includes the offender's articulated or demonstrated refusal to participate in the community control sanction imposed on the offender or any of its conditions, and the refusal demonstrates to the court that the offender has abandoned the objects of the community control sanction or condition.[15]

Involuntary court-ordered treatment for alcohol or drug abuse

In general

The act modifies the mechanism pursuant to which a probate court may order involuntary treatment for a person suffering from alcohol and other drug abuse, as follows:[16]

1. It specifies that the probate court must, instead of may as under former law, order treatment if, upon completion of the hearing after the probable cause determination, the court finds by clear and convincing evidence that the respondent may reasonably benefit from treatment.

2. It specifies that evidence that the respondent has overdosed and been revived one or more times by an opioid antagonist, overdosed in a vehicle, or overdosed in the presence of a minor is sufficient to satisfy the evidentiary requirement that the respondent may reasonably benefit from treatment, which is required as the criterion for the court to order treatment for the respondent.

3. It specifies that, if the court orders treatment, the court must specify the type of treatment to be provided, the type of required aftercare, and the duration of the required aftercare, which must be at least three months and may not exceed six months. In addition to ordering the treatment through an entity or person specified

[15] R.C. 2929.15(E)(1) and (2).

[16] R.C. 5119.93(A), (B)(7), (C)(1), and (D) and 5119.94(A) to (D)(1)(a).

under continuing law, the court also may order that the respondent submit to periodic examinations by a qualified mental health professional to determine if the treatment remains necessary.

4. It removes the requirement that the petitioner pay any filing fee to initiate the proceedings for treatment of the respondent.

5. It specifies that the petition must be kept confidential and may not be disclosed by any person, except as needed for purposes of the mechanism or when disclosure is ordered by a court.

6. It requires that if the petitioner believes that the respondent is suffering from opioid or opiate abuse, the information provided in the petition also must include any evidence that the respondent has overdosed and been revived one or more times by an opioid antagonist, overdosed in a vehicle, or overdosed in the presence of a minor.

7. It specifies that a physician who is responsible for admitting persons into treatment, if that physician examines the respondent, may be the physician who completes the required examination certificate.

8. It modifies the requirement that the petition include a security deposit and a guarantee or payment of the costs of examinations of the respondent to instead require that the petition be accompanied by both of the following:

   a. One of the following: (i) a security deposit deposited with the probate court's clerk that will cover half of the estimated cost of the respondent's treatment, (ii) documentation establishing that the petitioner's or respondent's insurance coverage will cover at least half of that estimated cost, or (iii) other evidence to the satisfaction of the court establishing that the petitioner or respondent will be able to cover some of the estimated cost of the respondent's treatment;

   b. One of the following: (i) a guarantee, signed by the petitioner or another person authorized to file the petition, obligating the guarantor to pay the costs of the respondent's examinations conducted by the physician and qualified health professional, the costs of the respondent associated with the hearing under the mechanism and that the court determines to be appropriate, and the costs of any treatment ordered by the court, (ii) documentation establishing that the petitioner's or respondent's insurance coverage will cover the costs described in clause (i), or (iii) documentation establishing that, consistent with the evidence described in (8)(a)(iii), the petitioner or respondent will cover some of the costs described in clause (i).

9. It modifies the examination provisions that apply after the court's probable cause determination so that the examination is to be conducted by a qualified health professional (instead of by both a qualified health professional and a physician) who then is to certify findings of the examination to the court within 24 hours.

Emergency hospitalization

Under the act, the court may order that the respondent be hospitalized for a period not to exceed 72 hours, separate from the treatment ordered by the court, if (1) the qualified health professional who examines the respondent after the probable cause determination certifies that the respondent is suffering from alcohol and other drug abuse and presents an imminent danger or imminent threat of danger to self, family, or others if not treated for alcohol or other drug abuse, (2) the court orders treatment for the respondent, and (3) the court finds by clear and convincing evidence that the respondent presents an imminent danger or imminent threat of danger to self, family, or others as a result of alcohol or other drug abuse. The court must direct that the order be executed as soon as possible, but not later than 72 hours, after its issuance. If the order cannot be executed within 72 hours after its issuance, it remains valid for "60 days" after its issuance, subject to tolling as described below, and may be executed at any time during that "six-month period" or that "six-month period" as extended by the tolling (the act is unclear in this provision, regarding the period of validity of the order).

A respondent who has been admitted to a hospital under this provision must be released within 72 hours of admittance, unless the respondent voluntarily agrees to remain longer. A respondent who voluntarily agrees to remain longer may be hospitalized for the additional period of time agreed to by the respondent. No respondent ordered to be hospitalized may be held in jail pending transportation to the hospital unless the court has previously found the respondent to be in contempt of court for either failure to undergo treatment or failure to appear at an evaluation ordered under this section.

The "six-month period" for execution of an order specified in the preceding paragraph will not run during any time when the respondent purposely avoids execution of the order. Proof that the respondent departed Ohio or concealed the respondent's identity or whereabouts is prima-facie evidence of the respondent's purpose to avoid the execution.[17]

Failure of respondent to complete ordered treatment

Under continuing law, if a court orders a respondent to undergo treatment under the mechanism, the failure of the respondent to undergo and complete the court-ordered treatment is contempt of court. Any community addiction services provider or person providing the treatment must notify the probate court of a respondent's failure to undergo or complete the ordered treatment.

The act adds an additional sanction if a respondent fails to undergo and complete the court-ordered treatment. It specifies that, in addition to and separate from contempt of court, if a respondent fails to undergo and complete any court-ordered treatment, the court may issue a summons, to be directed to the respondent and to command the respondent to appear at a time and place specified in the summons. If a respondent who has been summoned fails to appear at the specified time and place, the court may order a peace officer to transport the respondent to a place at which treatment originally may be ordered (e.g., a community

[17] R.C. 5119.94(D)(1)(b).

addiction services provider, an individual licensed by the State Medical Board, etc.) or a hospital for treatment. The peace officer, with the approval of the officer's agency, may provide for transportation of the respondent by a private entity. The transportation costs of the peace officer or the private entity are to be included within the costs of treatment.[18]

State Criminal Sentencing Commission

The act expands the duties of the State Criminal Sentencing Commission (SCSC), as follows:[19]

1. It designates SCSC as a criminal justice agency, as defined in R.C. 109.571, and specifies that, as such, the SCSC is authorized by the state to apply for access to the computerized databases administered by the National Crime Information Center or the Law Enforcement Automated Data System (LEADS) in Ohio, and to other computerized databases administered for the purpose of making criminal justice information accessible to state criminal justice agencies.
2. It requires SCSC:
    a. By July 12, 2021, to commence a study of the impact of sections relevant to the act, including:
        i. Conviction record sealing (R.C. 109.11, 2953.31, and 2953.32);
        ii. Prison term for community control sanction violation (R.C. 2929.15);
        iii. Intervention in lieu of conviction (R.C. 2951.041); and
        iv. Involuntary court-ordered treatment for alcohol or drug abuse (R.C. 5119.93 and 5119.94).
    b. To continue studying that impact on an ongoing basis and, beginning not later than December 31, 2021, biennially submit to the General Assembly and the Governor a report of its findings and recommendations.

Prohibition against restraints on pregnant delinquent child or pregnant woman offender

With certain exceptions, the act prohibits any law enforcement, court, or corrections official (hereafter, designated official), with knowledge that the female child or woman is pregnant, from knowingly "restraining" or "confining" a female child who is a "charged or adjudicated delinquent child" or a woman who is a "charged or convicted criminal offender" during any of the following time periods:[20]

1. If the child or woman is pregnant, at any time during her pregnancy;

[18] R.C. 5119.94(D)(2).

[19] R.C. 181.27.

[20] R.C. 2152.75(B) and 2901.10(B).

2. If the child or woman is pregnant, during transport to a hospital or during labor or delivery;

3. If the child or woman was pregnant, during any period of postpartum recovery up to six weeks after the child's or offender's pregnancy.

Note that this analysis hereafter uses the terms pregnant delinquent child or pregnant woman offender to designate the appropriate child or woman covered by the act.

"**Restrain**" means to use any shackles, handcuffs, or other physical restraint.[21]

"**Confine**" means to place in solitary confinement in an enclosed space.[22]

Penalty

A violation of this prohibition is the offense of "interfering with civil rights." It expands the types of violations that constitute the offense of "interfering with civil rights" under continuing law, which prohibits any public servant, under color of the servant's office, employment, or authority, from knowingly depriving, or conspiring or attempting to deprive any person of a constitutional or statutory right. The offense of "interfering with civil rights" is a misdemeanor of the first degree.[23]

Civil remedy

The act permits a child or woman who is restrained or confined in violation of any of the above prohibitions in (1), (2), or (3) to commence a civil action under R.C. 2307.60 (civil action for damages for criminal act) against the designated official who committed the violation, the official's employing agency or court, or both. In addition to the full damages specified in that section, the child or woman may recover punitive damages, the costs of maintaining the action and reasonable attorney's fees, or both. The penalty for the new criminal offense of "interfering with civil rights" and the civil remedy above do not limit a person's right to obtain injunctive relief or recover damages in a civil action under any other statutory or common law of Ohio or the United States.[24]

Exceptions to prohibition

The act generally permits a designated official to restrain or confine a pregnant delinquent child or pregnant woman offender during a period of time specified in (1), (2), or (3) above if all of the following apply:[25]

- The official determines that the pregnant delinquent child or pregnant woman offender presents a serious threat of physical harm to herself, the official, other law enforcement

[21] R.C. 2152.75(A)(4) and 2901.10(A)(4).

[22] R.C. 2152.75(A)(5) and 2901.10(A)(5).

[23] R.C. 2152.75(F)(1), 2901.10(F)(1), and 2921.45.

[24] R.C. 2152.75(F)(2) and (3) and 2901.10(F)(2) and (3).

[25] R.C. 2152.75(C)(1) and 2901.10(C)(1).

or court personnel, or any other person, presents a serious threat of physical harm to property, presents a substantial security risk, or presents a substantial flight risk.

- Prior to restraining or confining the child or woman, the official contacts a "health care professional" (defined as a physician, registered nurse, certified nurse-midwife, or physician assistant[26]) who is treating the child or woman, notifies the professional that the official wishes to restrain or confine the child or woman, and identifies the type of restraint and the expected duration of its use or communicates the expected duration of confinement.
- Upon being contacted by the official, the health care professional does not object to the use of the specified type of restraint for the expected duration of its use or does not object to the expected duration of confinement.

The act precludes a health care professional from objecting to the type of restraint for the expected duration of its use, or the expected duration of confinement, unless the professional determines that the type of restraint, its use for the expected duration, or the expected duration of the confinement poses a risk of physical harm to the child or woman or the "unborn child." The act defines "unborn child" as a member of the species homo sapiens who is carried in the womb of a child who is a charged or adjudicated delinquent child or in the womb of a woman who is a charged or adjudicated (note that the term should be convicted) criminal offender, whichever is applicable, during a period that begins with fertilization and continues until live birth occurs.[27]

Emergency circumstance

The act provides that a designated official is not required to contact a health care professional who is treating the child or woman prior to restraining the child or woman if an "emergency circumstance" exists, which it defines as a sudden, urgent, unexpected incident or occurrence that requires an immediate reaction and restraint of the child or woman for an emergency situation faced by a law enforcement, court, or corrections official. The use of restraint in an emergency circumstance must be in accordance with the act's restrictions on what types of restraints cannot be used (see "**Restrictions on restraints**," below). Once the child or woman is restrained, the official must contact a health care professional who is treating the child or woman and identify the type of restraint and the expected duration of its use.[28]

Prohibition against restraints upon notice by a health care professional

The act also prohibits a designated official from restraining or confining a pregnant delinquent child or pregnant woman offender if, prior to the use of the restraint or

[26] R.C. 2152.75(A)(2) and 2901.10(A)(2) by reference to R.C. 2108.61, not in the act.

[27] R.C. 2152.75(A)(6) and (C)(2) and 2901.10(A)(6) and (C)(2).

[28] R.C. 2152.75(A)(7) and (C)(1)(b)(ii) and 2901.10(A)(7) and (C)(1)(b)(ii).

confinement, a health care professional provides a notice to the official, the official's employing agency, or court stating that any restraint or confinement of the child or woman during any such period of time poses a risk of physical harm to the child or woman or to the unborn child of either. Such notice applies throughout all such specified periods of time that occur after the provision of the notice.[29]

Restrictions on restraints

The act prohibits a designated official who restrains a pregnant delinquent child or pregnant woman offender from using any leg, ankle, or waist restraint to restrain the child or woman. If a designated official restrains or confines a pregnant delinquent child or pregnant woman offender, the official must remove the restraint or cease confinement if, at any time while the restraint is in use or the child or woman is confined, a health care professional who is treating the child or woman provides a notice to the official, the official's employing agency, or court stating that the restraint or confinement poses a risk of physical harm to the child or woman or to either's unborn child.[30]

Training materials

The act requires the Attorney General to provide training materials to law enforcement, court, and corrections officials on restraining or confining a pregnant child or woman to train employees on the proper implementation of the requirements regarding restraining or confining a pregnant child or woman.[31]

Definitions

The act defines the following terms:

"**Charged or adjudicated delinquent child**" means any female child to whom both of the following apply: (a) the child is charged with, is subject to juvenile court proceedings, has been adjudicated a delinquent child, or is serving a disposition, and (b) the child is in custody of any law enforcement, court, or corrections official.[32]

"**Charged or adjudicated criminal offender**" means any woman to whom both of the following apply: (a) the woman is charged with or, with respect to a crime, is being tried for, has been convicted or pleaded guilty, or is serving a sentence, and (b) the woman is in custody of any law enforcement, court, or corrections official. Note that the term should be "charged or convicted criminal offender," as that is how the term is used throughout the act.[33]

[29] R.C. 2152.75(E)(2) and 2901.10(E)(2).

[30] R.C. 2152.75(D) and (E)(1) and 2901.10(D) and (E)(1).

[31] R.C. 109.749.

[32] R.C. 2152.75(A)(1).

[33] R.C. 2901.10(A)(1).

HISTORY

Action	Date
Introduced	05-21-19
Reported, H. Criminal Justice	06-18-19
Passed House (91-6)	06-19-19
Reported, S. Judiciary	12-09-20
Passed Senate (31-1)	12-17-20
House concurred in Senate amendments (84-1)	12-22-20

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