



Ohio Legislative Service Commission

Bill Analysis

David M. Gold

H.B. 268

131st General Assembly
(As Introduced)

Reps. Hall and Dever, Anielski, Baker, Barnes, Becker, Boose, Conditt, DeVitis, Green, Grossman, Hambley, T. Johnson, Kraus, LaTourette, Maag, McColley, S. O'Brien, Patmon, Rezabek, Ruhl, Ryan, Schuring, Slaby, Sprague, Thompson, Young

BILL SUMMARY

- Authorizes expungement of records of juvenile delinquency adjudications or criminal convictions of certain offenses if the offender was a victim of human trafficking.
 - Specifies that the offenses that may be expunged include drug abuse offenses, sex offenses, theft offenses, offenses of violence, and the offense of failing to take reasonable precautions to avoid exposing others to a dangerous, contagious disease.
 - Increases the penalties for compelling prostitution and promoting prostitution.
 - Authorizes intervention in lieu of conviction for a person whose criminal activity resulted from the person's status as a victim of compelling prostitution.
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CONTENT AND OPERATION

Expungement of delinquency and criminal records

The bill expands the list of juvenile delinquency and criminal conviction records that may be expunged because the person who was adjudicated a delinquent child or was convicted committed the delinquent or criminal act as a result of having been a victim of human trafficking. Under current law, a person may apply to the court for expungement of a record of adjudication of delinquency or a conviction for soliciting, loitering to engage in solicitation, or prostitution if the adjudication or conviction resulted from the person's being a victim of human trafficking. The bill expands the lists of expungeable adjudications and convictions to include any drug abuse offense, sex offense, theft offense, offense of violence, or the offense of failing to take reasonable

measures to prevent exposing oneself to others when the offender knows or has reasonable cause to believe that the offender is suffering from a dangerous, contagious disease.¹

The bill defines "drug abuse offense" to include a wide variety of drug-related offenses, such as possession of, manufacture of, and trafficking in controlled substances. It defines "sex offense" to include any offense in R.C. Chapter 2907. "Theft offense" as used in the bill means any of a variety of offenses under R.C. Chapter 2911. (robbery, burglary, etc.) or Chapter 2913. (theft, fraud, etc.).²

Penalties for compelling prostitution and promoting prostitution

The bill increases the penalties for compelling prostitution and promoting prostitution. Compelling prostitution includes not only forcing another person to engage in sexual activity for hire but also other actions such as inducing, procuring, or otherwise facilitating a minor to engage in sexual activity for hire or paying a minor or a minor's agent for the minor's participation in sexual activity for hire.³ Under current law, compelling prostitution is generally a felony of the third degree, but the degree of the offense increases under certain circumstances. If the offender knowingly compels a 16 or 17 year-old to engage in sexual activity for hire, the offense is a felony of the second degree. If the person compelled is under 16, the offense is a felony of the first degree. The bill makes every form of compelling prostitution a felony of the first degree.⁴

Promoting prostitution includes knowingly establishing or controlling a brothel, managing the activities of prostitutes, transporting others to facilitate their engagement in prostitution, and similar activities.⁵ The offense is generally a felony of the fourth degree, but it is a felony of the third degree if a prostitute in the brothel or the person whose activities are managed or who is transported is a minor. The bill makes promoting prostitution a felony of the first degree in all cases.⁶

¹ R.C. 2151.358(E)(1) and 2953.38(B).

² R.C. 2151.358(E)(2) and 2953.38(A)(5), (6), and (7).

³ R.C. 2907.21(A), unchanged by the bill.

⁴ R.C. 2907.21(C).

⁵ R.C. 2907.22(A), unchanged by the bill.

⁶ R.C. 2907.22(B).

The allowable terms of imprisonment and the maximum fines for felonies of the fourth, third, second, and first degrees are show in the following table.⁷

Degree of Felony	Possible Terms of Imprisonment	Maximum Fines
Fourth	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months	\$5,000
Third	9, 12, 18, 24, 30, or 36 months	\$10,000
Second	2, 3, 4, 5, 6, 7, or 8 years	\$15,000
First	3, 4, 5, 6, 7, 8, 9, 10, or 11 years	\$20,000

Intervention in lieu of conviction

The bill allows a victim of compelling prostitution to request intervention in lieu of conviction (ILC) under the same conditions that apply to a victim of trafficking in persons.

Under the Revised Code, a person charged with a criminal offense may request ILC if (1) drug or alcohol usage by the offender was a factor leading to the criminal offense or (2) at the time of committing that offense, the offender had a mental illness, was a person with intellectual disability, or was a victim of a violation of trafficking in persons and the mental illness, status as a person with intellectual disability, or fact that the offender was a victim of trafficking in persons was a factor leading to the offender's criminal behavior. To be eligible for ILC, a person must not have a prior conviction of an offense of violence or of a first, second, or third degree felony and must meet other criteria, depending on the circumstances of the offense or the grounds on which the person requests ILC. For example, a person who bases the request on status as a victim of trafficking in persons must be assessed by a psychiatrist or other specified professional for the purposes of determining the person's eligibility and recommending an intervention plan. Also, the court must find that ILC will not demean the seriousness of the offense and that intervention will substantially reduce the likelihood of future criminal activity. If the court grants ILC, the person remains under court supervision while undergoing intervention. If the person successfully completes the plan of

⁷ R.C. 2929.14(A) (excluding terms for third degree felonies not relevant to the bill) and 2929.18(A)(3), both unchanged by the bill.



intervention, the criminal proceeding is dismissed; if not, the court enters a finding of guilty.⁸

COMMENT

R.C. 2951.041 was amended by H.B. 64 of the 131st General Assembly. The bill needs to be updated to include the current version of the section.

HISTORY

ACTION	DATE
Introduced	06-22-15

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⁸ R.C. 2951.041.

