



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Jeff Hobday

Am. H.B. 405

132nd General Assembly
(As Reported by H. Criminal Justice)

Reps. Perales, Butler, Boccieri, Dever, Fedor, Miller, Schaffer, Sheehy, Slaby, K. Smith, Sweeney, Vitale, Manning, Rezabek, Celebrezze, Galonski, Rogers, Seitz

BILL SUMMARY

- Creates the criminal offense of counterfeiting, prohibiting certain conduct involving counterfeited currency, other securities, or debit or credit cards.
 - Specifies penalties ranging from a fourth degree felony to a first degree felony based on the value of the counterfeit involved or the number of debit or credit cards involved.
 - Provides that a person may be prosecuted for counterfeiting and related offenses, but if they involve the same conduct and the same victim, the two or more offenses must merge for conviction and sentencing as allied offenses of similar import.
 - Adds counterfeiting to the list of offenses included within the definition of "corrupt activity" applicable to the Corrupt Activities Law.
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CONTENT AND OPERATION

Counterfeiting

Prohibited conduct

The bill creates the offense of "counterfeiting." A person is guilty of counterfeiting if the person, with purpose to defraud or knowing that the person is facilitating a fraud, does any of the following:¹

¹ R.C. 2913.30(B).

(1) Falsely make, forge, counterfeit, or alter any "obligation or other security" of the United States (an instrument recognized as currency or legal tender or that is issued by the U.S. Treasury, including bills, coins, bonds, or checks²);

(2) Pass, utter,³ sell, purchase, conceal, or transfer any counterfeit obligation or other security of the United States;

(3) Possess with the purpose to utter any obligation or other security of the United States, knowing it has been counterfeited;

(4) Without authorization of the issuer, falsely make, forge, counterfeit, alter, or knowingly possess any "access device" (meaning, any debit or credit card representing a monetary security or retail amount by any financial institution, including a bank, savings bank, savings and loan association, credit union, or business entity⁴).

Penalties for counterfeiting

Under the bill, counterfeiting is generally a fourth degree felony and the court must impose a fine of at least \$500 and not more than \$5,000. The penalty for counterfeiting increases with the value of the counterfeited obligations or other securities or access devices:⁵

- If the value of the counterfeit is \$5,000 or more but less than \$100,000, or if the offense involves five or more access devices, counterfeiting is a third degree felony.
- If the value of the counterfeit is \$100,000 or more but less than \$1 million, counterfeiting is a second degree felony.
- If the value of the counterfeit is \$1 million or more, counterfeiting is a first degree felony.

Allied offenses of similar import

The Revised Code prohibits the conviction of a defendant of more than one offense when the same conduct by a defendant can be construed to constitute two or

² R.C. 2913.30(A)(2).

³ In this context, to "utter" means "to put or send (a document) into circulation; esp., to circulate (a forged note) as if genuine." *Black's Law Dictionary* 1781 (10th ed. 2014).

⁴ R.C. 2913.30(A)(1).

⁵ R.C. 2913.30(C).

more allied offenses of similar import.⁶ The bill states that a prosecution for counterfeiting does not preclude a prosecution of theft, forgery, forging identification cards or selling or distributing forged identification cards, or criminal simulation. However, the bill further provides that if an offender is convicted of counterfeiting and another of those offenses based on the same conduct involving the same victim, the two or more offenses are allied offenses of similar import, meaning that the offender may be convicted and sentenced for only one of the offenses.⁷

Corrupt activity

The bill adds the crime of "counterfeiting" to the definition of "corrupt activity" for purposes of the Corrupt Activities Law. "Corrupt activity" is engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the offenses listed in current law.⁸ Under current law, unchanged by the bill, a person who engages in a pattern of corrupt activity may be subject to criminal penalties and fines, property forfeiture, a civil proceeding from a person seeking relief, and a corrupt activity lien.⁹

HISTORY

| ACTION | DATE |
|-------------------------------|-------------|
| Introduced | 11-07-17 |
| Reported, H. Criminal Justice | 01-24-18 |

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⁶ R.C. 2941.25(A), not in the bill.

⁷ R.C. 2913.30(D).

⁸ R.C. 2923.31(I).

⁹ R.C. 2923.32, 2923.34, and 2923.36, not in the bill.

