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Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Schaffer

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SUMMARY

- Specifies that any rules of records retention by certain records commissions cannot provide for the disposal of any records related to the death, felonious assault, or aggravated assault of a peace officer under certain circumstances.
- Eliminates the 20-year period of limitation for felonious assault and aggravated assault when the victim is a peace officer.
- Increases from six years to 20 years the period of limitation for conspiracy to commit, attempt to commit, or complicity in committing aggravated murder or murder.
- Increases the penalties for aggravated assault, tampering with evidence, falsification, and falsification in a theft offense.
- Modifies the elements of tampering with evidence.
- Allows a victim of tampering with evidence, or a family member of a victim when the violation is committed by a public official to bring a civil action for defamation under certain circumstances and specifies that the period of limitation for this civil action for defamation is 20 years.
- Names the act "Cooper's Law."

DETAILED ANALYSIS

Retention of records related to death or assault of peace officer

The bill provides that any rules of records retention by a county records commission, a records commission created in a municipal corporation, or a township records commission cannot provide for the disposal of any records related to the death, felonious assault, or

aggravated assault of a peace officer when the peace officer, at the time of the commission of the offense, was engaged in the peace officer's duties.¹

Period of limitation

The bill eliminates the current 20-year period of limitation for felonious assault or aggravated assault when the victim is a peace officer and instead specifies that there is no period of limitation for those offenses under those circumstances. The bill also increases from six years to 20 years the period of limitation for a conspiracy to commit, attempt to commit, or complicity in committing aggravated murder or murder.²

Penalties for aggravated assault, tampering with evidence, falsification, and falsification in a theft offense

The bill increases the penalty for aggravated assault from a third degree felony to a second degree felony under the following circumstances:³

1. When the victim of the offense is a peace officer or a Bureau of Criminal Identification and Investigation (BCI) investigator;
2. When the victim of the offense is a peace officer or BCI investigator and the victim suffered serious physical harm as a result of the aggravated assault.

The bill increases the penalty from a first degree misdemeanor to a fourth degree felony for the following circumstances related to the offense of falsification:⁴

1. The false statement is made in any official proceeding.
2. The false statement is made with purpose to incriminate another.
3. The false statement is made with purpose to mislead a public official in performing the public official's official function.
4. The false statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
5. The false statement is in writing on or in connection with a report or return that is required or authorized by law.

The bill also increases the penalties for falsification in a theft offense (false statement made with purpose to commit or facilitate the commission of a theft offense).⁵ The bill increases the penalty for falsification in a theft offense generally from a first degree misdemeanor to a fifth degree felony. If the value of the property or services stolen is \$1,000 or

¹ R.C. 149.382(B).

² R.C. 2901.13.

³ R.C. 2903.12(B).

⁴ R.C. 2921.13(A)(1), (2), (3), (6), (7), and (F)(1).

⁵ R.C. 2921.13(A)(9).

more and is less than \$7,500, the penalty is a fourth degree felony instead of a fifth degree felony under existing law. If the value of the property or services stolen is \$7,500 or more and is less than \$150,000, the penalty is a third degree felony instead of a fourth degree felony under existing law. If the value of the property or services stolen is \$150,000 or more, the penalty is a second degree felony instead of a third degree felony under existing law.⁶

Tampering with evidence

The bill modifies the existing offense of tampering with evidence by prohibiting a person, knowing that an official proceeding or investigation is in progress or is about to be or likely to be instituted, from doing any of the following (modification in italics):⁷

- Altering, destroying, concealing, or removing any record, document, *photograph, including a crime scene photograph*, or thing, with purpose to impair its value or availability as evidence in such proceeding or investigation;
- Making, presenting, or using any record, document, *photograph, including a crime scene photograph*, or thing, knowing it to be false, *altered, edited, cropped, or not in its original form*, and with purpose to mislead a public official *or a victim or family member of a victim* who is or may be engaged in such proceeding or investigation, or with purpose to corrupt the outcome of any such proceeding or investigation *or potential evidence that was not used but is located at a later date or retained for later investigative purposes*.

Under the bill, a person, knowing that an investigation has been completed but evidence is or becomes available, is prohibited from committing any of the acts listed in the above bullet points.⁸

The bill also increases the penalty for tampering with evidence from a third degree felony to a second degree felony.⁹

Civil action for defamation related to tampering with evidence

Under the bill, a victim of a violation of tampering with evidence, or a family member of a victim when the violation is committed by a public official, where a person, knowing that an official proceeding or investigation is in progress, is about to be or likely to be instituted, or knowing that an investigation has been completed but evidence is or becomes available, makes, presents, or uses any record, document, photograph, including a crime scene photograph, or thing, knowing it to be false, altered, edited, cropped, or not in its original form, and with purpose to mislead a public official or a victim or family member of a victim who is or may be engaged in such proceeding or investigation or potential evidence that was not used

⁶ R.C. 2921.13(F)(2).

⁷ R.C. 2921.12(A).

⁸ R.C. 2921.12(A).

⁹ R.C. 2921.12(B).

but is located at a later date or retained for later investigative purposes, and the violation impairs the record's, document's, photograph's, or thing's value as evidence, before or after the official proceeding or investigation, has and may commence a defamation action against the offender. The victim or the family member of the victim may recover full compensatory damages, punitive or exemplary damages, court costs, other reasonable expenses incurred in maintaining that action, and the reasonable attorney's fees incurred in maintaining that action.¹⁰

The bill specifies that an action for defamation must be brought within 20 years after the cause of action accrued.¹¹ Existing law provides that an action for libel or slander (including defamation¹²) must be brought within one year after the cause of action accrued.¹³

Cooper's Law

The bill states that the act is to be known as Cooper's Law.¹⁴

HISTORY

Action	Date
Introduced	02-02-21

¹⁰ R.C. 2307.68.

¹¹ R.C. 2305.118.

¹² See *Smith v. National Western Life*, 92 N.E.3d 169 (2017).

¹³ R.C. 2305.11(A), not in the bill.

¹⁴ Section 3.

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