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H.B. 276
134th General Assembly

Bill Analysis

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Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. Powell and Schmidt

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SUMMARY

- Creates the offense of receiving proceeds of prostitution that prohibits a person from receiving or acquiring money or any other thing of value knowing that the money or other thing of value was earned from sexual activity for hire or as a result of trafficking in persons.
- Makes a violation of the offense a third degree felony or second degree felony depending on the circumstances of the offense.
- Adds the offense of receiving proceeds of prostitution as a corrupt activity, subject to the Corrupt Activities Law.
- Modifies the definition of prostitute to mean a male or female who engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another, for purposes of the Sex Offenses Law.

DETAILED ANALYSIS

Receiving the proceeds of prostitution

Offense

The bill creates a new criminal offense: receiving proceeds of prostitution. The offense prohibits a person from receiving or acquiring money or any other thing of value knowing that the money or other thing of value was earned from sexual activity for hire or as a result of a violation of the prohibition against trafficking in persons.¹ The offense does not apply to a

¹ R.C. 2907.251(B).

prostitute who receives or acquires money or any other thing of value from the prostitute's own engagement in sexual activity for hire.²

Under the bill, a person who violates the prohibition is guilty of receiving proceeds of prostitution, generally a third degree felony. However, if a person violates the prohibition by knowingly receiving or acquiring money or any other thing of value from a prostitute who is under 18 years old, receiving proceeds of prostitution is a second degree felony.³

Allied offenses

Under the bill, a prosecution for a violation of receiving the proceeds of prostitution does not preclude a prosecution for a violation of any other R.C. section. One or more acts, a series of acts, or a course of behavior that can be prosecuted for a violation of receiving proceeds of prostitution or any other R.C. section may be prosecuted under receiving proceeds of prostitution, the other R.C. section, or both sections. However, if an offender is convicted of or pleads guilty to a violation of receiving proceeds of prostitution and also is convicted of or pleads guilty to compelling prostitution, promoting prostitution, prostitution, pandering obscenity, or procuring based on the same conduct involving the same victim that was the basis of the receiving proceeds of prostitution violation, the two offenses are allied offenses of similar import, subject to merger under existing law so that the person may be sentenced for only one of the offenses⁴

Corrupt activity

The bill adds the offense of receiving proceeds of prostitution to the list of offenses that constitute "corrupt activity" under the Corrupt Activities Law.⁵ 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.⁶

Corrupt activity means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in: (1) any of a list of offenses specified in continuing law, (2) any conduct constituting a substantially similar offense in another state if the defendant was convicted of the conduct in the other state, or (3) racketeering activity under federal law, animal or ecological terrorism, or certain organized retail theft conduct.⁷

² R.C. 2907.251(C)

³ R.C. 2907.251(D).

⁴ R.C. 2907.251(E) and R.C. 2941.25, not in the bill.

⁵ R.C. 2923.31 to 2923.36, not in the bill except R.C. 2923.31.

⁶ R.C. 2923.32, 2923.34, and 2923.36, not in the bill.

⁷ R.C. 2923.31(I).

Under continuing law, a “pattern of corrupt activity” is two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event; at least one of the incidents must have occurred on or after January 1, 1986, and generally, the last of the incidents must have occurred within six years of any of the prior incidents.⁸

Definitions

The bill uses the existing definition of “sexual activity for hire.” Existing law defines sexual activity for hire as an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.⁹

The bill modifies the definition of “prostitute” for purposes of Sexual Offenses Law by removing “promiscuously” from the existing law definition. The bill defines prostitute as a male or female who engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another. Existing law defines prostitute as a male or female who *promiscuously* engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.¹⁰

HISTORY

Action	Date
Introduced	04-27-21
Reported, H. Criminal Justice	03-28-22

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⁸ R.C. 2923.31(E).

⁹ R.C. 2907.251(A), by reference to 2907.24(E), not in the bill.

¹⁰ R.C. 2907.01 to 2907.38 and 2917.211, not in the bill except 2907.01 and 2907.251.