OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 16*
134th General Assembly

Bill Analysis

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Version: As Reported by House Criminal Justice

Primary Sponsor: Sen. Schaffer

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SUMMARY

Offenses relating to emergency service responders

- Increases the penalty for "assault" to a fourth degree felony if:
  - The victim is an emergency service responder (ESR), the offender knows or reasonably should know that the victim is an ESR, and it is the offender's specific purpose to commit the offense against an ESR; or
  - The victim is a family or household member or co-worker of an ESR, the offender knows or reasonably should know that the victim is a family or household member or co-worker of an ESR, and it is the offender's specific purpose to commit the offense against a family or household member or co-worker of an ESR.
- Adds a new prohibition under "menacing" that prohibits a person from knowingly placing or attempting to place another in reasonable fear of physical harm or death by displaying a deadly weapon, regardless of whether the weapon is operable or inoperable, if:
  - The other person is an ESR, the offender knows or reasonably should know that the other person is an ESR, and it is the offender's specific purpose to engage in the specified conduct against an ESR; or
  - The other person is a family or household member or co-worker of an ESR, the offender knows or reasonably should know that status of the other person, and it is the offender's specific purpose to engage in the specified conduct against a family or household member or co-worker of an ESR.

* This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- Provides that if an offender is convicted of or pleads guilty to a violation of menacing or assault based on the same conduct involving the same victim that was the basis of the violation of the offense, the two offenses are allied offenses of similar import.
- Creates the offense of "unlawfully impeding public passage of an emergency service responder," under which a person is prohibited, without privilege to do so, from recklessly obstructing a highway, street, sidewalk, or other public passage in such a manner as to render it impassable without unreasonable inconvenience or hazard if:
  - The obstruction prevents an emergency vehicle from accessing a highway or street, prevents an ESR from responding to an emergency, or prevents an emergency vehicle or an ESR from having access to an exit from an emergency; and
  - Upon an ESR's request or order to remove or cease the obstruction, the offender refuses to do so.

Importuning

- Modifies the offense of "importuning" to prohibit a person from soliciting a person who is less than 16 years of age to engage in sexual activity with the offender when the person who is less than 16 years of age is substantially impaired because of a mental or physical condition.
- Requires the court to impose a mandatory prison term for a third degree felony if the offender, in addition to soliciting the other person, arranged to meet the other person for the purpose of engaging in sexual activity in specified circumstances.
- Requires the court to impose a mandatory prison term for a fifth degree felony if the offender is more than ten years older than the other person and, in addition to soliciting the other person, the offender arranged to meet the other person for the purpose of engaging in sexual activity in specified circumstances.

Voyeurism

- Modifies the offense of "voyeurism" to prohibit a person from knowingly doing any of the following:
  - Committing trespass or otherwise secretly or surreptitiously videotaping, filming, photographing, broadcasting, streaming, or otherwise recording another person, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of that person;
  - Committing trespass or otherwise secretly or surreptitiously videotaping, filming, photographing, broadcasting, streaming, or otherwise recording a minor, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of the minor;
  - Secretly or surreptitiously videotaping, filming, photographing, or otherwise recording another person above, under, or through the clothing worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

Restrictions on certain offenders serving in a position affording extensive contact with children

- Enacts restrictions in the Sex Offender Registration and Notification Law (SORN Law) that bar offenders convicted of a sexually oriented offense when the victim was under age 18, or a child-victim oriented offense, from serving in a volunteer position that affords extensive contact with minor children if:
  - The offender is either a Tier II or a Tier III Sex Offender/Child-Victim Offender with respect to the offense who is subject to SORN Law duties; or
  - The offense was committed prior to January 1, 2008, and under the version of the SORN Law in effect prior to that date, the offender was adjudicated or classified a sexual predator, child-victim predator, habitual sex offender, or habitual child-victim offender with respect to the offense.
- Provides that if an offender violates any restriction described above, a prosecutor may bring an action for an injunction for the violation or, if the offender previously had been subjected to an injunction for a violation of such a restriction, that the violation is a criminal offense.

Criminal statute of limitations for conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder

- Provides that there is no period of limitations for prosecution of a conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder.

Searches regarding convicted offender under supervision

- Provides that for a search of a felony offender sentenced to a nonresidential sanction, probation officers and Adult Parole Authority (APA) field officers will have the authority to search, with or without a warrant, the offender's person, real property, motor vehicle, or personal property if either of the following apply:
  - The court requires the offender's consent to search as part of the terms and conditions of community control, and the offender agreed to those terms and conditions;
  - The offender otherwise consents to the search.
- Provides that for a search of a felon who is granted a conditional pardon or parole, transitional control, or another form of authorized release, APA field officers will have the authority to search, with or without a warrant, the offender's person, real property, motor vehicle, or personal property if either of the following apply:
  - The APA requires the offender's consent to searches as part of the terms and conditions of the conditional pardon or parole, of the transitional control, or of the other form of authorized release and the offender agreed to those terms and conditions;

- The offender otherwise consents to the search.

Restraint of pregnant child or woman

- Allows a law enforcement, court, or corrections official to restrain a pregnant child or woman if the pregnant child or woman presents a risk of physical harm to herself or another, presents a risk of physical harm to property, or presents a security risk.
- Provides that if a law enforcement, court, or corrections official restrains a pregnant child or woman as described in the preceding dot point, the official must not use any waist restraint to restrain the pregnant child or woman.

Political subdivision suppression of a riot or mob

- Provides that a political subdivision with police powers, when engaged in suppressing a riot or mob or when there is clear and present danger of a riot or mob, may do either of the following:
  - Cordon off any area or areas threated by the riot or mob;
  - Prohibit persons from entering the cordoned off area or areas except when carrying on necessary and legitimate pursuits;
  - Prohibit the sale, offering for sale, dispensing, or transportation of dynamite or other dangerous explosives in, to, or from the cordoned off areas.
- Provides that a political subdivision as described above may not prohibit the otherwise legal sale, offering for sale, dispensing, or transportation of firearms, other dangerous weapons, or ammunition by a person in a cordoned off area in specified circumstances.

Preservation of firearms rights during an emergency

- Declares that certain deadly weapons or firearms businesses and services are life-sustaining "essential" businesses and services for the purposes of safety and security during an emergency.
- Provides that no state agency, political subdivision, elected or appointed official or employee of this state or any political subdivision, or agent of this state or of any political subdivision, board, commission, bureau, or other public body established under law may do any of the following during an emergency:
  - Prohibit, regulate, or curtail the otherwise lawful possession, carrying, display, sale, transportation, transfer, defensive use, or other lawful use of any firearm, ammunition, ammunition-reloading equipment, or deadly weapon;
  - Require the registration of any firearm, ammunition, or deadly weapon;
  - Seize, commandeer, or confiscate in any manner, any firearm, ammunition, ammunition-reloading equipment, or deadly weapon that is possessed, carried, displayed, sold, transferred, transported, stored, or used in connection with otherwise lawful conduct;

- Suspend or revoke a valid concealed handgun license, except as expressly authorized by law;
- Refuse to accept or process an application for a concealed handgun license or for renewal of a concealed handgun license, provided the application for the license or for the renewal has been properly completed and submitted;
- Prohibit, suspend, or limit the business operations of any entity engaged in the lawful selling or servicing of any firearm, ammunition, ammunition-reloading equipment, or deadly weapon;
- Prohibit, suspend, or limit the business operations of any legally established indoor or outdoor shooting range or any entity engaged in providing deadly weapon or firearms training;
- Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any firearm, ammunition, ammunition-reloading equipment, or deadly weapon;
- Suspend, restrict, or prohibit otherwise lawful hunting, fishing, or trapping activities or business entities conducting or directly facilitating lawful hunting, trapping, or fishing activities.

- Provides that if a concealed handgun license is scheduled to expire during an emergency or 30 days prior to an emergency, the license is automatically extended throughout the duration of the emergency plus an additional 90 days.
- Specifies that any person, group, or entity adversely affected by any manner of law enacted or enforced in violation of the bill may file an action for damages, injunctive relief, declaratory relief, or other appropriate redress.
- Provides that the provisions contained in the bill are severable.

County correctional officers carrying firearms

- Authorizes a county correctional officer to carry firearms while on duty in the same manner as a law enforcement officer if the county correctional officer is specifically authorized to carry firearms and has received firearms training.
- Grants a county correctional officer who is carrying firearms as described above protection from civil or criminal liability for any conduct occurring while carrying firearms to the same extent as a law enforcement officer.
- Provides for firearms training and for annual firearms requalification training for county correctional officers to qualify them to carry firearms while on duty.
- Provides for the certification of county correctional officers who have satisfactorily completed approved firearms training programs that qualify them to carry firearms while on duty.

County prosecuting attorney reports

- Eliminates the requirement that county prosecutors annually report all criminal case resolutions to the board of county commissioners and all fire-related case resolutions to the State Fire Marshal.

Statewide Emergency Alert System

- Authorizes the Statewide Emergency Alert System to be activated to assist in locating any individual with Autism Spectrum Disorder or another developmental disability.

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DETAILED ANALYSIS

Offenses relating to emergency service responders

Assault

Penalties

Currently, the offense of "assault" generally is a first degree misdemeanor, but if certain specified circumstances apply, it is a third, fourth, or fifth degree felony. The circumstances in which it is a fourth degree felony include when the victim is a peace officer or a Bureau of Criminal Identification and Investigation (BCII) Investigator, a firefighter, or a person performing emergency medical service, while in the performance of their official duties; if the victim is a peace officer or a BCII Investigator and the victim suffered serious physical harm as a result of the offense, the court is required to impose as a mandatory prison term one of the prison terms prescribed for a fourth degree felony that is at least 12 months in duration. And in any case, if the offender also is convicted of a "pregnant victim" specification, the court must sentence the offender to a mandatory prison term of a specified length.[1]

The bill modifies the penalties for assault so that, in addition to the current circumstances in which it is a fourth degree felony, it also is a fourth degree felony if: (1) the victim is an "emergency service responder" (an ESR), the offender knows or reasonably should know that the victim is an ESR, and it is the offender's specific purpose to commit the offense against an ESR, or (2) the victim of the offense is a "family or household member" or "co-worker" of an ESR, the offender knows or reasonably should know that the victim is a family or household member or co-worker of an ESR, and it is the offender's specific purpose to commit the offense against a family or household member or co-worker of an ESR (see "**Definitions**," below, for the meaning of the terms in quotation marks). The existing law "pregnant victim" mandatory prison term will apply with respect to a sentence imposed under this provision. The bill retains the current fourth degree felony penalty provisions that apply when the victim is a peace officer, BCII Investigator, firefighter, or person performing emergency medical service, while in the performance of the officer's, investigator's, firefighter's, or person's official duties – as under current law, this penalty provision will apply regardless of whether the offender knows or reasonably should know that the victim is serving in such a capacity and regardless of whether it is the offender's specific purpose to commit the offense against a person serving in such a capacity.[2]

Prohibitions

Unchanged by the bill, the prohibitions under "assault" prohibit a person from knowingly causing or attempting to cause physical harm to another or to another's unborn, or recklessly causing serious physical harm to another or another's unborn.

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[1] R.C. 2903.13(C).

[2] R.C. 2903.13(C)(5), (6), and (10).

Allied offenses of similar import

The bill provides that a prosecution for a violation of assault does not preclude a prosecution for a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under the assault section or any other section of the Revised Code may be prosecuted under the assault section, the other section, or both sections. However, if the offender is convicted of or pleads guilty to a violation of menacing based on the same conduct involving the same victim that was the basis of the violation of assault, the two offenses are allied offenses of similar import.[3]

A provision of existing law, unchanged by the bill, specifies that: (1) where the same conduct by a defendant can be construed to constitute two or more "allied offenses of similar import," the indictment or information may contain counts for all of the offenses, but the defendant may be convicted of only one, and (2) where the defendant's conduct constitutes two or more offenses of dissimilar import, or results in two or more offenses of the same or similar kind committed separately or with a separate animus as to each, the indictment or information may contain counts for all such offenses, and the defendant may be convicted of all of them.[4] The involved court determines whether the multiple offenses are "allied offenses of similar import" or are of "dissimilar import."

Menacing

New prohibition and applicable penalty

The bill adds a new prohibition under the offense of "menacing," with new penalties provided for violations of the prohibition. The new prohibition prohibits a person from knowingly placing or attempting to place another in reasonable fear of physical harm or death by displaying a deadly weapon, if: (1) the other person is an "ESR," the offender knows or reasonably should know that the other person is an ESR, and it is the offender's specific purpose to engage in the specified conduct against an ESR, or (2) the other person is a "family or household member" or "co-worker" of an ESR, the offender knows or reasonably should know that the other person is a family or household member or co-worker of an ESR, and it is the offender's specific purpose to engage in the specified conduct against a family or household member or co-worker of an ESR (see "**Definitions**," below, for the meaning of the terms in quotation marks). The prohibition applies regardless of whether the deadly weapon displayed is operable or inoperable. A violation of the new prohibition generally is a first degree misdemeanor, but it is a fourth degree felony if the offender previously was convicted of an offense of violence, the victim of that prior offense was an ESR or an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the ESR's performance of the ESR's official duties or to the officer's or employee's performance or anticipated performance of official responsibilities or duties.[5]

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[3] R.C. 2903.13(D).

[4] R.C. 2941.25, not in the bill.

[5] R.C. 2903.22(A)(2) and (B).

Current prohibition and applicable penalty

The current prohibition under the offense of "menacing," unchanged by the bill, prohibits a person from knowingly causing another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family (including causing the other person's belief based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs). Currently, a violation of the prohibition generally is a fourth degree misdemeanor, but an increased penalty applies if the victim is a public children services agency or private child placing agency officer or employee and the offense relates to the officer's or employee's actual or anticipated performance of official responsibilities or duties. Currently, under the increased penalty provisions, in the specified circumstances, the offense generally is a first degree misdemeanor but it is a fourth degree felony if the offender previously has been convicted of an offense of violence, the victim of that prior offense was such an officer or employee, and that prior offense related to the officer's or employee's actual or anticipated performance of official responsibilities or duties. The bill modifies the increased penalty provisions so that, in the specified circumstances, the offense generally is a first degree misdemeanor but it is a fourth degree felony if the offender previously has been convicted of an offense of violence, the victim of that prior offense was a public children services agency or private child placing agency officer or employee or an ESR, and that prior offense related to the officer's or employee's actual or anticipated performance of official responsibilities or duties or to the ESR's performance of the ESR's official duties.[6]

Allied offenses of similar import

The bill provides that a prosecution for a violation of menacing does not preclude a prosecution for a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under the menacing section or any other section of the Revised Code may be prosecuted under the menacing section, the other section, or both sections. However, if the offender is convicted of or pleads guilty to a violation of assault based on the same conduct involving the same victim that was the basis of the violation of menacing, the two offenses are allied offenses of similar import (see discussion of existing law above).[7]

Unlawfully impeding public passage of an emergency service responder

The bill enacts the offense of "unlawfully impeding public passage of an emergency service responder." The prohibition under the offense prohibits a person, without privilege to do so, from recklessly obstructing any highway, street, sidewalk, or any other public passage in such a manner as to render the highway, street, sidewalk, or passage impassable without

[6] R.C. 2903.22(A)(1) and (B).

[7] R.C. 2903.22(C).

unreasonable inconvenience or hazard if both of the following apply: (1) the obstruction prevents an emergency vehicle from accessing a highway or street, prevents an "ESR" (see "**Definitions**," below, for the meaning of that term) from responding to an emergency, or prevents an emergency vehicle or an ESR from having access to an exit from an emergency, and (2) upon receipt of a request or order from an ESR to remove or cease the obstruction, the person refuses to remove or cease the obstruction. A violation of the prohibition is a first degree misdemeanor.

The bill states that the prohibition under the new offense does not limit or affect the application of the offense of obstructing official business or any other Revised Code section and that any conduct that is a violation of the new offense and that also is a violation of obstructing official business may be prosecuted under the new offense, the other section, or both sections (see "**Allied offenses of similar import**," below).[8]

Definitions

The bill defines the following terms that are used in its provisions described above:[9]

"**Emergency service responder**" (or "ESR") means any law enforcement officer, first responder, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, firefighter, or volunteer firefighter.

"**Family or household member**" means the natural parent of any child of whom a person who is employed as an ESR is the other natural parent or is the putative other natural parent, or any of the following who is residing or has resided with a person who is employed as an ESR: (1) a spouse, a person living as a spouse, or a former spouse of a person who is employed as an ESR, (2) a parent, a foster parent, or a child of a person who is employed as an ESR, or another person related by consanguinity or affinity to a person who is employed as an ESR, or (3) a parent or a child of a spouse, person living as a spouse, or former spouse of a person who is employed as an ESR, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of a person who is employed as an ESR.

"**Firefighter**" means any member of a fire department as defined in the law regarding the Police and Fire Pension Fund[10] or any regular, paid, member of a lawfully constituted fire department of a municipal corporation or township.[11]

"**First responder**," "**emergency medical technician-basic**," "**emergency medical technician-intermediate**," and "**emergency medical technician-paramedic**" have the same meanings as in the law regarding Emergency Medical Services.[12]

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[8] R.C. 2917.14.

[9] R.C. 2903.13(D)(2) and (21) through (26), 2903.22(C)(1) and 2917.14(D).

[10] R.C. 742.01, not in the bill.

[11] R.C. 3937.41, not in the bill.

[12] R.C. 4765.01, not in the bill

"**Volunteer firefighter**" has the same meaning as in the law regarding the Volunteer Fire Fighters' Dependents Fund.[13]

"**Person living as a spouse**" means a person who is living or has lived with a person who is employed as an ESR in a common law marital relationship, who otherwise is cohabiting with a person who is employed as an ESR, or who otherwise has cohabited with a person who is employed as an ESR within five years prior to the date of the alleged commission of the act in question.

"**Co-worker**" means a person who is employed by the organization or entity that is served by a person who is employed as an ESR.

Importuning

Prohibitions

The offense of importuning prohibits a person from doing all of the following:[14]

1. Under current law, soliciting a person who is less than 13 years old to engage in sexual activity with the offender, whether or not the offender knows the age of such person;
2. Under current law, soliciting another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is 18 years old or older and four or more years older than the other person, and the other person is 13 years old or older but less than 16 years old, whether or not the offender knows the age of the other person;
3. Under current law, soliciting another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is 18 years old or older and four or more years older than the other person, the other person is 16 or 17 years old and a victim of trafficking in persons, and the offender knows or has reckless disregard of the age of the other person;
4. Under the bill, soliciting a person who is less than 16 years old to engage in sexual activity with the offender when the person who is less than 16 years old is substantially impaired because of a mental or physical condition;
5. Under current law, soliciting another by means of a telecommunications device to engage in sexual activity with the offender when the offender is 18 years old or older and either of the following applies:
    a. The other person is less than 13 years old, and the offender knows that the other person is less than 13 years old or is reckless in that regard;

[13] R.C. 146.01, not in the bill.

[14] R.C. 2907.07(A), (B), (C), (D), (E), and (G)(1).

b. The other person is a law enforcement officer posing as a person who is less than 13 years old, and the offender believes that the other person is less than 13 years old or is reckless in that regard.

6. Under current law, soliciting another by means of a telecommunications device to engage in sexual activity with the offender when the offender is 18 years old or older and either of the following applies:

   a. The other person is 13 years old or older but less than 16 years old, the offender knows that the other person is 13 years old or older but less than 16 years old or is reckless in that regard, and the offender is four or more years older than the other person;

   b. The other person is a law enforcement officer posing as a person who is 13 years old or older but less than 16 years old, the offender believes that the other person is 13 years old but less than 16 years old or is reckless in that regard, and the offender is four or more years older than the age the law enforcement officer assumes in posing as the person who is 13 years old or older but less than 16 years old.

Penalties

Under current law, a violation of (1), (3), or (4) above is a third degree felony on a first offense and there is a presumption that a prison term will be imposed. Under the bill, if the offender, in addition to soliciting the other person, arranged to meet the other person for the purpose of engaging in sexual activity, the court must impose on the offender as a mandatory prison term one of the prison terms for a third degree felony.[15]

Under current law, a violation of (2) or (5) above is a fifth degree felony on a first offense and there is a presumption that a prison term will be imposed. Under the bill, the court must impose on the offender as a mandatory prison term one of the prison terms for a fifth degree felony if both of the following apply:[16]

- Either of the following applies:
  - The offender is ten or more years older than the other person;
  - For a violation of (6)(b) above, a law enforcement officer posed as a person 13 years old or older but less than 16 years old and the offender is ten or more years older than the officer claimed to be.
- In addition to soliciting the other person, the offender arranged to meet the other person for the purpose of engaging in sexual activity.

[15] R.C. 2907.07(G)(2).

[16] R.C. 2907.07(G)(3).

Voyeurism

Recording another person

The bill modifies the offense of "voyeurism" relating to recording another person. Under the bill, the offense of "voyeurism" prohibits a person from knowingly committing trespass or otherwise secretly or surreptitiously videotaping, filming, photographing, broadcasting, streaming, or otherwise recording another person, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of that person. Under current law, the offense of "voyeurism" prohibits a person, for the purpose of sexually arousing or gratifying the person's self, from committing trespass or otherwise surreptitiously invading the privacy of another to videotape, film, photograph, otherwise record the other person in a state of nudity.[17]

The bill retains the current law penalty for a violation of the offense as a second degree misdemeanor. [18]

Recording another person – minor

The bill modifies the offense of "voyeurism" relating to recording another person who is a minor. Under the bill, the offense of "voyeurism" prohibits a person from knowingly committing trespass or otherwise secretly or surreptitiously videotaping, filming, photographing, broadcasting, streaming, or otherwise recording a minor, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of the minor. Under current law, the offense of "voyeurism" prohibits a person, for the purpose of sexually arousing or gratifying the person's self, from committing trespass or otherwise surreptitiously invading the privacy of another to videotape, film, photograph, otherwise record, or spy or eavesdrop upon the other person in a state of nudity if the other person is a minor.[19]

The bill retains the current law penalty for a violation of the offense as a fifth degree felony.[20]

Recording another person – clothing

The bill modifies the offense of "voyeurism" relating to recording another person above, under, or through clothing. Under the bill, the offense of "voyeurism" prohibits a person from secretly or surreptitiously videotaping, filming, photographing, or otherwise recording another person above, under, or through the clothing worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person. Under current law, the offense of "voyeurism" prohibits a person from secretly or surreptitiously videotaping, filming, photographing, or otherwise recording another person under or through the clothing worn by

[17] R.C. 2907.08(B).

[18] R.C. 2907.08(E)(3).

[19] R.C. 2907.08(C).

[20] R.C. 2907.08(E)(5).

that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.[21]

The bill retains the current law penalty for a violation of the offense as a first degree misdemeanor.[22]

Definitions

The bill defines the following terms:[23]

- "**Place where a person has a reasonable expectation of privacy**" means a place where a reasonable person would believe that the person could fully disrobe in private.
- "**Private area**" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.

Sex Offender Registration and Notification Law

Background

Ohio's Sex Offender Registration and Notification Law[24] (SORN Law) imposes certain duties and restrictions on offenders convicted of a "sexually oriented offense" or "child-victim oriented offense" (defined terms[25]) and on children adjudicated delinquent for committing a comparable act who are age 14 to 17 and to whom the juvenile court judge applies the law.[26]

Each offender convicted of such an offense is automatically classified a Tier I, Tier II, or Tier III Sex Offender/Child-Victim Offender (hereafter a Tier I, Tier II, or Tier III Offender), depending on the offense and the offender's criminal history.[27] Each sexually oriented offense or child-victim oriented offense is within one of the Tiers. Delinquent children to whom the law applies are not automatically classified into any of the Tiers; rather the juvenile court judge who applies the law to the child determines the child's Tier.[28] The Tier III classification applies to offenders convicted of what are considered to be the "most serious" sexually oriented offenses or child-victim offenses, the Tier I classification applies to offenders convicted of what are considered to be the "least serious" such offenses, and the Tier II classification applies to offenders convicted of such offenses considered to be in between the most serious and least serious such offenses. Each Tier has somewhat different responsibilities under the SORN Law and a different duration of being subject to the law.

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[21] R.C. 2907.08(D).

[22] R.C. 2907.08(E)(4).

[23] R.C. 2907.01(Q) and (R).

[24] R.C. Chapter 2950.

[25] R.C. 2950.01(A) and (C).

[26] R.C. 2152.82 and 2152.83, not in the bill.

[27] R.C. 2950.01(E), (F), and (G).

[28] R.C. 2152.82, 2152.83, and 2152.831, not in the bill.

Prior to January 1, 2008, offenders were not classified into Tiers. Rather, the court sentencing an offender determined based on specified criteria if the offender was a sexual predator, a child-victim predator, a habitual sex offender, or a habitual child-victim offender.[29]

Restrictions on certain offenders serving in a position affording extensive contact with children

The bill enacts restrictions that bar certain offenders convicted of a sexually oriented offense or child-victim-oriented offense from serving in a specified type of position that affords extensive contact with minor children and sanctions for violations of the restrictions.

Restrictions – in general

Restrictions

The bill prohibits a person who is in a "restricted offender category" (see "**Definitions**," below – note that the term includes only convicted criminal offenders and does not include children adjudicated delinquent) from doing either of the following, regardless of whether the person committed the person's sexually oriented offense or child-victim oriented offense prior to, on, or after the bill's effective date:[30]

1. On or after the bill's effective date, commencing service in a position as a volunteer with any person, group, or organization, in a "capacity affording extensive contact with minor children" (see "Definitions," below);
2. If the person was in the position prior to the bill's effective date, at any time after the expiration of 90 days after that effective date, serving in a position as a volunteer with any person, group, or organization, in a "capacity affording extensive contact with minor children."

Application regarding offense committed before bill's effective date

The bill states that the application of the restrictions described above to a person who committed the person's sexually oriented offense or child-victim oriented offense prior to the bill's effective date is procedural and remedial, pertains to conduct of the person occurring on or after that date, and does not impose punishment on the person for the sexually oriented offense or child-victim oriented offense.[31]

Report to prosecuting authority

Under the bill, if a law enforcement agency, based on a report made to the agency by any person or based on its own investigation, finds that a person to whom either restriction

[29] Pre-January 1, 2008, R.C. Chapter 2950.

[30] R.C. 2950.035(A)(1).

[31] R.C. 2950.035(A)(4).

described above applies is violating the restriction, the agency must report that finding to the "prosecuting authority" (see "**Definitions**," below).[32]

Remedy for violation – injunction

A violation of either restriction described above that is not also a violation of the provision described below in "**Restriction – after injunction obtained based on prior violation**" is subject to injunctive relief.[33] Under the bill's injunctive relief provisions, a "prosecuting authority," upon receipt of a report described above, has a cause of action for injunctive relief against the person and may bring an action to obtain the injunctive relief. The plaintiff is not required to prove irreparable harm in order to obtain the relief.[34]

Restriction – after injunction obtained based on prior violation

Restriction

The bill prohibits a person from violating either restriction described above in paragraphs (1) and (2) under "**Restrictions – in general**" at any time after an injunction has been obtained against the person, as described above, based on a prior violation of either such restriction (hereafter, this prohibition is referred to as the "repeat violator restriction").[35]

Report to prosecuting authority

Under the bill, if a law enforcement agency, based on a report made to the agency by any person or based on its own investigation, finds that a person to whom the repeat violator restriction applies is violating the restriction, the agency must report that finding to the "prosecuting authority."[36]

Remedy for violation

A violation of the repeat violator restriction is a criminal offense and is subject to the penalties specified below.[37] Under the bill, a "prosecuting authority," upon receipt of a report described above, may proceed with a criminal prosecution for the violation.[38]

The penalties for a violation of the repeat violator restriction are:[39]

1. Except as otherwise provided in (2) and (3), below, the violation is a first degree misdemeanor;

[32] R.C. 2950.035(B)(1).

[33] R.C. 2950.035(A)(3).

[34] R.C. 2950.035(B)(2).

[35] R.C. 2950.035(A)(2).

[36] R.C. 2950.035(B)(1).

[37] R.C. 2950.035(A)(3).

[38] R.C. 2950.035(B)(2).

[39] R.C. 2950.99(D).

2. If the offender once previously has been convicted of a violation of that restriction, the violation is a third degree felony;

3. If the offender two or more times previously has been convicted of a violation of that restriction, the violation is a first degree felony.

Definitions

The bill defines the following terms that apply to its provisions described above:[40]

"**Adjudicated a sexual predator**," "**adjudicated a child-victim predator**," "**habitual sex offender**," and "**habitual child-victim offender**" have the meanings of those terms that applied to them under the SORN Law prior to January 1, 2008.

"**Capacity affording extensive contact with minor children**" means any capacity in which a person would be "working directly and in an unaccompanied setting" (see below) with minor children on more than an incidental and occasional basis or would have supervision or disciplinary power over minor children.

"**Prosecuting authority**" means the prosecuting attorney, village solicitor, city or township director of law, similar chief legal officer of a municipal corporation or township, or official designated as a prosecutor in a municipal corporation that has jurisdiction over the place at which a person serves in a position in violation of any restriction enacted in the bill, as described above in "**Restrictions – in general**" and "**Restriction – after injunction obtained based on prior violation**."

A person is in a "**restricted offender category**" if both of the following apply with respect to the person:

1. The person has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense where the victim was under age 18 or a child-victim oriented offense;

2. With respect to the offense described above in (1), one of the following applies:

   a. The person is a Tier II Sex Offender/Child-Victim Offender or is a Tier III Sex Offender/Child-Victim Offender who is subject to SORN Law duties; or

   b. If that offense was committed prior to January 1, 2008, under the version of R.C. Chapter 2950 in effect prior to that date, the person was adjudicated a sexual predator, was adjudicated a child-victim predator, was classified a habitual sex offender, or was classified a habitual child-victim offender.

"**Working directly and in an unaccompanied setting**" includes, but is not limited to, providing goods or services to minors.

[40] R.C. 2950.01(Y) and (Z) and 2950.035(C).

Criminal statute of limitations for conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder

The bill modifies the existing provisions regarding criminal statutes of limitations, with respect to prosecutions of a conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder. Under the bill, there is no period of limitations for prosecution of a conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder. Currently, under the decision of the Ohio Supreme Court in *State v. Bortree,*[41] which interpreted the language of the existing statute, the period of limitations for attempted aggravated murder and attempted murder is six years – although not expressly addressed in the decision, the rationale for the decision likely also applies regarding conspiracy to commit, or complicity in committing, either of those offenses.

The bill specifies that its change described in the preceding paragraph applies to a conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder that is committed on or after the bill's effective date and applies to a conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder that was committed prior to that effective date if prosecution for that offense was not barred under the period of limitations for the offense as it existed on the day prior to that effective date.[42]

Searches regarding convicted offender under supervision

The bill modifies the law regarding searches of a felony offender sentenced to a nonresidential sanction and searches of a felony offender who is granted a conditional pardon or parole, transitional control, or another form of authorized release from prison or who is under post-release control.

Search during community control or nonresidential sanction

Under current law, during the period of a misdemeanor offender's community control sanction or during the period of a felony offender's nonresidential sanction, authorized probation officers engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the offender's person or place, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the offender has a right, title, or interest or for which the offender has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with the conditions of the misdemeanor offender's community control sanction or the conditions of the felony offender's nonresidential sanction. If a felony offender who is sentenced to a nonresidential sanction is under the Adult Parole Authority's (the APA's) general supervision and control, APA field officers with supervisory responsibilities over the felony

[41] *State v. Bortree* (November 3, 2022), Slip Opinion No. 2022-Ohio-3890.

[42] R.C. 2901.13.

offender have this same search authority relative to the felony offender during the period of the sanction. The sentencing court is required to notify misdemeanor offenders placed under a community control sanction and felony offenders sentenced to a nonresidential sanction of this search authority.

The bill expands this search authority regarding a felony offender sentenced to a nonresidential sanction. Under the bill, in addition to the existing circumstances described above in which they are granted search authority, probation officers and APA field officers also will have the search authority, during the period of the sanction, to search, with or without a warrant, the offender's person or residence, a motor vehicle, another item of personal property, or other real property in which the offender has a specified interest or right to use, occupy, or possess to allow such a search if:

1. The court requires the offender's consent to searches as part of the terms and conditions of community control and the offender agreed to those terms and conditions; or
2. The offender otherwise provides consent for the search. The written notice that a court currently must provide to each misdemeanor offender it places under a community control sanction and each felony offender it sentences to a nonresidential sanction must include notice of all search authority granted under existing law or the bill.[43]

Search during conditional pardon or parole, transitional control, other release from prison, or post-release control

Under current law, during the period of a conditional pardon or parole, of transitional control, or of another form of authorized release from prison that is granted to an individual and that involves the placement of the individual under the APA's supervision, and during a period of post-release control of a felon, authorized APA field officers engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the individual's or felon's person or residence, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the individual or felon has a right, title, or interest or for which the individual or felon has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess, if the field officers have reasonable grounds to believe that the individual or felon has left the state, is not abiding by the law, or otherwise is not complying with the terms and conditions of the individual's or felon's conditional pardon, parole, transitional control, other form of authorized release, or post-release control. The APA is required to notify each person granted a conditional pardon or parole, transitional control, or another form of authorized release from confinement in prison and each felon under post-release control of this search authority.

The bill expands this search authority regarding an individual who is a felon and is granted a conditional pardon or parole, transitional control, or another form of authorized release from prison and each felon who is under post-release control. Under the bill, in addition

[43] R.C. 2951.02.

to the existing circumstances described above in which they are granted search authority, APA field officers also will have the search authority, during the specified period, to search, with or without a warrant, individual's or felon's person or residence, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the individual or felon has a right, title, or interest or for which the individual or felon has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if:

1. The APA requires the felon's consent to searches as part of the terms and conditions of the conditional pardon or parole, of the transitional control, or of the other form of authorized release from prison granted to a person and that involves the placement of the person under the APA's supervision, and the felon agreed to those terms and conditions; or
2. The felon otherwise provides consent for the search, provided that this division applies with respect to an individual only if the individual is a felon. The written notice that the APA currently must provide to each individual granted a conditional pardon or parole, transitional control, or another form of authorized release from prison and each felon under post-release control must include notice of all search authority granted under existing law or the bill.[44]

Restraint of pregnant child or woman

Under current law, beginning on the date on which a pregnancy is confirmed to law enforcement by a health care professional, no law enforcement, court, or correctional official, with knowledge that a child or woman is pregnant or was pregnant, must knowingly restrain a child who is charged or adjudicated a delinquent child or a woman who is charged or convicted a criminal offender during any of the following periods of time: (1) if the child or woman is pregnant, at any time during her pregnancy, (2) if the child or woman is pregnant, during transport to a hospital, during labor, or during delivery, or (3) if the child or woman was pregnant, during any period of postpartum recovery up to six weeks after the child's pregnancy.[45]

The bill allows a law enforcement, court, or corrections official to restrain a child who is charged or adjudicated a delinquent child or a woman who is charged or convicted a criminal offender during the periods of time described above if the official determines that the child or woman presents a "risk" of physical harm to herself, to the official, to other law enforcement or court personnel, or to any other person, presents a "risk" of physical harm to property, presents a "security risk," or presents a substantial flight risk. Under current law, the child or woman has to present a "serious threat" of physical harm to herself, to the official, to other law enforcement or court personnel, or to any other person, present a "serious threat" of physical harm to property, and present a "substantial" security risk.[46]

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[44] R.C. 2967.131.

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

[46] R.C. 2152.75(C) and 2901.10(C).

The bill provides that a law enforcement, court, or corrections official who restrains a child who is charged or adjudicated a delinquent child or woman who is charged or convicted a criminal offender during the periods of time and under the authority described above, must not use any waist restraint to restrain the child or woman. Under current law, the law enforcement, court, or corrections official must not use any leg, ankle, or waist restraint to restrain the child or woman.[47]

Political subdivision suppression of a riot or mob

Current law provides that the chief administrative officer of a political subdivision with police powers, when engaged in suppressing a riot or when there is a clear and present danger of a riot may do any of the following:

1. Cordon off any area or areas threatened by the riot;
2. Prohibit persons from entering the cordoned off area or areas except when carrying on necessary and legitimate pursuits;
3. Prohibit the sale, offering for sale, dispensing, or transportation of firearms or other dangerous weapons, ammunition, dynamite, or other dangerous explosives in, to, or from the cordoned off areas.

The bill modifies the current law provisions in two ways. First, it expands the provisions to include mobs, instead of only riots. Second, it eliminates references to firearms, other dangerous weapons, and ammunition in (3) above.[48]

The bill provides that the chief administrative officer of a political subdivision with police powers, when engaged in suppressing a riot or mob when there is a clear and present danger of a riot or a mob, may cordon off any area or areas threatened by the riot or mob and prohibit persons from entering the cordoned off area or areas except when carrying on necessary and legitimate pursuits and may not prohibit the otherwise legal sale, offering for sale, dispensing, or transportation of firearms, other dangerous weapons, or ammunition by a person in a cordoned off area under either of the following circumstances:

- The cordoned off area encompasses the person's residence or business, or the person is accompanied by another person who resides or owns a business in the cordoned off area;
- The cordoned off area encompasses the person's place of employment.

This provision does not apply to prisons or jails.[49]

[47] R.C. 2152.75(D) and 2901.10(D).

[48] R.C. 3761.16(A) and (B).

[49] R.C. 3761.16(C).

Preservation of firearms rights during an emergency

Essential businesses and services

The bill provides that the transport, storage, sale, transfer, commerce in, import and export of, distribution, repair, maintenance, and manufacture of deadly weapons or firearms, ammunition, and accessories and components related to deadly weapons or firearms, shooting ranges, and other goods and services directly related to lawful deadly weapon or firearm possession, use, storage, repair, maintenance, sale, and transfer, and training in the use of deadly weapons or firearms, are declared to be life-sustaining "essential" businesses and services for the purposes of safety and security in times of declared emergency or any other statutorily authorized response to any disaster, war, act of terrorism, riot, civil disorder, public health crisis, public nuisance, or emergency of whatever kind or nature.[50]

Prohibited state and local actions

The bill provides that, subject to certain exceptions, no state agency, political subdivision, elected or appointed official or employee of this state or any political subdivision, or agent of this state or of any political subdivision, board, commission, bureau, or other public body established by law may, under any governmental authority or color of law exercised as part of any statutorily authorized response to any disaster, war, act of terrorism, riot, civil disorder, public health crisis, public nuisance, or emergency of whatever kind or nature, do any of the following:[51]

- Prohibit, regulate, or curtail the otherwise lawful possession, carrying, display, sale, transportation, transfer, defensive use, or other lawful use of any firearm, including any component or accessory of a firearm, any ammunition, including any component or accessory of ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapon, including any component or accessory of a deadly weapon;
- Require registration of firearm owners, of any firearm, including any component or accessory of a firearm, any ammunition, including any component or accessory of ammunition, or any deadly weapon, including any component or accessory of a deadly weapon;
- Seize, commandeer, or confiscate in any manner, any firearm, including any component or accessory of a firearm, any ammunition, including any component or accessory of ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapon, including any component or accessory of a deadly weapon that is possessed, carried, displayed, sold, transferred, transported, stored, or used in connection with otherwise lawful conduct;

[50] R.C. 5502.411(B).

[51] R.C. 5502.411(C).

- Suspend or revoke a valid concealed handgun license, except as expressly authorized by law;
- Refuse to accept or process an application for a concealed handgun license or for renewal of a concealed handgun license, provided the application for the license or for the renewal has been properly completed and submitted;
- Prohibit, suspend, or limit the business operations of any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory of a firearm, any ammunition, including any component or accessory of ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapon, including any component or accessory of a deadly weapon;
- Prohibit, suspend, or limit the business operations of any legally established indoor or outdoor shooting range, whether located on state lands or on land other than state lands, or of any entity engaged in providing deadly weapon or firearms safety, deadly weapon or firearms training, firearms license qualification or requalification, firearms safety instructor courses, or any similar class, course, or program;
- Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any firearm, including any component or accessory of a firearm, any ammunition, including any component or accessory of ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapon, including any component or accessory of a deadly weapon;
- Suspend, restrict, or prohibit otherwise lawful hunting, fishing, or trapping activities or business entities conducting or directly facilitating lawful hunting, trapping, or fishing activities, whether conducted on state lands and waters or on land and waters other than state lands and waters.

Extension of concealed handgun license

The bill provides that if a concealed handgun license has been issued to a licensee, if the Governor issues an executive order declaring an emergency, and if the date that the valid and existing license would or is scheduled to expire falls within the period of emergency declared by the Governor's executive order or the 30 days immediately preceding the date of that declaration, then, notwithstanding the date of scheduled expiration, the license is automatically extended throughout the duration of the period of the emergency plus an additional 90 days. If, during the period of the emergency or during the additional 90 days, a licensee submits an application for renewal of the license or schedules an appointment with the issuing authority or another authority authorized to renew the license, the license is further automatically extended until the renewal application is accepted and fully processed.[52]

[52] R.C. 5502.411(D)(1).

The bill specifies that during the extension period all of the following apply:[53]

- The license is valid for all purposes under the laws of this state, and the person to whom the license was issued is considered for all purposes under the laws of this state to be the holder of a valid license to carry a concealed handgun, and the license is valid for all purposes of suspension and revocation;
- The license remains subject to suspension and revocation during the extended period of the license and at any other time;
- Except for the date of scheduled expiration, all other conditions and restrictions otherwise applicable to the license and the license holder continue to apply during the extended period of the license and at any other time.

Remedies

The bill specifies that a person, group, or entity adversely affected by any manner of law, ordinance, rule, regulation, resolution, practice, or other action enacted or enforced in violation of the bill may file an action for damages, injunctive relief, declaratory relief, or other appropriate redress in the court of common pleas of the county in which the aggrieved person resides or the group or entity is located, or in which the violation occurred.[54]

Civil action

A person, group, or entity adversely affected by any manner of law, ordinance, rule, regulation, resolution, practice, or other action enacted or enforced by any political subdivision, any elected or appointed official or employee of a political subdivision, or any agent of any political subdivision, bureau, or other public body established by law in conflict with the bill may bring a civil action against the political subdivision, elected or appointed official or employee of the political subdivision, or agent of any political subdivision, bureau, or other public body seeking damages, declaratory relief, injunctive relief, or a combination of those remedies.[55]

Any damages awarded must be awarded against, and paid by, the political subdivision, or bureau, or other public body. In addition to any actual damages awarded against the political subdivision, or the board, commission, bureau, or other public body and any other relief provided with respect to such an action, the court must award reasonable expenses to any person, group, or entity that brings the action, to be paid by the political subdivision, or bureau, or other public body, if either of the following applies:[56]

- The person, group, or entity prevails in a challenge to the law, ordinance, rule, regulation, resolution, practice, or action as being in conflict with this section;

[53] R.C. 5502.411(D)(2).

[54] R.C. 5502.411(E)(1).

[55] R.C. 5502.411(E)(1).

[56] R.C. 5502.411(E)(2)(a).

- The law, ordinance, rule, regulation, resolution, practice, or action or the manner of its enforcement is repealed or rescinded after the civil action was filed but prior to a final court determination of the action.

Return of seized or confiscated firearms and deadly weapons

In addition to any other remedy available at law or in equity, a person, group, or entity aggrieved by the seizure or confiscation, in violation of the bill, of one or more items (any firearm, including any component or accessory of a firearm, ammunition, including any component or accessory of ammunition, ammunition-reloading equipment, component, or supplies, or deadly weapon) may apply to the court of common pleas of the county in which the item or items were seized or confiscated for the immediate return of the item or items.

Upon receipt of the application and a determination by the court that the seizure or confiscation of the item or items was in violation of this section, the court must order the immediate return of the item or items by the seizing or confiscating state agency, political subdivision, board, commission, bureau, or other public body and that entity's employed officials. If a court orders the return of the seized or confiscated item or items under this division and the item or items are not returned in accordance with the order, the aggrieved party may claim reasonable costs and attorney fees for the loss and the cost of reclaiming the item or items, or the cost of any damages to the item or items.[57]

Severability

The bill states that the provisions contained in the bill are severable. Any invalid or potentially invalid provision contained in the bill does not impair the immediate and continuing enforceability of the remaining provisions.[58]

Definitions

As used in the bill:

"**Ammunition**" means any projectile capable of being expelled or propelled from a firearm by the action of an explosive or combustible propellant.[59]

"**Concealed handgun license**" means a license or temporary emergency license to carry a concealed handgun issued by this state or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement.[60]

[57] R.C. 5502.411(E)(2)(b).

[58] R.C. 5502.411(F) and R.C. 1.50, not in the bill.

[59] R.C. 5502.411(A)(1) and 2305.401(A)(1), not in the bill.

[60] R.C. 5502.411(A)(2) and 2923.11(N), not in the bill.

"**Deadly weapon**" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.[61]

"**Firearm**" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.[62]

"**Licensee**" means a person to whom a concealed handgun license has been issued and, except where the context clearly indicates otherwise, includes a person to whom a concealed handgun license on a temporary emergency basis has been issued and a person to whom a concealed handgun license has been issued by another state.[63]

"**Valid concealed handgun license**" means a concealed handgun license that is currently valid, that is not under suspension, and that has not been revoked.[64]

County correctional officers carrying firearms

Authority for correctional officers carrying firearms

The bill authorizes a "county correctional officer" (see, "**Definitions**," below) to carry firearms while on duty in the same manner, to the same extent, and in the same areas as a law enforcement officer of the law enforcement agency with jurisdiction over the place at which the county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse is located, if all of the following apply:[65]

1. The person in charge of the particular jail, workhouse, or correctional center has specifically authorized the county correctional officer to carry firearms while on duty.
2. The county correctional officer has done or received one of the following:
    a. The officer has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission (OPOTC), which certificate attests to satisfactory completion of an approved state, county, or municipal basic training program or a program at the Ohio Peace Officer Training Academy (OPOTA) that qualifies the officer to carry firearms while on duty and that conforms to the rules adopted by the Attorney General (AG), as described below.

[61] R.C. 5502.411(A)(2) and 2923.11(A), not in the bill.

[62] R.C. 5502.411(A)(2) and 2923.11(B), not in the bill.

[63] R.C. 5502.411(A)(3) and 2923.124(D), not in the bill.

[64] R.C. 5502.411(A)(2) and 2923.11(O), not in the bill.

[65] R.C. 109.772(A).

b. Prior to or during employment as a county correctional officer and prior to the effective date of the bill, the officer successfully completed a firearms training program, other than one described in (a), above, that was approved by the OPOTC.

Protection from civil and criminal liability

The bill grants a county correctional officer who is carrying firearms under authority of the bill's provision described above with protection from potential civil or criminal liability for any conduct occurring while carrying the firearm or firearms to the same extent as a law enforcement officer of the law enforcement agency with jurisdiction over the place at which the county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse is located has such protection.[66]

Ohio Peace Officer Training Commission rules

The bill requires the OPOTC to recommend rules to the AG in respect to both of the following:[67]

1. Permitting county correctional officers to attend approved peace officer training schools, including the OPOTA, to receiving training described below in (2), and to receive certificates of satisfactory completion of the basic training programs described below in (2).
2. The requirements for basic training programs that county correctional officers must complete to qualify them to carry firearms while on duty under authority of the bill's provision described above, which requirements must include the firearms training (see, "**Attorney General rules**," below).

Attorney General rules

The bill requires the Attorney General to adopt rules authorizing and governing the attendance of county correctional officers at approved peace officer training schools, including the OPOTA, to receive training to qualify them to carry firearms while on duty, and the certification of the officers upon their satisfactory completion of training programs providing that training.[68]

Certification of county correctional officers

The bill grants the OPOTC's Executive Director the power and duty to certify county correctional officers who have satisfactorily completed approved basic training programs (including the training courses at the OPOTA, as described below) that qualify them to carry firearms while on duty under authority of the bill's provision described above and to issue

[66] R.C. 109.772(B).

[67] R.C. 109.73(A)(16) and (17).

[68] R.C. 109.773.

appropriate certificates to such county correctional officers. The powers and duties must be exercised with the general advice of the OPOTC.[69]

The bill requires the OPOTA to permit county correctional officers to attend training courses at the Academy that are designed to qualify the county correctional officers to carry firearms while on duty under authority of the bill's provision described above and that provide training mandated under the rules adopted by the AG. The county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse served by the county correctional officer who attends the OPOTA may pay the tuition costs of the county correctional officer.[70]

Firearms requalification

The bill adds county correctional officers to the list of persons who, if authorized to carry firearms in the course of their official duties, must complete an annual firearms requalification program approved by the OPOTC's Executive Director. No person who is subject to the requalification requirement may carry a firearm during the course of official duties if the person does not comply with the requirement. Currently, corrections officers of a multicounty correctional center, a municipal-county correctional center, or multicounty-municipal correctional center to carry firearms in the discharge of official duties who are authorized under the limited provision of current law repealed by the bill, described below in "**Current law, and application of the bill**," are subject to the requalification requirement.[71]

Current law, and application of the bill

Current law authorizes a corrections officer of a multicounty correctional center, a municipal-county correctional center, or multicounty-municipal correctional center to carry firearms in the discharge of official duties if the person in charge of the center grants the officer permission to carry firearms when required in the discharge of official duties and the officer has received firearms training. As described above, an officer granted permission to carry firearms under the provision is subject to the annual firearms requalification requirement, and the officer may carry firearms under authority of the provisions only when acting within the scope of the officer's official duties. The bill repeals these provisions and replaces them with the general "county correctional officer" provisions described above.[72]

Definitions

The bill defines "county correctional officer" as a person who is employed by a county as an employee or officer of a county jail, county workhouse, minimum security jail, joint city and

[69] R.C. 109.75(N) and 109.79(A).

[70] R.C. 109.79(A).

[71] R.C. 109.801.

[72] R.C. 109.801(A)(1) and 307.93(A).

county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse.[73]

County prosecuting attorney reports

The bill repeals a provision of law that currently requires the prosecuting attorney of a county to report annually to the board of county commissioners about criminal prosecutions and annually to the State Fire Marshal about fire-specific criminal prosecutions. Specifically, the report to the board of county commissioners must include the following:

- The number of criminal prosecutions pursued to final conviction and sentence and the following information about each prosecution: the parties, the amount of fine assessed, and the amount of money collected;
- The number of recognizances forfeited;
- For arson and aggravated arson cases (including conspiracy or attempt to commit, or complicity in the commission of, arson or aggravated arson): the number of fires occurring in the county for which the State Fire Marshal or an assistant state fire marshal determined there was enough evidence to charge a person with arson or aggravated arson; the number of cases presented by the prosecuting attorney to the grand jury for indictment and the number returned by the grand jury; the number of cases prosecuted either by indictment or by information by the prosecuting attorney; the number of cases resulting in final conviction and sentence and the number of cases resulting in acquittals; the number of cases dismissed or terminated without a final adjudication as to guilt or innocence.

The report to the State Fire Marshal is only required to include the arson and aggravated arson case information.

Currently, if a prosecuting attorney fails to provide either report, the prosecuting attorney owes $100 to $500, which can be recovered in a civil action by the board of county commissioners.[74]

Statewide Emergency Alert System

The bill authorizes the Statewide Emergency Alert System to be activated to assist in locating any individual with Autism Spectrum Disorder or another developmental disability. Under current law, the Statewide Emergency Alert System may be activated to assist in locating any individual who has a mental impairment or who is 65 years old or older and meets the other activation criteria. The System is activated when the following criteria are met:[75]

1. The local investigating law enforcement agency confirms that the individual is missing;

[73] R.C. 109.71(I), by reference to R.C. 341.41, not in the bill.

[74] R.C. 309.16, repealed and 309.10 (included to modify a cross-reference).

[75] R.C. 5502.522(A), (B), and (G).

2. The individual meets the criteria regarding age or disability;
3. The individual's disappearance poses a creditable threat of immediate danger of serious bodily harm or death to the missing individual; and
4. There is enough information regarding the individual and the circumstances surrounding the person's disappearance that activation of the system will assist in locating that person.

HISTORY

Action	Date
Introduced	01-26-21
Reported, S. Judiciary	05-26-21
Passed Senate (33-0)	06-02-21
Reported, H. Criminal Justice	---

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