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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Synopsis of House Committee Amendments

(This synopsis does not address amendments that may have been adopted on the House Floor.)

### S.B. 288 of the 134<sup>th</sup> General Assembly

#### House Criminal Justice Committee

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#### **Bindovers – complaints and cases; technical amendment**

Provides that the bill's bindover provisions apply if a complaint or multiple complaints have been filed, regardless of whether the complaint or complaints are filed under the same case number or a different case number.

Corrects erroneous reference to R.C. 2945.73 to R.C. 2945.72.

#### **Divulging confidential information**

Retains the requirement that to be guilty of divulging confidential information, the officer or employee of the state or a political subdivision must knowingly release, disseminate, or make available any information or other data concerning any arrest, complaint, indictment, information, trial, adjudication, or correctional supervision, but clarifies that the officer or employee must also know that those records have been sealed.

#### **Hands-free law**

Regarding the matter of texting-while-driving:

1. With certain exceptions, broadens the existing texting-while-driving prohibition to prohibit a person from using, holding, or physically supporting an electronic wireless communications device (EWCD) while operating a motor vehicle, trackless trolley, or streetcar.
2. Makes the EWCD-while-driving prohibition a primary offense (rather than a secondary offense for adults, as in current law).
3. Modifies current exemptions and creates additional exemptions to the new EWCD-while-driving prohibition by generally allowing only limited and mostly hands-free use of an EWCD while driving.

4. Specifies what devices constitute an EWCD, but exempts a two-way radio transmitter and receiver used for the Amateur Radio Service.
5. Changes the existing minor misdemeanor penalty for texting while driving to an unclassified misdemeanor for the new EWCD-while-driving prohibition with increasing tiered penalties for violations within a two-year period.
6. Prohibits a law enforcement officer from stopping a driver unless the officer observes the driver using, holding, or physically supporting the EWCD.
7. Prohibits an officer from seizing and searching a person's EWCD when stopped for a violation of the EWCD-while-driving prohibition unless the officer has a warrant or the person voluntarily and unequivocally consents to the search.
8. Establishes reporting requirements for law enforcement officers, law enforcement agencies, and the Attorney General related to the race of offenders issued a ticket, citation, or summons for a violation of the EWCD-while-driving law or the distracted driving law.
9. Requires public education regarding the EWCD-while-driving laws through all of the following mechanisms: (a) a signed statement at the time of driver's license issuance and renewal, (b) instruction through drivers' education courses, (c) questions on the written exams required before obtaining a driver's license, and (d) signs on certain highways and locations entering Ohio.
10. Aligns the distracted driving law to the changes in the EWCD-while-driving law and makes corrective changes in both laws.
11. Specifies that for the first six months after the provision's effective date, a law enforcement officer may only issue a written warning to a driver for violating the EWCD-while-driving prohibition, but may fully enforce the prohibition after that interim.

### **Statewide electronic warrant system**

Requires that any warrant issued for a "Tier One Offense" (32 serious offenses specified in the provision) must, if entered in error, be removed within 48 hours after discovering the error, and removed within 48 hours of warrant service, dismissal, or recall by the issuing court.

### **Sexual assault examination kits; sexual activity for hire**

Applies the current law procedures for preserving and cataloging biological evidence to sexual assault examination kits in the possession of any governmental evidence-retention entity during an investigation or prosecution of a criminal offense or delinquent act that is in violation of a trafficking in persons offense.

Requires each governmental evidence-retention entity that secures any sexual assault examination kit in relation to an investigation or prosecution of a criminal offense or delinquent act that is a violation of a trafficking in persons offense to secure the biological evidence for a specified period of time.

Specifies that recklessly inducing, enticing, or procuring sexual activity for hire in exchange for a thing of value from a person with a developmental disability is a third degree felony.

### **Promising or giving things of value – debar vendor**

When a person violates the prohibition against promising or giving things of value to a public official or employee: (1) allows a court to prohibit the person from participating in a public contract with any public agency for a period of two years if recommended by the agency employing the official or employee, and (2) allows a court to order the person to pay an additional fine equal to the amount of anything of value unlawfully given.

When a person violates certain provisions of Ohio Ethics Law involving amounts or money or things of value unlawfully solicited, accepted, or received, requires a court to order the person to pay the costs of investigation and prosecution if requested by the Ohio Ethics Commission.

### **Chief justice of the court of appeals**

Changes the title of the chief judge of the court of appeals, selected annually by the judges of the court of appeals, to the chief justice of the court of appeals.

### **Tenth Amendment Center and Solicitor General**

Codifies the Office of the Solicitor General within the Office of the Attorney General (the AG).

Creates the Tenth Amendment Center within the AG's Office, which monitors federal statutes, executive orders, and regulations for potential abuse or overreach, and reports their findings to the AG.

Requires the AG to provide adequate space, staff, equipment, and materials to both new Offices.

### **Unconditional pardon – Governor writ for expungement**

In regard to an unconditional pardon, removes provisions that authorize the Governor to issue a writ for the expungement of a conviction record in the same manner that the Governor currently may issue a writ for the sealing of a conviction record.

### **Earned credits**

Modifies the bill's earned credit provisions as follows:

1. Specifies that the earned credit provisions of existing law will apply, until the date that is one year after the provision's effective date, to persons confined in a state correctional institution or in the substance use disorder treatment program.
2. Specifies that, beginning one year after the bill's effective date, the earned credit provisions of the bill as it was passed by the Senate will apply to persons confined in a state correctional institution or in the substance use disorder treatment program. Under the provisions of the bill as it was passed by the Senate, the changes will apply to a

person so confined only with respect to the time that the person is so confined on and after the date that is one year after the bill's effective date, and the provisions described above in (1) and that applied to the person prior to the bill's effective date will apply to the person with respect to the time that the person was so confined prior to the date that is one year after that effective date.

### **Elder Abuse Commission member appointments**

Adds the following members to the Elder Abuse Commission: (1) two representatives of organizations that focus on elder abuse or sexual violence, to be appointed by the AG, (2) one representative representing the interests of geriatric medicine, to be appointed by the AG, (3) one representative of a research-based organization that focuses on elder abuse research, to be appointed by the AG, (4) one representative of the Ohio Judicial Conference, to be appointed by the AG, and (5) the Medicaid Director, or the Director's designee, to serve as an ex officio member.

### **Penalties for disturbing a lawful meeting when it involves religious worship**

Increases the penalty for a violation of the prohibition under the offense of "disturbing a lawful meeting" from a fourth degree misdemeanor to a first degree misdemeanor if either of the following apply:

1. The violation is committed with the intent to disturb or disquiet any assemblage of people met for religious worship at a tax-exempt place of worship and disturbs the order and solemnity of the assemblage; or
2. The violation is committed with the intent to prevent, disrupt, or interfere with a virtual meeting or gathering of people for religious worship, through use of a computer, computer system, telecommunications system, or other electronic device or system, or in any other manner.

### **Judicial release – when DRC-recommended**

For purposes of Department of Rehabilitation and Corrections (DRC) recommended judicial release, if the court does not enter a ruling on the notice from DRC recommending judicial release within ten days after the hearing is conducted, the Division of Parole and Community Services of DRC may release the offender.

### **Judicial release – state of emergency-qualifying offender filing cap**

Provides that a state of emergency-qualifying offender may only file a motion for judicial release with the sentencing court during the declared state of emergency once every six months.

### **Judicial release – notification to victim**

Retains current law that provides that if a motion for judicial release alleges the offender is an eligible offender or a state of emergency-qualifying offender and the court makes

an initial determination that the offender satisfies the criteria for being an eligible offender or a state of emergency-qualifying offender, the court must determine whether to grant the motion.

Specifies that after the ruling on the motion for judicial release, the prosecuting attorney, rather than the court as under existing law, must notify the victim of the ruling.

### **Judicial release – technical amendment**

Corrects an erroneous reference to R.C. 2929.20(O)(5) to R.C. 2929.20(O)(6).

### **Failure to report adult abuse, neglect, or exploitation**

Specifies that if a mandatory reporter fails to report adult abuse, neglect, or exploitation, that person is guilty of a fourth degree misdemeanor, rather than subject to a \$500 fine.

### **Body-worn cameras of youth services employees**

Establishes, for body-worn camera recordings of a youth services employee, the same public records exemption that applies to recordings made by a visual and audio recording device that is worn on a peace officer or that is mounted on a peace officer's vehicle.

### **Domestic violence victim – prohibit reimbursement**

Prohibits a victim of certain criminal offenses (and the owner of property where the victim resides) from being required to pay reimbursement for the cost of law enforcement assistance.

### **Expungement – time for filing**

Modifies the time that a person may file an application for expungement of a conviction record as follows:

1. If the offense is a misdemeanor, at the expiration of one year after the offender's final discharge, rather than at the expiration of three years after the time that an offender may seal a misdemeanor; and
2. If the offense is a minor misdemeanor, at the expiration of six months after the offender's final discharge, rather than at the expiration of three years after the time that an offender may seal a minor misdemeanor.

### **Expungement – BCII maintenance of records**

Provides that when the Bureau of Criminal Identification and Investigation (BCII) receives notice from a court that a conviction has been expunged under this section, BCII shall maintain a record of the expunged conviction record for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement.

Provides that BCII may not be compelled by the court to expunge those records.

Provides that these records may only be disclosed or provided to law enforcement for the limited purpose of determining an individual's qualification or disqualification for employment in law enforcement.

## **Fentanyl drug testing strips**

Excludes from the offense of “illegal use or possession of drug paraphernalia” a person’s use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.

## **Aggravated vehicular homicide – five-year prison term if victim is firefighter or emergency medical worker**

Expands the existing provisions that require a five-year prison term to be imposed on a person convicted of “aggravated vehicular homicide” who also is convicted of a specification charging that the victim of the offense is a peace officer or a BCII investigator so that the specification and the required five-year prison term also will apply if the victim of the aggravated vehicular homicide is a firefighter or an emergency medical worker. As used in the expansion, by cross reference to existing R.C. 4123.026, “firefighter” means a firefighter, whether paid or volunteer, of a lawfully constituted fire department and “emergency medical worker” means a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, certified under R.C. Chapter 4765, whether paid or volunteer.

## **Funeral expenses for crime victims**

Regarding the matter of awards of reparations for funeral expenses for crime victims:

1. Permits the Attorney General to grant an emergency award of reparations for funeral expenses of a decedent victim of a crime, provided there is reasonable belief that the requirements of the written findings of fact and decision of the investigation before granting an award of reparations will be met, that the decedent and claimant are indigent, and that the claimant will suffer undue hardship if not granted immediate relief.
2. Requires the repayment of an emergency award limited to the payment of cremation or burial services of the decedent in cases where there is a final determination that no compensation on the application for an award of reparations will be made.

## **Electronic monitoring of respondent under juvenile court or civil stalking protection order or of violator of such an order**

In provisions pertaining to specified situations (see below) in which a court requires electronic monitoring of a respondent or convicted offender, eliminates the authorization, when the court determines that the person to be monitored is indigent, for the use of funds from the Reparations Fund to pay the costs of installing and monitoring the electronic monitoring device. The situations covered by the provisions are when electronic monitoring is required by: (1) a juvenile court under a protection order it issues against a respondent, (2) a court under a stalking protection order it issues against a respondent, and (3) a court under the sentence it imposes on an offender convicted of violating either of those types of protection orders.

Currently, the provisions specify that: (1) unless the court determines that the respondent or offender is indigent, it must order that the person pay the installation and monitoring costs (retained by the bill), and (2) if the court determines that the respondent or offender is indigent, the installation and monitoring costs may be paid out of the Reparations Fund, with the amounts paid subject to a maximum amount of \$300,000 per year for all such payments and to rules of the Attorney General (repealed by the bill).