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H.B. 322*
135th General Assembly

Bill Analysis

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Version: As Reported by Senate Judiciary

Primary Sponsors: Reps. Seitz and Abrams

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SUMMARY

Childhood Sexual Abuse Registration and Community Notification

- Provides that if a registrant for the Child Sexual Abuse Registry fails to comply with registration, notice, and verification requirements, the penalty for a violation of the offense is a civil penalty of up to \$2,500, instead of a fifth degree felony.
- Requires the sheriff, if a registrant for the Child Sexual Abuse Registry fails to comply with verification requirements, to promptly refer the failure to the prosecuting attorney of the county in which the registrant is required to verify their current address or the county in which the registrant resides or is employed.
- Allows the prosecuting attorney in the preceding dot point to file a civil action against the registrant, but if the prosecuting attorney does not file the civil action within 45 days after the referral, the aggrieved person may file the civil action.
- Repeals the prohibition on a registrant for the Child Sexual Abuse Registry establishing a residence or occupying a residential premises within 1,000 feet of any school premises.
- Provides that a prosecution for a violation of failure to report child abuse or neglect is barred unless it is brought within four years after a violation of the offense is committed.

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

Offense of grooming

- Creates the offense of grooming, a first or second degree misdemeanor, except under specified circumstances in which the offense is a felony.

DETAILED ANALYSIS

Childhood Sexual Abuse Registration and Community Notification

Background

Under current law, when an individual is precluded from bringing a civil action for assault or battery based on childhood sexual abuse against a person solely because the limitation period for the action expired, the Attorney General or the prosecuting attorney may bring an action for a declaratory judgment finding that the person would have been liable for assault or battery based on childhood sexual abuse but for the expiration of the limitation period.¹ If a court enters a declaratory judgment and issues an order that the person be listed on the Child Sexual Abuse Registry, the registrant must do all of the following: (1) register personally with the sheriff of the county in which the registrant resides and with the sheriff of any county in which the registrant is employed, (2) send the sheriff written notice of the address of the new residence or place of employment or of an intent to reside in another county, and (3) verify the registrant's current resident address or employment address on each anniversary of the registrant's initial registration date.²

Failure to comply with registration, notice, and verification

Current law prohibits a registrant from failing to comply with the registration, notice, and verification requirements described above.³

The bill provides that "a registrant does not violate the prohibition" by failing to send written notice of a change of residence or employment address or notice of intent to reside in a county in specified circumstances. Current law provides that failing to send written notice of a change of residence or employment address or notice of intent to reside in a county is "an affirmative defense to a charge of the violation of the prohibition" in specified circumstances.⁴

The bill provides that the penalty for a violation of the prohibition is a civil penalty of up to \$2,500 (instead of a fifth degree felony under current law).⁵

¹ R.C. 2721.21(B), not in the bill.

² R.C. 3797.01 and 3797.04; R.C. 3797.02 and 3797.03, not in the bill.

³ R.C. 3797.10(A).

⁴ R.C. 3797.10(B).

⁵ R.C. 3797.10(C).

Verification of registrant's current resident and employment addresses

Under current law, if a registrant fails to verify a current residence address or employment address by the date required for verification, the sheriff with whom the registrant is required to verify the current address must send on the day following the date required for the verification and at the registrant's last known residence or place of employment, a written warning to the registrant regarding the registrant's duty to verify the registrant's current address. The written warning must do all of the following as modified by the bill:⁶

- Identify the sheriff who sends it and the date on which it is sent;
- Conspicuously state that the registrant has failed to verify the registrant's current residence address or employment address by the date required for the verification;
- Conspicuously state that the registrant has seven days from the date on which the warning is sent to verify the current residence address or employment address with the sheriff who sent the warning, by the date required for verification;
- Conspicuously state that a failure to timely verify the specified current address or addresses is subject to a civil penalty of up to \$2,500 (instead of a fifth degree felony under current law);
- Conspicuously state that the registrant will not be liable for that civil penalty (instead of prosecuted under current law), for a failure to timely verify a current address if the registrant does not verify the current address with that sheriff within the 7-day period;
- Conspicuously state that the registrant will be liable for that civil penalty (instead of arrested or taken into custody and prosecuted under current law) for failure to timely verify a current address if the registrant does not verify the current address with that sheriff within the 7-day period.

Under the bill, if a registrant fails to verify a current address by the date required for the verification, the registrant is not liable for the civil penalty for failure to comply with registration, notice, and verification requirements, unless the 7-day period subsequent to the date that the registrant is provided to verify the current address has expired and the registrant has not verified the current address prior to the expiration of the 7-day period. Current law provides that the registrant must not be prosecuted for failure to comply with registration, notice, and verification requirements.⁷

Under current law, upon the expiration of the 7-day period, if the registrant has not verified the current address, all of the following apply as modified by the bill:⁸

⁶ R.C. 3797.04(C)(1).

⁷ R.C. 3793.04(C)(2).

⁸ R.C. 3797.04(C)(2).

- The sheriff with whom the registrant is required to verify the current address promptly must notify the Attorney General of the failure;
- The sheriff with whom the registrant is required to verify the current address promptly must refer the registrant's failure to verify the current address to either of the following (instead of sheriff with whom the registrant is required to verify the current address, the sheriff of the county in which the registrant resides or is employed, or a deputy of the appropriate sheriff must locate the registrant, promptly must seek a warrant for the arrest or taking into custody of the registrant, and must arrest the registrant):
 - The prosecuting attorney of the county in which the registrant is required to verify the current address to that county's sheriff;
 - The prosecuting attorney of the county in which the registrant resides or is employed.
- The prosecuting attorney to whom the referral is made may file a civil action against the registrant for a violation of the registration, notice, and verification requirements. If the prosecuting attorney fails to file the civil action within 45 days after the referral, the aggrieved person may file that civil action.

The bill defines "aggrieved person" as an individual to whom the registrant would have been liable for assault or battery based on childhood sexual abuse, but for the expiration of the limitation period.⁹

Residency within 1,000 feet of a school premises

The bill repeals a provision that prohibits a person against whom a court has issued a declaratory judgment and who has not been removed from the Child Sexual Abuse Registry from establishing a residence or occupying a residential premises within 1,000 feet of any school premises. If a person violates the prohibition, an owner or lessee of real property that is located within 1,000 feet of those school premises, or the prosecuting attorney, village solicitor, city or township director of law, similar chief legal officer of a municipal corporation or a township, or official designated as a prosecutor in a municipal corporation that has jurisdiction over the place at which the person establishes the residence or occupies the residential premises in question, has a cause of action for injunctive relief against the person. The plaintiff must not be required to prove irreparable harm in order to obtain relief.¹⁰

Limitation period for reporting child abuse or neglect

Current law prohibits a specified person who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under 18 years of age, or a

⁹ R.C. 3797.01(A).

¹⁰ R.C. 3797.11 and 3797.12.

person under 21 years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child from failing to immediately report that knowledge or reasonable cause to suspect to a specified entity or person.¹¹

Under current law, a violation of the prohibition is a first or fourth degree misdemeanor, depending on the circumstances of the offense.¹²

The bill provides that a prosecution for a violation of the offense is barred unless it is brought within four years after a violation of the offense is committed. Under current law, a prosecution for a violation of a misdemeanor offense is barred unless it is brought within two years after the violation of the misdemeanor offense is committed.¹³

Offense of grooming

The bill creates the offense of grooming by prohibiting either of the following:

1. A person who is 18 years of age or older from engaging in a “pattern of conduct” with a minor who is less than 16 years of age and who is four or more years younger than the person, when the pattern of conduct would cause a reasonable adult person to believe that the person is communicating with the minor with purpose to do either of the following:
 - Entice, coerce, or solicit the minor to engage in “sexual activity,” and when the person’s purpose in engaging in the pattern of conduct is to entice, coerce, or solicit the minor to engage in sexual activity with the person or a third person.¹⁴
 - Prepare the minor to engage in sexual activity, and when the person’s purpose in engaging in the pattern of conduct is to prepare the minor to engage in sexual activity with the person or a third person that would be a violation of the R.C. section prohibiting any of the following: rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, sexual imposition, or importuning.¹⁵
2. A person who is 18 years of age or older from engaging in a pattern of conduct with a minor if the person and the minor are in any of the relationships described in the R.C. section prohibiting sexual battery (see (a) to (i) below), when the pattern of conduct

¹¹ R.C. 2151.421(A)(1) and (4), not in the bill.

¹² R.C. 2151.99(A) and (C), not in the bill.

¹³ R.C. 2901.13(A).

¹⁴ R.C. 2907.071(B)(1).

¹⁵ R.C. 2907.071(B)(2) and by reference to R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, and 2907.07, not in the bill.

would cause a reasonable adult person to believe that the person is communicating with the minor with purpose to do either of the following:

- Entice, coerce, or solicit the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to entice, coerce, or solicit the minor to engage in sexual activity with the person or a third person.¹⁶
- Prepare the minor to engage in sexual activity, and when the person's purpose in engaging in the pattern of conduct is to prepare the minor to engage in sexual activity with the person or a third person that would be a violation of the R.C. section prohibiting any of the following: rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, sexual imposition, or importuning.¹⁷

The relationships described in the R.C. section prohibiting sexual battery and referred to in (2) above are the following:¹⁸

- a. The person is the minor's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the minor.
- b. The minor is in custody of law or a patient in a hospital or other institution, and the person has supervisory or disciplinary authority over the minor.
- c. The person is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the director of education and workforce prescribes minimum standards, the minor is enrolled in or attends that school, and the person is not enrolled in and does not attend that school.
- d. The person is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the minor is enrolled in or attends that institution.
- e. The person is the minor's athletic or other type of coach, is the minor's instructor, is the leader of a scouting troop of which the minor is a member, or is a person with temporary or occasional disciplinary control over the minor.
- f. The person is a mental health professional, the minor is a mental health client or patient of the person, and the person induces the minor to submit by falsely representing to the minor that the sexual conduct is necessary for mental health treatment purposes.
- g. The minor is confined in a detention facility, and the person is an employee of that detention facility.

¹⁶ R.C. 2907.071(C)(1).

¹⁷ R.C. 2907.071(C)(2) and by reference to R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, and 2907.07, not in the bill.

¹⁸ R.C. 2907.071(C) and by reference to R.C. 2907.03(A)(5) to (13), not in the bill.

- h. The person is a cleric, and the minor is a member of, or attends, the church or congregation served by the cleric.
- i. The person is a peace officer and is more than two years older than the minor.

Definitions

The bill defines “pattern of conduct” as two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization.¹⁹

Under the bill, the following definition of “sexual activity” in current law applies to its provisions.²⁰

“Sexual activity” means sexual conduct or sexual contact, or both.

“Sexual conduct” means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

“Sexual contact” means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

Penalty

The bill provides the following penalties for the offense of grooming:

- A violation of either prohibition in (1) above is a second degree misdemeanor, except if any of the following applies:²¹
 - If the victim of the offense is less than 13 years of age or if the offender supplied alcohol or a drug of abuse to the victim, the violation is a fifth degree felony.
 - If the victim of the offense is less than 13 years of age and if the offender previously has been convicted of or pleaded guilty to grooming or a sexually oriented offense or a child-victim oriented offense or the offender supplied alcohol or a drug of abuse to the victim, the violation is a fourth degree felony.

¹⁹ R.C. 2907.071(A) and by reference to R.C. 2903.211, not in the bill.

²⁰ R.C. 2907.01(A), (B), and (C), not in the bill.

²¹ R.C. 2907.071(D)(1).

- If the offender previously has been convicted of or pleaded guilty to grooming or a sexually oriented offense or a child-victim oriented offense and the offender supplied alcohol or a drug of abuse to the victim of the offense, the violation is a third degree felony.
- A violation of either prohibition in (2) above is a first degree misdemeanor, except if any of the following applies:²²
 - If the offender supplied alcohol or a drug of abuse to the victim of the offense, the violation is a fifth degree felony.
 - If the victim of the offense is less than 13 years of age or if the offender previously has been convicted of or pleaded guilty to grooming or a sexually oriented offense or a child-victim oriented offense, the violation is a fourth degree felony.
 - If the victim of the offense is less than 13 years of age and if the offender previously has been convicted of or pleaded guilty to grooming or a sexually oriented offense or a child-victim oriented offense or the offender supplied alcohol or a drug of abuse to the victim, the violation is a third degree felony.

No preclusion

The bill states that a prosecution for the offense of grooming does not preclude a prosecution of a violation of any other Revised Code section. One or more acts, a series of acts, or a course of behavior that can be prosecuted for grooming or a violation of any other Revised Code section may be prosecuted for grooming, the other Revised Code section, or both grooming and the other section.²³

HISTORY

Action	Date
Introduced	11-08-23
Reported, H. Civil Justice	04-08-24
Passed House (90-1)	04-24-24
Reported, S. Judiciary	---

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²² R.C. 2907.071(D)(2).

²³ R.C. 2907.071(E).