



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

Sub. H.B. 362

131st General Assembly
(As Reported by H. Judiciary)

Reps. Stinziano and Kunze

BILL SUMMARY

- Expands the offense of "domestic violence" to prohibit knowingly impeding the normal breathing or blood circulation of a family or household member by applying pressure to the throat or neck, or by blocking the nose or mouth, of the family or household member.
- Creates as an affirmative defense to a charge of "domestic violence" by violating the above prohibition that the act was done to the family or household member as part of a medical or other procedure undertaken for the victim's benefit.

CONTENT AND OPERATION

Expansion of offense of "domestic violence"

The bill adds another prohibition under the offense of "domestic violence." It prohibits any person from knowingly impeding the normal breathing or circulation of the blood of a "family or household member" (defined as in continuing law) by applying pressure to the throat or neck, or by blocking the nose or mouth, of the family or household member.¹ In a prosecution for a violation of that prohibition, it is not required to allege or prove that the family or household member who is the victim suffered physical harm, serious physical harm, or visible injury.²

¹ R.C. 2919.25(D).

² R.C. 2919.25(G).

Under the bill, it is an affirmative defense to a charge of violating the above prohibition that the act was done to the family or household member as part of a medical or other procedure undertaken to aid or benefit the victim.³

Penalties

Domestic violence committed in violation of the new prohibition is generally a third degree felony, and generally: (1) the court must impose a mandatory prison term of 6, 9, 12, 18, 24, 30, or 36 months, or (2) if the offender, in committing the violation, caused serious physical harm to the "pregnant woman's unborn" or caused the "termination of the pregnant woman's pregnancy" (defined as in continuing law), the court must impose a mandatory prison term of 9, 12, 18, 24, 30, or 36 months.⁴ If the offender previously was convicted of domestic violence or of two or more offenses of domestic violence, a violation of the above prohibition is a second degree felony, and the court must impose a mandatory prison term of 2, 3, 4, 5, 6, 7, or 8 years.⁵

A mandatory prison term imposed as described above cannot be reduced pursuant to judicial release, earned credits, the 80% release mechanism, or any other release provision under R.C. Chapter 2967. or 5120.⁶

HISTORY

ACTION	DATE
Introduced	10-13-15
Reported, H. Judiciary	05-18-16

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³ R.C. 2919.25(H).

⁴ R.C. 2919.25(E)(1), (6), and (8)(d) and (e), 2929.13(F)(17), and 2929.14(A)(3)(b).

⁵ R.C. 2919.25(E)(1), (7), and (8)(f); 2929.13(F)(17), and 2929.14(A)(2).

⁶ R.C. 2929.13(F).

