Gerald T. Noel, Jr. *Legislative Service Commission*

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BILL SUMMARY

- Extends the Victim's Rights Law to proceedings in a juvenile court in which a child is charged with committing an act that would be a felony or a specified misdemeanor if committed by an adult.

- Expands the weekly report each clerk of a court of record must send to BCII to include cases involving an adjudication in a case in which a child under 18 years of age was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult.

- Expands the weekly report each juvenile court must send to BCII to include cases involving the disposition of a child who is a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult.

- Broadens the instances in which a victim impact statement must be prepared to require a statement be prepared if a child is adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult.

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CONTENT AND OPERATION

Chapter 2930. of the Revised Code (the Victim's Rights Law, hereafter the VR Law) sets forth the rights of a victim of a "crime" (a felony or a specified misdemeanor; see "***Definitions***," below) in the criminal proceedings against the offender and during any period of incarceration of the offender. The bill generally

makes Chapter 2930. also apply to juvenile court proceedings with respect to a victim of an act committed by a child that, if committed by an adult, would be a felony or one of the specified misdemeanors. Unless a provision of the VR Law by its nature is inapplicable in a delinquency proceeding or to the disposition of a child who is adjudicated a delinquent child, all of the existing VR Law provisions apply with respect to a delinquency proceeding as well as to a criminal proceeding. (Sec. 2930.01; Chapter 2930.)

Victim's representative

Existing law

Existing law authorizes a member of a victim's family (see "***Definitions***," below) or another person to exercise the rights of a "victim" (see "***Definitions***," below) under the VR Law as a victim's representative if the victim is a minor or is incapacitated, incompetent, or deceased or if the victim chooses to designate another person to exercise those rights. If more than one person seeks to act as the victim's representative for a particular victim, the court in which the crime is prosecuted must designate one of those persons as the victim's representative. If a victim does not want to have anyone act as the victim's representative, the court must order that only the victim may exercise the rights of a victim under the VR Law. (Sec. 2930.02(A).)

Existing law further provides that if a victim's representative is to exercise the rights of a victim, the victim or victim's representative must notify the prosecutor that the victim's representative is to act for the victim. When a victim or victim's representative has so notified the prosecutor, all notice under the VR Law must be sent only to the victim's representative, all rights under the VR Law must be granted only to the victim's representative, and all references in the VR Law to a victim must be interpreted as being references to the victim's representative unless the victim informs the notifying authority that the victim also wishes to receive the notices or exercise the rights. If a victim is required to make a request in order to receive any notice of a type described in this division and if a victim's representative is to exercise the rights of the victim, the victim's representative must make the request. (Sec. 2930.02(B).)

Operation of the bill

Under the bill, if more than one person seeks to act as the victim's representative for a particular victim, the court *in which the criminal prosecution* (existing law) *or delinquency proceeding* (added by bill) *is held* must designate one of those persons as the victim's representative. If a victim does not want

anyone to act as the victim's representative, as under existing law that court must order that only the victim may exercise the rights of a victim. (Sec. 2930.02(A).)

The bill further modifies existing law to provide that if a victim's representative is to exercise the rights of a victim, the victim or victim's representative must notify the prosecutor, *or, if it is a delinquency proceeding and a prosecutor is not involved in the case, must notify the court* that the victim's representative is to act for the victim. When a victim or victim's representative has so notified the prosecutor *or the court*, all notice under the VR Law must be sent only to the victim's representative, all rights under the VR Law must be granted only to the victim's representative, and all references in the VR Law to a victim must be interpreted as being references to the victim's representative unless the victim informs the notifying authority that the victim also wishes to receive the notices or exercise the rights. (Sec. 2930.02(B).)

Notice by law enforcement agency that investigates the crime

Existing law

Existing law requires a law enforcement agency that investigates a crime, within a reasonable period of time after the arrest of a defendant for a crime, to give the victim of the crime notice of all of the following: (1) the arrest, (2) the name of the defendant (see "***Definitions***," below), (3) whether the defendant is eligible for pretrial release, (4) the telephone number of the law enforcement agency, and (5) the victim's right to telephone the agency to ascertain whether the defendant has been released from custody. If a defendant has been released from custody on a bond or personal recognizance and the prosecutor (see "***Definitions***," below) has received the affidavit of a victim stating that the defendant, or someone acting at the defendant's direction, has committed or threatened to commit one or more acts of violence or intimidation against the victim, the victim's family, or the victim's representative, the prosecutor is authorized to file a motion asking the court to reconsider the conditions of the bond or personal recognizance granted to the defendant. (Sec. 2930.05.)

Operation of the bill

The bill extends the notice requirements to a law enforcement agency that investigates a specified delinquent act, to require, within a reasonable time after the detention of an alleged juvenile offender compliance with the above notice requirements. The bill expands or clarifies the first, second, third, and fifth items of the notice that a law enforcement agency must give a victim. It must notify the victim of the arrest or *detention*, of the name of the defendant or *alleged juvenile offender*, of whether the defendant *or alleged juvenile offender* is eligible for

pretrial release *or for release from detention*, and of the victim's right to telephone the agency to ascertain whether the defendant *or alleged juvenile offender* has been released from custody *or from detention*. The bill also expands the provision with respect to threats of violence or intimidation against a victim, the victim's family, or the victim's representative to apply to a defendant *or alleged juvenile offender who has been released from detention* and authorizes the prosecutor to file a motion asking the court to reconsider the conditions of the bond or personal recognizance granted to the *alleged juvenile offender* or *to consider returning the alleged juvenile offender to detention*. (Secs. 2151.31(A)(1) and 2930.05.)

Notice to the victim from the prosecutor

Existing law

Trial rights. Existing law requires a prosecutor, to the extent practicable, to confer with the victim in the case before certain events in the criminal proceeding but states that the prosecutor's failure to confer with the victim does not affect the validity of any of those events. Existing law prohibits a court from dismissing a criminal complaint, charge, information, or indictment solely at the request of the victim and over the objection of the prosecutor in the case. (Sec. 2930.06(A).)

After a prosecution has been commenced, the prosecutor or a designee of the prosecutor other than a court or court employee, to the extent practicable, promptly must give the victim all of the following information (sec. 2930.06(B)):

(1) The name of the offense with which the defendant has been charged and the name of the defendant;

(2) The file number of the case;

(3) A brief statement regarding the procedural steps in a criminal case involving an offense similar to the offense with which the defendant has been charged and the right of the victim to be present during all proceedings held throughout the prosecution of the case;

(4) A summary of the rights of a victim under the VR Law;

(5) Procedures the victim or the prosecutor may follow if the victim becomes subject to threats or intimidation by the defendant or any other person;

(6) The name and business telephone number of a person to contact for further information with respect to the case;

(7) The right of a victim to have a victim's representative exercise the victim's rights and the procedure by which a victim's representative may be designated;

(8) Notice that any further notification under the VR Law will be given to the victim only if the victim asks to receive the notification.

Upon the victim's request, the prosecutor must give the victim notice of the date, time, and place of any scheduled court proceedings in the case and notice of any changes in those proceedings or in the schedule in the case. A victim who requests that notice and any further notice from the prosecutor must keep the prosecutor informed of the victim's current address and telephone number until the case is dismissed or terminated, the defendant is acquitted or sentenced, or the appellate process is completed, whichever is the final disposition in the case. (Sec. 2930.06(C) and (D).)

Appellate rights. If a defendant is convicted of committing a crime against a victim, if the victim requests notice of the filing of an appeal, and if the defendant files an appeal, the prosecutor in the case promptly must notify the victim of the appeal. The prosecutor also must give the victim all of the following information (sec. 2930.15(A)):

(1) A brief explanation of the appellate process, including the possible disposition of the case;

(2) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal;

(3) The time, place, and location of appellate court proceedings and any subsequent changes in the time, place, or location of those proceedings;

(4) The result of the appeal.

If the appellate court returns the defendant's case to the trial court for further proceedings, the victim may exercise all the rights that previously were available to the victim in the trial court (sec. 2930.15(B)).

Operation of the bill

Trial rights. The bill requires a prosecutor, to the extent practicable, also to confer with the victim *before the juvenile court conducts an adjudicatory hearing for the alleged juvenile offender*. If the juvenile court disposes of a case prior to the prosecutor's involvement in the case, the court or a court employee must notify the victim in the case that the alleged juvenile offender will be granted pretrial

diversion, the complaint against the alleged juvenile offender will be amended or dismissed, or the court will conduct an adjudicatory hearing for the alleged juvenile offender. The bill adds that the prosecutor's failure to confer with a victim does not affect the validity of an agreement between the prosecutor and the alleged juvenile offender, a pretrial diversion of the alleged juvenile offender, an amendment or dismissal of a complaint filed against the alleged juvenile offender, a plea of the alleged juvenile offender, or *an admission entered by the alleged juvenile offender* and that a court's failure to provide the required notice does not affect the validity of any of those events. Further, the bill prohibits a court from dismissing *a delinquent child complaint* solely at the request of the victim and over the objection of the prosecuting attorney. (Sec. 2930.06(A).)

Under the bill, the prosecutor or, if it is a delinquency proceeding and a prosecutor is not involved in the case, the court or a court employee must provide to the victim in a juvenile court proceeding all of the information that existing law requires the prosecutor to give a victim in a criminal proceeding. If the juvenile court disposes of a case prior to the prosecutor's involvement in the case, the court or a court employee, to the extent practicable, promptly must provide the victim in a juvenile proceeding all of the information that existing law requires the prosecutor to give a victim in a criminal proceeding. The third item of information discussed above is enlarged to require the prosecutor to give the victim a brief statement regarding the procedural steps *in a delinquency proceeding involving a specified delinquent act similar to the specified delinquent act with which the alleged juvenile offender has been charged*. The eighth item discussed above is enlarged to include notice that notification under the VR Law will be given to a victim only upon the victim's request to receive *notification from the Release Authority of the Department of Youth Services with respect to all release reviews, pending release hearings, supervised release revocation hearings, and discharge reviews relating to the defendant, the placement of the defendant on supervised release, and the discharge of the defendant*. (Sec. 2930.06(B) by reference to sec. 5139.56--not included in the bill.)

The bill expands the period in which a victim must keep the prosecutor or court informed of the victim's current address to include *until the delinquent child complaint is dismissed, the alleged juvenile offender is adjudicated a delinquent child, or the appellate process is completed, whichever is the final disposition in the case* (sec. 2930.06(D)).

Appellate rights. Under the bill, if the defendant (should be "alleged juvenile offender") is adjudicated a delinquent child for committing a specified delinquent act against a victim, if the victim requests notice of the filing of an appeal, and if the alleged juvenile offender files an appeal, the prosecutor in the

case promptly must notify the victim of the appeal. The bill amends the second item of information the prosecutor gives the victim to require the prosecutor to inform the victim whether the alleged juvenile offender has been released under conditions imposed by the juvenile court pending the disposition of the appeal. If the appellate court returns the alleged juvenile offender's case to the juvenile court for further proceedings, the victim may exercise all the rights that previously were available to the victim in the juvenile court. (Sec. 2930.15.)

Notice of defendant's acquittal or conviction

Existing law

At the request of the victim, the prosecutor must give the victim notice of the defendant's acquittal or conviction. If the defendant is convicted, the notice must include all of the following (sec. 2930.12):

(1) The crimes of which the defendant was convicted;

(2) The address and telephone number of the probation office or other person, if any, that is to prepare a presentence investigation report and of the person, if any, who is to prepare a victim impact statement;

(3) Notice that the victim may make a statement about the impact of the offense to the probation officer or other person, if any, who prepares the presentence investigation report or to the person, if any, who prepares a victim impact statement, that a statement of the victim included in the report will be made available to the defendant unless the court exempts it from disclosure, and that the court may make the victim impact statement available to the defendant;

(4) Notice of the victim's right to make a statement about the impact of the offense before sentencing;

(5) The date, time, and place of the sentencing hearing;

(6) Any sentence imposed upon the defendant and any subsequent modification of that sentence, including modification by judicial release or as a result of the defendant's appeal of the sentence.

Operation of the bill

The bill retains the above-described notice requirements. In addition, it specifically requires the prosecutor, *at the request of the victim in a delinquency proceeding*, to give the victim *notice of the dismissal of the complaint against the alleged juvenile offender or of the adjudication of the alleged juvenile offender as*

a delinquent child. If the juvenile court dismisses the complaint against the alleged juvenile offender or adjudicates the alleged juvenile offender a delinquent child prior to the prosecutor's involvement in the case, at the request of the victim, the court or a court employee must give the victim notice of the dismissal or of the adjudication. It broadens the first five requirements set forth above to include specific references to proceedings and reports in juvenile court. It broadens the sixth requirement set forth above to specify *notification of any disposition ordered for the alleged juvenile offender and any subsequent modification of that disposition, including judicial release or early release in accordance with the Juvenile Law*. (Sec. 2930.12.)

Notification when defendant is incarcerated

Existing law

Under existing law, if a defendant is incarcerated, a victim who has requested to receive notice must be given notice of the incarceration. Promptly after sentence is imposed upon the defendant, the prosecutor must notify the victim of the date on which the defendant will be released from confinement or the prosecutor's reasonable estimate of that date. The prosecutor also must notify the victim of the name of the custodial agency (see "***Definitions***," below) of the defendant and tell the victim how to contact that custodial agency. The victim is required to keep the custodial agency informed of the victim's current address and telephone number.

Upon the victim's request, the prosecutor promptly must notify the victim of any hearing for judicial release of the defendant and of the victim's right to make a statement at the hearing. The court is required to notify the victim of its ruling in each of those hearings and on each of those applications. Existing law also prescribes notice to be given to the victim of a person sentenced to a prison term as a sexually violent predator. (Sec. 2930.16(A) and (B).)

Under existing law, the custodial agency is required, upon the victim's request made at any time before the particular notice would be due, to give the victim any of the following notices that is applicable (sec. 2930.16(C)):

(1) Specified notice with respect to the Adult Parole Authority's (APA) recommending a pardon or commutation of sentence for the defendant or prior to a hearing before the APA regarding a grant of parole to the defendant;

(2) Notice of the pendency of the defendant's transfer to transitional control;

(3) Prompt notice of the defendant's escape from a facility of the custodial agency in which the defendant was incarcerated, of the defendant's absence without leave from a mental health or mental retardation and developmental disabilities facility or from other custody, and of the capture of the defendant after an escape or absence;

(4) Notice of the defendant's death while in custody;

(5) Notice of the defendant's release from confinement and the terms and conditions of the release.

Operation of the bill

Under the bill, if a defendant (should be "alleged juvenile offender") is committed to the temporary custody of a school, camp, institution, or other facility operated for the care of delinquent children or to the legal custody of the Department of Youth Services (DYS), a victim in a case who has requested to receive notice under the VR Law must be given notice of the commitment. Promptly after the commitment is ordered, the prosecutor must notify the victim of the date on which the alleged juvenile offender will have served the minimum period of commitment or the prosecutor's reasonable estimate of that date. If the custodial agency is DYS, the prosecutor must notify the victim of the services provided by the Office of Victims' Services within the Release Authority of DYS and the victim's right to submit a written request to the Release Authority to be notified of actions the Release Authority takes with respect to the alleged juvenile offender. Upon the victim's request, the prosecutor also must notify the victim of any hearing for judicial release or early release of the alleged juvenile offender under the Juvenile Law and of the victim's right to make a statement. The court must notify the victim of its ruling in each of those hearings and on each of those applications. (Sec. 2930.16(A) and (B).)

With respect to the notice that a custodial agency of an alleged juvenile offender must give a victim, the bill expands the provisions to require notice of the alleged juvenile offender's escape from a facility of the custodial agency in which the alleged juvenile offender was placed *after commitment*, notice of the alleged juvenile offender's death while in *confinement* or custody, and notice of the alleged juvenile offender's release *from custody*. It also requires that, at least 30 days before the Release Authority of DYS holds a release review, release hearing, or discharge review for the defendant (should be "alleged juvenile offender"), notice be given to the victim of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the specified delinquent act upon the victim or regarding the possible release or discharge, and, if the notice pertains to a hearing, of the victim's right to attend and make

statements or comments at the hearing as authorized by Juvenile Law. (Sec. 2930.16(C).)

Victim's right with respect to judicial release of defendant

Existing law

In determining whether to grant a judicial release to a defendant from a prison term at a time before the defendant's stated prison term expires, the court must permit a victim of a crime for which the defendant was incarcerated to make a statement, in addition to any other statement authorized under the VR Law, concerning the effects of that crime on the victim, the circumstances surrounding the crime, the manner in which the crime was perpetrated, and the victim's opinion whether the defendant should be released. The victim may make the statement in writing or orally, at the court's discretion. The court is required to give the defendant and the Adult Parole Authority a copy of a written impact statement made by the victim. In deciding whether to grant a judicial release to the defendant, the court must consider the victim's statement. (Sec. 2930.17.)

Operation of the bill

The bill requires a juvenile court, in determining whether to grant a judicial release or early release to an alleged juvenile offender from a commitment to DYS, to permit a victim of a specified delinquent act for which the alleged juvenile offender was committed to make a statement as described above. It requires the court to give DYS a copy of any written impact statement made by the victim. In deciding whether to grant a judicial release or early release to the alleged juvenile offender, the court must consider the victim's statement. (Sec. 2930.17.)

Miscellaneous provisions

Provisions related to trial

Confidentiality of information about the victim. The bill specifically makes applicable to a delinquency proceeding the existing provision of the VR Law with respect to the confidentiality of certain identifying information about the victim (sec. 2930.07).

Presence of victim at proceedings. Existing law authorizes a victim to be present whenever the defendant is present at any stage of the case, other than a grand jury proceeding, unless the court determines that it is necessary to exclude the victim to protect the defendant's right to a fair trial. Under the bill, the court may determine that it is necessary to exclude the victim to protect an alleged juvenile offender's right *to a fair delinquency proceeding*. (Sec. 2930.09.)

Support person for victim. Existing law authorizes a victim to be accompanied by an individual who provides support to the victim unless the court determines that exclusion of the individual is necessary to protect the defendant's right to a fair trial. The bill permits the court to exclude the individual if necessary to protect the alleged juvenile offender's right *to a fair delinquency proceeding*. (Sec. 2930.09.)

Contact between victim and defendant. Existing law requires the court in which a criminal case is prosecuted to make a reasonable effort to minimize contact between the victim, members of the victim's family, the victim's representative, or witnesses for the prosecution and the defendant, members of the defendant's family, or witnesses for the defense before, during, and immediately after all court proceedings. The court must provide a waiting area for the group with the victim that is separate from the waiting area provided for the group with the defendant if a separate waiting area is available and the use of the area is practical. The bill makes those provisions applicable also to the court in which a delinquency proceeding is held. (Sec. 2930.10.)

Property of the victim. Under existing law, a law enforcement agency must promptly return to the victim of a crime any property of the victim that was taken in the course of the investigation. In accordance with Criminal Rule 26, the agency may take photographs of the property for use as evidence. The bill broadens that permissive provision to specify that the agency may take photographs of the property *in accordance with an applicable Juvenile Rule.* (Sec. 2930.11.)

Other miscellaneous provisions

The bill amends the provision in existing VR Law relating to the victim's right to make a statement before the court imposes sentence upon the defendant and the use of such a statement to also apply to proceedings involving an alleged juvenile offender who allegedly committed a specified delinquent act (sec. 2930.14). Existing provisions that prohibit an employer of a victim from retaliating against the victim for participation in criminal proceedings are expanded in the bill to apply to delinquency proceedings (sec. 2930.18). The existing provision stating that failure to provide a right, privilege, or notice to a victim does not constitute grounds for declaring a mistrial or new trial, for setting aside a conviction or sentence, or for granting postconviction release to a defendant is expanded to state that such a failure does not constitute grounds for setting aside an adjudication or disposition for an alleged juvenile offender (sec. 2930.19(C)). Existing law authorizes modification of a victim's rights by court order if the victim is incarcerated in a state or local correctional facility. The bill

also authorizes modification of a victim's rights if the victim is in the legal custody of DYS. (Sec. 2930.19(E).)

Victim's pamphlet prepared by the Attorney General

Existing law requires the Attorney General to prepare and distribute a pamphlet that contains a compilation of all statutes relative to victim's rights and in which the Attorney General lists and explains the statutes in the form of a victim's bill of rights. The bill makes changes to the specifications for the content of the pamphlet and to the requirements for distribution of the pamphlet in keeping with the changes to the VR Law made in the bill. (Sec. 109.42(A)(4), (5), (6), (8), (9), (14) and (B)(1)(b) and (2).)

Duty of a juvenile court

Under the bill, if a juvenile court schedules a hearing to determine whether a child should be granted a judicial release or an early release, the court is required to give notice of the hearing to the prosecutor involved in the case. In accordance with the VR Law and if the victim has requested notification, the prosecutor must give notice of the hearing to the victim of the delinquent act for which the child's commitment to the legal custody of DYS was imposed. The court must consider any statement of a victim made under the bill's provisions and any victim impact statement. After making a determination, the court must notify the victim of the determination. (Secs. 2151.38(B)(2) and (C)(2) and 2930.16(B)(1).)

Information sent to BCII

Existing law

Under existing law, every clerk of a court of record in Ohio, other than the Supreme Court or a court of appeals, must send to the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) a weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, involving specified misdemeanors, or *involving an adjudication that a child under 18 years of age is a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult*. Similarly, the juvenile court must send to the Superintendent of BCII, a weekly report containing a summary of each case that has come before it and that involves an adjudication that a child is a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. (Secs. 109.57(A)(2) and 2151.18 (A)(2).) A juvenile court is a division of the court of common pleas and a court of

record; therefore, both of these requirements, which are identical, probably apply to a juvenile court.

The clerk of the court of common pleas must include in the report and summary all information described in (1) to (6), below, regarding a case before the court of appeals that is served by that clerk. The summary must be written on the standard forms furnished by the Superintendent and must include the following information: (1) the incident tracking number, (2) the style and number of the case, (3) the date of arrest, (4) the date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing such an act, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case, (5) a statement of the original charge with the section of the Revised Code that was alleged to be violated, and (6) if the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child. If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk must clearly state that fact in the summary, and the Superintendent must ensure that a clear statement of that fact is placed in BCII's records. (Sec. 109.57(A)(2).)

Operation of the bill

The bill broadens the category of cases for which a clerk of a court of record must send a weekly report of summaries of specified cases to BCII. Under the bill, the weekly report must include cases involving an adjudication in a case in which a child under 18 years of age was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. Thus, under the bill, the clerk must include cases in which the child was alleged to be such a delinquent child, regardless of the type of adjudication in the case. (Sec. 109.57(A)(2).)

The bill also broadens the category of cases for which the juvenile court is specifically required to send to the Superintendent of BCII a weekly report of case summaries. Under the bill, the juvenile court's weekly report must include a summary of each case that has come before it and that involves the disposition of a child who is a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. (Sec. 2151.18(A)(2).)

Victim impact statement

Existing law

Under existing law, if a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult and if the child caused, attempted to cause, threatened to cause, or created the risk of physical harm to the victim of the act, the court, prior to issuing an order of disposition, must order the preparation of a victim impact statement. The court must consider the victim impact statement in determining the order of disposition to issue for the child.

Each victim impact statement must identify the victim of the act for which the child was adjudicated a delinquent child, itemize any economic loss suffered by the victim as a result of the act, identify any physical injury suffered by the victim as a result of the act and the seriousness and permanence of the injury, identify any change in the victim's personal welfare or familial relationships as a result of the act and any psychological impact experienced by the victim or the victim's family as a result of the act, and contain any other information related to the impact of the act upon the victim that the court requires.

A victim impact statement must be kept confidential and is not a public record. However, the court may furnish copies of the statement to DYS in specified circumstances or to both the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney. The copy of a victim impact statement furnished by the court to DYS must be kept confidential and is not a public record. The copies of a victim impact statement that are made available to the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney must be returned to the court by the person to whom they were made available immediately following the imposition of an order of disposition for the child. (Sec. 2151.355(H).)

Operation of the bill

The bill broadens the cases for which a victim impact statement must be prepared to require that a statement be prepared if a child is adjudicated a delinquent child for committing an act that would be a felony (existing law) or *an offense of violence* (added by the bill) if committed by an adult. The bill removes the existing requirement that the victim impact statement be prepared only when the child caused, attempted to cause, threatened to cause, or created the risk of physical harm to the victim of the act. (Sec. 2151.355(H)(1).)

The bill also expands the provision in existing VR Law that applies to the preparation of a victim impact statement to also apply to the statement of a victim in a delinquency proceeding (sec. 2930.13(A) and (D)).

Definitions

The VR Law defines a number of terms for purposes of that law. The paragraphs below contain the existing definitions of specific terms, the bill's expansion of those definitions, and new definitions added by the bill.

Expanded definitions

"Crime" in existing VR Law means (1) a felony or (2) the offense of negligent homicide, vehicular homicide, assault, aggravated menacing, menacing by stalking, menacing, sexual imposition, domestic violence, or intimidation of an attorney, victim, or witness in a criminal case or of a violation of a substantially equivalent municipal ordinance. It does not mean an act for which an adjudication hearing is or may be held in a juvenile court.

The bill eliminates the exception for adjudications in a juvenile court and creates a new term "specified delinquent act" (outlined below) that covers offenses committed by juveniles. (Sec. 2930.01(A).)

"Custodial agency" in existing VR Law means the entity that has custody of a defendant who is incarcerated for a crime or who is detained after a finding of incompetence to stand trial or not guilty by reason of insanity relative to a crime, including any of the following: (1) the Department of Rehabilitation and Correction or the Adult Parole Authority, (2) a county sheriff, (3) the entity that administers a jail, (4) the entity that administers a community-based correctional facility and program or a district community-based correctional facility and program, or (5) the Department of Mental Health or other entity to which a defendant found incompetent to stand trial or not guilty by reason of insanity is committed.

Under the bill, "custodial agency" also means the entity that has custody of an alleged juvenile offender who is under detention for the commission of a specified delinquent act pursuant to an order of disposition of a juvenile court, including the Department of Youth Services or a school, camp, institution, or other facility operated for the care of delinquent children. (Sec. 2930.01(B).)

"Member of the victim's family" in existing VR Law means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, or other relative of a victim but does not include a person who is charged with or convicted of the crime against

the victim or another crime arising from the same conduct, criminal episode, or plan.

Under the bill, "member of the victim's family" also does not include a person who is adjudicated to be a delinquent child for the crime or specified delinquent act against the victim or another crime or specified delinquent act arising from the same conduct, criminal episode, or plan. (Sec. 2930.01(D).)

"Prosecutor" in existing VR Law means a county prosecuting attorney; an assistant prosecuting attorney; a village solicitor, city director of law, or similar chief legal officer of a municipal corporation or an assistant of that officer; an attorney designated by a prosecuting attorney to appear for the prosecution of a given case; the Attorney General; and, when appropriate, the employees of any of those persons.

Under the bill, with respect to a delinquency proceeding, "prosecutor" includes all of the persons in the existing definition except the Attorney General and includes an employee of any of those persons who prosecutes a delinquency proceeding. (Sec. 2930.01(E).)

"Victim" in existing VR Law means a person who is identified as the victim of a "crime" in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution and subsequent proceedings to which the VR Law makes reference.

The bill expands the definition to refer to the crime or specified delinquent act that provides the basis for "the criminal prosecution *or delinquency proceeding*." (Sec. 2930.01(H).)

New definitions

The bill defines the following terms for purposes of the VR Law:

"Court" means a court of common pleas, juvenile court, municipal court, or county court (sec. 2930.01(J)).

"Delinquency proceeding" means all proceedings in a juvenile court that are related to a case in which a complaint has been filed alleging that a child is a delinquent child (sec. 2930.01(K)).

"Case" means a delinquency proceeding and all related activity or a criminal prosecution and all related activity (sec. 2930.01(L)).

"Defense" means the defense against criminal charges in a criminal prosecution or the defense against a delinquency child complaint in a delinquency proceeding (sec. 2930.01(M)).

"Prosecution" means the prosecution of criminal charges in a criminal prosecution or the prosecution of a delinquent child complaint in a delinquency proceeding (sec. 2930.01(N)).

"Specified delinquent act" means any of the following: (1) an act committed by a child that if committed by an adult would be a felony, (2) an act committed by a child that is a violation listed under "crime" above or is a violation of a substantially equivalent municipal ordinance. (Sec. 2930.01(O).)

"Alleged juvenile offender" means a child who is alleged to have committed a specified delinquent act in a police report or in a complaint in juvenile court that charges the commission of a specified delinquent act and that provides the basis for the delinquency proceeding and all subsequent proceedings to which the VR Law makes reference. (Sec. 2930.01(P).)

As used in the preceding two definitions, "child" has the same meaning as in section 2151.011 of the Revised Code.

HISTORY

ACTION	DATE	JOURNAL ENTRY	
Introduced	01-20-99	p.	84
Reported, H. Criminal Justice	03-24-99	pp.	363-364
Passed House (97-0)	04-13-99	pp.	392-393
Reported, S. Judiciary	06-17-99	p.	623

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