



Sub. S.B. 163*

124th General Assembly

(As Reported by S. Judiciary on Criminal Justice)

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BILL SUMMARY

- Prohibits a person from knowingly, and by any means, dropping or throwing any object at, onto, or in the path of any vehicle, streetcar, or trackless trolley on a highway or any boat or vessel on any Ohio waters.
- Provides special dispositions for children who are adjudicated delinquent children for violating the above-described new prohibition or a substantially similar municipal ordinance and, in certain circumstances, provides special juvenile court sanctions and authorizes contempt sanctions, including fines, for the parents, guardians, or other persons having care of children who are so adjudicated delinquent children.
- Provides special juvenile court procedures relative to children who are alleged to be delinquent children for violating the above-described new prohibition or a substantially similar municipal ordinance and, in certain circumstances, for the parents, guardians, or other persons having care of such children.
- Requires the fines imposed upon the parents, guardians, or other persons having care of children who are adjudicated delinquent children for violating the above-described new prohibition or a substantially similar municipal ordinance to be used by the Department of Transportation to pay the cost of installing fences on highways, bridges, and overpasses that are part of the state highway system to prevent the dropping, throwing, hoisting, or transferring of objects from those locations.

* *This analysis was prepared before the report of the Senate Judiciary on Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Creates the Highway, Bridge, and Overpass Vandal Fence Task Force, consisting of specified public officials and appointed members, to perform specified duties, including the review and evaluation of the overall situation regarding objects thrown from highways, bridges, and overpasses, and to complete its findings and formulate recommendations and report them to a joint House of Representatives and Senate Transportation Committee not later than September 30, 2003.

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CONTENT AND OPERATION

New prohibition--dropping, throwing, etc., any object from or upon any part of a highway, bridge, overpass, etc.

Operation of the bill

The bill prohibits a person from knowingly, and by any means, dropping or throwing any object at, onto, or in the path of any of the following: (1) any "vehicle," "streetcar," or "trackless trolley" on a "highway," or (2) any boat or "vessel" on any of the "waters in this state" (see below for definitions of the terms in quotation marks).

A violation of the prohibition is the offense of "vehicular vandalism." Generally, vehicular vandalism is a misdemeanor of the first degree. However: (1) subject to clauses (2) to (4), if the violation causes physical harm to property, the offense is a felony of the fifth degree, (2) subject to clauses (3) and (4), if the violation creates a risk of physical harm to any person or the violation causes physical harm to property and the value of the property so harmed is \$5,000 or more but less than \$100,000, the offense is a felony of the fourth degree, (3) subject to clause (4), if the violation causes physical harm to any person or the violation causes physical harm to property and the value of the property so harmed is \$100,000 or more, the offense is a felony of the third degree, and (4) if the violation causes serious physical harm to any person, the offense is a felony of the second degree. (R.C. 2909.09(B) and (C).)

The bill defines certain terms used in the new offense as follows (R.C. 2909.09(A)):

(1) "Highway" means the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel or any lane, road, street, alley, bridge, or overpass. (By reference to R.C. 4511.01.)

(2) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic, and includes any street or highway that has been declared an "alley" by the legislative authority of the municipal corporation in which such street or highway is located. (By reference to R.C. 4511.01.)

(3) "Street" means the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel. (By reference to R.C. 4511.01.)

(4) "Streetcar" means a car, other than a railroad train, for transporting persons or property, operated upon rails principally within a street or highway. (By reference to R.C. 4511.01.)

(5) "Trackless trolley" means every car that collects its power from overhead electric trolley wires and that is not operated upon rails or tracks. (By reference to R.C. 4511.01.)

(6) "Vehicle" means every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except motorized wheelchairs, devices moved by power collected from overhead electric trolley wires, or used exclusively upon stationary rails or tracks, and

devices other than bicycles moved by human power. (By reference to R.C. 4511.01.)

(7) "Vessel" includes every description of watercraft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water. (By reference to R.C. 1547.01.)

(8) "Waters in this state" means all streams, rivers, lakes, ponds, marshes, watercourses, waterways, and other bodies of water, natural or humanmade, that are situated wholly or partially within Ohio or within its jurisdiction and are used for recreational boating. (By reference to R.C. 1547.01.)

In succeeding portions of this analysis, this new provision is referred to as the "new offense of vehicular vandalism" or as "new R.C. 2909.09."

Existing law

Existing law does not include any provision that prohibits conduct *identical* to the type of conduct prohibited under the bill's new offense of vehicular vandalism. However, a few existing provisions prohibit conduct that, depending upon the circumstances present, also might be prohibited under the bill's new offense of vehicular vandalism. A summary of the relevant existing provisions, none of which are in the bill, is set forth in **COMMENT 1**.

Procedures and sanctions in juvenile court regarding a child who commits a violation of new R.C. 2909.09, and the child's parent, guardian, etc.

Background

Under existing law, a person who is under 18 years of age and commits a violation of a prohibition contained in the Revised Code or in a municipal ordinance generally is within the jurisdiction of the juvenile court system. If the violation is of any traffic law, traffic ordinance, or traffic regulation of Ohio, the United States, or any Ohio political subdivision that is not required to be handled by a parking violations bureau or a joint parking violations bureau, the child is a "juvenile traffic offender." If the child is not classified as a juvenile traffic offender and if the violation would be a crime if committed by an adult (or if other limited, special circumstances apply), the child is a "delinquent child."

Existing law contains special procedures for a child who is charged in a juvenile court with being a delinquent child or juvenile traffic offender. The charges against the child are decided at an "adjudication" or "adjudicatory" hearing. If a child is found beyond a reasonable doubt to have committed the violation, the child is "adjudicated" a delinquent child or juvenile traffic offender. Existing law contains a full range of sanctions, called "dispositions," that a court

may impose upon a child who is adjudicated a delinquent child or a juvenile traffic offender. In certain specified cases, existing law requires a court to impose a specified disposition, but, generally, courts are given discretion in deciding the disposition to impose. (R.C. Chapters 2151. and 2152.)

Scheduling of adjudicatory hearing; order for appearance of child's parent, guardian, etc.

Existing law. Existing law provides that, no later than 72 hours after a complaint is filed against a child, the juvenile court must fix a time for an adjudicatory hearing. The court then must conduct the hearing within a specified period of time (generally, within ten days after the filing of a complaint alleging that the child is a delinquent child or a juvenile traffic offender). Generally, the court must direct the issuance of a summons directed to the child, the child's parent, guardian, or custodian, and any other appropriate persons, requiring them to appear before the court at the time fixed to answer the allegations of the complaint. If the child is under 14, the summons must be served on the child's parent, guardian, or custodian in the child's behalf. In general, the court may endorse upon the summons an order directing the parents, guardian, or other person with whom the child may be to appear personally at the hearing and directing the person with physical custody or control of the child to bring the child to the hearing. However, if the complaint alleges that the child is an unruly or delinquent child for being an habitual truant or chronic truant and that the parent, guardian, or other person with care of the child has failed to cause the child's attendance at school, the court must endorse upon the summons an order of that nature. (R.C. 2151.28 and Juvenile Rule 29.)

Operation of the bill. The bill specifies that, in cases in which a complaint against a child alleges that the child has committed a violation of new R.C. 2909.09 or a substantially similar municipal ordinance, that the child previously has been adjudicated a delinquent child for having committed a violation of new R.C. 2909.09 or a substantially similar municipal ordinance, and that the parent, guardian, or other person with care of the child failed to prevent the latest violation, the court must endorse upon the summons an order directing the child's parent, guardian, or other person with care of the child to appear personally at the hearing and directing the person with physical custody or control of the child to bring the child to the hearing (R.C. 2151.28(E)(1) and (3)).

Conduct of adjudicatory hearing

Existing law. Existing law specifies that, in general, juvenile courts may conduct their hearings in an informal manner, may adjourn their hearings from time to time, and, after determining at a hearing that it is appropriate to do so, may exclude the general public from their hearings. If a complaint alleges a child to be

a delinquent child, unruly child, or juvenile traffic offender, the juvenile court must require the child's parent, guardian, or custodian to attend all proceedings of the court regarding the child. If a parent, guardian, or custodian fails to so attend, the court may find the parent, guardian, or custodian in contempt.

Except cases involving children who are alleged to be unruly or delinquent children for being habitual or chronic truants and except in delinquency cases involving a serious youthful offender dispositional sentence, all cases in a juvenile court involving children must be heard separately and apart from the trial of cases against adults. (R.C. 2151.35(A)(1), first through third paragraphs.)

Operation of the bill. The bill enacts another exception to the existing general requirement that all cases in a juvenile court involving children be heard separately and apart from the trial of cases against adults. Under the bill, that general requirement does not apply in cases involving children who are alleged to be delinquent children for having committed a violation of new R.C. 2909.09 or a substantially similar municipal ordinance and who previously have been adjudicated delinquent children for having committed such a violation (R.C. 2151.35(A)(1), second paragraph).

Findings at adjudicatory hearing; dispositional hearing

Existing law. Existing law provides that, if a juvenile court at the adjudicatory hearing finds beyond a reasonable doubt that a child is a delinquent child or a juvenile traffic offender, the court must proceed immediately, or at a postponed hearing, to hear the evidence as to the proper disposition to be made of the child. If the court finds beyond a reasonable doubt that the child is an unruly child for being an habitual truant, is a delinquent child for being a chronic truant or for being an habitual truant who previously was found to be an unruly child for being an habitual truant, or is an unruly child for that reason or a delinquent child for either of those reasons and that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of law, the court must proceed to hold a hearing to hear the evidence as to the proper disposition to be made in regard to the child *and the proper action to take in regard to the parent, guardian, or other person under special provisions of law that provide for sanctions against the parent, guardian, or custodian in those circumstances.* (R.C. 2151.35(A)(1), fifth paragraph.)

Operation of the bill. The bill specifies in a new special dispositional hearing procedure that, if the court at the adjudicatory hearing finds beyond a reasonable doubt that a child is a delinquent child for having committed a violation of new R.C. 2909.09 or a substantially similar municipal ordinance, the court must make an order of disposition in regard to the child as described below in "**Operation of the bill--special dispositions for children who violate new R.C.**

2909.09 and their parents, guardians, etc.," below), and must issue an order to the parent, guardian, or other person having care of the child as described in that provision. In addition, if the court also finds by a preponderance of the evidence that the child previously was adjudicated delinquent for having committed such a violation and that the parent, guardian, or other person having care of the child failed to prevent the latest violation, the court also may find the parent, guardian, or other person having care of the child in contempt of the court order issued regarding the prior violation under that provision and may fine the parent, guardian, or other person having care of the child the amount specified in that provision (R.C. 2151.35(A)(1), sixth paragraph).

Delinquent child dispositions

Existing law. Existing law provides a full range of sanctions that a juvenile court may impose, as dispositions, upon a child who is adjudicated a delinquent child (the sections of existing law that contain these provisions currently are located in R.C. Chapter 2151., but, as of January 1, 2002, are relocated to Chapter 2152.; the bill discusses the provisions as they will be located on and after January 1, 2002). If the child's delinquent act would be a felony if committed by an adult, the court may commit the child to the Department of Youth Services for secure confinement for a specified period (R.C. 2152.16 and 2152.17). If the child is adjudicated a delinquent child and the child's delinquent act is of a specified, serious nature, the court may in some circumstances and must in other circumstances impose a serious youthful offender dispositional sentence upon the child. Sentences of that nature include a period of commitment to the Department of Youth Services and an adult criminal-type sentence that may be invoked, in certain circumstances, after the child attains 14 years of age (R.C. 2152.13 and 2152.14). In certain cases, the court must make specified types of dispositions (R.C. 2152.19(B) to (E)). In all cases in which a child is adjudicated a delinquent child, the court may impose any of a list of specified financial sanctions, including a fine, the payment of cost, the making of restitution to the victim or victim's family, or the reimbursement of cost of services or sanctions provided or imposed. In all cases in which a child is adjudicated a delinquent child, in addition to any other disposition authorized or required under the Juvenile Code, the court is provided with a series of possible dispositions that it may make of the child (R.C. 2152.19; see COMMENT 2).

Operation of the bill--special dispositions for children who violate new R.C. 2909.09 and their parents, guardians, etc. The bill enacts new sanction provisions that apply regarding a child who is adjudicated a delinquent child for a violation of new R.C. 2909.09 or a substantially similar municipal ordinance. Under the bill, if a child is adjudicated a delinquent child for having committed a

violation of new R.C. 2909.09 or a substantially similar municipal ordinance, all of the following apply (R.C. 2152.19(E)(2)):

(1) The court must make any order of disposition required by R.C. Chapter 2152. and, in addition, may make any order of disposition authorized by R.C. Chapter 2152. (see **COMMENT 2**);

(2) In addition to any order of disposition it makes for the child, the court must issue an order to the parent, guardian, or other person having care of the child to prevent the child from committing another such violation. The order must warn the parent, guardian, or other person that, if the child subsequently is adjudicated a delinquent child for committing such a violation, in relation to the subsequent adjudication, the court may impose a fine of not more than \$20,000 on the parent, guardian, or other person for violation of the court order.

(3) If the child previously was adjudicated a delinquent child for having committed a violation of new R.C. 2909.09 or a substantially similar municipal ordinance and if the court also finds by a preponderance of the evidence that the parent, guardian, or other person having care of the child violated a court order of the type described in (2), above, imposed regarding the prior violation, the court may impose a fine of not more than \$20,000 on the parent, guardian, or other person having care of the child for violating the court order. Prior to imposing such a fine, the court must hear any testimony that the parent, guardian, or other person offers that explains why he or she was not able to prevent the child from committing the subsequent violation. The court may hear this testimony at the same proceeding during which the child is adjudicated a delinquent child for having committed the violation in question or at a separate proceeding. In determining the amount of the fine, the court must give due consideration to this testimony but must assign such probative value to the testimony as the court determines proper. All fines collected under this provision must be deposited in the state treasury to the credit of the existing Highway Operating Fund and be used and expended in a manner specified in the bill (see "*Use of fine money*," below).

Contempt of court sanctions

Existing law

Existing law provides that, in all contempt proceedings, the court must conduct a hearing. At the hearing, the court must investigate the charge and hear any answer or testimony that the accused makes or offers and must determine whether the accused is guilty of the contempt charge. If the accused is found guilty, the court may impose any of the following penalties: (1) for a first offense, a fine of not more than \$250, a definite term of imprisonment of not more than 30 days in jail, or both, (2) for a second offense, a fine of not more than \$500, a

definite term of imprisonment of not more than 60 days in jail, or both, and (3) for a third or subsequent offense, a fine of not more than \$1,000, a definite term of imprisonment of not more than 90 days in jail, or both. Existing law provides special sanctions for certain contempt proceedings that are related to support orders. (R.C. 2705.05.)

Operation of the bill

The bill makes an exception to the "hearing" requirement regarding contempt charges related to a child's violation of new R.C. 2909.09 or a substantially similar municipal ordinance. Under the bill, in determining whether to impose a fine for contempt on a parent, guardian, or other person having care of a child who is adjudicated a delinquent child for a violation of new R.C. 2909.09 or a substantially similar municipal ordinance, a juvenile court is not required to conduct a separate hearing, but must comply with the procedures described above in paragraph (3) under "**Operation of the bill--special dispositions for children who violate new R.C. 2909.09 and their parents, guardians, etc.,**" prior to imposing the fine. (R.C. 2705.05(B).)

Use of fine money

The bill specifies that all fines imposed on a parent, guardian, or other person having care of a child adjudicated a delinquent child for a second or subsequent time for a violation of new R.C. 2909.09 (see "**Operation of the bill--special dispositions for children who violate new R.C. 2909.09 and their parents, guardians, etc.,**") must be deposited into the state treasury to the credit of the existing Highway Operating Fund created by existing R.C. 5735.291 (not in the bill). Notwithstanding the existing provisions that specify the manners in which that Fund is to be used, the bill requires the Department of Transportation to use the fine money so deposited in the Fund to pay the cost of installing fences on highways, bridges, and overpasses that are part of the state highway system to prevent the dropping, throwing, hoisting, or transferring of objects from those locations. The bill requires the Department to expend all such funds in the Department of Transportation District in which occurred the violation of new R.C. 2909.09 or a substantially similar municipal ordinance that was the basis for the contempt of court charge that resulted in the imposition of the fine. (R.C. 5579.11.)

Highway, Bridge, and Overpass Vandal Fence Task Force

The bill creates the Highway, Bridge, and Overpass Vandal Fence Task Force, consisting of the Governor or the Governor's designee, one person appointed by the Director of Transportation, one person appointed by the Director of Public Safety, who must be the Superintendent or a trooper of the State

Highway Patrol, one person appointed by the Buckeye State Sheriffs Association, one person appointed by the Ohio Association of Chiefs of Police, one person appointed by the County Engineers Association of Ohio, and three or more members of the public appointed by the Governor. The Governor or his designee is the chairperson of the Task Force. The members must elect a vice-chairperson from among their members and appoint a secretary, who does not need to be a member. Members of the Task Force do not receive a salary, but the three members appointed by the Governor are to be reimbursed for the actual expenses they incur in performing their duties as members.

The Task Force must do all of the following:

(1) Develop an awareness program with local law enforcement officials and the Ohio Department of Transportation relative to the problem of objects thrown from highways, bridges, and overpasses;

(2) Review and evaluate the overall situation regarding objects thrown from highways, bridges, and overpasses, including the types and number of objects thrown yearly, the perpetrators involved, and the locations within Ohio where the throwing has occurred, and any other aspects of this criminal activity the Task Force determines to be relevant and significant;

(3) Facilitate communication between the Ohio Department of Transportation and law enforcement agencies by developing a central computer system to track these incidents;

(4) Examine the value of the improved safety resulting from the installation of vandal fences on all bridges and overpasses on interstate freeways relative to the cost of such installation.

The Task Force must complete its findings and formulate recommendations and report them to a joint House of Representatives and Senate Transportation Committee not later than September 30, 2003. The Joint Committee must consist of eight members, four from the Senate appointed by the Senate's President and four from the House of Representatives appointed by the House's Speaker. After the Task Force presents its report, the Governor may declare the end to the existence of the Task Force or may declare that the Task Force will remain in existence for such additional time as the Governor determines necessary. If the Governor continues the existence of the Task Force, it must examine any issues relating to the throwing of objects from highways, bridges, and overpasses that it chooses to examine, until the Governor declares an end to its existence. (Section 4.)

COMMENT

1. The following existing provisions, none of which are in the bill, prohibit conduct that, depending upon the circumstances present, also might be prohibited under the bill's new offense of vehicular vandalism:

(a) Existing R.C. 4511.74(A) prohibits a person from *placing or knowingly dropping upon* any part of a highway, lane, road, street, or alley any tacks, bottles, wire, glass, nails, or other articles which may damage or injure any person, vehicle, streetcar, trackless trolley, or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof. It also prohibits a person from *placing* any obstruction in or upon a highway without proper authority. Existing R.C. 4511.99(D) provides that a violation of this prohibition generally is a minor misdemeanor, but that: (i) it is a misdemeanor of the fourth degree if, within one year of the offense, the offender once previously has been convicted of a violation of this prohibition or any other listed violation, and (ii) it is a misdemeanor of the third degree if, within one year of the offense, the offender two or more times previously has been convicted of a violation of this prohibition or any other listed violation.

(b) Existing R.C. 4511.74(B) prohibits a person, *with intent to cause physical harm to a person or a vehicle*, from *placing or knowingly dropping* upon any part of a highway, lane, road, street, or alley any tacks, bottles, wire, glass, nails, or other articles which may damage or injure any person, vehicle, streetcar, trackless trolley, or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof. Existing R.C. 4511.99(J) provides that a violation of this prohibition is a misdemeanor of the first degree.

(c) Existing R.C. 2903.11(A) prohibits a person from *knowingly causing serious physical harm to another or to another's unborn*, and from *knowingly causing or attempting to cause physical harm to another or to another's unborn by means of a deadly weapon* or dangerous ordnance. Under R.C. 2903.11(D), a violation of this prohibition is the offense of "felonious assault." Felonious assault generally is a felony of the second degree, but if the victim of the offense is a peace officer, the offense is a felony of the first degree, and if the victim of the offense is a peace officer and the victim suffered serious physical harm as a result of the commission of the offense, the offense is a felony of the first degree and the court must impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(d) Existing R.C. 2903.12 prohibits a person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, from *knowingly causing serious physical harm to another or to another's unborn* and from *knowingly causing or attempting to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance*. A violation of this prohibition is the offense of "aggravated assault." Aggravated assault generally is a felony of the fourth degree, but if the victim of the offense is a peace officer, the offense is a felony of the third degree, and if the victim of the offense is a peace officer and the victim suffered serious physical harm as a result of the commission of the offense, the offense is a felony of the third degree and the court must impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree.

(e) Existing R.C. 2903.13 prohibits a person from *knowingly causing or attempting to cause physical harm to another or to another's unborn*, and from *recklessly causing serious physical harm to another or to another's unborn*. A violation of this prohibition is the offense of "assault." Assault generally is a misdemeanor of the first degree, but if the victim of the offense is a peace officer, a firefighter, or a person performing emergency medical service, while in the performance of their official duties, the offense is a felony of the fourth degree, and if the victim of the offense is a peace officer and the victim suffered serious physical harm as a result of the commission of the offense, the offense is a felony of the fourth degree and the court must impose as a mandatory prison term one of the prison terms prescribed for a felony of the fourth degree that is at least 12 months in duration. In other specified circumstances, generally related to the status of the victim but generally not relevant to the bill, assault is classified as a felony of the third, fourth, or fifth degree.

(f) Existing R.C. 2903.14 prohibits a person from *negligently, by means of a deadly weapon or dangerous ordnance, causing physical harm to another or to another's unborn*. A violation of this prohibition is the offense of "negligent assault," a misdemeanor of the third degree.

(g) Existing R.C. 2909.06 prohibits a person from *causing, or creating a substantial risk of physical harm to any property of another* without the other person's consent, either *knowingly, by any means*, or recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance. A violation of this prohibition is the offense of "criminal damaging or endangering." Criminal damaging or endangering generally is a misdemeanor of the second degree, but: (i) if the violation creates a risk of physical harm to any person, the offense is a misdemeanor of the first degree, (ii) if the property involved in the violation is an

aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person, the offense is a felony of the fifth degree, and (iii) if the property involved in the violation is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a substantial risk of physical harm to any person or if the property involved in the violation is an occupied aircraft, the offense is a felony of the fourth degree.

(h) Existing R.C. 2909.07 prohibits a person from engaging in any of a list of specified activities that cause certain types of property damage. One of the prohibited activities is relevant to this discussion--it prohibits a person, without privilege to do so, from *knowingly* moving, defacing, *damaging*, destroying or otherwise improperly tampering with *the property of another*. A violation of this prohibition, or any of the other prohibitions contained in the section, is the offense of "criminal mischief." Criminal mischief generally is a misdemeanor of the third degree, but: (i) if the violation creates a risk of physical harm to any person, the offense is a misdemeanor of the first degree, (ii) if the property involved in the violation is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates a risk of physical harm to any person, the offense is a felony of the fifth degree, and (iii) if the property involved in the violation is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates a substantial risk of physical harm to any person or if the property involved in the violation is an occupied aircraft, the offense is a felony of the fourth degree.

2. Under the general delinquent child dispositional provision contained in existing law, in all cases in which a child is adjudicated a delinquent child, in addition to any other disposition authorized or required under the Juvenile Code, the court may make any of the following orders of disposition (R.C. 2152.19):

(a) Any order authorized by R.C. 2151.353 for abused, neglected, or dependent children;

(b) Commit the child to the temporary custody of any school, camp, institution, or other facility publicly or privately operated for the care of delinquent children that is authorized and qualified to provide the care, treatment, or placement required;

(c) Place the child on community control under any sanctions, services, or conditions that the court prescribes;

(d) Commit the child to the court's custody;

(e) Require the child to not be absent without legitimate excuse from the public school the child is supposed to attend for five or more consecutive days, seven or more school days in one school month, or 12 or more school days in a school year;

(f) If the child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being an habitual truant, do either or both of the following: (i) require the child to participate in a truancy prevention mediation program, or (ii) make any order of disposition as authorized by this section, except that the court cannot commit the child to a facility described in (b) above, unless it determines that the child violated a lawful court order made pursuant to R.C. 2151.354(C)(1)(e) or 2152.19(A)(5);

(g) If the child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being an habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of law, do either or both of the following: (i) require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program, or (ii) require the parent, guardian, or other person having care of the child to participate in any community service program, preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child;

(h) Make any further disposition that the court finds proper, except that the child cannot be placed in specified types of detention facilities.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-25-01	p. 902
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