



H.B. 244

125th General Assembly
(As Introduced)

Rep. Hughes

BILL SUMMARY

- Expands the offense of endangering children to also prohibit a person leaving a child under the age of 12 unattended in a vehicle if either (1) there are conditions present that endanger the health, safety, or welfare of the child, (2) the vehicle's engine is running, the keys are in the ignition, or the vehicle's engine is running with the keys in the ignition, or (3) the vehicle is out of the person's sight.
- Permits a law enforcement officer to use whatever means necessary to protect a child left unattended in a vehicle.

CONTENT AND OPERATION

Endangering children

Current law (This analysis discusses the law that will take effect January 1, 2004. It does not discuss the law in effect between the date of the completion of this analysis and January 1, 2004.)

Current law generally prohibits a person who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a mentally or physically handicapped child under 21 years of age from creating a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support (R.C. 2919.22(A)). Current law also prohibits a person from doing any of the following to a child under 18 years of age or a mentally or physically handicapped child under 21 years of age (R.C. 2919.22(B)):

- (1) Abusing the child;
- (2) Torturing or cruelly abusing the child;

(3) Administering corporal punishment or other physical disciplinary measure, or physically restraining the child in a cruel manner or for a prolonged period, which punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;

(4) Repeatedly administering unwarranted disciplinary measures to the child, when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development;

(5) Enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually-oriented matter, or is nudity-oriented matter.

Current law also prohibits a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them in violation of the state OVI Law when a child under the age of 18 is in the vehicle (R.C. 2919.22(C)).

Whoever violates any of these prohibitions is guilty of the offense of "endangering children."

The penalties for these violations range from a misdemeanor of the first degree to a felony of the second degree, depending on the prohibition violated, whether or not the offender has been previously convicted of endangering children or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, and if the violation results in serious physical harm to the child. The court may require the offender to perform not more than 200 hours of community service work. (R.C. 2919.22(E).)

Operation of the bill (This analysis discusses the bill's changes to the law that takes effect on January 1, 2004.)

The bill expands the offense of endangering children to also prohibit a person from leaving a child who is under the age of 12 unattended in a vehicle if at least one of the following conditions applies (R.C. 2919.22(D)(1)):

(1) There are conditions present that endanger the health, safety, or welfare of the child.

(2) The vehicle's engine is running, the vehicle's keys are in the ignition, or the vehicle's engine is running with the keys in the ignition.

(3) The vehicle is out of the person's sight.

If a law enforcement officer observes a child left unattended in a vehicle, the bill authorizes the officer to use whatever means necessary to protect the child and remove the child from the vehicle. An officer who removes such a child from a vehicle must attempt to find the vehicle's operator. If the officer is unable to find the vehicle's operator, the officer is required to notify the public children services agency of the county in which the child was left unattended. Additionally, the bill requires an officer who removes a child from a vehicle and from the immediate vicinity of the vehicle to place a notice on the vehicle stating (1) that the child has been removed by the officer and (2) where the child has been taken. (R.C. 2919.22(D)(2) and (3).)

Under the bill, the penalty for violating this provision is generally a felony of the fifth degree for a first violation and a felony of the fourth degree for a second or subsequent offense. However, if the offender previously has been convicted of an offense that constitutes endangering children under continuing law (discussed above) or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, then the penalty for violating this provision is a felony of the fourth degree. Also, if the offense results in serious physical harm to the child involved, the penalty is a felony of the third degree. (R.C. 2919.22(F)(6).)

The bill also permits a court to impose the following penalties, in addition to the penalties available under the Felony Sentencing Law, upon an offender who violates the prohibition against endangering children by leaving a child unattended in a vehicle (R.C. 2919.22(F)(6)(d)):

(1) Requiring an offender, as part of the sentence and at the offender's own cost, to participate in an educational program that includes instruction on responsible parenting and provides certification of completion of the program;

(2) For a repeat offender, the suspension of the offender's driver's license, commercial license or permit, or nonresident operating privilege for a definite period not exceeding one year (Class 7 suspension under R.C. 4510.13(A)(7)). The suspension is in addition to any suspension or revocation under any other law and must be consecutive to and commence after any other suspension or revocation. A court that imposes this penalty may grant the offender occupational driving privileges during the period of suspension.

As under current law, the court may require the offender to perform up to 200 hours of community service work (R.C. 2919.22(G)).

Technical change

Current R.C. 4510.13(A)(3) contains a cross-reference to R.C. 2919.22(G)(2)(b) to (h). However, Am. Sub. H.B. 123 of the 124th General Assembly (effective January 1, 2004) replaced the list of offenses described in those divisions with the term "equivalent offense," as defined in R.C. 4511.181. Consequently, the cross-references in current R.C. 4510.13(A)(3) to R.C. 2919.22(G)(2)(b) refers to "equivalent offense," and the cross-reference in that section to R.C. 2919.22(G)(2)(c) to (h) refers to nothing. The bill replaces the cross-reference in R.C. 4510.13(A)(3) to R.C. 2919.22(G)(2)(b) to (h) with a reference to "equivalent offense" as defined in R.C. 4511.181. (R.C. 4510.13(A)(3).)

HISTORY

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Introduced	07-08-03	p. 1008

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