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Bill Analysis

Legislative Service Commission

H.B. 345

125th General Assembly
(As Introduced)

Reps. S. Smith, Allen, Miller, DeWine, Key, Strahorn, Price, Hughes, Brown, Gilb, Young, Gibbs, S. Patton, Kearns, Cirelli, Hollister, Distel, Barrett, Chandler, Harwood, Hartnett, Aslanides, Perry

BILL SUMMARY

- Requires the Ohio Peace Officer Training Commission to establish guidelines for the training of peace officers in the handling of missing children incidents and to make them available upon request to all Ohio law enforcement agencies.
- Requires the Attorney General to adopt rules governing training of peace officers in the handling of missing children incidents.
- Requires every Ohio law enforcement agency to adopt those guidelines for its officers and to provide each of its officers not previously so trained with that training.
- Requires the suspension of a peace officer who refuses to receive training in the handling of missing children incidents and prohibits a peace officer appointed on or after the effective date of the bill from serving as a peace officer unless the officer receives such training.
- Requires every Ohio law enforcement agency to establish a child recovery plan consistent with those guidelines.
- Requires the Ohio Peace Officer Training Commission to establish guidelines for a plan that is designed to assist peace officers in the investigation and recovery of missing children (a "child recovery plan") and to make them available upon request of a law enforcement agency.
- Declares an emergency.

CONTENT AND OPERATION

(The As Introduced version of H.B. 345 contains law that was effective until January 1, 2004, and law that was effective as of January 1, 2004. This analysis only discusses the law as it exists on and after January 1, 2004.)

Guidelines for the training of peace officers in the handling of missing children incidents

The bill requires the Ohio Peace Officer Training Commission, within 90 days of the effective date of the bill, to establish guidelines for the training of peace officers¹ in the handling of missing children² incidents. After the guidelines are created, the Commission is required to make the guidelines available upon request to all Ohio law enforcement agencies.³ Every Ohio law enforcement agency must, within 180 days after the effective date of the bill, adopt for the training of its peace officers the guidelines developed by the Commission and must provide any peace officer training in compliance with the guidelines if the peace officer has not previously received the training. (R.C. 109.746(B)(1).)

Attorney General rules

In compliance with the training guidelines established by the Peace Officer Training Commission, the bill also requires the Attorney General to adopt rules

¹ As used in R.C. 109.746, which the bill enacts, "peace officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, or a state highway patrol trooper (R.C. 109.746(A)(4), referencing R.C. 2151.3515, which is not in the bill).

² As used in R.C. 109.746, "missing children" means either (a) a minor who has run away from or who otherwise is missing from the home of, or the care, custody, and control of, the minor's parents, parent who is the residential parent and legal custodian, guardian, legal custodian, or other person having responsibility for the care of the minor, or (b) a minor who is missing and about whom there is reason to believe the minor could be the victim of kidnapping, abduction, unlawful restraint, interference with custody, or the former offense of child stealing (R.C. 109.746(A)(3), referencing R.C. 2901.30, which is not in the bill).

³ As used in R.C. 109.746, "law enforcement agency" includes, but is not limited to, a county sheriff's office, the office of a village marshal, a police department of a municipal corporation, a police force of a regional transit authority, a police force of a metropolitan housing authority, the state highway patrol, a state university law enforcement agency, the office of a township police constable, and the police department of a township or joint township police district (R.C. 109.746(A)(2), referencing R.C. 5502.52, which is not in the bill).

governing training of peace officers⁴ in the handling of missing children incidents. The rules must be adopted pursuant to the Administrative Procedure Act or R.C. 109.74. The rules must specify the amount of that training necessary for the satisfactory completion of basic training programs at approved peace officer training schools, excluding the Ohio Peace Officer Training Academy,⁵ and must specify the amount of any training in the handling of missing children that a law enforcement agency must provide to its officers. (R.C. 109.745.)

Suspension of peace officers for refusal to train in the handling of missing children incidents

If a peace officer (the less expansive definition used in R.C. 109.746) refuses to receive training in the handling of missing children incidents and has not previously had training of that type, the bill requires the employing law enforcement agency to suspend the officer. In suspending an officer for failure to receive training in the handling of missing children incidents, the law enforcement agency must abide by the applicable collective bargaining agreement with the law enforcement agency or otherwise must suspend the officer from active duty until the officer agrees to receive the training. (R.C. 109.746(B)(2).)

⁴ As used in R.C. 109.745, which the bill enacts, "peace officer" means a deputy sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a police force employed by a metropolitan housing authority, township constable, police officer who is employed by a railroad company, investigative employees of the department of taxation, an undercover drug agent, enforcement agents of the Department of Public Safety, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft, certain employees of a park district, certain employees of a conservancy district, police officer who is employed by a hospital that employs and maintains its own proprietary police department or security department, veterans' homes police officers, police officer who is employed by a qualified nonprofit corporation police department, state university law enforcement officer, special police officer employed by the Department of Mental Health or the Department of Mental Retardation and Developmental Disabilities, member of a campus police department, member of a police force employed by a regional transit authority, certain investigators appointed by the Auditor of State, special police officer designated by the Superintendent of the State Highway Patrol, special police officer employed by a port authority, and certain special police officers employed by a municipal corporation (R.C. 109.71(A), not in the bill).

⁵ Training requirements for the Ohio Peace Officer Training Academy are generally governed by R.C. 109.79. With respect to training in the handling of missing children incidents, existing R.C. 109.79(A) requires the Ohio Peace Officer Training Commission to develop the training program for the Academy, which must include training in the handling of missing children and child abuse and neglect cases.

Prohibition on serving as a peace officer without training in the handling of missing children incidents

The bill prohibits a person who is appointed as a sheriff (sheriffs are elected officials), deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, or state highway patrol trooper on or after the effective date of the bill from serving as a sheriff (sheriffs are elected officials), deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, or state highway patrol trooper unless the person has received approved training in the handling of missing children incidents. Approved training includes either training from an approved state, county, township, or municipal police officer training program for the handling of missing children incidents under R.C. 109.746, discussed above in "**Guidelines for the training of peace officers in the handling of missing children incidents**," or training from the employing law enforcement agency that complies with the rules adopted by the Attorney General, discussed above in "**Attorney General rules**." (R.C. 109.77(J).)

Guidelines for a child recovery plan

Within 90 days of the effective date of the bill, the Ohio Peace Officer Training Commission is required to establish guidelines for a "child recovery plan" (plan that is designed to assist peace officers in the investigation and recovery of missing children (R.C. 109.476(A)(1))). The bill directs the Commission to make these guidelines available to all requesting law enforcement agencies. Each Ohio law enforcement agency is required to establish a child recovery plan consistent with these guidelines within 180 days after the effective date of the bill. (R.C. 109.476(C).)

Finally, the bill specifies that the requirements to create and implement guidelines for training and a child recovery plan do not affect the operation of missing child reports under R.C. 2901.30 (See **COMMENT 1**).

Existing law

Under continuing law, the Ohio Peace Officer Training Commission is required to recommend rules to the Attorney General with respect to the requirements of minimum basic training for peace officers (as defined in R.C. 109.71(A)). These minimum basic requirements must include a specified amount of training in the handling of missing children and child abuse and neglect cases. (R.C. 109.73(A)(4), not in the bill.)

The Attorney General is required to adopt rules under the Administrative Procedure Act governing the training of peace officers in the handling of missing

children and child abuse and neglect cases. The rules must specify the amount of that training necessary for the satisfactory completion of basic training programs at approved peace officer training schools, other than the Ohio Peace Officer Training Academy and the time within which a peace officer is required to receive that training, if the officer receives appointment as a peace officer before receiving the training. (R.C. 109.741, not in the bill.)

R.C. 109.77(I) provides that no person appointed as a peace officer of a county, township, or municipal corporation on or after April 9, 1985, may serve as a peace officer of that county, township, or municipal corporation unless the person has received training in the handling of missing children and child abuse and neglect cases from an approved state, county, township, or municipal police officer basic training program or receives the training within the time prescribed by rules adopted by the Attorney General pursuant to R.C. 109.741 (see above).

COMMENT

1. Current law, unaffected by the bill, requires a law enforcement agency with jurisdiction in the matter to take a missing child report from a person wishing to file such a report. Upon receiving the report, the law enforcement agency must take prompt action upon it, including concerted efforts to locate the missing child. Additionally, once a missing child report is made, the law enforcement agency is required to gather readily available information about the missing child (such as information relating to a physical or mental description of the child) and integrate that information into the National Crime Information Center computer within 12 hours following receipt of the report.

In addition to information gathering and integration into the national computer, current law requires a law enforcement agency that receives a missing child report to promptly make a reasonable attempt to notify specified law enforcement agencies that it has taken a missing child report and may be seeking assistance from the other law enforcement agencies. The agency may inform other law enforcement agencies and appropriate public children services agencies and request assistance. If a law enforcement agency requests information from a public children services agency, the public children services agency is required to grant the law enforcement agency access to all relevant information.

If a missing child has not been located within 30 days, the law enforcement agency must request access to the child's dental records from the person responsible for the care of the child and integrate that information into the national computer. (R.C. 2901.30.)

2. In addition to a law enforcement agency's duty to investigate missing children reports, current law contains a mechanism for the statewide emergency

alert program ("Amber Alert" program). The Amber Alert program exists to aid in the identification and location of children under the age of 18 who are abducted and whose abduction, as determined by a law enforcement agency, poses a credible threat of immediate danger of serious bodily harm or death to a child. The program is a coordinated effort among the Governor's office, the Department of Public Safety, the Attorney General, law enforcement agencies, the state's public and commercial television and radio broadcasters, and any other entities the Governor determines are necessary. (R.C. 5502.52(A).)

Current law also specifies that a statewide alert may not be implemented unless all of the following activation criteria are met (R.C. 5502.52(B)):

(1) The local investigating law enforcement agency confirms that an abduction has occurred.

(2) An abducted child is under 18 years of age.

(3) The abduction poses a credible threat of immediate danger of serious bodily harm or death to a child.

(4) A law enforcement agency determines that the child is not a runaway and has not been abducted as a result of a child custody dispute, unless the dispute poses a credible threat of immediate danger of serious bodily harm or death to the child.

(5) There is sufficient descriptive information about the child, the abductor, and the circumstances surrounding the abduction to indicate that activation of the alert will help locate the child.

These five criteria do not prevent the activation of a local or regional emergency alert program that may have different criteria for the activation of a local or regional plan. (R.C. 5502.52(C).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	12-09-03	pp. 1259-1260

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