



Final Analysis

Michael Burns
Phil Mullin

Legislative Service Commission

Sub. S.B. 281

126th General Assembly
(As Passed by the General Assembly)

Sens. Stivers, Padgett, Mumper, Goodman, Austria, Spada, Zurz

Reps. Uecker, Setzer, Blessing, Carano, Cassell, Combs, DeBose, Distel, Dominick, C. Evans, D. Evans, Hagan, Otterman, T. Patton, Yuko

Effective date: *

ACT SUMMARY

- Requires that each appointing authority require each of its peace officers and State Highway Patrol troopers to complete up to 24 hours of continuing professional training each calendar year, so long as state funding to pay for the training is available.
- Prohibits a peace officer or trooper who fails to complete the minimum required hours of that training in any calendar year or who fails to comply with the existing Firearms Requalification Law or any other required training from carrying a firearm during the course of official duties or from performing the functions of a peace officer or trooper until evidence of compliance is filed with the Ohio Peace Officer Training Commission (OPOTC).
- Establishes procedures for an appointing authority to request the OPOTC, because of emergency circumstances, for an extension of the time within which one or more of its peace officers or troopers must complete the minimum number of hours of continuing professional training.
- Replaces a law enforcement officers training reimbursement program for specified law enforcement officers with a new program for the reimbursement of public appointing authorities of peace officers and

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

troopers for the costs of the continuing professional training that their peace officers and troopers have successfully completed.

- Requires each agency or entity that appoints or employs one or more State Highway Patrol troopers to annually provide the OPOTC a roster of those troopers.
- Prohibits any person from impersonating an investigator of the Bureau of Criminal Identification and Investigation (BCII) or from performing certain acts while impersonating a BCII investigator.
- Imposes a mandatory five-year prison term for aggravated vehicular homicide if the victim of the offense is a BCII investigator.
- Makes an appropriation.

CONTENT AND OPERATION

Continuing professional training programs for peace officers and troopers

Minimum requirement

The act establishes a new requirement that, as a general rule, every appointing authority must require each of its appointed peace officers or troopers to complete up to 24 hours of continuing professional training each calendar year, as directed by the Ohio Peace Officer Training Commission (OPOTC).¹ The act specifies that the number of hours directed by the OPOTC, up to 24 hours, is

¹ A "trooper" is an individual who has been appointed as a State Highway Patrol trooper. (R.C. § 109.802(G)(2).) A "peace officer" is a peace officer of a county, township, municipal corporation, regional transit authority, or metropolitan housing authority; a Department of Natural Resources law enforcement staff officer, a park officer, a forest officer, a preserve officer, a wildlife officer, or a state watercraft officer; an employee of a township or metropolitan park district; certain employees of a conservancy district; a state university law enforcement officer; a Department of Mental Health or Department of Mental Retardation and Developmental Disabilities special police officer; a Department of Public Safety enforcement agent in a designated position; a port authority special police officer; a special police officer employed by a municipal corporation at certain municipal airports or other municipal air navigation facilities; a veterans' home police officer; a bailiff or deputy bailiff of a court of record; and a State Public Defender criminal investigator. (R.C. §§ 109.71 and 109.77--not in the act.) An "appointing authority" is an agency or entity that appoints a peace officer or trooper. (R.C. § 109.802(G)(3).)

intended to be a minimum requirement, and appointing authorities are encouraged to exceed the number of hours the OPOTC directs as the minimum. But, the OPOTC must set the required minimum number of hours based upon available funding for reimbursement. And, if no funding is available, no continuing professional training is required. (R.C. § 109.803(A)(1).)

Emergency circumstances

An appointing authority may submit a written request to the OPOTC that requests, for a calendar year, because of emergency circumstances, an extension of the time within which one or more of its appointed peace officers or troopers must complete the required minimum number of hours of continuing professional training. A request for an extension must set forth the name of each of the appointing authority's peace officers or troopers for whom the extension is requested, identify the emergency circumstances related to that peace officer or trooper, include documentation of those emergency circumstances, and set forth the date on which the request is submitted. The request must be made not later than December 15 in the calendar year for which the extension is requested. (R.C. § 109.803(A)(2).)

Upon receipt of such a request, the Executive Director of the OPOTC must review the request and the submitted documentation. If satisfied that emergency circumstances exist for any peace officer or trooper for whom the request was made, the Executive Director may approve the request for that peace officer or trooper and grant an extension of the time within which that peace officer or trooper must complete the required minimum number of hours of continuing professional training. The extension may be for any period of time the Executive Director believes to be appropriate, and the Executive Director must specify in the notice granting the extension the date on which it ends. Not later than 30 days after the date on which the request was submitted, for each peace officer and trooper for whom an extension is requested, the Executive Director either must approve the request and grant an extension or deny the request and deny an extension, and must send to the appointing authority that submitted the request written notice of the decision. If the Executive Director grants an extension of the time within which a particular peace officer or trooper must complete the required minimum number of hours of continuing professional training, the appointing authority must require that peace officer or trooper to complete the required minimum number of hours of that training not later than the date on which the extension ends. (R.C. § 109.803(A)(2).)

Sanction for noncompliance

The act specifies, as a general rule, that an appointed peace officer or trooper who fails to complete the minimum required hours of continuing

professional training in any calendar year or who fails to comply with the firearms requalification requirement or any other required training cannot carry a firearm during the course of official duties or perform the functions of a peace officer or trooper until evidence of compliance with those requirements is filed with the Executive Director of the OPOTC (R.C. § 109.803(B)(1)). If, however, the Executive Director grants an extension of the time within which a peace officer or trooper of an appointing authority must complete the required minimum number of hours of continuing professional training, the prohibition described in the preceding sentence does not apply during the period of the extension to that peace officer or trooper, provided that peace officer or trooper has complied with the firearms requalification requirement to the extent the peace officer or trooper is subject to that requirement and has complied with all other required training. If a peace officer or trooper for whom an extension was granted fails to complete before the extension ends the required minimum number of hours of continuing professional training, the prohibition described above applies to that peace officer or trooper after the date on which the extension ends. (R.C. § 109.803(B)(2).)

Attorney General rules

The act requires the Attorney General, with the advice of the OPOTC, to adopt in accordance with the Administrative Procedure Act rules setting forth minimum standards for continuing professional training for peace officers and troopers and governing administration of that training. The Attorney General must transmit a certified copy of any such rule to the Secretary of State. (R.C. § 109.803(C).)

Reimbursement for costs of continuing professional training programs for peace officers or troopers

The act replaces a former law enforcement officer training reimbursement program for specified law enforcement officers administered by the OPOTC by directing the OPOTC, in accordance with rules adopted by the Attorney General, to administer a new program for reimbursing public appointing authorities for the costs of continuing professional training programs that are successfully completed by their peace officers and troopers. (R.C. § 109.802(C).)

Continuing law creates the Law Enforcement Assistance Fund in the state treasury. The fund is used, in part, to pay reimbursements for law enforcement training. The act instead authorizes use of the fund to pay reimbursements for continuing professional training programs for peace officers and troopers. (R.C. § 109.802(A).) The act directs the Director of Budget and Management to transfer \$5 million in fiscal year 2007 from the Attorney General Claims Fund to the Law Enforcement Assistance Fund and appropriates the money thus transferred for the

continuing professional training for peace officers and troopers reimbursement program. (Sections 3, 4, and 5 of the act.)

The Attorney General is required to adopt rules under the Administrative Procedure Act establishing application procedures, standards, and guidelines, and prescribing an application form, for reimbursing public appointing authorities for the cost of continuing professional training programs for their peace officers and troopers. Specifically, the rules must (1) include a requirement that applications for reimbursement be submitted on a calendar-year basis, rather than a fiscal-year basis as under prior law, (2) identify the documentation that is required to substantiate any costs for which the applicant seeks reimbursement, (3) establish procedures for submitting applications for reimbursing the cost of continuing professional training programs completed by a peace officer or trooper for whom the Executive Director of the OPOTC grants an extension of time for compliance with the act's training requirements and who complies with the requirements before the extension of time ends, and (4) any other requirements necessary for proper administration of the reimbursement program. (R.C. § 109.802(B).)

Each public appointing authority may apply each calendar year for reimbursement of the costs of continuing professional training programs that its peace officers or troopers have successfully completed. An application must be made on the application form prescribed in, be supported by the documentation identified in, and otherwise be in accordance with the rules governing the reimbursement program. (R.C. § 109.802(D).)

The OPOTC, in accordance with the rules, must review each application to determine if the public appointing authority is entitled to reimbursement for the continuing professional training programs for which reimbursement is sought. Generally, a public appointing authority is entitled to reimbursement only if (1) all the appointing authority's peace officers or troopers have complied with the continuing professional training requirement by completing the minimum number of hours of training directed by the OPOTC, (2) the appointing authority has listed the peace officers and troopers in the roster filed annually with the OPOTC, (3) the peace officers and troopers have complied with applicable firearms requalification requirements, and (4) the peace officers and troopers have met any other training requirements mandated by statute or by the Attorney General. (R.C. §§ 109.802(E)(1) and 109.803(A)(3)(a).) If the public appointing authority is entitled to reimbursement, OPOTC is required to approve reimbursing the appointing authority for the cost of the continuing professional training programs for its peace officers or troopers. The actual amount of the reimbursement is determined by the Attorney General under the rules governing the reimbursement program. (R.C. §§ 109.802(E)(3) (1st paragraph) and 109.803(A)(3)(a).)



When a public appointing authority applies for reimbursement, if one or more of its peace officers or troopers have not complied with the continuing professional training requirements by completing the minimum hours of the training, and if the Executive Director of the OPOTC has granted an extension of time within which each of those noncompliant peace officers or troopers must complete the training, both of the following apply:

(1) If each peace officer or trooper for whom the Executive Director did not grant an extension has complied with the continuing professional training requirements, the public appointing authority is entitled to reimbursement for the training programs completed by all its peace officers or troopers who have so complied. In this event, payment of the reimbursement cannot be withheld during the period of the extension granted to other, noncompliant peace officers or troopers, pending their compliance with the continuing professional training requirements. If one or more of the peace officers or troopers who were granted an extension fail to complete the required minimum number of hours of continuing professional training before the extension ends, the failure does not affect the reimbursement that was made to the public appointing authority, and the public appointing authority is not required to return the reimbursement or any portion thereof.

(2) If a peace officer or trooper for whom the Executive Director granted an extension complies with the continuing professional training requirements and other requirements before the extension ends, the appointing authority is entitled to reimbursement for the training program completed by that peace officer or trooper. An application for reimbursement of this type must be made in compliance with rules adopted by the Attorney General. (R.C. §§ 109.802(E)(2) and (3) (2nd paragraph) and 109.803(A)(3)(b).)

An appointing authority that receives a reimbursement is required to keep the funds separate from any of its other funds and is authorized to use the funds only for paying the costs of continuing professional training programs for its peace officers or troopers. (R.C. § 109.802(F).)

Roster of peace officers expanded to include troopers

Continuing law requires an appointing authority annually to provide OPOTC with a roster of its peace officers. The act expands the roster requirement to include State Highway Patrol troopers. Consequently, an appointing authority is required to provide a roster of its troopers who served or are serving as troopers in a full-time, part-time, reserve, auxiliary, or other capacity during the year covered by the roster. (R.C. § 109.761(B).)

Impersonation of BCII investigator

The act extends the offenses pertaining to impersonation of a peace officer to impersonation of an investigator of the Bureau of Criminal Identification and Investigation (BCII).² It prohibits any person from doing any of the following:

- (1) Impersonating a BCII investigator;
- (2) By impersonating a BCII investigator, arresting or detaining any person, searching any person, or searching the property of any person;
- (3) With purpose to commit or facilitate the commission of an offense, impersonating a BCII investigator;
- (4) Committing a felony while impersonating a BCII investigator. (R.C. § 2921.51(B), (C), (D), and (E).)

It is an affirmative defense to a charge of impersonating a BCII investigator as described in (1) above that the impersonation of the investigator was for a lawful purpose (R.C. § 2921.51(F)).

A violation of the prohibition described in (1) above is a misdemeanor of the fourth degree. A violation of the prohibition described in (2) or (3) above is a misdemeanor of the first degree. If, however, the purpose of a violation of the prohibition described in (3) above is to commit or facilitate the commission of a felony, a violation of that prohibition is a felony of the fourth degree. And, a violation of the prohibition described in (4) above is a felony of the third degree. (R.C. § 2921.51(G).)

The act defines "investigator of the Bureau of Criminal Identification and Investigation" as an investigator of BCII who is commissioned by the Superintendent of BCII as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers pursuant to specified statutory authority (R.C. § 2921.51(A)(4) by cross-reference to R.C. § 2903.11, as amended by Sub. H.B. 347 of the 126th General Assembly). "Investigator" means an officer or employee of BCII as described in R.C. § 109.54 (BCII--intergovernmental cooperation; drug investigations; etc.).

² Existing R.C. § 2921.51(A)(3) defines "impersonate" as to act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons. This definition applies to the act's provisions.

Penalty for aggravated vehicular homicide against a BCII investigator

Under the act, if an offender is convicted of or pleads guilty to aggravated vehicular homicide and also is convicted of or pleads guilty to a specification charging that the victim was a BCII investigator, the court must impose upon the offender a prison term of five years. (Imposition of the five-year prison term is precluded unless the indictment, a count in the indictment, or the information charging the offender with aggravated vehicular homicide specifies that the victim is a BCII investigator.) The five-year prison term cannot be reduced. And not more than one prison term can be imposed under this provision for multiple felonies committed as part of the same act. (R.C. §§ 2929.13(F)(13), 2929.14(D)(5), and 2941.1414.)

HISTORY

ACTION	DATE
Introduced	03-02-06
Reported, S. Judiciary--Criminal Justice	12-13-06
Passed Senate (32-0)	12-13-06
Reported, H. State Gov't	12-19-06
Passed House (93-1)	12-19-06

06-sb281-127.doc/jc