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Bill Analysis
Legislative Service Commission

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(As Passed by the House)

Reps. Hagan, Willamowski, C. Evans, D. Evans, Webster, McGregor, DeGeeter, Harwood, Beatty, Latta, Gilb, Hughes, Seaver, Allen, Barrett, Brown, Bupp, Carano, Cassell, Chandler, Coley, DeBose, Domenick, Flowers, Gibbs, Healy, Mason, Miller, Otterman, T. Patton, Perry, Reidelbach, Schaffer, S. Smith, J. Stewart, Strahorn, Ujvagi, Williams, Yuko

BILL SUMMARY

- Allows a person who receives injuries as a result of a motor vehicle accident that is proximately caused by a violation of state OVI or a similar municipal ordinance or is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher and who receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility to receive the rights of a victim under the Victim's Rights Law.
- Allows a victim of an accident described in the previous dot point to provide the prosecutor in the case with written notification of the victim's injuries at any time. Upon receipt of the notification, the prosecutor must give the victim victim's rights information, if the prosecutor has not already done so.

CONTENT AND OPERATION

Introduction

The Victim's Rights Law, codified in R.C. Chapter 2930., gives certain rights to victims of crime (see "*A summary of the Victim's Rights Law*," below). As used in the Victim's Rights Law: (1) "crime" means any felony and the misdemeanor offenses of negligent homicide, aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, assault, aggravated menacing, menacing by stalking, menacing, sexual imposition, domestic violence,

intimidation of an attorney, victim, or witness in a criminal case, or a violation of a substantially similar municipal ordinance, and (2) "victim" means a person who is identified as the victim of a crime or specified delinquent act in a police report or in a complaint, indictment, or information that charges the commission of a crime and provides the basis for the criminal prosecution or delinquency and subsequent proceedings to which the Law makes reference. (R.C. 2930.01(A) and (H).)

Operation of the bill

Definition of "crime" and "victim"

The bill expands the definition of "crime" and "victim" under the Victim's Rights Law, described above in "**Introduction**," so that injured victims of an accident proximately caused by a person committing state OVI or a substantially similar municipal ordinance or of a motor vehicle accident that is caused by a violation of a Revised Code provision that is a misdemeanor of the first degree or higher may receive the rights of a victim under the Victim's Rights Law. Specifically, under the bill, in addition to the offenses and violations included under existing law, a "crime" under the Victim's Rights Law also includes both of the following:

(1) A violation of R.C. 4511.19(A) (state OVI) or of a substantially similar municipal ordinance that is the proximate cause of a motor vehicle accident in which the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

(2) A "motor vehicle accident" (see **COMMENT**) to which both of the following apply: (a) it is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher, and (b) as a result of the accident, the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical facility.

Additionally, the bill expands the definition of "victim" so that, in addition to the persons included under existing law, it includes a person who receives injuries in one of the manners described in the two preceding paragraphs. (R.C. 2930.01(A)(3) and (4) and (H)(2).)

Victim's notice of injuries given to prosecutor

The bill allows a victim who receives injuries as a result of a motor vehicle accident that is proximately caused by a violation of state OVI or a similar municipal ordinance or a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher and who receives treatment as described above in the definition of "crime" as amended by the bill to provide the prosecutor in the victim's case with written notification of the victim's injuries at any time. If it is a delinquency proceeding and a prosecutor is not involved in the case, the victim may provide this written notification to the court. Upon receipt of the written notification, the prosecutor or court must give the victim victim's rights information, discussed below in the fourth paragraph of "**A summary of the Victim's Rights Law**," if the prosecutor has not already done so. (R.C. 2930.062.)

A summary of the Victim's Rights Law

Under the Victim's Rights Law, after its initial contact with a victim of a crime, the law enforcement agency responsible for investigating the crime promptly must give the victim, in writing, an explanation of the victim's rights under R.C. Chapter 2930., information about medical, counseling, housing, emergency, and other services available to the victim, information about compensation for the victim from the Victim's Reparations Fund, and information about protection that is available for the victim. As soon as practicable after the initial contact with the victim, the investigating law enforcement agency must give the victim the business telephone number of the officer assigned to investigate the case, the office address and telephone number of the prosecuting attorney in the case, and a statement that, if the victim is not notified of an arrest in the case within a reasonable period of time, the victim may contact the law enforcement agency to learn the status of the case. (R.C. 2930.04, *not in the bill*.)

Once an offender is arrested or detained in the case, the law enforcement agency that investigates the crime must notify the victim, within a reasonable period of time, of the arrest or detention, the name of the defendant, whether the defendant is eligible for pretrial release, the telephone number of the law enforcement agency, and the victim's right to call the agency to learn whether the defendant has been released (R.C. 2930.05, *not in the bill*; note that the Law's provisions also apply regarding alleged delinquent children who commit a crime).

To the extent practicable, the prosecutor in the case must confer with the victim before any pretrial diversion, amendment or dismissal of the indictment, agreement to a negotiated plea, or a trial. In addition, once a prosecution has begun, the prosecutor, to the extent practicable, promptly must give the victim the name of the crime with which the defendant has been charged and the name of the defendant, the file number of the case, a brief statement regarding the procedural

aspects of the case, a summary of the victim's rights, procedures the victim or the prosecutor may follow if the victim becomes subject to threats or intimidation by the defendant or another person, the name and business number of a person to contact for further information on the case, the right of the victim to have a victim's representative exercise the victim's rights, and notice that certain notifications, described in the next paragraph, will only be made to the victim upon the victim's request. (R.C. 2930.06(A) and (B), *not in the bill*.)

The victim may also request the following information (R.C. 2930.06(C), 2930.12, 2930.15, 2930.16, *not in the bill*): (1) the date, time, and place of any scheduled criminal proceedings in the case and notice of any changes in those proceedings or in the schedule of the case, (2) notice of the defendant's acquittal or conviction and of certain rights of the victim related to the acquittal or conviction, (3) notice of the defendant's appeal, (4) notice of the defendant's incarceration, and (5) if applicable, notice of the defendant's hearing for judicial release, a possible pardon or commutation of sentence, the pendency of the defendant's transfer to transitional control, the defendant's escape, the defendant's death while in confinement or custody, the defendant's release from confinement, and the terms and conditions of the release.

Victims are also permitted to make victim impact statements if the court orders the preparation of such a statement (R.C. 2930.13, *not in the bill*). A victim may also make a statement before the defendant is sentenced (R.C. 2930.14, *not in the bill*).

The Victim's Rights Law also prohibits a victim's employer from discharging, disciplining, or otherwise retaliating against the victim, a member of the victim's family, or a victim's representative for participating, at the prosecutor's request, in preparations for a criminal proceeding. An employer who knowingly violates this prohibition is in contempt of court. (R.C. 2930.18, *not in the bill*.)

COMMENT

As used in the bill, "motor vehicle accident" or "accident" means any accident involving a "motor vehicle" which results in bodily injury to or death of any person, or damage to the property of any person in excess of \$400 (R.C. 2930.01(Q), by reference to existing R.C. 4509.01, *not in the bill*).

As used in the R.C. 4509.01 definition of "motor vehicle accident" or "accident" (existing R.C. 4509.01, *not in the bill*): (1) "motor vehicle" means every "vehicle" propelled by power other than muscular power or power collected from overhead electric trolley wires, except motorized bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in

construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, threshing machinery, hay baling machinery, and agricultural tractors and machinery used in the production of horticultural, floricultural, agricultural, and vegetable products, and (2) "vehicle" means every device by which any person or property may be transported upon a highway, except electric personal assistive mobility devices, devices moved by power collected from overhead electric trolley wires, or used exclusively upon stationary rails or tracks, and except devices other than bicycles moved by human power.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-02-05	p. 271
Reported, H. Criminal Justice	06-16-05	p. 966
Passed House (99-0)	06-21-05	pp. 1377-1378

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