



**Sub. H.B. 108\***

126th General Assembly

(As Reported by S. Judiciary on Criminal Justice)

**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**

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**BILL SUMMARY**

- Allows a person to receive the rights of a victim under the Victim's Rights Law if: (1) the person receives injuries as a result of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident that is proximately caused by a violation of state OVI, state OVUAC, the offense that prohibits the operation or physical control of any vessel underway, and the manipulation of any water skis, aquaplane, or similar device, while under the influence of alcohol, a drug of abuse, or both, or with a prohibited concentration of alcohol in the person's system, the offense that prohibits the operation of an aircraft while under the influence of intoxicating liquor, controlled substances, or other habit-forming drugs, and 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, or (2) the person receives injuries as a result of a motor vehicle accident that is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher and receives medical treatment as described in clause (1) of this sentence.

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*\* 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.*

- Provides that the expansion described in the preceding dot point applies if the person receives the injuries as a result of the specified conduct committed by either an adult or a child.
- Allows a victim of an accident described in the second preceding 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.

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## 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, (2) "specified delinquent act" means an act committed by a child that, if committed by an adult, would be a felony or an act committed by a child that is a violation that, if committed by an adult, would be any of the offenses identified under the definition of "crime" set forth in clause (1) of this sentence, and (3) "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), (H), and (O).)

### Operation of the bill

#### Expansion of definitions of "crime," "specified delinquent act," and "victim"

The bill expands the definition of "crime," "specified delinquent act," 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 any of a list of specified offenses involving alcohol and manners of conveyance 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:

(1) **Crime**. In addition to the offenses and violations included under existing law, under the bill a "crime" under the Victim's Rights Law also includes any of the following (R.C. 2930.01(A)):

(a) A violation of R.C. 4511.19(A) or (B), 1547.111(A), or 4561.15(A)(3) or of a municipal ordinance substantially similar to any of those provisions that is the proximate cause of a "vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident" (see "**New definitions**," below) 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. The violations referred to in the expanded definition, none of which are in the bill, are: (i) R.C. 4511.19(A) is the offense of state OVI, which applies regarding the operation of vehicles, streetcars, and trackless trolleys while under the influence of alcohol, a drug of abuse, or both, or with a prohibited concentration of alcohol in the person's system, (ii) R.C. 4511.19(B) is the offense of state OVUAC, which applies regarding the operation of vehicles, streetcars, and trackless trolleys by a person under 21 years of age while under the influence of alcohol, a drug of abuse, or both, or with a prohibited concentration of alcohol in the person's system, (iii) R.C. 1547.11(A) is the offense that prohibits the operation or physical control of any vessel underway, and the manipulation of any water skis, aquaplane, or similar device, while under the influence of alcohol, a drug of abuse, or both, or with a prohibited concentration of alcohol in the person's system, and (iv) R.C. 4561.15(A)(3) is the offense that prohibits the operation of an aircraft while under the influence of intoxicating liquor, controlled substances, or other habit-forming drugs.

(b) A "motor vehicle accident" (see "**New definitions**," below) to which both of the following apply: (i) it is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher, and (ii) as a result of the motor vehicle 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.

(2) **Specified delinquent act**. Under the bill, in addition to the acts included under existing law, a "specified delinquent act" under the Crime Victims Rights Law also includes an act committed by a child that is described above in (a) or (b) under "(1) **Crime**" (R.C. 2930.01(A)(3) and (4) and (O)(3)).



(3) **Victim**. Under the bill, in addition to the persons included under existing law, a "victim" under the Crime Victims Rights Law also includes a person who receives injuries as a result of one of the specified types of accidents in one of the manners described in (a) or (b) under "(1) **Crime**." (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 vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident that is proximately caused by a violation of R.C. 4511.19(A) or (B), 1547.11(A), or 4561.15(A)(3) 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.)

**New definitions**

The bill defines the following terms in the following manners, for purposes of its provisions described above (R.C. 2930.01(O) to (W)):

**"Motor vehicle accident"** means any accident involving a motor vehicle.

**"Motor vehicle"** has the same meaning as in existing R.C. 4509.01, which is not in the bill.

**"Aircraft"** has the same meaning as in existing R.C. 4561.01, which is not in the bill.

**"Aquatic device"** means any vessel, or any water skis, aquaplane, or similar device.

**"Vehicle," "streetcar," and "trackless trolley"** have the same meanings as in existing R.C. 4511.01, which is not in the bill.

**"Vehicle, streetcar, trackless trolley, watercraft, or aircraft accident"** means any accident involving a vehicle, streetcar, trackless trolley, watercraft, or aircraft causing injury, death, or property damage in excess of \$400.

"Vessel" has the same meaning as in existing R.C. 1547.01, which is not in the bill.

### **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*.)

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## 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
Reported, S. Judiciary on Criminal Justice	---	---

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