



Sub. H.B. 118

126th General Assembly
(As Reported by H. Criminal Justice)

Reps. Gibbs, Fessler, McGregor, Hartnett, Reinhard, Faber, Perry, Cassell, Reidelbach, Webster, Gilb, Seaver, Collier, Strahorn, Latta, Allen, Wagoner, Harwood, Willamowski, D. Evans

BILL SUMMARY

- Prohibits a person who is or has been convicted of, or pleads or has pleaded guilty to, a child-victim offense or a sexually oriented offense that is not a registration-exempt sexually oriented offense from residing within 1,000 feet of any preschool premises.
- Permits a landlord to terminate the rental agreement of, and to evict, a tenant who violates the prohibition against living within 1,000 feet of any preschool premises in the same manner as is provided under current law for the prohibition against residing within 1,000 feet of any school premises.
- If a person violates the prohibition against living within 1,000 feet of preschool premises, permits an owner or lessee of real property located within 1,000 feet of those preschool premises or the appropriate chief legal officer of the county, municipal corporation, or township in which those preschool premises are located to bring an action for injunctive relief against the person.

CONTENT AND OPERATION

Prohibition against living within 1,000 feet of preschool premises

The bill prohibits a person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense from establishing a residence or occupying residential premises within 1,000 feet of any preschool premises (R.C. 2950.032(A)). The bill defines "preschool premises" as meaning all of the following (R.C. 2950.01(DD)):

(1) Any building in which any of the early childhood instructional or educational services or related activities provided by a preschool are conducted if the building has signage that indicates that the building houses a preschool, is clearly visible and discernable without obstruction, and meets any local zoning ordinances that may apply;

(2) The parcel of real property on which the preschool is situated if the parcel of real property has signage that indicates that a preschool is situated on the parcel, is clearly visible and discernable without obstruction, and meets any local zoning ordinances that may apply;

(3) Any grounds, play areas, and other facilities of the preschool that are regularly used by the children served by the preschool if the grounds, play areas, or other facilities have signage that indicates that they are regularly used by children served by the preschool, is clearly visible and discernable without obstruction, and meets any local zoning ordinances that may apply.

"Preschool" is defined by the bill as meaning any public or private institution or center that provides early childhood instructional or educational services to children who are between the ages of three and six and who are not enrolled in or are not eligible to be enrolled in kindergarten, whether or not those services are provided in a child day-care setting. "Preschool" does not include any place that is the permanent residence of the person who is providing the early childhood instructional or educational service to the children. (R.C. 2950.01(CC).)

In the same manner as is described below in "**Current law's prohibition against living within 1,000 feet of school premises**," if a person violates the bill's prohibition against establishing a residence or occupying residential premises within 1,000 feet of preschool premises, the bill allows an owner or lessee of real property that is located within 1,000 feet of those preschool premises, or the prosecuting attorney, village solicitor, city or township director of law, similar chief legal officer of a municipal corporation or township, or official designated as a prosecutor in a municipal corporation that has jurisdiction over the place at which the person establishes the residence or occupies the residential premises in question, has a cause of action for injunctive relief against the person. The plaintiff is not required to prove irreparable harm in order to obtain the relief. (R.C. 2950.032(B).)

Additional landlord rights

In the same manner as current law with respect to a landlord of premises within 1,000 feet of school premises, the bill permits a landlord to bring an action under R.C. Chapter 1923. for possession of residential premises located within

1,000 feet of any preschool premises if both of the following apply regarding the tenant (resident) or other occupant who resides in or occupies the premises (R.C. 5321.032(A) and 1923.021):

(1) The tenant's (resident's) or other occupant's name appears on the State Registry of Sex Offenders and Child-Victim Offenders.

(2) The State Registry of Sex Offenders and Child-Victim Offenders indicates that the tenant (resident) or other occupant was convicted of or pleaded guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

The maintenance of an action by a landlord under the above provision does not prevent a tenant from recovering damages for any violation of the rental agreement or of the landlord's statutory duties. The above provisions do not apply to a dwelling unit occupied by a student tenant. (R.C. 5321.032(B) and (C).)

The bill also prohibits a tenant of any residential premises located within 1,000 feet of any preschool premises from allowing any person to occupy those premises if both of the following apply to that person (R.C. 5321.052):

(1) The person's name appears on the State Registry of Sex Offenders and Child-Victim Offenders.

(2) The State Registry of Sex Offenders and Child-Victim Offenders indicates that the tenant or other occupant was convicted of or pleaded guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

The landlord may terminate the rental agreement or other tenancy of the tenant and all other occupants if the above prohibition is violated or if a person establishes residency in violation of R.C. 2950.031 by notifying the tenant and other occupants to leave the premises. If the landlord does not terminate the rental agreement, the landlord is not liable in a tort or other civil action in damages for any injury, death, or loss to person or property that allegedly results from that decision. (R.C. 5321.052(A)(2) and (B) and 1923.021(B).)

Application of bill's provisions

The bill further specifies that the amendments made by the bill apply to rental agreements entered into on or after the effective date of the bill (Section 3).

Current law's prohibition against living within 1,000 feet of school premises

Current law, unchanged by the bill, prohibits a person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to either a sexually oriented offense (see **COMMENT**) that is not a registration-exempt sexually oriented offense or a child-victim oriented offense (see **COMMENT**) from establishing a residence or occupying residential premises within 1,000 feet of any school premises. If a person violates this prohibition, an owner or lessee of real property that is located within 1,000 feet of those school premises, or the prosecuting attorney, village solicitor, city or township director of law, similar chief legal officer of a municipal corporation or township, or official designated as a prosecutor in a municipal corporation that has jurisdiction over the place at which the person establishes the residence or occupies the residential premises in question, has a cause of action for injunctive relief against the person. The plaintiff is not required to prove irreparable harm in order to obtain the relief. (R.C. 2950.031.)

Additional landlord rights

In addition, a landlord may bring an action under R.C. Chapter 1923. for possession of residential premises located within 1,000 feet of any school premises if both of the following apply regarding the tenant or other occupant who resides in or occupies the premises (R.C. 5321.03(A)(5) and 1923.02(A)(14)):

(1) The tenant's or other occupant's name appears on the State Registry of Sex Offenders and Child-Victim Offenders.

(2) The State Registry of Sex Offenders and Child-Victim Offenders indicates that the tenant or other occupant was convicted of or pleaded guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

Current law also prohibits a tenant of any residential premises located within 1,000 feet of any school premises from allowing any person to occupy those premises if both of the following apply to that person (R.C. 5321.051(A)(1)):

(1) The person's name appears on the State Registry of Sex Offenders and Child-Victim Offenders.

(2) The State Registry of Sex Offenders and Child-Victim Offenders indicates that the tenant or other occupant was convicted of or pleaded guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

The landlord may terminate the rental agreement or other tenancy of the tenant and all other occupants if the above prohibition is violated or if a person establishes residency in violation of R.C. 2950.031. If the landlord does not terminate the rental agreement, the landlord is not liable in a tort or other civil action in damages for any injury, death, or loss to person or property that allegedly results from that decision. (R.C. 5321.051(A)(2) and (B) and 1923.02(A)(15).)

COMMENT

R.C. 2950.01 defines the following terms:

(A) "Sexually oriented offense" means any of the following (R.C. 2950.01(D)):

(1) Any of the following violations or offenses committed by a person 18 years of age or older:

(a) Regardless of the age of the victim of the offense, a violation of R.C. 2907.02, 2907.03, 2907.05, or 2907.07;

(b) Any of the following offenses involving a minor, in the circumstances specified:

(i) A violation of R.C. 2905.01(A)(4) or R.C. 2907.04, 2907.06, or 2907.08, when the victim of the offense is under 18 years of age;

(ii) A violation of R.C. 2907.21 when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under 18 years of age;

(iii) A violation of R.C. 2907.321(A)(1) or (3) or 2907.322(A)(1) or (3);

(iv) A violation of R.C. 2907.323(A)(1) or (2);

(v) A violation of R.C. 2919.22(B)(5) when the child who is involved in the offense is under 18 years of age;

(vi) A violation of R.C. 2905.01(A)(1), (2), (3), or (5), of R.C. 2903.211, 2905.02, 2905.03, or 2905.05, or of former R.C. 2905.04, when the victim of the offense is under 18 years of age and the offense is committed with a sexual motivation.

(c) Regardless of the age of the victim of the offense, a violation of R.C. 2903.01, 2903.02, 2903.11, or 2905.01 or R.C. 2903.04(A), that is committed with a sexual motivation;

(d) A violent sex offense, or a designated homicide, assault, or kidnapping offense if the offender also was convicted of or pleaded guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging the designated homicide, assault, or kidnapping offense;

(e) A violation of R.C. 2907.06 or 2907.08 when the victim of the offense is 18 years of age or older, or a violation of R.C. 2903.211 when the victim of the offense is 18 years of age or older and the offense is committed with a sexual motivation;

(f) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in paragraph (1)(a), (b), (c), (d), or (e) above;

(g) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1)(a), (b), (c), (d), (e), or (f) above.

(2) An act committed by a person under 18 years of age that is any of the following:

(a) Subject to paragraph (2)(i) below, regardless of the age of the victim of the violation, a violation of R.C. 2907.02, 2907.03, 2907.05, or 2907.07;

(b) Subject to paragraph (2)(i) below, any of the following acts involving a minor in the circumstances specified:

(i) A violation of R.C. 2905.01(A)(4) or R.C. 2907.06 or 2907.08 when the victim of the violation is under 18 years of age;

(ii) A violation of R.C. 2907.21 when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in,

paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under 18 years of age;

(iii) A violation of R.C. 2919.22(B)(5) when the child who is involved in the violation is under 18 years of age;

(iv) A violation of R.C. 2905.01(A)(1), (2), (3), or (5), R.C. 2903.211, or former R.C. 2905.04, when the victim of the violation is under 18 years of age and the offense is committed with a sexual motivation.

(c) Subject to paragraph (2)(i) below, any of the following:

(i) Any violent sex offense that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(ii) Any designated homicide, assault, or kidnapping offense if that offense, if committed by an adult, would be a felony of the first, second, third, or fourth degree and if the court determined that, if the child was an adult, the child would be guilty of a sexual motivation specification regarding that offense.

(d) Subject to paragraph (2)(i) below, a violation of R.C. 2903.01, 2903.02, 2903.11, 2905.01, or 2905.02, a violation of R.C. 2903.04(A), or an attempt to violate any of those sections or that division that is committed with a sexual motivation;

(e) Subject to paragraph (2)(i) below, a violation of R.C. 2907.321(A)(1) or (3), R.C. 2907.322(A)(1) or (3), or R.C. 2907.323(A)(1) or (2), or an attempt to violate any of those divisions, if the person who violates or attempts to violate the division is four or more years older than the minor who is the victim of the violation;

(f) Subject to paragraph (2)(i) below, a violation of R.C. 2907.06 or 2907.08 when the victim of the violation is 18 years of age or older, or a violation of R.C. 2903.211 when the victim of the violation is 18 years of age or older and the offense is committed with a sexual motivation;

(g) Subject to paragraph (2)(i) below, any violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in paragraph (2)(a), (b), (c), (d), (e), or (f) above and that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(h) Subject to paragraph (2)(i) below, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (2)(a), (b), (c), (d), (e), (f), or (g) above;

(i) If the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any violation listed in paragraph (1)(a), (b), (c), (d), (e), (f), or (g) above or would be any offense listed in any of those paragraphs if committed by an adult.

(B) "Child-victim oriented offense" means any of the following:

(1)(a) Subject to paragraph (2) below, any of the following violations or offenses committed by a person 18 years of age or older, when the victim of the violation is under 18 years of age and is not a child of the person who commits the violation:

(i) A violation of R.C. 2905.01(A)(1), (2), (3), or (5), R.C. 2905.02, 2905.03, or 2905.05, or former R.C. 2905.04;

(ii) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in paragraph (1)(a)(i) above;

(iii) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1)(a)(i) or (ii) above.

(b) Subject to paragraph (2) below, an act committed by a person under 18 years of age that is any of the following, when the victim of the violation is under 18 years of age and is not a child of the person who commits the violation:

(i) Subject to paragraph (1)(b)(iv), a violation of R.C. 2905.01(A)(1), (2), (3), or (5) or of former R.C. 2905.04;

(ii) Subject to paragraph (1)(b)(iv) below, any violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in paragraph (1)(b)(i) above and that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(iii) Subject to paragraph (1)(b)(iv) below, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1)(b)(i) or (ii) above;

(iv) If the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any violation listed in paragraph (1)(a)(i), (ii), or (iii) above or would be any offense listed in any of those paragraphs if committed by an adult.

(2) "Child-victim oriented offense" does not include any offense identified in paragraph (1)(a) or (b) above that is a sexually violent offense. An offense identified in paragraph (1)(a) or (b) above that is a sexually violent offense is within the definition of a sexually oriented offense.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-08-05	p. 300
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