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Bill Analysis
Legislative Service Commission

Sub. H.B. 145
126th General Assembly
(As Passed by the House)

Reps. Seaver, D. Evans, Reinhard, C. Evans, Setzer, Raga, Wolpert, Flowers, Reidelbach, Chandler, Fende, Allen, Aslanides, Blessing, DeBose, Domenick, Hughes, Latta, J. McGregor, T. Patton, D. Stewart, Uecker, Wagoner, Walcher, Widowfield

BILL SUMMARY

- Gives townships and joint fire districts authority to confer certain investigative powers, including a power to make warrantless arrests in certain circumstances, and impose certain investigative duties upon officers in their fire departments.
- Includes officers upon whom powers are conferred and duties are imposed as described in the preceding dot point as "peace officers" under the R.C. 2935.01 definition of that term.
- Requires the Ohio Fire Academy, in conjunction with the Ohio Peace Officer Training Academy, to conduct a course of instruction in fire investigative law enforcement for firefighters.

CONTENT AND OPERATION

Investigative power and duty conferral

The bill permits a board of township trustees and a board of fire district trustees to confer certain powers and impose certain duties upon any officer in the fire department of the township, township fire district, or joint fire district, as applicable, who are full-time firefighters and have successfully completed a specified course of instruction in fire investigative law enforcement (see "**Course of instruction**," below). The officers upon whom the powers are conferred and the duties are imposed must report to the applicable board on their proceedings in the discharge of the specified investigative duties as that board requires. (R.C. 505.382(A) and (B).)

The officers will have the power and the duty to be present at all fires in the township or district, to investigate the cause of those fires, and to examine witnesses, compel their attendance and the production of books and papers (i.e., subpoena and subpoena duces tecum authority), and perform all other acts necessary to the effective discharge of the specified duties. The officers also may administer oaths, and make arrests under the Peace Officer Arrest Authority Law (R.C. Chapter 2935.; see "Arrest authority," below), in the discharge of the specified duties, but only in collaboration with the township, township police district, or joint township police district chief of police, the sheriff, or the chief of police's or the sheriff's designee. And, in such collaboration, the officers also may enter for examination purposes any building or other structure in the township or district that, in their opinion, is in danger from fire. (R.C. 505.382(B).)

Arrest authority

Warrantless arrest authority

The bill confers warrantless arrest authority upon an officer in the fire department of a township, township fire district, or joint fire district upon whom fire-related investigation and arrest powers have been conferred under the bill's provision described above in "Investigative power and duty conferral." It requires such an officer to arrest and detain, in collaboration with the township, township police district, or joint township police district chief of police or that chief's designee, or in collaboration with the sheriff or the sheriff's designee, until a warrant can be obtained, any person whom the officer has probable cause to believe may have violated, within the limits of the officer's territorial jurisdiction, a state law that relates to the officer's duties under the bill's provision described above in "Investigative power and duty conferral." (R.C. 2935.03(A)(4).)

Also, under R.C. 2935.04, not in the bill, when a felony has been committed, or there is reasonable ground to believe that a felony has been committed, *any person* without a warrant may arrest another whom he or she has reasonable cause to believe is guilty of the offense and detain the other person until a warrant can be obtained.

Inclusion as R.C. 2935.01 "peace officers"

The bill expands the existing definition of "peace officer" that applies to R.C. Chapter 2935. (see **COMMENT**) so that, in addition to the categories of persons included under existing law, the term also includes an officer in the fire department of a township, township fire district, or joint fire district upon whom fire-related investigation and arrest powers have been conferred under the bill's provision described above in "Investigative power and duty conferral" (R.C. 2935.02(B)). As a result, any reference to "peace officer" in a statute contained in

R.C. Chapter 2935. includes under the bill officers in the fire department of a township, township fire district, or joint fire district upon whom fire-related investigation and arrest powers have been so conferred. Eleven statutes in R.C. Chapter 2935., other than R.C. 2935.01, use the term "peace officer." One of them, R.C. 2935.011, refers to particular categories of "peace officer" listed in the definition and is not relevant to the bill. The other statutes are:

(1) R.C. 2935.03(B)(1), and succeeding divisions, which pertain to a grant of warrantless arrest authority to *a peace officer described in R.C. 2935.03(A)* who has reasonable grounds to believe that an offense of violence, a theft offense, a felony drug abuse offense, or certain other specified offenses has been committed within the limits of the political subdivision in which the peace officer is appointed or employed. The officer may arrest and detain until a warrant can be obtained any person whom the officer has reasonable cause to believe is guilty of the offense. As described above in "**Warrantless arrest authority**," officers in the fire department of a township, township fire district, or joint fire district upon whom fire-related investigation and arrest powers have been conferred under the bill's provision described above in "**Investigative power and duty conferral**" are described in R.C. 2935.03(A)(4).

(2) R.C. 2935.031, which requires each agency, instrumentality, or political subdivision of the state that employs any of a list of specified law enforcement officers or *any other person with arrest authority under the Revised Code* to adopt a policy for pursuit in a motor vehicle of an alleged criminal offender and requires the agency's, instrumentality's, or subdivision's chief official to formally advise *each peace officer or other person with arrest authority* it employs of the policy.

(3) R.C. 2935.032, which pertains to policies and procedures for responding to alleged domestic violence offenses or violations of protection orders that must be adopted by each agency, instrumentality, or political subdivision of the state that is served *by any peace officer described in R.C. 2935.03(B)(1)*, and establishes procedures that must be followed *by peace officers described in R.C. 2935.03(B)(1)* who respond to reports of domestic violence offenses or violations of protection orders. As described above in (1), officers in the fire department of a township, township fire district, or joint fire district upon whom fire-related investigation and arrest powers have been conferred under the bill's provision described above in "**Investigative power and duty conferral**" arguably are peace officers described in R.C. 2935.03(B)(1).

(4) R.C. 2935.041, which authorizes *any peace officer* to arrest without a warrant any person the officer has probable cause to believe committed a specified illegal act and who has been detained under the section by a merchant, an employee or agent of a merchant, an officer, employee, or agent of a library,

museum, or archival institution, the owner or lessee of a facility in which a motion picture is being shown, or an employee or agent of the owner or lessee of a facility in which a motion picture is being shown.

(5) R.C. 2935.08, which pertains to the issuance of an arrest warrant *to a peace officer* who makes a warrantless arrest under R.C. 2935.03 or, if an arrest is made under R.C. 2935.04 by a private person, *to the most convenient peace officer*, and requires the officer to receive custody of the person arrested.

(6) R.C. 2935.081, which pertains to the administration of oaths and the acknowledgement of documents *by peace officers* who have received specified training in the matters.

(7) R.C. 2935.09, which sets forth a procedure that *a peace officer* or a private citizen having knowledge of the facts must follow to cause the arrest or prosecution of a person charged with committing an offense, in all cases not provided by R.C. 2935.02 to 2935.08.

(8) R.C. 2935.10, which sets forth follow-up procedures, including the issuance of a summons to be served *by a peace officer*, that apply subsequent to the filing of an affidavit or complaint to cause the arrest or prosecution of a person, pursuant to the procedure set forth in R.C. 2935.09, as described in the preceding paragraph.

(9) R.C. 2935.12, which authorizes *a peace officer* who is making an arrest or executing an arrest warrant or summons to break down an outer or inner door or window of a dwelling or building, if, after notice of his or her intention to make the arrest or execute the warrant or summons, he or she is refused admittance.

(10) R.C. 2935.18, which pertains to the issuance of warrants and summons *to peace officers*.

In addition to the statutes described above that are located in R.C. Chapter 2935., many statutes outside of that Chapter incorporate by reference the R.C. 2935.01 definition of "peace officer" and use the term in some of their provisions. These statutes include R.C. 109.541, 124.341, 959.16, 1509.04, 1533.03, 1721.19, 1901.141, 2301.31, 2901.13, 2903.11, 2903.12, 2903.13, 2909.01, 2919.223, 2921.15, 2921.24, 2921.25, 2921.37, 2923.123, 2923.124, 2929.13, 2929.14, 2933.02, 2937.01, 2937.23, 2938.01, 2941.1412, 2941.1414, 2941.46, 2951.01, 2951.041, 2967.15, 2971.01, 3333.26, 3505.21, 3719.141, 3743.68, 4113.51, 4123.01, 4123.026, 4301.10, 4503.44, 4506.01, 4509.101, 4749.01, 4749.06, 4953.11, 4973.23, 5101.60, 5139.52, 5502.19, 5728.15, and 5743.14.

Course of instruction

The bill requires the Ohio Fire Academy, in conjunction with the Ohio Peace Officer Training Academy, to conduct a course of instruction in fire investigative law enforcement for firefighters. The Ohio Fire Academy must approve the course of instruction to be provided. (R.C. 109.791, 505.382(A), and 3737.33(B).)

Firefighters must receive compensation as determined by their sponsoring political subdivision when attending such a course of instruction at either Academy, and their sponsoring political subdivision may pay the tuition costs at either Academy for their attendance of such a course of instruction (R.C. 3737.33(C)).

COMMENT

Existing R.C. 2935.01 specifies that, as used in R.C. Chapter 2935., "peace officer" includes: except as provided in R.C. 2935.081, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to R.C. 737.04; member of a police force employed by a metropolitan housing authority under R.C. 3735.31(D); member of a police force employed by a regional transit authority under R.C. 306.05(Y); state university law enforcement officer appointed under R.C. 3345.04; enforcement agent of the Department of Public Safety designated under R.C. 5502.14; employee of the Department of Taxation to whom investigation powers have been delegated under R.C. 5743.45; employee of the Department of Natural Resources who is a natural resources law enforcement staff officer designated pursuant to R.C. 1501.013, a forest officer designated pursuant to R.C. 1503.29, a preserve officer designated pursuant to R.C. 1517.10, a wildlife officer designated pursuant to R.C. 1531.13, a park officer designated pursuant to R.C. 1541.10, or a state watercraft officer designated pursuant to R.C. 1547.521; individual designated to perform law enforcement duties under R.C. 511.232, 1545.13, or 6101.75; veterans' home police officer appointed under R.C. 5907.02; special police officer employed by a port authority under R.C. 4582.04 or 4582.28; police constable of any township; police officer of a township or joint township police district; a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in specified federal regulations, and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation as provided in specified federal regulations; the House sergeant at arms if the House sergeant at

arms (clarified in the bill as House of Representatives sergeant at arms) has arrest authority pursuant to R.C. 101.311(E)(1); and an assistant House sergeant at arms; officer or employee of the Bureau of Criminal Identification and Investigation established pursuant to R.C. 109.51 who has been awarded a certificate by the executive director of the Ohio Peace Officer Training Commission attesting to the officer's or employee's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources peace officer basic training program and who is providing assistance upon request to a law enforcement officer or emergency assistance to a peace officer pursuant to R.C. 109.54 or 109.541; and, for the purpose of arrests within those areas, for the purposes of R.C. Chapter 5503., and the filing of and service of process relating to those offenses witnessed or investigated by them, the Superintendent and troopers of the State Highway Patrol.

HISTORY

ACTION	DATE
Introduced	03-22-05
Reported, H. Local and Municipal Government and Urban Revitalization	10-25-05
Passed House (81-13)	12-13-05

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