



Am. S.B. 128
126th General Assembly
(As Reported by H. Judiciary)

Sens. Cates, Wilson, Niehaus, Grendell

Reps. Willamowski, Coley

BILL SUMMARY

- Adds one additional judge for the general division of the Butler County Court of Common Pleas to be elected in 2006 for a term to begin January 3, 2007.
- Eliminates the requirement that a person charged with committing an offense of violence against a family or household member appear before the court for the setting of bail if the person charged, at the time of the alleged offense, was subject to a domestic violence-related protection order or consent agreement or previously was convicted of or pleaded guilty to domestic violence, a violation of a domestic violence-related protection order or consent agreement, or a violation of any of a list of specified crimes against a family or household member.

CONTENT AND OPERATION

Additional judge for the Butler County Court of Common Pleas

Existing law

The Butler County Court of Common Pleas currently has 11 judges; six judges of the general division, two judges of the domestic relations division, two judges of the juvenile division, and one judge of the probate division (R.C. 2101.02, not in the bill, 2301.02(B), and 2301.03(K), not in the bill).

Operation of the bill

The bill adds a new judge to the Butler County Court of Common Pleas. The new judge is to be elected initially in 2006 for a term to begin January 3, 2007. The new judge will be a general division judge. (R.C. 2301.02(B).)

Required appearance for the setting of bail

Existing law

Existing law generally requires that a person charged with committing an offense of violence against a family or household member appear before the court for the setting of bail if any of the following circumstances apply (R.C. 2919.251(A)):

(A) Circumstances applicable before Sub. H.B. 29. The following circumstances applied before the enactment of Sub. H.B. 29 of the 126th General Assembly and were retained in that act:

(1) The person charged, at the time of the alleged offense, was subject to the terms of a protection order issued or consent agreement approved pursuant to R.C. 2919.26 or 3113.31 (see **COMMENT 3**).

(2) The person previously was convicted of or pleaded guilty to any of the following (see **COMMENT 1, 2, and 3**):

(a) A violation of R.C. 2919.25 (domestic violence) or a violation of R.C. 2919.27 (violation of a protection order) involving a protection order issued or consent agreement approved pursuant to R.C. 2919.26 or R.C. 3113.31 (see above);

(b) A violation of an existing or former municipal ordinance or law of Ohio, any other state, or the United States that is substantially similar to either R.C. 2919.25 or 2919.27;

(c) A violation of R.C. 2909.06 (criminal damaging or endangering), 2909.07 (criminal mischief), 2911.12 (burglary), or 2911.211 (aggravated trespass) if the victim of the violation was a family or household member at the time of the violation;

(d) A violation of an existing or former municipal ordinance or law of Ohio, any other state, or the United States that is substantially similar to R.C. 2909.06, 2909.07, 2911.12, or 2911.211 if the victim of the violation was a family or household member at the time of the commission of the violation;

(e) Any offense of violence if the victim of the offense was a family or household member at the time of the offense.

(B) Circumstances added by Sub. H.B. 29. In addition to the circumstances listed above, Sub. H.B. 29 required an appearance for the setting of

bail if the arresting officer indicates in a police report or other document accompanying the complaint any of the following:

(1) That the arresting officer observed on the alleged victim objective manifestations of physical harm that the arresting officer reasonably believes are a result of the alleged offense;

(2) That the arresting officer reasonably believes that the person had on the person's person at the time of the alleged offense a deadly weapon or dangerous ordnance;

(3) That the arresting officer reasonably believes that the person presents a credible threat of serious physical harm to the alleged victim or to any other person if released on bail before trial.

Operation of the bill

The bill eliminates the requirement that a person charged with an offense of violence against a family or household member appear before the court for the setting of bail under any of the circumstances listed above under "**Circumstances applicable before Sub. H.B. 29**" (R.C. 2919.251(A)(1) repealed).

COMMENT

1. Under existing law, as used in the Revised Code, "offense of violence" means any of the following (R.C. 2901.01(A)(9)--not in the bill):

(a) A violation of R.C. 2903.01 (aggravated murder), 2903.02 (murder), 2903.03 (voluntary manslaughter), 2903.04 (involuntary manslaughter), 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.13 (assault), 2903.15 (permitting child abuse), 2903.21 (aggravated menacing), 2903.211 (menacing by stalking), 2903.22 (menacing), 2905.01 (kidnapping), 2905.02 (abduction), 2905.11 (extortion), 2907.02 (rape), 2907.03 (sexual battery), 2907.05 (gross sexual imposition), 2909.02 (aggravated arson), 2909.03 (arson), 2909.24 (terrorism), 2911.01 (aggravated robbery), 2911.02 (robbery), 2911.11 (aggravated burglary), 2917.01 (inciting to violence), 2917.02 (aggravated riot), 2917.03 (riot), 2917.31 (inducing panic), 2919.25 (domestic violence), 2921.03 (intimidation), 2921.04 (intimidating an attorney, victim, or witness in a criminal case), 2921.34 (escape), or 2923.161 (improperly discharging a firearm at a habitation or under circumstances related to a school), of division (A)(1), (2), or (3) of R.C. 2911.12 (certain forms of burglary), or of division (B)(1), (2), (3), or (4) of R.C. 2919.22 (certain forms of endangering children) or felonious sexual penetration in violation of former R.C. 2907.12;

(b) A violation of an existing or former municipal ordinance or law of Ohio, any other state, or the United States creating offenses substantially equivalent to those listed in the preceding paragraph;

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio, any other state, or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in the preceding three paragraphs.

2. R.C. 2919.25 (not in the bill) defines "family or household member" for purposes of that section, R.C. 2919.251, and R.C. 2919.26 as any of the following:

(a) Any of the following who is residing or has resided with the offender:

(i) A spouse, a "person living as a spouse" (see below), or a former spouse of the offender;

(ii) A parent or a child of the offender, or another person related by consanguinity or affinity to the offender;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.

(b) The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

The statute defines "person living as a spouse" as a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.

3. Existing R.C. 2919.26 provides for temporary protection orders when a complaint has been filed alleging criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, an offense of violence, or any comparable municipal ordinance violation committed against a family or household member. Existing R.C. 3113.31 provides for protection orders or consent agreements when a petition has been filed alleging domestic violence.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-26-05	p. 437
Reported, S. Judiciary on Civil Justice	05-10-05	pp. 488-489
Passed Senate (32-0)	05-10-05	p. 491
Reported, H. Judiciary	06-07-05	pp. 914-917

S0128-RH-126.doc/jc

