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Bill Analysis
Legislative Service Commission

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**Sens. Gardner, Coughlin, Schuler, Schuring, Wachtmann, Mumper,
Jacobson, Carey, Hottinger, Spada**

BILL SUMMARY

- Requires the imposition of a Class 1 (lifetime) judicial driver's license suspension upon an offender who is convicted of or pleads guilty to: (1) "aggravated vehicular homicide" when the offense is based on the offender's operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft recklessly, or as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense and the offender previously was convicted of or pleaded guilty to a "traffic-related felonious assault or attempted murder offense," or (2) "vehicular homicide" when the offense is based on the offender's operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft negligently, or as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense and the offender previously was convicted of or pleaded guilty to a "traffic-related felonious assault or attempted murder offense."
- Grants a court that is imposing a mandatory judicial driver's license suspension upon an offender who is convicted of or pleads guilty to "aggravated vehicular assault" based on the person's operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft in violation of R.C. 1547.111(A), R.C. 4511.19(A), R.C. 4561.15(A)(2), or a municipal ordinance substantially equivalent to any of those provisions the option of imposing a Class 1 (lifetime) driver's license suspension upon the offender.

- Requires the imposition of a Class 1 (lifetime) judicial driver's license suspension upon an offender who is convicted of or pleads guilty to "felonious assault" when the offense is based on the offender's knowingly causing or attempting to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance and the deadly weapon used in the commission of the offense is a motor vehicle.
- Requires the imposition of a Class 1 (lifetime) judicial driver's license suspension upon an offender who is convicted of or pleads guilty to an attempt to commit aggravated murder or murder if the offender used a motor vehicle as the means to attempt to commit the aggravated murder or murder.
- Prohibits a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended for life under a Class 1 (lifetime) judicial driver's license suspension imposed under any of its provisions described above in the preceding four dot points from operating any motor vehicle upon the public roads or highways within Ohio during the remaining life of the person and provides that a violation of the prohibition is the offense of "driving under specified lifetime suspension," a felony of the third degree.
- Prohibits the issuance of a temporary instruction permit or driver's license to, or the retention of such a permit or license by, any person who is: (1) under a Class 1 (lifetime) judicial driver's license suspension imposed under its provisions described in the preceding dot points, or (2) under a Class 1 (lifetime) or Class 2 (a definite period of three years to life) suspension imposed under an existing provision upon an offender who is convicted of or pleads guilty to "failure to comply with an order or signal of a police officer."
- Prohibits a judge or mayor from suspending any Class 1 (lifetime) judicial driver's license suspension, or any portion of any such suspension, imposed under its provisions described in the preceding dot points.
- Specifies that the existing mechanism for modification or termination of a Class 1 judicial driver's license suspension does not apply regarding any Class 1 (lifetime) judicial driver's license suspension imposed under its provisions described in the preceding dot points.

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CONTENT AND OPERATION

Introduction

The bill imposes Class 1 (lifetime) judicial suspensions of the driver's or commercial driver's license or permit or nonresident operating privilege of a person who is convicted of or pleads guilty to aggravated vehicular homicide, vehicular homicide, or aggravated vehicular assault in specified circumstances. It also imposes a Class 1 judicial suspension on a person who is convicted of or pleads guilty to felonious assault, attempted aggravated murder, or attempted murder when the person used a motor vehicle in committing the offense. In addition, the bill prohibits a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under a Class 1 judicial driver's license suspension imposed under any of its provisions from operating a motor vehicle upon the public roads or highways during the remaining life of the person (a violation is the offense of "driving under specified lifetime suspension"). The bill also applies certain license-related restrictions to persons whose license, permit, or privilege has been suspended under a Class 1 judicial driver's license suspension imposed under any of its provisions or under a Class 1



or 2 judicial driver's license suspension imposed under an existing provision upon an offender who is convicted of or pleads guilty to "failure to comply with an order or signal of a police officer" and specifies that the existing mechanism for modification or termination of a Class 1 judicial driver's license suspension does not apply to a Class 1 judicial driver's license suspension imposed under its provisions.

Aggravated vehicular homicide and vehicular homicide--lifetime license suspensions

Existing law

Existing law prohibits a person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, from causing the death of another or the "unlawful termination of another's pregnancy" (see **COMMENT 1**) in any of a list of specified manners of which two are relevant to the bill. The name of the offense associated with a violation of the prohibition and the penalty for the violation varies depending upon the manner in which it was committed. The relevant specified manners of causing a death or unlawful termination of another's pregnancy that are the bases of the relevant prohibitions and the associated names of the relevant offenses and penalties are as follows:

(1) **Aggravated vehicular homicide**. The first specified manner of causing the death or unlawful termination while operating or participating in the operation of one of the specified conveyances that is relevant to the bill is either (a) recklessly or (b) as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense. The provision described in clause (b) applies only if the victim is in the construction zone at the time of the offender's commission of the reckless operation offense and does not apply unless warning signs are posted in a specified manner. A violation of this prohibition is the offense of "aggravated vehicular homicide." Generally, the offense is a felony of the third degree, but, in specified circumstances, it is a felony of the second degree. In addition to any other sanctions imposed, the court must impose upon the offender a Class 2 suspension (see **Restrictions regarding Class 1 and 2 suspensions**," below) of the offender's driver's or commercial driver's license or permit or nonresident operating privilege. (R.C. 2903.06(A)(2), (B)(1), (B)(3), and (E).)

(2) **Vehicular homicide**. The second specified manner of causing the death or unlawful termination while operating or participating in the operation of one of the specified conveyances that is relevant to the bill is either (a) negligently or (b) as the proximate result of committing, while operating or participating in the

operation of a motor vehicle or motorcycle in a construction zone, a speeding offense. The provision described in clause (b) applies only if the victim is in the construction zone at the time of the offender's commission of the speeding offense and does not apply unless warning signs are posted in a specified manner. A violation of this prohibition is the offense of "vehicular homicide." Generally, the offense is a misdemeanor of the first degree, but, in specified circumstances, it is a felony of the fourth degree. In addition to any other sanctions imposed, the court must impose upon the offender a Class 4 suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege or, if the offender previously was convicted of or pleaded guilty to a violation of R.C. 2903.06 or any traffic-related homicide, manslaughter, or assault offense (see **COMMENT 2**), a Class 3 suspension (see "**Restrictions regarding Class 1 and 2 suspensions**," below) of the license, permit, or privilege. (R.C. 2903.06(A)(3), (C), and (E).)

Operation of the bill--Class 1 license suspension

The bill requires the imposition of a Class 1 license suspension upon an offender who is convicted of or pleads guilty to "aggravated vehicular homicide" committed in the manner described above in paragraph (1) under "**Existing law**" or "vehicular homicide" as described above in paragraph (2) under "**Existing law**" and who previously has been convicted of or pleaded guilty to a "traffic-related felonious assault or attempted murder offense" (see "**Operation of the bill--definitions**," below). Specifically, under the bill:

(1) **Aggravated vehicular homicide**. If a person is convicted of or pleads guilty to "aggravated vehicular homicide" based on the person's operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft recklessly or as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense, in addition to any other sanctions imposed, the court must impose upon the offender a suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege as follows: (a) generally, the court must impose a Class 2 suspension of the license, permit, or privilege (existing law), or (b) *if the offender previously has been convicted of or pleaded guilty to a "traffic-related felonious assault or attempted murder offense," the court must impose upon the offender a Class 1 suspension of the license, permit, or privilege* (added by the bill; see "**Restrictions regarding Class 1 and 2 suspensions**," below). (R.C. 2903.06(A)(2) and (B)(3).) The bill does not change the existing classification of the offense (i.e., a felony of the second or third degree) or any existing mandatory prison term provision (R.C. 2903.06(B)(1) and (E)).

(3) **Vehicular homicide**. If a person is convicted of or pleads guilty to "vehicular homicide" based on the person's operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft negligently, or as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, the court must impose upon the offender a suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege as follows: (a) generally, the court must impose a Class 4 suspension of the license, permit, or privilege (existing law), (b) if the offender previously was convicted of or pleaded guilty to a violation of R.C. 2903.06 or any traffic-related homicide, manslaughter, or assault offense, the court must impose a Class 3 suspension of the license, permit, or privilege (existing law), or (c) *if the offender previously has been convicted of or pleaded guilty to a "traffic-related felonious assault or attempted murder offense," the court must impose upon the offender a Class 1 suspension of the license, permit, or privilege* (added by the bill; see "**Restrictions regarding Class 1 and 2 suspensions**," below). (R.C. 2903.06(A)(3) and (C).) The bill does not change the existing classification of the offense (i.e., a misdemeanor of the first degree or a felony of the fourth degree) or the existing applicable mandatory jail term or prison term provision (R.C. 2903.06(C) and (E)).

Operation of the bill--definitions

The bill defines "traffic-related felonious assault or attempted murder offense" for purposes of its provisions described above as a violation of division (A)(2) of R.C. 2903.11 (see the next paragraph) in circumstances in which the deadly weapon used in the commission of the violation is a "motor vehicle," an attempt to commit aggravated murder or murder in violation of R.C. 2923.02 (see the next paragraph) in circumstances in which the offender used a "motor vehicle" as the means to attempt to commit the offense, or such a violation of R.C. 2903.11 or 2923.02 as they existed prior to March 23, 2000 (R.C. 2903.06(G)(1)(f)). The bill specifies that, as used in these provisions, "motor vehicle" has the same meaning as in section 4501.01 (R.C. 2903.06(G)(1)(g); see **COMMENT 3**).

R.C. 2903.11(A)(2), described below in "**Felonious assault--lifetime license suspension**," prohibits a person from knowingly causing or attempting to cause physical harm to another or to another's unborn by means of a deadly weapon. R.C. 2923.02, which, in this context, is described below in "**Attempted aggravated murder or attempted murder--lifetime license suspension**," prohibits a person from purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, from engaging in conduct that, if successful, would constitute or result in the offense.

Aggravated vehicular assault--lifetime license suspension

Existing law

Existing law prohibits a person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, from causing serious physical harm to another person or "another's unborn" (see **COMMENT 1**) in any of a list of specified manners of which one is relevant to the bill. The name of the offense associated with a violation of the prohibition and the penalty for the violation varies depending upon the manner in which it was committed. The relevant specified manner of causing serious physical harm to another person or another's unborn that is the base of the relevant prohibition, and the associated name of the relevant offense and penalties, are as follows:

(1) **Aggravated vehicular assault**. The specified manner of causing the serious physical harm while operating or participating in the operation of one of the specified conveyances that is relevant to the bill is as the proximate result of committing a violation of: (a) R.C. 1547.11(A) or 4511.19(A), which set forth prohibitions related to operating a vehicle, streetcar, trackless trolley, vessel, water skis, an aquaplane, or a similar device while under the influence of alcohol, a drug of abuse, or a combination of them or with a prohibited concentration of alcohol in the person's system, (b) R.C. 4561.15(A)(3), which sets forth prohibitions related to operating an aircraft while under the influence of intoxicating liquor, controlled substances, or other habit-forming drugs, or (c) a municipal ordinance substantially equivalent to any provision identified in clause (a) or (b). A violation of the prohibition committed in this specified manner is the offense of "aggravated vehicular assault." Generally, the offense is a felony of the third degree, but, in specified circumstances, it is a felony of the second degree. In addition to any other sanctions imposed, the court must impose upon the offender a Class 3 suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege or, if the offender previously was convicted of or pleaded guilty to a violation of R.C. 2903.08 or any traffic-related homicide, manslaughter, or assault offense (see **COMMENT 2**), a Class 2 suspension (see "**Restrictions regarding Class 1 and 2 suspensions**," below) of the license, permit, or privilege. (R.C. 2903.08(A)(1), (B)(1), (B)(2), and (D)(1).)

Operation of the bill

The bill grants a court that is imposing a mandatory license suspension upon an offender who is convicted of or pleads guilty to "aggravated vehicular assault" as described above under "**Existing law**" the option of imposing a Class 1 license suspension upon the offender. Specifically, under the bill, if a person is convicted of or pleads guilty to "aggravated vehicular assault" based on the

person's operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft in violation of R.C. 1547.111(A), 4511.19(A), or 4561.15(A)(2), or a municipal ordinance substantially equivalent to any of those sections, the court must impose upon the offender: (1) *either* a Class 3 suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege (existing law) *or a Class 1 suspension of the license, permit, or privilege* (added by the bill; see "**Restrictions regarding Class 1 and 2 suspensions**," below), or (2) if the offender previously was convicted of or pleaded guilty to a violation of R.C. 2903.08 or any traffic-related homicide, manslaughter, or assault offense, *either* a Class 2 suspension of the license, permit, or privilege (existing law) *or a Class 1 suspension of the license, permit, or privilege* (added by the bill; see "**Restrictions regarding Class 1 and 2 suspensions**," below). (R.C. 2903.08(A)(1) and (B)(2).) The bill does not change the existing classification of the offense (i.e., a felony of the second or third degree) or the existing mandatory prison term provision (R.C. 2903.08(B)(1) and (D)(1)).

Felonious assault--lifetime license suspension

Existing law

Existing law prohibits a person from knowingly causing or attempting to cause physical harm to another or to "another's unborn" (see **COMMENT 1**) by means of a deadly weapon or dangerous ordnance. A violation of this prohibition is the offense of "felonious assault." The offense generally is a felony of the second degree, but it is a felony of the first degree if the victim is a peace officer. If the victim is a peace officer and the victim suffered serious physical harm as a result of the commission of the offense, the offense is a felony of the first degree, and the court must impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree. (R.C. 2903.11.) A person can commit felonious assault in other manners, but those prohibitions are not relevant to the bill and are not discussed in this analysis.

Operation of the bill

The bill provides that, in addition to any other sanctions imposed for felonious assault committed as described above in "**Existing law**," if the deadly weapon used in the commission of the violation is a "motor vehicle" (see below), the court must impose upon the offender a Class 1 suspension (see "**Restrictions regarding Class 1 and 2 suspensions**," below) of the offender's driver's or commercial driver's license or permit or nonresident operating privilege. The bill specifies that, as used in this provision, "motor vehicle" has the same meaning as in section 4501.01, as described in **COMMENT 3**. (R.C. 2903.11(D)(2) and (E)(2).)

In an existing provision that specifies that, whenever a driver's or commercial driver's license or permit or nonresident operating privilege has been suspended, the judge of the court or mayor of the mayor's court that suspended the license, permit, or privilege must cause the offender to deliver the license or permit to the court and then must forward the license or permit to the Registrar of Motor Vehicles, the bill includes a reference to a suspension imposed under the provision described in the preceding paragraph. Thus, the existing provision will apply when a suspension is imposed under the provision described in the preceding paragraph. (R.C. 4510.13(B).)

Attempted aggravated murder or attempted murder--lifetime license suspension

Existing law

Existing law prohibits a person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, from engaging in conduct that, if successful, would constitute or result in the offense. It is no defense to a charge of a violation of this prohibition that, in retrospect, commission of the offense that was the object of the attempt was factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be. A person who is convicted of committing a specific offense, of complicity in the commission of an offense, or of conspiracy to commit an offense cannot be convicted of an attempt to commit the same offense. It is an affirmative defense to a charge of a violation of this prohibition that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

A person who violates the prohibition described in the preceding paragraph is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree. Special penalty provisions apply regarding an attempt to commit certain drug abuse offenses, an offense that is not specifically classified, or a violation of any provision of R.C. Chapter 3734. relating to hazardous wastes. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted. An attempt to commit a minor misdemeanor, or to engage in conspiracy, is not an offense. (R.C. 2923.02.)

Operation of the bill

The bill provides that, in addition to any other sanctions imposed for an attempt to commit aggravated murder or murder in violation of the prohibition described above under "**Existing law**," if the offender used a "motor vehicle" (see below) as the means to attempt to commit the offense, the court must impose upon

the offender a Class 1 suspension (see **Restrictions regarding Class 1 and 2 suspensions**," below) of the offender's driver's or commercial driver's license or permit or nonresident operating privilege. The bill specifies that, as used in this provision, "motor vehicle" has the same meaning as in section 4501.01, as described in **COMMENT 3**. (R.C. 2923.02(E)(2) and (F)(2).)

In an existing provision that specifies that, whenever a driver's or commercial driver's license or permit or nonresident operating privilege has been suspended, the judge of the court or mayor of the mayor's court that suspended the license, permit, or privilege must cause the offender to deliver the license or permit to the court and then must forward the license or permit to the Registrar of Motor Vehicles, the bill includes a reference to a suspension imposed under the provision described in the preceding paragraph. Thus, the existing provision will apply when a suspension is imposed under the provision described in the preceding paragraph. (R.C. 4510.13(B).)

New offense of "driving under specified lifetime suspension"

The bill prohibits a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended for life under a Class 1 suspension imposed under the bill's provisions described above from operating any "motor vehicle" (see **COMMENT 3**) upon the public roads or highways within Ohio during the remaining life of the person. A violation of the prohibition is the offense of "driving under specified lifetime suspension," a felony of the third degree (see **COMMENT 4**). (R.C. 4510.18.)

Restrictions regarding Class 1 and 2 suspensions

Classes of judicial suspensions

Existing law provides that, when a court elects or is required to suspend the driver's or commercial driver's license or permit or nonresident operating privilege of any offender from a specified suspension class, for each of the following suspension classes, the court must impose a definite period of suspension from the range specified for the suspension class: (1) for a Class 1 suspension, a definite period for the life of the person subject to the suspension, (2) for a Class 2 suspension, a definite period of three years to life, (3) for a Class 3 suspension, a definite period of two to ten years, (4) for a Class 4 suspension, a definite period of one to five years, (5) for a Class 5 suspension, a definite period of six months to three years, (6) for a Class 6 suspension, a definite period of three months to two years, and (7) for a Class 7 suspension, a definite period not to exceed one year (R.C. 4510.02(A), not in the bill).

Class 1 and 2 suspensions

Prohibition against issuance or retention of license or permit. Existing law prohibits the issuance of a temporary instruction permit or driver's license to, or the retention of such a permit or license by, any person who is under a Class 1 or 2 suspension imposed for a violation of R.C. 2903.04 (a Class 1 suspension imposed for "involuntary manslaughter"), 2903.06 (a Class 1 or 2 suspension imposed for "aggravated vehicular homicide"), or 2903.08 (a Class 2 suspension imposed for "aggravated vehicular assault") or whose driver's or commercial driver's license or permit was permanently revoked prior to January 1, 2004, for a substantially equivalent violation pursuant to former R.C. 4507.16 (R.C. 4507.08(D)(6)).

The bill expands this prohibition so that it also applies regarding the Class 1 suspensions imposed under its provisions for felonious assault, attempted aggravated murder, or attempted murder (see "*Felonious assault--lifetime license suspension,*" and "*Attempted aggravated murder or attempted murder--lifetime license suspension,*" above), and, because of the existing prohibition's references to R.C. 2903.06 and 2903.08, it also applies to the Class 1 suspensions the bill enacts in those sections (see "*Aggravated vehicular homicide and vehicular homicide--lifetime license suspensions*" and "*Aggravated vehicular assault--lifetime license suspension,*" above).

The bill also expands the prohibition so that it also applies regarding a Class 1 or 2 suspension imposed under an existing provision, not in the bill, upon an offender who is convicted of or pleads guilty to the offense of "failure to comply with an order or signal of a police officer" under R.C. 2921.331 (R.C. 4507.08(D)(6)).

Prohibition against suspension of the suspension. Existing law prohibits a judge or mayor from suspending any Class 1 suspension, or any portion of any Class 1 suspension, required by R.C. 2903.04 (a Class 1 suspension imposed for "involuntary manslaughter") or 2903.06 (a Class 1 suspension imposed for "aggravated vehicular homicide") (R.C. 4510.13(C)(3)).

The bill expands this prohibition so that it also applies regarding the Class 1 suspensions imposed under its provisions for aggravated vehicular assault, felonious assault, attempted aggravated murder, or attempted murder, and, because of the existing prohibition's reference to R.C. 2903.06, it also applies to the Class 1 suspensions the bill enacts in that section.

Modification or termination of a Class 1 or Class 2 suspension. Existing law specifies that a person whose driver's or commercial driver's license has been suspended for life under a Class 1 suspension or as otherwise provided by law or

has been suspended for a period in excess of 15 years under a Class 2 suspension may file a motion with the sentencing court for modification or termination of the suspension. The person filing the motion must demonstrate all of the following: (1) that at least 15 years have elapsed since the suspension began, (2) that, for the past 15 years, the person has not been found guilty of any felony, any offense involving a moving violation under federal law, Ohio law, or the law of any Ohio political subdivision, or any violation of a suspension under R.C. Chapter 4510. or a substantially equivalent municipal ordinance, (3) that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standard set forth in R.C. 4509.51, or proof, to the satisfaction of the Registrar of Motor Vehicles, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in that section, and (4) if the suspension was imposed because the person was under the influence of alcohol, a drug of abuse, or combination of them at the time of the offense or because at the time of the offense the person's system contained a prohibited concentration of alcohol, that the person successfully completed an alcohol, drug, or alcohol and drug treatment program, has not abused alcohol or other drugs for a period satisfactory to the court, and, for the past 15 years, has not been found guilty of any alcohol-related or drug-related offense.

Upon receipt of a motion for modification or termination of a suspension filed under the provision described in the preceding paragraph, the court may schedule a hearing on the motion. The court may deny the motion without a hearing but cannot grant it without a hearing. If the court denies a motion without a hearing, it may consider a subsequent motion filed by the person, but if it denies the motion after a hearing, it cannot consider a subsequent motion for the person. The court may hear only one motion filed by a person under the provision.

At any hearing on a motion for modification or termination of a suspension filed under the provision described in the second preceding paragraph, the person who seeks the modification or termination has the burden to demonstrate, under oath, that the person meets the requirements described in that paragraph. At the hearing, the court must afford the offender or the offender's counsel, the prosecuting attorney, and the victim or victim's representative an opportunity to present oral or written information relevant to the motion. Before ruling on the motion, the court must consider certain specified factors. The court may modify or terminate the suspension subject to any considerations it considers proper if it finds that allowing the person to drive is not likely to present a danger to the public. If a court modifies a person's license suspension under this provision and the person subsequently is found guilty of any moving violation or of any substantially equivalent municipal ordinance that carries as a possible penalty the suspension of a person's driver's or commercial driver's license, the court may

reimpose the Class 1 or 2 suspension, or other lifetime suspension, whichever is applicable. (R.C. 4510.54.)

The bill specifies that the existing mechanism for modification or termination of a Class 1 or 2 suspension that is described above does not apply to any person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended for life under a Class 1 suspension imposed under the bill's provisions for aggravated vehicular homicide, vehicular homicide, aggravated vehicular assault, felonious assault, attempted aggravated murder, or attempted murder (see above) (R.C. 4510.54(F)).

COMMENT

1. Existing R.C. 2903.09, not in the bill, provides that, as used in R.C. 2903.01 to 2903.08, 2903.11 to 2903.14, 2903.21, and 2903.22:

(a) "Unlawful termination of another's pregnancy" means causing the death of an unborn member of the species *homo sapiens*, who is or was carried in the womb of another, as a result of injuries inflicted during the period that begins with fertilization and that continues unless and until live birth occurs.

(b) "Another's unborn" or "such other person's unborn" means a member of the species *homo sapiens*, who is or was carried in the womb of another, during a period that begins with fertilization and that continues unless and until live birth occurs.

(c) Notwithstanding (1)(a) and (b), above, in no case may the definitions of the terms "unlawful termination of another's pregnancy," "another's unborn," and "such other person's unborn" that are set forth in those paragraphs be applied or construed in any of the following manners:

(i) Except as otherwise described in this paragraph, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the actual consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate R.C. 2919.12, 2919.13(B), 2919.151, 2919.17, or 2919.18, may be punished as a violation of that prohibition, as applicable.

(ii) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following: her delivery of a stillborn baby; her causing, in any other manner, the death *in utero* of an unborn that she is carrying; her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is an unborn; her causing her child who is born alive to sustain one or more injuries while the child is an unborn; or her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to an unborn that she is carrying.

2. Existing law, unchanged by the bill, provides that, as used in R.C. 2903.06 and 2903.08, "traffic-related homicide, manslaughter, or assault offense" means a violation of R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of R.C. 2903.06 or 2903.08, or a violation of R.C. 2903.06 or 2903.08 as they existed prior to March 23, 2000 (R.C. 2903.06(G)(1)(b) and 2903.08(F)(2)).

3. Existing R.C. 4501.01, not in the bill, specifies that, as used in R.C. Chapter 4501., 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517., and in the penal laws, except as otherwise provided:

(a) "Motor vehicle" means any vehicle (see the next paragraph), including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in R.C. 4501.01(VV), 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, well-drilling machinery, ditch-digging machinery, farm machinery, trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of 25 miles per hour or less, threshing machinery, hay-baling machinery, corn sheller, hammermill and agricultural tractors, machinery used in the production of horticultural, agricultural, and vegetable products, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less.

(b) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires and vehicles that belong to

any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

4. Existing R.C. 4510.11, not in the bill, prohibits a person whose driver's license or permit or nonresident operating privilege has been suspended under any Revised Code provision, other than R.C. Chapter 4509., or under any applicable law in any other jurisdiction in which the person's license or permit was issued, from operating any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within Ohio during the period of suspension, unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges. A violation of this prohibition is the offense of "driving under suspension or in violation of a license restriction," a misdemeanor of the first degree. The sentencing court must impose a Class 7 judicial license suspension of the person's license, permit, or privilege. Existing R.C. 4510.14, not in the bill, includes a separate prohibition and penalties regarding a person whose license, permit, or privilege has been suspended under R.C. 4511.19, 4511.196, or 4510.07, for an OVI-related conviction or under R.C. 4511.191, which is the state's Vehicle Implied Consent Law.

HISTORY

ACTION	DATE
Introduced	05-04-06

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