



Ohio Legislative Service Commission

Bill Analysis

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H.B. 13

128th General Assembly
(As Introduced)

Reps. Garrison and Harris, Yuko, Newcomb, Hagan, Murray, Phillips, B. Williams, DeBose, Bolon, Okey, Luckie, Fende, Lundy, S. Williams, Heard, Chandler

BILL SUMMARY

- Prohibits an adult tier III sex offender/child-victim offender from knowingly being present on school premises or preschool or child day-care center premises if the offender has been convicted of or pleaded guilty to a specified offense against a victim under the age of 16 or a specified violation of gross sexual imposition against a child under 12 years of age.
- Provides that a violation of the prohibition described in the previous dot point is a felony of the fifth degree.

CONTENT AND OPERATION

Prohibition against certain tier III sex offenders/child-victim offenders being on school, preschool, or child day-care center premises

The bill prohibits a "tier III sex offender/child-victim offender" (the most restrictive category, see **COMMENT 1** for definition) from knowingly being present on "school premises" or "preschool or child day-care center premises" if all of the following apply (R.C. 2950.035(A)) (see **COMMENT 2** and **3** for definition of terms in quotation marks):

- (1) The offender is 18 years of age or older.
- (2) The offender has been convicted of or pleaded guilty to one of the following offenses:
 - (a) Rape or sexual battery;
 - (b) Aggravated murder, murder, or felonious assault committed with a sexual motivation;

(c) Involuntary manslaughter committed by a person causing the death of another or the unlawful termination of another's pregnancy as a proximate result of the offender's committing or attempting to commit a felony when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(d) Kidnapping to engage in sexual activity with a victim against the victim's will when the victim of the offense is under 18 years of age.

(3) The offender's victim was under 16 years of age at the time of the commission of any one of the offenses that is the basis of the offender's tier III classification.

The bill also prohibits a tier III sex offender/child-victim offender from knowingly being present on school premises or preschool or child day-care center premises if the offender has been convicted of or pleaded guilty to R.C. 2907.05(B) (knowingly touching the genitalia of another when the touching is not through clothing, the other person is less than 12 years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person) (R.C. 2950.035(B)).

A violation of either of these prohibitions is a felony of the fifth degree (R.C. 2950.99(D)).

COMMENT

1. A "tier III sex offender/child-victim offender" means any of the following (R.C. 2950.01(G)):

(a) A sex offender who is convicted of any of the following sexually oriented offenses: a violation of R.C. 2907.02 (rape), 2907.03 (sexual battery), 2907.05(B) (gross sexual imposition) when specified circumstances exist, 2903.01 (aggravated murder), 2903.02 (murder), 2903.11 (felonious assault) when the violation was committed with a sexual motivation, 2903.04(A) (involuntary manslaughter) when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation, 2905.01(A)(4) (kidnapping) when the victim is under 18 years of age, 2905.01(B) (kidnapping) when the victim is under 18 years old and the offender is not a parent of the victim, a violation of any former law of this state, any existing or former municipal ordinance or law of another state or the U.S., 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 U.S. that is or was substantially equivalent to any of the above offenses; any attempt to commit, conspiracy to commit, or complicity in committing any offense listed above; or any sexually oriented offense that is committed

after the sex offender was convicted of any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender;

(b) A child-victim offender who is convicted of any child-victim oriented offense that is committed after the child-victim offender previously was convicted of or adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II or tier III sex offender/child-victim offender;

(c) A sex offender who is adjudicated a delinquent child for committing any sexually oriented offense and whom a juvenile court classifies as a tier III sex offender/child-victim offender relative to the offense;

(d) A child-victim offender who is adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court classifies a tier III sex offender relative to the current offense;

(e) A sex offender or child-victim offender who is not in any category of tier III sex offender/child victim offender set forth in the above paragraphs, who prior to January 1, 2008, was convicted of a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and classified a juvenile offender registrant, and who prior to that date was adjudicated a sexual predator or child-victim predator, unless the sex offender or child-victim offender is reclassified pursuant to R.C. 2950.031 or 2950.032 as a tier I or tier II sex offender/child-victim offender relative to the offense or the sex offender or child-victim offender is a delinquent child, and a juvenile court classifies the child a tier I or II sex offender/child-victim offender relative to the offense;

(f) A sex offender who is convicted of a sexually oriented offense, if the sexually oriented offense and the circumstances in which it was committed are such that R.C. 2971.03(F) automatically classifies the offender as a tier III sex offender/child-victim offender;

(g) A sex offender or child-victim offender who is convicted of a sexually oriented offense or child-victim offender who is convicted of or adjudicated a delinquent child for committing a sexually oriented offense or child-victim offense in another state, in a federal court, military court, or Indian tribal court, or in any nation other than the U.S. if circumstances specified in R.C. 2950.01(G)(7)(a) and (b) apply.

2. The bill provides that "preschool or child day-care center premises" has the same meaning as in R.C. 2950.034 (R.C. 2950.035(C)). R.C. 2950.034 (not in the bill) defines "preschool or child day-care center premises" to mean all of the following:

(a) Any building in which any preschool or child day-care center activities are conducted if the building has signage that indicates that the building houses a preschool or child day-care center, is clearly visible and discernable without obstruction, and meets any local zoning ordinances which may apply;

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

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

3. As used in the bill, "school premises" means either of the following (R.C. 2950.01 by reference to R.C. 2925.01--neither section is in the bill):

(a) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed;

(b) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Chapter 3314. of the Revised Code, or the governing body of a nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

HISTORY

| ACTION | DATE |
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| Introduced | 02-17-09 |

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