



# Ohio Legislative Service Commission

## Bill Analysis

Dennis M. Papp

### **S.B. 142**

128th General Assembly  
(As Introduced)

Sen. R. Miller

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## **BILL SUMMARY**

- Specifies that, if a juvenile court commits a delinquent child to the temporary custody of a school, camp, institution, or other facility for the care of delinquent children that is located outside of Ohio and that is operated by a private agency or organization: (1) the school, camp, institution, or facility must comply with all standards established under the Revised Code or rules that are applicable to a school, camp, institution, or other facility operated within Ohio, and (2) no public money may be expended for the commitment of the child to the school, camp, institution, or facility if it does not comply with those standards.

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## **CONTENT AND OPERATION**

### **Operation of the bill**

The bill revises the existing dispositional option that authorizes a juvenile court to commit a delinquent child to the temporary custody of a school, camp, institution, or other facility operated for the care of delinquent children by a private agency or organization located outside of Ohio that is authorized and qualified to provide the care, treatment, or placement required. Under the bill: (1) a juvenile court, in addition to any other disposition authorized or required under the Delinquent Child Law, may commit the child to the temporary custody of any school, camp, institution, or other facility for the care of delinquent children that is located outside of Ohio and that is operated by a private agency or organization, (2) any such school, camp, institution, or other facility that is located outside of Ohio must comply with all standards established under the Revised Code or rules that are applicable to a school, camp, institution, or other facility operated within Ohio, and (3) no public money may be expended for the commitment of a child to the temporary custody of any school, camp, institution, or

other facility that is located outside of Ohio that does not comply with the standards described in clause (2) of this sentence. (R.C. 2152.19(A)(2).)

## Existing law

### In general

Existing law specifies that, if a child is adjudicated a delinquent child, the juvenile court may make any of the following orders of disposition, in addition to any other disposition authorized or required by the Delinquent Child Law contained in R.C. Chapter 2152. (R.C. 2152.19(A)):

(1) Any order authorized for the care and protection of an abused, neglected, or dependent child (see **COMMENT 1**);

(2) Commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children by the county, by a district organized under R.C. 2152.41 or 2151.65, or by a private agency or organization, within or without Ohio, that is authorized and qualified to provide the care, treatment, or placement required, including, but not limited to, a school, camp, or facility operated under R.C. 2151.65 (the bill modifies this provision of existing law);

(3) Place the child in a detention facility or district detention facility for up to 90 days;

(4) Place the child on community control under any sanctions, services, and conditions that the court prescribes (see **COMMENT 2**);

(5) Commit the child to the custody of the court;

(6) Require the child to not be absent without legitimate excuse from the public school the child is supposed to attend for five or more consecutive days, seven or more school days in one school month, or 12 or more school days in a school year;

(7) If a child is adjudicated a delinquent child for being a chronic truant or a habitual truant who previously has been adjudicated an unruly child for being a habitual truant, require the child to participate in a truancy prevention mediation program, make any order of disposition as authorized for delinquent children, except that the court cannot commit the child to a facility described in (2) or (3), above, unless the court determines that the child violated a specified type of lawful court order, or do both of those things.

(8) If a child is adjudicated a delinquent child for being a chronic truant or a habitual truant who previously has been adjudicated an unruly child for being a

habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of existing law, require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program, require the parent, guardian, or other person having care of the child to participate in any community service program, preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child, or do both of those things.

(9) Make any further disposition that the court finds proper, except that the child cannot be placed in a state correctional institution, a county, multicounty, or municipal jail or workhouse, another place in which an adult convicted of a crime, under arrest, or charged with a crime is held, or, in specified circumstances, a community corrections facility.

### **Acts that would be felonies**

If the child's delinquent act would be a felony if committed by an adult, the authorized or required dispositions include commitment to the Department of Youth Services (DYS) for a specified period of institutionalization (R.C. 2152.16 or 2152.17, not in the bill) or, in the most serious cases, a serious youthful offender dispositional sentence (R.C. 2152.13 and 2151.14, not in the bill) consisting of both a traditional delinquent child disposition and a sentence available for the act, as if the child were an adult, under the Criminal Sentencing Law. In any case, the court may impose a fine of a specified amount, require the child to make restitution, or require the child to reimburse the costs of any other sanction imposed (R.C. 2152.20, not in the bill).

### **License suspensions**

Under existing law, if a child is adjudicated a delinquent child, the court also must suspend the child's temporary instruction permit, restricted license, probationary driver's license, or nonresident operating privilege, or suspend the child's ability to obtain such a permit (R.C. 2152.19(B)) as follows: (1) if the child is adjudicated a delinquent child for conveying or possessing a dangerous ordnance, deadly weapon, or object indistinguishable from a firearm in a school safety zone, impose a Class 4 suspension of the child's license, permit, or privilege or deny the child the issuance of a license or permit, and (2) if the child is adjudicated a delinquent child for committing a drug abuse offense or for disorderly conduct in violation of R.C. 2917.11(B), suspend the child's license, permit, or privilege for a period of time prescribed by the court.

## Treatment for sex offender/child-victim offender

Currently, if a juvenile court commits a delinquent child to the custody of any person, organization, or entity and if the delinquent act for which the child is so committed is a "sexually oriented offense" or a "child-victim oriented offense" (existing R.C. 2950.01, not in the bill), the court must do one of the following (R.C. 2152.19(G)): (1) require that the child be provided treatment, or (2) inform the person, organization, or entity that it is the preferred course of action in Ohio that the child be provided treatment and encourage the person, organization, or entity to provide that treatment (see **COMMENT 3**).

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### COMMENT

1. Existing R.C. 2151.353, which is not in the bill provides that, if a child is adjudicated an abused, neglected, or dependent child, the court may make any of the following orders of disposition: (a) place the child in protective supervision, (b) commit the child to the temporary custody of a public children services agency, a private child placing agency, either parent, a relative residing within or outside Ohio, or a probation officer for placement in a certified foster home, or in any other home approved by the court, (c) award legal custody of the child to either parent or, if specified criteria are satisfied, to any other person, (d) commit the child to the permanent custody of a public children services agency or private child placing agency, if the court makes certain determinations, (e) order the removal from the child's home until further order of the court of the person who committed abuse against the child, who caused or allowed the child to suffer neglect, or who is the parent, guardian, or custodian of a child who is adjudicated a dependent child and order any person not to have contact with the child or the child's siblings, or (f) place the child in a planned permanent living arrangement with a public children services agency or private child placing agency if certain conditions are met.

2. One dispositional option available to a juvenile court, under R.C. 2152.19(A)(4), authorizes the court to place a delinquent child on community control under any sanctions, services, and conditions that the court prescribes. As a condition of community control in every case and in addition to any other condition that it imposes upon the child, the court must require the child to abide by the law during the period of community control. As referred to in this provision, community control includes, but is not limited to, the following sanctions and conditions: (a) a period of basic probation supervision, (b) a period of intensive probation supervision, (c) a period of day reporting, (d) a period of community service of up to 500 hours for an act that would be a felony or a misdemeanor of the first degree if committed by an adult, up to 200 hours for an act that would be a misdemeanor of the second, third, or fourth degree

if committed by an adult, or up to 30 hours for an act that would be a minor misdemeanor if committed by an adult, (e) a requirement that the child obtain a high school diploma, a certificate of high school equivalence, vocational training, or employment, (f) a period of drug and alcohol use monitoring, (g) a requirement of alcohol or drug assessment or counseling, or a period in an alcohol or drug treatment program with a level of security for the child as determined necessary by the court, (h) a period in which the court orders the child to observe a curfew that may involve daytime or evening hours, (i) a requirement that the child serve monitored time, (j) a period of house arrest without electronic monitoring or continuous alcohol monitoring, (k) a period of electronic monitoring or continuous alcohol monitoring without house arrest, or house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, that does not exceed the maximum sentence of imprisonment that could be imposed upon an adult who commits the same act, or (l) a suspension of the child's driver's license, probationary driver's license, or temporary instruction permit for a period of time prescribed by the court, or a suspension of the registration of all motor vehicles registered in the child's name for a period of time prescribed by the court.

3. Existing R.C. 5139.13(A)(2), which is not in the bill, requires the Department of Youth Services to provide treatment and training for children committed to it, including, but not limited to, for a child committed to it for an act that is a "sexually oriented offense" or a "child-victim oriented offense," treatment that is appropriate for a child who commits an act that is such an offense and that is intended to ensure that the child does not commit any subsequent act that is either such offense.

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## HISTORY

ACTION	DATE
Introduced	06-16-09

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