



Ohio Legislative Service Commission

Bill Analysis

Andrea Holmes

H.B. 132

129th General Assembly
(As Introduced)

Reps. DeGeeter, Antonio, Blair, Foley, Letson, Lundy, Murray, Weddington, Yuko

BILL SUMMARY

- Expands the list of factors that a court sentencing an offender for a felony or misdemeanor drug possession offense must consider that indicate that the offender's conduct is less serious than conduct normally constituting the offense to include the following:
 - The offender sought medical assistance for a drug-related overdose and evidence related to the offense was obtained as a result of the offender seeking that medical assistance.
 - The offender sought medical assistance for someone other than the offender who was experiencing a drug-related overdose and evidence related to the offense was obtained as a result of the offender seeking that medical assistance.

CONTENT AND OPERATION

Sentencing factors for felonies – operation of the bill

The bill expands the statutorily specified list of factors that a court sentencing an offender for a felony must consider that indicate that the offender's conduct is less serious than conduct normally constituting the offense to include the following:¹

(1) If the offense involves a felony violation of a drug possession offense (see "**Drug possession offenses**," below), that the offender sought medical assistance for a

¹ R.C. 2929.12(C)(5) and (6).

drug-related overdose and evidence related to the offense was obtained as a result of the offender seeking that medical assistance.

(2) If the offense involves a felony violation of a drug possession offense, that the offender sought medical assistance for someone other than the offender who was experiencing a drug-related overdose and evidence related to the offense was obtained as a result of the offender seeking that medical assistance.

Sentencing factors for felonies under current law

Under preexisting law, expanded by the bill as described above, the sentencing court, among other statutorily described factors, must consider all of the following that apply regarding the offender, the offense, or the victim, and any other relevant factors, as indicating that the offender's conduct is less serious than conduct normally constituting the offense:²

(1) The victim induced or facilitated the offense.

(2) In committing the offense, the offender acted under strong provocation.

(3) In committing the offense, the offender did not cause or expect to cause physical harm to any person or property.

(4) There are substantial grounds to mitigate the offender's conduct, although the grounds are not enough to constitute a defense.

Sentencing factors for misdemeanors – operation of the bill

The bill expands the statutorily specified list of factors that a court sentencing an offender for a misdemeanor must consider to include the following two factors which apply only to offenses involving a misdemeanor violation of a drug possession offense, and which indicate that the offender's conduct is less serious than conduct normally constituting the offense:³

(1) The offender sought medical assistance for a drug-related overdose and evidence related to the offense was obtained as a result of the offender seeking that medical assistance.

² R.C. 2929.12(C).

³ R.C. 2929.22(B)(2).

(2) The offender sought medical assistance for someone other than the offender who was experiencing a drug-related overdose and evidence related to the offense was obtained as a result of the offender seeking that medical assistance.

Sentencing factors for misdemeanors under current law

Under preexisting law, expanded by the bill as described above, the sentencing court must consider all of the following factors when determining the appropriate sentence for a misdemeanor:⁴

(1) The nature and circumstances of the offense or offenses;

(2) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;

(3) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences;

(4) Whether the victim's youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;

(5) Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in (2) and (3) above.

Drug possession offenses

Preexisting law, unchanged by the bill, generally prohibits any person from knowingly obtaining, possessing, or using a controlled substance. Depending upon the drug involved, a violation of the prohibition is the offense of "aggravated possession of drugs" (a Schedule I or II controlled substance other than marihuana, cocaine, L.S.D., heroin, or hashish), "possession of drugs" (a Schedule III, IV, or V controlled substance), "possession of marihuana," "possession of cocaine," "possession of L.S.D.," "possession of heroin," or "possession of hashish." Depending on the amount of the controlled

⁴ R.C. 2929.22(B)(1).

substance involved, the penalty for a violation of the prohibition ranges from a minor misdemeanor to a first degree felony.⁵

HISTORY

ACTION	DATE
Introduced	03-01-11

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⁵ R.C. 2925.11.

