



Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 7*

130th General Assembly
(As Reported by S. Criminal Justice)

Sens. Widener and Beagle, Lehner, Hughes, LaRose, Eklund, Hite, Coley, Jones, Faber, Peterson

BILL SUMMARY

- Requires a court that orders a mental health evaluation or treatment for a mental illness for a person who pleads guilty to or who is convicted of an offense of violence to report the conviction and required treatment to a specified local law enforcement agency and requires the agency to enter the information into the National Crime Information Center Supervised Release File.
- Requires a court that approves a conditional release for a person found incompetent to stand trial and committed or a person found not guilty by reason of insanity and committed to report the approval and information pertaining to the release to a specified local law enforcement agency and requires the agency to enter the information into the National Crime Information Center Supervised Release File.
- Names its provisions the "Deputy Suzanne Hopper Act."

CONTENT AND OPERATION

Court report when it orders mental health treatment for a person convicted of an offense of violence

The bill requires a court that orders a person who pleads guilty to or who is convicted of an "offense of violence" (see "**Definitions**," below) to receive a mental health evaluation or treatment for a "mental illness" (see "**Definitions**," below) to report the conviction and required evaluation or treatment to the local law enforcement

* This analysis was prepared before the report of the Senate Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

agency (the police department of a municipal corporation in which the offense occurred or, if the offense did not occur in a municipal corporation, the sheriff of the county in which the offense occurred). The local law enforcement agency must enter the conviction and required treatment into the National Crime Information Center Supervised Release File (the NCIC Supervised Release File; see "**NCIC background**," below) through the Law Enforcement Automated Data System (LEADS). The information reported and entered must include: (1) the name of the court providing the information, (2) the offense or offenses of violence to which the offender pleaded guilty or of which the offender was convicted, and (3) any other information required for the entry of information into the NCIC Supervised Release File.

Information entered into the NCIC Supervised Release File pursuant to the bill's provisions described above must remain in the file until further order of the court.¹

Court report when it orders conditional release of a person committed after being found incompetent to stand trial or not guilty by reason of insanity

Operation of the bill

Existing law specifies the possible outcomes when a person is found incompetent to stand trial (IST) for an alleged criminal offense or is found not guilty by reason of insanity (NGRI) of a criminal offense. In some circumstances, after required hearings, the person may be committed to an appropriate hospital or facility for treatment.² When a person has been so committed, in specified circumstances the trial court that made the finding may grant the person a "conditional release."³ The existing law that pertains to and governs conditional releases is discussed below in "**Existing law – conditional release mechanism**."

The bill provides that, if a court approves a conditional release for a person found IST or NGRI who has been committed, the court must report the approval and information pertaining to the release to the local law enforcement agency (the police department of a municipal corporation in which the offense with which the releasee was charged allegedly occurred or, if the offense did not allegedly occur in a municipal corporation, the sheriff of the county in which the offense allegedly occurred). The local law enforcement agency must enter the approval and information into the NCIC Supervised Release File through LEADS. The information reported and entered must include: (1) the name of the court providing the information, (2) the offense or offenses

¹ R.C. 2929.44.

² R.C. 2945.371 to 2945.401, not in the bill.

³ R.C. 2945.401, not in the bill.



with which the person was charged, (3) whether the person was found NGRI or IST with no substantial probability of becoming competent even with a course of treatment, (4) the reason for the conditional release, and (5) any other information required for the entry of information into the NCIC Supervised Release File. The information described in clauses (3) and (4) of the preceding sentence must be entered into the File's miscellaneous field.

Information entered into the NCIC Supervised Release File pursuant to the bill's provisions described above must remain in the file until the termination of the conditional release or commitment. If a person about whom information is entered into the File pursuant to the bill's provisions described above has contact with a law enforcement agency after the information is entered, the agency must report the contact to the Department of Mental Health and, if the terms of the release require the person to receive mental health treatment, to the person, office, or agency providing the treatment.⁴

Existing law – conditional release mechanism

As stated above, existing law specifies the possible outcomes when a person is found IST for an alleged criminal offense or is found NGRI of a criminal offense. In some circumstances, after hearings, the person may be committed to an appropriate hospital or facility for treatment.⁵ When a person has been so committed, in specified circumstances the trial court that made the finding may grant the person "nonsecured status."⁶ As used in the provisions described above, "nonsecured status" means any unsupervised, off-grounds movement or trial visit from a hospital or institution, or any "conditional release" that is granted to a person who is found either IST or NGRI and is committed. As used in this definition and in the provisions described below, "conditional release" means a commitment status under which the trial court at any time may revoke a person's conditional release and order the rehospitization or reinstitutionalization of the person and pursuant to which a person who is found IST or NGRI lives and receives treatment in the community for a period of time that does not exceed the maximum prison term or term of imprisonment that the person could have received for the offense in question had the person been convicted of the offense instead of being found IST or NGRI relative to the offense.⁷

⁴ R.C. 2945.402(E).

⁵ R.C. 2945.371 to 2945.401, not in the bill.

⁶ R.C. 2945.401, not in the bill.

⁷ R.C. 2945.37, not in the bill.



The trial court may set any conditions on the conditional release with respect to the treatment, evaluation, counseling, or control of the person that it considers necessary to protect the public safety and the welfare of the person. The trial court may revoke a person's conditional release and order reinstatement of the previous placement or reinstitutionalization at any time the conditions of the release have not been satisfied, provided that the revocation must be as described below. If a person is granted a conditional release, provisions regarding hearings on continued commitment apply to the person.

A person, agency, or facility that is assigned to monitor a person on conditional release immediately must notify the trial court on learning that the person being monitored has violated the terms of the conditional release. Upon learning of any violation of the terms of the conditional release, the trial court may issue a temporary order of detention or, if necessary, an arrest warrant for the person. Within ten court days after the person's detention or arrest, the trial court must conduct a hearing to determine whether the conditional release should be modified or terminated. If the trial court fails to conduct the hearing within the ten-court-day period and does not order a continuance as permitted by existing law, the person must be restored to the prior conditional release status. At the hearing, if the court finds by a preponderance of the evidence that the person violated the terms, the court may continue, modify, or terminate the conditional release and shall enter its order accordingly.⁸

Naming of the bill

The bill specifies that it is to be known as the Deputy Suzanne Hopper Act.⁹

Definitions

As used in the bill:

"Offense of violence" means any of the following:¹⁰

(1) A violation of R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2911.12(A)(1), (2), or (3), 2919.22(B)(1), (2), (3), or (4), or former R.C. 2907.12;

⁸ R.C. 2945.402(A) to (D).

⁹ Section 3 of the act.

¹⁰ R.C. 2929.24(A), by reference to R.C. 2901.01, which is not in the bill.



(2) A violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States, substantially equivalent to any section, division, or offense listed in paragraph (1);

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio or 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;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense identified in paragraph (1), (2), or (3).

"**Mental illness**" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.¹¹

NCIC background

The web site of the U.S. FBI provides information about the NCIC and the NCIC Supervised Release File.¹² According to that information, the NCIC was established in and is administered by the U.S. Department of Justice. It is an electronic clearinghouse of crime data that can be accessed by most criminal justice agencies nationwide and is available every day, at any hour. The NCIC database currently consists of 21 files, which contain over 11.7 million active records. Seven of the files are "property files," containing records of stolen articles, boats, guns, license plates, parts, securities, and vehicles. Fourteen of the files are "persons files," including: Supervised Release; National Sex Offender Registry; Foreign Fugitive; Immigration Violator; Missing Person; Protection Order; Unidentified Person; U.S. Secret Service Protective; Gang; Known or Appropriately Suspected Terrorist; Wanted Person; Identity Theft; Violent Person; and National Instant Criminal Background Check System (NICS) Denied Transaction. The Interstate Identification Index, which contains automated criminal history record information, is accessible through the same network as NCIC.

Criminal justice agencies enter records into NCIC that are accessible to law enforcement agencies nationwide. If a law enforcement officer searches NCIC for information, such as during a traffic stop to determine if the vehicle in question is stolen

¹¹ R.C. 2929.24(A), by reference to R.C. 5122.01, which is not in the bill.

¹² See the following:

<http://www.fbi.gov/about-us/cjis/ncic>.

http://www.fbi.gov/about-us/cjis/ncic/ncic_files.

or if the driver is wanted by law enforcement, the system responds instantly. A positive response from NCIC is not probable cause for an officer to take action, though, since NCIC policy requires the inquiring agency to make contact with the entering agency to verify the information is accurate and up-to-date. Once the record is confirmed, the inquiring agency may take action to arrest a fugitive, return a missing person, charge a subject with violation of a protection order, or recover stolen property.

The FBI provides a host computer and telecommunication lines to a single point of contact in each state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, Canada, and federal criminal justice agencies. Those jurisdictions operate their own computer systems, providing access to nearly all local criminal justice agencies and authorized noncriminal justice agencies nationwide. The entry, modification, and removal of records are the responsibility of the agency that entered them.

HISTORY

ACTION	DATE
Introduced Reported, S. Criminal Justice	02-12-13 ---

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