



*Synopsis of Senate Committee Amendments**

Dennis M. Papp

Legislative Service Commission

Sub. H.B. 52

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(S. Judiciary)

Changes to provisions in the House-passed version of the bill

Modified the provisions of the House-passed version of the bill that create new prohibitions in the offenses of "aggravated vehicular homicide," "vehicular homicide," and "vehicular assault" regarding death or injury proximately caused by a reckless operation offense or speeding offense committed in a construction zone, by: (1) making the prohibitions apply in any case in which *any person* who is in a construction zone is killed or injured (or the person's pregnancy is terminated or unborn child is injured) as a proximate result of the reckless operation or speeding offense, regardless of whether the person is a construction worker, (2) clarifying that the new prohibitions apply in a particular construction zone only when signs of the type described in clause (3) of this paragraph are erected in that zone, (3) clarifying that the Director of Transportation must prescribe a sign notifying motorists of the new prohibitions and that the Director and specified local officials must erect the sign in construction zones, (4) expanding the circumstances in which a mandatory prison term is required for felony violations of the new prohibitions in aggravated vehicular homicide, vehicular homicide, and vehicular assault to also include when the offender was driving under a license suspension, (5) modifying the new prohibition included in vehicular assault so that it requires as an element the causing of *serious physical harm*, instead of the causing of physical harm as under the House-passed version, and (6) making other technical changes (R.C. 2903.06(A)(2), (A)(3), (E), and (F), 2903.08(A)(2), (A)(3), (D), and (E), 2903.081, 2929.01(U), and 5501.27).

Clarified the application of the provisions of the House-passed version of the bill that require mandatory commitments to the Department of Youth Services (DYS) for a delinquent child who commits an aggravated vehicular homicide violation and who is guilty of a "multiple prior OVI" specification or "peace officer victim" specification (R.C. 2152.17(A)).

* This synopsis does not address amendments that may have been adopted on the Senate floor.

In the provisions of the House-passed version of the bill that require a mandatory prison term for an offender who commits aggravated vehicular homicide and who is convicted of a "multiple prior OVI" specification, modified the criterion for imposing the mandatory term so that it requires convictions of or pleas of guilty to three or more (instead of three as under the House-passed version) violations of state OVI, state OVUAC, or an equivalent offense, or *three or more violations of any combination of those offenses* (nothing comparable in the House-passed version); this language also applies regarding mandatory delinquent child commitments to DYS as described in the preceding paragraph. (R.C. 2152.17(A), 2929.13(F)(14), 2929.14(D)(6), and 2941.1414.)

Issues not addressed in the House-passed version of the bill

Increased the penalty for the offense of "discharge of a firearm on or near prohibited premises" when it involves the discharge of a firearm upon or over a public highway so that, instead of being a misdemeanor of the first degree in all cases as under existing law, it is (R.C. 2923.162): (1) generally, a misdemeanor of the first degree, (2) if the violation created a substantial risk of physical harm to a person or caused serious physical harm to property, a felony of the third degree, (3) if the violation caused physical harm to a person, a felony of the second degree, or (4) if the violation caused serious physical harm to a person, a felony of the first degree.

Added provisions that limit the use of restitution as a disposition in a delinquent child or juvenile traffic offender case, or as a financial sanction in a misdemeanor case, to acts or offenses that are not minor misdemeanors and that could not be disposed of by the Traffic Violations Bureau serving the particular court (R.C. 2152.20(A)(3), 2152.21(A)(4), and 2929.28(A)(1)).

Modified the provisions that govern the use of restitution as a disposition in a delinquent child or juvenile traffic offender case or as a financial sanction in a felony or misdemeanor case by: (1) clarifying that the provisions are discretionary with the court and that they apply in juvenile traffic offender cases, (2) eliminating language pertaining to the restitution order requiring reimbursement to third parties (e.g., governmental agencies or other persons) for amounts paid to or on behalf of the victim or a survivor for economic loss resulting from the act or offense, (3) adding language clearly stating that the amount ordered as restitution cannot exceed the amount of the "economic loss" (see below) suffered by the victim as a direct and proximate result of the act or offense, (4) in the provisions that apply in felony or misdemeanor cases, replacing the language specifying that a financial sanction of restitution is a "judgment" in favor of the victim of the offender's criminal act with language specifying that such a financial sanction is an "order" in favor of the victim, and adding language stating that the order may be collected using the same procedures that currently apply regarding financial sanctions that are judgments, (5) in the provisions that apply in misdemeanor cases, adding language specifying that, if the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought, (6) modifying the definitions of "economic loss" that apply to the



provisions to specify that economic loss includes only economic detriment suffered as a *direct and proximate* result of the act or offense and does not include "non-economic loss" or any punitive or exemplary damages, and defining "non-economic loss" for purposes of those definitions as nonpecuniary harm suffered by a victim of an offense, delinquent act, or juvenile traffic offense, whichever is applicable, as a result of or related to the commission of the offense, or the delinquent act or juvenile traffic offense, including certain specified examples, and (7) making other technical changes (R.C. 2152.02(L) and (DD), 2152.20(A)(3), 2152.21(A)(4), 2929.01(M), (WW), and (XX), 2929.18(A)(1) and (D), and 2929.28(A)(1) and (D)).

In the Revised Code section that sets forth the overriding purposes of misdemeanor sentencing, that generally requires courts to try to achieve those purposes when sentencing for a misdemeanor, and that prohibits discrimination in sentencing a misdemeanor offender, specified that (R.C. 2929.21): (1) the provisions apply to misdemeanor or minor misdemeanor violations of the Revised Code *or of any municipal ordinance that is substantially similar to such a violation of the Revised Code but they do not affect any penalties established by a municipal corporation for an ordinance violation*, and (2) the provisions that set forth the overriding purposes of misdemeanor sentencing and that generally require courts to try to achieve those purposes when sentencing for a misdemeanor do not apply to any offense disposed of by a Traffic Violations Bureau of any court or to any minor misdemeanor violation of the Revised Code disposed of without a court appearance.

In the provision that specifies the procedure by which a person whose driver's license is suspended by the Bureau of Motor Vehicles may, when permitted by statute, file a petition to obtain limited driving privileges during the suspension, expanded the courts in which a nonresident may file the petition to include (R.C. 4510.021(B)): (1) the municipal or county court located in the county where the offense occurred or, as under existing law, the Franklin County Municipal Court, or (2) if the nonresident is a minor, the juvenile court with jurisdiction over the offense or, as under existing law, the Franklin County Juvenile Court.

Modified the penalties for the offense of "operating a motor vehicle without a valid license" so that, if a trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued in Ohio or another jurisdiction, the offense is a misdemeanor of the first degree (R.C. 4510.12(B)).

Revised the law governing license suspensions for reckless operation offenses to allow a court to impose a Class 5 suspension upon any person "found guilty of operating a motor vehicle in violation of an Ohio law or municipal ordinance relating to reckless operation" (instead of, as under existing law, upon a person found guilty "of reckless operation") (R.C. 4510.15).



Established a look-back period of five years during which courts must enhance the immobilization/forfeiture penalties for persons who are guilty of the offense of "driving under financial responsibility law suspension or cancellation" and who previously have been convicted of that offense or a violation of a substantially similar municipal ordinance (R.C. 4510.16(B)).

In the provision that sets forth the procedure for modification or termination of a Class 1 driver's license suspension (a definite period of life) or a Class 2 suspension when the period of suspension is in excess of 15 years, specified that (R.C. 4510.54): (1) the court may deny a motion requesting the modification or termination without a hearing but cannot grant the motion without a hearing, (2) if the court denies the motion without a hearing, it may consider a subsequent motion filed by the person for modification or termination, and (3) if a court denies the motion after a hearing, it is barred from considering subsequent motions for that same person.

Modified the definition of "operate" that applies in R.C. Chapters 4511. and 4513., so that it means to cause or have caused movement of a vehicle, streetcar, or trackless trolley (currently, it means to cause or have caused movement of a vehicle, streetcar, or trackless trolley on any public or private property used by the public for purposes of vehicular travel or parking) (R.C. 4511.01(HHH)).

Increases the period of the driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege suspension required for a person who is convicted of or pleads guilty to "street racing" so that the required suspension is for not less than 30 days or more than three years, instead of the current required suspension of not less than 30 days or more than one year (R.C. 4511.251(C)).

Declared the bill to be an emergency measure (Section 4).

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