

# Crimes, Corrections, and Law Enforcement

## H.B. 8

**Primary Sponsors:** Reps. West and Plummer

**Effective date:** Emergency: sections related to restraining or confining pregnant inmates effective May 17, 2021; section related to electronic recording of custodial interrogations effective August 15, 2021

### Electronic recording of custodial interrogations

- Replaces law that addressed, but did not require, electronic recording of statements made by a suspect of any of several specified criminal offenses during a custodial interrogation with law that, except in limited circumstances, requires recording all such statements made.
- Eliminates a ban against penalizing a law enforcement agency that employs a law enforcement officer who failed to electronically record statements, when required.
- Replaces law that specified that a failure to electronically record a statement, when required, did not provide the basis to exclude or suppress a statement in any legal proceeding with law specifying that if a law enforcement agency fails to record a custodial interrogation, when required by the act:
  - If the prosecution establishes by a preponderance of the evidence that one or more of the act's limited exceptions applies, the court must admit the evidence without a cautionary instruction;
  - If the prosecution does not meet that burden of proof, the court must provide a cautionary instruction to the jury that it may consider the failure in determining the reliability of the evidence.
- Expands the law specifying that a law enforcement officer's failure to electronically record a custodial interrogation does not create a private cause of action against the officer to specify that the failure does not create a private cause of action against any person or agency.

### Restraining or confining pregnant inmates

- In law that prohibits under specified circumstances the restraining or confining of charged or convicted criminal offenders and charged or adjudicated delinquent children who are, or were, pregnant:
  - Modifies the provisions with respect to the types of restraint covered, the onset of the restraint prohibition, an exception to the restraint prohibition, and possible sanctions for violations of the restraint prohibition.
  - Repeals the prohibition with respect to confinement.

## S.B. 36

**Primary Sponsors:** Sens. Manning and S. Huffman

**Effective date:** March 2, 2022

- Modifies the time limitation to file an application for an award of reparations to three years after the criminally injurious conduct.
- Provides exceptions to the time limitation if any of the following apply:
  - The claimant was under 21 at the time of the criminally injurious conduct (the claim is not barred until after the claimant’s 24th birthday).
  - The claim is based on criminally injurious conduct that occurred prior to March 2, 2022 (the act’s effective date) and was denied under the law as it existed prior to that date (the claim is not barred, and the claimant is eligible to reapply for relief until more than three years have passed since the criminally injurious conduct).
  - The Attorney General makes an award of reparations for good cause shown.
- Modifies the information that the Attorney General must include in the finding of fact and decision when making an award of reparations.
- Modifies the information that the Attorney General must include in the finding of fact and decision when denying an award of reparations.
- Modifies the disqualifying conditions for an award of reparations.
- Modifies whether the Attorney General or Court of Claims may consider contributory misconduct by a victim for an award of reparations.
- Provides that an award of reparations is not payable to the victim during any period that the victim is incarcerated.
- Imposes limits on the award of reparations payable to two types of victims.
- Modifies the definitions of “allowable expense” and “contributory misconduct.”

## S.B. 54

**Primary Sponsor:** Sen. Gavarone

**Effective date:** March 2, 2022

- Prohibits a person, entity, or merchant from engaging in any act or practice in violation of any provision of a specified federal act or rule addressing telemarketing or consumer fraud.
- Prohibits a person from providing substantial assistance or support to any person, entity, merchant, seller, or telemarketer when that person knows or consciously avoids knowing that the other person, entity, merchant, seller, or telemarketer is engaged in any act or practice that violates any provision of the federal act or rule.

- Allows the Attorney General to investigate alleged violations of those prohibitions and allows for civil penalties for those violations.
- Requires the Attorney General to deposit civil penalties to the credit of the Telemarketing Fraud Enforcement Fund and specifies how those funds must be used.
- Specifies that the Attorney General cannot bring an action for damages or a civil penalty more than five years after a violation occurs.
- Designates a violation of the prohibitions that involve a consumer transaction as an unfair or deceptive act or practice.
- Allows the Attorney General to prosecute a case involving the unauthorized use of property, unauthorized use of computer, cable, or telecommunication property, or telecommunications fraud if certain conditions are met.
- Prohibits a person, having devised a scheme to defraud, from knowingly disseminating, transmitting, or causing to be disseminated or transmitted by means of a voice over internet protocol service any writing, data, sign, signal, picture, sound, or image with purpose to execute or otherwise further the scheme to defraud.
- Generally prohibits a person, with intent to defraud, cause harm, or wrongfully obtain anything of value, from knowingly causing, directly or indirectly, any caller identification service to transmit or display misleading or inaccurate caller identification information in connection with any telecommunication service or voice over internet protocol service.
- Specifies that if the victim of telecommunications fraud is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, telecommunications fraud is a fourth degree felony.

## **S.B. 126**

**Primary Sponsors:** Sens. Kunze and Gavarone

**Effective date:** October 7, 2021

- Entitles the act “Collin’s Law: The Ohio Anti-Hazing Act.”

### **Criminal offense of “hazing”**

- Includes in the criminal definition of “hazing” an act to continue or reinstate membership in a specified organization that creates a substantial risk of harm.
- Expressly includes in the criminal definition of “hazing” coercing individuals to consume alcohol or a drug of abuse.
- Increases the penalty for the existing prohibitions against hazing to a second degree misdemeanor.
- Expands the list of specified officials who are prohibited from recklessly permitting hazing and limits that prohibition to offenses committed against an individual associated with the official’s organization.

- Prohibits an individual from recklessly participating in hazing that includes forced consumption of alcohol or drugs of abuse resulting in serious physical harm to another.
- Prohibits a specified institution, school, or organization official from recklessly permitting hazing that includes forced consumption of alcohol or drugs of abuse resulting in serious physical harm to an individual associated with the official's organization.
- Specifies that a violation of either of the two new prohibitions regarding hazing that includes forced consumption resulting in serious physical harm is a third degree felony.

### **Criminal offense of failure to report hazing**

- Requires specified officials to immediately report to law enforcement their knowledge or reasonable cause to suspect that an individual has suffered or faces a threat of hazing.
- Makes the reckless failure to fulfill that reporting requirement a fourth degree misdemeanor or, if the hazing causes serious physical harm, a first degree misdemeanor.

### **Anti-hazing plan and policies**

- Requires the Chancellor of Higher Education to adopt a statewide educational plan for preventing hazing at institutions of higher education that includes both a model anti-hazing policy and guidelines for anti-hazing education and training.
- Requires each public and private institution of higher education to adopt an anti-hazing policy, to report hazing incidents, and to provide student and faculty educational training.