

Proposed Changes to Ohio Revised Code 2909

Chairman Manning, Vice Chair Rezabek and Ranking Member Johnson, thank you for the opportunity to provide testimony on House Bill 19. My name is Greg Chetwood and I am the Deputy Fire Chief of the Harrison Fire Department. My primary role is Fire Investigation for the City of Harrison Ohio and I also am currently the Commander of the Hamilton County Fire Investigation Unit. I am cross trained in law enforcement and fire investigation and hold a National certification in Fire and Explosion Investigation and Vehicle Fire Investigation. My law enforcement commission is held with Harrison Police Department.

A request for language changes was submitted by the Harrison Fire Department to Representative Blessing outlining specific language which spoke directly to fires caused by a negligent act, in this case, Methamphetamine labs.

Harrison Fire Department operates in a unique position where it has four OPOTA certified Fire Investigators and two Fire Investigation trained Police Officers. Collectively they act as the Harrison Arson Task Force and have had a very successful approach to investigating and prosecuting fire crimes in Harrison Ohio.

Over the past several years the criminal production of Methamphetamines has caused explosions and serious fires which did significant damage to property of innocent people such as rental properties or adjoining structures. In a case several years ago, a structure was literally demolished when the drug manufacturing operation went wrong causing a buildup of liquid propane to ignite which caused a large explosion at that house.

The concern now escalates as the production of Methamphetamines has shown a drastic increase which in turn means an increased potential for these fires to occur. The most recent fire as a result of a clandestine lab found a 7 year old special needs child in the residence after the fire. No fire charges were filed. The Harrison Arson Task Force was prepared to present the case to the Hamilton County Grand Jury but was notified an hour before the presentation and told they were not seeking fire charges. The individuals responsible for this fire were just

arrested in a neighboring community of Hamilton County three months prior for operating a clandestine lab.

The premise of the language change was brought about when the Harrison Arson Task Force made attempts to bring indictments to the person(s) responsible for causing the fires by initially operating a clandestine drug lab. When working with the Hamilton County Prosecutors Office the request was denied because the opinion of the Prosecutors Office was the offenders set out to manufacture Methamphetamines not cause a fire. It was argued that the language does not clearly define the negligent act or creation of a hazardous environment which ultimately leads to a fire or explosion. Although there is case law that supports charges for Arson in different counties the difference in opinions of the law enforcement fire investigators is overridden by the Prosecution as an interpretation of the ORC. Nothing destroys the initiative of a quality Investigator than to lose the case to an interpretation or difference of opinion. The Investigator has no recourse when this occurs.

This has occurred three times over several years however the argument from the Prosecutors Office has always been the same. The only charges that were ever filed pertained to criminal manufacturing of a controlled substance which has a wide array of sentencing considerations. The fire charges were never filed and to my knowledge have never been filed through Hamilton County Prosecutors Office based on the same argument. Oddly enough, after serving the two year sentence, the suspects returned to the same operations as before.

Police agencies need a backup plan if the criminal manufacturing charge is over ruled and currently it doesn't exist. If the 2909 charges were applied to person(s) operating a clandestine lab that results in a fire or explosion the emphasis should be placed on the fact that by the actions present, they caused a hazardous environment that causes wide spread injury or death to innocent bystanders by creating the environment that leads to an explosion or fire

Fire Investigators work diligently to uncover evidence to present to Drug Agencies to apply fire charges as the Ohio Revised Code clearly states; No person by means of fire or explosion shall knowingly do any of the following:

A) No person, by means of fire or explosion, shall knowingly do any of the following:

(1) Cause, or create a substantial risk of, physical harm to any property of another without the other person's consent;

(2) Cause, or create a substantial risk of, physical harm to any property of the offender or another, with purpose to defraud;

(3) Cause, or create a substantial risk of, physical harm to the statehouse or a courthouse, school building, or other building or structure that is owned or controlled by the state, any political subdivision, or any department, agency, or instrumentality of the state or a political subdivision, and that is used for public purposes;

(4) Cause, or create a substantial risk of, physical harm, through the offer or the acceptance of an agreement for hire or other consideration, to any property of another without the other person's consent or to any property of the offender or another with purpose to defraud;

(5) Cause, or create a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person, the state, or a political subdivision without the consent of the other person, the state, or the political subdivision;

(6) With purpose to defraud, cause, or create a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by the offender, another person, the state, or a political subdivision.

(B)

(1) Whoever violates this section is guilty of arson.

(2) A violation of division (A)(1) of this section is one of the following:

(a) Except as otherwise provided in division (B)(2)(b) of this section, a misdemeanor of the first degree;

(b) If the value of the property or the amount of the physical harm involved is one thousand dollars or more, a felony of the fourth degree.

(3) A violation of division (A)(2), (3), (5), or (6) of this section is a felony of the fourth degree.

(4) A violation of division (A)(4) of this section is a felony of the third degree.

Amended by 129th General Assembly File No.29, HB 86, §1, eff. 9/30/2011.

Effective Date: 07-01-1996 .

Ironically, on a case in Harrison, involving the production of Methamphetamines, the two suspects that were transported to area burn units after the explosion were found to have the outlines of Air Purifying Respirators on their faces during

the explosion. This outline was created on their faces from the flashburns they received. Those Photos are available. In the opinion of the Harrison Arson Task Force, it was clearly evident that you are “Knowingly” causing or creating a hazardous environment if you go to the lengths to protect your ability to breathe.

The language change will be beneficial to all parties that are tasked with investigating fires that could be the result of a clandestine drug lab. If specific language is passed and carried in the amended bill there should be little to no argument in applying fire charges other than proving it was originally a clandestine lab before the fire or explosion.

I have been a Fire Investigator for 15 years and currently serve as the Commander of the Hamilton County Fire Investigation Unit and I believe without this change to the current 2909 statute, we will absolutely turn our backs on the safety of innocent residents throughout the State of Ohio if no penalties apply for operating a clandestine lab that causes a fire or explosion.

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