



Ohio Judicial Conference

The Voice of Ohio Judges
House Criminal Justice Committee
House Bill 327, 132nd General Assembly
October 24, 2017

Interested Party testimony

Chair Manning, Vice Chair Rezabek, Ranking Member Celebrezze, and members of the Committee:

Thank you for the opportunity to provide Interested Party testimony on House Bill 327. Revised Code section 105.91 creating the Ohio Judicial Conference directs the Conference to encourage uniformity in the application of the law, rules, and practice throughout the state, and to promote an exchange of experience and suggestion respecting the operation of the judicial system. The Criminal Law and Procedure Committee of the Ohio Judicial Conference has reviewed House Bill 327, which would require courts to impose a prison term for certain importuning offenses, and would like to provide the following Interested Party testimony.

The Judicial Conference generally does not favor mandatory sentences, or any measures that reduce or infringe upon judicial discretion. Rarely is a "one-size-fits-all" approach effective in furthering the overriding purposes of sentencing that the legislature has established. Mandatory sentences can have unintended practical consequences that are avoided when judicial discretion is preserved, because judges are uniquely positioned to advance the interests of justice through their application of the law to the diverse pattern of facts in every case that comes before them. This allows judges to develop a keen sense of what is a fair and proportional sanction on a case-by-case basis. In addition, mandatory sentences have much broader implications on our state's corrections system, including prison overcrowding and an increased fiscal impact.

Additionally, recently passed budget bills contain provisions that decrease the number of offenders judges may send to prison, and make it easier for certain offenders to be released early once there. The legislature thus recognizes the problem of prison overcrowding and is seeking to address it, yet mandatory prison terms such as those in H.B. 327 seem inconsistent with the legislature's desire to send fewer offenders to prison. As the legislature noted with its passage this year of the Targeted Community Alternatives to Prison program in H.B. 49, there are options available to monitor and treat these offenders at the local level.

Finally, although the OJC disagrees with the sponsors about mandatory sentences, we recognize the sponsors' goal and would suggest a change to achieve that goal. We would recommend clarifying the language in the bill that would require a prison term if the offender is at least ten years older than the victim. Lines 80 through 83 of the bill require a prison term if "the offender is ten or more years older than the other person." Under R.C. 2907.07 (D)(2), the "other person" could be a law enforcement officer. Thus, a strict reading of the proposed language at lines 80 through 83 could result in the unintended consequence of the mandatory prison term only applying if the offender is ten years older

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than the officer, which I am certain is not the intent of the legislation. We would suggest amending the language to clarify that the sentence is to be applied if there is a ten-year difference between the age of the offender, and either the age of the child or the age the law-enforcement officer is pretending to be.

Thank you for considering the input of the Ohio Judicial Conference. As always, we are happy to work with the committee and the sponsors of the bill to achieve the bill's intended goals, while maintaining judicial discretion.

Respectfully submitted,


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Executive Director