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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Perales

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SUMMARY

- Requires persons convicted of domestic violence, permitting child abuse, or endangering children committed when the offender was 18 or older and that involved a victim who was under 14 to enroll in the violent offender database and subjects those persons to existing law enrollment requirements.
- Names the bill “Jacob’s law.”
- Makes an appropriation.

DETAILED ANALYSIS

New violent offender qualifying offenses

Under continuing law, a person classified as a “violent offender” is subject to certain duties to enroll in the violent offender database (VOD). A “violent offender” under continuing law is a person who (1) on or after the effective date of the violent offender law is convicted of aggravated murder, murder, voluntary manslaughter, kidnapping, second degree felony abduction, or any attempt or conspiracy to commit or complicity in committing any of those offenses, or (2) on that date has been convicted of any of those offenses and is serving a term of confinement for the offense.¹

The bill, entitled “Jacob’s Law,” adds all of the following to the classification of “violent offender”:²

¹ R.C. 2903.41(A).

² R.C. 2903.41(A)(1)(b).

- A person who on or after the effective date of the violent offender law is convicted of any of the following offenses when the offender was 18 years old or older and that involved a victim who was under 14 years old at the time of the offense:
 - Domestic violence;
 - Permitting child abuse;
 - Endangering children, other than the sort of endangering children offense that involves permitting a child to be within a prohibited range of illegal manufacture of drugs, illegal cultivation of marijuana, or illegal assembly or possession of chemicals for drug manufacture;
 - Any attempt or conspiracy to commit or complicity in committing any of the above offenses.
- A person who on the effective date of the violent offender law has been convicted of any of the above offenses when the offender was 18 years old or older and that involved a victim who was under 14 years old at the time of the offense and is serving a term of confinement for that offense.

Effect of the violent offender classification

Under continuing law, persons convicted of offenses that classify them as “violent offenders,” including those added by the bill, may be subject to a number of enrollment duties.

Determination of violent offenders' duties

Presumption and notice of database duties

For each person who is classified a violent offender, continuing law creates a rebuttable presumption that the violent offender is required to enroll in the VOD with respect to the offense that so classifies the person. A violent offender is also presumed to have a duty to enroll, duty to reenroll, and duty to provide notice of a change of address (VOD duties) with respect to the qualifying offense for ten years after the offender initially enrolls.³

Enrollment duties

Duty of violent offenders

Continuing law requires each violent offender who has VOD duties to enroll in the VOD personally with the sheriff of the county in which the offender resides or that sheriff's designee. A violent offender who receives notice before release from confinement must enroll within ten days after release, unless the offender is being transferred to the custody of another confinement institution. The violent offender is not required to enroll prior to release. A violent

³ R.C. 2903.41(H) and R.C. 2903.42(A)(1), not in the bill.

offender with VOD duties who is not sentenced to a term of confinement must enroll within ten days after the sentencing hearing.⁴

Manner of enrollment

An offender who has VOD duties must obtain from the sheriff or sheriff's designee a copy of an enrollment form prescribed by the AG, complete and sign the form, and return it together with fingerprints, palm prints, and a photograph.⁵

The VOD enrollment form must include all of the following information:⁶

1. The offender's full name, any alias used, and residence address;
2. The offender's Social Security number;
3. Any driver's license number, commercial driver's license number, or state identification card number issued to the offender by Ohio or another state;
4. The offense of which the offender was convicted;
5. The name and address of any place where the offender is employed and of any school or institution of higher education that the offender is attending;
6. The identification license plate number of each vehicle owned or operated by the offender or registered in the offender's name, the vehicle identification number of each vehicle, and a description of each vehicle;
7. A description of any scars, tattoos, or other distinguishing marks on the offender.

Reenrollment duty and manner of reenrollment

Under continuing law, each offender who has VOD duties must reenroll in the VOD annually, in person, with the sheriff of the county in which the offender resides, or with that sheriff's designee, within ten days prior to the anniversary of the calendar date on which the offender initially enrolled. The duty to reenroll remains in effect for the entire ten-year enrollment period of the offender. The enrollee must reenroll by completing, signing, and returning to the sheriff or designee a copy of the enrollment form prescribed by the AG, amending any information that has changed since the last enrollment, and providing any additional enrollment information required by the AG. The sheriff or designee with whom the offender reenrolls must obtain a new photograph of the offender annually at reenrollment. Additionally, if the offender's most recent enrollment or reenrollment was in a different county, the offender must provide written notice of the change of address to the sheriff or designee where the offender previously resided.⁷

⁴ R.C. 2903.43(A), not in the bill.

⁵ R.C. 2903.43(C)(1) and (3), not in the bill.

⁶ R.C. 2903.43(C)(2), not in the bill.

⁷ R.C. 2903.43(D)(1), not in the bill.

Termination of VOD duties

VOD duties terminate on the expiration of an offender's ten-year enrollment period. The enrollment period may be extended indefinitely by the court under certain circumstances. If the court extends an offender's VOD duties, the offender may file a motion once every five years in the common pleas court where the offender resides to terminate the extended VOD duties and the court, under certain circumstances, can issue an order that grants the motion.⁸

Duty to notify sheriff of change of address

Each offender who has VOD duties must notify the sheriff with whom the offender most recently enrolled or reenrolled or that sheriff's designee within three business days of a change to the offender's residence address, employment address, or school or institution of higher education address.⁹

Prohibition and penalty for failure to enroll or reenroll

Continuing law prohibits an offender who has VOD duties from recklessly failing to enroll, reenroll, or notify the sheriff or sheriff's designee of a change of address during the ten-year enrollment period or extended enrollment period. A violation of the prohibition is a fifth degree felony. If an offender who violates the prohibition is on parole or subject to a community control sanction, one or more post-release control sanctions, or any other type of supervised release at the time of the violation, the violation constitutes a violation of the terms and conditions of the community control sanction, parole, post-release control sanction, or other type of supervised release.¹⁰

An offender being sentenced for failure to comply with VOD duties is eligible for the Targeting Community Alternatives to Prison (T-CAP) program, meaning that any term of confinement imposed for the offense would be served in a local correctional facility. Generally, a person convicted of a fifth degree felony otherwise is ineligible for T-CAP if previously convicted of a felony offense of violence.¹¹

Background – underlying offenses

Permitting child abuse

The continuing law offense of "permitting child abuse" prohibits a parent, guardian, custodian, or person having custody of a child under 18 years old or a mentally or physically handicapped child under 21 years old from causing physical harm to the child, or the death of the child, as a proximate result of permitting the child to be abused, to be tortured, to be administered corporal punishment or other physical disciplinary measure, or to be physically

⁸ R.C. 2903.44(F), not in the bill.

⁹ R.C. 2903.43(E), not in the bill.

¹⁰ R.C. 2903.43(I), not in the bill.

¹¹ R.C. 2929.34(B)(3)(d), not in the bill.

restrained in a cruel manner for a prolonged period. It is an affirmative defense to permitting child abuse that the defendant did not have readily available a means to prevent the harm to the child or the death of the child and that the defendant took timely and reasonable steps to summon aid. If the violation causes serious physical harm to the child, permitting child abuse is a third degree felony. If the violation causes the death of the child, permitting child abuse is a first degree felony.¹²

Domestic violence

The continuing law offense of “domestic violence” prohibits a person from knowingly causing or attempting to cause physical harm to a family or household member, from recklessly causing serious physical harm to a family or household member, or from, by threat of force, knowingly causing a family or household member to believe that the offender will cause imminent physical harm to the family or household member. A base offense of domestic violence involving a threat of force is a fourth degree misdemeanor, while any other base offense of domestic violence is a first degree misdemeanor. If additional circumstances are proven, the offense of domestic violence may be elevated as high as a fourth degree felony with a mandatory prison term.¹³

Endangering children

The continuing law offense of “endangering children,” prohibits a person who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years old or a mentally or physically handicapped child under 21 years old from creating a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support. It is not a violation of a duty of care, protection, or support when the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body. The offense of “endangering children” also prohibits a person from doing any of the following to a child under 18 years old or a mentally or physically handicapped child under 21 years old:¹⁴

- Abusing the child;
- Torturing or cruelly abusing the child;
- Administering corporal punishment or other physical disciplinary measure, or physically restraining the child in a cruel manner or for a prolonged period, when the punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;

¹² R.C. 2903.15, not in the bill.

¹³ R.C. 2919.25, not in the bill.

¹⁴ R.C. 2919.22(A) and (B).

- Repeatedly administering unwarranted disciplinary measures to the child, when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child’s mental health or development;
- Enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter;
- Allowing the child to be on the same parcel of real property and within 100 feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within 100 feet of, illegal manufacture of drugs, illegal cultivation of marijuana, or illegal assembly or possession of chemicals for manufacture of drugs, when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the underlying violation.

Finally, the offense of “endangering children” prohibits a person from operating a vehicle, streetcar, or trackless trolley under the influence of alcohol or a drug of abuse while one or more children under 18 years old are in the vehicle, streetcar, or trackless trolley.¹⁵ Penalties for endangering children range from a first degree misdemeanor to a second degree felony depending on the circumstances giving rise to the offense.¹⁶

HISTORY

Action	Date
Introduced	06-26-19

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¹⁵ R.C. 2919.22(C), not in the bill.

¹⁶ R.C. 2929.22(E), not in the bill.