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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 513
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Carruthers

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SUMMARY

Intentional transmission of HIV

- Creates the offense of “intentional transmission of HIV.”
- Makes the penalty for intentional transmission of HIV a first degree misdemeanor.
- Provides that, when filing a case document involving an alleged violation of intentional transmission of HIV, a party must redact or omit the identifying characteristics of the defendant or the victim.
- Provides that, upon filing a case involving an alleged violation of intentional transmission of HIV, the court must issue an order prohibiting specified persons from disclosing the identifying characteristics of the defendant or the victim.

Criminal offenses related to HIV and AIDS repealed

- Repeals offenses related to HIV or AIDS, including felonious assault, engaging in solicitation after a positive HIV test, loitering to engage in solicitation after a positive HIV test, engaging in prostitution after a positive HIV test, harassment with a bodily substance, and selling or donating contaminated blood.

HIV test disclosure and partner notification

- Modifies several circumstances when disclosure of an HIV test result or a diagnosis of AIDS is permissible.

HIV testing and consent

- Specifies that an individual has a right to decline an HIV test and that declination must be noted in the individual’s medical record.

Termination of duty to comply with SORN requirements

- Allows an eligible offender to make a motion to terminate the offender’s duty to comply with Sex Offender Registration and Notice (SORN) requirements for an offense that is a qualifying sexually oriented offense (the repealed felonious assault offense related to HIV or AIDS).
- Requires the court, if it finds that the eligible offender was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing a qualifying sexually oriented offense, to issue an order granting the motion to terminate.
- Requires the court, if it finds that the eligible offender was not convicted of, did not plead guilty to, or was not adjudicated a delinquent child for committing a qualifying sexually oriented offense, to issue an order denying the motion to terminate.

Expungement of record of conviction or adjudication

- Allows a person who was convicted of or pleaded guilty to the repealed felonious assault offense related to HIV or AIDS to apply to the sentencing court for expungement of the record of conviction.
- Allows a person who has been adjudicated a delinquent child for having committed an act that would be a violation of the repealed felonious assault offense related to HIV or AIDS to apply to the adjudicating court for expungement of the record of adjudication.
- Provides that if the court finds that the person has been convicted of or pleaded guilty to the repealed felonious assault offense related to HIV or AIDS, the court must order the expungement of all official records pertaining to the case and deletion of all index references to the case.
- Expands the offense of “divulging confidential information” to include records expunged under the bill.

Compelled HIV tests for Medical Board licenses

- Eliminates language expressly authorizing the State Medical Board to compel a licensee to submit to an HIV test as part of an investigation into a licensee’s inability to practice according to acceptable and prevailing standards of care by reason of a mental or physical illness.

Terminology changes

Makes definitional and other language changes regarding HIV and AIDS.

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DETAILED ANALYSIS

Intentional transmission of HIV

Offense

The bill creates the offense of “intentional transmission of HIV,” which prohibits a person, with knowledge that the person has HIV, from transmitting HIV to another by purposely doing all of the following:¹

- Failing to disclose that the person has HIV to the other person prior to the transmission of HIV;
- Engaging in conduct that poses a substantial risk of the transmission of HIV;
- Failing to take or attempt to take means to prevent the transmission of HIV;
- Transmitting HIV to the other person.

In determining whether a person acted purposely, the failure to take or attempt to take means to prevent the transmission of HIV is not sufficient to prove that the person acted purposely.²

Exceptions

The bill excepts the following persons from the offense:³

- A person who has HIV, becomes pregnant, and transmits HIV perinatally;
- A person who acquires HIV while pregnant and transmits HIV perinatally;
- A person who declines treatment for HIV while pregnant or giving birth and transmits HIV perinatally;
- A person who has HIV, donates or attempts to donate organs, blood, sperm, or any other body tissue, and transmits HIV.

Penalties

The penalty for intentional transmission of HIV is a first degree misdemeanor.⁴

Other provisions

The bill’s provisions do not affect a person’s right to bring any defense available to the person under the common law of this state.⁵

¹ R.C. 2927.31(B).

² R.C. 2927.31(C).

³ R.C. 2927.31(D).

⁴ R.C. 2927.31(E).

⁵ R.C. 2927.31(F).

The bill specifies the following:

- Notwithstanding any provision of the Revised Code or the Rules of Evidence to the contrary, in a case involving an alleged commission of intentional transmission of HIV, a court may take judicial notice of adjudicative facts only upon the motion or stipulation of the parties.⁶
- Notwithstanding any provision of the Revised Code, Rules of Evidence, or Rules of Criminal Procedure to the contrary, in a case involving an alleged commission of intentional transmission of HIV, the following are inadmissible as evidence: (1) any medical records, including medication or prescription records, or medical devices of the defendant, and (2) any surveillance records or reports maintained by state or local health officials.⁷

Definitions

The bill defines the following terms:

- “Conduct that poses a substantial risk of the transmission of HIV” means vaginal intercourse, anal intercourse, or sharing a hypodermic needle or syringe in a manner that poses a substantial risk of the transmission of HIV. “Conduct that poses a substantial risk of the transmission of HIV” does not mean vaginal intercourse, anal intercourse, or sharing a hypodermic needle or syringe in a manner that poses a low or negligible risk of the transmission of HIV.⁸
- “HIV” means the human immunodeficiency virus.⁹
- “Means to prevent the transmission of HIV” means the use of a method, device, behavior, or activity that is scientifically proven to measurably limit, reduce, or eliminate the risk of the transmission of HIV.¹⁰

Identifying characteristics

Redacting or omitting identifying characteristics

The bill specifies that, notwithstanding any provision of the Revised Code, Rules of Superintendence, Rules of Evidence, or Rules of Criminal Procedure to the contrary, in a case involving an alleged commission of intentional transmission of HIV, all of the following apply:¹¹

⁶ R.C. 2927.31(G).

⁷ R.C. 2927.31(H).

⁸ R.C. 2927.31(A)(1).

⁹ R.C. 2927.31(A)(2), by reference to R.C. 3701.24, not in the bill.

¹⁰ R.C. 2927.31(A)(3).

¹¹ R.C. 2927.32(B).

- When submitting a case document to a court or filing a case document with a clerk of court, a party must redact or omit identifying characteristics from the case document.
- When identifying characteristics are redacted or omitted from a case document submitted to a court or filed with the clerk of court, the party must submit or file that information on a separate form. The form must only be provided to the judge, clerk, parties, and parties' attorneys, must be kept confidential, must not be released, and is not a public record.
- The responsibility for redacting or omitting identifying characteristics from a case document submitted to a court or filed with a clerk of court rests solely with the party. The court or clerk is not required to review the case document to confirm that the party has redacted or omitted identifying characteristics, and must not refuse to accept or file the document on that basis.

Disclosing identifying characteristics

The bill provides that upon filing a case involving an alleged commission of intentional transmission of HIV, the court must issue an order stating that, during the pendency of the case, the following persons must not disclose the identifying characteristics of any defendant or victim in the case:¹²

- An officer or employee of a law enforcement agency;
- An officer or employee of the court;
- The clerk of any employee of the clerk of any court;
- An attorney, party, victim, or witness in the case.

The issuance of an order does not prohibit a defendant or victim in the case from disclosing the defendant's or victim's own identifying characteristics.¹³

If any defendant or victim in the case requests that the order be terminated, the court must terminate the order as it pertains to that defendant or victim.¹⁴

Definitions

The bill defines the following terms:¹⁵

- "Case document" means a document and information in a document submitted to a court or filed with the clerk of court in a case involving an alleged commission of intentional transmission of HIV, including exhibits, pleadings, motions, orders, and judgments, and any other documentation prepared by the court or clerk in the case involving an alleged

¹² R.C. 2927.33(B)(1).

¹³ R.C. 2927.33(B)(2).

¹⁴ R.C. 2927.33(C).

¹⁵ R.C. 2927.32(A) and 2927.33(A).

commission of intentional transmission of HIV, including journals, dockets, and indices. “Case document” does not include forms containing identifying characteristics submitted or filed as described above.

- “Identifying characteristics” means the defendant’s or victim’s name, except for the defendant’s or victim’s initials, address, age, marital status, relationship to defendant or victim, race, ethnicity, employer, and employer’s address.

Criminal offenses related to HIV or AIDS repealed

Felonious assault

The bill repeals a “felonious assault” offense that prohibits a person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome (AIDS), from knowingly doing any of the following:¹⁶

- Engaging in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;
- Engaging in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes AIDS;
- Engaging in sexual conduct with a person under age 18 who is not the spouse of the offender.

The penalty for a violation of the offense is a second degree felony.¹⁷

The bill also repeals a provision that requires an individual who knows that the individual has received a positive result on an HIV test or has been diagnosed as having AIDS or an AIDS-related condition to disclose this information to any other person with whom the individual intends to make common use of a hypodermic needle or engage in sexual conduct. An individual’s compliance with this requirement does not prohibit the prosecution of the individual for a violation of the repealed felonious assault offense related to HIV or AIDS. The introduction of evidence concerning an HIV test of a specific individual in a criminal proceeding was not prohibited.¹⁸

Engaging in solicitation after a positive HIV test

The bill repeals the offense of “engaging in solicitation after a positive HIV test,” which prohibits a person, with knowledge that the person has tested positive as a carrier of a virus that causes AIDS, from knowingly soliciting another to engage in sexual activity for hire in exchange for the person receiving anything of value from the other person.¹⁹

¹⁶ R.C. 2903.11(B) and (D)(4), 2907.27(B)(1)(a), 2907.28(C), 2929.13(F)(20), 2929.14(B)(9), and 2941.1425(D).

¹⁷ R.C. 2903.11(C)(1).

¹⁸ R.C. 3701.243(F) and (G).

¹⁹ R.C. 2907.24(A) and (B).

The penalty for engaging in solicitation after a positive HIV test is a third degree felony.²⁰

Loitering to engage in solicitation after a positive HIV test

The bill repeals the offense of “loitering to engage in solicitation after a positive HIV test,” which prohibits a person, with knowledge that the person has tested positive as a carrier of a virus that causes AIDS and with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, from doing any of the following:²¹

- Beckoning to, stopping, or attempting to stop another;
- Engaging or attempting to engage another in conversation;
- Stopping or attempting to stop the operator of a vehicle or approach a stationary vehicle;
- If the offender is the operator of or a passenger in a vehicle, stopping, attempting to stop, beckoning to, or attempting to beckon to, or enticing another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;
- Interfering with the free passage of another.

The penalty for loitering to engage in solicitation after a positive HIV test is a fifth degree felony.²²

Engaging in prostitution after a positive HIV test

The bill repeals the offense of “engaging in prostitution after a positive HIV test,” which prohibits a person, with knowledge that the person has tested positive as a carrier of a virus that causes AIDS, from engaging in sexual activity for hire.²³

The penalty for engaging in prostitution after a positive HIV test is a third degree felony.²⁴

Harassment with a bodily substance

The bill repeals a “harassment with a bodily substance” offense that prohibits a person, with knowledge that the person has tested positive as a carrier of a virus that causes AIDS and with the intent to harass, annoy, threaten or alarm another person, from causing or attempting to cause the other person to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the other person, by expelling the bodily substance at the other person, or in any other manner.²⁵

The bill also repeals a provision that requires a court, on request of the prosecutor or the law enforcement authority responsible for the investigation of the violation, to cause a person

²⁰ R.C. 2907.24(C)(2).

²¹ R.C. 2907.241(A) and (B).

²² R.C. 2907.241(D)(2).

²³ R.C. 2907.25(B).

²⁴ R.C. 2907.25(C)(2).

²⁵ R.C. 2921.38(C).

who allegedly has committed a violation of the offense to submit to one or more appropriate tests to determine if the person is a carrier of a virus that causes AIDS.²⁶

The penalty for a violation of the offense is a third degree felony.²⁷

Selling or donating contaminated blood

The bill repeals the offense of “selling or donating contaminated blood,” which prohibits a person, with knowledge that the person has tested positive as a carrier of a virus that causes AIDS, from selling or donating the person’s blood, plasma, or a product of the person’s blood, if the person knows or should know the blood, plasma, or product of the person’s blood is being accepted for the purpose of transfusion to another individual.²⁸

The penalty for selling or donating contaminated blood is a fourth degree felony.²⁹

HIV test disclosure and partner notification

Current law generally prohibits a person or a state or local agency that acquires the information while providing a health care service or while in the employ of a health care facility or provider from disclosing or compelling another to disclose the identity of an individual who is tested for HIV, the results of an HIV test that identifies an individual, or the identity of an individual diagnosed with AIDS or an AIDS-related condition.³⁰ The law also specifies several exceptions where disclosure is permitted, some of which are amended by the bill.

The law authorizes disclosure of results of an HIV test or the identity of the tested individual to the individual’s spouse or sexual partner. The bill specifies this disclosure must be with the consent of the individual tested.³¹ Regarding an existing requirement that the Director of Health develop a confidential partner notification system to alert and counsel sexual contacts of individuals living with HIV, the bill specifies that the notification be at the request of the individual living with HIV.³²

The bill eliminates an authorized disclosure to law enforcement authorities in connection with a criminal investigation or prosecution pursuant to a search warrant or a subpoena from a grand jury, a prosecuting attorney, a city director of law or similar chief legal officer of a municipal corporation, or a village solicitor.³³

²⁶ R.C. 2921.38(E)(1).

²⁷ R.C. 2921.38(D).

²⁸ R.C. 2927.13(A).

²⁹ R.C. 2927.13(B).

³⁰ R.C. 3701.243(A).

³¹ R.C. 3701.243(B)(1)(a).

³² R.C. 3701.241(A)(3).

³³ R.C. 3701.243(B)(1)(h).

Also regarding HIV testing, as it relates to disclosure to health care providers, the bill eliminates existing law specifying that referral of an individual to another health care provider or facility based on reasonable professional judgment does not constitute refusal to treat the individual. The bill maintains current law that prohibits a health care provider from requesting a disclosure regarding HIV solely for the purpose of identifying an HIV-positive individual for the purpose of refusing to treat the individual.³⁴

HIV testing and consent

The bill maintains current law with regards to voluntary HIV testing. A voluntary HIV test may be performed if the individual or the individual's parent or guardian has given general consent to the medical or other health care treatment provider. The health care provider or an authorized representative must notify the individual that the HIV test is planned. The bill specifies that the individual has a right to decline the test and if an individual declines the test, it must be noted in the individual's medical record.³⁵

Termination of duty to comply with SORN requirements

The bill allows an "eligible offender" (a defined term, see "**Definitions**," below) to make a motion to terminate the offender's duty to comply with Sex Offender Registration and Notice (SORN) requirements for an offense that is a qualifying sexually oriented offense (the repealed felonious assault offense related to HIV or AIDS – see "**Definitions**," below).

Motion to terminate

The bill allows an eligible offender to make a motion to terminate in one of the following courts:³⁶

- The common pleas court of the county in which the eligible offender resides;
- If the eligible offender is a delinquent child, the juvenile court of the county in which the eligible offender resides;
- If the eligible offender is not an Ohio resident, the common pleas court of the county in which the eligible offender has registered, but if the eligible offender registered addresses of that nature in more than one county, the court of only one of those counties.

An eligible offender who makes a motion to terminate may request either of the following:³⁷

- That the court terminate the eligible offender's duty to comply with SORN requirements in relation to the qualifying offense;

³⁴ R.C. 3701.243(B)(2).

³⁵ R.C. 3701.242(A).

³⁶ R.C. 2950.152(B)(1).

³⁷ R.C. 2950.152(B)(2).

- If the eligible offender is a delinquent child, that the court determine the child is no longer a juvenile offender registrant, terminate the child's duty to comply with SORN requirements, and terminate all prior determinations that the child is a Tier I sex offender, a Tier II sex offender, or a Tier III sex offender, whichever is applicable, in relation to the qualifying offense.

The bill requires an eligible offender who makes a motion to terminate to include a certified copy of the judgment entry and any other documentation of the sentence or disposition given for the qualifying sexually oriented offense for which the offender was convicted of, pleaded guilty to, or was adjudicated a delinquent child with the motion.³⁸

The bill requires an eligible offender who files a motion to terminate to serve a copy of the motion and supporting documents on the prosecutor who handled the case in which the eligible offender was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the qualifying sexually oriented offense.³⁹

Termination hearing

The bill requires the court to set a tentative date for a hearing on the motion to terminate that is not more than 180 days from the date the motion is filed unless good cause exists to hold the hearing at a later date and requires the court to notify the eligible offender and the prosecutor of the date, time, and place of the hearing.⁴⁰

At least seven days before the hearing date, the bill allows the prosecutor to file an objection to the motion with the court and serve a copy of the objection to the motion on the eligible offender or the eligible offender's attorney.⁴¹

The bill requires the court to hold a hearing to determine whether to grant or deny the motion to terminate. At the hearing, the Rules of Civil Procedure or, if the hearing is in a juvenile court, the Rules of Juvenile Procedure apply, except to the extent that they are clearly inapplicable. At the hearing, the eligible offender has the burden of going forward with the evidence and the burden of proof by a preponderance of the evidence. If the court finds that the eligible offender was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing a qualifying sexually oriented offense, the court must issue an order granting the motion to terminate. If the court finds that the eligible offender was not convicted of, did not plead guilty to, or was not adjudicated a delinquent child for committing a qualifying sexually oriented offense, the court must issue an order denying the motion to terminate.⁴²

³⁸ R.C. 2950.152(C).

³⁹ R.C. 2950.152(D).

⁴⁰ R.C. 2950.152(D).

⁴¹ R.C. 2950.152(E).

⁴² R.C. 2950.152(F)(1) with conforming changes in 2152.82(B)(1) and (C), 2152.83(C)(3) and (E), 2152.84(D), and 2152.851.

Notice of the termination order

The bill requires the court to provide notice of its order to the eligible offender or the eligible offender's attorney. If the eligible offender is a delinquent child, the court also must provide prompt notice of its order to the delinquent child's parent, guardian, or custodian.⁴³

If the court issues a termination order, the court must promptly forward a copy of the order to the Bureau of Criminal Identification and Investigation. Upon receipt of the order, the Bureau must update all records pertaining to the eligible offender to reflect the termination order. The Bureau must also notify every sheriff with whom the eligible offender has most recently registered of the termination order.⁴⁴

Regarding a delinquent child, if the court issues a termination order, the court must promptly forward a copy of the order to any court that sentenced the offender or adjudicated the child a delinquent child for a qualifying sexually oriented offense that is the basis of the termination order. The court that receives the notice must retain a copy of the termination order in the eligible offender's case file.⁴⁵

Termination of duty to comply

If the court issues a termination order, the eligible offender no longer has a duty to comply with SORN requirements,⁴⁶ and the sheriff no longer has a duty to provide victim and community notices.⁴⁷

Definitions

The bill defines the following terms:⁴⁸

- "Eligible offender" means either of the following:
 - A person who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a qualifying sexually oriented offense, regardless of when the offense was committed, and is a Tier III sex offender;
 - A child who is or was adjudicated a delinquent child for committing a qualifying sexually oriented offense, regardless of when the offense was committed, and is a juvenile offender registrant but is not a public registry-qualified juvenile offender registrant.

⁴³ R.C. 2950.152(F)(2)(a).

⁴⁴ R.C. 2950.13(A)(1) and 2950.152(F)(2)(b).

⁴⁵ R.C. 2950.152(F)(2)(c).

⁴⁶ R.C. 2950.04(A)(5) and (F), 2950.041(F), and 2950.07(B) and (C).

⁴⁷ R.C. 2950.10(B)(1) and 2950.11(F)(1).

⁴⁸ R.C. 2950.07(A) and 2950.152(A).

- “Qualifying sexually oriented offense” means a violation of the repealed felonious assault offense related to HIV or AIDS (see, “**Felonious assault**,” above) as it existed prior to the effective date of the bill.

Expungement of record of conviction or adjudication

The bill allows a person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of the repealed felonious assault offense related to HIV or AIDS (see, “**Felonious assault**,” above) as it existed prior to the effective date of the bill to apply to the sentencing court for the expungement of the record of conviction.⁴⁹

The bill also allows a person who has been adjudicated a delinquent child for having committed an act that would be a violation of the repealed felonious assault offense related to HIV or AIDS (see, “**Felonious assault**,” above) as it existed prior to the effective date of the bill to apply to the adjudicating court for the expungement of the record of adjudication.⁵⁰

The below provisions apply to both adult and juvenile expungement proceedings.

Application for expungement

The bill allows a person to file an application for expungement at any time on or after the effective date of the bill. The application must do all of the following:⁵¹

- Identify the applicant, the offense for which the expungement is sought, the date of the conviction or plea of guilty to that offense, and the court in which the conviction record occurred or the plea of guilty was entered;
- Include evidence that the offense was a violation of the repealed felonious assault offense related to HIV or AIDS (see, “**Felonious assault**,” above) as it existed prior to the effective date of the bill;
- Include a request for expungement of the record of conviction of that offense.

The bill requires that upon the filing of an application, the applicant, unless indigent, must pay a fee of \$50. The court must pay \$30 of the fee into the state treasury and must pay \$20 of the fee into the county general revenue fund.⁵²

Expungement hearing

The bill requires the court to set a date for a hearing and to notify the prosecutor for the case of the hearing on the application for expungement. The prosecutor may object to the granting of the application for expungement by filing an objection with the court prior to the date

⁴⁹ R.C. 2953.31(A)(9), 2953.34(I)(1), and 2953.41(B).

⁵⁰ R.C. 2151.358(F), 2953.31(A)(9), and 2953.34(I)(1).

⁵¹ R.C. 2953.41(B).

⁵² R.C. 2953.41(D)(3).

set for the hearing. The prosecutor must specify in the objection the reasons for believing a denial of the application is justified.⁵³

The bill requires the court to hold a hearing. At the hearing, the court must do each of the following:⁵⁴

- Determine whether the applicant has been convicted of or pleaded guilty to a violation of the repealed felonious assault offense related to HIV or AIDS (see, “**Felonious assault**,” above) as it existed prior to the effective date of the bill;
- If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection.

If the court determines at the hearing that the applicant has been convicted of or pleaded guilty to the repealed felonious assault offense related to HIV or AIDS (see, “**Felonious assault**,” above) as it existed prior to the effective date of the bill, the court must order the expungement of all official records pertaining to the case and the deletion of all index references to the case.⁵⁵

Notice of expungement order

If the court orders the expungement, the court must send notice of the order to each public office or agency that the court has reason to believe may have an official record pertaining to the case.⁵⁶

Expunged record of conviction

If the court orders the expungement, the proceedings in the case that are the subject of an order must be considered not to have occurred and the conviction or guilty plea of the person who is subject to the proceedings must be expunged. The record of the conviction cannot not be used for any purpose, including for a background check or for a determination of eligibility for a concealed handgun license. The applicant may, and the court must, reply that no record exists with respect to the applicant upon any inquiry into that matter.⁵⁷

Divulging confidential information

The offense of “divulging confidential information” prohibits any officer or employee of the state, or a political subdivision of the state, from releasing or otherwise disseminating or making available any information or other data concerning any law enforcement or justice

⁵³ R.C. 2953.41(C).

⁵⁴ R.C. 2953.41(C) and (D)(1).

⁵⁵ R.C. 2953.41(D)(2)(a), with conforming changes in R.C. 2923.125(D)(4), 2923.128(C), 2923.1213(B)(3), 2953.31(A)(9), and 2953.34(I)(1).

⁵⁶ R.C.2953.41(D)(2)(a).

⁵⁷ R.C. 2953.41(D)(2)(b).

system matter the records with respect to which the officer or employee had knowledge were expunged. The bill expands the offense to include records that were expunged under the bill.

The penalty for a violation of the offense is a fourth degree misdemeanor.⁵⁸

Definitions

The bill defines the following terms:

- “Expunge” means to destroy, delete, or erase a record as appropriate for the record’s physical or electronic form or characteristic so that the record is permanently irretrievable;⁵⁹
- “Prosecutor” means the county prosecuting attorney, city director of law, village solicitor, or similar chief legal officer, who has the authority to prosecute a criminal case in the court in which the case is filed;⁶⁰
- “Record of conviction” means any record related to a conviction of or plea of guilty to an offense.⁶¹

Compelled HIV tests for Medical Board licensees

Under current law, health care professionals regulated by the State Medical Board, by virtue of applying for or being issued a license, are deemed to consent to mental and physical examinations when directed to do so by the Board. Related to the Board’s disciplinary authority pertaining to a licensee’s inability to practice according to acceptable and prevailing standards of care by reason of mental or physical illness, the bill eliminates language expressly authorizing the Board to compel an HIV test as part of a physical examination, for the following health care professionals: physician assistants, physicians, dietitians, anesthesiologist assistants, respiratory care professionals, acupuncturists, radiologist assistants, and genetic counselors.⁶² As a result of this change, the statute will be silent, neither expressly authorizing the Board to compel, nor prohibiting the Board from compelling, an HIV test.

Provisions related to AIDS and AIDS-related conditions

While the bill largely maintains existing law regarding HIV testing, disclosures, and ODH programs, except as otherwise noted in this analysis, and as part of the modernization of terminology related to HIV, it removes references to AIDS or AIDS-related conditions in numerous circumstances, including the following:

⁵⁸ R.C. 2953.34(J)(1).

⁵⁹ R.C. 2953.41(A)(1).

⁶⁰ R.C. 2953.41(A)(2), by reference to R.C. 2953.31.

⁶¹ R.C. 2953.41(A)(3).

⁶² R.C. 4730.25(F)(1), 4731.22(B)(19), 4759.07(F), 4760.13(G)(1), 4761.09(F), 4762.13(G)(1), 4774.13(G)(1), and 4778.14(G)(1).

- Regarding a requirement that the Director of Health develop various programs regarding care, treatment, and support for individuals with AIDS or AIDS-related conditions, instead requires those programs for individuals living with HIV or AIDS;⁶³
- Regarding provisions related to disclosure of the identity of an individual diagnosed with AIDS or an AIDS-related condition, instead limits the provisions to only HIV tests and individuals living with HIV;⁶⁴
- Eliminates a current law provision regarding civil actions that specifies disclosure prohibitions do not bar discovery of a diagnosis that the defendant suffers from AIDS or an AIDS-related condition (the provision is maintained regarding the results of an HIV test, i.e., disclosure prohibitions do not bar discovery of the results of an HIV test);⁶⁵
- Eliminates a disclosure authorization regarding individuals having AIDS or AIDS-related conditions for purposes of Medicaid, Medicare, and other public assistance programs (disclosure remains permissible in those circumstances related to HIV test results);⁶⁶
- Eliminates a provision specifying that no person with knowledge that an individual other than the individual's self has or may have AIDS or an AIDS-related condition can be held liable for failing to disclose that information to any person unless the disclosure is expressly required by law (the provision is maintained regarding disclosure that another person has HIV);⁶⁷
- Related to current law maintained by the bill that prohibits state and local governments and nonprofits receiving government funds from refusing admission or services to an individual solely because the individual refuses to consent to an HIV test or disclose HIV test results, eliminates a provision specifying that the prohibition does not prevent a physician or dentist from referring an individual believed to have AIDS or an AIDS-related condition to an appropriate health care provider based on reasonable professional judgment and not solely because of the refusal to consent to an HIV test or disclose the result of an HIV test;⁶⁸
- Related to employer immunity for claims arising from an illness or injury to an employee that is stress-related and results from the employee being required to work with an individual, eliminates the provision's applicability in the case of AIDS or AIDS-related conditions, but not HIV.⁶⁹

⁶³ R.C. 3701.241(A)(5) to (7).

⁶⁴ R.C. 3701.243(A) and (B).

⁶⁵ R.C. 3701.243(C)(4).

⁶⁶ R.C. 3701.243(D).

⁶⁷ R.C. 3701.244(H).

⁶⁸ R.C. 3701.245.

⁶⁹ R.C. 3701.249(C).

Terminology changes

Related to the Ohio Department of Health’s AIDS and HIV related programs and HIV testing provisions in Ohio law, the bill makes several definitional changes. These definitions are cross-referenced in other Revised Code chapters as well. The table below describes the changes.⁷⁰

HIV definitions		
Term	Current law	H.B. 513
“AIDS”	Means the illness designated as acquired immunodeficiency syndrome.	Instead, defines “AIDS” or “acquired immunodeficiency syndrome” as the condition caused by advanced HIV infection that is diagnosed when an individual has an AIDS-defining condition or the individual’s number of CD4 T lymphocytes is below two hundred cells per cubic millimeter of blood (200 cells/mm ³) as determined by a CD4 count.
“HIV”	Means the human immunodeficiency virus identified as the causative agent of AIDS.	Eliminates the language identifying HIV as the causative agent of AIDS.
“AIDS-related condition”	Means symptoms of illness related to HIV infection, including AIDS-related complex, that are confirmed by a positive HIV test.	Instead defines “AIDS-defining condition” as any HIV-related illness that the U.S. Centers for Disease Control and Prevention includes on its list of diagnostic criteria for AIDS, including opportunistic infections and cancers that are life-threatening to an individual living with HIV.
“CD 4 count”	Not defined.	Means the laboratory test that measures the number of CD4 T lymphocytes (CD4 cells) in a sample of human blood.

⁷⁰ R.C. 3701.24(A); conforming changes in R.C. 3901.45, 3901.46, and 5120.16.

The bill makes other language changes, such as referring to “diagnoses” of AIDS and individuals “living” with AIDS, instead of “cases” of AIDS, and eliminating references in the Revised Code to an “HIV infection” (referring instead to “HIV”).⁷¹

HISTORY

Action	Date
Introduced	04-30-24

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⁷¹ R.C. 3701.24 to 3701.249; similar changes in R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 341.34, 753.02, 753.04, 753.16, 753.21, 2301.57, and 5120.163.