



H.B. 111

127th General Assembly
(As Introduced)

Reps. Collier, Patton, J. McGregor

BILL SUMMARY

- Expands the definition of "neglected child" to include a child whose parent, guardian, or custodian knowingly allows a sexually oriented offender or juvenile delinquent who committed a sexually oriented offense to reside in the same residence as that child.

CONTENT AND OPERATION

Current law

Under current law, a "neglected child" is a child (R.C. 2151.03(A)):

- Who is abandoned by the child's parents, guardian, or custodian;
- Who lacks adequate parental care because of the faults or habits of the child's parents, guardian, or custodian;
- Whose parents, guardian, or custodian neglects the child or refuses to provide proper or necessary subsistence, education, medical or surgical care or treatment, or other care necessary for the child's health, morals, or well being;
- Whose parents, guardian, or custodian neglects the child or refuses to provide the special care made necessary by the child's mental condition;
- Whose parents, legal guardian, or custodian have placed or attempted to place the child in violation of Foster Care Law;
- Who, because of the omission of the child's parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child's health or welfare;

- Who is subjected to out-of-home care child neglect.

The bill

The bill expands the definition of "neglected child" to include a child whose parent, guardian, or custodian knowingly allows a person convicted of or who has pled guilty to, or juvenile delinquent who committed, a sexually oriented offense (see **COMMENT**) to reside in the same residence as that child (R.C. 2151.03(A)(8)). By expanding the definition, the following are some of the major effects that would result:

- Gives a public children services agency (PCSA) the authority to investigate and provide care for a child in such a neglect case (R.C. 5153.16(A)(1) and (4));
- Allows a law enforcement officer to take a child into custody if a parent, guardian, custodian, or other adult has neglected another child in the household if certain other criteria are met (R.C. 2151.31(A)(3)(c));
- Requires the juvenile court to ensure that the PCSA made reasonable efforts to prevent the child from being removed from his or her house and, if the child should be removed, hold hearings regarding the disposition of the child (R.C. 2151.31(E), 2151.314, and 2151.419);
- Allows the court to make any of several dispositions regarding the child, including terminating parental rights and responsibilities (R.C. 2151.353 and 2151.414);
- Prohibits a person from falsifying a report of child neglect, which is a first degree misdemeanor (R.C. 2921.14);
- Could limit the parent's ability to have custody or visitation with the child in the future (R.C. 3109.04 and 3109.051);
- Requires certain officials or professionals to report suspected or known cases of neglect (failure to report generally is a fourth degree misdemeanor) (R.C. 2151.421 and 2151.99);
- May permit the parent criminally liable for child endangerment and be subject to criminal penalties (R.C. 2919.22).

COMMENT

"Sexually oriented offense" means any of the following (R.C. 2950.01(D)):

(1) Any of the following violations or offenses committed by a person 18 years of age or older:

(a) Regardless of the age of the victim of the offense, a violation of R.C. 2907.02 (rape), 2907.03 (sexual battery), 2907.05 (gross sexual imposition), or 2907.07 (importuning);

(b) Any of the following offenses involving a minor, in the circumstances specified:

(i) A violation of R.C. 2905.01(A)(4) (kidnapping to engage in sexual activity with the victim against the victim's will), R.C. 2907.04 (unlawful sexual conduct with a minor), 2907.06 (sexual imposition), or 2907.08 (voyeurism), when the victim of the offense is under 18 years of age;

(ii) A violation of R.C. 2907.21 (compelling prostitution) when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under 18 years of age;

(iii) A violation of R.C. 2907.321(A)(1) (pandering obscenity involving a minor when the offender creates, reproduces, or publishes any obscene material that has a minor as one of its participants or portrayed observers), 2907.321(A)(3) (pandering obscenity involving a minor when the offender creates, directs, or produces an obscene performance that has a minor as one of its participants), 2907.322(A)(1) (pandering sexually oriented matter involving a minor when the offender creates, records, photographs, films, develops, reproduces, or publishes any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality), or 2907.322(A)(3) (pandering sexually oriented matter involving a minor when the offender creates, directs, or produces a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality);

(iv) A violation of R.C. 2907.323(A)(1) or (2) (illegal use of a minor in a nudity-oriented material or performance in specified circumstances);

(v) A violation of R.C. 2919.22(B)(5) (child endangering when the offender entices, coerces, permits, encourages, compels, hires, employs, uses, or allows a child under 18 years of age or a mentally or physically handicapped child under 21 years of age 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) when the child who is involved in the offense is under 18 years of age;

(vi) A violation of R.C. 2905.01(A)(1), (2), (3), or (5) (kidnapping), 2903.211 (menacing by stalking), 2905.02 (abduction), 2905.03 (unlawful restraint), or 2905.05 (criminal child enticement), or of former R.C. 2905.04 (child stealing), when the victim of the offense is under 18 years of age and the offense is committed with a sexual motivation.

(c) Regardless of the age of the victim of the offense, a violation of R.C. 2903.01 (aggravated murder), 2903.02 (murder), 2903.11 (felonious assault), 2905.01 (kidnapping) or R.C. 2903.04(A) (involuntary manslaughter in specified circumstances), that is committed with a sexual motivation;

(d) A violent sex offense, or a designated homicide, assault, or kidnapping offense if the offender also was convicted of or pleaded guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging the designated homicide, assault, or kidnapping offense;

(e) A violation of R.C. 2907.06 (sexual imposition) or 2907.08 (voyeurism) when the victim of the offense is 18 years of age or older, or a violation of R.C. 2903.211 (menacing by stalking) when the victim of the offense is 18 years of age or older and the offense is committed with a sexual motivation;

(f) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in paragraph (1)(a), (b), (c), (d), or (e) above;

(g) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1)(a), (b), (c), (d), (e), or (f) above.

(2) An act committed by a person under 18 years of age that is any of the following:

(a) Subject to paragraph (2)(i) below, regardless of the age of the victim of the violation, a violation of R.C. 2907.02, 2907.03, 2907.05, or 2907.07;

(b) Subject to paragraph (2)(i) below, any of the following acts involving a minor in the circumstances specified:

(i) A violation of R.C. 2905.01(A)(4) or R.C. 2907.06 or 2907.08 when the victim of the violation is under 18 years of age;

(ii) A violation of R.C. 2907.21 when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under 18 years of age;

(iii) A violation of R.C. 2919.22(B)(5) when the child who is involved in the violation is under 18 years of age;

(iv) A violation of R.C. 2905.01(A)(1), (2), (3), or (5), R.C. 2903.211, or former R.C. 2905.04, when the victim of the violation is under 18 years of age and the offense is committed with a sexual motivation.

(c) Subject to paragraph (2)(i) below, any of the following:

(i) Any violent sex offense that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(ii) Any designated homicide, assault, or kidnapping offense if that offense, if committed by an adult, would be a felony of the first, second, third, or fourth degree and if the court determined that, if the child was an adult, the child would be guilty of a sexual motivation specification regarding that offense.

(d) Subject to paragraph (2)(i) below, a violation of R.C. 2903.01, 2903.02, 2903.11, 2905.01, or 2905.02, a violation of R.C. 2903.04(A), or an attempt to violate any of those sections or that division that is committed with a sexual motivation;

(e) Subject to paragraph (2)(i) below, a violation of R.C. 2907.321(A)(1) or (3), 2907.322(A)(1) or (3), or 2907.323(A)(1) or (2), or an attempt to violate any of those divisions, if the person who violates or attempts to violate the division is four or more years older than the minor who is the victim of the violation;

(f) Subject to paragraph (2)(i) below, a violation of R.C. 2907.06 or 2907.08 when the victim of the violation is 18 years of age or older, or a violation of R.C. 2903.211 when the victim of the violation is 18 years of age or older and the offense is committed with a sexual motivation;

(g) Subject to paragraph (2)(i) below, any violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the

United States, that is or was substantially equivalent to any offense listed in paragraph (2)(a), (b), (c), (d), (e), or (f) above and that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(h) Subject to paragraph (2)(i) below, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (2)(a), (b), (c), (d), (e), (f), or (g) above;

(i) If the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any violation listed in paragraph (1)(a), (b), (c), (d), (e), (f), or (g) above or would be any offense listed in any of those paragraphs if committed by an adult.

HISTORY

ACTION	DATE
Introduced	03-20-07

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