



S.B. 205

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(As Introduced)

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BILL SUMMARY

- Prohibits a person from engaging in a pattern of trafficking in persons, defines the term "pattern of trafficking in persons," and specifies that a violation of the prohibition is the offense of "trafficking in persons."
- Provides organizational criminal liability, mandatory criminal forfeiture of personal or real property in which the offender has an interest and that was used in the course of, intended for use in the course of, derived from, or realized through the offense, and mandatory restitution as sanctions for the new offense of trafficking in persons.
- Provides that no provision of the Criminal Code that prohibits a person from engaging in specified criminal activity applies to a victim of the new offense of trafficking in persons who violated that provision of the Criminal Code while the victim was under duress or coercion that resulted from the new offense of trafficking in persons and the victim committed the violation because of that duress or coercion.
- Provides that there is no period of limitations for the new offense of trafficking in persons if the victim is a disabled person, specifies that generally a prosecution for that offense is barred unless it is commenced within 20 years after the offense is committed, and specifies that the period of limitations for that offense when it involves a child under 18 years of age does not begin to run until the victim reaches the age of majority.
- Provides for the furnishing of certain services to victims of the new offense of trafficking in persons and specifies that, to the extent that other

funding sources for the services are unavailable, the costs of providing the services are to be paid out of the Reparations Fund.

- Expands the offense of "conspiracy" so that it also prohibits a person, with purpose to commit or to promote or facilitate the commission of the new offense of trafficking in persons, from: (1) with another person or persons, planning or aiding in planning the commission of the trafficking offense, or (2) agreeing with another person or persons that one or more of them will engage in conduct that facilitates the commission of the trafficking offense.
- Expands the list of offenses that are within the definition of "corrupt activity" under the Corrupt Activity Law to also include the new offense of trafficking in persons, regardless of the value of the property involved in the trafficking in persons.
- Prohibits a person from knowingly selling or offering to sell travel-related services that include or facilitate in-state or out-of-state travel that would result in the existing offense of "procuring," "soliciting," or "engaging in solicitation after a positive HIV test," and specifies that a violation of the prohibition is the offense of "promoting sex tourism."
- Provides that a person who suffers injury or loss to person or property as a result of the commission of the new offense of trafficking in persons has a civil action against the offender.
- Requires a law enforcement agency to take all steps necessary to identify victims of new offense of trafficking in persons, and specifies that a law enforcement agency that identifies a victim of that offense must provide reasonable protection to the victim to prevent recapture by the offender or the offender's associates, secure the victim and the victim's family from threats, reprisals, or intimidation by the offender or the offender's associates, and ensure that the victim has an opportunity to consult with a victim advocate or other appropriate person to develop a safety plan.
- Requires the Attorney General (the AG) to: (1) with assistance from the Bureau of Criminal Identification and Investigation, annually publish statistical data on violations constituting the new offense of trafficking in persons, (2) provide training for peace officers in investigating and handling violations constituting that offense, (3) prepare public awareness programs designed to educate potential victims of that offense

and their families of the risks of becoming a victim of that offense, (4) ensure that a victim of that offense is able to access any available federal benefits and programs for victims of that offense, and (5) include information in the Victim's Bill of Rights regarding the possibility of receiving restitution from an offender who commits that offense.

- Specifies that the requirements of minimum basic training for peace officers and categories or classifications of advanced in-service training programs for peace officers that the Ohio Peace Officer Training Commission must identify in rules it recommends to the AG must include: (1) regarding basic training, a specified amount of training in handling violations constituting the new offense of trafficking in persons, and (2) regarding advanced in-service training, programs in handling violations constituting that new offense.
- Expands the law regarding testimonial privilege so that a "trafficking-in-persons caseworker" (defined in the bill) cannot testify concerning a confidential communication received from a client in that relation or the person's advice to a client unless: (1) the communication or advice indicates clear and present danger to the client or other persons, (2) the client, or the client's surviving spouse, executor, or administrator if deceased, gives express consent to the testimony, (3) the client voluntarily testifies, (4) the court determines that the information communicated by the client is not germane to the trafficking-in-persons caseworker-client relationship, or (5) the testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient in specified circumstances.
- Provides that certain prohibitions that pertain to a failure to report a felony do not apply when the information in question is privileged by reason of the relationship between a victim of a violation of the new offense of trafficking in persons and a trafficking-in-persons caseworker, as described in the preceding dot point.
- Creates the Ohio Prevention of Trafficking In Persons Task Force, consisting of 12 members to be appointed by the Governor, and requires the Task Force to develop and implement a plan for the prevention of trafficking in persons, study all aspects of trafficking (including sex trafficking and labor trafficking of citizens of the United States and citizens of foreign countries), develop a victim services plan, perform other specified functions, and submit a report of its findings and

recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate by December 31, 2008.

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CONTENT AND OPERATION

Offense of "trafficking in persons"

Prohibition and criminal penalty

The bill prohibits a person from engaging in a "pattern of trafficking in persons" (see "Definitions," below). A violation of this prohibition is the offense of "trafficking in persons," a felony of the first degree.

The bill provides that evidence of any of the following does not constitute a defense to a violation of the prohibition described in the preceding paragraph: (1) the victim's sexual history or history of performing a commercial sex act, (2) the victim's connection by blood or marriage to the defendant, (3) consent of or permission by the victim or any other person on the victim's behalf to performing a "commercial sex act" or a "sexually explicit performance" (see "Definitions," below, for definitions of the terms in quotation marks), or (4) the victim's age. (R.C. 2905.32.)

Organizational liability as a sanction

The bill specifies that: (1) an "organization" (see "Definitions," below) that knowingly aids a person in or participates in a violation of the prohibition described above in "Prohibition and criminal penalty" is criminally liable in accordance with the existing statute that provides for organizational liability (R.C. 2901.23, not in the bill; see **COMMENT 1**), and (2) in addition to any fine imposed under the existing statute that provides for organizational liability, if an organization is convicted of violating the prohibition described above in "Prohibition and criminal penalty," the court may order any of the following: (a) the dissolution or reorganization of the organization, (b) the suspension or revocation of any license, permit, or prior approval granted to the organization by any state agency, or (c) the surrender of the organization's charter if the

organization is organized under the laws of this state or the revocation of the organization's certificate to conduct business in this state if the organization is not organized under the laws of this state (R.C. 2905.34).

Criminal forfeiture as a mandatory sanction

Under the bill, in addition to any other penalty or disposition authorized or required by law, if a person is convicted of or pleads guilty to a violation of the prohibition described above in "**Prohibition and criminal penalty**," the court must order the person to criminally forfeit to the state any personal or real property to which the person has an interest and that was used in the course of or intended for use in the course of a violation of that prohibition or that was derived from or realized through conduct in violation of that prohibition. Notwithstanding the notice and procedure prescribed under the provision described in the fourth succeeding paragraph, an order of criminal forfeiture entered as described in this paragraph authorizes an appropriate law enforcement agency to seize the property declared forfeited under this section upon the terms and conditions relating to the time and manner of seizure that the court determines proper.

All property ordered forfeited pursuant to this provision must be held by the law enforcement agency for distribution and disposal pursuant to R.C. 2933.41 (R.C. 2933.41, which pertained to the distribution of certain types of property held by a law enforcement agency, was repealed by Sub. H.B. 241 of the 126th General Assembly as of July 1, 2007, and replaced by provisions located in new R.C. Chapter 2981.). The agency is required to maintain an accurate record of each item of property so seized and held, which record must include the date on which each item was seized, the manner and date of disposition by the agency, and, if applicable, the name of the person who received the item. The record cannot not identify or enable the identification of the individual officer who seized the property. The record is a public record open for inspection under the state's Public Records Law. Each law enforcement agency that seizes and holds in any calendar year any item of property that is ordered forfeited pursuant to this provision must prepare a report covering the calendar year that cumulates all the information contained in all the records kept by the agency pursuant to this provision for that calendar year and send the cumulative report, not later than March 1 in the calendar year following the calendar year covered by the report, to the Attorney General (the AG). Each report the AG receives is a public record open for inspection under the state's Public Records Law. Not later than April 15 in the calendar year in which the reports were received, the AG must send to the Senate President and Speaker of the House of Representatives a written notification that does all of the following: (1) indicates that the AG has received from law enforcement agencies reports of the type described in this paragraph that cover the previous calendar year and indicates that the reports were received under this

provision, (2) indicates that the reports are open for inspection under the state's Public Records Law, and (3) indicates that the AG will provide a copy of any or all of the reports to the President or Speaker upon request.

Upon entry of a judgment of forfeiture pursuant to the provisions described above, the court must cause notice of the judgment to be sent by certified mail, return receipt requested, to all persons known to have, or appearing to have, an interest in the property acquired pursuant to the order. If the notices cannot be given to those persons in that manner, the court must cause publication of the notice of the judgment of forfeiture pursuant to the Rules of Civil Procedure.

Within 30 days after receipt of a notice or after the date of publication of a notice under the provision described in the preceding paragraph, any person, other than the defendant, who claims an interest in the property that is subject to forfeiture may petition the court for a hearing to determine the validity of the claim. The petition must be signed and sworn to by the petitioner and set forth the nature and extent of the petitioner's interest in the property, the date and circumstances of the petitioner's acquisition of the interest, any additional allegations supporting the claim, and the relief sought. The petitioner must furnish the prosecuting attorney with a copy of the petition. The court, to the extent practicable and consistent with the interests of justice, must hold the hearing within 30 days from the filing of the petition. It may consolidate the hearings on all petitions filed by third-party claimants. At the hearing, the petitioner may testify and present evidence on the petitioner's own behalf and cross-examine witnesses. The prosecuting attorney may present evidence and witnesses in rebuttal and in defense of the claim of the state to the property and cross-examine witnesses. The court, in making its determination, must consider the testimony and evidence presented at the hearing and relevant portions of the record of the criminal proceeding that resulted in the judgment of forfeiture. If, at the hearing, the court, by a preponderance of the evidence, determines either that the petitioner has a legal right, title, or interest in the property that, at the time of the commission of the acts giving rise to the forfeiture of the property, was vested in the petitioner and not in the defendant or was superior to the right, title, or interest of the defendant, or that the petitioner is a *bona fide* purchaser for value of the right, title, or interest in the property and was at the time of the purchase reasonably without cause to believe that the property was subject to forfeiture under these provisions, the court must amend, in accordance with its determination, the judgment of forfeiture to protect the rights of innocent persons.

Except as provided in the provision described in the preceding paragraph, no person claiming an interest in property that is subject to forfeiture under these provisions may do either of the following: (1) intervene in a trial or appeal of a criminal case that involves the forfeiture of property, or (2) file an action against

the state concerning the validity of the person's alleged interest in the property subsequent to the filing of the indictment, count in the indictment, or information that alleges that the property is subject to forfeiture under these provisions.

The bill specifies that unclaimed or forfeited property in the custody of a law enforcement agency must be disposed of pursuant to the procedure in R.C. 2933.41 (R.C. 2933.41, which pertained to the distribution of certain types of property held by a law enforcement agency, was repealed by Sub. H.B. 241 of the 126th General Assembly as of July 1, 2007, and replaced by provisions located in new R.C. Chapter 2981.), except that the proceeds from property disposed of pursuant to that section must first be used to pay restitution to the victim of a violation of the prohibition described above in "**Prohibition and criminal penalty**" as provided in the bill's provision described below in "**Restitution as a mandatory sanction**," as well as to pay any punitive or exemplary damages awarded to that victim in a civil action filed pursuant to the bill's provision described below in "**Civil action for a violation of the prohibition constituting the offense of trafficking in persons**." (R.C. 2905.35.)

Restitution as a mandatory sanction

Existing law. The existing Felony Sentencing Law and the existing Misdemeanor Sentencing Law provide a court that is sentencing an offender for a felony or a misdemeanor with a continuum of authorized sanctions that may be imposed upon the offender. Among the authorized sanctions that may be imposed for a felony or for a misdemeanor other than a minor misdemeanor or a misdemeanor that could be disposed of by the court's Traffic Violations Bureau is a requirement that the offender make restitution to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss (R.C. 2929.18 and 2929.28).

Operation of the bill. The bill requires a court that is sentencing a person for a violation of the prohibition described above in "**Prohibition and criminal penalty**" to pay restitution to the victim of the offender's crime or to any survivor of that victim. Restitution under this provision must include all of the following: (1) the cost of medical and psychological treatment for the victim, (2) the cost of physical and occupational therapy and rehabilitation for the victim, (3) the cost of necessary transportation, temporary housing, and child care for the victim, (4) attorney's fees and other costs, (5) the greater of the gross income or value to the defendant of all "commercial sex acts," "sexually explicit performances," "labor," or "services" of the victim that were performed as a result of the offense (see "**Definitions**," below, for definitions of the terms in quotation marks), and the value of the victim's labor that was performed as a result of the offense as guaranteed under the minimum wage and overtime provisions of the federal Fair Labor Standards Act and state labor laws, (6) the return of property of the victim,

the cost of damage to property of the victim, or full value of the property if the property is destroyed, (7) compensation for emotional distress, pain, and suffering, and (8) expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging, food expenses, clothing, and personal items (the expenses must be verified by a law enforcement agency to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim).

Under the bill, the offender promptly must pay restitution to the victim upon the conviction of the offender, with the proceeds from property forfeited pursuant to the bill's provision described above in "**Criminal forfeiture as a mandatory sanction**" applied first to the payment of restitution. The return of the victim to the victim's home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution. (R.C. 2929.181.)

The bill amends the existing Felony Sentencing Law to specify that the provisions described in the preceding two paragraphs are an exception to that Law's restitution sanctions provisions (R.C. 2929.18(A)(1)).

Exemption from criminal prohibitions for victim of the offense of "trafficking in persons"

The bill provides that no provision of R.C. Title XXIX (the Criminal Code) that prohibits a person from engaging in specified criminal activity applies to a victim of a violation of the prohibition described above in "**Prohibition and criminal penalty**" who violated that provision of R.C. Title XXIX while the victim was under duress or coercion that resulted from that violation of the prohibition described above in "**Prohibition and criminal penalty**" and the victim committed the violation because of that duress or coercion (R.C. 2905.36).

Definitions

The bill defines the following terms, for use in its provisions described above in "**Prohibition and criminal penalty**," "**Organizational liability as a sanction**," "**Criminal forfeiture as a sanction**," and "**Exemption from criminal prohibitions for victim of the offense of "trafficking in persons"**" (R.C. 2905.31):

"**Pattern of trafficking in persons**" means that both of the following apply: (1) a person has committed two or more instances of "trafficking in persons" (see below), whether or not there has been a prior conviction or guilty plea, that are not so closely related to each other and connected in time and place that they

constitute a single event, and (2) at least one of the incidents forming the pattern of trafficking in persons occurs on or after the bill's effective date.

"Trafficking in persons" means that a person knowingly does either of the following:

(1) Engages in, attempts to engage in, conspires to engage in, or recruits, lures, entices, harbors, transports, provides, or obtains or attempts to recruit, lure, entice, harbor, transport, provide, or obtain another person to engage in a violation of R.C. 2905.01, 2905.02, 2907.21, 2907.22, 2907.32, 2907.321, 2907.322, or 2907.323 or a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, or any existing or former law of any nation other than the United States that is or was substantially equivalent to one of these offenses and either of the following applies:

(a) For an adult victim, the offender recruited, lured, enticed, harbored, transported, provided, or obtained or attempted to recruit, lure, entice, harbor, transport, provide, or obtain the victim for the purpose of engaging in a "commercial sex act," a "sexually explicit performance," "labor," or "services" (see below, for definitions of the terms in quotation marks) by doing one of the following: (i) causing or threatening to cause serious bodily harm to the victim or another person, (ii) physically restraining or threatening to physically restrain the victim or another person, (iii) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document of another person, (iv) abusing or a threatened abuse of the law or legal process, (v) committing a violation of R.C. 2905.11, (vi) deception or fraud, (vii) "debt coercion" (see below), (viii) causing or threatening to cause "financial harm" (see below) to any person, (ix) facilitating or controlling a person's access to any addictive controlled substance, or (x) causing any scheme, plan, or pattern to cause a person to believe that if the person does not perform a commercial sex act, sexually explicit performance, labor, or services that person will suffer serious physical harm or unlawful restraint.

(b) If the victim is a minor, the offender recruited, lured, enticed, harbored, transported, provided, or obtained or attempted to recruit, lure, entice, harbor, transport, provide, or obtain the victim for the purpose of engaging in a commercial sex act, a sexually explicit performance, labor, or services by any means.

(2) Benefits financially or receives anything of value from participation as an organizer, supervisor, financier, or manager in a scheme or course of conduct described in paragraph (1), above, under this definition.

"Commercial sex act" means any sex act on account of which anything of value is directly or indirectly given, promised to, or received by any person.

"Debt coercion" means the exploitation of the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's control as security for a debt if the value of those services as reasonably assessed is not applied toward the liquidation of the debt, if the length or nature of those services is not limited and defined, or if the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

"Financial harm" includes activity that would be a violation of R.C. 2905.22 (that section contains prohibitions that relate to an extortionate extension of credit and to criminal usury) and employment contracts that violate R.C. Chapter 1335.

"Labor" means work of economic or financial value.

"Organization" has the same meaning as in existing R.C. 2901.23 (not in the bill; see **COMMENT 1**).

"Services" means an ongoing relationship between persons in which a person performs activities at the behest of, under the supervision of, or for the benefit of another person.

"Sexually explicit performance" means a live, public, private, photographed, recorded, or videotaped act intended to sexually arouse, satisfy the sexual desires of, or appeal to the prurient interests of any person.

Period of limitations for a violation of the prohibition constituting the offense of "trafficking in persons"

Existing law

Existing law specifies that, except as described in this paragraph or the succeeding three paragraphs, a criminal prosecution is barred unless it is commenced within the following periods after an offense is committed: for a felony, six years; for a misdemeanor other than a minor misdemeanor, two years; and for a minor misdemeanor, six months. Existing law specifies that there is no period of limitation for the prosecution of an offense of "aggravated murder" or "murder." Existing law also provides a special 20-year limitations period for certain offenses--under this provision, except as otherwise described below, a prosecution of any of the following offenses is barred unless it is commenced within 20 years after the offense is committed: (1) "voluntary manslaughter," "involuntary manslaughter," "kidnapping," "rape," "sexual battery," "unlawful

sexual conduct with a minor," "gross sexual imposition," "compelling prostitution," "aggravated arson," "soliciting or providing support for an act of terrorism," "making a terroristic threat," "terrorism," "criminal possession of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device," "criminal use of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device," "illegal assembly or possession of chemicals or substances for the manufacture of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device," "money laundering in support of terrorism," "aggravated robbery," "robbery," "aggravated burglary," "burglary," or "aggravated riot," "felonious assault" or "aggravated assault" if the victim is a peace officer, "assault" when it is a felony, or the former offense of "felonious sexual penetration," or (2) a conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in clause (1) of this sentence.

If the period of limitation described in the preceding paragraph has expired, prosecution must be commenced for an offense of which an element is fraud or breach of a fiduciary duty within one year after discovery of the offense either by an aggrieved person or by the aggrieved person's legal representative who is not a party to the offense, and prosecution must be commenced for an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter.

For purposes of these provisions, an offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first. A prosecution is commenced on the date an indictment is returned or an information filed, on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation, or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same, and is not commenced upon issuance of a warrant, summons, citation, or other process unless reasonable diligence is exercised to execute the same.

Existing law specifies that the period of limitation does not run during any of the following times: (1) during any time when the *corpus delicti* remains undiscovered, (2) during any time when the accused purposely avoids prosecution (proof that the accused departed Ohio or concealed his or her identity or whereabouts is *prima-facie* evidence of his or her purpose to avoid prosecution), or (3) during any time a prosecution against the accused based on the same conduct is pending in Ohio, even though the indictment, information, or process

which commenced the prosecution is quashed or the proceedings thereon are set aside or reversed on appeal.

Existing law also specifies that the period of limitations for a violation of any provision of R.C. Title XXIX (the Criminal Code) that involves a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of a child under 18 years of age or of a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age does not begin to run until either of the following occurs: (1) the victim of the offense reaches the age of majority, or (2) a public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that the abuse or neglect is known, suspected, or believed to have occurred. (R.C. 2901.13.)

Operation of the bill

The bill amends the existing provisions regarding the period of limitations for criminal prosecutions as follows (R.C. 2901.13(A)(2), (A)(3), and (J)): (1) it provides that there is no period of limitations for a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**" if the victim is a disabled person, (2) it specifies that, except as described above in the second to fourth paragraphs under "**Existing law**," a prosecution for a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**" is barred unless it is commenced within 20 years after the offense is committed, and (3) it specifies that the period of limitations for a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**" that involves a child under 18 years of age does not begin to run until the victim of the offense reaches the age of majority.

Provision of services to victims of the offense of 'trafficking in persons'

Victims in general

The bill requires the Ohio Prevention of Trafficking In Persons Task Force that it establishes (see "**Ohio Prevention of Trafficking In Persons Task Force**," below), in consultation with interested not-for-profit organizations, to develop a plan for the provision of appropriate services for victims of violations of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**" and dependent children accompanying the victims, including, but not limited to, the following: (1) appropriate housing, considering the person's status as a victim of crime, and including safe conditions for sleeping, eating, and personal hygiene, (2) psychological counseling in a language the

victim can comprehend, (3) medical assistance in a language the victim can comprehend, (4) employment, educational, and training opportunities for the victim, and (5) legal assistance in a language the victim can comprehend.

The bill specifies that: (1) the residence in a shelter or other facility of a victim of a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**" is to be voluntary, (2) that a victim is to be given the option to communicate with and receive visits from family, friends, an attorney, and victim's rights advocates, (3) that, whenever possible, a victim is not to be housed in a prison or other detention facility for accused or convicted offenders, and (4) that a child victim is not to be housed in a prison or other detention facility for accused or convicted offenders under any circumstances.

The bill requires the AG to take into consideration the age, gender, and special needs of a victim of a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**" and the victim's dependent children in creating a plan to provide services to victims of violations of that prohibition and in delivering services to those victims and children.

To the extent that other sources of funding for victim services are unavailable, the costs of providing to victims the services described in the three preceding paragraphs are to be paid out of funds from the existing Reparations Fund created pursuant to R.C. 2743.191 and described in **COMMENT 2**. (R.C. 2930.22; also R.C. 2743.191(A)(1)(n).)

Victims who are minors

The bill requires that a victim of a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**" who is a minor must be provided with appropriate services, which may include an explanation of the victim's rights, privacy, housing, care, and age-appropriate support and rights. It also specifies that: (1) the Ohio Supreme Court must develop special procedures to accommodate witnesses who are minors, including procedures for taking the testimony of a minor outside a court setting or by video and procedures to ensure that all testimony of a minor witness and all court proceedings otherwise involving a minor take place with the minor's parent, legal guardian, or foster parent present, (2) the Department of Job and Family Services must develop procedures for reuniting the minor with family members in the minor's country of origin or destination country whenever it is possible and safe to do so, and (3) the Department of Health and the Department of Mental Health must develop

procedures for providing special physical and mental health care tailored to the minor's needs.

To the extent that other sources of funding for victim services are unavailable, the costs of providing to victims the services described in the preceding paragraph are to be paid out of funds from the existing Reparations Fund created pursuant to R.C. 2743.191 and described in **COMMENT 2**. (R.C. 2930.23; also R.C. 2743.191(A)(1)(n).)

Offense of "conspiracy," as applicable regarding the offense of "trafficking in persons"

Existing law

Existing law prohibits a person, with purpose to commit or to promote or facilitate the commission of "aggravated murder," "murder," "kidnapping," "compelling prostitution," "promoting prostitution," "aggravated arson," "arson," "aggravated robbery," "robbery," "aggravated burglary," "burglary," "engaging in a pattern of corrupt activity," "corrupting another with drugs," a felony drug trafficking, manufacturing, processing, or possession offense, "theft of drugs," or "illegal processing of drug documents," the commission of a felony offense of "unauthorized use of a vehicle," "illegally transmitting multiple commercial electronic mail messages" or "unauthorized access of a computer" in violation of R.C. 2923.421, or the commission of a violation of any provision of R.C. Chapter 3734., other than R.C. 3734.18, that relates to hazardous wastes, from doing either of the following: (1) with another person or persons, planning or aiding in planning the commission of any of the specified offenses, or (2) agreeing with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses. Existing law contains a series of procedural rules and affirmative defenses that apply when a person is charged with a violation of this prohibition (see **COMMENT 3**).

A violation of the prohibition described in the preceding paragraph is the offense of "conspiracy." The penalty for the offense is one of the following: (1) a felony of the first degree, when one of the objects of the conspiracy is "aggravated murder," "murder," or an offense for which the maximum penalty is imprisonment for life, (2) a felony of the next lesser degree than the most serious offense that is the object of the conspiracy, when the most serious offense that is the object of the conspiracy is a felony of the first, second, third, or fourth degree, (3) a felony punishable by a fine of not more than \$25,000 or imprisonment for not more than 18 months, or both, when the offense that is the object of the conspiracy is a violation of any provision of R.C. Chapter 3734., other than R.C. 3734.18, that relates to hazardous wastes, or (4) a misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth

degree. The law contains additional penalty provisions that apply to a person found guilty of conspiracy to engage in a pattern of corrupt activity or when the most serious offense that is the object of the conspiracy is a felony drug trafficking, manufacturing, processing, or possession offense. (R.C. 2923.01.)

Operation of the bill

The bill expands the prohibition that comprises the offense of "conspiracy" so that it, in addition to the conduct currently prohibited under the offense, it also prohibits a person, with purpose to commit or to promote or facilitate the commission of a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**," from doing either of the following: (1) with another person or persons, planning or aiding in planning the commission of a violation of that prohibition, or (2) agreeing with another person or persons that one or more of them will engage in conduct that facilitates the commission of a violation of that prohibition. A violation of this expansion of the prohibition is a felony of the first degree. (R.C. 2923.01(A) and (J).)

The existing procedural rules and affirmative defenses apply regarding the expansion of the prohibition (R.C. 2923.01(B) to (I)).

Offense of "engaging in a pattern of corrupt activity," as applicable regarding the offense of "trafficking in persons"

In general

The existing Corrupt Activity Law (R.C. 2923.31 to 2923.36), prohibits a person from doing any of the following: (1) if the person is employed by, or associated with, any enterprise, from conducting or participating in, directly or indirectly, the affairs of the enterprise through a "pattern of corrupt activity" (see "**Pattern of corrupt activity, and corrupt activity**," below) or the collection of an unlawful debt, (2) through a "pattern of corrupt activity" or the collection of an unlawful debt, from acquiring or maintaining, directly or indirectly, any interest in, or control of, any enterprise or real property, or (3) if the person knowingly has received any proceeds derived, directly or indirectly, from a "pattern of corrupt activity" or the collection of any unlawful debt, from using or investing, directly or indirectly, any part of those proceeds, or any proceeds derived from the use or investment of any of those proceeds, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise. The Law provides an exception for a purchase of securities on the open market, in specified circumstances.

A violation of this prohibition is the offense of "engaging in a pattern of corrupt activity." The offense generally is a felony of the second degree. However, if at least one of the incidents of corrupt activity is a felony of the first, second, or third degree, "aggravated murder," or "murder," if at least one of the incidents was a felony under Ohio law that was committed prior to July 1, 1996, and that would constitute a felony of the first, second, or third degree, "aggravated murder," or "murder" if committed on or after July 1, 1996, or if at least one of the incidents of corrupt activity is a felony under the law of the United States or of another state that, if committed in Ohio on or after July 1, 1996, would constitute a felony of the first, second, or third degree, "aggravated murder," or "murder" under Ohio law, engaging in a pattern of corrupt activity is a felony of the first degree. The Law provides other sanctions and remedies that apply regarding the offense of engaging in a pattern of corrupt activity. (R.C. 2923.31 to 2923.36, not in the bill except for R.C. 2923.31.)

Pattern of corrupt activity, and corrupt activity

Existing law--pattern of corrupt activity. Under existing law, a "pattern of corrupt activity" means two or more incidents of "corrupt activity" (see below), whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event. Regarding the definition, the Law provides that: (1) at least one of the incidents forming the pattern must occur on or after January 1, 1986, (2) unless any incident was an "aggravated murder" or "murder," the last of the incidents forming the pattern must occur within six years after the commission of any prior incident forming the pattern, excluding any period of imprisonment served by any person engaging in the corrupt activity, and (3) for purposes of the criminal penalties for the offense, at least one of the incidents forming the pattern must be a felony under the Ohio law in existence at the time it was committed or, if committed in violation of the laws of the United States or of any other state, must constitute a felony under the law of the United States or the other state and would be a criminal offense under Ohio law if committed in Ohio. (R.C. 2923.31(E).)

Existing law--corrupt activity. Under existing law, "corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of a list of specified offenses. Some of the specified offenses are included as "corrupt activity" regardless of the value of the property involved in the offense, and others are included only if the value of the property involved in the offense satisfies a threshold amount. (R.C. 2923.31(I).) **COMMENT 4** sets forth the existing definition of "corrupt activity."

Operation of the bill--corrupt activity expansion. The bill expands the list of offenses that are within the definition of "corrupt activity" under the Corrupt Activity Law to also include the new offense of "trafficking in persons" that the bill enacts (see "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**," above). The value of the property involved in the trafficking in persons is not a relevant factor. (R.C. 2923.31(I)(2).) Thus, under the bill, corrupt activity means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another to engage in: (1) any of the offenses identified under existing law, (2) the new offense of "trafficking in persons" that the bill enacts, or (3) conduct constituting a violation of any law of any state other than Ohio that is substantially similar to the new offense of "trafficking in persons" that the bill enacts, provided the defendant was convicted of the criminal conduct in a criminal proceeding in the other state (R.C. 2923.31(I)(2) and (3)).

Offense of "promoting sex tourism"

The bill prohibits a person from knowingly selling or offering to sell travel-related services that include or facilitate in-state or out-of-state travel that would result in a violation of existing R.C. 2907.23 or 2907.24 (neither of which is in the bill; see the next paragraph). A violation of this prohibition is the offense of "promoting sex tourism," a felony of the second degree. (R.C. 2905.33.)

Existing R.C. 2907.23, not in the bill, prohibits a person from doing any of the following: (1) knowingly and for gain, enticing or soliciting another to patronize a prostitute or brothel, (2) knowingly and for gain, procuring a prostitute for another to patronize, or taking or directing another at the other's request to any place for the purpose of patronizing a prostitute, or (3) if the person has authority or responsibility over the use of premises, knowingly permitting such premises to be used for the purpose of engaging in sexual activity for hire. A violation of the prohibition is the offense of "procuring," a misdemeanor of the first degree.

Existing R.C. 2907.24, not in the bill, prohibits a person from soliciting another to engage with such other person in sexual activity for hire. A violation of this prohibition is the offense of "soliciting," a misdemeanor of the third degree. It also prohibits a person, with knowledge that the person has tested positive as a carrier of a virus that causes AIDS, from engaging in conduct in violation of the prohibition described in the preceding paragraph. A violation of this prohibition is the offense of "engaging in solicitation after a positive HIV test," a felony of the third degree.

Civil action for a violation of the prohibition constituting the offense of "trafficking in persons"

The bill provides that a person who suffers injury or loss to person or property as a result of an act committed in violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**" has a civil action against the offender and may recover in that action full compensatory damages, punitive or exemplary damages, court costs, other reasonable expenses incurred in maintaining that action, and the reasonable attorney's fees incurred in maintaining that action (R.C. 2307.54).

The bill specifies that a civil action brought pursuant to the authority described in the preceding paragraph must be brought within ten years after the cause of action accrues. If the person bringing the action is a disabled person, there is no limitation on when the action may be brought. For purposes of this period of limitations, if the victim of the violation that is the basis of the civil action is a minor at the time of the violation, a cause of action brought pursuant to the authority described in the preceding paragraph accrues upon the date on which the victim reaches the age of majority. (R.C. 2305.117.)

Duties of law enforcement agencies related to the offense of "trafficking in persons"

The bill requires a law enforcement agency to take all steps necessary to identify victims of a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**," including interviewing all persons charged with a violation of R.C. 2907.25 (see below). A law enforcement agency that identifies a victim of a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**" must provide reasonable protection to the victim to prevent recapture of the victim by the person who committed the violation or the associates of that person, secure the victim and the victim's family from threats, reprisals, or intimidation by the person who committed the violation or the associates of that person, and ensure that the victim has an opportunity to consult with a victim advocate or other appropriate person to develop a safety plan for the victim. (R.C. 2930.21.)

Existing R.C. 2907.25, not in the bill, prohibits a person from engaging in sexual activity for hire. A violation of the prohibition is the offense of "prostitution," a misdemeanor of the third degree. It also 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. A violation of this prohibition is the offense of "engaging in prostitution after a positive HIV test," a felony of the third degree.

Duties of Attorney General related to the offense of "trafficking in persons"

The bill imposes a number of duties on the AG with respect to the offense of "trafficking in persons" that it establishes.

Annual publication of statistical data related to the offense

The bill requires the AG, with assistance from the Bureau of Criminal Identification and Investigation of the AG's Office (BCII), annually to publish statistical data on violations of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**." The first annual publication of this data must occur one year after the bill's effective date. (R.C. 109.421(A).)

Each state agency and each agency of each political subdivision that investigates violations of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**" is required to collect and submit to BCII the following information relevant to those violations (R.C. 109.421(B)): (1) the number of investigations, arrests, prosecutions, and successful convictions of persons for a violation of that prohibition, (2) the estimated number and demographic characteristics of persons violating that prohibition, as well as those persons who purchase or receive a "commercial sex act," "sexually explicit performance," "labor," or "services" from victims of such violations (the terms in quotation marks have the same meanings as are set forth above in "**Definitions**" under "**Offense of "trafficking in persons"**"), (3) statistics on the number of victims of violations of that prohibition and statistics on the nationality, age, method of recruitment, and country, state, or city of origin of the victims of such violations, (4) trafficking routes and trafficking patterns used in violations of that prohibition, (5) methods of transportation used in violations of that prohibition, (6) social and economic factors that contribute to and foster the demand for all forms of exploitation of persons that leads to trafficking in persons, and (7) the number of victims of a violation of that prohibition who received or who were refused continuous presence in the United States pursuant to 22 U.S.C. 7105, who received or who were refused a visa for an alien classified as a nonimmigrant under 8 U.S.C. 1101(a)(15)(T) or (U), or whose request or application for continued presence in the United States pursuant to 22 U.S.C. 7105 or that visa is in process. (R.C. 109.421(B) and (C).)

Peace officer training in investigating and handling acts constituting the offense

The bill requires the AG to provide training for peace officers in investigating and handling violations of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**."

The training must include all of the following: (1) identifying violations of the prohibition, (2) methods used in identifying victims of such violations who are citizens of the United States or a foreign country, including preliminary interviewing techniques and appropriate questioning methods, (3) methods for prosecuting persons who commit such violations, (4) methods of increasing effective collaboration with nongovernmental organizations and other social service organizations in the course of a criminal action regarding such a violation, (5) methods for protecting the rights of victims of such violations, including the need to consider human rights and the special needs of women and children who are victims and to treat victims as victims rather than as criminals, and (6) methods for promoting the safety of victims of such violations, including the training of peace officers to quickly recognize victims who are citizens of the United States or citizens of a foreign country.

Any organization, person, or other governmental agency with an interest and expertise in trafficking in persons may submit information or materials to the AG regarding the development and presentation of the training required under this provision. The AG, in developing the required training, must consider any information so submitted. (R.C. 109.745.)

Public awareness programs and materials

The bill requires the AG to prepare public awareness programs that are designed to educate potential victims of violations of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of trafficking in persons**" and their families of the risks of becoming a victim of a violation of that prohibition. The public awareness programs must include the following information: (1) information about the risks of becoming a victim of a violation of that prohibition, including information about common recruitment techniques, use of "debt bondage" and other coercive tactics, the risk of maltreatment, rape, exposure to HIV and AIDS and other sexually transmitted diseases, and the psychological harm related to being a victim of such a violation, (2) information about the risks of engaging in a "commercial sex act" (this term has the same meaning as is set forth above in "**Definitions**" under "**Offense of trafficking in persons**") and the possible consequences, (3) information about victim's rights as well as methods for reporting suspected recruitment activities regarding a violation of that prohibition, and (4) information on telephone hotlines for victims of violations of that prohibition and available services to victims of such a violation.

Under the bill, the AG also must prepare and disseminate public awareness materials to educate the public on the extent of trafficking in persons within the United States and to discourage the demand that fosters the exploitation of persons and that leads to trafficking in persons. The materials may include information on

the impact of trafficking in persons on individual victims who are either citizens of the United States or citizens of a foreign country, and aggregate information on trafficking worldwide and domestically, as well as warnings of the potential for criminal consequences for participating in trafficking in persons. The materials may include pamphlets, brochures, posters, advertisements, and any other appropriate methods.

Regarding the public awareness programs and materials required under the above-described provisions: (1) the programs and materials may include information on the impact of trafficking in persons on individual victims, but any information regarding the experiences of those individual victims is confidential, (2) the AG must periodically evaluate the programs and materials to ensure their effectiveness, and (3) any organization, person, or other governmental agency with an interest and expertise in trafficking in persons may submit information or materials to the AG regarding the preparation of the programs and materials (the AG, in developing the programs and materials, must consider any information so submitted). (R.C. 109.746.)

Steps to ensure access of victims to available federal benefits and programs

The bill requires the AG, to ensure that a victim of a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**" is able to access any available federal benefits and programs for victims of a violation of that prohibition, to do all of the following (R.C. 109.747):

(1) Inform the appropriate federal authorities about cases known to the AG that involve a violation of that prohibition;

(2) Within 72 hours after receipt of a written request from a person identified by a peace officer as a victim of that prohibition for submission of a request for continued presence in the United States, or a written request from that person's representative for submission of a request for continued presence of the victim in the United States, submit a written request to the appropriate federal authorities requesting that the victim be permitted continued presence in the United States pursuant to 22 U.S.C. 7105;

(3) Within 72 hours of a written request from a person identified by a peace officer as a victim of a violation of that prohibition for a law enforcement agency's endorsement that the person is a victim of that prohibition, or a written request from that person's representative for an endorsement of that nature, provide the person with an endorsement of the person's victim status on Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking

in Persons, of Form I-914 in accordance with 8 C.F.R. 214.11(f)(1) in support of that person's application for a visa for an alien classified as a nonimmigrant under 8 U.S.C. 1101(T);

(4) Within 72 hours after receipt of a request from a person identified by a peace officer as a victim of a violation of that prohibition for documentation to support the person's request for the benefits and services described in this paragraph, or a written request from that person's representative for documentation of that nature, provide the person with documentation in support of that person's request for benefits and services to be provided to trafficking victims by the office of refugee and resettlement in the United States Department of Health and Human Services and by other federal agencies pursuant to 22 U.S.C. 7105.

Notice in the Victim's Bill of Rights pamphlet of possibility of receiving restitution

Existing law. Existing law requires the AG to prepare and have printed a pamphlet that contains a compilation of all statutes relative to victim's rights in which the AG lists and explains the statutes in the form of a Victim's Bill of Rights. The AG must distribute the pamphlet to all county, municipal, townships, and other law enforcement agencies, to all prosecuting attorneys, to all chief municipal legal officers, and to organizations that represent or provide services for victims of crime. The Victim's Bill of Rights set forth in the pamphlet must contain a description of all of the rights of victims that are provided for in the state's Victims Rights Law (R.C. Chapter 2930.) or in any other Revised Code section and must include, but is not limited to, certain specified information. Among the specified information that must be included in the Victim's Bill of Rights set forth in the pamphlet is the possibility of receiving restitution from an offender or a delinquent child pursuant to the financial sanction provisions of the Delinquent Child Law (R.C. Chapter 2152.), the Felony Sentencing Law (R.C. 2929.18), or the Misdemeanor Sentencing Law (R.C. 2929.28). A summary of the other specified information that must be included in the Victim's Bill of Rights is set forth in **COMMENT 5**. The cost of printing and distributing the pamphlet is paid out of the Reparations Fund created pursuant to R.C. 2743.191.

A prosecuting attorney, chief municipal legal officer, or an assistant of either officer who prosecutes an offense committed in Ohio, upon first contact with the victim of the offense, the victim's family, or the victim's dependents, must give the victim, the family, or the dependents a copy of the Victim's Bill of Rights pamphlet and explain, upon request, the information in the pamphlet. A law enforcement agency that investigates an offense or delinquent act committed in Ohio must give the victim of the offense or delinquent act, the victim's family, or the victim's dependents a copy of the Victim's Bill of Rights pamphlet upon first contact with the victim, the family, or the dependents or, in specified

circumstances, upon the agency's second contact with the victim, the family, or the dependents. If the agency does not give the victim, the victim's family, or the victim's dependents a copy of the pamphlet upon first contact with them and does not have a second contact with the victim, the family, or the dependents, the agency must mail a copy to the victim, the family, or the dependents at their last known address. The failure of an agency or official to give the victim, the victim's family, or the victim's dependents a copy of the Victim's Bill of Rights pamphlet does not give the victim, the family, the dependents, or a victim's representative any rights under any provision of the Revised Code and does not affect specified rights. (R.C. 109.42.)

Operation of the bill. The bill expands the information that is specified as being information that must be included in the Victim's Bill of Rights set forth in the pamphlet so that, in addition to the currently specified mandatory information, the Victim's Bill of Rights also must include the possibility of receiving restitution from an offender pursuant to the bill's provision described above in "**Restitution as a mandatory sanction**" under "**Offense of "trafficking in persons"**" (R.C. 109.42(A)(13)).

Duties of Ohio Peace Officer Training Commission related to the offense of "trafficking in persons"

Existing law

Existing R.C. 109.71, not in the bill, creates in the Office of the AG the Ohio Peace Officer Training Commission (OPOTC). Existing law prescribes duties for the OPOTC and authorizes it to perform specified functions. The duties include the OPOTC's recommendation to the AG of rules with respect to specified topics and subjects (R.C. 109.73(A)). Among the specified topics and subjects with respect to which the OPOTC must recommend rules to the AG are (R.C. 109.73(A)(4) to (6)):

(1) The requirements of minimum basic training that "peace officers" (as defined in the section) appointed to probationary terms must complete before being eligible for permanent appointment, which requirements must include a minimum of 15 hours of training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under R.C. 2919.26 or 3113.31; a minimum of six hours of crisis intervention training; and a specified amount of training in the handling of missing children and child abuse and neglect cases; and the time within which such basic training must be completed following appointment to a probationary term;

(2) The requirements of minimum basic training that "peace officers" not appointed for probationary terms but appointed on other than a permanent basis must complete in order to be eligible for continued employment or permanent appointment, which requirements must include the same domestic violence, crisis intervention, and handling of missing children and child abuse and neglect training as is described in the preceding paragraph, and the time within which such basic training must be completed following appointment on other than a permanent basis;

(3) Categories or classifications of advanced in-service training programs for "peace officers," including programs in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under R.C. 2919.26 or 3113.31, in crisis intervention, and in the handling of missing children and child abuse and neglect cases, and minimum courses of study and attendance requirements with respect to such categories or classifications (R.C. 109.73(A)(6)).

Operation of the bill. The bill expands the provisions that require the OPOTC to recommend rules to the AG with respect to the requirements of minimum basic training for peace officers and categories or classifications of advanced in-service training programs for peace officers and that identify certain types of such programs so that (R.C. 109.73(A)(4) to (6)):

(1) The basic training provisions also require that, in addition to the types of training currently specified in the provisions, the recommended rules also must include a specified amount of training in handling violations of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**";

(2) The advanced in-service training provision also requires that, in addition to the categories or classifications of training currently specified in the provision, the recommended rules also must include programs in handling violations of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**."

Testimonial privilege for "trafficking-in-persons caseworker"

Testimonial privilege

Existing law. Existing law provides that certain persons in specified situations generally cannot testify in certain respects. This testimonial privilege applies to: (1) generally, an attorney concerning a communication made to the attorney by a client in that relation or the attorney's advice to a client, (2)

generally, a physician or a dentist concerning a communication made to the physician or dentist by a patient in that relation or the physician's or dentist's advice to a patient, (3) generally, a cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the cleric for a religious counseling purpose in the cleric's professional character, (4) generally, a husband or wife concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, (5) a person who assigns a claim or interest concerning any matter in respect to which the person would not, if a party, be permitted to testify, (6) generally, a person who, if a party, would be restricted under R.C. 2317.03, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, (7) generally, a school guidance counselor who holds a valid educator license from the State Board of Education, a person licensed as a professional clinical counselor, professional counselor, social worker, independent social worker, marriage and family therapist, or independent marriage and family therapist, or a person registered as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice to a client, (8) a mediator acting under a specified type of mediation order regarding the mediation process or other specified types of information, (9) generally, a communications assistant acting within the scope of his or her authority and providing telecommunications relay service concerning a communication made through such a service, (10) generally, a chiropractor concerning a communication made to the chiropractor by a patient in that relation or the chiropractor's advice to a patient, (11) generally, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the member, or the member's advice to the individual, during a debriefing session, and (12) generally, an employee assistance professional concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional. (R.C. 2317.02.)

Operation of the bill. The bill expands the existing testimonial privilege provisions so that, in addition to the persons to whom and situations in which the privilege currently applies, a "trafficking-in-persons caseworker" (see below) cannot testify concerning a confidential communication received from a client in that relation or the person's advice to a client unless any of the following applies: (1) the communication or advice indicates clear and present danger to the client or other persons (for purposes of this provision, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger), (2) the client gives express consent to the testimony, (3) if the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent, (4) the client voluntarily testifies, in which

case the trafficking-in-persons caseworker may be compelled to testify on the same subject, (5) the court *in camera* determines that the information communicated by the client is not germane to the trafficking-in-persons caseworker-client relationship, or (6) the testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under R.C. 2151.412 or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under R.C. Chapter 2151. This provision applies a testimonial privilege to a "trafficking-in-persons caseworker" to the same extent as existing law applies a testimonial privilege to a school guidance counselor, a person licensed as a professional clinical counselor, professional counselor, social worker, independent social worker, marriage and family therapist, or independent marriage and family therapist, or a person registered as a social work assistant.

The bill states that nothing in the provision described in the preceding paragraph relieves a trafficking-in-persons caseworker from the requirement to report information concerning child abuse or neglect under R.C. 2151.421 (that section, not in the bill, imposes a mandatory duty on persons serving in specified professions to report known or suspected child abuse or neglect to a public children services agency or peace officer; "trafficking-in-persons caseworkers" are not included in the professions specified in R.C. 2151.421, but some of the professions so specified may be included within the definition of "trafficking-in-persons caseworkers," as described in the next paragraph).

Under the bill, as used in the provisions described in the two preceding paragraphs, "trafficking-in-persons caseworker" means a person who has received specialized training in the counseling of victims of the bill's prohibition described above in "*Prohibition and criminal penalty*" under "*Offense of 'trafficking in persons'*" and who meets one of the following requirements: (1) the person has a master's degree in counseling or a related field or has one year of counseling experience, at least six months of which is in the counseling of victims of a violation of that prohibition, (2) the person has at least 40 hours of training in counseling victims of a violation of that prohibition and is supervised by an individual who satisfies the criteria of clause (1) of this paragraph, or (3) the person is a psychotherapist. (R.C. 2317.02(G).)

Exemption from prohibition against failure to report a felony

Existing law. Existing law prohibits a person from doing any of the following: (1) if the person knows that a felony has been or is being committed, knowingly failing to report that information to law enforcement authorities, (2) except for conditions that are within the scope of existing "burn injury" reporting requirements, if the person is a physician, limited practitioner, nurse, or other person giving aid to a sick or injured person, negligently failing to report to law

enforcement authorities any gunshot or stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence, (3) if the person discovers the body or acquires the first knowledge of the death of a person, failing to report the death immediately to a specified physician, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained, or (4) failing to provide upon request of the person to whom a report under the provision described in clause (3) of this paragraph was made, or to any law enforcement officer with reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death. Existing law also contains a series of prohibitions relative to the reporting of "burn injuries" (as defined in the provision), but the prohibitions are not relevant to the bill and are not further discussed.

A violation of the prohibition described in clause (1) or (2) of the preceding paragraph is the offense of "failure to report a crime;" if the violation is of the prohibition described in clause (1), the offense is a misdemeanor of the fourth degree, and if it is of the prohibition described in clause (2), it is a misdemeanor of the second degree. A violation of the prohibition described in clause (3) or (4) of the preceding paragraph is the offense of "failure to report knowledge of a death," a misdemeanor of the fourth degree.

Existing law specifies that the provisions described in clauses (1) and (4) of the second preceding paragraph do not require disclosure of information, when any of the following applies: (1) the information is privileged by reason of the relationship between attorney and client; doctor and patient; licensed psychologist or licensed school psychologist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call, (2) the information would tend to incriminate a member of the actor's immediate family, (3) disclosure would amount to revealing a privileged news source, (4) disclosure would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking his or her aid or counsel, (5) disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a *bona fide* program of treatment or services for drug dependent persons or persons in danger of drug dependence, maintained or conducted by a hospital, clinic, person, agency, or organization, or

(6) disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a *bona fide* program for providing counseling services to victims of "rape," "gross sexual imposition," or the former offense of "felonious sexual penetration."

Operation of the bill. The bill expands the existing exemption described in the preceding paragraph so that, in addition to the circumstances in which the specified failure-to-report prohibitions currently do not apply, they also do not apply when the information is privileged by reason of the relationship between a victim of a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of "trafficking in persons"**" and a trafficking-in-persons caseworker, as defined above in "**Testimonial privilege**" (R.C. 2921.22(G)(1)).

Ohio Prevention of Trafficking In Persons Task Force

Creation and membership

The bill creates the Ohio Prevention of Trafficking In Persons Task Force, consisting of 12 members to be appointed by the Governor. The Task Force is to include the following members: (1) a representative from the AG's office, (2) a representative from the Ohio Association of Chiefs of Police, (3) a representative from the Buckeye State Sheriffs Association, (4) a representative from the Department of Public Safety, representing the State Highway Patrol, (5) a representative from the Department of Health, (6) a representative from the Department of Job and Family services, (7) a representative from the Supreme Court, (8) a representative from the Office of Criminal Justice Services, and (9) four persons with experience in the private sector or academic institutions with the issues involved in trafficking in persons, children's services, and runaway services. (Section 3(A) and (B).)

Duties

The bill requires the Task Force to develop and implement a plan for the prevention of trafficking in persons, and to study all aspects of trafficking, including, but not limited to, sex trafficking and labor trafficking of citizens of the United States and citizens of foreign countries (Section 3(A)). It also requires the task Force to develop a victim services plan as described above in "**Provision of services to victims of the offense of "trafficking in persons"**" (R.C. 2930.22). The bill specifies that the Task Force must carry out the following activities (Section 3(C)):

- (1) Develop a state plan for the prevention of trafficking in persons;

(2) Explore the establishment of state policies for time limits for the issuance of the law enforcement agency endorsement regulations, 8 C.F.R. 214.11(f)(1)(2006);

(3) Recommend policies to enable the state to work with nongovernmental organizations to prevent trafficking in persons and provide assistance to citizens of the United States and foreign nations who are victims of trafficking in persons;

(4) Review the existing services and facilities that aid victims of trafficking in persons and recommend a system that would coordinate those services, including, but not limited to, health services, housing, education and job training, English as a second language courses, interpreting services, legal and immigration services, and victim compensation;

(5) Evaluate various approaches used by other state and local governments to increase public awareness of the offense of trafficking in persons;

(6) Recommend ways to protect a victim of trafficking in persons who is a witness to the offense (i.e., a violation of the bill's prohibition described above in "**Prohibition and criminal penalty**" under "**Offense of 'trafficking in persons'**"), including evaluating the feasibility of witness relocation, new employment or work permits, protection of the victim's identity and location, and providing the victim with a new identity;

(7) Determine the best way to provide a victim of trafficking in persons with all of the following: (a) an application for a visa for an alien classified as a nonimmigrant under 8 U.S.C. 1101(a)(15)(T) or (U), (b) an application for legal permanent residence for an eligible recipient of a visa for an alien classified as a nonimmigrant under 8 U.S.C. 1101(a)(15)(T) or (U), (c) identification of and application for available public benefits, including, but not limited to, temporary financial assistance, refugee match grants, refugee cash assistance, food stamps, child care, and medical assistance, (d) access to both short-term and long-term safe and appropriate housing, (e) access to necessary medical and dental care and mental health treatment, including, but not limited to, care or treatment for victims of a sex offense, free optional testing for the HIV infection and other sexually transmitted diseases, and a counseling session by a medically trained professional on the accuracy of those tests and the risk of the transmission of sexually transmitted diseases, (f) access to language translation services in the victim's native language or language of fluency, (g) access to education or English as a second language training, and (h) access to any other services necessary to safeguard the health and well-being of a victim of trafficking in persons.

(8) Develop a method for assisting a victim of trafficking in persons with the application for a visa for an alien classified as a nonimmigrant under 8 U.S.C.

1101(a)(15)(T) or (U), assist a victim of trafficking in persons with completing a written request to the appropriate authorities requesting that the victim be granted temporary immigration status known as "continued presence," complete, or assist a victim of trafficking in persons with completing, a written request to the Attorney General for documents necessary to support an application for a visa for an alien classified as a nonimmigrant under 8 U.S.C. 1101(a)(15)(T) or (U), including an endorsement of person's victim status on Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, of Form I-914, and assist a victim of trafficking in persons with completing a written request to the Attorney General for the documentation necessary to support the victim's request for benefits and services authorized under the "Victims of Trafficking and Violence Protection Act of 2000," 22 U.S.C. 7105, *et. seq.*

(9) Evaluate available funding streams, including but not limited to, federal grants that may be available to assist the state in establishing or expanding programs for victims of trafficking in persons, to provide services to victims of trafficking in persons, and to create and disseminate training and educational materials on trafficking in persons and technical assistance to state agencies that are applying for that funding.

Submission of report

The bill requires the Task Force to submit a report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate by December 31, 2008. Upon submission of the report, the Task Force ceases to exist. (Section 3(E); the bill does not include a Section 3(D).)

COMMENT

1. Existing R.C. 2901.23, not in the bill, provides that an "organization" may be convicted of an offense under any of the following circumstances: (a) the offense is a minor misdemeanor committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions apply, (b) a purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the

circumstances under which it is accountable, those provisions apply, (c) the offense consists of an omission to discharge a specific duty imposed by law on the organization, or (d) if, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of his or her office or employment.

The section specifies that, when strict liability is imposed for the commission of an offense, a purpose to impose organizational liability is presumed, unless the contrary plainly appears. In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent, or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission (but this defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense).

As used in the provisions described in the preceding two paragraphs, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated association, estate, trust, or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program.

Related to the organizational criminal liability provisions, existing R.C. 2901.24, not in the bill, specifies that an officer, agent, or employee of an "organization," as defined in R.C. 2901.23, may be prosecuted for an offense committed by the organization, if he or she acts with the kind of culpability required for the commission of the offense, and any of the following apply: (a) in the name of the organization or in its behalf, he or she engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility, or (b) he or she has primary responsibility to discharge a duty imposed on the organization by law, and that duty is not discharged. When a person is convicted of an offense by reason of the provision described in this paragraph, the person is subject to the same penalty as if he or she had acted in his or her own behalf.

Existing R.C. 2929.31, not in the bill, provides that, regardless of the penalties provided in R.C. 2929.02, the Felony Sentencing Law, and the Misdemeanor Sentencing Law, an organization convicted of an offense pursuant to R.C. 2901.23 is to be fined as described in this paragraph and the next paragraph, and the court is to fix the fine as follows: (a) for aggravated murder, not more than \$100,000, (b) for murder, not more than \$50,000, (c) for a felony of the first degree, not more than \$25,000, (d) for a felony of the second degree, not more than \$20,000, (e) for a felony of the third degree, not more than \$15,000, (f)

for a felony of the fourth degree, not more than \$10,000, (g) for a felony of the fifth degree, not more than \$7,500, (h) for a misdemeanor of the first degree, not more than \$5,000, (i) for a misdemeanor of the second degree, not more than \$4,000, (j) for a misdemeanor of the third degree, not more than \$3,000, (k) for a misdemeanor of the fourth degree, not more than \$2,000, (l) for a minor misdemeanor, not more than \$1,000, (m) for a felony not specifically classified, not more than \$10,000, (n) for a misdemeanor not specifically classified, not more than \$2,000, and (o) for a minor misdemeanor not specifically classified, not more than \$1,000.

Existing R.C. 2929.31 also provides that, when an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided must be imposed in lieu of the penalty described in the preceding paragraph. When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is described in the preceding paragraph, then the penalty imposed must be pursuant to the penalty provided for the violation of the section defining the offense. The section specifies that it does not prevent the imposition of available civil sanctions against an organization convicted of an offense, either in addition to or in lieu of a fine imposed pursuant to the provisions described in this paragraph and the preceding paragraph.

2. Existing R.C. 2743.191 creates in the state treasury the Reparations Fund. All additional court costs paid pursuant to R.C. 2743.70, the portions of license reinstatement fees mandated by R.C. 4511.191(F)(2)(b) to be credited to the Fund, the portions of the proceeds of the sale of a forfeited vehicle specified in R.C. 4503.234(C)(2), payments collected by the Department of Rehabilitation and Correction from prisoners who voluntarily participate in an approved work and training program pursuant to R.C. 5145.16(C)(8)(b)(ii), and all moneys collected by the state pursuant to its right of subrogation provided in R.C. 2743.72 are to be deposited in the Fund.

The section specifies that the Fund may be used only for the following purposes: (a) the payment of awards of reparations that are granted by the AG under the Crime Victims Reparations Law, (b) the compensation of any personnel needed by the AG to administer that Law, (c) the compensation of witnesses as provided in R.C. 2743.65(J), (d) other administrative costs of hearing and determining claims for an award of reparations by the AG, (e) the costs of administering R.C. 2907.28 and 2969.01 to 2969.06, (f) the costs of investigation and decision-making as certified by the AG, (g) the provision of state financial assistance to victim assistance programs in accordance with R.C. 109.91 and 109.92 Code, (h) the costs of paying the expenses of sex offense-related

examinations and antibiotics pursuant to R.C. 2907.28, (i) the cost of printing and distributing the Crime Victims Rights pamphlet prepared by the AG pursuant to R.C. 109.42, (j) the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to R.C. 2743.71, (k) the payment of costs of administering a DNA specimen collection procedure pursuant to R.C. 2152.74 and 2901.07, of performing DNA analysis of those specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to R.C. 109.573, (l) the payment of actual costs associated with initiatives by the AG for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims, and (m) the costs of administering the Adult Parole Authority's supervision pursuant to R.C. 2971.05(E) of offenders who are sentenced to a prison term pursuant to the Sexually Violent Predator Sentencing Law.

3. Existing R.C. 2923.01(B) to (I), unchanged by the bill, provides that no person may be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done subsequent to the accused's entrance into the conspiracy. It is no defense to a charge of conspiracy that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances. A conspiracy terminates when the offenses that are its objects are committed or when it is abandoned by all conspirators; in the absence of abandonment, it is no defense to a charge of conspiracy that no offense that was the object of the conspiracy was committed. A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship. When a person is convicted of committing, attempting to commit, or complicity in a specific offense, the person cannot be convicted of conspiracy involving the same offense. No person may be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.

The existing provisions, unchanged by the bill, also provide the following affirmative defenses to a charge of conspiracy: (a) after conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose, and (b) after conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.

4. Existing R.C. 2923.31 provides that, as used in the Corrupt Activity Law, "corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:

(a) Conduct defined as "racketeering activity" under the federal "Organized Crime Control Act of 1970," as amended;

(b) Conduct constituting any of the following:

(i) Certain money laundering offenses, certain Mortgage Broker Registration Law offenses, aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, kidnapping, abduction, extortion, extortionate extension of credit, criminal usury, pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, illegal use of minor in nudity-oriented material or performance, aggravated arson, arson, soliciting or providing support for an act of terrorism, making a terroristic threat, terrorism, criminal possession of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device, criminal use of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device, illegal assembly or possession of chemicals or substances for the manufacture of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device, or money laundering in support of terrorism, aggravated robbery, robbery, aggravated burglary, burglary, breaking and entering, safecracking, telecommunications fraud, unlawful use of telecommunications device, bribery, intimidation, intimidation of an attorney, victim, or witness in a criminal case, perjury, tampering with evidence, obstructing justice, theft in office, having an unlawful interest in a public contract, soliciting or receiving improper compensation, carrying concealed weapons, unlawful possession of dangerous ordnance, certain Securities Law offenses, certain unlawful weapons transactions, failure of a credit services organization to register, and certain Telephone Solicitation Law offenses;

(ii) The offenses of gambling, cheating, or corrupting sports as those offenses pertain to horseracing and would have been violations of certain precursor offenses in the Horse Racing Law that existed prior to July 1, 1996, or violations of those precursor offenses;

(iii) Compelling prostitution, promoting prostitution, disseminating matter harmful to juveniles, pandering obscenity, compelling acceptance of objectionable materials, theft, passing bad checks, misuse of credit cards, forgery, identification card offenses, criminal simulation, trademark counterfeiting, tampering with records, insurance fraud, receiving stolen property, operating a gambling house, drug trafficking offenses, illegal manufacture of drugs or cultivation of marijuana,

funding of drug or marijuana trafficking, counterfeit controlled substances offenses, any drug possession offense that is a felony of the first, second, third, or fourth degree and that occurs on or after July 1, 1996, gambling in situations not described above in (4)(b)(ii), the former offense of corrupting sports, and the current offense of corrupting sports, when the proceeds of the violation, the payments made in the violation, the amount of a claim for payment or for any other benefit that is false or deceptive and that is involved in the violation, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation exceeds \$500, or any combination of violations described in this paragraph when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds \$500;

(iv) Trafficking in cigarettes to avoid tax when the amount of unpaid tax exceeds \$100;

(v) Pandering obscenity involving any material or performance containing a display of bestiality or of sexual conduct that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice when the total proceeds of the violation or combination of violations, the payments made in the violation or combination of violations, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation or combination of violations exceeds \$500;

(vi) Any combination of violations described above in (4)(b)(iii) and pandering obscenity involving any material or performance containing a display of bestiality or of sexual conduct that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds \$500.

(c) Conduct constituting a violation of any law of any state other than Ohio that is substantially similar to the conduct described in (4)(b), provided the defendant was convicted of the conduct in a criminal proceeding in the other state.

(d) Animal or ecological terrorism.

5. Existing R.C. 109.42(A) specifies that the Victims Bill of Rights set forth in the pamphlet prepared and made available by the AG must include, in

addition to the restitution-related information described in the **CONTENT AND OPERATION** portion of this analysis, but is not limited to, all of the following:

(a) The right of a victim or a victim's representative to attend a proceeding before a grand jury, in a juvenile case, or in a criminal case pursuant to a subpoena without being discharged from employment, having employment terminated, having pay decreased or withheld, or otherwise being punished, penalized, or threatened as a result of time lost from regular employment because of the victim's or representative's attendance at the proceeding pursuant to the subpoena;

(b) The potential availability of a forfeited recognizance to pay damages caused by a child when the delinquency of the child or child's violation of probation or community control is found to be proximately caused by the failure of the child's parent or guardian to subject the child to reasonable parental authority or to faithfully discharge the conditions of probation or community control;

(c) The availability of awards of reparations for injuries caused by criminal offenses;

(d) The right of the victim in certain criminal or juvenile cases or a victim's representative to receive notice of the date, time, and place of the trial or delinquency proceeding in the case or, if there will not be a trial or delinquency proceeding, information from the prosecutor regarding the disposition of the case;

(e) The right of the victim in certain criminal or juvenile cases or a victim's representative to receive notice of the name of the person charged with the violation, the case or docket number assigned to the charge, and a telephone number or numbers that can be called to obtain information about the disposition of the case;

(f) The right of the victim in certain criminal or juvenile cases or of the victim's representative, subject to any reasonable terms set by the court as authorized by law, to make a statement about the victimization and, if applicable, a statement relative to the sentencing or disposition of the offender;

(g) The opportunity to obtain a court order to prevent or stop the commission of the offense of intimidation of a crime victim or witness or an offense against the person or property of the complainant, or of the complainant's ward or child;

(h) The right of the victim in certain criminal or juvenile cases or a victim's representative to receive notice of a pending motion for judicial release or early release of the person who committed the offense against the victim, to make an

oral or written statement at the court hearing on the motion, and to be notified of the court's decision on the motion;

(i) The right of the victim in certain criminal or juvenile cases or a victim's representative to receive notice of any pending commutation, pardon, parole, transitional control, discharge, other form of authorized release, post-release control, or supervised release for the person who committed the offense against the victim or any application for release of that person and to send a written statement relative to the victimization and the pending action to the Adult Parole Authority or the release authority of the Department of Youth Services;

(j) The right of the victim to bring a civil action to obtain money from the offender's profit fund;

(k) The right to maintain a civil action to recover compensatory damages not exceeding \$10,000 and costs from the parent of a minor who willfully damages property through the commission of an act that would be a theft offense if committed by an adult;

(l) The right to maintain a civil action to recover compensatory damages not exceeding \$10,000 and costs from the parent of a minor who willfully and maliciously assaults a person;

(m) The right of the victim in certain criminal or juvenile cases or a victim's representative to receive notice of the escape from confinement or custody of the person who committed the offense, to receive that notice from the custodial agency of the person at the victim's last address or telephone number provided to the custodial agency, and to receive notice that, if either the victim's address or telephone number changes, it is in the victim's interest to provide the new address or telephone number to the custodial agency;

(n) The right of a victim of domestic violence to seek the issuance of a civil protection order, the right of a victim of a violation of R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22, a violation of a substantially similar municipal ordinance, or an offense of violence who is a family or household member of the offender at the time of the offense to seek the issuance of a temporary protection order, and the right of both types of victims to be accompanied by a victim advocate during court proceedings;

(o) The right of a victim of a sexually oriented offense that is not a registration-exempt sexually oriented offense or of a child-victim oriented offense that is committed by a person who is convicted of or pleads guilty to an aggravated sexually oriented offense, by a person who is adjudicated a sexual predator or child-victim predator, or, in certain cases, by a person who is

determined to be a habitual sex offender or habitual child-victim offender to receive notice that the person has registered with a sheriff under R.C. 2950.04, 2950.041, or 2950.05 and notice of the person's name, the person's residence that is registered, and the offender's school, institution of higher education, or place of employment address or addresses that are registered, the person's photograph, and a summary of the manner in which the victim must make a request to receive the notice (note that this provision is changed by Am. Sub. S.B. 10 of the 127th General Assembly, effective January 1, 2008, but that the changes are not reflected in the version of R.C. 109.42 that appears in the bill);

(p) The right of a victim of certain sexually violent offenses committed by an offender who is sentenced to a prison term pursuant to the Sexually Violent Predator Sentencing Law to receive notice of a hearing to determine whether to modify the requirement that the offender serve the entire prison term in a state correctional facility, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term.

HISTORY

ACTION	DATE
Introduced	07-31-07

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