



Ohio Legislative Service Commission

Bill Analysis

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S.B. 330

129th General Assembly
(As Introduced)

Sen. Schiavoni

BILL SUMMARY

- Requires a court in determining the appropriate sentence to impose upon an offender for a misdemeanor offense to consider whether the offender has an emotional, mental, or physical condition traceable to the offender's service in the United States armed forces that contributed to the offender's commission of the offense and whether the offender has rendered service in the United States armed forces in a clearly exceptional manner.

CONTENT AND OPERATION

Operation of the bill

Under the current Misdemeanor Sentencing Law, unchanged by the bill in this regard, unless a mandatory jail term is required to be imposed by any Revised Code provision, a court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor has discretion to determine the most effective way to achieve the purposes and principles of sentencing applicable under that Law (see "**Background**," below). Unless a specific sanction is required to be imposed or is precluded from being imposed by the section setting forth an offense or the penalty for an offense or by any provision of the Misdemeanor Sentencing Law, a court that imposes a sentence upon an offender for a misdemeanor may impose on the offender any sanction or combination of sanctions under R.C. 2929.24 to 2929.28. The court cannot impose a sentence that imposes an unnecessary burden on local government resources.¹ The sanctions under R.C. 2929.24 to 2929.28 are jail terms, community residential sanctions, nonresidential

¹ R.C. 2929.22(A).

sanctions, other sanctions intended to discourage the offender from committing a similar offense, and financial sanctions.²

The current Misdemeanor Sentencing Law identifies a series of factors and other information that a court sentencing an offender for a misdemeanor must consider in determining the appropriate sentence for the offense.³ The factors and other information that currently must be considered are described below in "**Background.**" The bill expands the list of factors that a court sentencing an offender for a misdemeanor must consider in determining the appropriate sentence for the offense so that, in addition to the factors and information that currently must be considered, the court must consider:⁴

(1) Whether the offender has an emotional, mental, or physical condition that is traceable to the offender's service in the armed forces of the United States and that was a contributing factor in the offender's commission of the offense or offenses;

(2) Whether the offender has rendered service in the armed forces of the United States in a clearly exceptional manner.

Background

Misdemeanor Sentencing Law purposes and principles of sentencing

Existing law, unchanged by the bill, provides the following purposes and principles of misdemeanor sentencing:⁵

(1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Revised Code, or of any municipal ordinance that is substantially similar to a misdemeanor or minor misdemeanor violation of a provision of the Revised Code, is to be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court must consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.

² R.C. 2929.24 to 2929.28, not in the bill.

³ R.C. 2929.22(B) to (D).

⁴ R.C. 2929.22(B)(1)(f) and (g).

⁵ R.C. 2929.21, not in the bill.

(2) A sentence imposed for a misdemeanor or minor misdemeanor violation of a Revised Code provision or for a violation of a municipal ordinance that is subject to the provisions described in (1), above, must be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing described in that paragraph, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.

(3) A court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor violation of a Revised Code provision or for a violation of a municipal ordinance that is subject to the provisions described in (1), above, cannot base the sentence upon the race, ethnic background, gender, or religion of the offender.

(4) The provisions described in (1) and (2), above, do not apply to any offense that is disposed of by a Traffic Violations Bureau of any court and do not apply to any violation of any provision of the Revised Code that is a minor misdemeanor and that is disposed of without a court appearance. The provisions described in (1) to (3), above, do not affect any penalties established by a municipal corporation for a violation of its ordinances.

Factors and information a court must consider in imposing sentence for a misdemeanor

Currently, in determining the appropriate sentence for a misdemeanor, the court must consider all of the following factors: (1) the nature and circumstances of the offense or offenses, (2) whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense, (3) whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences, (4) whether the victim's youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious, and (5) whether the offender is likely to commit future crimes in general, in addition to the circumstances described in clauses (2) and (3) of this paragraph. This is the list of factors the bill expands.⁶

Also, unchanged by the bill, in determining the appropriate sentence for a misdemeanor, in addition to complying with the provisions described in the preceding

⁶ R.C. 2929.22(B)(1).

paragraph, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing described above in "**Misdemeanor Sentencing Law purposes and principles of sentencing.**"⁷

Currently, unchanged by the bill, before imposing a jail term as a sentence for a misdemeanor, a court must consider the appropriateness of imposing a community control sanction or a combination of community control sanctions under R.C. 2929.25, 2929.26, 2929.27, and 2929.28. A court may impose the longest jail term authorized under R.C. 2929.24 only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future crime. A sentencing court must consider any relevant oral or written statement made by the victim, the defendant, the defense attorney, or the prosecuting authority regarding sentencing for a misdemeanor.⁸

HISTORY

ACTION	DATE
Introduced	04-18-12

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⁷ R.C. 2929.22(B)(2).

⁸ R.C. 2929.22(C) and (D)(1).

