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## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. K. Miller

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### SUMMARY

- Modifies the penalties for failure to comply with an order or signal of a police officer.
- Requires the court to suspend the offender's driver's license and allows the court to grant limited driving privileges.
- Specifies that a motor vehicle used in committing the offense is subject to seizure and forfeiture.

### DETAILED ANALYSIS

#### Failure to comply with an order or signal of a police officer

##### Offense

Under current law, the offense of "failure to comply with an order or signal of a police officer" prohibits a person from doing either of the following:<sup>1</sup>

1. Failing to comply with any lawful order or direction of any police officer invested with authority to direct, control, or regulate traffic;
2. Operating a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

<sup>1</sup> R.C. 2921.331(A), (B), and (C)(1).

## Penalties

### **Failing to comply with a lawful order of a police officer**

The bill retains the current law penalty for a violation of (1) as a first degree misdemeanor.<sup>2</sup>

### **Eluding or fleeing a police officer**

The bill increases the general penalty for a violation of (2) from a first degree misdemeanor to a fourth degree felony.<sup>3</sup>

The bill increases the penalty for a violation of (2) from a fourth degree felony to a third degree felony if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that in committing the offense, the offender was fleeing immediately after the commission of a felony.<sup>4</sup>

The bill retains the current law penalty for a violation of (2) as a third degree felony if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that the operation of the motor vehicle by the offender caused substantial risk of serious physical harm to persons or property.<sup>5</sup>

The bill increases the penalty for a violation of (2) from a third degree felony to a second degree felony if the jury or judge as trier of fact finds by proof beyond a reasonable doubt that the operation of the motor vehicle by the offender was the proximate cause of serious physical harm to persons or property.<sup>6</sup>

Under current law, unchanged by the bill, a police officer pursues an offender for a violation of (2) and if the operation of motor vehicle by the offender caused a substantial risk of or was the proximate cause of serious physical harm to persons or property, the sentencing court, in determining the seriousness of an offender's conduct, must consider the following factors:<sup>7</sup>

- The direction of the pursuit;
- The distance of the pursuit;
- The rate of speed at which the offender operated the motor vehicle during the pursuit;
- Whether the offender failed to stop for traffic lights or stop signs during the pursuit;

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<sup>2</sup> R.C. 2921.331(C)(2).

<sup>3</sup> R.C. 2921.331(C)(3).

<sup>4</sup> R.C. 2921.331(C)(4)(a) and 2929.14(A)(3)(a).

<sup>5</sup> R.C. 2921.331(C)(4)(b) and 2929.14(A)(3)(a).

<sup>6</sup> R.C. 2921.331(C)(5).

<sup>7</sup> R.C. 2921.331(C)(6).

- The number of traffic lights or stop signs for which the offender failed to stop during the pursuit;
- Whether the offender operated the motor vehicle during the pursuit without lighted lights during a time when lighted lights are required;
- Whether the offender committed a moving violation during the pursuit;
- The number of moving violations the offender committed during the pursuit;
- Any other relevant factors indicating that the offender's conduct is more serious than conduct normally constituting the offense.

### **Driver's license suspension**

In addition to any other sanction imposed for a violation of (1) or (2), the bill requires the court to suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privileges. For a felony violation of (2), the court must impose a Class 2 driver's license suspension on the offender (three years to lifetime). For a violation of (1) or a violation of (2) committed prior to the effective date of the bill that was a misdemeanor prior to that date, the court must impose a Class 5 driver's license suspension on the offender (six months to three years). If the offender previously has been found guilty of a violation of (1) or (2), the court must impose a Class 1 driver's license suspension on the offender (lifetime).

Under current law, for a felony violation of (2), the court must impose a Class 2 driver's license suspension on the offender (three years to lifetime). For a violation of (1) or (2), the court must impose a Class 5 driver's license suspension on the offender (six months to three years). If the offender previously has been found guilty of a violation of (1) or (2), the court must impose a Class 1 driver's license suspension on the offender (lifetime).<sup>8</sup>

### **Driving privileges**

The bill allows the court to grant limited driving privileges to the offender on a suspension imposed for a violation of (1) or (2). No judge may suspend the first three years of suspension under a Class 2 driver's license suspension or any portion of the suspension under a Class 1 driver's license suspension of the offender's license, permit, or privilege. Under current law, the driving privileges provisions only applied to a misdemeanor violation of (1) or (2).<sup>9</sup>

### **Forfeiture**

The bill specifies that a motor vehicle used in a violation of (2) is contraband, and is an instrumentality, that is subject to seizure and forfeiture under R.C. Chapter 2981.<sup>10</sup>

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<sup>8</sup> R.C. 2921.331(E).

<sup>9</sup> R.C. 2921.331(E).

<sup>10</sup> R.C. 2921.331(F).

## Definitions

The bill defines “instrumentality” as property otherwise lawful to possess that is used in or intended to be used in an offense. An “instrumentality” may include, but is not limited to, a firearm, a mobile instrumentality, a computer, a computer network, a computer system, computer software, a telecommunications device, money, and any other means of exchange.<sup>11</sup>

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## HISTORY

Action	Date
Introduced	02-28-22

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<sup>11</sup> R.C. 2921.331(G)(3), by reference to R.C. 2981.01.