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H.B. 22
134th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. LaRe and Wilkin

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SUMMARY

- Expands the current prohibition under the offense of “obstructing justice” to include failure to follow a lawful order from a law enforcement officer and enacts two new prohibitions under the offense regarding the diversion, obstruction, or distraction of a law enforcement officer’s attention.

DETAILED ANALYSIS

Obstructing justice

The bill expands the current prohibition under the existing offense of “obstructing justice” and enacts two new prohibitions under the offense.

Failure to follow a lawful order

The bill expands the current prohibition under the offense so that it also prohibits failure to follow a lawful order from a law enforcement officer under certain circumstances. Specifically, the bill’s expansion prohibits a person, with purpose to hinder the discovery, apprehension, prosecution, “conviction, or punishment of another person for crime” (or regarding children, a “delinquent child adjudication or disposition of a child for criminal conduct”) or to assist another to benefit from the “commission of a crime” (or regarding children, from “criminal conduct”), from failing to follow a lawful order from a law enforcement officer. The bill does not otherwise change the current prohibition under the offense, and the special rule for prosecution under the current prohibition applies regarding the bill’s expansion (both the current prohibition and the special rule are described below in “**Current obstructing justice prohibition and rule**”).¹

¹ R.C. 2921.32(A).

Under continuing law, which will be applicable to a violation of the bill's expansion of the current prohibition, the penalty for obstructing justice varies based on the underlying criminal conduct of the other person that the obstructing offender is aiding. If the underlying criminal conduct is a misdemeanor, obstructing justice is a misdemeanor of the same degree as the underlying criminal conduct. If the underlying criminal conduct is a felony that is not covered under the provision described in the next sentence, obstructing justice is a fifth degree felony. But if the underlying criminal conduct is aggravated murder, murder, an act of terrorism, trafficking in persons, or a first or second degree felony, obstructing justice is a first, second, or third degree felony, depending upon the circumstances.²

Diverting, obstructing, or distracting attention of a law enforcement officer

Diverting or obstructing attention of a law enforcement officer

One of the new prohibitions the bill enacts under the offense prohibits a person from doing any of the following to a law enforcement officer in the performance of the officer's duties with reckless disregard as to whether the action diverts or obstructs the officer's attention:³

- Using force or threatening the immediate use of force against the law enforcement officer;
- Interfering with or obstructing a law enforcement officer in a manner that (1) inhibits or restricts the officer's control of a subject or detainee, (2) deprives the officer of control of a subject or detainee, or (3) without the consent of the officer, enters, or places an object or substance into, a space around the officer that is large enough that the officer cannot reach a person outside of the area.

Distracting attention of a law enforcement officer

The second new prohibition the bill enacts under the offense prohibits a person with the intent to distract a law enforcement officer engaged in the performance of the officer's official duties from throwing any object or substance at or onto a law enforcement officer.⁴

Penalty

The penalty for a person who is guilty of obstructing justice under the bill's diverting or obstructing attention prohibition or under its distracting attention prohibition generally is a second degree misdemeanor, but it is a fifth degree felony if the violation causes physical harm to any person.⁵

² R.C. 2921.32(E)(1) to (6).

³ R.C. 2921.32(B).

⁴ R.C. 2921.32(C).

⁵ R.C. 2921.32(E)(7).

Recording a law enforcement officer

The bill adds language stating that nothing in the statute setting forth the offense of obstructing justice is to be construed to prohibit a person from using video or audio recording equipment to record a law enforcement officer in the performance of the officer's duties.⁶

Current obstructing justice prohibition and rule

The current prohibition under the offense of "obstructing justice," unchanged by the bill except for the expansion described above, prohibits a person, with purpose to hinder the discovery, apprehension, prosecution, "conviction, or punishment of another person for crime" (or regarding children, a delinquent child adjudication or disposition of a child for criminal conduct) or to assist another to benefit from the "commission of a crime" (or regarding children, from "criminal conduct"), from doing any of the following: (1) harboring or concealing the other person or child, (2) providing the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension, (3) warning the other person or child of impending discovery or apprehension, (4) destroying or concealing physical evidence of the crime or act, or inducing any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence, (5) communicating false information to any person, or (6) preventing or obstructing any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.⁷

Current law, unchanged by the bill, specifies that a person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of the prohibition described in the preceding paragraph regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed is used in determining the penalty for the violation, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. This will be applicable to the bill's expansion, described above, of the prohibition.⁸

⁶ R.C. 2921.32(F).

⁷ R.C. 2921.32(A)(1) to (6).

⁸ R.C. 2921.32(D).

HISTORY

Action	Date
Introduced	02-03-21
Reported, H. Criminal Justice	06-24-21
Passed House (61-33)	06-25-21
