



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Dennis M. Papp

S.B. 316

131st General Assembly
(As Introduced)

Sens. Hughes, Hite

BILL SUMMARY

- Increases the jail term for sexual imposition when the offender has three more previous convictions of sexual imposition or another specified sex offense, requires the jail term to be served consecutively to any other term, and provides for imposition of a reimbursement sanction upon the offender.

CONTENT AND OPERATION

Sexual imposition penalty – three or more qualifying prior sex offense convictions

Increased jail term

Currently, the offense of "sexual imposition" generally is a third degree misdemeanor (a possible jail term of not more than 60 days), but it is a first degree misdemeanor (not more than 180 days) if the offender previously has been convicted of a specified qualifying sex offense (the qualifying sex offenses are "sexual imposition," "rape," "sexual battery," "unlawful sexual conduct with a minor," "gross sexual imposition," or the former offense of "felonious sexual imposition"). The bill adds an additional penalty tier for a person who previously has been convicted three or more times of any of the qualifying sex offenses. Under the bill, sexual imposition generally is a third degree misdemeanor, but it is a first degree misdemeanor if the offender previously has been convicted of any of the qualifying sex offenses, and it is an unclassified misdemeanor with the court being authorized to impose a jail term of not

more than one year if the offender previously has been convicted three or more times of any of the qualifying sex offenses (see **COMMENT**).¹

Consecutive service of jail term

Currently, a jail term generally is served concurrently with any other prison term or jail term, but the court sentencing an offender to a jail term for a misdemeanor may specify that term is to be served consecutively to any other prison term or jail term. The bill specifies that a jail term imposed for sexual imposition on an offender who previously has been convicted three or more times of any of the qualifying sex offenses must be served consecutively to any other prison term or jail term and that the term to be served is the aggregate of the consecutive terms imposed.²

Reimbursement sanction

Currently, if a person is sentenced to a jail term for a first, second, third, or fourth degree misdemeanor, the court may impose a reimbursement sanction as part of the sentence. If the local detention facility in which the term is to be served is covered by a specified type of policy, special collection procedures apply regarding payment of the costs of confinement. The bill expands these provisions so that they also apply when an offender convicted of sexual imposition who previously has been convicted three or more times of any of the qualifying sex offenses is sentenced to a jail term under the bill.³

Background

Sexual imposition prohibitions

The prohibitions under the offense of "sexual imposition" prohibit a person from having sexual contact with another, not the spouse of the offender; causing another, not the spouse of the offender, to have sexual contact with the offender; or causing two or more other persons to have sexual contact when any of the following applies: (1) the offender knows that the contact is offensive to the other person, or one of the other persons, or is reckless in that regard, (2) the offender knows that the other person's, or one of the other person's, ability to appraise the nature of or control the conduct is substantially impaired, (3) the offender knows that the other person, or one of the other persons, submits because of being unaware of the contact, (4) the other person, or one of the other persons, is age 13 or older but less than age 16, whether or not the offender

¹ R.C. 2907.06(C).

² R.C. 2929.41(B)(1).

³ R.C. 2929.24(D).



knows the age of such person, and the offender is at least age 18 and four or more years older than that other person, or (5) the offender is a mental health professional, the other person or one of the other persons is a client or patient of the offender, and the offender induces that other person to submit by falsely representing to that person that the contact is necessary for mental health treatment purposes.⁴

Reimbursement sanction

A misdemeanor reimbursement sanction is a type of financial sanction. The court sentencing an offender for a misdemeanor may require the offender to make reimbursement of any or all of the costs of sanctions incurred by the government, including all or part of the costs of confinement in a jail or other residential facility, including a *per diem* fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined. Reimbursement ordered under this provision is a judgment in favor of the entity operating the jail or other residential facility, and the offender is the judgment debtor. The amount of reimbursement ordered may not exceed the total amount of reimbursement the offender is able to pay and may not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay. The manner of payment of reimbursement ordered is specified. Other reimbursement orders may be imposed for the costs of implementing any community control sanction or the costs of purchasing and using a vehicle immobilizing or disabling device or a remote alcohol monitoring device.⁵

COMMENT

Because the bill makes sexual imposition an unclassified misdemeanor with the court being authorized to impose a jail term of not more than one year if the offender previously has been convicted three or more times of any of the qualifying sex offenses, it is unclear whether the existing misdemeanor fine provisions will apply when an offender is convicted of the offense in the specified circumstances. Under the Misdemeanor Sentencing Law, fines are specified for first, second, third, and fourth degree misdemeanors and minor misdemeanors.⁶ A statute setting forth an offense may provide a specific fine for the offense, but the bill does not provide such a fine for the unclassified sexual imposition offense.

⁴ R.C. 2907.06(A).

⁵ R.C. 2929.28, not in the bill.

⁶ R.C. 2929.28, not in the bill.

HISTORY

ACTION

DATE

Introduced

04-20-16

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