



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Jeff Hobday

Sub. S.B. 33*

132nd General Assembly
(As Reported by H. Criminal Justice)

Sens. Eklund, Huffman, Terhar, Yuko, Williams, Skindell, Hoagland, Hite, Bacon, Coley, Thomas, O'Brien, Burke, Hackett, Lehner, Manning, Obhof, Oelslager, Schiavoni, Tavares, Uecker, Wilson

BILL SUMMARY

- Allows disclosure of information from LEADS (the Law Enforcement Automated Data System) to a defendant in a traffic or criminal case, subject to possible redaction upon court order of certain personally identifying information of a witness, law enforcement officer, or prosecutor.
- Permits a state highway patrol trooper to administer oaths and acknowledge criminal and juvenile court documents in matters related to the trooper's official duties on completing an approved course of in-service training.
- Allows a court to continue an offender on intervention in lieu of conviction (ILC) when the offender has failed to comply with its terms and conditions, continue the offender on ILC with additional terms and conditions, or enter a finding of guilty.

CONTENT AND OPERATION

Traffic or criminal case defendant access to information in LEADS

Disclosure of information to defendant

The bill authorizes the disclosure of information contained in LEADS (the Law Enforcement Automated Data System – see below) to a traffic or criminal case defendant, or the defendant's counsel, in three circumstances. The bill specifies that:¹

* This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ R.C. 5503.101(A), (B), (C), and (F).

(1) Notwithstanding any Revised Code section or rule of procedure to the contrary, a defendant's traffic or criminal record contained in LEADS may be disclosed to the defendant and the defendant's counsel when formally requested pursuant to the rules of discovery in such a case.

(2) Copies of information obtained from LEADS under the authorization described above in (1) may be provided to the defendant and the defendant's counsel when formally requested pursuant to the rules of discovery in a traffic or criminal case.

(3) Upon a motion made by a prosecutor, the court hearing a traffic or criminal case may order the redaction from information to be disclosed or provided as described above in (1) or (2) pursuant to the rules of discovery in the case of the residential address, date of birth, Social Security number, and photograph of any witness, law enforcement officer, or prosecutor.

(4) The defendant's counsel may disclose, copy, and provide to the defendant any information about the defendant's own traffic or criminal record obtained by discovery from LEADS.

Restriction against State Highway Patrol sanctioning or denying LEADS access

The bill specifies that the Superintendent of the State Highway Patrol or any person employed by the Superintendent to carry out the purposes of the statute governing LEADS (see below) may not sanction or deny access to LEADS to any person or entity because that person or entity provided discovery information in the manner authorized by the bill.²

Restriction against denial of discovery based on information being in LEADS

Under the bill, the fact that information sought in discovery is contained in LEADS may not be cited or accepted as a reason for denying discovery to the defendant of the defendant's own traffic or criminal record.³

² R.C. 5503.101(E).

³ R.C. 5503.101(G).



Prosecutorial immunity for disclosing LEADS information under bill

The bill provides that, notwithstanding R.C. 2913.04 and 2923.129, no prosecutor or person assisting a prosecutor in providing discovery may be held civilly or criminally liable for disclosing information from LEADS in the manner authorized by the bill.⁴ The sections the bill "notwithstands" provide as follows:

(1) R.C. 2913.04 contains four distinct prohibitions. The prohibition most relevant to the bill's provisions is under the offense of "unauthorized use of the law enforcement automated database system." It prohibits a person from knowingly gaining access to, attempting to gain access to, causing access to be granted to, or disseminating information gained from access to LEADS without the consent of, or beyond the scope of the express or implied consent of, the LEADS steering committee. A violation of the prohibition is a fifth degree felony.⁵ Two other prohibitions under the section, which do not expressly refer to LEADS but which also could be relevant to the bill's provisions in certain circumstances, prohibit a person from knowingly using or operating another's property without the consent of the owner or person authorized to give consent or knowingly gaining access to, attempting to gain access to, or causing access to be gained to, any computer or any specified computer-related item or specified cable, telecommunications, or information item without the consent of, or beyond the express or implied consent of, the owner or person authorized to give consent.⁶

(2) R.C. 2923.129, in relevant part, authorizes law enforcement agencies to use the information a sheriff makes available through the use of LEADS under the Concealed Handgun Licensing Law (e.g., information contained on a standard or temporary emergency concealed handgun license that will be issued, and the fact of the suspension, revocation, loss, or destruction of such a license) for law enforcement purposes only. The information is confidential and is not a public record. A person who releases or otherwise disseminates this information obtained through LEADS in a manner not described in this paragraph is guilty of a violation of R.C. 2913.04, described above in (1). Any person harmed by a violation of R.C. 2913.04 based on such a release or dissemination has a private cause of action against the offender for any injury, death, or loss to person or property that proximately results from the violation and may recover court costs and attorney's fees related to the action.⁷

⁴ R.C. 5503.101(D); also R.C. 2913.04 and 2923.129.

⁵ R.C. 2913.04(C) and (H).

⁶ R.C. 2913.04(A) and (B).

⁷ R.C. 2923.129(D) and (E).



Establishment and operation of LEADS

The Revised Code created LEADS in the Department of Public Safety, Division of State Highway Patrol, to provide computerized data and communications to the various criminal justice agencies of the state. The program is administered by the Superintendent of the State Highway Patrol. The Superintendent is required to adopt, and has adopted, rules establishing fees and guidelines for the operation of and participation in LEADS and including criteria for granting and restricting access to information maintained in LEADS. The Superintendent is required to appoint, and has appointed, a steering committee to provide advice in the operation of LEADS, comprised of persons who are representative of the Ohio criminal justice agencies that use the system.⁸ Among the rules that the Superintendent has adopted are rules that provide for the steering committee, govern participation in LEADS, specify LEADS points of contact, govern LEADS information dissemination and recordkeeping, and provide for LEADS audits.⁹

Authority of state highway patrol troopers to administer oaths

The bill permits a state highway patrol trooper to administer oaths and acknowledge certain criminal and juvenile court documents in matters related to the trooper's official duties after completing a course of in-service training approved by the Director of Public Safety. The course must include training in the administration of oaths and the acknowledgement of documents. Under current law, only a peace officer who has received appropriate training, other than the Superintendent of the State Highway Patrol or any highway patrol trooper, may administer oaths and acknowledge such court documents.¹⁰

Intervention in lieu of conviction

Under the bill, if an offender participates in intervention in lieu of conviction (ILC) and fails to comply with its terms and conditions, a court may continue the offender on ILC, continue the offender on ILC with additional terms, conditions, and sanctions, or enter a finding of guilty and impose an appropriate sanction. Under current law, the court's only option is to enter a finding of guilty and impose sanctions.¹¹

⁸ R.C. 5503.10, not in the bill.

⁹ O.A.C. Chapter 4501:2-10, not in the bill.

¹⁰ R.C. 2935.081.

¹¹ R.C. 2951.041(F).



HISTORY

ACTION	DATE
Introduced	02-06-17
Reported, S. Judiciary	03-22-17
Passed Senate (33-0)	04-05-17
Reported, H. Criminal Justice	---

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