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S.B. 265
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Kunze

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SUMMARY

- Increases the penalties for a domestic violence offense when the victim was a functionally impaired person at the time of the violation.
- Subjects the increased penalties to current law penalty enhancements that are based on certain prior convictions or guilty pleas and other special circumstances.

DETAILED ANALYSIS

Functionally impaired domestic violence victim-penalty increase

The bill increases the penalty for the offense of domestic violence when the victim was a functionally impaired person at the time of the violation. Under continuing law, a person who violates any of the following prohibitions is guilty of domestic violence:

1. No person shall knowingly cause or attempt to cause physical harm to a family or household member.
2. No person shall recklessly cause serious physical harm to a family or household member.
3. No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.¹

The bill requires a court to sentence a domestic violence offender, except as provided in certain situations (see below, “**Penalty enhancements**”), as follows:

¹ R.C. 2151.25(A) to (D)(1).

Penalties for domestic violence offenses		
Offense	Violation	Penalty
Domestic violence under continuing law. ²	Prohibition 1 or 2 (above).	First degree misdemeanor.
	Prohibition 3 (above).	Fourth degree misdemeanor.
Domestic violence when victim was a functionally impaired person under the bill. ³	Prohibition 1 or 2 (above).	Fourth degree felony.
	Prohibition 3 (above).	Third degree misdemeanor.

The bill defines a “functionally impaired person” as any person who has a physical or mental impairment that prevents him from providing for his own care or protection or whose infirmities caused by aging prevent him from providing for his own care or protection.⁴

Penalty enhancements

Continuing law imposes enhanced penalties for the offense of domestic violence if the offender has certain prior criminal convictions or guilty pleas or knew the victim was pregnant at the time of violation. The enhanced penalties also apply under the bill to an offense of domestic violence against a functionally impaired person. The enhanced penalties are as follows:

Penalty enhancement for domestic violence		
Prior conviction or guilty plea	Violation	Enhanced penalty
Prior Situation A. Offender previously has pleaded guilty to or been convicted of (1) domestic violence, (2) violating an existing or former municipal ordinance or law of this or any other U.S. state that is substantially similar to domestic violence, or (3) negligent assault, criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, or endangering children, violating an existing or former municipal ordinance or law of this or any other U.S. state that is substantially similar to any of those offenses, or any offense of violence, if the victim was a family or	Prohibition 1 or 2 (above) .	<ul style="list-style-type: none"> ▪ Fourth degree felony; and ▪ If the offender knew the victim was pregnant at time of violation, a mandatory prison term (described in statute and based on the circumstances).
	Prohibition 3 (above).	Second degree misdemeanor.

² R.C. 2919.25(D)(2)(a).

³ R.C. 2919.25(D)(2)(b).

⁴ R.C. 2919.25(F)(5); R.C. 2903.10, not in the bill.

Penalty enhancement for domestic violence		
Prior conviction or guilty plea	Violation	Enhanced penalty
household member at the time of the violation's commission. ⁵		
Prior Situation B. Offender previously has pleaded guilty to or been convicted of two or more offenses listed under Prior Situation A (above), if the victim was a family or household member at the time of the violation's commission. ⁶	Prohibition 1 or 2 (above).	<ul style="list-style-type: none"> ▪ Third degree felony; and ▪ If the offender knew the victim was pregnant at time of violation, a mandatory prison term (described in statute and based on the circumstances).
	Prohibition 3 (above).	First degree misdemeanor.
Except as otherwise provided in Prior Situation A or B (above), the offender knew the victim was pregnant at the time of violation. ⁷	Prohibition 1 or 2 (above).	Fifth degree felony and a mandatory prison term (described in statute and based on the circumstances).
	Prohibition 1 (above).	Third degree misdemeanor.

HISTORY

Action	Date
Introduced	01-28-20

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⁵ R.C. 2919.25(D)(3) and (6).

⁶ R.C. 2919.25(D)(4) and (6).

⁷ R.C. 2919.25(D)(5) and (6).