



SB 288

The Association of Mayor's Court Clerks of Ohio
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Senate Bill 288

Introduced 2-2-2022

Signed by Governor 1-3-2023

Effective 4-4-2023

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- 499 Pages
 - Gross sexual imposition
 - Petty theft –changed to misdemeanor theft
 - Offense of strangulation
 - Disturbing a lawful meeting when it involves religious worship
 - Engaging in prostitution with a person with a developmental disability
 - Illegal use or possession of drug paraphernalia –exclusion of fentanyl drug testing strips
 - Aggravated vehicular homicide –five-year prison term if victim is firefighter or emergency medical worker
 - Mandatory reporter’s failure to report adult abuse, neglect, or exploitation
 - Sexual assault examination kits
 - Criminal statute of limitations for conspiracy or attempt to commit, or complicity in committing, aggravated murder or murder
 - SORN Law duties based on an unlawful sexual conduct with a minor conviction
 - Controlled substance “Good Samaritan” provisions
 - Victims of specified offenses –cannot be required to reimburse for law enforcement costs

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- Entry and removal of certain warrants into LEADS as extradition warrants
- County correctional officers carrying firearms
- Correctional and youth services employee body-worn camera recordings
- Law enforcement investigative notes in coroner's possession
- Local correctional facility inmate's access to, use of, internet
- Civil protection orders –stalking protection order “family or household member” definition
- Electronic monitoring of respondent under juvenile court or civil stalking protection order or of violator of an order
- Searches regarding convicted offender under supervision
- Intervention in lieu of conviction supervision
- Judicial release
- Grand jury inspection of local correctional facility
- Prison term for repeat OVI offender specification
- Speedy Trial Law –trial of a charged felon
- Criminal record sealing and expungement, in general

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- Youthful offender parole review
- Earned credits
- Transitional control and application of judicial veto
- New licensing collateral sanction limitation
- Certificate of qualification for employment
- Transfer of a child's "case" pursuant to a mandatory or discretionary bindover
- Department of Youth Services
- Fraudulent assisted reproduction or assisted reproduction without consent
- Ethics Law violations
- Chief justice of the court of appeals
- Solicitor General and Tenth Amendment Center
- Elder Abuse Commission –expansion of members
- Emergency award for funeral expenses for crime victims
Instruction and in-service training in child sexual abuse prevention and sexual violence prevention

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THINGS WE ACTUALLY CARE ABOUT

- Criminal record sealing and expungement, in general
- Sealing or expungement of low-level (MM or M4) controlled substance offense on prosecutor's request
- Illegal use or possession of marijuana drug paraphernalia
- Operating a vehicle while impaired (OVI and OVUAC) and traffic law changes
- Texting while driving vs. hands-free law
- Underage drinking penalty

Sealing or expungement of low-level (MM or M4) controlled substance offense on prosecutor's request

- The **prosecutor may file the application** with respect to the offense that is the subject of the application at any time after the expiration, with respect to that offense and the subject offender, of the corresponding period of time specified with respect to the filing of an application by an offender, as described above in “Criminal record sealing and expungement, in general,” for sealing or expungement applications under the mechanism regarding offender applications.
- In that it allows the **involved court to direct the clerk of the court to waive some or all of the fee (which cannot exceed \$50), including court fees,** that otherwise would be charged for the filing of such a request.

Illegal use or possession of marihuana drug paraphernalia

- Specifies that arrest or conviction for a violation of “illegal use or possession of marihuana drug paraphernalia does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquires about the person’s criminal record.
- Repeals a provision that authorizes the court to suspend for not more than five years the driver’s or commercial driver’s license or permit of an offender convicted of committing the offense.
- Removes a conviction for the offense from a list of disqualifying events with respect to certain categories of service, employment, licensing, or certification.

Operating a vehicle while impaired (OVI and OVUAC) and traffic law changes

- The act expands the scope of the OVI that law by including a “harmful intoxicant” as a “drug of abuse” for purposes of that law. As a result of this expansion, the OVI prohibition against operating a vehicle while under the influence of a “drug of abuse” also will apply with respect to a “harmful intoxicant.”
- The act allows a person to assert that the person was driving due to a substantial emergency and that no other person was reasonably available to drive as an affirmative defense to the following offenses.

Operating a vehicle while impaired (OVI and OVUAC) and traffic law changes

Enhanced Penalties For Speeding Violations

Continuing law establishes an “enhanced penalty” that applies to certain speeding offenses. Specifically, the penalty applies if the offender operated a motor vehicle faster than:

1. 35 miles per hour (“MPH”) in a business district (a 25 MPH zone);
2. 50 MPH in other portions of a municipal corporation (generally a 35 MPH zone);
3. 35 MPH in a school zone during a time when the 20 MPH speed limit is in effect.

The “enhanced penalty” is a fourth degree misdemeanor.

The act expands the scope of the “enhanced penalty” so that it applies when a speeding offender otherwise would be subject to a minor misdemeanor for a standard speeding offense.

Texting while driving vs. hands-free law

- Electronic Wireless Communications Device (EWCD)
 - Broadens the texting-while-driving prohibition to prohibit a person from using, holding, or physically supporting an EWCD while operating a motor vehicle, trackless trolley, or streetcar.
 - Makes the EWCD-while-driving prohibition a primary offense.
 - Changes the preexisting minor misdemeanor penalty for texting while driving to an unclassified misdemeanor for the new EWCD-while-driving prohibition with increasing tiered penalties for violations within a two-year period.
 - Prohibits a law enforcement officer from stopping a driver for an EWCD violation unless the officer observes the driver using, holding, or physically supporting the EWCD.
 - Prohibits an officer from seizing and searching a person's EWCD when stopped for a violation of the EWCD-while-driving prohibition unless the officer has a warrant or the person voluntarily and unequivocally consents to the search.

Texting while driving vs. hands-free law

- The act specifies that violation of its EWCD-while-driving prohibition is a **strict liability offense**.
- The act changes the penalty to an **unclassified misdemeanor, with tiered penalties**, as follows:
 1. For a first offense: a fine of up to \$150 and 2 points on the offender's driver's license;
 2. For a second offense within two years: a fine of up to \$250 and 3 points on the offender's driver's license;
 3. For a third or subsequent offense within two years: a fine of up to \$500 and 4 points on the offender's driver's license. In addition to the fine, the court may impose a 90-day driver's license suspension on the offender.
 4. Related to the fines, the court must double the fine if the offender was driving in an active construction zone at the time of the offense.

Texting while driving vs. hands-free law

Specifies that for the **first six months after April 4, 2023, a law enforcement officer may only issue a written warning** to a driver for violating the EWCD-while-driving prohibition, but may fully enforce the prohibition after that interim

Underage drinking penalty

- Reduces the penalty for an underage drinking offense from a first degree misdemeanor to a third degree misdemeanor.



Questions?