



# *ENACTMENT NEWS*

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## **Senate Bill 143** **Criminal Law**

Senate Bill 143 (Seitz), which was signed by the Governor on June 20, 2014, will become effective on September 19, 2014. The expansive bill generally revises criminal law and juvenile law across a variety of topics.

Community Alternative Sentencing Centers: Municipal corporations are authorized to establish such centers, in the same manner as Boards of County Commissioners. (307.932(B)(3), (F)(4))

PSIs: A presentence investigation report is not required for judicial release. (2929.20(G))

Transitional Control:

- For sentences of an aggregate of more than 2 years, a judge no longer has a judicial veto over a transitional control determination. For sentences of 2 years or less, the court can still exercise its judicial veto. (2967.26(A)(2))
- A sentencing court is required to consider commission of a felony while on transitional control as indicating a likelihood of committing future crimes and can impose an additional sentence of up to one year. (2929.12(D)(1), 2929.141(B))

Criminal Record-Sealing:

- An "eligible offender" who may apply for sealing is a person who has been convicted of two misdemeanors, regardless of whether they are, or are not, of the same offense (2953.31(A)) (this is different from current law, which requires the misdemeanors to be of two different offenses).
- A person charged with multiple offenses in connection with the same act and that end in non-convictions may apply for the sealing of a single motor vehicle offense, if:
  - The motor vehicle offense is also in connection with the same act as the criminal offenses that ended in non-convictions and
  - The motor vehicle offense is not an OVI or a test refusal. (2953.61)
- When a person seals a motor vehicle offense, the sealing has no impact on points or suspensions associated with that motor vehicle offense. (2953.32(D)(13) and (I))
- A person may request the sealing of multiple records in one application and for one fee. (2953.32(C)(3))

Prison Nursery Program: The bill increases inmate participation in the prison nursery program by allowing participants to have maximum sentences of up to 3 years (currently 18 months). (5120.651)

Court-Ordered Community Service: The bill removes the cap of 40 hours per month and gives the court discretion in setting the amount of credit for community service ordered for a criminal offender who fails to pay a cost judgment or to timely make payment toward that judgment. (2947.23)

Court-Ordered HIV Testing:

In cases of rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, soliciting, prostitution, the former offense of felonious sexual penetration, or felonious assault, the court must cause the offender to submit to an HIV test if requested to do so by the victim, the prosecutor, or another person with agreement from the prosecutor:

- This is now true in cases of violation of any statute or municipal ordinance in which the victim was compelled to engage in sexual activity by force or threat of force
- If ordering an HIV test, the court must ensure the test is administered within 48 hours after the indictment, information, or complaint is presented. The court must order follow-up tests for HIV if medically appropriate. The results of a test or follow-up test must be provided as soon as practicable to the victim, or the parent or guardian of the victim, and the accused.
- If the court reasonably believes that another person had contact with the accused and could have contracted HIV, the court may inform that person that the test was performed and that the person has a right to receive the results of the test.
- If the HIV test is positive, the results must be reported to the Department of Health, the sheriff, the head of the state correctional institution (or other person in charge of any jail or prison in which the accused is incarcerated), and, in some cases, the arresting law enforcement agency.

CQEs: Authorizes a court that receives a petition for a Certificate of Qualification for Employment to direct the clerk of the court to process and record all required notices. (2953.25(B)(5)(b))

Registration Block:

- Warning notices are no longer required before a court notifies the Registrar of Motor Vehicles to block the registration or transfer of registration of motor vehicles of a criminal defendant who fails to appear in court or to pay fines or costs when due.
- This applies to municipal courts, county courts, mayor's courts, and courts of common pleas, including juvenile courts. (1901.44(B), 1905.22(B), 1907.25(B), and 2947.09(A))

Proof of Financial Responsibility:

If a person is convicted of driving under suspension, driving under financial-responsibility-law suspension or cancellation, or driving under a nonpayment of judgment suspension, or an M4 motor vehicle offense,

- The offender must provide proof of financial responsibility to the court and
- The court may order restitution not to exceed \$5,000 if the person fails to provide the proof of financial responsibility. (4510.111(C) and 4510.16(D))

Juvenile Record-Sealing/Release of Records by BCI:

- Permits the Attorney General to authorize the release of information possessed by BCI relating to the adjudication of a child as a delinquent child if not more than five years have passed since the adjudication, the adjudication was for an act that would have been a felony if committed by an adult, and the records of the adjudication have not been sealed or expunged. (109.57, 109.572, 109.578)
- If a juvenile attains 18 years of age and either has been discharged from DYS, has had his order terminated, or has been determined to no longer be a juvenile offender registrant, the juvenile may petition to have his record sealing without waiting 6 months. (2151.356(C)(1))
- When a juvenile court orders the records of a person sealed and sends notice of the sealing order to public offices and agencies, the notice must be sent to BCII if the court has reason to believe that BCII may have a record of the sealed record.

#### Juvenile Courts:

- A court may order an alleged or adjudicated delinquent child who is at least 18 but younger than 21 to an adult detention facility if the judge determines that such placement is in the child's best interests. (2152.26(F))
- A court that commits a child to the Department of Youth Services (DYS) for a violation of supervised release may commit the child for a period of time determined by the court, which must be for at least 90 days. (5139.52(F),(G)) DYS is required to assess and provide programming for a returned child.