

Senate Bill 337 (Collateral Sanctions)
Summary of Provisions Impacting Juvenile and Domestic Relations Courts

Changes to Detention Procedures

General Considerations

- Amends the definition of “child” in the following ways:
 - 1) Provides that a person whose case is transferred to adult criminal court is deemed not to be a “child” only after a conviction or guilty plea; grants the juvenile court continuing jurisdiction in such a case for the sole purpose of detention until after a conviction or guilty plea. (R.C. 2152.02).
 - 2) Provides that a person who is adjudicated a delinquent child or juvenile traffic offender is, for the purposes of detention, a “child” until they attain age 21; authorizes the court to detain such a person in an adult facility only if a disposition in the case is entered after the person turns 21. (R.C. 2152.02).
- Requires a facility that receives a person who is charged with a violation of a juvenile court order, or probation or parole conditions imposed by a juvenile court, and who appears to be between the ages of 18 and 21, to inform the court and to deliver the person to the court upon request or transfer the person to a detention facility designated by the court. (R.C. 2152.26).

When to Hold a Child in a Place Designated Solely for the Confinement of Children

- Generally requires the court to hold a child whose case has been transferred for criminal prosecution only in a place designated solely for the confinement of children until after a conviction or guilty plea. (R.C. 2152.26)
- Generally requires a juvenile court that orders a juvenile delinquent or juvenile traffic offender to be detained, to detain that juvenile in a place designated solely for the confinement of children up to the age of 21. (R.C. 2152.02 and 2152.26).

When to Hold a Person in an Adult Facility

- Authorizes the court to hold a person who has been adjudicated a delinquent child or juvenile traffic offender, or who has had their case transferred to adult criminal court and is awaiting criminal prosecution, in an adult facility if a disposition in the case is entered after the person reaches age 21. (R.C. 2152.26).
- Authorizes the court to hold a person who is alleged to be a delinquent child for committing an act that would be a felony if committed by an adult in an adult facility if the person attains age 21 before arrest or apprehension or if the person attains 21 after arrest or apprehension but before disposition. (R.C. 2152.26).

When to Transfer a Person From a Facility for Children to an Adult Facility

- Authorizes the juvenile court, under the circumstances described below, to order the physical transfer to an adult facility of any person who:
 - (1) Is being held in a juvenile detention facility and who has had their case transferred to adult criminal court and is awaiting criminal prosecution or
 - (2) Is between the ages of 18 and 21 and is being held in a place designated solely for the confinement of children. (R.C. 2152.26)
- Authorizes the juvenile court to order a person described above to be physically transferred to an adult facility only if the person presents a threat to the safety and security of the facility. (R.C. 2152.26)
- Provides that evidence that a person is a threat includes, but is not limited to, whether the person has:
 - (1) Injured or created an imminent danger to the life or health of another youth or staff member in the facility or program by violent behavior;
 - (2) Escaped from the facility or program in which the youth is being held more than once;
 - (3) Established a pattern of disruptive behavior as verified by a written record that the youth's behavior is not conducive to the policies and procedures of the facility or program. (R.C. 2152.26)

Procedure for Transferring a Person to an Adult Facility

- Authorizes the juvenile court to order a person described above to be physically transferred to an adult facility if:
 - (1) Upon the court's own motion or upon a motion of the prosecutor;
 - (2) After notice and a hearing;
 - (3) Based upon a preponderance of the evidence;
 - (4) The court makes written findings that the youth is a threat to the safety and security of the facility. (R.C. 2152.26)
- Requires the court to hold a hearing on such a motion within 5 days. (R.C. 2152.26)
- Requires the court to consider the following factors when determining whether to order a person to be physically transferred:
 - (1) The age of the person;
 - (2) Whether the person would be deprived of contact with other people for a significant portion of the day or would not have access to recreational facilities or age-appropriate educational opportunities in order to provide physical separation from adults;
 - (3) The person's current emotional state, intelligence, and developmental maturity, including any emotional and psychological trauma, and the risk to the person in an adult facility, which may be evidenced by mental health and psychological assessments or screenings made available to the prosecuting attorney and the defense counsel;
 - (4) Whether detention in a juvenile facility would adequately serve the need for community protection pending the outcome of the criminal proceeding;

- (5) The relative ability of the of the available adult and juvenile detention facilities to meet the needs of the person, including the person's need for age appropriate mental health and educational services delivered by individuals specifically trained to deal with youth;
- (6) Whether the person presents and imminent risk of harm to others within a juvenile facility;
- (7) Any other factors the juvenile court considers to be relevant (R.C. 2152.26).

After Transfer to an Adult Facility

- Authorizes a juvenile who has been physically transferred to an adult facility to petition the juvenile court for a review hearing every 30 days or at any time upon an emergency petition if the youth is facing an imminent danger from self or others. (R.C. 2152.26).
- Authorizes the juvenile court, upon receipt of such a petition, to conduct a review hearing; requires the youth to allege facts or circumstances that, if true, would warrant reconsideration of the youth's placement. (R.C. 2152.26).
- Requires the adult facility in which such a youth is being held to confine the youth in a manner that keeps them beyond sight and sound of all adult detainees; requires the facility to supervise such a youth at all times during the detention. (R.C. 2152.26).

Driving Privileges – Contempt for Failure to Pay Child Support

- Requires a court, when issuing a summons for contempt for failure to pay any support ordered for a child, spouse, or former spouse, to include in the summons notice that the court may grant limited driving privileges:
 - (1) Upon a request made by the accused;
 - (2) If the driver's license was administratively suspended by a CSEA; and
 - (3) If the request is accompanied by a recent noncertified copy of a driver's abstract from the registrar of motor vehicles. (R.C. 2705.031)
- Authorizes a court, during an action for contempt initiated under R.C. 2705.031, to grant driving privileges to an individual who has had his or her license administratively suspended for failure to pay support. (R.C. 3123.58).
- Authorizes the court to grant limited driving privileges, under the circumstances described above, for any of the following reasons:
 - (1) Occupational, educational, vocational, or medical purposes;
 - (2) Taking the driver's or commercial driver's license examination;
 - (3) Attending court ordered treatment. (R.C. 3123.58)
- Requires the court to request the accused to provide the court with a recent noncertified copy of a driver's abstract from the registrar of motor vehicles. (R.C. 3123.58).
- Requires the court to request the child support enforcement agency that issued the notice that caused the license to be suspended to advise the court of the agency's position relative to the issue of driving privileges; requires the court to take the agency's position into consideration; authorizes the court to disregard the agency's position. (R.C. 3123.58)
- Requires the court to provide the person with a permit card, in a form prescribed by the court, setting forth the following:
 - (1) The date on which the limited privileges will become effective;

- (2) The purposes for which the person may drive;
 - (3) The times and places at which the person may drive; and
 - (4) Any other conditions imposed upon the person's use of a motor vehicle. (R.C. 3123.58).
- Requires the court to immediately notify the registrar, in writing, of a grant of limited driving privileges specifying the information provided to the person on the permit card. (R.C. 3123.58).
 - Requires the BMV to automatically suspend driving privileges granted under this section if the person is convicted of, pleads guilty to, or is adjudicated in juvenile court of a violation of Chapter 4510 or any similar municipal ordinance. (R.C. 3123.58).

Sealing/Expungement Law

- Authorizes a juvenile court to seal the records of a case in which a person was adjudicated a delinquent child for committing sexual battery or gross sexual imposition. (R.C. 2151.356).
- Prohibits the court from charging a filing fee for an application to seal records. (R.C. 2151.356).
- Authorizes the juvenile court, upon its own motion, or the person who was adjudicated a delinquent child, to apply to have the records of the adjudication sealed at any time after six months, rather than two years, after one of the following:
 - (1) The termination of any court order made in relation to the adjudication;
 - (2) The unconditional discharge of the person from DYS or other institution or facility;
 - (3) NEW FACTOR: The court enters an order determining that the child is no longer a juvenile offender registrant. (R.C. 2151.356).
- Authorizes the juvenile court to consider a juvenile's SORN reclassification or declassification when determining whether a juvenile has been rehabilitated for the purpose of sealing his or her records. (R.C. 2151.356).

Child Support Calculations

- Requires a court, when imputing income to a child support obligor, to consider as a factor, the parent's decreased earning capacity because of a felony conviction. (R.C. 3119.01).
- Prohibits a court from imputing income to a parent and from determining that a parent is voluntarily unemployed or underemployed if:
 - (1) The parent is receiving means tested public assistance benefits; OR
 - (2) The parent is incarcerated or institutionalized for a period of 12 months or more with no other available assets; the prohibition does not apply if the incarceration is for an offense related to the child. (R.C. 3119.05).
- Authorizes the court to impute income or make a determination regarding voluntary unemployment or underemployment if the court finds that the failure to do so would be unjust, inappropriate, and not in the best interests of the child. (R.C. 3119.05).
- Authorizes the court to disregard a parent's additional income from overtime or additional employment if it finds that the income was generated to support a new or

additional family member or members, or under other appropriate circumstances. (R.C. 3119.05).

- Requires the court, if both parents in the current child support determination have a separate support order relative to a child or children born to both parents, to consider the separate orders together with the current calculation to ensure that the total of all orders does not exceed the amount that would have been ordered if all children had been addressed in a single proceeding. (R.C. 3119.05).

Credit for Time of Confinement

- Requires the court to state in an order of commitment the total number of days that a child has been confined in connection with the complaint upon which the order of commitment is based; requires DYS to reduce the minimum period of institutionalization by the total amount of time confined prior to physical transfer to DYS. (R.C. 2152.18).
- Prohibits the court from including days that the child has been under electronic monitoring, house arrest, or days that the child has been confined in a halfway house. (R.C. 2152.18).

Background Checks

- Prohibits the Superintendent of BCI from releasing, and the AG from adopting any rule that permits the release of, the records of a delinquent child adjudication or that relate to the criminal conviction of a person under the age of 18 who had an SYO disposition imposed upon a return bindover unless:
 - (1) The adjudication was for aggravated murder or murder; OR
 - (2) The adjudication was for a sexually oriented offense for which the court was required to classify the juvenile as a juvenile offender registrant, and that classification has not been removed. (R.C. 109.57).
- Authorizes the Superintendent of BCI to release information that relates to the records of any case described above. (R.C. 109.572 and 109.578).

Technical Fixes

Bindovers

- Clarifies that when a juvenile court orders an investigation, when considering a discretionary transfer of the case, the investigation is to be into the child's social history, education, family situation, and any other factor bearing on whether the child is amenable to juvenile rehabilitation; requires the investigation to be completed within 45 days of the court order asking for the investigation; authorizes the court to grant one extension for a reasonable length of time. (R.C. 2152.12).
- Prohibits the investigation report from including details of the alleged offense as reported by the child. (R.C. 2152.12).

Return Bindovers

- Clarifies that the general division court and all agencies must expunge the records of a bindover when a case is return boundover to the juvenile court after a child has been

convicted of or plead guilty to an offense for which he or she could not have been boundover to begin with. (R.C. 2152.121).

- Clarifies that the general division court and all agencies must expunge the records of a bindover when a case is return boundover to the juvenile court after a child has been convicted of or *plead guilty to* an offense for which he or she could have been discretionarily boundover to begin with. (R.C. 2152.121).
- Clarifies that a prosecutor has 14 days to file a motion to object to the imposition of an SYO sentence by the juvenile court upon a return bindover and requesting that the sentence imposed by the general division court be invoked. (R.C. 2152.121).

Juvenile Competency

- Clarifies that juvenile competency proceedings do not apply to unruly cases. (R.C. 2152.52).
- Clarifies that an evaluator's competency report must include the evaluator's opinion as to whether the child is "currently" rather than "presently" incapable of understanding the nature and objective of the proceedings. (R.C. 2152.56).
- Prohibits a provider of competency attainment services from including in his or her competency attainment report any details of the alleged offense as reported by the child. (R.C. 2152.59).