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## Bill Analysis

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**Primary Sponsors:** Sens. Eklund and O'Brien

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### Summary

#### Controlled substance trafficking and possession offenses

- Replaces the current controlled substance trafficking offenses and controlled substance possession offenses with new offenses located in five Revised Code sections and redesignates the offenses as aggravated trafficking offenses, major trafficking in drugs, trafficking offenses, possession of a controlled substance, possession of marijuana, and possession of hashish.

#### Trafficking offenses

- In the new aggravated trafficking offenses, major trafficking in drugs offense, and trafficking offenses, retains the current penalties under the existing trafficking offenses for trafficking conduct involving a sexual assault-enabling drug or a fentanyl-related compound, subject to a trace amount minimum exception for those drugs under the trafficking offenses.
- Provides in the new aggravated trafficking offenses that they:
  - Apply regarding trafficking conduct involving specified large amounts of a controlled substance, other than a Schedule III, IV, or IV controlled substance;
  - Generally apply to conduct that currently is classified a first or second degree felony under the existing trafficking offenses;
  - Have higher threshold amounts for subjecting a person to the penalties than are specified under the existing trafficking offenses for subjecting a person to the same penalty; and
  - In addition to prohibiting currently prohibited trafficking conduct, also prohibit obtaining or possessing the specified large amount.
- Provides in the new major trafficking in drugs offense that it:

- Applies regarding specified amounts of a controlled substance that are lower than the amounts under its aggravated trafficking offenses and higher than the amounts under its trafficking offenses;
  - Generally applies to conduct that currently is classified a third degree felony under the existing trafficking offenses;
  - Has higher threshold amounts for subjecting a person to the penalties than are specified under the existing trafficking offenses for subjecting a person to the same penalty; and
  - In addition to prohibiting currently prohibited trafficking conduct, also prohibits obtaining or possessing the specified intermediate amount.
- Provides in the new trafficking offense that it:
    - Applies regarding specified amounts of a controlled substance that are lower than the amounts specified under its major trafficking in drugs offense and higher than specified trace amounts of the controlled substance;
    - Generally applies to conduct that currently is classified a fourth or fifth degree felony under the existing trafficking offenses;
    - Has higher threshold amounts for subjecting a person to the penalties than are specified under the existing trafficking offenses for subjecting a person to the same penalty; and
    - In addition to prohibiting currently prohibited trafficking conduct, also includes a prohibition against obtaining or possessing a controlled substance with purpose or intent to distribute or sell it.

### **Possession offenses**

- In the new possession of a controlled substance offense, retains the current penalties under the existing possession offenses for possession conduct involving a sexual assault-enabling drug or a fentanyl-related compound.
- Provides in the new possession of a controlled substance offense that it:
  - Applies regarding possession conduct involving specified amounts of a controlled substance, other than marijuana or hashish, that are lower than the amounts under its major trafficking in drugs offense and, except for sexual assault-enabling drugs and fentanyl-related compounds, higher than specified trace amounts;
  - Generally applies to conduct that currently is classified a misdemeanor or a fourth or fifth degree felony under the existing possession offenses;
  - Generally makes a violation of the prohibitions under the offense an unclassified misdemeanor with special penalties provided, whereas the existing possession offenses never are penalized as an unclassified misdemeanor; and
  - Is presumed that the unclassified misdemeanor carries a sentence to treatment but that the presumption does not apply and other specified sanctions, including a jail term, may be imposed if the offender made threats of violence to any person.

- Provides in the new possession of marijuana and possession of hashish offenses that they:
  - Apply regarding possession conduct involving specified amounts of marijuana or hashish that are lower than the amounts under its major trafficking in drugs offense and higher than specified trace amounts;
  - Generally applies to conduct that currently is classified a misdemeanor or a fourth or fifth degree felony under the existing possession offenses; and
  - Have higher threshold amounts for subjecting a person to the penalties than are specified under the existing possession offenses for subjecting a person to the same penalty.
- Specifies that, in certain circumstances, a court hearing a charge against a person of any of the new misdemeanor possession offenses enacted in the bill, when not a minor misdemeanor, may hold the prosecution in abeyance and stay all criminal proceedings and order the person to a drug treatment program, and that:
  - If the person completes the program, the court must dismiss the proceedings; and
  - If the person does not complete the program, the court may allow continued treatment or may continue the prosecution.

### **90-day or 180-day limit on use of prison term as sanction for community control sanction violation**

- Clarifies the meaning of “technical violation” in the provisions that impose a 90-day or 180-day limit, in specified circumstances, on the use of a prison term as a sanction for a felony community control sanction violation.

### **Court jurisdiction over reclassified drug possession offense charge**

- Specifies that a municipal court or county court does not have jurisdiction to hear any charge of a drug possession offense the bill reclassifies from a felony to a misdemeanor unless the particular court operates a drug court, and that if a municipal court or county court does not have a drug court, the common pleas court is required to hear all such charges.

### **Involuntary court-ordered treatment for person suffering from alcohol or drug abuse**

- Modifies the criteria governing applications for, and granting of, a probate court order requiring involuntary treatment for a person suffering from alcohol or other drug abuse.

### **Conviction Record Sealing Law**

- In the Conviction Record Sealing Law:
  - Modifies the eligibility for applying for sealing of official records to include a specific reference to persons convicted of a drug possession offense the bill reclassifies from a felony to a misdemeanor;

- Specifies that such persons are to be considered as convicted misdemeanants; and
- Authorizes an offender convicted of any of the new possession offenses enacted under the bill to apply upon successful completion of a court-ordered treatment program or intervention plan.

## **Not Guilty/Dismissed Charges Record Sealing Law**

- Modifies the Not Guilty/Dismissed Charges Record Sealing Law to ensure that its provisions apply to a person charged with any of the bill’s new possession offenses who had the charge held in abeyance under the bill, successfully completed the treatment program or intervention plan, and had the charges dismissed.

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## Detailed Analysis

### Introduction

The bill modifies the current offenses that pertain to controlled substance trafficking or controlled substances possession in several ways. It relocates the current prohibitions into five Revised Code sections (instead of the current two sections) and redesignates the offenses as aggravated trafficking offenses, major trafficking in drugs, trafficking offenses, possession of a controlled substance, and possession of marijuana or hashish. It also treats possession of high amounts of a controlled substance as an aggravated trafficking offense or as major trafficking in drugs, and includes a new prohibition that treats possession of relatively low amounts of a controlled substance as trafficking if the person possessing the controlled substance does so with purpose to distribute or sell it.

Regarding penalties, the bill changes the controlled substance threshold amounts that determine the penalties for the offenses and modifies the penalties for the offenses except when the violation involves a sexual assault-enabling drug or, subject to one exception, a fentanyl-related compound. Related to the reclassification of some of the offenses from felonies to misdemeanors, the bill modifies the jurisdiction of municipal courts and county courts with respect to the possession offenses.

Outside of the Controlled Substances Law, the bill clarifies the application of the 90-day and 180-day limitations on the use of a prison term as a sanction for a violation of a felony community control sanction, modifies the Conviction Record Sealing Law and the Not Guilty/Dismissed Charges Record Sealing Law with respect to certain controlled substance possession offenses, and modifies certain criteria under the drug and alcohol abuse civil commitment mechanism.

In all of the tables used in this analysis to describe the penalties for the various offenses, references to “bulk” mean the bulk amount of the particular controlled substance, “UD” means

unit dose, “g” means gram, “kg” means kilogram, and “MDO” means major drug offender. The terms “bulk amount” and “unit dose” are defined in the Drug Offenses Law.<sup>1</sup> The charts indicate whether the penalty includes a presumption for a prison term, but do not detail whether the penalty is to be determined under the provisions<sup>2</sup> that generally apply to third, fourth, and fifth degree felonies and relate to a presumption against a prison term or to no presumption for or against a prison term.

## **Sexual assault-enabling drug definition**

The bill defines the term “sexual assault-enabling drug” for use in its provisions. Under the bill, the term means any of the following:<sup>3</sup> (1) Gamma hydroxybutyric acid, (2) Flunitrazepam, (3) Clonazepam, (4) Alprazolam, or (5) Ketamine.

## **Aggravated trafficking offenses**

### **Generally, and prohibition**

The bill enacts new offenses, named “aggravated trafficking in . . .” (with the specific name depending on the type of drug involved – see below), that consist of a prohibition against trafficking in specified large amounts of any controlled substance, other than a Schedule III, IV, or V controlled substance. The new offenses are among several trafficking-related offenses that the bill enacts to replace the existing trafficking offenses,<sup>4</sup> and they generally apply to conduct that currently is classified a first or second degree felony under the existing trafficking offenses. However, except when the drug involved is a sexual assault-enabling drug or a fentanyl-related compound, the bill’s threshold amounts for subjecting a person to the penalties for its aggravated trafficking offenses are higher than the threshold amounts specified under the existing trafficking offenses for subjecting a person to the same penalty for violation of the trafficking prohibition under the existing offenses. Schedule III, IV, and V controlled substances are not within the scope of these new offenses. The prohibition under the new offenses is the same as the prohibition in the existing Revised Code section that prohibits trafficking in any controlled substance, except that it applies only when the amount of the drug involved is within the specified large amount and that it also prohibits knowingly obtaining or possessing the specified large amount.

Specifically, the prohibition under the new offenses prohibits a person from: (1) knowingly obtaining, possessing, selling, or offering to sell a controlled substance or controlled substance analog in an amount specified below, or (2) preparing for shipment, shipping, transporting, delivering, preparing for distribution, or distributing a controlled substance or a controlled substance analog in an amount specified below, when the person knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.<sup>5</sup> The

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<sup>1</sup> R.C. 2925.01.

<sup>2</sup> R.C. 2929.13(B) and (C).

<sup>3</sup> R.C. 2925.01(PP).

<sup>4</sup> Current R.C. 2925.03.

<sup>5</sup> R.C. 2925.03(A)(1).

prohibition does not apply to certain persons or entities, parallel to the exemptions under the existing trafficking offenses (e.g., manufacturers, medical professionals, and pharmacists acting in accordance with law, certain anabolic steroid research personnel, and persons engaged in conduct involving anabolic steroids for animal use, etc.).<sup>6</sup>

### **Amount of the drug involved needed for the prohibition to apply and name of offense**

The bill's aggravated trafficking prohibition described above applies when the specified conduct involves a drug in the following amount:<sup>7</sup>

1. If the drug involved in the conduct is any compound, mixture, preparation, or substance included in Schedule I or Schedule II, other than marijuana, cocaine, L.S.D., heroin, a fentanyl-related compound, hashish, or a controlled substance analog, an amount of the drug so involved that equals or exceeds 50 times the bulk amount (a violation involving such a drug is "aggravated trafficking in drugs");
2. If the drug involved in the conduct is cocaine or a compound, mixture, preparation, or substance containing cocaine, an amount of the drug so involved that equals or exceeds 50 grams (a violation involving such a drug is "aggravated trafficking in cocaine");
3. If the drug involved in the conduct is L.S.D. or a compound, mixture, preparation, or substance containing L.S.D., an amount of the drug so involved that equals or exceeds 500 unit doses of L.S.D. in solid form or equals or exceeds 50 grams of L.S.D. in liquid concentrate, liquid extract, or liquid distillate form (a violation involving such a drug is "aggravated trafficking in L.S.D.");
4. If the drug involved in the conduct is heroin or a compound, mixture, preparation, or substance containing heroin, an amount of the drug so involved that equals or exceeds 300 unit doses or 30 grams (a violation involving such a drug is "aggravated trafficking in heroin");
5. If the drug involved in the conduct is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound, an amount of the drug so involved that equals or exceeds 100 unit doses or 10 grams (a violation involving such a drug is "aggravated trafficking in a fentanyl-related compound," except as described in the table below when the compound is mixed with marijuana);
6. If the drug involved in the conduct is marijuana other than hashish or a compound, mixture, preparation, or substance containing marijuana other than hashish, an amount of the drug so involved that equals or exceeds 40,000 grams (a violation involving such a drug is "aggravated trafficking in marijuana");
7. If the drug involved in the conduct is hashish or a compound, mixture, preparation, or substance containing hashish, an amount of the drug so involved that equals or exceeds 2,000 grams (a violation involving such a drug is "aggravated trafficking in hashish");

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<sup>6</sup> R.C. 2925.03(B).

<sup>7</sup> R.C. 2925.03(A)(2).

8. If the drug involved in the conduct is a controlled substance analog or a compound, mixture, preparation, or substance containing a controlled substance analog, an amount of the drug so involved that equals or exceeds 30 grams (a violation involving such a drug is “aggravated trafficking in a controlled substance analog”).

### Aggravated trafficking offense penalties

The following table lists the penalties for the aggravated trafficking offenses under the bill for the specified threshold amounts, and the threshold amount under existing law under the current trafficking offenses that provides a comparable penalty:<sup>8</sup>

DRUG	BILL’S THRESHOLD	BILL’S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
<b>Schedule I or II (but see “Schedule I or II sexual assault-enabling drug” and “Fentanyl-related compound,” below)</b>	≥ 50 and <100 times bulk	F-2 (mandatory w/in F-2 range)	≥ 5 and <50 times bulk (increased to F-1 if in vicinity of school or juvenile)
	≥ 100 times bulk	F-1 (mandatory w/in F-1 range)	≥ 50 and <100 times bulk ≥ 100 times bulk (MDO)
<b>Marijuana</b>	≥ 40 kg	F-2 (mandatory w/in F-2 range)	≥ 20 kg and < 40 kg (but mandatory is 5, 6, 7, or 8 years, and increased to F-1 if in vicinity of school or juvenile) ----- ≥ 40 kg (mandatory w/in F-2 range, and increased to F-1 if in vicinity of school or juvenile)
<b>Cocaine</b>	≥ 50 g and < 100 g	F-2 (mandatory w/in F-2 range)	≥ 20 g and < 27 g (increased to F-1 if in vicinity of school or juvenile)
	≥ 100 g and < 250 g	F-1 (mandatory w/in F-1 range)	≥ 27 g and < 100 g
	≥ 250 g	F-1 (MDO – 10 or 11 year)	≥ 100 g (but mandatory is

<sup>8</sup> R.C. 2925.03(C) through (K) under the bill, and existing R.C. 2925.03(C).



DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
		mandatory)	maximum w/in F-1 range)
<b>LSD: Solid</b>	≥ 500 UD and < 5000 UD	F-2 (mandatory w/in F-2 range)	≥ 250 UD and < 1000 UD (increased to F-1 if in vicinity of school or juvenile)
	≥ 5000 UD	F-1 (mandatory w/in F-1 range)	≥ 1000 UD and < 5000 UD ≥ 5000 UD (MDO and mandatory is maximum from F-1 range)
<b>LSD: Liquid</b>	≥ 50 g and < 500 g	F-2 (mandatory w/in F-2 range)	≥ 25 g and < 100 g (increased to F-1 if in vicinity of school or juvenile)
	≥ 500 g	F-1 (mandatory w/in F-1 range)	≥ 100 g and < 500 g ----- ≥ 500 g (MDO and mandatory is maximum from F-1 range)
<b>Heroin</b>	≥ 30 g and < 50 g; ≥ 300 UD and < 500 UD	F-2 (mandatory w/in F-2 range)	≥ 10 g and < 50 g; ----- ≥ 100 UD and < 500 UD (increased to F-1 if in vicinity of school or juvenile)
	≥ 50 g and < 100 g; ≥ 500 UD and < 1000 UD	F-1 (mandatory w/in F-1 range)	≥ 50 g and < 100 g; ≥ 500 UD and < 1000 UD
	≥ 100 g; ≥ 1000 UD	F-1 (MDO – 10 or 11 year mandatory)	≥ 100 g; ≥ 1000 UD (but mandatory is maximum from F-1 range)
<b>Hashish</b>	≥ 2 kg	F-2 (mandatory w/in F-2 range)	≥ 1 kg and < 2 kg (solid); ≥ 200 g (liquid) and < 400 g (liquid) (but mandatory is 5, 6,

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
			<p>7, or 8 years, and increased to F-1 if in vicinity of school or juvenile)</p> <p>-----</p> <p>≥ 2 kg (solid);            ≥ 400 g (liquid)            (increased to F-1 if in vicinity of school or juvenile)</p>
<b>Controlled Substance Analog</b>	≥ 30 g and < 40 g	F-2 (mandatory w/in F-2 range)	Same, but increased to F-1 if in vicinity of school or juvenile
	≥ 40 g and < 50 g	F-1 (mandatory w/in F-1 range)	Same
	≥ 50 g	F-1 (MDO – 10 or 11 year mandatory)	Same
<b>Schedule I or II sexual assault-enabling drug</b>	≥ 50 times bulk and < 100 times bulk	F-1 (mandatory w/in F-1 range)	Same
	≥ 100 bulk	F-1 (mandatory is maximum w/in F-1 range)	Same
<b>Fentanyl-related compound</b>	≥ 10 g and < 20 g; ≥ 100 UD and < 200 UD	F-2 (mandatory w/in F-2 range)  But if in vicinity of school or juvenile – F-1 (mandatory w/in F-1 range)	Same
	≥ 20 g and < 50 g; ≥ 200 UD and < 500 UD	F-1 (mandatory w/in F-1 range)	Same
	≥ 50 g and < 100 g; ≥ 500 UD and < 1,000 UD	F-1 (mandatory is maximum w/in F-1 range)	Same

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
	<p>≥ 100 g;            ≥ 1,000 UD</p>	<p>F-1            (MDO – mandatory is maximum w/in F-1 range)</p>	Same
	<p>Fentanyl-related compound combined with marijuana:            (1) generally charged as aggravated trafficking in marijuana or major trafficking in drugs, involving marijuana,            (2) if offender knows or has reason to know that fentanyl-related compound involved, charged with aggravated trafficking in fentanyl-related compound</p>		Same

### **Other provisions regarding aggravated trafficking offenses**

The bill retains, and makes applicable to its new aggravated trafficking offenses, the following provisions under the existing trafficking offenses: (1) provisions that authorize a driver's or commercial driver's license or permit suspension of a person convicted of any of the new aggravated trafficking offenses, (2) provisions that authorize, and in certain circumstances require, the imposition of a special fine in certain circumstances and disbursement of the fine in a specified manner, (3) provisions that require the reporting of the conviction to the licensing authority, if the person is a professionally licensed person, (4) provisions that require the trier of fact to determine and return findings as to the amount of the controlled substance involved in the offense, and (5) provisions that establish a special affirmative defense for a person charged with any of the offenses.<sup>9</sup>

### **Major trafficking in drugs**

#### **Generally, and prohibition**

The bill enacts a new offense, named "major trafficking in drugs," that consists of a prohibition against trafficking in specified amounts of any controlled substance that are lower than the amounts specified under the bill's aggravated trafficking offenses, as described above, and higher than the amounts specified under the bill's trafficking offenses, as described below. The new offense is one of several that the bill enacts to replace the existing trafficking offenses,

<sup>9</sup> R.C. 2925.03(L) to (R).

and it generally applies to conduct that currently is classified a third degree felony or, in some cases, a second degree felony under the existing trafficking offenses. However, except when the drug involved is a sexual assault-enabling drug or a fentanyl-related compound, the bill's threshold amounts for subjecting a person to the penalties for its major trafficking in drugs offense are higher than the threshold amounts specified under the existing trafficking offenses for subjecting a person to the same penalty for violation of the trafficking prohibition under the existing offenses. The prohibition under the new offense is the same as the prohibition in the existing Revised Code section that prohibits trafficking in any controlled substance, except that it applies only when the amount of the drug involved is within the specified intermediate amount and that it also prohibits knowingly obtaining or possessing the intermediate amount. The major trafficking in drugs offense incorporates the existing third degree felony controlled substance possession offenses.

Specifically, the prohibition under the new offense prohibits a person from: (1) knowingly obtaining, possessing, selling, or offering to sell a controlled substance or controlled substance analog in an amount specified below, or (2) preparing for shipment, shipping, transporting, delivering, preparing for distribution, or distributing a controlled substance or a controlled substance analog in an amount specified below, when the person knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale.<sup>10</sup> The prohibition does not apply to certain persons or entities, parallel to the exemptions under the existing trafficking offenses (e.g., manufacturers, medical professionals, and pharmacists acting in accordance with law, certain anabolic steroid research personnel, persons engaged in conduct involving anabolic steroids for animal use, and persons who obtained the controlled substance under a lawful prescription, etc.).<sup>11</sup>

### **Amount of the drug involved needed for the prohibition to apply and name of offense**

The bill's major trafficking in drugs prohibition described above applies when the specified conduct involves a drug in the following amount (a violation involving any of the drugs in the specified amounts is "major trafficking in drugs"):<sup>12</sup>

1. If the drug involved in the conduct is any compound, mixture, preparation, or substance included in Schedule I or Schedule II, other than marijuana, cocaine, L.S.D., heroin, a fentanyl-related compound, hashish, or a controlled substance analog, an amount of the drug so involved that equals or exceeds the bulk amount but is less than 50 times the bulk amount;
2. If the drug involved in the conduct is any compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, an amount of the drug so involved that equals or exceeds five times the bulk amount;

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<sup>10</sup> R.C. 2925.031(A)(1).

<sup>11</sup> R.C. 2925.031(B).

<sup>12</sup> R.C. 2925.031(A)(2).

3. If the drug involved in the conduct is cocaine or a compound, mixture, preparation, or substance containing cocaine, an amount of the drug so involved that equals or exceeds 10 grams but is less than 50 grams;
4. If the drug involved in the conduct is L.S.D. or a compound, mixture, preparation, or substance containing L.S.D., an amount of the drug so involved that equals or exceeds 50 unit doses but is less than 500 unit doses of L.S.D. in solid form or equals or exceeds five grams but is less than 50 grams of L.S.D. in liquid concentrate, liquid extract, or liquid distillate form;
5. If the drug involved in the conduct is heroin or a compound, mixture, preparation, or substance containing heroin, an amount of the drug so involved that equals or exceeds 50 unit doses or five grams but is less than 300 hundred unit doses or 30 grams;
6. If the drug involved in the conduct is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound, an amount of the drug so involved that equals or exceeds 50 unit doses or five grams but is less than 100 unit doses or 10 grams;
7. If the drug involved in the conduct is marijuana other than hashish or a compound, mixture, preparation, or substance containing marijuana other than hashish, an amount of the drug so involved that equals or exceeds 1,000 grams but is less than 40,000 grams;
8. If the drug involved in the conduct is hashish or a compound, mixture, preparation, or substance containing hashish, an amount of the drug so involved that equals or exceeds 50 grams but is less than 2,000 grams;
9. If the drug involved in the conduct is a controlled substance analog or a compound, mixture, preparation, or substance containing a controlled substance analog, an amount of the drug so involved that equals or exceeds 20 grams but is less than 30 grams.

### Major trafficking in drugs penalties

The following chart lists the penalties for the major trafficking in drugs offense under the bill for the specified threshold amounts, and the threshold amount under existing law under the current trafficking offenses that provides a comparable penalty:<sup>13</sup>

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
<b>Schedule I or II (but see "Sexual assault-enabling drug" and "Fentanyl-related compound," below)</b>	≥ bulk amount and < 50 times bulk	F-3	≥ bulk and < 5 times bulk  (but if two or more prior felony drug abuse convictions, mandatory w/in F-3 range; also increased to F-2 if in

<sup>13</sup> R.C. 2925.031(C) under the bill, and existing R.C. 2925.03(C).

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
			vicinity of school or juvenile)
<b>Schedule III, IV, or V (but see "Sexual assault-enabling drug" and "Fentanyl-related compound," below)</b>	$\geq 5$ times bulk	F-3	$\geq 5$ times bulk and $< 50$ times bulk (presumption for prison, and increased to F-2 if in vicinity of school or juvenile) ----- $\geq 50$ times bulk F-2 (mandatory w/in F-2 range, and increased to F-1 if in vicinity of school or juvenile)
<b>Marijuana</b>	$\geq 1$ kg and $< 40$ kg	F-3	$\geq 1$ kg and $< 5$ kg (increased to F-2 if in vicinity of school or juvenile) ----- $\geq 5$ kg and $< 20$ kg F-3 (presumption for prison, and increased to F-2 if in vicinity of school or juvenile)
<b>Cocaine</b>	$\geq 10$ g and $< 50$ g	F-3	$\geq 10$ g and $< 20$ g (presumption for prison, except if two or more prior felony drug abuse convictions, mandatory w/in F-3 range; also increased to F-2 if in vicinity of school or juvenile)
<b>LSD: Solid</b>	$\geq 50$ UD and $< 500$ UD	F-3	$\geq 50$ UD and $< 250$ UD (presumption for prison, except if two or more prior felony drug abuse convictions, mandatory w/in F-3 range; also increased

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
			to F-2 if in vicinity of school or juvenile)
<b>LSD: Liquid</b>	≥ 5 g and < 50 g	F-3	≥ 5 g and < 25 g (presumption for prison, except if two or more prior felony drug abuse convictions, mandatory w/in F-3 range)  If in vicinity of school or juvenile, increased to F-2
<b>Heroin</b>	≥ 5 g and < 30 g; ≥ 50 UD and < 300 UD	F-3	≥ 5 g and < 10 g; ≥ 50 UD and < 100 UD (presumption for prison; increased to F-2 if in vicinity of school or juvenile)
<b>Hashish</b>	≥ 50 g and < 2 kg	F-3	≥ 50 g and < 250 g (solid) ≥ 10 g and < 50 g (liquid)  Increased to F-2 if in vicinity of school or juvenile  ----- ≥ 250 g and < 1 kg (solid) ≥ 50 g and < 200 g (liquid)  (presumption for prison, and increased to F-2 if in vicinity of school or juvenile)
<b>Controlled Substance Analog</b>	≥ 20 g and < 30 g	F-3	≥ 20 g and < 30 g (presumption for prison, and increased to F-2 if in vicinity of

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
<b>Schedule I or II sexual assault-enabling drug</b>	≥ bulk and < 5 times bulk	<p>F-3 (presumption for prison, except if 2 or more prior felony drug abuse convictions, mandatory w/in F-3 range)</p> <p>Increased to F-2 if in vicinity of school or juvenile (mandatory w/in F-2 range)</p>	school or juvenile)  Same
	≥ 5 times bulk and < 50 times bulk	<p>F-2 (mandatory w/in F-2 range)</p> <p>Increased to F-1 if in vicinity of school or juvenile (mandatory w/in F-1 range)</p>	Same
<b>Schedule III, IV, or V sexual assault-enabling drug</b>	≥ 5 times bulk and < 50 times bulk	<p>F-3 (presumption for prison)</p> <p>Increased to F-2 if committed in vicinity of school or juvenile (presumption for prison)</p>	Same
	≥ 50 times bulk	<p>F-2 (mandatory w/in F-2 range)</p> <p>Increased to F-1 if in vicinity of school or juvenile (mandatory w/in F-1 range)</p>	Same



DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
<b>Fentanyl-related compound</b>	<p>≥ 5 g and &lt; 10 g;            ≥ 50 UD and &lt; 100 UD</p>	<p>F-3            (presumption for prison)</p> <p>Increased to F-2 if in vicinity of school or juvenile            (presumption for prison)</p>	Same
	<p>Fentanyl-related compound combined with marijuana:            (1) generally charged as major trafficking in drugs, involving marijuana, (2) if offender knows or has reason to know that fentanyl-related compound is involved, charged with major trafficking in drugs, involving fentanyl-related compound</p>		Same

### Other provisions regarding major trafficking in drugs

The bill retains, and makes applicable to its new major trafficking in drugs offense, the following provisions under the existing trafficking offenses: (1) provisions that authorize a driver's or commercial driver's license or permit suspension of a person convicted of the new major trafficking offense, (2) provisions that authorize, and in certain circumstances require, the imposition of a special fine in certain circumstances and disbursement of the fine in a specified manner, (3) provisions that require the reporting of the conviction to the licensing authority, if the person is a professionally licensed person, (4) provisions that require the trier of fact to determine and return findings as to the amount of the controlled substance involved in the offense, and (5) provisions that establish a special affirmative defense for a person charged with any of the offenses.<sup>14</sup>

<sup>14</sup> R.C. 2925.031(D) to (F).

## Trafficking offenses

### Generally, and prohibition

The bill enacts new offenses, named “trafficking in . . .” (with the specific name depending on the type of drug involved – see below), that consist of a prohibition against trafficking in specified amounts of any controlled substance that are lower than the amounts specified under the bill’s major trafficking in drugs offenses, as described above, and, except for sexual assault-enabling drugs and fentanyl-related compounds, higher than specified trace amounts of the controlled substance. The new offenses are among several offenses that the bill enacts to replace the existing trafficking offenses, and they generally apply to conduct that currently is classified a fourth or fifth degree felony or, in some cases, a third degree felony under the existing trafficking offenses. However, except when the drug involved is a sexual assault-enabling drug or a fentanyl-related compound, the bill’s threshold amounts for subjecting a person to the penalties for its trafficking offenses are higher than the threshold amounts specified under the existing trafficking offenses for subjecting a person to the same penalty for violation of the trafficking prohibition under the existing offenses (except that the bill’s trace amount exception also applies to sexual assault-enabling drugs and fentanyl-related compounds). The prohibition under the new offenses is the same as the prohibition in the existing Revised Code section that prohibits trafficking in any controlled substance, except that it applies only when the amount of the drug involved is within the specified lower amount and that it also includes a prohibition against obtaining or possessing a controlled substance or controlled substance analog with purpose or intent to distribute or sell it.

Specifically, the prohibition under the new offenses prohibits a person from: (1) knowingly selling or offering to sell a controlled substance or controlled substance analog in an amount specified below, (2) obtaining or possessing, with purpose to distribute or sell, a controlled substance or controlled substance analog in an amount specified below, or (3) preparing for shipment, shipping, transporting, delivering, preparing for distribution, or distributing a controlled substance or a controlled substance analog in an amount specified below, when the person knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale.<sup>15</sup> The prohibition does not apply to certain persons or entities, parallel to the exemptions under the existing trafficking offense (e.g., manufacturers, medical professionals, and pharmacists acting in accordance with law, certain anabolic steroid research personnel, and persons engaged in conduct involving anabolic steroids for animal use, etc.).<sup>16</sup>

### **Amount of the drug involved needed for the prohibition to apply and name of offense**

The bill’s trafficking prohibition described above applies when the specified conduct involves a drug in the following amount:<sup>17</sup>

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<sup>15</sup> R.C. 2925.032(A)(1).

<sup>16</sup> R.C. 2925.032(C).

<sup>17</sup> R.C. 2925.032(A)(2).

1. If the drug involved in the conduct is any compound, mixture, preparation, or substance included in Schedule I or Schedule II, other than marijuana, cocaine, L.S.D., heroin, a fentanyl-related compound, hashish, or a controlled substance analog, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram but is less than the bulk amount (a violation involving such a drug is “trafficking in Schedule I or Schedule II drugs”);
2. If the drug involved in the conduct is any compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram but is less than five times the bulk amount (a violation involving such a drug is “trafficking in drugs”);
3. If the drug involved in the conduct is cocaine or a compound, mixture, preparation, or substance containing cocaine, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram but is less than ten grams (a violation involving such a drug is “trafficking in cocaine”);
4. If the drug involved in the conduct is L.S.D. or a compound, mixture, preparation, or substance containing L.S.D., an amount of the drug so involved that equals or exceeds one-fourth of one unit dose but is less than 50 unit doses of L.S.D. in solid form or equals or exceeds twenty-five one-thousandths of one gram but is less than five grams of L.S.D. in liquid concentrate, liquid extract, or liquid distillate form (a violation involving such a drug is “trafficking in L.S.D.”);
5. If the drug involved in the conduct is heroin or a compound, mixture, preparation, or substance containing heroin, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram or one-fourth of one unit dose but is less than five grams or 50 unit doses (a violation involving such a drug is “trafficking in heroin”);
6. If the drug involved in the conduct is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram or one-fourth of one unit doses but is less than five grams or 50 unit doses (a violation involving such a drug is “trafficking in a fentanyl-related compound”);
7. If the drug involved in the conduct is marijuana other than hashish or a compound, mixture, preparation, or substance containing marijuana other than hashish, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram but is less than 1,000 grams (a violation involving such a drug is “trafficking in marijuana”);
8. If the drug involved in the conduct is hashish or a compound, mixture, preparation, or substance containing hashish, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram but is less than 50 grams (a violation involving such a drug is “trafficking in hashish”);
9. If the drug involved in the conduct is a controlled substance analog or a compound, mixture, preparation, or substance containing a controlled substance analog, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram

but is less than 20 grams (a violation involving such a drug is “trafficking in a controlled substance analog”).

### Trafficking offense penalties

The following table lists the penalties for the trafficking offenses under the bill for the specified threshold amounts, and the threshold amount under existing law under the current trafficking offenses that provides a comparable penalty.<sup>18</sup>

DRUG	BILL’S THRESHOLD	BILL’S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
<b>Schedule I or II (but see “Sexual assault-enabling drug” and “Fentanyl-related compounds,” below)</b>	$\geq 0.025$ g and < bulk	F-5	No F-5 penalty < bulk is F-4.  Increased to F-3 if in vicinity of school or juvenile
	$\geq 0.025$ g and < bulk	F-5	< bulk  Increased to F-4 if in vicinity of school or juvenile
<b>Schedule III, IV, or V (but see “Sexual assault-enabling drug” and “Fentanyl-related compounds,” below)</b>	$\geq$ bulk and < 5 times bulk	F-4	Same  Increased to F-3 if in vicinity of school or juvenile (presumption for prison)
	Gift of $\leq 20$ g	MM on first offense and M-3 on subsequent offense	Same, except M-3 if in vicinity of school or juvenile
<b>Marijuana</b>	$\geq 0.025$ g and < 1 kg	F-5	< 200 g  Increased to F-4 if in vicinity of school or juvenile  ----- $\geq 200$ g and < 1 kg F-4

<sup>18</sup> R.C. 2925.032(B) and (E) under the bill, and existing R.C. 2925.03(C).

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
			Increased to F-3 if in vicinity of school or juvenile
<b>Cocaine</b>	$\geq 0.025 \text{ g}$ and $< 10 \text{ g}$	F-5	<p><math>&lt; 5 \text{ g}</math></p> <p>Increased to F-4 if in vicinity of school or juvenile</p> <p>-----</p> <p><math>\geq 5 \text{ g}</math> and <math>&lt; 10 \text{ g}</math> F-4</p> <p>Increased to F-3 if in vicinity of school or juvenile</p>
<b>LSD: Solid</b>	$\geq 0.25 \text{ UD}$ and $< 50 \text{ UD}$	F-5	<p><math>&lt; 10 \text{ UD}</math></p> <p>Increased to F-4 if in vicinity of school or juvenile</p> <p>-----</p> <p><math>\geq 10 \text{ UD}</math> and <math>&lt; 50 \text{ UD}</math> F-4</p> <p>Increased to F-3 if in vicinity of school or juvenile</p>
<b>LSD: Liquid</b>	$\geq 0.025 \text{ g}$ $< 5 \text{ g}$	F-5	<p><math>&lt; 1 \text{ g}</math></p> <p>Increased to F-4 if in vicinity of school or juvenile</p> <p>-----</p> <p><math>\geq 1 \text{ g}</math> and <math>&lt; 5 \text{ g}</math> F-4</p> <p>Increased to F-3 if in vicinity of school or juvenile</p>

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
<b>Heroin</b>	≥ 0.025 g and < 1 g; ≥ 0.25 UD and < 10 UD	F-5	< 1 g; < 10 UD  Increased to F-4 if in vicinity of school or juvenile
	≥ 1 g and < 5 g; ≥ 10 UD and < 50 UD	F-4	Same  Increased to F-3 if in vicinity of school or juvenile
<b>Hashish</b>	≥ 0.025 g and < 50 g	F-5	< 10 g (solid) < 2 g (liquid)  Increased to F-4 if in vicinity of school or juvenile  ----- ≥ 10 g and < 50 g (solid) ≥ 2 g and < 10 g (liquid) F-4  Increased to F-3 if in vicinity of school or juvenile
<b>Controlled Substance Analog</b>	≥ 0.025 g and < 10 g	F-5	< 10 g  Increased to F-4 if in vicinity of school or juvenile
	≥ 10 g and < 20 g	F-4	Same  Increased to F-3 if in vicinity of school or juvenile
<b>Schedule I or II sexual assault-enabling drug</b>	≥ 0.025 g and < bulk	F-4  Increased to F-3 if in	< bulk

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
		vicinity of school or juvenile	
<b>Schedule III, IV, or V sexual assault-enabling drug</b>	≥ 0.025 g and < bulk	F-5  Increased to F-4 if in vicinity of school or juvenile	< bulk
	≥ bulk and < 5 times bulk	F-4  Increased to F-3 if in vicinity of school or juvenile	Same
<b>Fentanyl-related compound</b>	≥ 0.025 g and < 1 g; ≥ .25 UD and < 10 UD	F-5  Increased to F-4 if in vicinity of school or juvenile	< 1 g; < 10 UD
	≥ 1 g and < 5 g; ≥ 10 UD and < 50 UD	F-4  Increased to F-3 if in vicinity of school or juvenile with presumption for prison	Same
	Fentanyl-related compound combined with marijuana: (1) generally charged as trafficking in marijuana; (2) if offender knows or has reason to know that fentanyl-related compound is involved, charged with trafficking in a fentanyl-related compound		Same

### Other provisions regarding trafficking in drugs

The bill retains, and makes applicable to its new trafficking in drugs offenses, the following provisions under the existing trafficking offenses: (1) provisions that authorize a driver's or commercial driver's license or permit suspension of a person convicted of any of the new trafficking offenses, (2) provisions that authorize, and in certain circumstances require, the imposition of a special fine in certain circumstances and disbursement of the fine in a specified

manner, (3) provisions that require the reporting of the conviction to the licensing authority, if the person is a professionally licensed person, (4) provisions that require the trier of fact to determine and return findings as to the amount of the controlled substance involved in the offense, and (5) provisions that establish a special affirmative defense for a person charged with any of the offenses.<sup>19</sup>

## **Possession of a controlled substance**

### **Generally, and prohibition**

The bill enacts a new offense, named “possession of a controlled substance,” that consists of a prohibition against possessing specified amounts of any controlled substance, other than marijuana or hashish (see “**Possession of marijuana or hashish**,” below), that are lower than the amounts specified under the bill’s major trafficking in drugs offense, as described above, and, except for sexual assault-enabling drugs and fentanyl-related compounds, higher than specified trace amounts of the controlled substances (no trace amount exemption is provided for sexual assault-enabling drugs or fentanyl-related compounds). The new offense is one of several the bill enacts to replace the existing possession offenses,<sup>20</sup> and it applies to conduct that currently is classified a misdemeanor or a fourth or fifth degree felony under the existing possession offenses. However, under the bill, a violation of the prohibition under the new possession of a controlled substance offense generally is an unclassified misdemeanor with special penalties provided, whereas the existing possession offenses never are penalized as an unclassified misdemeanor. The specified amounts under the new offense parallel the specified amounts under the bill’s trafficking offenses. The prohibition under the new offense is the same as the prohibition in the existing Revised Code section that prohibits possession of any controlled substance, except that it applies only when the amount of the drug involved is within the specified lower amount.

Specifically, the prohibition under the new offense prohibits a person from knowingly obtaining, possessing, or using a controlled substance or a controlled substance analog in an amount specified below.<sup>21</sup> The prohibition does not apply to certain persons or entities, parallel to the exemptions under the existing trafficking offense (e.g., manufacturers, medical professionals, and pharmacists acting in accordance with law, certain anabolic steroid research personnel, persons engaged in conduct involving anabolic steroids for animal use, persons who obtained the controlled substance pursuant to a valid prescription, etc.). The bill preserves the existing “seeking medical assistance Good Samaritan” exemption from the possession offenses so that it applies to the new possession offense.<sup>22</sup>

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<sup>19</sup> R.C. 2925.032(E) to (G).

<sup>20</sup> Current R.C. 2925.11.

<sup>21</sup> R.C. 2925.11(A)(1).

<sup>22</sup> R.C. 2925.11(B).



## **Amount of the drug involved needed for the prohibition to apply and name of offense**

The bill's possession of controlled substances prohibition described above applies when the specified conduct involves a drug in the following amount (a violation involving any of the drugs in the specified amounts is "possession of a controlled substance"):<sup>23</sup>

1. If the drug involved in the conduct is any compound, mixture, preparation, or substance included in Schedule I or Schedule II, other than marijuana, cocaine, L.S.D., heroin, a fentanyl-related compound, hashish, a controlled substance analog, or a sexual assault-enabling drug, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram but is less than the bulk amount;
2. If the drug involved in the conduct is any compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V other than a sexual assault-enabling drug, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram but is less than five times the bulk amount;
3. If the drug involved in the conduct is cocaine or a compound, mixture, preparation, or substance containing cocaine, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram but is less than ten grams;
4. If the drug involved in the conduct is L.S.D. or a compound, mixture, preparation, or substance containing L.S.D., an amount of the drug so involved that equals or exceeds one-fourth of one unit dose but is less than 50 unit doses of L.S.D. in solid form or equals or exceeds twenty-five one-thousandths of one gram but is less than five grams of L.S.D. in liquid concentrate, liquid extract, or liquid distillate form;
5. If the drug involved in the conduct is heroin or a compound, mixture, preparation, or substance containing heroin, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram or one-fourth of one unit dose but is less than five grams or 50 unit doses;
6. If the drug involved in the conduct is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound, an amount of the drug so involved that is less than five grams or 50 unit doses;
7. If the drug involved in the conduct is a controlled substance analog or a compound, mixture, preparation, or substance containing a controlled substance analog, an amount of the drug so involved that equals or exceeds twenty-five one-thousandths of one gram but is less than 20 grams;
8. If the drug involved in the conduct is a sexual assault-enabling drug or a compound, mixture, preparation, or substance containing a sexual assault-enabling drug, an amount of the drug so involved that is less than the bulk amount if the drug is a Schedule I or II controlled substance or that is less than five times the bulk amount if the drug is a Schedule III, IV, or V controlled substance.

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<sup>23</sup> R.C. 2925.11(A)(2).

## Possession of a controlled substance penalties

The following chart lists the penalties for the possession of a controlled substance offense under the bill for the specified threshold amounts, but it differs from the other charts regarding the summary of existing law. For all of the drugs other than sexual assault-enabling drugs and fentanyl-related compounds, existing law does not contain any penalties that are the same as those provided in the bill – for those drugs without a comparable penalty, the last column in the table lists the current penalties provided for the amount of the particular drug specified in the “**Bill’s Threshold**” column. For sexual assault-enabling drugs and fentanyl-related compounds, the last column lists the current threshold to get the same penalty provided under the bill for the amount of the particular drug specified in the “**Bill’s Threshold**” column. The penalties the bill provides for the offenses it specifies as unclassified misdemeanors are described below in “**Unclassified misdemeanor penalties.**” Under the bill:<sup>24</sup>

DRUG	BILL’S THRESHOLD	BILL’S OFFENSE LEVEL	CURRENT PENALTY FOR THRESHOLD AMOUNT/ CURRENT THRESHOLD TO GET SAME PENALTY
<b>Schedule I or II (but see “Sexual assault-enabling drug” and “Fentanyl-related compound,” below)</b>	≥ 0.025 g and < bulk	Unclassified misdemeanor, increased to F-5 if two or more prior state or municipal possession convictions in preceding 3 years	No unclassified misdemeanor penalty. Current penalty:  < bulk is F-5 ----- Larger amount possessed is covered by bill under aggravated and major trafficking offenses
<b>Schedule III, IV, or V (but see “Sexual assault-enabling drug” and “Fentanyl-related compound,” below)</b>	≥ 0.025 g and < 5 times bulk	Unclassified misdemeanor, increased to F-5 if two or more prior state or municipal possession convictions in preceding 3 years	No unclassified misdemeanor penalty. Current penalty:  < bulk is M-1, increased to F-5 if prior drug abuse conviction ----- ≥ bulk and < 5 times bulk is F-4 ----- Larger amount possessed is covered by

<sup>24</sup> R.C. 2925.11(C)(1) to (6) under the bill, and existing R.C. 2925.03(C).

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT PENALTY FOR THRESHOLD AMOUNT/ CURRENT THRESHOLD TO GET SAME PENALTY
			bill under aggravated and major trafficking offenses
<b>Cocaine</b>	≥ 0.025 g and < 10 g	Unclassified misdemeanor, increased to F-5 if two or more prior state or municipal possession convictions in preceding 3 years	<p>No unclassified misdemeanor penalty. Current penalty:</p> <p>&lt; 10 g is F-5</p> <p>-----</p> <p>≥ 5 g and &lt; 10 g if F-4</p> <p>-----</p> <p>Larger amount possessed is covered by bill under aggravated and major trafficking offenses</p>
<b>LSD: Solid</b>	≥ 0.25 UD and < 50 UD	Unclassified misdemeanor, increased to F-5 if two or more prior state or municipal possession convictions in preceding 3 years	<p>No unclassified misdemeanor penalty. Current penalty:</p> <p>&lt; 10 UD is F-5</p> <p>-----</p> <p>≥ 10 UD and &lt; 50 UD is F-4</p> <p>-----</p> <p>Larger amount possessed is covered by bill under aggravated and major trafficking offenses</p>
<b>LSD: Liquid</b>	≥ 0.025 g and < 5 g	Unclassified misdemeanor, but increased to F-5 if two or more prior state or municipal possession convictions in preceding 3 years	<p>No unclassified misdemeanor penalty. Current penalty:</p> <p>&lt; 1 g is F-5</p> <p>-----</p> <p>≥ 1 g and &lt; 5 g is F-4</p> <p>-----</p> <p>Larger amount</p>

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT PENALTY FOR THRESHOLD AMOUNT/ CURRENT THRESHOLD TO GET SAME PENALTY
			possessed is covered by bill under aggravated and major trafficking offenses
<b>Heroin</b>	≥ 0.025 g and < 5 g; ≥ 0.25 UD and < 50 UD	Unclassified misdemeanor, but increased to F-5 if two or more prior state or municipal possession convictions in preceding 3 years	No unclassified misdemeanor penalty. Current penalty:  < 1 g; < 10 UD is F-5 ----- ≥ 1 g and < 5 g; ≥ 10 UD and < 50 UD is F-4 ----- Larger amount possessed is covered by bill under aggravated and major trafficking offenses
<b>Controlled Substance Analog</b>	≥ 0.025 g and < 20 g	Unclassified misdemeanor, but increased to F-5 if two or more prior state or municipal possession convictions in preceding 3 years	No unclassified misdemeanor penalty. Current penalty:  < 10 g is F-5 ----- ≥ 10 g and < 20 g is F-4 (presumption for prison) ----- Larger amount possessed is covered by bill under aggravated and major trafficking offenses
<b>Schedule I or II sexual assault-enabling drug</b>	< bulk	F-5	Same
<b>Schedule III, IV, or V sexual assault-enabling drug</b>	< bulk	M-1, but increased to F-5 if prior drug abuse conviction	Same
	≥ bulk and < 5 times bulk	F-4	Same

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT PENALTY FOR THRESHOLD AMOUNT/ CURRENT THRESHOLD TO GET SAME PENALTY
<b>Fentanyl-related compound</b>	< 1 g; < 10 UD	F-5	Same
	≥ 1 g and < 5 g; ≥ 10 UD and < 50 UD	F-4	Same
	Fentanyl-related compound combined with marijuana: (1) generally charged as possession of marijuana (see below), (2) if offender knows or has reason to know that fentanyl-related compound is involved, charged with possession of a controlled substance, involving a fentanyl-related compound		Same
	Fentanyl-related compound combined with Schedule III, IV, or V controlled substance: (1) generally charged as possession of a controlled substance involving a Schedule III, IV, or V controlled substance, (2) if offender knows or has reason to know that fentanyl-related compound is involved, charged with possession of a controlled substance, involving a fentanyl-related compound		Same
	Fentanyl-related compound combined with any other controlled substance		Same

DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT PENALTY FOR THRESHOLD AMOUNT/ CURRENT THRESHOLD TO GET SAME PENALTY
	not specified above, charged with possession of a controlled substance, involving a fentanyl-related compound		

### Unclassified misdemeanor penalties

The bill specifies that, when possession of a controlled substance is an unclassified misdemeanor as shown in the table above, it is presumed that the offender must be sentenced to treatment under the Misdemeanor Sentencing Law provisions that pertain to community residential sanctions and community nonresidential sanctions.<sup>25</sup> If the court determines that the offender, in committing the offense or related in any way to the offense, has made threats of violence to any person, the presumption does not apply and the court may sentence the offender pursuant to any sanction or combination of sanctions under the Misdemeanor Sentencing Law<sup>26</sup> (including a jail term), except that:<sup>27</sup>

1. Notwithstanding the provision that sets forth possible jail terms,<sup>28</sup> the court may impose on the offender a jail term of not more than 364 days;
2. Notwithstanding the provision that sets forth generally authorized fines,<sup>29</sup> the court may fine the offender not more than \$1,000;
3. Notwithstanding provisions that pertain to community residential sanctions and community nonresidential sanctions,<sup>30</sup> the court may impose on the offender a term of not more than six months in a community-based correctional facility.

### Holding prosecution in abeyance

Under the bill, if a person is charged with a misdemeanor offense of possession of a controlled substance or with a misdemeanor offense of possession of marijuana or possession of hashish (see **“Possession of marijuana or hashish,”** below), other than a minor misdemeanor violation, the court may hold the prosecution in abeyance and stay all criminal proceedings with respect to the violation if all of the following apply: (1) the person has not previously been convicted of any of the aggravated trafficking offenses under the bill, major trafficking in drugs, any of the trafficking offenses under the bill, possession of a controlled

<sup>25</sup> R.C. 2929.26 and 2929.27, not in the bill.

<sup>26</sup> R.C. 2929.21 to 2929.28, generally not in the bill.

<sup>27</sup> R.C. 2925.11(C)(7).

<sup>28</sup> R.C. 2929.24, not in the bill.

<sup>29</sup> R.C. 2929.28(A)(2)(a), not in the bill.

<sup>30</sup> R.C. 2929.26 and 2929.27, not in the bill.

substance, possession of marijuana, or possession of hashish, (2) the person agrees to a drug treatment program determined by the court to be appropriate, to comply with all terms and conditions of treatment imposed by the court, and to complete the program, and (3) the person waives the person's right to a speedy trial and any other rights with respect to the time of proceedings related to the violation that otherwise would apply.

If the court holds a prosecution in abeyance and stays all criminal proceedings against a person with respect to a violation under this provision, all of the following apply: (1) the court must issue an order that establishes terms and conditions of the drug treatment program and requires the person to complete the program, and must place the offender under the general control and supervision of the county probation department, the Adult Parole Authority, or another appropriate local probation or court services agency, if one exists, as if the offender was subject to a community control sanction imposed under the Misdemeanor Sentencing Law, (2) if the court finds that the person has successfully completed the drug treatment program, the court must dismiss the proceedings against the person – successful completion of the program is without adjudication of guilt and is not a criminal conviction for purposes of any disqualification or disability imposed by law upon conviction of a crime, and the court may order the sealing of records related to the offense in question in the manner provided in the **“Not Guilty/Dismissed Charges Record Sealing Law”** (see below), and (3) if the person fails to comply with any term or condition imposed as part of the treatment program for the person, the supervising authority for the person promptly must advise the court of this failure, and the court must hold a hearing to determine whether the person failed to comply with any such term or condition.

If the court, at the hearing required as described in clause (3) of the preceding paragraph, determines that the person has failed to comply with any of those terms and conditions, it must do one of the following: (1) issue an order that continues the person under the same treatment program, with the same terms and conditions, (2) issue an order that continues the person under the same treatment program, with different terms and conditions, (3) enter an order that subjects the person to a different treatment program and establishes terms and conditions of the program, or (4) continue with the prosecution of the violation that was held in abeyance.

A person may not be required to enter a guilty plea to a misdemeanor offense of possession of a controlled substance or a misdemeanor offense of possession of marijuana or possession of hashish in order for a court to hold the prosecution in abeyance and stay all criminal proceedings with respect to the violation under these provisions.<sup>31</sup>

### **Other provisions regarding possession of a controlled substance**

The bill retains, and makes applicable to its new possession of a controlled substance offense, the following provisions under the existing possession offenses: (1) provisions that authorize a driver's or commercial driver's license or permit suspension of a person convicted of any of the new possession offenses, (2) provisions that authorize, and in certain circumstances require, the imposition of a special fine in certain circumstances and

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<sup>31</sup> R.C. 2925.11(D).

disbursement of the fine in a specified manner, (3) provisions that require the reporting of the conviction to the licensing authority, if the person is a professionally licensed person, (4) provisions that require the trier of fact to determine and return findings as to the amount of the controlled substance involved in the offense, and (5) provisions that establish a special affirmative defense for a person charged with any of the offenses.<sup>32</sup>

## **Possession of marijuana or hashish**

### **Generally, and prohibitions**

The bill enacts new offenses, named “possession of marijuana” and “possession of hashish,” that consist of a prohibition against possessing specified amounts of marijuana or hashish that are lower than the amounts specified under the bill’s major trafficking offense, as described above, and higher than specified trace amounts of the controlled substances. The new offenses are among several that the bill enacts to replace the existing possession offenses, and they apply to conduct that currently is classified a misdemeanor or a fifth degree felony under the existing possession offenses. However, the bill’s threshold amounts for subjecting a person to the penalties for its marijuana or hashish possession offenses are higher than the threshold amounts specified under the existing possession offenses for subjecting a person to the same penalty for violation of the possession prohibition under the existing offenses. The prohibitions under the offenses are the same as the prohibition in the existing Revised Code section that prohibits possession of marijuana or hashish, except that they apply only when the amount of the drug involved is within the specified lower amount.

Specifically, the marijuana-related prohibition under the new offense prohibits a person from knowingly obtaining, possessing, or using marijuana other than hashish or a compound, mixture, preparation, or substance containing marijuana other than hashish, when the amount of the drug involved equals or exceeds twenty-five one-thousandths of a gram but is less than 1,000 grams. The hashish-related prohibition under the new offense prohibits a person from knowingly obtaining, possessing, or using hashish or a compound, mixture, preparation, or substance containing hashish, when the amount of the drug involved equals or exceeds twenty-five one-thousandths of a gram but is less than 50 grams.<sup>33</sup> The bill preserves the existing “seeking medical assistance Good Samaritan” exemption from the possession offenses so that it applies to the new marijuana and hashish possession offenses.<sup>34</sup>

### **Possession of marijuana or hashish penalties**

The following table lists the penalties for the possession of marijuana offense and the possession of hashish offense under the bill, and the threshold amount under existing law under the current possession offenses (a violation of the prohibition involving marijuana is the offense of “possession or marijuana” and a violation of the prohibition involving hashish is the offense of “possession of hashish”):<sup>35</sup>

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<sup>32</sup> R.C. 2925.11(E) to (G).

<sup>33</sup> R.C. 2925.111(A) and (B).

<sup>34</sup> R.C. 2925.111(G).

<sup>35</sup> R.C. 2925.111(C) and (D).



DRUG	BILL'S THRESHOLD	BILL'S OFFENSE LEVEL	CURRENT THRESHOLD TO GET SAME PENALTY
Marijuana	≥ 0.025 g and < 200 g	Minor misdemeanor	< 100 g
	≥ 200 g and < 400 g	M-4	≥ 100 g and < 200 g
	≥ 400 g and < 1 kg	M-1	No M-1 penalty  ≥ 200 g < 1 kg is F-5
Hashish	≥ 0.025 g and < 10 g	Minor misdemeanor	< 5 g (solid); < 1 g (liquid)
	≥ 10 g and < 20 g	M-4	≥ 5 g < 10 g (solid); ≥ 1 g < 2 g (liquid)
	≥ 20 g and < 50 g	M-1	No M-1 penalty  ≥ 10 g < 50 g (solid); ≥ 2 g < 10 g (liquid) is F-5

An arrest or a conviction for a minor misdemeanor violation of either prohibition does not constitute a criminal record and need not be reported by the person so arrested or found guilty in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.<sup>36</sup>

### **Holding prosecution in abeyance**

The bill specifies that the provisions pertaining to the court holding a charge in abeyance and staying all criminal proceedings with respect to the charge that are set forth in the prohibitions regarding the offense of possession of a controlled substance (see "**Possession of a controlled substance**," above) also apply with respect to a person charged with a misdemeanor offense of possession of marijuana or possession of hashish, other than a minor misdemeanor violation.<sup>37</sup>

### **Other provisions regarding possession of a controlled substance**

The bill retains, and makes applicable to its new possession of marijuana or hashish offenses, the following provisions under the existing possession offenses: (1) provisions that authorize a driver's or commercial driver's license or permit suspension of a person convicted of any of the new possession offenses, (2) provisions that authorize, and in certain circumstances require, the imposition of a special fine in certain circumstances and disbursement of the fine in a specified manner, (3) provisions that require the reporting of the

<sup>36</sup> R.C. 2925.111(F).

<sup>37</sup> R.C. 2925.111(H).

conviction to the licensing authority, if the person is a professionally licensed person, and (4) provisions that establish a special affirmative defense for a person charged with any of the offenses.<sup>38</sup>

## **Conforming changes to provisions described above**

The bill amends several provisions of the Drug Offenses Law and Criminal Sentencing Law to conform to the changes described above. The conforming changes are:

1. Modification of the Drug Offenses Law definitions of “drug abuse offense,” and “felony drug abuse offense” to include references to the sections containing the bill’s new offenses and the time at which an offense was committed.<sup>39</sup>
2. Modification of the Drug Offenses Law definition of “minor drug possession offense” to ensure that offenses committed under the bill’s new possession offenses are included when they are misdemeanors or fifth degree felonies and to clarify the time at which the offenses currently referenced qualify as such an offense.<sup>40</sup>
3. Modification of the Criminal Sentencing Law definition of “major drug offender” to include specific references to persons convicted under the bill’s new offense that are expressly designated as major drug offenders under those offenses.<sup>41</sup>
4. Modification of the Criminal Sentencing Law definition of “mandatory prison term” to include references to the sections containing the bill’s new offenses.<sup>42</sup>
5. Modifications in the Criminal Sentencing Law provisions regarding consideration of factors in sentencing convicted felons, and regarding offenses for which mandatory prison terms are required, to include references to the sections containing the bill’s new offenses.<sup>43</sup>

## **Imposition of prison term for a violation of a community control sanction imposed for a felony**

Currently, if an offender is convicted of a felony, if the court imposes one or more community control sanctions on the offender, and if the offender violates any conditions of a sanction, violates a law, or leaves the state without permission, the sentencing court may impose upon the violator one or more of the following penalties: (1) a longer time under the same sanction if the total time under the sanctions does not exceed the five-year limit specified by law, (2) a more restrictive community control sanction, including a new term in a community-based correctional facility, halfway house, or jail, or (3) a prison term on the offender, provided that a prison term is subject to the specified limitations.

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<sup>38</sup> R.C. 2925.111(G).

<sup>39</sup> R.C. 2925.01(G) and 2925.11(B).

<sup>40</sup> R.C. 2925.01(EE).

<sup>41</sup> R.C. 2929.01(W).

<sup>42</sup> R.C. 2929.01(X).

<sup>43</sup> R.C. 2929.13, 2929.14, and 2941.1410.

Currently, the limitations on the use of a prison term as a sanction specify that: (1) if the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a fifth degree felony or for any violation of law committed while under a community control sanction imposed for such a felony that consists of a new criminal offense and that is not a felony, the prison term may not exceed 90 days, and (2) if the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a fourth degree felony that is not an offense of violence and is not a sexually oriented offense or for any violation of law committed while under a community control sanction imposed for such a felony that consists of a new criminal offense and that is not a felony, the prison term may not exceed 180 days.

The bill clarifies the application of the limitations on the use of a prison term as a sanction. Under the bill, the limitations on the use of a prison term as a sanction specify that: (1) if the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a fifth degree felony, the prison term may not exceed 90 days, and (2) if the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a fourth degree felony that is not an offense of violence and is not a sexually oriented offense, the prison term may not exceed 180 days. Significant to these provisions, the bill defines a “technical violation” as a violation of the conditions of a community control sanction imposed for a fifth degree felony, or for a fourth degree felony that is not an offense of violence and is not a sexually oriented offense, if the violation does not consist of a new criminal offense that is a felony or that is a misdemeanor other than a minor misdemeanor and the violation is committed while under the community control sanction.<sup>44</sup>

## **Municipal court and county court jurisdiction**

Currently, a municipal court has jurisdiction to hear misdemeanor cases committed within its territory and has jurisdiction over the violation of any ordinance of any municipal corporation within its territory, with exceptions for certain traffic or parking offenses. Currently, a county court has jurisdiction of all misdemeanor cases and to conduct certain preliminary proceedings (but not trials) in felony cases. The bill specifies that a municipal court or county court does not have jurisdiction to hear any charge of a “reclassified misdemeanor drug possession offense” (see below) unless the particular court operates a drug court. If a municipal court or county court operates a drug court, the drug court is required to hear all charges of any reclassified drug possession offense that is committed within the municipal court’s or county court’s territory. The common pleas court is required to hear all charges of any reclassified drug possession offense committed within the territory of a municipal court or county court that does not have a drug court.

As used in these provision, “reclassified misdemeanor drug possession offense” means any violation of R.C. 2925.11 that was committed prior to the bill’s effective date and to which both of the following apply: (1) at the time of the commission of the violation, the violation was a felony under the version of R.C. 2925.11 that then was in effect (i.e., the current section that contains the controlled substance possession offenses), and (2) on the bill’s effective date, the offense classification of the violation was reduced to a misdemeanor under the version of

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<sup>44</sup> R.C. 2929.15(B)(1) and (4).

R.C. 2925.11 or 2925.111 (the bill's sections that contain the marijuana, hashish, and other controlled substance possession offenses) that takes effect on that date.<sup>45</sup>

## **Drug and alcohol abuse civil commitment mechanism**

### **Existing law**

Existing law contains a mechanism pursuant to which a probate court may order involuntary treatment for a person suffering from alcohol or other drug abuse, if the court makes certain findings. A spouse, relative, or guardian may initiate proceedings under the mechanism requesting treatment for an individual (the respondent) suffering from alcohol and other drug abuse by filing a verified petition in the probate court and paying a filing fee, if any, that is charged for the filing of an affidavit seeking the hospitalization of a person. The petition must set forth specified types of information about the petitioner and the respondent, including the petitioner's belief that the respondent is suffering from alcohol and other drug abuse and presents an imminent danger or imminent threat of danger to self, family, or others if not treated for alcohol or other drug abuse and the factual basis for that belief.

The petition must be accompanied by both of the following: (1) a security deposit deposited with the probate court's clerk that will cover half of the estimated cost of treatment of the respondent, and (2) a guarantee, signed by the petitioner or another person authorized to file the petition obligating the guarantor to pay the costs of required examinations of the respondent conducted by a physician and qualified health professional, the respondent's costs associated with the hearing under the mechanism and that the court determines to be appropriate, and the costs of any treatment ordered by the court.

Upon receipt of a petition and the payment of the appropriate fee, if any, the probate court is required to examine the petitioner under oath as to the contents of the petition. If, after reviewing the allegations contained in the petition and examining the petitioner, it appears to the probate court that there is probable cause to believe the respondent may reasonably benefit from treatment, the court causes the respondent to be examined by a physician and by a qualified health professional, conducts a hearing, and performs several related duties.

If, upon completion of the hearing held, the probate court finds by clear and convincing evidence that the respondent may reasonably benefit from treatment, the court may order the treatment after considering the qualified health professional's recommendations for treatment that were submitted. If the court orders the treatment, it must order the treatment to be provided through a community addiction services provider or by an individual licensed or certified by the State Medical Board, the Chemical Dependency Professionals Board, the Counselor, Social Worker, and Marriage and Family Therapist Board, or a similar board of another state authorized to provide substance abuse treatment.<sup>46</sup>

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<sup>45</sup> R.C. 1901.20 and 1907.02.

<sup>46</sup> R.C. 5119.91 to 5119.94, not in the bill except for R.C. 5119.93 and 5119.94.

## Operation of the bill

The bill modifies the mechanism described above as follows:<sup>47</sup>

1. It removes the requirement that the petitioner pay any filing fee to initiate the proceedings for treatment of the respondent;
2. It expands the requirement that the petition include the petitioner's belief that the respondent is suffering from alcohol and other drug abuse and presents an imminent danger or imminent threat of danger to self, family, or others if not treated for alcohol or other drug abuse and the factual basis for that belief to also require that the petition include any evidence that the respondent has overdosed and been revived at least three times by an opioid antagonist, overdosed in a vehicle, or overdosed in the presence of a minor;
3. It modifies the requirement that the petition include a security deposit and a guarantee or payment of the costs of examinations of the respondent to instead require that the petition be accompanied by both of the following:
  - a. Either a security deposit deposited with the probate court's clerk that will cover half of the estimated cost of treatment of the respondent, or documentation establishing that insurance coverage of the petitioner or respondent will cover at least half of that estimated cost;
  - b. Either: (i) a guarantee, signed by the petitioner or another person authorized to file the petition obligating the guarantor to pay the costs of the respondent's examinations conducted by the physician and qualified health professional, the costs of the respondent associated with the hearing under the mechanism and that the court determines to be appropriate, and the costs of any treatment ordered by the court, or (ii) documentation establishing that insurance coverage of the petitioner or respondent will cover the costs described in clause (i).
4. It specifies that evidence that the respondent has overdosed and been revived at least three times by an opioid antagonist, overdosed in a vehicle, or overdosed in the presence of a minor is sufficient to satisfy the evidentiary requirement that the respondent may reasonably benefit from treatment, that is required as the criterion for the court to order treatment for the respondent;
5. It specifies that, if the court orders the treatment for the respondent, in addition to ordering the treatment through an entity or person specified under existing law, the court also may order that the respondent submit to periodic examinations by a qualified mental health professional to determine if the treatment remains necessary.

## Conviction Record Sealing Law

Existing law provides a mechanism, the Conviction Record Sealing Law,<sup>48</sup> pursuant to which a person convicted of a criminal offense who is an "eligible offender" may apply to a court for an order to seal the official records in the case.

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<sup>47</sup> R.C. 5119.93(A), (B)(6), and (D) and 5119.94(A) and (D)(1).

A person convicted of an offense may qualify as an eligible offender under that Law in either of two manners. One manner is relevant to the bill. Under that manner of qualifying, an eligible offender is anyone who has been convicted of one or more offenses, but not more than five felonies, in Ohio or any other jurisdiction, if all of the offenses in Ohio are felonies of the fourth or fifth degree or misdemeanors and none of those offenses are an offense of violence or a felony sex offense and all of the offenses in another jurisdiction, if committed in Ohio, would be felonies of the fourth or fifth degree or misdemeanors and none of those offenses would be an offense of violence or a felony sex offense. The bill expands this manner of qualifying to include references to reclassified misdemeanor drug possession offenses under the bill – under the bill that manner reads “anyone who has been convicted of one or more offenses, but not more than five felonies, in Ohio or any other jurisdiction, if all of the offenses in Ohio are felonies of the fourth or fifth degree, misdemeanors, *or reclassified misdemeanor drug possession offenses*, and none of those offenses are an offense of violence or a felony sex offense and all of the offenses in another jurisdiction, if committed in Ohio, would be felonies of the fourth or fifth degree, misdemeanors, *or reclassified misdemeanor drug possession offenses*, and none of those offenses would be an offense of violence or a felony sex offense.”<sup>49</sup>

As used in the provision described in the preceding paragraph, “reclassified misdemeanor drug possession offense” means any of the following: (1) any offense that is a qualifying misdemeanor drug possession offense (defined as a violation of R.C. 2925.11 that was committed prior to the bill’s effective date if, at the time of the commission of the violation, the violation was a felony under the version of that section that then was in effect and on the bill’s effective date, the offense classification of the violation was reduced to a misdemeanor under the version of R.C. 2925.11 or 2925.111 that took effect on that date), or (2) any offense committed in any jurisdiction other than Ohio that, if committed in Ohio, would be an offense described in clause (1). Any reference in the Conviction Record Sealing Law to a felony does not include any reclassified misdemeanor drug possession offense, and references in those sections to a misdemeanor include reclassified misdemeanor drug possession offenses.<sup>50</sup>

A person who is an eligible offender under that Law may apply to a court for an order to seal the official records in the case after the expiration of a specified period of time. Currently, an offender may apply at the expiration of three years after the offender’s final discharge if convicted of one felony; at the expiration of four years after the offender’s final discharge if convicted of two felonies, or at the expiration of five years after final discharge if convicted of three, four, or five felonies and the person qualifies as an eligible offender under the existing criterion described above; or at the expiration of one year after the offender’s final discharge if convicted of a misdemeanor. The bill modifies the times at which an application may be made. It specifies that application may be made prior to the first and third times described in the preceding sentence if the conviction was of the bill’s possession of a controlled substance, possession of marijuana, or possession of hashish offense that is a misdemeanor or a felony of

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<sup>48</sup> R.C. 2953.31 to 2953.36, not in the bill except for R.C. 2953.31 and 2953.32.

<sup>49</sup> R.C. 2953.31(A)(1)(a).

<sup>50</sup> R.C. 2953.31(J).

the fourth or fifth degree or that was a violation of a municipal ordinance of a municipal corporation of this state that is substantially equivalent to any of those offenses, at any time after successful completion of either of the following: (1) a treatment program or other type of program imposed on the eligible offender with respect to the offense, by a drug court, or (2) an intervention plan imposed on the eligible offender with respect to the offense, pursuant to a grant of intervention in lieu of conviction under R.C. 2951.041.<sup>51</sup>

On and after the bill's effective date, any conviction of a violation of R.C. 2925.11 that, prior to that date, was a felony and that is a reclassified misdemeanor drug possession offense on and after that date must be considered and treated for purposes of the Conviction Record Sealing Law as if it were, and always had been, a conviction of a misdemeanor.

## **Not Guilty/Dismissed Charges Record Sealing Law**

Existing law provides a mechanism, the Not Guilty/Dismissed Charges Record Sealing Law,<sup>52</sup> pursuant to which a person who is found not guilty of an offense or who has been charged with an offense and has had the charges dismissed may apply to a court for an order to seal the official records in the case. The bill modifies that Law to clarify and ensure that its provisions apply to and cover a person who was charged with the bill's possession of a controlled substance, possession of marijuana, or possession of hashish offenses, who had the charge held in abeyance under the bill's provisions authorizing the court hearing the charge to do so, who successfully completed the treatment program or intervention plan imposed as part of the abeyance mechanism, and who, as a result of that completion, had the charges dismissed.<sup>53</sup>

## **Cross-reference and technical changes**

The bill amends numerous provisions of existing law to change cross-references, or to make technical changes, to reflect the bill's substantive changes described above.<sup>54</sup>

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## **History**

Action	Date
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<sup>51</sup> R.C. 2953.32(A).

<sup>52</sup> R.C. 2953.51 to 2953.56, not in the bill except for R.C. 2953.52.

<sup>53</sup> R.C. 2953.52.

<sup>54</sup> R.C. 109.572, 128.04, 177.01, 2152.021, 2152.18, 2743.60, 2923.01, 2923.241, 2923.31, 2923.41, 2925.02, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 2925.38, 2925.42, 2925.51, 2927.21, 2929.141, 2929.18, 2929.25, 2929.34, 2933.51, 2935.36, 2951.041, 2967.18, 2967.19, 2967.28, 3301.32, 3301.541, 3313.662, 3319.31, 3319.39, 3712.09, 3719.013, 3719.21, 3719.99, 3721.121, 3734.44, 3767.01, 4112.02, 4510.17, 4729.99, 4742.03, 5103.0319, 5119.36, 5119.37, 5119.391, 5120.53, 5153.111, and 5502.13.

Action	Date
Introduced	02-12-19