



Judicial Impact Statement

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JUDICIAL IMPACT STATEMENT: M4 DOMESTIC VIOLENCE OFFENSE

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Proposed Title Information

To amend section 2917.11 of the Ohio Revised Code to create a fourth-degree misdemeanor Domestic Violence offense.

Background

Charges of first-degree misdemeanor (M1) Domestic Violence or Assault are often plea bargained to a charge of Disorderly Conduct, a minor misdemeanor, or Disorderly Conduct Persisting, a fourth-degree misdemeanor (M4). Under many circumstances, judges see the need for the offender to undergo probation or some other sort of continuing post-sentence intervention, which the judge may impose for M4 offenses, but not minor misdemeanors. In other words, continuing intervention, if necessary, is only possible if the charge is an M4, not an MM.

Judicial Impact

Ethically, judges should not accept a plea bargain unless the facts support the elements of the bargained offense. The plea bargaining of an M1 Domestic Violence charge to either a minor misdemeanor Disorderly Conduct or an M4 Disorderly Conduct Persisting can thus present judges with an ethical dilemma: accept the M4 Disorderly Conduct Persisting so as to include probation or intervention in the sentence when the facts of the case do not necessarily fit that particular charge, or accept the minor misdemeanor charge and forego the probation or intervention that the judge feels is necessary and would be available with an M4 charge.

Recommendations

The Judicial Conference recommends the creation of an M4 Domestic Violence charge, thus allowing judges to accept appropriate, bargained charges that fit the facts of the case. This can be accomplished by adding a subsection to R.C. 2917.11(E)(3) to include as a Disorderly Conduct M4 misdemeanor an offense that involves family or household members, as defined in R.C. 2919.25(F) or involves physical harm or an attempt to cause physical harm. If the offender previously has plead guilty to or been convicted of an M4 Disorderly Conduct

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.

violation under R.C. 2917.11 or a similar ordinance, then the offense should be a first-degree misdemeanor.

Additionally, the Judicial Conference recommends including in R.C. 2917.11 (Disorderly Conduct) that an offense involving a family or household member is a predicate offense for enhancing a subsequent charge of Domestic Violence under R.C. 2919.25.