



ENACTMENT SUMMARY

Senate Bill 16

Civil liability – perishable food donations; Marsy’s Law corrections

Effective July 7, 2023

On July 7, 2023, Governor DeWine signed Senate Bill 16 (Sen. Wilson) into law. As introduced and passed by the Senate, the bill dealt exclusively with civil immunity pertaining to the donation of perishable food to a nonprofit organization, and was amended in the House to include a number of corrections Marsy’s Law procedures implemented in 134 HB 343. The bill contained an emergency clause and thus became effective on July 7.

Civil liability – perishable food donations

Prior law extended civil liability to persons donating perishable food to a nonprofit organization only if the organization provides the food to others free of charge. The bill expands the liability to include situations in which the organization charges a fee in an amount sufficient to cover the cost of handling the distributed food.

Marsy’s Law corrections

The 134th General Assembly enacted H.B. 343 (Rep. White) to implement victims’ rights protections following the 2017 passage of the Marsy’s Law constitutional amendment. That bill took effect on April 6, 2023. S.B. 16 was amended to include a series of changes intended to correct problems arising from the implementation of H.B. 343, including as follows:

- Permits a court to appoint a victim advocate if the victim is incapacitated, incompetent, or deceased, and no family member or other advocate has come forward to serve as the representative, or if the current representative is not acting in the victim’s best interests.
- Excludes motor vehicle accident reports submitted to the Department of Public Safety from the definition of “case document,” unless the victim requests redaction of those reports
- Requires a court to provide notice to the prosecutor of hearings to seal or expunge juvenile records no less than 30 days before the hearing, and permits a court and prosecutor to agree to a shorter notice period than the otherwise required 60 days for non-juvenile sealing/expungement hearings
- Permits charging a victim for copies of certain case documents at actual cost
- Requires courts to inform law enforcement agencies with jurisdiction to enforce protection orders, when the order is terminated, that the order is no longer effective
- Eliminates the maximum five-year time limit from payment of sanctions imposed for misdemeanors

- No longer requires clerks of sentencing courts to make the offender's payment history available to the victim, prosecutor, probation department, and court, without cost
- For child victims under the age of 13, requires juvenile judges, upon motion by the prosecution or victim, to order the victim's testimony be taken outside the room in which the proceeding is being conducted and broadcast into the room
- For child victims under the age of 13, the same requirements as above, but only if, by a preponderance of evidence, the child victim would suffer serious emotional trauma if required to provide live trial testimony
- Removes the requirement that courts pay for interpreter services any time an interpreter is used, instead requiring the entity (court, law enforcement, prosecutor, etc.) using the interpreter to pay for that service.
- Prohibits a court from appointing a person employed by the prosecuting attorney to serve as a victim's representative without the consent of the prosecuting attorney
- Permits a victim, when a case is closed or inactive, to file an application under seal to request an unredacted copy of any recorded forensic interview of a minor or developmentally disabled victim. Upon receipt of such application, the court shall notify the child advocacy center, or other agency, responsible for the interview, and give that agency the opportunity to respond. The court may make grant the application upon an express finding that allowing the applicant to receive the interview is in the best interest of the victim under the totality of the circumstances.
- Removes the ability of the court to appoint a designee to provide notice to victims about violations of or termination/alteration of the terms of community control.
- Clarifies that a juvenile court's authority to order the performance of community service to generate funds for restitution is not limited to minor misdemeanors, as in prior law.

The Ohio Senate passed S.B. 16 on April 26, 2023 by a vote of 32-0. The House passed the bill on June 21, 2023 by a vote of 90-2. The Senate concurred in the House amendments on June 28, 2023, by a vote of 32-0.