



Judicial Impact Statement

www.ohiojudges.org

Updated March 2018

SB 20 – Add prison term if permanently disable victim

Sub. SB 20

As adopted by House Criminal Justice Committee

Sen. Hackett

Title Information

To amend sections 2903.11, 2919.22, 2929.01, 2929.13, and 2929.14 and to enact section 2941.1425 of the Revised Code to require an additional prison term of 3 to 8 years for an offender who is convicted in specified circumstances of a felony offense of endangering children or felonious assault of a child if the offender also is convicted of a specification that the victim suffered permanent disabling harm and to name the act "Destiny's Law."

Background

As passed by the Senate, Senate Bill 20 required courts to impose a prison term of three to eight years upon an offender who commits felonious assault upon a victim under the age of 13 who suffers permanent disabling harm. While the additional prison sentence is mandatory, the Senate-passed version of S.B. 20 gives judges the discretion to determine the appropriate length of that sentence.

The House Criminal Justice Committee accepted a substitute version of the bill, that requires a mandatory prison term of six years if the child victim is under the age of 10 and suffered permanent disabling harm.

Judicial Impact

The Judicial Conference generally prefers maintaining judicial discretion and disfavors mandatory sentences. Rather than a one-size-fits-all approach to sentencing, judges are uniquely positioned through their legal training, experience with and knowledge of the defendant, and familiarity with the facts of each particular case that comes before them to render sentences that are appropriate for the crime committed and the circumstances of each case. Judicial discretion is fundamental to our democratic system of government, which separates power among the three branches of government. Mandatory sentences enacted by the legislative branch hinder the independence of the judicial branch, putting at risk the separation of powers on which our democracy is based.

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.

The bill's sponsor has worked closely with the Judicial Conference to narrow some of the definitions in the bill, such that any negative impact on court caseload will likely be minimized, and to give judges some discretion when it comes to sentencing. These compromises are reflected in the Senate-passed version of the bill. The sub-bill adopted by the House Criminal Justice Committee removes all judicial discretion and is contrary to the compromise language the sponsor accepted in the Senate-passed version.

Conclusion

The legislature should avoid enacting more additional mandatory sentences and allow judges to use their discretion to determine what type of sentence is appropriate. The Judicial Conference prefers S.B. 20 as passed by the Senate, and is concerned with the removal of all judicial discretion in the sub-bill adopted by the House Criminal Justice Committee.