



Judicial Impact Statement

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HB 282 – Immigration as sentencing/bail consideration

HB 282 As Introduced

Rep. Williams

Title Information

To amend sections 2929.12, 2929.15, 2929.22, 2929.25, and 2937.011 of the Revised Code to add a person's immigration status as a factor a court must consider when sentencing or ordering bail.

Background

The bill adds an offender's immigration status and whether the offender is unlawfully present in the United States or has a current or previous federal immigration detainer to the list of factors a judge is required to consider when setting bail and when imposing a sentence.

Judicial Impact

Current law does not permit a court to consider an offender's immigration status when deciding whether to sentence an offender to prison or community control under R.C. 2929.13(B)(1)(b), and this is not addressed under House Bill 282. It is important that judges have the ability to impose imprisonment on some of the offenders who, because of their immigration status, would be almost impossible to properly supervise, yet commit a low level criminal offense that could be interpreted as threatening the economic security of the state or nation." For example, if the judge knows that someone is in the country illegally and possibly subject to an immigration detainer, it does no good to sentence that person to community control (even when the existing factors to consider would favor a sentence of community control), knowing that offender likely cannot be supervised under community control should they ultimately be detained by federal authorities for possible deportation. Allowing the court to consider the immigration status would allow for a sentence of incarceration where community control might otherwise have been ordered, so the person can at least be held until subject to federal custody.

Note that it is not the position of the OJC that someone should be incarcerated *because* of their immigration status, but from a practical consideration, judges want to be able to appropriately sentence the offender for the crime they have committed, but their immigration status sometimes makes community control unworkable due to the inability to ensure proper supervision.

Recommendations and Conclusion

The General Assembly should amend House Bill 282 to include the language requiring a judge to consider immigration status in R.C. 2929.13(B)(1)(b), making it a factor for the sentencing court to consider when deciding whether to impose prison or community control.

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.