

Application of theft-related, certain non-theft-related, vandalism-related, and corrupt activity-related provisions in the act

The act specifies that: (1) its amendments described above in "**Penalties for theft-related and certain non-theft-related offenses**," "**Offense of vandalism**," and "**Offense of engaging in a pattern of corrupt activity**" apply to a person who commits an offense specified or penalized under any of the Revised Code sections containing those amendments on or after the act's effective date and to a person to whom preexisting R.C. 1.58(B), as described below, makes the amendments applicable, (2) the provisions of the Revised Code sections containing the amendments described in those parts of this analysis as they existed prior to the act's effective date apply to a person upon whom a court imposed sentence prior to its effective date for an offense specified or penalized under those sections, and (3) its amendments described in those parts of this analysis do not apply to a person upon whom a court imposed sentence prior to the act's effective date for an offense specified or penalized under any of the sections containing those amendments.¹³ R.C. 1.58(B), not in the act, specifies that, if the penalty, forfeiture, or punishment for any offense is reduced by a reenactment or amendment to a statute, the penalty, forfeiture, or punishment, if not already imposed, must be imposed according to the statute as amended.

Sentencing for nonsupport of dependents

Formerly

Preexisting law, unchanged by the act, contains a series of prohibitions against a failure to provide support in specified circumstances. One prohibition prohibits any person from abandoning, or failing to provide adequate support to, the person's child who is under 18 years of age or mentally or physically handicapped child who is under 21 years of age. Another prohibition prohibits any person from abandoning, or failing to provide support as established by a court order to, another person whom the person is legally obligated by court order or decree to support. A violation of either of the above prohibitions is "nonsupport of dependents," generally a first degree misdemeanor. If the offender previously has been convicted of or pleaded guilty to nonsupport of dependents committed by a violation of either prohibition or if the offender has failed to provide support under either prohibition for a total accumulated period of 26 weeks out of 104 consecutive weeks, whether or not the 26 weeks were consecutive, then a violation of either prohibition is a fifth degree felony. If the offender previously has been convicted of or pleaded guilty to a felony offense of nonsupport of dependents, a violation of either prohibition is a fourth degree felony. The other

¹³ Section 4.

prohibitions included within the offense are not relevant to the act and are not discussed in this analysis.¹⁴

Operation of the act

The act provides that, if the violation of either of the preexisting prohibitions described above is a felony, all of the following apply to the sentencing of the offender:¹⁵

(1) Except as otherwise described in (2), below, the court in imposing sentence on the offender must first consider placing the offender on one or more community control sanctions under specified provisions of the Felony Sentencing Law, with an emphasis under the sanctions on intervention for nonsupport, obtaining or maintaining employment, or another related condition.

(2) The preference for placement on community control sanctions described in (1), above, does not apply to any offender to whom one or more of the following applies: (a) the court determines that the imposition of a prison term on the offender is consistent with the purposes and principles of sentencing set forth in existing R.C. 2929.11, (b) the offender previously was convicted of or pleaded guilty to felony nonsupport of dependents, and the offender was sentenced to a prison term for that violation, or (c) the offender previously was convicted of or pleaded guilty to felony nonsupport of dependents, the offender was sentenced to one or more community control sanctions of a type described in (1), above, for that violation, and the offender failed to comply with the conditions of any of those community control sanctions.

Offense of escape; persons under Department of Rehabilitation and Correction supervision and sanctions for violation

Formerly

Preexisting law, unchanged by the act, provides that a person is guilty of the crime of escape if the person, knowing the person is under "detention" (see below) or being reckless in that regard, purposely breaks or attempts to break the detention, or purposely fails to return to detention, either following temporary leave granted for a specific purpose or limited period, or at the time required when serving a sentence in intermittent confinement.¹⁶

¹⁴ R.C. 2919.21.

¹⁵ R.C. 2919.21.

¹⁶ R.C. 2921.34.