

Collateral Sanctions Bill

Fact Sheet: Juvenile Provisions

In June 2012, H.B. 524 and S.B. 337 were passed by the Ohio General Assembly. These bills help to reduce collateral sanctions for youth who come into contact with both the juvenile and adult criminal justice systems; however the bills also contain a provision regarding background checks that actually increases collateral sanctions for some youth.

Issue #1: Reduced Waiting Time for Sealing and Expunging Juvenile Court Records

Prior law: Youth had to wait *2 years* to have their juvenile court record expunged – or removed – from the juvenile court’s records and five offenses could never be expunged.

New law: Youth can have their record expunged after *six months* and only three offenses can never be expunged (aggravated murder, murder, and rape). [ORC § 2151.356(C)]

Reasoning: Record expungement is available to youth who have served their time, have been held responsible for their actions, and have been rehabilitated. By removing their juvenile court adjudication from their records earlier, youth can get an earlier start on taking steps toward becoming productive citizens, such as applying for colleges, housing, and jobs, without reporting their juvenile court adjudication.

Issue #2: Detention Credit Clarified to Include All Time in Detention

Prior law: Youth who were processed in the juvenile court and were sentenced to serve time in a Department of Youth Services (DYS) correctional facility, an adult jail, or a Department of Rehabilitation and Correction (DRC) facility did not receive full credit for the time – sometimes months – they had been confined in a juvenile detention facility.

New law: Allows youth sentenced to DYS facilities, adult jails or DRC facilities to have the time they were confined in any locked juvenile facility applied as credit to reduce their sentence. [ORC §§ 2152.26 – DYS facilities, 2949.08 - jails, 2967.191 – DRC facilities]

Reasoning: This change ensures that youth receive credit for all the time they are confined in a juvenile detention facility while awaiting the resolution of their case in juvenile or adult court.

Issue #3: Limits the Placement of Youth in Adult Jails

Prior law: Two categories of youth could be kept in adult jails:

- 1) *Youth aged 18-21 who were under the jurisdiction of the juvenile court* – Youth in juvenile court could be placed in adult jails not because they committed a new offense, but because they violated the terms of their juvenile court sentence, including for relatively minor infractions like missing a meeting with a probation officer.
- 2) *Youth bound over to adult court* – Youth bound over to adult court were permitted, but not required, to be moved to adult jails.

New law: Changes Ohio's law to create a presumption that both categories of youth above remain in juvenile detention facilities. These youth can only be transferred to adult jails after a judge reviews the youth's individual circumstances and determines the youth is a threat to the safety and security of the facility. [ORC §§ 2152.02 and 2152.26]

Reasoning: Research shows that youth in adult jails do not fare well. Youth in these facilities are at a great risk of physical and sexual assault, have a significantly increased risk of suicide, and often are unable to access appropriate education services. In addition, a recent poll shows that 84% of Ohioans support removing youth from adult facilities.ⁱ

Issue #4: Background Checks

Prior law: Did not permit juvenile court adjudications to be included in background checks, but in practice juvenile adjudications were being disclosed on checks.

New law: Prohibits background checks from including juvenile court adjudications with three exceptions: aggravated murder, murder, and any sex offense that triggers mandatory sex offender registration. [ORC §§ 109.57, 109.572 and 109.578]

Reasoning: Juvenile court records are designed to be kept confidential to shield youth from stigmatization based on acts in their youth, particularly when the youth is determined to be rehabilitated and released by the court. Releasing these records can prevent youth from obtaining employment, housing, and access to education that youth need to stay on the right track. Although the bill recognizes that most juvenile court adjudications should not be included on a background check, it subjects some youth to adult criminal sanctions by specifically allowing certain juvenile records to be included on background checks.

ⁱ *Falling Through the Cracks: A New Look at Ohio Youth in the Adult Criminal Justice System*, May 2012.