



Ohio Revised Code

Section 2152.021 Complaint of delinquency or juvenile traffic offender.

Effective: April 12, 2021

Legislation: House Bill 431 - 133rd General Assembly

(A)(1) Subject to division (A)(2) of this section, any person having knowledge of a child who appears to be a juvenile traffic offender or to be a delinquent child may file a sworn complaint with respect to that child in the juvenile court of the county in which the child has a residence or legal settlement or in which the traffic offense or delinquent act allegedly occurred. The sworn complaint may be upon information and belief, and, in addition to the allegation that the child is a delinquent child or a juvenile traffic offender, the complaint shall allege the particular facts upon which the allegation that the child is a delinquent child or a juvenile traffic offender is based.

If a child appears to be a delinquent child who is eligible for a serious youthful offender dispositional sentence under section 2152.11 of the Revised Code and if the prosecuting attorney desires to seek a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code in regard to the child, the prosecuting attorney of the county in which the alleged delinquency occurs may initiate a case in the juvenile court of the county by presenting the case to a grand jury for indictment, by charging the child in a bill of information as a serious youthful offender pursuant to section 2152.13 of the Revised Code, by requesting a serious youthful offender dispositional sentence in the original complaint alleging that the child is a delinquent child, or by filing with the juvenile court a written notice of intent to seek a serious youthful offender dispositional sentence. This paragraph does not apply regarding the imposition of a serious youthful offender dispositional sentence pursuant to section 2152.121 of the Revised Code.

(2) Any person having knowledge of a child who appears to be a delinquent child for violating a court order regarding the child's adjudication as an unruly child for being an habitual truant, may file a sworn complaint with respect to that child, or with respect to that child and the parent, guardian, or other person having care of the child, in the juvenile court of the county in which the child has a residence or legal settlement or in which the child is supposed to attend public school. The sworn complaint may be upon information and belief and shall allege that the child is a delinquent child for violating a court order regarding the child's prior adjudication as an unruly child for being a habitual truant and, in addition, the particular facts upon which that allegation is based. If the complaint



contains allegations regarding the child's parent, guardian, or other person having care of the child, the complaint additionally shall allege that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code and, in addition, the particular facts upon which that allegation is based.

(B) Any person with standing under applicable law may file a complaint for the determination of any other matter over which the juvenile court is given jurisdiction by section 2151.23 of the Revised Code. The complaint shall be filed in the county in which the child who is the subject of the complaint is found or was last known to be found.

(C) Within ten days after the filing of a complaint or the issuance of an indictment, the court shall give written notice of the filing of the complaint or the issuance of an indictment and of the substance of the complaint or indictment to the superintendent of a city, local, exempted village, or joint vocational school district if the complaint or indictment alleges that a child committed an act that would be a criminal offense if committed by an adult, that the child was sixteen years of age or older at the time of the commission of the alleged act, and that the alleged act is any of the following:

(1) A violation of section 2923.122 of the Revised Code that relates to property owned or controlled by, or to an activity held under the auspices of, the board of education of that school district;

(2) A violation of section 2923.12 of the Revised Code, of a substantially similar municipal ordinance, or of section 2925.03 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district;

(3) A violation of section 2925.11 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district, other than a violation of that section that would be a minor drug possession offense if committed by an adult;

(4) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2907.02, or 2907.05 of the Revised Code, or a violation of former section 2907.12 of the Revised Code, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board



of education of that school district, if the victim at the time of the commission of the alleged act was an employee of the board of education of that school district;

(5) Complicity in any violation described in division (C)(1), (2), (3), or (4) of this section that was alleged to have been committed in the manner described in division (C)(1), (2), (3), or (4) of this section, regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district.

(D) A public children services agency, acting pursuant to a complaint or an action on a complaint filed under this section, is not subject to the requirements of section 3127.23 of the Revised Code.

(E) For purposes of the record to be maintained by the clerk under division (B) of section 2152.71 of the Revised Code, when a complaint is filed that alleges that a child is a delinquent child, the court shall determine if the victim of the alleged delinquent act was sixty-five years of age or older or permanently and totally disabled at the time of the alleged commission of the act.

(F)(1) At any time after the filing of a complaint alleging that a child is a delinquent child and before adjudication, the court shall promptly appoint for the child a guardian ad litem who is not the child's attorney if the court has reason to believe that either of the following might apply:

(a) The act charged would be a violation of section 2907.24, 2907.241, or 2907.25 of the Revised Code if the child were an adult.

(b) The child is a victim of a violation of section 2905.32 of the Revised Code, regardless of whether any person has been convicted of a violation of that section or of any other section for victimizing the child.

(2) The child, the child's attorney, the child's guardian ad litem, or the prosecuting attorney may petition the court to hold the complaint in abeyance if either of the following applies:

(a) Division (F)(1)(a) of this section applies.

(b) Division (F)(1)(b) of this section applies and the act charged in the complaint is related to the



child's victimization.

(3)(a) Upon the filing of a petition made under division (F)(2)(a) of this section, the court may grant the petition without a hearing. If the court decides to hold a hearing on the petition, the court shall notify the prosecuting attorney of the date, time, and location of the hearing, and the prosecuting attorney has the right to participate in the hearing and may object to holding the complaint in abeyance. No statement made by a child at a hearing held under this division is admissible in any subsequent proceeding against the child.

(b) Upon the filing of a petition made under division (F)(2)(b) of this section, both of the following apply:

(i) The court may grant the petition without a hearing, provided the prosecuting attorney, after receiving notice of the petition, consents.

(ii) If the prosecuting attorney does not consent to holding the complaint in abeyance, the court shall hold a hearing to determine whether to hold the complaint in abeyance. The prosecuting attorney shall be notified of the date, time, and location of the hearing, and has the right to participate in the hearing. No statement made by a child at a hearing held under this division is admissible in any subsequent proceeding against the child.

(4) If the court decides to hold a hearing under division (F)(3)(a) of this section and the court after the hearing finds by a preponderance of the evidence that division (F)(1)(a) of this section applies, if after a hearing held under division (F)(3)(b)(ii) of this section the court finds by a preponderance of the evidence that division (F)(1)(b) of this section applies and the act charged in the complaint is related to the child's victimization, or if the court grants the petition without a hearing under division (F)(3)(a) or (b)(i) of this section, the court shall hold the complaint in abeyance, provided the child consents. The guardian ad litem shall make recommendations that are in the best interest of the child. A psychiatrist, psychologist, licensed professional clinical counselor, or other clinician selected by the court, who has assessed the child, may make recommendations that are in the best interest of the child. The prosecuting attorney or the child's attorney may make recommendations related to diversion actions. The court may make any orders regarding placement, services, supervision, diversion actions, and conditions of abeyance, including, but not limited to, engagement in trauma-



based behavioral health services or education activities, that the court considers appropriate and in the best interest of the child. The court may hold the complaint in abeyance for up to ninety days while the child engages in diversion actions. If the child violates the conditions of abeyance or is not actively engaging in the diversion actions to the court's satisfaction within ninety days, the court may extend the period of abeyance for not more than three additional ninety-day periods.

(5) If the court holds the complaint in abeyance and the child complies with the conditions of abeyance and actively engages in the diversion actions to the court's satisfaction, the court shall dismiss the complaint and order that the records pertaining to the case be expunged immediately. If the child fails to actively engage in the diversion actions to the court's satisfaction, the court shall proceed upon the complaint.