



## Ohio Revised Code

### Section 5139.52 Violating term or condition of supervised release or judicial release.

Effective: September 19, 2014

Legislation: Senate Bill 143 - 130th General Assembly

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(A) At any time during a child's supervised release or during the period of a child's judicial release to department of youth services supervision, if the regional administrator or the employee of the department assigned to supervise and assist the child has reasonable grounds to believe that the child has violated a term or condition of the supervised release or judicial release, the administrator or employee may request a court to issue a summons that requires the child to appear for a hearing to answer charges of the alleged violation. The summons shall contain a brief statement of the alleged violation, including the date and place of the violation, and shall require the child to appear for a hearing before the court at a specific date, time, and place.

(B)(1) At any time while a child is on supervised release or during the period of a child's judicial release to department of youth services supervision, a regional administrator or a designee of a regional administrator, upon application of the employee of the department assigned to supervise and assist the child as described in this division, may issue, or cause to be issued, an order of apprehension for the arrest of the child for the alleged violation of a term or condition of the child's supervised release or judicial release. An application requesting an order of apprehension shall set forth that, in the good faith judgment of the employee of the department assigned to supervise and assist the child making the application, there is reasonable cause to believe that the child who is on supervised release or judicial release to department of youth services supervision has violated or is violating a term or condition of the child's supervised release or judicial release, shall state the basis for that belief, and shall request that the child be taken to an appropriate place of secure detention pending a probable cause determination. As an alternative to an order of apprehension for the child, a regional administrator or the employee of the department assigned to supervise and assist the child may request a court to issue a warrant for the arrest of the child.

Subject to the provision of prior notice required by division (D)(1) of this section, if a regional administrator or a designee of a regional administrator issues, in writing, an order of apprehension for the arrest of a child, a staff member of the department of youth services who has been designated



pursuant to division (A)(1) of section 5139.53 of the Revised Code as being authorized to arrest and who has received the training described in division (B)(1) of that section, or a peace officer, as defined in section 2935.01 of the Revised Code, may arrest the child, without a warrant, and place the child in secure detention in accordance with this section.

If a child is on supervised release or judicial release to department of youth services supervision, any peace officer, as defined in section 2935.01 of the Revised Code, may arrest the child without a warrant or order of apprehension if the peace officer has reasonable grounds to believe that the child has violated or is violating any of the following that has been prescribed by the release authority or department of youth services relative to the child:

- (a) A condition that prohibits the child's ownership, possession, or use of a firearm, deadly weapon, ammunition, or dangerous ordnance, all as defined in section 2923.11 of the Revised Code;
- (b) A condition that prohibits the child from being within a specified structure or geographic area;
- (c) A condition that confines the child to a residence, facility, or other structure;
- (d) A condition that prohibits the child from contacting or communicating with any specified individual;
- (e) A condition that prohibits the child from associating with a specified individual;
- (f) Any other rule, term, or condition governing the conduct of the child that has been prescribed by the release authority.

(2) Subject to the provision of prior notice required by division (D)(1) of this section, a staff member of the department of youth services who is designated by the director pursuant to division (A)(1) of section 5139.53 of the Revised Code and who has received the training described in division (B)(1) of that section, a peace officer, as defined in section 2935.01 of the Revised Code, or any other officer with the power to arrest may execute a warrant or order of apprehension issued under division (B)(1) of this section and take the child into secure custody.



(C) A staff member of the department of youth services who is designated by the director of youth services pursuant to division (A)(1) of section 5139.53 of the Revised Code and who has received the training described in division (B)(1) of that section, a peace officer, as defined in section 2935.01 of the Revised Code, or any other officer with the power to arrest may arrest without a warrant or order of apprehension and take into secure custody a child in the legal custody of the department, if the staff member, peace officer, or other officer has reasonable cause to believe that the child who is on supervised release or judicial release to department of youth services supervision has violated or is violating a term or condition of the supervised release or judicial release in any of the following manners:

- (1) The child committed or is committing an offense or delinquent act in the presence of the staff member, peace officer, or other officer.
- (2) There is probable cause to believe that the child violated a term or condition of supervised release or judicial release and that the child is leaving or is about to leave the state.
- (3) The child failed to appear before the release authority pursuant to a summons for a modification or failed to appear for a scheduled court hearing.
- (4) The arrest of the child is necessary to prevent physical harm to another person or to the child.

(D)(1) Except as otherwise provided in this division, prior to arresting a child under this section, either in relation to an order of apprehension or a warrant for arrest or in any other manner authorized by this section, a staff member or employee of the department of youth services shall provide notice of the anticipated arrest to each county, municipal, or township law enforcement agency with jurisdiction over the place at which the staff member or employee anticipates making the arrest. A staff member or employee is not required to provide the notice described in this division prior to making an arrest in any emergency situation or circumstance described under division (C) of this section.

(2) If a child is arrested under this section and if it is known that the child is on supervised release or judicial release to department of youth services supervision, a juvenile court, local juvenile detention facility, or jail shall notify the appropriate department of youth services regional office



that the child has been arrested and shall provide to the regional office or to an employee of the department of youth services a copy of the arrest information pertaining to the arrest.

(3) Nothing in this section limits the power to make an arrest that is granted to specified peace officers under section 2935.03 of the Revised Code, to any person under section 2935.04 of the Revised Code, or to any other specified category of persons by any other provision of the Revised Code, or the power to take a child into custody that is granted pursuant to section 2151.31 of the Revised Code.

(E) If a child who is on supervised release or who is under a period of judicial release to department of youth services supervision is arrested under an order of apprehension, under a warrant, or without a warrant as described in division (B)(1), (B)(2), or (C) of this section and taken into secure custody, all of the following apply:

(1) If no motion to revoke the child's supervised release or judicial release has been filed within seventy-two hours after the child is taken into secure custody, the juvenile court, in making its determinations at a detention hearing as to whether to hold the child in secure custody up to seventy-two hours so that a motion to revoke the child's supervised release or judicial release may be filed, may consider, in addition to all other evidence and information considered, the circumstances of the child's arrest and, if the arrest was pursuant to an order of apprehension, the order and the application for the order.

(2) If no motion to revoke the child's supervised release or judicial release has been filed within seventy-two hours after the child is taken into secure custody and if the child has not otherwise been released prior to the expiration of that seventy-two-hour period, the child shall be released upon the expiration of that seventy-two-hour period.

(3) If the person is eighteen, nineteen, or twenty years of age, the person may be confined in secure detention in the jail of the county in which the person is taken into custody. If the person is under eighteen years of age, the person may be confined in secure detention in the nearest juvenile detention facility.

(4) If a motion to revoke the child's supervised release or judicial release is filed after the child has



been taken into secure custody and the court decides at the detention hearing to release the child from secure custody, the court may release the child on the same terms and conditions that are currently in effect regarding the child's supervised release or judicial release, pending revocation or subsequent modification.

(F) If a child who is on supervised release is arrested under an order of apprehension, under a warrant, or without a warrant as described in division (B)(1), (B)(2), or (C) of this section and taken into secure custody, and if a motion to revoke the child's supervised release is filed, the juvenile court of the county in which the child is placed promptly shall schedule a time for a hearing on whether the child violated any of the terms and conditions of the supervised release. If a child is released on supervised release and the juvenile court of the county in which the child is placed otherwise has reason to believe that the child has not complied with the terms and conditions of the supervised release, the court of the county in which the child is placed, in its discretion, may schedule a time for a hearing on whether the child violated any of the terms and conditions of the supervised release. If the court of the county in which the child is placed on supervised release conducts a hearing and determines at the hearing that the child did not violate any term or condition of the child's supervised release, the child shall be released from custody, if the child is in custody at that time, and shall continue on supervised release under the terms and conditions that were in effect at the time of the child's arrest, subject to subsequent revocation or modification. If the court of the county in which the child is placed on supervised release conducts a hearing and determines at the hearing that the child violated one or more of the terms and conditions of the child's supervised release, the court, if it determines that the violation was a serious violation, may revoke the child's supervised release, reinstate the original order of commitment of the child, and order the child to be returned to the department of youth services for institutionalization or, in any case, may make any other disposition of the child authorized by law that the court considers proper. If the court orders the child to be returned to a department of youth services institution, the child shall remain institutionalized for a minimum period of ninety days, the department shall not reduce the minimum ninety-day period of institutionalization for any time that the child was held in secure custody subsequent to the child's arrest and pending the revocation hearing and the child's return to the department, the release authority, in its discretion, may require the child to remain in institutionalization for longer than the minimum ninety-day period, the child is not eligible for judicial release or early release during the minimum ninety-day period of institutionalization, and the period of institutionalization shall be served concurrently with any other commitment to the



department of youth services. If the court orders the child to be returned to a department of youth services institution, the time during which the child was confined pursuant to division (B) of section 2152.18 of the Revised Code and the time during which the child was held in a secure department facility prior to the child's release shall be considered as time served in fulfilling the original order of commitment but shall not reduce the minimum ninety-day period of institutionalization.

This division does not apply regarding a child who is under a period of judicial release to department of youth services supervision. Division (E) of section 2152.22 of the Revised Code applies in relation to a child who is under a period of judicial release to department of youth services supervision.

(G) The department of youth services shall assess and provide appropriate programming for a child who is returned to a department of youth services institution under this section.