

Statutory Basis for Student Discipline & Law Enforcement at State Universities in Ohio

■ Student Discipline

- **R.C. Section 3345.21** [tab 1]
- **R.C. Section 3345.22** [tab 2]
- **R.C. Section 3345.23** [tab 3]
- **R.C. Section 3345.24** [tab 4]
- **R.C. Section 3345.25** [tab 5]
- **R.C. Section 3345.26** [tab 6]

■ Law Enforcement

- R.C. Section 3345.04 [tab 7]
- R.C. Section 3345.041 [tab 8]

Dixon v. Alabama State Board of Education

[5th Cir. 1961; cert denied, 368 U.S. 930, (1961)]

- Landmark case in 1961 that first introduced constitutional safeguards ...
 - Due process...
- into the area of student discipline in America's public colleges and universities

Following *Dixon*, came the Vietnam War and an era of Campus Disruption across the Country

Ohio's reaction was

- the passage of Senate Bill #468, Effective, 6/10/1968, creating:
 - **Revised Code § 3345.21** Authority to maintain law and order on campus

- the passage of House Bill #1219, Effective, 9/16/1970, creating:
 - **Revised Code §§ 3345.22 through 3345.26**

R.C. § 3345.21

■ The Board of Trustees...

- **Shall**...regulate the use of grounds, buildings, equipment and facilities...and the conduct of the students, staff, faculty, and visitors to the campus...
- **Shall**...adopt rules for the conduct of the students, faculty, visitors, and staff...[which] **shall** be published...
- **Shall**...provide for the administration and enforcement of its rules and may authorize the use of state university law enforcement officers...to assist in enforcing the rules and the law on the campus
- **Shall**...not restrict freedom of speech nor the right of persons on the campus to assemble peacefully...

UA's Board of Trustees Respond to **R.C. 3345.21**, by enacting 3 Board Resolutions in 1968 and 1969

- # 16-68, Outlining the disciplinary authority of the university, pursuant to §3345.21;
- # 14-69, Setting forth the **“Regulations Concerning Campus Conduct”**
- # 15-69, Providing for **“Student Disciplinary Procedures”**, which included
 - a fact-finding procedure for investigating student misconduct; and,
 - identifying student procedural rights and providing for notice, hearings and appeals

1969 to Present

- The definitions of misconduct and the procedures adopted in 1968 and 1969 have undergone some modifications from time to time, but many provisions have remained substantially the same
- The most recent modification was in 2003, with the addition of a provision providing for a final “presidential review”.

House Bill #1219 provisions

§§ 3345.22, 3345.23, 3345.24, 3345.25, 3345.26

- These provisions of Ohio law Apply To...
 - Students, faculty, staff members and any other employee of a state college or university
 - Who is arrested for an **“offense of violence”**
 - Which offense is committed on or affects persons or property on such college or university, or which offense is committed in the immediate vicinity of a college or university with respect to which an emergency has been declared and is in effect

Offenses of Violence (30+ separate offenses)

- Homicide & Assault
- Kidnapping & Extortion
- Sex Offenses
- Arson & Related Offenses
- Robbery, Burglary & Trespass
- Offenses Against Public Peace
- Offenses Against the Family...Domestic Violence
- Offenses Against Justice...Intimidation
- Discharging a Firearm

Key Elements of “H.B. #1219” Statutes

- Arrest “triggers” notification to the university president
- A referee (attorney) shall be appointed by the president to conduct a hearing
- Hearing shall occur within 5 days, with continuances not to exceed 10 days.
- Referee can administer oaths, issue and enforce subpoenas, and exercise contempt proceedings to preserve order and decorum of proceedings.
- Hearing is adversary, but formalities of criminal process are not required

Key Elements of “H.B. #1219” Statutes, cont.

- Upon hearing, if the referee finds “by a preponderance of the evidence” that the person committed an offense of violence, the referee shall order the person suspended, which suspension remains in effect until the person is acquitted or convicted of the crime for which arrested.
- The referee may permit the person to return to the campus under terms of strict disciplinary probation upon a determination that the good order and discipline of the college will not be compromised

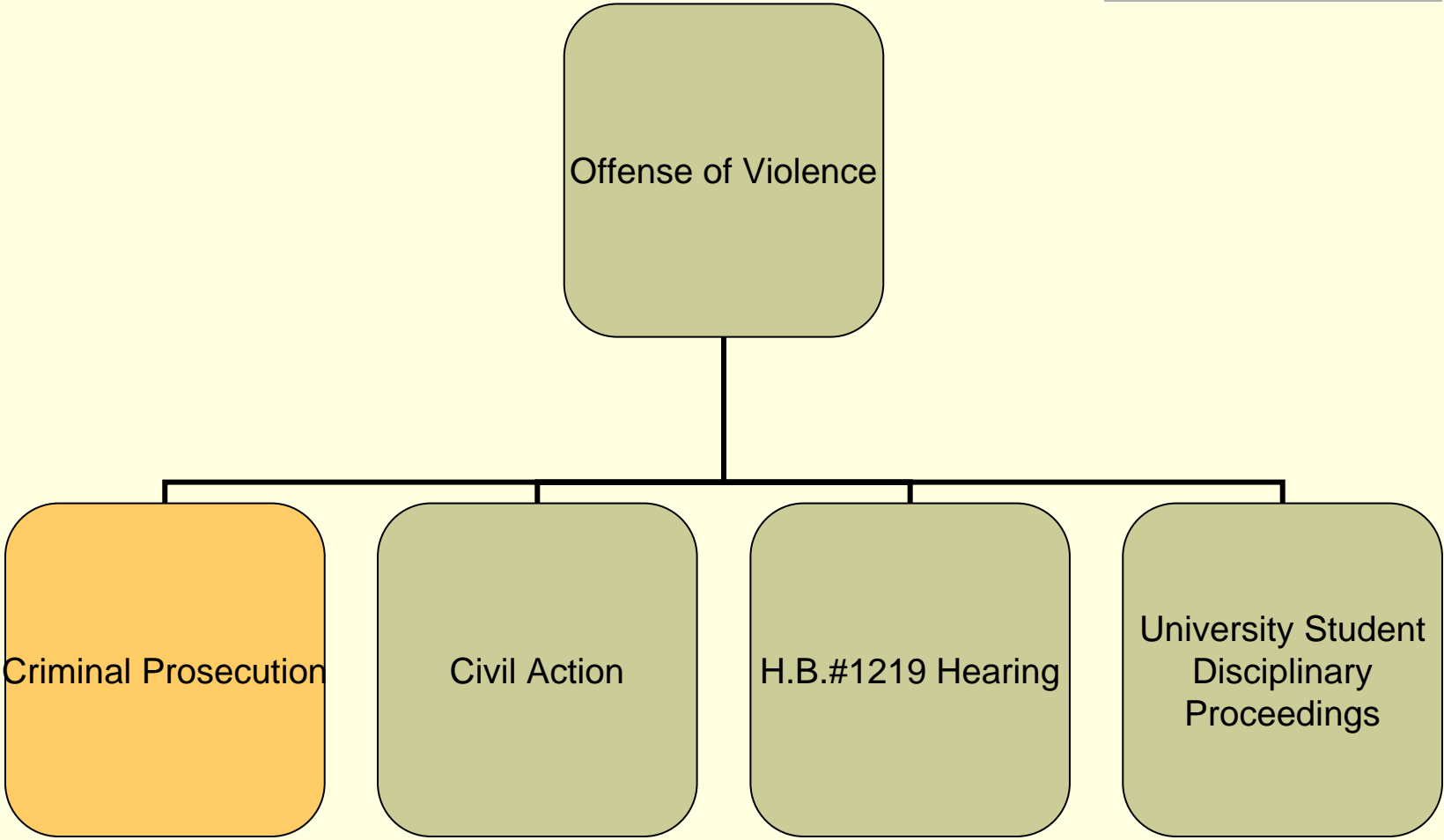
Key Elements of “H.B. #1219” Statutes, cont.

- Upon acquittal, the suspension under H.B. #1219 terminates and the suspension is expunged
- Upon conviction, if a faculty or staff member, the contract of employment is terminated
- Upon conviction, if a student, the student is automatically dismissed and may not return to any state college or university in Ohio for one year.
- A student who is dismissed, or a faculty or staff member who is terminated, may not be readmitted or re-employed except upon the lapse of one year, and only in the discretion of the board of trustees.

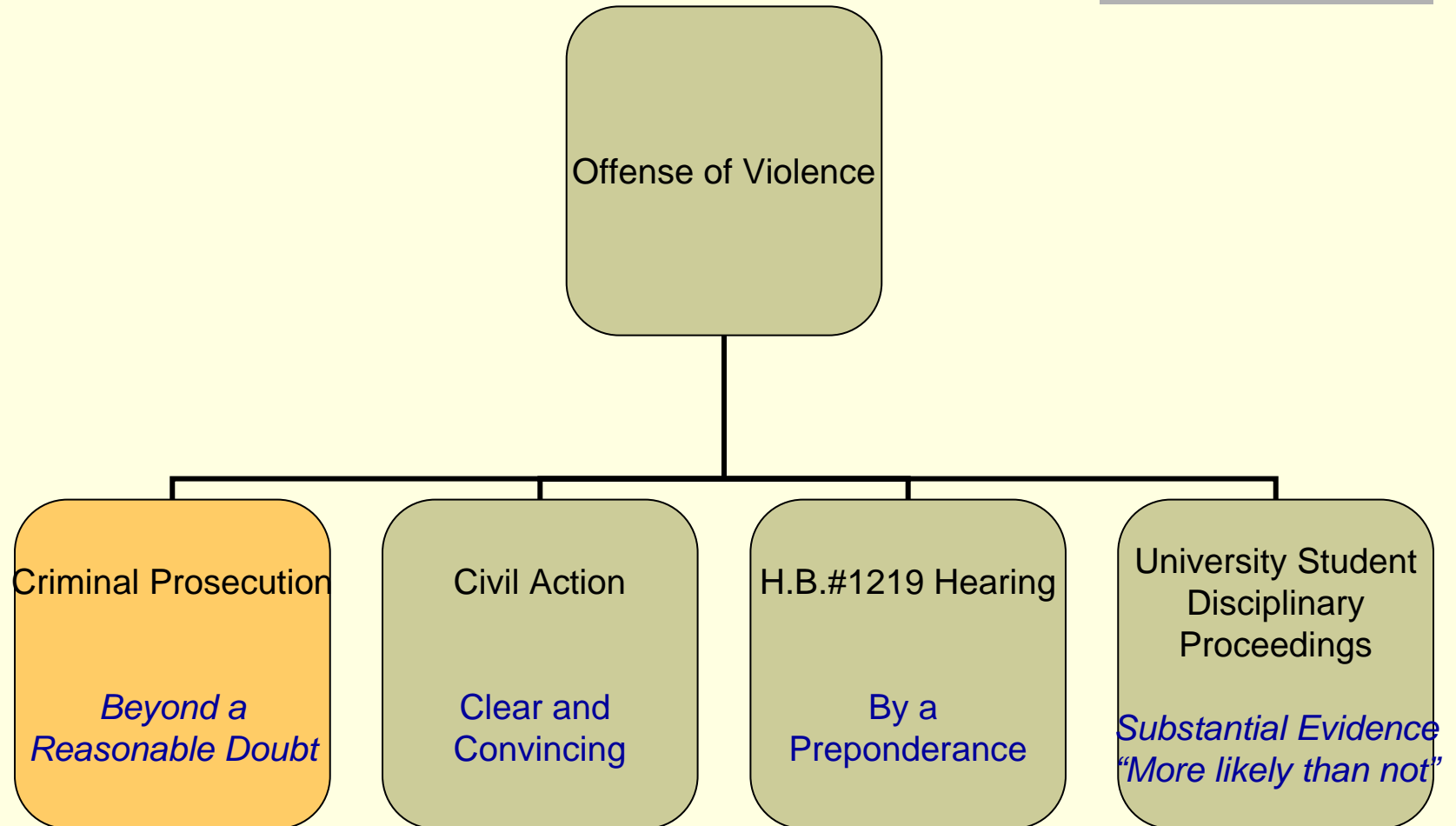
Key Elements of “H.B. #1219” Statutes, cont.

- The mandatory provisions of H.B.1219 statutes [R.C. Sections 3345.22 and 3345.23] are independent of any criminal prosecutions, civil actions, or internal disciplinary procedures of a state college or university, and do not modify, or limit the authority of the board of trustees or administrative officials to take appropriate actions under institutional rules or custom of such college or university. [R.C. 3345.25]

Potential Effects of Committing an Offense of Violence (H.B.#1219), on or Affecting Persons or Property on a College or University



No Double Jeopardy & No Single Standard of Evidence



Ohio's Session Laws

- The Ohio General Assembly has, for decades, included the following language in its biennium appropriations laws...
 - "...Boards of Trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about ...disciplinary procedure...shall be the exclusive prerogative of boards of trustees..." [Currently, Section 209.63.60, 126 General Assembly, 2005 Session Laws, H.B. No. 66]

Law Enforcement at State Universities in Ohio

- R.C. 3345.04
 - State University Law Enforcement Officers

- R.C. 3345.041
 - Authority to enter into Mutual Aid Agreements

- R.C. 2917.40
 - Crowd Control Authority

State University Law Enforcement Officers (R.C. 3345.04)

- Must possess a Certificate of Training for Peace Officer as prescribed by the Attorney General of Ohio
- Shall take an oath of office, wear the badge of office
- Shall serve as peace officers for the university
- University Chief of Police has statutory authority over all crowd control issues on campus (R.C. 2917.40)

Mutual Aid Agreements (R.C. 3345..041)

- Agreements statutorily authorized with townships, cities, counties, park districts and other state universities

Current Agreements:

- City of Akron
- City of Orville
- Other State Universities
- Summit County