



**Am. H.B. 357**

123rd General Assembly  
(As Passed by the General Assembly)

**Reps.** Cates, Allen, Clancy, Coughlin, Grendell, Netzley, Olman, Pringle, Schuring, Terwilleger, Van Vyven, Willamowski, Buehrer, Callender, Myers, Jerse, Ferderber, Goodman, Evans, Damschroder, Roman, Tiberi, Calvert, Jolivette, Hollister, Mottley, Mead, Bender, Buchy, Stapleton, Ford, Hartnett, Redfern, Carey, Krebs, Harris, Widener, Vesper, Verich, Young, Barnes, Perry, Ogg, Metzger, Corbin, Austria, Smith, Patton, Sykes, Womer Benjamin, Boyd, Logan, Barrett, Britton, Amstutz, Salerno

**Sens.** Latta, Johnson, Cupp, Carnes, Mumper, White, Nein, Armbruster, Oelslager, Shoemaker, Hagan, Latell, DiDonato

**Effective date:** August 10, 2000

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**ACT SUMMARY**

- Increases the penalty for the offense of "illegal conveyance of drugs of abuse onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution" to a felony of the third degree in all cases.
- Requires a mandatory prison term for that offense if the offender is an officer or employee of the Department of Youth Services.

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**CONTENT AND OPERATION**

**Preexisting law**

Preexisting R.C. 2921.36(A)(2), unchanged by the act, prohibits any person from knowingly conveying, or attempting to convey, onto the grounds of a "detention facility" (see **COMMENT 1**) or of an institution that is under the control of the Department of Mental Health (DMH) or the Department of Mental Retardation and Developmental Disabilities (DMR/DD) any "drug of abuse" (see **COMMENT 2**). Preexisting R.C. 2921.36(C), unchanged by the act, prohibits any person from knowingly delivering or attempting to deliver to any person who

is confined in a detention facility or to any patient in an institution under the control of the DMH or the DMR/DD any drug of abuse. Whoever violates either prohibition is guilty of "illegal conveyance of drugs of abuse onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution. "Formerly, the offense was a felony of the fourth degree if the offender was an officer or employee of the facility or institution and was a felony of the fifth degree if the offender was not such an officer or employee; if the offender was an officer or employee of the Department of Rehabilitation and Correction (DRC), the court was required to impose a mandatory prison term. (R.C. 2921.36(A)(2), (C), and (F)(2).)

### **Operation of the act**

The act enhances the penalty for "illegal conveyance of drugs of abuse onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution" to a felony of the third degree in all cases. This equalization of the penalty eliminates the difference in penalty that former law provided for an offender who was an officer or employee of the facility or institution and an offender who was not an officer or employee of the facility or institution. The act does not change the preexisting mandatory prison term requirement for offenders who are DRC officers or employees; however, it expands this mandatory prison term provision to also require a mandatory prison term if the offender is an officer or employee of the Department of Youth Services. (R.C. 2921.36(A)(2), (C), and (F)(2).)

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## **COMMENT**

1. "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in Ohio or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in Ohio or another state or under the laws of the United States (R.C. 2921.01(F)--not in the act).

2. "Drug of abuse" means any controlled substance, any harmful intoxicant, and any dangerous drug (R.C. 2921.36(A)(2), and R.C. 3719.011(A)--not in the act).

"Controlled substance" means a drug, compound, mixture, preparation, or substance included in the schedule of controlled substances (R.C. 3719.01(C)--not in the act).

"Harmful intoxicant" does not include beer or intoxicating liquor but means any compound, mixture, preparation, or substance the gas, fumes, or vapor of

which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects (R.C. 2925.01(I)--not in the act).

"Dangerous drug" means any of the following (R.C. 4729.01(F)--not in the act):

(a) Any drug that is required under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

(b) Any drug that may be dispensed only upon a prescription under the Pure Food and Drug Laws and the Controlled Substances Laws;

(c) Any drug that contains a Schedule V controlled substance and that is exempt from the Controlled Substances Laws or to which those Laws do not apply;

(d) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

3. Preexisting R.C. 2921.36 contains other provisions that are not changed by the act:

(a) It also prohibits a person from knowingly conveying, or attempting to convey onto the grounds of a detention facility or an institution that is under the control of the DMH or the DMR/DD any deadly weapon or dangerous ordnance or any part of or ammunition for use in the deadly weapon or dangerous ordnance. In addition, the section also prohibits a person from knowingly delivering or attempting to deliver to any person who is confined in a detention facility or to any patient in an institution under the control of the DMH or the DMR/DD any weapon described above. Whoever violates either of these prohibitions is guilty of "illegal conveyance of weapons on the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution," a felony of the fourth degree. A mandatory prison term is required if the offender is an officer or employee of DRC. (R.C. 2921.36(A)(1), (C), and (F)(1).)

(b) It also prohibits a person from knowingly conveying, or attempting to convey, onto the grounds of a detention facility or of an institution that is under the control of the DMH or the DMR/DD, any intoxicating liquor. In addition, the section also prohibits a person from knowingly delivering, or attempting to deliver

to any person who is confined or any patient in such facility, any intoxicating liquor. Whoever violates either of these prohibitions is guilty of "illegal conveyance of intoxicating liquor onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution," a misdemeanor of the second degree. (R.C. 2921.36(A)(3), (C), and (F)(3).)

(c) It also prohibits a person from knowingly delivering or attempting to deliver cash to any person who is confined in a detention facility. Whoever violates this prohibition is guilty of "illegal conveyance of cash onto the grounds of a detention facility," a misdemeanor of the first degree or a felony of the fifth degree if the offender previously has been convicted or pleaded guilty to this offense. (R.C. 2921.36(D) and (F)(4).)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-25-99	p. 706
Reported, H. Criminal Justice	11-10-99	p. 1357
Passed House (95-0)	01-04-00	pp. 1475-1476
Reported, S. Judiciary	03-22-00	p. 1499
Passed Senate (33-0)	03-22-00	p. 1502

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