



Dennis M. Papp

Final Analysis
Legislative Service Commission

Sub. H.B. 442

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

Reps. Winkler, Allen, Britton, Cates, Clancy, Evans, Harris, Hartnett, Jerse, Pringle, Schuring, Taylor, Tiberi, Trakas, Willamowski, DePiero, Robinson, Womer Benjamin, Calvert, Corbin, Roman, Widener, Mottley, Carey, Terwilleger, Williams, Grendell, Brading, Myers, Metzger, Hoops, Redfern, Ford, Stevens, Salerno, Jones, Aslanides, Krebs, Amstutz, Buehrer

Sens. Latta, Spada

Effective date: October 17, 2000

ACT SUMMARY

- Renames the offense of "corruption of a minor" as "unlawful sexual conduct with a minor."
- Enhances to a felony of the second degree the penalty for committing unlawful sexual conduct with a minor if the offender previously has been convicted of or pleaded guilty to rape, sexual battery, or unlawful sexual conduct with a minor (corruption of a minor) or the former offense of felonious sexual penetration.
- Enhances to a felony of the third degree the penalty for committing unlawful sexual conduct with a minor if the offender is ten or more years older than the other person.
- In certain Juvenile Code provisions that refer to persons under 18 years of age who violate prohibitions contained in certain specified Revised Code sections, repeals references to the section containing the offense of unlawful sexual conduct with a minor (as renamed under the act), since the prohibition comprising that offense applies only to persons 18 years of age or older.

CONTENT AND OPERATION

Corruption of a minor

Continuing law prohibits a person who is 18 years of age or older from engaging in "sexual conduct" (see below) with another, who is not the spouse of the offender, when the offender knows the other person is 13 years of age or older but less than 16 years of age, or the offender is reckless in that regard. Formerly, a person who violated this prohibition was guilty of "corruption of a minor"; formerly, the offense generally was a felony of the fourth degree, but if the offender was less than four years older than the other person, it was a misdemeanor of the first degree. As used in this prohibition, "sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. (R.C. 2907.04, and R.C. 2907.01(A)--not in the act.)

The act renames "corruption of a minor" as "unlawful sexual conduct with a minor." The act also adds two new penalty tiers for unlawful sexual conduct with a minor, as follows (R.C. 2907.04(B) and 3319.311(E)):

(1) First, it specifies that, except as provided in (2), below, unlawful sexual conduct with a minor is a felony of the third degree if the offender is ten or more years older than the other person. Thus, under the act, subject to the provision described in (2), below: (a) if the offender is less than four years older than the other person, unlawful sexual conduct with a minor is a misdemeanor of the first degree, (b) if the offender is four or more years older than the other person and is less than ten years older than the other person, unlawful sexual conduct with a minor is a felony of the fourth degree, and (c) if the offender is ten or more years older than the other person, unlawful sexual conduct with a minor is a felony of the third degree. (R.C. 2907.04(B)(1), (2), and (3).)

(2) Second, it enhances the penalty for committing unlawful sexual conduct with a minor if the offender previously has been convicted of or pleaded guilty to rape, sexual battery, or unlawful sexual conduct with a minor (corruption of a minor) or the former offense of felonious sexual penetration. Under these circumstances, unlawful sexual conduct with a minor is a felony of the second degree. (R.C. 2907.04(B)(4).)

Technical changes

Formerly, the following Revised Code provisions referred to a child alleged to be or adjudicated a delinquent child for violating R.C. 2907.04 (corruption of a minor under former law):

(1) A provision requiring, when a complaint has been filed alleging that a child is delinquent by reason of having committed an act that would constitute one of a list of specified sex offenses if committed by an adult and the arresting authority, a court, or a probation officer discovers that the child or a person whom the child caused to engage in sexual activity has a communicable disease, the arresting authority, court, or probation officer immediately must notify the victim of the delinquent act of the nature of the disease (R.C. 2151.14(C)).

(2) A provision regarding DNA testing of children adjudicated to be delinquent children for violating or attempting to commit a violation of certain provisions in the Revised Code, or for committing a related violation (R.C. 2151.315(D)).

(3) A provision regarding videotaped depositions and televised and recorded testimony in juvenile proceedings when the subject child is alleged to have violated certain provisions in the Revised Code (R.C. 2151.3511(A)(2)).

The act repeals the reference to R.C. 2907.04 (corruption of a minor) from each of these provisions. Under former law and the act, R.C. 2907.04 can only be violated by a person 18 years of age or older; a child never can violate the section. (R.C. 2151.14(C), 2151.315(D), and 2151.3511(A)(2).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-16-99	p. 1218
Reported, H. Criminal Justice	03-15-00	p. 1648
Passed House (94-0)	03-22-00	pp. 1701-1702
Reported, S. Judiciary	05-18-00	p. 1758
Passed Senate (33-0)	05-23-00	pp. 1784-1785

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