



Lisa Sandberg

*Bill Analysis*  
Legislative Service Commission

**H.B. 460**  
123rd General Assembly  
(As Introduced)

Reps. R. Miller, Barrett, Hartnett, Grendell, Allen, Britton, Pringle, Patton

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**BILL SUMMARY**

- Increases the penalties for the offenses of aggravated arson, arson, criminal damaging or endangering, and criminal mischief by one degree, except when the penalty is a felony of the first degree.

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**CONTENT AND OPERATION**

**Aggravated arson**

**Existing law**

Existing law prohibits a person, by means of fire or explosion, from knowingly doing any of the following (R.C. 2909.02(A)):

- (1) Creating a substantial risk of serious physical harm to any other person other than the offender;
- (2) Causing physical harm to any occupied structure;
- (3) Creating, through the offer or acceptance of an agreement for hire or other consideration, a substantial risk of physical harm to any occupied structure.

A person who violates any of the above prohibitions is guilty of aggravated arson. A violation of (1) or (3), above, is a felony of the first degree, and a violation of (2), above, is a felony of the second degree (R.C. 2909.02(B)).

**Operation of the bill**

The bill increases the penalty for a violation of (2), above, to a felony of the first degree (R.C. 2909.02(B)).

## Arson

### Existing law

Existing law prohibits a person, by means of fire or explosion, from knowingly doing any of the following (R.C. 2909.03(A)):

(1) Causing, or creating a substantial risk of, physical harm to any property of another without the other person's consent;

(2) Causing, or creating a substantial risk of, physical harm to any property of the offender or another, with purpose to defraud;

(3) Causing, or creating a substantial risk of, physical harm to the statehouse or a courthouse, school building, or other building or structure that is owned or controlled by the state, any political subdivision, or any department, agency, or instrumentality of the state or a political subdivision, and that is used for a public purpose;

(4) Causing, or creating a substantial risk of, physical harm, through the offer or acceptance of an agreement for hire or other consideration, to any property of another without the other person's consent or to any property of the offender or another with the purpose to defraud;

(5) Causing, or creating a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person, the state, or a political subdivision without the consent of the other person, the state, or the political subdivision;

(6) With the purpose to defraud, causing, or creating a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by the offender, another person, the state, or a political subdivision.

A person who violates any of the above prohibitions is guilty of arson. Generally, a violation of (1), above, is a misdemeanor of the first degree. If the value of the property or the amount of the physical harm involved in the violation is \$500 or more, a violation of (1), above, is a felony of the fourth degree. A violation of (2), (3), (5), or (6), above, is a felony of the fourth degree. A violation of (4), above, is a felony of the third degree. (R.C. 2909.03(B).)

### **Operation of the bill**

The bill increases the penalties for arson one degree. Generally, the bill increases the penalty for a violation of (1), above, to a felony of the fifth degree. Under the bill, the penalty for the offense is increased to one of the following: (1) if the value of the property or the amount of the physical harm involved in a violation of (1), above, is \$500 or more, a felony of the third degree, (2) for a violation of (2), (3), (5), or (6), above, a felony of the third degree, and (3) for a violation of (4), above, a felony of the second degree. (R.C. 2909.03(B).)

### **Criminal damaging or endangering**

#### **Existing law**

Existing law prohibits a person from causing, or creating a substantial risk of, physical harm to any property of another without the other person's consent (R.C. 2909.06(A)):

(1) Knowingly, by any means;

(2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

A person who violates this section is guilty of criminal damaging or endangering. Generally, the penalty for criminal damaging or endangering is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation of this prohibition is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person, criminal damaging or endangering is a felony of the fifth degree. If the property involved in a violation of this prohibition is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a substantial risk of physical harm to any person or if the property involved in a violation of this prohibition is an occupied aircraft, criminal damaging or endangering is a felony of the fourth degree. (R.C. 2909.06(B).)

### **Operation of the bill**

The bill increases the penalties for criminal damaging or endangering one degree. Generally, the bill increases the penalty for the offense to a misdemeanor

of the first degree. Under the bill, the penalty for a violation of this section is increased to one of the following: (1) if the violation creates a risk of physical harm to any person, a felony of the fifth degree, (2) if the property involved in the violation is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm to any person, a felony of the fourth degree, and (3) if the property involved in the violation is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and the violation creates a substantial risk of physical harm to any person or if the property involved in the violation is an occupied aircraft, a felony of the third degree. (R.C. 2909.06(B).)

### **Criminal mischief**

#### **Existing law**

Existing law prohibits a person from doing any of the following (R.C. 2909.07(A)):

(1) Without privilege to do so, knowingly moving, defacing, damaging, destroying, or otherwise improperly tampering with the property of another;

(2) With purpose to interfere with the use or enjoyment of property of another, employing a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed or that tends to cause public alarm;

(3) Without privilege to do so, knowingly moving, defacing, damaging, destroying, or otherwise improperly tampering with a bench mark, triangulation station, boundary marker, or other survey station monument, or marker;

(4) Without privilege to do so, knowingly moving, defacing, damaging, destroying, or otherwise improperly tampering with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, setting a fire on the land of another or placing personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land.

A person who violates any of these prohibitions is guilty of criminal mischief. Generally, criminal mischief is a misdemeanor of the third degree. If the violation creates a risk of physical harm to any person, criminal mischief is a misdemeanor of the first degree. If the property involved in the violation is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates a risk of physical harm to any person, criminal mischief is a felony of the fifth degree. If the property involved in the violation is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates a substantial risk of physical harm to any person or if the property involved in the violation is an occupied aircraft, criminal mischief is a felony of the fourth degree. (R.C. 2909.07(C).)

**Operation of the bill**

The bill increases the penalties for criminal mischief one degree. Under the bill, the penalty for criminal mischief is increased to one of the following: (1) generally a misdemeanor of the second degree, (2) if a violation creates a risk of physical harm to any person, a felony of the fifth degree, (3) if the property involved in the violation is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates a risk of physical harm to any person, a felony of the fourth degree, and (4) if the property involved in the violation is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates a substantial risk of physical harm to any person or if the property involved in the violation is an occupied aircraft, a felony of the third degree. (R.C. 2909.07(C).)

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	09-28-99	p. 1229

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