



H.B. 550
123rd General Assembly
(As Introduced)

Rep. Buchy

BILL SUMMARY

- Revises the offense of vandalism to prohibit a person, without privilege to do so, from knowingly causing physical harm to private property that is owned or possessed by another and from knowingly causing serious physical harm to property that is owned, leased, or controlled by a governmental entity.

CONTENT AND OPERATION

Revised prohibition for offense of vandalism

Existing law

Prohibitions. Existing law contains a number of prohibitions within the offense of vandalism (R.C. 2909.05(A) through (D)):

(1) It prohibits a person from knowingly causing serious physical harm to an occupied structure or any of its contents.¹

(2) It prohibits a person from knowingly causing physical harm to property that is owned or possessed by another, when either of the following applies: (a) the property is used by its owner or possessor in the owner's or possessor's profession, business, trade, or occupation, and the value of the property or the amount of physical harm involved is \$500 or more, or (b) regardless of the value of the property or the amount of damage done, the property or its equivalent is

¹ "Serious physical harm" means physical harm to property that results in loss to the value of the property of \$500 or more (R.C. 2909.05(F)(2)).

necessary in order for its owner or possessor to engage in the owner's or possessor's profession, business, trade, or occupation.²

(3) It prohibits a person from knowingly causing serious physical harm to property that is owned, leased, or controlled by a governmental entity.³

(4) It prohibits a person, without privilege to do so, from knowingly causing serious physical harm to any tomb, monument, gravestone, or other similar structure that is used as a memorial for the dead; to any fence, railing, curb, or other property that is used to protect, enclose, or ornament any cemetery; or to a cemetery.⁴

(5) It prohibits a person, without privilege to do so, from knowingly causing physical harm to a place of burial by breaking and entering into a tomb, crypt, casket, or other structure that is used as a memorial for the dead or as an enclosure for the dead.

Penalties. A person who violates any of the above prohibitions is guilty of vandalism. Generally, vandalism is a felony of the fifth degree that is punishable by a fine of up to \$2,500 that is in addition to any penalty for a felony of the fifth degree specified under the Felony Sentencing Law.⁵ If the value of the property or the amount of physical harm involved is \$5,000 or more but less than \$100,000, vandalism is a felony of the fourth degree. If the value of the property or the amount of physical harm involved is \$100,000 or more, vandalism is a felony of the third degree. (R.C. 2909.05(E).)

² "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use. (R.C. 2901.01(A)(4)--not in the bill.)

³ A "governmental entity" includes, but is not limited to, the state or a political subdivision of the state, a school district, the board of trustees of a public library or public university, or any other body corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state (R.C. 2909.05(B)(2)).

⁴ For purposes of this prohibition, "cemetery" means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains (R.C. 2909.05(F)(1)).

⁵ Under the Felony Sentencing Laws, a person convicted of a fifth degree felony may be fined up to \$2,500.

Operation of the bill

The bill expands the offense of vandalism to cover all private property, as opposed to specified types of private property, by replacing the prohibitions under existing law with a provision that prohibits a person, without privilege to do so, from knowingly causing "physical harm" to private property that is owned or possessed by another and from knowingly causing "serious physical harm" to property that is owned, leased, or controlled by a governmental entity (see "**Definitional changes**," below) (R.C. 2909.05(A)).

The bill also revises the standard for vandalizing an occupied structure or its contents described in paragraph (1) of "**Existing law--prohibitions**," above, by (1) requiring that the offender commit only "physical harm" as opposed to "serious physical harm" to the structure or its contents and (2) requiring that the offender not have privilege to cause the harm.

The bill also revises the standard for vandalizing a memorial for the dead, or specified cemetery related property described in paragraph (4) of "**Existing law--prohibitions**," above, by requiring that the offender commit only "physical harm" as opposed to "serious physical harm" to the property.

Definitional changes

Property

Under the bill "property" includes, but is not limited to, any tomb, crypt, casket, monument, gravestone, or other similar structure that is used as a memorial for or as an enclosure for the dead; any fence, railing, curb, or other property that is used to protect, enclose, or ornament any cemetery; and any cemetery (R.C. 2909.05(C)(2)). This definition specifically includes the types of property described in the prohibitions contained in paragraphs (4) and (5) of "**Existing law--prohibitions**," above.

Governmental entity

The bill revises the entities to which the prohibition against vandalizing the property of governmental entities applies, without apparent change in meaning. Under existing law, the prohibition against vandalizing the property of a governmental entity specifies that "governmental entity" includes, but is not limited to, the state or a political subdivision of the state, a school district, the board of trustees of a public library or public university, or any other body corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state (R.C. 2909.05(B)(2)).

The bill specifies that the prohibition against vandalizing the property of a governmental entity includes the property of the "state" and a "political subdivision." "State" means the state of Ohio, including, but not limited to, the General Assembly, the Supreme Court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions. "Political subdivisions" means municipal corporations, townships, counties, school districts, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches. (R.C. 2909.05(A) and (C)(4) and, by reference, R.C. 2743.01(A) and (B)--not in the bill.)

Technical change

The bill makes a technical change in R.C. 2909.11.

HISTORY

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Introduced	01-18-00	p. 1519

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