



## **H.B. 132**

125th General Assembly  
(As Introduced)

**Reps. Setzer, McGregor, Hughes, Allen, Husted, DeWine, Schaffer, Flowers,  
Walcher, Aslanides, Seaver, Webster**

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### **BILL SUMMARY**

- Modifies the prohibition against a person recklessly exposing the person's private parts under circumstances in which the person's conduct is likely to be viewed by and affront others who are not members of the person's household so that the prohibition applies when the person commits those acts *with the purpose of personal sexual arousal or gratification or to elicit a reaction from the victim.*
- Additionally prohibits a person from knowingly doing any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others who are minors who reside in the person's household: (1) engage in masturbation, sexual conduct, or conduct that to an ordinary observer would appear to be sexual conduct or masturbation or (2) expose the person's private parts with the purpose of personal sexual arousal or gratification or to elicit a reaction from the minor.
- Broadens the circumstances that enhance the penalty for public indecency to include when the offender previously has been convicted of or pleaded guilty to violations of any section in the Sex Offense Law and when the person who views the offender is a minor and is four or more years younger than the offender.

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### **CONTENT AND OPERATION**

#### **Existing law**

Existing law prohibits a person from recklessly doing any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others, who are not members of the person's household:

- (1) Expose the person's private parts, or engage in masturbation;
- (2) Engage in sexual conduct;
- (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

A person who violates this prohibition is guilty of public indecency. Generally, public indecency is a misdemeanor of the fourth degree. If the offender once previously has been convicted of or pleaded guilty to one violation of the prohibition, public indecency is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to two violations of the prohibition, public indecency is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of the prohibition, public indecency is a misdemeanor of the first degree. (R.C. 2907.09.)

### **Operation of the bill**

#### **Prohibition**

The bill revises the prohibition against a person recklessly exposing the person's private parts to include an intent component. The bill prohibits a person from recklessly exposing the person's private parts, under circumstances in which the person's conduct is likely to be viewed by and affront others who are not members of the person's household, *with the purpose of personal sexual arousal or gratification or to elicit a reaction from the victim* (R.C. 2907.09(A)(4)).

The bill additionally prohibits a person from knowingly doing any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others who are minors who reside in the person's household (R.C. 2907.09(B)):

- (1) Engage in masturbation, sexual conduct, or conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
- (2) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to elicit a reaction from the minor.

#### **Penalties**

The bill also broadens the circumstances that enhance the penalty for public indecency to include when the offender previously has been convicted of or pleaded guilty to one or more violations of any section in the Sex Offense Law (R.C. Chapter 2907.) and when the person who views the offender is a minor and

is four or more years younger than the offender. Thus, under the bill (R.C. 2907.09(C)):

(1) Public indecency remains a misdemeanor of the fourth degree if the offender has no prior violations of public indecency or any provision of the Sex Offense Law.

(2) If the offender previously has been convicted of or pleaded guilty to one violation of the prohibition against public indecency *or one violation of any section in the Sex Offense Law*, public indecency is a misdemeanor of the third degree.

(3) If the offender previously has been convicted of or pleaded guilty to two violations of the prohibition against public indecency, *two violations of any single section in the Sex Offense Law, or at least one violation of each of two sections in the Sex Offense Law*, public indecency is a misdemeanor of the second degree.

(4) If the offender previously has been convicted of or pleaded guilty to three or more violations of the prohibition against public indecency, *three or more violations of any single section in the Sex Offense Law, or an aggregate of three or more sections (probably meant to be "violations") of one or more sections in the Sex Offense Law or if the person who views the offender's conduct is a minor and is four or more years younger than the offender*, public indecency is a misdemeanor of the first degree.

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## HISTORY

| ACTION     | DATE     | JOURNAL ENTRY |
|------------|----------|---------------|
| Introduced | 03-18-03 | p. 259        |

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