



Sub. H.B. 50

126th General Assembly
(As Reported by H. Criminal Justice)

**Reps. Setzer, Hughes, C. Evans, DeWine, Gilb, McGregor, Fessler, Latta,
Walcher, D. Evans, Willamowski, Seaver, Perry**

BILL SUMMARY

- Expands the offense of public indecency by prohibiting 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 another person who is a minor, who resides in the person's household, and is not the spouse of the offender: (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 lure the minor into sexual activity.
- Specifies that the existing prohibition against public indecency only applies if the prohibited conduct is likely to be viewed by and affront others who are in the person's physical proximity and who are not members of the person's household.
- Modifies the penalties for public indecency so that the penalty is based on the specific prohibition that is violated instead of on how many prior convictions or guilty pleas the offender has for the offense.

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 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

With respect to existing law's prohibition against public indecency, the bill adds a "physical proximity" requirement. Thus, the bill prohibits a person from recklessly exposing his or her private parts, engaging in sexual conduct or masturbation, or engaging in conduct that to an ordinary observer would appear to be sexual conduct or masturbation under circumstances in which the person's conduct is likely to be viewed by and affront others *who are in the person's physical proximity* and who are not members of the person's household. The bill also moves "engage in masturbation" in the existing prohibition from clause (1) to clause (2) as discussed above under **Existing law** and makes technical changes to existing law's prohibition against public indecency as described above. (R.C. 2907.09(A).)

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 another person who is a minor, resides in the person's household, and is not the offender's spouse (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 lure the minor into sexual activity.

Penalties

The bill removes the existing penalty enhancements for an offender who has previous convictions or guilty pleas for public indecency and instead modifies the penalties for public indecency as follows (R.C. 2907.09(C)):

Offense	Penalty
Person recklessly exposes his or her private parts under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity, and who are not members of the person's household (R.C. 2907.09(A)(1))	M4
Person recklessly engages in sexual conduct or masturbation or engages in conduct that to an ordinary observer would appear to be sexual conduct or masturbation under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity, and who are not members of the person's household (R.C. 2907.09(A)(2) and (3))	M3
Person knowingly engages in masturbation, sexual conduct, or conduct that to an ordinary observer would appear to be sexual conduct or masturbation under circumstances in which the person's conduct is likely to be viewed by and affront another person who is a minor, who is not the spouse of the offender, and who resides in the person's household (R.C. 2907.09(B)(1), (2), and (3))	M2
Person knowingly exposes the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity under circumstances in which the person's conduct is likely to be viewed by and affront another person who is a minor, who is not the spouse of the offender, and who resides in the person's household (R.C. 2907.09(B)(4))	M1

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-09-05	p. 194
Reported, H. Criminal Justice	03-16-05	p. 335

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