



## **Sub. H.B. 259**

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

**Reps. Wagner, J. McGregor, Martin, C. Evans, Fende, Bulp, Wagoner, Seaver, D. Evans, Setzer, Hagan, Harwood, Gilb, Wolpert, Distel, Willamowski, Collier, Latta, Faber, Brown, Aslanides, Uecker, Allen, Perry, Mason, Hughes**

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### **BILL SUMMARY**

- Renames the offense "harassment by an inmate" as "harassment with a bodily substance."
- Expands this renamed offense to prohibit a person, with knowledge that he or she is a carrier of certain viruses or infected with specified diseases and with intent to harass, annoy, threaten, or alarm any person, from causing or attempting to cause that person to come into contact with a bodily substance.
- Expands this renamed offense to additionally prohibit a person, with intent to harass, annoy, threaten, or alarm a law enforcement officer, from causing or attempting to cause the law enforcement officer to come into contact with a bodily substance, irrespective of whether the offender is a carrier of or infected with specified diseases.

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### **CONTENT AND OPERATION**

#### **Harassment with a bodily substance**

Current law prohibits a person *who is confined in a detention facility*, with intent to harass, annoy, threaten, or alarm another person, from causing or attempting to cause the other person to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the other person, by expelling the bodily substance upon the other person, or in any other manner. A violation of this prohibition is the offense of "harassment by an inmate," a felony of the fifth degree. (R.C. 2921.38(A) and (D).)

The offense of "harassment by an inmate" is also committed when a person who is *confined in a detention facility*, with knowledge that the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of a hepatitis virus, or is infected with tuberculosis and with intent to harass, annoy, threaten, or alarm another person, causes or attempts to cause the other person to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the other person, by expelling the bodily substance upon the other person, or in any other manner.<sup>1</sup> A violation of this prohibition is a felony of the third degree. (R.C. 2921.38(B) and (D).)

The bill renames this offense "harassment with a bodily substance" (R.C. 2921.38(D)), expands one of the prohibitions, and adds an additional prohibition.

The bill expands current law's prohibition with respect to a person who has knowledge that he or she is a carrier of certain viruses or infected with specified diseases and commits harassment with a bodily substance by removing the requirement that the offense only applies if the offender is confined in a detention facility. Thus, the bill prohibits a person, with knowledge that the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of a hepatitis virus, or is infected with tuberculosis and with intent to harass, annoy, threaten, or alarm *any person*, from causing or attempting to cause the person to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the person, by expelling the bodily substance upon the person, or in any other manner. A violation of this prohibition remains a felony of the third degree. (R.C. 2921.38(C) and (D).)

The bill additionally prohibits a person, with intent to harass, annoy, threaten, or alarm a law enforcement officer, from causing or attempting to cause the law enforcement officer to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the law enforcement officer, by expelling the bodily substance upon the law enforcement officer, or in any other manner. A violation of this prohibition is a felony of the fifth degree. (R.C. 2921.38(B) and (D).)

These prohibitions do not apply to a person who is hospitalized, institutionalized, or confined in a facility operated by the Department of Mental Health or the Department of Mental Retardation and Developmental Disabilities (R.C. 2921.38(F), unchanged from current law).

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<sup>1</sup> See *COMMENT*.

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## COMMENT

Related to the offense of harassment with a bodily substance, current law unchanged by the bill, allows the court, on request of the prosecutor or the law enforcement authority responsible for the investigation of the violation, to cause a person who allegedly has committed this offense to submit to one or more appropriate tests to determine if the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of a hepatitis virus, or is infected with tuberculosis. The court must charge the offender with the costs of the test or tests unless the court determines that the accused is unable to pay, in which case the costs must be charged to the entity that operates the detention facility in which the alleged offense occurred. (R.C. 2921.38(E).)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-17-05	p. 804
Reported, H. Criminal Justice	10-27-05	p. 1807

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