



Dennis M. Papp

Bill Analysis
Legislative Service Commission

Am. Sub. H.B. 142
127th General Assembly
(As Passed by the House)

Reps. Batchelder, Bacon, B. Williams, Combs, Chandler, Bulp, Fessler, Latta, Harwood, Fende, Adams, Wachtmann, White, Collier, Aslanides, Domenick, Boyd, DeBose, Distel, Dyer, Flowers, Gibbs, J. Hagan, Healy, Hite, Hughes, Mallory, Mandel, Oelslager, Otterman, Patton, Peterson, Schindel, Wagoner, Webster, Yuko, Zehringer

BILL SUMMARY

- Eliminates the separate categories of penalties currently provided for the offense of inducing panic if the violation involves the initiating or circulating of a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe when the offender knows the report or warning is false and the public place involved in the violation is a school (felony of the second, third, or fourth degree) and, instead, provides that inducing panic always is a felony of the second degree under those circumstances.
- Provides that inducing panic is a felony of the second degree if the violation involves the initiating or circulating of a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe when the offender knows the report or warning is false and the public place involved in the violation is an "institution of higher education."
- Authorizes school districts to make-up excess calamity days by increasing the length of one or more other school days.

CONTENT AND OPERATION

Inducing panic

Existing law modified by the bill

Under existing law, a person is guilty of "inducing panic" if the person causes the evacuation of any public place, or otherwise causes serious public inconvenience or alarm, by doing any of the following (R.C. 2917.31(A)):

(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that such report or warning is false;

(2) Threatening to commit any offense of violence;

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

The prohibition under paragraph (1) does not apply to any person conducting an authorized fire or emergency drill (R.C. 2917.31(B)).

Generally, inducing panic is a misdemeanor of the first degree (R.C. 2917.31(C)(2)), but existing law provides increased penalties depending on the circumstances of the offense. The existing penalties when a school is involved in the offense are as follows:

(1) **Public place is a school.** Except as otherwise described below in paragraph (2) or (3) or below in paragraph (3), (4), or (5) of "**Existing law not modified by the bill,**" if the violation involves the initiating or circulating of a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe when the offender knows the report or warning is false and the public place involved in the violation is a "school" (see **COMMENT**), the penalty is one of the following: (a) except as otherwise provided in clause (b) or (c) of this paragraph, the offense is a felony of the fourth degree, (b) if the violation results in physical harm to any person and it does not result in economic harm of \$100,000 or more, the offense is a felony of the third degree, and (c) if the violation results in "economic harm" (see **COMMENT**), the penalty is one of the following: (i) if the violation results in economic harm of \$500 or more but less than \$5,000 and if clause (b) of this paragraph does not apply, the offense is a felony of the fourth degree, (ii) if the violation results in economic harm of \$5,000 or more but less than \$100,000, the offense is a felony of the third degree, and (iii) if the violation results in economic harm of \$100,000 or more, the offense is a felony of the second degree (R.C. 2917.31(C)(5));

(2) **Public place is a school, use of weapon of mass destruction, and causing physical harm to a person.** If the violation involves the initiating or circulating of a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe when the offender knows the report or warning is false and the public place involved in the violation is a "school," if the violation pertains to a purported, threatened, or actual use of a "weapon of mass destruction" (see **COMMENT**), and if the violation results in physical harm to any person, the offense is a felony of the second degree (R.C. 2917.31(C)(9)(a));

(3) **Public place is a school, use of weapon of mass destruction, and causing economic harm of \$5,000 or more.** If the violation involves the initiating or circulating of a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe when the offender knows the report or warning is false and the public place involved in the violation is a "school," if the violation pertains to a purported, threatened, or actual use of a "weapon of mass destruction," and if the violation results in "economic harm," the penalty is one of the following: (a) if the violation results in economic harm of \$5,000 or more but less than \$100,000, the offense is a felony of the third degree, and (ii) if the violation results in economic harm of \$100,000 or more, the offense is a felony of the second degree (R.C. 2917.31(C)(9)(b) and (c)).

The existing penalties for "inducing panic" when a school is not involved are set forth below in "**Existing law not modified by the bill.**"

Operation of the bill

The bill modifies the penalty for inducing panic as follows:

(1) **Single penalty, when public place is a school.** The bill eliminates the separate categories of penalties provided under existing law for inducing panic if the violation involves the initiating or circulating of a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe when the offender knows the report or warning is false and the public place involved in the violation is a "school." As described above under "**Existing law modified by the bill,**" these separate categories of penalties so provided are felonies of the second, third, or fourth degree, depending upon the other circumstances present. In place of these separate categories of penalties, the bill establishes a single penalty for inducing panic if the violation involves the initiating or circulating of a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe when the offender knows the report or warning is false and the public place involved in the violation is a school--a felony of the second degree. (R.C. 2917.31(C)(5) and repeal of R.C. 2917.31(C)(9).)

(2) **Increased penalty, when public place is an institution of higher education.** Existing law does not provide an increased penalty for inducing panic when the offense is committed at a post-secondary educational institution. The bill provides that inducing panic is a felony of the second degree if the violation involves the initiating or circulating of a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe when the offender knows the report or warning is false and the public place involved in the violation is an "institution of higher education" (R.C. 2917.31(C)(5).) Under the bill, "institution of higher education" means any of the following (R.C. 2917.31(E)(6)): (a) a state university or college as defined in R.C. 3345.12(A)(1), community college, state

community college, university branch, or technical college, (b) a private, nonprofit college, university or other post-secondary institution located in Ohio that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to R.C. Chapter 1713., or (c) a post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools under R.C. Chapter 3332.

Existing law not modified by the bill

The existing penalty for "inducing panic" when a school is not involved is as follows (the bill does not modify these penalties) (R.C. 2917.31(C)(1), (2), (3), (4), (6), (7), and (8)):

(1) **Causing physical harm to a person.** Except as otherwise described above for a school or below in paragraph (2), (3), (4), or (5), if the violation results in physical harm to any person, the offense is a felony of the fourth degree (R.C. 2917.31(C)(3));

(2) **Causing economic harm.** Except as otherwise described above for a school or below in paragraph (3), (4), or (5), if the violation results in "economic harm" (see **COMMENT**), the penalty is one of the following: (a) if the violation results in economic harm of \$500 or more but less than \$5,000 and if paragraph (1), above, does not apply, the offense is a felony of the fifth degree, (b) if the violation results in economic harm of \$5,000 or more but less than \$100,000, the offense is a felony of the fourth degree, and (c) if the violation results in economic harm of \$100,000 or more, the offense is a felony of the third degree (R.C. 2917.31(C)(4));

(3) **Use of weapon of mass destruction.** If the violation pertains to a purported, threatened, or actual use of a "weapon of mass destruction" (see **COMMENT**), except as otherwise described below in paragraph (4) or (5) or for a school, the offense is a felony of the fourth degree (R.C. 2917.31(C)(6));

(4) **Use of weapon of mass destruction and causing physical harm to a person.** If the violation pertains to a purported, threatened, or actual use of a "weapon of mass destruction," and except as otherwise described below in paragraph (5) or for a school, if the violation results in physical harm to any person, the offense is a felony of the third degree (R.C. 2917.31(C)(7));

(5) **Use of weapon of mass destruction and causing economic harm of \$100,000 or more.** If the violation pertains to a purported, threatened, or actual use of a "weapon of mass destruction," and except as otherwise provided for a school in specified circumstances, if the violation results in "economic harm" of \$100,000 or more, the offense is a felony of the third degree (R.C. 2917.31(C)(8)).

School district making up of calamity days

Background and existing law

Existing law requires, subject to the alternative described below, a minimum school year of 182 days. Toward this minimum, a school may count up to four days when classes are dismissed a half-day early for individual parent-teacher conferences or reporting periods, up to two days for teacher professional meetings, and up to five days for a public calamity, which includes: (1) disease epidemic, (2) hazardous weather conditions, (3) inoperability of school buses or other necessary equipment, (4) damage to a school building, or (5) other temporary circumstances because of a utility failure that renders a building unfit for use. (R.C. 3313.48 and 3317.01(B) (neither of which is in the bill).) A school might also, with the approval of the Department of Education, be operated on an alternative schedule with a minimum of 910 hours of classroom instruction in a school year (R.C. 3313.481, not in the bill). Taking into account these permitted closings, a school must be open for instruction at least 173 days each year. Both school districts and nonpublic schools are subject to these requirements.¹

The board of education of each school district must adopt a contingency plan for making up days in case it is necessary to close schools for more than five days because of a public calamity (R.C. 3313.482(A)). A school day that is reduced by two hours or less due to hazardous weather does not count as a missed calamity day (R.C. 3317.01(B), not in the bill). Chartered nonpublic schools are required, by rule of the State Board of Education, also to have contingency plans.² Moreover, if, as a result of a closing or evacuation due to a bomb threat or a report of a possible explosion, a school district is unable to meet the required number of school days, the school district may make up the missed time by increasing the length of one or more schools days for the school building in increments of one-half hour, rather than adding days to the school calendar (R.C. 3313.482(B)). Nonpublic schools are not covered under this latter provision.

The minimum school day for school districts is five hours in grades 1 to 6 (including two 15-minute recesses) and five and one-half hours in grades 7 to 12 (R.C. 3313.48, not in the bill).³ Presumably, then, every five hours a school

¹ Nonpublic schools, both chartered and nonchartered, are required to comply with these provisions by rules of the State Board of Education. See rules 3301-35-08 and 3301-35-12 of the Administrative Code. Community ("charter") schools are not subject to the 182-day requirement, but instead must offer learning opportunities to each student for at least 920 hours per year (see R.C. 3314.03 (A)(11)(a), not in the bill).

² O.A.C. 3301-35-06 and 3301-35-12.

³ Also see O.A.C. 3301-35-06.

district aggregates by adding time to other school days makes up one day for grades 1 to 6, and every five and one-half hours it aggregates makes up one day for grades 7 to 12.

Operation of the bill

As permitted by current law in the case of bomb threats, the bill allows school districts that close or evacuate a school building for any reason specified in R.C. 3317.01(B), as described in the second preceding paragraph, to make-up excess calamity days or partial days by increasing the length of one or more other school days in increments of one-half hour. The bill does not authorize nonpublic schools to make up missed time in this manner.

COMMENT

Existing law provides that, as used in the penalty provisions for "inducing panic" (R.C. 2917.31(E)):

(1) "Economic harm" means any of the following:

(a) All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this paragraph includes, but is not limited to, all of the following: (i) all wages, salaries, or other compensation lost as a result of the criminal conduct, (ii) the cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct, (iii) the overhead costs incurred for the time that a business is shut down as a result of the criminal conduct, and (iv) the loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(b) All costs incurred by the state or any political subdivision as a result of, or in making any response to, the criminal conduct that constituted the offense of inducing panic, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

(2) "School" means any school operated by a board of education or any school for which the State Board of Education prescribes minimum standards under R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time the offense of inducing panic is committed.

(3) "Weapon of mass destruction" means any of the following:

(a) Any weapon designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(b) Any weapon involving a disease organism or biological agent, as defined in R.C. 2917.33;

(c) Any weapon designed to release radiation or radioactivity at a level dangerous to human life;

(d) Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section: (i) any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device, or (ii) any combination of parts either designed or intended for use in converting any item or device into any item or device described in clause (i) of this paragraph and from which an item or device described in that clause may be readily assembled.

HISTORY

ACTION	DATE
Introduced	04-03-07
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Passed House (97-0)	06-26-07

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