



# Ohio Legislative Service Commission

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## Bill Analysis

Dennis M. Papp

### Am. H.B. 241

130th General Assembly  
(As Passed by the House)

**Reps.** C. Hagan, Becker, Buchy, Grossman, Hood, Stebelton, Amstutz, Anielski, Barborak, Barnes, Bishoff, Boyce, Brenner, Brown, Burkley, Butler, Carney, Celebrezze, Cera, DeVitis, Driehaus, Gerberry, Hall, Hayes, Hottinger, Landis, McClain, Milkovich, O'Brien, Patterson, Pelanda, Perales, Phillips, Pillich, Rogers, Rosenberger, Scherer, Schuring, Sears, Sheehy, Slaby, Strahorn, Thompson, Winburn, Batchelder

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## BILL SUMMARY

- Prohibits any public or nonpublic school employee who is not a teacher, administrator, coach, or other person in authority with the school from engaging in sexual conduct with a student of the school who is at least four years younger than the employee.
- Prohibits any employee of an institution of higher education who is not a teacher, administrator, coach, or other person in authority with the institution from engaging in sexual conduct with a minor who is at least four years younger than the employee.

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## CONTENT AND OPERATION

### Overview

The Criminal Code, under the offense of "sexual battery," prohibits sexual conduct with another person who is not the spouse of the offender when certain prescribed other circumstances exist. Two of the 13 circumstances that are prescribed in current law specifically involve sexual conduct between a person in authority at a public or nonpublic school or at an institution of higher education and a student at the school or institution. The bill adds two additional circumstances to the sexual battery statute that apply to employees of public or nonpublic schools and of institutions of higher education who are not in positions of authority.

## **Sexual battery by employees of public or nonpublic schools**

Regarding school employees, current law prohibits a person from engaging in sexual conduct with another person who is not the spouse of the offender where (1) the offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the State Board of Education prescribes minimum standards under R.C. 3301.07(D), (2) the other person is enrolled in or attends that school, and (3) the offender is not enrolled in and does not attend that school.<sup>1</sup>

The bill creates an additional prohibition that applies to employees of public or nonpublic schools who are not in positions of authority with the school. Specifically, it prohibits a person from engaging in sexual conduct with another person who is not the spouse of the offender where (1) the offender is a person who is employed by a public or nonpublic school but is not a teacher, administrator, coach, or other person in authority with the school, (2) the other person is enrolled in or attends that school and is at least four years younger than the offender, and (3) the offender is not enrolled in and does not attend that school.<sup>2</sup>

The bill also clarifies that all public and nonpublic schools fall under the purview of the statute. It uses those terms in the new prohibition and, in the existing prohibition, it replaces the phrase "school for which the State Board of Education prescribes minimum standards under R.C. 3301.07(D)" with those terms.<sup>3</sup> For purposes of the bill, "nonpublic school" means a school, other than a public school, for which the State Board of Education prescribes minimum education standards under R.C. 3301.07(D), which means all chartered and nonchartered nonpublic schools (same as current law). The bill defines "public school" as a school district, a community school, a STEM school, or a college-preparatory boarding school.<sup>4</sup> The bill's definitional changes are largely nonsubstantive.

## **Sexual battery by employees of institutions of higher education**

Regarding institution of higher education employees, current law prohibits a person from engaging in sexual conduct with another person who is not the spouse of the offender where (1) the offender is a teacher, administrator, coach, or other person in

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<sup>1</sup> R.C. 2907.03(A)(7)(a).

<sup>2</sup> R.C. 2907.03(A)(7)(b).

<sup>3</sup> R.C. 2907.03(A)(7)(a) and (b).

<sup>4</sup> R.C. 2907.03(A)(7)(a) and (C)(4) and (6).

authority employed by or serving in an institution of higher education and (2) the other person is a minor who is enrolled in or attends that institution.<sup>5</sup>

The bill creates an additional prohibition that applies to employees of institutions of higher education who are not in positions of authority with the institution. Specifically, it prohibits a person from engaging in sexual conduct with another person who is not the spouse of the offender where (1) the offender is a person who is employed by an institution of higher education but is not a teacher, administrator, coach, or other person in authority with the institution, (2) the other person is a minor who is at least four years younger than the offender, and (3) the other person is enrolled in or attends the institution, regardless of whether that person also is enrolled in or attends a public or nonpublic school.<sup>6</sup>

### **Background – penalties and other consequences of committing sexual battery**

Generally, sexual battery is a felony of the third degree, with a possible prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months.<sup>7</sup> If the other person is less than 13 years of age, sexual battery is a felony of the second degree and the court must impose a prison term of two, three, four, five, six, seven, or eight years.<sup>8</sup>

Separate law provides that violation of the sexual battery statute under the specific conditions involving a student at a public or nonpublic school under current law, and by extension to such a student under the provisions of the bill as described above (see "**Sexual battery by employees of public or nonpublic schools**"), is expressly grounds for termination of a teacher or nonteaching employee by a school district.<sup>9</sup> In addition, a conviction or plea of guilty for any type of sexual battery by a teacher, or any other licensee of the State Board of Education, is among several criminal offenses that expressly require automatic revocation of, or denial of issuance or renewal of, that person's license.<sup>10</sup>

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<sup>5</sup> R.C. 2907.03(A)(8)(a).

<sup>6</sup> R.C. 2907.03(A)(8)(b).

<sup>7</sup> R.C. 2907.03(B). See R.C. 2929.14(A)(3)(a), not in the bill.

<sup>8</sup> R.C. 2907.03(B). See R.C. 2929.14(A)(2).

<sup>9</sup> R.C. 3311.82, 3319.081, and 3319.16, not in the bill.

<sup>10</sup> R.C. 3319.31(C), not in the bill.



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## HISTORY

### ACTION

### DATE

Introduced

08-06-13

Reported, H. Education

03-26-14

Passed House (89-0)

05-14-14

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