



# Ohio Legislative Service Commission

## Bill Analysis

Aida S. Montano

### H.B. 529

130th General Assembly  
(As Introduced)

**Reps.** Retherford and Conditt, Derickson, Butler, Becker, Wachtmann, McClain, Smith, Hill, Ruhl, Sprague, Terhar, Buchy

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## BILL SUMMARY

- Expands the offense of corrupting another with drugs to include within the offense a prohibition against knowingly furnishing or administering to a pregnant woman, or inducing or causing a pregnant woman to use, a controlled substance, when the offender knows that the woman is pregnant or is reckless in that regard.
- Increases the penalty for corrupting another with drugs if a person violates the prohibition described in the previous dot point.

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## CONTENT AND OPERATION

### Existing prohibitions under corrupting another with drugs

Currently, the offense of corrupting another with drugs includes four separate prohibitions. The prohibitions do not apply to manufacturers, wholesalers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741.<sup>1</sup> The current prohibitions prohibit a person from knowingly doing any of the following:<sup>2</sup>

(1) By force, threat, or deception, administering to another or inducing or causing another to use a controlled substance;

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<sup>1</sup> R.C. 2925.02(B).

<sup>2</sup> R.C. 2925.02(A)(1) to (4).

(2) By any means, administering or furnishing to another or inducing or causing another to use a controlled substance with purpose to cause serious physical harm to the other person, or with purpose to cause the other person to become drug dependent;

(3) By any means, administering or furnishing to another or inducing or causing another to use a controlled substance, and thereby causing serious physical harm to the other person, or causing the other person to become drug dependent;

(4) By any means: furnishing or administering a controlled substance to a juvenile who is at least two years the offender's junior, when the offender knows the juvenile's age or is reckless in that regard; inducing or causing a juvenile who is at least two years the offender's junior to use a controlled substance, when the offender knows the juvenile's age or is reckless in that regard; inducing or causing a juvenile who is at least two years the offender's junior to commit a felony drug abuse offense, when the offender knows the juvenile's age or is reckless in that regard; or using a juvenile, whether or not the offender knows the juvenile's age, to perform any surveillance activity intended to prevent the detection of the offender or any other person in the commission of a felony drug abuse offense or to prevent the arrest of the offender or any other person for the commission of a felony drug abuse offense.

"Controlled substance" means a drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV, or V.<sup>3</sup>

### **Prohibition under corrupting another with drugs added by the bill**

The prohibition the bill adds to the offense of corrupting another with drugs prohibits a person from knowingly, by any means, furnishing or administering a controlled substance to a pregnant woman or inducing or causing a pregnant woman to use a controlled substance, when the offender knows that the woman is pregnant or is reckless in that regard.<sup>4</sup> This prohibition will not apply to manufacturers, wholesalers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with R.C. Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 4741.<sup>5</sup>

The existing prohibitions under the offense, as described above, do not prohibit the conduct covered by the bill's added prohibition unless: (1) the person engaging in the conduct uses force, threat, or deception in administering the controlled substance to

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<sup>3</sup> R.C. 3719.01(C), not in the bill.

<sup>4</sup> R.C. 2925.02(A)(5).

<sup>5</sup> R.C. 2925.02(B).



the pregnant woman or in inducing or causing the pregnant woman to use the controlled substance, administers or furnishes the controlled substance to the pregnant woman or induces or causes the pregnant woman to use the controlled substance with purpose to cause serious physical harm to her or with purpose to cause her to become drug dependent, or administers or furnishes the controlled substance to the pregnant woman or induces or causes the pregnant woman to use the controlled substance and thereby causes serious physical harm to her or causes her to become drug dependent, or (2) the pregnant woman is a juvenile and one of the specified additional circumstances described above in (4) under "**Existing prohibitions under corrupting another with drugs**" applies. Because the prohibition the bill adds to the offense applies to conduct that is not prohibited under existing law unless other circumstances exist with respect to the conduct, the penalties provided in the bill for a violation of the added prohibition cannot be directly compared to any existing penalty.

## **Penalties for corrupting another with drugs**

### **For a violation of an existing prohibition**

Under existing law and under the bill, a person who violates any of the existing prohibitions under the offense of corrupting another with drugs is penalized as follows:<sup>6</sup>

(1) If the drug involved is any compound, mixture, preparation, or substance included in Schedule I or II, with the exception of marihuana or 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (hereafter, these synthetic cannabinoids are referred to as K2 or Spice), except as otherwise described in this paragraph, the offense is a second degree felony and, subject to a special major drug offender sentencing provision, the court must impose as a mandatory prison term one of the prison terms prescribed for a second degree felony. If the offense was committed in the vicinity of a school, it is a first degree felony and, subject to a special major drug offender sentencing provision, the court must impose as a mandatory prison term one of the prison terms prescribed for a first degree felony.

(2) If the drug involved is any compound, mixture, preparation, or substance included in Schedule III, IV, or V, except as otherwise described in this paragraph, the offense is a second degree felony and there is a presumption for a prison term for the offense. If the offense was committed in the vicinity of a school, it is a second degree

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<sup>6</sup> R.C. 2925.02(C)(1) to (3).

felony and the court must impose as a mandatory prison term one of the prison terms prescribed for a second degree felony.

(3) If the drug involved is marihuana, K2, or Spice, except as otherwise described in this paragraph, the offense is a fourth degree felony and R.C. 2929.13(C) applies (i.e., there is no presumption for or against a prison term) in determining whether to impose a prison term on the offender. If the offense was committed in the vicinity of a school, it is a third degree felony and R.C. 2929.13(C) applies in determining whether to impose a prison term on the offender.

The bill makes technical changes in the above provisions.

### **For a violation of the prohibition added by the bill**

Under the bill, a person who violates the prohibition the bill adds to the offense of corrupting another with drugs is penalized as follows:<sup>7</sup>

(1) If the drug involved is any compound, mixture, preparation, or substance included in Schedule I or II, with the exception of marihuana, K2, or Spice, the offense is a first degree felony and, subject to a special major drug offender sentencing provision, the court must impose as a mandatory prison term one of the prison terms prescribed for a first degree felony;

(2) If the drug involved is any compound, mixture, preparation, or substance included in Schedule III, IV, or V, the offense is a second degree felony and the court must impose as a mandatory prison term one of the prison terms prescribed for a second degree felony;

(3) If the drug involved is marihuana, K2, or Spice, the offense is a third degree felony and R.C. 2929.13(C) applies in determining whether to impose a prison term on the offender.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	04-28-14

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<sup>7</sup> R.C. 2925.02(C)(4) to (6).

