



## **H.B. 259**

126th General Assembly  
(As Introduced)

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

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### **BILL SUMMARY**

- Renames the offense "harassment by an inmate" as "harassment 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.

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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 (E).)

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 (E).)

The bill renames this offense "harassment with a bodily substance" (R.C. 2921.38(E)) and adds two additional prohibitions.

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(C) and (E).)

Also, 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 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 third degree. (R.C. 2921.38(D) and (E).)

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(G), unchanged from current law).

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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(F).)

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

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-17-05	p. 804

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