



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 405\*

131st General Assembly  
(As Reported by H. Judiciary)

Reps. Schaffer, K. Smith

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## BILL SUMMARY

- Requires the imposition of a mandatory prison term on a first offense for a violation of each of two prohibitions relating to a person's solicitation of another who is less than 13 years of age to engage in sexual activity or sexual conduct, which constitute the offense of "importuning."
- Requires the imposition of a mandatory prison term on a first offense of "importuning" for a violation of each of two prohibitions relating to a person's solicitation of another who is at least 13 years of age to engage in sexual activity or sexual conduct, if the offender is ten or more years older than the person solicited.

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## CONTENT AND OPERATION

### Penalties for offense of importuning

Existing law contains a series of prohibitions relating to a person's solicitation of another to engage in sexual activity or sexual conduct. A violation of any of the prohibitions is the offense of "importuning," and the penalty for the offense varies, depending upon the prohibition violated.

#### Soliciting a person under 13 years of age

The bill establishes a mandatory prison term on a first offense for each of the following violations that constitute the offense of importuning:<sup>1</sup>

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\* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

<sup>1</sup> R.C. 2907.07(F)(2).

- Soliciting a person less than 13 years of age to engage in sexual activity with the offender, whether or not the offender knows the person's age.
- Soliciting by means of a telecommunications device when the offender is at least 18 years and the other person is less than 13 years of age and the offender knows of such age or is reckless in that regard, or the other person is a law enforcement officer posing as a person who is less than 13 years of age and the offender believes such age or is reckless in that regard.

In each case, the bill retains the current level of crime and requires a mandatory prison term appropriate to that level of crime to be imposed on the offender. Current law contains a presumption that a prison term should be imposed, but it does not require a mandatory prison term.

### **Soliciting a person over 13 years of age**

The bill establishes a mandatory prison term on a first offense for each of the following violations that constitute the offense of importuning if the offender is ten or more years older than the person solicited:<sup>2</sup>

- Soliciting another, not the offender's spouse, when the offender is at least 18 and four or more years older than the other person and either: (1) the other person is at least 13 but less than 16 years of age, whether or not the offender knows the other person's age, or (2) the other person is 16 or 17 years of age, a victim of trafficking in persons, and the offender knows or has reckless disregard of the other person's age.
- Soliciting by means of a telecommunications device when the offender is at least 18 and either: (1) the other person is at least 13 years of age but less than 16, the offender knows of such age or is reckless in that regard, and the offender is four or more years older than the other person, or (2) the other person is a law enforcement officer posing as a person who is at least 13 years of age but less than 16, the offender believes such age or is reckless in that regard, and the offender is four or more years older than the age the officer assumes in posing.

In each case above, the bill retains the current level of crime and a presumption that a prison term should be imposed, and requires a mandatory prison term

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<sup>2</sup> R.C. 2907.07(F)(3).

appropriate to that level of crime to be imposed on an offender who is ten or more years older than the solicited person.

For all four categories of importuning, the bill retains the provision of current law that requires the imposition of a mandatory prison term if the offender previously was convicted of a sexually oriented offense or a child victim oriented offense.<sup>3</sup>

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## HISTORY

ACTION	DATE
Introduced	12-03-15
Reported, H. Judiciary	---

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<sup>3</sup> R.C. 2907.07.

