



# Ohio Legislative Service Commission

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## Bill Analysis

Dennis M. Papp

### **H.B. 405**

131st General Assembly  
(As Passed by the House)

**Reps.** Schaffer and K. Smith, Celebrezze, Conditt, Anielski, Antonio, Arndt, Ashford, Baker, Boyce, Brown, Buchy, Burkley, Craig, Cupp, Dovilla, Driehaus, Duffey, Fedor, Ginter, Hackett, Hagan, Hall, Hayes, Hill, Huffman, T. Johnson, Koehler, Kunze, Landis, LaTourette, Lepore-Hagan, Manning, McClain, M. O'Brien, S. O'Brien, Patterson, Pelanda, Perales, Phillips, Reineke, Rogers, Romanchuk, Schuring, Sears, Sheehy, Slaby, Slesnick, Strahorn, Sweeney, Thompson, Young, Zeltwanger

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## **BILL SUMMARY**

- Requires the imposition of a mandatory prison term on a first offense of "importuning" for a violation of either of two prohibitions relating to a person's solicitation of another who is less than 13 years of age to engage in sexual activity.
- Requires the imposition of a mandatory prison term on a first offense of "importuning" for a violation of either of two prohibitions relating to a person's solicitation of another who is at least 13 years of age but less than 18 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. Some of the prohibitions apply only when the other person is less than 13 years of age or a law enforcement officer posing as such a person, some apply only when the other person is 13 or older but less than 16 years of age or a law enforcement officer posing as such a person, and some apply only when the other person is 16 or 17. 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 included under the offense of importuning:<sup>1</sup>

- 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 another by means of a telecommunications device to engage in sexual activity with the offender when the offender is at least 18 and either: (1) the other person is less than 13 years of age and the offender knows of such age or is reckless in that regard, or (2) 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 (a third degree felony) 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 13 years of age or older**

The bill establishes a mandatory prison term on a first offense for each of the following violations included under 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, to engage in sexual conduct with the offender 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 another by means of a telecommunications device to engage in sexual activity with the offender when the offender is at least 18 and either: (1) the other person is at least 13 but less than 16 years of age, 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

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

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



a law enforcement officer posing as a person who is at least 13 but less than 16 years of age, 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 (a fifth degree felony) and a presumption that a prison term should be imposed, and requires a mandatory prison term appropriate to that level of crime to be imposed on an offender who is ten or more years older than the solicited person.

## **Second or subsequent offense**

For all four categories of importuning described above, the bill retains the provisions of current law that specify the level of the offense (a second degree felony if the other person is under 13 and a fourth degree felony if the other person is 13 or older) and require 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**

<b>ACTION</b>	<b>DATE</b>
Introduced	12-03-15
Reported, H. Judiciary	01-27-16
Passed House (95-0)	02-10-16

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

