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## Bill Analysis

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### SUMMARY

- Provides a specific civil action for any emergency service responder (ESR) who suffers injury, death, or loss to person or property due to an abridgment of the responder's civil rights arising out of the performance of official duties or due to a known false complaint being filed against the responder.
- Increases the penalty for "felonious assault" if the violation caused serious physical harm and the offender committed the violation in an attempt to intimidate, harass, or terrorize another person because the other person is or is perceived to be an ESR or public servant or because the other person is a family or household member or co-worker of such a person.
- Increases the penalty for "assault" if:
  - The victim is a peace officer or BCII investigator, regardless of whether the victim is in the performance of official duties; or
  - The offender committed the violation in an attempt to intimidate, harass, or terrorize another person because the other person is or is perceived to be an ESR or public servant or because the other person is a family or household member or co-worker of such a person.
- Adds a new prohibition under "menacing" that prohibits a person from knowingly placing or attempting to place another in fear of physical harm or death by displaying a deadly weapon, if the other person is an ESR or a family or household member of an ESR and the offender knows or reasonably should know that status of the other person.
- Adds a new prohibition under "disrupting public services" that prohibits a person from knowingly causing damage or destruction to, removal of, or tampering with the operation of, any equipment or apparatus of an ESR with the intent to prevent the useful operation of the equipment or apparatus.

- Regarding the offense of “vandalism”:
  - Modifies one of the current prohibitions so that, in addition to the currently prohibited conduct, it expressly prohibits a person from knowingly causing serious physical harm to an entrance or curtilage to or fixture on property owned, leased, or controlled by a governmental entity; and
  - Expands the definition of governmental entity to also include the U.S. government and its departments, agencies, and instrumentalities.
- Provides a new third degree felony penalty for “inciting to violence” when the offender’s conduct was designed to urge or incite another to commit an offense of violence against an ESR or a family or household member of an ESR.
- Enacts the offense of “harassment in a place of public accommodation,” under which a person is prohibited from knowingly harassing or intimidating another person in a place of public accommodation while the offender is engaging in conduct prohibited as “aggravated riot” or “riot.”
- Enacts the offense of “unlawfully impeding public passage,” under which a person is prohibited from recklessly obstructing a public passage in such a manner as to render the passage impassable without unreasonable inconvenience or hazard and, upon an ESR’s request or order to remove or cease the obstruction, refusing to do so.
- Regarding the offense of “intimidation:”
  - Expands the existing prohibition to also apply when a person engages in the specified conduct in an attempt to influence, intimidate, or hinder an ESR in the discharge of the emergency service duties; and
  - Enacts a new prohibition that prohibits a person from attempting to intimidate, etc., a person who is or is perceived to be an ESR or public servant or who is a family or household member or co-worker of such a person, by causing damage to or destroying any property of another person when specified criteria apply.
- Modifies the penalty scheme for “obstructing official business” so that it remains, generally, a second degree misdemeanor, but it is:
  - A first degree misdemeanor if the violation involves the use or threatened use of force by the offender against an ESR; and
  - A fifth degree felony if the violation involves the conduct described above and creates a risk of physical harm to any person or causes physical harm to the property of an ESR that is used in the ESR’s official duties.
- Enacts the offense of “harassing an emergency service responder or family member,” under which a person is prohibited from recklessly:
  - Taunting or tormenting an ESR or family or household member of an ESR when the offender knows or reasonably should know that the other person is an ESR or a family or household member; or

- Throwing, expelling, or propelling by any means an object or substance at an ESR or family or household member of an ESR when the offender knows or reasonably should know that the other person is an ESR or a family or household member.
- Enacts the offense of “interfering with an emergency service provider by use of a laser,” under which a person is prohibited, with the intent to cause physical harm to the ESR from knowingly discharging a laser or other device that creates visible light into the face of, or toward the head of, an ESR.
- Includes as a “corrupt activity” under the Corrupt Activity Law: (1) providing material support or resources with the purpose that they be used to plan, prepare, carry out, or aid in conduct that is an “aggravated riot” or “riot,” or (2) organizing persons or calling persons to gather to engage in conduct that is an “aggravated riot” or “riot.”
- Requires that a prison term imposed for “aggravated arson” or some types of “arson,” that involved property damage in an attempt to intimidate, etc., a person who is or is perceived to be an ESR or public servant or who is a family or household member or co-worker of an ESR or public servant, run consecutively to any prison or jail term imposed for any related offense.
- Provides that a peace officer who suffers injury, death, or loss to person or property as a result of the offense of “making a false allegation of peace officer misconduct” has a specific civil action against the offender.

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## DETAILED ANALYSIS

The bill provides a specific civil action for an emergency service responder based on an abridgment of the responder’s civil rights or as a result of a known false complaint against the responder, modifies the prohibitions or penalties under several offenses regarding conduct committed because a person is or is perceived to be an emergency service responder, public servant, family member, or co-worker or conduct that is riot-related or is directed against certain government activities, and enacts several new offenses regarding conduct of that nature.

### Civil action

The bill specifies that any “emergency service responder” (an ESR – see “**Definitions**,” below) who suffers injury, death, or loss to person or property as a result of an abridgment of the responder’s civil rights arising out of the responder’s performance of official duties or as a result of a “known false complaint” (see below) being filed against the responder, including such a complaint filed regarding a peace officer in violation of the prohibition under the existing offense of “making a false allegation of peace officer misconduct” (see “**Making a false allegation of peace officer misconduct**,” below), has a civil action against any person, group of persons, organization, corporation, or head of an organization or corporation that abridged the responders civil rights or filed the known false complaint. The ESR may recover in the action full compensatory damages, including damages for emotional distress, and may

recover punitive or exemplary damages, court costs, other reasonable expenses incurred in maintaining the action, and reasonable attorney's fees incurred in maintaining the action.

A civil action may be maintained under this provision based on a person's filing of a known false complaint regarding a peace officer in violation of the prohibition under the existing offense of "making a false allegation of peace officer misconduct" regardless of whether the person who committed the violation has been charged with, convicted of, or adjudicated a delinquent child for committing the violation. A civil action may be maintained under this provision based on a person's filing of a known false complaint even if the filing is not a violation of the prohibition under the existing offense of "making a false allegation of peace officer misconduct."<sup>1</sup>

For purposes of this provision, "known false complaint" means a complaint filed by a person against an ESR that alleges misconduct by the ESR and that the person filing the complaint knew to be false at the time of the filing of the complaint.<sup>2</sup>

## **Felonious assault**

### **Penalties**

Currently, the offense of "felonious assault" generally is a second degree felony, but it is a first degree felony if the victim is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation (a BCII Investigator). If the offender also is convicted of any of several types of listed specifications (a "pregnant victim" specification, a "use of an accelerant and causing of serious physical harm" specification, or a "causing of permanent disabling harm to a victim under age 10" specification), or if a peace officer or BCII Investigator as victim suffered serious physical harm, the court must sentence the offender to a mandatory prison term of a specified length.<sup>3</sup>

The bill modifies the penalties for felonious assault so that it also is a first degree felony if the violation caused serious physical harm to another or to another's unborn and the offender committed the violation in an attempt to intimidate, harass, or terrorize another person because of that other person's actual or perceived employment as an "ESR" or "public servant" or because that other person is a "family or household member" or "co-worker" of a person who is employed or is perceived as being employed as an ESR or public servant (see "**Definitions**," below, for the meaning of the terms in quotation marks). The mandatory prison terms under existing law will apply with respect to a sentence imposed under this provision.<sup>4</sup> If an offender is sentenced to a prison term for felonious assault based on the offender's causing of serious physical harm to another or another's unborn (see

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<sup>1</sup> R.C. 2307.68(B) and (C).

<sup>2</sup> R.C. 2307.68(A).

<sup>3</sup> R.C. 2903.11(D)(1), (2), and (3).

<sup>4</sup> R.C. 2903.11(D)(1)(a) and (b), (2), (3), and (4).

“**Prohibitions,**” below) and is sentenced under this new provision enacted in the bill, the prison term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the felonious assault violation.<sup>5</sup>

## **Prohibitions**

Unchanged by the bill, the prohibitions under “felonious assault” prohibit a person:<sup>6</sup>

1. From knowingly causing serious physical harm to another or another’s unborn, or knowingly causing or attempting to cause physical harm to another or another’s unborn by means of a deadly weapon or dangerous ordnance; or
2. With knowledge that the person has tested positive as a carrier of a virus that causes AIDS, from knowingly: (a) engaging in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct, (b) engaging in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes AIDS, or (c) engaging in sexual conduct with a person under age 18 who is not the offender’s spouse.

## **Assault**

### **Penalties**

Currently, the offense of “assault” generally is a first degree misdemeanor, but if certain specified circumstances apply, it is a third, fourth, or fifth degree felony. The circumstances in which it is a fourth degree felony include when the victim is a peace officer or a BCII Investigator, a firefighter, or a person performing emergency medical service, while in the performance of their official duties; if the victim is a peace officer or a BCII Investigator and the victim suffered serious physical harm as a result of the offense, the court is required to impose as a mandatory prison term one of the prison terms prescribed for a fourth degree felony that is at least 12 months in duration. And in any case, if the offender also is convicted of a “pregnant victim” specification, the court must sentence the offender to a mandatory prison term of a specified length.<sup>7</sup>

The bill modifies the penalties for assault so that, in addition to the current circumstances in which it is a third degree felony, it also is a third degree felony if the victim is a “peace officer” or “BCII investigator” (regardless of whether the victim is in the performance of official duties) or if the offender committed the violation in an attempt to intimidate, harass, or terrorize another person because of that other person’s actual or perceived employment as an “ESR” or “public servant” or because that other person is a “family or household member” or

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<sup>5</sup> R.C. 2903.11(D)(1)(c) and 2929.41(B).

<sup>6</sup> R.C. 2903.11(A) and (B).

<sup>7</sup> R.C. 2903.13(C).

“co-worker” of a person who is employed or perceived as being employed as an ESR or public servant (see “**Definitions**,” below, for the meaning of the terms in quotation marks). The existing “pregnant victim” mandatory prison term under existing law will apply with respect to a sentence imposed under this provision. To conform to this change, the bill repeals the current fourth degree felony penalty provisions that apply regarding peace officers, BCII investigators, firefighters, and persons performing emergency medical service, and repeals the existing “serious physical harm to a peace officer or BCII investigator” mandatory term. Peace officers, firefighters, and persons performing emergency medical service clearly are “ESRs” under the bill’s definition of that term and BCII Investigators might be “ESRs” under that definition.<sup>8</sup>

If an offender is sentenced to a prison term for assault when it is a third degree felony under this new provision enacted in the bill, the prison term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the felonious assault violation.<sup>9</sup>

## **Prohibitions**

Unchanged by the bill, the prohibitions under “assault” prohibit a person from knowingly causing or attempting to cause physical harm to another or to another’s unborn, or recklessly causing serious physical harm to another or another’s unborn.<sup>10</sup>

## **Menacing**

### **Operation of the bill**

The bill adds a new prohibition under the offense of “menacing,” with new penalties provided for violations of the prohibition. The new prohibition prohibits a person from knowingly placing or attempting to place another in reasonable fear of physical harm or death by displaying a deadly weapon, if the other person is an “ESR” or a “family or household member” of an ESR and the offender knows or reasonably should know that the other person is an ESR or is a family or household member of an ESR (see “**Definitions**,” below, for the meaning of the terms in quotation marks). The prohibition applies regardless of whether the deadly weapon displayed is operable or inoperable.

A violation of the new prohibition is a fourth degree felony. If the offender is sentenced to a prison term for a violation of the prohibition, the prison term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the menacing violation.<sup>11</sup>

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<sup>8</sup> R.C. 2903.13(C)(5), (6), (10), and (11).

<sup>9</sup> R.C. 2903.13(C)(10) and 2929.41(B).

<sup>10</sup> R.C. 2903.13(A).

<sup>11</sup> R.C. 2903.22(A)(2) and (B)(3) and 2929.41(B).

## Existing law

The current prohibition under the offense of “menacing,” unchanged by the bill, prohibits a person from knowingly causing another to believe that the offender will cause physical harm to the person or property of the other person, the other person’s unborn, or a member of the other person’s immediate family (including causing the other person’s belief based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs). Unchanged by the bill, a violation of the prohibition generally is a fourth degree misdemeanor, but it is a first degree misdemeanor if the victim is a public children services agency or private child placing agency officer or employee and the offense relates to the officer’s or employee’s actual or anticipated performance of official responsibilities or duties and a fourth degree felony if the offender previously has been convicted of an offense of violence, the victim of that prior offense was such an officer or employee, and that prior offense related to the officer’s or employee’s actual or anticipated performance of official responsibilities or duties.<sup>12</sup>

## Disrupting public services

### Operation of the bill

The bill adds a new prohibition under the offense of “disrupting public services.” The new prohibition prohibits a person from knowingly causing damage or destruction to, removal of, or tampering with the operation of, any equipment or apparatus of an “ESR” (see “**Definitions**,” below, for the meaning of that term) with the intent to prevent the useful operation of the equipment or apparatus. The penalty for a violation of the current prohibitions under the offense applies to violations of the new prohibition – under that penalty, unchanged by the bill, a violation of the new prohibition is a fourth degree felony. The bill does add a new provision that specifies that if an offender is sentenced to a prison term for a violation of the new prohibition, the prison term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the violation of the new prohibition.<sup>13</sup>

### Existing law

The current prohibitions under the offense of “disrupting public services,” unchanged by the bill, prohibit a person: (1) purposely by any means or knowingly by damaging or tampering with any property, from: (a) interrupting or impairing television, radio, telephone, telegraph, or other mass communications service; police, fire, or other public service communications; radar, Loran, radio, or other electronic aids to air or marine navigation or communications; or amateur or citizens band radio communications being used for public service or emergency communications, (b) interrupting or impairing public transportation, or water supply, gas, power, or other utility service to the public, or (c) substantially impairing the ability of law

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<sup>12</sup> R.C. 2903.22(A)(1) and (B)(1).

<sup>13</sup> R.C. 2909.04(C) and (D) and 2929.41(B).



enforcement officers, firefighters, rescue personnel, emergency medical services personnel, or emergency facility personnel to respond to an emergency or to protect and preserve any person or property from serious physical harm, or (2) knowingly using a computer, computer system, computer network, telecommunications device, or other electronic device or system or the internet to disrupt, interrupt, or impair the functions of any police, fire, educational, commercial, or governmental operations. A violation of either prohibition is a fourth degree felony.<sup>14</sup>

## **Vandalism**

### **Prohibitions and penalty**

The bill modifies one of the prohibitions under the offense of “vandalism.” The bill’s modified prohibition prohibits a person from knowingly causing serious physical harm to property that is owned, leased, or controlled by a “governmental entity” (see below), or any entrance or curtilage to or fixture on such property. Currently, the prohibition does not expressly include the causing of serious physical harm to an entrance or curtilage to or fixture on property that is owned, leased, or controlled by a governmental entity.<sup>15</sup>

The bill does not change any of the other prohibitions under the offense, which pertain to the causing in specified circumstances of a specified type of harm to an occupied structure or its contents, to property used in a profession, business, trade, or occupation, to a structure used as a memorial for the dead or property, to a cemetery or property used to protect, enclose, or ornament a cemetery, or to a place of burial.<sup>16</sup>

The penalties for a violation of the current prohibitions under the offense apply to the prohibition modified by the bill and the other, unchanged prohibitions. Under those penalties, unchanged by the bill, vandalism generally is a fifth degree felony punishable by a fine of up to \$2,500 in addition to the penalties for a fifth degree felony under the Felony Sentencing Law, but it is a fourth degree felony if the value of the property or the amount of physical harm involved is \$7,500 or more but less than \$150,000 and it is a third degree felony if the value of the property or the amount of physical harm involved is \$150,000 or more.<sup>17</sup>

### **Definition of “governmental entity”**

The bill modifies the definition of “governmental entity” that applies to the prohibition it modifies, as described above. Under the bill, “governmental entity” includes, but is not limited to: (1) the state or a political subdivision of the state, a school district, the board of trustees of a public library or public university, or any other body corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state,

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<sup>14</sup> R.C. 2909.04(A), (B), and (D).

<sup>15</sup> R.C. 2909.05(B)(2).

<sup>16</sup> R.C. 2909.05(A), (B)(1), (C), and (D).

<sup>17</sup> R.C. 2909.05(E).

or (2) the U.S. government or any department, agency, or instrumentality, corporate or otherwise, of the U.S. government. Currently, the term does not include the U.S. government or any of its departments, agencies, or instrumentalities.<sup>18</sup>

## **Inciting to violence**

### **Penalties**

The bill provides a new penalty for the offense of “inciting to violence” when the violation involves certain conduct that might affect an ESR or family member. Under the bill, if the offender’s conduct in committing the offense is designed to urge or incite another to commit an offense of violence against an “ESR” or a “family or household member” of an ESR, inciting to violence is a third degree felony (see “**Definitions**,” below, for the meaning of the terms in quotation marks). If an offender is sentenced to a prison term for the offense when the offender’s conduct in committing the offense was designed to urge or incite another to commit an offense of violence against an ESR or a family or household member of an ESR, the prison term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the offense.<sup>19</sup>

The current penalties for inciting to violence, retained by the bill but subject to the new penalty described above, specify that the offense is a first degree misdemeanor if the offense of violence that the other person is being urged or incited to commit is a misdemeanor, and it is a third degree felony if the offense of violence that the other person is being urged or incited to commit is a felony.<sup>20</sup>

### **Prohibition**

The prohibition under the offense of inciting to violence, unchanged by the bill, prohibits a person from knowingly engaging in conduct designed to urge or incite another to commit any offense of violence, when either the conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed, or the conduct proximately results in the commission of any offense of violence.<sup>21</sup>

## **Harassment in a place of public accommodation**

The bill enacts the offense of “harassment in a place of public accommodation.” The prohibition under the offense prohibits a person from knowingly harassing or intimidating another person in a “place of public accommodation” (see below) while the person is engaging in conduct prohibited under the offense of “aggravated riot” or “riot.” A violation of the prohibition is a first degree misdemeanor. The bill states that the prohibition under the offense does not limit or affect the application of the offenses of “aggravated menacing,” “menacing,”

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<sup>18</sup> R.C. 2909.05(B)(2) and (F)(2).

<sup>19</sup> R.C. 2917.01(B) and (C).

<sup>20</sup> R.C. 2917.01(B).

<sup>21</sup> R.C. 2917.01.

“aggravated riot,” “riot,” “intimidation,” “obstructing official business,” or “harassing an emergency service provider or family member” (new under the bill) or any other Revised Code section, and that any conduct that is a violation of the prohibition under the offense and that also is a violation of a prohibition under any of the listed offenses or any other Revised Code section may be prosecuted under the new offense, the listed offense or other section, or both (see “**Allied offenses of similar import**,” below).<sup>22</sup>

As used in the prohibition under the offense, “place of public accommodation” means any inn, restaurant, eating house, barbershop, public conveyance by air, land, or water, theater, store, other place for the sale of merchandise, or any other place of public accommodation or amusement of which the accommodations, advantages, facilities, or privileges are available to the public.<sup>23</sup>

### **Unlawfully impeding public passage**

The bill enacts the offense of “unlawfully impeding public passage.” The prohibition under the offense prohibits a person, without privilege to do so, from recklessly: (1) obstructing any highway, street, sidewalk, or any other public passage in such a manner as to render the highway, street, sidewalk, or passage impassable without unreasonable inconvenience or hazard and, upon receipt of a request or order from an “ESR” (see “**Definitions**,” below, for the meaning of that term) to remove or cease the obstruction, refuse to remove or cease the obstruction, or (2) violating clause (1) if the obstruction prevents an emergency vehicle from accessing a highway or street, prevents an ESR from responding to an emergency, or prevents access to an exit from an emergency.

The penalty for the offense depends upon the clause violated and the circumstances of the offense. A violation of the portion of the prohibition covered by clause (1) generally is a first degree misdemeanor, but if the violation was committed as part of a riot, it is a fifth degree felony. A violation of the portion of the prohibition covered by clause (2) generally is a fifth degree felony, but if the violation was committed as part of a riot, it is a fourth degree felony. If an offender is sentenced to a prison term for a violation of the prohibition regardless of the clause involved, the prison term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the violation of the prohibition.

The bill states that the prohibition under the new offense does not limit or affect the application of the offenses of “obstructing official business” or “harassing an emergency service provider or family member” (new under the bill) or any other Revised Code section and that any conduct that is a violation of the prohibition under the offense and that also is a violation of either of the listed offenses or any other Revised Code section may be prosecuted under the

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<sup>22</sup> R.C. 2917.06(B) to (D).

<sup>23</sup> R.C. 2917.06(A), by reference to R.C. 4112.01, not in the bill.

new offense, the listed offense or other section, or both (see “**Allied offenses of similar import**,” below).<sup>24</sup>

## **Intimidation**

The bill modifies the prohibitions and penalties under the offense of “intimidation.”

### **Prohibitions and penalties**

Currently, the prohibition under the offense of “intimidation” prohibits a person from knowingly and by force, by unlawful threat of harm to any person or property, or by filing, recording, or otherwise using a materially false or fraudulent writing with malicious purpose, in bad faith, or in a wanton or reckless manner, attempting to influence, intimidate, or hinder a “public servant,” a party official, or an attorney or witness involved in a civil action or proceeding in the discharge of the duties of the public servant, party official, attorney, or witness. The bill expands this prohibition to also prohibit the specified conduct in an attempt to influence, intimidate, or hinder an “ESR” in the discharge of the ESR’s duties (see “**Definitions**,” below, for the meaning of the terms in quotation marks in this paragraph).<sup>25</sup>

The bill also enacts a new prohibition under the offense. The new prohibition prohibits a person from knowingly attempting to intimidate, harass, or terrorize another person because of that other person’s actual or perceived employment as an “ESR” or “public servant” or because that other person is a “family or household member” or “co-worker” of a person who is employed or is perceived as being employed as an ESR or public servant, by causing damage to or destroying any real or personal property of another person if both of the following apply with respect to the damage or destruction (see “**Definitions**,” below, for the meaning of the terms in quotation marks): (1) the person caused the damage to or destroyed the property because of actual or perceived employment of that other person as an ESR or public servant or because that other person is a family or household member or co-worker of a person who is employed or is perceived as being employed as an ESR or public servant, and (2) the damage or destruction is done without permission.<sup>26</sup>

A violation of the current prohibition, both under existing law and as expanded by the bill, or a violation of the bill’s new prohibition, is a third degree felony.<sup>27</sup> If an offender is sentenced to a prison term for a violation of the bill’s new prohibition, the term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the violation of the new prohibition.<sup>28</sup>

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<sup>24</sup> R.C. 2917.14.

<sup>25</sup> R.C. 2921.03(A)(1).

<sup>26</sup> R.C. 2921.03(A)(2).

<sup>27</sup> R.C. 2921.03(B)(1)(a).

<sup>28</sup> R.C. 2921.03(B)(2) and 2929.41(B).

## Application of other crimes

The bill states that the new prohibition it enacts, as described above, does not limit or affect the application of the offenses of “aggravated arson” and “arson” or any other Revised Code section. Any conduct that is a violation of the bill’s new prohibition and that also is a violation of a prohibition under either of the listed offenses or of any other Revised Code section, may be prosecuted under the new prohibition or current prohibition under the offense of “intimidation,” the listed offense or other section, or both (see “**Allied offenses of similar import**,” below).<sup>29</sup>

## Civil action

Current law, unchanged by the bill except for being expanded to also apply with respect to the new prohibition it enacts, provides that a person who violates either prohibition under the offense of “intimidation” is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney’s fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. The civil action is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of the violation.<sup>30</sup>

## Obstructing official business

Currently, the offense of “obstructing official business” generally is a second degree misdemeanor, but it is a fifth degree felony if the violation creates a risk of physical harm to any person. The bill modifies the penalty scheme for the offense in specified circumstances involving conduct directed against an “ESR” (see “**Definitions**,” below, for the meaning of that term). Under the bill, the offense remains, generally, a second degree misdemeanor, but: (1) subject to the provision described in clause (2), it is a first degree misdemeanor if the violation involves the use or threatened use of force by the offender against an ESR, and (2) it is a fifth degree felony if the violation creates a risk of physical harm to any person or causes physical harm to the property of an ESR that is used in the ESR’s official duties.

If an offender is sentenced to a prison term for the offense when it is a fifth degree felony because the violation caused physical harm to the property of an ESR that is used in the ESR’s official duties, the prison term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the obstructing official business offense.

The bill states that the prohibition under the offense does not limit or affect the application of the offenses of “unlawfully impeding public passage,” “harassing an emergency service provider or family member,” or “interfering with an emergency service provider by use of a laser” (all new under the bill) or any other Revised Code section, and that any conduct that

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<sup>29</sup> R.C. 2921.03(B)(1)(b).

<sup>30</sup> R.C. 2921.03(C).

is a violation of the prohibition under the offense and that also is a violation of a prohibition under any of the listed offenses or any other Revised Code section may be prosecuted under “obstructing official business,” the listed offense or other section, or both (see “**Allied offenses of similar import**,” below).<sup>31</sup>

The prohibition under the offense, unchanged by the bill, prohibits a person, without privilege to do so and with purpose to prevent, obstruct, or delay the performance by a “public official” (see “**Definitions**,” below, for the meaning of that term) of any authorized act within the public official’s official capacity, from doing any act that hampers or impedes a public official in the performance of the public official’s lawful duties.<sup>32</sup>

### **Harassing an emergency service responder or family member**

The bill enacts the offense of “harassing an emergency service responder or family member.” The prohibition under the offense prohibits a person from recklessly doing any of the following: (1) taunting or tormenting another person, if the other person is an “ESR responder” or “family or household member” of an ESR and the person knows or reasonably should know that the other person is an ESR or a family or household member of an ESR, or (2) throwing, expelling, or propelling by any means an object or substance at another person, if the other person is an ESR or family or household member of an ESR and the person knows or reasonably should know that the other person is an ESR or a family or household member of an ESR (see “**Definitions**,” below, for the meaning of the terms in quotation marks).

The offense generally is a first degree misdemeanor, but it is a fourth degree felony if the violation causes physical harm to the ESR or a family or household member of the ESR. If an offender is sentenced to a prison term for the offense when it is a fourth degree felony, the prison term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the violation of the prohibition under this offense.

The bill states that the prohibition under the offense does not limit or affect the application of the offense of “unlawfully impeding public passage” (new under the bill) or “obstructing official business” or any other Revised Code section, and that any conduct that is a violation of the prohibition under the new offense and that also is a violation of a prohibition under either of the listed offenses or any other Revised Code section may be prosecuted under the new offense, the listed offense or other section, or both (see “**Allied offenses of similar import**,” below).<sup>33</sup>

### **Interfering with an emergency service provider by use of a laser**

The bill enacts the offense of “interfering with an emergency service provider by use of a laser.” The prohibition under the offense prohibits a person, with the intent to cause physical

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<sup>31</sup> R.C. 2921.31(B) and (C) and 2929.41(B).

<sup>32</sup> R.C. 2921.31(A).

<sup>33</sup> R.C. 2921.332 and 2929.41(B).

harm to the “ESR” (see “**Definitions**,” below, for the meaning of this term) from knowingly discharging a “laser” (see below) or other device that creates visible light into the face of, or toward the head of, an ESR. The offense is a first degree misdemeanor.

The bill states that the prohibition under the new offense does not limit or affect the application of the offense of “obstructing official business” or “harassing an emergency service provider or family member” (new under the bill) or any other Revised Code section, and that any conduct that is a violation of the prohibition under the offense and that also is a violation of either of the listed offenses or any other Revised Code section may be prosecuted under the new offense, the listed offense or other section, or both (see “**Allied offenses of similar import**,” below).<sup>34</sup>

As used in the prohibition under the offense, “laser” means both of the following: (1) any device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum and when discharged exceeds one Milliwatt continuous wave, and (2) any device designed or used to amplify electromagnetic radiation by simulated emission that is visible to the human eye.<sup>35</sup>

## **Corrupt activity**

The bill expands the definition of “corrupt activity” under the Corrupt Activity Law, located in R.C. 2923.31 to 2923.36, to include, in addition to the activities currently included, any of the following: (1) providing material support or resources with purpose that the material support or resources will be used in whole or in part to plan, prepare, carry out, or aid in conduct that constitutes a violation of a prohibition under the offense of “aggravated riot” or under the offense of “riot,” or (2) organizing persons or calling persons to gather for the purpose of engaging in a violation of a prohibition under either the offense of “aggravated riot” or the offense of “riot.”<sup>36</sup>

## **Aggravated arson and arson sentencing**

The bill specifies that if an offender is sentenced to a prison term for the offense of “aggravated arson” or for the offense of “arson” committed in specified circumstances (see below), if the offender in committing the violation caused damage to or destroyed any real or personal property of another person, and if the offender caused the damage or destruction in an attempt to intimidate, harass, or terrorize that other person because of that other person’s actual or perceived employment as an “ESR” or “public servant” or because that other person is a “family or household member” or “co-worker” of a person who is employed or is perceived as being employed as an ESR or public servant, the prison term will run consecutively to any prison or jail term imposed for any other offense related to the act or acts establishing the aggravated

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<sup>34</sup> R.C. 2921.333(A) to (C).

<sup>35</sup> R.C. 2921.333(D), by reference to R.C. 2909.081, not in the bill.

<sup>36</sup> R.C. 2923.31(I)(6) and (7).

arson or arson offense (see “**Definitions**,” below, for the meaning of the terms in quotation marks).<sup>37</sup> The circumstances in which the provision applies with respect to “arson” are when the offender, in committing the offense by means of fire or explosion: causes or creates a substantial risk of physical harm, through the offer or the acceptance of an agreement for hire or other consideration, to any property of another without the other person’s consent or to any property of the offender or another with purpose to defraud; or causes, or creates a substantial risk of, physical harm, through the offer or the acceptance of an agreement for hire or other consideration, to any structure of another that is not an occupied structure.<sup>38</sup>

## **Making a false allegation of peace officer misconduct**

Current law, unchanged by the bill, prohibits a person from knowingly filing a complaint against a “peace officer” (see “**Definitions**,” below, for the meaning of that term) that alleges that the peace officer engaged in misconduct in the performance of the officer’s duties if the person knows that the allegation is false. A violation of the prohibition is the offense of “making a false allegation of peace officer misconduct,” a first degree misdemeanor.

The bill provides a specific civil action regarding a violation of the prohibition. It specifies that a person who violates the prohibition is liable in a civil action under the bill’s provisions described above in “**Civil action**” to any peace officer who suffers injury, death, or loss to person or property as a result of the violation. The civil action is not the exclusive remedy of a person who suffers injury, death, or loss to person or property as a result of a violation of this section.<sup>39</sup>

## **Allied offenses of similar import**

A provision of existing law, unchanged by the bill, specifies that: (1) where the same conduct by a defendant can be construed to constitute two or more “allied offenses of similar import,” the indictment or information may contain counts for all of the offenses, but the defendant may be convicted of only one, and (2) where the defendant’s conduct constitutes two or more offenses of dissimilar import, or results in two or more offenses of the same or similar kind committed separately or with a separate animus as to each, the indictment or information may contain counts for all such offenses, and the defendant may be convicted of all of them.<sup>40</sup> The involved court determines whether the multiple offenses are “allied offenses of similar import” or are of “dissimilar import.”

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<sup>37</sup> R.C. 2909.031 and 2929.41(B).

<sup>38</sup> R.C. 2909.03, not in the bill.

<sup>39</sup> R.C. 2921.15.

<sup>40</sup> R.C. 2941.25, not in the bill.



## Definitions

### New terms

The bill defines the following terms that are used in its provisions described above:<sup>41</sup>

**“Emergency service responder”** (or “ESR”) means any law enforcement officer, first responder, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, firefighter, or volunteer firefighter.

**“Family or household member”** means the natural parent of any child of whom a person who is, or is perceived as being, employed as an ESR or public servant is the other natural parent or is the putative other natural parent, or any of the following who is residing or has resided with a person who is, or is perceived as being, employed as an ESR or public servant: (1) a spouse, a person living as a spouse, or a former spouse of a person who is, or is perceived as being, employed as an ESR or public servant, (2) a parent, a foster parent, or a child of a person who is, or is perceived as being, employed as an ESR or public servant, or another person related by consanguinity or affinity to a person who is, or is perceived as being, employed as an ESR or public servant, or (3) a parent or a child of a spouse, person living as a spouse, or former spouse of a person who is, or is perceived as being, employed as an ESR or public servant, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of a person who is, or is perceived as being, employed as an ESR or public servant.

**“Firefighter”** means any member of a fire department as defined in the law regarding the Police and Fire Pension Fund<sup>42</sup> or any person who is a firefighter as defined in a provision of the Insurance Law.<sup>43</sup>

**“First responder,” “emergency medical technician-basic,” “emergency medical technician-intermediate,”** and **“emergency medical technician-paramedic”** have the same meanings as in the law regarding Emergency Medical Services.<sup>44</sup>

**“Volunteer firefighter”** has the same meaning as in the law regarding the Volunteer Fire Fighters’ Dependents Fund.<sup>45</sup>

**“Person living as a spouse”** means a person who is living or has lived with a person who is, or is perceived as being, employed as an ESR or public servant in a common law marital relationship, who otherwise is cohabiting with a person who is, or is perceived as being, employed as an ESR or public servant, or who otherwise has cohabited with a person who is, or

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<sup>41</sup> R.C. 2921.01(J) through (P), 2307.68, 2903.11(E)(7), 2903.13(D)(19), 2903.22(C)(1), 2909.01(H), 2917.01(D), and 2917.14(D).

<sup>42</sup> R.C. 742.01, not in the bill.

<sup>43</sup> R.C. 3937.41, not in the bill.

<sup>44</sup> R.C. 4765.01, not in the bill

<sup>45</sup> R.C. 146.01, not in the bill.

is perceived as being, employed as an ESR or public servant within five years prior to the date of the alleged commission of the act in question.

**“Co-worker”** means a person who is employed by the organization or entity that is served by a person who is, or is perceived as being, employed as an ESR or public servant.

### **Existing terms**

The following existing terms are used in the bill’s provisions, or definitions, described above:<sup>46</sup>

**“Public official”** means any elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers. “Public official” does not include an employee, officer, or Governor-appointed member of the board of directors of JobsOhio.

**“Public servant”** means any of the following: (1) any public official, (2) any person performing *ad hoc* a governmental function, including a juror, member of a temporary commission, master, arbitrator, advisor, or consultant, and (3) a person who is a candidate for public office, whether or not the person is elected or appointed to the office (a person is a candidate under this provision if the person has been nominated for election or appointment to public office, or if the person has filed a petition or petitions to have the person’s name placed on the ballot in an election, or if the person campaigns as a write-in candidate in an election). “Public servant” does not include an employee, officer, or Governor-appointed member of the board of directors of JobsOhio.

**“BCII investigator”** means an investigator of BCII who is commissioned by BCII’s Superintendent as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers under authority of R.C. 109.541.

**“Peace officer”** includes a sheriff; deputy sheriff; marshal; deputy marshal; member of an organized municipal police department, including a member of such a department in an adjoining state serving in Ohio under a contract; member of a metropolitan housing authority or regional transit authority police force; state university law enforcement officer; designated Department of Public Safety enforcement agent; Department of Taxation employee with delegated investigation powers; Department of Natural Resources natural resources law enforcement staff officer, forest-fire investigator, natural resources officer, or wildlife officer; individual designated to perform law enforcement duties under R.C. [1545.13](#) or [6101.75](#); veterans’ home police officer; port authority special police officer; township police constable or police officer; special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility in specified circumstances; the House of Representatives sergeant at arms if given arrest authority; an assistant House of

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<sup>46</sup> R.C. 2921.01(A) and (B), 2903.11(E)(3) and (5), 2903.13(D)(1) and (8), 2909.01(H), and 2921.15(A), and R.C. 2935.01, not in the bill.

Representatives sergeant at arms; the Senate sergeant at arms; an assistant Senate sergeant at arms; a BCII officer or employee in specified circumstances who is providing assistance upon request to a law enforcement officer or emergency assistance to a peace officer; a State Fire Marshal law enforcement officer; and, for the purpose of arrests within those areas, for the purposes of R.C. Chapter 5503, and the filing of and service of process relating to those offenses witnessed or investigated by them, the State Highway Patrol Superintendent and troopers.

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## HISTORY

Action	Date
Introduced	01-26-21

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