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H.B. 462*
134th General Assembly

Bill Analysis

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Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. K. Miller and Carfagna

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SUMMARY

- Creates the offense of swatting that prohibits a person by means of a telecommunications device or service from purposely triggering an emergency response when none is warranted by reporting false or misleading information to a law enforcement agency, emergency services provider, or public safety answering point.
- Provides that a violation of the prohibition is a third degree felony, unless the violation results in serious physical harm, then a violation of the prohibition is a second degree felony.
- Allows a court to order an offender to reimburse a law enforcement agency or emergency services provider involved in the emergency response for all or a portion of the costs incurred by the agency or provider during the emergency response.
- Adds the offense of swatting to the definition of an offense of violence.

DETAILED ANALYSIS

Swatting

The bill creates the offense of “swatting,” that prohibits a person by means of a telecommunications device or telecommunications service from purposely triggering an emergency response when no emergency response is warranted by reporting or causing to be reported false or misleading information to a law enforcement agency, emergency services

* This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the legislative history may be incomplete.

provider, or public safety answering point. The offense of swatting does not apply to any person conducting an authorized emergency drill.¹

A violation of the prohibition is generally a third degree felony. If the violation results in serious physical harm to any person, a violation of the prohibition is a second degree felony.²

The bill specifies that any act that is a violation of the swatting section and any other section of the Revised Code may be prosecuted under the swatting section, the other section, or both sections.³ Existing law, unchanged by the bill, specifies that:⁴

- 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
- 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.

The involved court determines whether the multiple offenses are “allied offenses of similar import” or are of “dissimilar import.”

Reimbursement

The bill provides that prior to the sentencing of the person who has been convicted of or pleaded guilty to swatting, the court must enter an order that directs any law enforcement agency or emergency services provider involved in the emergency response that wishes to be reimbursed for the costs incurred by the agency or provider during the emergency response, to file with the court within a specified time an itemized statement of those costs. The court may then order the offender to reimburse the agency for all or a portion of those costs.⁵

Offense of violence

The bill adds the offense of swatting to the definition of “offense of violence.” Under current law, “offense of violence” includes all of the following:⁶

1. Any of the following offenses (the penalty or, if different penalties are provided depending on the circumstances involved, penalties for the offense are specified):

¹ R.C. 2917.321(B) and (C).

² R.C. 2917.321(D).

³ R.C. 2917.321(F).

⁴ R.C. 2941.25, not in the bill.

⁵ R.C. 2917.321(E) and 2929.18(A)(5)(d).

⁶ R.C. 2901.01(A)(9).

- a. R.C. Chapter 2903. offenses: “aggravated murder” (unclassified felony with penalty of life imprisonment or death), “murder” (unclassified felony with penalty of 15 years to life, 30 years to life, or life imprisonment), “voluntary manslaughter” (first degree felony), “involuntary manslaughter” (first or third degree felony), “felonious assault” (first or second degree felony), “aggravated assault” (third or fourth degree felony), “assault” (first degree misdemeanor or third, fourth, or fifth degree felony), “permitting child abuse” (first or third degree felony), “aggravated menacing” (first degree misdemeanor or fourth or fifth degree felony), “menacing by stalking” (first degree misdemeanor or fourth or fifth degree felony), “menacing” (first or fourth degree misdemeanor or fourth degree felony), and “patient abuse” (fourth degree felony);⁷
- b. R.C. Chapter 2905. offenses: “kidnapping” (first or second degree felony), “abduction” (second or third degree felony), “extortion” (third degree felony), and “trafficking in persons” (first degree felony);⁸
- c. R.C. Chapter 2907. offenses: “rape” (first degree felony or life imprisonment), “sexual battery” (second or third degree felony), “gross sexual imposition” (third or fourth degree felony), and the former offense of “felonious sexual penetration” (the former offense now is included within the offense of “rape”);⁹
- d. R.C. Chapter 2909. offenses: “aggravated arson” (first or second degree felony), “arson” (first degree misdemeanor or third or fourth degree felony), and “terrorism” (one degree higher than the base offense, or unclassified felony with penalty of 30 years to life, life imprisonment, or death);¹⁰
- e. R.C. Chapter 2911. offenses: “aggravated robbery” (first degree felony), “robbery” (second or third degree felony), “aggravated burglary” (first degree felony), and “burglary” committed in an occupied structure or in a separately occupied portion of an occupied structure (second or third degree felony);¹¹

⁷ R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, and 2903.34(A)(1), not in the bill; the order of the listed sections corresponds to the order of the listed offenses.

⁸ R.C. 2905.01, 2905.02, 2905.11, and 2905.32, not in the bill; the order of the listed sections corresponds to the order of the listed offenses.

⁹ R.C. 2907.02, 2907.03, and 2907.05, and former 2907.12, not in the bill; the order of the listed sections corresponds to the order of the listed offenses.

¹⁰ R.C. 2909.02, 2909.03, and 2909.24, not in the bill; the order of the listed sections corresponds to the order of the listed offenses.

¹¹ R.C. 2911.01, 2911.02, 2911.11. and 2911.12(A)(1), (2), or (3), not in the bill; the order of the listed sections corresponds to the order of the listed offenses.

- f. R.C. Chapter 2917. offenses: “inciting to violence” (first degree misdemeanor or third degree felony), “aggravated riot” (third, fourth, or fifth degree felony), “riot” (first degree misdemeanor), and “inducing panic” (first degree misdemeanor or second, third, fourth, or fifth degree felony);¹²
 - g. R.C. Chapter 2919. offenses: “endangering children” committed by any person and involving abuse, torture or cruel abuse, specified corporal punishment, physical discipline, or physical restraint, or specified unwarranted disciplinary measures (first degree misdemeanor or second, third, or fourth degree felony), and “domestic violence” (first, second, or third degree misdemeanor or third, fourth, or fifth degree felony);¹³
 - h. R.C. Chapter 2921. offenses: “intimidation” (third degree felony), “intimidation of an attorney, victim, or witness in a criminal case” (first degree misdemeanor or third degree felony), and “escape” (first degree misdemeanor or second, third, or fifth degree felony);¹⁴
 - i. R.C. Chapter 2923. offense: “improperly discharging a firearm into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function” (second degree felony);¹⁵
2. A violation of an existing or former municipal ordinance or law of Ohio or any other state or the U.S., substantially equivalent to any offense listed above in (1)(a) to (i);
 3. An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio or any other state or the U.S., committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 4. A conspiracy or attempt to commit, or complicity in committing, any offense listed or identified above in (1)(a) to (i), (2), or (3).

Use in other Revised Code sections

As mentioned above, the term “offense of violence” is used in 98 Revised Code sections, in addition to the section containing the definition. The use occurs in a variety of contexts and manners that generally can be categorized as occurring in provisions that do the following:

¹² R.C. 2917.01, 2917.02, 2917.03, and 2917.31, not in the bill; the order of the listed sections corresponds to the order of the listed offenses.

¹³ R.C. 2919.22(B)(1), (2), (3), or (4) for endangering children and 2919.25 for domestic violence, not in the bill.

¹⁴ R.C. 2921.03, 2921.04, and 2921.34, not in the bill; the order of the listed sections corresponds to the order of the listed offenses.

¹⁵ R.C. 2923.161, not in the bill.

1. Make the commission, attempted commission, incitement to commission, or threatened commission of an offense of violence, or other circumstances involving the occurrence of an offense of violence, an element of a criminal prohibition.¹⁶
2. Escalate the penalty for an offense when a person previously has been convicted of an offense of violence.¹⁷
3. Specify restrictions, limitations, procedures, or other outcomes, other than an increased penalty, that directly apply to or affect a person suspected of, charged with, convicted of, or adjudicated a delinquent child for committing an offense of violence (and that do not apply regarding a person not suspected of, charged with, convicted of, or adjudicated a delinquent child for committing an offense of violence).¹⁸
4. Specify outcomes or events that are triggered by the occurrence, conviction, or delinquent child adjudication of an offense of violence, but that do not directly apply to or affect the person who committed or was convicted of or adjudicated a delinquent child for committing the offense.¹⁹
5. Apply to or are available for victims, or families of victims, of an offense of violence or that provide protections for such victims.²⁰

Definitions

The bill uses the following definitions:²¹

“**Emergency response**” means an action taken by a law enforcement agency to preserve the life, health, safety, or property of any person.

¹⁶ R.C. 2903.02, 2905.11, 2909.21 (in definition of element, used in following sections in the Chapter), 2917.01, 2917.02, 2917.31, 2921.22, 2921.29, 2923.13, 2923.41 (in definition of element, used in following sections in the Chapter), 2941.142, 2941.143, and 2941.1411, not in the bill.

¹⁷ R.C. 2903.13, 2903.21, 2903.211, 2903.22, 2919.25, 2923.12, 2923.126, 2929.01 (in definition of term, used in following sections in the Chapter), 2929.14, and 2929.15, not in the bill.

¹⁸ R.C. 9.79, 109.60, 124.34, 341.27, 935.01, 935.06, 935.09, 955.54, 1901.186, 2151.313, 2151.357, 2152.11, 2152.14, 2152.17, 2152.18, 2152.72, 2307.60, 2743.60, 2903.42, 2903.43, 2903.44, 2919.251, 2919.26, 2923.125, 2929.13, 2929.14, 2929.143, 2929.16, 2929.19, 2929.34, 2935.03, 2935.36, 2937.222, 2943.033, 2945.371, 2945.38, 2951041, 2953.31 (in definition of term, used in following sections in the Chapter), 2953.36, 2967.05, 2967.18, 2967.19, 2967.193, 2967.28, 3113.31, 3319.20, 3319.31, 3345.23, 4776.10 (in definition of term, used in many sections in many Chapters), 4925.04, 5120.035, 5123.50, 5123.51, and 5139.05, not in the bill.

¹⁹ R.C. 109.42, 109.54, 109.57, 109.61, 2152.71, 2929.44, 3729.14 (in definition of term, used in following sections), and 5120.161, not in the bill.

²⁰ R.C. 109.91, 309.18, 2152.81, 2152.811, 2929.20, 2930.16, 2937.11, 2945.481, 2945.482, 2945.49, 2945.491, 2967.12, 2967.26, 5120.60, and 5149.101, not in the bill.

²¹ R.C. 2917.321(A).

“Emergency service provider” means the State Highway Patrol and an emergency services department or unit of a subdivision or that provides emergency service to a subdivision under contract with the subdivision.²²

“Public safety answering point” means a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.²³

“Telecommunications device” means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.²⁴

“Telecommunications service” means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.²⁵

HISTORY

Action	Date
Introduced	10-25-21
Reported, H. Criminal Justice	---

ANHB0462RH-134/ks

²² By reference to R.C. 128.01(O), not in the bill.

²³ By reference to R.C. 128.01(P), not in the bill.

²⁴ By reference to R.C. 2913.01(Y), not in the bill.

²⁵ By reference to R.C. 2913.01(Z), not in the bill.