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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 462  
134<sup>th</sup> General Assembly

## Final Analysis

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**Primary Sponsors:** Reps. K. Miller and Carfagna

**Effective date:** April 3, 2023

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## SUMMARY

### Swatting

- Creates the offense of swatting.
- Provides that a violation of the prohibition is a fourth 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.

### Pay ranges for Highway Patrol officers and other employees

- Requires the Director of Administrative Services to adopt rules establishing pay range 19, as well as step value 7 in pay range 17, in salary schedule E-1 for exempt state employees, applicable on July 1, 2023.
- Beginning July 1, 2023, assigns lieutenants, staff lieutenants, captains, majors, and lieutenant colonels in the Ohio State Highway Patrol, or their equivalents, to specific pay ranges in schedule E-1.

## DETAILED ANALYSIS

### Swatting

The act creates the offense of “swatting,” which prohibits a person by means of a telecommunications device or telecommunications service from reporting or causing to be reported false or misleading information to a law enforcement agency, emergency service provider, or public safety answering point, knowing the information to be false or misleading,

with reckless disregard as to whether the report may cause bodily harm to any individual as a direct result of an emergency response to the report, and under circumstances where the report is reasonably likely to cause an emergency response from a law enforcement agency, emergency service provider, or public safety answering point and the report does cause an emergency response. The offense of swatting does not apply to any person conducting an authorized emergency drill.<sup>1</sup>

A violation of the prohibition is generally a fourth degree felony. If the violation results in serious physical harm to any person, a violation is a second degree felony.<sup>2</sup>

The act 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.<sup>3</sup> Continuing law, unchanged by the act, specifies that:<sup>4</sup>

- 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 act provides that prior to sentencing 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 it incurred 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.<sup>5</sup>

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<sup>1</sup> R.C. 2917.321(B) and (C).

<sup>2</sup> R.C. 2917.321(D).

<sup>3</sup> R.C. 2917.321(F).

<sup>4</sup> R.C. 2941.25, not in the act.

<sup>5</sup> R.C. 2917.321(E) and 2929.18(A)(5)(d).

## Offense of violence

The act adds the offense of swatting to the definition of “offense of violence.” In addition to the act’s inclusion of swatting, the phrase includes all of the following:<sup>6</sup>

1. Any of the following offenses (the penalty or penalties for the offense are specified):
  - 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);<sup>7</sup>
  - 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);<sup>8</sup>
  - 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”);<sup>9</sup>
  - 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);<sup>10</sup>

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<sup>6</sup> R.C. 2901.01(A)(9).

<sup>7</sup> 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 act; the order of the listed sections corresponds to the order of the listed offenses.

<sup>8</sup> R.C. 2905.01, 2905.02, 2905.11, and 2905.32, not in the act; the order of the listed sections corresponds to the order of the listed offenses.

<sup>9</sup> R.C. 2907.02, 2907.03, and 2907.05, and former 2907.12, not in the act; the order of the listed sections corresponds to the order of the listed offenses.

<sup>10</sup> R.C. 2909.02, 2909.03, and 2909.24, not in the act; the order of the listed sections corresponds to the order of the listed offenses.

- 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);<sup>11</sup>
  - 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);<sup>12</sup>
  - 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);<sup>13</sup>
  - 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);<sup>14</sup>
  - 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);<sup>15</sup>
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;

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

<sup>12</sup> R.C. 2917.01, 2917.02, 2917.03, and 2917.31, not in the act; the order of the listed sections corresponds to the order of the listed offenses.

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

<sup>14</sup> R.C. 2921.03, 2921.04, and 2921.34, not in the act; the order of the listed sections corresponds to the order of the listed offenses.

<sup>15</sup> R.C. 2923.161, not in the act.

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).

## Definitions

The portion of the act creating the offense of “swatting” uses the following definitions:<sup>16</sup>

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

“**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.<sup>17</sup>

“**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.<sup>18</sup>

“**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.<sup>19</sup>

“**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.<sup>20</sup>

## Pay ranges for Highway Patrol officers and other employees

The act requires the Director of Administrative Services to adopt rules to both:

- Establish pay range 19 in salary schedule E-1, which applies to exempt state employees beginning July 1, 2023;
- Establish step value 7 in pay range 17 of schedule E-1, applicable to exempt state employees beginning July 1, 2023.

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<sup>16</sup> R.C. 2917.321(A).

<sup>17</sup> By reference to R.C. 128.01(O), not in the act.

<sup>18</sup> By reference to R.C. 128.01(P), not in the act.

<sup>19</sup> By reference to R.C. 2913.01(Y), not in the act.

<sup>20</sup> By reference to R.C. 2913.01(Z), not in the act.

In the rules establishing step value 7 in pay range 17, the Director must identify the hourly and annual pay for the step. The pay must be proportionally higher than the hourly and annual pay for step value 6.

In the rules establishing pay range 19, the Director must create step values within the range and determine the hourly and annual pay for each step.

Under continuing law, schedule E-1 applies to employees who are part of the state job classification plan and who are not considered public employees for purposes of the Public Employees' Collective Bargaining Law.<sup>21</sup>

Beginning July 1, 2023, the act requires lieutenants, staff lieutenants, captains, majors, and lieutenant colonels in the Ohio State Highway Patrol, or their equivalents, to be paid in accordance with the following pay ranges from schedule E-1:

- Lieutenant or equivalent officer, pay range 15;
- Staff lieutenant or equivalent officer, pay range 16;
- Captain or equivalent officer, pay range 17;
- Major or equivalent officer, pay range 18;
- Lieutenant colonel or equivalent officer, pay range 19.<sup>22</sup>

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## HISTORY

Action	Date
Introduced	10-25-21
Reported, H. Criminal Justice	11-30-22
Passed House (68-14)	11-30-22
Reported, S. Judiciary	12-14-22
Passed Senate (31-0)	12-14-22
House concurred in Senate amendments (75-6)	12-14-22

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<sup>21</sup> R.C. 124.152.

<sup>22</sup> R.C. 5503.031.