



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 106\*

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

**Reps.** Schaffer, Blessing, Becker, Kraus, Grossman

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## BILL SUMMARY

- Modifies a current prohibition under the offense of "public indecency" to prohibit a person, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, is a minor, and is not the offender's spouse, from knowingly:
  - (1) Engaging in masturbation;
  - (2) Engaging in sexual conduct;
  - (3) Engaging in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
  - (4) Exposing the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.
- For purposes of the Sex Offender Registration and Notification Law, includes as a "sexually oriented offense" and as a "Tier I sex offender/child-victim offender" an offender who is convicted of committing:
  - (1) A violation of the public indecency prohibition described in (4) above;
  - (2) A violation of any former Ohio law or of any existing or former municipal ordinance, law of another state or the U.S., law applicable in a military court or Indian tribal court, or law of any nation other than the U.S. that is or was substantially equivalent to a violation of that prohibition; or

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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.

(3) An attempt to commit or complicity in committing a violation of that prohibition or of a substantially equivalent law or ordinance.

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## CONTENT AND OPERATION

### Offense of public indecency

#### Modified prohibition and penalty

The bill modifies a current prohibition under the offense of "public indecency" to prohibit a person from knowingly doing any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the offender's spouse:<sup>1</sup>

(1) Engaging in masturbation;

(2) Engaging in sexual conduct;

(3) Engaging in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;

(4) Exposing the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

The current prohibition prohibits a person, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is a minor, who is not the offender's spouse, and who resides in the person's household, from knowingly doing any of the acts specified above in (1) to (4).<sup>2</sup>

A violation of the modified prohibition based on conduct described in clause (1), (2), or (3) of the prohibition generally is a second degree misdemeanor, but if the offender previously has been convicted of public indecency it is a first degree misdemeanor if one prior conviction, and a fifth degree felony if two or more prior convictions. A violation of the prohibition based on conduct described in clause (4) of the prohibition generally is a first degree misdemeanor, but if the offender previously has been convicted of public indecency it is a fifth degree felony.<sup>3</sup>

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<sup>1</sup> R.C. 2907.09(B).

<sup>2</sup> R.C. 2907.09(B).

<sup>3</sup> R.C. 2907.09(C)(4) and (5).



## Other existing public indecency prohibition

In addition to the current prohibition under the offense of "public indecency" as modified by the bill above, current law prohibits a person, under circumstances in which the person's conduct is likely to be viewed by and affront others who are in the person's physical proximity and who are not members of the person's household, from recklessly exposing the person's private parts, engaging in sexual conduct or masturbation or engaging in conduct that to an ordinary observer would appear to be sexual conduct or masturbation. A violation of the prohibition is a first, second, third, or fourth degree misdemeanor or fifth degree felony, depending upon the clause violated and the number of prior convictions of public indecency.<sup>4</sup>

## SORN Law

### Public indecency offense included within sexually oriented offense and Tier I sex offender/child-victim offender

The bill expands the definitions of sexually oriented offense and Tier I sex offender/child-victim offender that apply to the Sex Offender Registration and Notification Law<sup>5</sup> (the SORN Law) so that the terms include a violation of clause (4) of the modified public indecency prohibition described above in "**Modified prohibition and penalty**." Specifically, the bill expands the definition of "sexually oriented offense" and the definition of "Tier I sex offender/child-victim offender" so that the terms include, in addition to the offenses included under existing law:

(1) A violation of clause (4) of the modified public indecency prohibition described above;

(2) A violation of any former Ohio law or of any existing or former municipal ordinance, law of another state or the United States, law applicable in a military court or Indian tribal court, or law of any nation other than the United States that is or was substantially equivalent to a violation of that clause under the modified prohibition;

(3) An attempt to commit or complicity in committing a violation of that clause under the modified prohibition or a substantially equivalent prohibition.

Currently, "sexually oriented offense" and "Tier I sex offender/child-victim offender" do not include, in any circumstance, public indecency, a violation of an

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<sup>4</sup> R.C. 2907.09(A) and (C)(2) and (3).

<sup>5</sup> R.C. Chapter 2950.



existing or former law of any jurisdiction that is substantially equivalent to that offense, or an attempt to commit or complicity in committing that offense.<sup>6</sup>

- A child adjudicated a delinquent child for violating clause (4) under the modified prohibition, for violating an existing or former law of another jurisdiction that is substantially equivalent to that prohibition, or for an attempt to commit or complicity in committing a violation of that prohibition is not automatically classified in any Tier, but, rather, is classified in a Tier as determined by the involved juvenile court.<sup>7</sup>

## **SORN Law**

The SORN Law imposes numerous duties and restrictions upon persons who are or have been convicted of a "sexually oriented offense" or "child-victim oriented offense." The Law also imposes numerous duties and restrictions upon children who are or have been adjudicated a delinquent child for committing any such offense and who are classified by a juvenile court as a "juvenile offender registrant." The Law provides a Tier System pursuant to which each offender and delinquent child who is subject to the Law is classified into one of three Tiers, with "Tier I sex offenders/child-victim offenders" being those offenders and delinquent children who commit the "least serious" offenses and "Tier III sex offenders/child-victim offenders" being those offenders and delinquent children who commit the "most serious" offenses. Some aspects of the Law apply differently to offenders and delinquent children, depending upon the Tier within which the offender or child is classified.

The existing duties and restrictions under the SORN Law, unchanged by the bill, that are relevant to a person included as a Tier I sex offender/child-victim offender under the bill include:<sup>8</sup> (1) registration in the county of the offender's residence, in any county in which the offender attends a school or institution of higher education or is employed for a specified period of time, and in any county in another state if the offender attends a school or institution of higher education or is employed for a specified period of time in the other state (juvenile registrants generally must register only a residence address), (2) notice of a change of a previously registered address, and registration of the new address, (3) for offenders, notice of a change of previously registered vehicle information, email addresses, Internet identifiers, or telephone numbers to the sheriff with whom the offender or child most recently registered that information (not applicable to juvenile registrants), (4) periodic verification of each previously registered address, (5) for offenders, a ban against

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<sup>6</sup> Note that the language in the bill also refers to a conspiracy, but that the offense of "conspiracy" does not apply to conduct related to public indecency.

<sup>7</sup> R.C. 2950.01.

<sup>8</sup> R.C. 2950.034, 2950.04, 2950.041, 2950.05, 2950.06, and 2950.13, not in the bill.



living within 1,000 feet of school premises or preschool or child day-care center premises (not applicable to juvenile registrants), (6) inclusion of information about the offender or juvenile registrant in the Attorney General's State Registry of Sex Offenders and Child-Victim Offenders, which is not open to inspection by any person other than specified law enforcement or government personnel, and (7) inclusion of information about the offender (but not about a juvenile registrant) on the Internet Sex Offender and Child-Victim Offender Database maintained by the Attorney General through one of the office's divisions, which is a public record open for inspection and is searchable under several specified parameters.

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## HISTORY

ACTION	DATE
Introduced	03-05-15
Reported, H. Judiciary	---

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