

**As Reported by the Senate Government Oversight and Reform
Committee**

133rd General Assembly

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Am. S. B. No. 49

Senator Eklund

Cosponsors: Senators Thomas, Fedor, Coley

A BILL

To amend section 2933.32 of the Revised Code to 1
authorize a corrections officer to cause a body 2
cavity search to be conducted or to conduct a 3
strip search and to establish separate rules for 4
conducting strip searches. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2933.32 of the Revised Code be 6
amended to read as follows: 7

Sec. 2933.32. (A) As used in this section: 8

(1) "Body cavity search" means an inspection of the anal 9
or vaginal cavity of a person that is conducted visually, 10
manually, by means of any instrument, apparatus, or object, or 11
in any other manner while the person is detained or arrested for 12
the alleged commission of a misdemeanor or traffic offense. 13

(2) "Strip search" means ~~an~~ a visual inspection of the 14
genitalia, buttocks, breasts, or undergarments of a person that 15
is preceded by the removal or rearrangement of some or all of 16
the person's clothing that directly covers the person's 17

genitalia, buttocks, breasts, or undergarments ~~and that is~~ 18
~~conducted visually, manually, by means of any instrument,~~ 19
~~apparatus, or object, or in any other manner while the person is~~ 20
~~detained or arrested for the alleged commission of a misdemeanor~~ 21
~~or traffic offense. "Strip search" does not mean the visual~~ 22
~~observation of a person who was afforded a reasonable~~ 23
~~opportunity to secure release on bail or recognizance, who fails~~ 24
~~to secure such release, and who is to be integrated with the~~ 25
~~general population of any detention facility, while the person~~ 26
~~is changing into clothing that is required to be worn by inmates~~ 27
~~in the facility.~~ 28

(3) "Exigent circumstances" means, with respect to a strip 29
search, any set of temporary and unforeseen circumstances that 30
require immediate action, for either of the following purposes: 31

(a) To address any potential or actual threat to the 32
security or institutional order of the facility in which the 33
search is to be conducted or to which the person who is being 34
searched will be taken; 35

(b) To protect the welfare of the person who is being 36
searched. 37

(4) "General population of a local detention facility" 38
means those persons who have not secured release within a 39
reasonable time after the person's initial booking and therefore 40
are housed, or classified to be housed, in areas that are not 41
designated for booking, intake, or temporary special housing. 42

(5) "Local detention facility" means a county jail, 43
municipal jail, regional jail, twelve-day jail, twelve-hour 44
jail, temporary holding facility, or workhouse. 45

(6) "Community-based correctional facility" and "halfway 46

house" have the same meanings as in section 2929.01 of the 47
Revised Code. 48

(B) (1) Except as authorized by this division, no law 49
enforcement officer, ~~other corrections officer,~~ employee of a 50
law enforcement agency or corrections agency, physician, or 51
registered nurse or licensed practical nurse shall conduct or 52
cause to be conducted a body cavity search ~~or a strip search.~~ 53

(2) A body cavity search ~~or strip search~~ may be conducted 54
if a law enforcement officer, corrections officer, or employee 55
of a law enforcement agency or corrections agency has probable 56
cause to believe that the person is concealing evidence of the 57
commission of a criminal offense, including fruits or tools of a 58
crime, contraband, or a deadly weapon, as defined in section 59
2923.11 of the Revised Code, that could not otherwise be 60
discovered. In determining probable cause for purposes of this 61
section, a law enforcement officer, corrections officer, or 62
employee of a law enforcement agency or corrections agency shall 63
consider the nature of the offense with which the person to be 64
searched is charged, the circumstances of the person's arrest, 65
and, if known, the prior conviction record of the person. 66

(3) A body cavity search ~~or strip search~~ may be conducted 67
for any legitimate medical or hygienic reason. 68

(4) Unless there is a legitimate medical reason or medical 69
emergency justifying a warrantless search, a body cavity search 70
shall be conducted only after a search warrant is issued that 71
authorizes the search. In any case, a body cavity search shall 72
be conducted under sanitary conditions and only by a physician, 73
or a registered nurse or licensed practical nurse, who is 74
registered or licensed to practice in this state. 75

(5) Unless there is a legitimate medical reason or medical emergency that makes obtaining written authorization impracticable, a body cavity search ~~or strip search~~ shall be conducted only after a law enforcement officer, corrections officer, or employee of a law enforcement agency or corrections agency obtains a written authorization for the search from the person in command of the law enforcement agency or corrections agency, or from a person specifically designated by the person in command to give a written authorization for ~~either type of a~~ body cavity search.

(6) A body cavity search ~~or strip search of a person~~ shall be conducted ~~by a person or persons who are of the same sex as the person who is being searched and the search shall be~~ conducted in a manner and in a location that permits only the person or persons who are physically conducting the search and the person who is being searched to observe the search.

(C) (1) Upon completion of a body cavity search ~~or strip search~~ pursuant to this section, the person or persons who conducted the search shall prepare a written report concerning the search that shall include all of the following:

(a) The written authorization for the search obtained from the person in command of the law enforcement agency or corrections agency, ~~or his~~ the person's designee, if required by division (B) (5) of this section;

(b) The name of the person who was searched;

(c) The name of the person or persons who conducted the search, the time and date of the search, and the place at which the search was conducted;

(d) A list of the items, if any, recovered during the

search; 105

(e) The facts upon which the law enforcement officer, corrections officer, or employee of the law enforcement agency or corrections agency based ~~his~~ the officer or employee's probable cause for the search, including, but not limited to, the officer or employee's review of the nature of the offense with which the searched person is charged, the circumstances of ~~his~~ the person's arrest, and, if known, ~~his~~ the person's prior conviction record; 106
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(f) If the body cavity search was conducted before or without the issuance of a search warrant pursuant to division (B) (4) of this section, or if the body cavity ~~or strip~~ search was conducted before or without the granting of written authorization pursuant to division (B) (5) of this section, the legitimate medical reason or medical emergency that justified the warrantless search or made obtaining written authorization impracticable. 114
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(2) A copy of the written report required by division (C) (1) of this section shall be kept on file in the law enforcement agency or corrections agency, and another copy of it shall be given to the person who was searched. 122
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(D) (1) ~~This~~ (a) An administrator of a local detention facility may require a person who is part of the general population of the local detention facility to undergo a strip search immediately after the booking process at the local detention facility in order to identify concealed contraband, a weapon, or evidence of the commission of a criminal offense, including fruits or tools of a crime. 126
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(b) An administrator of a local detention facility may 133

require a person who is an inmate and who is housed with the 134
general population of the local detention facility to undergo a 135
strip search at any time in order to identify concealed 136
contraband, a weapon, or evidence of the commission of a 137
criminal offense, including fruits or tools of a crime. 138

(c) As used in divisions (D)(2) to (5) of this section, 139
"strip search subject" means a person who is to be searched 140
through a strip search, or who is undergoing a strip search, 141
under division (D)(1)(a) or (b) of this section. 142

(2) If a strip search subject is required to undergo a 143
strip search under division (D)(1) of this section and refuses 144
to remove or rearrange some or all of the subject's clothing 145
that directly covers the subject's genitalia, buttocks, breasts, 146
or undergarments, the person or persons who are conducting the 147
strip search may remove or rearrange the subject's clothing as 148
is necessary to proceed with the visual inspection of the 149
subject's genitalia, buttocks, breasts, or undergarments. 150

(3) If a strip search subject is required to undergo a 151
strip search under division (D)(1) of this section, the person 152
or persons who are conducting the strip search may require the 153
subject to manipulate the subject's genitalia, buttocks, 154
breasts, or undergarments as necessary for the visual inspection 155
of the subject's genitalia, buttocks, breasts, or undergarments. 156
If the strip search subject refuses to manipulate the subject's 157
genitalia, buttocks, breasts, or undergarments as required, the 158
person or persons conducting the strip search may manipulate the 159
subject's genitalia, buttocks, breasts, or undergarments as is 160
necessary for the visual inspection of the subject's genitalia, 161
buttocks, breasts, or undergarments. 162

(4) A strip search conducted under division (D)(1) of this 163

section shall be conducted in accordance with the following: 164

(a) The search shall be conducted by a person or persons 165
who are law enforcement officers, corrections officers, or 166
employees of a law enforcement agency or corrections agency. 167

(b) Except in exigent circumstances, the search shall be 168
conducted by a person or persons who are of the same sex as the 169
strip search subject who is being searched. 170

(c) Notwithstanding division (D)(4)(b) of this section, if 171
the strip search subject who is to be searched states, prior to 172
the search, that the subject's gender is other than the 173
subject's birth gender, the subject shall be asked whether it is 174
most appropriate for male personnel or for female personnel to 175
conduct the search and the search may be conducted in accordance 176
with the subject's response. 177

(d) If, in the circumstances described in division (D)(4) 178
(c) of this section, a strip search is conducted other than in 179
accordance with the strip search subject's response, the person 180
or persons who conducted the strip search shall prepare a 181
written report concerning the search that shall include the 182
information described in divisions (C)(1)(b), (c), and (d) of 183
this section and a statement as to why the strip search was 184
conducted in the manner in which it was conducted. The 185
requirements of division (C)(2) of this section apply to the 186
written report required by this division. 187

(5) No administrator of a local detention facility shall 188
cause a strip search subject to undergo a strip search under 189
division (D)(1) of this section that does not conform to 190
division (D)(4) of this section, and no person shall conduct a 191
strip search of a strip search subject that does not conform to 192

<u>division (D) (4) of this section.</u>	193
<u>(E) (1) Subject to division (E) (4) of this section, this</u>	194
section does not preclude the prosecution of a law enforcement	195
officer, <u>corrections officer,</u> or employee of a law enforcement	196
<u>agency or corrections agency</u> for the violation of any other	197
section of the Revised Code.	198
(2) This <u>Subject to division (E) (4) of this section, this</u>	199
section does not limit, and shall not be construed to limit, any	200
statutory or common law rights of a person to obtain injunctive	201
relief or to recover damages in a civil action.	202
(3) If a person is subjected to a body cavity search or	203
strip search in violation of this section, <u>subject to division</u>	204
<u>(E) (4) of this section,</u> any person may commence a civil action	205
to recover compensatory damages for any injury, death, or loss	206
to person or property or any indignity arising from the	207
violation. In the civil action, the court may award punitive	208
damages to the plaintiffs if they prevail in the action, and it	209
may award reasonable attorney's fees to the parties who prevail	210
in the action.	211
(4) This <u>Divisions (E) (1) to (3) of this section</u> does do	212
not apply <u>with respect</u> to body cavity searches or strip searches	213
of persons who have been sentenced to serve a term of	214
imprisonment and who are serving that term in a <u>local</u> detention	215
facility, as defined in section 2921.01 of the Revised Code.	216
(E) <u>(F)</u> (1) Whoever violates division (B) <u>or (D) (5)</u> of this	217
section is guilty of conducting an unauthorized search, a	218
misdemeanor of the first degree.	219
(2) Whoever violates division (C) of this section is	220
guilty of failure to prepare a proper search report, a	221

misdemeanor of the fourth degree. 222

(G) No community-based correctional facility or halfway 223
house that has been accredited by the American correctional 224
association may be compelled to conduct a strip search or body 225
cavity search. 226

Section 2. That existing section 2933.32 of the Revised 227
Code is hereby repealed. 228