

AN ACT

To enact section 2921.38 of the Revised Code and to amend Section 35 of Am. Sub. H.B. 117 of the 121st General Assembly, as amended by Am. Sub. S.B. 162 of the 121st General Assembly and by Am. Sub. H.B. 210 of the 122nd General Assembly, to create the offense of harassment by an inmate, to authorize the Office of Criminal Justice Services to make an earlier reimbursement to counties for the costs of prosecuting certain serious felonies, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 2921.38 of the Revised Code be enacted to read as follows:

Sec. 2921.38. (A) No person who is confined in a detention facility, with intent to harass, annoy, threaten, or alarm another person, shall cause or attempt to cause the other person to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the other person, by expelling the bodily substance upon the other person, or in any other manner.

(B) No person who is confined in a detention facility, with knowledge that the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of a hepatitis virus, or is infected with tuberculosis and with intent to harass, annoy, threaten, or alarm another person, shall cause or attempt to cause the other person to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the other person, by expelling the bodily substance upon the other person, or in any other manner.

(C) Whoever violates this section is guilty of harassment by an inmate. A violation of division (A) of this section is a felony of the fifth degree. A Violation of division (B) of this section is a felony of the third degree.

(D)(1) the court, on request of the prosecutor, or THE LAW ENFORCEMENT AUTHORITY RESPONSIBLE FOR THE

INVESTIGATION OF THE VIOLATION, SHALL CAUSE A PERSON WHO ALLEGEDLY HAS COMMITTED A VIOLATION OF THIS SECTION TO SUBMIT TO ONE OR MORE APPROPRIATE TESTS TO DETERMINE IF THE PERSON IS A CARRIER OF THE VIRUS THAT CAUSES ACQUIRED IMMUNODEFICIENCY SYNDROME, IS A CARRIER OF A HEPATITIS VIRUS, OR IS INFECTED WITH TUBERCULOSIS.

(2) The court shall charge the offender with the costs of the test or tests ordered under division (D)(1) of this section unless the court determines that the accused is unable to pay, in which case the costs shall be charged to the entity that operates the detention facility in which the alleged offense occurred.

(E) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS HOSPITALIZED, INSTITUTIONALIZED, OR CONFINED IN A FACILITY OPERATED BY THE DEPARTMENT OF MENTAL HEALTH OR THE DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES.

SECTION 2. That Section 35 of Am. Sub. H.B. 117 of the 121st General Assembly, as amended by Am. Sub. S.B. 162 of the 121st General Assembly and by Am. Sub. H.B. 210 of the 122nd General Assembly, be amended to read as follows:

"Sec. 35. CEB CONTROLLING BOARD

General Revenue Fund

GRF 911-401	Emergency Purposes	\$	6,000,000	\$	6,000,000
GRF 911-422	Community Police Officers	\$	4,550,000	\$	4,550,000
GRF 911-423	Army National Guard	\$	1,000,000	\$	0
GRF 911-424	Livestock	\$	200,000	\$	200,000
GRF 911-427	DNA Laboratory	\$	600,000	\$	0
GRF 911-429	Pay Equalization	\$	1,500,000	\$	1,500,000
GRF 911-431	Treatment Services for Prisoners	\$	0	\$	750,000
GRF 911-434	Criminal Record Background Checks	\$	425,000	\$	425,000
TOTAL GRF General Revenue Fund		\$	13,650,000	\$	12,800,000

State ~~Secial~~ Special Revenue Fund Group

5E2 911-601	Disaster Services	\$	0	\$	40,000,000
TOTAL SSR State Special Revenue Fund		\$	0	\$	40,000,000
TOTAL ALL BUDGET FUND GROUPS		\$	13,650,000	\$	52,800,000

Federal Share

In transferring funds to or from appropriation line items which have federal shares identified in Am. Sub. H.B. 117 of the 121st General

Assembly, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in Am. Sub. H.B. 117 of the 121st General Assembly. Such changes are hereby appropriated.

Notwithstanding Sections 127.14(D) and 131.35(B)

Notwithstanding division (D) of section 127.14 and division (B) of section 131.35 of the Revised Code, except for the General Revenue Fund, the Controlling Board may, upon the request of either the Director of Budget and Management, or a state agency with the approval of the Director of Budget and Management, increase appropriations for any fund, as necessary for the various state agencies, to assist in paying the costs of increases in employee compensation that occur on or after July 1, 1995, that are provided pursuant to collective bargaining agreements under Chapter 4117. of the Revised Code and the costs of salary increases for employees that are exempt from collective bargaining, which are provided under law.

Prosecution Costs

~~After the trial court reaches a disposition on~~ Upon a delinquency filing in a Juvenile Court or the return of an indictment for aggravated murder, murder, or any felony of the first or second degree that was committed at a Department of Youth Services or a Department of Rehabilitation and Correction Institution, the county may, in accordance with rules that the Office of Criminal Justice Services shall adopt, apply to the Office of Criminal Justice Services for a grant to cover all documented costs that are incurred by the county prosecutor's office.

Twice each fiscal year, the Office of Criminal Justice Services shall designate counties to receive grants from those counties that have submitted one or more applications in compliance with the rules adopted by the office. In the first round of grants, up to \$50,000 may be awarded. In the second round of grants, provided there are sufficient applications, the remainder of the \$100,000 available to the Office of Criminal Justice Services in each fiscal year shall be awarded.

If for a given round of grants there is insufficient funding to make awards to all of the eligible counties, first priority shall be given to cases involving aggravated murder and murder, second priority shall be given to cases involving first degree felonies and third priority shall be given to cases involving second degree felonies. Within these priorities the awards shall be made based on the order in which the applications were received, except that applications for cases involving first and second degree felonies shall not be considered in more than two consecutive rounds of grants.

The Director of the Office of Criminal Justice Services may request up

to \$100,000 in fiscal year 1996 and up to \$100,000 in fiscal year 1997 from the foregoing appropriation item 911-401, Emergency Purposes, to cover local prosecution costs for aggravated murder, murder, first degree felonies and second degree felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services on or after July 1, 1995.

Southern Ohio Correctional Facility Costs

The Attorney General's Office may request up to \$500,000 in each fiscal year from the foregoing appropriation line item 911-401, Emergency Purposes, to cover legal expenses related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.

The Public Defender Commission may request up to \$120,000 in fiscal year 1996 and \$40,000 in fiscal year 1997 from the foregoing appropriation line item 911-401, Emergency Purposes, to cover the state's share of indigent defense costs related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.

Reimbursement of County Boards of Elections

Upon the request of the ~~chairman~~ chairperson of the Ohio ~~ballot board~~ Ballot Board or the ~~director~~ Director of ~~budget~~ Budget and ~~management~~ Management, ~~controlling board~~ the Controlling Board shall transfer from the foregoing appropriation line item 911-401, Emergency Purposes, up to a total of \$2,000,000 in the biennium to the Ohio ~~ballot board~~ Ballot Board for disbursement to county boards of elections as reimbursement for public notice costs associated with statewide ballot issues. ~~The Controlling board~~ Board shall create a line item, within the Ohio ~~ballot board~~ Ballot Board, to receive the transferred money. The ~~director~~ Director of ~~budget~~ Budget and ~~management~~ Management shall establish agency codes and line items as necessary.

Community Police Officers

The foregoing appropriation item 911-422, Community Police Officers, may be transferred to the Attorney General for the purposes of administering and providing for matching funds that may be required to draw down federal grants that shall be used to help pay the costs of providing additional law enforcement officers to counties, townships, municipal corporations, and state-assisted or state-supported institutions of higher education.

Army National Guard

Upon the passage of H.B. 376 of the 121st General Assembly, the Adjutant General may apply for release of funds from the foregoing appropriation line item 911-423, Army National Guard. For each parcel sold

that is described in H.B. 376, the Adjutant General may request the transfer to line 745-612, Armory Improvements, an amount equal to the difference between the purchase price received for the parcel and the appraised value of the parcel, as determined by the Director of Administrative Services.

DNA Laboratory

The Attorney General's Office may submit a request to the Controlling Board for the release of up to \$600,000 over the biennium from the foregoing appropriation item 911-427, DNA Laboratory. The foregoing appropriation item 911-427, DNA Laboratory, shall be used to pay start-up costs related to the establishment of a DNA facility.

The Director of Budget and Management shall transfer the unencumbered balance, if any, of the foregoing appropriation item 911-427, DNA Laboratory, at the end of fiscal year 1996 to fiscal year 1997 for use under the same appropriation item.

Attorney Pay Equity

Pursuant to section 109.03 of the Revised Code, the Attorney General may appoint Assistant Attorneys General to perform such duties as are assigned by the Attorney General. The Attorney General, at the Attorney General's discretion, may pay such Assistant Attorneys General salaries pursuant to sections 124.15 or 124.152 of the Revised Code. It is recognized that Assistant Attorneys General are compensated at a lesser amount than attorneys of the various departments, agencies, and offices of the state who are appointed to the attorney classifications and paid pursuant to schedule B of section 124.15 of the Revised Code or schedules E-1 through E-4 of section 124.152 of the Revised Code. Therefore, the Attorney General may request that the Controlling Board release up to \$1.5 million in each fiscal year from the foregoing appropriation item 911-429, Pay Equalization, to fund costs associated with eliminating compensation disparity between assistant Attorneys General and attorneys in the various departments, agencies, and offices of the state who are appointed to attorney classifications and paid pursuant to schedule B of section 124.15 of the Revised Code or schedule E-1 through E-4 of section 124.152 of the Revised Code. Costs associated with pay equity adjustments shall be calculated by the Attorney General and approved by the Director of Budget and Management.

Treatment Services for Prisoners

Upon completing a plan for the provision of alcohol and drug addiction treatment services in all state correctional institutions, the Department of Alcohol and Drug Addiction Services shall request the Controlling Board to release the appropriation from the foregoing appropriation item 911-431,

Treatment Services for Prisoners. The Department shall include, as part of its Controlling Board request, a copy of the plan. The Department shall use the released funds for implementation of the plan.

Criminal Record Background Checks

The foregoing appropriation item 911-434, Criminal Record Background Checks, may be transferred to the Attorney General for the purpose of conducting criminal record background checks.

Disaster Services

In fiscal year 1997, the director of budget and management may increase the appropriation item, 911-401, Emergency Purposes, by an amount not to exceed the amount transferred out of that line item before the effective date of this section for the 1997 flooding disaster referred to as FEMA-DR-1164-OH. The director of budget and management shall transfer \$40,000,000 minus an amount equal to the increase in appropriation item, 911-401, Emergency Purposes, from the General Revenue Fund into the Disaster Services Fund of the Controlling Board, which is hereby created in the state treasury. The foregoing appropriation item, 911-601, Disaster Services, shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriation authority from the Disaster Services Fund to any fund of the state for the payment of state agency program expenses related to the 1997 flooding disaster."

SECTION 3. That existing Section 35 of Am. Sub. H.B. 117 of the 121st General Assembly, as amended by Am. Sub. S.B. 162 of the 121st General Assembly and by Am. Sub. H.B. 210 of the 122nd General Assembly, is hereby repealed.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that immediate action is crucial to enable the Office of Criminal Justice Services to make grants during the current state fiscal year to cover the costs of prosecution incurred by a county prosecutor's office subsequent to the filing of charges regarding an aggravated murder, a murder, a felony of the first degree or second degree, or a comparable delinquent act that was committed at a Department of Youth Services or Department of Rehabilitation and Correction institution. Therefore, this act shall go into immediate effect.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 37

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____