

(126th General Assembly)
(Substitute House Bill Number 259)

AN ACT

To amend sections 2921.38 and 2921.51 of the Revised Code to prohibit a person, with intent to harass, annoy, threaten, or alarm a law enforcement officer, from causing or attempting to cause the law enforcement officer to come into contact with a bodily substance, to prohibit any person from engaging in the same action with respect to any person when the person is a knowing carrier of certain viruses or bacteria, and to prohibit the impersonation of a federal law enforcement officer.

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

SECTION 1. That sections 2921.38 and 2921.51 of the Revised Code be amended 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, with intent to harass, annoy, threaten, or alarm a law enforcement officer, shall cause or attempt to cause the law enforcement officer to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the law enforcement officer, by expelling the bodily substance upon the law enforcement officer, or in any other manner.

(C) 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.

~~(E)(D)~~ Whoever violates this section is guilty of harassment ~~by an inmate with a bodily substance~~. A violation of division (A) or (B) of this section is a felony of the fifth degree. A violation of division ~~(B)(C)~~ of this section is a felony of the third degree.

~~(D)(E)(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)(E)(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)(F)~~ 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.

Sec. 2921.51. (A) As used in this section:

(1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is employed by a political subdivision of this state, a member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, a member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, a state university law enforcement officer appointed under section 3345.04 of the Revised Code, a veterans' home police officer appointed under section 5907.02 of the Revised Code, a special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, or a state highway patrol trooper and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws, ordinances, or rules of the state or any of its political subdivisions.

(2) "Private police officer" means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

(3) "Federal law enforcement officer" means an employee of the United States who serves in a position the duties of which are primarily the

investigation, apprehension, or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.

(4) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(B) No person shall impersonate a peace officer ~~or, a private police officer, or a federal law enforcement officer.~~

(C) No person, by impersonating a peace officer ~~or, a private police officer, or a federal law enforcement officer,~~ shall arrest or detain any person, search any person, or search the property of any person.

(D) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, a private police officer, ~~a federal law enforcement officer,~~ or an officer, agent, or employee of the state.

(E) No person shall commit a felony while impersonating a peace officer, a private police officer, ~~a federal law enforcement officer,~~ or an officer, agent, or employee of the state.

(F) It is an affirmative defense to a charge under division (B) of this section that the impersonation of the peace officer was for a lawful purpose.

(G) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (C) or (D) of this section is guilty of a misdemeanor of the first degree. If the purpose of a violation of division (D) of this section is to commit or facilitate the commission of a felony, a violation of division (D) is a felony of the fourth degree. Whoever violates division (E) of this section is guilty of a felony of the third degree.

SECTION 2. That existing sections 2921.38 and 2921.51 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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 _____