

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 714**

**Representatives Crossman, Holmes, A.**

**Cosponsors: Representatives Lightbody, Miranda, Miller, J., O'Brien, Patterson,  
Riedel, Brown, Blair, Becker, Crawley, Weinstein**

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**A BILL**

To amend sections 2903.211, 2907.08, 2911.21, and 2911.211 of the Revised Code to prohibit using an unmanned aerial vehicle to commit trespass, voyeurism, and stalking.

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

**Section 1.** That sections 2903.211, 2907.08, 2911.21, and 2911.211 of the Revised Code be amended to read as follows:

**Sec. 2903.211.** (A) (1) No person by engaging in a pattern of conduct shall knowingly cause, including through use of an unmanned aerial vehicle, another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the

offender that are directed at or identify a corporation, 19  
association, or other organization that employs the other person 20  
or to which the other person belongs. 21

(2) No person, through the use of any form of written 22  
communication or any electronic method of remotely transferring 23  
information, including, but not limited to, any computer, 24  
computer network, computer program, computer system, or 25  
telecommunication device shall post a message or use any 26  
intentionally written or verbal graphic gesture with purpose to 27  
do either of the following: 28

(a) Violate division (A) (1) of this section; 29

(b) Urge or incite another to commit a violation of 30  
division (A) (1) of this section. 31

(3) No person, with a sexual motivation, shall violate 32  
division (A) (1) or (2) of this section. 33

(B) Whoever violates this section is guilty of menacing by 34  
stalking. 35

(1) Except as otherwise provided in divisions (B) (2) and 36  
(3) of this section, menacing by stalking is a misdemeanor of 37  
the first degree. 38

(2) Menacing by stalking is a felony of the fourth degree 39  
if any of the following applies: 40

(a) The offender previously has been convicted of or 41  
pleaded guilty to a violation of this section or a violation of 42  
section 2911.211 of the Revised Code. 43

(b) In committing the offense under division (A) (1), (2), 44  
or (3) of this section, the offender made a threat of physical 45  
harm to or against the victim, or as a result of an offense 46

committed under division (A) (2) or (3) of this section, a third 47  
person induced by the offender's posted message made a threat of 48  
physical harm to or against the victim. 49

(c) In committing the offense under division (A) (1), (2), 50  
or (3) of this section, the offender trespassed on the land or 51  
premises where the victim lives, is employed, or attends school, 52  
or as a result of an offense committed under division (A) (2) or 53  
(3) of this section, a third person induced by the offender's 54  
posted message trespassed on the land or premises where the 55  
victim lives, is employed, or attends school. 56

(d) The victim of the offense is a minor. 57

(e) The offender has a history of violence toward the 58  
victim or any other person or a history of other violent acts 59  
toward the victim or any other person. 60

(f) While committing the offense under division (A) (1) of 61  
this section or a violation of division (A) (3) of this section 62  
based on conduct in violation of division (A) (1) of this 63  
section, the offender had a deadly weapon on or about the 64  
offender's person or under the offender's control. Division (B) 65  
(2) (f) of this section does not apply in determining the penalty 66  
for a violation of division (A) (2) of this section or a 67  
violation of division (A) (3) of this section based on conduct in 68  
violation of division (A) (2) of this section. 69

(g) At the time of the commission of the offense, the 70  
offender was the subject of a protection order issued under 71  
section 2903.213 or 2903.214 of the Revised Code, regardless of 72  
whether the person to be protected under the order is the victim 73  
of the offense or another person. 74

(h) In committing the offense under division (A) (1), (2), 75

or (3) of this section, the offender caused serious physical 76  
harm to the premises at which the victim resides, to the real 77  
property on which that premises is located, or to any personal 78  
property located on that premises, or, as a result of an offense 79  
committed under division (A) (2) of this section or an offense 80  
committed under division (A) (3) of this section based on a 81  
violation of division (A) (2) of this section, a third person 82  
induced by the offender's posted message caused serious physical 83  
harm to that premises, that real property, or any personal 84  
property on that premises. 85

(i) Prior to committing the offense, the offender had been 86  
determined to represent a substantial risk of physical harm to 87  
others as manifested by evidence of then-recent homicidal or 88  
other violent behavior, evidence of then-recent threats that 89  
placed another in reasonable fear of violent behavior and 90  
serious physical harm, or other evidence of then-present 91  
dangerousness. 92

(3) If the victim of the offense is an officer or employee 93  
of a public children services agency or a private child placing 94  
agency and the offense relates to the officer's or employee's 95  
performance or anticipated performance of official 96  
responsibilities or duties, menacing by stalking is either a 97  
felony of the fifth degree or, if the offender previously has 98  
been convicted of or pleaded guilty to an offense of violence, 99  
the victim of that prior offense was an officer or employee of a 100  
public children services agency or private child placing agency, 101  
and that prior offense related to the officer's or employee's 102  
performance or anticipated performance of official 103  
responsibilities or duties, a felony of the fourth degree. 104

(C) Section 2919.271 of the Revised Code applies in 105

relation to a defendant charged with a violation of this 106  
section. 107

(D) As used in this section: 108

(1) "Pattern of conduct" means two or more actions or 109  
incidents closely related in time, whether or not there has been 110  
a prior conviction based on any of those actions or incidents, 111  
or two or more actions or incidents closely related in time, 112  
whether or not there has been a prior conviction based on any of 113  
those actions or incidents, directed at one or more persons 114  
employed by or belonging to the same corporation, association, 115  
or other organization. Actions or incidents that prevent, 116  
obstruct, or delay the performance by a public official, 117  
firefighter, rescuer, emergency medical services person, or 118  
emergency facility person of any authorized act within the 119  
public official's, firefighter's, rescuer's, emergency medical 120  
services person's, or emergency facility person's official 121  
capacity, or the posting of messages, use of intentionally 122  
written or verbal graphic gestures, or receipt of information or 123  
data through the use of any form of written communication or an 124  
electronic method of remotely transferring information, 125  
including, but not limited to, a computer, computer network, 126  
computer program, computer system, or telecommunications device, 127  
may constitute a "pattern of conduct." 128

(2) "Mental distress" means any of the following: 129

(a) Any mental illness or condition that involves some 130  
temporary substantial incapacity; 131

(b) Any mental illness or condition that would normally 132  
require psychiatric treatment, psychological treatment, or other 133  
mental health services, whether or not any person requested or 134

received psychiatric treatment, psychological treatment, or	135
other mental health services.	136
(3) "Emergency medical services person" is the singular of	137
"emergency medical services personnel" as defined in section	138
2133.21 of the Revised Code.	139
(4) "Emergency facility person" is the singular of	140
"emergency facility personnel" as defined in section 2909.04 of	141
the Revised Code.	142
(5) "Public official" has the same meaning as in section	143
2921.01 of the Revised Code.	144
(6) "Computer," "computer network," "computer program,"	145
"computer system," and "telecommunications device" have the same	146
meanings as in section 2913.01 of the Revised Code.	147
(7) "Post a message" means transferring, sending, posting,	148
publishing, disseminating, or otherwise communicating, or	149
attempting to transfer, send, post, publish, disseminate, or	150
otherwise communicate, any message or information, whether	151
truthful or untruthful, about an individual, and whether done	152
under one's own name, under the name of another, or while	153
impersonating another.	154
(8) "Third person" means, in relation to conduct as	155
described in division (A) (2) of this section, an individual who	156
is neither the offender nor the victim of the conduct.	157
(9) "Sexual motivation" has the same meaning as in section	158
2971.01 of the Revised Code.	159
(10) "Organization" includes an entity that is a	160
governmental employer.	161
(11) "Family or household member" means any of the	162

following:	163
(a) Any of the following who is residing or has resided with the person against whom the act prohibited in division (A) (1) of this section is committed:	164 165 166
(i) A spouse, a person living as a spouse, or a former spouse of the person;	167 168
(ii) A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;	169 170 171
(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.	172 173 174 175
(b) The natural parent of any child of whom the person against whom the act prohibited in division (A) (1) of this section is committed is the other natural parent or is the putative other natural parent.	176 177 178 179
(12) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in division (A) (1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.	180 181 182 183 184 185 186
<u>(13) "Unmanned aerial vehicle" means a powered, aerial vehicle to which all of the following apply:</u>	187 188
<u>(a) The vehicle does not carry a human operator and is operated without the possibility of direct human intervention</u>	189 190

<u>from within or on the vehicle.</u>	191
<u>(b) The vehicle uses aerodynamic forces to provide lift.</u>	192
<u>(c) The vehicle can fly autonomously or be piloted</u> <u>remotely.</u>	193 194
<u>"Unmanned aerial vehicle" is commonly referred to as a</u> <u>drone and does not include a satellite.</u>	195 196
(E) The state does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in division (D) (2) (b) of this section.	197 198 199 200 201 202
(F) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.	203 204 205 206 207 208 209 210 211 212 213 214 215 216
(2) Division (F) (1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring	217 218 219



information not under that person's control to block the receipt 220  
or transmission through its service of any information that it 221  
believes is, or will be sent, in violation of this section 222  
except as otherwise provided by law. 223

(3) Division (F)(1) of this section does not apply to a 224  
person who conspires with a person actively involved in the 225  
creation or knowing distribution of material in violation of 226  
this section or who knowingly advertises the availability of 227  
material of that nature. 228

**Sec. 2907.08.** (A) ~~No~~As used in this section, "unmanned 229  
aerial vehicle" has the same meaning as in section 2903.211 of 230  
the Revised Code. 231

(B) No person, for the purpose of sexually arousing or 232  
gratifying the person's self, shall commit trespass or otherwise 233  
surreptitiously invade the privacy of another, including through 234  
use of an unmanned aerial vehicle, to spy or eavesdrop upon 235  
another. 236

~~(B)~~(C) No person, for the purpose of sexually arousing or 237  
gratifying the person's self, shall commit trespass or otherwise 238  
surreptitiously invade the privacy of another, including through 239  
use of an unmanned aerial vehicle, to videotape, film, 240  
photograph, or otherwise record the other person in a state of 241  
nudity. 242

~~(C)~~(D) No person, for the purpose of sexually arousing or 243  
gratifying the person's self, shall commit trespass or otherwise 244  
surreptitiously invade the privacy of another, including through 245  
use of an unmanned aerial vehicle, to videotape, film, 246  
photograph, otherwise record, or spy or eavesdrop upon the other 247  
person in a state of nudity if the other person is a minor. 248

~~(D)~~-(E) No person shall secretly or surreptitiously 249  
videotape, film, photograph, or otherwise record, including 250  
through use of an unmanned aerial vehicle, another person under 251  
or through the clothing being worn by that other person for the 252  
purpose of viewing the body of, or the undergarments worn by, 253  
that other person. 254

~~(E)(1)~~-(F)(1) Whoever violates this section is guilty of 255  
voyeurism. 256

(2) A violation of division ~~(A)~~-(B) of this section is a 257  
misdemeanor of the third degree. 258

(3) A violation of division ~~(B)~~-(C) of this section is a 259  
misdemeanor of the second degree. 260

(4) A violation of division ~~(D)~~-(E) of this section is a 261  
misdemeanor of the first degree. 262

(5) A violation of division ~~(C)~~-(D) of this section is a 263  
felony of the fifth degree. 264

**Sec. 2911.21.** (A) No person, without privilege to do so, 265  
shall do any of the following: 266

(1) Knowingly enter or remain, including through use of an 267  
unmanned aerial vehicle, on the land or premises of another; 268

(2) Knowingly enter or remain, including through use of an 269  
unmanned aerial vehicle, on the land or premises of another, the 270  
use of which is lawfully restricted to certain persons, 271  
purposes, modes, or hours, when the offender knows the offender 272  
is in violation of any such restriction or is reckless in that 273  
regard; 274

(3) Recklessly enter or remain, including through use of 275  
an unmanned aerial vehicle, on the land or premises of another, 276

as to which notice against unauthorized access or presence is 277  
given by actual communication to the offender, or in a manner 278  
prescribed by law, or by posting in a manner reasonably 279  
calculated to come to the attention of potential intruders, or 280  
by fencing or other enclosure manifestly designed to restrict 281  
access; 282

(4) Being, including through use of an unmanned aerial 283  
vehicle, on the land or premises of another, negligently fail or 284  
refuse to leave upon being notified by signage posted in a 285  
conspicuous place or otherwise being notified to do so by the 286  
owner or occupant, or the agent or servant of either. 287

(B) It is no defense to a charge under this section that 288  
the land or premises involved was owned, controlled, or in 289  
custody of —a public agency. 290

(C) It is no defense to a charge under this section that 291  
the —offender was authorized to enter or remain on the land or 292  
premises involved, when such authorization was secured by 293  
deception. 294

(D) (1) Whoever violates this section is guilty of criminal 295  
trespass, a misdemeanor of the fourth degree. 296

(2) Notwithstanding section 2929.28 of the Revised Code, 297  
if the person, in committing the violation of this section, used 298  
a snowmobile, off-highway motorcycle, or all-purpose vehicle, 299  
the court shall impose a fine of two times the usual amount 300  
imposed for the violation. 301

(3) If an offender previously has been convicted of or 302  
pleaded guilty to two or more violations of this section or a 303  
substantially equivalent municipal ordinance, and the offender, 304  
in committing each violation, used a snowmobile, off-highway 305

motorcycle, or all-purpose vehicle, the court, in addition to or 306  
independent of all other penalties imposed for the violation, 307  
may impound the certificate of registration of that snowmobile 308  
or off-highway motorcycle or the certificate of registration and 309  
license plate of that all-purpose vehicle for not less than 310  
sixty days. In such a case, section 4519.47 of the Revised Code 311  
applies. 312

(E) Notwithstanding any provision of the Revised Code, if 313  
the offender, in committing the violation of this section, used 314  
an all-purpose vehicle, the clerk of the court shall pay the 315  
fine imposed pursuant to this section to the state recreational 316  
vehicle fund created by section 4519.11 of the Revised Code. 317

(F) As used in this section: 318

(1) "All-purpose vehicle," "off-highway motorcycle," and 319  
"snowmobile" have the same meanings as in section 4519.01 of the 320  
Revised Code. 321

(2) "Land or premises" includes any land, building, 322  
structure, or place belonging to, controlled by, or in custody 323  
of another, and any separate enclosure or room, or portion 324  
thereof. 325

(3) "Unmanned aerial vehicle" has the same meaning as in 326  
section 2903.211 of the Revised Code. 327

**Sec. 2911.211.** (A) No ~~As used in this section,~~ "unmanned 328  
aerial vehicle" has the same meaning as in section 2903.211 of 329  
the Revised Code. 330

(B) No person shall enter or remain, including through use 331  
of an unmanned aerial vehicle, on the land or premises of 332  
another with purpose to commit on that land or those premises a 333  
misdemeanor, the elements of which involve causing physical harm 334

to another person or causing another person to believe that the 335  
offender will cause physical harm to ~~him~~ that person. 336

~~(B)~~ (C) Whoever violates this section is guilty of 337  
aggravated trespass, a misdemeanor of the first degree. 338

**Section 2.** That existing sections 2903.211, 2907.08, 339  
2911.21, and 2911.211 of the Revised Code are hereby repealed. 340