



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Dennis M. Papp

### **Sub. H.B. 96**

132nd General Assembly  
(As Passed by the House)

**Reps.** Hughes, R. Smith, Schaffer, Manning, Rezabek, Anielski, Antonio, Arndt, Ashford, Boccieri, Boggs, Boyd, Brenner, Brown, Butler, Clyde, Craig, Dever, Edwards, Fedor, Gavarone, Ginter, Gonzales, Hambley, Hill, Holmes, Ingram, Johnson, Kelly, Kent, Kick, Landis, Leland, Lepore-Hagan, McClain, Miller, O'Brien, Patmon, Patterson, Patton, Ramos, Riedel, Rogers, Romanchuk, Schuring, Slaby, K. Smith, Sprague, Stein, Strahorn, Sweeney, West, Young

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## **BILL SUMMARY**

- Increases the jail term for sexual imposition when the offender has three or more previous convictions of sexual imposition or another specified sex offense.
- Increases the jail term for disorderly conduct involving voluntary intoxication when the offender previously has been convicted three or more times of that offense involving voluntary intoxication.

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## **CONTENT AND OPERATION**

### **Sexual imposition penalty – three or more qualifying prior sex offense convictions**

#### **Increased jail term**

Currently, the offense of "sexual imposition" generally is a third degree misdemeanor (a possible jail term of not more than 60 days), but it is a first degree misdemeanor (a possible jail term of not more than 180 days) if the offender previously has been convicted of a specified sex offense (the specified sex offenses, hereafter referred to as qualifying sex offenses, are "sexual imposition," "rape," "sexual battery," "unlawful sexual conduct with a minor," "gross sexual imposition," or the former offense of "felonious sexual imposition").

The bill increases the potential jail term for a person who previously has been convicted three or more times of any of the qualifying sex offenses. Under the bill, sexual imposition generally is a third degree misdemeanor, but it is a first degree misdemeanor if the offender previously has been convicted of any of the qualifying sex offenses, and it is a first degree misdemeanor with the court being authorized to impose a jail term of not more than one year, notwithstanding the range of jail terms ordinarily prescribed for a first degree misdemeanor, if the offender previously has been convicted three or more times of any of the qualifying sex offenses.<sup>1</sup>

## **Disorderly conduct involving voluntary intoxication – three or more prior convictions**

Currently, the offense of "disorderly conduct" generally is a minor misdemeanor (with no potential jail term), but it is a fourth degree misdemeanor (a possible jail term of not more than 30 days) in certain aggravating circumstances (e.g., persisted after reasonable warning to desist, committed in a school safety zone, committed in the presence of specified emergency personnel, etc.) . Under the bill, disorderly conduct is still generally a minor misdemeanor, but disorderly conduct that involves voluntary intoxication (described below in "**Background**") becomes a fourth degree misdemeanor not only if any of the aggravating circumstances described in current law applies, but also when the offender previously has been convicted three or more times of that offense involving voluntary intoxication.<sup>2</sup>

## **Background**

### **Sexual imposition prohibitions**

The prohibitions under the offense of "sexual imposition" prohibit a person from having sexual contact with another, not the spouse of the offender; causing another, not the spouse of the offender, to have sexual contact with the offender; or causing two or more other persons to have sexual contact when any of the following applies: (1) the offender knows that the contact is offensive to the other person, or one of the other persons, or is reckless in that regard, (2) the offender knows that the other person's, or one of the other person's, ability to appraise the nature of or control the conduct is substantially impaired, (3) the offender knows that the other person, or one of the other persons, submits because of being unaware of the contact, (4) the other person, or one of the other persons, is age 13 or older but less than age 16, whether or not the offender knows the age of such person, and the offender is at least age 18 and four or more years older than that other person, or (5) the offender is a mental health professional, the

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<sup>1</sup> R.C. 2907.06(C).

<sup>2</sup> R.C. 2917.11(E)(2) and (4).



other person or one of the other persons is a client or patient of the offender, and the offender induces that other person to submit by falsely representing to that person that the contact is necessary for mental health treatment purposes.<sup>3</sup>

### **Disorderly conduct involving voluntary intoxication**

Current law, unchanged by the bill, prohibits a person from doing either of the following while voluntarily intoxicated:<sup>4</sup>

(1) In a public place or in the presence of two or more persons, engaging in conduct that the offender, if not intoxicated, should know is likely to be offensive or cause inconvenience, annoyance, or alarm to persons of ordinary sensibilities.

(2) Engaging in conduct or creating a condition that risks physical harm to the offender or another, or to another's property.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	02-27-17
Reported, H. Criminal Justice	01-17-18
Passed House (97-0)	02-28-18

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<sup>3</sup> R.C. 2907.06(A).

<sup>4</sup> R.C. 2917.11(B).

