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# OHIO LEGISLATIVE SERVICE COMMISSION

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**S.B. 33**  
**133<sup>rd</sup> General Assembly**

## Bill Analysis

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**Version:** As Reported by House Public Utilities

**Primary Sponsor:** Sen. Hoagland

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### SUMMARY

- Adds new prohibitions under the offenses of criminal mischief, criminal trespass, aggravated trespass, and making false alarms that pertain to specified types of conduct occurring in or on a critical infrastructure facility.
- Creates the offense of improper organizational involvement with a critical infrastructure facility that prohibits an organization from knowingly doing either of the following:
  - Directing, authorizing, facilitating, or encouraging a person to commit an offense in the first dot point or a specified type of telecommunications harassment involving a critical infrastructure facility.
  - Providing compensation to a person for committing an offense in the first dot point or a specified type of telecommunications harassment involving a critical infrastructure facility.
- Provides for the imposition of increased fines on organizations that are guilty of improper organizational involvement with a critical infrastructure facility.
- Creates a new civil cause of action for willfully causing damage to a critical infrastructure facility.

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## DETAILED ANALYSIS

### Overview

The bill adds new prohibitions to the offenses of criminal mischief, criminal trespass, aggravated trespass, and making false alarms that pertain to specified types of conduct occurring in or on a “critical infrastructure facility” (see “**Definitions**,” below), creates the offense of improper organizational involvement with a critical infrastructure facility, provides for the imposition of increased fines on “organizations” (see “**Definitions**,” below) that are guilty of improper organizational involvement with a critical infrastructure facility in violation of the above offenses or specified types of telecommunications harassment involving a critical infrastructure facility, and extends certain provisions regarding civil liability for damages caused by willful property damage or a theft offense to also apply regarding damages caused by willful damage to a critical infrastructure facility.

### Criminal mischief

The bill adds a new prohibition under the offense of “criminal mischief” that expressly states that no person, without privilege to do so, shall knowingly destroy or “improperly tamper” (see “**Definitions**,” below) with a “critical infrastructure facility.” The bill makes criminal mischief committed in violation of the new prohibition a third degree felony. The bill specifies that, notwithstanding the penalties provided under existing law for an organization convicted of a criminal offense (see “**Existing organizational criminal liability and penalties**,” below), any “organization” found guilty of improper organizational involvement with a critical infrastructure facility in violation of the above prohibition must be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a third degree felony (see “**Improper organizational involvement with a critical**

**infrastructure facility,”** below).<sup>1</sup> Under the Felony Sentencing Law, the maximum fine that can be imposed on an individual for a third degree felony is \$10,000.<sup>2</sup>

The existing prohibitions and penalties under criminal mischief are described below in **“Existing prohibitions under the offenses expanded by the bill.”**

### **Criminal trespass**

The bill adds a new prohibition under the offense of “criminal trespass” that expressly prohibits a person, without privilege to do so, from knowingly entering or remaining on a “critical infrastructure facility.” The bill makes criminal trespass committed in violation of the new prohibition a first degree misdemeanor. The bill specifies that, notwithstanding the penalties provided under existing law for an organization convicted of a criminal offense (see **“Existing organizational criminal liability and penalties,”** below), any “organization” found guilty of improper organizational involvement with a critical infrastructure facility in violation of the above prohibition must be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a first degree misdemeanor (see **“Improper organizational involvement with a critical infrastructure facility,”** below).<sup>3</sup> Under the Misdemeanor Sentencing Law, the maximum fine that can be imposed on an individual for a first degree misdemeanor is \$1,000.<sup>4</sup>

Existing provisions that specify that it is no defense to a charge of criminal trespass that the land or premises involved was owned, controlled, or in custody of a public agency, or that the offender was authorized to enter or remain on the land or premises involved when such authorization was secured by deception, apply to a charge of a violation of the new prohibition.<sup>5</sup>

Related to the change described above, the bill repeals an existing prohibition, a violation of which is designated the offense of “criminal trespass on the land or premises of a railroad company,” that prohibits a person, without privilege to do so, from knowingly entering or remaining on the land or premises of a railroad company.<sup>6</sup> The new prohibition appears to cover any conduct that would otherwise have been covered by the repealed prohibition.

The existing prohibitions and penalties under criminal trespass are described below in **“Existing prohibitions under the offenses expanded by the bill.”**

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<sup>1</sup> R.C. 2909.07(A)(7) and (C)(4) and 2923.04(B)(1) and (C)(1).

<sup>2</sup> R.C. 2929.18, not in the bill.

<sup>3</sup> R.C. 2911.21(A)(5) and (D) and 2923.04(B)(2) and (C)(2).

<sup>4</sup> R.C. 2929.28, not in the bill.

<sup>5</sup> R.C. 2911.21(B) and (C).

<sup>6</sup> R.C. 2909.10.

## Aggravated trespass

The bill adds a new prohibition under the offense of “aggravated trespass” that expressly prohibits a person from entering or remaining on a “critical infrastructure facility” with purpose to destroy or tamper with the facility. The bill makes aggravated trespass committed in violation of the new prohibition a third degree felony. The bill specifies that, notwithstanding the penalties provided under existing law for an organization convicted of a criminal offense (see “**Existing organizational criminal liability and penalties,**” below), any “organization” found guilty of improper organizational involvement with a critical infrastructure facility in violation of the above prohibition must be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a third degree felony (see “**Improper organizational involvement with a critical infrastructure facility,**” below).<sup>7</sup> Under the Felony Sentencing Law, the maximum fine that can be imposed on an individual for a third degree felony is \$10,000.<sup>8</sup>

The existing prohibitions and penalties under aggravated trespass are described below in “**Existing prohibitions under the offenses expanded by the bill.**”

## Making false alarms

The bill adds a new prohibition under the offense of “making false alarms” that prohibits a person from initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a “critical infrastructure facility.” The penalty for making false alarms, under continuing law, ranges from a first degree misdemeanor to a third degree felony, depending on the offender’s conduct. The bill specifies that, notwithstanding the penalties provided under existing law for an organization convicted of a criminal offense (see “**Existing organizational criminal liability and penalties,**” below), any “organization” found guilty of improper organizational involvement with a critical infrastructure facility in violation of the above prohibition must be punished with a fine that is ten times the maximum fine that can be imposed on an individual for the violation (see “**Improper organizational involvement with a critical infrastructure facility,**” below).<sup>9</sup> Under the Misdemeanor Sentencing Law, the maximum fine that can be imposed on an individual for a first degree misdemeanor is \$1,000. Under the Felony Sentencing Law, the maximum fine that can be imposed on an individual for a third degree felony is \$10,000.<sup>10</sup>

The existing prohibitions and penalties under making false alarms are described below in “**Existing prohibitions under the offenses expanded by the bill.**”

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<sup>7</sup> R.C. 2911.211(A)(2) and (B) and 2923.04(B)(3) and (C)(3).

<sup>8</sup> R.C. 2929.18, not in the bill.

<sup>9</sup> R.C. 2917.32(A)(4) and (C) and 2923.04(B)(5) and (C)(5).

<sup>10</sup> R.C. 2929.18 and 2929.28, not in the bill.

## Telecommunications harassment

Continuing law prohibits a person from knowingly making or causing to be made a telecommunication, or knowingly permitting a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged.<sup>11</sup>

Violation of the prohibition under continuing law constitutes the offense of "telecommunications harassment," the penalty for which ranges from a first degree misdemeanor to a third degree felony, depending on the offender's conduct. The bill specifies that notwithstanding the penalties provided under existing law for an organization convicted of a criminal offense (see "**Existing organizational criminal liability and penalties**," below), any "organization" found guilty of improper organizational involvement with a critical infrastructure facility that is in violation of the above prohibition and that involves a threat of damage to or destruction of a "critical infrastructure facility" must be punished with a fine that is ten times the maximum fine that can be imposed on an individual for the violation (see "**Improper organizational involvement with a critical infrastructure facility**," below).<sup>12</sup> Under the Misdemeanor Sentencing Law, the maximum fine that can be imposed on an individual for a first degree misdemeanor is \$1,000. Under the Felony Sentencing Law, the maximum fine that can be imposed on an individual for a third degree felony is \$10,000.<sup>13</sup>

The existing prohibitions and penalties under telecommunications harassment are described below in "**Existing prohibitions under the offenses expanded by the bill**."

### **Improper organizational involvement with a critical infrastructure facility**

The bill creates the offense of "improper organizational involvement with a critical infrastructure facility" that prohibits an "organization" from knowingly doing either of the following:<sup>14</sup>

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<sup>11</sup> R.C. 2917.21(A)(4), not in the bill.

<sup>12</sup> R.C. 2917.21(C), not in the bill, and 2923.04(B)(4) and (C)(4).

<sup>13</sup> R.C. 2929.18 and 2929.28, not in the bill.

<sup>14</sup> R.C. 2923.04(B).

- Directing, authorizing, facilitating, or encouraging a person to commit criminal mischief, criminal trespass, aggravated trespass, making false alarms, or telecommunications harassment as described above;
- Providing “compensation” (see “**Definitions**,” below) to a person for committing criminal mischief, criminal trespass, aggravated trespass, making false alarms, or telecommunications harassment as described above.

The bill specifies that, notwithstanding the penalties provided under existing law for an organization convicted of a criminal offense (see “**Existing organizational criminal liability and penalties**,” below), any organization found guilty of “improper organizational involvement with a critical infrastructure facility” in violation of an offense described above must be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a violation of an offense described above.<sup>15</sup>

## **Civil liability for willful damage**

### **In general**

Existing law, unchanged by the bill, authorizes a person who is injured in person or property by a criminal act to bring a civil action against the offender to recover damages and, if authorized under any other provision of law, to recover costs of maintaining the action, attorney’s fees, and punitive or exemplary damages.<sup>16</sup>

Separate provisions of existing law pertain to the bringing of a civil action under the authorization described above to recover specified types of damages from a person who willfully damages the owner’s property or who commits a theft offense, procedures with respect to such an action, and damages and cost recovery in such an action.<sup>17</sup> The bill creates a new civil action to recover damages from a person who willfully causes damage to a “critical infrastructure facility.” The provisions as they apply under the bill with respect to such a facility are described below.

### **Operation of the bill**

#### **Recovery by property owner of damages, costs, and attorney’s fees**

Under the bill, if an owner or operator of a “critical infrastructure facility” brings a civil action for willfully causing damage to a critical infrastructure facility, the plaintiff may recover compensatory damages equal to the replacement value of the property that was damaged. The plaintiff may also recover reasonable attorney’s fees, court costs, and other reasonable expenses incurred in maintaining the civil action.<sup>18</sup>

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<sup>15</sup> R.C. 2923.04(C).

<sup>16</sup> R.C. 2307.60, not in the bill.

<sup>17</sup> R.C. 2307.61, not in the bill.

<sup>18</sup> R.C. 2307.67(B).

The bill also allows the court to hold a person or “organization” vicariously liable for any judgment the plaintiff obtains against the person who damaged the critical infrastructure facility if the person or organization did either of the following:<sup>19</sup>

- Directed, authorized, facilitated, or encouraged the person to cause damage to the critical infrastructure facility;
- Provided “compensation” to the person for damaging the critical infrastructure facility.

### **Criminal conviction or delinquency adjudication not prerequisite**

In a civil action to recover damages for willful damage to a “critical infrastructure facility” under the bill, the trier of fact may determine that the defendant willfully caused damage to the critical infrastructure facility, regardless of whether the defendant has been charged with any criminal offense, has pleaded guilty or been convicted of a criminal offense, or has been adjudicated a delinquent child in connection with the property damage.

The bill’s provisions described above do not affect the prosecution of any criminal action or proceeding or any action to obtain a delinquent child adjudication in connection with the property damage.<sup>20</sup>

## **Definitions**

The bill defines the following terms for purposes of its provisions:

“**Compensation**” means any money, thing of value, or financial benefit; the term does not include bail, fines, or court costs.<sup>21</sup>

“**Critical infrastructure facility**” means:<sup>22</sup>

1. One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization: (a) a petroleum or alumina refinery, (b) an electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment, (c) a chemical, polymer, or rubber manufacturing facility, (d) a water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping, (e) a natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery

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<sup>19</sup> R.C. 2307.67(C).

<sup>20</sup> R.C. 2307.67(D) and (E).

<sup>21</sup> R.C. 2307.67(A) and 2923.04(A).

<sup>22</sup> R.C. 2307.67(A), 2909.07(B), 2911.21(F), 2911.211(C), 2917.32(E), and 2923.04(A).

station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas, (f) a telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose, (g) wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines, (h) a port, trucking terminal, or other freight transportation facility, (i) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids, (j) a transmission facility used by a federally licensed radio or television station, (k) a steel-making facility that uses an electric arc furnace to make steel, (l) a facility identified and regulated by the U.S. Department of Homeland Security's Chemical Facility Anti-Terrorism Standards Program under 6 C.F.R. part 27, (m) a dam that is regulated by the state or federal government, (n) a crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility, (o) a video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines ("video service network" has the same meaning as in R.C. 1332.21), (p) any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility, (q) any above-ground portion of a well, well pad, or production operation, (r) a laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline, or (s) any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.

2. With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;
3. Any railroad property;
4. An electronic asset of any of the following: (a) an electric light company that is a public utility under the Public Utilities Commission Law, (b) an electric cooperative (as defined in R.C. 4928.01), (c) a municipal electric utility (as defined in R.C. 4928.01), (d) a natural gas company that is a public utility under the Public Utilities Commission Law, (e) a telephone company that is a public utility under the Public Utilities Commission Law, or (f) a video service provider, including a cable operator, as those terms are defined in R.C. 1332.21.

"**Electronic asset**" includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.<sup>23</sup>

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<sup>23</sup> R.C. 2911.21(F).



**“Improperly tamper”** means to change the physical location or physical condition of the property.<sup>24</sup>

**“Organization”** means a corporation for profit or not-for-profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust, or other commercial or legal entity; the term does not include an entity organized as or by a governmental agency for the execution of a governmental program.<sup>25</sup>

**“Production operation”** means all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are regulated under this chapter, including operations and activities associated with site preparation, site construction, access road construction, well drilling, well completion, well stimulation, well site activities, reclamation, and plugging. “Production operation” also includes all of the following: (1) the piping, equipment, and facilities used for the production and preparation of hydrocarbon gas or liquids for transportation or delivery, (2) the processes of extraction and recovery, lifting, stabilization, treatment, separation, production processing, storage, waste disposal, and measurement of hydrocarbon gas and liquids, including related equipment and facilities, (3) the processes and related equipment and facilities associated with production compression, gas lift, gas injection, fuel gas supply, well drilling, well stimulation, and well completion activities, including dikes, pits, and earthen and other impoundments used for the temporary storage of fluids and waste substances associated with well drilling, well stimulation, and well completion activities, (4) equipment and facilities at a well pad or other location that are used for the transportation, handling, recycling, temporary storage, management, processing, or treatment of any equipment, material, and by-products or other substances from an operation at a well pad that may be used or reused at the same or another operation at a well pad or that will be disposed of in accordance with applicable laws and rules adopted under them.<sup>26</sup>

**“Well”** means any borehole, whether drilled or bored, within the state for production, extraction, or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.<sup>27</sup>

**“Well pad”** means the area that is cleared or prepared for the drilling of one or more horizontal wells.<sup>28</sup>

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<sup>24</sup> R.C. 2909.07(B).

<sup>25</sup> R.C. 2307.67(A) and 2923.04(A); and by reference to R.C. 2901.23, not in the bill.

<sup>26</sup> R.C. 2911.21(F); and by reference to R.C. 1509.01, not in the bill.

<sup>27</sup> R.C. 2911.21(F); and by reference to R.C. 1509.01, not in the bill.

<sup>28</sup> R.C. 2911.21(F); and by reference to R.C. 1509.01, not in the bill.

## Existing organizational criminal liability and penalties

### Organizational criminal liability

Under existing law, unchanged by the bill, an “organization” may be convicted of an offense in any of the following circumstances: (1) the offense is a minor misdemeanor committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions apply, (2) a purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions apply, (3) the offense consists of an omission to discharge a specific duty imposed by law on the organization, or (4) if, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of such a board’s or person’s office or employment.

If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability is presumed, unless the contrary plainly appears. In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent, or employee with supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission; this defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.<sup>29</sup>

### Organizational criminal penalties

Existing law, unchanged by the bill, specifies that, regardless of the penalties provided in the Felony Sentencing Law and Misdemeanor Sentencing Law, an organization convicted of an offense under the provisions described above in “**Organizational criminal liability**” must be fined in an amount fixed according to a specified schedule. The fines in the schedule that cover offenses of a degree that are comparable to offenses committed in violation of the new prohibitions enacted by the bill are as follows: (1) for a first degree felony, not more than \$25,000, (2) for a third degree felony, not more than \$15,000, and (3) for a first degree misdemeanor, not more than \$5,000.<sup>30</sup>

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<sup>29</sup> R.C. 2901.23, not in the bill.

<sup>30</sup> R.C. 2929.31, not in the bill.

## **Existing prohibitions under the offenses expanded by the bill**

### **Criminal mischief**

Currently, the prohibitions under the offense of “criminal mischief” state that no person shall: (1) without privilege to do so, knowingly move, deface, damage, destroy, or otherwise “improperly tamper” with either the property of another, or with one’s own residential real property with the purpose to decrease the value of or enjoyment of the residential real property in specified circumstances, (2) with purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed or that tends to cause public alarm, (3) without privilege to do so, knowingly move, deface, damage, destroy, or otherwise “improperly tamper” with any bench mark, triangulation station, boundary marker, or other survey station, monument, or marker, or with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose, (4) with purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land, or (5) without privilege to do so, and with intent to impair the functioning of any computer or any computer system, network, software, or program, knowingly in any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, a computer system, network, software, or program, or data contained in a computer, or a computer system, network, software, or program, or knowingly introduce a computer contaminant into a computer or a computer system, network, software, or program. The penalty for the offense ranges from a third degree misdemeanor to a fourth degree felony, depending upon the offender’s conduct.<sup>31</sup>

### **Criminal trespass**

Currently, the prohibitions under the offense of “criminal trespass” prohibit a person from: (1) knowingly entering or remaining on the land or premises of another, (2) knowingly entering or remaining on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard, (3) recklessly entering or remaining on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access, or (4) being on the land or premises of another, negligently failing or refusing to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either. The offense is a fourth degree misdemeanor. It is no defense to a

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<sup>31</sup> R.C. 2909.07.

charge of criminal trespass that the land or premises involved was owned, controlled, or in custody of a public agency or that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception.<sup>32</sup>

### **Aggravated trespass**

Currently, the prohibition under the offense of “aggravated trespass” prohibits a person from entering or remaining on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to that person. The offense is a first degree misdemeanor.<sup>33</sup>

### **Making false alarms**

Currently, the prohibition under the offense of “making false alarms” prohibits a person from doing any of the following:

- Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing the report or warning is false and likely to cause public inconvenience or alarm;
- Knowingly causing a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
- Reporting to any law enforcement agency an alleged offense or other incident within its concern, knowing that the offense did not occur.

The offense does not apply to a person conducting an authorized fire or emergency drill. The penalty for the offense ranges from a first degree misdemeanor to a third degree felony, depending on the offender’s conduct. It is not a defense to a charge of making false alarms that pertains to a purported or threatened use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented as a weapon of mass destruction was not a weapon of mass destruction.<sup>34</sup>

### **Telecommunications harassment**

Currently, the prohibition under the offense of “telecommunications harassment” prohibits a person from knowingly making or causing to be made a telecommunication, or knowingly permitting a telecommunication to be made from a telecommunications device under the person’s control, to another, if the caller does any of the following:

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<sup>32</sup> R.C. 2911.21.

<sup>33</sup> R.C. 2911.211.

<sup>34</sup> R.C. 2917.32.

- Makes the telecommunication with purpose to harass, intimidate, or abuse any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
- Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;
- During the telecommunication, commits aggravated menacing;
- Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
- Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises;
- Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten, or harass the recipient;
- Without a lawful business purpose, knowingly interrupts the telecommunication service of any person;
- Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document, or other communication that prevents that person from using the person's telephone service or electronic communication device;
- Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient;
- Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person;
- Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.

The penalty for the offense ranges from a first degree misdemeanor to a third degree felony, depending on the offender's conduct.<sup>35</sup>

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## HISTORY

Action	Date
Introduced	02-12-19
Reported, S. Judiciary	05-01-19
Passed Senate (24-8)	05-01-19
Reported, H. Public Utilities	01-30-20

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S0033-RH-133/ts

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<sup>35</sup> R.C. 2917.21.