

AN ACT

To amend sections 2907.07 and 2907.322 of the Revised Code to expand the offense of importuning so that it prohibits soliciting another by means of a computer or another telecommunications device to engage in sexual activity under specified circumstances, to increase the penalty for that offense in certain circumstances, and to enhance the penalty for pandering sexually oriented matter involving a minor in specified circumstances.

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

SECTION 1. That sections 2907.07 and 2907.322 of the Revised Code be amended to read as follows:

Sec. 2907.07. (A) No person shall solicit a person ~~under~~ who is less than thirteen years of age to engage in sexual activity with the offender, whether or not the offender knows the age of such person.

(B) No person shall solicit a person of the same sex to engage in sexual activity with the offender, when the offender knows such solicitation is offensive to the other person, or is reckless in that regard.

(C) No person shall solicit another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, and the other person is over twelve but ~~not over fifteen~~ less than sixteen years of age, whether or not the offender knows the age of the other person.

(D) No person shall solicit another by means of a telecommunications device, as defined in section 2913.01 of the Revised Code, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:

(1) The other person is less than thirteen years of age, and the offender knows that the other person is less than thirteen years of age or is reckless in that regard.

(2) The other person is a law enforcement officer posing as a person who is less than thirteen years of age, and the offender believes that the

other person is less than thirteen years of age or is reckless in that regard.

(E) No person shall solicit another by means of a telecommunications device, as defined in section 2913.01 of the Revised Code, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:

(1) The other person is over twelve but less than sixteen years of age, and the offender knows that the other person is over twelve but less than sixteen years of age or is reckless in that regard.

(2) The other person is a law enforcement officer posing as a person who is over twelve but less than sixteen years of age, and the offender believes that the other person is over twelve but less than sixteen years of age or is reckless in that regard.

(F) Divisions (D) and (E) of this section apply to any solicitation that is contained in a transmission via a telecommunications device that either originates in this state or is received in this state.

(G) Whoever violates this section is guilty of importuning. Violation of division (A) or (B) of this section is a misdemeanor of the first degree. ~~Violation of division (C) of this section is a misdemeanor of the fourth degree.~~ A violation of division (A) or (D) of this section is a felony of the fourth degree on a first offense and a felony of the third degree on each subsequent offense. A violation of division (C) or (E) of this section is a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.

Sec. 2907.322. (A) No person, with knowledge of the character of the material or performance involved, shall do any of the following:

(1) Create, record, photograph, film, develop, reproduce, or publish any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(2) Advertise for sale or dissemination, sell, distribute, transport, disseminate, exhibit, or display any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(3) Create, direct, or produce a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(4) Advertise for presentation, present, or participate in presenting a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(5) ~~Solicit~~ Knowingly solicit, receive, purchase, exchange, possess, or control any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(6) Bring or cause to be brought into this state any material that shows a

minor participating or engaging in sexual activity, masturbation, or bestiality, or bring, cause to be brought, or finance the bringing of any minor into or across this state with the intent that the minor engage in sexual activity, masturbation, or bestiality in a performance or for the purpose of producing material containing a visual representation depicting the minor engaged in sexual activity, masturbation, or bestiality.

(B)(1) This section does not apply to any material or performance that is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under this section.

(3) In a prosecution under this section, the trier of fact may infer that a person in the material or performance involved is a minor if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the person as a minor.

(C) Whoever violates this section is guilty of pandering sexually oriented matter involving a minor. Violation of division (A)(1), (2), (3), (4), or (6) of this section is a felony of the second degree. Violation of division (A)(5) of this section is a felony of the ~~fifth~~ fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or section 2907.321 or 2907.323 of the Revised Code, pandering sexually oriented matter involving a minor in violation of division (A)(5) of this section is a felony of the ~~fourth~~ third degree.

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SECTION 2. That existing sections 2907.07 and 2907.322 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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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 _____