

**As Reported by the Committee of Conference**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. H. B. No. 259**

**Representatives Wagner, McGregor, J., Martin, Evans, C., Fende, Bulp,  
Wagoner, Seaver, Evans, D., Setzer, Hagan, Harwood, Gilb, Wolpert, Distel,  
Willamowski, Collier, Latta, Faber, Brown, Aslanides, Uecker, Allen, Perry,  
Mason, Hughes, Blessing, Daniels, DeBose, DeGeeter, Domenick, Fessler,  
Flowers, Gibbs, Law, Oelslager, Otterman, Patton, T., Reidelbach, Schaffer,  
Schlichter, Schneider, Smith, G., Stewart, J., Taylor, Williams**

—

**A B I L L**

To amend sections 2921.38 and 2921.51 of the Revised 1  
Code to prohibit a person, with intent to harass, 2  
annoy, threaten, or alarm a law enforcement 3  
officer, from causing or attempting to cause the 4  
law enforcement officer to come into contact with 5  
a bodily substance, to prohibit any person from 6  
engaging in the same action with respect to any 7  
person when the person is a knowing carrier of 8  
certain viruses or bacteria, and to prohibit the 9  
impersonation of a federal law enforcement 10  
officer. 11

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

**Section 1.** That sections 2921.38 and 2921.51 of the Revised 12  
Code be amended to read as follows: 13

**Sec. 2921.38.** (A) No person who is confined in a detention 14  
facility, with intent to harass, annoy, threaten, or alarm another 15

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.

~~(C)~~(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. 48

(2) The court shall charge the offender with the costs of the 49  
test or tests ordered under division ~~(D)~~(E)(1) of this section 50  
unless the court determines that the accused is unable to pay, in 51  
which case the costs shall be charged to the entity that operates 52  
the detention facility in which the alleged offense occurred. 53

~~(E)~~(F) This section does not apply to a person who is 54  
hospitalized, institutionalized, or confined in a facility 55  
operated by the department of mental health or the department of 56  
mental retardation and developmental disabilities. 57

**Sec. 2921.51.** (A) As used in this section: 58

(1) "Peace officer" means a sheriff, deputy sheriff, marshal, 59  
deputy marshal, member of the organized police department of a 60  
municipal corporation, or township constable, who is employed by a 61  
political subdivision of this state, a member of a police force 62  
employed by a metropolitan housing authority under division (D) of 63  
section 3735.31 of the Revised Code, a member of a police force 64  
employed by a regional transit authority under division (Y) of 65  
section 306.35 of the Revised Code, a state university law 66  
enforcement officer appointed under section 3345.04 of the Revised 67  
Code, a veterans' home police officer appointed under section 68  
5907.02 of the Revised Code, a special police officer employed by 69  
a port authority under section 4582.04 or 4582.28 of the Revised 70  
Code, or a state highway patrol trooper and whose primary duties 71  
are to preserve the peace, to protect life and property, and to 72  
enforce the laws, ordinances, or rules of the state or any of its 73  
political subdivisions. 74

(2) "Private police officer" means any security guard, 75  
special police officer, private detective, or other person who is 76  
privately employed in a police capacity. 77

(3) "Federal law enforcement officer" means an employee of 78  
the United States who serves in a position the duties of which are 79  
primarily the investigation, apprehension, or detention of 80  
individuals suspected or convicted of offenses under the criminal 81  
laws of the United States. 82

(4) "Impersonate" means to act the part of, assume the 83  
identity of, wear the uniform or any part of the uniform of, or 84  
display the identification of a particular person or of a member 85  
of a class of persons with purpose to make another person believe 86  
that the actor is that particular person or is a member of that 87  
class of persons. 88

(B) No person shall impersonate a peace officer ~~or~~, a private 89  
police officer, or a federal law enforcement officer. 90

(C) No person, by impersonating a peace officer ~~or~~, a private 91  
police officer, or a federal law enforcement officer, shall arrest 92  
or detain any person, search any person, or search the property of 93  
any person. 94

(D) No person, with purpose to commit or facilitate the 95  
commission of an offense, shall impersonate a peace officer, a 96  
private police officer, a federal law enforcement officer, or an 97  
officer, agent, or employee of the state. 98

(E) No person shall commit a felony while impersonating a 99  
peace officer, a private police officer, a federal law enforcement 100  
officer, or an officer, agent, or employee of the state. 101

(F) It is an affirmative defense to a charge under division 102  
(B) of this section that the impersonation of the peace officer 103  
was for a lawful purpose. 104

(G) Whoever violates division (B) of this section is guilty 105  
of a misdemeanor of the fourth degree. Whoever violates division 106  
(C) or (D) of this section is guilty of a misdemeanor of the first 107  
degree. If the purpose of a violation of division (D) of this 108

section is to commit or facilitate the commission of a felony, a 109  
violation of division (D) is a felony of the fourth degree. 110  
Whoever violates division (E) of this section is guilty of a 111  
felony of the third degree. 112

**Section 2.** That existing sections 2921.38 and 2921.51 of the 113  
Revised Code are hereby repealed. 114