

As Introduced

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 259

**Representatives Wagner, McGregor, Martin, C. Evans, Fende, Bulp,
Wagoner, Seaver, D. Evans, Setzer, Hagan, Harwood, Gilb, Wolpert, Distel,
Willamowski, Collier, Latta, Faber, Brown, Aslanides, Uecker, Allen**

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A B I L L

To amend section 2921.38 of the Revised Code to 1
prohibit a person, with intent to harass, annoy, 2
threaten, or alarm a law enforcement officer, from 3
causing or attempting to cause the law enforcement 4
officer to come into contact with a bodily 5
substance. 6

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

Section 1. That section 2921.38 of the Revised Code be 7
amended to read as follows: 8

Sec. 2921.38. (A) No person who is confined in a detention 9
facility, with intent to harass, annoy, threaten, or alarm another 10
person, shall cause or attempt to cause the other person to come 11
into contact with blood, semen, urine, feces, or another bodily 12
substance by throwing the bodily substance at the other person, by 13
expelling the bodily substance upon the other person, or in any 14
other manner. 15

(B) No person who is confined in a detention facility, with 16
knowledge that the person is a carrier of the virus that causes 17
acquired immunodeficiency syndrome, is a carrier of a hepatitis 18

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.

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(C) 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.

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(D) No person, 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 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.

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(E) Whoever violates this section is guilty of harassment by
an inmate with a bodily substance. A violation of division (A) or
(C) of this section is a felony of the fifth degree. A violation
of division (B) or (D) of this section is a felony of the third
degree.

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~~(D)~~(F)(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

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tests to determine if the person is a carrier of the virus that 50
causes acquired immunodeficiency syndrome, is a carrier of a 51
hepatitis virus, or is infected with tuberculosis. 52

(2) The court shall charge the offender with the costs of the 53
test or tests ordered under division ~~(D)~~(F)(1) of this section 54
unless the court determines that the accused is unable to pay, in 55
which case the costs shall be charged to the entity that operates 56
the detention facility in which the alleged offense occurred. 57

~~(E)~~(G) This section does not apply to a person who is 58
hospitalized, institutionalized, or confined in a facility 59
operated by the department of mental health or the department of 60
mental retardation and developmental disabilities. 61

Section 2. That existing section 2921.38 of the Revised Code 62
is hereby repealed. 63