

As Passed by the Senate

126th General Assembly

Regular Session

2005-2006

Sub. H. B. No. 50

**Representatives Setzer, Hughes, C. Evans, DeWine, Gilb, McGregor, Fessler,
Latta, Walcher, D. Evans, Willamowski, Seaver, Perry, Allen, Buehrer, Calvert,
Carmichael, Cassell, Chandler, Collier, Combs, Daniels, DeBose, Domenick,
Faber, Gibbs, Hagan, Harwood, Kearns, Kilbane, Law, Martin, Otterman,
T. Patton, Peterson, Raga, Reidelbach, Schaffer, Schlichter, Schneider,
D. Stewart, J. Stewart, Strahorn, Taylor, Uecker, Webster, Widener,
Widowfield, Williams, Yuko
Senators Austria, Goodman, Grendell, Schuring, Niehaus**

—

A B I L L

To amend section 2907.09 of the Revised Code to 1
expand and modify the penalty for the offense of 2
public indecency. 3

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

Section 1. That section 2907.09 of the Revised Code be 4
amended to read as follows: 5

Sec. 2907.09. (A) No person shall recklessly do any of the 6
following, under circumstances in which ~~his or her~~ the person's 7
conduct is likely to be viewed by and affront others, who are in 8
the person's physical proximity and who are not members of ~~his or~~ 9
~~her~~ the person's household: 10

(1) Expose his or her private parts, ~~or engage in~~ 11
~~masturbation;~~ 12

(2) Engage in sexual conduct or masturbation; 13

(3) Engage in conduct that to an ordinary observer would 14
appear to be sexual conduct or masturbation. 15

(B) No person shall knowingly do any of the following, under 16
circumstances in which the person's conduct is likely to be viewed 17
by and affront another person who is a minor, who is not the 18
spouse of the offender, and who resides in the person's household: 19

(1) Engage in masturbation; 20

(2) Engage in sexual conduct; 21

(3) Engage in conduct that to an ordinary observer would 22
appear to be sexual conduct or masturbation; 23

(4) Expose the person's private parts with the purpose of 24
personal sexual arousal or gratification or to lure the minor into 25
sexual activity. 26

(C)(1) Whoever violates this section is guilty of public 27
indecenty and shall be punished as provided in divisions (C)(2), 28
(3), (4), and (5) of this section. ~~Except~~ 29

(2) ~~Except~~ as otherwise provided in ~~this~~ division (C)(2) of 30
~~this section~~, ~~public indecenty~~ a violation of division (A)(1) of 31
~~this section~~ is a misdemeanor of the fourth degree. If the 32
offender previously has been convicted of or pleaded guilty to one 33
violation of this section, ~~public indecenty~~ a violation of 34
division (A)(1) of this section is a misdemeanor of the third 35
degree. If the offender previously has been convicted of or 36
pleaded guilty to two violations of this section, ~~public indecenty~~ 37
a violation of division (A)(1) of this section is a misdemeanor of 38
the second degree. If the offender previously has been convicted 39
of or pleaded guilty to three or more violations of this section, 40
~~public indecenty~~ a violation of division (A)(1) of this section is 41
a misdemeanor of the first degree. 42

(3) Except as otherwise provided in division (C)(3) of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the first degree.

(4) Except as otherwise provided in division (C)(4) of this section, a violation of division (B)(1), (2), or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to any violation of this section, a violation of division (B)(1), (2), or (3) of this section is a misdemeanor of the first degree.

(5) A violation of division (B)(4) of this section is a misdemeanor of the first degree.

Section 2. That existing section 2907.09 of the Revised Code is hereby repealed.