

**As Passed by the Senate**

**127th General Assembly**

**Regular Session**

**2007-2008**

**Am. Sub. H. B. No. 209**

**Representative Core**

**Cosponsors: Representatives McGregor, J., Bacon, Yuko, McGregor, R., Collier, Adams, Strahorn, Stebelton, Domenick, Fende, Luckie, Setzer, Seitz, Bubp, Dodd, Aslanides, Batchelder, Blessing, Coley, Combs, DeBose, Driehaus, Dyer, Evans, Flowers, Gardner, Gibbs, Goyal, Hagan, J., Hite, Hughes, Letson, Lundy, Mandel, Newcomb, Oelslager, Otterman, J., Reinhard, Schindel, Slesnick, Webster, Williams, B. Senators Turner, Harris, Schaffer, Schuler**

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**A B I L L**

To amend section 2907.03 of the Revised Code to expand the offense of "sexual battery" to prohibit a peace officer from engaging in sexual conduct with a minor who is not the officer's spouse in specified circumstances.

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

**Section 1.** That section 2907.03 of the Revised Code be amended to read as follows:

**Sec. 2907.03.** (A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:

(1) The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary

resolution. 13

(2) The offender knows that the other person's ability to 14  
appraise the nature of or control the other person's own conduct 15  
is substantially impaired. 16

(3) The offender knows that the other person submits because 17  
the other person is unaware that the act is being committed. 18

(4) The offender knows that the other person submits because 19  
the other person mistakenly identifies the offender as the other 20  
person's spouse. 21

(5) The offender is the other person's natural or adoptive 22  
parent, or a stepparent, or guardian, custodian, or person in loco 23  
parentis of the other person. 24

(6) The other person is in custody of law or a patient in a 25  
hospital or other institution, and the offender has supervisory or 26  
disciplinary authority over the other person. 27

(7) The offender is a teacher, administrator, coach, or other 28  
person in authority employed by or serving in a school for which 29  
the state board of education prescribes minimum standards pursuant 30  
to division (D) of section 3301.07 of the Revised Code, the other 31  
person is enrolled in or attends that school, and the offender is 32  
not enrolled in and does not attend that school. 33

(8) The other person is a minor, the offender is a teacher, 34  
administrator, coach, or other person in authority employed by or 35  
serving in an institution of higher education, and the other 36  
person is enrolled in or attends that institution. 37

(9) The other person is a minor, and the offender is the 38  
other person's athletic or other type of coach, is the other 39  
person's instructor, is the leader of a scouting troop of which 40  
the other person is a member, or is a person with temporary or 41  
occasional disciplinary control over the other person. 42

(10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.

(11) The other person is confined in a detention facility, and the offender is an employee of that detention facility.

(12) The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric.

(13) The other person is a minor, the offender is a peace officer, and the offender is more than two years older than the other person.

(B) Whoever violates this section is guilty of sexual battery. Except as otherwise provided in this division, sexual battery is a felony of the third degree. If the other person is less than thirteen years of age, sexual battery is a felony of the second degree, and the court shall impose upon the offender a mandatory prison term equal to one of the prison terms prescribed in section 2929.14 of the Revised Code for a felony of the second degree.

(C) As used in this section:

(1) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.

(2) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code.

(3) "Institution of higher education" means a state institution of higher education defined in section 3345.011 of the Revised Code, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by

the Ohio board of regents pursuant to Chapter 1713. of the Revised 73  
Code, or a school certified under Chapter 3332. of the Revised 74  
Code. 75

(4) "Peace officer" has the same meaning as in section 76  
2935.01 of the Revised Code. 77

**Section 2.** That existing section 2907.03 of the Revised Code 78  
is hereby repealed. 79

**Section 3.** Section 2907.03 of the Revised Code is presented 80  
in this act as a composite of the section as amended by both Am. 81  
Sub. H.B. 95 and Am. Sub. S.B. 17 of the 126th General Assembly. 82  
The General Assembly, applying the principle stated in division 83  
(B) of section 1.52 of the Revised Code that amendments are to be 84  
harmonized if reasonably capable of simultaneous operation, finds 85  
that the composite is the resulting version of the section in 86  
effect prior to the effective date of the section as presented in 87  
this act. 88