

As Introduced

**127th General Assembly
Regular Session
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H. B. No. 23

Representative DeBose

**Cosponsors: Representatives McGregor, J., Skindell, Stebelton, Dodd,
Brown, Koziura**

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A B I L L

To amend sections 2907.03 and 2907.08 of the Revised 1
Code to include security guards as persons of 2
authority for purposes of the offenses of sexual 3
battery and voyeurism. 4

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

Section 1. That sections 2907.03 and 2907.08 of the Revised 5
Code be amended to read as follows: 6

Sec. 2907.03. (A) No person shall engage in sexual conduct 7
with another, not the spouse of the offender, when any of the 8
following apply: 9

(1) The offender knowingly coerces the other person to submit 10
by any means that would prevent resistance by a person of ordinary 11
resolution. 12

(2) The offender knows that the other person's ability to 13
appraise the nature of or control the other person's own conduct 14
is substantially impaired. 15

(3) The offender knows that the other person submits because 16
the other person is unaware that the act is being committed. 17

(4) The offender knows that the other person submits because 18
the other person mistakenly identifies the offender as the other 19
person's spouse. 20

(5) The offender is the other person's natural or adoptive 21
parent, or a stepparent, or guardian, custodian, or person in loco 22
parentis of the other person. 23

(6) The other person is in custody of law or a patient in a 24
hospital or other institution, and the offender has supervisory or 25
disciplinary authority over the other person. 26

(7) The offender is a teacher, administrator, coach, security 27
guard, or other person in authority employed by or serving in a 28
school for which the state board of education prescribes minimum 29
standards pursuant to division (D) of section 3301.07 of the 30
Revised Code, the other person is enrolled in or attends that 31
school, and the offender is not enrolled in and does not attend 32
that school. 33

(8) The other person is a minor, the offender is a teacher, 34
administrator, coach, security guard, or other person in authority 35
employed by or serving in an institution of higher education, and 36
the other 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 43
person is a mental health client or patient of the offender, and 44
the offender induces the other person to submit by falsely 45
representing to the other person that the sexual conduct is 46
necessary for mental health treatment purposes. 47

(11) The other person is confined in a detention facility, 48

and the offender is an employee of that detention facility. 49

(12) The other person is a minor, the offender is a cleric, 50
and the other person is a member of, or attends, the church or 51
congregation served by the cleric. 52

(B) Whoever violates this section is guilty of sexual 53
battery. Except as otherwise provided in this division, sexual 54
battery is a felony of the third degree. If the other person is 55
less than thirteen years of age, sexual battery is a felony of the 56
second degree, and the court shall impose upon the offender a 57
mandatory prison term equal to one of the prison terms prescribed 58
in section 2929.14 of the Revised Code for a felony of the second 59
degree. 60

(C) As used in this section: 61

(1) "Cleric" has the same meaning as in section 2317.02 of 62
the Revised Code. 63

(2) "Detention facility" has the same meaning as in section 64
2921.01 of the Revised Code. 65

(3) "Institution of higher education" means a state 66
institution of higher education defined in section 3345.011 of the 67
Revised Code, a private nonprofit college or university located in 68
this state that possesses a certificate of authorization issued by 69
the Ohio board of regents pursuant to Chapter 1713. of the Revised 70
Code, or a school certified under Chapter 3332. of the Revised 71
Code. 72

Sec. 2907.08. (A) No person, for the purpose of sexually 73
arousing or gratifying the person's self, shall commit trespass or 74
otherwise surreptitiously invade the privacy of another, to spy or 75
eavesdrop upon another. 76

(B) No person, for the purpose of sexually arousing or 77
gratifying the person's self, shall commit trespass or otherwise 78

surreptitiously invade the privacy of another to videotape, film, 79
photograph, or otherwise record the other person in a state of 80
nudity. 81

(C) No person, for the purpose of sexually arousing or 82
gratifying the person's self, shall commit trespass or otherwise 83
surreptitiously invade the privacy of another to videotape, film, 84
photograph, or otherwise record the other person in a state of 85
nudity if the other person is a minor. 86

(D) No person, for the purpose of sexually arousing or 87
gratifying the person's self, shall commit trespass or otherwise 88
surreptitiously invade the privacy of another to videotape, film, 89
photograph, or otherwise record the other person in a state of 90
nudity if the other person is a minor and any of the following 91
applies: 92

(1) The offender is the minor's natural or adoptive parent, 93
stepparent, guardian, or custodian, or person in loco parentis of 94
the minor. 95

(2) The minor is in custody of law or is a patient in a 96
hospital or other institution, and the offender has supervisory or 97
disciplinary authority over the minor. 98

(3) The offender is a teacher, administrator, coach, security 99
guard, or other person in authority employed by or serving in a 100
school for which the state board of education prescribes minimum 101
standards pursuant to division (D) of section 3301.07 of the 102
Revised Code, the minor is enrolled in or attends that school, and 103
the offender is not enrolled in and does not attend that school. 104

(4) The offender is a teacher, administrator, coach, security 105
guard, or other person in authority employed by or serving in an 106
institution of higher education, and the minor is enrolled in or 107
attends that institution. 108

(5) The offender is a caregiver, administrator, security 109

guard, or other person in authority employed by or serving in a 110
child day-care center, type A family day-care home, or type B 111
family day-care home, and the minor is enrolled in or attends that 112
center or home. 113

(6) The offender is the minor's athletic or other type of 114
coach, is the minor's instructor, is the leader of a scouting 115
troop of which the minor is a member, provides babysitting care 116
for the minor, or is a person with temporary or occasional 117
disciplinary control over the minor. 118

(E) No person shall secretly or surreptitiously videotape, 119
film, photograph, or otherwise record another person under or 120
through the clothing being worn by that other person for the 121
purpose of viewing the body of, or the undergarments worn by, that 122
other person. 123

(F)(1) Whoever violates this section is guilty of voyeurism. 124

(2) A violation of division (A) of this section is a 125
misdemeanor of the third degree. 126

(3) A violation of division (B) of this section is a 127
misdemeanor of the second degree. 128

(4) A violation of division (C) or (E) of this section is a 129
misdemeanor of the first degree. 130

(5) A violation of division (D) of this section is a felony 131
of the fifth degree. 132

(G) As used in this section: 133

(1) "Institution of higher education" means a state 134
institution of higher education as defined in section 3345.031 of 135
the Revised Code, a private nonprofit college or university 136
located in this state that possesses a certificate of 137
authorization issued by the Ohio board of regents pursuant to 138
Chapter 1713. of the Revised Code, or a school certified under 139

Chapter 3332. of the Revised Code.	140
(2) "Child day-care center," "type A family day-care home,"	141
and "type B family day-care home" have the same meanings as in	142
section 5104.01 of the Revised Code.	143
(3) "Babysitting care" means care provided for a child while	144
the parents, guardian, or legal custodian of the child is	145
temporarily away.	146
Section 2. That existing sections 2907.03 and 2907.08 of the	147
Revised Code are hereby repealed.	148
Section 3. Section 2907.03 of the Revised Code is presented	149
in this act as a composite of the section as amended by both Am.	150
Sub. H.B. 95 and Am. Sub. S.B. 17 of the 126th General Assembly.	151
The General Assembly, applying the principle stated in division	152
(B) of section 1.52 of the Revised Code that amendments are to be	153
harmonized if reasonably capable of simultaneous operation, finds	154
that the composite is the resulting version of the section in	155
effect prior to the effective date of the section as presented in	156
this act.	157