



H.B. 23

127th General Assembly
(As Introduced)

Reps. DeBose, J. McGregor, Skindell, Stebelton, Dodd, Brown, Koziura

BILL SUMMARY

- Specifically includes security guards in prohibitions against committing sexual battery and voyeurism so that a security guard is prohibited from engaging in specified activities under the same circumstances as a teacher, administrator, coach, or other person in authority employed by or serving in a school or institution of higher education.

CONTENT AND OPERATION

Sexual battery

Continuing law

Under continuing law, one of the ways in which a person commits the offense of sexual battery is if the person engages in sexual conduct with another person and either of the following apply (R.C. 2907.03(A)(7) and (8)):¹

(1) The offender is a teacher, administrator, coach, or other person of authority employed by or serving in a school for which the State Board of Education prescribes minimum standards, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.

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

¹ See **COMMENT 1** for other ways in which a person commits sexual battery.

Generally, sexual battery is a felony of the third degree. However, if the other person is less than 13 years of age, sexual battery is a felony of the second degree, and the court must impose a mandatory prison term. (R.C. 2907.03(B).)

The bill

The bill specifically includes security guards in the prohibition described above under "**Existing law**." Therefore, a security guard is prohibited by the bill from engaging in sexual conduct with a person enrolled in a school or with a minor enrolled in an institution of higher education under the same circumstances as is a teacher, administrator, coach, or other person in authority employed by or serving in the school or institution of higher education. The bill makes no change to the penalty for sexual battery. (R.C. 2907.03(A)(7) and (8).)

Voyeurism

Continuing law

Under continuing law, one of the ways in which a person commits voyeurism is if the person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity if the other person is a minor and one of the following applies (R.C. 2907.08(D)(3), (4), and (5)):²

(1) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the State Board of Education prescribes minimum standards, the minor is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.

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

(3) The offender is a caregiver, administrator, or other person in authority employed by or serving in a child day-care center or a type A or type B family day-care home, and the minor is enrolled in or attends that center or home.

A violation of this prohibition is a felony of the fifth degree (R.C. 2907.08(F)(5)).

² See **COMMENT 2** for other ways in which a person commits voyeurism.

The bill

The bill specifically includes security guards in the voyeurism prohibition described above under '**Existing law.**' Therefore, a security guard is prohibited by the bill from engaging in the prohibited activity with a person enrolled in a school, with a minor enrolled in an institution of higher education, or a minor under the same circumstances as a teacher, administrator, coach, or other person in authority employed by or serving in a school or institution of higher education or a caregiver, administrator, or other person in authority employed by or serving in a day-care facility. The bill makes no change to the penalty for voyeurism. (R.C. 2907.08(D)(3), (4), and (5).)

COMMENT

1. A person also commits sexual battery if the person engages in sexual conduct with another, not the spouse of the offender, when any of the following apply (R.C. 2907.03):

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

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

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

(d) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.

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

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

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

(h) 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.

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

(j) 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.

2. A person also commits voyeurism, which ranges from a misdemeanor of the third degree to a felony of the fifth degree depending on the prohibition violated, if the following circumstances apply (R.C. 2907.08):

(a) The person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades the privacy of another, to spy or eavesdrop upon another.

(b) The person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.

(c) The person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity if the other person is a minor.

(d) The person, for the purpose of sexually arousing or gratifying the person's self, commits trespass or otherwise surreptitiously invades the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity if the other person is a minor and any of the following applies:

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

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

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

(e) The person secretly or surreptitiously videotapes, films, photographs, or otherwise records another person under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

HISTORY

ACTION	DATE
Introduced	02-20-07

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