



Ohio Legislative Service Commission

Bill Analysis

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H.B. 235

129th General Assembly
(As Introduced)

Reps. Stinziano, Antonio, Ashford, Driehaus, Foley, Letson, McGregor, Murray, O'Brien, Ramos, Slesnick, Yuko

BILL SUMMARY

- Renames the offense of "ethnic intimidation" as the offense "identity intimidation."
- Prohibits a person from committing "identity intimidation" because of the victim's ethnicity, sexual orientation, gender, identity, or disability.

CONTENT AND OPERATION

"Identity intimidation"

The bill renames the offense of "ethnic intimidation" as the offense "identity intimidation" and alters the offense by adding additional protected groups to the offense. Under existing law, a person commits "ethnic intimidation" if the person commits any of five underlying ("predicate") offenses by reason of the race, color, religion, or national origin of another person or group of persons. The predicate offenses are aggravated menacing, menacing, criminal damaging or endangering, criminal mischief, and certain manners of committing telecommunications harassment.¹

The bill adds to the list of reasons by which a person commits identity intimidation to include committing a predicate offense by reason of the victim's ethnicity, sexual orientation, gender, identity, or disability. Based on the title and the existence of a definition for "gender identity," it appears that the word "gender" was inadvertently omitted in the description of the offense (see "**Definitions**," below). Therefore, the prohibition probably should read as follows: "No person shall . . . [commit a listed predicate offense] . . . by reason of the race, color, religion,

¹ R.C. 2927.12(A).

national origin, ethnicity, sexual orientation, gender, *gender identity*, or disability of another person or group of persons."²

The bill retains the same penalty for "identity intimidation" as existing law provides for "ethnic intimidation." "Identity intimidation" is an offense of the next higher degree than the offense the commission of which is a necessary element of ethnic intimidation. The felony or misdemeanor nature of identity intimidation varies depending upon which predicate offense is associated with the identity intimidation and is one degree higher than that predicate offense (see "**Penalties for predicate offenses**," below).

Penalties for predicate offenses

The predicate offenses described above and the penalty for each are detailed in the table below:

Predicate offense	Penalty for predicate offense	Penalty for committing predicate offense and identity intimidation³
Aggravated menacing	Generally a first degree misdemeanor. ⁴	Generally a fifth degree felony.
Menacing	Generally a fourth degree misdemeanor. ⁵	Generally a third degree misdemeanor.
Criminal damaging or endangering	Generally a second degree misdemeanor. ⁶	Generally a first degree misdemeanor.
Criminal mischief	Generally a third degree misdemeanor, but can be a first degree misdemeanor if the offense involves the impairment of the functioning of a computer. ⁷	Generally a second degree misdemeanor, but can be a fifth degree felony if the offense involves the impairment of the functioning of a computer.
Telecommunications harassment	First degree misdemeanor on the first offense, fifth degree	Fifth degree felony on the first offense, fourth degree felony

² R.C. 2927.12(A).

³ R.C. 2927.12(B).

⁴ R.C. 2903.21(B).

⁵ R.C. 2903.22(B).

⁶ R.C. 2909.06(B).

⁷ R.C. 2909.07(C)(2) and (C)(3).

Predicate offense	Penalty for predicate offense	Penalty for committing predicate offense and identity intimidation ³
	felony on each subsequent offense. ⁸	on each subsequent offense.
Telecommunications harassment	Generally a first degree misdemeanor on the first offense, fifth degree felony on each subsequent offense. ⁹	Generally a fifth degree felony on the first offense, fourth degree felony on each subsequent offense.
Telecommunications harassment	First degree misdemeanor on the first offense, fifth degree felony on each subsequent offense. ¹⁰	Fifth degree felony on the first offense, fourth degree felony on each subsequent offense.

Definitions

The bill provides the following definitions that are used for the offense of "identity intimidation":

"Disability" means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.¹¹

"Gender identity" means a person's actual or perceived gender-related identity, appearance, mannerisms, or other gender-related characteristics, with or without regard to the person's designated sex at birth.¹²

"Sexual orientation" means heterosexuality, homosexuality, or bisexuality, whether actual or perceived.¹³

⁸ R.C. 2917.21(C)(2).

⁹ R.C. 2917.21(C)(3).

¹⁰ R.C. 2917.21(C)(2).

¹¹ R.C. 2927.12(C)(1).

¹² R.C. 2927.12(C)(2).

¹³ R.C. 2927.12(C)(3).

HISTORY

ACTION

DATE

Introduced

05-18-11

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