



ENACTMENT NEWS

House Bill 92

Certain public indecency offenders – require registration

On December 19, 2018, Governor Kasich signed House Bill 92 (Rep. Schaffer) into law. The bill makes slight changes to the elements of one form of the offense of public indecency, and establishes SORN registration requirements for certain public-indecency offenders. It passed the Ohio House unanimously on June 27, 2018, and the Ohio Senate unanimously on December 13, 2018. It becomes effective 90 days after the governor signs it.

Under current law, there are two forms of the offense of public indecency (R.C. 2907.09 (A) and R.C. 2907.09(B)). One of those forms (R.C. 2907.09 (B)) pertains to engaging in conduct (see below) that is likely to be viewed specifically by minors. Prior to H.B. 92, a person commits public indecency if he or she engages in certain conduct under circumstances in which that conduct is likely to be viewed by and affront a minor who is not the spouse of the offender and who resides in the offender's household. The bill removes the requirement that the minor live in the offender's household. Instead, the minor must be in the offender's physical proximity.

Existing law lists the types of conduct that, if done in the proximity of a minor, constitutes public indecency under R.C. 2907.09(B). Those are:

- (1) Engaging in masturbation;
- (2) Engaging in sexual conduct;
- (3) Engaging in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
- (4) Exposing the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

Under H.B. 92, if a person violates R.C. 2907.09(B) by engaging in the fourth type of conduct listed, the court may determine at the time of sentencing whether to classify the offender as a Tier 1 sex offender/child-victim offender, if either of the following applies:

- The offender is less than ten years older than the minor
- The offender is ten or more years older than the minor, and the offender has not previously been convicted of or pleaded guilty to any violation of R.C. 2907.09.

If, however, the offender is ten or more years older than the minor and has previously been convicted of or pleaded guilty to a violation of R.C. 2907.09, the court must issue an order classifying the offender as a Tier 1 sex offender/child-victim offender, subject to existing registration requirements.