



# City of Columbus

Office of City Clerk  
90 West Broad Street  
Columbus OH 43215-9015  
columbuscitycouncil.org

## Legislation Text

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**File #:** 1229-2014, **Version:** 2

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### 1. BACKGROUND:

As a result of the continued code review process conducted by the City Attorney in an effort to remove errors and conflicts from the Columbus City Codes and to strengthen the enforceability of certain criminal provisions of the Columbus City Code in order to address community needs, a series of code changes were recommended for the code titles under the direction of the City Attorney. These changes will also more closely track the language of the Revised Code.

### 2. FISCAL IMPACT:

No funding is required for this legislation.

To amend, enact and repeal various sections in Title 23 of the Columbus City Codes, General Offenses Code, to more closely track language used in the Ohio Revised Code.

**WHEREAS**, as a result of the continued code review process conducted by the City Attorney in an effort to remove errors and conflicts from the Columbus City Codes and to strengthen the enforceability of certain criminal provisions of the Columbus City Code in order to address community needs; and

**WHEREAS**, these changes will more closely track the language of the Revised Code; and

**WHEREAS**, this ordinance authorizes the amendments to Title 23, the Criminal Code, in order to more closely track the Revised Code; now, therefore,

### **BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That sections 2301.04, 2307.06, 2307.08, 2307.09, 2313.02, 2313.11, 2313.21, 2313.51, 2317.31, 2317.32 and 2317.41 of the Columbus City Codes, 1959, shall be amended to read as follows:

#### **2301.04 Rules of construction.**

- (A) Except as otherwise provided in division (B) of this section, Sections of the Columbus City Codes defining offenses or penalties shall be strictly construed against the city, and liberally construed in favor of the accused.
- (B) Any provision of a section of the Columbus City Code that refers to a previous conviction of or plea of guilty to a violation of a section of the Columbus City Code or of a division of a section of the Columbus City Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this state, another state, or the United States or

under an existing or former municipal ordinance.

### **2307.06 Sexual Imposition.**

- (A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two (2) or more other persons to have sexual contact when any of the following applies:
- (1) The offender knows that the sexual contact is offensive to the other person, or one (1) of the other persons, or is reckless in that regard.
  - (2) The offender knows that the other person's, or one (1) of the other person's, ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
  - (3) The offender knows that the other person, or one (1) of the other persons, submits because of being unaware of the sexual contact.
  - (4) The other person, or one (1) of the other persons, is thirteen (13) years of age or older but less than sixteen (16) years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen (18) years of age and four (4) or more years older than such other person.
  - (5) The offender is a mental health professional as defined in Ohio Revised Code section 2907.01, the other person or one of the other persons is a mental health client or patient of the offender as defined in Ohio Revised Code section 2907.01, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.
- (B) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.
- (C) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of a violation of this section or of Ohio Revised Code 2907.02, 2907.03, 2907.04, 2907.05, a violation of this section is a misdemeanor of the first degree.

### **2307.08 Voyeurism.**

- (A) No person, for the purpose of sexually arousing or gratifying ~~himself or herself~~ the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.
- ~~(B) Whoever violates this section is guilty of voyeurism, a misdemeanor of the third degree.~~
- (B) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.
- (C) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record 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.
- (D) (1) Whoever violates this section is guilty of voyeurism.  
(2) A violation of division (A) of this section is a misdemeanor of the third degree.

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

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

(E) Section (B) shall not apply if the trespass or otherwise surreptitious invasion of the privacy of another to videotape, film, photograph, or otherwise record or spy or eavesdrop upon the other person in a state of nudity if the other person is a minor.

### **2307.09 Public Indecency.**

(A) No person shall recklessly do any of the following, under circumstances in which ~~his or her~~ the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity and who are not members of his or her the person's household:

(1) Expose his or her the person's private parts, or engage in masturbation;

(2) Engage in sexual conduct or masturbation;

(3) Engage in conduct which that to an ordinary observer would appear to be sexual conduct or masturbation.

~~(B) Whoever violates this section is guilty of public indecency. If the offender previously has not been convicted of or pleaded guilty to a violation of this section or Section 2907.09 of the Revised Code, public indecency is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one (1) violation of this section or Section 2907.09 of the Revised Code, public indecency is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to two (2) violations of this section, or Section 2907.09 of the Revised Code, public indecency is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to three (3) or more violations of this section, or Section 2907.09 of the Revised Code, public indecency is a misdemeanor of the first degree.~~

(B) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is a minor, who is not the spouse of the offender, and who resides in the person's household:

(1) Engage in masturbation;

(2) Engage in sexual conduct;

(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;

(4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

(C) (1) Whoever violates this section is guilty of public indecency and shall be punished as provided in divisions (C)(2), (3), (4), and (5) of this section.

(2) Except as otherwise provided in division (C)(2) of this section, a violation of division (A)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (A)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of division (A)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender

previously has been convicted of or pleaded guilty to three or more violations of this section, a violation of division (A)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony of the fifth degree to be prosecuted under appropriate state law.

(3) Except as otherwise provided in division (C)(3) of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of division (A)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony of the fifth degree to be prosecuted under appropriate state law.

(4) Except as otherwise provided in division (C)(4) of this section, a violation of division (B)(1), (2), or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of division (B)(1), (2), or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of division (B)(1), (2), or (3) of this section is a felony of the fifth degree to be prosecuted under appropriate state law.

(5) Except as otherwise provided in division (C)(5) of this section, a violation of division (B)(4) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to any violation of this section, a violation of division (B)(4) of this section is a felony of the fifth degree to be prosecuted under appropriate state law.

### 2313.02 Theft.

- (A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
- (1) Without the consent of the owner or person authorized to give consent;
  - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
  - (3) By deception;
  - (4) By threat.
  - (5) By intimidation.
- (B) Whoever violates this section is guilty of theft. If the value of the property or services stolen is less than ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000), a violation of this section is petty theft, a misdemeanor of the first degree.
- (C) This section shall not apply if:
- (1) The value of the property or services stolen is ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000) or more;
  - (2) The property stolen is any of the property listed in Section 2913.71 of the Revised Code;
  - (3) The victim of the offense is an elderly person or a disable adult;
  - (4) The property stolen is a firearm or dangerous ordinance;

- (5) The property stolen is a motor vehicle, as defined in Section 4501.01 of the Revised Code;
- (6) The property stolen is any dangerous drug, as defined in Section ~~4719.02~~ 4729.01 of the Revised Code;
- (7) ~~The offender previously has been convicted of a felony drug abuse offense as defined in Section 2915.01 of the Revised Code;~~
- (7) The property stolen is a police dog or horse or an assistance dog;
- (8) The property stolen is anhydrous ammonia;
- (9) The property stolen is a special purpose article as defined in Section 4737.04 of the Revised Code or is a bulk merchandise container as defined in Section 4737.012 of the Revised Code.

### 2313.11 Passing bad checks.

- (A) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored.
- (B) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:
  - (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later;
  - (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser, or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.
- (C) For purposes of this section, a person who issues or transfers a check, bill of exchange, or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Section 1349.16 of the Revised Code by doing any of the following when opening a checking account intended for personal, family, or household purposes at a financial institution:
  - (1) Falsely stating that he has not been issued a valid driver's or commercial driver's license or identification card issued under Section 4507.50 of the Revised Code;
  - (2) Furnishing such license or card, or another identification document that contains false information;
  - (3) Making a false statement with respect to his current address or any additional relevant information reasonably required by the financial institution.
- (D) Whoever violates this section is guilty of passing bad checks. If the check or other negotiable instrument is for the payment of less than one thousand dollars (\$1,000) ~~three hundred dollars (\$300.00)~~, passing bad checks is a misdemeanor of the first degree.
- (E) This section shall not apply if:
  - (1) The check or other negotiable instrument is for payment of ~~three hundred dollars (\$300.00)~~ one thousand dollars (\$1000.00) or more;
  - (2) ~~If the offender previously has been convicted of a theft offense.~~

### 2313.21 Misuse of credit cards.

- (A) No person shall do any of the following:
  - (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
  - (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
- (B) No person, with purpose to defraud, shall do any of the following:
  - (1) Obtain control over a credit card as security for a debt;
  - (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that such card has expired or been revoked, or was obtained, is retained, or is being used in violation of law;
  - (3) Furnish property or services upon presentation of a credit card, knowing that such card is being used in violation of law;
  - (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that such representation is false.
- (C) No person, with purpose to violate this section, shall receive, possess, control, or dispose of a credit card.
- (D) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree.
- (E) This section shall not apply if:
  - (1) The cumulative retail value of the property and services involved one or more violations, which violations involve one or more credit card accounts and occur within a period of ninety (90) consecutive days commencing on the date of the first violation;
  - (2) The amount of property or services is ~~three hundred dollars (\$300.00)~~ one thousand dollars (\$1,000) or more;
  - ~~(3) The offender previously has been convicted of a theft offense.~~
  - (3) The victim of the offense is an elderly person or disabled adult as defined Ohio Revised Code 2913.01, and the offense involves a violation of division (B)(1) or (2).

**2313.51 Receiving stolen property.**

- (A) No person shall receive, retain, or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.
- (B) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree.
- (C) This section shall not apply if:
  - (1) The value of the property is ~~three hundred dollars~~ one thousand dollars (\$1000.00) or more;
  - (2) The property involved is any of the property listed in Section 2913.71 of the Revised Code;
  - ~~(3) The offender previously has been convicted of a theft offense;~~
  - ~~(3)~~(4) The property involved is a motor vehicle, as defined in Section 4501.01 of the Revised Code;
  - (4) The property involved is a dangerous drug, as defined in Section 4729.01 of the Revised Code;
  - (5) The property involved is a firearm or dangerous ordinance;
  - (6) The property involved is a special purpose article as defined in Section 4737.04 of the Revised Code or is a bulk merchandise container as defined in Section 4737.012 of the Revised Code.

**2317.31 Inducing Panic.**

- (A) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:
  - (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that such report or warning is false;
  - (2) Threatening to commit any offense of violence;
  - (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.
- (B) Subsection (A)(1) of this section does not apply to any person conducting an authorized fire or emergency drill.
- (C) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree.
- (D) This section shall not apply if: ~~a violation of this section results in physical harm to any person.~~
  - (1) A violation of this section results in physical harm to any person;
  - (2) A violation of this section results in economic harm of seven thousand five hundred dollars (\$7,500) or more;
  - (3) If the public place involved in the violation of (A)(1) is a school or institution of higher education;
  - (4) If the violation pertains to a purported, threatened, or actual use of a weapon of mass destruction;
- (E) As used in this section, "economic harm", "school", "institution of higher education", and "weapon of mass destruction" have the same meanings as in section 2917.31 of the Revised Code.

### **2317.32 Making false alarms.**

- (A) No person shall do ~~either~~ any of the following:
  - (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
  - (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
  - (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.
- (B) This section does not apply to any person conducting an authorized fire or emergency drill.
- (C) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree.
- (D) This section shall not apply if:
  - (1) A violation of this section results in economic harm of one thousand dollars (\$1,000) or more;
  - (2) A violation pertains to a purported, threatened, or actual use of a weapon of mass destruction;
- (E) As used in this section, "economic harm" and "weapon of mass destruction" have the same meanings as in section 2917.31 of the Revised Code.

### **2317.41 Misconduct on Public Transportation**

- (A) No person shall fail to comply with the lawful order of a public transportation system police officer, and no person shall resist, obstruct, or abuse a public transportation system police officer in the performance of the officer's duties.
- (B) No person shall evade the payment of the known fares of a public transportation system.
- (C) No person shall alter any transfer, pass, ticket or token of a public transportation system with the purpose of evading the payment of fares or of defrauding the system.
- (D) No person shall write, deface, draw or otherwise mark on any property, vehicle, seats, or walls of a public transportation system.
- (E) No person shall throw a rock, stone, bottle, missile, projectile, snowball or other hard substance at, within or from a public transportation system vehicle.
- (F) No person shall knowingly strike, push, shove, assault, or unlawfully touch the driver or operator of a public transportation system vehicle.
- (G) No person, without privilege to do so, shall knowingly tamper with any equipment, accessories, or operator's controls on a public transportation system vehicle.
- (H) No person shall knowingly cause a passenger, driver, or operator of a public transportation system vehicle to believe that the offender will cause physical harm to such passenger, driver, or operator.
- (I) No person, without privilege to do so, and while on a public transportation system vehicle, shall negligently fail or refuse to leave such vehicle upon being notified to do so by the operator, driver, or an authorized agent of the public transportation system.
- (J) No person shall cause inconvenience, annoyance, or alarm to an operator, driver, or passenger on a public transportation system vehicle, by doing any of the following:
  - (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
  - (2) Insulting, taunting, or challenging another under circumstances, in which such conduct is objectively likely to provoke a violent response;
  - (3) Purposely hindering or preventing the ingress, egress, or movement of an operator, driver or passenger.
- (K) No person shall enter or remain inside a public transportation system vehicle while voluntarily intoxicated, or under the influence of alcohol or a drug of abuse, and engage in conduct likely to be offensive or cause inconvenience, annoyance, or alarm to the driver, operator, or any passenger of such vehicle.
- (L) No person shall do any of the following while in any facility or on any vehicle of a public transportation system:
  - (1) Play sound equipment without the proper use of a private earphone;
  - (2) Smoke, eat, or drink in any area where the activity is clearly marked as being prohibited;
  - (3) Expectorate upon a person, facility, or vehicle.
- (M) No person shall enter upon a public transportation system vehicle, as to which notice against unauthorized access or presence is given by actual communication to the offender.
- ~~(M)~~(N) Whoever violates this section is guilty of misconduct involving a public transportation vehicle, a misdemeanor of the first degree.
- ~~(N)~~(O) As used in this section, "public transportation system" means a county transit system operated in accordance with Sections 306.01 to 306.13 of the Revised Code, a regional transit authority operated in



accordance with Sections 306.30 to 306.71 of the Revised Code, or a regional transit commission operated in accordance with Sections 306.80 to 306.90 of the Revised Code.

**Section 2.** That prior existing sections 2301.04, 2307.06, 2307.08, 2307.09, 2313.02, 2313.11, 2313.21, 2313.51, 2317.31, 2317.32 and 2317.41 of the Columbus City Codes, 1959, are hereby repealed.

**Section 3.** That section 2307.07 of the Columbus City Codes, 1959, is hereby repealed.

**Section 4.** That new section 2317.21 of the Columbus City Codes, 1959, be enacted to read as follows:

**2317.21 Telecommunications Harassment**

(A) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

- (1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
- (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;
- (3) During the telecommunication, violates section 2303.21 or section 2903.21 of the Revised Code;
- (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
- (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises.

(B) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or

harass another person.

(C)(1) Whoever violates this section is guilty of telecommunications harassment.

(2) A violation of division (A)(1), (2), (3), or (5) or (B) of this section is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense to be prosecuted under the appropriate state law.

(3) Except as otherwise provided in division (C)(3) of this section, a violation of division (A)(4) of this section is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense to be prosecuted under the appropriate state law.

(D) No cause of action may be asserted in any court of this state against any provider of a telecommunications service or information service, or against any officer, employee, or agent of a telecommunication service or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service or information service, or an officer, employee, or agent of a telecommunications service or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.

(E) As used in this section:

(1) "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:

(a) All wages, salaries, or other compensation lost as a result of the criminal conduct;

(b) The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(c) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;

(d) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(2) "Caller" means the person described in division (A) of this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

(3) "Telecommunication" and "telecommunications device" have the same meanings as in section 2313.01 of the Revised Code.

(4) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(F) Nothing in this section prohibits a person from making a telecommunication to a debtor that is in

compliance with the "Fair Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 1692 , as amended, or the "Telephone Consumer Protection Act," 105 Stat. 2395 (1991), 47 U.S.C. 227 , as amended.

- (G) This section shall not apply if the offense is a violation of division (A)(4) of this section and results in economic harm of one thousand dollars or more.

**Section 5.** That this ordinance shall take effect and be in force from and after the earliest period allowed by law.