

As Introduced

128th General Assembly
Regular Session
2009-2010

S. B. No. 105

Senator Patton

Cosponsor: Senator Seitz

—

A B I L L

To enact section 4931.71 of the Revised Code to 1
prohibit broadcasting an actual 9-1-1 call that 2
has been made available as a public record and to 3
prescribe a penalty. 4

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

Section 1. That section 4931.71 of the Revised Code be 5
enacted to read as follows: 6

Sec. 4931.71. (A) A recording of a 9-1-1 call is a public 7
record under section 149.43 of the Revised Code. However, no 8
person shall play a recording of a 9-1-1 call that has been made 9
available as a public record over a broadcast medium such as 10
radio, television, or the internet. This division does not 11
prohibit reading a transcript of a recording of a 9-1-1 call over 12
a broadcast medium but rather prohibits only causing a recording 13
to give out an actual 9-1-1 call over a broadcast medium. 14

(B) Whoever violates division (A) of this section shall be 15
finned ten thousand dollars. 16



Ohio Legislative Service Commission

Bill Analysis

Wendy H. Gridley

S.B. 105

128th General Assembly
(As Introduced)

Sens. Patton, Seitz

BILL SUMMARY

- Prohibits broadcasting an actual 9-1-1 call that has been made available as a public record.
- Prescribes a \$10,000 fine for violation of the prohibition.

CONTENT AND OPERATION

Background

The Public Records Law generally requires every public office to prepare promptly all public records and make them available for inspection at all reasonable times during regular business hours. Upon request and within a reasonable period of time, a public office or person responsible for public records generally must make copies available at cost. Additionally, the public record generally must be provided in the format requested, including duplicated upon paper, upon the same medium that the public office or person responsible for the public record keeps it, or upon any other medium that the public office or person responsible for the public record determines reasonably can be duplicated. (R.C. 149.43, not in the bill.)

In 1996, the Ohio Supreme Court held that tapes of 9-1-1 calls are public records, subject to release under the Public Records Law.¹ Subsequently, the Court held that a transcript of a 9-1-1 call did not satisfy a public records request for a copy of an audiotape of a 9-1-1 emergency call when the public office kept the record in audiotape format. The Court found that the public office keeping the records ignored the provision of the Public Records Law authorizing the person requesting the public

¹ *State ex rel. Cincinnati Enquirer v. Hamilton Cty.* (1996), 75 Ohio St.3d 374.

record to choose to have the record duplicated in the same medium that the public office keeps it.²

The bill

The bill declares that a recording of a 9-1-1 call is a public record for purposes of the Public Records Law. However, the bill prohibits a recording of a 9-1-1 call that has been made available as a public record from being played over a broadcast medium such as radio, television, or the Internet. The bill specifies that this restriction does not prohibit reading a transcript of a recording of a 9-1-1 call over a broadcast medium; "it prohibits only causing a recording to give out an actual 9-1-1 call over a broadcast medium." The bill establishes a \$10,000 fine for violation of its prohibition on broadcasting a 9-1-1 tape released pursuant to a public records request.

HISTORY

ACTION	DATE
Introduced	04-09-09

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² *State ex rel. Dispatch Printing Co. v. Morrow Cty. Prosecutor's Office* (2005), 105 Ohio St.3d 172.

For Immediate Release

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INDIANAPOLIS - Leaders of the Society of Professional Journalists oppose an Ohio bill that, if passed, would prohibit the broadcasting of 911 phone calls. SPJ sent the following letter Dec. 17 to the co-sponsors of the bill, Ohio State Senators Tom Patton and Bill Seitz, on behalf of National President Kevin Smith, National President-Elect Hagit Limor, SPJ Cleveland Pro Chapter President Cliff Anthony, SPJ Central Ohio Pro Chapter President Kevin Kemper and Cincinnati Pro Chapter President James Pilcher:

State and national leaders of the Society of Professional Journalists, which represents more than 8,000 journalists nationwide, urge the withdrawal of SB 105, which would impose a \$10,000 fine for broadcasting 911 calls.

This law, if passed, would impede the news media's ability to effectively cover events that are important to Ohio residents. It is essential that the public have at its disposal a complete picture of how our government is operating. If audio recordings are banned from the public airwaves then it will be virtually impossible for citizens to hear how calls are being handled and effectively hold emergency response centers accountable. The audio nuances of a person's speech say much more than what can be conveyed through a transcript. The public is entitled to hear for themselves how their tax-funded agencies are responding to emergencies.

The argument that SB 105 is designed to protect people who call in with tips to law enforcement officials is unconvincing. That identifying information would still be available in written transcripts. Also, in the few instances where information that would be legally exempt from disclosure because of a threat to a confidential informant (Ohio Rev. Code 149.43(A)(2)(a), the audio record can be redacted (a name "bleeped" out) just as a paper record can be redacted. The prohibition of broadcasting audio public records is overly broad, unnecessary, and a form of prior restraint.

Ohio courts traditionally have ruled in favor of disclosure of 911 tapes for all to hear for good reason – it ensures the public trust in its institutions regarding the safety and welfare of citizens. These public records should not be banned from the public airwaves.

We urge you to withdraw SB 105 for the sake of transparent governance and public safety in Ohio.

Sincerely,

Kevin Smith

National President, Society of Professional Journalists

Assistant Professor of Journalism, Fairmont State University

Hagit Limor

National President-Elect, Society of Professional Journalists

Investigative Reporter, WCPO-TV Cincinnati

Cliff Anthony

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