



Ohio Revised Code

Section 2933.32 Body cavity search, strip search - conducting unauthorized search - failure to prepare proper search report.

Effective: April 4, 1985

Legislation: House Bill 426 - 115th General Assembly

(A) As used in this section:

(1) "Body cavity search" means an inspection of the anal or vaginal cavity of a person that is conducted visually, manually, by means of any instrument, apparatus, or object, or in any other manner while the person is detained or arrested for the alleged commission of a misdemeanor or traffic offense.

(2) "Strip search" means an inspection of the genitalia, buttocks, breasts, or undergarments of a person that is preceded by the removal or rearrangement of some or all of the person's clothing that directly covers the person's genitalia, buttocks, breasts, or undergarments and that is conducted visually, manually, by means of any instrument, apparatus, or object, or in any other manner while the person is detained or arrested for the alleged commission of a misdemeanor or traffic offense.

"Strip search" does not mean the visual observation of a person who was afforded a reasonable opportunity to secure release on bail or recognizance, who fails to secure such release, and who is to be integrated with the general population of any detention facility, while the person is changing into clothing that is required to be worn by inmates in the facility.

(B)(1) Except as authorized by this division, no law enforcement officer, other employee of a law enforcement agency, physician, or registered nurse or licensed practical nurse shall conduct or cause to be conducted a body cavity search or a strip search.

(2) A body cavity search or strip search may be conducted if a law enforcement officer or employee of a law enforcement agency has probable cause to believe that the person is concealing evidence of the commission of a criminal offense, including fruits or tools of a crime, contraband, or a deadly weapon, as defined in section 2923.11 of the Revised Code, that could not otherwise be discovered. In determining probable cause for purposes of this section, a law enforcement officer or employee of a law enforcement agency shall consider the nature of the offense with which the person to be



searched is charged, the circumstances of the person's arrest, and, if known, the prior conviction record of the person.

(3) A body cavity search or strip search may be conducted for any legitimate medical or hygienic reason.

(4) Unless there is a legitimate medical reason or medical emergency justifying a warrantless search, a body cavity search shall be conducted only after a search warrant is issued that authorizes the search. In any case, a body cavity search shall be conducted under sanitary conditions and only by a physician, or a registered nurse or licensed practical nurse, who is registered or licensed to practice in this state.

(5) Unless there is a legitimate medical reason or medical emergency that makes obtaining written authorization impracticable, a body cavity search or strip search shall be conducted only after a law enforcement officer or employee of a law enforcement agency obtains a written authorization for the search from the person in command of the law enforcement agency, or from a person specifically designated by the person in command to give a written authorization for either type of search.

(6) A body cavity search or strip search shall be conducted by a person or persons who are of the same sex as the person who is being searched and the search shall be conducted in a manner and in a location that permits only the person or persons who are physically conducting the search and the person who is being searched to observe the search.

(C)(1) Upon completion of a body cavity search or strip search pursuant to this section, the person or persons who conducted the search shall prepare a written report concerning the search that shall include all of the following:

(a) The written authorization for the search obtained from the person in command of the law enforcement agency or his designee, if required by division (B)(5) of this section;

(b) The name of the person who was searched;

(c) The name of the person or persons who conducted the search, the time and date of the search, and



the place at which the search was conducted;

(d) A list of the items, if any, recovered during the search;

(e) The facts upon which the law enforcement officer or employee of the law enforcement agency based his probable cause for the search, including, but not limited to, the officer or employee's review of the nature of the offense with which the searched person is charged, the circumstances of his arrest, and, if known, his prior conviction record;

(f) If the body cavity search was conducted before or without the issuance of a search warrant pursuant to division (B)(4) of this section, or if the body cavity or strip search was conducted before or without the granting of written authorization pursuant to division (B)(5) of this section, the legitimate medical reason or medical emergency that justified the warrantless search or made obtaining written authorization impracticable.

(2) A copy of the written report required by division (C)(1) of this section shall be kept on file in the law enforcement agency, and another copy of it shall be given to the person who was searched.

(D)(1) This section does not preclude the prosecution of a law enforcement officer or employee of a law enforcement agency for the violation of any other section of the Revised Code.

(2) This section does not limit, and shall not be construed to limit, any statutory or common law rights of a person to obtain injunctive relief or to recover damages in a civil action.

(3) If a person is subjected to a body cavity search or strip search in violation of this section, any person may commence a civil action to recover compensatory damages for any injury, death, or loss to person or property or any indignity arising from the violation. In the civil action, the court may award punitive damages to the plaintiffs if they prevail in the action, and it may award reasonable attorney's fees to the parties who prevail in the action.

(4) This section does not apply to body cavity searches or strip searches of persons who have been sentenced to serve a term of imprisonment and who are serving that term in a detention facility, as defined in section 2921.01 of the Revised Code.



(E)(1) Whoever violates division (B) of this section is guilty of conducting an unauthorized search, a misdemeanor of the first degree.

(2) Whoever violates division (C) of this section is guilty of failure to prepare a proper search report, a misdemeanor of the fourth degree.