

As Passed by the Senate

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Am. Sub. H. B. No. 38

Representative Greenspan

Cosponsors: Representatives Anielski, Barnes, Goodman, Keller, Kick, Lipps, Patton, Perales, Riedel, Retherford, Sprague, Thompson, Wiggam, Young, Manning, Rezabek, Arndt, Brenner, Butler, Carfagna, Dever, Duffey, Edwards, Faber, Gavarone, Ginter, Hambley, Householder, Hughes, Johnson, Koehler, Landis, Lanese, LaTourette, O'Brien, Romanchuk, Ryan, Schaffer, Schuring, Smith, R., Stein

Senators Eklund, Bacon, Burke, Dolan, Gardner, Hackett, Hoagland, Hottinger, Kunze, LaRose, Lehner, Manning, McColley, O'Brien, Oelslager, Peterson, Schiavoni, Terhar, Thomas, Uecker, Wilson, Yuko

A BILL

To amend sections 2903.01 and 2923.02 of the	1
Revised Code to provide that purposely causing	2
the death of a first responder or military	3
member is aggravated murder and to require an	4
offender to serve a mandatory prison term for	5
certain types of attempted aggravated murder	6
when the victim is a first responder or military	7
member.	8

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

Section 1. That sections 2903.01 and 2923.02 of the	9
Revised Code be amended to read as follows:	10

Sec. 2903.01. (A) No person shall purposely, and with	11
prior calculation and design, cause the death of another or the	12

unlawful termination of another's pregnancy. 13

(B) No person shall purposely cause the death of another 14
or the unlawful termination of another's pregnancy while 15
committing or attempting to commit, or while fleeing immediately 16
after committing or attempting to commit, kidnapping, rape, 17
aggravated arson, arson, aggravated robbery, robbery, aggravated 18
burglary, burglary, trespass in a habitation when a person is 19
present or likely to be present, terrorism, or escape. 20

(C) No person shall purposely cause the death of another 21
who is under thirteen years of age at the time of the commission 22
of the offense. 23

(D) No person who is under detention as a result of having 24
been found guilty of or having pleaded guilty to a felony or who 25
breaks that detention shall purposely cause the death of 26
another. 27

(E) No person shall purposely cause the death of a law 28
enforcement officer whom the offender knows or has reasonable 29
cause to know is a law enforcement officer when either of the 30
following applies: 31

(1) The victim, at the time of the commission of the 32
offense, is engaged in the victim's duties. 33

(2) It is the offender's specific purpose to kill a law 34
enforcement officer. 35

(F) No person shall purposely cause the death of a first 36
responder or military member whom the offender knows or has 37
reasonable cause to know is a first responder or military member 38
when it is the offender's specific purpose to kill a first 39
responder or military member. 40

(G) Whoever violates this section is guilty of aggravated murder, and shall be punished as provided in section 2929.02 of the Revised Code.

~~(G)~~ (H) As used in this section:

(1) "Detention" has the same meaning as in section 2921.01 of the Revised Code.

(2) "Law enforcement officer" has the same meaning as in section 2911.01 of the Revised Code and also includes any federal law enforcement officer as defined in section 2921.51 of the Revised Code and anyone who has previously served as a law enforcement officer or federal law enforcement officer.

(3) "First responder" means an emergency medical service provider, a firefighter, or any other emergency response personnel, or anyone who has previously served as a first responder.

(4) "Military member" means a member of the armed forces of the United States, reserves, or Ohio national guard, a participant in ROTC, JROTC, or any similar military training program, or anyone who has previously served in the military.

Sec. 2923.02. (A) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(B) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(C) No person who is convicted of committing a specific 70
offense, of complicity in the commission of an offense, or of 71
conspiracy to commit an offense shall be convicted of an attempt 72
to commit the same offense in violation of this section. 73

(D) It is an affirmative defense to a charge under this 74
section that the actor abandoned the actor's effort to commit 75
the offense or otherwise prevented its commission, under 76
circumstances manifesting a complete and voluntary renunciation 77
of the actor's criminal purpose. 78

(E) (1) Whoever violates this section is guilty of an 79
attempt to commit an offense. An attempt to commit aggravated 80
murder, murder, or an offense for which the maximum penalty is 81
imprisonment for life is a felony of the first degree. An 82
attempt to commit a drug abuse offense for which the penalty is 83
determined by the amount or number of unit doses of the 84
controlled substance involved in the drug abuse offense is an 85
offense of the same degree as the drug abuse offense attempted 86
would be if that drug abuse offense had been committed and had 87
involved an amount or number of unit doses of the controlled 88
substance that is within the next lower range of controlled 89
substance amounts than was involved in the attempt. An attempt 90
to commit any other offense is an offense of the next lesser 91
degree than the offense attempted. In the case of an attempt to 92
commit an offense other than a violation of Chapter 3734. of the 93
Revised Code that is not specifically classified, an attempt is 94
a misdemeanor of the first degree if the offense attempted is a 95
felony, and a misdemeanor of the fourth degree if the offense 96
attempted is a misdemeanor. In the case of an attempt to commit 97
a violation of any provision of Chapter 3734. of the Revised 98
Code, other than section 3734.18 of the Revised Code, that 99
relates to hazardous wastes, an attempt is a felony punishable 100

by a fine of not more than twenty-five thousand dollars or 101
imprisonment for not more than eighteen months, or both. An 102
attempt to commit a minor misdemeanor, or to engage in 103
conspiracy, is not an offense under this section. 104

(2) If a person is convicted of or pleads guilty to 105
attempted rape and also is convicted of or pleads guilty to a 106
specification of the type described in section 2941.1418, 107
2941.1419, or 2941.1420 of the Revised Code, the offender shall 108
be sentenced to a prison term or term of life imprisonment 109
pursuant to section 2971.03 of the Revised Code. 110

(3) In addition to any other sanctions imposed pursuant to 111
division (E)(1) of this section for an attempt to commit 112
aggravated murder or murder in violation of division (A) of this 113
section, if the offender used a motor vehicle as the means to 114
attempt to commit the offense, the court shall impose upon the 115
offender a class two suspension of the offender's driver's 116
license, commercial driver's license, temporary instruction 117
permit, probationary license, or nonresident operating privilege 118
as specified in division (A)(2) of section 4510.02 of the 119
Revised Code. 120

(4) If a person is convicted of or found guilty of an 121
attempt to commit aggravated murder of the type described in 122
division (E) or (F) of section 2903.01 of the Revised Code, the 123
court shall impose as a mandatory prison term one of the prison 124
terms prescribed for a felony of the first degree. 125

(F) As used in this section: 126

(1) "Drug abuse offense" has the same meaning as in 127
section 2925.01 of the Revised Code. 128

(2) "Motor vehicle" has the same meaning as in section 129

4501.01 of the Revised Code. 130

Section 2. That existing sections 2903.01 and 2923.02 of 131
the Revised Code are hereby repealed. 132

Section 3. Section 2923.02 of the Revised Code is 133
presented in this act as a composite of the section as amended 134
by both Am. Sub. H.B. 461 and Am. Sub. S.B. 260 of the 126th 135
General Assembly. The General Assembly, applying the principle 136
stated in division (B) of section 1.52 of the Revised Code that 137
amendments are to be harmonized if reasonably capable of 138
simultaneous operation, finds that the composite is the 139
resulting version of the section in effect prior to the 140
effective date of the section as presented in this act. 141