

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 299

Representative Greenspan

Cosponsor: Representative Edwards

A BILL

To amend sections 2903.01, 2903.11, and 2923.02 of
the Revised Code to enhance penalties for
certain crimes against corrections officers,
parole officers, probation officers, and parole
board members.

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

Section 1. That sections 2903.01, 2903.11, and 2923.02 of
the Revised Code be amended to read as follows:

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Sec. 2903.01. (A) No person shall purposely, and with
prior calculation and design, cause the death of another or the
unlawful termination of another's pregnancy.

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

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(C) No person shall purposely cause the death of another

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who is under thirteen years of age at the time of the commission 19
of the offense. 20

(D) No person who is under detention as a result of having 21
been found guilty of or having pleaded guilty to a felony or who 22
breaks that detention shall purposely cause the death of 23
another. 24

(E) No person shall purposely cause the death of a law 25
enforcement officer whom the offender knows or has reasonable 26
cause to know is a law enforcement officer when either of the 27
following applies: 28

(1) The victim, at the time of the commission of the 29
offense, is engaged in the victim's duties. 30

(2) It is the offender's specific purpose to kill a law 31
enforcement officer. 32

(F) No person shall purposely cause the death of a first 33
responder or military member whom the offender knows or has 34
reasonable cause to know is a first responder or military member 35
when it is the offender's specific purpose to kill a first 36
responder or military member. 37

(G) No person shall purposely cause the death of an off- 38
duty corrections officer, a parole or probation officer, or a 39
parole board member, whom the offender knows or has reasonable 40
cause to know is a corrections officer, a parole or probation 41
officer, or a parole board member when it is the offender's 42
specific purpose to kill a corrections officer, a parole or 43
probation officer, or a parole board member. 44

(H) Whoever violates this section is guilty of aggravated 45
murder, and shall be punished as provided in section 2929.02 of 46
the Revised Code. 47

~~(H)~~ (I) As used in this section: 48

(1) "Detention" ~~has~~ and "detention facility" have the same 49
~~meaning~~ meanings as in section 2921.01 of the Revised Code. 50

(2) "Law enforcement officer" has the same meaning as in 51
section 2911.01 of the Revised Code and also includes any 52
federal law enforcement officer as defined in section 2921.51 of 53
the Revised Code and anyone who has previously served as a law 54
enforcement officer or federal law enforcement officer. 55

(3) "First responder" means an emergency medical service 56
provider, a firefighter, or any other emergency response 57
personnel, or anyone who has previously served as a first 58
responder. 59

(4) "Military member" means a member of the armed forces 60
of the United States, reserves, or Ohio national guard, a 61
participant in ROTC, JROTC, or any similar military training 62
program, or anyone who has previously served in the military. 63

(5) "Corrections officer" means a person employed by a 64
detention facility as a corrections officer or anyone who has 65
previously served as a corrections officer. 66

(6) "Parole or probation officer" includes anyone who has 67
previously served as a parole or probation officer. 68

(7) "Parole board member" means a person appointed to the 69
parole board under section 5149.10 of the Revised Code. 70

Sec. 2903.11. (A) No person shall knowingly do either of 71
the following: 72

(1) Cause serious physical harm to another or to another's 73
unborn; 74

(2) Cause or attempt to cause physical harm to another or 75
to another's unborn by means of a deadly weapon or dangerous 76
ordnance. 77

(B) No person, with knowledge that the person has tested 78
positive as a carrier of a virus that causes acquired 79
immunodeficiency syndrome, shall knowingly do any of the 80
following: 81

(1) Engage in sexual conduct with another person without 82
disclosing that knowledge to the other person prior to engaging 83
in the sexual conduct; 84

(2) Engage in sexual conduct with a person whom the 85
offender knows or has reasonable cause to believe lacks the 86
mental capacity to appreciate the significance of the knowledge 87
that the offender has tested positive as a carrier of a virus 88
that causes acquired immunodeficiency syndrome; 89

(3) Engage in sexual conduct with a person under eighteen 90
years of age who is not the spouse of the offender. 91

(C) The prosecution of a person under this section does 92
not preclude prosecution of that person under section 2907.02 of 93
the Revised Code. 94

(D) (1) (a) Whoever violates this section is guilty of 95
felonious assault. Except as otherwise provided in this division 96
or division (D) (1) (b) or (c) of this section, felonious assault 97
is a felony of the second degree. If the victim of a violation 98
of division (A) of this section is a peace officer or an 99
investigator of the bureau of criminal identification and 100
investigation, felonious assault is a felony of the first 101
degree. 102

(b) Regardless of whether the felonious assault is a 103

felony of the first or second degree under division (D) (1) (a) of 104
this section, if the offender also is convicted of or pleads 105
guilty to a specification as described in section 2941.1423 of 106
the Revised Code that was included in the indictment, count in 107
the indictment, or information charging the offense, except as 108
otherwise provided in this division or unless a longer prison 109
term is required under any other provision of law, the court 110
shall sentence the offender to a mandatory prison term as 111
provided in division (B) (8) of section 2929.14 of the Revised 112
Code. If the victim of the offense is a peace officer or an 113
investigator of the bureau of criminal identification and 114
investigation, and if the victim suffered serious physical harm 115
as a result of the commission of the offense, felonious assault 116
is a felony of the first degree, and the court, pursuant to 117
division (F) of section 2929.13 of the Revised Code, shall 118
impose as a mandatory prison term one of the definite prison 119
terms prescribed for a felony of the first degree in division 120
(A) (1) (b) of section 2929.14 of the Revised Code, except that if 121
the violation is committed on or after ~~the effective date of~~ 122
~~this amendment~~ March 22, 2019, the court shall impose as the 123
minimum prison term for the offense a mandatory prison term that 124
is one of the minimum terms prescribed for a felony of the first 125
degree in division (A) (1) (a) of section 2929.14 of the Revised 126
Code. 127

(c) If the victim of a violation of division (A) of this 128
section is an off-duty corrections officer, a parole or 129
probation officer, or a parole board member and the victim was 130
specifically targeted for being a corrections officer, a parole 131
or probation officer, or a parole board member, felonious 132
assault is a felony of the first degree. If the corrections 133
officer, parole or probation officer, or parole board member 134

suffered serious physical harm as a result of the commission of 135
the offense, the court shall impose as the minimum prison term 136
for the offense a mandatory prison term that is one of the 137
minimum terms prescribed for a felony of the first degree in 138
division (A) (1) (a) of section 2929.14 of the Revised Code. 139

(2) In addition to any other sanctions imposed pursuant to 140
division (D) (1) of this section for felonious assault committed 141
in violation of division (A) (1) or (2) of this section, if the 142
offender also is convicted of or pleads guilty to a 143
specification of the type described in section 2941.1425 of the 144
Revised Code that was included in the indictment, count in the 145
indictment, or information charging the offense, the court shall 146
sentence the offender to a mandatory prison term under division 147
(B) (9) of section 2929.14 of the Revised Code. 148

(3) If the victim of a felonious assault committed in 149
violation of division (A) of this section is a child under ten 150
years of age and if the offender also is convicted of or pleads 151
guilty to a specification of the type described in section 152
2941.1426 of the Revised Code that was included in the 153
indictment, count in the indictment, or information charging the 154
offense, in addition to any other sanctions imposed pursuant to 155
division (D) (1) of this section, the court shall sentence the 156
offender to a mandatory prison term pursuant to division (B) (10) 157
of section 2929.14 of the Revised Code. 158

(4) In addition to any other sanctions imposed pursuant to 159
division (D) (1) of this section for felonious assault committed 160
in violation of division (A) (2) of this section, if the deadly 161
weapon used in the commission of the violation is a motor 162
vehicle, the court shall impose upon the offender a class two 163
suspension of the offender's driver's license, commercial 164

driver's license, temporary instruction permit, probationary 165
license, or nonresident operating privilege as specified in 166
division (A) (2) of section 4510.02 of the Revised Code. 167

(E) As used in this section: 168

(1) "Deadly weapon" and "dangerous ordnance" have the same 169
meanings as in section 2923.11 of the Revised Code. 170

(2) "Motor vehicle" has the same meaning as in section 171
4501.01 of the Revised Code. 172

(3) "Peace officer" has the same meaning as in section 173
2935.01 of the Revised Code. 174

(4) "Sexual conduct" has the same meaning as in section 175
2907.01 of the Revised Code, except that, as used in this 176
section, it does not include the insertion of an instrument, 177
apparatus, or other object that is not a part of the body into 178
the vaginal or anal opening of another, unless the offender knew 179
at the time of the insertion that the instrument, apparatus, or 180
other object carried the offender's bodily fluid. 181

(5) "Investigator of the bureau of criminal identification 182
and investigation" means an investigator of the bureau of 183
criminal identification and investigation who is commissioned by 184
the superintendent of the bureau as a special agent for the 185
purpose of assisting law enforcement officers or providing 186
emergency assistance to peace officers pursuant to authority 187
granted under section 109.541 of the Revised Code. 188

(6) "Investigator" has the same meaning as in section 189
109.541 of the Revised Code. 190

(7) "Corrections officer," "parole or probation officer," 191
and "parole board member" have the same meanings as in section 192

2903.01 of the Revised Code. 193

(F) The provisions of division (D) (2) of this section and 194
of division (F) (20) of section 2929.13, divisions (B) (9) and (C) 195
(6) of section 2929.14, and section 2941.1425 of the Revised 196
Code shall be known as "Judy's Law." 197

Sec. 2923.02. (A) No person, purposely or knowingly, and 198
when purpose or knowledge is sufficient culpability for the 199
commission of an offense, shall engage in conduct that, if 200
successful, would constitute or result in the offense. 201

(B) It is no defense to a charge under this section that, 202
in retrospect, commission of the offense that was the object of 203
the attempt was either factually or legally impossible under the 204
attendant circumstances, if that offense could have been 205
committed had the attendant circumstances been as the actor 206
believed them to be. 207

(C) No person who is convicted of committing a specific 208
offense, of complicity in the commission of an offense, or of 209
conspiracy to commit an offense shall be convicted of an attempt 210
to commit the same offense in violation of this section. 211

(D) It is an affirmative defense to a charge under this 212
section that the actor abandoned the actor's effort to commit 213
the offense or otherwise prevented its commission, under 214
circumstances manifesting a complete and voluntary renunciation 215
of the actor's criminal purpose. 216

(E) (1) Whoever violates this section is guilty of an 217
attempt to commit an offense. An attempt to commit aggravated 218
murder, murder, or an offense for which the maximum penalty is 219
imprisonment for life is a felony of the first degree. An 220
attempt to commit a drug abuse offense for which the penalty is 221

determined by the amount or number of unit doses of the 222
controlled substance involved in the drug abuse offense is an 223
offense of the same degree as the drug abuse offense attempted 224
would be if that drug abuse offense had been committed and had 225
involved an amount or number of unit doses of the controlled 226
substance that is within the next lower range of controlled 227
substance amounts than was involved in the attempt. An attempt 228
to commit any other offense is an offense of the next lesser 229
degree than the offense attempted. In the case of an attempt to 230
commit an offense other than a violation of Chapter 3734. of the 231
Revised Code that is not specifically classified, an attempt is 232
a misdemeanor of the first degree if the offense attempted is a 233
felony, and a misdemeanor of the fourth degree if the offense 234
attempted is a misdemeanor. In the case of an attempt to commit 235
a violation of any provision of Chapter 3734. of the Revised 236
Code, other than section 3734.18 of the Revised Code, that 237
relates to hazardous wastes, an attempt is a felony punishable 238
by a fine of not more than twenty-five thousand dollars or 239
imprisonment for not more than eighteen months, or both. An 240
attempt to commit a minor misdemeanor, or to engage in 241
conspiracy, is not an offense under this section. 242

(2) If a person is convicted of or pleads guilty to 243
attempted rape and also is convicted of or pleads guilty to a 244
specification of the type described in section 2941.1418, 245
2941.1419, or 2941.1420 of the Revised Code, the offender shall 246
be sentenced to a prison term or term of life imprisonment 247
pursuant to section 2971.03 of the Revised Code. 248

(3) In addition to any other sanctions imposed pursuant to 249
division (E)(1) of this section for an attempt to commit 250
aggravated murder or murder in violation of division (A) of this 251
section, if the offender used a motor vehicle as the means to 252

attempt to commit the offense, the court shall impose upon the 253
offender a class two suspension of the offender's driver's 254
license, commercial driver's license, temporary instruction 255
permit, probationary license, or nonresident operating privilege 256
as specified in division (A) (2) of section 4510.02 of the 257
Revised Code. 258

(4) If a person is convicted of or ~~found~~ pleads guilty of 259
to an attempt to commit aggravated murder of the type described 260
in division (E) ~~or, (F), or (G)~~ of section 2903.01 of the 261
Revised Code, the court shall impose as a mandatory prison term 262
one of the prison terms prescribed for a felony of the first 263
degree. 264

(F) As used in this section: 265

(1) "Drug abuse offense" has the same meaning as in 266
section 2925.01 of the Revised Code. 267

(2) "Motor vehicle" has the same meaning as in section 268
4501.01 of the Revised Code. 269

Section 2. That existing sections 2903.01, 2903.11, and 270
2923.02 of the Revised Code are hereby repealed. 271

Section 3. Section 2903.11 of the Revised Code is 272
presented in this act as a composite of the section as amended 273
by both Sub. S.B. 20 and Am. Sub. S.B. 201 of the 132 General 274
Assembly. The General Assembly, applying the principle stated in 275
division (B) of section 1.52 of the Revised Code that amendments 276
are to be harmonized if reasonably capable of simultaneous 277
operation, finds that the composite is the resulting version of 278
the section in effect prior to the effective date of the section 279
as presented in this act. 280