

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 498

Representative Schuring

A BILL

To amend sections 2901.01 and 2921.33 of the 1
Revised Code to classify resisting arrest as an 2
offense of violence and to increase the 3
penalties for certain resisting arrest offenses. 4

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

Section 1. That sections 2901.01 and 2921.33 of the 5
Revised Code be amended to read as follows: 6

Sec. 2901.01. (A) As used in the Revised Code: 7

(1) "Force" means any violence, compulsion, or constraint 8
physically exerted by any means upon or against a person or 9
thing. 10

(2) "Deadly force" means any force that carries a 11
substantial risk that it will proximately result in the death of 12
any person. 13

(3) "Physical harm to persons" means any injury, illness, 14
or other physiological impairment, regardless of its gravity or 15
duration. 16

(4) "Physical harm to property" means any tangible or 17
intangible damage to property that, in any degree, results in 18

loss to its value or interferes with its use or enjoyment.	19
"Physical harm to property" does not include wear and tear	20
occasioned by normal use.	21
(5) "Serious physical harm to persons" means any of the	22
following:	23
(a) Any mental illness or condition of such gravity as	24
would normally require hospitalization or prolonged psychiatric	25
treatment;	26
(b) Any physical harm that carries a substantial risk of	27
death;	28
(c) Any physical harm that involves some permanent	29
incapacity, whether partial or total, or that involves some	30
temporary, substantial incapacity;	31
(d) Any physical harm that involves some permanent	32
disfigurement or that involves some temporary, serious	33
disfigurement;	34
(e) Any physical harm that involves acute pain of such	35
duration as to result in substantial suffering or that involves	36
any degree of prolonged or intractable pain.	37
(6) "Serious physical harm to property" means any physical	38
harm to property that does either of the following:	39
(a) Results in substantial loss to the value of the	40
property or requires a substantial amount of time, effort, or	41
money to repair or replace;	42
(b) Temporarily prevents the use or enjoyment of the	43
property or substantially interferes with its use or enjoyment	44
for an extended period of time.	45

(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(9) "Offense of violence" means any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.33, 2921.34, or 2923.161, of division (A)(1) of section 2903.34, of division (A)(1), (2), or (3) of section 2911.12, or of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A)(9)(a) of this section;

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (A)(9)(a), (b), or (c) of

this section. 75

(10) (a) "Property" means any property, real or personal, 76
tangible or intangible, and any interest or license in that 77
property. "Property" includes, but is not limited to, cable 78
television service, other telecommunications service, 79
telecommunications devices, information service, computers, 80
data, computer software, financial instruments associated with 81
computers, other documents associated with computers, or copies 82
of the documents, whether in machine or human readable form, 83
trade secrets, trademarks, copyrights, patents, and property 84
protected by a trademark, copyright, or patent. "Financial 85
instruments associated with computers" include, but are not 86
limited to, checks, drafts, warrants, money orders, notes of 87
indebtedness, certificates of deposit, letters of credit, bills 88
of credit or debit cards, financial transaction authorization 89
mechanisms, marketable securities, or any computer system 90
representations of any of them. 91

(b) As used in division (A) (10) of this section, "trade 92
secret" has the same meaning as in section 1333.61 of the 93
Revised Code, and "telecommunications service" and "information 94
service" have the same meanings as in section 2913.01 of the 95
Revised Code. 96

(c) As used in divisions (A) (10) and (13) of this section, 97
"cable television service," "computer," "computer software," 98
"computer system," "computer network," "data," and 99
"telecommunications device" have the same meanings as in section 100
2913.01 of the Revised Code. 101

(11) "Law enforcement officer" means any of the following: 102

(a) A sheriff, deputy sheriff, constable, police officer 103

of a township or joint police district, marshal, deputy marshal, 104
municipal police officer, member of a police force employed by a 105
metropolitan housing authority under division (D) of section 106
3735.31 of the Revised Code, or state highway patrol trooper; 107

(b) An officer, agent, or employee of the state or any of 108
its agencies, instrumentalities, or political subdivisions, upon 109
whom, by statute, a duty to conserve the peace or to enforce all 110
or certain laws is imposed and the authority to arrest violators 111
is conferred, within the limits of that statutory duty and 112
authority; 113

(c) A mayor, in the mayor's capacity as chief conservator 114
of the peace within the mayor's municipal corporation; 115

(d) A member of an auxiliary police force organized by 116
county, township, or municipal law enforcement authorities, 117
within the scope of the member's appointment or commission; 118

(e) A person lawfully called pursuant to section 311.07 of 119
the Revised Code to aid a sheriff in keeping the peace, for the 120
purposes and during the time when the person is called; 121

(f) A person appointed by a mayor pursuant to section 122
737.01 of the Revised Code as a special patrolling officer 123
during riot or emergency, for the purposes and during the time 124
when the person is appointed; 125

(g) A member of the organized militia of this state or the 126
armed forces of the United States, lawfully called to duty to 127
aid civil authorities in keeping the peace or protect against 128
domestic violence; 129

(h) A prosecuting attorney, assistant prosecuting 130
attorney, secret service officer, or municipal prosecutor; 131

(i) A veterans' home police officer appointed under	132
section 5907.02 of the Revised Code;	133
(j) A member of a police force employed by a regional	134
transit authority under division (Y) of section 306.35 of the	135
Revised Code;	136
(k) A special police officer employed by a port authority	137
under section 4582.04 or 4582.28 of the Revised Code;	138
(l) The house of representatives sergeant at arms if the	139
house of representatives sergeant at arms has arrest authority	140
pursuant to division (E) (1) of section 101.311 of the Revised	141
Code and an assistant house of representatives sergeant at arms;	142
(m) The senate sergeant at arms and an assistant senate	143
sergeant at arms;	144
(n) A special police officer employed by a municipal	145
corporation at a municipal airport, or other municipal air	146
navigation facility, that has scheduled operations, as defined	147
in section 119.3 of Title 14 of the Code of Federal Regulations,	148
14 C.F.R. 119.3, as amended, and that is required to be under a	149
security program and is governed by aviation security rules of	150
the transportation security administration of the United States	151
department of transportation as provided in Parts 1542. and	152
1544. of Title 49 of the Code of Federal Regulations, as	153
amended.	154
(12) "Privilege" means an immunity, license, or right	155
conferred by law, bestowed by express or implied grant, arising	156
out of status, position, office, or relationship, or growing out	157
of necessity.	158
(13) "Contraband" means any property that is illegal for a	159
person to acquire or possess under a statute, ordinance, or	160

rule, or that a trier of fact lawfully determines to be illegal 161
to possess by reason of the property's involvement in an 162
offense. "Contraband" includes, but is not limited to, all of 163
the following: 164

(a) Any controlled substance, as defined in section 165
3719.01 of the Revised Code, or any device or paraphernalia; 166

(b) Any unlawful gambling device or paraphernalia; 167

(c) Any dangerous ordnance or obscene material. 168

(14) A person is "not guilty by reason of insanity" 169
relative to a charge of an offense only if the person proves, in 170
the manner specified in section 2901.05 of the Revised Code, 171
that at the time of the commission of the offense, the person 172
did not know, as a result of a severe mental disease or defect, 173
the wrongfulness of the person's acts. 174

(B) (1) (a) Subject to division (B) (2) of this section, as 175
used in any section contained in Title XXIX of the Revised Code 176
that sets forth a criminal offense, "person" includes all of the 177
following: 178

(i) An individual, corporation, business trust, estate, 179
trust, partnership, and association; 180

(ii) An unborn human who is viable. 181

(b) As used in any section contained in Title XXIX of the 182
Revised Code that does not set forth a criminal offense, 183
"person" includes an individual, corporation, business trust, 184
estate, trust, partnership, and association. 185

(c) As used in division (B) (1) (a) of this section: 186

(i) "Unborn human" means an individual organism of the 187

species Homo sapiens from fertilization until live birth. 188

(ii) "Viable" means the stage of development of a human 189
fetus at which there is a realistic possibility of maintaining 190
and nourishing of a life outside the womb with or without 191
temporary artificial life-sustaining support. 192

(2) Notwithstanding division (B) (1) (a) of this section, in 193
no case shall the portion of the definition of the term "person" 194
that is set forth in division (B) (1) (a) (ii) of this section be 195
applied or construed in any section contained in Title XXIX of 196
the Revised Code that sets forth a criminal offense in any of 197
the following manners: 198

(a) Except as otherwise provided in division (B) (2) (a) of 199
this section, in a manner so that the offense prohibits or is 200
construed as prohibiting any pregnant woman or her physician 201
from performing an abortion with the consent of the pregnant 202
woman, with the consent of the pregnant woman implied by law in 203
a medical emergency, or with the approval of one otherwise 204
authorized by law to consent to medical treatment on behalf of 205
the pregnant woman. An abortion that violates the conditions 206
described in the immediately preceding sentence may be punished 207
as a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 208
2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 209
2903.21, or 2903.22 of the Revised Code, as applicable. An 210
abortion that does not violate the conditions described in the 211
second immediately preceding sentence, but that does violate 212
section 2919.12, division (B) of section 2919.13, or section 213
2919.151, 2919.17, or 2919.18 of the Revised Code, may be 214
punished as a violation of section 2919.12, division (B) of 215
section 2919.13, or section 2919.151, 2919.17, or 2919.18 of the 216
Revised Code, as applicable. Consent is sufficient under this 217

division if it is of the type otherwise adequate to permit 218
medical treatment to the pregnant woman, even if it does not 219
comply with section 2919.12 of the Revised Code. 220

(b) In a manner so that the offense is applied or is 221
construed as applying to a woman based on an act or omission of 222
the woman that occurs while she is or was pregnant and that 223
results in any of the following: 224

(i) Her delivery of a stillborn baby; 225

(ii) Her causing, in any other manner, the death in utero 226
of a viable, unborn human that she is carrying; 227

(iii) Her causing the death of her child who is born alive 228
but who dies from one or more injuries that are sustained while 229
the child is a viable, unborn human; 230

(iv) Her causing her child who is born alive to sustain 231
one or more injuries while the child is a viable, unborn human; 232

(v) Her causing, threatening to cause, or attempting to 233
cause, in any other manner, an injury, illness, or other 234
physiological impairment, regardless of its duration or gravity, 235
or a mental illness or condition, regardless of its duration or 236
gravity, to a viable, unborn human that she is carrying. 237

(C) As used in Title XXIX of the Revised Code: 238

(1) "School safety zone" consists of a school, school 239
building, school premises, school activity, and school bus. 240

(2) "School," "school building," and "school premises" 241
have the same meanings as in section 2925.01 of the Revised 242
Code. 243

(3) "School activity" means any activity held under the 244

auspices of a board of education of a city, local, exempted 245
village, joint vocational, or cooperative education school 246
district; a governing authority of a community school 247
established under Chapter 3314. of the Revised Code; a governing 248
board of an educational service center, or the governing body of 249
a school for which the state board of education prescribes 250
minimum standards under section 3301.07 of the Revised Code. 251

(4) "School bus" has the same meaning as in section 252
4511.01 of the Revised Code. 253

Sec. 2921.33. (A) No person, recklessly or by force, shall 254
resist or interfere with a lawful arrest of the person or 255
another. 256

(B) No person, recklessly or by force, shall resist or 257
interfere with a lawful arrest of the person or another person 258
and, during the course of or as a result of the resistance or 259
interference, cause physical harm to a law enforcement officer. 260

(C) No person, recklessly or by force, shall resist or 261
interfere with a lawful arrest of the person or another person 262
if either of the following applies: 263

(1) The offender, during the course of or as a result of 264
the resistance or interference, recklessly causes physical harm 265
to a law enforcement officer by means of a deadly weapon; 266

(2) The offender, during the course of the resistance or 267
interference, brandishes a deadly weapon. 268

(D) Whoever violates this section is guilty of resisting 269
arrest. A violation of division (A) of this section is a 270
misdemeanor of the ~~second~~first degree. A violation of division 271
(B) or (C) (1) of this section is a ~~misdemeanor~~felony of the 272
~~first~~fifth degree. A violation of division (C) (2) of this 273

section is a felony of the fourth degree.	274
(E) As used in this section, "deadly weapon" has the same	275
meaning as in section 2923.11 of the Revised Code.	276
Section 2. That existing sections 2901.01 and 2921.33 of	277
the Revised Code are hereby repealed.	278