

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 316

**Senator Hughes
Cosponsor: Senator Hite**

A BILL

To amend sections 2907.06, 2929.24, and 2929.41 of
the Revised Code to increase the penalty for
sexual imposition when the offender previously
has been convicted of or pleaded guilty to three
or more violations of sexual imposition or other
specified sex offenses.

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

Section 1. That sections 2907.06, 2929.24, and 2929.41 of
the Revised Code be amended to read as follows:

Sec. 2907.06. (A) No person shall have sexual contact with
another, not the spouse of the offender; cause another, not the
spouse of the offender, to have sexual contact with the
offender; or cause two or more other persons to have sexual
contact when any of the following applies:

(1) The offender knows that the sexual contact is
offensive to the other person, or one of the other persons, or
is reckless in that regard.

(2) The offender knows that the other person's, or one of
the other person's, ability to appraise the nature of or control

the offender's or touching person's conduct is substantially 19
impaired. 20

(3) The offender knows that the other person, or one of 21
the other persons, submits because of being unaware of the 22
sexual contact. 23

(4) The other person, or one of the other persons, is 24
thirteen years of age or older but less than sixteen years of 25
age, whether or not the offender knows the age of such person, 26
and the offender is at least eighteen years of age and four or 27
more years older than such other person. 28

(5) The offender is a mental health professional, the 29
other person or one of the other persons is a mental health 30
client or patient of the offender, and the offender induces the 31
other person who is the client or patient to submit by falsely 32
representing to the other person who is the client or patient 33
that the sexual contact is necessary for mental health treatment 34
purposes. 35

(B) No person shall be convicted of a violation of this 36
section solely upon the victim's testimony unsupported by other 37
evidence. 38

(C) Whoever violates this section is guilty of sexual 39
imposition, a misdemeanor of the third degree. If the offender 40
previously has been convicted of or pleaded guilty to a 41
violation of this section or of section 2907.02, 2907.03, 42
2907.04, 2907.05, or 2907.12 of the Revised Code, a violation of 43
this section is a misdemeanor of the first degree. If the 44
offender previously has been convicted of or pleaded guilty to 45
three or more violations of this section or of section 2907.02, 46
2907.03, 2907.04, 2907.05, or 2907.12 of the Revised Code, a 47

violation of this section is a misdemeanor and the court may 48
impose on the offender a jail term of not more than one year. 49

Sec. 2929.24. (A) Except as provided in section 2929.22 or 50
2929.23 of the Revised Code or division (E) or (F) of this 51
section and unless another term is required or authorized 52
pursuant to law, if the sentencing court imposing a sentence 53
upon an offender for a misdemeanor elects or is required to 54
impose a jail term on the offender pursuant to this chapter, the 55
court shall impose a definite jail term that shall be one of the 56
following: 57

(1) For a misdemeanor of the first degree, not more than 58
one hundred eighty days; 59

(2) For a misdemeanor of the second degree, not more than 60
ninety days; 61

(3) For a misdemeanor of the third degree, not more than 62
sixty days; 63

(4) For a misdemeanor of the fourth degree, not more than 64
thirty days. 65

(B) (1) A court that sentences an offender to a jail term 66
under this section may permit the offender to serve the sentence 67
in intermittent confinement or may authorize a limited release 68
of the offender as provided in division (B) of section 2929.26 69
of the Revised Code. The court retains jurisdiction over every 70
offender sentenced to jail to modify the jail sentence imposed 71
at any time, but the court shall not reduce any mandatory jail 72
term. 73

(2) (a) If a prosecutor, as defined in section 2935.01 of 74
the Revised Code, has filed a notice with the court that the 75
prosecutor wants to be notified about a particular case and if 76

the court is considering modifying the jail sentence of the 77
offender in that case, the court shall notify the prosecutor 78
that the court is considering modifying the jail sentence of the 79
offender in that case. The prosecutor may request a hearing 80
regarding the court's consideration of modifying the jail 81
sentence of the offender in that case, and, if the prosecutor 82
requests a hearing, the court shall notify the eligible offender 83
of the hearing. 84

(b) If the prosecutor requests a hearing regarding the 85
court's consideration of modifying the jail sentence of the 86
offender in that case, the court shall hold the hearing before 87
considering whether or not to release the offender from the 88
offender's jail sentence. 89

(C) If a court sentences an offender to a jail term under 90
this section and the court assigns the offender to a county jail 91
that has established a county jail industry program pursuant to 92
section 5147.30 of the Revised Code, the court shall specify, as 93
part of the sentence, whether the offender may be considered for 94
participation in the program. During the offender's term in the 95
county jail, the court retains jurisdiction to modify its 96
specification regarding the offender's participation in the 97
county jail industry program. 98

(D) If a person is sentenced to a jail term pursuant to 99
this section, or pursuant to section 2907.06 of the Revised Code 100
when the person previously has been convicted of or pleaded 101
guilty to three or more violations of section 2907.02, 2907.03, 102
2907.04, 2907.05, 2907.06, or 2907.12 of the Revised Code, 103
the court may impose as part of the sentence pursuant to section 104
2929.28 of the Revised Code a reimbursement sanction, and, if 105
the local detention facility in which the term is to be served 106

is covered by a policy adopted pursuant to section 307.93, 107
341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, 108
or 2947.19 of the Revised Code and section 2929.37 of the 109
Revised Code, both of the following apply: 110

(1) The court shall specify both of the following as part 111
of the sentence: 112

(a) If the person is presented with an itemized bill 113
pursuant to section 2929.37 of the Revised Code for payment of 114
the costs of confinement, the person is required to pay the bill 115
in accordance with that section. 116

(b) If the person does not dispute the bill described in 117
division (D)(1)(a) of this section and does not pay the bill by 118
the times specified in section 2929.37 of the Revised Code, the 119
clerk of the court may issue a certificate of judgment against 120
the person as described in that section. 121

(2) The sentence automatically includes any certificate of 122
judgment issued as described in division (D)(1)(b) of this 123
section. 124

(E) If an offender who is convicted of or pleads guilty to 125
a violation of division (B) of section 4511.19 of the Revised 126
Code also is convicted of or also pleads guilty to a 127
specification of the type described in section 2941.1416 of the 128
Revised Code and if the court imposes a jail term on the 129
offender for the underlying offense, the court shall impose upon 130
the offender an additional definite jail term of not more than 131
six months. The additional jail term shall not be reduced 132
pursuant to any provision of the Revised Code. The offender 133
shall serve the additional jail term consecutively to and prior 134
to the jail term imposed for the underlying offense and 135

consecutively to any other mandatory term imposed in relation to 136
the offense. 137

(F) (1) If an offender is convicted of or pleads guilty to 138
a misdemeanor violation of section 2907.23, 2907.24, 2907.241, 139
or 2907.25 of the Revised Code and to a specification of the 140
type described in section 2941.1421 of the Revised Code and if 141
the court imposes a jail term on the offender for the 142
misdemeanor violation, the court may impose upon the offender an 143
additional definite jail term as follows: 144

(a) Subject to division (F) (1) (b) of this section, an 145
additional definite jail term of not more than sixty days; 146

(b) If the offender previously has been convicted of or 147
pleaded guilty to one or more misdemeanor or felony violations 148
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 149
the Revised Code and also was convicted of or pleaded guilty to 150
a specification of the type described in section 2941.1421 of 151
the Revised Code regarding one or more of those violations, an 152
additional definite jail term of not more than one hundred 153
twenty days. 154

(2) In lieu of imposing an additional definite jail term 155
under division (F) (1) of this section, the court may directly 156
impose on the offender a sanction that requires the offender to 157
wear a real-time processing, continual tracking electronic 158
monitoring device during the period of time specified by the 159
court. The period of time specified by the court shall equal the 160
duration of an additional jail term that the court could have 161
imposed upon the offender under division (F) (1) of this section. 162
A sanction imposed under this division shall commence on the 163
date specified by the court, provided that the sanction shall 164
not commence until after the offender has served the jail term 165

imposed for the misdemeanor violation of section 2907.23, 166
2907.24, 2907.241, or 2907.25 of the Revised Code and any 167
residential sanction imposed for the violation under section 168
2929.26 of the Revised Code. A sanction imposed under this 169
division shall be considered to be a community control sanction 170
for purposes of section 2929.25 of the Revised Code, and all 171
provisions of the Revised Code that pertain to community control 172
sanctions shall apply to a sanction imposed under this division, 173
except to the extent that they would by their nature be clearly 174
inapplicable. The offender shall pay all costs associated with a 175
sanction imposed under this division, including the cost of the 176
use of the monitoring device. 177

(G) If an offender is convicted of or pleads guilty to a 178
misdemeanor violation of section 2903.13 of the Revised Code and 179
also is convicted of or pleads guilty to a specification of the 180
type described in section 2941.1423 of the Revised Code that 181
charges that the victim of the violation was a woman whom the 182
offender knew was pregnant at the time of the violation, the 183
court shall impose on the offender a mandatory jail term that is 184
a definite term of at least thirty days. 185

(H) If a court sentences an offender to a jail term under 186
this section, the sentencing court retains jurisdiction over the 187
offender and the jail term. Upon motion of either party or upon 188
the court's own motion, the court, in the court's sole 189
discretion and as the circumstances warrant, may substitute one 190
or more community control sanctions under section 2929.26 or 191
2929.27 of the Revised Code for any jail days that are not 192
mandatory jail days. 193

Sec. 2929.41. (A) Except as provided in division (B) of 194
this section, division (C) of section 2929.14, or division (D) 195

or (E) of section 2971.03 of the Revised Code, a prison term, 196
jail term, or sentence of imprisonment shall be served 197
concurrently with any other prison term, jail term, or sentence 198
of imprisonment imposed by a court of this state, another state, 199
or the United States. Except as provided in division (B) (3) of 200
this section, a jail term or sentence of imprisonment for 201
misdemeanor shall be served concurrently with a prison term or 202
sentence of imprisonment for felony served in a state or federal 203
correctional institution. 204

(B) (1) ~~A~~ (a) Except as provided in division (B) (1) (b) of 205
this section, a jail term or sentence of imprisonment for a 206
misdemeanor shall be served consecutively to any other prison 207
term, jail term, or sentence of imprisonment when the trial 208
court specifies that it is to be served consecutively or when it 209
is imposed for a misdemeanor violation of section 2907.322, 210
2921.34, or 2923.131 of the Revised Code. 211

When consecutive sentences are imposed for misdemeanor 212
under this division, the term to be served is the aggregate of 213
the consecutive terms imposed, except that the aggregate term to 214
be served shall not exceed eighteen months. 215

(b) A jail term imposed for a violation of section 2907.06 216
of the Revised Code when the offender previously has been 217
convicted of or pleaded guilty to three or more violations of 218
section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.12 219
of the Revised Code shall be served consecutively to any other 220
prison term, jail term, or sentence of imprisonment. 221

When consecutive sentences are imposed for a violation of 222
section 2907.06 of the Revised Code under this division, the 223
term to be served is the aggregate of the consecutive terms 224
imposed. 225

(2) If a court of this state imposes a prison term upon 226
the offender for the commission of a felony and a court of 227
another state or the United States also has imposed a prison 228
term upon the offender for the commission of a felony, the court 229
of this state may order that the offender serve the prison term 230
it imposes consecutively to any prison term imposed upon the 231
offender by the court of another state or the United States. 232

(3) A jail term or sentence of imprisonment imposed for a 233
misdemeanor violation of section 4510.11, 4510.14, 4510.16, 234
4510.21, or 4511.19 of the Revised Code shall be served 235
consecutively to a prison term that is imposed for a felony 236
violation of section 2903.06, 2903.07, 2903.08, or 4511.19 of 237
the Revised Code or a felony violation of section 2903.04 of the 238
Revised Code involving the operation of a motor vehicle by the 239
offender and that is served in a state correctional institution 240
when the trial court specifies that it is to be served 241
consecutively. 242

When consecutive jail terms or sentences of imprisonment 243
and prison terms are imposed for one or more misdemeanors and 244
one or more felonies under this division, the term to be served 245
is the aggregate of the consecutive terms imposed, and the 246
offender shall serve all terms imposed for a felony before 247
serving any term imposed for a misdemeanor. 248

Section 2. That existing sections 2907.06, 2929.24, and 249
2929.41 of the Revised Code are hereby repealed. 250