

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 38

Representative Greenspan

**Cosponsors: Representatives Anielski, Barnes, Goodman, Keller, Kick, Lipps,
Patton, Perales, Riedel, Retherford, Sprague, Thompson, Wiggam, Young**

A BILL

To amend sections 2903.01, 2903.11, and 2929.14 of 1
the Revised Code to provide that purposely 2
causing the death of a first responder or 3
military member is aggravated murder and to 4
require an offender to serve the prison term 5
imposed for felonious assault on a peace 6
officer, investigator, first responder, or 7
military member consecutively to the prison term 8
imposed for any related offense. 9

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

Section 1. That sections 2903.01, 2903.11, and 2929.14 of 10
the Revised Code be amended to read as follows: 11

Sec. 2903.01. (A) No person shall purposely, and with 12
prior calculation and design, cause the death of another or the 13
unlawful termination of another's pregnancy. 14

(B) No person shall purposely cause the death of another 15
or the unlawful termination of another's pregnancy while 16
committing or attempting to commit, or while fleeing immediately 17

after committing or attempting to commit, kidnapping, rape, 18
aggravated arson, arson, aggravated robbery, robbery, aggravated 19
burglary, burglary, trespass in a habitation when a person is 20
present or likely to be present, terrorism, or escape. 21

(C) No person shall purposely cause the death of another 22
who is under thirteen years of age at the time of the commission 23
of the offense. 24

(D) No person who is under detention as a result of having 25
been found guilty of or having pleaded guilty to a felony or who 26
breaks that detention shall purposely cause the death of 27
another. 28

(E) No person shall purposely cause the death of a law 29
enforcement officer, first responder, or military member whom 30
the offender knows or has reasonable cause to know is a law 31
enforcement officer, first responder, or military member when 32
either of the following applies: 33

(1) The victim, at the time of the commission of the 34
offense, is engaged in the victim's duties. 35

(2) It is the offender's specific purpose to kill a law 36
enforcement officer, first responder, or military member. 37

(F) Whoever violates this section is guilty of aggravated 38
murder, and shall be punished as provided in section 2929.02 of 39
the Revised Code. 40

(G) As used in this section: 41

(1) "Detention" has the same meaning as in section 2921.01 42
of the Revised Code. 43

(2) "Law enforcement officer" has the same meaning as in 44
section 2911.01 of the Revised Code and also includes any 45

federal law enforcement officer as defined in section 2921.51 of 46
the Revised Code and anyone who has previously served as a law 47
enforcement officer or federal law enforcement officer. 48

(3) "First responder" means an emergency medical service 49
provider, a firefighter, or any other emergency response 50
personnel, or anyone who has previously served as a first 51
responder. 52

(4) "Military member" means a member of the armed forces 53
of the United States, reserves, or Ohio national guard, a 54
participant in ROTC or JROTC, or anyone who has previously 55
served in the military. 56

Sec. 2903.11. (A) No person shall knowingly do either of 57
the following: 58

(1) Cause serious physical harm to another or to another's 59
unborn; 60

(2) Cause or attempt to cause physical harm to another or 61
to another's unborn by means of a deadly weapon or dangerous 62
ordnance. 63

(B) No person, with knowledge that the person has tested 64
positive as a carrier of a virus that causes acquired 65
immunodeficiency syndrome, shall knowingly do any of the 66
following: 67

(1) Engage in sexual conduct with another person without 68
disclosing that knowledge to the other person prior to engaging 69
in the sexual conduct; 70

(2) Engage in sexual conduct with a person whom the 71
offender knows or has reasonable cause to believe lacks the 72
mental capacity to appreciate the significance of the knowledge 73

that the offender has tested positive as a carrier of a virus 74
that causes acquired immunodeficiency syndrome; 75

(3) Engage in sexual conduct with a person under eighteen 76
years of age who is not the spouse of the offender. 77

(C) The prosecution of a person under this section does 78
not preclude prosecution of that person under section 2907.02 of 79
the Revised Code. 80

(D) (1) (a) Whoever violates this section is guilty of 81
felonious assault. Except as otherwise provided in this division 82
or division (D) (1) (b) or (c) of this section, felonious assault 83
is a felony of the second degree. If the victim of a violation 84
of division (A) of this section is a peace officer ~~or~~, an 85
investigator of the bureau of criminal identification and 86
investigation, a first responder, or a military member, 87
felonious assault is a felony of the first degree. 88

(b) Regardless of whether the felonious assault is a 89
felony of the first or second degree under division (D) (1) (a) of 90
this section, if the offender also is convicted of or pleads 91
guilty to a specification as described in section 2941.1423 of 92
the Revised Code that was included in the indictment, count in 93
the indictment, or information charging the offense, except as 94
otherwise provided in this division or unless a longer prison 95
term is required under any other provision of law, the court 96
shall sentence the offender to a mandatory prison term as 97
provided in division (B) (8) of section 2929.14 of the Revised 98
Code. 99

(c) If the victim of the offense is a peace officer ~~or~~, 100
an investigator of the bureau of criminal identification and 101
investigation, a first responder, or a military member and ~~if~~ 102

~~the victim suffered serious physical harm as a result of the~~ 103
~~commission of the offense~~ offender knew or had reasonable cause 104
to know the victim's profession, felonious assault is a felony 105
of the first degree, and the court, pursuant to division (F) of 106
section 2929.13 of the Revised Code, shall impose as a mandatory 107
prison term one of the prison terms prescribed for a felony of 108
the first degree. Any prison term imposed for an offense under 109
this division shall be served consecutively to any prison term 110
imposed for one or more offenses committed at the same time, as 111
part of a common scheme or plan, or as part of a course of 112
criminal conduct connected to the felonious assault. 113

(2) In addition to any other sanctions imposed pursuant to 114
division (D) (1) of this section for felonious assault committed 115
in violation of division (A) (2) of this section, if the deadly 116
weapon used in the commission of the violation is a motor 117
vehicle, the court shall impose upon the offender a class two 118
suspension of the offender's driver's license, commercial 119
driver's license, temporary instruction permit, probationary 120
license, or nonresident operating privilege as specified in 121
division (A) (2) of section 4510.02 of the Revised Code. 122

(E) As used in this section: 123

(1) "Deadly weapon" and "dangerous ordnance" have the same 124
meanings as in section 2923.11 of the Revised Code. 125

(2) "Motor vehicle" has the same meaning as in section 126
4501.01 of the Revised Code. 127

(3) "Peace officer" has the same meaning as in section 128
2935.01 of the Revised Code and also includes any federal law 129
enforcement officer as defined in section 2921.51 of the Revised 130
Code and anyone who has previously served as a peace officer or 131

<u>federal law enforcement officer.</u>	132
(4) "Sexual conduct" has the same meaning as in section 2907.01 of the Revised Code, except that, as used in this section, it does not include the insertion of an instrument, apparatus, or other object that is not a part of the body into the vaginal or anal opening of another, unless the offender knew at the time of the insertion that the instrument, apparatus, or other object carried the offender's bodily fluid.	133 134 135 136 137 138 139
(5) "Investigator of the bureau of criminal identification and investigation" means an investigator of the bureau of criminal identification and investigation who is commissioned by the superintendent of the bureau as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers pursuant to authority granted under section 109.541 of the Revised Code.	140 141 142 143 144 145 146
(6) "Investigator" has the same meaning as in section 109.541 of the Revised Code.	147 148
<u>(7) "First responder" has the same meaning as in section 2903.01 of the Revised Code.</u>	149 150
<u>(8) "Military member" has the same meaning as in section 2903.01 of the Revised Code.</u>	151 152
Sec. 2929.14. (A) Except as provided in division (B) (1), (B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (E), (G), (H), (J), or (K) of this section or in division (D) (6) of section 2919.25 of the Revised Code and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a	153 154 155 156 157 158 159 160

definite prison term that shall be one of the following: 161

(1) For a felony of the first degree, the prison term 162
shall be three, four, five, six, seven, eight, nine, ten, or 163
eleven years. 164

(2) For a felony of the second degree, the prison term 165
shall be two, three, four, five, six, seven, or eight years. 166

(3) (a) For a felony of the third degree that is a 167
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 168
2907.05, or 3795.04 of the Revised Code or that is a violation 169
of section 2911.02 or 2911.12 of the Revised Code if the 170
offender previously has been convicted of or pleaded guilty in 171
two or more separate proceedings to two or more violations of 172
section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised 173
Code, the prison term shall be twelve, eighteen, twenty-four, 174
thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty 175
months. 176

(b) For a felony of the third degree that is not an 177
offense for which division (A) (3) (a) of this section applies, 178
the prison term shall be nine, twelve, eighteen, twenty-four, 179
thirty, or thirty-six months. 180

(4) For a felony of the fourth degree, the prison term 181
shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, 182
fourteen, fifteen, sixteen, seventeen, or eighteen months. 183

(5) For a felony of the fifth degree, the prison term 184
shall be six, seven, eight, nine, ten, eleven, or twelve months. 185

(B) (1) (a) Except as provided in division (B) (1) (e) of this 186
section, if an offender who is convicted of or pleads guilty to 187
a felony also is convicted of or pleads guilty to a 188
specification of the type described in section 2941.141, 189

2941.144, or 2941.145 of the Revised Code, the court shall 190
impose on the offender one of the following prison terms: 191

(i) A prison term of six years if the specification is of 192
the type described in division (A) of section 2941.144 of the 193
Revised Code that charges the offender with having a firearm 194
that is an automatic firearm or that was equipped with a firearm 195
muffler or suppressor on or about the offender's person or under 196
the offender's control while committing the offense; 197

(ii) A prison term of three years if the specification is 198
of the type described in division (A) of section 2941.145 of the 199
Revised Code that charges the offender with having a firearm on 200
or about the offender's person or under the offender's control 201
while committing the offense and displaying the firearm, 202
brandishing the firearm, indicating that the offender possessed 203
the firearm, or using it to facilitate the offense; 204

(iii) A prison term of one year if the specification is of 205
the type described in division (A) of section 2941.141 of the 206
Revised Code that charges the offender with having a firearm on 207
or about the offender's person or under the offender's control 208
while committing the offense; 209

(iv) A prison term of nine years if the specification is 210
of the type described in division (D) of section 2941.144 of the 211
Revised Code that charges the offender with having a firearm 212
that is an automatic firearm or that was equipped with a firearm 213
muffler or suppressor on or about the offender's person or under 214
the offender's control while committing the offense and 215
specifies that the offender previously has been convicted of or 216
pleaded guilty to a specification of the type described in 217
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 218
the Revised Code; 219

(v) A prison term of fifty-four months if the 220
specification is of the type described in division (D) of 221
section 2941.145 of the Revised Code that charges the offender 222
with having a firearm on or about the offender's person or under 223
the offender's control while committing the offense and 224
displaying the firearm, brandishing the firearm, indicating that 225
the offender possessed the firearm, or using the firearm to 226
facilitate the offense and that the offender previously has been 227
convicted of or pleaded guilty to a specification of the type 228
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 229
2941.1412 of the Revised Code; 230

(vi) A prison term of eighteen months if the specification 231
is of the type described in division (D) of section 2941.141 of 232
the Revised Code that charges the offender with having a firearm 233
on or about the offender's person or under the offender's 234
control while committing the offense and that the offender 235
previously has been convicted of or pleaded guilty to a 236
specification of the type described in section 2941.141, 237
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 238

(b) If a court imposes a prison term on an offender under 239
division (B)(1)(a) of this section, the prison term shall not be 240
reduced pursuant to section 2967.19, section 2929.20, section 241
2967.193, or any other provision of Chapter 2967. or Chapter 242
5120. of the Revised Code. Except as provided in division (B)(1) 243
(g) of this section, a court shall not impose more than one 244
prison term on an offender under division (B)(1)(a) of this 245
section for felonies committed as part of the same act or 246
transaction. 247

(c)(i) Except as provided in division (B)(1)(e) of this 248
section, if an offender who is convicted of or pleads guilty to 249

a violation of section 2923.161 of the Revised Code or to a 250
felony that includes, as an essential element, purposely or 251
knowingly causing or attempting to cause the death of or 252
physical harm to another, also is convicted of or pleads guilty 253
to a specification of the type described in division (A) of 254
section 2941.146 of the Revised Code that charges the offender 255
with committing the offense by discharging a firearm from a 256
motor vehicle other than a manufactured home, the court, after 257
imposing a prison term on the offender for the violation of 258
section 2923.161 of the Revised Code or for the other felony 259
offense under division (A), (B) (2), or (B) (3) of this section, 260
shall impose an additional prison term of five years upon the 261
offender that shall not be reduced pursuant to section 2929.20, 262
section 2967.19, section 2967.193, or any other provision of 263
Chapter 2967. or Chapter 5120. of the Revised Code. 264

(ii) Except as provided in division (B) (1) (e) of this 265
section, if an offender who is convicted of or pleads guilty to 266
a violation of section 2923.161 of the Revised Code or to a 267
felony that includes, as an essential element, purposely or 268
knowingly causing or attempting to cause the death of or 269
physical harm to another, also is convicted of or pleads guilty 270
to a specification of the type described in division (C) of 271
section 2941.146 of the Revised Code that charges the offender 272
with committing the offense by discharging a firearm from a 273
motor vehicle other than a manufactured home and that the 274
offender previously has been convicted of or pleaded guilty to a 275
specification of the type described in section 2941.141, 276
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 277
the court, after imposing a prison term on the offender for the 278
violation of section 2923.161 of the Revised Code or for the 279
other felony offense under division (A), (B) (2), or (3) of this 280

section, shall impose an additional prison term of ninety months 281
upon the offender that shall not be reduced pursuant to section 282
2929.20, 2967.19, 2967.193, or any other provision of Chapter 283
2967. or Chapter 5120. of the Revised Code. 284

(iii) A court shall not impose more than one additional 285
prison term on an offender under division (B) (1) (c) of this 286
section for felonies committed as part of the same act or 287
transaction. If a court imposes an additional prison term on an 288
offender under division (B) (1) (c) of this section relative to an 289
offense, the court also shall impose a prison term under 290
division (B) (1) (a) of this section relative to the same offense, 291
provided the criteria specified in that division for imposing an 292
additional prison term are satisfied relative to the offender 293
and the offense. 294

(d) If an offender who is convicted of or pleads guilty to 295
an offense of violence that is a felony also is convicted of or 296
pleads guilty to a specification of the type described in 297
section 2941.1411 of the Revised Code that charges the offender 298
with wearing or carrying body armor while committing the felony 299
offense of violence, the court shall impose on the offender a 300
prison term of two years. The prison term so imposed, subject to 301
divisions (C) to (I) of section 2967.19 of the Revised Code, 302
shall not be reduced pursuant to section 2929.20, section 303
2967.19, section 2967.193, or any other provision of Chapter 304
2967. or Chapter 5120. of the Revised Code. A court shall not 305
impose more than one prison term on an offender under division 306
(B) (1) (d) of this section for felonies committed as part of the 307
same act or transaction. If a court imposes an additional prison 308
term under division (B) (1) (a) or (c) of this section, the court 309
is not precluded from imposing an additional prison term under 310
division (B) (1) (d) of this section. 311

(e) The court shall not impose any of the prison terms 312
described in division (B) (1) (a) of this section or any of the 313
additional prison terms described in division (B) (1) (c) of this 314
section upon an offender for a violation of section 2923.12 or 315
2923.123 of the Revised Code. The court shall not impose any of 316
the prison terms described in division (B) (1) (a) or (b) of this 317
section upon an offender for a violation of section 2923.122 318
that involves a deadly weapon that is a firearm other than a 319
dangerous ordnance, section 2923.16, or section 2923.121 of the 320
Revised Code. The court shall not impose any of the prison terms 321
described in division (B) (1) (a) of this section or any of the 322
additional prison terms described in division (B) (1) (c) of this 323
section upon an offender for a violation of section 2923.13 of 324
the Revised Code unless all of the following apply: 325

(i) The offender previously has been convicted of 326
aggravated murder, murder, or any felony of the first or second 327
degree. 328

(ii) Less than five years have passed since the offender 329
was released from prison or post-release control, whichever is 330
later, for the prior offense. 331

(f) (i) If an offender is convicted of or pleads guilty to 332
a felony that includes, as an essential element, causing or 333
attempting to cause the death of or physical harm to another and 334
also is convicted of or pleads guilty to a specification of the 335
type described in division (A) of section 2941.1412 of the 336
Revised Code that charges the offender with committing the 337
offense by discharging a firearm at a peace officer as defined 338
in section 2935.01 of the Revised Code or a corrections officer, 339
as defined in section 2941.1412 of the Revised Code, the court, 340
after imposing a prison term on the offender for the felony 341

offense under division (A), (B) (2), or (B) (3) of this section, 342
shall impose an additional prison term of seven years upon the 343
offender that shall not be reduced pursuant to section 2929.20, 344
section 2967.19, section 2967.193, or any other provision of 345
Chapter 2967. or Chapter 5120. of the Revised Code. 346

(ii) If an offender is convicted of or pleads guilty to a 347
felony that includes, as an essential element, causing or 348
attempting to cause the death of or physical harm to another and 349
also is convicted of or pleads guilty to a specification of the 350
type described in division (B) of section 2941.1412 of the 351
Revised Code that charges the offender with committing the 352
offense by discharging a firearm at a peace officer, as defined 353
in section 2935.01 of the Revised Code, or a corrections 354
officer, as defined in section 2941.1412 of the Revised Code, 355
and that the offender previously has been convicted of or 356
pleaded guilty to a specification of the type described in 357
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 358
the Revised Code, the court, after imposing a prison term on the 359
offender for the felony offense under division (A), (B) (2), or 360
(3) of this section, shall impose an additional prison term of 361
one hundred twenty-six months upon the offender that shall not 362
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 363
any other provision of Chapter 2967. or 5120. of the Revised 364
Code. 365

(iii) If an offender is convicted of or pleads guilty to 366
two or more felonies that include, as an essential element, 367
causing or attempting to cause the death or physical harm to 368
another and also is convicted of or pleads guilty to a 369
specification of the type described under division (B) (1) (f) of 370
this section in connection with two or more of the felonies of 371
which the offender is convicted or to which the offender pleads 372

guilty, the sentencing court shall impose on the offender the 373
prison term specified under division (B) (1) (f) of this section 374
for each of two of the specifications of which the offender is 375
convicted or to which the offender pleads guilty and, in its 376
discretion, also may impose on the offender the prison term 377
specified under that division for any or all of the remaining 378
specifications. If a court imposes an additional prison term on 379
an offender under division (B) (1) (f) of this section relative to 380
an offense, the court shall not impose a prison term under 381
division (B) (1) (a) or (c) of this section relative to the same 382
offense. 383

(g) If an offender is convicted of or pleads guilty to two 384
or more felonies, if one or more of those felonies are 385
aggravated murder, murder, attempted aggravated murder, 386
attempted murder, aggravated robbery, felonious assault, or 387
rape, and if the offender is convicted of or pleads guilty to a 388
specification of the type described under division (B) (1) (a) of 389
this section in connection with two or more of the felonies, the 390
sentencing court shall impose on the offender the prison term 391
specified under division (B) (1) (a) of this section for each of 392
the two most serious specifications of which the offender is 393
convicted or to which the offender pleads guilty and, in its 394
discretion, also may impose on the offender the prison term 395
specified under that division for any or all of the remaining 396
specifications. 397

(2) (a) If division (B) (2) (b) of this section does not 398
apply, the court may impose on an offender, in addition to the 399
longest prison term authorized or required for the offense, an 400
additional definite prison term of one, two, three, four, five, 401
six, seven, eight, nine, or ten years if all of the following 402
criteria are met: 403

(i) The offender is convicted of or pleads guilty to a 404
specification of the type described in section 2941.149 of the 405
Revised Code that the offender is a repeat violent offender. 406

(ii) The offense of which the offender currently is 407
convicted or to which the offender currently pleads guilty is 408
aggravated murder and the court does not impose a sentence of 409
death or life imprisonment without parole, murder, terrorism and 410
the court does not impose a sentence of life imprisonment 411
without parole, any felony of the first degree that is an 412
offense of violence and the court does not impose a sentence of 413
life imprisonment without parole, or any felony of the second 414
degree that is an offense of violence and the trier of fact 415
finds that the offense involved an attempt to cause or a threat 416
to cause serious physical harm to a person or resulted in 417
serious physical harm to a person. 418

(iii) The court imposes the longest prison term for the 419
offense that is not life imprisonment without parole. 420

(iv) The court finds that the prison terms imposed 421
pursuant to division (B) (2) (a) (iii) of this section and, if 422
applicable, division (B) (1) or (3) of this section are 423
inadequate to punish the offender and protect the public from 424
future crime, because the applicable factors under section 425
2929.12 of the Revised Code indicating a greater likelihood of 426
recidivism outweigh the applicable factors under that section 427
indicating a lesser likelihood of recidivism. 428

(v) The court finds that the prison terms imposed pursuant 429
to division (B) (2) (a) (iii) of this section and, if applicable, 430
division (B) (1) or (3) of this section are demeaning to the 431
seriousness of the offense, because one or more of the factors 432
under section 2929.12 of the Revised Code indicating that the 433

offender's conduct is more serious than conduct normally 434
constituting the offense are present, and they outweigh the 435
applicable factors under that section indicating that the 436
offender's conduct is less serious than conduct normally 437
constituting the offense. 438

(b) The court shall impose on an offender the longest 439
prison term authorized or required for the offense and shall 440
impose on the offender an additional definite prison term of 441
one, two, three, four, five, six, seven, eight, nine, or ten 442
years if all of the following criteria are met: 443

(i) The offender is convicted of or pleads guilty to a 444
specification of the type described in section 2941.149 of the 445
Revised Code that the offender is a repeat violent offender. 446

(ii) The offender within the preceding twenty years has 447
been convicted of or pleaded guilty to three or more offenses 448
described in division (CC)(1) of section 2929.01 of the Revised 449
Code, including all offenses described in that division of which 450
the offender is convicted or to which the offender pleads guilty 451
in the current prosecution and all offenses described in that 452
division of which the offender previously has been convicted or 453
to which the offender previously pleaded guilty, whether 454
prosecuted together or separately. 455

(iii) The offense or offenses of which the offender 456
currently is convicted or to which the offender currently pleads 457
guilty is aggravated murder and the court does not impose a 458
sentence of death or life imprisonment without parole, murder, 459
terrorism and the court does not impose a sentence of life 460
imprisonment without parole, any felony of the first degree that 461
is an offense of violence and the court does not impose a 462
sentence of life imprisonment without parole, or any felony of 463

the second degree that is an offense of violence and the trier 464
of fact finds that the offense involved an attempt to cause or a 465
threat to cause serious physical harm to a person or resulted in 466
serious physical harm to a person. 467

(c) For purposes of division (B)(2)(b) of this section, 468
two or more offenses committed at the same time or as part of 469
the same act or event shall be considered one offense, and that 470
one offense shall be the offense with the greatest penalty. 471

(d) A sentence imposed under division (B)(2)(a) or (b) of 472
this section shall not be reduced pursuant to section 2929.20, 473
section 2967.19, or section 2967.193, or any other provision of 474
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 475
shall serve an additional prison term imposed under this section 476
consecutively to and prior to the prison term imposed for the 477
underlying offense. 478

(e) When imposing a sentence pursuant to division (B)(2) 479
(a) or (b) of this section, the court shall state its findings 480
explaining the imposed sentence. 481

(3) Except when an offender commits a violation of section 482
2903.01 or 2907.02 of the Revised Code and the penalty imposed 483
for the violation is life imprisonment or commits a violation of 484
section 2903.02 of the Revised Code, if the offender commits a 485
violation of section 2925.03 or 2925.11 of the Revised Code and 486
that section classifies the offender as a major drug offender, 487
if the offender commits a felony violation of section 2925.02, 488
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 489
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 490
division (E) of section 4729.51, or division (J) of section 491
4729.54 of the Revised Code that includes the sale, offer to 492
sell, or possession of a schedule I or II controlled substance, 493

with the exception of marihuana, and the court imposing sentence 494
upon the offender finds that the offender is guilty of a 495
specification of the type described in section 2941.1410 of the 496
Revised Code charging that the offender is a major drug 497
offender, if the court imposing sentence upon an offender for a 498
felony finds that the offender is guilty of corrupt activity 499
with the most serious offense in the pattern of corrupt activity 500
being a felony of the first degree, or if the offender is guilty 501
of an attempted violation of section 2907.02 of the Revised Code 502
and, had the offender completed the violation of section 2907.02 503
of the Revised Code that was attempted, the offender would have 504
been subject to a sentence of life imprisonment or life 505
imprisonment without parole for the violation of section 2907.02 506
of the Revised Code, the court shall impose upon the offender 507
for the felony violation a mandatory prison term of the maximum 508
prison term prescribed for a felony of the first degree that, 509
subject to divisions (C) to (I) of section 2967.19 of the 510
Revised Code, cannot be reduced pursuant to section 2929.20, 511
section 2967.19, or any other provision of Chapter 2967. or 512
5120. of the Revised Code. 513

(4) If the offender is being sentenced for a third or 514
fourth degree felony OVI offense under division (G) (2) of 515
section 2929.13 of the Revised Code, the sentencing court shall 516
impose upon the offender a mandatory prison term in accordance 517
with that division. In addition to the mandatory prison term, if 518
the offender is being sentenced for a fourth degree felony OVI 519
offense, the court, notwithstanding division (A) (4) of this 520
section, may sentence the offender to a definite prison term of 521
not less than six months and not more than thirty months, and if 522
the offender is being sentenced for a third degree felony OVI 523
offense, the sentencing court may sentence the offender to an 524

additional prison term of any duration specified in division (A) 525
(3) of this section. In either case, the additional prison term 526
imposed shall be reduced by the sixty or one hundred twenty days 527
imposed upon the offender as the mandatory prison term. The 528
total of the additional prison term imposed under division (B) 529
(4) of this section plus the sixty or one hundred twenty days 530
imposed as the mandatory prison term shall equal a definite term 531
in the range of six months to thirty months for a fourth degree 532
felony OVI offense and shall equal one of the authorized prison 533
terms specified in division (A) (3) of this section for a third 534
degree felony OVI offense. If the court imposes an additional 535
prison term under division (B) (4) of this section, the offender 536
shall serve the additional prison term after the offender has 537
served the mandatory prison term required for the offense. In 538
addition to the mandatory prison term or mandatory and 539
additional prison term imposed as described in division (B) (4) 540
of this section, the court also may sentence the offender to a 541
community control sanction under section 2929.16 or 2929.17 of 542
the Revised Code, but the offender shall serve all of the prison 543
terms so imposed prior to serving the community control 544
sanction. 545

If the offender is being sentenced for a fourth degree 546
felony OVI offense under division (G) (1) of section 2929.13 of 547
the Revised Code and the court imposes a mandatory term of local 548
incarceration, the court may impose a prison term as described 549
in division (A) (1) of that section. 550

(5) If an offender is convicted of or pleads guilty to a 551
violation of division (A) (1) or (2) of section 2903.06 of the 552
Revised Code and also is convicted of or pleads guilty to a 553
specification of the type described in section 2941.1414 of the 554
Revised Code that charges that the victim of the offense is a 555

peace officer, as defined in section 2935.01 of the Revised 556
Code, or an investigator of the bureau of criminal 557
identification and investigation, as defined in section 2903.11 558
of the Revised Code, the court shall impose on the offender a 559
prison term of five years. If a court imposes a prison term on 560
an offender under division (B) (5) of this section, the prison 561
term, subject to divisions (C) to (I) of section 2967.19 of the 562
Revised Code, shall not be reduced pursuant to section 2929.20, 563
section 2967.19, section 2967.193, or any other provision of 564
Chapter 2967. or Chapter 5120. of the Revised Code. A court 565
shall not impose more than one prison term on an offender under 566
division (B) (5) of this section for felonies committed as part 567
of the same act. 568

(6) If an offender is convicted of or pleads guilty to a 569
violation of division (A) (1) or (2) of section 2903.06 of the 570
Revised Code and also is convicted of or pleads guilty to a 571
specification of the type described in section 2941.1415 of the 572
Revised Code that charges that the offender previously has been 573
convicted of or pleaded guilty to three or more violations of 574
division (A) or (B) of section 4511.19 of the Revised Code or an 575
equivalent offense, as defined in section 2941.1415 of the 576
Revised Code, or three or more violations of any combination of 577
those divisions and offenses, the court shall impose on the 578
offender a prison term of three years. If a court imposes a 579
prison term on an offender under division (B) (6) of this 580
section, the prison term, subject to divisions (C) to (I) of 581
section 2967.19 of the Revised Code, shall not be reduced 582
pursuant to section 2929.20, section 2967.19, section 2967.193, 583
or any other provision of Chapter 2967. or Chapter 5120. of the 584
Revised Code. A court shall not impose more than one prison term 585
on an offender under division (B) (6) of this section for 586

felonies committed as part of the same act. 587

(7) (a) If an offender is convicted of or pleads guilty to 588
a felony violation of section 2905.01, 2905.02, 2907.21, 589
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 590
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 591
the Revised Code and also is convicted of or pleads guilty to a 592
specification of the type described in section 2941.1422 of the 593
Revised Code that charges that the offender knowingly committed 594
the offense in furtherance of human trafficking, the court shall 595
impose on the offender a mandatory prison term that is one of 596
the following: 597

(i) If the offense is a felony of the first degree, a 598
definite prison term of not less than five years and not greater 599
than ten years; 600

(ii) If the offense is a felony of the second or third 601
degree, a definite prison term of not less than three years and 602
not greater than the maximum prison term allowed for the offense 603
by division (A) of section 2929.14 of the Revised Code; 604

(iii) If the offense is a felony of the fourth or fifth 605
degree, a definite prison term that is the maximum prison term 606
allowed for the offense by division (A) of section 2929.14 of 607
the Revised Code. 608

(b) Subject to divisions (C) to (I) of section 2967.19 of 609
the Revised Code, the prison term imposed under division (B) (7) 610
(a) of this section shall not be reduced pursuant to section 611
2929.20, section 2967.19, section 2967.193, or any other 612
provision of Chapter 2967. of the Revised Code. A court shall 613
not impose more than one prison term on an offender under 614
division (B) (7) (a) of this section for felonies committed as 615

part of the same act, scheme, or plan. 616

(8) If an offender is convicted of or pleads guilty to a 617
felony violation of section 2903.11, 2903.12, or 2903.13 of the 618
Revised Code and also is convicted of or pleads guilty to a 619
specification of the type described in section 2941.1423 of the 620
Revised Code that charges that the victim of the violation was a 621
woman whom the offender knew was pregnant at the time of the 622
violation, notwithstanding the range of prison terms prescribed 623
in division (A) of this section for felonies of the same degree 624
as the violation, the court shall impose on the offender a 625
mandatory prison term that is either a definite prison term of 626
six months or one of the prison terms prescribed in section 627
2929.14 of the Revised Code for felonies of the same degree as 628
the violation. 629

(C) (1) (a) Subject to division (C) (1) (b) of this section, 630
if a mandatory prison term is imposed upon an offender pursuant 631
to division (B) (1) (a) of this section for having a firearm on or 632
about the offender's person or under the offender's control 633
while committing a felony, if a mandatory prison term is imposed 634
upon an offender pursuant to division (B) (1) (c) of this section 635
for committing a felony specified in that division by 636
discharging a firearm from a motor vehicle, or if both types of 637
mandatory prison terms are imposed, the offender shall serve any 638
mandatory prison term imposed under either division 639
consecutively to any other mandatory prison term imposed under 640
either division or under division (B) (1) (d) of this section, 641
consecutively to and prior to any prison term imposed for the 642
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 643
this section or any other section of the Revised Code, and 644
consecutively to any other prison term or mandatory prison term 645
previously or subsequently imposed upon the offender. 646

(b) If a mandatory prison term is imposed upon an offender 647
pursuant to division (B)(1)(d) of this section for wearing or 648
carrying body armor while committing an offense of violence that 649
is a felony, the offender shall serve the mandatory term so 650
imposed consecutively to any other mandatory prison term imposed 651
under that division or under division (B)(1)(a) or (c) of this 652
section, consecutively to and prior to any prison term imposed 653
for the underlying felony under division (A), (B)(2), or (B)(3) 654
of this section or any other section of the Revised Code, and 655
consecutively to any other prison term or mandatory prison term 656
previously or subsequently imposed upon the offender. 657

(c) If a mandatory prison term is imposed upon an offender 658
pursuant to division (B)(1)(f) of this section, the offender 659
shall serve the mandatory prison term so imposed consecutively 660
to and prior to any prison term imposed for the underlying 661
felony under division (A), (B)(2), or (B)(3) of this section or 662
any other section of the Revised Code, and consecutively to any 663
other prison term or mandatory prison term previously or 664
subsequently imposed upon the offender. 665

(d) If a mandatory prison term is imposed upon an offender 666
pursuant to division (B)(7) or (8) of this section, the offender 667
shall serve the mandatory prison term so imposed consecutively 668
to any other mandatory prison term imposed under that division 669
or under any other provision of law and consecutively to any 670
other prison term or mandatory prison term previously or 671
subsequently imposed upon the offender. 672

(2) If an offender who is an inmate in a jail, prison, or 673
other residential detention facility violates section 2917.02, 674
2917.03, or 2921.35 of the Revised Code or division (A)(1) or 675
(2) of section 2921.34 of the Revised Code, if an offender who 676

is under detention at a detention facility commits a felony 677
violation of section 2923.131 of the Revised Code, or if an 678
offender who is an inmate in a jail, prison, or other 679
residential detention facility or is under detention at a 680
detention facility commits another felony while the offender is 681
an escapee in violation of division (A) (1) or (2) of section 682
2921.34 of the Revised Code, any prison term imposed upon the 683
offender for one of those violations shall be served by the 684
offender consecutively to the prison term or term of 685
imprisonment the offender was serving when the offender 686
committed that offense and to any other prison term previously 687
or subsequently imposed upon the offender. 688

(3) If a prison term is imposed for a violation of 689
division (B) of section 2911.01 of the Revised Code, a violation 690
of division (A) of section 2913.02 of the Revised Code in which 691
the stolen property is a firearm or dangerous ordnance, or a 692
felony violation of division (B) of section 2921.331 of the 693
Revised Code, the offender shall serve that prison term 694
consecutively to any other prison term or mandatory prison term 695
previously or subsequently imposed upon the offender. 696

(4) If multiple prison terms are imposed on an offender 697
for convictions of multiple offenses, the court may require the 698
offender to serve the prison terms consecutively if the court 699
finds that the consecutive service is necessary to protect the 700
public from future crime or to punish the offender and that 701
consecutive sentences are not disproportionate to the 702
seriousness of the offender's conduct and to the danger the 703
offender poses to the public, and if the court also finds any of 704
the following: 705

(a) The offender committed one or more of the multiple 706

offenses while the offender was awaiting trial or sentencing, 707
was under a sanction imposed pursuant to section 2929.16, 708
2929.17, or 2929.18 of the Revised Code, or was under post- 709
release control for a prior offense. 710

(b) At least two of the multiple offenses were committed 711
as part of one or more courses of conduct, and the harm caused 712
by two or more of the multiple offenses so committed was so 713
great or unusual that no single prison term for any of the 714
offenses committed as part of any of the courses of conduct 715
adequately reflects the seriousness of the offender's conduct. 716

(c) The offender's history of criminal conduct 717
demonstrates that consecutive sentences are necessary to protect 718
the public from future crime by the offender. 719

(5) If a mandatory prison term is imposed upon an offender 720
pursuant to division (B) (5) or (6) of this section, the offender 721
shall serve the mandatory prison term consecutively to and prior 722
to any prison term imposed for the underlying violation of 723
division (A) (1) or (2) of section 2903.06 of the Revised Code 724
pursuant to division (A) of this section or section 2929.142 of 725
the Revised Code. If a mandatory prison term is imposed upon an 726
offender pursuant to division (B) (5) of this section, and if a 727
mandatory prison term also is imposed upon the offender pursuant 728
to division (B) (6) of this section in relation to the same 729
violation, the offender shall serve the mandatory prison term 730
imposed pursuant to division (B) (5) of this section 731
consecutively to and prior to the mandatory prison term imposed 732
pursuant to division (B) (6) of this section and consecutively to 733
and prior to any prison term imposed for the underlying 734
violation of division (A) (1) or (2) of section 2903.06 of the 735
Revised Code pursuant to division (A) of this section or section 736

2929.142 of the Revised Code. 737

(6) If a prison term is imposed for felonious assault 738
under division (D) (1) (c) of section 2903.11 of the Revised Code, 739
the offender shall serve the prison term consecutively to any 740
prison term imposed for one or more offenses committed at the 741
same time, as part of a common scheme or plan, or as part of a 742
course of criminal conduct connected to the felonious assault. 743

(7) When consecutive prison terms are imposed pursuant to 744
division (C) (1), (2), (3), (4), ~~or (5)~~, or (6), or division (H) 745
(1) or (2) of this section, the term to be served is the 746
aggregate of all of the terms so imposed. 747

(D) (1) If a court imposes a prison term for a felony of 748
the first degree, for a felony of the second degree, for a 749
felony sex offense, or for a felony of the third degree that is 750
not a felony sex offense and in the commission of which the 751
offender caused or threatened to cause physical harm to a 752
person, it shall include in the sentence a requirement that the 753
offender be subject to a period of post-release control after 754
the offender's release from imprisonment, in accordance with 755
that division. If a court imposes a sentence including a prison 756
term of a type described in this division on or after July 11, 757
2006, the failure of a court to include a post-release control 758
requirement in the sentence pursuant to this division does not 759
negate, limit, or otherwise affect the mandatory period of post- 760
release control that is required for the offender under division 761
(B) of section 2967.28 of the Revised Code. Section 2929.191 of 762
the Revised Code applies if, prior to July 11, 2006, a court 763
imposed a sentence including a prison term of a type described 764
in this division and failed to include in the sentence pursuant 765
to this division a statement regarding post-release control. 766

(2) If a court imposes a prison term for a felony of the 767
third, fourth, or fifth degree that is not subject to division 768
(D) (1) of this section, it shall include in the sentence a 769
requirement that the offender be subject to a period of post- 770
release control after the offender's release from imprisonment, 771
in accordance with that division, if the parole board determines 772
that a period of post-release control is necessary. Section 773
2929.191 of the Revised Code applies if, prior to July 11, 2006, 774
a court imposed a sentence including a prison term of a type 775
described in this division and failed to include in the sentence 776
pursuant to this division a statement regarding post-release 777
control. 778

(E) The court shall impose sentence upon the offender in 779
accordance with section 2971.03 of the Revised Code, and Chapter 780
2971. of the Revised Code applies regarding the prison term or 781
term of life imprisonment without parole imposed upon the 782
offender and the service of that term of imprisonment if any of 783
the following apply: 784

(1) A person is convicted of or pleads guilty to a violent 785
sex offense or a designated homicide, assault, or kidnapping 786
offense, and, in relation to that offense, the offender is 787
adjudicated a sexually violent predator. 788

(2) A person is convicted of or pleads guilty to a 789
violation of division (A) (1) (b) of section 2907.02 of the 790
Revised Code committed on or after January 2, 2007, and either 791
the court does not impose a sentence of life without parole when 792
authorized pursuant to division (B) of section 2907.02 of the 793
Revised Code, or division (B) of section 2907.02 of the Revised 794
Code provides that the court shall not sentence the offender 795
pursuant to section 2971.03 of the Revised Code. 796

(3) A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, and division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires the court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(6) A person is convicted of or pleads guilty to murder committed on or after January 1, 2008, and division (B) (2) of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(F) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(G) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(H) (1) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or third degree that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.143 of the Revised Code that charges the offender with having committed the offense in a school safety zone or towards a person in a school safety zone, the court shall impose upon the offender an additional prison term of two years. The offender shall serve the additional two years consecutively to and prior to the prison term imposed for the underlying offense.

(2) (a) If an offender is convicted of or pleads guilty to a felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 of the Revised Code and if the court imposes a prison term on the offender for the felony violation, the court may impose upon the offender an additional prison term as follows:

(i) Subject to division (H) (2) (a) (ii) of this section, an additional prison term of one, two, three, four, five, or six months;

(ii) If the offender previously has been convicted of or pleaded guilty to one or more felony or misdemeanor violations of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of

the Revised Code and also was convicted of or pleaded guilty to 857
a specification of the type described in section 2941.1421 of 858
the Revised Code regarding one or more of those violations, an 859
additional prison term of one, two, three, four, five, six, 860
seven, eight, nine, ten, eleven, or twelve months. 861

(b) In lieu of imposing an additional prison term under 862
division (H)(2)(a) of this section, the court may directly 863
impose on the offender a sanction that requires the offender to 864
wear a real-time processing, continual tracking electronic 865
monitoring device during the period of time specified by the 866
court. The period of time specified by the court shall equal the 867
duration of an additional prison term that the court could have 868
imposed upon the offender under division (H)(2)(a) of this 869
section. A sanction imposed under this division shall commence 870
on the date specified by the court, provided that the sanction 871
shall not commence until after the offender has served the 872
prison term imposed for the felony violation of section 2907.22, 873
2907.24, 2907.241, or 2907.25 of the Revised Code and any 874
residential sanction imposed for the violation under section 875
2929.16 of the Revised Code. A sanction imposed under this 876
division shall be considered to be a community control sanction 877
for purposes of section 2929.15 of the Revised Code, and all 878
provisions of the Revised Code that pertain to community control 879
sanctions shall apply to a sanction imposed under this division, 880
except to the extent that they would by their nature be clearly 881
inapplicable. The offender shall pay all costs associated with a 882
sanction imposed under this division, including the cost of the 883
use of the monitoring device. 884

(I) At the time of sentencing, the court may recommend the 885
offender for placement in a program of shock incarceration under 886
section 5120.031 of the Revised Code or for placement in an 887

intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

If the court disapproves placement of the offender in a program or prison of that nature, the department of rehabilitation and correction shall not place the offender in any program of shock incarceration or intensive program prison.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the recommended program or prison, the department shall notify the court of the placement and shall include with the notice a brief description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature,

the department shall screen the offender and determine if there 918
is an available program of shock incarceration or an intensive 919
program prison for which the offender is suited. If there is an 920
available program of shock incarceration or an intensive program 921
prison for which the offender is suited, the department shall 922
notify the court of the proposed placement of the offender as 923
specified in section 5120.031 or 5120.032 of the Revised Code 924
and shall include with the notice a brief description of the 925
placement. The court shall have ten days from receipt of the 926
notice to disapprove the placement. 927

(J) If a person is convicted of or pleads guilty to 928
aggravated vehicular homicide in violation of division (A) (1) of 929
section 2903.06 of the Revised Code and division (B) (2) (c) of 930
that section applies, the person shall be sentenced pursuant to 931
section 2929.142 of the Revised Code. 932

(K) (1) The court shall impose an additional mandatory 933
prison term of two, three, four, five, six, seven, eight, nine, 934
ten, or eleven years on an offender who is convicted of or 935
pleads guilty to a violent felony offense if the offender also 936
is convicted of or pleads guilty to a specification of the type 937
described in section 2941.1424 of the Revised Code that charges 938
that the offender is a violent career criminal and had a firearm 939
on or about the offender's person or under the offender's 940
control while committing the presently charged violent felony 941
offense and displayed or brandished the firearm, indicated that 942
the offender possessed a firearm, or used the firearm to 943
facilitate the offense. The offender shall serve the prison term 944
imposed under this division consecutively to and prior to the 945
prison term imposed for the underlying offense. The prison term 946
shall not be reduced pursuant to section 2929.20 or 2967.19 or 947
any other provision of Chapter 2967. or 5120. of the Revised 948

Code. A court may not impose more than one sentence under 949
division (B) (2) (a) of this section and this division for acts 950
committed as part of the same act or transaction. 951

(2) As used in division (K) (1) of this section, "violent 952
career criminal" and "violent felony offense" have the same 953
meanings as in section 2923.132 of the Revised Code. 954

Section 2. That existing sections 2903.01, 2903.11, and 955
2929.14 of the Revised Code are hereby repealed. 956

Section 3. Section 2929.14 of the Revised Code is 957
presented in this act as a composite of the section as amended 958
by both Sub. H.B. 470 and Sub. S.B. 319 of the 131st General 959
Assembly. The General Assembly, applying the principle stated in 960
division (B) of section 1.52 of the Revised Code that amendments 961
are to be harmonized if reasonably capable of simultaneous 962
operation, finds that the composite is the resulting version of 963
the section in effect prior to the effective date of the section 964
as presented in this act. 965