

AN ACT

To amend sections 2903.01, 2903.02, and 2923.161 of the Revised Code to expand the offense of murder to also prohibit causing the death of another as a proximate result of committing or attempting to commit an offense of violence that is a felony of the first or second degree and that is not voluntary manslaughter or involuntary manslaughter, to eliminate provisions regarding proof of specific intent and the use of inference in an aggravated murder trial, and to increase the penalty for improperly discharging a firearm at or into a habitation or school from a felony of the third degree to a felony of the second degree when the offender has no prior conviction of the offense.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2903.01, 2903.02, and 2923.161 of the Revised Code be amended to read as follows:

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.

(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 or arson, aggravated robbery or robbery, aggravated burglary or burglary, or escape.

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

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

~~(E) No person shall be convicted of aggravated murder unless the person is specifically found to have intended to cause the death of another~~

~~or, if the case involves an alleged violation of division (A) or (B) of this section, the unlawful termination of another's pregnancy. In no case shall a jury in an aggravated murder case be instructed in such a manner that it may believe that a person who commits or attempts to commit any offense listed in division (B) of this section is to be conclusively inferred, because the person engaged in a common design with others to commit the offense by force and violence or because the offense and the manner of its commission would be likely to produce death or the unlawful termination of another's pregnancy, to have intended to cause the death of any person who is killed or the unlawful termination of another's pregnancy during the commission of, attempt to commit, or flight from the commission of or attempt to commit the offense. If a jury in an aggravated murder case is instructed that a person who commits or attempts to commit any offense listed in division (B) of this section may be inferred, because the offender engaged in a common design with others to commit the offense by force or violence or because the offense and the manner of its commission would be likely to produce death or the unlawful termination of another's pregnancy, to have intended to cause the death of any person who is killed or the unlawful termination of another's pregnancy during the commission of, attempt to commit, or flight from the commission of or attempt to commit the offense, the jury also shall be instructed that the inference is nonconclusive, that the inference may be considered in determining intent, that it is to consider all evidence introduced by the prosecution to indicate the person's intent and by the person to indicate the person's lack of intent in determining whether the person specifically intended to cause the death of the person killed or the unlawful termination of another's pregnancy, and that the prosecution must prove the specific intent of the person to have caused the death or the unlawful termination of another's pregnancy by proof beyond a reasonable doubt.~~

Sec. 2903.02. (A) No person shall purposely cause the death of another or the unlawful termination of another's pregnancy.

(B) No person shall cause the death of another as a proximate result of the offender's committing or attempting to commit an offense of violence that is a felony of the first or second degree and that is not a violation of section 2903.03 or 2903.04 Of the Revised Code.

(C) Division (B) of this section does not apply to an offense that becomes a felony of the first or second degree only if the offender previously has been convicted of that offense or another specified offense.

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

Sec. 2923.161. (A) No person, without privilege to do so, shall knowingly discharge a firearm at or into an occupied structure that is a permanent or temporary habitation of any individual or a school.

(B) This section does not apply to any officer, agent, or employee of this or any other state or the United States, or to any law enforcement officer, who discharges the firearm while acting within the scope of the officer's, agent's, or employee's duties.

(C) Whoever violates this section is guilty of improperly discharging a firearm at or into a habitation or school. ~~Except as otherwise provided in this division, improperly discharging a firearm at or into a habitation or school is a felony of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section, improperly discharging a firearm at or into a habitation or school is,~~ a felony of the second degree.

(D) As used in this section, "occupied structure" has the same meaning as in section 2909.01 of the Revised Code.

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SECTION 2. That existing sections 2903.01, 2903.02, and 2923.161 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____