

As Reported by the House Judiciary Committee

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 300

Representatives Baker, Manning

Cosponsors: Representatives Cupp, Schaffer, Butler, Conditt, Dever, Rezabek

A BILL

To amend sections 2903.06 and 4510.54 of the Revised Code to modify the law governing the termination or modification of a lifetime driver's license suspension or a class two suspension that exceeds fifteen years and to specify that a class one driver's license suspension for a specified aggravated vehicular homicide offense begins upon the offender's release from prison.

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

Section 1. That sections 2903.06 and 4510.54 of the Revised Code be amended to read as follows:

Sec. 2903.06. (A) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:

(1) (a) As the proximate result of committing a violation of division (A) of section 4511.19 of the Revised Code or of a

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| substantially equivalent municipal ordinance; | 19 |
| (b) As the proximate result of committing a violation of | 20 |
| division (A) of section 1547.11 of the Revised Code or of a | 21 |
| substantially equivalent municipal ordinance; | 22 |
| (c) As the proximate result of committing a violation of | 23 |
| division (A) (3) of section 4561.15 of the Revised Code or of a | 24 |
| substantially equivalent municipal ordinance. | 25 |
| (2) In one of the following ways: | 26 |
| (a) Recklessly; | 27 |
| (b) As the proximate result of committing, while operating | 28 |
| or participating in the operation of a motor vehicle or | 29 |
| motorcycle in a construction zone, a reckless operation offense, | 30 |
| provided that this division applies only if the person whose | 31 |
| death is caused or whose pregnancy is unlawfully terminated is | 32 |
| in the construction zone at the time of the offender's | 33 |
| commission of the reckless operation offense in the construction | 34 |
| zone and does not apply as described in division (F) of this | 35 |
| section. | 36 |
| (3) In one of the following ways: | 37 |
| (a) Negligently; | 38 |
| (b) As the proximate result of committing, while operating | 39 |
| or participating in the operation of a motor vehicle or | 40 |
| motorcycle in a construction zone, a speeding offense, provided | 41 |
| that this division applies only if the person whose death is | 42 |
| caused or whose pregnancy is unlawfully terminated is in the | 43 |
| construction zone at the time of the offender's commission of | 44 |
| the speeding offense in the construction zone and does not apply | 45 |
| as described in division (F) of this section. | 46 |

(4) As the proximate result of committing a violation of 47
any provision of any section contained in Title XLV of the 48
Revised Code that is a minor misdemeanor or of a municipal 49
ordinance that, regardless of the penalty set by ordinance for 50
the violation, is substantially equivalent to any provision of 51
any section contained in Title XLV of the Revised Code that is a 52
minor misdemeanor. 53

(B) (1) Whoever violates division (A) (1) or (2) of this 54
section is guilty of aggravated vehicular homicide and shall be 55
punished as provided in divisions (B) (2) and (3) of this 56
section. 57

(2) (a) Except as otherwise provided in division (B) (2) (b) 58
or (c) of this section, aggravated vehicular homicide committed 59
in violation of division (A) (1) of this section is a felony of 60
the second degree and the court shall impose a mandatory prison 61
term on the offender as described in division (E) of this 62
section. 63

(b) Except as otherwise provided in division (B) (2) (c) of 64
this section, aggravated vehicular homicide committed in 65
violation of division (A) (1) of this section is a felony of the 66
first degree, and the court shall impose a mandatory prison term 67
on the offender as described in division (E) of this section, if 68
any of the following apply: 69

(i) At the time of the offense, the offender was driving 70
under a suspension or cancellation imposed under Chapter 4510. 71
or any other provision of the Revised Code or was operating a 72
motor vehicle or motorcycle, did not have a valid driver's 73
license, commercial driver's license, temporary instruction 74
permit, probationary license, or nonresident operating 75
privilege, and was not eligible for renewal of the offender's 76

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| driver's license or commercial driver's license without | 77 |
| examination under section 4507.10 of the Revised Code. | 78 |
| (ii) The offender previously has been convicted of or | 79 |
| pleaded guilty to a violation of this section. | 80 |
| (iii) The offender previously has been convicted of or | 81 |
| pleaded guilty to any traffic-related homicide, manslaughter, or | 82 |
| assault offense. | 83 |
| (c) Aggravated vehicular homicide committed in violation | 84 |
| of division (A) (1) of this section is a felony of the first | 85 |
| degree, and the court shall sentence the offender to a mandatory | 86 |
| prison term as provided in section 2929.142 of the Revised Code | 87 |
| and described in division (E) of this section if any of the | 88 |
| following apply: | 89 |
| (i) The offender previously has been convicted of or | 90 |
| pleaded guilty to three or more prior violations of section | 91 |
| 4511.19 of the Revised Code or of a substantially equivalent | 92 |
| municipal ordinance within the previous six years. | 93 |
| (ii) The offender previously has been convicted of or | 94 |
| pleaded guilty to three or more prior violations of division (A) | 95 |
| of section 1547.11 of the Revised Code or of a substantially | 96 |
| equivalent municipal ordinance within the previous six years. | 97 |
| (iii) The offender previously has been convicted of or | 98 |
| pleaded guilty to three or more prior violations of division (A) | 99 |
| (3) of section 4561.15 of the Revised Code or of a substantially | 100 |
| equivalent municipal ordinance within the previous six years. | 101 |
| (iv) The offender previously has been convicted of or | 102 |
| pleaded guilty to three or more prior violations of division (A) | 103 |
| (1) of this section within the previous six years. | 104 |

(v) The offender previously has been convicted of or 105
pleaded guilty to three or more prior violations of division (A) 106
(1) of section 2903.08 of the Revised Code within the previous 107
six years. 108

(vi) The offender previously has been convicted of or 109
pleaded guilty to three or more prior violations of section 110
2903.04 of the Revised Code within the previous six years in 111
circumstances in which division (D) of that section applied 112
regarding the violations. 113

(vii) The offender previously has been convicted of or 114
pleaded guilty to three or more violations of any combination of 115
the offenses listed in division (B) (2) (c) (i), (ii), (iii), (iv), 116
(v), or (vi) of this section within the previous six years. 117

(viii) The offender previously has been convicted of or 118
pleaded guilty to a second or subsequent felony violation of 119
division (A) of section 4511.19 of the Revised Code. 120

(d) In addition to any other sanctions imposed pursuant to 121
division (B) (2) (a), (b), or (c) of this section for aggravated 122
vehicular homicide committed in violation of division (A) (1) of 123
this section, the court shall impose upon the offender a class 124
one suspension of the offender's driver's license, commercial 125
driver's license, temporary instruction permit, probationary 126
license, or nonresident operating privilege as specified in 127
division (A) (1) of section 4510.02 of the Revised Code. 128

Divisions (A) (1) to (3) of section 4510.54 of the Revised 129
Code apply to a suspension imposed under division (B) (2) (d) of 130
this section. 131

(3) Except as otherwise provided in this division, 132
aggravated vehicular homicide committed in violation of division 133

(A) (2) of this section is a felony of the third degree. 134
Aggravated vehicular homicide committed in violation of division 135
(A) (2) of this section is a felony of the second degree if, at 136
the time of the offense, the offender was driving under a 137
suspension or cancellation imposed under Chapter 4510. or any 138
other provision of the Revised Code or was operating a motor 139
vehicle or motorcycle, did not have a valid driver's license, 140
commercial driver's license, temporary instruction permit, 141
probationary license, or nonresident operating privilege, and 142
was not eligible for renewal of the offender's driver's license 143
or commercial driver's license without examination under section 144
4507.10 of the Revised Code or if the offender previously has 145
been convicted of or pleaded guilty to a violation of this 146
section or any traffic-related homicide, manslaughter, or 147
assault offense. The court shall impose a mandatory prison term 148
on the offender when required by division (E) of this section. 149

In addition to any other sanctions imposed pursuant to 150
this division for a violation of division (A) (2) of this 151
section, the court shall impose upon the offender a class two 152
suspension of the offender's driver's license, commercial 153
driver's license, temporary instruction permit, probationary 154
license, or nonresident operating privilege from the range 155
specified in division (A) (2) of section 4510.02 of the Revised 156
Code or, if the offender previously has been convicted of or 157
pleaded guilty to a traffic-related murder, felonious assault, 158
or attempted murder offense, a class one suspension of the 159
offender's driver's license, commercial driver's license, 160
temporary instruction permit, probationary license, or 161
nonresident operating privilege as specified in division (A) (1) 162
of that section. 163

(C) Whoever violates division (A) (3) of this section is 164

guilty of vehicular homicide. Except as otherwise provided in 165
this division, vehicular homicide is a misdemeanor of the first 166
degree. Vehicular homicide committed in violation of division 167
(A) (3) of this section is a felony of the fourth degree if, at 168
the time of the offense, the offender was driving under a 169
suspension or cancellation imposed under Chapter 4510. or any 170
other provision of the Revised Code or was operating a motor 171
vehicle or motorcycle, did not have a valid driver's license, 172
commercial driver's license, temporary instruction permit, 173
probationary license, or nonresident operating privilege, and 174
was not eligible for renewal of the offender's driver's license 175
or commercial driver's license without examination under section 176
4507.10 of the Revised Code or if the offender previously has 177
been convicted of or pleaded guilty to a violation of this 178
section or any traffic-related homicide, manslaughter, or 179
assault offense. The court shall impose a mandatory jail term or 180
a mandatory prison term on the offender when required by 181
division (E) of this section. 182

In addition to any other sanctions imposed pursuant to 183
this division, the court shall impose upon the offender a class 184
four suspension of the offender's driver's license, commercial 185
driver's license, temporary instruction permit, probationary 186
license, or nonresident operating privilege from the range 187
specified in division (A) (4) of section 4510.02 of the Revised 188
Code, or, if the offender previously has been convicted of or 189
pleaded guilty to a violation of this section or any traffic- 190
related homicide, manslaughter, or assault offense, a class 191
three suspension of the offender's driver's license, commercial 192
driver's license, temporary instruction permit, probationary 193
license, or nonresident operating privilege from the range 194
specified in division (A) (3) of that section, or, if the 195

offender previously has been convicted of or pleaded guilty to a 196
traffic-related murder, felonious assault, or attempted murder 197
offense, a class two suspension of the offender's driver's 198
license, commercial driver's license, temporary instruction 199
permit, probationary license, or nonresident operating privilege 200
as specified in division (A) (2) of that section. 201

(D) Whoever violates division (A) (4) of this section is 202
guilty of vehicular manslaughter. Except as otherwise provided 203
in this division, vehicular manslaughter is a misdemeanor of the 204
second degree. Vehicular manslaughter is a misdemeanor of the 205
first degree if, at the time of the offense, the offender was 206
driving under a suspension or cancellation imposed under Chapter 207
4510. or any other provision of the Revised Code or was 208
operating a motor vehicle or motorcycle, did not have a valid 209
driver's license, commercial driver's license, temporary 210
instruction permit, probationary license, or nonresident 211
operating privilege, and was not eligible for renewal of the 212
offender's driver's license or commercial driver's license 213
without examination under section 4507.10 of the Revised Code or 214
if the offender previously has been convicted of or pleaded 215
guilty to a violation of this section or any traffic-related 216
homicide, manslaughter, or assault offense. 217

In addition to any other sanctions imposed pursuant to 218
this division, the court shall impose upon the offender a class 219
six suspension of the offender's driver's license, commercial 220
driver's license, temporary instruction permit, probationary 221
license, or nonresident operating privilege from the range 222
specified in division (A) (6) of section 4510.02 of the Revised 223
Code or, if the offender previously has been convicted of or 224
pleaded guilty to a violation of this section, any traffic- 225
related homicide, manslaughter, or assault offense, or a 226

traffic-related murder, felonious assault, or attempted murder 227
offense, a class four suspension of the offender's driver's 228
license, commercial driver's license, temporary instruction 229
permit, probationary license, or nonresident operating privilege 230
from the range specified in division (A)(4) of that section. 231

(E) The court shall impose a mandatory prison term on an 232
offender who is convicted of or pleads guilty to a violation of 233
division (A)(1) of this section. If division (B)(2)(c)(i), (ii), 234
(iii), (iv), (v), (vi), (vii), or (viii) of this section applies 235
to an offender who is convicted of or pleads guilty to the 236
violation of division (A)(1) of this section, the court shall 237
impose the mandatory prison term pursuant to section 2929.142 of 238
the Revised Code. The court shall impose a mandatory jail term 239
of at least fifteen days on an offender who is convicted of or 240
pleads guilty to a misdemeanor violation of division (A)(3)(b) 241
of this section and may impose upon the offender a longer jail 242
term as authorized pursuant to section 2929.24 of the Revised 243
Code. The court shall impose a mandatory prison term on an 244
offender who is convicted of or pleads guilty to a violation of 245
division (A)(2) or (3)(a) of this section or a felony violation 246
of division (A)(3)(b) of this section if either of the following 247
applies: 248

(1) The offender previously has been convicted of or 249
pleaded guilty to a violation of this section or section 2903.08 250
of the Revised Code. 251

(2) At the time of the offense, the offender was driving 252
under suspension or cancellation under Chapter 4510. or any 253
other provision of the Revised Code or was operating a motor 254
vehicle or motorcycle, did not have a valid driver's license, 255
commercial driver's license, temporary instruction permit, 256

probationary license, or nonresident operating privilege, and 257
was not eligible for renewal of the offender's driver's license 258
or commercial driver's license without examination under section 259
4507.10 of the Revised Code. 260

(F) Divisions (A) (2) (b) and (3) (b) of this section do not 261
apply in a particular construction zone unless signs of the type 262
described in section 2903.081 of the Revised Code are erected in 263
that construction zone in accordance with the guidelines and 264
design specifications established by the director of 265
transportation under section 5501.27 of the Revised Code. The 266
failure to erect signs of the type described in section 2903.081 267
of the Revised Code in a particular construction zone in 268
accordance with those guidelines and design specifications does 269
not limit or affect the application of division (A) (1), (A) (2) 270
(a), (A) (3) (a), or (A) (4) of this section in that construction 271
zone or the prosecution of any person who violates any of those 272
divisions in that construction zone. 273

(G) (1) As used in this section: 274

(a) "Mandatory prison term" and "mandatory jail term" have 275
the same meanings as in section 2929.01 of the Revised Code. 276

(b) "Traffic-related homicide, manslaughter, or assault 277
offense" means a violation of section 2903.04 of the Revised 278
Code in circumstances in which division (D) of that section 279
applies, a violation of section 2903.06 or 2903.08 of the 280
Revised Code, or a violation of section 2903.06, 2903.07, or 281
2903.08 of the Revised Code as they existed prior to March 23, 282
2000. 283

(c) "Construction zone" has the same meaning as in section 284
5501.27 of the Revised Code. 285

(d) "Reckless operation offense" means a violation of 286
section 4511.20 of the Revised Code or a municipal ordinance 287
substantially equivalent to section 4511.20 of the Revised Code. 288

(e) "Speeding offense" means a violation of section 289
4511.21 of the Revised Code or a municipal ordinance pertaining 290
to speed. 291

(f) "Traffic-related murder, felonious assault, or 292
attempted murder offense" means a violation of section 2903.01 293
or 2903.02 of the Revised Code in circumstances in which the 294
offender used a motor vehicle as the means to commit the 295
violation, a violation of division (A) (2) of section 2903.11 of 296
the Revised Code in circumstances in which the deadly weapon 297
used in the commission of the violation is a motor vehicle, or 298
an attempt to commit aggravated murder or murder in violation of 299
section 2923.02 of the Revised Code in circumstances in which 300
the offender used a motor vehicle as the means to attempt to 301
commit the aggravated murder or murder. 302

(g) "Motor vehicle" has the same meaning as in section 303
4501.01 of the Revised Code. 304

(2) For the purposes of this section, when a penalty or 305
suspension is enhanced because of a prior or current violation 306
of a specified law or a prior or current specified offense, the 307
reference to the violation of the specified law or the specified 308
offense includes any violation of any substantially equivalent 309
municipal ordinance, former law of this state, or current or 310
former law of another state or the United States. 311

Sec. 4510.54. (A) Except as provided in division (F) of 312
this section, a person whose driver's or commercial driver's 313
license has been suspended for life under a class one suspension 314

or as otherwise provided by law or has been suspended for a 315
period in excess of fifteen years under a class two suspension 316
may file a motion with the sentencing court for modification or 317
termination of the suspension. The person filing the motion 318
shall demonstrate all of the following: 319

~~(1) One of the following applies:~~ 320

(a) ~~At~~ If the person's license was suspended as a result 321
of the person being convicted of a felony, at least fifteen 322
years have elapsed since the suspension began or, if the 323
person's license was suspended under division (B) (2) (d) of 324
section 2903.06 of the Revised Code, at least fifteen years have 325
elapsed since the person was released from prison, and, for the 326
past fifteen years, the person has not been found guilty of any 327
of the following: 328

(i) A felony,~~any;~~ 329

(ii) An offense involving a moving violation under federal 330
law, the law of this state, or the law of any of its political 331
subdivisions,~~or any;~~ 332

(iii) A violation of a suspension under this chapter or a 333
substantially equivalent municipal ordinance. 334

(b) ~~At~~ If the person's license was suspended as a result 335
of the person being convicted of a misdemeanor, at least five 336
years have elapsed since the suspension began, and, for the past 337
five years, the person has not been found guilty of any of the 338
following: 339

(i) An offense involving a moving violation under the law 340
of this state, the law of any of its political subdivisions, or 341
federal law,~~any;~~ 342

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| <u>(ii) A violation of section 2903.06 or 2903.08 of the</u> | 343 |
| Revised Code, or any ; | 344 |
| <u>(iii) A violation of a suspension under this chapter or a</u> | 345 |
| substantially equivalent municipal ordinance. | 346 |
| (2) The person has proof of financial responsibility, a | 347 |
| policy of liability insurance in effect that meets the minimum | 348 |
| standard set forth in section 4509.51 of the Revised Code, or | 349 |
| proof, to the satisfaction of the registrar of motor vehicles, | 350 |
| that the person is able to respond in damages in an amount at | 351 |
| least equal to the minimum amounts specified in that section. | 352 |
| (3) If the suspension was imposed because the person was | 353 |
| under the influence of alcohol, a drug of abuse, or combination | 354 |
| of them at the time of the offense or because at the time of the | 355 |
| offense the person's whole blood, blood serum or plasma, breath, | 356 |
| or urine contained at least the concentration of alcohol | 357 |
| specified in division (A) (1) (b), (c), (d), or (e) of section | 358 |
| 4511.19 of the Revised Code or at least the concentration of a | 359 |
| listed controlled substance or a listed metabolite of a | 360 |
| controlled substance specified in division (A) (1) (j) of section | 361 |
| 4511.19 of the Revised Code, the person also shall demonstrate | 362 |
| all of the following <u>apply to the person:</u> | 363 |
| (a) The person successfully completed an alcohol, drug, or | 364 |
| alcohol and drug treatment program. | 365 |
| (b) The person has not abused alcohol or other drugs for a | 366 |
| period satisfactory to the court. | 367 |
| (c) For the past fifteen years, the person has not been | 368 |
| found guilty of any alcohol-related or drug-related offense. | 369 |
| (B) Upon receipt of a motion for modification or | 370 |
| termination of the suspension under this section, the court may | 371 |

schedule a hearing on the motion. The court may deny the motion 372
without a hearing but shall not grant the motion without a 373
hearing. If the court denies a motion without a hearing, the 374
court may consider a subsequent motion filed under this section 375
by that person. If a court denies the motion after a hearing, 376
the court shall not consider a subsequent motion for that 377
person. The court shall hear only one motion filed by a person 378
under this section. If scheduled, the hearing shall be conducted 379
in open court within ninety days after the date on which the 380
motion is filed. 381

(C) The court shall notify the person whose license was 382
suspended and the prosecuting attorney of the date, time, and 383
location of the hearing. Upon receipt of the notice from the 384
court, the prosecuting attorney shall notify the victim or the 385
victim's representative of the date, time, and location of the 386
hearing. 387

(D) At any hearing under this section, the person who 388
seeks modification or termination of the suspension has the 389
burden to demonstrate, under oath, that the person meets the 390
requirements of division (A) of this section. At the hearing, 391
the court shall afford the offender or the offender's counsel an 392
opportunity to present oral or written information relevant to 393
the motion. The court shall afford a similar opportunity to 394
provide relevant information to the prosecuting attorney and the 395
victim or victim's representative. 396

Before ruling on the motion, the court shall take into 397
account the person's driving record, the nature of the offense 398
that led to the suspension, and the impact of the offense on any 399
victim. In addition, if the offender is eligible for 400
modification or termination of the suspension under division (A) 401

(1) (a) of this section, the court shall consider whether the 402
person committed any other offense while under suspension and 403
determine whether the offense is relevant to a determination 404
under this section. The court may modify or terminate the 405
suspension subject to any considerations it considers proper if 406
it finds that allowing the person to drive is not likely to 407
present a danger to the public. After the court makes a ruling 408
on a motion filed under this section, the prosecuting attorney 409
shall notify the victim or the victim's representative of the 410
court's ruling. 411

(E) If a court modifies a person's license suspension 412
under this section and the person subsequently is found guilty 413
of any moving violation or of any substantially equivalent 414
municipal ordinance that carries as a possible penalty the 415
suspension of a person's driver's or commercial driver's 416
license, the court may reimpose the class one or other lifetime 417
suspension, or the class two suspension, whichever is 418
applicable. 419

(F) This section does not apply to any person whose 420
driver's or commercial driver's license or permit or nonresident 421
operating privilege has been suspended for life under a class 422
one suspension imposed under division (B) (3) of section 2903.06 423
or section 2903.08 of the Revised Code or a class two suspension 424
imposed under division (C) of section 2903.06 or section 425
2903.11, 2923.02, or 2929.02 of the Revised Code. 426

(G) As used in this section, "released from prison" means 427
a person's physical release from a jail or prison as defined in 428
section 2929.01 of the Revised Code. 429

Section 2. That existing sections 2903.06 and 4510.54 of 430
the Revised Code are hereby repealed. 431