

**As Passed by the Senate**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Am. Sub. H. B. No. 38**

**Representative Greenspan**

**Cosponsors: Representatives Anielski, Barnes, Goodman, Keller, Kick, Lipps, Patton, Perales, Riedel, Retherford, Sprague, Thompson, Wiggam, Young, Manning, Rezabek, Arndt, Brenner, Butler, Carfagna, Dever, Duffey, Edwards, Faber, Gavarone, Ginter, Hambley, Householder, Hughes, Johnson, Koehler, Landis, Lanese, LaTourette, O'Brien, Romanchuk, Ryan, Schaffer, Schuring, Smith, R., Stein**

**Senators Eklund, Bacon, Burke, Dolan, Gardner, Hackett, Hoagland, Hottinger, Kunze, LaRose, Lehner, Manning, McColley, O'Brien, Oelslager, Peterson, Schiavoni, Terhar, Thomas, Uecker, Wilson, Yuko**

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**A BILL**

To amend sections 2903.01 and 2923.02 of the Revised Code to provide that purposely causing the death of a first responder or military member is aggravated murder and to require an offender to serve a mandatory prison term for certain types of attempted aggravated murder when the victim is a first responder or military member.

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

**Section 1.** That sections 2903.01 and 2923.02 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. 13

(B) No person shall purposely cause the death of another 14  
or the unlawful termination of another's pregnancy while 15  
committing or attempting to commit, or while fleeing immediately 16  
after committing or attempting to commit, kidnapping, rape, 17  
aggravated arson, arson, aggravated robbery, robbery, aggravated 18  
burglary, burglary, trespass in a habitation when a person is 19  
present or likely to be present, terrorism, or escape. 20

(C) No person shall purposely cause the death of another 21  
who is under thirteen years of age at the time of the commission 22  
of the offense. 23

(D) No person who is under detention as a result of having 24  
been found guilty of or having pleaded guilty to a felony or who 25  
breaks that detention shall purposely cause the death of 26  
another. 27

(E) No person shall purposely cause the death of a law 28  
enforcement officer whom the offender knows or has reasonable 29  
cause to know is a law enforcement officer when either of the 30  
following applies: 31

(1) The victim, at the time of the commission of the 32  
offense, is engaged in the victim's duties. 33

(2) It is the offender's specific purpose to kill a law 34  
enforcement officer. 35

(F) No person shall purposely cause the death of a first 36  
responder or military member whom the offender knows or has 37  
reasonable cause to know is a first responder or military member 38  
when it is the offender's specific purpose to kill a first 39  
responder or military member. 40

(G) Whoever violates this section is guilty of aggravated murder, and shall be punished as provided in section 2929.02 of the Revised Code. 41  
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~~(G)~~ (H) As used in this section: 44

(1) "Detention" has the same meaning as in section 2921.01 of the Revised Code. 45  
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(2) "Law enforcement officer" has the same meaning as in section 2911.01 of the Revised Code and also includes any federal law enforcement officer as defined in section 2921.51 of the Revised Code and anyone who has previously served as a law enforcement officer or federal law enforcement officer. 47  
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(3) "First responder" means an emergency medical service provider, a firefighter, or any other emergency response personnel, or anyone who has previously served as a first responder. 52  
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(4) "Military member" means a member of the armed forces of the United States, reserves, or Ohio national guard, a participant in ROTC, JROTC, or any similar military training program, or anyone who has previously served in the military. 56  
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**Sec. 2923.02.** (A) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense. 60  
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(B) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be. 64  
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(C) No person who is convicted of committing a specific offense, of complicity in the commission of an offense, or of conspiracy to commit an offense shall be convicted of an attempt to commit the same offense in violation of this section.

(D) It is an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(E) (1) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense other than a violation of Chapter 3734. of the Revised Code that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. In the case of an attempt to commit a violation of any provision of Chapter 3734. of the Revised Code, other than section 3734.18 of the Revised Code, that relates to hazardous wastes, an attempt is a felony punishable

by a fine of not more than twenty-five thousand dollars or 101  
imprisonment for not more than eighteen months, or both. An 102  
attempt to commit a minor misdemeanor, or to engage in 103  
conspiracy, is not an offense under this section. 104

(2) If a person is convicted of or pleads guilty to 105  
attempted rape and also is convicted of or pleads guilty to a 106  
specification of the type described in section 2941.1418, 107  
2941.1419, or 2941.1420 of the Revised Code, the offender shall 108  
be sentenced to a prison term or term of life imprisonment 109  
pursuant to section 2971.03 of the Revised Code. 110

(3) In addition to any other sanctions imposed pursuant to 111  
division (E)(1) of this section for an attempt to commit 112  
aggravated murder or murder in violation of division (A) of this 113  
section, if the offender used a motor vehicle as the means to 114  
attempt to commit the offense, the court shall impose upon the 115  
offender a class two suspension of the offender's driver's 116  
license, commercial driver's license, temporary instruction 117  
permit, probationary license, or nonresident operating privilege 118  
as specified in division (A)(2) of section 4510.02 of the 119  
Revised Code. 120

(4) If a person is convicted of or found guilty of an 121  
attempt to commit aggravated murder of the type described in 122  
division (E) or (F) of section 2903.01 of the Revised Code, the 123  
court shall impose as a mandatory prison term one of the prison 124  
terms prescribed for a felony of the first degree. 125

(F) As used in this section: 126

(1) "Drug abuse offense" has the same meaning as in 127  
section 2925.01 of the Revised Code. 128

(2) "Motor vehicle" has the same meaning as in section 129

4501.01 of the Revised Code.	130
<b>Section 2.</b> That existing sections 2903.01 and 2923.02 of	131
the Revised Code are hereby repealed.	132
<b>Section 3.</b> Section 2923.02 of the Revised Code is	133
presented in this act as a composite of the section as amended	134
by both Am. Sub. H.B. 461 and Am. Sub. S.B. 260 of the 126th	135
General Assembly. The General Assembly, applying the principle	136
stated in division (B) of section 1.52 of the Revised Code that	137
amendments are to be harmonized if reasonably capable of	138
simultaneous operation, finds that the composite is the	139
resulting version of the section in effect prior to the	140
effective date of the section as presented in this act.	141