

As Introduced

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Regular Session

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H. B. No. 96

Representative Hughes

Cosponsors: Representatives Smith, R., Schaffer

A BILL

To amend sections 2907.06, 2929.24, and 2929.41 of
the Revised Code to increase the penalty for
sexual imposition when the offender previously
has been convicted or pleaded guilty three or
more times of any of several specified sex
offenses and to repeal the corroboration
requirement for a sexual imposition conviction.

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

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

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

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

(2) The offender knows that the other person's, or one of

the other person's, ability to appraise the nature of or control 19
the offender's or touching person's conduct is substantially 20
impaired. 21

(3) The offender knows that the other person, or one of 22
the other persons, submits because of being unaware of the 23
sexual contact. 24

(4) The other person, or one of the other persons, is 25
thirteen years of age or older but less than sixteen years of 26
age, whether or not the offender knows the age of such person, 27
and the offender is at least eighteen years of age and four or 28
more years older than such other person. 29

(5) The offender is a mental health professional, the 30
other person or one of the other persons is a mental health 31
client or patient of the offender, and the offender induces the 32
other person who is the client or patient to submit by falsely 33
representing to the other person who is the client or patient 34
that the sexual contact is necessary for mental health treatment 35
purposes. 36

~~(B) No person shall be convicted of a violation of this 37
section solely upon the victim's testimony unsupported by other 38
evidence. 39~~

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

2907.03, 2907.04, 2907.05, or 2907.12 of the Revised Code, or of 48
any combination of those sections, a violation of this section 49
is a misdemeanor and the court may impose on the offender a jail 50
term of not more than one year. 51

Sec. 2929.24. (A) Except as provided in section 2929.22 or 52
2929.23 of the Revised Code or division (E) or (F) of this 53
section and unless another term is required or authorized 54
pursuant to law, if the sentencing court imposing a sentence 55
upon an offender for a misdemeanor elects or is required to 56
impose a jail term on the offender pursuant to this chapter, the 57
court shall impose a definite jail term that shall be one of the 58
following: 59

(1) For a misdemeanor of the first degree, not more than 60
one hundred eighty days; 61

(2) For a misdemeanor of the second degree, not more than 62
ninety days; 63

(3) For a misdemeanor of the third degree, not more than 64
sixty days; 65

(4) For a misdemeanor of the fourth degree, not more than 66
thirty days. 67

(B) (1) A court that sentences an offender to a jail term 68
under this section may permit the offender to serve the sentence 69
in intermittent confinement or may authorize a limited release 70
of the offender as provided in division (B) of section 2929.26 71
of the Revised Code. The court retains jurisdiction over every 72
offender sentenced to jail to modify the jail sentence imposed 73
at any time, but the court shall not reduce any mandatory jail 74
term. 75

(2) (a) If a prosecutor, as defined in section 2935.01 of 76

the Revised Code, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

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

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

(D) If a person is sentenced to a jail term pursuant to this section, or pursuant to section 2907.06 of the Revised Code when the person previously has been convicted of or pleaded guilty to three or more violations of section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.12 of the Revised Code or of any combination of those sections, the court may impose as part

of the sentence pursuant to section 2929.28 of the Revised Code 107
a reimbursement sanction, and, if the local detention facility 108
in which the term is to be served is covered by a policy adopted 109
pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 110
753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code 111
and section 2929.37 of the Revised Code, both of the following 112
apply: 113

(1) The court shall specify both of the following as part 114
of the sentence: 115

(a) If the person is presented with an itemized bill 116
pursuant to section 2929.37 of the Revised Code for payment of 117
the costs of confinement, the person is required to pay the bill 118
in accordance with that section. 119

(b) If the person does not dispute the bill described in 120
division (D)(1)(a) of this section and does not pay the bill by 121
the times specified in section 2929.37 of the Revised Code, the 122
clerk of the court may issue a certificate of judgment against 123
the person as described in that section. 124

(2) The sentence automatically includes any certificate of 125
judgment issued as described in division (D)(1)(b) of this 126
section. 127

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

pursuant to any provision of the Revised Code. The offender 136
shall serve the additional jail term consecutively to and prior 137
to the jail term imposed for the underlying offense and 138
consecutively to any other mandatory term imposed in relation to 139
the offense. 140

(F) (1) If an offender is convicted of or pleads guilty to 141
a misdemeanor violation of section 2907.23, 2907.24, 2907.241, 142
or 2907.25 of the Revised Code and to a specification of the 143
type described in section 2941.1421 of the Revised Code and if 144
the court imposes a jail term on the offender for the 145
misdemeanor violation, the court may impose upon the offender an 146
additional definite jail term as follows: 147

(a) Subject to division (F) (1) (b) of this section, an 148
additional definite jail term of not more than sixty days; 149

(b) If the offender previously has been convicted of or 150
pleaded guilty to one or more misdemeanor or felony violations 151
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 152
the Revised Code and also was convicted of or pleaded guilty to 153
a specification of the type described in section 2941.1421 of 154
the Revised Code regarding one or more of those violations, an 155
additional definite jail term of not more than one hundred 156
twenty days. 157

(2) In lieu of imposing an additional definite jail term 158
under division (F) (1) of this section, the court may directly 159
impose on the offender a sanction that requires the offender to 160
wear a real-time processing, continual tracking electronic 161
monitoring device during the period of time specified by the 162
court. The period of time specified by the court shall equal the 163
duration of an additional jail term that the court could have 164
imposed upon the offender under division (F) (1) of this section. 165

A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.26 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.25 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

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

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

Sec. 2929.41. (A) Except as provided in division (B) of 197
this section, division (C) of section 2929.14, or division (D) 198
or (E) of section 2971.03 of the Revised Code, a prison term, 199
jail term, or sentence of imprisonment shall be served 200
concurrently with any other prison term, jail term, or sentence 201
of imprisonment imposed by a court of this state, another state, 202
or the United States. Except as provided in division (B)(3) of 203
this section, a jail term or sentence of imprisonment for 204
misdemeanor shall be served concurrently with a prison term or 205
sentence of imprisonment for felony served in a state or federal 206
correctional institution. 207

(B) (1) ~~A~~ (a) Except as provided in division (B) (1) (b) of 208
this section, a jail term or sentence of imprisonment for a 209
misdemeanor shall be served consecutively to any other prison 210
term, jail term, or sentence of imprisonment when the trial 211
court specifies that it is to be served consecutively or when it 212
is imposed for a misdemeanor violation of section 2907.322, 213
2921.34, or 2923.131 of the Revised Code. 214

When consecutive sentences are imposed for misdemeanor 215
under this division, the term to be served is the aggregate of 216
the consecutive terms imposed, except that the aggregate term to 217
be served shall not exceed eighteen months. 218

(b) A jail term imposed for a violation of section 2907.06 219
of the Revised Code when the offender previously has been 220
convicted of or pleaded guilty to three or more violations of 221
section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.12 222
of the Revised Code or of any combination of those sections 223
shall be served consecutively to any other prison term, jail 224
term, or sentence of imprisonment. 225

When consecutive sentences are imposed for a violation of 226

section 2907.06 of the Revised Code under this division, the 227
term to be served is the aggregate of the consecutive terms 228
imposed. 229

(2) If a court of this state imposes a prison term upon 230
the offender for the commission of a felony and a court of 231
another state or the United States also has imposed a prison 232
term upon the offender for the commission of a felony, the court 233
of this state may order that the offender serve the prison term 234
it imposes consecutively to any prison term imposed upon the 235
offender by the court of another state or the United States. 236

(3) A jail term or sentence of imprisonment imposed for a 237
misdemeanor violation of section 4510.11, 4510.14, 4510.16, 238
4510.21, or 4511.19 of the Revised Code shall be served 239
consecutively to a prison term that is imposed for a felony 240
violation of section 2903.06, 2903.07, 2903.08, or 4511.19 of 241
the Revised Code or a felony violation of section 2903.04 of the 242
Revised Code involving the operation of a motor vehicle by the 243
offender and that is served in a state correctional institution 244
when the trial court specifies that it is to be served 245
consecutively. 246

When consecutive jail terms or sentences of imprisonment 247
and prison terms are imposed for one or more misdemeanors and 248
one or more felonies under this division, the term to be served 249
is the aggregate of the consecutive terms imposed, and the 250
offender shall serve all terms imposed for a felony before 251
serving any term imposed for a misdemeanor. 252

Section 2. That existing sections 2907.06, 2929.24, and 253
2929.41 of the Revised Code are hereby repealed. 254