

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 372

Representatives Abrams, Plummer

To amend sections 2903.01, 2929.03, and 2929.04 of
the Revised Code to enact the Larry Henderson
Act to specify that the penalty for aggravated
murder for an adult offender is death or life
without the possibility of parole if the victim
is a peace officer, prosecutor, first responder,
or military member.

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

Section 1. That sections 2903.01, 2929.03, and 2929.04 of
the Revised Code be amended to read as follows:

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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.

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(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, arson, aggravated robbery, robbery, aggravated
burglary, burglary, trespass in a habitation when a person is
present or likely to be present, terrorism, or escape.

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(C) No person shall purposely cause the death of another

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who is under thirteen years of age at the time of the commission 21
of the offense. 22

(D) No person who is under detention as a result of having 23
been found guilty of or having pleaded guilty to a felony or who 24
breaks that detention shall purposely cause the death of 25
another. 26

(E) No person shall purposely cause the death of a ~~law-~~ 27
~~enforcement~~ peace officer or prosecutor whom the offender knows 28
or has reasonable cause to know is a ~~law enforcement~~ peace 29
officer or prosecutor when either of the following applies: 30

(1) The victim, at the time of the commission of the 31
offense, is engaged in the victim's duties. 32

(2) It is the offender's specific purpose to kill a ~~law-~~ 33
~~enforcement~~ peace officer or prosecutor. 34

(F) No person shall purposely cause the death of a first 35
responder or military member whom the offender knows or has 36
reasonable cause to know is a first responder or military member 37
when it is the offender's specific purpose to kill a first 38
responder or military member. 39

(G) Whoever violates this section is guilty of aggravated 40
murder, and shall be punished as provided in section 2929.02 of 41
the Revised Code. 42

(H) As used in this section: 43

(1) "Detention" has the same meaning as in section 2921.01 44
of the Revised Code. 45

(2) "~~Law enforcement~~ Peace officer" has the same meaning 46
as in section ~~2911.01~~ 2935.01 of the Revised Code and also 47
includes any federal law enforcement officer as defined in 48

section 2921.51 of the Revised Code and anyone who has 49
previously served as a ~~law enforcement~~ peace officer or federal 50
law enforcement officer. 51

(3) "First responder" means an emergency medical service 52
provider, a firefighter, or any other emergency response 53
personnel, or anyone who has previously served as a first 54
responder. 55

(4) "Military member" means a member of the armed forces 56
of the United States, reserves, or Ohio national guard, a 57
participant in ROTC, JROTC, or any similar military training 58
program, or anyone who has previously served in the military. 59

(5) "Prosecutor" has the same meaning as in section 60
2935.01 of the Revised Code. 61

Sec. 2929.03. (A) If the indictment or count in the 62
indictment charging aggravated murder does not contain one or 63
more specifications of aggravating circumstances listed in 64
division (A) of section 2929.04 of the Revised Code, then, 65
following a verdict of guilty of the charge of aggravated 66
murder, the trial court shall impose sentence on the offender as 67
follows: 68

(1) Except as provided in division (A) (2) or (H) of this 69
section, the trial court shall impose one of the following 70
sentences on the offender: 71

(a) Life imprisonment without parole; 72

(b) Subject to division (A) (1) (e) of this section, life 73
imprisonment with parole eligibility after serving twenty years 74
of imprisonment; 75

(c) Subject to division (A) (1) (e) of this section, life 76

imprisonment with parole eligibility after serving twenty-five 77
full years of imprisonment; 78

(d) Subject to division (A)(1)(e) of this section, life 79
imprisonment with parole eligibility after serving thirty full 80
years of imprisonment; 81

(e) If the victim of the aggravated murder was less than 82
thirteen years of age, the offender also is convicted of or 83
pleads guilty to a sexual motivation specification that was 84
included in the indictment, count in the indictment, or 85
information charging the offense, and the trial court does not 86
impose a sentence of life imprisonment without parole on the 87
offender pursuant to division (A)(1)(a) of this section, the 88
trial court shall sentence the offender pursuant to division (B) 89
(3) of section 2971.03 of the Revised Code to an indefinite term 90
consisting of a minimum term of thirty years and a maximum term 91
of life imprisonment that shall be served pursuant to that 92
section. 93

(2) If the offender also is convicted of or pleads guilty 94
to a sexual motivation specification and a sexually violent 95
predator specification that are included in the indictment, 96
count in the indictment, or information that charged the 97
aggravated murder, except as provided in division (H) of this 98
section, the trial court shall impose upon the offender a 99
sentence of life imprisonment without parole that shall be 100
served pursuant to section 2971.03 of the Revised Code. 101

(B) If the indictment or count in the indictment charging 102
aggravated murder contains one or more specifications of 103
aggravating circumstances listed in division (A) of section 104
2929.04 of the Revised Code, the verdict shall separately state 105
whether the accused is found guilty or not guilty of the 106

principal charge and, if guilty of the principal charge, whether 107
the offender was eighteen years of age or older at the time of 108
the commission of the offense, if the matter of age was raised 109
by the offender pursuant to section 2929.023 of the Revised 110
Code, and whether the offender is guilty or not guilty of each 111
specification. The jury shall be instructed on its duties in 112
this regard. The instruction to the jury shall include an 113
instruction that a specification shall be proved beyond a 114
reasonable doubt in order to support a guilty verdict on the 115
specification, but the instruction shall not mention the penalty 116
that may be the consequence of a guilty or not guilty verdict on 117
any charge or specification. 118

(C) (1) If the indictment or count in the indictment 119
charging aggravated murder contains one or more specifications 120
of aggravating circumstances listed in division (A) of section 121
2929.04 of the Revised Code, then, following a verdict of guilty 122
of the charge but not guilty of each of the specifications, and 123
regardless of whether the offender raised the matter of age 124
pursuant to section 2929.023 of the Revised Code or the matter 125
of serious mental illness at the time of the commission of the 126
offense pursuant to section 2929.025 of the Revised Code, the 127
trial court shall impose sentence on the offender as follows: 128

(a) Except as provided in division (C) (1) (b) or (H) of 129
this section, the trial court shall impose one of the following 130
sentences on the offender: 131

(i) Life imprisonment without parole; 132

(ii) Subject to division (C) (1) (a) (v) of this section, 133
life imprisonment with parole eligibility after serving twenty 134
years of imprisonment; 135

(iii) Subject to division (C) (1) (a) (v) of this section, 136
life imprisonment with parole eligibility after serving twenty- 137
five full years of imprisonment; 138

(iv) Subject to division (C) (1) (a) (v) of this section, 139
life imprisonment with parole eligibility after serving thirty 140
full years of imprisonment; 141

(v) If the victim of the aggravated murder was less than 142
thirteen years of age, the offender also is convicted of or 143
pleads guilty to a sexual motivation specification that was 144
included in the indictment, count in the indictment, or 145
information charging the offense, and the trial court does not 146
impose a sentence of life imprisonment without parole on the 147
offender pursuant to division (C) (1) (a) (i) of this section, the 148
trial court shall sentence the offender pursuant to division (B) 149
(3) of section 2971.03 of the Revised Code to an indefinite term 150
consisting of a minimum term of thirty years and a maximum term 151
of life imprisonment. 152

(b) If the offender also is convicted of or pleads guilty 153
to a sexual motivation specification and a sexually violent 154
predator specification that are included in the indictment, 155
count in the indictment, or information that charged the 156
aggravated murder, except as provided in division (H) of this 157
section, the trial court shall impose upon the offender a 158
sentence of life imprisonment without parole that shall be 159
served pursuant to section 2971.03 of the Revised Code. 160

(2) (a) If the indictment or count in the indictment 161
contains one or more specifications of aggravating circumstances 162
listed in division (A) of section 2929.04 of the Revised Code 163
and if the offender is found guilty of both the charge and one 164
or more of the specifications, the penalty to be imposed on the 165

offender shall be one of the following: 166

(i) Except as provided in division (C) (2) (a) (ii), (C) (2) 167
(a) (iii), (C) (2) (a) (iv), or (H) and subject to divisions (D) (1) 168
and (E) of this section, the penalty to be imposed on the 169
offender shall be death, life imprisonment without parole, life 170
imprisonment with parole eligibility after serving twenty-five 171
full years of imprisonment, or life imprisonment with parole 172
eligibility after serving thirty full years of imprisonment. 173

(ii) Except as provided in division (C) (2) (a) (iii), (C) (2) 174
(a) (iv), or (H) of this section, if the victim of the aggravated 175
murder was less than thirteen years of age, the offender also is 176
convicted of or pleads guilty to a sexual motivation 177
specification that was included in the indictment, count in the 178
indictment, or information charging the offense, and the trial 179
court does not impose a sentence of death or life imprisonment 180
without parole on the offender pursuant to division (C) (2) (a) (i) 181
of this section, the penalty to be imposed on the offender shall 182
be an indefinite term consisting of a minimum term of thirty 183
years and a maximum term of life imprisonment that shall be 184
imposed pursuant to division (B) (3) of section 2971.03 of the 185
Revised Code and served pursuant to that section. 186

(iii) ~~If~~ Except as provided in division (C) (2) (a) (iv) of 187
this section, if the offender also is convicted of or pleads 188
guilty to a sexual motivation specification and a sexually 189
violent predator specification that are included in the 190
indictment, count in the indictment, or information that charged 191
the aggravated murder, except as provided in division (H) of 192
this section, the penalty to be imposed on the offender shall be 193
death or life imprisonment without parole that shall be served 194
pursuant to section 2971.03 of the Revised Code. 195

(iv) If the victim of aggravated murder was a peace officer, prosecutor, first responder, or military member, the penalty to be imposed on the offender shall be death or life imprisonment without parole.

(b) A penalty imposed pursuant to division (C) (2) (a) (i), (ii), ~~or (iii)~~, or (iv) of this section shall be determined pursuant to divisions (D) and (E) of this section and shall be determined by one of the following:

(i) By the panel of three judges that tried the offender upon the offender's waiver of the right to trial by jury;

(ii) By the trial jury and the trial judge, if the offender was tried by jury.

(D) (1) Death may not be imposed as a penalty for aggravated murder if the offender raised the matter of age at trial pursuant to section 2929.023 of the Revised Code and was not found at trial to have been eighteen years of age or older at the time of the commission of the offense or raised the matter of the offender's serious mental illness at the time of the commission of the offense pursuant to section 2929.025 of the Revised Code and was found under that section to be ineligible for a sentence of death due to serious mental illness. When death may be imposed as a penalty for aggravated murder, the court shall proceed under this division. When death may be imposed as a penalty, the court, upon the request of the defendant, shall require a pre-sentence investigation to be made and, upon the request of the defendant, shall require a mental examination to be made, and shall require reports of the investigation and of any mental examination submitted to the court, pursuant to section 2947.06 of the Revised Code. No statement made or information provided by a defendant in a

mental examination or proceeding conducted pursuant to this 226
division shall be disclosed to any person, except as provided in 227
this division, or be used in evidence against the defendant on 228
the issue of guilt in any retrial. A pre-sentence investigation 229
or mental examination shall not be made except upon request of 230
the defendant. Copies of any reports prepared under this 231
division shall be furnished to the court, to the trial jury if 232
the offender was tried by a jury, to the prosecutor, and to the 233
offender or the offender's counsel for use under this division. 234
The court, and the trial jury if the offender was tried by a 235
jury, shall consider any report prepared pursuant to this 236
division and furnished to it and any evidence raised at trial 237
that is relevant to the aggravating circumstances the offender 238
was found guilty of committing or to any factors in mitigation 239
of the imposition of the sentence of death, shall hear testimony 240
and other evidence that is relevant to the nature and 241
circumstances of the aggravating circumstances the offender was 242
found guilty of committing, the mitigating factors set forth in 243
division (B) of section 2929.04 of the Revised Code, and any 244
other factors in mitigation of the imposition of the sentence of 245
death, and shall hear the statement, if any, of the offender, 246
and the arguments, if any, of counsel for the defense and 247
prosecution, that are relevant to the penalty that should be 248
imposed on the offender. The defendant shall be given great 249
latitude in the presentation of evidence of the mitigating 250
factors set forth in division (B) of section 2929.04 of the 251
Revised Code and of any other factors in mitigation of the 252
imposition of the sentence of death. If the offender chooses to 253
make a statement, the offender is subject to cross-examination 254
only if the offender consents to make the statement under oath 255
or affirmation. 256

The defendant shall have the burden of going forward with 257
the evidence of any factors in mitigation of the imposition of 258
the sentence of death. The prosecution shall have the burden of 259
proving, by proof beyond a reasonable doubt, that the 260
aggravating circumstances the defendant was found guilty of 261
committing are sufficient to outweigh the factors in mitigation 262
of the imposition of the sentence of death. 263

(2) Upon consideration of the relevant evidence raised at 264
trial, the testimony, other evidence, statement of the offender, 265
arguments of counsel, and, if applicable, the reports submitted 266
pursuant to division (D)(1) of this section, the trial jury, if 267
the offender was tried by a jury, shall determine whether the 268
aggravating circumstances the offender was found guilty of 269
committing are sufficient to outweigh the mitigating factors 270
present in the case. If the trial jury unanimously finds, by 271
proof beyond a reasonable doubt, that the aggravating 272
circumstances the offender was found guilty of committing 273
outweigh the mitigating factors, the trial jury shall recommend 274
to the court that the sentence of death be imposed on the 275
offender. Absent such a finding, the jury shall recommend that 276
the offender be sentenced to one of the following: 277

(a) Except as provided in division (D)(2)(b), (D)(2)(c), 278
(D)(2)(d), or (H) of this section, to life imprisonment without 279
parole, life imprisonment with parole eligibility after serving 280
twenty-five full years of imprisonment, or life imprisonment 281
with parole eligibility after serving thirty full years of 282
imprisonment; 283

(b) Except as provided in division (D)(2)(c) or (H) of 284
this section, if the victim of the aggravated murder was less 285
than thirteen years of age, the offender also is convicted of or 286

pleads guilty to a sexual motivation specification that was 287
included in the indictment, count in the indictment, or 288
information charging the offense, and the jury does not 289
recommend a sentence of life imprisonment without parole 290
pursuant to division (D)(2)(a) of this section, to an indefinite 291
term consisting of a minimum term of thirty years and a maximum 292
term of life imprisonment to be imposed pursuant to division (B) 293
(3) of section 2971.03 of the Revised Code and served pursuant 294
to that section. 295

(c) If the offender also is convicted of or pleads guilty 296
to a sexual motivation specification and a sexually violent 297
predator specification that are included in the indictment, 298
count in the indictment, or information that charged the 299
aggravated murder, except as provided in division (H) of this 300
section, to life imprisonment without parole. 301

(d) If victim of aggravated murder was a peace officer, 302
prosecutor, first responder, or military member, and the jury 303
does not recommend a sentence of death pursuant to division (D) 304
(2) of this section, to life imprisonment without parole. 305

If the trial jury recommends that the offender be 306
sentenced to life imprisonment without parole, life imprisonment 307
with parole eligibility after serving twenty-five full years of 308
imprisonment, life imprisonment with parole eligibility after 309
serving thirty full years of imprisonment, or an indefinite term 310
consisting of a minimum term of thirty years and a maximum term 311
of life imprisonment to be imposed pursuant to division (B)(3) 312
of section 2971.03 of the Revised Code, except as provided in 313
division (H) of this section, the court shall impose the 314
sentence recommended by the jury upon the offender. If the 315
sentence is an indefinite term consisting of a minimum term of 316

thirty years and a maximum term of life imprisonment imposed as 317
described in division (D) (2) (b) of this section or a sentence of 318
life imprisonment without parole imposed under division (D) (2) 319
(c) of this section, the sentence shall be served pursuant to 320
section 2971.03 of the Revised Code. If the trial jury 321
recommends that the sentence of death be imposed upon the 322
offender, the court shall proceed to impose sentence pursuant to 323
division (D) (3) of this section. 324

(3) Upon consideration of the relevant evidence raised at 325
trial, the testimony, other evidence, statement of the offender, 326
arguments of counsel, and, if applicable, the reports submitted 327
to the court pursuant to division (D) (1) of this section, if, 328
after receiving pursuant to division (D) (2) of this section the 329
trial jury's recommendation that the sentence of death be 330
imposed, the court finds, by proof beyond a reasonable doubt, or 331
if the panel of three judges unanimously finds, by proof beyond 332
a reasonable doubt, that the aggravating circumstances the 333
offender was found guilty of committing outweigh the mitigating 334
factors, it shall impose sentence of death on the offender. 335
Absent such a finding by the court or panel, the court or the 336
panel shall impose one of the following sentences on the 337
offender: 338

(a) Except as provided in division (D) (3) (b), (D) (3) (c), 339
or (H) of this section, one of the following: 340

(i) Life imprisonment without parole; 341

(ii) Subject to division (D) (3) (a) (iv) of this section, 342
life imprisonment with parole eligibility after serving twenty- 343
five full years of imprisonment; 344

(iii) Subject to division (D) (3) (a) (iv) of this section, 345

life imprisonment with parole eligibility after serving thirty 346
full years of imprisonment; 347

(iv) If the victim of the aggravated murder was less than 348
thirteen years of age, the offender also is convicted of or 349
pleads guilty to a sexual motivation specification that was 350
included in the indictment, count in the indictment, or 351
information charging the offense, and the trial court does not 352
impose a sentence of life imprisonment without parole on the 353
offender pursuant to division (D)(3)(a)(i) of this section, the 354
court or panel shall sentence the offender pursuant to division 355
(B)(3) of section 2971.03 of the Revised Code to an indefinite 356
term consisting of a minimum term of thirty years and a maximum 357
term of life imprisonment. 358

(b) If the offender also is convicted of or pleads guilty 359
to a sexual motivation specification and a sexually violent 360
predator specification that are included in the indictment, 361
count in the indictment, or information that charged the 362
aggravated murder, except as provided in division (H) of this 363
section, life imprisonment without parole that shall be served 364
pursuant to section 2971.03 of the Revised Code. 365

(c) If the victim of aggravated murder was a peace 366
officer, prosecutor, first responder, or military member, and 367
the jury does not recommend a sentence of death pursuant to 368
division (D)(3) of this section, to life imprisonment without 369
parole. 370

(E)(1) If the offender raised the matter of age at trial 371
pursuant to section 2929.023 of the Revised Code, was convicted 372
of aggravated murder and one or more specifications of an 373
aggravating circumstance listed in division (A) of section 374
2929.04 of the Revised Code, and was not found at trial to have 375

been eighteen years of age or older at the time of the 376
commission of the offense, the court or the panel of three 377
judges shall not impose a sentence of death on the offender. 378
Instead, the court or panel shall impose one of the following 379
sentences on the offender: 380

(a) Except as provided in division (E)(1)(b) or (H) of 381
this section, one of the following: 382

(i) Life imprisonment without parole; 383

(ii) Subject to division (E)(1)(a)(iv) of this section, 384
life imprisonment with parole eligibility after serving twenty- 385
five full years of imprisonment; 386

(iii) Subject to division (E)(1)(a)(iv) of this section, 387
life imprisonment with parole eligibility after serving thirty 388
full years of imprisonment; 389

(iv) If the victim of the aggravated murder was less than 390
thirteen years of age, the offender also is convicted of or 391
pleads guilty to a sexual motivation specification that was 392
included in the indictment, count in the indictment, or 393
information charging the offense, and the trial court does not 394
impose a sentence of life imprisonment without parole on the 395
offender pursuant to division (E)(1)(a)(i) of this section, the 396
court or panel shall sentence the offender pursuant to division 397
(B)(3) of section 2971.03 of the Revised Code to an indefinite 398
term consisting of a minimum term of thirty years and a maximum 399
term of life imprisonment. 400

(b) If the offender also is convicted of or pleads guilty 401
to a sexual motivation specification and a sexually violent 402
predator specification that are included in the indictment, 403
count in the indictment, or information that charged the 404

aggravated murder, except as provided in division (H) of this 405
section, life imprisonment without parole that shall be served 406
pursuant to section 2971.03 of the Revised Code. 407

(2) If the offender raised the matter of the offender's 408
serious mental illness at the time of the commission of the 409
offense pursuant to section 2929.025 of the Revised Code, was 410
found under that section to be ineligible for a sentence of 411
death due to serious mental illness, and was convicted of 412
aggravated murder and one or more specifications of an 413
aggravating circumstance listed in division (A) of section 414
2929.04 of the Revised Code, the court or panel of three judges 415
shall not impose a sentence of death on the offender. Instead, 416
the court or panel shall sentence the offender to life 417
imprisonment without parole. 418

(F) The court or the panel of three judges, when it 419
imposes sentence of death, shall state in a separate opinion its 420
specific findings as to the existence of any of the mitigating 421
factors set forth in division (B) of section 2929.04 of the 422
Revised Code, the existence of any other mitigating factors, the 423
aggravating circumstances the offender was found guilty of 424
committing, and the reasons why the aggravating circumstances 425
the offender was found guilty of committing were sufficient to 426
outweigh the mitigating factors. The court or panel, when it 427
imposes life imprisonment or an indefinite term consisting of a 428
minimum term of thirty years and a maximum term of life 429
imprisonment under division (D) of this section, shall state in 430
a separate opinion its specific findings of which of the 431
mitigating factors set forth in division (B) of section 2929.04 432
of the Revised Code it found to exist, what other mitigating 433
factors it found to exist, what aggravating circumstances the 434
offender was found guilty of committing, and why it could not 435

find that these aggravating circumstances were sufficient to 436
outweigh the mitigating factors. For cases in which a sentence 437
of death is imposed for an offense committed before January 1, 438
1995, the court or panel shall file the opinion required to be 439
prepared by this division with the clerk of the appropriate 440
court of appeals and with the clerk of the supreme court within 441
fifteen days after the court or panel imposes sentence. For 442
cases in which a sentence of death is imposed for an offense 443
committed on or after January 1, 1995, the court or panel shall 444
file the opinion required to be prepared by this division with 445
the clerk of the supreme court within fifteen days after the 446
court or panel imposes sentence. The judgment in a case in which 447
a sentencing hearing is held pursuant to this section is not 448
final until the opinion is filed. 449

(G) (1) Whenever the court or a panel of three judges 450
imposes a sentence of death for an offense committed before 451
January 1, 1995, the clerk of the court in which the judgment is 452
rendered shall make and retain a copy of the entire record in 453
the case, and shall deliver the original of the entire record in 454
the case to the appellate court. 455

(2) Whenever the court or a panel of three judges imposes 456
a sentence of death for an offense committed on or after January 457
1, 1995, the clerk of the court in which the judgment is 458
rendered shall make and retain a copy of the entire record in 459
the case, and shall deliver the original of the entire record in 460
the case to the supreme court. 461

(H) A court shall not impose a sentence of life 462
imprisonment without parole on a person under division (A) (1) or 463
(2), (C) (1) or (2), (D) (2) or (3), or (E) (1) or (2) of this 464
section for an offense that was committed when the person was 465

under eighteen years of age.

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Sec. 2929.04. (A) Imposition of the death penalty for aggravated murder is precluded unless one or more of the following is specified in the indictment or count in the indictment pursuant to section 2941.14 of the Revised Code and proved beyond a reasonable doubt:

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(1) The offense was the assassination of the president of the United States or a person in line of succession to the presidency, the governor or lieutenant governor of this state, the president-elect or vice president-elect of the United States, the governor-elect or lieutenant governor-elect of this state, or a candidate for any of the offices described in this division. For purposes of this division, a person is a candidate if the person has been nominated for election according to law, if the person has filed a petition or petitions according to law to have the person's name placed on the ballot in a primary or general election, or if the person campaigns as a write-in candidate in a primary or general election.

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(2) The offense was committed for hire.

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(3) The offense was committed for the purpose of escaping detection, apprehension, trial, or punishment for another offense committed by the offender.

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(4) The offense was committed while the offender was under detention or while the offender was at large after having broken detention. As used in division (A)(4) of this section, "detention" has the same meaning as in section 2921.01 of the Revised Code, except that detention does not include hospitalization, institutionalization, or confinement in a mental health facility or intellectual disabilities facility

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unless at the time of the commission of the offense either of 495
the following circumstances apply: 496

(a) The offender was in the facility as a result of being 497
charged with a violation of a section of the Revised Code. 498

(b) The offender was under detention as a result of being 499
convicted of or pleading guilty to a violation of a section of 500
the Revised Code. 501

(5) Prior to the offense at bar, the offender was 502
convicted of an offense an essential element of which was the 503
purposeful killing of or attempt to kill another, or the offense 504
at bar was part of a course of conduct involving the purposeful 505
killing of or attempt to kill two or more persons by the 506
offender. 507

(6) The victim of the offense was a ~~law enforcement peace~~ 508
~~officer or prosecutor, both as defined in section 2911.01-~~ 509
~~2935.01~~ of the Revised Code, whom the offender had reasonable 510
cause to know or knew to be a law enforcement officer as so 511
defined, and either the victim, at the time of the commission of 512
the offense, was engaged in the victim's duties, or it was the 513
offender's specific purpose to kill a law enforcement officer as 514
so defined. 515

(7) The offense was committed while the offender was 516
committing, attempting to commit, or fleeing immediately after 517
committing or attempting to commit kidnapping, rape, aggravated 518
arson, aggravated robbery, or aggravated burglary, and either 519
the offender was the principal offender in the commission of the 520
aggravated murder or, if not the principal offender, committed 521
the aggravated murder with prior calculation and design. 522

(8) The victim of the aggravated murder was a witness to 523

an offense who was purposely killed to prevent the victim's 524
testimony in any criminal proceeding and the aggravated murder 525
was not committed during the commission, attempted commission, 526
or flight immediately after the commission or attempted 527
commission of the offense to which the victim was a witness, or 528
the victim of the aggravated murder was a witness to an offense 529
and was purposely killed in retaliation for the victim's 530
testimony in any criminal proceeding. 531

(9) The offender, in the commission of the offense, 532
purposefully caused the death of another who was under thirteen 533
years of age at the time of the commission of the offense, and 534
either the offender was the principal offender in the commission 535
of the offense or, if not the principal offender, committed the 536
offense with prior calculation and design. 537

(10) The offense was committed while the offender was 538
committing, attempting to commit, or fleeing immediately after 539
committing or attempting to commit terrorism. 540

(11) The victim of the offense was a first responder, as 541
defined in section 2903.01 of the Revised Code, or a military 542
member, as defined in section 2903.01 of the Revised Code, whom 543
the offender had reasonable cause to know or knew to be a first 544
responder or military member as so defined, and it was the 545
offender's specific purpose to kill a first responder or 546
military member as so defined. 547

(B) If one or more of the aggravating circumstances listed 548
in division (A) of this section is specified in the indictment 549
or count in the indictment and proved beyond a reasonable doubt, 550
if the offender did not raise the matter of age pursuant to 551
section 2929.023 of the Revised Code or the offender after 552
raising that matter was found at trial to have been eighteen 553

years of age or older at the time of the commission of the 554
offense, and if the offender did not raise the matter of the 555
offender's serious mental illness at the time of the commission 556
of the offense pursuant to section 2929.025 of the Revised Code 557
or the offender after raising that matter was found by the court 558
to not be ineligible for a sentence of death, the court, trial 559
jury, or panel of three judges shall consider, and weigh against 560
the aggravating circumstances proved beyond a reasonable doubt, 561
the nature and circumstances of the offense, the history, 562
character, and background of the offender, and all of the 563
following factors: 564

(1) Whether the victim of the offense induced or 565
facilitated it; 566

(2) Whether it is unlikely that the offense would have 567
been committed, but for the fact that the offender was under 568
duress, coercion, or strong provocation; 569

(3) Whether, at the time of committing the offense, the 570
offender, because of a mental disease or defect, lacked 571
substantial capacity to appreciate the criminality of the 572
offender's conduct or to conform the offender's conduct to the 573
requirements of the law; 574

(4) The youth of the offender; 575

(5) The offender's lack of a significant history of prior 576
criminal convictions and delinquency adjudications; 577

(6) If the offender was a participant in the offense but 578
not the principal offender, the degree of the offender's 579
participation in the offense and the degree of the offender's 580
participation in the acts that led to the death of the victim; 581

(7) Any other factors that are relevant to the issue of 582

whether the offender should be sentenced to death. 583

(C) The defendant shall be given great latitude in the 584
presentation of evidence of the factors listed in division (B) 585
of this section and of any other factors in mitigation of the 586
imposition of the sentence of death. 587

The existence of any of the mitigating factors listed in 588
division (B) of this section does not preclude the imposition of 589
a sentence of death on the offender but shall be weighed 590
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 591
Revised Code by the trial court, trial jury, or the panel of 592
three judges against the aggravating circumstances the offender 593
was found guilty of committing. 594

Section 2. That existing sections 2903.01, 2929.03, and 595
2929.04 of the Revised Code are hereby repealed. 596

Section 3. This act shall be known as the Larry Henderson 597
Act. 598

Section 4. Section 2929.03 of the Revised Code is 599
presented in this act as a composite of the section as amended 600
by both H.B. 136 and S.B. 256 of the 133rd General Assembly. The 601
General Assembly, applying the principle stated in division (B) 602
of section 1.52 of the Revised Code that amendments are to be 603
harmonized if reasonably capable of simultaneous operation, 604
finds that the composite is the resulting version of the section 605
in effect prior to the effective date of the section as 606
presented in this act. 607