

As Reported by the House Judiciary Committee

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Am. H. B. No. 372

Representatives Abrams, Plummer

Cosponsors: Representatives Swearingen, Mathews, A.

To amend sections 2903.01, 2929.03, 2929.04, and 1
2941.14 of the Revised Code to enact the Larry 2
Henderson Act to specify that the penalty for 3
aggravated murder for an adult offender is death 4
or life without the possibility of parole if the 5
victim is a peace officer, corrections officer, 6
prosecutor, first responder, or military member. 7

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

Section 1. That sections 2903.01, 2929.03, 2929.04, and 8
2941.14 of the Revised Code be amended to read as follows: 9

Sec. 2903.01. (A) No person shall purposely, and with 10
prior calculation and design, cause the death of another or the 11
unlawful termination of another's pregnancy. 12

(B) No person shall purposely cause the death of another 13
or the unlawful termination of another's pregnancy while 14
committing or attempting to commit, or while fleeing immediately 15
after committing or attempting to commit, kidnapping, rape, 16
aggravated arson, arson, aggravated robbery, robbery, aggravated 17
burglary, burglary, trespass in a habitation when a person is 18
present or likely to be present, terrorism, or escape. 19

(C) No person shall purposely cause the death of another 20
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, corrections officer, or prosecutor 28
whom the offender knows or has reasonable cause to know is a ~~law~~ 29
~~enforcement~~ peace officer, corrections officer, or prosecutor 30
when either of the 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~~ peace officer, corrections officer, or prosecutor. 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 41
murder, and shall be punished as provided in section 2929.02 of 42
the Revised Code. 43

(H) As used in this section: 44

(1) "Detention" has the same meaning as in section 2921.01 45
of the Revised Code. 46

(2) "~~Law enforcement~~ Peace officer" has the same meaning 47

as in section ~~2911.01~~2935.01 of the Revised Code and also 48
includes any federal law enforcement officer as defined in 49
section 2921.51 of the Revised Code and anyone who has 50
previously served as a ~~law enforcement~~peace officer or federal 51
law enforcement officer. 52

(3) "First responder" means an emergency medical service 53
provider, a firefighter, or any other emergency response 54
personnel, or anyone who has previously served as a first 55
responder. 56

(4) "Military member" means a member of the armed forces 57
of the United States, reserves, or Ohio national guard, a 58
participant in ROTC, JROTC, or any similar military training 59
program, or anyone who has previously served in the military. 60

(5) "Prosecutor" has the same meaning as in section 61
2935.01 of the Revised Code. 62

(6) "Corrections officer" means a person employed by a 63
detention facility as a corrections officer. 64

(7) "Detention facility" has the same meaning as in 65
section 2921.01 of the Revised Code. 66

Sec. 2929.03. (A) If the indictment or count in the 67
indictment charging aggravated murder does not contain one or 68
more specifications of aggravating circumstances listed in 69
division (A) of section 2929.04 of the Revised Code, then, 70
following a verdict of guilty of the charge of aggravated 71
murder, the trial court shall impose sentence on the offender as 72
follows: 73

(1) Except as provided in division (A) (2) or (H) of this 74
section, the trial court shall impose one of the following 75
sentences on the offender: 76

(a) Life imprisonment without parole;	77
(b) Subject to division (A) (1) (e) of this section, life imprisonment with parole eligibility after serving twenty years of imprisonment;	78 79 80
(c) Subject to division (A) (1) (e) of this section, life imprisonment with parole eligibility after serving twenty-five full years of imprisonment;	81 82 83
(d) Subject to division (A) (1) (e) of this section, life imprisonment with parole eligibility after serving thirty full years of imprisonment;	84 85 86
(e) If the victim of the aggravated murder was less than thirteen years of age, the offender also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging the offense, and the trial court does not impose a sentence of life imprisonment without parole on the offender pursuant to division (A) (1) (a) of this section, the trial court shall sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code to an indefinite term consisting of a minimum term of thirty years and a maximum term of life imprisonment that shall be served pursuant to that section.	87 88 89 90 91 92 93 94 95 96 97 98
(2) If the offender also is convicted of or pleads guilty to a sexual motivation specification and a sexually violent predator specification that are included in the indictment, count in the indictment, or information that charged the aggravated murder, except as provided in division (H) of this section, the trial court shall impose upon the offender a sentence of life imprisonment without parole that shall be	99 100 101 102 103 104 105

served pursuant to section 2971.03 of the Revised Code. 106

(B) If the indictment or count in the indictment charging 107
aggravated murder contains one or more specifications of 108
aggravating circumstances listed in division (A) of section 109
2929.04 of the Revised Code, the verdict shall separately state 110
whether the accused is found guilty or not guilty of the 111
principal charge and, if guilty of the principal charge, whether 112
the offender was eighteen years of age or older at the time of 113
the commission of the offense, if the matter of age was raised 114
by the offender pursuant to section 2929.023 of the Revised 115
Code, and whether the offender is guilty or not guilty of each 116
specification. The jury shall be instructed on its duties in 117
this regard. The instruction to the jury shall include an 118
instruction that a specification shall be proved beyond a 119
reasonable doubt in order to support a guilty verdict on the 120
specification, but the instruction shall not mention the penalty 121
that may be the consequence of a guilty or not guilty verdict on 122
any charge or specification. 123

(C) (1) If the indictment or count in the indictment 124
charging aggravated murder contains one or more specifications 125
of aggravating circumstances listed in division (A) of section 126
2929.04 of the Revised Code, then, following a verdict of guilty 127
of the charge but not guilty of each of the specifications, and 128
regardless of whether the offender raised the matter of age 129
pursuant to section 2929.023 of the Revised Code or the matter 130
of serious mental illness at the time of the commission of the 131
offense pursuant to section 2929.025 of the Revised Code, the 132
trial court shall impose sentence on the offender as follows: 133

(a) Except as provided in division (C) (1) (b) or (H) of 134
this section, the trial court shall impose one of the following 135

sentences on the offender:	136
(i) Life imprisonment without parole;	137
(ii) Subject to division (C) (1) (a) (v) of this section,	138
life imprisonment with parole eligibility after serving twenty	139
years of imprisonment;	140
(iii) Subject to division (C) (1) (a) (v) of this section,	141
life imprisonment with parole eligibility after serving twenty-	142
five full years of imprisonment;	143
(iv) Subject to division (C) (1) (a) (v) of this section,	144
life imprisonment with parole eligibility after serving thirty	145
full years of imprisonment;	146
(v) If the victim of the aggravated murder was less than	147
thirteen years of age, the offender also is convicted of or	148
pleads guilty to a sexual motivation specification that was	149
included in the indictment, count in the indictment, or	150
information charging the offense, and the trial court does not	151
impose a sentence of life imprisonment without parole on the	152
offender pursuant to division (C) (1) (a) (i) of this section, the	153
trial court shall sentence the offender pursuant to division (B)	154
(3) of section 2971.03 of the Revised Code to an indefinite term	155
consisting of a minimum term of thirty years and a maximum term	156
of life imprisonment.	157
(b) If the offender also is convicted of or pleads guilty	158
to a sexual motivation specification and a sexually violent	159
predator specification that are included in the indictment,	160
count in the indictment, or information that charged the	161
aggravated murder, except as provided in division (H) of this	162
section, the trial court shall impose upon the offender a	163
sentence of life imprisonment without parole that shall be	164

served pursuant to section 2971.03 of the Revised Code. 165

(2) (a) If the indictment or count in the indictment 166
contains one or more specifications of aggravating circumstances 167
listed in division (A) of section 2929.04 of the Revised Code 168
and if the offender is found guilty of both the charge and one 169
or more of the specifications, the penalty to be imposed on the 170
offender shall be one of the following: 171

(i) Except as provided in division (C) (2) (a) (ii), (C) (2) 172
(a) (iii), (C) (2) (a) (iv), or (H) and subject to divisions (D) (1) 173
and (E) of this section, the penalty to be imposed on the 174
offender shall be death, life imprisonment without parole, life 175
imprisonment with parole eligibility after serving twenty-five 176
full years of imprisonment, or life imprisonment with parole 177
eligibility after serving thirty full years of imprisonment. 178

(ii) Except as provided in division (C) (2) (a) (iii), (C) (2) 179
(a) (iv), or (H) of this section, if the victim of the aggravated 180
murder was less than thirteen years of age, the offender also is 181
convicted of or pleads guilty to a sexual motivation 182
specification that was included in the indictment, count in the 183
indictment, or information charging the offense, and the trial 184
court does not impose a sentence of death or life imprisonment 185
without parole on the offender pursuant to division (C) (2) (a) (i) 186
of this section, the penalty to be imposed on the offender shall 187
be an indefinite term consisting of a minimum term of thirty 188
years and a maximum term of life imprisonment that shall be 189
imposed pursuant to division (B) (3) of section 2971.03 of the 190
Revised Code and served pursuant to that section. 191

(iii) ~~If~~ Except as provided in division (C) (2) (a) (iv) of 192
this section, if the offender also is convicted of or pleads 193
guilty to a sexual motivation specification and a sexually 194

violent predator specification that are included in the 195
indictment, count in the indictment, or information that charged 196
the aggravated murder, except as provided in division (H) of 197
this section, the penalty to be imposed on the offender shall be 198
death or life imprisonment without parole that shall be served 199
pursuant to section 2971.03 of the Revised Code. 200

(iv) If one of the specifications the offender is 201
convicted of or pleads guilty to is the specification in 202
division (A)(6) of section 2929.04 of the Revised Code and the 203
victim of aggravated murder was a peace officer, corrections 204
officer, or prosecutor, or if one of the specifications the 205
offender is convicted of or pleads guilty to is the 206
specification in division (A)(11) of section 2929.04 of the 207
Revised Code and the victim of aggravated murder was a first 208
responder or military member, the penalty to be imposed on the 209
offender shall be death or life imprisonment without parole. 210

(b) A penalty imposed pursuant to division (C)(2)(a)(i), 211
(ii), ~~or (iii)~~, or (iv) of this section shall be determined 212
pursuant to divisions (D) and (E) of this section and shall be 213
determined by one of the following: 214

(i) By the panel of three judges that tried the offender 215
upon the offender's waiver of the right to trial by jury; 216

(ii) By the trial jury and the trial judge, if the 217
offender was tried by jury. 218

(D)(1) Death may not be imposed as a penalty for 219
aggravated murder if the offender raised the matter of age at 220
trial pursuant to section 2929.023 of the Revised Code and was 221
not found at trial to have been eighteen years of age or older 222
at the time of the commission of the offense or raised the 223

matter of the offender's serious mental illness at the time of 224
the commission of the offense pursuant to section 2929.025 of 225
the Revised Code and was found under that section to be 226
ineligible for a sentence of death due to serious mental 227
illness. When death may be imposed as a penalty for aggravated 228
murder, the court shall proceed under this division. When death 229
may be imposed as a penalty, the court, upon the request of the 230
defendant, shall require a pre-sentence investigation to be made 231
and, upon the request of the defendant, shall require a mental 232
examination to be made, and shall require reports of the 233
investigation and of any mental examination submitted to the 234
court, pursuant to section 2947.06 of the Revised Code. No 235
statement made or information provided by a defendant in a 236
mental examination or proceeding conducted pursuant to this 237
division shall be disclosed to any person, except as provided in 238
this division, or be used in evidence against the defendant on 239
the issue of guilt in any retrial. A pre-sentence investigation 240
or mental examination shall not be made except upon request of 241
the defendant. Copies of any reports prepared under this 242
division shall be furnished to the court, to the trial jury if 243
the offender was tried by a jury, to the prosecutor, and to the 244
offender or the offender's counsel for use under this division. 245
The court, and the trial jury if the offender was tried by a 246
jury, shall consider any report prepared pursuant to this 247
division and furnished to it and any evidence raised at trial 248
that is relevant to the aggravating circumstances the offender 249
was found guilty of committing or to any factors in mitigation 250
of the imposition of the sentence of death, shall hear testimony 251
and other evidence that is relevant to the nature and 252
circumstances of the aggravating circumstances the offender was 253
found guilty of committing, the mitigating factors set forth in 254
division (B) of section 2929.04 of the Revised Code, and any 255

other factors in mitigation of the imposition of the sentence of death, and shall hear the statement, if any, of the offender, and the arguments, if any, of counsel for the defense and prosecution, that are relevant to the penalty that should be imposed on the offender. The defendant shall be given great latitude in the presentation of evidence of the mitigating factors set forth in division (B) of section 2929.04 of the Revised Code and of any other factors in mitigation of the imposition of the sentence of death. If the offender chooses to make a statement, the offender is subject to cross-examination only if the offender consents to make the statement under oath or affirmation.

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

(2) Upon consideration of the relevant evidence raised at trial, the testimony, other evidence, statement of the offender, arguments of counsel, and, if applicable, the reports submitted pursuant to division (D)(1) of this section, the trial jury, if the offender was tried by a jury, shall determine whether the aggravating circumstances the offender was found guilty of committing are sufficient to outweigh the mitigating factors present in the case. If the trial jury unanimously finds, by proof beyond a reasonable doubt, that the aggravating circumstances the offender was found guilty of committing outweigh the mitigating factors, the trial jury shall recommend to the court that the sentence of death be imposed on the

offender. Absent such a finding, the jury shall recommend that 287
the offender be sentenced to one of the following: 288

(a) Except as provided in division (D) (2) (b), (D) (2) (c), 289
(D) (2) (d), or (H) of this section, to life imprisonment without 290
parole, life imprisonment with parole eligibility after serving 291
twenty-five full years of imprisonment, or life imprisonment 292
with parole eligibility after serving thirty full years of 293
imprisonment; 294

(b) Except as provided in division (D) (2) (c) or (H) of 295
this section, if the victim of the aggravated murder was less 296
than thirteen years of age, the offender also is convicted of or 297
pleads guilty to a sexual motivation specification that was 298
included in the indictment, count in the indictment, or 299
information charging the offense, and the jury does not 300
recommend a sentence of life imprisonment without parole 301
pursuant to division (D) (2) (a) of this section, to an indefinite 302
term consisting of a minimum term of thirty years and a maximum 303
term of life imprisonment to be imposed pursuant to division (B) 304
(3) of section 2971.03 of the Revised Code and served pursuant 305
to that section. 306

(c) If the offender also is convicted of or pleads guilty 307
to a sexual motivation specification and a sexually violent 308
predator specification that are included in the indictment, 309
count in the indictment, or information that charged the 310
aggravated murder, except as provided in division (H) of this 311
section, to life imprisonment without parole. 312

(d) If one of the specifications the offender is convicted 313
of or pleads guilty to is the specification in division (A) (6) 314
of section 2929.04 of the Revised Code and the victim of 315
aggravated murder was a peace officer, corrections officer, or 316

prosecutor, or if one of the specifications the offender is 317
convicted of or pleads guilty to is the specification in 318
division (A) (11) of section 2929.04 of the Revised Code and the 319
victim of aggravated murder was a first responder or military 320
member, and the jury does not recommend a sentence of death 321
pursuant to division (D) (2) of this section, to life 322
imprisonment without parole. 323

If the trial jury recommends that the offender be 324
sentenced to life imprisonment without parole, life imprisonment 325
with parole eligibility after serving twenty-five full years of 326
imprisonment, life imprisonment with parole eligibility after 327
serving thirty full years of imprisonment, or an indefinite term 328
consisting of a minimum term of thirty years and a maximum term 329
of life imprisonment to be imposed pursuant to division (B) (3) 330
of section 2971.03 of the Revised Code, except as provided in 331
division (H) of this section, the court shall impose the 332
sentence recommended by the jury upon the offender. If the 333
sentence is an indefinite term consisting of a minimum term of 334
thirty years and a maximum term of life imprisonment imposed as 335
described in division (D) (2) (b) of this section or a sentence of 336
life imprisonment without parole imposed under division (D) (2) 337
(c) of this section, the sentence shall be served pursuant to 338
section 2971.03 of the Revised Code. If the trial jury 339
recommends that the sentence of death be imposed upon the 340
offender, the court shall proceed to impose sentence pursuant to 341
division (D) (3) of this section. 342

(3) Upon consideration of the relevant evidence raised at 343
trial, the testimony, other evidence, statement of the offender, 344
arguments of counsel, and, if applicable, the reports submitted 345
to the court pursuant to division (D) (1) of this section, if, 346
after receiving pursuant to division (D) (2) of this section the 347

trial jury's recommendation that the sentence of death be 348
imposed, the court finds, by proof beyond a reasonable doubt, or 349
if the panel of three judges unanimously finds, by proof beyond 350
a reasonable doubt, that the aggravating circumstances the 351
offender was found guilty of committing outweigh the mitigating 352
factors, it shall impose sentence of death on the offender. 353
Absent such a finding by the court or panel, the court or the 354
panel shall impose one of the following sentences on the 355
offender: 356

(a) Except as provided in division (D) (3) (b), (D) (3) (c), 357
or (H) of this section, one of the following: 358

(i) Life imprisonment without parole; 359

(ii) Subject to division (D) (3) (a) (iv) of this section, 360
life imprisonment with parole eligibility after serving twenty- 361
five full years of imprisonment; 362

(iii) Subject to division (D) (3) (a) (iv) of this section, 363
life imprisonment with parole eligibility after serving thirty 364
full years of imprisonment; 365

(iv) If the victim of the aggravated murder was less than 366
thirteen years of age, the offender also is convicted of or 367
pleads guilty to a sexual motivation specification that was 368
included in the indictment, count in the indictment, or 369
information charging the offense, and the trial court does not 370
impose a sentence of life imprisonment without parole on the 371
offender pursuant to division (D) (3) (a) (i) of this section, the 372
court or panel shall sentence the offender pursuant to division 373
(B) (3) of section 2971.03 of the Revised Code to an indefinite 374
term consisting of a minimum term of thirty years and a maximum 375
term of life imprisonment. 376

(b) If the offender also is convicted of or pleads guilty 377
to a sexual motivation specification and a sexually violent 378
predator specification that are included in the indictment, 379
count in the indictment, or information that charged the 380
aggravated murder, except as provided in division (H) of this 381
section, life imprisonment without parole that shall be served 382
pursuant to section 2971.03 of the Revised Code. 383

(c) If one of the specifications the offender is convicted 384
of or pleads guilty to is the specification in division (A) (6) 385
of section 2929.04 of the Revised Code and the victim of 386
aggravated murder was a peace officer, corrections officer, or 387
prosecutor, or if one of the specifications the offender is 388
convicted of or pleads guilty to is the specification in 389
division (A) (11) of section 2929.04 of the Revised Code and the 390
victim of aggravated murder was a first responder or military 391
member, and the jury does not recommend a sentence of death 392
pursuant to division (D) (3) of this section, to life 393
imprisonment without parole. 394

(E) (1) If the offender raised the matter of age at trial 395
pursuant to section 2929.023 of the Revised Code, was convicted 396
of aggravated murder and one or more specifications of an 397
aggravating circumstance listed in division (A) of section 398
2929.04 of the Revised Code, and was not found at trial to have 399
been eighteen years of age or older at the time of the 400
commission of the offense, the court or the panel of three 401
judges shall not impose a sentence of death on the offender. 402
Instead, the court or panel shall impose one of the following 403
sentences on the offender: 404

(a) Except as provided in division (E) (1) (b) or (H) of 405
this section, one of the following: 406

(i) Life imprisonment without parole;	407
(ii) Subject to division (E) (1) (a) (iv) of this section,	408
life imprisonment with parole eligibility after serving twenty-	409
five full years of imprisonment;	410
(iii) Subject to division (E) (1) (a) (iv) of this section,	411
life imprisonment with parole eligibility after serving thirty	412
full years of imprisonment;	413
(iv) If the victim of the aggravated murder was less than	414
thirteen years of age, the offender also is convicted of or	415
pleads guilty to a sexual motivation specification that was	416
included in the indictment, count in the indictment, or	417
information charging the offense, and the trial court does not	418
impose a sentence of life imprisonment without parole on the	419
offender pursuant to division (E) (1) (a) (i) of this section, the	420
court or panel shall sentence the offender pursuant to division	421
(B) (3) of section 2971.03 of the Revised Code to an indefinite	422
term consisting of a minimum term of thirty years and a maximum	423
term of life imprisonment.	424
(b) If the offender also is convicted of or pleads guilty	425
to a sexual motivation specification and a sexually violent	426
predator specification that are included in the indictment,	427
count in the indictment, or information that charged the	428
aggravated murder, except as provided in division (H) of this	429
section, life imprisonment without parole that shall be served	430
pursuant to section 2971.03 of the Revised Code.	431
(2) If the offender raised the matter of the offender's	432
serious mental illness at the time of the commission of the	433
offense pursuant to section 2929.025 of the Revised Code, was	434
found under that section to be ineligible for a sentence of	435

death due to serious mental illness, and was convicted of 436
aggravated murder and one or more specifications of an 437
aggravating circumstance listed in division (A) of section 438
2929.04 of the Revised Code, the court or panel of three judges 439
shall not impose a sentence of death on the offender. Instead, 440
the court or panel shall sentence the offender to life 441
imprisonment without parole. 442

(F) The court or the panel of three judges, when it 443
imposes sentence of death, shall state in a separate opinion its 444
specific findings as to the existence of any of the mitigating 445
factors set forth in division (B) of section 2929.04 of the 446
Revised Code, the existence of any other mitigating factors, the 447
aggravating circumstances the offender was found guilty of 448
committing, and the reasons why the aggravating circumstances 449
the offender was found guilty of committing were sufficient to 450
outweigh the mitigating factors. The court or panel, when it 451
imposes life imprisonment or an indefinite term consisting of a 452
minimum term of thirty years and a maximum term of life 453
imprisonment under division (D) of this section, shall state in 454
a separate opinion its specific findings of which of the 455
mitigating factors set forth in division (B) of section 2929.04 456
of the Revised Code it found to exist, what other mitigating 457
factors it found to exist, what aggravating circumstances the 458
offender was found guilty of committing, and why it could not 459
find that these aggravating circumstances were sufficient to 460
outweigh the mitigating factors. For cases in which a sentence 461
of death is imposed for an offense committed before January 1, 462
1995, the court or panel shall file the opinion required to be 463
prepared by this division with the clerk of the appropriate 464
court of appeals and with the clerk of the supreme court within 465
fifteen days after the court or panel imposes sentence. For 466

cases in which a sentence of death is imposed for an offense 467
committed on or after January 1, 1995, the court or panel shall 468
file the opinion required to be prepared by this division with 469
the clerk of the supreme court within fifteen days after the 470
court or panel imposes sentence. The judgment in a case in which 471
a sentencing hearing is held pursuant to this section is not 472
final until the opinion is filed. 473

(G) (1) Whenever the court or a panel of three judges 474
imposes a sentence of death for an offense committed before 475
January 1, 1995, the clerk of the court in which the judgment is 476
rendered shall make and retain a copy of the entire record in 477
the case, and shall deliver the original of the entire record in 478
the case to the appellate court. 479

(2) Whenever the court or a panel of three judges imposes 480
a sentence of death for an offense committed on or after January 481
1, 1995, the clerk of the court in which the judgment is 482
rendered shall make and retain a copy of the entire record in 483
the case, and shall deliver the original of the entire record in 484
the case to the supreme court. 485

(H) A court shall not impose a sentence of life 486
imprisonment without parole on a person under division (A) (1) or 487
(2), (C) (1) or (2), (D) (2) or (3), or (E) (1) or (2) of this 488
section for an offense that was committed when the person was 489
under eighteen years of age. 490

Sec. 2929.04. (A) Imposition of the death penalty for 491
aggravated murder is precluded unless one or more of the 492
following is specified in the indictment or count in the 493
indictment pursuant to section 2941.14 of the Revised Code and 494
proved beyond a reasonable doubt: 495

(1) The offense was the assassination of the president of 496
the United States or a person in line of succession to the 497
presidency, the governor or lieutenant governor of this state, 498
the president-elect or vice president-elect of the United 499
States, the governor-elect or lieutenant governor-elect of this 500
state, or a candidate for any of the offices described in this 501
division. For purposes of this division, a person is a candidate 502
if the person has been nominated for election according to law, 503
if the person has filed a petition or petitions according to law 504
to have the person's name placed on the ballot in a primary or 505
general election, or if the person campaigns as a write-in 506
candidate in a primary or general election. 507

(2) The offense was committed for hire. 508

(3) The offense was committed for the purpose of escaping 509
detection, apprehension, trial, or punishment for another 510
offense committed by the offender. 511

(4) The offense was committed while the offender was under 512
detention or while the offender was at large after having broken 513
detention. As used in division (A)(4) of this section, 514
"detention" has the same meaning as in section 2921.01 of the 515
Revised Code, except that detention does not include 516
hospitalization, institutionalization, or confinement in a 517
mental health facility or intellectual disabilities facility 518
unless at the time of the commission of the offense either of 519
the following circumstances apply: 520

(a) The offender was in the facility as a result of being 521
charged with a violation of a section of the Revised Code. 522

(b) The offender was under detention as a result of being 523
convicted of or pleading guilty to a violation of a section of 524

the Revised Code. 525

(5) Prior to the offense at bar, the offender was 526
convicted of an offense an essential element of which was the 527
purposeful killing of or attempt to kill another, or the offense 528
at bar was part of a course of conduct involving the purposeful 529
killing of or attempt to kill two or more persons by the 530
offender. 531

(6) The victim of the offense was a ~~law enforcement peace~~ 532
officer or prosecutor, both as defined in section ~~2911.01-~~ 533
2935.01 of the Revised Code, or a corrections officer, as 534
defined in section 2903.01 of the Revised Code, whom the 535
offender had reasonable cause to know or knew to be a ~~law-~~ 536
~~enforcement peace~~ officer, corrections officer, or prosecutor as 537
so defined, and either the victim, at the time of the commission 538
of the offense, was engaged in the victim's duties, or it was 539
the offender's specific purpose to kill a ~~law enforcement peace~~ 540
officer, corrections officer, or prosecutor as so defined. 541

(7) The offense was committed while the offender was 542
committing, attempting to commit, or fleeing immediately after 543
committing or attempting to commit kidnapping, rape, aggravated 544
arson, aggravated robbery, or aggravated burglary, and either 545
the offender was the principal offender in the commission of the 546
aggravated murder or, if not the principal offender, committed 547
the aggravated murder with prior calculation and design. 548

(8) The victim of the aggravated murder was a witness to 549
an offense who was purposely killed to prevent the victim's 550
testimony in any criminal proceeding and the aggravated murder 551
was not committed during the commission, attempted commission, 552
or flight immediately after the commission or attempted 553
commission of the offense to which the victim was a witness, or 554

the victim of the aggravated murder was a witness to an offense 555
and was purposely killed in retaliation for the victim's 556
testimony in any criminal proceeding. 557

(9) The offender, in the commission of the offense, 558
purposefully caused the death of another who was under thirteen 559
years of age at the time of the commission of the offense, and 560
either the offender was the principal offender in the commission 561
of the offense or, if not the principal offender, committed the 562
offense with prior calculation and design. 563

(10) The offense was committed while the offender was 564
committing, attempting to commit, or fleeing immediately after 565
committing or attempting to commit terrorism. 566

(11) The victim of the offense was a first responder, as 567
defined in section 2903.01 of the Revised Code, or a military 568
member, as defined in section 2903.01 of the Revised Code, whom 569
the offender had reasonable cause to know or knew to be a first 570
responder or military member as so defined, and it was the 571
offender's specific purpose to kill a first responder or 572
military member as so defined. 573

(B) If one or more of the aggravating circumstances listed 574
in division (A) of this section is specified in the indictment 575
or count in the indictment and proved beyond a reasonable doubt, 576
if the offender did not raise the matter of age pursuant to 577
section 2929.023 of the Revised Code or the offender after 578
raising that matter was found at trial to have been eighteen 579
years of age or older at the time of the commission of the 580
offense, and if the offender did not raise the matter of the 581
offender's serious mental illness at the time of the commission 582
of the offense pursuant to section 2929.025 of the Revised Code 583
or the offender after raising that matter was found by the court 584

to not be ineligible for a sentence of death, the court, trial jury, or panel of three judges shall consider, and weigh against the aggravating circumstances proved beyond a reasonable doubt, the nature and circumstances of the offense, the history, character, and background of the offender, and all of the following factors:

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

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

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

(4) The youth of the offender;

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

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

(7) Any other factors that are relevant to the issue of whether the offender should be sentenced to death.

(C) The defendant shall be given great latitude in the presentation of evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the

imposition of the sentence of death. 613

The existence of any of the mitigating factors listed in 614
division (B) of this section does not preclude the imposition of 615
a sentence of death on the offender but shall be weighed 616
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 617
Revised Code by the trial court, trial jury, or the panel of 618
three judges against the aggravating circumstances the offender 619
was found guilty of committing. 620

Sec. 2941.14. (A) In an indictment for aggravated murder, 621
murder, or voluntary or involuntary manslaughter, the manner in 622
which, or the means by which the death was caused need not be 623
set forth. 624

(B) Imposition of the death penalty for aggravated murder 625
is precluded unless the indictment or count in the indictment 626
charging the offense specifies one or more of the aggravating 627
circumstances listed in division (A) of section 2929.04 of the 628
Revised Code. If more than one aggravating circumstance is 629
specified to an indictment or count, each shall be in a 630
separately numbered specification, and if an aggravating 631
circumstance is specified to a count in an indictment containing 632
more than one count, such specification shall be identified as 633
to the count to which it applies. 634

(C) A specification to an indictment or count in an 635
indictment charging aggravated murder shall be stated at the end 636
of the body of the indictment or count, and may be in 637
substantially the following form: 638

"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE 639
FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand 640
Jurors further find and specify that (set forth the applicable 641

aggravating circumstance listed in divisions (A) (1) to ~~(10)~~(11) 642
of section 2929.04 of the Revised Code. The aggravating 643
circumstance may be stated in the words of the subdivision in 644
which it appears, or in words sufficient to give the accused 645
notice of the same)." 646

Section 2. That existing sections 2903.01, 2929.03, 647
2929.04, and 2941.14 of the Revised Code are hereby repealed. 648

Section 3. This act shall be known as the Larry Henderson 649
Act. 650

Section 4. Section 2929.03 of the Revised Code is 651
presented in this act as a composite of the section as amended 652
by both H.B. 136 and S.B. 256 of the 133rd General Assembly. The 653
General Assembly, applying the principle stated in division (B) 654
of section 1.52 of the Revised Code that amendments are to be 655
harmonized if reasonably capable of simultaneous operation, 656
finds that the composite is the resulting version of the section 657
in effect prior to the effective date of the section as 658
presented in this act. 659