As Introduced

132nd General Assembly Regular Session 2017-2018

H. B. No. 278

Representatives Patton, Kelly

A BILL

То	amend section 2903.08 of the Revised Code to	1
	include negligently causing serious physical	2
	harm to a law enforcement officer while	3
	operating a motor vehicle or other specified	4
	mode of transportation as a violation of the	5
	offense of vehicular assault.	6

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

Section 1. That section 2903.08 of the Revised Code be	7
amended to read as follows:	8
Sec. 2903.08. (A) No person, while operating or	9
participating in the operation of a motor vehicle, motorcycle,	10
snowmobile, locomotive, watercraft, or aircraft, shall cause	11
serious physical harm to another person or another's unborn in	12
any of the following ways:	13
(1)(a) As the proximate result of committing a violation	14
of division (A) of section 4511.19 of the Revised Code or of a	15
substantially equivalent municipal ordinance;	16
(b) As the proximate result of committing a violation of	17
division (A) of section 1547.11 of the Revised Code or of a	18
substantially equivalent municipal ordinance:	19

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(c) As the proximate result of committing a violation of	20
division (A)(3) of section 4561.15 of the Revised Code or of a	21
substantially equivalent municipal ordinance.	22
(2) In one of the following ways:	23
(2) In one of the following ways.	23
(a) As the proximate result of committing, while operating	24
or participating in the operation of a motor vehicle or	25
motorcycle in a construction zone, a reckless operation offense,	26
provided that this division applies only if the person to whom	27
the serious physical harm is caused or to whose unborn the	28
serious physical harm is caused is in the construction zone at	29
the time of the offender's commission of the reckless operation	30
offense in the construction zone and does not apply as described	31
in division (E) of this section;	32
(le) Paralel and le	2.2
(b) Recklessly.	33
(3) As the proximate result of committing, while operating	34
or participating in the operation of a motor vehicle or	35
motorcycle in a construction zone, a speeding offense, provided	36
that this division applies only if the person to whom the	37
serious physical harm is caused or to whose unborn the serious	38
physical harm is caused is in the construction zone at the time	39
of the offender's commission of the speeding offense in the	40
construction zone and does not apply as described in division	41
(E) of this section.	42
	4.2
(4) Negligently, if the person to whom serious physical	43
harm is caused is a law enforcement officer.	44
(B)(1) Whoever violates division (A)(1) of this section is	45
guilty of aggravated vehicular assault. Except as otherwise	46
provided in this division, aggravated vehicular assault is a	47
felony of the third degree. Aggravated vehicular assault is a	48
reconf of the third degree. Aggravated venicular abbaute is a	

felony of the second degree if any of the following apply:	49
(a) At the time of the offense, the offender was driving	50
under a suspension imposed under Chapter 4510. or any other	51
provision of the Revised Code.	52
(b) The offender previously has been convicted of or	53
pleaded guilty to a violation of this section.	54
(c) The offender previously has been convicted of or	55
pleaded guilty to any traffic-related homicide, manslaughter, or	56
assault offense.	57
(d) The offender previously has been convicted of or	58
pleaded guilty to three or more prior violations of section	59
4511.19 of the Revised Code or a substantially equivalent	60
municipal ordinance within the previous ten years.	61
(e) The offender previously has been convicted of or	62
pleaded guilty to three or more prior violations of division (A)	63
of section 1547.11 of the Revised Code or of a substantially	64
equivalent municipal ordinance within the previous ten years.	65
(f) The offender previously has been convicted of or	66
pleaded guilty to three or more prior violations of division (A)	67
(3) of section 4561.15 of the Revised Code or of a substantially	68
equivalent municipal ordinance within the previous ten years.	69
(g) The offender previously has been convicted of or	70
pleaded guilty to three or more prior violations of any	71
combination of the offenses listed in division (B)(1)(d), (e),	72
or (f) of this section.	73
(h) The offender previously has been convicted of or	74
pleaded guilty to a second or subsequent felony violation of	75
division (A) of section 4511.19 of the Revised Code.	76

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(2) In addition to any other sanctions imposed pursuant to	77
division (B)(1) of this section, except as otherwise provided in	78
this division, the court shall impose upon the offender a class	79
three suspension of the offender's driver's license, commercial	80
driver's license, temporary instruction permit, probationary	81
license, or nonresident operating privilege from the range	82
specified in division (A)(3) of section 4510.02 of the Revised	83
Code. If the offender previously has been convicted of or	84
pleaded guilty to a violation of this section, any traffic-	85
related homicide, manslaughter, or assault offense, or any	86
traffic-related murder, felonious assault, or attempted murder	87
offense, the court shall impose either a class two suspension of	88
the offender's driver's license, commercial driver's license,	89
temporary instruction permit, probationary license, or	90
nonresident operating privilege from the range specified in	91
division (A)(2) of that section or a class one suspension as	92
specified in division (A)(1) of that section.	93

- (C) (1) Whoever violates division (A) (2) $\frac{\text{or}}{\text{or}}$, (3), or (4) 94 of this section is quilty of vehicular assault and shall be 95 punished as provided in divisions (C)(2) and (3) of this 96 section. 97
- (2) Except as otherwise provided in this division, 98 vehicular assault committed in violation of division (A)(2) of 99 this section is a felony of the fourth degree. Vehicular assault 100 committed in violation of division (A)(2) of this section is a 101 felony of the third degree if, at the time of the offense, the 102 offender was driving under a suspension imposed under Chapter 103 4510. or any other provision of the Revised Code, if the 104 offender previously has been convicted of or pleaded guilty to a 105 violation of this section or any traffic-related homicide, 106 manslaughter, or assault offense, or if, in the same course of 107

conduct that resulted in the violation of division (A)(2) of	108
this section, the offender also violated section 4549.02,	109
4549.021, or 4549.03 of the Revised Code.	110

In addition to any other sanctions imposed, the court 111 shall impose upon the offender a class four suspension of the 112 offender's driver's license, commercial driver's license, 113 temporary instruction permit, probationary license, or 114 nonresident operating privilege from the range specified in 115 division (A)(4) of section 4510.02 of the Revised Code or, if 116 the offender previously has been convicted of or pleaded guilty 117 to a violation of this section, any traffic-related homicide, 118 manslaughter, or assault offense, or any traffic-related murder, 119 felonious assault, or attempted murder offense, a class three 120 suspension of the offender's driver's license, commercial 121 driver's license, temporary instruction permit, probationary 122 license, or nonresident operating privilege from the range 123 specified in division (A)(3) of that section. 124

(3) Except as otherwise provided in this division, 125 vehicular assault committed in violation of division (A)(3) or 126 (4) of this section is a misdemeanor of the first degree. 127 Vehicular assault committed in violation of division (A)(3) of 128 this section is a felony of the fourth degree if, at the time of 129 the offense, the offender was driving under a suspension imposed 130 under Chapter 4510. or any other provision of the Revised Code 131 or if the offender previously has been convicted of or pleaded 132 guilty to a violation of this section or any traffic-related 133 homicide, manslaughter, or assault offense. 134

In addition to any other sanctions imposed, the court 135 shall impose upon the offender a class four suspension of the 136 offender's driver's license, commercial driver's license, 137

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temporary instruction permit, probationary license, or	138
nonresident operating privilege from the range specified in	139
division (A)(4) of section 4510.02 of the Revised Code or, if	140
the offender previously has been convicted of or pleaded guilty	141
to a violation of this section, any traffic-related homicide,	142
manslaughter, or assault offense, or any traffic-related murder,	143
felonious assault, or attempted murder offense, a class three	144
suspension of the offender's driver's license, commercial	145
driver's license, temporary instruction permit, probationary	146
license, or nonresident operating privilege from the range	147
specified in division (A)(3) of section 4510.02 of the Revised	148
Code.	149
(D)(1) The court shall impose a mandatory prison term on	150
an offender who is convicted of or pleads guilty to a violation	151
of division (A)(1) of this section.	152
(2) The court shall impose a mandatory prison term on an	153
offender who is convicted of or pleads guilty to a violation of	154
division (A)(2) of this section or a felony violation of	155
division (A)(3) of this section if either of the following	156
applies:	157
(a) The offender previously has been convicted of or	158
pleaded guilty to a violation of this section or section 2903.06	159
of the Revised Code.	160
	1.61
(b) At the time of the offense, the offender was driving	161
under suspension under Chapter 4510. or any other provision of	162
the Revised Code.	163
(3) The court shall impose a mandatory jail term of at	164
least seven days on an offender who is convicted of or pleads	165

guilty to a misdemeanor violation of division (A)(3) of this

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section and may impose upon the offender a longer jail term as	167
authorized pursuant to section 2929.24 of the Revised Code.	168
(E) Divisions (A)(2)(a) and (3) of this section do not	169
apply in a particular construction zone unless signs of the type	170
described in section 2903.081 of the Revised Code are erected in	171
that construction zone in accordance with the guidelines and	172
design specifications established by the director of	173
transportation under section 5501.27 of the Revised Code. The	174
failure to erect signs of the type described in section 2903.081	175
of the Revised Code in a particular construction zone in	176
accordance with those guidelines and design specifications does	177
not limit or affect the application of division (A)(1) or (2)(b)	178
of this section in that construction zone or the prosecution of	179
any person who violates either of those divisions in that	180
construction zone.	181
(F) As used in this section:	182
(1) "Mandatory prison term" and "mandatory jail term" have	183
the same meanings as in section 2929.01 of the Revised Code.	184
(2) "Traffic-related homicide, manslaughter, or assault	185
offense" and "traffic-related murder, felonious assault, or	186
attempted murder offense" have the same meanings as in section	187
2903.06 of the Revised Code.	188
(3) "Construction zone" has the same meaning as in section	189
5501.27 of the Revised Code.	190
(4) "Reckless operation offense" and "speeding offense"	191
have the same meanings as in section 2903.06 of the Revised	192
Code.	193
(G) For the purposes of this section, when a penalty or	194
suspension is enhanced because of a prior or current violation	195

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of a specified law or a prior or current specified offense, the	196
reference to the violation of the specified law or the specified	197
offense includes any violation of any substantially equivalent	198
municipal ordinance, former law of this state, or current or	199
former law of another state or the United States.	200
Section 2. That existing section 2903.08 of the Revised	201
Code is hereby repealed.	202