

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 34**

**Senator Brenner**

**Cosponsors: Senators Cirino, Hottinger, Lang, Schaffer, Wilson**

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**A BILL**

To amend sections 2909.02, 2909.03, 2909.04, 1  
2909.05, 2909.06, and 2909.07 of the Revised 2  
Code and to amend Section 231.10 of H.B. 166 of 3  
the 133rd General Assembly to increase penalties 4  
for arson offenses and related offenses and to 5  
make an appropriation. 6

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

**Section 1.** That sections 2909.02, 2909.03, 2909.04, 7  
2909.05, 2909.06, and 2909.07 of the Revised Code be amended to 8  
read as follows: 9

**Sec. 2909.02.** (A) No person, by means of fire or 10  
explosion, shall knowingly do any of the following: 11

(1) Create a substantial risk of serious physical harm to 12  
any person other than the offender; 13

(2) Cause physical harm to any occupied structure; 14

(3) Create, through the offer or acceptance of an 15  
agreement for hire or other consideration, a substantial risk of 16  
physical harm to any occupied structure. 17

(B) (1) Whoever violates this section is guilty of 18  
aggravated arson. 19

(2) A violation of division (A) (1) or (3) of this section 20  
is a felony of the first degree, and the court shall impose on 21  
the offender as the minimum prison term for the offense a 22  
mandatory prison term that is one of the minimum terms 23  
prescribed in division (A) (1) (a) of section 2929.14 of the 24  
Revised Code for a felony of the first degree. 25

(3) A violation of division (A) (2) of this section is a 26  
felony of the ~~second~~first degree. 27

**Sec. 2909.03.** (A) No person, by means of fire or 28  
explosion, shall knowingly do any of the following: 29

(1) Cause, or create a substantial risk of, physical harm 30  
to any property of another without the other person's consent; 31

(2) Cause, or create a substantial risk of, physical harm 32  
to any property of the offender or another, with purpose to 33  
defraud; 34

(3) Cause, or create a substantial risk of, physical harm 35  
to the statehouse or a courthouse, school building, or other 36  
building or structure that is owned or controlled by the state, 37  
any political subdivision, or any department, agency, or 38  
instrumentality of the state or a political subdivision, and 39  
that is used for public purposes; 40

(4) Cause, or create a substantial risk of, physical harm, 41  
through the offer or the acceptance of an agreement for hire or 42  
other consideration, to any property of another without the 43  
other person's consent or to any property of the offender or 44  
another with purpose to defraud; 45

(5) Cause, or create a substantial risk of, physical harm 46  
to any park, preserve, wildlands, brush-covered land, cut-over 47  
land, forest, timberland, greenlands, woods, or similar real 48  
property that is owned or controlled by another person, the 49  
state, or a political subdivision without the consent of the 50  
other person, the state, or the political subdivision; 51

(6) With purpose to defraud, cause, or create a 52  
substantial risk of, physical harm to any park, preserve, 53  
wildlands, brush-covered land, cut-over land, forest, 54  
timberland, greenlands, woods, or similar real property that is 55  
owned or controlled by the offender, another person, the state, 56  
or a political subdivision. 57

(B) No person, by means of fire or explosion, shall 58  
knowingly do any of the following: 59

(1) Cause, or create a substantial risk of, physical harm 60  
to any structure of another that is not an occupied structure; 61

(2) Cause, or create a substantial risk of, physical harm, 62  
through the offer or the acceptance of an agreement for hire or 63  
other consideration, to any structure of another that is not an 64  
occupied structure; 65

(3) Cause, or create a substantial risk of, physical harm 66  
to any structure that is not an occupied structure and that is 67  
in or on any park, preserve, wildlands, brush-covered land, cut- 68  
over land, forest, timberland, greenlands, woods, or similar 69  
real property that is owned or controlled by another person, the 70  
state, or a political subdivision. 71

(C) (1) It is an affirmative defense to a charge under 72  
division (B) (1) or (2) of this section that the defendant acted 73  
with the consent of the other person. 74

(2) It is an affirmative defense to a charge under 75  
division (B)(3) of this section that the defendant acted with 76  
the consent of the other person, the state, or the political 77  
subdivision. 78

(D)(1) Whoever violates this section is guilty of arson. 79

(2) A violation of division (A)(1) or (B)(1) of this 80  
section is one of the following: 81

(a) Except as otherwise provided in division (D)(2)(b) of 82  
this section, a ~~misdemeanor~~-felony of the ~~first~~-fifth degree; 83

(b) If the value of the property or the amount of the 84  
physical harm involved is one thousand dollars or more, a felony 85  
of the ~~fourth~~-third degree. 86

(3) A violation of division (A)(2), (3), (5), or (6) or 87  
(B)(3) of this section is a felony of the ~~fourth~~-third degree. 88

(4) A violation of division (A)(4) or (B)(2) of this 89  
section is a felony of the ~~third~~-second degree. 90

**Sec. 2909.04.** (A) No person, purposely by any means or 91  
knowingly by damaging or tampering with any property, shall do 92  
any of the following: 93

(1) Interrupt or impair television, radio, telephone, 94  
telegraph, or other mass communications service; police, fire, 95  
or other public service communications; radar, loran, radio, or 96  
other electronic aids to air or marine navigation or 97  
communications; or amateur or citizens band radio communications 98  
being used for public service or emergency communications; 99

(2) Interrupt or impair public transportation, including 100  
without limitation school bus transportation, or water supply, 101  
gas, power, or other utility service to the public; 102

|   |                                 |
|---|---------------------------------|
| (3) Substantially impair the ability of law enforcement officers, firefighters, rescue personnel, emergency medical services personnel, or emergency facility personnel to respond to an emergency or to protect and preserve any person or property from serious physical harm.                  | 103<br>104<br>105<br>106<br>107 |
| (B) No person shall knowingly use any computer, computer system, computer network, telecommunications device, or other electronic device or system or the internet so as to disrupt, interrupt, or impair the functions of any police, fire, educational, commercial, or governmental operations. | 108<br>109<br>110<br>111<br>112 |
| (C) Whoever violates this section is guilty of disrupting public services, a felony of the <del>fourth</del> <u>third</u> degree.   | 113<br>114                      |
| (D) As used in this section:  | 115                             |
| (1) "Emergency medical services personnel" has the same meaning as in section 2133.21 of the Revised Code.  | 116<br>117                      |
| (2) "Emergency facility personnel" means any of the following:  | 118<br>119                      |
| (a) Any of the following individuals who perform services in the ordinary course of their professions in an emergency facility:   | 120<br>121<br>122               |
| (i) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;   | 123<br>124<br>125               |
| (ii) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code;  | 126<br>127                      |
| (iii) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;  | 128<br>129                      |

|   |  |
|---|--|
| (iv) Health care workers;   | 130                                    |
| (v) Clerical staffs.  | 131                                    |
| (b) Any individual who is a security officer performing security services in an emergency facility;   | 132<br>133                             |
| (c) Any individual who is present in an emergency facility, who was summoned to the facility by an individual identified in division (D) (2) (a) or (b) of this section.  | 134<br>135<br>136                      |
| (3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.  | 137<br>138<br>139                      |
| (4) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.  | 140<br>141                             |
| (5) "Health care worker" means an individual, other than an individual specified in division (D) (2) (a), (b), or (c) of this section, who provides medical or other health-related care or treatment in an emergency facility, including medical technicians, medical assistants, orderlies, aides, or individuals acting in similar capacities. | 142<br>143<br>144<br>145<br>146<br>147 |
| <b>Sec. 2909.05.</b> (A) No person shall knowingly cause serious physical harm to an occupied structure or any of its contents.   | 148<br>149                             |
| (B) (1) No person shall knowingly cause physical harm to property that is owned or possessed by another, when either of the following applies:  | 150<br>151<br>152                      |
| (a) The property is used by its owner or possessor in the owner's or possessor's profession, business, trade, or occupation, and the value of the property or the amount of physical harm involved is one thousand dollars or more;   | 153<br>154<br>155<br>156               |

(b) Regardless of the value of the property or the amount of damage done, the property or its equivalent is necessary in order for its owner or possessor to engage in the owner's or possessor's profession, business, trade, or occupation.

(2) No person shall knowingly cause serious physical harm to property that is owned, leased, or controlled by a governmental entity. A governmental entity includes, but is not limited to, the state or a political subdivision of the state, a school district, the board of trustees of a public library or public university, or any other body corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.

(C) No person, without privilege to do so, shall knowingly cause serious physical harm to any tomb, monument, gravestone, or other similar structure that is used as a memorial for the dead; to any fence, railing, curb, or other property that is used to protect, enclose, or ornament any cemetery; or to a cemetery.

(D) No person, without privilege to do so, shall knowingly cause physical harm to a place of burial by breaking and entering into a tomb, crypt, casket, or other structure that is used as a memorial for the dead or as an enclosure for the dead.

(E) Whoever violates this section is guilty of vandalism. Except as otherwise provided in this division, vandalism is a felony of the ~~fifth~~-fourth degree that is punishable by a fine of up to two thousand five hundred dollars in addition to the penalties specified for a felony of the ~~fifth~~-fourth degree in sections 2929.11 to 2929.18 of the Revised Code. If the value of the property or the amount of physical harm involved is seven thousand five hundred dollars or more but less than one hundred

fifty thousand dollars, vandalism is a felony of the ~~fourth-~~ 187  
third degree. If the value of the property or the amount of 188  
physical harm involved is one hundred fifty thousand dollars or 189  
more, vandalism is a felony of the ~~third-~~second degree. 190

(F) For purposes of this section: 191

(1) "Cemetery" means any place of burial and includes 192  
burial sites that contain American Indian burial objects placed 193  
with or containing American Indian human remains. 194

(2) "Serious physical harm" means physical harm to 195  
property that results in loss to the value of the property of 196  
one thousand dollars or more. 197

**Sec. 2909.06.** (A) No person shall cause, or create a 198  
substantial risk of physical harm to any property of another 199  
without the other person's consent: 200

(1) Knowingly, by any means; 201

(2) Recklessly, by means of fire, explosion, flood, poison 202  
gas, poison, radioactive material, caustic or corrosive 203  
material, or other inherently dangerous agency or substance. 204

(B) Whoever violates this section is guilty of criminal 205  
damaging or endangering. Except as otherwise provided in this 206  
division, criminal damaging or endangering is a misdemeanor of 207  
the ~~second-~~first degree. If a violation of this section creates 208  
a risk of physical harm to any person, criminal damaging or 209  
endangering is a ~~misdemeanor-~~felony of the ~~first-~~fifth degree. 210  
If the property involved in a violation of this section is an 211  
aircraft, an aircraft engine, propeller, appliance, spare part, 212  
or any other equipment or implement used or intended to be used 213  
in the operation of an aircraft and if the violation creates a 214  
risk of physical harm to any person, criminal damaging or 215

endangering is a felony of the ~~fifth~~fourth degree. If the 216  
property involved in a violation of this section is an aircraft, 217  
an aircraft engine, propeller, appliance, spare part, or any 218  
other equipment or implement used or intended to be used in the 219  
operation of an aircraft and if the violation creates a 220  
substantial risk of physical harm to any person or if the 221  
property involved in a violation of this section is an occupied 222  
aircraft, criminal damaging or endangering is a felony of the 223  
~~fourth~~third degree. 224

**Sec. 2909.07.** (A) No person shall do any of the following: 225

(1) Without privilege to do so, knowingly move, deface, 226  
damage, destroy, or otherwise improperly tamper with either of 227  
the following: 228

(a) The property of another; 229

(b) One's own residential real property with the purpose 230  
to decrease the value of or enjoyment of the residential real 231  
property, if both of the following apply: 232

(i) The residential real property is subject to a 233  
mortgage. 234

(ii) The person has been served with a summons and 235  
complaint in a pending residential mortgage loan foreclosure 236  
action relating to that real property. As used in this division, 237  
"pending" includes the time between judgment entry and 238  
confirmation of sale. 239

(2) With purpose to interfere with the use or enjoyment of 240  
property of another, employ a tear gas device, stink bomb, smoke 241  
generator, or other device releasing a substance that is harmful 242  
or offensive to persons exposed or that tends to cause public 243  
alarm; 244

(3) Without privilege to do so, knowingly move, deface, 245  
damage, destroy, or otherwise improperly tamper with a bench 246  
mark, triangulation station, boundary marker, or other survey 247  
station, monument, or marker; 248

(4) Without privilege to do so, knowingly move, deface, 249  
damage, destroy, or otherwise improperly tamper with any safety 250  
device, the property of another, or the property of the offender 251  
when required or placed for the safety of others, so as to 252  
destroy or diminish its effectiveness or availability for its 253  
intended purpose; 254

(5) With purpose to interfere with the use or enjoyment of 255  
the property of another, set a fire on the land of another or 256  
place personal property that has been set on fire on the land of 257  
another, which fire or personal property is outside and apart 258  
from any building, other structure, or personal property that is 259  
on that land; 260

(6) Without privilege to do so, and with intent to impair 261  
the functioning of any computer, computer system, computer 262  
network, computer software, or computer program, knowingly do 263  
any of the following: 264

(a) In any manner or by any means, including, but not 265  
limited to, computer hacking, alter, damage, destroy, or modify 266  
a computer, computer system, computer network, computer 267  
software, or computer program or data contained in a computer, 268  
computer system, computer network, computer software, or 269  
computer program; 270

(b) Introduce a computer contaminant into a computer, 271  
computer system, computer network, computer software, or 272  
computer program. 273

|   |     |
|---|-----|
| (7) Without privilege to do so, knowingly destroy or                        | 274 |
| improperly tamper with a critical infrastructure facility.                  | 275 |
| (B) As used in this section:  | 276 |
| (1) "Safety device" means any fire extinguisher, fire                       | 277 |
| hose, or fire axe, or any fire escape, emergency exit, or                   | 278 |
| emergency escape equipment, or any life line, life-saving ring,             | 279 |
| life preserver, or life boat or raft, or any alarm, light,                  | 280 |
| flare, signal, sign, or notice intended to warn of danger or                | 281 |
| emergency, or intended for other safety purposes, or any guard              | 282 |
| railing or safety barricade, or any traffic sign or signal, or              | 283 |
| any railroad grade crossing sign, signal, or gate, or any first             | 284 |
| aid or survival equipment, or any other device, apparatus, or               | 285 |
| equipment intended for protecting or preserving the safety of               | 286 |
| persons or property.  | 287 |
| (2) "Critical infrastructure facility" has the same                         | 288 |
| meaning as in section 2911.21 of the Revised Code.                          | 289 |
| (3) "Improperly tamper" means to change the physical                        | 290 |
| location or the physical condition of the property.                         | 291 |
| (C) (1) Whoever violates this section is guilty of criminal                 | 292 |
| mischief, and shall be punished as provided in division (C) (2),            | 293 |
| (3), or (4) of this section.  | 294 |
| (2) Except as otherwise provided in this division,                          | 295 |
| criminal mischief committed in violation of division (A) (1),               | 296 |
| (2), (3), (4), or (5) of this section is a misdemeanor of the               | 297 |
| <del>third</del> <u>second</u> degree. Except as otherwise provided in this | 298 |
| division, if the violation of division (A) (1), (2), (3), (4), or           | 299 |
| (5) of this section creates a risk of physical harm to any                  | 300 |
| person, criminal mischief committed in violation of division (A)            | 301 |
| (1), (2), (3), (4), or (5) of this section is a <del>misdemeanor</del>      | 302 |

felony of the ~~first~~ fifth degree. If the property involved in 303  
the violation of division (A) (1), (2), (3), (4), or (5) of this 304  
section is an aircraft, an aircraft engine, propeller, 305  
appliance, spare part, fuel, lubricant, hydraulic fluid, any 306  
other equipment, implement, or material used or intended to be 307  
used in the operation of an aircraft, or any cargo carried or 308  
intended to be carried in an aircraft, criminal mischief 309  
committed in violation of division (A) (1), (2), (3), (4), or (5) 310  
of this section is one of the following: 311

(a) If the violation creates a risk of physical harm to 312  
any person, except as otherwise provided in division (C) (2) (b) 313  
of this section, criminal mischief committed in violation of 314  
division (A) (1), (2), (3), (4), or (5) of this section is a 315  
felony of the ~~fifth~~ fourth degree. 316

(b) If the violation creates a substantial risk of 317  
physical harm to any person or if the property involved in a 318  
violation of this section is an occupied aircraft, criminal 319  
mischief committed in violation of division (A) (1), (2), (3), 320  
(4), or (5) of this section is a felony of the ~~fourth~~ third 321  
degree. 322

(3) Except as otherwise provided in this division, 323  
criminal mischief committed in violation of division (A) (6) of 324  
this section is a ~~misdemeanor~~ felony of the ~~first~~ fifth degree. 325  
Except as otherwise provided in this division, if the value of 326  
the computer, computer system, computer network, computer 327  
software, computer program, or data involved in the violation of 328  
division (A) (6) of this section or the loss to the victim 329  
resulting from the violation is one thousand dollars or more and 330  
less than ten thousand dollars, or if the computer, computer 331  
system, computer network, computer software, computer program, 332

or data involved in the violation of division (A) (6) of this 333  
section is used or intended to be used in the operation of an 334  
aircraft and the violation creates a risk of physical harm to 335  
any person, criminal mischief committed in violation of division 336  
(A) (6) of this section is a felony of the ~~five~~ fourth degree. 337  
If the value of the computer, computer system, computer network, 338  
computer software, computer program, or data involved in the 339  
violation of division (A) (6) of this section or the loss to the 340  
victim resulting from the violation is ten thousand dollars or 341  
more, or if the computer, computer system, computer network, 342  
computer software, computer program, or data involved in the 343  
violation of division (A) (6) of this section is used or intended 344  
to be used in the operation of an aircraft and the violation 345  
creates a substantial risk of physical harm to any person or the 346  
aircraft in question is an occupied aircraft, criminal mischief 347  
committed in violation of division (A) (6) of this section is a 348  
felony of the ~~fourth~~ third degree. 349

(4) Criminal mischief committed in violation of division 350  
(A) (7) of this section is a felony of the ~~third~~ second degree. 351

**Section 2.** That existing sections 2909.02, 2909.03, 352  
2909.04, 2909.05, 2909.06, and 2909.07 of the Revised Code are 353  
hereby repealed. 354

**Section 3.** That Section 231.10 of H.B. 166 of the 133rd 355  
General Assembly be amended to read as follows: 356

**Sec. 231.10.** 357

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|   |   |        |  |             |  |
|---|---|--------|--|-------------|--|
| A | CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD      |        |  |             |  |
| B | General Revenue Fund                              |        |  |             |  |
| C | GRF   | 874100 | Personal<br>Services                           | \$3,802,439 | \$3,819,502                                  |
| D | GRF   | 874320 | Maintenance and<br>Equipment                   | \$1,368,765 | <del>\$1,368,765</del><br><u>\$1,868,765</u> |
| E | TOTAL GRF General Revenue Fund                    |        |  | \$5,171,204 | <del>\$5,188,267</del><br><u>\$5,688,267</u> |
| F | Dedicated Purpose Fund Group                      |        |  |             |  |
| G | 2080  | 874601 | Underground<br>Parking Garage<br>Operations    | \$4,245,906 | \$4,245,906                                  |
| H | 4G50  | 874603 | Capitol Square<br>Education Center<br>and Arts | \$6,000     | \$6,000                                      |
| I | TOTAL DPF Dedicated Purpose Fund<br>Group         |        |  | \$4,251,906 | \$4,251,906                                  |
| J | Internal Service Activity Fund Group              |        |  |             |  |
| K | 4S70  | 874602 | Statehouse Gift<br>Shop/Events                 | \$800,000   | \$800,000                                    |
| L | TOTAL ISA Internal Service<br>Activity Fund Group |        |  | \$800,000   | \$800,000                                    |

|   |  |              |                         |     |
|---|--|--------------|-------------------------|-----|
| M | TOTAL ALL BUDGET FUND GROUPS   | \$10,223,110 | <del>\$10,240,173</del> |     |
|   |  |              | <u>\$10,740,173</u>     |     |
|   | PERSONAL SERVICES  |              |                         | 359 |
|   | On July 1, 2019, or as soon as possible thereafter, the                  |              |                         | 360 |
|   | Executive Director of the Capitol Square Review and Advisory             |              |                         | 361 |
|   | Board may certify to the Director of Budget and Management an            |              |                         | 362 |
|   | amount up to the unexpended, unencumbered balance of the                 |              |                         | 363 |
|   | foregoing appropriation item 874100, Personal Services, at the           |              |                         | 364 |
|   | end of fiscal year 2019 to be reappropriated to fiscal year              |              |                         | 365 |
|   | 2020. The amount certified is hereby appropriated to the same            |              |                         | 366 |
|   | appropriation item for fiscal year 2020.                                 |              |                         | 367 |
|   | On July 1, 2020, or as soon as possible thereafter, the                  |              |                         | 368 |
|   | Executive Director of the Capital Square Review and Advisory             |              |                         | 369 |
|   | Board may certify to the Director of Budget and Management an            |              |                         | 370 |
|   | amount up to the unexpended, unencumbered balance of the                 |              |                         | 371 |
|   | foregoing appropriation item 874100, Personal Services, at the           |              |                         | 372 |
|   | end of fiscal year 2020 to be reappropriated to fiscal year              |              |                         | 373 |
|   | 2021. The amount certified is hereby appropriated to the same            |              |                         | 374 |
|   | appropriation item for fiscal year 2021.                                 |              |                         | 375 |
|   | MAINTENANCE AND EQUIPMENT  |              |                         | 376 |
|   | <u>Of the foregoing appropriation item 874320, Maintenance</u>           |              |                         | 377 |
|   | <u>and Equipment, \$500,000 in fiscal year 2021 shall be used to pay</u> |              |                         | 378 |
|   | <u>for security enhancements at the Statehouse, including the</u>        |              |                         | 379 |
|   | <u>purchase, installation, and replacement of a minimum of 60 high</u>   |              |                         | 380 |
|   | <u>definition cameras and software.</u>                                  |              |                         | 381 |
|   | On July 1, 2019, or as soon as possible thereafter, the                  |              |                         | 382 |
|   | Executive Director of the Capitol Square Review and Advisory             |              |                         | 383 |
|   | Board may certify to the Director of Budget and Management an            |              |                         | 384 |

amount up to the unexpended, unencumbered balance of the 385  
foregoing appropriation item 874320, Maintenance and Equipment, 386  
at the end of fiscal year 2019 to be reappropriated to fiscal 387  
year 2020. The amount certified is hereby appropriated to the 388  
same appropriation item for fiscal year 2020. 389

On July 1, 2020, or as soon as possible thereafter, the 390  
Executive Director of the Capitol Square Review and Advisory 391  
Board may certify to the Director of Budget and Management an 392  
amount up to the unexpended, unencumbered balance of the 393  
foregoing appropriation item 874320, Maintenance and Equipment, 394  
at the end of fiscal year 2020 to be reappropriated to fiscal 395  
year 2021. The amount certified is hereby appropriated to the 396  
same appropriation item for fiscal year 2021. 397

UNDERGROUND PARKING GARAGE FUND 398

Notwithstanding division (G) of section 105.41 of the 399  
Revised Code and any other provision to the contrary, moneys in 400  
the Underground Parking Garage Fund (Fund 2080) may be used for 401  
personnel and operating costs related to the operations of the 402  
Statehouse and the Statehouse Underground Parking Garage. 403

HOUSE AND SENATE PARKING REIMBURSEMENT 404

On July 1 of each fiscal year, or as soon as possible 405  
thereafter, the Director of Budget and Management shall transfer 406  
\$500,000 cash from the General Revenue Fund to the Underground 407  
Parking Garage Fund (Fund 2080). The amounts transferred under 408  
this section shall be used to reimburse the Capitol Square 409  
Review and Advisory Board for legislative parking costs. 410

**Section 4.** That existing Section 231.10 of H.B. 166 of the 411  
133rd General Assembly is hereby repealed. 412