

As Introduced

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S. B. No. 178

Senators Schiavoni, Gentile

Cosponsors: Senators Cafaro, Yuko, Tavares, Hughes, Brown

A BILL

To amend sections 2903.11 and 2929.14 and to enact
section 2941.1424 of the Revised Code to impose
a mandatory prison term of one, two, three,
four, or five years on an offender who is
convicted of or pleads guilty to a felony that
includes, as an essential element, purposely
causing or attempting to cause the death of or
physical harm to another, if the indictment,
count in the indictment, or information charging
the offense specifies that the offense resulted
in serious physical harm to a person who was
less than 13 years of age.

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

Section 1. That sections 2903.11 and 2929.14 be amended
and section 2941.1424 of the Revised Code be enacted to read as
follows:

Sec. 2903.11. (A) No person shall knowingly do either of
the following:

(1) Cause serious physical harm to another or to another's

unborn;	19
(2) Cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance.	20 21 22
(B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall knowingly do any of the following:	23 24 25 26
(1) Engage in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;	27 28 29
(2) Engage in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome;	30 31 32 33 34
(3) Engage in sexual conduct with a person under eighteen years of age who is not the spouse of the offender.	35 36
(C) The prosecution of a person under this section does not preclude prosecution of that person under section 2907.02 of the Revised Code.	37 38 39
(D) (1) (a) Whoever violates this section is guilty of felonious assault. Except as otherwise provided in this division or division (D) (1) (b) of this section, felonious assault is a felony of the second degree. If the victim of a violation of division (A) of this section is a peace officer or an investigator of the bureau of criminal identification and investigation, felonious assault is a felony of the first degree.	40 41 42 43 44 45 46 47

(b) Regardless of whether the felonious assault is a 48
felony of the first or second degree under division (D) (1) (a) of 49
this section, if the offender also is convicted of or pleads 50
guilty to a specification as described in section 2941.1423 of 51
the Revised Code that was included in the indictment, count in 52
the indictment, or information charging the offense, except as 53
otherwise provided in this division or unless a longer prison 54
term is required under any other provision of law, the court 55
shall sentence the offender to a mandatory prison term as 56
provided in division (B) (8) of section 2929.14 of the Revised 57
Code. If the offender also is convicted of or pleads guilty to a 58
specification as described in section 2941.1424 of the Revised 59
Code that was included in the indictment, count in the 60
indictment, or information charging the offense, the court shall 61
sentence the offender to a mandatory prison term as provided in 62
division (B) (9) of section 2929.14 of the Revised Code. If the 63
victim of the offense is a peace officer or an investigator of 64
the bureau of criminal identification and investigation, and if 65
the victim suffered serious physical harm as a result of the 66
commission of the offense, felonious assault is a felony of the 67
first degree, and the court, pursuant to division (F) of section 68
2929.13 of the Revised Code, shall impose as a mandatory prison 69
term one of the prison terms prescribed for a felony of the 70
first degree. 71

(2) In addition to any other sanctions imposed pursuant to 72
division (D) (1) of this section for felonious assault committed 73
in violation of division (A) (2) of this section, if the deadly 74
weapon used in the commission of the violation is a motor 75
vehicle, the court shall impose upon the offender a class two 76
suspension of the offender's driver's license, commercial 77
driver's license, temporary instruction permit, probationary 78

license, or nonresident operating privilege as specified in	79
division (A) (2) of section 4510.02 of the Revised Code.	80
(E) As used in this section:	81
(1) "Deadly weapon" and "dangerous ordnance" have the same	82
meanings as in section 2923.11 of the Revised Code.	83
(2) "Motor vehicle" has the same meaning as in section	84
4501.01 of the Revised Code.	85
(3) "Peace officer" has the same meaning as in section	86
2935.01 of the Revised Code.	87
(4) "Sexual conduct" has the same meaning as in section	88
2907.01 of the Revised Code, except that, as used in this	89
section, it does not include the insertion of an instrument,	90
apparatus, or other object that is not a part of the body into	91
the vaginal or anal opening of another, unless the offender knew	92
at the time of the insertion that the instrument, apparatus, or	93
other object carried the offender's bodily fluid.	94
(5) "Investigator of the bureau of criminal identification	95
and investigation" means an investigator of the bureau of	96
criminal identification and investigation who is commissioned by	97
the superintendent of the bureau as a special agent for the	98
purpose of assisting law enforcement officers or providing	99
emergency assistance to peace officers pursuant to authority	100
granted under section 109.541 of the Revised Code.	101
(6) "Investigator" has the same meaning as in section	102
109.541 of the Revised Code.	103
Sec. 2929.14. (A) Except as provided in division (B) (1),	104
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), <u>(B) (9)</u> ,	105
(E), (G), (H), or (J) of this section or in division (D) (6) of	106

section 2919.25 of the Revised Code and except in relation to an 107
offense for which a sentence of death or life imprisonment is to 108
be imposed, if the court imposing a sentence upon an offender 109
for a felony elects or is required to impose a prison term on 110
the offender pursuant to this chapter, the court shall impose a 111
definite prison term that shall be one of the following: 112

(1) For a felony of the first degree, the prison term 113
shall be three, four, five, six, seven, eight, nine, ten, or 114
eleven years. 115

(2) For a felony of the second degree, the prison term 116
shall be two, three, four, five, six, seven, or eight years. 117

(3) (a) For a felony of the third degree that is a 118
violation of section 2903.06, 2903.08, 2907.03, 2907.04, or 119
2907.05 of the Revised Code or that is a violation of section 120
2911.02 or 2911.12 of the Revised Code if the offender 121
previously has been convicted of or pleaded guilty in two or 122
more separate proceedings to two or more violations of section 123
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the 124
prison term shall be twelve, eighteen, twenty-four, thirty, 125
thirty-six, forty-two, forty-eight, fifty-four, or sixty months. 126

(b) For a felony of the third degree that is not an 127
offense for which division (A) (3) (a) of this section applies, 128
the prison term shall be nine, twelve, eighteen, twenty-four, 129
thirty, or thirty-six months. 130

(4) For a felony of the fourth degree, the prison term 131
shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, 132
fourteen, fifteen, sixteen, seventeen, or eighteen months. 133

(5) For a felony of the fifth degree, the prison term 134
shall be six, seven, eight, nine, ten, eleven, or twelve months. 135

(B) (1) (a) Except as provided in division (B) (1) (e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i) A prison term of six years if the specification is of the type described in section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or suppressor on or about the offender's person or under the offender's control while committing the felony;

(ii) A prison term of three years if the specification is of the type described in section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense;

(iii) A prison term of one year if the specification is of the type described in section 2941.141 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the felony.

(b) If a court imposes a prison term on an offender under division (B) (1) (a) of this section, the prison term shall not be reduced pursuant to section 2967.19, section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. Except as provided in division (B) (1) (g) of this section, a court shall not impose more than one

prison term on an offender under division (B) (1) (a) of this 166
section for felonies committed as part of the same act or 167
transaction. 168

(c) Except as provided in division (B) (1) (e) of this 169
section, if an offender who is convicted of or pleads guilty to 170
a violation of section 2923.161 of the Revised Code or to a 171
felony that includes, as an essential element, purposely or 172
knowingly causing or attempting to cause the death of or 173
physical harm to another, also is convicted of or pleads guilty 174
to a specification of the type described in section 2941.146 of 175
the Revised Code that charges the offender with committing the 176
offense by discharging a firearm from a motor vehicle other than 177
a manufactured home, the court, after imposing a prison term on 178
the offender for the violation of section 2923.161 of the 179
Revised Code or for the other felony offense under division (A), 180
(B) (2), or (B) (3) of this section, shall impose an additional 181
prison term of five years upon the offender that shall not be 182
reduced pursuant to section 2929.20, section 2967.19, section 183
2967.193, or any other provision of Chapter 2967. or Chapter 184
5120. of the Revised Code. A court shall not impose more than 185
one additional prison term on an offender under division (B) (1) 186
(c) of this section for felonies committed as part of the same 187
act or transaction. If a court imposes an additional prison term 188
on an offender under division (B) (1) (c) of this section relative 189
to an offense, the court also shall impose a prison term under 190
division (B) (1) (a) of this section relative to the same offense, 191
provided the criteria specified in that division for imposing an 192
additional prison term are satisfied relative to the offender 193
and the offense. 194

(d) If an offender who is convicted of or pleads guilty to 195
an offense of violence that is a felony also is convicted of or 196

pleads guilty to a specification of the type described in 197
section 2941.1411 of the Revised Code that charges the offender 198
with wearing or carrying body armor while committing the felony 199
offense of violence, the court shall impose on the offender a 200
prison term of two years. The prison term so imposed, subject to 201
divisions (C) to (I) of section 2967.19 of the Revised Code, 202
shall not be reduced pursuant to section 2929.20, section 203
2967.19, section 2967.193, or any other provision of Chapter 204
2967. or Chapter 5120. of the Revised Code. A court shall not 205
impose more than one prison term on an offender under division 206
(B) (1) (d) of this section for felonies committed as part of the 207
same act or transaction. If a court imposes an additional prison 208
term under division (B) (1) (a) or (c) of this section, the court 209
is not precluded from imposing an additional prison term under 210
division (B) (1) (d) of this section. 211

(e) The court shall not impose any of the prison terms 212
described in division (B) (1) (a) of this section or any of the 213
additional prison terms described in division (B) (1) (c) of this 214
section upon an offender for a violation of section 2923.12 or 215
2923.123 of the Revised Code. The court shall not impose any of 216
the prison terms described in division (B) (1) (a) or (b) of this 217
section upon an offender for a violation of section 2923.122 218
that involves a deadly weapon that is a firearm other than a 219
dangerous ordnance, section 2923.16, or section 2923.121 of the 220
Revised Code. The court shall not impose any of the prison terms 221
described in division (B) (1) (a) of this section or any of the 222
additional prison terms described in division (B) (1) (c) of this 223
section upon an offender for a violation of section 2923.13 of 224
the Revised Code unless all of the following apply: 225

(i) The offender previously has been convicted of 226
aggravated murder, murder, or any felony of the first or second 227

degree. 228

(ii) Less than five years have passed since the offender 229
was released from prison or post-release control, whichever is 230
later, for the prior offense. 231

(f) If an offender is convicted of or pleads guilty to a 232
felony that includes, as an essential element, causing or 233
attempting to cause the death of or physical harm to another and 234
also is convicted of or pleads guilty to a specification of the 235
type described in section 2941.1412 of the Revised Code that 236
charges the offender with committing the offense by discharging 237
a firearm at a peace officer as defined in section 2935.01 of 238
the Revised Code or a corrections officer, as defined in section 239
2941.1412 of the Revised Code, the court, after imposing a 240
prison term on the offender for the felony offense under 241
division (A), (B) (2), or (B) (3) of this section, shall impose an 242
additional prison term of seven years upon the offender that 243
shall not be reduced pursuant to section 2929.20, section 244
2967.19, section 2967.193, or any other provision of Chapter 245
2967. or Chapter 5120. of the Revised Code. If an offender is 246
convicted of or pleads guilty to two or more felonies that 247
include, as an essential element, causing or attempting to cause 248
the death or physical harm to another and also is convicted of 249
or pleads guilty to a specification of the type described under 250
division (B) (1) (f) of this section in connection with two or 251
more of the felonies of which the offender is convicted or to 252
which the offender pleads guilty, the sentencing court shall 253
impose on the offender the prison term specified under division 254
(B) (1) (f) of this section for each of two of the specifications 255
of which the offender is convicted or to which the offender 256
pleads guilty and, in its discretion, also may impose on the 257
offender the prison term specified under that division for any 258

or all of the remaining specifications. If a court imposes an 259
additional prison term on an offender under division (B) (1) (f) 260
of this section relative to an offense, the court shall not 261
impose a prison term under division (B) (1) (a) or (c) of this 262
section relative to the same offense. 263

(g) If an offender is convicted of or pleads guilty to two 264
or more felonies, if one or more of those felonies are 265
aggravated murder, murder, attempted aggravated murder, 266
attempted murder, aggravated robbery, felonious assault, or 267
rape, and if the offender is convicted of or pleads guilty to a 268
specification of the type described under division (B) (1) (a) of 269
this section in connection with two or more of the felonies, the 270
sentencing court shall impose on the offender the prison term 271
specified under division (B) (1) (a) of this section for each of 272
the two most serious specifications of which the offender is 273
convicted or to which the offender pleads guilty and, in its 274
discretion, also may impose on the offender the prison term 275
specified under that division for any or all of the remaining 276
specifications. 277

(2) (a) If division (B) (2) (b) of this section does not 278
apply, the court may impose on an offender, in addition to the 279
longest prison term authorized or required for the offense, an 280
additional definite prison term of one, two, three, four, five, 281
six, seven, eight, nine, or ten years if all of the following 282
criteria are met: 283

(i) The offender is convicted of or pleads guilty to a 284
specification of the type described in section 2941.149 of the 285
Revised Code that the offender is a repeat violent offender. 286

(ii) The offense of which the offender currently is 287
convicted or to which the offender currently pleads guilty is 288

aggravated murder and the court does not impose a sentence of 289
death or life imprisonment without parole, murder, terrorism and 290
the court does not impose a sentence of life imprisonment 291
without parole, any felony of the first degree that is an 292
offense of violence and the court does not impose a sentence of 293
life imprisonment without parole, or any felony of the second 294
degree that is an offense of violence and the trier of fact 295
finds that the offense involved an attempt to cause or a threat 296
to cause serious physical harm to a person or resulted in 297
serious physical harm to a person. 298

(iii) The court imposes the longest prison term for the 299
offense that is not life imprisonment without parole. 300

(iv) The court finds that the prison terms imposed 301
pursuant to division (B) (2) (a) (iii) of this section and, if 302
applicable, division (B) (1) or (3) of this section are 303
inadequate to punish the offender and protect the public from 304
future crime, because the applicable factors under section 305
2929.12 of the Revised Code indicating a greater likelihood of 306
recidivism outweigh the applicable factors under that section 307
indicating a lesser likelihood of recidivism. 308

(v) The court finds that the prison terms imposed pursuant 309
to division (B) (2) (a) (iii) of this section and, if applicable, 310
division (B) (1) or (3) of this section are demeaning to the 311
seriousness of the offense, because one or more of the factors 312
under section 2929.12 of the Revised Code indicating that the 313
offender's conduct is more serious than conduct normally 314
constituting the offense are present, and they outweigh the 315
applicable factors under that section indicating that the 316
offender's conduct is less serious than conduct normally 317
constituting the offense. 318

(b) The court shall impose on an offender the longest
prison term authorized or required for the offense and shall
impose on the offender an additional definite prison term of
one, two, three, four, five, six, seven, eight, nine, or ten
years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a
specification of the type described in section 2941.149 of the
Revised Code that the offender is a repeat violent offender.

(ii) The offender within the preceding twenty years has
been convicted of or pleaded guilty to three or more offenses
described in division (CC)(1) of section 2929.01 of the Revised
Code, including all offenses described in that division of which
the offender is convicted or to which the offender pleads guilty
in the current prosecution and all offenses described in that
division of which the offender previously has been convicted or
to which the offender previously pleaded guilty, whether
prosecuted together or separately.

(iii) The offense or offenses of which the offender
currently is convicted or to which the offender currently pleads
guilty is aggravated murder and the court does not impose a
sentence of death or life imprisonment without parole, murder,
terrorism and the court does not impose a sentence of life
imprisonment without parole, any felony of the first degree that
is an offense of violence and the court does not impose a
sentence of life imprisonment without parole, or any felony of
the second degree that is an offense of violence and the trier
of fact finds that the offense involved an attempt to cause or a
threat to cause serious physical harm to a person or resulted in
serious physical harm to a person.

(c) For purposes of division (B)(2)(b) of this section,

two or more offenses committed at the same time or as part of 349
the same act or event shall be considered one offense, and that 350
one offense shall be the offense with the greatest penalty. 351

(d) A sentence imposed under division (B) (2) (a) or (b) of 352
this section shall not be reduced pursuant to section 2929.20, 353
section 2967.19, or section 2967.193, or any other provision of 354
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 355
shall serve an additional prison term imposed under this section 356
consecutively to and prior to the prison term imposed for the 357
underlying offense. 358

(e) When imposing a sentence pursuant to division (B) (2) 359
(a) or (b) of this section, the court shall state its findings 360
explaining the imposed sentence. 361

(3) Except when an offender commits a violation of section 362
2903.01 or 2907.02 of the Revised Code and the penalty imposed 363
for the violation is life imprisonment or commits a violation of 364
section 2903.02 of the Revised Code, if the offender commits a 365
violation of section 2925.03 or 2925.11 of the Revised Code and 366
that section classifies the offender as a major drug offender, 367
if the offender commits a felony violation of section 2925.02, 368
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 369
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 370
division (C) of section 4729.51, or division (J) of section 371
4729.54 of the Revised Code that includes the sale, offer to 372
sell, or possession of a schedule I or II controlled substance, 373
with the exception of marihuana, and the court imposing sentence 374
upon the offender finds that the offender is guilty of a 375
specification of the type described in section 2941.1410 of the 376
Revised Code charging that the offender is a major drug 377
offender, if the court imposing sentence upon an offender for a 378

felony finds that the offender is guilty of corrupt activity 379
with the most serious offense in the pattern of corrupt activity 380
being a felony of the first degree, or if the offender is guilty 381
of an attempted violation of section 2907.02 of the Revised Code 382
and, had the offender completed the violation of section 2907.02 383
of the Revised Code that was attempted, the offender would have 384
been subject to a sentence of life imprisonment or life 385
imprisonment without parole for the violation of section 2907.02 386
of the Revised Code, the court shall impose upon the offender 387
for the felony violation a mandatory prison term of the maximum 388
prison term prescribed for a felony of the first degree that, 389
subject to divisions (C) to (I) of section 2967.19 of the 390
Revised Code, cannot be reduced pursuant to section 2929.20, 391
section 2967.19, or any other provision of Chapter 2967. or 392
5120. of the Revised Code. 393

(4) If the offender is being sentenced for a third or 394
fourth degree felony OVI offense under division (G) (2) of 395
section 2929.13 of the Revised Code, the sentencing court shall 396
impose upon the offender a mandatory prison term in accordance 397
with that division. In addition to the mandatory prison term, if 398
the offender is being sentenced for a fourth degree felony OVI 399
offense, the court, notwithstanding division (A) (4) of this 400
section, may sentence the offender to a definite prison term of 401
not less than six months and not more than thirty months, and if 402
the offender is being sentenced for a third degree felony OVI 403
offense, the sentencing court may sentence the offender to an 404
additional prison term of any duration specified in division (A) 405
(3) of this section. In either case, the additional prison term 406
imposed shall be reduced by the sixty or one hundred twenty days 407
imposed upon the offender as the mandatory prison term. The 408
total of the additional prison term imposed under division (B) 409

(4) of this section plus the sixty or one hundred twenty days 410
imposed as the mandatory prison term shall equal a definite term 411
in the range of six months to thirty months for a fourth degree 412
felony OVI offense and shall equal one of the authorized prison 413
terms specified in division (A) (3) of this section for a third 414
degree felony OVI offense. If the court imposes an additional 415
prison term under division (B) (4) of this section, the offender 416
shall serve the additional prison term after the offender has 417
served the mandatory prison term required for the offense. In 418
addition to the mandatory prison term or mandatory and 419
additional prison term imposed as described in division (B) (4) 420
of this section, the court also may sentence the offender to a 421
community control sanction under section 2929.16 or 2929.17 of 422
the Revised Code, but the offender shall serve all of the prison 423
terms so imposed prior to serving the community control 424
sanction. 425

If the offender is being sentenced for a fourth degree 426
felony OVI offense under division (G) (1) of section 2929.13 of 427
the Revised Code and the court imposes a mandatory term of local 428
incarceration, the court may impose a prison term as described 429
in division (A) (1) of that section. 430

(5) If an offender is convicted of or pleads guilty to a 431
violation of division (A) (1) or (2) of section 2903.06 of the 432
Revised Code and also is convicted of or pleads guilty to a 433
specification of the type described in section 2941.1414 of the 434
Revised Code that charges that the victim of the offense is a 435
peace officer, as defined in section 2935.01 of the Revised 436
Code, or an investigator of the bureau of criminal 437
identification and investigation, as defined in section 2903.11 438
of the Revised Code, the court shall impose on the offender a 439
prison term of five years. If a court imposes a prison term on 440

an offender under division (B) (5) of this section, the prison 441
term, subject to divisions (C) to (I) of section 2967.19 of the 442
Revised Code, shall not be reduced pursuant to section 2929.20, 443
section 2967.19, section 2967.193, or any other provision of 444
Chapter 2967. or Chapter 5120. of the Revised Code. A court 445
shall not impose more than one prison term on an offender under 446
division (B) (5) of this section for felonies committed as part 447
of the same act. 448

(6) If an offender is convicted of or pleads guilty to a 449
violation of division (A) (1) or (2) of section 2903.06 of the 450
Revised Code and also is convicted of or pleads guilty to a 451
specification of the type described in section 2941.1415 of the 452
Revised Code that charges that the offender previously has been 453
convicted of or pleaded guilty to three or more violations of 454
division (A) or (B) of section 4511.19 of the Revised Code or an 455
equivalent offense, as defined in section 2941.1415 of the 456
Revised Code, or three or more violations of any combination of 457
those divisions and offenses, the court shall impose on the 458
offender a prison term of three years. If a court imposes a 459
prison term on an offender under division (B) (6) of this 460
section, the prison term, subject to divisions (C) to (I) of 461
section 2967.19 of the Revised Code, shall not be reduced 462
pursuant to section 2929.20, section 2967.19, section 2967.193, 463
or any other provision of Chapter 2967. or Chapter 5120. of the 464
Revised Code. A court shall not impose more than one prison term 465
on an offender under division (B) (6) of this section for 466
felonies committed as part of the same act. 467

(7) (a) If an offender is convicted of or pleads guilty to 468
a felony violation of section 2905.01, 2905.02, 2907.21, 469
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 470
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 471

the Revised Code and also is convicted of or pleads guilty to a 472
specification of the type described in section 2941.1422 of the 473
Revised Code that charges that the offender knowingly committed 474
the offense in furtherance of human trafficking, the court shall 475
impose on the offender a mandatory prison term that is one of 476
the following: 477

(i) If the offense is a felony of the first degree, a 478
definite prison term of not less than five years and not greater 479
than ten years; 480

(ii) If the offense is a felony of the second or third 481
degree, a definite prison term of not less than three years and 482
not greater than the maximum prison term allowed for the offense 483
by division (A) of section 2929.14 of the Revised Code; 484

(iii) If the offense is a felony of the fourth or fifth 485
degree, a definite prison term that is the maximum prison term 486
allowed for the offense by division (A) of section 2929.14 of 487
the Revised Code. 488

(b) Subject to divisions (C) to (I) of section 2967.19 of 489
the Revised Code, the prison term imposed under division (B) (7) 490
(a) of this section shall not be reduced pursuant to section 491
2929.20, section 2967.19, section 2967.193, or any other 492
provision of Chapter 2967. of the Revised Code. A court shall 493
not impose more than one prison term on an offender under 494
division (B) (7) (a) of this section for felonies committed as 495
part of the same act, scheme, or plan. 496

(8) If an offender is convicted of or pleads guilty to a 497
felony violation of section 2903.11, 2903.12, or 2903.13 of the 498
Revised Code and also is convicted of or pleads guilty to a 499
specification of the type described in section 2941.1423 of the 500

Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, notwithstanding the range of prison terms prescribed in division (A) of this section for felonies of the same degree as the violation, the court shall impose on the offender a mandatory prison term that is either a definite prison term of six months or one of the prison terms prescribed in section 2929.14 of the Revised Code for felonies of the same degree as the violation.

(9) If an offender is convicted of or pleads guilty to a violation of section 2903.11 of the Revised Code or a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in section 2941.1424 of the Revised Code that charges that the offender's violation resulted in serious physical harm to a person who was less than thirteen years of age at the time of the commission of the offense, the court shall impose on the offender a mandatory prison term of one, two, three, four, or five years that shall not be reduced pursuant to section 2929.20, 2967.19, 2967.193, or any other provision of Chapter 2967. of the Revised Code.

(C) (1) (a) Subject to division (C) (1) (b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (B) (1) (a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (B) (1) (c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any

mandatory prison term imposed under either division 532
consecutively to any other mandatory prison term imposed under 533
either division or under division (B) (1) (d) of this section, 534
consecutively to and prior to any prison term imposed for the 535
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 536
this section or any other section of the Revised Code, and 537
consecutively to any other prison term or mandatory prison term 538
previously or subsequently imposed upon the offender. 539

(b) If a mandatory prison term is imposed upon an offender 540
pursuant to division (B) (1) (d) of this section for wearing or 541
carrying body armor while committing an offense of violence that 542
is a felony, the offender shall serve the mandatory term so 543
imposed consecutively to any other mandatory prison term imposed 544
under that division or under division (B) (1) (a) or (c) of this 545
section, consecutively to and prior to any prison term imposed 546
for the underlying felony under division (A), (B) (2), or (B) (3) 547
of this section or any other section of the Revised Code, and 548
consecutively to any other prison term or mandatory prison term 549
previously or subsequently imposed upon the offender. 550

(c) If a mandatory prison term is imposed upon an offender 551
pursuant to division (B) (1) (f) of this section, the offender 552
shall serve the mandatory prison term so imposed consecutively 553
to and prior to any prison term imposed for the underlying 554
felony under division (A), (B) (2), or (B) (3) of this section or 555
any other section of the Revised Code, and consecutively to any 556
other prison term or mandatory prison term previously or 557
subsequently imposed upon the offender. 558

(d) If a mandatory prison term is imposed upon an offender 559
pursuant to division (B) (7) or (8) of this section, the offender 560
shall serve the mandatory prison term so imposed consecutively 561

to any other mandatory prison term imposed under that division 562
or under any other provision of law and consecutively to any 563
other prison term or mandatory prison term previously or 564
subsequently imposed upon the offender. 565

(2) If an offender who is an inmate in a jail, prison, or 566
other residential detention facility violates section 2917.02, 567
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 568
(2) of section 2921.34 of the Revised Code, if an offender who 569
is under detention at a detention facility commits a felony 570
violation of section 2923.131 of the Revised Code, or if an 571
offender who is an inmate in a jail, prison, or other 572
residential detention facility or is under detention at a 573
detention facility commits another felony while the offender is 574
an escapee in violation of division (A) (1) or (2) of section 575
2921.34 of the Revised Code, any prison term imposed upon the 576
offender for one of those violations shall be served by the 577
offender consecutively to the prison term or term of 578
imprisonment the offender was serving when the offender 579
committed that offense and to any other prison term previously 580
or subsequently imposed upon the offender. 581

(3) If a prison term is imposed for a violation of 582
division (B) of section 2911.01 of the Revised Code, a violation 583
of division (A) of section 2913.02 of the Revised Code in which 584
the stolen property is a firearm or dangerous ordnance, or a 585
felony violation of division (B) of section 2921.331 of the 586
Revised Code, the offender shall serve that prison term 587
consecutively to any other prison term or mandatory prison term 588
previously or subsequently imposed upon the offender. 589

(4) If multiple prison terms are imposed on an offender 590
for convictions of multiple offenses, the court may require the 591

offender to serve the prison terms consecutively if the court
finds that the consecutive service is necessary to protect the
public from future crime or to punish the offender and that
consecutive sentences are not disproportionate to the
seriousness of the offender's conduct and to the danger the
offender poses to the public, and if the court also finds any of
the following:

(a) The offender committed one or more of the multiple
offenses while the offender was awaiting trial or sentencing,
was under a sanction imposed pursuant to section 2929.16,
2929.17, or 2929.18 of the Revised Code, or was under post-
release control for a prior offense.

(b) At least two of the multiple offenses were committed
as part of one or more courses of conduct, and the harm caused
by two or more of the multiple offenses so committed was so
great or unusual that no single prison term for any of the
offenses committed as part of any of the courses of conduct
adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct
demonstrates that consecutive sentences are necessary to protect
the public from future crime by the offender.

(5) If a mandatory prison term is imposed upon an offender
pursuant to division (B) (5) or (6) of this section, the offender
shall serve the mandatory prison term consecutively to and prior
to any prison term imposed for the underlying violation of
division (A) (1) or (2) of section 2903.06 of the Revised Code
pursuant to division (A) of this section or section 2929.142 of
the Revised Code. If a mandatory prison term is imposed upon an
offender pursuant to division (B) (5) of this section, and if a
mandatory prison term also is imposed upon the offender pursuant

to division (B) (6) of this section in relation to the same 622
violation, the offender shall serve the mandatory prison term 623
imposed pursuant to division (B) (5) of this section 624
consecutively to and prior to the mandatory prison term imposed 625
pursuant to division (B) (6) of this section and consecutively to 626
and prior to any prison term imposed for the underlying 627
violation of division (A) (1) or (2) of section 2903.06 of the 628
Revised Code pursuant to division (A) of this section or section 629
2929.142 of the Revised Code. 630

(6) If a mandatory prison term is imposed upon an offender 631
pursuant to division (B) (9) of this section, the offender shall 632
serve the mandatory prison term so imposed consecutively to and 633
prior to any prison term imposed for the underlying felony under 634
division (A) of this section or any other section of the Revised 635
Code, and consecutively to any other prison term or mandatory 636
prison term previously or subsequently imposed upon the 637
offender. 638

(7) When consecutive prison terms are imposed pursuant to 639
division (C) (1), (2), (3), (4), ~~or~~ (5), or (6) or division (H) 640
(1) or (2) of this section, the term to be served is the 641
aggregate of all of the terms so imposed. 642

(D) (1) If a court imposes a prison term for a felony of 643
the first degree, for a felony of the second degree, for a 644
felony sex offense, or for a felony of the third degree that is 645
not a felony sex offense and in the commission of which the 646
offender caused or threatened to cause physical harm to a 647
person, it shall include in the sentence a requirement that the 648
offender be subject to a period of post-release control after 649
the offender's release from imprisonment, in accordance with 650
that division. If a court imposes a sentence including a prison 651

term of a type described in this division on or after July 11, 652
2006, the failure of a court to include a post-release control 653
requirement in the sentence pursuant to this division does not 654
negate, limit, or otherwise affect the mandatory period of post- 655
release control that is required for the offender under division 656
(B) of section 2967.28 of the Revised Code. Section 2929.191 of 657
the Revised Code applies if, prior to July 11, 2006, a court 658
imposed a sentence including a prison term of a type described 659
in this division and failed to include in the sentence pursuant 660
to this division a statement regarding post-release control. 661

(2) If a court imposes a prison term for a felony of the 662
third, fourth, or fifth degree that is not subject to division 663
(D)(1) of this section, it shall include in the sentence a 664
requirement that the offender be subject to a period of post- 665
release control after the offender's release from imprisonment, 666
in accordance with that division, if the parole board determines 667
that a period of post-release control is necessary. Section 668
2929.191 of the Revised Code applies if, prior to July 11, 2006, 669
a court imposed a sentence including a prison term of a type 670
described in this division and failed to include in the sentence 671
pursuant to this division a statement regarding post-release 672
control. 673

(E) The court shall impose sentence upon the offender in 674
accordance with section 2971.03 of the Revised Code, and Chapter 675
2971. of the Revised Code applies regarding the prison term or 676
term of life imprisonment without parole imposed upon the 677
offender and the service of that term of imprisonment if any of 678
the following apply: 679

(1) A person is convicted of or pleads guilty to a violent 680
sex offense or a designated homicide, assault, or kidnapping 681

offense, and, in relation to that offense, the offender is 682
adjudicated a sexually violent predator. 683

(2) A person is convicted of or pleads guilty to a 684
violation of division (A) (1) (b) of section 2907.02 of the 685
Revised Code committed on or after January 2, 2007, and either 686
the court does not impose a sentence of life without parole when 687
authorized pursuant to division (B) of section 2907.02 of the 688
Revised Code, or division (B) of section 2907.02 of the Revised 689
Code provides that the court shall not sentence the offender 690
pursuant to section 2971.03 of the Revised Code. 691

(3) A person is convicted of or pleads guilty to attempted 692
rape committed on or after January 2, 2007, and a specification 693
of the type described in section 2941.1418, 2941.1419, or 694
2941.1420 of the Revised Code. 695

(4) A person is convicted of or pleads guilty to a 696
violation of section 2905.01 of the Revised Code committed on or 697
after January 1, 2008, and that section requires the court to 698
sentence the offender pursuant to section 2971.03 of the Revised 699
Code. 700

(5) A person is convicted of or pleads guilty to 701
aggravated murder committed on or after January 1, 2008, and 702
division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), 703
(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) 704
(d) of section 2929.03, or division (A) or (B) of section 705
2929.06 of the Revised Code requires the court to sentence the 706
offender pursuant to division (B) (3) of section 2971.03 of the 707
Revised Code. 708

(6) A person is convicted of or pleads guilty to murder 709
committed on or after January 1, 2008, and division (B) (2) of 710

section 2929.02 of the Revised Code requires the court to 711
sentence the offender pursuant to section 2971.03 of the Revised 712
Code. 713

(F) If a person who has been convicted of or pleaded 714
guilty to a felony is sentenced to a prison term or term of 715
imprisonment under this section, sections 2929.02 to 2929.06 of 716
the Revised Code, section 2929.142 of the Revised Code, section 717
2971.03 of the Revised Code, or any other provision of law, 718
section 5120.163 of the Revised Code applies regarding the 719
person while the person is confined in a state correctional 720
institution. 721

(G) If an offender who is convicted of or pleads guilty to 722
a felony that is an offense of violence also is convicted of or 723
pleads guilty to a specification of the type described in 724
section 2941.142 of the Revised Code that charges the offender 725
with having committed the felony while participating in a 726
criminal gang, the court shall impose upon the offender an 727
additional prison term of one, two, or three years. 728

(H) (1) If an offender who is convicted of or pleads guilty 729
to aggravated murder, murder, or a felony of the first, second, 730
or third degree that is an offense of violence also is convicted 731
of or pleads guilty to a specification of the type described in 732
section 2941.143 of the Revised Code that charges the offender 733
with having committed the offense in a school safety zone or 734
towards a person in a school safety zone, the court shall impose 735
upon the offender an additional prison term of two years. The 736
offender shall serve the additional two years consecutively to 737
and prior to the prison term imposed for the underlying offense. 738

(2) (a) If an offender is convicted of or pleads guilty to 739
a felony violation of section 2907.22, 2907.24, 2907.241, or 740

2907.25 of the Revised Code and to a specification of the type 741
described in section 2941.1421 of the Revised Code and if the 742
court imposes a prison term on the offender for the felony 743
violation, the court may impose upon the offender an additional 744
prison term as follows: 745

(i) Subject to division (H) (2) (a) (ii) of this section, an 746
additional prison term of one, two, three, four, five, or six 747
months; 748

(ii) If the offender previously has been convicted of or 749
pleaded guilty to one or more felony or misdemeanor violations 750
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 751
the Revised Code and also was convicted of or pleaded guilty to 752
a specification of the type described in section 2941.1421 of 753
the Revised Code regarding one or more of those violations, an 754
additional prison term of one, two, three, four, five, six, 755
seven, eight, nine, ten, eleven, or twelve months. 756

(b) In lieu of imposing an additional prison term under 757
division (H) (2) (a) of this section, the court may directly 758
impose on the offender a sanction that requires the offender to 759
wear a real-time processing, continual tracking electronic 760
monitoring device during the period of time specified by the 761
court. The period of time specified by the court shall equal the 762
duration of an additional prison term that the court could have 763
imposed upon the offender under division (H) (2) (a) of this 764
section. A sanction imposed under this division shall commence 765
on the date specified by the court, provided that the sanction 766
shall not commence until after the offender has served the 767
prison term imposed for the felony violation of section 2907.22, 768
2907.24, 2907.241, or 2907.25 of the Revised Code and any 769
residential sanction imposed for the violation under section 770

2929.16 of the Revised Code. A sanction imposed under this 771
division shall be considered to be a community control sanction 772
for purposes of section 2929.15 of the Revised Code, and all 773
provisions of the Revised Code that pertain to community control 774
sanctions shall apply to a sanction imposed under this division, 775
except to the extent that they would by their nature be clearly 776
inapplicable. The offender shall pay all costs associated with a 777
sanction imposed under this division, including the cost of the 778
use of the monitoring device. 779

(I) At the time of sentencing, the court may recommend the 780
offender for placement in a program of shock incarceration under 781
section 5120.031 of the Revised Code or for placement in an 782
intensive program prison under section 5120.032 of the Revised 783
Code, disapprove placement of the offender in a program of shock 784
incarceration or an intensive program prison of that nature, or 785
make no recommendation on placement of the offender. In no case 786
shall the department of rehabilitation and correction place the 787
offender in a program or prison of that nature unless the 788
department determines as specified in section 5120.031 or 789
5120.032 of the Revised Code, whichever is applicable, that the 790
offender is eligible for the placement. 791

If the court disapproves placement of the offender in a 792
program or prison of that nature, the department of 793
rehabilitation and correction shall not place the offender in 794
any program of shock incarceration or intensive program prison. 795

If the court recommends placement of the offender in a 796
program of shock incarceration or in an intensive program 797
prison, and if the offender is subsequently placed in the 798
recommended program or prison, the department shall notify the 799
court of the placement and shall include with the notice a brief 800

description of the placement. 801

If the court recommends placement of the offender in a 802
program of shock incarceration or in an intensive program prison 803
and the department does not subsequently place the offender in 804
the recommended program or prison, the department shall send a 805
notice to the court indicating why the offender was not placed 806
in the recommended program or prison. 807

If the court does not make a recommendation under this 808
division with respect to an offender and if the department 809
determines as specified in section 5120.031 or 5120.032 of the 810
Revised Code, whichever is applicable, that the offender is 811
eligible for placement in a program or prison of that nature, 812
the department shall screen the offender and determine if there 813
is an available program of shock incarceration or an intensive 814
program prison for which the offender is suited. If there is an 815
available program of shock incarceration or an intensive program 816
prison for which the offender is suited, the department shall 817
notify the court of the proposed placement of the offender as 818
specified in section 5120.031 or 5120.032 of the Revised Code 819
and shall include with the notice a brief description of the 820
placement. The court shall have ten days from receipt of the 821
notice to disapprove the placement. 822

(J) If a person is convicted of or pleads guilty to 823
aggravated vehicular homicide in violation of division (A) (1) of 824
section 2903.06 of the Revised Code and division (B) (2) (c) of 825
that section applies, the person shall be sentenced pursuant to 826
section 2929.142 of the Revised Code. 827

Sec. 2941.1424. Imposition of a one-, two-, three-, four-, 828
or five-year mandatory prison term under division (B) (9) of 829
section 2929.14 of the Revised Code is precluded unless the 830

offender is convicted of or pleads guilty to a violation of 831
section 2903.11 of the Revised Code or a felony that includes, 832
as an essential element, purposely or knowingly causing or 833
attempting to cause the death of or physical harm to another and 834
unless the indictment, count in the indictment, or information 835
charging the offense specifies that the offender's violation 836
resulted in serious physical harm to a person who was less than 837
thirteen years of age at the time of the commission of the 838
offense. The specification shall be stated at the end of the 839
body of the indictment, count, or information and shall be 840
stated in substantially the following form: 841

"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The 842
Grand Jurors (or insert the person's or prosecuting attorney's 843
name when appropriate) further find and specify (set forth that 844
the offense resulted in serious physical harm to a person who 845
was less than thirteen years of age at the time of the 846
commission of the offense)." 847

Section 2. That existing sections 2903.11 and 2929.14 of 848
the Revised Code are hereby repealed. 849