

As Reported by the House Criminal Justice Committee

133rd General Assembly

Regular Session

2019-2020

Am. H. B. No. 299

Representative Greenspan

Cosponsors: Representatives Edwards, Leland, Rogers, Smith, T.

A BILL

To amend sections 2903.01, 2903.11, and 2923.02 of
the Revised Code to enhance penalties for
certain crimes against corrections officers,
parole officers, probation officers, and parole
board members.

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

Section 1. That sections 2903.01, 2903.11, and 2923.02 of
the Revised Code be amended to read as follows:

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

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

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

who is under thirteen years of age at the time of the commission 19
of the offense. 20

(D) No person who is under detention as a result of having 21
been found guilty of or having pleaded guilty to a felony or who 22
breaks that detention shall purposely cause the death of 23
another. 24

(E) No person shall purposely cause the death of a law 25
enforcement officer whom the offender knows or has reasonable 26
cause to know is a law enforcement officer when either of the 27
following applies: 28

(1) The victim, at the time of the commission of the 29
offense, is engaged in the victim's duties. 30

(2) It is the offender's specific purpose to kill a law 31
enforcement officer. 32

(F) No person shall purposely cause the death of a first 33
responder or military member whom the offender knows or has 34
reasonable cause to know is a first responder or military member 35
when it is the offender's specific purpose to kill a first 36
responder or military member. 37

(G) No person shall purposely cause the death of an off- 38
duty corrections officer, a parole or probation officer, or a 39
parole board member, whom the offender knows or has reasonable 40
cause to know is a corrections officer, a parole or probation 41
officer, or a parole board member when it is the offender's 42
specific purpose to kill a corrections officer, a parole or 43
probation officer, or a parole board member. 44

(H) Whoever violates this section is guilty of aggravated 45
murder, and shall be punished as provided in section 2929.02 of 46
the Revised Code. 47

(H) <u>(I)</u> As used in this section:	48
(1) "Detention" has <u>and "detention facility" have</u> the same meaning <u>meanings</u> as in section 2921.01 of the Revised Code.	49 50
(2) "Law enforcement officer" has the same meaning as in section 2911.01 of the Revised Code and also includes any federal law enforcement officer as defined in section 2921.51 of the Revised Code and anyone who has previously served as a law enforcement officer or federal law enforcement officer.	51 52 53 54 55
(3) "First responder" means an emergency medical service provider, a firefighter, or any other emergency response personnel, or anyone who has previously served as a first responder.	56 57 58 59
(4) "Military member" means a member of the armed forces of the United States, reserves, or Ohio national guard, a participant in ROTC, JROTC, or any similar military training program, or anyone who has previously served in the military.	60 61 62 63
<u>(5) "Corrections officer" means a person employed by a detention facility as a corrections officer or anyone who has previously served as a corrections officer.</u>	64 65 66
<u>(6) "Parole or probation officer" means a person employed as a parole or probation officer or anyone who has previously served as a parole or probation officer.</u>	67 68 69
<u>(7) "Parole board member" means a person appointed to the parole board under section 5149.10 of the Revised Code or anyone who has previously served as a parole board member.</u>	70 71 72
Sec. 2903.11. (A) No person shall knowingly do either of the following:	73 74
(1) Cause serious physical harm to another or to another's	75

unborn;	76
(2) Cause or attempt to cause physical harm to another or	77
to another's unborn by means of a deadly weapon or dangerous	78
ordnance.	79
(B) No person, with knowledge that the person has tested	80
positive as a carrier of a virus that causes acquired	81
immunodeficiency syndrome, shall knowingly do any of the	82
following:	83
(1) Engage in sexual conduct with another person without	84
disclosing that knowledge to the other person prior to engaging	85
in the sexual conduct;	86
(2) Engage in sexual conduct with a person whom the	87
offender knows or has reasonable cause to believe lacks the	88
mental capacity to appreciate the significance of the knowledge	89
that the offender has tested positive as a carrier of a virus	90
that causes acquired immunodeficiency syndrome;	91
(3) Engage in sexual conduct with a person under eighteen	92
years of age who is not the spouse of the offender.	93
(C) The prosecution of a person under this section does	94
not preclude prosecution of that person under section 2907.02 of	95
the Revised Code.	96
(D) (1) (a) Whoever violates this section is guilty of	97
felonious assault. Except as otherwise provided in this division	98
or division (D) (1) (b) <u>or (c)</u> of this section, felonious assault	99
is a felony of the second degree. If the victim of a violation	100
of division (A) of this section is a peace officer or an	101
investigator of the bureau of criminal identification and	102
investigation, felonious assault is a felony of the first	103
degree.	104

(b) Regardless of whether the felonious assault is a 105
felony of the first or second degree under division (D) (1) (a) of 106
this section, if the offender also is convicted of or pleads 107
guilty to a specification as described in section 2941.1423 of 108
the Revised Code that was included in the indictment, count in 109
the indictment, or information charging the offense, except as 110
otherwise provided in this division or unless a longer prison 111
term is required under any other provision of law, the court 112
shall sentence the offender to a mandatory prison term as 113
provided in division (B) (8) of section 2929.14 of the Revised 114
Code. If the victim of the offense is a peace officer or an 115
investigator of the bureau of criminal identification and 116
investigation, and if the victim suffered serious physical harm 117
as a result of the commission of the offense, felonious assault 118
is a felony of the first degree, and the court, pursuant to 119
division (F) of section 2929.13 of the Revised Code, shall 120
impose as a mandatory prison term one of the definite prison 121
terms prescribed for a felony of the first degree in division 122
(A) (1) (b) of section 2929.14 of the Revised Code, except that if 123
the violation is committed on or after ~~the effective date of~~ 124
~~this amendment~~ March 22, 2019, the court shall impose as the 125
minimum prison term for the offense a mandatory prison term that 126
is one of the minimum terms prescribed for a felony of the first 127
degree in division (A) (1) (a) of section 2929.14 of the Revised 128
Code. 129

(c) If the victim of a violation of division (A) of this 130
section is an off-duty corrections officer, a parole or 131
probation officer, or a parole board member and the victim was 132
specifically targeted for being a corrections officer, a parole 133
or probation officer, or a parole board member, felonious 134
assault is a felony of the first degree. If the corrections 135

officer, parole or probation officer, or parole board member 136
suffered serious physical harm as a result of the commission of 137
the offense, the court shall impose as the minimum prison term 138
for the offense a mandatory prison term that is one of the 139
minimum terms prescribed for a felony of the first degree in 140
division (A) (1) (a) of section 2929.14 of the Revised Code. 141

(2) In addition to any other sanctions imposed pursuant to 142
division (D) (1) of this section for felonious assault committed 143
in violation of division (A) (1) or (2) of this section, if the 144
offender also is convicted of or pleads guilty to a 145
specification of the type described in section 2941.1425 of the 146
Revised Code that was included in the indictment, count in the 147
indictment, or information charging the offense, the court shall 148
sentence the offender to a mandatory prison term under division 149
(B) (9) of section 2929.14 of the Revised Code. 150

(3) If the victim of a felonious assault committed in 151
violation of division (A) of this section is a child under ten 152
years of age and if the offender also is convicted of or pleads 153
guilty to a specification of the type described in section 154
2941.1426 of the Revised Code that was included in the 155
indictment, count in the indictment, or information charging the 156
offense, in addition to any other sanctions imposed pursuant to 157
division (D) (1) of this section, the court shall sentence the 158
offender to a mandatory prison term pursuant to division (B) (10) 159
of section 2929.14 of the Revised Code. 160

(4) In addition to any other sanctions imposed pursuant to 161
division (D) (1) of this section for felonious assault committed 162
in violation of division (A) (2) of this section, if the deadly 163
weapon used in the commission of the violation is a motor 164
vehicle, the court shall impose upon the offender a class two 165

suspension of the offender's driver's license, commercial	166
driver's license, temporary instruction permit, probationary	167
license, or nonresident operating privilege as specified in	168
division (A) (2) of section 4510.02 of the Revised Code.	169
(E) As used in this section:	170
(1) "Deadly weapon" and "dangerous ordnance" have the same	171
meanings as in section 2923.11 of the Revised Code.	172
(2) "Motor vehicle" has the same meaning as in section	173
4501.01 of the Revised Code.	174
(3) "Peace officer" has the same meaning as in section	175
2935.01 of the Revised Code.	176
(4) "Sexual conduct" has the same meaning as in section	177
2907.01 of the Revised Code, except that, as used in this	178
section, it does not include the insertion of an instrument,	179
apparatus, or other object that is not a part of the body into	180
the vaginal or anal opening of another, unless the offender knew	181
at the time of the insertion that the instrument, apparatus, or	182
other object carried the offender's bodily fluid.	183
(5) "Investigator of the bureau of criminal identification	184
and investigation" means an investigator of the bureau of	185
criminal identification and investigation who is commissioned by	186
the superintendent of the bureau as a special agent for the	187
purpose of assisting law enforcement officers or providing	188
emergency assistance to peace officers pursuant to authority	189
granted under section 109.541 of the Revised Code.	190
(6) "Investigator" has the same meaning as in section	191
109.541 of the Revised Code.	192
<u>(7) "Corrections officer," "parole or probation officer,"</u>	193

and "parole board member" have the same meanings as in section 194
2903.01 of the Revised Code. 195

(F) The provisions of division (D) (2) of this section and 196
of division (F) (20) of section 2929.13, divisions (B) (9) and (C) 197
(6) of section 2929.14, and section 2941.1425 of the Revised 198
Code shall be known as "Judy's Law." 199

Sec. 2923.02. (A) No person, purposely or knowingly, and 200
when purpose or knowledge is sufficient culpability for the 201
commission of an offense, shall engage in conduct that, if 202
successful, would constitute or result in the offense. 203

(B) It is no defense to a charge under this section that, 204
in retrospect, commission of the offense that was the object of 205
the attempt was either factually or legally impossible under the 206
attendant circumstances, if that offense could have been 207
committed had the attendant circumstances been as the actor 208
believed them to be. 209

(C) No person who is convicted of committing a specific 210
offense, of complicity in the commission of an offense, or of 211
conspiracy to commit an offense shall be convicted of an attempt 212
to commit the same offense in violation of this section. 213

(D) It is an affirmative defense to a charge under this 214
section that the actor abandoned the actor's effort to commit 215
the offense or otherwise prevented its commission, under 216
circumstances manifesting a complete and voluntary renunciation 217
of the actor's criminal purpose. 218

(E) (1) Whoever violates this section is guilty of an 219
attempt to commit an offense. An attempt to commit aggravated 220
murder, murder, or an offense for which the maximum penalty is 221
imprisonment for life is a felony of the first degree. An 222

attempt to commit a drug abuse offense for which the penalty is 223
determined by the amount or number of unit doses of the 224
controlled substance involved in the drug abuse offense is an 225
offense of the same degree as the drug abuse offense attempted 226
would be if that drug abuse offense had been committed and had 227
involved an amount or number of unit doses of the controlled 228
substance that is within the next lower range of controlled 229
substance amounts than was involved in the attempt. An attempt 230
to commit any other offense is an offense of the next lesser 231
degree than the offense attempted. In the case of an attempt to 232
commit an offense other than a violation of Chapter 3734. of the 233
Revised Code that is not specifically classified, an attempt is 234
a misdemeanor of the first degree if the offense attempted is a 235
felony, and a misdemeanor of the fourth degree if the offense 236
attempted is a misdemeanor. In the case of an attempt to commit 237
a violation of any provision of Chapter 3734. of the Revised 238
Code, other than section 3734.18 of the Revised Code, that 239
relates to hazardous wastes, an attempt is a felony punishable 240
by a fine of not more than twenty-five thousand dollars or 241
imprisonment for not more than eighteen months, or both. An 242
attempt to commit a minor misdemeanor, or to engage in 243
conspiracy, is not an offense under this section. 244

(2) If a person is convicted of or pleads guilty to 245
attempted rape and also is convicted of or pleads guilty to a 246
specification of the type described in section 2941.1418, 247
2941.1419, or 2941.1420 of the Revised Code, the offender shall 248
be sentenced to a prison term or term of life imprisonment 249
pursuant to section 2971.03 of the Revised Code. 250

(3) In addition to any other sanctions imposed pursuant to 251
division (E)(1) of this section for an attempt to commit 252
aggravated murder or murder in violation of division (A) of this 253

section, if the offender used a motor vehicle as the means to 254
attempt to commit the offense, the court shall impose upon the 255
offender a class two suspension of the offender's driver's 256
license, commercial driver's license, temporary instruction 257
permit, probationary license, or nonresident operating privilege 258
as specified in division (A) (2) of section 4510.02 of the 259
Revised Code. 260

(4) If a person is convicted of or ~~found~~ pleads guilty of 261
to an attempt to commit aggravated murder of the type described 262
in division (E) ~~or~~, (F), or (G) of section 2903.01 of the 263
Revised Code, the court shall impose as a mandatory prison term 264
one of the prison terms prescribed for a felony of the first 265
degree. 266

(F) As used in this section: 267

(1) "Drug abuse offense" has the same meaning as in 268
section 2925.01 of the Revised Code. 269

(2) "Motor vehicle" has the same meaning as in section 270
4501.01 of the Revised Code. 271

Section 2. That existing sections 2903.01, 2903.11, and 272
2923.02 of the Revised Code are hereby repealed. 273

Section 3. Section 2903.11 of the Revised Code is 274
presented in this act as a composite of the section as amended 275
by both Sub. S.B. 20 and Am. Sub. S.B. 201 of the 132 General 276
Assembly. The General Assembly, applying the principle stated in 277
division (B) of section 1.52 of the Revised Code that amendments 278
are to be harmonized if reasonably capable of simultaneous 279
operation, finds that the composite is the resulting version of 280
the section in effect prior to the effective date of the section 281
as presented in this act. 282