

As Introduced

**133rd General Assembly
Regular Session
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S. B. No. 265

Senator Kunze

Cosponsors: Senators Antonio, Schaffer

A BILL

To amend section 2919.25 of the Revised Code to 1
increase the penalty for the offense of domestic 2
violence when the victim is a functionally 3
impaired person. 4

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

Section 1. That section 2919.25 of the Revised Code be 5
amended to read as follows: 6

Sec. 2919.25. (A) No person shall knowingly cause or 7
attempt to cause physical harm to a family or household member. 8

(B) No person shall recklessly cause serious physical harm 9
to a family or household member. 10

(C) No person, by threat of force, shall knowingly cause a 11
family or household member to believe that the offender will 12
cause imminent physical harm to the family or household member. 13

(D) (1) Whoever violates this section is guilty of domestic 14
violence, and the court shall sentence the offender as provided 15
in divisions (D) (2) to (6) of this section. 16

(2) Except as otherwise provided in divisions (D) (3) to 17

(5) of this section, ~~a~~the court shall sentence the offender as follows: 18
19

(a) A violation of division (C) of this section is a 20
misdemeanor of the fourth degree, and a violation of division 21
(A) or (B) of this section is a misdemeanor of the first degree. 22

(b) If the victim of the violation was a functionally 23
impaired person at the time of the violation, a violation of 24
division (C) of this section is a misdemeanor of the third 25
degree, and a violation of division (A) or (B) of this section 26
is a felony of the fourth degree. 27

(3) Except as otherwise provided in division (D) (4) of 28
this section, if the offender previously has pleaded guilty to 29
or been convicted of domestic violence, a violation of an 30
existing or former municipal ordinance or law of this or any 31
other state or the United States that is substantially similar 32
to domestic violence, a violation of section 2903.14, 2909.06, 33
2909.07, 2911.12, 2911.211, or 2919.22 of the Revised Code if 34
the victim of the violation was a family or household member at 35
the time of the violation, a violation of an existing or former 36
municipal ordinance or law of this or any other state or the 37
United States that is substantially similar to any of those 38
sections if the victim of the violation was a family or 39
household member at the time of the commission of the violation, 40
or any offense of violence if the victim of the offense was a 41
family or household member at the time of the commission of the 42
offense, a violation of division (A) or (B) of this section is a 43
felony of the fourth degree, and, if the offender knew that the 44
victim of the violation was pregnant at the time of the 45
violation, the court shall impose a mandatory prison term on the 46
offender pursuant to division (D) (6) of this section, and a 47

violation of division (C) of this section is a misdemeanor of 48
the second degree. 49

(4) If the offender previously has pleaded guilty to or 50
been convicted of two or more offenses of domestic violence or 51
two or more violations or offenses of the type described in 52
division (D) (3) of this section involving a person who was a 53
family or household member at the time of the violations or 54
offenses, a violation of division (A) or (B) of this section is 55
a felony of the third degree, and, if the offender knew that the 56
victim of the violation was pregnant at the time of the 57
violation, the court shall impose a mandatory prison term on the 58
offender pursuant to division (D) (6) of this section, and a 59
violation of division (C) of this section is a misdemeanor of 60
the first degree. 61

(5) Except as otherwise provided in division (D) (3) or (4) 62
of this section, if the offender knew that the victim of the 63
violation was pregnant at the time of the violation, a violation 64
of division (A) or (B) of this section is a felony of the fifth 65
degree, and the court shall impose a mandatory prison term on 66
the offender pursuant to division (D) (6) of this section, and a 67
violation of division (C) of this section is a misdemeanor of 68
the third degree. 69

(6) If division (D) (3), (4), or (5) of this section 70
requires the court that sentences an offender for a violation of 71
division (A) or (B) of this section to impose a mandatory prison 72
term on the offender pursuant to this division, the court shall 73
impose the mandatory prison term as follows: 74

(a) If the violation of division (A) or (B) of this 75
section is a felony of the fourth or fifth degree, except as 76
otherwise provided in division (D) (6) (b) or (c) of this section, 77

the court shall impose a mandatory prison term on the offender 78
of at least six months. 79

(b) If the violation of division (A) or (B) of this 80
section is a felony of the fifth degree and the offender, in 81
committing the violation, caused serious physical harm to the 82
pregnant woman's unborn or caused the termination of the 83
pregnant woman's pregnancy, the court shall impose a mandatory 84
prison term on the offender of twelve months. 85

(c) If the violation of division (A) or (B) of this 86
section is a felony of the fourth degree and the offender, in 87
committing the violation, caused serious physical harm to the 88
pregnant woman's unborn or caused the termination of the 89
pregnant woman's pregnancy, the court shall impose a mandatory 90
prison term on the offender of at least twelve months. 91

(d) If the violation of division (A) or (B) of this 92
section is a felony of the third degree, except as otherwise 93
provided in division (D) (6) (e) of this section and 94
notwithstanding the range of definite prison terms prescribed in 95
division (A) (3) of section 2929.14 of the Revised Code for a 96
felony of the third degree, the court shall impose a mandatory 97
prison term on the offender of either a definite term of six 98
months or one of the prison terms prescribed in division (A) (3) 99
(b) of section 2929.14 of the Revised Code for felonies of the 100
third degree. 101

(e) If the violation of division (A) or (B) of this 102
section is a felony of the third degree and the offender, in 103
committing the violation, caused serious physical harm to the 104
pregnant woman's unborn or caused the termination of the 105
pregnant woman's pregnancy, notwithstanding the range of 106
definite prison terms prescribed in division (A) (3) of section 107

2929.14 of the Revised Code for a felony of the third degree, 108
the court shall impose a mandatory prison term on the offender 109
of either a definite term of one year or one of the prison terms 110
prescribed in division (A) (3) (b) of section 2929.14 of the 111
Revised Code for felonies of the third degree. 112

(E) Notwithstanding any provision of law to the contrary, 113
no court or unit of state or local government shall charge any 114
fee, cost, deposit, or money in connection with the filing of 115
charges against a person alleging that the person violated this 116
section or a municipal ordinance substantially similar to this 117
section or in connection with the prosecution of any charges so 118
filed. 119

(F) As used in this section and sections 2919.251 and 120
2919.26 of the Revised Code: 121

(1) "Family or household member" means any of the 122
following: 123

(a) Any of the following who is residing or has resided 124
with the offender: 125

(i) A spouse, a person living as a spouse, or a former 126
spouse of the offender; 127

(ii) A parent, a foster parent, or a child of the 128
offender, or another person related by consanguinity or affinity 129
to the offender; 130

(iii) A parent or a child of a spouse, person living as a 131
spouse, or former spouse of the offender, or another person 132
related by consanguinity or affinity to a spouse, person living 133
as a spouse, or former spouse of the offender. 134

(b) The natural parent of any child of whom the offender 135

is the other natural parent or is the putative other natural parent. 136
137

(2) "Person living as a spouse" means a person who is 138
living or has lived with the offender in a common law marital 139
relationship, who otherwise is cohabiting with the offender, or 140
who otherwise has cohabited with the offender within five years 141
prior to the date of the alleged commission of the act in 142
question. 143

(3) "Pregnant woman's unborn" has the same meaning as 144
"such other person's unborn," as set forth in section 2903.09 of 145
the Revised Code, as it relates to the pregnant woman. Division 146
(C) of that section applies regarding the use of the term in 147
this section, except that the second and third sentences of 148
division (C)(1) of that section shall be construed for purposes 149
of this section as if they included a reference to this section 150
in the listing of Revised Code sections they contain. 151

(4) "Termination of the pregnant woman's pregnancy" has 152
the same meaning as "unlawful termination of another's 153
pregnancy," as set forth in section 2903.09 of the Revised Code, 154
as it relates to the pregnant woman. Division (C) of that 155
section applies regarding the use of the term in this section, 156
except that the second and third sentences of division (C)(1) of 157
that section shall be construed for purposes of this section as 158
if they included a reference to this section in the listing of 159
Revised Code sections they contain. 160

(5) "Functionally impaired person" has the same meaning as 161
in section 2903.10 of the Revised Code. 162

Section 2. That existing section 2919.25 of the Revised 163
Code is hereby repealed. 164