

As Introduced

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

S. B. No. 34

Senator Brenner

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

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.	103 104 105 106 107
(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.	108 109 110 111 112
(C) Whoever violates this section is guilty of disrupting public services, a felony of the fourth <u>third</u> degree.	113 114
(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.	116 117
(2) "Emergency facility personnel" means any of the following:	118 119
(a) Any of the following individuals who perform services in the ordinary course of their professions in an emergency facility:	120 121 122
(i) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	123 124 125
(ii) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code;	126 127
(iii) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	128 129

(iv) Health care workers;	130
(v) Clerical staffs.	131
(b) Any individual who is a security officer performing security services in an emergency facility;	132 133
(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.	134 135 136
(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.	137 138 139
(4) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	140 141
(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.	142 143 144 145 146 147
Sec. 2909.05. (A) No person shall knowingly cause serious physical harm to an occupied structure or any of its contents.	148 149
(B) (1) No person shall knowingly cause physical harm to property that is owned or possessed by another, when either of the following applies:	150 151 152
(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;	153 154 155 156

(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
third <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 misdemeanor	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

358

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

M	TOTAL ALL BUDGET FUND GROUPS	\$10,223,110	\$10,240,173	
			<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