

As Reported by the House State Government Committee

124th General Assembly

Regular Session

2001-2002

Am. H. B. No. 545

REPRESENTATIVES Setzer, Husted, White

A B I L L

To amend sections 109.71 and 2901.01 of the Revised Code to provide for the training of special police officers of certain airports, to designate those special police officers as law enforcement officers, and to declare an emergency.

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

Section 1. That sections 109.71 and 2901.01 of the Revised Code be amended to read as follows:

Sec. 109.71. There is hereby created in the office of the attorney general the Ohio peace officer training commission. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate and selected as follows: one member representing the public; two members who are incumbent sheriffs; two members who are incumbent chiefs of police; one member from the bureau of criminal identification and investigation; one member from the state highway patrol; one member who is the special agent in charge of a field office of the federal bureau of investigation in this state; and one member from the department of education, trade and industrial education services, law enforcement training.

As used in sections 109.71 to 109.77 of the Revised Code:

(A) "Peace officer" means: 21

(1) A deputy sheriff, marshal, deputy marshal, member of the 22
organized police department of a township or municipal 23
corporation, member of a township police district or joint 24
township police district police force, member of a police force 25
employed by a metropolitan housing authority under division (D) of 26
section 3735.31 of the Revised Code, or township constable, who is 27
commissioned and employed as a peace officer by a political 28
subdivision of this state or by a metropolitan housing authority, 29
and whose primary duties are to preserve the peace, to protect 30
life and property, and to enforce the laws of this state, 31
ordinances of a municipal corporation, resolutions of a township, 32
or regulations of a board of county commissioners or board of 33
township trustees, or any of those laws, ordinances, resolutions, 34
or regulations; 35

(2) A police officer who is employed by a railroad company 36
and appointed and commissioned by the governor pursuant to 37
sections 4973.17 to 4973.22 of the Revised Code; 38

(3) Employees of the department of taxation engaged in the 39
enforcement of Chapter 5743. of the Revised Code and designated by 40
the tax commissioner for peace officer training for purposes of 41
the delegation of investigation powers under section 5743.45 of 42
the Revised Code; 43

(4) An undercover drug agent; 44

(5) Enforcement agents of the department of public safety 45
whom the director of public safety designates under section 46
5502.14 of the Revised Code; 47

(6) An employee of the department of natural resources who is 48
a natural resources law enforcement staff officer designated 49
pursuant to section 1501.013, a park officer designated pursuant 50
to section 1541.10, a forest officer designated pursuant to 51

section 1503.29, a preserve officer designated pursuant to section 52
1517.10, a wildlife officer designated pursuant to section 53
1531.13, or a state watercraft officer designated pursuant to 54
section 1547.521 of the Revised Code; 55

(7) An employee of a park district who is designated pursuant 56
to section 511.232 or 1545.13 of the Revised Code; 57

(8) An employee of a conservancy district who is designated 58
pursuant to section 6101.75 of the Revised Code; 59

(9) A police officer who is employed by a hospital that 60
employs and maintains its own proprietary police department or 61
security department, and who is appointed and commissioned by the 62
governor pursuant to sections 4973.17 to 4973.22 of the Revised 63
Code; 64

(10) Ohio veterans' home police officers designated under 65
section 5907.02 of the Revised Code; 66

(11) A police officer who is employed by a qualified 67
nonprofit corporation police department pursuant to section 68
1702.80 of the Revised Code; 69

(12) A state university law enforcement officer appointed 70
under section 3345.04 of the Revised Code or a person serving as a 71
state university law enforcement officer on a permanent basis on 72
June 19, 1978, who has been awarded a certificate by the executive 73
director of the Ohio peace officer training council attesting to 74
the person's satisfactory completion of an approved state, county, 75
municipal, or department of natural resources peace officer basic 76
training program; 77

(13) A special police officer employed by the department of 78
mental health pursuant to section 5119.14 of the Revised Code or 79
the department of mental retardation and developmental 80
disabilities pursuant to section 5123.13 of the Revised Code; 81

(14) A member of a campus police department appointed under section 1713.50 of the Revised Code;	82 83
(15) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;	84 85 86
(16) Investigators appointed by the auditor of state pursuant to section 117.091 of the Revised Code and engaged in the enforcement of Chapter 117. of the Revised Code;	87 88 89
(17) A special police officer designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;	90 91 92 93 94 95 96 97 98
(19) (18) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code or a person serving as a special police officer employed by a port authority on a permanent basis on the effective date of this amendment <u>May 17, 2000</u> , who has been awarded a certificate by the executive director of the Ohio peace officer training council attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;	99 100 101 102 103 104 105 106 107
<u>(19) A special police officer employed by an airport that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security</u>	108 109 110 111 112

administration of the United States department of transportation 113
as provided in Parts 1542. and 1544. of Title 49 of the Code of 114
Federal Regulations, as amended. 115

(B) "Undercover drug agent" has the same meaning as in 116
division (B)(2) of section 109.79 of the Revised Code. 117

(C) "Crisis intervention training" means training in the use 118
of interpersonal and communication skills to most effectively and 119
sensitively interview victims of rape. 120

(D) "Missing children" has the same meaning as in section 121
2901.30 of the Revised Code. 122

Sec. 2901.01. (A) As used in the Revised Code: 123

(1) "Force" means any violence, compulsion, or constraint 124
physically exerted by any means upon or against a person or thing. 125

(2) "Deadly force" means any force that carries a substantial 126
risk that it will proximately result in the death of any person. 127
128

(3) "Physical harm to persons" means any injury, illness, or 129
other physiological impairment, regardless of its gravity or 130
duration. 131

(4) "Physical harm to property" means any tangible or 132
intangible damage to property that, in any degree, results in loss 133
to its value or interferes with its use or enjoyment. "Physical 134
harm to property" does not include wear and tear occasioned by 135
normal use. 136

(5) "Serious physical harm to persons" means any of the 137
following: 138

(a) Any mental illness or condition of such gravity as would 139
normally require hospitalization or prolonged psychiatric 140
treatment; 141

(b) Any physical harm that carries a substantial risk of death;	142 143
(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;	144 145 146
(d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;	147 148 149
(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.	150 151 152
(6) "Serious physical harm to property" means any physical harm to property that does either of the following:	153 154
(a) Results in substantial loss to the value of the property or requires a substantial amount of time, effort, or money to repair or replace;	155 156 157
(b) Temporarily prevents the use or enjoyment of the property or substantially interferes with its use or enjoyment for an extended period of time.	158 159 160
(7) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.	161 162 163
(8) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.	164 165 166
(9) "Offense of violence" means any of the following:	167
(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02,	168 169 170 171

2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, 172
of division (A)(1), (2), or (3) of section 2911.12, or of division 173
(B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code or 174
felonious sexual penetration in violation of former section 175
2907.12 of the Revised Code; 176

(b) A violation of an existing or former municipal ordinance 177
or law of this or any other state or the United States, 178
substantially equivalent to any section, division, or offense 179
listed in division (A)(9)(a) of this section; 180

(c) An offense, other than a traffic offense, under an 181
existing or former municipal ordinance or law of this or any other 182
state or the United States, committed purposely or knowingly, and 183
involving physical harm to persons or a risk of serious physical 184
harm to persons; 185

(d) A conspiracy or attempt to commit, or complicity in 186
committing, any offense under division (A)(9)(a), (b), or (c) of 187
this section. 188

(10)(a) "Property" means any property, real or personal, 189
tangible or intangible, and any interest or license in that 190
property. "Property" includes, but is not limited to, cable 191
television service, other telecommunications service, 192
telecommunications devices, information service, computers, data, 193
computer software, financial instruments associated with 194
computers, other documents associated with computers, or copies of 195
the documents, whether in machine or human readable form, trade 196
secrets, trademarks, copyrights, patents, and property protected 197
by a trademark, copyright, or patent. "Financial instruments 198
associated with computers" include, but are not limited to, 199
checks, drafts, warrants, money orders, notes of indebtedness, 200
certificates of deposit, letters of credit, bills of credit or 201
debit cards, financial transaction authorization mechanisms, 202
marketable securities, or any computer system representations of 203

any of them. 204

(b) As used in division (A)(10) of this section, "trade 205
secret" has the same meaning as in section 1333.61 of the Revised 206
Code, and "telecommunications service" and "information service" 207
have the same meanings as in section 2913.01 of the Revised Code. 208

(c) As used in divisions (A)(10) and (13) of this section, 209
"cable television service," "computer," "computer software," 210
"computer system," "computer network," "data," and 211
"telecommunications device" have the same meanings as in section 212
2913.01 of the Revised Code. 213

(11) "Law enforcement officer" means any of the following: 214

(a) A sheriff, deputy sheriff, constable, police officer of a 215
township or joint township police district, marshal, deputy 216
marshal, municipal police officer, member of a police force 217
employed by a metropolitan housing authority under division (D) of 218
section 3735.31 of the Revised Code, or state highway patrol 219
trooper; 220

(b) An officer, agent, or employee of the state or any of its 221
agencies, instrumentalities, or political subdivisions, upon whom, 222
by statute, a duty to conserve the peace or to enforce all or 223
certain laws is imposed and the authority to arrest violators is 224
conferred, within the limits of that statutory duty and authority; 225
226

(c) A mayor, in the mayor's capacity as chief conservator of 227
the peace within the mayor's municipal corporation; 228

(d) A member of an auxiliary police force organized by 229
county, township, or municipal law enforcement authorities, within 230
the scope of the member's appointment or commission; 231

(e) A person lawfully called pursuant to section 311.07 of 232
the Revised Code to aid a sheriff in keeping the peace, for the 233

purposes and during the time when the person is called;	234
(f) A person appointed by a mayor pursuant to section 737.01	235
of the Revised Code as a special patrolling officer during riot or	236
emergency, for the purposes and during the time when the person is	237
appointed;	238
(g) A member of the organized militia of this state or the	239
armed forces of the United States, lawfully called to duty to aid	240
civil authorities in keeping the peace or protect against domestic	241
violence;	242
(h) A prosecuting attorney, assistant prosecuting attorney,	243
secret service officer, or municipal prosecutor;	244
(i) An Ohio veterans' home police officer appointed under	245
section 5907.02 of the Revised Code;	246
(j) A member of a police force employed by a regional transit	247
authority under division (Y) of section 306.35 of the Revised	248
Code;	249
(k) A special police officer employed by a port authority	250
under section 4582.04 or 4582.28 of the Revised Code;	251
(l) The house sergeant at arms if the house sergeant at arms	252
has arrest authority pursuant to division (E)(1) of section	253
101.311 of the Revised Code and an assistant house sergeant at	254
arms;	255
<u>(m) A special police officer employed by an airport that has</u>	256
<u>scheduled operations, as defined in section 119.3 of Title 14 of</u>	257
<u>the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and</u>	258
<u>that is required to be under a security program and is governed by</u>	259
<u>aviation security rules of the transportation security</u>	260
<u>administration of the United States department of transportation</u>	261
<u>as provided in Parts 1542. and 1544. of Title 49 of the Code of</u>	262
<u>Federal Regulations, as amended.</u>	263

(12) "Privilege" means an immunity, license, or right 264
conferred by law, bestowed by express or implied grant, arising 265
out of status, position, office, or relationship, or growing out 266
of necessity. 267

(13) "Contraband" means any property described in the 268
following categories: 269

(a) Property that in and of itself is unlawful for a person 270
to acquire or possess; 271

(b) Property that is not in and of itself unlawful for a 272
person to acquire or possess, but that has been determined by a 273
court of this state, in accordance with law, to be contraband 274
because of its use in an unlawful activity or manner, of its 275
nature, or of the circumstances of the person who acquires or 276
possesses it, including, but not limited to, goods and personal 277
property described in division (D) of section 2913.34 of the 278
Revised Code; 279

(c) Property that is specifically stated to be contraband by 280
a section of the Revised Code or by an ordinance, regulation, or 281
resolution; 282

(d) Property that is forfeitable pursuant to a section of the 283
Revised Code, or an ordinance, regulation, or resolution, 284
including, but not limited to, forfeitable firearms, dangerous 285
ordnance, obscene materials, and goods and personal property 286
described in division (D) of section 2913.34 of the Revised Code; 287

(e) Any controlled substance, as defined in section 3719.01 288
of the Revised Code, or any device, paraphernalia, money as 289
defined in section 1301.01 of the Revised Code, or other means of 290
exchange that has been, is being, or is intended to be used in an 291
attempt or conspiracy to violate, or in a violation of, Chapter 292
2925. or 3719. of the Revised Code; 293

(f) Any gambling device, paraphernalia, money as defined in 294

section 1301.01 of the Revised Code, or other means of exchange 295
that has been, is being, or is intended to be used in an attempt 296
or conspiracy to violate, or in the violation of, Chapter 2915. of 297
the Revised Code; 298

(g) Any equipment, machine, device, apparatus, vehicle, 299
vessel, container, liquid, or substance that has been, is being, 300
or is intended to be used in an attempt or conspiracy to violate, 301
or in the violation of, any law of this state relating to alcohol 302
or tobacco; 303

(h) Any personal property that has been, is being, or is 304
intended to be used in an attempt or conspiracy to commit, or in 305
the commission of, any offense or in the transportation of the 306
fruits of any offense; 307

(i) Any property that is acquired through the sale or other 308
transfer of contraband or through the proceeds of contraband, 309
other than by a court or a law enforcement agency acting within 310
the scope of its duties; 311

(j) Any computer, computer system, computer network, computer 312
software, or other telecommunications device that is used in a 313
conspiracy to commit, an attempt to commit, or the commission of 314
any offense, if the owner of the computer, computer system, 315
computer network, computer software, or other telecommunications 316
device is convicted of or pleads guilty to the offense in which it 317
is used. 318

(14) A person is "not guilty by reason of insanity" relative 319
to a charge of an offense only if the person proves, in the manner 320
specified in section 2901.05 of the Revised Code, that at the time 321
of the commission of the offense, the person did not know, as a 322
result of a severe mental disease or defect, the wrongfulness of 323
the person's acts. 324

(B)(1)(a) Subject to division (B)(2) of this section, as used 325

in any section contained in Title XXIX of the Revised Code that 326
sets forth a criminal offense, "person" includes all of the 327
following: 328

(i) An individual, corporation, business trust, estate, 329
trust, partnership, and association; 330

(ii) An unborn human who is viable. 331

(b) As used in any section contained in Title XXIX of the 332
Revised Code that does not set forth a criminal offense, "person" 333
includes an individual, corporation, business trust, estate, 334
trust, partnership, and association. 335

(c) As used in division (B)(1)(a) of this section: 336

(i) "Unborn human" means an individual organism of the 337
species *Homo sapiens* from fertilization until live birth. 338

(ii) "Viable" means the stage of development of a human fetus 339
at which there is a realistic possibility of maintaining and 340
nourishing of a life outside the womb with or without temporary 341
artificial life-sustaining support. 342

(2) Notwithstanding division (B)(1)(a) of this section, in no 343
case shall the portion of the definition of the term "person" that 344
is set forth in division (B)(1)(a)(ii) of this section be applied 345
or construed in any section contained in Title XXIX of the Revised 346
Code that sets forth a criminal offense in any of the following 347
manners: 348

(a) Except as otherwise provided in division (B)(2)(a) of 349
this section, in a manner so that the offense prohibits or is 350
construed as prohibiting any pregnant woman or her physician from 351
performing an abortion with the consent of the pregnant woman, 352
with the consent of the pregnant woman implied by law in a medical 353
emergency, or with the approval of one otherwise authorized by law 354
to consent to medical treatment on behalf of the pregnant woman. 355

An abortion that violates the conditions described in the 356
immediately preceding sentence may be punished as a violation of 357
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 358
2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 359
of the Revised Code, as applicable. An abortion that does not 360
violate the conditions described in the second immediately 361
preceding sentence, but that does violate section 2919.12, 362
division (B) of section 2919.13, or section 2919.151, 2919.17, or 363
2919.18 of the Revised Code, may be punished as a violation of 364
section 2919.12, division (B) of section 2919.13, or section 365
2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. 366
Consent is sufficient under this division if it is of the type 367
otherwise adequate to permit medical treatment to the pregnant 368
woman, even if it does not comply with section 2919.12 of the 369
Revised Code. 370

(b) In a manner so that the offense is applied or is 371
construed as applying to a woman based on an act or omission of 372
the woman that occurs while she is or was pregnant and that 373
results in any of the following: 374

(i) Her delivery of a stillborn baby; 375

(ii) Her causing, in any other manner, the death in utero of 376
a viable, unborn human that she is carrying; 377

(iii) Her causing the death of her child who is born alive 378
but who dies from one or more injuries that are sustained while 379
the child is a viable, unborn human; 380

(iv) Her causing her child who is born alive to sustain one 381
or more injuries while the child is a viable, unborn human; 382

(v) Her causing, threatening to cause, or attempting to 383
cause, in any other manner, an injury, illness, or other 384
physiological impairment, regardless of its duration or gravity, 385
or a mental illness or condition, regardless of its duration or 386

gravity, to a viable, unborn human that she is carrying. 387

(C) As used in Title XXIX of the Revised Code: 388

(1) "School safety zone" consists of a school, school 389
building, school premises, school activity, and school bus. 390

(2) "School," "school building," and "school premises" have 391
the same meanings as in section 2925.01 of the Revised Code. 392

(3) "School activity" means any activity held under the 393
auspices of a board of education of a city, local, exempted 394
village, joint vocational, or cooperative education school 395
district, a governing board of an educational service center, or 396
the governing body of a school for which the state board of 397
education prescribes minimum standards under section 3301.07 of 398
the Revised Code. 399

(4) "School bus" has the same meaning as in section 4511.01 400
of the Revised Code. 401

Section 2. That existing sections 109.71 and 2901.01 of the 402
Revised Code are hereby repealed. 403

Section 3. Section 109.71 of the Revised Code is presented in 404
this act as a composite of the section as amended by both Am. Sub. 405
H.B. 163 and Am. S.B. 137 of the 123rd General Assembly. The 406
General Assembly, applying the principle stated in division (B) of 407
section 1.52 of the Revised Code that amendments are to be 408
harmonized if reasonably capable of simultaneous operation, finds 409
that the composite is the resulting version of the section in 410
effect prior to the effective date of the section as presented in 411
this act. 412

Section 4. This act is hereby declared to be an emergency 413
measure necessary for the immediate preservation of the public 414

peace, health, and safety. The reason for such necessity is that 415
security forces at airports covered by this act may soon lose 416
their certification as law enforcement officers and this act will 417
grant them this designation. Therefore, this act shall go into 418
immediate effect. 419