

**As Introduced**

**124th General Assembly  
Regular Session  
2001-2002**

**S. B. No. 184**

**SENATORS Spada, Armbruster, Jacobson, Austria, Oelslager, Mead,  
Randy Gardner, White, Nein**

---

**A B I L L**

To amend sections 2901.01, 2929.04, and 2933.51 and to 1  
enact sections 2909.21, 2909.22, 2909.23, 2909.24, 2  
and 2909.25 of the Revised Code to create the 3  
offenses of terrorism, soliciting or providing 4  
support for an act of terrorism, making a 5  
terroristic threat, and hindering prosecution of 6  
terrorism and to declare an emergency. 7

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

**Section 1.** That sections 2901.01, 2929.04, and 2933.51 be 8  
amended and sections 2909.21, 2909.22, 2909.23, 2909.24, and 9  
2909.25 of the Revised Code be enacted to read as follows: 10

**Sec. 2901.01.** (A) As used in the Revised Code: 11

(1) "Force" means any violence, compulsion, or constraint 12  
physically exerted by any means upon or against a person or thing. 13

(2) "Deadly force" means any force that carries a substantial 14  
risk that it will proximately result in the death of any person. 15  
16

(3) "Physical harm to persons" means any injury, illness, or 17  
other physiological impairment, regardless of its gravity or 18  
duration. 19

(4) "Physical harm to property" means any tangible or 20  
intangible damage to property that, in any degree, results in loss 21  
to its value or interferes with its use or enjoyment. "Physical 22  
harm to property" does not include wear and tear occasioned by 23  
normal use. 24

(5) "Serious physical harm to persons" means any of the 25  
following: 26

(a) Any mental illness or condition of such gravity as would 27  
normally require hospitalization or prolonged psychiatric 28  
treatment; 29

(b) Any physical harm that carries a substantial risk of 30  
death; 31

(c) Any physical harm that involves some permanent 32  
incapacity, whether partial or total, or that involves some 33  
temporary, substantial incapacity; 34

(d) Any physical harm that involves some permanent 35  
disfigurement or that involves some temporary, serious 36  
disfigurement; 37

(e) Any physical harm that involves acute pain of such 38  
duration as to result in substantial suffering or that involves 39  
any degree of prolonged or intractable pain. 40

(6) "Serious physical harm to property" means any physical 41  
harm to property that does either of the following: 42

(a) Results in substantial loss to the value of the property 43  
or requires a substantial amount of time, effort, or money to 44  
repair or replace; 45

(b) Temporarily prevents the use or enjoyment of the property 46  
or substantially interferes with its use or enjoyment for an 47  
extended period of time. 48

(7) "Risk" means a significant possibility, as contrasted 49

with a remote possibility, that a certain result may occur or that  
certain circumstances may exist.

50  
51

(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.

52  
53  
54

(9) "Offense of violence" means any of the following:

55

(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, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01,  
2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or  
2923.161, of division (A)(1), (2), or (3) of section 2911.12, or  
of division (B)(1), (2), (3), or (4) of section 2919.22 of the  
Revised Code or felonious sexual penetration in violation of  
former section 2907.12 of the Revised Code;

56  
57  
58  
59  
60  
61  
62  
63  
64

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

65  
66  
67  
68

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

69  
70  
71  
72  
73

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

74  
75  
76

(10)(a) "Property" means any property, real or personal,  
tangible or intangible, and any interest or license in that  
property. "Property" includes, but is not limited to, cable  
television service, other telecommunications service,

77  
78  
79  
80

telecommunications devices, information service, computers, data,  
computer software, financial instruments associated with  
computers, other documents associated with computers, or copies of  
the documents, whether in machine or human readable form, trade  
secrets, trademarks, copyrights, patents, and property protected  
by a trademark, copyright, or patent. "Financial instruments  
associated with computers" include, but are not limited to,  
checks, drafts, warrants, money orders, notes of indebtedness,  
certificates of deposit, letters of credit, bills of credit or  
debit cards, financial transaction authorization mechanisms,  
marketable securities, or any computer system representations of  
any of them.

81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92

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

93  
94  
95  
96

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

97  
98  
99  
100  
101

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

102

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

103  
104  
105  
106  
107  
108

(b) An officer, agent, or employee of the state or any of its  
agencies, instrumentalities, or political subdivisions, upon whom,  
by statute, a duty to conserve the peace or to enforce all or

109  
110  
111

certain laws is imposed and the authority to arrest violators is 112  
conferred, within the limits of that statutory duty and authority; 113  
114

(c) A mayor, in the mayor's capacity as chief conservator of 115  
the peace within the mayor's municipal corporation; 116

(d) A member of an auxiliary police force organized by 117  
county, township, or municipal law enforcement authorities, within 118  
the scope of the member's appointment or commission; 119

(e) A person lawfully called pursuant to section 311.07 of 120  
the Revised Code to aid a sheriff in keeping the peace, for the 121  
purposes and during the time when the person is called; 122

(f) A person appointed by a mayor pursuant to section 737.01 123  
of the Revised Code as a special patrolling officer during riot or 124  
emergency, for the purposes and during the time when the person is 125  
appointed; 126

(g) A member of the organized militia of this state or the 127  
armed forces of the United States, lawfully called to duty to aid 128  
civil authorities in keeping the peace or protect against domestic 129  
violence; 130

(h) A prosecuting attorney, assistant prosecuting attorney, 131  
secret service officer, or municipal prosecutor; 132

(i) An Ohio veterans' home police officer appointed under 133  
section 5907.02 of the Revised Code; 134

(j) A member of a police force employed by a regional transit 135  
authority under division (Y) of section 306.35 of the Revised 136  
Code; 137

(k) A special police officer employed by a port authority 138  
under section 4582.04 or 4582.28 of the Revised Code; 139

(l) The house sergeant at arms if the house sergeant at arms 140  
has arrest authority pursuant to division (E)(1) of section 141

101.311 of the Revised Code and an assistant house sergeant at  
arms. 142  
143

(12) "Privilege" means an immunity, license, or right 144  
conferred by law, bestowed by express or implied grant, arising 145  
out of status, position, office, or relationship, or growing out 146  
of necessity. 147

(13) "Contraband" means any property described in the 148  
following categories: 149

(a) Property that in and of itself is unlawful for a person 150  
to acquire or possess; 151

(b) Property that is not in and of itself unlawful for a 152  
person to acquire or possess, but that has been determined by a 153  
court of this state, in accordance with law, to be contraband 154  
because of its use in an unlawful activity or manner, of its 155  
nature, or of the circumstances of the person who acquires or 156  
possesses it, including, but not limited to, goods and personal 157  
property described in division (D) of section 2913.34 of the 158  
Revised Code; 159

(c) Property that is specifically stated to be contraband by 160  
a section of the Revised Code or by an ordinance, regulation, or 161  
resolution; 162

(d) Property that is forfeitable pursuant to a section of the 163  
Revised Code, or an ordinance, regulation, or resolution, 164  
including, but not limited to, forfeitable firearms, dangerous 165  
ordnance, obscene materials, and goods and personal property 166  
described in division (D) of section 2913.34 of the Revised Code; 167

(e) Any controlled substance, as defined in section 3719.01 168  
of the Revised Code, or any device, paraphernalia, money as 169  
defined in section 1301.01 of the Revised Code, or other means of 170  
exchange that has been, is being, or is intended to be used in an 171  
attempt or conspiracy to violate, or in a violation of, Chapter 172

2925. or 3719. of the Revised Code;	173
(f) Any gambling device, paraphernalia, money as defined in section 1301.01 of the Revised Code, or other means of exchange that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, Chapter 2915. of the Revised Code;	174 175 176 177 178
(g) Any equipment, machine, device, apparatus, vehicle, vessel, container, liquid, or substance that has been, is being, or is intended to be used in an attempt or conspiracy to violate, or in the violation of, any law of this state relating to alcohol or tobacco;	179 180 181 182 183
(h) Any personal property that has been, is being, or is intended to be used in an attempt or conspiracy to commit, or in the commission of, any offense or in the transportation of the fruits of any offense;	184 185 186 187
(i) Any property that is acquired through the sale or other transfer of contraband or through the proceeds of contraband, other than by a court or a law enforcement agency acting within the scope of its duties;	188 189 190 191
(j) Any computer, computer system, computer network, computer software, or other telecommunications device that is used in a conspiracy to commit, an attempt to commit, or the commission of any offense, if the owner of the computer, computer system, computer network, computer software, or other telecommunications device is convicted of or pleads guilty to the offense in which it is used.	192 193 194 195 196 197 198
(14) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in section 2901.05 of the Revised Code, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of	199 200 201 202 203

the person's acts. 204

(B)(1)(a) Subject to division (B)(2) of this section, as used 205  
in any section contained in Title XXIX of the Revised Code that 206  
sets forth a criminal offense, "person" includes all of the 207  
following: 208

(i) An individual, corporation, business trust, estate, 209  
trust, partnership, and association; 210

(ii) An unborn human who is viable. 211

(b) As used in any section contained in Title XXIX of the 212  
Revised Code that does not set forth a criminal offense, "person" 213  
includes an individual, corporation, business trust, estate, 214  
trust, partnership, and association. 215

(c) As used in division (B)(1)(a) of this section: 216

(i) "Unborn human" means an individual organism of the 217  
species *Homo sapiens* from fertilization until live birth. 218

(ii) "Viable" means the stage of development of a human fetus 219  
at which there is a realistic possibility of maintaining and 220  
nourishing of a life outside the womb with or without temporary 221  
artificial life-sustaining support. 222

(2) Notwithstanding division (B)(1)(a) of this section, in no 223  
case shall the portion of the definition of the term "person" that 224  
is set forth in division (B)(1)(a)(ii) of this section be applied 225  
or construed in any section contained in Title XXIX of the Revised 226  
Code that sets forth a criminal offense in any of the following 227  
manners: 228

(a) Except as otherwise provided in division (B)(2)(a) of 229  
this section, in a manner so that the offense prohibits or is 230  
construed as prohibiting any pregnant woman or her physician from 231  
performing an abortion with the consent of the pregnant woman, 232  
with the consent of the pregnant woman implied by law in a medical 233



emergency, or with the approval of one otherwise authorized by law 234  
to consent to medical treatment on behalf of the pregnant woman. 235  
An abortion that violates the conditions described in the 236  
immediately preceding sentence may be punished as a violation of 237  
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 238  
2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22 239  
of the Revised Code, as applicable. An abortion that does not 240  
violate the conditions described in the second immediately 241  
preceding sentence, but that does violate section 2919.12, 242  
division (B) of section 2919.13, or section 2919.151, 2919.17, or 243  
2919.18 of the Revised Code, may be punished as a violation of 244  
section 2919.12, division (B) of section 2919.13, or section 245  
2919.151, 2919.17, or 2919.18 of the Revised Code, as applicable. 246  
Consent is sufficient under this division if it is of the type 247  
otherwise adequate to permit medical treatment to the pregnant 248  
woman, even if it does not comply with section 2919.12 of the 249  
Revised Code. 250

(b) In a manner so that the offense is applied or is 251  
construed as applying to a woman based on an act or omission of 252  
the woman that occurs while she is or was pregnant and that 253  
results in any of the following: 254

(i) Her delivery of a stillborn baby; 255

(ii) Her causing, in any other manner, the death in utero of 256  
a viable, unborn human that she is carrying; 257

(iii) Her causing the death of her child who is born alive 258  
but who dies from one or more injuries that are sustained while 259  
the child is a viable, unborn human; 260

(iv) Her causing her child who is born alive to sustain one 261  
or more injuries while the child is a viable, unborn human; 262

(v) Her causing, threatening to cause, or attempting to 263  
cause, in any other manner, an injury, illness, or other 264

physiological impairment, regardless of its duration or gravity, 265  
or a mental illness or condition, regardless of its duration or 266  
gravity, to a viable, unborn human that she is carrying. 267

(C) As used in Title XXIX of the Revised Code: 268

(1) "School safety zone" consists of a school, school 269  
building, school premises, school activity, and school bus. 270

(2) "School," "school building," and "school premises" have 271  
the same meanings as in section 2925.01 of the Revised Code. 272

(3) "School activity" means any activity held under the 273  
auspices of a board of education of a city, local, exempted 274  
village, joint vocational, or cooperative education school 275  
district, a governing board of an educational service center, or 276  
the governing body of a school for which the state board of 277  
education prescribes minimum standards under section 3301.07 of 278  
the Revised Code. 279

(4) "School bus" has the same meaning as in section 4511.01 280  
of the Revised Code. 281

Sec. 2909.21. As used in sections 2909.21 to 2909.25 of the 282  
Revised Code: 283

(A) "Act of terrorism" means both of the following: 284

(1) An act that is a specified offense; 285

(2) An act that is committed within or outside the 286  
territorial jurisdiction of the United States, that constitutes an 287  
offense in any jurisdiction within or outside the territorial 288  
jurisdiction of the United States containing all of the essential 289  
elements of a specified offense, and that is intended to do one of 290  
the following: 291

(a) Intimidate or coerce a civilian population; 292

(b) Influence the policy of any government by intimidation or 293

<u>coercion;</u>	294
<u>(c) Affect the conduct of any government by murder or kidnapping.</u>	295 296
<u>(B) "Material support or resources" means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.</u>	297 298 299 300 301 302
<u>(C) "Specified offense" means any of the following:</u>	303
<u>(1) A felony of the first degree that is not a violation of Chapter 2925. or 3719. of the Revised Code, a felony offense of violence, or a violation of section 2903.041 or 2909.04 of the Revised Code;</u>	304 305 306 307
<u>(2) An attempt to commit, complicity in committing, or a conspiracy to commit an offense listed in division (C)(1) of this section.</u>	308 309 310
<u>(D) An offender "renders criminal assistance" when, with intent to prevent, hinder, or delay the discovery of, apprehension of, or filing of a criminal charge against a person whom the offender knows or has reason to believe has committed an offense or is being sought by law enforcement officials for the commission of an offense or with intent to assist a person in profiting or benefiting from the commission of an offense, the offender does one or more of the following:</u>	311 312 313 314 315 316 317 318
<u>(1) Harbors or conceals the person;</u>	319
<u>(2) Warns the person of impending discovery or apprehension;</u>	320 321
<u>(3) Provides the person with money, transportation, weapons, disguise, or other means of avoiding discovery or apprehension;</u>	322 323

324  
(4) Prevents or obstructs, by means of force, intimidation, 325  
or deception, anyone from performing an act that might aid in the 326  
discovery or apprehension of the person or in the lodging of a 327  
criminal charge against the person; 328

(5) Suppresses, by concealment, alteration, or destruction, 329  
any physical evidence that might aid in the discovery or 330  
apprehension of the person or in the lodging of a criminal charge 331  
against the person; 332

(6) Aids the person to protect or expeditiously profit from 333  
an advantage derived from the crime. 334

**Sec. 2909.22.** (A) No person shall raise, solicit, collect, or 335  
provide to another person material support or resources, with the 336  
intent that the material support or resources will be used in 337  
whole or in part to plan, prepare, carry out, or aid in either an 338  
act of terrorism or the concealment of, or an escape from, an act 339  
of terrorism. 340

(B) Whoever violates this section is guilty of soliciting or 341  
providing support for an act of terrorism, a felony of the fourth 342  
degree. If the total value of the material support or resources 343  
involved in the violation exceeds one thousand dollars, providing 344  
support for an act of terrorism is a felony of the third degree. 345

**Sec. 2909.23.** (A) No person, with intent to do any of the 347  
following, shall threaten to commit or cause to be committed a 348  
specified offense and thereby cause a reasonable expectation or 349  
fear of the imminent commission of the specified offense: 350

(1) Intimidate or coerce a civilian population; 351

(2) Influence the policy of any government by intimidation or 352

<u>coercion;</u>	353
<u>(3) Affect the conduct of any government by murder or kidnapping.</u>	354 355
<u>(B) It is not a defense to a charge of a violation of this section that the defendant did not have the intent or capability of committing the specified offense or that the threat was not made to a person who was a subject of the specified offense.</u>	356 357 358 359
<u>(C) Whoever violates this section is guilty of making a terroristic threat, a felony of the fourth degree.</u>	360 361
<b><u>Sec. 2909.24. (A) No person shall commit a specified offense with intent to do any of the following:</u></b>	362 363
<u>(1) Intimidate or coerce a civilian population;</u>	364
<u>(2) Influence the policy of any government by intimidation or coercion;</u>	365 366
<u>(3) Affect the conduct of any government by murder or kidnapping.</u>	367 368
<u>(B)(1) Whoever violates this section is guilty of terrorism.</u>	369 370
<u>(2) If the most serious underlying specified offense the defendant committed is not a felony of the first degree, murder, or aggravated murder, terrorism is an offense one degree higher than the most serious underlying specified offense the defendant committed.</u>	371 372 373 374 375
<u>(3) If the most serious underlying specified offense the defendant committed is a felony of the first degree or murder, the person shall be sentenced to life imprisonment without parole.</u>	376 377 378
<u>(4) If the most serious underlying specified offense the defendant committed is aggravated murder, the offender shall be sentenced to life imprisonment without parole or death pursuant to</u>	379 380 381

sections 2929.02 to 2929.06 of the Revised Code. 382

Sec. 2909.25. (A) No person shall render criminal assistance 383  
to another person who has committed an act of terrorism, knowing 384  
or having reason to know that the other person engaged in conduct 385  
constituting an act of terrorism. 386

(B) Whoever violates this section is guilty of hindering the 387  
prosecution of terrorism, a felony of the third degree. If the act 388  
of terrorism resulted in the death of a person other than one of 389  
the participants in the act of terrorism, hindering the 390  
prosecution of terrorism is a felony of the second degree. 391

**Sec. 2929.04.** (A) Imposition of the death penalty for 392  
aggravated murder is precluded unless one or more of the following 393  
is specified in the indictment or count in the indictment pursuant 394  
to section 2941.14 of the Revised Code and proved beyond a 395  
reasonable doubt: 396

(1) The offense was the assassination of the president of the 397  
United States or a person in line of succession to the presidency, 398  
the governor or lieutenant governor of this state, the 399  
president-elect or vice president-elect of the United States, the 400  
governor-elect or lieutenant governor-elect of this state, or a 401  
candidate for any of the offices described in this division. For 402  
purposes of this division, a person is a candidate if the person 403  
has been nominated for election according to law, if the person 404  
has filed a petition or petitions according to law to have the 405  
person's name placed on the ballot in a primary or general 406  
election, or if the person campaigns as a write-in candidate in a 407  
primary or general election. 408

(2) The offense was committed for hire. 409

(3) The offense was committed for the purpose of escaping 410  
detection, apprehension, trial, or punishment for another offense 411

committed by the offender. 412

(4) The offense was committed while the offender was under 413  
detention or while the offender was at large after having broken 414  
detention. As used in division (A)(4) of this section, "detention" 415  
has the same meaning as in section 2921.01 of the Revised Code, 416  
except that detention does not include hospitalization, 417  
institutionalization, or confinement in a mental health facility 418  
or mental retardation and developmentally disabled facility unless 419  
at the time of the commission of the offense either of the 420  
following circumstances apply: 421

(a) The offender was in the facility as a result of being 422  
charged with a violation of a section of the Revised Code. 423

(b) The offender was under detention as a result of being 424  
convicted of or pleading guilty to a violation of a section of the 425  
Revised Code. 426

(5) Prior to the offense at bar, the offender was convicted 427  
of an offense an essential element of which was the purposeful 428  
killing of or attempt to kill another, or the offense at bar was 429  
part of a course of conduct involving the purposeful killing of or 430  
attempt to kill two or more persons by the offender. 431

(6) The victim of the offense was a law enforcement officer, 432  
as defined in section 2911.01 of the Revised Code, whom the 433  
offender had reasonable cause to know or knew to be a law 434  
enforcement officer as so defined, and either the victim, at the 435  
time of the commission of the offense, was engaged in the victim's 436  
duties, or it was the offender's specific purpose to kill a law 437  
enforcement officer as so defined. 438

(7) The offense was committed while the offender was 439  
committing, attempting to commit, or fleeing immediately after 440  
committing or attempting to commit kidnapping, rape, aggravated 441  
arson, aggravated robbery, or aggravated burglary, and either the 442

offender was the principal offender in the commission of the  
aggravated murder or, if not the principal offender, committed the  
aggravated murder with prior calculation and design.

(8) The victim of the aggravated murder was a witness to an  
offense who was purposely killed to prevent the victim's testimony  
in any criminal proceeding and the aggravated murder was not  
committed during the commission, attempted commission, or flight  
immediately after the commission or attempted commission of the  
offense to which the victim was a witness, or the victim of the  
aggravated murder was a witness to an offense and was purposely  
killed in retaliation for the victim's testimony in any criminal  
proceeding.

(9) The offender, in the commission of the offense,  
purposefully caused the death of another who was under thirteen  
years of age at the time of the commission of the offense, and  
either the offender was the principal offender in the commission  
of the offense or, if not the principal offender, committed the  
offense with prior calculation and design.

(10) The victim was killed as a result of an act of  
terrorism.

(B) If one or more of the aggravating circumstances listed in  
division (A) of this section is specified in the indictment or  
count in the indictment and proved beyond a reasonable doubt, and  
if the offender did not raise the matter of age pursuant to  
section 2929.023 of the Revised Code or if the offender, after  
raising the matter of age, was found at trial to have been  
eighteen years of age or older at the time of the commission of  
the offense, the court, trial jury, or panel of three judges shall  
consider, and weigh against the aggravating circumstances proved  
beyond a reasonable doubt, the nature and circumstances of the  
offense, the history, character, and background of the offender,  
and all of the following factors:

443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474



(1) Whether the victim of the offense induced or facilitated it;	475 476
(2) Whether it is unlikely that the offense would have been committed, but for the fact that the offender was under duress, coercion, or strong provocation;	477 478 479
(3) Whether, at the time of committing the offense, the offender, because of a mental disease or defect, lacked substantial capacity to appreciate the criminality of the offender's conduct or to conform the offender's conduct to the requirements of the law;	480 481 482 483 484
(4) The youth of the offender;	485
(5) The offender's lack of a significant history of prior criminal convictions and delinquency adjudications;	486 487
(6) If the offender was a participant in the offense but not the principal offender, the degree of the offender's participation in the offense and the degree of the offender's participation in the acts that led to the death of the victim;	488 489 490 491
(7) Any other factors that are relevant to the issue of whether the offender should be sentenced to death.	492 493
(C) The defendant shall be given great latitude in the presentation of evidence of the factors listed in division (B) of this section and of any other factors in mitigation of the imposition of the sentence of death.	494 495 496 497
The existence of any of the mitigating factors listed in division (B) of this section does not preclude the imposition of a sentence of death on the offender but shall be weighed pursuant to divisions (D)(2) and (3) of section 2929.03 of the Revised Code by the trial court, trial jury, or the panel of three judges against the aggravating circumstances the offender was found guilty of committing.	498 499 500 501 502 503 504

(D) As used in this section, "act of terrorism" means any activity to which both of the following apply: 505  
506

(1) The activity involves a violent act or an act that is dangerous to human life and is a violation of a section of the Revised Code. 507  
508  
509

(2) The activity appears to be intended to do any of the following: 510  
511

(a) Intimidate or coerce a civilian population; 512

(b) Influence the policy of any government by intimidation or coercion; 513  
514

(c) Affect the conduct of any government by murder or kidnapping. 515  
516

**Sec. 2933.51.** As used in sections 2933.51 to 2933.66 of the Revised Code: 517  
518

(A) "Wire communication" means an aural transfer that is made in whole or in part through the use of facilities for the transmission of communications by the aid of wires or similar methods of connecting the point of origin of the communication and the point of reception of the communication, including the use of a method of connecting the point of origin and the point of reception of the communication in a switching station, if the facilities are furnished or operated by a person engaged in providing or operating the facilities for the transmission of communications. "Wire communication" includes an electronic storage of a wire communication. 519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529

(B) "Oral communication" means an oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying that expectation. "Oral communication" does not include an electronic communication. 530  
531  
532  
533  
534

(C) "Intercept" means the aural or other acquisition of the contents of any wire, oral, or electronic communication through the use of an interception device.

(D) "Interception device" means an electronic, mechanical, or other device or apparatus that can be used to intercept a wire, oral, or electronic communication. "Interception device" does not mean any of the following:

(1) A telephone or telegraph instrument, equipment, or facility, or any of its components, if the instrument, equipment, facility, or component is any of the following:

(a) Furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business;

(b) Furnished by a subscriber or user for connection to the facilities of a provider of wire or electronic communication service and used in the ordinary course of that subscriber's or user's business;

(c) Being used by a provider of wire or electronic communication service in the ordinary course of its business or by an investigative or law enforcement officer in the ordinary course of the officer's duties that do not involve the interception of wire, oral, or electronic communications.

(2) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(E) "Investigative officer" means any of the following:

(1) An officer of this state or a political subdivision of this state, who is empowered by law to conduct investigations or to make arrests for a designated offense;

(2) A person described in divisions (A)(11)(a) and (b) of

section 2901.01 of the Revised Code; 565

(3) An attorney authorized by law to prosecute or participate 566  
in the prosecution of a designated offense; 567

(4) A secret service officer appointed pursuant to section 568  
309.07 of the Revised Code; 569

(5) An officer of the United States, a state, or a political 570  
subdivision of a state who is authorized to conduct investigations 571  
pursuant to the "Electronic Communications Privacy Act of 1986," 572  
100 Stat. 1848-1857, 18 U.S.C. 2510-2521 (1986), as amended. 573

(F) "Interception warrant" means a court order that 574  
authorizes the interception of wire, oral, or electronic 575  
communications and that is issued pursuant to sections 2933.53 to 576  
2933.56 of the Revised Code. 577

(G) "Contents," when used with respect to a wire, oral, or 578  
electronic communication, includes any information concerning the 579  
substance, purport, or meaning of the communication. 580

(H) "Communications common carrier" means a person who is 581  
engaged as a common carrier for hire in intrastate, interstate, or 582  
foreign communications by wire, radio, or radio transmission of 583  
energy. "Communications common carrier" does not include, to the 584  
extent that the person is engaged in radio broadcasting, a person 585  
engaged in radio broadcasting. 586

(I) "Designated offense" means any of the following: 587

(1) A felony violation of section 1315.53, 1315.55, 2903.01, 588  
2903.02, 2903.11, 2905.01, 2905.02, 2905.11, 2905.22, 2907.02, 589  
2907.21, 2907.22, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 590  
2909.24, 2909.25, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 591  
2913.04, 2913.42, 2913.51, 2915.02, 2915.03, 2917.01, 2917.02, 592  
2921.02, 2921.03, 2921.04, 2921.32, 2921.34, 2923.20, 2923.32, 593  
2925.03, 2925.04, 2925.05, or 2925.06 or of division (B) of 594

section 2915.05 of the Revised Code; 595

(2) A violation of section 2919.23 of the Revised Code that, 596  
had it occurred prior to July 1, 1996, would have been a violation 597  
of section 2905.04 of the Revised Code as it existed prior to that 598  
date; 599

(3) A felony violation of section 2925.11 of the Revised Code 600  
that is not a minor drug possession offense, as defined in section 601  
2925.01 of the Revised Code; 602

(4) Complicity in the commission of a felony violation of a 603  
section listed in division (I)(1), (2), or (3) of this section; 604

(5) An attempt to commit, or conspiracy in the commission of, 605  
a felony violation of a section listed in division (I)(1), (2), or 606  
(3) of this section, if the attempt or conspiracy is punishable by 607  
a term of imprisonment of more than one year. 608

(J) "Aggrieved person" means a person who was a party to an 609  
intercepted wire, oral, or electronic communication or a person 610  
against whom the interception of the communication was directed. 611

(K) "Person" means a person, as defined in section 1.59 of 612  
the Revised Code, or a governmental officer, employee, or entity. 613

(L) "Special need" means a showing that a licensed physician, 614  
licensed practicing psychologist, attorney, practicing cleric, 615  
journalist, or either spouse is personally engaging in continuing 616  
criminal activity, was engaged in continuing criminal activity 617  
over a period of time, or is committing, has committed, or is 618  
about to commit, a designated offense, or a showing that specified 619  
public facilities are being regularly used by someone who is 620  
personally engaging in continuing criminal activity, was engaged 621  
in continuing criminal activity over a period of time, or is 622  
committing, has committed, or is about to commit, a designated 623  
offense. 624

(M) "Journalist" means a person engaged in, connected with, 625

or employed by, any news media, including a newspaper, magazine, 626  
press association, news agency, or wire service, a radio or 627  
television station, or a similar media, for the purpose of 628  
gathering, processing, transmitting, compiling, editing, or 629  
disseminating news for the general public. 630

(N) "Electronic communication" means a transfer of a sign, 631  
signal, writing, image, sound, datum, or intelligence of any 632  
nature that is transmitted in whole or in part by a wire, radio, 633  
electromagnetic, photoelectronic, or photo-optical system. 634

"Electronic communication" does not mean any of the following: 635

(1) A wire or oral communication; 636

(2) A communication made through a tone-only paging device; 637

(3) A communication from an electronic or mechanical tracking 638  
device that permits the tracking of the movement of a person or 639  
object. 640

(O) "User" means a person or entity that uses an electronic 641  
communication service and is duly authorized by the provider of 642  
the service to engage in the use of the electronic communication 643  
service. 644

(P) "Electronic communications system" means a wire, radio, 645  
electromagnetic, photoelectronic, or photo-optical facility for 646  
the transmission of electronic communications, and a computer 647  
facility or related electronic equipment for the electronic 648  
storage of electronic communications. 649

(Q) "Electronic communication service" means a service that 650  
provides to users of the service the ability to send or receive 651  
wire or electronic communications. 652

(R) "Readily accessible to the general public" means, with 653  
respect to a radio communication, that the communication is none 654  
of the following: 655

- (1) Scrambled or encrypted; 656
- (2) Transmitted using a modulation technique, the essential 657  
parameters of which have been withheld from the public with the 658  
intention of preserving the privacy of the communication; 659
- (3) Carried on a subcarrier or other signal subsidiary to a 660  
radio transmission; 661
- (4) Transmitted over a communications system provided by a 662  
communications common carrier, unless the communication is a 663  
tone-only paging system communication; 664
- (5) Transmitted on a frequency allocated under part 25, 665  
subpart D, E, or F of part 74, or part 94 of the Rules of the 666  
Federal Communications Commission, as those provisions existed on 667  
July 1, 1996, unless, in the case of a communication transmitted 668  
on a frequency allocated under part 74 that is not exclusively 669  
allocated to broadcast auxiliary services, the communication is a 670  
two-way voice communication by radio. 671
- (S) "Electronic storage" means a temporary, intermediate 672  
storage of a wire or electronic communication that is incidental 673  
to the electronic transmission of the communication, and a storage 674  
of a wire or electronic communication by an electronic 675  
communication service for the purpose of backup protection of the 676  
communication. 677
- (T) "Aural transfer" means a transfer containing the human 678  
voice at a point between and including the point of origin and the 679  
point of reception. 680
- (U) "Pen register" means a device that records or decodes 681  
electronic impulses that identify the numbers dialed, pulsed, or 682  
otherwise transmitted on telephone lines to which the device is 683  
attached. 684
- (V) "Trap and trace device" means a device that captures the 685

incoming electronic or other impulses that identify the  
originating number of an instrument or device from which a wire  
communication or electronic communication was transmitted but that  
does not intercept the contents of the wire communication or  
electronic communication.

686  
687  
688  
689  
690

(W) "Judge of a court of common pleas" means a judge of that  
court who is elected or appointed as a judge of general  
jurisdiction or as a judge who exercises both general jurisdiction  
and probate, domestic relations, or juvenile jurisdiction. "Judge  
of a court of common pleas" does not mean a judge of that court  
who is elected or appointed specifically as a probate, domestic  
relations, or juvenile judge.

691  
692  
693  
694  
695  
696  
697

**Section 2.** That existing sections 2901.01, 2929.04, and  
2933.51 of the Revised Code are hereby repealed.

698  
699

**Section 3.** This act is hereby declared to be an emergency  
measure necessary for the immediate preservation of the public  
peace, health, and safety. The reason for such necessity is that  
the recent terrorist attacks of September 11, 2001, underscore the  
compelling need for legislation that is specifically designed to  
combat the evils of terrorism, that comprehensive state laws are  
urgently needed to complement federal laws in the fight against  
terrorism and to better protect all citizens against terrorist  
acts, and that state laws must be strengthened to ensure that  
terrorists, as well as those who solicit or provide financial and  
other support to terrorists, are prosecuted and punished in state  
courts with appropriate severity. Therefore, this act shall go  
into immediate effect.

700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712