

**As Reported by the House Criminal Justice Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. S. B. No. 20**

**Senators Goodman, Amstutz, Coughlin, Clancy, Schuler, Jacobson, Cates,  
Mumper, Austria, Schuring, Grendell, Wachtmann, Gardner, Carey, Padgett,  
Jordan, Spada, Hottinger, Zurz, Armbruster, Niehaus, Hagan, Dann, Fedor,  
Miller**

**Representatives Latta, D. Evans, Buehrer, Seaver, Seitz**

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**A B I L L**

To amend sections 2901.11 and 2901.12 of the Revised 1  
Code to clarify the application of the state's 2  
criminal jurisdiction statute to offenses 3  
committed in a jurisdiction other than Ohio that 4  
result from a conspiracy, an attempt, or 5  
complicity to commit the offense that occurs in 6  
Ohio; to clarify the application of that statute 7  
in homicide cases; to clarify that Ohio criminal 8  
specifications are applicable to persons who 9  
commit an offense in a jurisdiction other than 10  
Ohio but are subject to Ohio criminal 11  
jurisdiction; and to make other related changes to 12  
the state's criminal jurisdiction and venue 13  
statutes. 14

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

**Section 1.** That sections 2901.11 and 2901.12 of the Revised 15  
Code be amended to read as follows: 16

Sec. 2901.11. (A) A person is subject to criminal prosecution 17  
and punishment in this state if any of the following occur: 18

(1) The person commits an offense under the laws of this 19  
state, any element of which takes place in this state. 20

(2) While in this state, the person ~~conspires or~~ attempts to 21  
commit, or is guilty of complicity in the commission of, an 22  
offense in another jurisdiction, which offense is an offense under 23  
both the laws of this state and the other jurisdiction, or, while 24  
in this state, the person conspires to commit an offense in 25  
another jurisdiction, which offense is an offense under both the 26  
laws of this state and the other jurisdiction, and a substantial 27  
overt act in furtherance of the conspiracy is undertaken in this 28  
state by the person or another person involved in the conspiracy, 29  
subsequent to the person's entrance into the conspiracy. In any 30  
case in which a person attempts to commit, is guilty of complicity 31  
in the commission of, or conspires to commit an offense in another 32  
jurisdiction as described in this division, the person is subject 33  
to criminal prosecution and punishment in this state for the 34  
attempt, complicity, or conspiracy, and for any resulting offense 35  
that is committed or completed in the other jurisdiction. 36  
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(3) While out of this state, the person conspires or attempts 38  
to commit, or is guilty of complicity in the commission of, an 39  
offense in this state. 40

(4) While out of this state, the person omits to perform a 41  
legal duty imposed by the laws of this state, which omission 42  
affects a legitimate interest of the state in protecting, 43  
governing, or regulating any person, property, thing, transaction, 44  
or activity in this state. 45

(5) While out of this state, the person unlawfully takes or 46

retains property and subsequently brings any of the unlawfully  
taken or retained property into this state.

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(6) While out of this state, the person unlawfully takes or  
entices another and subsequently brings the other person into this  
state.

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(7) The person, by means of a computer, computer system,  
computer network, telecommunication, telecommunications device,  
telecommunications service, or information service, causes or  
knowingly permits any writing, data, image, or other  
telecommunication to be disseminated or transmitted into this  
state in violation of the law of this state.

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(B) In homicide, the element referred to in division (A)(1)  
of this section ~~is either~~ includes the act that causes death, ~~or~~  
the physical contact that causes death, ~~or~~ the death itself, or  
any other element that is set forth in the offense in question. If  
any part of the body of a homicide victim is found in this state,  
the death is presumed to have occurred within this state.

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(C)(1) This state includes the land and water within its  
boundaries and the air space above that land and water, with  
respect to which this state has either exclusive or concurrent  
legislative jurisdiction. Where the boundary between this state  
and another state or foreign country is disputed, the disputed  
territory is conclusively presumed to be within this state for  
purposes of this section.

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(2) The courts of common pleas of Adams, Athens, Belmont,  
Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson,  
Lawrence, Meigs, Monroe, Scioto, and Washington counties have  
jurisdiction beyond the north or northwest shore of the Ohio river  
extending to the opposite shore line, between the extended  
boundary lines of any adjacent counties or adjacent state. Each of  
those courts of common pleas has concurrent jurisdiction on the

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Ohio river with any adjacent court of common pleas that borders on 78  
that river and with any court of Kentucky or of West Virginia that 79  
borders on the Ohio river and that has jurisdiction on the Ohio 80  
river under the law of Kentucky or the law of West Virginia, 81  
whichever is applicable, or under federal law. 82

(D) When an offense is committed under the laws of this 83  
state, and it appears beyond a reasonable doubt that the offense 84  
or any element of the offense took place either in this state or 85  
in another jurisdiction or jurisdictions, but it cannot reasonably 86  
be determined in which it took place, the offense or element is 87  
conclusively presumed to have taken place in this state for 88  
purposes of this section. 89

(E) When a person is subject to criminal prosecution and 90  
punishment in this state for an offense committed or completed 91  
outside of this state, the person is subject to all specifications 92  
for that offense that would be applicable if the offense had been 93  
committed within this state. 94

(F) Any act, conduct, or element that is a basis of a person 95  
being subject under this section to criminal prosecution and 96  
punishment in this state need not be committed personally by the 97  
person as long as it is committed by another person who is in 98  
complicity or conspiracy with the person. 99

(G) This section shall be liberally construed, consistent 100  
with constitutional limitations, to allow this state the broadest 101  
possible jurisdiction over offenses and persons committing 102  
offenses in, or affecting, this state. 103

(H) For purposes of division (A)(2) of this section, an overt 104  
act is substantial when it is of a character that manifests a 105  
purpose on the part of the actor that the object of the conspiracy 106  
should be completed. 107

(I) As used in this section, "computer," "computer system," 108

"computer network," "information service," "telecommunication," 109  
"telecommunications device," "telecommunications service," "data," 110  
and "writing" have the same meanings as in section 2913.01 of the 111  
Revised Code. 112

**Sec. 2901.12.** (A) The trial of a criminal case in this state 113  
shall be held in a court having jurisdiction of the subject 114  
matter, and in the territory of which the offense or any element 115  
of the offense was committed. 116

(B) When the offense or any element of the offense was 117  
committed in an aircraft, motor vehicle, train, watercraft, or 118  
other vehicle, in transit, and it cannot reasonably be determined 119  
in which jurisdiction the offense was committed, the offender may 120  
be tried in any jurisdiction through which the aircraft, motor 121  
vehicle, train, watercraft, or other vehicle passed. 122

(C) When the offense involved the unlawful taking or 123  
receiving of property or the unlawful taking or enticing of 124  
another, the offender may be tried in any jurisdiction from which 125  
or into which the property or victim was taken, received, or 126  
enticed. 127

(D) When the offense is conspiracy, attempt, or complicity 128  
cognizable under division (A)(2) of section 2901.11 of the Revised 129  
Code, the offender may be tried in any jurisdiction in which the 130  
conspiracy, attempt, complicity, or any of its elements occurred. 131  
If an offense resulted outside this state from the conspiracy, 132  
attempt, or complicity, that resulting offense also may be tried 133  
in any jurisdiction in which the conspiracy, attempt, complicity, 134  
or any of the elements of the conspiracy, attempt, or complicity 135  
occurred. 136

(E) When the offense is conspiracy or attempt cognizable 137  
under division (A)(3) of section 2901.11 of the Revised Code, the 138  
offender may be tried in any jurisdiction in which the offense 139

that was the object of the conspiracy or attempt, or any element  
of that offense, was intended to or could have taken place. When  
the offense is complicity cognizable under division (A)(3) of  
section 2901.11 of the Revised Code, the offender may be tried in  
any jurisdiction in which the principal offender may be tried.

(F) When an offense is considered to have been committed in  
this state while the offender was out of this state, and the  
jurisdiction in this state in which the offense or any material  
element of the offense was committed is not reasonably  
ascertainable, the offender may be tried in any jurisdiction in  
which the offense or element reasonably could have been committed.

(G) When it appears beyond a reasonable doubt that an offense  
or any element of an offense was committed in any of two or more  
jurisdictions, but it cannot reasonably be determined in which  
jurisdiction the offense or element was committed, the offender  
may be tried in any of those jurisdictions.

(H) When an offender, as part of a course of criminal  
conduct, commits offenses in different jurisdictions, the offender  
may be tried for all of those offenses in any jurisdiction in  
which one of those offenses or any element of one of those  
offenses occurred. Without limitation on the evidence that may be  
used to establish the course of criminal conduct, any of the  
following is prima-facie evidence of a course of criminal conduct:

(1) The offenses involved the same victim, or victims of the  
same type or from the same group.

(2) The offenses were committed by the offender in the  
offender's same employment, or capacity, or relationship to  
another.

(3) The offenses were committed as part of the same  
transaction or chain of events, or in furtherance of the same  
purpose or objective.

(4) The offenses were committed in furtherance of the same 171  
conspiracy. 172

(5) The offenses involved the same or a similar modus 173  
operandi. 174

(6) The offenses were committed along the offender's line of 175  
travel in this state, regardless of the offender's point of origin 176  
or destination. 177

(I)(1) When the offense involves a computer, computer system, 178  
computer network, telecommunication, telecommunications device, 179  
telecommunications service, or information service, the offender 180  
may be tried in any jurisdiction containing any location of the 181  
computer, computer system, or computer network of the victim of 182  
the offense, in any jurisdiction from which or into which, as part 183  
of the offense, any writing, data, or image is disseminated or 184  
transmitted by means of a computer, computer system, computer 185  
network, telecommunication, telecommunications device, 186  
telecommunications service, or information service, or in any 187  
jurisdiction in which the alleged offender commits any activity 188  
that is an essential part of the offense. 189

(2) As used in this section, "computer," "computer system," 190  
"computer network," "information service," "telecommunication," 191  
"telecommunications device," "telecommunications service," "data," 192  
and "writing" have the same meanings as in section 2913.01 of the 193  
Revised Code. 194

(J) When the offense involves the death of a person, and it 195  
cannot reasonably be determined in which jurisdiction the offense 196  
was committed, the offender may be tried in the jurisdiction in 197  
which the dead person's body or any part of the dead person's body 198  
was found. 199

(K) Notwithstanding any other requirement for the place of 200  
trial, venue may be changed, upon motion of the prosecution, the 201

defense, or the court, to any court having jurisdiction of the 202  
subject matter outside the county in which trial otherwise would 203  
be held, when it appears that a fair and impartial trial cannot be 204  
held in the jurisdiction in which trial otherwise would be held, 205  
or when it appears that trial should be held in another 206  
jurisdiction for the convenience of the parties and in the 207  
interests of justice. 208

**Section 2.** That existing sections 2901.11 and 2901.12 of the 209  
Revised Code are hereby repealed. 210

**Section 3.** The General Assembly hereby declares that it 211  
intends by the amendments made by Sections 1 and 2 of this act to 212  
prospectively overrule the decision of the Ohio Supreme Court in 213  
*State v. Yarbrough* (2004), 104 Ohio St. 3d 1. 214