

As Introduced

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H. B. No. 132

Representative Hughes

**Cosponsors: Representatives Bacon, Flowers, McGregor, J., Evans, Collier,
Stewart, D., Williams, B., Yuko, White, Adams, DeGeeter**

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A B I L L

To amend section 2929.01 and to enact section 1
2909.031 of the Revised Code to create the offense 2
of unlawful property burning. 3

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

Section 1. That section 2929.01 be amended and section 4
2909.031 of the Revised Code be enacted to read as follows: 5

Sec. 2909.031. (A)(1) No person, without privilege to do so 6
on real property owned by a person other than the offender, shall 7
set a fire, cause a fire to be set, or add fuel or a combustible 8
substance to a trash receptacle, a dumpster, or to a fire that is 9
already burning. 10

(2) No person, without privilege to do so on real property 11
owned by a person other than the offender, shall add fuel or a 12
combustible substance to combustible personal property, a motor 13
vehicle, or a fire that is already burning. 14

(B)(1) Whoever violates this section is guilty of unlawful 15
property burning. Except as otherwise provided in division (B)(2) 16
of this section, unlawful property burning is a misdemeanor of the 17
second degree, and the court shall impose on the offender the 18

maximum fine prescribed in section 2929.28 of the Revised Code for 19
a misdemeanor of the second degree. 20

(2) Unlawful property burning is a misdemeanor of the first 21
degree, and the court shall impose on the offender a mandatory 22
jail term of at least three days and the maximum fine prescribed 23
in section 2929.28 of the Revised Code for a misdemeanor of the 24
first degree if either of the following applies: 25

(a) The fire, receptacle, dumpster, combustible personal 26
property, or motor vehicle that is involved in a violation of 27
division (A)(1) or (2) of this section is located within twenty 28
feet of a residence, vehicle, or other property that belongs to a 29
person other than the offender. 30

(b) The violation of division (A)(1) or (2) of this section 31
creates a hazardous or hostile working condition for any emergency 32
personnel. 33

Sec. 2929.01. As used in this chapter: 34

(A)(1) "Alternative residential facility" means, subject to 35
division (A)(2) of this section, any facility other than an 36
offender's home or residence in which an offender is assigned to 37
live and that satisfies all of the following criteria: 38

(a) It provides programs through which the offender may seek 39
or maintain employment or may receive education, training, 40
treatment, or habilitation. 41

(b) It has received the appropriate license or certificate 42
for any specialized education, training, treatment, habilitation, 43
or other service that it provides from the government agency that 44
is responsible for licensing or certifying that type of education, 45
training, treatment, habilitation, or service. 46

(2) "Alternative residential facility" does not include a 47
community-based correctional facility, jail, halfway house, or 48

prison. 49

(B) "Bad time" means the time by which the parole board 50
administratively extends an offender's stated prison term or terms 51
pursuant to section 2967.11 of the Revised Code because the parole 52
board finds by clear and convincing evidence that the offender, 53
while serving the prison term or terms, committed an act that is a 54
criminal offense under the law of this state or the United States, 55
whether or not the offender is prosecuted for the commission of 56
that act. 57

(C) "Basic probation supervision" means a requirement that 58
the offender maintain contact with a person appointed to supervise 59
the offender in accordance with sanctions imposed by the court or 60
imposed by the parole board pursuant to section 2967.28 of the 61
Revised Code. "Basic probation supervision" includes basic parole 62
supervision and basic post-release control supervision. 63

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and 64
"unit dose" have the same meanings as in section 2925.01 of the 65
Revised Code. 66

(E) "Community-based correctional facility" means a 67
community-based correctional facility and program or district 68
community-based correctional facility and program developed 69
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 70

(F) "Community control sanction" means a sanction that is not 71
a prison term and that is described in section 2929.15, 2929.16, 72
2929.17, or 2929.18 of the Revised Code or a sanction that is not 73
a jail term and that is described in section 2929.26, 2929.27, or 74
2929.28 of the Revised Code. "Community control sanction" includes 75
probation if the sentence involved was imposed for a felony that 76
was committed prior to July 1, 1996, or if the sentence involved 77
was imposed for a misdemeanor that was committed prior to January 78
1, 2004. 79

(G) "Controlled substance," "marihuana," "schedule I," and "schedule II" have the same meanings as in section 3719.01 of the Revised Code.

(H) "Curfew" means a requirement that an offender during a specified period of time be at a designated place.

(I) "Day reporting" means a sanction pursuant to which an offender is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center.

(J) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(K) "Drug and alcohol use monitoring" means a program under which an offender agrees to submit to random chemical analysis of the offender's blood, breath, or urine to determine whether the offender has ingested any alcohol or other drugs.

(L) "Drug treatment program" means any program under which a person undergoes assessment and treatment designed to reduce or completely eliminate the person's physical or emotional reliance upon alcohol, another drug, or alcohol and another drug and under which the person may be required to receive assessment and treatment on an outpatient basis or may be required to reside at a facility other than the person's home or residence while undergoing assessment and treatment.

(M) "Economic loss" means any economic detriment suffered by a victim as a direct and proximate result of the commission of an offense and includes any loss of income due to lost time at work because of any injury caused to the victim, and any property loss, medical cost, or funeral expense incurred as a result of the commission of the offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

(N) "Education or training" includes study at, or in 111
conjunction with a program offered by, a university, college, or 112
technical college or vocational study and also includes the 113
completion of primary school, secondary school, and literacy 114
curricula or their equivalent. 115

(O) "Firearm" has the same meaning as in section 2923.11 of 116
the Revised Code. 117

(P) "Halfway house" means a facility licensed by the division 118
of parole and community services of the department of 119
rehabilitation and correction pursuant to section 2967.14 of the 120
Revised Code as a suitable facility for the care and treatment of 121
adult offenders. 122

(Q) "House arrest" means a period of confinement of an 123
offender that is in the offender's home or in other premises 124
specified by the sentencing court or by the parole board pursuant 125
to section 2967.28 of the Revised Code and during which all of the 126
following apply: 127

(1) The offender is required to remain in the offender's home 128
or other specified premises for the specified period of 129
confinement, except for periods of time during which the offender 130
is at the offender's place of employment or at other premises as 131
authorized by the sentencing court or by the parole board. 132

(2) The offender is required to report periodically to a 133
person designated by the court or parole board. 134

(3) The offender is subject to any other restrictions and 135
requirements that may be imposed by the sentencing court or by the 136
parole board. 137

(R) "Intensive probation supervision" means a requirement 138
that an offender maintain frequent contact with a person appointed 139
by the court, or by the parole board pursuant to section 2967.28 140
of the Revised Code, to supervise the offender while the offender 141

is seeking or maintaining necessary employment and participating 142
in training, education, and treatment programs as required in the 143
court's or parole board's order. "Intensive probation supervision" 144
includes intensive parole supervision and intensive post-release 145
control supervision. 146

(S) "Jail" means a jail, workhouse, minimum security jail, or 147
other residential facility used for the confinement of alleged or 148
convicted offenders that is operated by a political subdivision or 149
a combination of political subdivisions of this state. 150

(T) "Jail term" means the term in a jail that a sentencing 151
court imposes or is authorized to impose pursuant to section 152
2929.24 or 2929.25 of the Revised Code or pursuant to any other 153
provision of the Revised Code that authorizes a term in a jail for 154
a misdemeanor conviction. 155

(U) "Mandatory jail term" means the term in a jail that a 156
sentencing court is required to impose pursuant to division (G) of 157
section 1547.99 of the Revised Code, division (E) of section 158
2903.06 or division (D) of section 2903.08 of the Revised Code, 159
division (B)(2) of section 2909.031 of the Revised Code, division 160
(E) of section 2929.24 of the Revised Code, division (B) of 161
section 4510.14 of the Revised Code, or division (G) of section 162
4511.19 of the Revised Code or pursuant to any other provision of 163
the Revised Code that requires a term in a jail for a misdemeanor 164
conviction. 165

(V) "Delinquent child" has the same meaning as in section 166
2152.02 of the Revised Code. 167

(W) "License violation report" means a report that is made by 168
a sentencing court, or by the parole board pursuant to section 169
2967.28 of the Revised Code, to the regulatory or licensing board 170
or agency that issued an offender a professional license or a 171
license or permit to do business in this state and that specifies 172

that the offender has been convicted of or pleaded guilty to an 173
offense that may violate the conditions under which the offender's 174
professional license or license or permit to do business in this 175
state was granted or an offense for which the offender's 176
professional license or license or permit to do business in this 177
state may be revoked or suspended. 178

(X) "Major drug offender" means an offender who is convicted 179
of or pleads guilty to the possession of, sale of, or offer to 180
sell any drug, compound, mixture, preparation, or substance that 181
consists of or contains at least one thousand grams of hashish; at 182
least one hundred grams of crack cocaine; at least one thousand 183
grams of cocaine that is not crack cocaine; at least two thousand 184
five hundred unit doses or two hundred fifty grams of heroin; at 185
least five thousand unit doses of L.S.D. or five hundred grams of 186
L.S.D. in a liquid concentrate, liquid extract, or liquid 187
distillate form; or at least one hundred times the amount of any 188
other schedule I or II controlled substance other than marihuana 189
that is necessary to commit a felony of the third degree pursuant 190
to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised 191
Code that is based on the possession of, sale of, or offer to sell 192
the controlled substance. 193

(Y) "Mandatory prison term" means any of the following: 194

(1) Subject to division (Y)(2) of this section, the term in 195
prison that must be imposed for the offenses or circumstances set 196
forth in divisions (F)(1) to (8) or (F)(12) to (14) of section 197
2929.13 and division (D) of section 2929.14 of the Revised Code. 198
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 199
and 2925.11 of the Revised Code, unless the maximum or another 200
specific term is required under section 2929.14 of the Revised 201
Code, a mandatory prison term described in this division may be 202
any prison term authorized for the level of offense. 203

(2) The term of sixty or one hundred twenty days in prison 204

that a sentencing court is required to impose for a third or 205
fourth degree felony OVI offense pursuant to division (G)(2) of 206
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 207
of the Revised Code or the term of one, two, three, four, or five 208
years in prison that a sentencing court is required to impose 209
pursuant to division (G)(2) of section 2929.13 of the Revised 210
Code. 211

(3) The term in prison imposed pursuant to section 2971.03 of 212
the Revised Code for the offenses and in the circumstances 213
described in division (F)(11) of section 2929.13 of the Revised 214
Code and that term as modified or terminated pursuant to section 215
2971.05 of the Revised Code. 216

(Z) "Monitored time" means a period of time during which an 217
offender continues to be under the control of the sentencing court 218
or parole board, subject to no conditions other than leading a 219
law-abiding life. 220

(AA) "Offender" means a person who, in this state, is 221
convicted of or pleads guilty to a felony or a misdemeanor. 222

(BB) "Prison" means a residential facility used for the 223
confinement of convicted felony offenders that is under the 224
control of the department of rehabilitation and correction but 225
does not include a violation sanction center operated under 226
authority of section 2967.141 of the Revised Code. 227

(CC) "Prison term" includes any of the following sanctions 228
for an offender: 229

(1) A stated prison term; 230

(2) A term in a prison shortened by, or with the approval of, 231
the sentencing court pursuant to section 2929.20, 2967.26, 232
5120.031, 5120.032, or 5120.073 of the Revised Code; 233

(3) A term in prison extended by bad time imposed pursuant to 234

section 2967.11 of the Revised Code or imposed for a violation of 235
post-release control pursuant to section 2967.28 of the Revised 236
Code. 237

(DD) "Repeat violent offender" means a person about whom both 238
of the following apply: 239

(1) The person is being sentenced for committing or for 240
complicity in committing any of the following: 241

(a) Aggravated murder, murder, any felony of the first or 242
second degree that is an offense of violence, or an attempt to 243
commit any of these offenses if the attempt is a felony of the 244
first or second degree; 245

(b) An offense under an existing or former law of this state, 246
another state, or the United States that is or was substantially 247
equivalent to an offense described in division (DD)(1)(a) of this 248
section. 249

(2) The person previously was convicted of or pleaded guilty 250
to an offense described in division (DD)(1)(a) or (b) of this 251
section. 252

(EE) "Sanction" means any penalty imposed upon an offender 253
who is convicted of or pleads guilty to an offense, as punishment 254
for the offense. "Sanction" includes any sanction imposed pursuant 255
to any provision of sections 2929.14 to 2929.18 or 2929.24 to 256
2929.28 of the Revised Code. 257

(FF) "Sentence" means the sanction or combination of 258
sanctions imposed by the sentencing court on an offender who is 259
convicted of or pleads guilty to an offense. 260

(GG) "Stated prison term" means the prison term, mandatory 261
prison term, or combination of all prison terms and mandatory 262
prison terms imposed by the sentencing court pursuant to section 263
2929.14 or 2971.03 of the Revised Code. "Stated prison term" 264

includes any credit received by the offender for time spent in 265
jail awaiting trial, sentencing, or transfer to prison for the 266
offense and any time spent under house arrest or house arrest with 267
electronic monitoring imposed after earning credits pursuant to 268
section 2967.193 of the Revised Code. 269

(HH) "Victim-offender mediation" means a reconciliation or 270
mediation program that involves an offender and the victim of the 271
offense committed by the offender and that includes a meeting in 272
which the offender and the victim may discuss the offense, discuss 273
restitution, and consider other sanctions for the offense. 274

(II) "Fourth degree felony OVI offense" means a violation of 275
division (A) of section 4511.19 of the Revised Code that, under 276
division (G) of that section, is a felony of the fourth degree. 277

(JJ) "Mandatory term of local incarceration" means the term 278
of sixty or one hundred twenty days in a jail, a community-based 279
correctional facility, a halfway house, or an alternative 280
residential facility that a sentencing court may impose upon a 281
person who is convicted of or pleads guilty to a fourth degree 282
felony OVI offense pursuant to division (G)(1) of section 2929.13 283
of the Revised Code and division (G)(1)(d) or (e) of section 284
4511.19 of the Revised Code. 285

(KK) "Designated homicide, assault, or kidnapping offense," 286
"violent sex offense," "sexual motivation specification," 287
"sexually violent offense," "sexually violent predator," and 288
"sexually violent predator specification" have the same meanings 289
as in section 2971.01 of the Revised Code. 290

(LL) "Habitual sex offender," "sexually oriented offense," 291
"sexual predator," "registration-exempt sexually oriented 292
offense," "child-victim oriented offense," "habitual child-victim 293
offender," and "child-victim predator" have the same meanings as 294
in section 2950.01 of the Revised Code. 295

(MM) An offense is "committed in the vicinity of a child" if 296
the offender commits the offense within thirty feet of or within 297
the same residential unit as a child who is under eighteen years 298
of age, regardless of whether the offender knows the age of the 299
child or whether the offender knows the offense is being committed 300
within thirty feet of or within the same residential unit as the 301
child and regardless of whether the child actually views the 302
commission of the offense. 303

(NN) "Family or household member" has the same meaning as in 304
section 2919.25 of the Revised Code. 305

(OO) "Motor vehicle" and "manufactured home" have the same 306
meanings as in section 4501.01 of the Revised Code. 307

(PP) "Detention" and "detention facility" have the same 308
meanings as in section 2921.01 of the Revised Code. 309

(QQ) "Third degree felony OVI offense" means a violation of 310
division (A) of section 4511.19 of the Revised Code that, under 311
division (G) of that section, is a felony of the third degree. 312

(RR) "Random drug testing" has the same meaning as in section 313
5120.63 of the Revised Code. 314

(SS) "Felony sex offense" has the same meaning as in section 315
2967.28 of the Revised Code. 316

(TT) "Body armor" has the same meaning as in section 317
2941.1411 of the Revised Code. 318

(UU) "Electronic monitoring" means monitoring through the use 319
of an electronic monitoring device. 320

(VV) "Electronic monitoring device" means any of the 321
following: 322

(1) Any device that can be operated by electrical or battery 323
power and that conforms with all of the following: 324

(a) The device has a transmitter that can be attached to a 325

person, that will transmit a specified signal to a receiver of the 326
type described in division (VV)(1)(b) of this section if the 327
transmitter is removed from the person, turned off, or altered in 328
any manner without prior court approval in relation to electronic 329
monitoring or without prior approval of the department of 330
rehabilitation and correction in relation to the use of an 331
electronic monitoring device for an inmate on transitional control 332
or otherwise is tampered with, that can transmit continuously and 333
periodically a signal to that receiver when the person is within a 334
specified distance from the receiver, and that can transmit an 335
appropriate signal to that receiver if the person to whom it is 336
attached travels a specified distance from that receiver. 337

(b) The device has a receiver that can receive continuously 338
the signals transmitted by a transmitter of the type described in 339
division (VV)(1)(a) of this section, can transmit continuously 340
those signals by telephone to a central monitoring computer of the 341
type described in division (VV)(1)(c) of this section, and can 342
transmit continuously an appropriate signal to that central 343
monitoring computer if the receiver is turned off or altered 344
without prior court approval or otherwise tampered with. 345

(c) The device has a central monitoring computer that can 346
receive continuously the signals transmitted by telephone by a 347
receiver of the type described in division (VV)(1)(b) of this 348
section and can monitor continuously the person to whom an 349
electronic monitoring device of the type described in division 350
(VV)(1)(a) of this section is attached. 351

(2) Any device that is not a device of the type described in 352
division (VV)(1) of this section and that conforms with all of the 353
following: 354

(a) The device includes a transmitter and receiver that can 355
monitor and determine the location of a subject person at any 356
time, or at a designated point in time, through the use of a 357

central monitoring computer or through other electronic means. 358

(b) The device includes a transmitter and receiver that can 359
determine at any time, or at a designated point in time, through 360
the use of a central monitoring computer or other electronic means 361
the fact that the transmitter is turned off or altered in any 362
manner without prior approval of the court in relation to the 363
electronic monitoring or without prior approval of the department 364
of rehabilitation and correction in relation to the use of an 365
electronic monitoring device for an inmate on transitional control 366
or otherwise is tampered with. 367

(3) Any type of technology that can adequately track or 368
determine the location of a subject person at any time and that is 369
approved by the director of rehabilitation and correction, 370
including, but not limited to, any satellite technology, voice 371
tracking system, or retinal scanning system that is so approved. 372

(WW) "Non-economic loss" means nonpecuniary harm suffered by 373
a victim of an offense as a result of or related to the commission 374
of the offense, including, but not limited to, pain and suffering; 375
loss of society, consortium, companionship, care, assistance, 376
attention, protection, advice, guidance, counsel, instruction, 377
training, or education; mental anguish; and any other intangible 378
loss. 379

(XX) "Prosecutor" has the same meaning as in section 2935.01 380
of the Revised Code. 381

(YY) "Continuous alcohol monitoring" means the ability to 382
automatically test and periodically transmit alcohol consumption 383
levels and tamper attempts at least every hour, regardless of the 384
location of the person who is being monitored. 385

(ZZ) A person is "adjudicated a sexually violent predator" if 386
the person is convicted of or pleads guilty to a violent sex 387
offense and also is convicted of or pleads guilty to a sexually 388

violent predator specification that was included in the 389
indictment, count in the indictment, or information charging that 390
violent sex offense or if the person is convicted of or pleads 391
guilty to a designated homicide, assault, or kidnapping offense 392
and also is convicted of or pleads guilty to both a sexual 393
motivation specification and a sexually violent predator 394
specification that were included in the indictment, count in the 395
indictment, or information charging that designated homicide, 396
assault, or kidnapping offense. 397

Section 2. That existing section 2929.01 of the Revised Code 398
is hereby repealed. 399

Section 3. Section 2929.01 of the Revised Code is presented 400
in this act as a composite of the section as amended by both Am. 401
Sub. H.B. 95 and Am. Sub. H.B. 162 of the 126th General Assembly. 402
The General Assembly, applying the principle stated in division 403
(B) of section 1.52 of the Revised Code that amendments are to be 404
harmonized if reasonably capable of simultaneous operation, finds 405
that the composite is the resulting version of the section in 406
effect prior to the effective date of the section as presented in 407
this act. 408