

As Passed by the Senate

127th General Assembly

Regular Session

2007-2008

Sub. S. B. No. 184

Senator Buehrer

**Cosponsors: Senators Faber, Grendell, Niehaus, Stivers, Padgett, Carey,
Goodman, Mumper, Clancy, Schuring, Schaffer, Schuler, Cafaro, Kearney,
Gardner, Austria, Seitz, Boccieri, Cates, Fedor, Harris, Spada, Wagoner,
Wilson**

—

A B I L L

To amend sections 2307.60, 2901.05, and 2929.14 and 1
to enact sections 2307.601 and 2901.09 of the 2
Revised Code to bar recovery of damages in tort 3
actions commenced by criminal offenders in 4
specified circumstances even if the offender has 5
not been charged with or convicted of any offense 6
based on the offender's criminal conduct, to 7
create a rebuttable presumption that a person 8
acted in self defense or defense of another when 9
using defensive force that is intended or likely 10
to cause death or great bodily harm to another if 11
the person against whom the defensive force is 12
used is in the process of entering or has entered, 13
unlawfully and without privilege to do so, the 14
residence or vehicle occupied by the person using 15
the defensive force, and to remove current 16
sentencing restrictions and impose new sentencing 17
requirements when a court sentences an offender 18
convicted of multiple felonies and multiple gun 19
specifications. 20

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

Section 1. That sections 2307.60, 2901.05, and 2929.14 be 21
amended and sections 2307.601 and 2901.09 of the Revised Code be 22
enacted to read as follows: 23

Sec. 2307.60. (A)(1) Anyone injured in person or property by 24
a criminal act has, and may recover full damages in, a civil 25
action unless specifically excepted by law, may recover the costs 26
of maintaining the civil action and attorney's fees if authorized 27
by any provision of the Rules of Civil Procedure or another 28
section of the Revised Code or under the common law of this state, 29
and may recover punitive or exemplary damages if authorized by 30
section 2315.21 or another section of the Revised Code. 31

(2) A final judgment of a trial court that has not been 32
reversed on appeal or otherwise set aside, nullified, or vacated, 33
entered after a trial or upon a plea of guilty, but not upon a 34
plea of no contest or the equivalent plea from another 35
jurisdiction, that adjudges an offender guilty of an offense of 36
violence punishable by death or imprisonment in excess of one 37
year, when entered as evidence in any subsequent civil proceeding 38
based on the criminal act, shall preclude the offender from 39
denying in the subsequent civil proceeding any fact essential to 40
sustaining that judgment, unless the offender can demonstrate that 41
extraordinary circumstances prevented the offender from having a 42
full and fair opportunity to litigate the issue in the criminal 43
proceeding or other extraordinary circumstances justify affording 44
the offender an opportunity to relitigate the issue. The offender 45
may introduce evidence of the offender's pending appeal of the 46
final judgment of the trial court, if applicable, and the court 47
may consider that evidence in determining the liability of the 48
offender. 49

(B)(1) As used in division (B) of this section, ~~"tort:~~ 50

(a) "Tort action" means a civil action for damages for 51
injury, death, or loss to person or property other than a civil 52
action for damages for a breach of contract or another agreement 53
between persons. "Tort action" includes, but is not limited to, a 54
product liability claim, as defined in section 2307.71 of the 55
Revised Code, and an asbestos claim, as defined in section 2307.91 56
of the Revised Code, an action for wrongful death under Chapter 57
2125. of the Revised Code, and an action based on derivative 58
claims for relief. 59

(b) "Residence" has the same meaning as in section 2901.05 of 60
the Revised Code. 61

(2) Recovery on a claim for relief in a tort action is barred 62
to any person or the person's legal representative if ~~the~~ any of 63
the following apply: 64

(a) The person has been convicted of or has pleaded guilty to 65
a felony, or to a misdemeanor that is an offense of violence, 66
arising out of criminal conduct that was a proximate cause of the 67
injury or loss for which relief is claimed in the tort action. 68

~~(3) Division (b)~~ The person engaged in conduct that, if 69
prosecuted, would constitute a felony, a misdemeanor that is an 70
offense of violence, an attempt to commit a felony, or an attempt 71
to commit a misdemeanor that is an offense of violence and that 72
conduct was a proximate cause of the injury or loss for which 73
relief is claimed in the tort action, regardless of whether the 74
person has been convicted of or pleaded guilty to or has been 75
charged with committing the felony, the misdemeanor, or the 76
attempt to commit the felony or misdemeanor. 77

(c) The person suffered the injury or loss for which relief 78
is claimed in the tort action as a proximate result of the victim 79
of conduct that, if prosecuted, would constitute a felony, a 80

misdemeanor that is an offense of violence, an attempt to commit a 81
felony, or an attempt to commit a misdemeanor that is an offense 82
of violence acting against the person in self-defense, defense of 83
another, or defense of the victim's residence, regardless of 84
whether the person has been convicted of or pleaded guilty to or 85
has been charged with committing the felony, the misdemeanor, or 86
the attempt to commit the felony or misdemeanor. Division 87
(B)(2)(c) of this section does not apply if the person who 88
suffered the injury or loss, at the time of the victim's act of 89
self-defense, defense of another, or defense of residence, was an 90
innocent bystander who had no connection with the underlying 91
conduct that prompted the victim's exercise of self-defense, 92
defense of another, or defense of residence. 93

(3) Recovery against a victim of conduct that, if prosecuted, 94
would constitute a felony, a misdemeanor that is an offense of 95
violence, an attempt to commit a felony, or an attempt to commit a 96
misdemeanor that is an offense of violence, on a claim for relief 97
in a tort action is barred to any person or the person's legal 98
representative if conduct the person engaged in against that 99
person was a proximate cause of the injury or loss for which 100
relief is claimed in the tort action and that conduct, if 101
prosecuted, would constitute a felony, a misdemeanor that is an 102
offense of violence, an attempt to commit a felony, or an attempt 103
to commit a misdemeanor that is an offense of violence, regardless 104
of whether the person has been convicted of or pleaded guilty to 105
or has been charged with committing the felony, the misdemeanor, 106
or the attempt to commit the felony or misdemeanor. 107

(4) Divisions (B)(1) to (3) of this section ~~does~~ do not apply 108
to civil claims based upon alleged intentionally tortious conduct, 109
alleged violations of the United States Constitution, or alleged 110
violations of statutes of the United States pertaining to civil 111
rights. For purposes of division (B)(4) of this section, a 112

person's act of self-defense, defense of another, or defense of 113
the person's residence does not constitute intentionally tortious 114
conduct. 115

Sec. 2307.601. (A) As used in this section: 116

(1) "Residence" and "vehicle" have the same meanings as in 117
section 2901.05 of the Revised Code. 118

(2) "Tort action" has the same meaning as in section 2307.60 119
of the Revised Code. 120

(B) For purposes of determining the potential liability of a 121
person in a tort action related to the person's use of force 122
alleged to be in self-defense, defense of another, or defense of 123
the person's residence, if the person lawfully is in that person's 124
residence, the person has no duty to retreat before using force in 125
self-defense, defense of another, or defense of that person's 126
residence, and, if the person lawfully is an occupant of that 127
person's vehicle or lawfully is an occupant in a vehicle owned by 128
an immediate family member of the person, the person has no duty 129
to retreat before using force in self-defense or defense of 130
another. 131

Sec. 2901.05. (A) Every person accused of an offense is 132
presumed innocent until proven guilty beyond a reasonable doubt, 133
and the burden of proof for all elements of the offense is upon 134
the prosecution. The burden of going forward with the evidence of 135
an affirmative defense, and the burden of proof, by a 136
preponderance of the evidence, for an affirmative defense, is upon 137
the accused. 138

(B)(1) Subject to division (B)(2) of this section, a person 139
is presumed to have acted in self defense or defense of another 140
when using defensive force that is intended or likely to cause 141
death or great bodily harm to another if the person against whom 142

the defensive force is used is in the process of unlawfully and 143
without privilege to do so entering, or has unlawfully and without 144
privilege to do so entered, the residence or vehicle occupied by 145
the person using the defensive force. 146

(2)(a) The presumption set forth in division (B)(1) of this 147
section does not apply if the person against whom the defensive 148
force is used has a right to be in, or is a lawful resident of, 149
the residence or vehicle. 150

(b) The presumption set forth in division (B)(1) of this 151
section does not apply if the person who uses the defensive force 152
uses it while in a residence and the person is unlawfully, and 153
without privilege to be, in that residence. 154

(3) The presumption set forth in division (B)(1) of this 155
section is a rebuttable presumption and may be rebutted by a 156
preponderance of the evidence. 157

(C) As part of its charge to the jury in a criminal case, the 158
court shall read the definitions of "reasonable doubt" and "proof 159
beyond a reasonable doubt," contained in division (D) of this 160
section. 161

~~(C)(D)~~ As used in this section, ~~an~~: 162

(1) An "affirmative defense" is either of the following: 163

~~(1)(a)~~ A defense expressly designated as affirmative; 164

~~(2)(b)~~ A defense involving an excuse or justification 165
peculiarly within the knowledge of the accused, on which ~~he~~ the 166
accused can fairly be required to adduce supporting evidence. 167

(2) "Dwelling" means a building or conveyance of any kind 168
that has a roof over it and that is designed to be occupied by 169
people lodging in the building or conveyance at night, regardless 170
of whether the building or conveyance is temporary or permanent or 171
is mobile or immobile. As used in this division, a building or 172

conveyance includes, but is not limited to, an attached porch, and 173
a building or conveyance with a roof over it includes, but is not 174
limited to, a tent. 175

(3) "Residence" means a dwelling in which a person resides 176
either temporarily or permanently or is visiting as a guest. 177

(4) "Vehicle" means a conveyance of any kind, whether or not 178
motorized, that is designed to transport people or property. 179

~~(D)~~(E) "Reasonable doubt" is present when the jurors, after 180
they have carefully considered and compared all the evidence, 181
cannot say they are firmly convinced of the truth of the charge. 182
It is a doubt based on reason and common sense. Reasonable doubt 183
is not mere possible doubt, because everything relating to human 184
affairs or depending on moral evidence is open to some possible or 185
imaginary doubt. "Proof beyond a reasonable doubt" is proof of 186
such character that an ordinary person would be willing to rely 187
and act upon it in the most important of ~~his~~ the person's own 188
affairs. 189

Sec. 2901.09. (A) As used in this section, "residence" and 190
"vehicle" have the same meanings as in section 2901.05 of the 191
Revised Code. 192

(B) For purposes of any section of the Revised Code that sets 193
forth a criminal offense, a person who lawfully is in that 194
person's residence has no duty to retreat before using force in 195
self-defense, defense of another, or defense of that person's 196
residence, and a person who lawfully is an occupant of that 197
person's vehicle or who lawfully is an occupant in a vehicle owned 198
by an immediate family member of the person has no duty to retreat 199
before using force in self-defense or defense of another. 200

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 201
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (G), or (L) of this 202

section and except in relation to an offense for which a sentence 203
of death or life imprisonment is to be imposed, if the court 204
imposing a sentence upon an offender for a felony elects or is 205
required to impose a prison term on the offender pursuant to this 206
chapter, the court shall impose a definite prison term that shall 207
be one of the following: 208

(1) For a felony of the first degree, the prison term shall 209
be three, four, five, six, seven, eight, nine, or ten years. 210

(2) For a felony of the second degree, the prison term shall 211
be two, three, four, five, six, seven, or eight years. 212

(3) For a felony of the third degree, the prison term shall 213
be one, two, three, four, or five years. 214

(4) For a felony of the fourth degree, the prison term shall 215
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 216
fourteen, fifteen, sixteen, seventeen, or eighteen months. 217

(5) For a felony of the fifth degree, the prison term shall 218
be six, seven, eight, nine, ten, eleven, or twelve months. 219

(B) Except as provided in division (C), (D)(1), (D)(2), 220
(D)(3), (D)(5), (D)(6), (G), or (L) of this section, in section 221
2907.02 or 2907.05 of the Revised Code, or in Chapter 2925. of the 222
Revised Code, if the court imposing a sentence upon an offender 223
for a felony elects or is required to impose a prison term on the 224
offender, the court shall impose the shortest prison term 225
authorized for the offense pursuant to division (A) of this 226
section, unless one or more of the following applies: 227

(1) The offender was serving a prison term at the time of the 228
offense, or the offender previously had served a prison term. 229

(2) The court finds on the record that the shortest prison 230
term will demean the seriousness of the offender's conduct or will 231
not adequately protect the public from future crime by the 232

offender or others. 233

(C) Except as provided in division (G) or (L) of this section 234
or in Chapter 2925. of the Revised Code, the court imposing a 235
sentence upon an offender for a felony may impose the longest 236
prison term authorized for the offense pursuant to division (A) of 237
this section only upon offenders who committed the worst forms of 238
the offense, upon offenders who pose the greatest likelihood of 239
committing future crimes, upon certain major drug offenders under 240
division (D)(3) of this section, and upon certain repeat violent 241
offenders in accordance with division (D)(2) of this section. 242

(D)(1)(a) Except as provided in division (D)(1)(e) of this 243
section, if an offender who is convicted of or pleads guilty to a 244
felony also is convicted of or pleads guilty to a specification of 245
the type described in section 2941.141, 2941.144, or 2941.145 of 246
the Revised Code, the court shall impose on the offender one of 247
the following prison terms: 248

(i) A prison term of six years if the specification is of the 249
type described in section 2941.144 of the Revised Code that 250
charges the offender with having a firearm that is an automatic 251
firearm or that was equipped with a firearm muffler or silencer on 252
or about the offender's person or under the offender's control 253
while committing the felony; 254

(ii) A prison term of three years if the specification is of 255
the type described in section 2941.145 of the Revised Code that 256
charges the offender with having a firearm on or about the 257
offender's person or under the offender's control while committing 258
the offense and displaying the firearm, brandishing the firearm, 259
indicating that the offender possessed the firearm, or using it to 260
facilitate the offense; 261

(iii) A prison term of one year if the specification is of 262
the type described in section 2941.141 of the Revised Code that 263

charges the offender with having a firearm on or about the 264
offender's person or under the offender's control while committing 265
the felony. 266

(b) If a court imposes a prison term on an offender under 267
division (D)(1)(a) of this section, the prison term shall not be 268
reduced pursuant to section 2929.20, section 2967.193, or any 269
other provision of Chapter 2967. or Chapter 5120. of the Revised 270
Code. ~~A court shall not impose more than one prison term on an~~ 271
~~offender under division (D)(1)(a) of this section for felonies~~ 272
~~committed as part of the same act or transaction~~ If an offender is 273
convicted of or pleads guilty to two or more felonies and also is 274
convicted of or pleads guilty to a specification of the type 275
described under division (D)(1)(a) of this section in connection 276
with two or more of the felonies of which the offender is 277
convicted or to which the offender pleads guilty, the sentencing 278
court shall impose on the offender the prison term specified under 279
division (D)(1)(a) of this section for each of the two most 280
serious specifications of which the offender is convicted or to 281
which the offender pleads guilty and, in its discretion, also may 282
impose on the offender the prison term specified under that 283
division for any or all of the remaining specifications. 284

(c) Except as provided in division (D)(1)(e) of this section, 285
if an offender who is convicted of or pleads guilty to a violation 286
of section 2923.161 of the Revised Code or to a felony that 287
includes, as an essential element, purposely or knowingly causing 288
or attempting to cause the death of or physical harm to another, 289
also is convicted of or pleads guilty to a specification of the 290
type described in section 2941.146 of the Revised Code that 291
charges the offender with committing the offense by discharging a 292
firearm from a motor vehicle other than a manufactured home, the 293
court, after imposing a prison term on the offender for the 294
violation of section 2923.161 of the Revised Code or for the other 295

felony offense under division (A), (D)(2), or (D)(3) of this 296
section, shall impose an additional prison term of five years upon 297
the offender that shall not be reduced pursuant to section 298
2929.20, section 2967.193, or any other provision of Chapter 2967. 299
or Chapter 5120. of the Revised Code. A court shall not impose 300
more than one additional prison term on an offender under division 301
(D)(1)(c) of this section for felonies committed as part of the 302
same act or transaction. If a court imposes an additional prison 303
term on an offender under division (D)(1)(c) of this section 304
relative to an offense, the court also shall impose a prison term 305
under division (D)(1)(a) of this section relative to the same 306
offense, provided the criteria specified in that division for 307
imposing an additional prison term are satisfied relative to the 308
offender and the offense. 309

(d) If an offender who is convicted of or pleads guilty to an 310
offense of violence that is a felony also is convicted of or 311
pleads guilty to a specification of the type described in section 312
2941.1411 of the Revised Code that charges the offender with 313
wearing or carrying body armor while committing the felony offense 314
of violence, the court shall impose on the offender a prison term 315
of two years. The prison term so imposed shall not be reduced 316
pursuant to section 2929.20, section 2967.193, or any other 317
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 318
court shall not impose more than one prison term on an offender 319
under division (D)(1)(d) of this section for felonies committed as 320
part of the same act or transaction. If a court imposes an 321
additional prison term under division (D)(1)(a) or (c) of this 322
section, the court is not precluded from imposing an additional 323
prison term under division (D)(1)(d) of this section. 324

(e) The court shall not impose any of the prison terms 325
described in division (D)(1)(a) of this section or any of the 326
additional prison terms described in division (D)(1)(c) of this 327

section upon an offender for a violation of section 2923.12 or 328
2923.123 of the Revised Code. The court shall not impose any of 329
the prison terms described in division (D)(1)(a) of this section 330
or any of the additional prison terms described in division 331
(D)(1)(c) of this section upon an offender for a violation of 332
section 2923.13 of the Revised Code unless all of the following 333
apply: 334

(i) The offender previously has been convicted of aggravated 335
murder, murder, or any felony of the first or second degree. 336

(ii) Less than five years have passed since the offender was 337
released from prison or post-release control, whichever is later, 338
for the prior offense. 339

(f) If an offender is convicted of or pleads guilty to a 340
felony that includes, as an essential element, causing or 341
attempting to cause the death of or physical harm to another and 342
also is convicted of or pleads guilty to a specification of the 343
type described in section 2941.1412 of the Revised Code that 344
charges the offender with committing the offense by discharging a 345
firearm at a peace officer as defined in section 2935.01 of the 346
Revised Code or a corrections officer, as defined in section 347
2941.1412 of the Revised Code, the court, after imposing a prison 348
term on the offender for the felony offense under division (A), 349
(D)(2), or (D)(3) of this section, shall impose an additional 350
prison term of seven years upon the offender that shall not be 351
reduced pursuant to section 2929.20, section 2967.193, or any 352
other provision of Chapter 2967. or Chapter 5120. of the Revised 353
Code. ~~A court shall not impose more than one additional prison~~ 354
~~term on an offender under division (D)(1)(f) of this section for~~ 355
~~felonies committed as part of the same act or transaction~~ If an 356
offender is convicted of or pleads guilty to two or more felonies 357
that include, as an essential element, causing or attempting to 358
cause the death or physical harm to another and also is convicted 359

of or pleads guilty to a specification of the type described under 360
division (D)(1)(f) of this section in connection with two or more 361
of the felonies of which the offender is convicted or to which the 362
offender pleads guilty, the sentencing court shall impose on the 363
offender the prison term specified under division (D)(1)(f) of 364
this section for each of two of the specifications of which the 365
offender is convicted or to which the offender pleads guilty and, 366
in its discretion, also may impose on the offender the prison term 367
specified under that division for any or all of the remaining 368
specifications. If a court imposes an additional prison term on an 369
offender under division (D)(1)(f) of this section relative to an 370
offense, the court shall not impose a prison term under division 371
(D)(1)(a) or (c) of this section relative to the same offense. 372

(2)(a) If division (D)(2)(b) of this section does not apply, 374
the court may impose on an offender, in addition to the longest 375
prison term authorized or required for the offense, an additional 376
definite prison term of one, two, three, four, five, six, seven, 377
eight, nine, or ten years if all of the following criteria are 378
met: 379

(i) The offender is convicted of or pleads guilty to a 380
specification of the type described in section 2941.149 of the 381
Revised Code that the offender is a repeat violent offender. 382

(ii) The offense of which the offender currently is convicted 383
or to which the offender currently pleads guilty is aggravated 384
murder and the court does not impose a sentence of death or life 385
imprisonment without parole, murder, terrorism and the court does 386
not impose a sentence of life imprisonment without parole, any 387
felony of the first degree that is an offense of violence and the 388
court does not impose a sentence of life imprisonment without 389
parole, or any felony of the second degree that is an offense of 390
violence and the trier of fact finds that the offense involved an 391

attempt to cause or a threat to cause serious physical harm to a 392
person or resulted in serious physical harm to a person. 393

(iii) The court imposes the longest prison term for the 394
offense that is not life imprisonment without parole. 395

(iv) The court finds that the prison terms imposed pursuant 396
to division (D)(2)(a)(iii) of this section and, if applicable, 397
division (D)(1) or (3) of this section are inadequate to punish 398
the offender and protect the public from future crime, because the 399
applicable factors under section 2929.12 of the Revised Code 400
indicating a greater likelihood of recidivism outweigh the 401
applicable factors under that section indicating a lesser 402
likelihood of recidivism. 403

(v) The court finds that the prison terms imposed pursuant to 404
division (D)(2)(a)(iii) of this section and, if applicable, 405
division (D)(1) or (3) of this section are demeaning to the 406
seriousness of the offense, because one or more of the factors 407
under section 2929.12 of the Revised Code indicating that the 408
offender's conduct is more serious than conduct normally 409
constituting the offense are present, and they outweigh the 410
applicable factors under that section indicating that the 411
offender's conduct is less serious than conduct normally 412
constituting the offense. 413

(b) The court shall impose on an offender the longest prison 414
term authorized or required for the offense and shall impose on 415
the offender an additional definite prison term of one, two, 416
three, four, five, six, seven, eight, nine, or ten years if all of 417
the following criteria are met: 418

(i) The offender is convicted of or pleads guilty to a 419
specification of the type described in section 2941.149 of the 420
Revised Code that the offender is a repeat violent offender. 421

(ii) The offender within the preceding twenty years has been 422

convicted of or pleaded guilty to three or more offenses described 423
in division (DD)(1) of section 2929.01 of the Revised Code, 424
including all offenses described in that division of which the 425
offender is convicted or to which the offender pleads guilty in 426
the current prosecution and all offenses described in that 427
division of which the offender previously has been convicted or to 428
which the offender previously pleaded guilty, whether prosecuted 429
together or separately. 430

(iii) The offense or offenses of which the offender currently 431
is convicted or to which the offender currently pleads guilty is 432
aggravated murder and the court does not impose a sentence of 433
death or life imprisonment without parole, murder, terrorism and 434
the court does not impose a sentence of life imprisonment without 435
parole, any felony of the first degree that is an offense of 436
violence and the court does not impose a sentence of life 437
imprisonment without parole, or any felony of the second degree 438
that is an offense of violence and the trier of fact finds that 439
the offense involved an attempt to cause or a threat to cause 440
serious physical harm to a person or resulted in serious physical 441
harm to a person. 442

(c) For purposes of division (D)(2)(b) of this section, two 443
or more offenses committed at the same time or as part of the same 444
act or event shall be considered one offense, and that one offense 445
shall be the offense with the greatest penalty. 446

(d) A sentence imposed under division (D)(2)(a) or (b) of 447
this section shall not be reduced pursuant to section 2929.20 or 448
section 2967.193, or any other provision of Chapter 2967. or 449
Chapter 5120. of the Revised Code. The offender shall serve an 450
additional prison term imposed under this section consecutively to 451
and prior to the prison term imposed for the underlying offense. 452

(e) When imposing a sentence pursuant to division (D)(2)(a) 453
or (b) of this section, the court shall state its findings 454

explaining the imposed sentence. 455

(3)(a) Except when an offender commits a violation of section 456
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 457
the violation is life imprisonment or commits a violation of 458
section 2903.02 of the Revised Code, if the offender commits a 459
violation of section 2925.03 or 2925.11 of the Revised Code and 460
that section classifies the offender as a major drug offender and 461
requires the imposition of a ten-year prison term on the offender, 462
if the offender commits a felony violation of section 2925.02, 463
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 464
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 465
division (C) of section 4729.51, or division (J) of section 466
4729.54 of the Revised Code that includes the sale, offer to sell, 467
or possession of a schedule I or II controlled substance, with the 468
exception of marihuana, and the court imposing sentence upon the 469
offender finds that the offender is guilty of a specification of 470
the type described in section 2941.1410 of the Revised Code 471
charging that the offender is a major drug offender, if the court 472
imposing sentence upon an offender for a felony finds that the 473
offender is guilty of corrupt activity with the most serious 474
offense in the pattern of corrupt activity being a felony of the 475
first degree, or if the offender is guilty of an attempted 476
violation of section 2907.02 of the Revised Code and, had the 477
offender completed the violation of section 2907.02 of the Revised 478
Code that was attempted, the offender would have been subject to a 479
sentence of life imprisonment or life imprisonment without parole 480
for the violation of section 2907.02 of the Revised Code, the 481
court shall impose upon the offender for the felony violation a 482
ten-year prison term that cannot be reduced pursuant to section 483
2929.20 or Chapter 2967. or 5120. of the Revised Code. 484

(b) The court imposing a prison term on an offender under 485
division (D)(3)(a) of this section may impose an additional prison 486

term of one, two, three, four, five, six, seven, eight, nine, or 487
ten years, if the court, with respect to the term imposed under 488
division (D)(3)(a) of this section and, if applicable, divisions 489
(D)(1) and (2) of this section, makes both of the findings set 490
forth in divisions (D)(2)(a)(iv) and (v) of this section. 491

(4) If the offender is being sentenced for a third or fourth 492
degree felony OVI offense under division (G)(2) of section 2929.13 493
of the Revised Code, the sentencing court shall impose upon the 494
offender a mandatory prison term in accordance with that division. 495
In addition to the mandatory prison term, if the offender is being 496
sentenced for a fourth degree felony OVI offense, the court, 497
notwithstanding division (A)(4) of this section, may sentence the 498
offender to a definite prison term of not less than six months and 499
not more than thirty months, and if the offender is being 500
sentenced for a third degree felony OVI offense, the sentencing 501
court may sentence the offender to an additional prison term of 502
any duration specified in division (A)(3) of this section. In 503
either case, the additional prison term imposed shall be reduced 504
by the sixty or one hundred twenty days imposed upon the offender 505
as the mandatory prison term. The total of the additional prison 506
term imposed under division (D)(4) of this section plus the sixty 507
or one hundred twenty days imposed as the mandatory prison term 508
shall equal a definite term in the range of six months to thirty 509
months for a fourth degree felony OVI offense and shall equal one 510
of the authorized prison terms specified in division (A)(3) of 511
this section for a third degree felony OVI offense. If the court 512
imposes an additional prison term under division (D)(4) of this 513
section, the offender shall serve the additional prison term after 514
the offender has served the mandatory prison term required for the 515
offense. In addition to the mandatory prison term or mandatory and 516
additional prison term imposed as described in division (D)(4) of 517
this section, the court also may sentence the offender to a 518
community control sanction under section 2929.16 or 2929.17 of the 519

Revised Code, but the offender shall serve all of the prison terms 520
so imposed prior to serving the community control sanction. 521

If the offender is being sentenced for a fourth degree felony 522
OVI offense under division (G)(1) of section 2929.13 of the 523
Revised Code and the court imposes a mandatory term of local 524
incarceration, the court may impose a prison term as described in 525
division (A)(1) of that section. 526

(5) If an offender is convicted of or pleads guilty to a 527
violation of division (A)(1) or (2) of section 2903.06 of the 528
Revised Code and also is convicted of or pleads guilty to a 529
specification of the type described in section 2941.1414 of the 530
Revised Code that charges that the victim of the offense is a 531
peace officer, as defined in section 2935.01 of the Revised Code, 532
or an investigator of the bureau of criminal identification and 533
investigation, as defined in section 2903.11 of the Revised Code, 534
the court shall impose on the offender a prison term of five 535
years. If a court imposes a prison term on an offender under 536
division (D)(5) of this section, the prison term shall not be 537
reduced pursuant to section 2929.20, section 2967.193, or any 538
other provision of Chapter 2967. or Chapter 5120. of the Revised 539
Code. A court shall not impose more than one prison term on an 540
offender under division (D)(5) of this section for felonies 541
committed as part of the same act. 542

(6) If an offender is convicted of or pleads guilty to a 543
violation of division (A)(1) or (2) of section 2903.06 of the 544
Revised Code and also is convicted of or pleads guilty to a 545
specification of the type described in section 2941.1415 of the 546
Revised Code that charges that the offender previously has been 547
convicted of or pleaded guilty to three or more violations of 548
division (A) or (B) of section 4511.19 of the Revised Code or an 549
equivalent offense, as defined in section 2941.1415 of the Revised 550
Code, or three or more violations of any combination of those 551

divisions and offenses, the court shall impose on the offender a 552
prison term of three years. If a court imposes a prison term on an 553
offender under division (D)(6) of this section, the prison term 554
shall not be reduced pursuant to section 2929.20, section 555
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 556
of the Revised Code. A court shall not impose more than one prison 557
term on an offender under division (D)(6) of this section for 558
felonies committed as part of the same act. 559

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a 560
mandatory prison term is imposed upon an offender pursuant to 561
division (D)(1)(a) of this section for having a firearm on or 562
about the offender's person or under the offender's control while 563
committing a felony, if a mandatory prison term is imposed upon an 564
offender pursuant to division (D)(1)(c) of this section for 565
committing a felony specified in that division by discharging a 566
firearm from a motor vehicle, or if both types of mandatory prison 567
terms are imposed, the offender shall serve any mandatory prison 568
term imposed under either division consecutively to any other 569
mandatory prison term imposed under either division or under 570
division (D)(1)(d) of this section, consecutively to and prior to 571
any prison term imposed for the underlying felony pursuant to 572
division (A), (D)(2), or (D)(3) of this section or any other 573
section of the Revised Code, and consecutively to any other prison 574
term or mandatory prison term previously or subsequently imposed 575
upon the offender. 576

(b) If a mandatory prison term is imposed upon an offender 577
pursuant to division (D)(1)(d) of this section for wearing or 578
carrying body armor while committing an offense of violence that 579
is a felony, the offender shall serve the mandatory term so 580
imposed consecutively to any other mandatory prison term imposed 581
under that division or under division (D)(1)(a) or (c) of this 582
section, consecutively to and prior to any prison term imposed for 583

the underlying felony under division (A), (D)(2), or (D)(3) of 584
this section or any other section of the Revised Code, and 585
consecutively to any other prison term or mandatory prison term 586
previously or subsequently imposed upon the offender. 587

(c) If a mandatory prison term is imposed upon an offender 588
pursuant to division (D)(1)(f) of this section, the offender shall 589
serve the mandatory prison term so imposed consecutively to and 590
prior to any prison term imposed for the underlying felony under 591
division (A), (D)(2), or (D)(3) of this section or any other 592
section of the Revised Code, and consecutively to any other prison 593
term or mandatory prison term previously or subsequently imposed 594
upon the offender. 595

(2) If an offender who is an inmate in a jail, prison, or 596
other residential detention facility violates section 2917.02, 597
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 598
who is under detention at a detention facility commits a felony 599
violation of section 2923.131 of the Revised Code, or if an 600
offender who is an inmate in a jail, prison, or other residential 601
detention facility or is under detention at a detention facility 602
commits another felony while the offender is an escapee in 603
violation of section 2921.34 of the Revised Code, any prison term 604
imposed upon the offender for one of those violations shall be 605
served by the offender consecutively to the prison term or term of 606
imprisonment the offender was serving when the offender committed 607
that offense and to any other prison term previously or 608
subsequently imposed upon the offender. 609

(3) If a prison term is imposed for a violation of division 610
(B) of section 2911.01 of the Revised Code, a violation of 611
division (A) of section 2913.02 of the Revised Code in which the 612
stolen property is a firearm or dangerous ordnance, or a felony 613
violation of division (B) of section 2921.331 of the Revised Code, 614
the offender shall serve that prison term consecutively to any 615

other prison term or mandatory prison term previously or 616
subsequently imposed upon the offender. 617

(4) If multiple prison terms are imposed on an offender for 618
convictions of multiple offenses, the court may require the 619
offender to serve the prison terms consecutively if the court 620
finds that the consecutive service is necessary to protect the 621
public from future crime or to punish the offender and that 622
consecutive sentences are not disproportionate to the seriousness 623
of the offender's conduct and to the danger the offender poses to 624
the public, and if the court also finds any of the following: 625

(a) The offender committed one or more of the multiple 626
offenses while the offender was awaiting trial or sentencing, was 627
under a sanction imposed pursuant to section 2929.16, 2929.17, or 628
2929.18 of the Revised Code, or was under post-release control for 629
a prior offense. 630

(b) At least two of the multiple offenses were committed as 631
part of one or more courses of conduct, and the harm caused by two 632
or more of the multiple offenses so committed was so great or 633
unusual that no single prison term for any of the offenses 634
committed as part of any of the courses of conduct adequately 635
reflects the seriousness of the offender's conduct. 636

(c) The offender's history of criminal conduct demonstrates 637
that consecutive sentences are necessary to protect the public 638
from future crime by the offender. 639

(5) If a mandatory prison term is imposed upon an offender 640
pursuant to division (D)(5) or (6) of this section, the offender 641
shall serve the mandatory prison term consecutively to and prior 642
to any prison term imposed for the underlying violation of 643
division (A)(1) or (2) of section 2903.06 of the Revised Code 644
pursuant to division (A) of this section or section 2929.142 of 645
the Revised Code. If a mandatory prison term is imposed upon an 646

offender pursuant to division (D)(5) of this section, and if a
mandatory prison term also is imposed upon the offender pursuant
to division (D)(6) of this section in relation to the same
violation, the offender shall serve the mandatory prison term
imposed pursuant to division (D)(5) of this section consecutively
to and prior to the mandatory prison term imposed pursuant to
division (D)(6) of this section and consecutively to and prior to
any prison term imposed for the underlying violation of division
(A)(1) or (2) of section 2903.06 of the Revised Code pursuant to
division (A) of this section or section 2929.142 of the Revised
Code.

(6) When consecutive prison terms are imposed pursuant to
division (E)(1), (2), (3), (4), or (5) of this section, the term
to be served is the aggregate of all of the terms so imposed.

(F)(1) If a court imposes a prison term for a felony of the
first degree, for a felony of the second degree, for a felony sex
offense, or for a felony of the third degree that is not a felony
sex offense and in the commission of which the offender caused or
threatened to cause physical harm to a person, it shall include in
the sentence a requirement that the offender be subject to a
period of post-release control after the offender's release from
imprisonment, in accordance with that division. If a court imposes
a sentence including a prison term of a type described in this
division on or after July 11, 2006, the failure of a court to
include a post-release control requirement in the sentence
pursuant to this division does not negate, limit, or otherwise
affect the mandatory period of post-release control that is
required for the offender under division (B) of section 2967.28 of
the Revised Code. Section 2929.191 of the Revised Code applies if,
prior to July 11, 2006, a court imposed a sentence including a
prison term of a type described in this division and failed to
include in the sentence pursuant to this division a statement

regarding post-release control. 679

(2) If a court imposes a prison term for a felony of the 680
third, fourth, or fifth degree that is not subject to division 681
(F)(1) of this section, it shall include in the sentence a 682
requirement that the offender be subject to a period of 683
post-release control after the offender's release from 684
imprisonment, in accordance with that division, if the parole 685
board determines that a period of post-release control is 686
necessary. Section 2929.191 of the Revised Code applies if, prior 687
to July 11, 2006, a court imposed a sentence including a prison 688
term of a type described in this division and failed to include in 689
the sentence pursuant to this division a statement regarding 690
post-release control. 691

(G) The court shall impose sentence upon the offender in 692
accordance with section 2971.03 of the Revised Code, and Chapter 693
2971. of the Revised Code applies regarding the prison term or 694
term of life imprisonment without parole imposed upon the offender 695
and the service of that term of imprisonment if any of the 696
following apply: 697

(1) A person is convicted of or pleads guilty to a violent 698
sex offense or a designated homicide, assault, or kidnapping 699
offense, and, in relation to that offense, the offender is 700
adjudicated a sexually violent predator. 701

(2) A person is convicted of or pleads guilty to a violation 702
of division (A)(1)(b) of section 2907.02 of the Revised Code 703
committed on or after January 2, 2007, and either the court does 704
not impose a sentence of life without parole when authorized 705
pursuant to division (B) of section 2907.02 of the Revised Code, 706
or division (B) of section 2907.02 of the Revised Code provides 707
that the court shall not sentence the offender pursuant to section 708
2971.03 of the Revised Code. 709

(3) A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after ~~the effective date of this amendment~~ January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after ~~the effective date of this amendment~~ January 1, 2008, and division (A)(2)(b)(ii) of section 2929.022, division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires the court to sentence the offender pursuant to division (B)(3) of section 2971.03 of the Revised Code.

(6) A person is convicted of or pleads guilty to murder committed on or after ~~the effective date of this amendment~~ January 1, 2008, and division (B)(2) of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(H) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(I) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or

pleads guilty to a specification of the type described in section 741
2941.142 of the Revised Code that charges the offender with having 742
committed the felony while participating in a criminal gang, the 743
court shall impose upon the offender an additional prison term of 744
one, two, or three years. 745

(J) If an offender who is convicted of or pleads guilty to 746
aggravated murder, murder, or a felony of the first, second, or 747
third degree that is an offense of violence also is convicted of 748
or pleads guilty to a specification of the type described in 749
section 2941.143 of the Revised Code that charges the offender 750
with having committed the offense in a school safety zone or 751
towards a person in a school safety zone, the court shall impose 752
upon the offender an additional prison term of two years. The 753
offender shall serve the additional two years consecutively to and 754
prior to the prison term imposed for the underlying offense. 755

(K) At the time of sentencing, the court may recommend the 756
offender for placement in a program of shock incarceration under 757
section 5120.031 of the Revised Code or for placement in an 758
intensive program prison under section 5120.032 of the Revised 759
Code, disapprove placement of the offender in a program of shock 760
incarceration or an intensive program prison of that nature, or 761
make no recommendation on placement of the offender. In no case 762
shall the department of rehabilitation and correction place the 763
offender in a program or prison of that nature unless the 764
department determines as specified in section 5120.031 or 5120.032 765
of the Revised Code, whichever is applicable, that the offender is 766
eligible for the placement. 767

If the court disapproves placement of the offender in a 768
program or prison of that nature, the department of rehabilitation 769
and correction shall not place the offender in any program of 770
shock incarceration or intensive program prison. 771

If the court recommends placement of the offender in a 772

program of shock incarceration or in an intensive program prison, 773
and if the offender is subsequently placed in the recommended 774
program or prison, the department shall notify the court of the 775
placement and shall include with the notice a brief description of 776
the placement. 777

If the court recommends placement of the offender in a 778
program of shock incarceration or in an intensive program prison 779
and the department does not subsequently place the offender in the 780
recommended program or prison, the department shall send a notice 781
to the court indicating why the offender was not placed in the 782
recommended program or prison. 783

If the court does not make a recommendation under this 784
division with respect to an offender and if the department 785
determines as specified in section 5120.031 or 5120.032 of the 786
Revised Code, whichever is applicable, that the offender is 787
eligible for placement in a program or prison of that nature, the 788
department shall screen the offender and determine if there is an 789
available program of shock incarceration or an intensive program 790
prison for which the offender is suited. If there is an available 791
program of shock incarceration or an intensive program prison for 792
which the offender is suited, the department shall notify the 793
court of the proposed placement of the offender as specified in 794
section 5120.031 or 5120.032 of the Revised Code and shall include 795
with the notice a brief description of the placement. The court 796
shall have ten days from receipt of the notice to disapprove the 797
placement. 798

(L) If a person is convicted of or pleads guilty to 799
aggravated vehicular homicide in violation of division (A)(1) of 800
section 2903.06 of the Revised Code and division (B)(2)(c) of that 801
section applies, the person shall be sentenced pursuant to section 802
2929.142 of the Revised Code. 803

Section 2. That existing sections 2307.60, 2901.05, and 804

2929.14 of the Revised Code are hereby repealed.

805