

As Introduced

**127th General Assembly
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S. B. No. 256

Senator Wilson

Cosponsors: Senators Cafaro, Goodman, Morano, Kearney, Bocchieri

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A B I L L

To amend sections 2903.11 and 2929.14 and to enact 1
section 2941.1421 of the Revised Code to allow a 2
court to impose an additional prison term upon an 3
offender who commits felonious assault against a 4
minor. 5

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

Section 1. That sections 2903.11 and 2929.14 be amended and 6
section 2941.1421 of the Revised Code be enacted to read as 7
follows: 8

Sec. 2903.11. (A) No person shall knowingly do either of the 9
following: 10

(1) Cause serious physical harm to another or to another's 11
unborn; 12

(2) Cause or attempt to cause physical harm to another or to 13
another's unborn by means of a deadly weapon or dangerous 14
ordnance. 15

(B) No person, with knowledge that the person has tested 16
positive as a carrier of a virus that causes acquired 17
immunodeficiency syndrome, shall knowingly do any of the 18

following: 19

(1) Engage in sexual conduct with another person without 20
disclosing that knowledge to the other person prior to engaging in 21
the sexual conduct; 22

(2) Engage in sexual conduct with a person whom the offender 23
knows or has reasonable cause to believe lacks the mental capacity 24
to appreciate the significance of the knowledge that the offender 25
has tested positive as a carrier of a virus that causes acquired 26
immunodeficiency syndrome; 27

(3) Engage in sexual conduct with a person under eighteen 28
years of age who is not the spouse of the offender. 29

(C) The prosecution of a person under this section does not 30
preclude prosecution of that person under section 2907.02 of the 31
Revised Code. 32

(D)(1) Whoever violates this section is guilty of felonious 33
assault, a felony of the second degree. If the victim of the 34
offense was under eighteen years of age at the time of the 35
commission of the offense, the court may impose an additional 36
prison term on the offender pursuant to division (D)(7) of section 37
2929.14 of the Revised Code. If the victim of a violation of 38
division (A) of this section is a peace officer or an investigator 39
of the bureau of criminal identification and investigation, 40
felonious assault is a felony of the first degree. If the victim 41
of the offense is a peace officer or an investigator of the bureau 42
of criminal identification and investigation, and if the victim 43
suffered serious physical harm as a result of the commission of 44
the offense, felonious assault is a felony of the first degree, 45
and the court, pursuant to division (F) of section 2929.13 of the 46
Revised Code, shall impose as a mandatory prison term one of the 47
prison terms prescribed for a felony of the first degree. 48

(2) In addition to any other sanctions imposed pursuant to 49

division (D)(1) of this section for felonious assault committed in 50
violation of division (A)(2) of this section, if the deadly weapon 51
used in the commission of the violation is a motor vehicle, the 52
court shall impose upon the offender a class two suspension of the 53
offender's driver's license, commercial driver's license, 54
temporary instruction permit, probationary license, or nonresident 55
operating privilege as specified in division (A)(2) of section 56
4510.02 of the Revised Code. 57

(E) As used in this section: 58

(1) "Deadly weapon" and "dangerous ordnance" have the same 59
meanings as in section 2923.11 of the Revised Code. 60

(2) "Motor vehicle" has the same meaning as in section 61
4501.01 of the Revised Code. 62

(3) "Peace officer" has the same meaning as in section 63
2935.01 of the Revised Code. 64

(4) "Sexual conduct" has the same meaning as in section 65
2907.01 of the Revised Code, except that, as used in this section, 66
it does not include the insertion of an instrument, apparatus, or 67
other object that is not a part of the body into the vaginal or 68
anal opening of another, unless the offender knew at the time of 69
the insertion that the instrument, apparatus, or other object 70
carried the offender's bodily fluid. 71

(5) "Investigator of the bureau of criminal identification 72
and investigation" means an investigator of the bureau of criminal 73
identification and investigation who is commissioned by the 74
superintendent of the bureau as a special agent for the purpose of 75
assisting law enforcement officers or providing emergency 76
assistance to peace officers pursuant to authority granted under 77
section 109.541 of the Revised Code. 78

(6) "Investigator" has the same meaning as in section 109.541 79
of the Revised Code. 80

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 81
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (D)(7) or (G) of this 82
section and except in relation to an offense for which a sentence 83
of death or life imprisonment is to be imposed, if the court 84
imposing a sentence upon an offender for a felony elects or is 85
required to impose a prison term on the offender pursuant to this 86
chapter, the court shall impose a definite prison term that shall 87
be one of the following: 88

(1) For a felony of the first degree, the prison term shall 89
be three, four, five, six, seven, eight, nine, or ten years. 90

(2) For a felony of the second degree, the prison term shall 91
be two, three, four, five, six, seven, or eight years. 92

(3) For a felony of the third degree, the prison term shall 93
be one, two, three, four, or five years. 94

(4) For a felony of the fourth degree, the prison term shall 95
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 96
fourteen, fifteen, sixteen, seventeen, or eighteen months. 97

(5) For a felony of the fifth degree, the prison term shall 98
be six, seven, eight, nine, ten, eleven, or twelve months. 99

(B) Except as provided in division (C), (D)(1), (D)(2), 100
(D)(3), (D)(5), (D)(6), (D)(7) or (G) of this section, in section 101
2907.02 or 2907.05 of the Revised Code, or in Chapter 2925. of the 102
Revised Code, if the court imposing a sentence upon an offender 103
for a felony elects or is required to impose a prison term on the 104
offender, the court shall impose the shortest prison term 105
authorized for the offense pursuant to division (A) of this 106
section, unless one or more of the following applies: 107

(1) The offender was serving a prison term at the time of the 108
offense, or the offender previously had served a prison term. 109

(2) The court finds on the record that the shortest prison 110

term will demean the seriousness of the offender's conduct or will 111
not adequately protect the public from future crime by the 112
offender or others. 113

(C) Except as provided in division (G) of this section or in 114
Chapter 2925. of the Revised Code, the court imposing a sentence 115
upon an offender for a felony may impose the longest prison term 116
authorized for the offense pursuant to division (A) of this 117
section only upon offenders who committed the worst forms of the 118
offense, upon offenders who pose the greatest likelihood of 119
committing future crimes, upon certain major drug offenders under 120
division (D)(3) of this section, and upon certain repeat violent 121
offenders in accordance with division (D)(2) of this section. 122

(D)(1)(a) Except as provided in division (D)(1)(e) of this 123
section, if an offender who is convicted of or pleads guilty to a 124
felony also is convicted of or pleads guilty to a specification of 125
the type described in section 2941.141, 2941.144, or 2941.145 of 126
the Revised Code, the court shall impose on the offender one of 127
the following prison terms: 128

(i) A prison term of six years if the specification is of the 129
type described in section 2941.144 of the Revised Code that 130
charges the offender with having a firearm that is an automatic 131
firearm or that was equipped with a firearm muffler or silencer on 132
or about the offender's person or under the offender's control 133
while committing the felony; 134

(ii) A prison term of three years if the specification is of 135
the type described in section 2941.145 of the Revised Code that 136
charges the offender with having a firearm on or about the 137
offender's person or under the offender's control while committing 138
the offense and displaying the firearm, brandishing the firearm, 139
indicating that the offender possessed the firearm, or using it to 140
facilitate the offense; 141

(iii) A prison term of one year if the specification is of 142
the type described in section 2941.141 of the Revised Code that 143
charges the offender with having a firearm on or about the 144
offender's person or under the offender's control while committing 145
the felony. 146

(b) If a court imposes a prison term on an offender under 147
division (D)(1)(a) of this section, the prison term shall not be 148
reduced pursuant to section 2929.20, section 2967.193, or any 149
other provision of Chapter 2967. or Chapter 5120. of the Revised 150
Code. A court shall not impose more than one prison term on an 151
offender under division (D)(1)(a) of this section for felonies 152
committed as part of the same act or transaction. 153

(c) Except as provided in division (D)(1)(e) of this section, 154
if an offender who is convicted of or pleads guilty to a violation 155
of section 2923.161 of the Revised Code or to a felony that 156
includes, as an essential element, purposely or knowingly causing 157
or attempting to cause the death of or physical harm to another, 158
also is convicted of or pleads guilty to a specification of the 159
type described in section 2941.146 of the Revised Code that 160
charges the offender with committing the offense by discharging a 161
firearm from a motor vehicle other than a manufactured home, the 162
court, after imposing a prison term on the offender for the 163
violation of section 2923.161 of the Revised Code or for the other 164
felony offense under division (A), (D)(2), or (D)(3) of this 165
section, shall impose an additional prison term of five years upon 166
the offender that shall not be reduced pursuant to section 167
2929.20, section 2967.193, or any other provision of Chapter 2967. 168
or Chapter 5120. of the Revised Code. A court shall not impose 169
more than one additional prison term on an offender under division 170
(D)(1)(c) of this section for felonies committed as part of the 171
same act or transaction. If a court imposes an additional prison 172
term on an offender under division (D)(1)(c) of this section 173

relative to an offense, the court also shall impose a prison term 174
under division (D)(1)(a) of this section relative to the same 175
offense, provided the criteria specified in that division for 176
imposing an additional prison term are satisfied relative to the 177
offender and the offense. 178

(d) If an offender who is convicted of or pleads guilty to an 179
offense of violence that is a felony also is convicted of or 180
pleads guilty to a specification of the type described in section 181
2941.1411 of the Revised Code that charges the offender with 182
wearing or carrying body armor while committing the felony offense 183
of violence, the court shall impose on the offender a prison term 184
of two years. The prison term so imposed shall not be reduced 185
pursuant to section 2929.20, section 2967.193, or any other 186
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 187
court shall not impose more than one prison term on an offender 188
under division (D)(1)(d) of this section for felonies committed as 189
part of the same act or transaction. If a court imposes an 190
additional prison term under division (D)(1)(a) or (c) of this 191
section, the court is not precluded from imposing an additional 192
prison term under division (D)(1)(d) of this section. 193

(e) The court shall not impose any of the prison terms 194
described in division (D)(1)(a) of this section or any of the 195
additional prison terms described in division (D)(1)(c) of this 196
section upon an offender for a violation of section 2923.12 or 197
2923.123 of the Revised Code. The court shall not impose any of 198
the prison terms described in division (D)(1)(a) of this section 199
or any of the additional prison terms described in division 200
(D)(1)(c) of this section upon an offender for a violation of 201
section 2923.13 of the Revised Code unless all of the following 202
apply: 203

(i) The offender previously has been convicted of aggravated 204
murder, murder, or any felony of the first or second degree. 205

(ii) Less than five years have passed since the offender was 206
released from prison or post-release control, whichever is later, 207
for the prior offense. 208

(f) If an offender is convicted of or pleads guilty to a 209
felony that includes, as an essential element, causing or 210
attempting to cause the death of or physical harm to another and 211
also is convicted of or pleads guilty to a specification of the 212
type described in section 2941.1412 of the Revised Code that 213
charges the offender with committing the offense by discharging a 214
firearm at a peace officer as defined in section 2935.01 of the 215
Revised Code or a corrections officer as defined in section 216
2941.1412 of the Revised Code, the court, after imposing a prison 217
term on the offender for the felony offense under division (A), 218
(D)(2), or (D)(3) of this section, shall impose an additional 219
prison term of seven years upon the offender that shall not be 220
reduced pursuant to section 2929.20, section 2967.193, or any 221
other provision of Chapter 2967. or Chapter 5120. of the Revised 222
Code. A court shall not impose more than one additional prison 223
term on an offender under division (D)(1)(f) of this section for 224
felonies committed as part of the same act or transaction. If a 225
court imposes an additional prison term on an offender under 226
division (D)(1)(f) of this section relative to an offense, the 227
court shall not impose a prison term under division (D)(1)(a) or 228
(c) of this section relative to the same offense. 229

(2)(a) If division (D)(2)(b) of this section does not apply, 230
the court may impose on an offender, in addition to the longest 231
prison term authorized or required for the offense, an additional 232
definite prison term of one, two, three, four, five, six, seven, 233
eight, nine, or ten years if all of the following criteria are 234
met: 235

(i) The offender is convicted of or pleads guilty to a 236
specification of the type described in section 2941.149 of the 237

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| Revised Code that the offender is a repeat violent offender. | 238 |
| (ii) The offense of which the offender currently is convicted | 239 |
| or to which the offender currently pleads guilty is aggravated | 240 |
| murder and the court does not impose a sentence of death or life | 241 |
| imprisonment without parole, murder, terrorism and the court does | 242 |
| not impose a sentence of life imprisonment without parole, any | 243 |
| felony of the first degree that is an offense of violence and the | 244 |
| court does not impose a sentence of life imprisonment without | 245 |
| parole, or any felony of the second degree that is an offense of | 246 |
| violence and the trier of fact finds that the offense involved an | 247 |
| attempt to cause or a threat to cause serious physical harm to a | 248 |
| person or resulted in serious physical harm to a person. | 249 |
| (iii) The court imposes the longest prison term for the | 250 |
| offense that is not life imprisonment without parole. | 251 |
| (iv) The court finds that the prison terms imposed pursuant | 252 |
| to division (D)(2)(a)(iii) of this section and, if applicable, | 253 |
| division (D)(1) or (3) of this section are inadequate to punish | 254 |
| the offender and protect the public from future crime, because the | 255 |
| applicable factors under section 2929.12 of the Revised Code | 256 |
| indicating a greater likelihood of recidivism outweigh the | 257 |
| applicable factors under that section indicating a lesser | 258 |
| likelihood of recidivism. | 259 |
| (v) The court finds that the prison terms imposed pursuant to | 260 |
| division (D)(2)(a)(iii) of this section and, if applicable, | 261 |
| division (D)(1) or (3) of this section are demeaning to the | 262 |
| seriousness of the offense, because one or more of the factors | 263 |
| under section 2929.12 of the Revised Code indicating that the | 264 |
| offender's conduct is more serious than conduct normally | 265 |
| constituting the offense are present, and they outweigh the | 266 |
| applicable factors under that section indicating that the | 267 |
| offender's conduct is less serious than conduct normally | 268 |
| constituting the offense. | 269 |

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

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

(ii) The offender within the preceding twenty years has been convicted of or pleaded guilty to three or more offenses described in division (DD)(1) of section 2929.01 of the Revised Code, including all offenses described in that division of which the offender is convicted or to which the offender pleads guilty in the current prosecution and all offenses described in that division of which the offender previously has been convicted or to which the offender previously pleaded guilty, whether prosecuted together or separately.

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

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

shall be the offense with the greatest penalty. 302

(d) A sentence imposed under division (D)(2)(a) or (b) of 303
this section shall not be reduced pursuant to section 2929.20 or 304
section 2967.193, or any other provision of Chapter 2967. or 305
Chapter 5120. of the Revised Code. The offender shall serve an 306
additional prison term imposed under this section consecutively to 307
and prior to the prison term imposed for the underlying offense. 308

(e) When imposing a sentence pursuant to division (D)(2)(a) 309
or (b) of this section, the court shall state its findings 310
explaining the imposed sentence. 311

(3)(a) Except when an offender commits a violation of section 312
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 313
the violation is life imprisonment or commits a violation of 314
section 2903.02 of the Revised Code, if the offender commits a 315
violation of section 2925.03 or 2925.11 of the Revised Code and 316
that section classifies the offender as a major drug offender and 317
requires the imposition of a ten-year prison term on the offender, 318
if the offender commits a felony violation of section 2925.02, 319
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 320
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 321
division (C) of section 4729.51, or division (J) of section 322
4729.54 of the Revised Code that includes the sale, offer to sell, 323
or possession of a schedule I or II controlled substance, with the 324
exception of marihuana, and the court imposing sentence upon the 325
offender finds that the offender is guilty of a specification of 326
the type described in section 2941.1410 of the Revised Code 327
charging that the offender is a major drug offender, if the court 328
imposing sentence upon an offender for a felony finds that the 329
offender is guilty of corrupt activity with the most serious 330
offense in the pattern of corrupt activity being a felony of the 331
first degree, or if the offender is guilty of an attempted 332
violation of section 2907.02 of the Revised Code and, had the 333

offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a ten-year prison term that cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 5120. of the Revised Code.

(b) The court imposing a prison term on an offender under division (D)(3)(a) of this section may impose an additional prison term of one, two, three, four, five, six, seven, eight, nine, or ten years, if the court, with respect to the term imposed under division (D)(3)(a) of this section and, if applicable, divisions (D)(1) and (2) of this section, makes both of the findings set forth in divisions (D)(2)(a)(iv) and (v) of this section.

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty

months for a fourth degree felony OVI offense and shall equal one 366
of the authorized prison terms specified in division (A)(3) of 367
this section for a third degree felony OVI offense. If the court 368
imposes an additional prison term under division (D)(4) of this 369
section, the offender shall serve the additional prison term after 370
the offender has served the mandatory prison term required for the 371
offense. In addition to the mandatory prison term or mandatory and 372
additional prison term imposed as described in division (D)(4) of 373
this section, the court also may sentence the offender to a 374
community control sanction under section 2929.16 or 2929.17 of the 375
Revised Code, but the offender shall serve all of the prison terms 376
so imposed prior to serving the community control sanction. 377

If the offender is being sentenced for a fourth degree felony 378
OVI offense under division (G)(1) of section 2929.13 of the 379
Revised Code and the court imposes a mandatory term of local 380
incarceration, the court may impose a prison term as described in 381
division (A)(1) of that section. 382

(5) If an offender is convicted of or pleads guilty to a 383
violation of division (A)(1) or (2) of section 2903.06 of the 384
Revised Code and also is convicted of or pleads guilty to a 385
specification of the type described in section 2941.1414 of the 386
Revised Code that charges that the victim of the offense is a 387
peace officer, as defined in section 2935.01 of the Revised Code, 388
the court shall impose on the offender a prison term of five 389
years. If a court imposes a prison term on an offender under 390
division (D)(5) of this section, the prison term shall not be 391
reduced pursuant to section 2929.20, section 2967.193, or any 392
other provision of Chapter 2967. or Chapter 5120. of the Revised 393
Code. A court shall not impose more than one prison term on an 394
offender under division (D)(5) of this section for felonies 395
committed as part of the same act. 396

(6) If an offender is convicted of or pleads guilty to a 397

violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (D)(6) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(6) of this section for felonies committed as part of the same act.

(7) If an offender is convicted of or pleads guilty to a violation of section 2903.11 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1421 of the Revised Code that charges that the victim of the offense was under eighteen years of age at the time of the commission of the offense, in addition to any other prison term imposed upon the offender, the court may impose upon the offender a prison term of one, two, three, four, or five years. If a court imposes a prison term upon an offender under division (D)(7) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, any other provision of Chapter 2967., or any provision of Chapter 5120. of the Revised Code. A court shall not impose more than one prison term upon an offender under division (D)(7) of this section for felonies committed as part of the same act.

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a

mandatory prison term is imposed upon an offender pursuant to 430
division (D)(1)(a) of this section for having a firearm on or 431
about the offender's person or under the offender's control while 432
committing a felony, if a mandatory prison term is imposed upon an 433
offender pursuant to division (D)(1)(c) of this section for 434
committing a felony specified in that division by discharging a 435
firearm from a motor vehicle, or if both types of mandatory prison 436
terms are imposed, the offender shall serve any mandatory prison 437
term imposed under either division consecutively to any other 438
mandatory prison term imposed under either division or under 439
division (D)(1)(d) of this section, consecutively to and prior to 440
any prison term imposed for the underlying felony pursuant to 441
division (A), (D)(2), or (D)(3) of this section or any other 442
section of the Revised Code, and consecutively to any other prison 443
term or mandatory prison term previously or subsequently imposed 444
upon the offender. 445

(b) If a mandatory prison term is imposed upon an offender 446
pursuant to division (D)(1)(d) of this section for wearing or 447
carrying body armor while committing an offense of violence that 448
is a felony, the offender shall serve the mandatory term so 449
imposed consecutively to any other mandatory prison term imposed 450
under that division or under division (D)(1)(a) or (c) of this 451
section, consecutively to and prior to any prison term imposed for 452
the underlying felony under division (A), (D)(2), or (D)(3) of 453
this section or any other section of the Revised Code, and 454
consecutively to any other prison term or mandatory prison term 455
previously or subsequently imposed upon the offender. 456

(c) If a mandatory prison term is imposed upon an offender 457
pursuant to division (D)(1)(f) of this section, the offender shall 458
serve the mandatory prison term so imposed consecutively to and 459
prior to any prison term imposed for the underlying felony under 460
division (A), (D)(2), or (D)(3) of this section or any other 461

section of the Revised Code, and consecutively to any other prison 462
term or mandatory prison term previously or subsequently imposed 463
upon the offender. 464

(2) If an offender who is an inmate in a jail, prison, or 465
other residential detention facility violates section 2917.02, 466
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 467
who is under detention at a detention facility commits a felony 468
violation of section 2923.131 of the Revised Code, or if an 469
offender who is an inmate in a jail, prison, or other residential 470
detention facility or is under detention at a detention facility 471
commits another felony while the offender is an escapee in 472
violation of section 2921.34 of the Revised Code, any prison term 473
imposed upon the offender for one of those violations shall be 474
served by the offender consecutively to the prison term or term of 475
imprisonment the offender was serving when the offender committed 476
that offense and to any other prison term previously or 477
subsequently imposed upon the offender. 478

(3) If a prison term is imposed for a violation of division 479
(B) of section 2911.01 of the Revised Code, a violation of 480
division (A) of section 2913.02 of the Revised Code in which the 481
stolen property is a firearm or dangerous ordnance, or a felony 482
violation of division (B) of section 2921.331 of the Revised Code, 483
the offender shall serve that prison term consecutively to any 484
other prison term or mandatory prison term previously or 485
subsequently imposed upon the offender. 486

(4) If multiple prison terms are imposed on an offender for 487
convictions of multiple offenses, the court may require the 488
offender to serve the prison terms consecutively if the court 489
finds that the consecutive service is necessary to protect the 490
public from future crime or to punish the offender and that 491
consecutive sentences are not disproportionate to the seriousness 492
of the offender's conduct and to the danger the offender poses to 493

the public, and if the court also finds any of the following: 494

(a) The offender committed one or more of the multiple 495
offenses while the offender was awaiting trial or sentencing, was 496
under a sanction imposed pursuant to section 2929.16, 2929.17, or 497
2929.18 of the Revised Code, or was under post-release control for 498
a prior offense. 499

(b) At least two of the multiple offenses were committed as 500
part of one or more courses of conduct, and the harm caused by two 501
or more of the multiple offenses so committed was so great or 502
unusual that no single prison term for any of the offenses 503
committed as part of any of the courses of conduct adequately 504
reflects the seriousness of the offender's conduct. 505

(c) The offender's history of criminal conduct demonstrates 506
that consecutive sentences are necessary to protect the public 507
from future crime by the offender. 508

(5) If a mandatory prison term is imposed upon an offender 509
pursuant to division (D)(5) or (6) of this section, the offender 510
shall serve the mandatory prison term consecutively to and prior 511
to any prison term imposed for the underlying violation of 512
division (A)(1) or (2) of section 2903.06 of the Revised Code 513
pursuant to division (A) of this section. If a mandatory prison 514
term is imposed upon an offender pursuant to division (D)(5) of 515
this section, and if a mandatory prison term also is imposed upon 516
the offender pursuant to division (D)(6) of this section in 517
relation to the same violation, the offender shall serve the 518
mandatory prison term imposed pursuant to division (D)(5) of this 519
section consecutively to and prior to the mandatory prison term 520
imposed pursuant to division (D)(6) of this section and 521
consecutively to and prior to any prison term imposed for the 522
underlying violation of division (A)(1) or (2) of section 2903.06 523
of the Revised Code pursuant to division (A) of this section. 524

(6) When consecutive prison terms are imposed pursuant to 525
division (E)(1), (2), (3), (4), or (5) of this section, the term 526
to be served is the aggregate of all of the terms so imposed. 527

(F)(1) If a court imposes a prison term for a felony of the 528
first degree, for a felony of the second degree, for a felony sex 529
offense, or for a felony of the third degree that is not a felony 530
sex offense and in the commission of which the offender caused or 531
threatened to cause physical harm to a person, it shall include in 532
the sentence a requirement that the offender be subject to a 533
period of post-release control after the offender's release from 534
imprisonment, in accordance with that division. If a court imposes 535
a sentence including a prison term of a type described in this 536
division on or after ~~the effective date of this amendment~~ July 11, 537
2006, the failure of a court to include a post-release control 538
requirement in the sentence pursuant to this division does not 539
negate, limit, or otherwise affect the mandatory period of 540
post-release control that is required for the offender under 541
division (B) of section 2967.28 of the Revised Code. Section 542
2929.191 of the Revised Code applies if, prior to ~~the effective~~ 543
~~date of this amendment~~ July 11, 2006, a court imposed a sentence 544
including a prison term of a type described in this division and 545
failed to include in the sentence pursuant to this division a 546
statement regarding post-release control. 547

(2) If a court imposes a prison term for a felony of the 548
third, fourth, or fifth degree that is not subject to division 549
(F)(1) of this section, it shall include in the sentence a 550
requirement that the offender be subject to a period of 551
post-release control after the offender's release from 552
imprisonment, in accordance with that division, if the parole 553
board determines that a period of post-release control is 554
necessary. Section 2929.191 of the Revised Code applies if, prior 555
to ~~the effective date of this amendment~~ July 11, 2006, a court 556

imposed a sentence including a prison term of a type described in 557
this division and failed to include in the sentence pursuant to 558
this division a statement regarding post-release control. 559

(G) If a person is convicted of or pleads guilty to a violent 560
sex offense or a designated homicide, assault, or kidnapping 561
offense and, in relation to that offense, the offender is 562
adjudicated a sexually violent predator, the court shall impose 563
sentence upon the offender in accordance with section 2971.03 of 564
the Revised Code, and Chapter 2971. of the Revised Code applies 565
regarding the prison term or term of life imprisonment without 566
parole imposed upon the offender and the service of that term of 567
imprisonment. 568

(H) If a person who has been convicted of or pleaded guilty 569
to a felony is sentenced to a prison term or term of imprisonment 570
under this section, sections 2929.02 to 2929.06 of the Revised 571
Code, section 2971.03 of the Revised Code, or any other provision 572
of law, section 5120.163 of the Revised Code applies regarding the 573
person while the person is confined in a state correctional 574
institution. 575

(I) If an offender who is convicted of or pleads guilty to a 576
felony that is an offense of violence also is convicted of or 577
pleads guilty to a specification of the type described in section 578
2941.142 of the Revised Code that charges the offender with having 579
committed the felony while participating in a criminal gang, the 580
court shall impose upon the offender an additional prison term of 581
one, two, or three years. 582

(J) If an offender who is convicted of or pleads guilty to 583
aggravated murder, murder, or a felony of the first, second, or 584
third degree that is an offense of violence also is convicted of 585
or pleads guilty to a specification of the type described in 586
section 2941.143 of the Revised Code that charges the offender 587
with having committed the offense in a school safety zone or 588

towards a person in a school safety zone, the court shall impose 589
upon the offender an additional prison term of two years. The 590
offender shall serve the additional two years consecutively to and 591
prior to the prison term imposed for the underlying offense. 592

(K) At the time of sentencing, the court may recommend the 593
offender for placement in a program of shock incarceration under 594
section 5120.031 of the Revised Code or for placement in an 595
intensive program prison under section 5120.032 of the Revised 596
Code, disapprove placement of the offender in a program of shock 597
incarceration or an intensive program prison of that nature, or 598
make no recommendation on placement of the offender. In no case 599
shall the department of rehabilitation and correction place the 600
offender in a program or prison of that nature unless the 601
department determines as specified in section 5120.031 or 5120.032 602
of the Revised Code, whichever is applicable, that the offender is 603
eligible for the placement. 604

If the court disapproves placement of the offender in a 605
program or prison of that nature, the department of rehabilitation 606
and correction shall not place the offender in any program of 607
shock incarceration or intensive program prison. 608

If the court recommends placement of the offender in a 609
program of shock incarceration or in an intensive program prison, 610
and if the offender is subsequently placed in the recommended 611
program or prison, the department shall notify the court of the 612
placement and shall include with the notice a brief description of 613
the placement. 614

If the court recommends placement of the offender in a 615
program of shock incarceration or in an intensive program prison 616
and the department does not subsequently place the offender in the 617
recommended program or prison, the department shall send a notice 618
to the court indicating why the offender was not placed in the 619
recommended program or prison. 620

If the court does not make a recommendation under this 621
division with respect to an offender and if the department 622
determines as specified in section 5120.031 or 5120.032 of the 623
Revised Code, whichever is applicable, that the offender is 624
eligible for placement in a program or prison of that nature, the 625
department shall screen the offender and determine if there is an 626
available program of shock incarceration or an intensive program 627
prison for which the offender is suited. If there is an available 628
program of shock incarceration or an intensive program prison for 629
which the offender is suited, the department shall notify the 630
court of the proposed placement of the offender as specified in 631
section 5120.031 or 5120.032 of the Revised Code and shall include 632
with the notice a brief description of the placement. The court 633
shall have ten days from receipt of the notice to disapprove the 634
placement. 635

Sec. 2941.1421. Imposition of an additional prison term of 636
one, two, three, four, or five years upon an offender under 637
division (D)(7) of section 2929.14 of the Revised Code is 638
precluded unless the offender is convicted of or pleads guilty to 639
a violation of section 2903.11 of the Revised Code and the 640
indictment, count in the indictment, or information charging the 641
offense specifies that the victim of the offense was under 642
eighteen years of age at the time of the commission of the 643
offense. The specification shall be stated at the end of the body 644
of the indictment, count, or information and shall be stated in 645
substantially the following form: 646

"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The 647
Grand Jurors (or insert the person's or the prosecuting attorney's 648
name when appropriate) further find and specify that (set forth 649
that the victim of the offense was under eighteen years of age at 650
the time of the commission of the offense)." 651

Section 2. That existing sections 2903.11 and 2929.14 of the Revised Code are hereby repealed.

Section 3. Section 2903.11 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 347 and Am. Sub. H.B. 461 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.