

As Introduced

**129th General Assembly
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H. B. No. 132

Representative DeGeeter

**Cosponsors: Representatives Antonio, Blair, Foley, Letson, Lundy, Murray,
Weddington, Yuko**

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A B I L L

To amend sections 2929.12 and 2929.22 of the Revised 1
Code to require a court imposing sentence for 2
certain drug possession offenses to take into 3
consideration that the offender was seeking 4
medical assistance for the offender or another 5
person for a drug-related overdose and that 6
evidence related to the offense was obtained as a 7
result of seeking that assistance. 8

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

Section 1. That sections 2929.12 and 2929.22 of the Revised 9
Code be amended to read as follows: 10

Sec. 2929.12. (A) Unless otherwise required by section 11
2929.13 or 2929.14 of the Revised Code, a court that imposes a 12
sentence under this chapter upon an offender for a felony has 13
discretion to determine the most effective way to comply with the 14
purposes and principles of sentencing set forth in section 2929.11 15
of the Revised Code. In exercising that discretion, the court 16
shall consider the factors set forth in divisions (B) and (C) of 17
this section relating to the seriousness of the conduct and the 18

factors provided in divisions (D) and (E) of this section relating 19
to the likelihood of the offender's recidivism and, in addition, 20
may consider any other factors that are relevant to achieving 21
those purposes and principles of sentencing. 22

(B) The sentencing court shall consider all of the following 23
that apply regarding the offender, the offense, or the victim, and 24
any other relevant factors, as indicating that the offender's 25
conduct is more serious than conduct normally constituting the 26
offense: 27

(1) The physical or mental injury suffered by the victim of 28
the offense due to the conduct of the offender was exacerbated 29
because of the physical or mental condition or age of the victim. 30

(2) The victim of the offense suffered serious physical, 31
psychological, or economic harm as a result of the offense. 32

(3) The offender held a public office or position of trust in 33
the community, and the offense related to that office or position. 34

(4) The offender's occupation, elected office, or profession 35
obliged the offender to prevent the offense or bring others 36
committing it to justice. 37

(5) The offender's professional reputation or occupation, 38
elected office, or profession was used to facilitate the offense 39
or is likely to influence the future conduct of others. 40

(6) The offender's relationship with the victim facilitated 41
the offense. 42

(7) The offender committed the offense for hire or as a part 43
of an organized criminal activity. 44

(8) In committing the offense, the offender was motivated by 45
prejudice based on race, ethnic background, gender, sexual 46
orientation, or religion. 47

(9) If the offense is a violation of section 2919.25 or a violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code involving a person who was a family or household member at the time of the violation, the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children.

(C) The sentencing court shall consider all of the following that apply regarding the offender, the offense, or the victim, and any other relevant factors, as indicating that the offender's conduct is less serious than conduct normally constituting the offense:

(1) The victim induced or facilitated the offense.

(2) In committing the offense, the offender acted under strong provocation.

(3) In committing the offense, the offender did not cause or expect to cause physical harm to any person or property.

(4) There are substantial grounds to mitigate the offender's conduct, although the grounds are not enough to constitute a defense.

(5) If the offense involves a felony violation of section 2925.11 of the Revised Code, the offender sought medical assistance for a drug-related overdose, and evidence related to the offense was obtained as a result of the offender seeking that medical assistance.

(6) If the offense involves a felony violation of section 2925.11 of the Revised Code, the offender sought medical assistance for someone other than the offender who was experiencing a drug-related overdose, and evidence related to the offense was obtained as a result of the offender seeking that

medical assistance. 79

(D) The sentencing court shall consider all of the following 80
that apply regarding the offender, and any other relevant factors, 81
as factors indicating that the offender is likely to commit future 82
crimes: 83

(1) At the time of committing the offense, the offender was 84
under release from confinement before trial or sentencing, under a 85
sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 86
of the Revised Code, or under post-release control pursuant to 87
section 2967.28 or any other provision of the Revised Code for an 88
earlier offense or had been unfavorably terminated from 89
post-release control for a prior offense pursuant to division (B) 90
of section 2967.16 or section 2929.141 of the Revised Code. 91

(2) The offender previously was adjudicated a delinquent 92
child pursuant to Chapter 2151. of the Revised Code prior to 93
January 1, 2002, or pursuant to Chapter 2152. of the Revised Code, 94
or the offender has a history of criminal convictions. 95

(3) The offender has not been rehabilitated to a satisfactory 96
degree after previously being adjudicated a delinquent child 97
pursuant to Chapter 2151. of the Revised Code prior to January 1, 98
2002, or pursuant to Chapter 2152. of the Revised Code, or the 99
offender has not responded favorably to sanctions previously 100
imposed for criminal convictions. 101

(4) The offender has demonstrated a pattern of drug or 102
alcohol abuse that is related to the offense, and the offender 103
refuses to acknowledge that the offender has demonstrated that 104
pattern, or the offender refuses treatment for the drug or alcohol 105
abuse. 106

(5) The offender shows no genuine remorse for the offense. 107

(E) The sentencing court shall consider all of the following 108
that apply regarding the offender, and any other relevant factors, 109

as factors indicating that the offender is not likely to commit 110
future crimes: 111

(1) Prior to committing the offense, the offender had not 112
been adjudicated a delinquent child. 113

(2) Prior to committing the offense, the offender had not 114
been convicted of or pleaded guilty to a criminal offense. 115

(3) Prior to committing the offense, the offender had led a 116
law-abiding life for a significant number of years. 117

(4) The offense was committed under circumstances not likely 118
to recur. 119

(5) The offender shows genuine remorse for the offense. 120

Sec. 2929.22. (A) Unless a mandatory jail term is required to 121
be imposed by division (G) of section 1547.99, division (B) of 122
section 4510.14, division (G) of section 4511.19 of the Revised 123
Code, or any other provision of the Revised Code a court that 124
imposes a sentence under this chapter upon an offender for a 125
misdemeanor or minor misdemeanor has discretion to determine the 126
most effective way to achieve the purposes and principles of 127
sentencing set forth in section 2929.21 of the Revised Code. 128

Unless a specific sanction is required to be imposed or is 129
precluded from being imposed by the section setting forth an 130
offense or the penalty for an offense or by any provision of 131
sections 2929.23 to 2929.28 of the Revised Code, a court that 132
imposes a sentence upon an offender for a misdemeanor may impose 133
on the offender any sanction or combination of sanctions under 134
sections 2929.24 to 2929.28 of the Revised Code. The court shall 135
not impose a sentence that imposes an unnecessary burden on local 136
government resources. 137

(B)(1) In determining the appropriate sentence for a 138
misdemeanor, the court shall consider all of the following 139

factors:	140
(a) The nature and circumstances of the offense or offenses;	141
(b) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;	142 143 144 145 146
(c) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences;	147 148 149 150 151 152 153
(d) Whether the victim's youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;	154 155 156
(e) Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (B)(1)(b) and (c) of this section.	157 158 159
(2) <u>In addition to the factors listed in division (B)(1) of this section and in determining the appropriate sentence for a misdemeanor violation of section 2925.11 of the Revised Code, a court may consider either of the following for purposes of indicating that an offender's conduct is less serious than conduct normally constituting the offense:</u>	160 161 162 163 164 165
(a) <u>The offender sought medical assistance for a drug-related overdose, and evidence related to the offense was obtained as a result of the offender seeking that medical assistance.</u>	166 167 168
(b) <u>The offender sought medical assistance for someone other</u>	169

than the offender who was experiencing a drug-related overdose, 170
and evidence related to the offense was obtained as a result of 171
the offender seeking that medical assistance. 172

(3) In determining the appropriate sentence for a 173
misdemeanor, in addition to complying with ~~division~~ divisions 174
(B)(1) and (2) of this section, the court may consider any other 175
factors that are relevant to achieving the purposes and principles 176
of sentencing set forth in section 2929.21 of the Revised Code. 177

(C) Before imposing a jail term as a sentence for a 178
misdemeanor, a court shall consider the appropriateness of 179
imposing a community control sanction or a combination of 180
community control sanctions under sections 2929.25, 2929.26, 181
2929.27, and 2929.28 of the Revised Code. A court may impose the 182
longest jail term authorized under section 2929.24 of the Revised 183
Code only upon offenders who commit the worst forms of the offense 184
or upon offenders whose conduct and response to prior sanctions 185
for prior offenses demonstrate that the imposition of the longest 186
jail term is necessary to deter the offender from committing a 187
future crime. 188

(D)(1) A sentencing court shall consider any relevant oral or 189
written statement made by the victim, the defendant, the defense 190
attorney, or the prosecuting authority regarding sentencing for a 191
misdemeanor. This division does not create any rights to notice 192
other than those rights authorized by Chapter 2930. of the Revised 193
Code. 194

(2) At the time of sentencing for a misdemeanor or as soon as 195
possible after sentencing, the court shall notify the victim of 196
the offense of the victim's right to file an application for an 197
award of reparations pursuant to sections 2743.51 to 2743.72 of 198
the Revised Code. 199

Section 2. That existing sections 2929.12 and 2929.22 of the 200

Revised Code are hereby repealed.

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