

As Reported by the Senate Judiciary Committee

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Sub. S. B. No. 330

Senator Schiavoni

Cosponsors: Senators Turner, Wagoner

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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 in determining the 2
sentence for a criminal offense to consider 3
emotional, mental, or physical conditions 4
traceable to an offender's military service that 5
contributed to the offender's commission of the 6
offense and to consider the offender's military 7
service record. 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 the factors 20
set forth in division (F) of this section pertaining to the 21
offender's service in the armed forces of the United States and, 22
in addition, may consider any other factors that are relevant to 23
achieving those purposes and principles of sentencing. 24

(B) The sentencing court shall consider all of the following 25
that apply regarding the offender, the offense, or the victim, and 26
any other relevant factors, as indicating that the offender's 27
conduct is more serious than conduct normally constituting the 28
offense: 29

(1) The physical or mental injury suffered by the victim of 30
the offense due to the conduct of the offender was exacerbated 31
because of the physical or mental condition or age of the victim. 32

(2) The victim of the offense suffered serious physical, 33
psychological, or economic harm as a result of the offense. 34

(3) The offender held a public office or position of trust in 35
the community, and the offense related to that office or position. 36

(4) The offender's occupation, elected office, or profession 37
obliged the offender to prevent the offense or bring others 38
committing it to justice. 39

(5) The offender's professional reputation or occupation, 40
elected office, or profession was used to facilitate the offense 41
or is likely to influence the future conduct of others. 42

(6) The offender's relationship with the victim facilitated 43
the offense. 44

(7) The offender committed the offense for hire or as a part 45
of an organized criminal activity. 46

(8) In committing the offense, the offender was motivated by 47
prejudice based on race, ethnic background, gender, sexual 48
orientation, or religion. 49

(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.

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

(1) At the time of committing the offense, the offender was under release from confinement before trial or sentencing, under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or under post-release control pursuant to section 2967.28 or any other provision of the Revised Code for an earlier offense or had been unfavorably terminated from

post-release control for a prior offense pursuant to division (B) 81
of section 2967.16 or section 2929.141 of the Revised Code. 82

(2) The offender previously was adjudicated a delinquent 83
child pursuant to Chapter 2151. of the Revised Code prior to 84
January 1, 2002, or pursuant to Chapter 2152. of the Revised Code, 85
or the offender has a history of criminal convictions. 86

(3) The offender has not been rehabilitated to a satisfactory 87
degree after previously being adjudicated a delinquent child 88
pursuant to Chapter 2151. of the Revised Code prior to January 1, 89
2002, or pursuant to Chapter 2152. of the Revised Code, or the 90
offender has not responded favorably to sanctions previously 91
imposed for criminal convictions. 92

(4) The offender has demonstrated a pattern of drug or 93
alcohol abuse that is related to the offense, and the offender 94
refuses to acknowledge that the offender has demonstrated that 95
pattern, or the offender refuses treatment for the drug or alcohol 96
abuse. 97

(5) The offender shows no genuine remorse for the offense. 98

(E) The sentencing court shall consider all of the following 99
that apply regarding the offender, and any other relevant factors, 100
as factors indicating that the offender is not likely to commit 101
future crimes: 102

(1) Prior to committing the offense, the offender had not 103
been adjudicated a delinquent child. 104

(2) Prior to committing the offense, the offender had not 105
been convicted of or pleaded guilty to a criminal offense. 106

(3) Prior to committing the offense, the offender had led a 107
law-abiding life for a significant number of years. 108

(4) The offense was committed under circumstances not likely 109
to recur. 110

(5) The offender shows genuine remorse for the offense. 111

(F) The sentencing court shall consider the offender's 112
military service record and whether the offender has an emotional, 113
mental, or physical condition that is traceable to the offender's 114
service in the armed forces of the United States and that was a 115
contributing factor in the offender's commission of the offense or 116
offenses. 117

Sec. 2929.22. (A) Unless a mandatory jail term is required to 118
be imposed by division (G) of section 1547.99, division (B) of 119
section 4510.14, division (G) of section 4511.19 of the Revised 120
Code, or any other provision of the Revised Code a court that 121
imposes a sentence under this chapter upon an offender for a 122
misdemeanor or minor misdemeanor has discretion to determine the 123
most effective way to achieve the purposes and principles of 124
sentencing set forth in section 2929.21 of the Revised Code. 125

Unless a specific sanction is required to be imposed or is 126
precluded from being imposed by the section setting forth an 127
offense or the penalty for an offense or by any provision of 128
sections 2929.23 to 2929.28 of the Revised Code, a court that 129
imposes a sentence upon an offender for a misdemeanor may impose 130
on the offender any sanction or combination of sanctions under 131
sections 2929.24 to 2929.28 of the Revised Code. The court shall 132
not impose a sentence that imposes an unnecessary burden on local 133
government resources. 134

(B)(1) In determining the appropriate sentence for a 135
misdemeanor, the court shall consider all of the following 136
factors: 137

(a) The nature and circumstances of the offense or offenses; 138

(b) Whether the circumstances regarding the offender and the 139
offense or offenses indicate that the offender has a history of 140

persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;

(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;

(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;

(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;

(f) Whether the offender has an emotional, mental, or physical condition that is traceable to the offender's service in the armed forces of the United States and that was a contributing factor in the offender's commission of the offense or offenses;

(g) The offender's military service record.

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

(C) Before imposing a jail term as a sentence for a misdemeanor, a court shall consider the appropriateness of imposing a community control sanction or a combination of community control sanctions under sections 2929.25, 2929.26, 2929.27, and 2929.28 of the Revised Code. A court may impose the

longest jail term authorized under section 2929.24 of the Revised Code only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future crime.

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

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

Section 2. That existing sections 2929.12 and 2929.22 of the Revised Code are hereby repealed.