



Ohio Legislative Service Commission

Bill Analysis

Aida S. Montano

H.B. 349

130th General Assembly
(As Introduced)

Rep. Hackett

BILL SUMMARY

- Requires the sentencing court to impose upon an offender an additional definite prison term of five, six, seven, eight, nine, or ten years if the offender is convicted of or pleads guilty to a felony offense of violence and also to a specification that the victim of the offense suffered permanent disabling harm as a result of the offense.
- Specifies that the additional prison term cannot be reduced by judicial release, early release, or other means.
- Requires the above specification to be stated in the indictment, count in the indictment, or information charging the offense.

CONTENT AND OPERATION

Mandatory prison terms; existing law

Existing law lists the offenses and circumstances in the commission of the offenses in which a sentencing court generally is required to impose on the offender a prison term that cannot be reduced through judicial release, petition for early release, earned days of credit, pardon, parole, probation, or by the Department of Rehabilitation and Correction.

Mandatory additional prison term for felony offense of violence with a specification that the victim suffered permanent disabling harm

The bill expands the list of those offenses by requiring the sentencing court to impose upon an offender an additional definite prison term of five, six, seven, eight, nine, or ten years if the offender is convicted of or pleads guilty to a felony "offense of violence" and also is convicted of or pleads guilty to a specification of the type

described below that charges that the victim of the offense suffered "permanent disabling harm" as a result of the offense and that was included in the indictment, count in the indictment, or information charging the offense (see "**Definitions**"). Such an additional prison term imposed upon an offender cannot be reduced pursuant to the laws on judicial release or earning days of credit or any other provision of the Pardon, Parole, and Probation Law or the Department of Rehabilitation and Correction Law.¹

If a mandatory prison term is imposed upon an offender as described above, the bill requires that the offender serve that mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of an offense of violence and consecutively to and prior to any other prison term or mandatory prison term previously or subsequently imposed upon the offender. When such consecutive prison terms are imposed, the term to be served is the aggregate of all of the terms so imposed.²

Specification that victim suffered permanent disabling harm

The bill provides that imposition of a mandatory prison term of five, six, seven, eight, nine, or ten years upon an offender as described above is precluded unless the offender is convicted of or pleads guilty to a felony offense of violence and unless the indictment, count in the indictment, or information charging the offense specifies that the victim of the offense suffered permanent disabling harm as a result of the offense. The specification must be stated at the end of the body of the indictment, count, or information and be stated in substantially the following form:³

"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The Grand Jurors (or insert the person's or the prosecuting attorney's name when appropriate) further find and specify that (set forth that the victim of the offense suffered permanent disabling harm as a result of the offense)."

Definitions

For purposes of its provisions, the bill defines "**permanent disabling harm**" as "serious physical harm" that results in permanent injury to the intellectual, physical, or

¹ R.C. 2929.13(F)(19) and 2929.14(B)(9).

² R.C. 2929.14(C)(6) and (7).

³ R.C. 2941.1424.



sensory functions and that permanently and substantially impairs a person's ability to meet the ordinary demands of life.⁴

Current law that applies to the bill defines the following terms:

"Serious physical harm to persons" means any of the following:⁵

- Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
- Any physical harm that carries a substantial risk of death;
- Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
- Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;
- Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.

"Offense of violence" means any of the following:⁶

(1) Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, permitting child abuse, aggravated menacing, menacing by stalking, menacing, kidnapping, abduction, extortion, trafficking in persons, rape, sexual battery, gross sexual imposition, aggravated arson, arson, terrorism, aggravated robbery, robbery, aggravated burglary, inciting to violence, aggravated riot, riot, inducing panic, domestic violence, intimidation, intimidation of an attorney, victim, or witness in a criminal case, escape, improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function, burglary under specified circumstances, endangering children under specified circumstances, or felonious sexual penetration in violation of former law.

⁴ R.C. 2929.01(EEE).

⁵ R.C. 2901.01(A)(5), not in the bill.

⁶ R.C. 2901.01(A)(9), not in the bill.



(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any offense listed in (1) above;

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under (1), (2), or (3), above.

Most of the offenses of violence listed in (1), above, are felonies. Some of the offenses listed are felonies if committed under specified circumstances.

Name of the bill

The bill provides that it is to be known as "Destiny's Law."⁷

HISTORY

ACTION	DATE
Introduced	11-13-13

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⁷ Section 3.

