

As Introduced

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H. B. No. 38

Representative Patmon

Cosponsors: Representatives Becker, Blessing, Boyd, Reece, Schaffer

A BILL

To amend sections 2152.17 and 2929.14 and to enact
sections 2941.1424 and 2941.1425 of the Revised
Code to create specifications that impose an
additional prison term upon an offender who
commits a felony offense against a disabled
person or an elderly person and increase the
period of commitment to the Department of Youth
Services for committing an act that would be a
felony offense against a disabled person or an
elderly person if committed by an adult, for
felony offenses that do not delineate enhanced
penalties when a disabled person or an elderly
person is the victim of the violation.

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

Section 1. That sections 2152.17 and 2929.14 be amended
and sections 2941.1424 and 2941.1425 of the Revised Code be
enacted to read as follows:

Sec. 2152.17. (A) Subject to division (D) of this section,
if a child is adjudicated a delinquent child for committing an
act, other than a violation of section 2923.12 of the Revised

Code, that would be a felony if committed by an adult and if the court determines that, if the child was an adult, the child would be guilty of a specification of the type set forth in section 2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, 2941.1414, ~~or~~ 2941.1415, 2941.1424, or 2941.1425 of the Revised Code, in addition to any commitment or other disposition the court imposes for the underlying delinquent act, all of the following apply:

(1) If the court determines that the child would be guilty of a specification of the type set forth in section 2941.141 of the Revised Code, the court may commit the child to the department of youth services for the specification for a definite period of up to one year.

(2) If the court determines that the child would be guilty of a specification of the type set forth in section 2941.145 of the Revised Code or if the delinquent act is a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and the court determines that the child would be guilty of a specification of the type set forth in section 2941.1415 of the Revised Code, the court shall commit the child to the department of youth services for the specification for a definite period of not less than one and not more than three years, and the court also shall commit the child to the department for the underlying delinquent act under sections 2152.11 to 2152.16 of the Revised Code.

(3) If the court determines that the child would be guilty of a specification of the type set forth in section 2941.144, 2941.146, or 2941.1412 of the Revised Code or if the delinquent act is a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and the court determines that the child

would be guilty of a specification of the type set forth in 50
section 2941.1414 of the Revised Code, the court shall commit 51
the child to the department of youth services for the 52
specification for a definite period of not less than one and not 53
more than five years, and the court also shall commit the child 54
to the department for the underlying delinquent act under 55
sections 2152.11 to 2152.16 of the Revised Code. 56

(4) If the court determines that the child would be guilty 57
of a specification of the type set forth in section 2941.1424 or 58
2941.1425 of the Revised Code and the act is not a violation 59
specified in division (B) (9) (b) or (10) (b) of section 2929.14 of 60
the Revised Code, the court shall commit the child to the 61
department of youth services for the specification for a 62
definite period of two years. 63

(B) (1) If a child is adjudicated a delinquent child for 64
committing an act, other than a violation of section 2923.12 of 65
the Revised Code, that would be a felony if committed by an 66
adult, if the court determines that the child is complicit in 67
another person's conduct that is of such a nature that the other 68
person would be guilty of a specification of the type set forth 69
in section 2941.141, 2941.144, 2941.145, or 2941.146 of the 70
Revised Code if the other person was an adult, if the other 71
person's conduct relates to the child's underlying delinquent 72
act, and if the child did not furnish, use, or dispose of any 73
firearm that was involved with the underlying delinquent act or 74
with the other person's specification-related conduct, in 75
addition to any other disposition the court imposes for the 76
underlying delinquent act, the court may commit the child to the 77
department of youth services for the specification for a 78
definite period of not more than one year, subject to division 79
(D) (2) of this section. 80

(2) Except as provided in division (B)(1) of this section, 81
division (A) of this section also applies to a child who is an 82
accomplice regarding a firearm specification of the type set 83
forth in section 2941.1412, 2941.1414, or 2941.1415 of the 84
Revised Code to the same extent the firearm specifications would 85
apply to an adult accomplice in a criminal proceeding. 86

(C) If a child is adjudicated a delinquent child for 87
committing an act that would be aggravated murder, murder, or a 88
first, second, or third degree felony offense of violence if 89
committed by an adult and if the court determines that, if the 90
child was an adult, the child would be guilty of a specification 91
of the type set forth in section 2941.142 of the Revised Code in 92
relation to the act for which the child was adjudicated a 93
delinquent child, the court shall commit the child for the 94
specification to the legal custody of the department of youth 95
services for institutionalization in a secure facility for a 96
definite period of not less than one and not more than three 97
years, subject to division (D)(2) of this section, and the court 98
also shall commit the child to the department for the underlying 99
delinquent act. 100

(D)(1) If the child is adjudicated a delinquent child for 101
committing an act that would be an offense of violence that is a 102
felony if committed by an adult and is committed to the legal 103
custody of the department of youth services pursuant to division 104
(A)(1) of section 2152.16 of the Revised Code and if the court 105
determines that the child, if the child was an adult, would be 106
guilty of a specification of the type set forth in section 107
2941.1411 of the Revised Code in relation to the act for which 108
the child was adjudicated a delinquent child, the court may 109
commit the child to the custody of the department of youth 110
services for institutionalization in a secure facility for up to 111

two years, subject to division (D)(2) of this section. 112

(2) A court that imposes a period of commitment under 113
division (A) of this section is not precluded from imposing an 114
additional period of commitment under division (C) or (D)(1) of 115
this section, a court that imposes a period of commitment under 116
division (C) of this section is not precluded from imposing an 117
additional period of commitment under division (A) or (D)(1) of 118
this section, and a court that imposes a period of commitment 119
under division (D)(1) of this section is not precluded from 120
imposing an additional period of commitment under division (A) 121
or (C) of this section. 122

(E) The court shall not commit a child to the legal 123
custody of the department of youth services for a specification 124
pursuant to this section for a period that exceeds five years 125
for any one delinquent act. Any commitment imposed pursuant to 126
division (A), (B), (C), or (D)(1) of this section shall be in 127
addition to, and shall be served consecutively with and prior 128
to, a period of commitment ordered under this chapter for the 129
underlying delinquent act, and each commitment imposed pursuant 130
to division (A), (B), (C), or (D)(1) of this section shall be in 131
addition to, and shall be served consecutively with, any other 132
period of commitment imposed under those divisions. If a 133
commitment is imposed under division (A) or (B) of this section 134
and a commitment also is imposed under division (C) of this 135
section, the period imposed under division (A) or (B) of this 136
section shall be served prior to the period imposed under 137
division (C) of this section. 138

In each case in which a court makes a disposition under 139
this section, the court retains control over the commitment for 140
the entire period of the commitment. 141

The total of all the periods of commitment imposed for any 142
specification under this section and for the underlying offense 143
shall not exceed the child's attainment of twenty-one years of 144
age. 145

(F) If a child is adjudicated a delinquent child for 146
committing two or more acts that would be felonies if committed 147
by an adult and if the court entering the delinquent child 148
adjudication orders the commitment of the child for two or more 149
of those acts to the legal custody of the department of youth 150
services for institutionalization in a secure facility pursuant 151
to section 2152.13 or 2152.16 of the Revised Code, the court may 152
order that all of the periods of commitment imposed under those 153
sections for those acts be served consecutively in the legal 154
custody of the department of youth services, provided that those 155
periods of commitment shall be in addition to and commence 156
immediately following the expiration of a period of commitment 157
that the court imposes pursuant to division (A), (B), (C), or 158
(D) (1) of this section. A court shall not commit a delinquent 159
child to the legal custody of the department of youth services 160
under this division for a period that exceeds the child's 161
attainment of twenty-one years of age. 162

Sec. 2929.14. (A) Except as provided in division (B) (1), 163
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (B) (9), 164
(B) (10), (E), (G), (H), or (J) of this section or in division 165
(D) (6) of section 2919.25 of the Revised Code and except in 166
relation to an offense for which a sentence of death or life 167
imprisonment is to be imposed, if the court imposing a sentence 168
upon an offender for a felony elects or is required to impose a 169
prison term on the offender pursuant to this chapter, the court 170
shall impose a definite prison term that shall be one of the 171
following: 172

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

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

(3) (a) For a felony of the third degree that is a violation of section 2903.06, 2903.08, 2907.03, 2907.04, or 2907.05 of the Revised Code or that is a violation of section 2911.02 or 2911.12 of the Revised Code if the offender previously has been convicted of or pleaded guilty in two or more separate proceedings to two or more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the prison term shall be twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty months.

(b) For a felony of the third degree that is not an offense for which division (A) (3) (a) of this section applies, the prison term shall be nine, twelve, eighteen, twenty-four, thirty, or thirty-six months.

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

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

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

(i) A prison term of six years if the specification is of 202
the type described in section 2941.144 of the Revised Code that 203
charges the offender with having a firearm that is an automatic 204
firearm or that was equipped with a firearm muffler or silencer 205
on or about the offender's person or under the offender's 206
control while committing the felony; 207

(ii) A prison term of three years if the specification is 208
of the type described in section 2941.145 of the Revised Code 209
that charges the offender with having a firearm on or about the 210
offender's person or under the offender's control while 211
committing the offense and displaying the firearm, brandishing 212
the firearm, indicating that the offender possessed the firearm, 213
or using it to facilitate the offense; 214

(iii) A prison term of one year if the specification is of 215
the type described in section 2941.141 of the Revised Code that 216
charges the offender with having a firearm on or about the 217
offender's person or under the offender's control while 218
committing the felony. 219

(b) If a court imposes a prison term on an offender under 220
division (B) (1) (a) of this section, the prison term shall not be 221
reduced pursuant to section 2967.19, section 2929.20, section 222
2967.193, or any other provision of Chapter 2967. or Chapter 223
5120. of the Revised Code. Except as provided in division (B) (1) 224
(g) of this section, a court shall not impose more than one 225
prison term on an offender under division (B) (1) (a) of this 226
section for felonies committed as part of the same act or 227
transaction. 228

(c) Except as provided in division (B) (1) (e) of this 229
section, if an offender who is convicted of or pleads guilty to 230
a violation of section 2923.161 of the Revised Code or to a 231

felony that includes, as an essential element, purposely or 232
knowingly causing or attempting to cause the death of or 233
physical harm to another, also is convicted of or pleads guilty 234
to a specification of the type described in section 2941.146 of 235
the Revised Code that charges the offender with committing the 236
offense by discharging a firearm from a motor vehicle other than 237
a manufactured home, the court, after imposing a prison term on 238
the offender for the violation of section 2923.161 of the 239
Revised Code or for the other felony offense under division (A), 240
(B) (2), or (B) (3) of this section, shall impose an additional 241
prison term of five years upon the offender that shall not be 242
reduced pursuant to section 2929.20, section 2967.19, section 243
2967.193, or any other provision of Chapter 2967. or Chapter 244
5120. of the Revised Code. A court shall not impose more than 245
one additional prison term on an offender under division (B) (1) 246
(c) of this section for felonies committed as part of the same 247
act or transaction. If a court imposes an additional prison term 248
on an offender under division (B) (1) (c) of this section relative 249
to an offense, the court also shall impose a prison term under 250
division (B) (1) (a) of this section relative to the same offense, 251
provided the criteria specified in that division for imposing an 252
additional prison term are satisfied relative to the offender 253
and the offense. 254

(d) If an offender who is convicted of or pleads guilty to 255
an offense of violence that is a felony also is convicted of or 256
pleads guilty to a specification of the type described in 257
section 2941.1411 of the Revised Code that charges the offender 258
with wearing or carrying body armor while committing the felony 259
offense of violence, the court shall impose on the offender a 260
prison term of two years. The prison term so imposed, subject to 261
divisions (C) to (I) of section 2967.19 of the Revised Code, 262

shall not be reduced pursuant to section 2929.20, section 2967.19, 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 (B) (1) (d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (B) (1) (a) or (c) of this section, the court is not precluded from imposing an additional prison term under division (B) (1) (d) of this section.

(e) The court shall not impose any of the prison terms described in division (B) (1) (a) of this section or any of the additional prison terms described in division (B) (1) (c) of this section upon an offender for a violation of section 2923.12 or 2923.123 of the Revised Code. The court shall not impose any of the prison terms described in division (B) (1) (a) or (b) of this section upon an offender for a violation of section 2923.122 that involves a deadly weapon that is a firearm other than a dangerous ordnance, section 2923.16, or section 2923.121 of the Revised Code. The court shall not impose any of the prison terms described in division (B) (1) (a) of this section or any of the additional prison terms described in division (B) (1) (c) of this section upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply:

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

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

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

felony that includes, as an essential element, causing or 293
attempting to cause the death of or physical harm to another and 294
also is convicted of or pleads guilty to a specification of the 295
type described in section 2941.1412 of the Revised Code that 296
charges the offender with committing the offense by discharging 297
a firearm at a peace officer as defined in section 2935.01 of 298
the Revised Code or a corrections officer, as defined in section 299
2941.1412 of the Revised Code, the court, after imposing a 300
prison term on the offender for the felony offense under 301
division (A), (B) (2), or (B) (3) of this section, shall impose an 302
additional prison term of seven years upon the offender that 303
shall not be reduced pursuant to section 2929.20, section 304
2967.19, section 2967.193, or any other provision of Chapter 305
2967. or Chapter 5120. of the Revised Code. If an offender is 306
convicted of or pleads guilty to two or more felonies that 307
include, as an essential element, causing or attempting to cause 308
the death or physical harm to another and also is convicted of 309
or pleads guilty to a specification of the type described under 310
division (B) (1) (f) of this section in connection with two or 311
more of the felonies of which the offender is convicted or to 312
which the offender pleads guilty, the sentencing court shall 313
impose on the offender the prison term specified under division 314
(B) (1) (f) of this section for each of two of the specifications 315
of which the offender is convicted or to which the offender 316
pleads guilty and, in its discretion, also may impose on the 317
offender the prison term specified under that division for any 318
or all of the remaining specifications. If a court imposes an 319
additional prison term on an offender under division (B) (1) (f) 320
of this section relative to an offense, the court shall not 321
impose a prison term under division (B) (1) (a) or (c) of this 322
section relative to the same offense. 323

(g) If an offender is convicted of or pleads guilty to two or more felonies, if one or more of those felonies are aggravated murder, murder, attempted aggravated murder, attempted murder, aggravated robbery, felonious assault, or rape, and if the offender is convicted of or pleads guilty to a specification of the type described under division (B) (1) (a) of this section in connection with two or more of the felonies, the sentencing court shall impose on the offender the prison term specified under division (B) (1) (a) of this section for each of the two most serious specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications.

(2) (a) If division (B) (2) (b) of this section does not apply, the court may impose on an offender, in addition to the longest prison term authorized or required for the offense, 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 offense 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 354
degree that is an offense of violence and the trier of fact 355
finds that the offense involved an attempt to cause or a threat 356
to cause serious physical harm to a person or resulted in 357
serious physical harm to a person. 358

(iii) The court imposes the longest prison term for the 359
offense that is not life imprisonment without parole. 360

(iv) The court finds that the prison terms imposed 361
pursuant to division (B)(2)(a)(iii) of this section and, if 362
applicable, division (B)(1) or (3) of this section are 363
inadequate to punish the offender and protect the public from 364
future crime, because the applicable factors under section 365
2929.12 of the Revised Code indicating a greater likelihood of 366
recidivism outweigh the applicable factors under that section 367
indicating a lesser likelihood of recidivism. 368

(v) The court finds that the prison terms imposed pursuant 369
to division (B)(2)(a)(iii) of this section and, if applicable, 370
division (B)(1) or (3) of this section are demeaning to the 371
seriousness of the offense, because one or more of the factors 372
under section 2929.12 of the Revised Code indicating that the 373
offender's conduct is more serious than conduct normally 374
constituting the offense are present, and they outweigh the 375
applicable factors under that section indicating that the 376
offender's conduct is less serious than conduct normally 377
constituting the offense. 378

(b) The court shall impose on an offender the longest 379
prison term authorized or required for the offense and shall 380
impose on the offender an additional definite prison term of 381
one, two, three, four, five, six, seven, eight, nine, or ten 382
years if all of the following criteria are met: 383

(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 (CC) (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 (B) (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.

(d) A sentence imposed under division (B) (2) (a) or (b) of this section shall not be reduced pursuant to section 2929.20,

section 2967.19, or section 2967.193, or any other provision of 414
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 415
shall serve an additional prison term imposed under this section 416
consecutively to and prior to the prison term imposed for the 417
underlying offense. 418

(e) When imposing a sentence pursuant to division (B) (2) 419
(a) or (b) of this section, the court shall state its findings 420
explaining the imposed sentence. 421

(3) Except when an offender commits a violation of section 422
2903.01 or 2907.02 of the Revised Code and the penalty imposed 423
for the violation is life imprisonment or commits a violation of 424
section 2903.02 of the Revised Code, if the offender commits a 425
violation of section 2925.03 or 2925.11 of the Revised Code and 426
that section classifies the offender as a major drug offender, 427
if the offender commits a felony violation of section 2925.02, 428
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 429
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 430
division (C) of section 4729.51, or division (J) of section 431
4729.54 of the Revised Code that includes the sale, offer to 432
sell, or possession of a schedule I or II controlled substance, 433
with the exception of marihuana, and the court imposing sentence 434
upon the offender finds that the offender is guilty of a 435
specification of the type described in section 2941.1410 of the 436
Revised Code charging that the offender is a major drug 437
offender, if the court imposing sentence upon an offender for a 438
felony finds that the offender is guilty of corrupt activity 439
with the most serious offense in the pattern of corrupt activity 440
being a felony of the first degree, or if the offender is guilty 441
of an attempted violation of section 2907.02 of the Revised Code 442
and, had the offender completed the violation of section 2907.02 443
of the Revised Code that was attempted, the offender would have 444

been subject to a sentence of life imprisonment or life 445
imprisonment without parole for the violation of section 2907.02 446
of the Revised Code, the court shall impose upon the offender 447
for the felony violation a mandatory prison term of the maximum 448
prison term prescribed for a felony of the first degree that, 449
subject to divisions (C) to (I) of section 2967.19 of the 450
Revised Code, cannot be reduced pursuant to section 2929.20, 451
section 2967.19, or any other provision of Chapter 2967. or 452
5120. of the Revised Code. 453

(4) If the offender is being sentenced for a third or 454
fourth degree felony OVI offense under division (G) (2) of 455
section 2929.13 of the Revised Code, the sentencing court shall 456
impose upon the offender a mandatory prison term in accordance 457
with that division. In addition to the mandatory prison term, if 458
the offender is being sentenced for a fourth degree felony OVI 459
offense, the court, notwithstanding division (A) (4) of this 460
section, may sentence the offender to a definite prison term of 461
not less than six months and not more than thirty months, and if 462
the offender is being sentenced for a third degree felony OVI 463
offense, the sentencing court may sentence the offender to an 464
additional prison term of any duration specified in division (A) 465
(3) of this section. In either case, the additional prison term 466
imposed shall be reduced by the sixty or one hundred twenty days 467
imposed upon the offender as the mandatory prison term. The 468
total of the additional prison term imposed under division (B) 469
(4) of this section plus the sixty or one hundred twenty days 470
imposed as the mandatory prison term shall equal a definite term 471
in the range of six months to thirty months for a fourth degree 472
felony OVI offense and shall equal one of the authorized prison 473
terms specified in division (A) (3) of this section for a third 474
degree felony OVI offense. If the court imposes an additional 475

prison term under division (B) (4) of this section, the offender 476
shall serve the additional prison term after the offender has 477
served the mandatory prison term required for the offense. In 478
addition to the mandatory prison term or mandatory and 479
additional prison term imposed as described in division (B) (4) 480
of this section, the court also may sentence the offender to a 481
community control sanction under section 2929.16 or 2929.17 of 482
the Revised Code, but the offender shall serve all of the prison 483
terms so imposed prior to serving the community control 484
sanction. 485

If the offender is being sentenced for a fourth degree 486
felony OVI offense under division (G) (1) of section 2929.13 of 487
the Revised Code and the court imposes a mandatory term of local 488
incarceration, the court may impose a prison term as described 489
in division (A) (1) of that section. 490

(5) If an offender is convicted of or pleads guilty to a 491
violation of division (A) (1) or (2) of section 2903.06 of the 492
Revised Code and also is convicted of or pleads guilty to a 493
specification of the type described in section 2941.1414 of the 494
Revised Code that charges that the victim of the offense is a 495
peace officer, as defined in section 2935.01 of the Revised 496
Code, or an investigator of the bureau of criminal 497
identification and investigation, as defined in section 2903.11 498
of the Revised Code, the court shall impose on the offender a 499
prison term of five years. If a court imposes a prison term on 500
an offender under division (B) (5) of this section, the prison 501
term, subject to divisions (C) to (I) of section 2967.19 of the 502
Revised Code, shall not be reduced pursuant to section 2929.20, 503
section 2967.19, section 2967.193, or any other provision of 504
Chapter 2967. or Chapter 5120. of the Revised Code. A court 505
shall not impose more than one prison term on an offender under 506

division (B) (5) of this section for felonies committed as part 507
of the same act. 508

(6) If an offender is convicted of or pleads guilty to a 509
violation of division (A) (1) or (2) of section 2903.06 of the 510
Revised Code and also is convicted of or pleads guilty to a 511
specification of the type described in section 2941.1415 of the 512
Revised Code that charges that the offender previously has been 513
convicted of or pleaded guilty to three or more violations of 514
division (A) or (B) of section 4511.19 of the Revised Code or an 515
equivalent offense, as defined in section 2941.1415 of the 516
Revised Code, or three or more violations of any combination of 517
those divisions and offenses, the court shall impose on the 518
offender a prison term of three years. If a court imposes a 519
prison term on an offender under division (B) (6) of this 520
section, the prison term, subject to divisions (C) to (I) of 521
section 2967.19 of the Revised Code, shall not be reduced 522
pursuant to section 2929.20, section 2967.19, section 2967.193, 523
or any other provision of Chapter 2967. or Chapter 5120. of the 524
Revised Code. A court shall not impose more than one prison term 525
on an offender under division (B) (6) of this section for 526
felonies committed as part of the same act. 527

(7) (a) If an offender is convicted of or pleads guilty to 528
a felony violation of section 2905.01, 2905.02, 2907.21, 529
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 530
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 531
the Revised Code and also is convicted of or pleads guilty to a 532
specification of the type described in section 2941.1422 of the 533
Revised Code that charges that the offender knowingly committed 534
the offense in furtherance of human trafficking, the court shall 535
impose on the offender a mandatory prison term that is one of 536
the following: 537

(i) If the offense is a felony of the first degree, a 538
definite prison term of not less than five years and not greater 539
than ten years; 540

(ii) If the offense is a felony of the second or third 541
degree, a definite prison term of not less than three years and 542
not greater than the maximum prison term allowed for the offense 543
by division (A) of section 2929.14 of the Revised Code; 544

(iii) If the offense is a felony of the fourth or fifth 545
degree, a definite prison term that is the maximum prison term 546
allowed for the offense by division (A) of section 2929.14 of 547
the Revised Code. 548

(b) Subject to divisions (C) to (I) of section 2967.19 of 549
the Revised Code, the prison term imposed under division (B) (7) 550
(a) of this section shall not be reduced pursuant to section 551
2929.20, section 2967.19, section 2967.193, or any other 552
provision of Chapter 2967. of the Revised Code. A court shall 553
not impose more than one prison term on an offender under 554
division (B) (7) (a) of this section for felonies committed as 555
part of the same act, scheme, or plan. 556

(8) If an offender is convicted of or pleads guilty to a 557
felony violation of section 2903.11, 2903.12, or 2903.13 of the 558
Revised Code and also is convicted of or pleads guilty to a 559
specification of the type described in section 2941.1423 of the 560
Revised Code that charges that the victim of the violation was a 561
woman whom the offender knew was pregnant at the time of the 562
violation, notwithstanding the range of prison terms prescribed 563
in division (A) of this section for felonies of the same degree 564
as the violation, the court shall impose on the offender a 565
mandatory prison term that is either a definite prison term of 566
six months or one of the prison terms prescribed in section 567

2929.14 of the Revised Code for felonies of the same degree as the violation.

(9) (a) Except as provided in division (B) (9) (b) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1424 of the Revised Code that charges the victim of the offense is a disabled person, the court shall impose upon the offender a mandatory prison term of two years. If a court imposes a prison term on an offender under division (B) (9) of this section, the prison term shall not be reduced pursuant to any 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 (B) (9) of this section for felonies committed as part of the same act.

(b) The court shall not impose the prison term described in division (B) (9) (a) of this section upon an offender if the offender is convicted of or pleads guilty to a violation of section 2913.02, 2913.03, 2913.21, 2913.43, or 2913.49, or division (A) (1) of section 1716.14, division (A) (3) (b) of section 2907.24, division (A) or (B) of section 2913.04, or division (A) of section 2913.31 of the Revised Code, or a violation of section 2903.13 of the Revised Code that is committed by a caretaker against a functionally impaired person under the caretaker's care.

(10) (a) Except as provided in division (B) (10) (b) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1425 of the Revised Code that charges the victim of the offense is an

elderly person, the court shall impose upon the offender a 598
mandatory prison term of two years. If a court imposes a prison 599
term on an offender under division (B) (10) of this section, the 600
prison term shall not be reduced pursuant to any provision of 601
Chapter 2967. or Chapter 5120. of the Revised Code. A court 602
shall not impose more than one prison term on an offender under 603
division (B) (10) of this section for felonies committed as part 604
of the same act. 605

(b) The court shall not impose the prison term described 606
in division (B) (10) (a) of this section upon an offender if the 607
offender is convicted of or pleads guilty to a violation of 608
section 2913.02, 2913.03, 2913.21, 2913.43, or 2913.49, or 609
division (A) (1) of section 1716.14, division (A) or (B) of 610
section 2913.04, or division (A) of section 2913.31 of the 611
Revised Code, or a violation of section 2903.13 of the Revised 612
Code that is committed by a caretaker against a functionally 613
impaired person under the caretaker's care. 614

(C) (1) (a) Subject to division (C) (1) (b) of this section, 615
if a mandatory prison term is imposed upon an offender pursuant 616
to division (B) (1) (a) of this section for having a firearm on or 617
about the offender's person or under the offender's control 618
while committing a felony, if a mandatory prison term is imposed 619
upon an offender pursuant to division (B) (1) (c) of this section 620
for committing a felony specified in that division by 621
discharging a firearm from a motor vehicle, or if both types of 622
mandatory prison terms are imposed, the offender shall serve any 623
mandatory prison term imposed under either division 624
consecutively to any other mandatory prison term imposed under 625
either division or under division (B) (1) (d) of this section, 626
consecutively to and prior to any prison term imposed for the 627
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 628

this section or any other section of the Revised Code, and 629
consecutively to any other prison term or mandatory prison term 630
previously or subsequently imposed upon the offender. 631

(b) If a mandatory prison term is imposed upon an offender 632
pursuant to division (B)(1)(d) of this section for wearing or 633
carrying body armor while committing an offense of violence that 634
is a felony, the offender shall serve the mandatory term so 635
imposed consecutively to any other mandatory prison term imposed 636
under that division or under division (B)(1)(a) or (c) of this 637
section, consecutively to and prior to any prison term imposed 638
for the underlying felony under division (A), (B)(2), or (B)(3) 639
of this section or any other section of the Revised Code, and 640
consecutively to any other prison term or mandatory prison term 641
previously or subsequently imposed upon the offender. 642

(c) If a mandatory prison term is imposed upon an offender 643
pursuant to division (B)(1)(f) of this section, the offender 644
shall serve the mandatory prison term so imposed consecutively 645
to and prior to any prison term imposed for the underlying 646
felony under division (A), (B)(2), or (B)(3) of this section or 647
any other section of the Revised Code, and consecutively to any 648
other prison term or mandatory prison term previously or 649
subsequently imposed upon the offender. 650

(d) If a mandatory prison term is imposed upon an offender 651
pursuant to division (B)(7) ~~or, (8), (9), or (10)~~ of this 652
section, the offender shall serve the mandatory prison term so 653
imposed consecutively to any other mandatory prison term imposed 654
under that division or under any other provision of law and 655
consecutively to any other prison term or mandatory prison term 656
previously or subsequently imposed upon the offender. 657

(2) If an offender who is an inmate in a jail, prison, or 658

other residential detention facility violates section 2917.02, 659
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 660
(2) of section 2921.34 of the Revised Code, if an offender who 661
is under detention at a detention facility commits a felony 662
violation of section 2923.131 of the Revised Code, or if an 663
offender who is an inmate in a jail, prison, or other 664
residential detention facility or is under detention at a 665
detention facility commits another felony while the offender is 666
an escapee in violation of division (A) (1) or (2) of section 667
2921.34 of the Revised Code, any prison term imposed upon the 668
offender for one of those violations shall be served by the 669
offender consecutively to the prison term or term of 670
imprisonment the offender was serving when the offender 671
committed that offense and to any other prison term previously 672
or subsequently imposed upon the offender. 673

(3) If a prison term is imposed for a violation of 674
division (B) of section 2911.01 of the Revised Code, a violation 675
of division (A) of section 2913.02 of the Revised Code in which 676
the stolen property is a firearm or dangerous ordnance, or a 677
felony violation of division (B) of section 2921.331 of the 678
Revised Code, the offender shall serve that prison term 679
consecutively to any other prison term or mandatory prison term 680
previously or subsequently imposed upon the offender. 681

(4) If multiple prison terms are imposed on an offender 682
for convictions of multiple offenses, the court may require the 683
offender to serve the prison terms consecutively if the court 684
finds that the consecutive service is necessary to protect the 685
public from future crime or to punish the offender and that 686
consecutive sentences are not disproportionate to the 687
seriousness of the offender's conduct and to the danger the 688
offender poses to the public, and if the court also finds any of 689

the following: 690

(a) The offender committed one or more of the multiple 691
offenses while the offender was awaiting trial or sentencing, 692
was under a sanction imposed pursuant to section 2929.16, 693
2929.17, or 2929.18 of the Revised Code, or was under post- 694
release control for a prior offense. 695

(b) At least two of the multiple offenses were committed 696
as part of one or more courses of conduct, and the harm caused 697
by two or more of the multiple offenses so committed was so 698
great or unusual that no single prison term for any of the 699
offenses committed as part of any of the courses of conduct 700
adequately reflects the seriousness of the offender's conduct. 701

(c) The offender's history of criminal conduct 702
demonstrates that consecutive sentences are necessary to protect 703
the public from future crime by the offender. 704

(5) If a mandatory prison term is imposed upon an offender 705
pursuant to division (B) (5) or (6) of this section, the offender 706
shall serve the mandatory prison term consecutively to and prior 707
to any prison term imposed for the underlying violation of 708
division (A) (1) or (2) of section 2903.06 of the Revised Code 709
pursuant to division (A) of this section or section 2929.142 of 710
the Revised Code. If a mandatory prison term is imposed upon an 711
offender pursuant to division (B) (5) of this section, and if a 712
mandatory prison term also is imposed upon the offender pursuant 713
to division (B) (6) of this section in relation to the same 714
violation, the offender shall serve the mandatory prison term 715
imposed pursuant to division (B) (5) of this section 716
consecutively to and prior to the mandatory prison term imposed 717
pursuant to division (B) (6) of this section and consecutively to 718
and prior to any prison term imposed for the underlying 719

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 (C) (1), (2), (3), (4), or (5) or division (H) (1) or (2) of this section, the term to be served is the aggregate of all of the terms so imposed.

(D) (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.

(2) If a court imposes a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (D) (1) of this section, 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, 750
in accordance with that division, if the parole board determines 751
that a period of post-release control is necessary. Section 752
2929.191 of the Revised Code applies if, prior to July 11, 2006, 753
a court imposed a sentence including a prison term of a type 754
described in this division and failed to include in the sentence 755
pursuant to this division a statement regarding post-release 756
control. 757

(E) The court shall impose sentence upon the offender in 758
accordance with section 2971.03 of the Revised Code, and Chapter 759
2971. of the Revised Code applies regarding the prison term or 760
term of life imprisonment without parole imposed upon the 761
offender and the service of that term of imprisonment if any of 762
the following apply: 763

(1) A person is convicted of or pleads guilty to a violent 764
sex offense or a designated homicide, assault, or kidnapping 765
offense, and, in relation to that offense, the offender is 766
adjudicated a sexually violent predator. 767

(2) A person is convicted of or pleads guilty to a 768
violation of division (A) (1) (b) of section 2907.02 of the 769
Revised Code committed on or after January 2, 2007, and either 770
the court does not impose a sentence of life without parole when 771
authorized pursuant to division (B) of section 2907.02 of the 772
Revised Code, or division (B) of section 2907.02 of the Revised 773
Code provides that the court shall not sentence the offender 774
pursuant to section 2971.03 of the Revised Code. 775

(3) A person is convicted of or pleads guilty to attempted 776
rape committed on or after January 2, 2007, and a specification 777
of the type described in section 2941.1418, 2941.1419, or 778
2941.1420 of the Revised Code. 779

(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after 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 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 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.

(F) 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.

(G) 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 2941.142 of the Revised Code that charges the offender

with having committed the felony while participating in a 810
criminal gang, the court shall impose upon the offender an 811
additional prison term of one, two, or three years. 812

(H) (1) If an offender who is convicted of or pleads guilty 813
to aggravated murder, murder, or a felony of the first, second, 814
or third degree that is an offense of violence also is convicted 815
of or pleads guilty to a specification of the type described in 816
section 2941.143 of the Revised Code that charges the offender 817
with having committed the offense in a school safety zone or 818
towards a person in a school safety zone, the court shall impose 819
upon the offender an additional prison term of two years. The 820
offender shall serve the additional two years consecutively to 821
and prior to the prison term imposed for the underlying offense. 822

(2) (a) If an offender is convicted of or pleads guilty to 823
a felony violation of section 2907.22, 2907.24, 2907.241, or 824
2907.25 of the Revised Code and to a specification of the type 825
described in section 2941.1421 of the Revised Code and if the 826
court imposes a prison term on the offender for the felony 827
violation, the court may impose upon the offender an additional 828
prison term as follows: 829

(i) Subject to division (H) (2) (a) (ii) of this section, an 830
additional prison term of one, two, three, four, five, or six 831
months; 832

(ii) If the offender previously has been convicted of or 833
pleaded guilty to one or more felony or misdemeanor violations 834
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 835
the Revised Code and also was convicted of or pleaded guilty to 836
a specification of the type described in section 2941.1421 of 837
the Revised Code regarding one or more of those violations, an 838
additional prison term of one, two, three, four, five, six, 839

seven, eight, nine, ten, eleven, or twelve months. 840

(b) In lieu of imposing an additional prison term under 841
division (H) (2) (a) of this section, the court may directly 842
impose on the offender a sanction that requires the offender to 843
wear a real-time processing, continual tracking electronic 844
monitoring device during the period of time specified by the 845
court. The period of time specified by the court shall equal the 846
duration of an additional prison term that the court could have 847
imposed upon the offender under division (H) (2) (a) of this 848
section. A sanction imposed under this division shall commence 849
on the date specified by the court, provided that the sanction 850
shall not commence until after the offender has served the 851
prison term imposed for the felony violation of section 2907.22, 852
2907.24, 2907.241, or 2907.25 of the Revised Code and any 853
residential sanction imposed for the violation under section 854
2929.16 of the Revised Code. A sanction imposed under this 855
division shall be considered to be a community control sanction 856
for purposes of section 2929.15 of the Revised Code, and all 857
provisions of the Revised Code that pertain to community control 858
sanctions shall apply to a sanction imposed under this division, 859
except to the extent that they would by their nature be clearly 860
inapplicable. The offender shall pay all costs associated with a 861
sanction imposed under this division, including the cost of the 862
use of the monitoring device. 863

(I) At the time of sentencing, the court may recommend the 864
offender for placement in a program of shock incarceration under 865
section 5120.031 of the Revised Code or for placement in an 866
intensive program prison under section 5120.032 of the Revised 867
Code, disapprove placement of the offender in a program of shock 868
incarceration or an intensive program prison of that nature, or 869
make no recommendation on placement of the offender. In no case 870

shall the department of rehabilitation and correction place the 871
offender in a program or prison of that nature unless the 872
department determines as specified in section 5120.031 or 873
5120.032 of the Revised Code, whichever is applicable, that the 874
offender is eligible for the placement. 875

If the court disapproves placement of the offender in a 876
program or prison of that nature, the department of 877
rehabilitation and correction shall not place the offender in 878
any program of shock incarceration or intensive program prison. 879

If the court recommends placement of the offender in a 880
program of shock incarceration or in an intensive program 881
prison, and if the offender is subsequently placed in the 882
recommended program or prison, the department shall notify the 883
court of the placement and shall include with the notice a brief 884
description of the placement. 885

If the court recommends placement of the offender in a 886
program of shock incarceration or in an intensive program prison 887
and the department does not subsequently place the offender in 888
the recommended program or prison, the department shall send a 889
notice to the court indicating why the offender was not placed 890
in the recommended program or prison. 891

If the court does not make a recommendation under this 892
division with respect to an offender and if the department 893
determines as specified in section 5120.031 or 5120.032 of the 894
Revised Code, whichever is applicable, that the offender is 895
eligible for placement in a program or prison of that nature, 896
the department shall screen the offender and determine if there 897
is an available program of shock incarceration or an intensive 898
program prison for which the offender is suited. If there is an 899
available program of shock incarceration or an intensive program 900

prison for which the offender is suited, the department shall 901
notify the court of the proposed placement of the offender as 902
specified in section 5120.031 or 5120.032 of the Revised Code 903
and shall include with the notice a brief description of the 904
placement. The court shall have ten days from receipt of the 905
notice to disapprove the placement. 906

(J) If a person is convicted of or pleads guilty to 907
aggravated vehicular homicide in violation of division (A) (1) of 908
section 2903.06 of the Revised Code and division (B) (2) (c) of 909
that section applies, the person shall be sentenced pursuant to 910
section 2929.142 of the Revised Code. 911

Sec. 2941.1424. (A) Imposition of a two-year mandatory 912
prison term upon an offender under division (B) (9) of section 913
2929.14 of the Revised Code is precluded unless the indictment, 914
count in the indictment, or information charging the offense 915
specifies that the victim of the offense is a disabled person. 916
The specification shall be stated at the end of the body of the 917
indictment, count, or information, and shall be in substantially 918
the following form: 919

"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The 920
Grand Jurors (or insert the person's or the prosecuting 921
attorney's name when appropriate) further find and specify that 922
(set forth that the victim of the offense is a disabled 923
person)." 924

(B) The specification described in division (A) of this 925
section may be used in a delinquent child proceeding in the 926
manner and for the purpose described in section 2152.17 of the 927
Revised Code. 928

(C) As used in this section: 929

(1) "Disabled person" means a person who has a physical or mental impairment which substantially limits one or more of the person's major life activities. 930
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(2) "Physical or mental impairment" means any of the following: 933
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(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine. 935
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(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. 941
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(3) "Substantially limits" means substantially interferes with or affects over an extended period of time. Minor temporary ailments or injuries shall not be considered physical or mental impairments that substantially limit a person's major life activities. Examples of minor temporary ailments are colds, influenza, sprains, or minor injuries. 944
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(4) "Major life activities" include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. 950
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Sec. 2941.1425. (A) Imposition of a two-year mandatory prison term upon an offender under division (B)(10) of section 2929.14 of the Revised Code is precluded unless the indictment, count in the indictment, or information charging the offense specifies that the victim of the offense is an elderly person. The specification shall be stated at the end of the body of the 953
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indictment, count, or information, and shall be in substantially 959
the following form: 960

"SPECIFICATION (or, SPECIFICATION TO THE FIRST COUNT). The 961
Grand Jurors (or insert the person's or the prosecuting 962
attorney's name when appropriate) further find and specify that 963
(set forth that the victim of the offense is an elderly 964
person)." 965

(B) The specification described in division (A) of this 966
section may be used in a delinquent child proceeding in the 967
manner and for the purpose described in section 2152.17 of the 968
Revised Code. 969

(C) As used in this section, "elderly person" means a 970
person who is sixty-five years of age or older. 971

Section 2. That existing sections 2152.17 and 2929.14 of 972
the Revised Code are hereby repealed. 973