



# OHIO LEGISLATIVE SERVICE COMMISSION

## Bill Analysis

Dennis M. Papp

### **S.B. 20**

132nd General Assembly  
(As Introduced)

**Sens.** Hackett, Gardner, Uecker, Yuko, Wilson

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## **BILL SUMMARY**

- Requires an additional prison term of 3, 4, 5, 6, 7, or 8 years for an offender who is convicted of a felony offense of violence and who also is convicted of a specification charging that the victim suffered permanent disabling harm.
- Specifies that its provisions are to be known as "Destiny's Law."

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## **CONTENT AND OPERATION**

### **Overview**

The bill requires an additional prison term of 3, 4, 5, 6, 7, or 8 years to be imposed on an offender who is convicted of a felony offense of violence and who also is convicted of a specification charging that the victim suffered "permanent disabling harm."

Under the Felony Sentencing Law, subject to specified exceptions and unless a specific sanction is required or precluded, a court sentencing an offender for a felony generally has discretion to determine the most effective way to comply with specified purposes and principles of sentencing and may impose any sanctions provided in that Law. For certain felonies, and for felonies committed in certain specified circumstances, a mandatory prison term is required. One of the specified circumstances is if the offender, in addition to the felony, also is convicted of a specification charging certain specified conduct. If a sentencing court is not required to impose a mandatory prison term, a sentence of death, or life imprisonment on an offender, it may impose a sentence

consisting of one or more community control sanctions, the cumulative duration of which may not exceed five years.<sup>1</sup>

## **Mandatory prison term – conviction of permanent disabling harm specification**

The bill provides that if an offender is convicted of or pleads guilty to a felony "offense of violence" (see below) and also is convicted of or pleads guilty to a specification that charges that the victim of the offense suffered "permanent disabling harm" (see below) as a result of the offense, the court must impose on the offender an additional definite prison term of 3, 4, 5, 6, 7, or 8 years. A mandatory prison term imposed on an offender under this provision may not be reduced pursuant to judicial release, for earned credits, or pursuant to any other provision of R.C. Chapter 2967. or 5120. The mandatory prison term must be served consecutively to and prior to any prison term imposed for the underlying offense of violence and consecutively to and prior to any other prison term or mandatory prison term previously or subsequently imposed on the offender. The term to be served under this consecutive service provision is the aggregate of all the terms imposed consecutively.<sup>2</sup>

The bill specifies that the mandatory prison term described above is precluded unless the offender is convicted of or pleads guilty to a felony offense of violence and unless the charging document specifies that the victim of the offense suffered permanent disabling harm as a result of the offense, and it provides a model form for the specification.<sup>3</sup>

## **Definitions**

As used in the bill:

**"Permanent disabling harm"** means "serious physical harm" (see below) that results in permanent injury to the intellectual, physical, or sensory functions and that permanently and substantially impairs a person's ability to meet one or more of the ordinary demands of life, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.<sup>4</sup>

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<sup>1</sup> R.C. 2929.11 to 2929.18, not in the bill except for R.C. 2929.13 and 2929.14.

<sup>2</sup> R.C. 2929.14(A), (B)(9), (C)(6), and (C)(7); also R.C. 2929.13(F)(20).

<sup>3</sup> R.C. 2941.1425.

<sup>4</sup> R.C. 2929.01(EEE).



**"Offense of violence"** means any of the following (all but a few of the offenses are felonies):<sup>5</sup>

(1) The offense of: 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; patient abuse committed in specified circumstances; burglary committed in specified circumstances; endangering children committed in specified circumstances; or the former offense of felonious sexual penetration;

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

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio 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 paragraph (1), (2), or (3).

**"Serious physical harm to persons"** means any of the following:<sup>6</sup> (1) any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment, (2) any physical harm that carries a substantial risk of death, (3) any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity, (4) any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement, or (5) 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

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<sup>5</sup> R.C. 2901.01(A)(9), not in the bill, applicable to the entire Revised Code.

<sup>6</sup> R.C. 2901.01(A)(5), not in the bill, applicable to the entire Revised Code.



pain. As used in this definition, "**physical harm to persons**" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.<sup>7</sup>

### **Naming of the act**

The bill specifies that its provisions are to be known as "Destiny's Law."<sup>8</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	01-31-17

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<sup>7</sup> R.C. 2901.01(A)(3), not in the bill, applicable to the entire Revised Code.

<sup>8</sup> Section 4.

