



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Final Analysis

Dennis M. Papp

### Sub. H.B. 63

132nd General Assembly  
(As Passed by the General Assembly)

**Reps.** Hughes, Duffey, Leland, Kent, Boggs, Manning, Rezabek, Celebrezze, Conditt, Cupp, Galonski, Rogers, Seitz, Anielski, Antonio, Arndt, Ashford, Barnes, Blessing, Boyd, Brenner, Butler, Carfagna, Clyde, Craig, Dean, Dever, Faber, Fedor, Gavarone, Ginter, Gonzales, Green, Greenspan, Hagan, Hambley, Henne, Hill, Holmes, T. Johnson, Keller, Kick, Koehler, Landis, Lanese, Lepore-Hagan, Lipps, Merrin, Miller, O'Brien, Patmon, Patterson, Patton, Pelanda, Ramos, Retherford, Riedel, Roegner, Romanchuk, Schaffer, Schuring, Slaby, K. Smith, Sprague, Stein, Strahorn, Sweeney, West, Young, Zeltwanger, Rosenberger

**Sens.** Bacon, O'Brien, Balderson, Beagle, Burke, Eklund, Hackett, Hite, Hoagland, Huffman, Jordan, Kunze, Lehner, Manning, Obhof, Oelslager, Peterson, Terhar, Thomas, Uecker, Wilson, Yuko

**Effective date:** October 17, 2017

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## ACT SUMMARY

- Requires an additional prison term of six years if an offender is convicted of felonious assault causing physical harm or serious physical harm and a specification charging that the offender used an accelerant and that the victim suffered a permanent, serious disfigurement or permanent, substantial incapacity.
  - Names its provisions "Judy's Law."
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## CONTENT AND OPERATION

### **Sentencing specification for felonious assault – permanent, serious disfigurement or permanent, substantial incapacity**

The act creates a new criminal sentencing specification that applies to a person convicted of felonious assault involving specified elements, when the offender used an "accelerant" in committing the offense and the "serious physical harm" or "physical harm" (see below, for definitions of the terms in quotation marks) suffered by the victim resulted in a permanent, serious disfigurement or permanent, substantial incapacity.

The specification applies when the underlying felonious assault involves either of the following elements:<sup>1</sup>

(1) Causing serious physical harm to another or to another's unborn;

(2) Causing physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance (it does not apply when the underlying felonious assault involves only an attempt to cause such physical harm).

### **Mandatory prison term – felonious assault plus specification**

Under the act, if an offender is convicted of felonious assault as described above and the specification created by the act, the court must impose a definite prison term, consisting of six years, in addition to the sentence imposed for the underlying offense. The mandatory prison term may not be reduced by judicial release, under the 80% release mechanism, by earned credits, or by any other form of early release. It must be served consecutively to and prior to any prison term imposed for the felonious assault and any other prison term or mandatory prison term previously or subsequently imposed; the total term to be served is the aggregate of all the terms imposed consecutively. The court may not impose more than one prison term in connection with the specification for felonies committed as part of the same act.<sup>2</sup>

### **Charging and form of specification**

The act specifies that the mandatory prison term described above applies only if the specification is included in the indictment, count in the indictment, or information charging the offender. The act provides a model form for the specification to be included in the charging document.<sup>3</sup>

### **Definitions**

The act defines an "accelerant" as a fuel or oxidizing agent, such as an ignitable liquid, used to initiate a fire or increase the rate of growth or spread of a fire.<sup>4</sup>

Under preexisting law, which applies to the act:<sup>5</sup>

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<sup>1</sup> R.C. 2903.11(A) and (D)(2) and 2941.1425.

<sup>2</sup> R.C. 2903.11(A) and (D)(2), 2929.13(F)(20), and 2929.14(A), (B)(9), (C)(6), and (C)(7).

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

<sup>4</sup> R.C. 2929.01(EEE) and 2941.1425(C).

<sup>5</sup> R.C. 2901.01, not in the act.



**"Physical harm to persons"** means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

**"Serious physical harm to persons"** means any: (1) mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment, (2) physical harm carrying a substantial risk of death, (3) physical harm involving some permanent incapacity, whether partial or total, or involving some temporary, substantial incapacity, (4) physical harm involving some permanent disfigurement or some temporary, serious disfigurement, or (5) physical harm involving acute pain of such duration as to result in substantial suffering or any degree of prolonged or intractable pain.

## **Judy's Law**

The act's provisions are to be known as "Judy's Law."<sup>6</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	02-14-17
Reported, H. Criminal Justice	05-24-17
Passed House (97-0)	05-24-17
Reported, S. Judiciary	06-27-17
Passed Senate (33-0)	06-28-17

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<sup>6</sup> R.C. 2903.11(D)(2), 2929.13(F)(20), 2929.14(B)(9) and (C)(6), and 2941.1425.

