

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 96**

**Representative Hughes**

**Cosponsors: Representatives Smith, R., Schaffer**

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**A BILL**

To amend sections 2907.06, 2929.24, and 2929.41 of  
the Revised Code to increase the penalty for  
sexual imposition when the offender previously  
has been convicted or pleaded guilty three or  
more times of any of several specified sex  
offenses and to repeal the corroboration  
requirement for a sexual imposition conviction.

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

**Section 1.** That sections 2907.06, 2929.24, and 2929.41 of  
the Revised Code be amended to read as follows:

**Sec. 2907.06.** (A) No person shall have sexual contact with  
another, not the spouse of the offender; cause another, not the  
spouse of the offender, to have sexual contact with the  
offender; or cause two or more other persons to have sexual  
contact when any of the following applies:

(1) The offender knows that the sexual contact is  
offensive to the other person, or one of the other persons, or  
is reckless in that regard.

(2) The offender knows that the other person's, or one of

the other person's, ability to appraise the nature of or control 19  
the offender's or touching person's conduct is substantially 20  
impaired. 21

(3) The offender knows that the other person, or one of 22  
the other persons, submits because of being unaware of the 23  
sexual contact. 24

(4) The other person, or one of the other persons, is 25  
thirteen years of age or older but less than sixteen years of 26  
age, whether or not the offender knows the age of such person, 27  
and the offender is at least eighteen years of age and four or 28  
more years older than such other person. 29

(5) The offender is a mental health professional, the 30  
other person or one of the other persons is a mental health 31  
client or patient of the offender, and the offender induces the 32  
other person who is the client or patient to submit by falsely 33  
representing to the other person who is the client or patient 34  
that the sexual contact is necessary for mental health treatment 35  
purposes. 36

~~(B) No person shall be convicted of a violation of this 37  
section solely upon the victim's testimony unsupported by other 38  
evidence. 39~~

~~(C) Whoever violates this section is guilty of sexual 40  
imposition, a misdemeanor of the third degree. If the offender 41  
previously has been convicted of or pleaded guilty to a 42  
violation of this section or of section 2907.02, 2907.03, 43  
2907.04, 2907.05, or 2907.12 of the Revised Code, a violation of 44  
this section is a misdemeanor of the first degree. If the 45  
offender previously has been convicted of or pleaded guilty to 46  
three or more violations of this section or section 2907.02, 47~~

2907.03, 2907.04, 2907.05, or 2907.12 of the Revised Code, or of 48  
any combination of those sections, a violation of this section 49  
is a misdemeanor and the court may impose on the offender a jail 50  
term of not more than one year. 51

**Sec. 2929.24.** (A) Except as provided in section 2929.22 or 52  
2929.23 of the Revised Code or division (E) or (F) of this 53  
section and unless another term is required or authorized 54  
pursuant to law, if the sentencing court imposing a sentence 55  
upon an offender for a misdemeanor elects or is required to 56  
impose a jail term on the offender pursuant to this chapter, the 57  
court shall impose a definite jail term that shall be one of the 58  
following: 59

(1) For a misdemeanor of the first degree, not more than 60  
one hundred eighty days; 61

(2) For a misdemeanor of the second degree, not more than 62  
ninety days; 63

(3) For a misdemeanor of the third degree, not more than 64  
sixty days; 65

(4) For a misdemeanor of the fourth degree, not more than 66  
thirty days. 67

(B) (1) A court that sentences an offender to a jail term 68  
under this section may permit the offender to serve the sentence 69  
in intermittent confinement or may authorize a limited release 70  
of the offender as provided in division (B) of section 2929.26 71  
of the Revised Code. The court retains jurisdiction over every 72  
offender sentenced to jail to modify the jail sentence imposed 73  
at any time, but the court shall not reduce any mandatory jail 74  
term. 75

(2) (a) If a prosecutor, as defined in section 2935.01 of 76

the Revised Code, has filed a notice with the court that the  
prosecutor wants to be notified about a particular case and if  
the court is considering modifying the jail sentence of the  
offender in that case, the court shall notify the prosecutor  
that the court is considering modifying the jail sentence of the  
offender in that case. The prosecutor may request a hearing  
regarding the court's consideration of modifying the jail  
sentence of the offender in that case, and, if the prosecutor  
requests a hearing, the court shall notify the eligible offender  
of the hearing.

(b) If the prosecutor requests a hearing regarding the  
court's consideration of modifying the jail sentence of the  
offender in that case, the court shall hold the hearing before  
considering whether or not to release the offender from the  
offender's jail sentence.

(C) If a court sentences an offender to a jail term under  
this section and the court assigns the offender to a county jail  
that has established a county jail industry program pursuant to  
section 5147.30 of the Revised Code, the court shall specify, as  
part of the sentence, whether the offender may be considered for  
participation in the program. During the offender's term in the  
county jail, the court retains jurisdiction to modify its  
specification regarding the offender's participation in the  
county jail industry program.

(D) If a person is sentenced to a jail term pursuant to  
this section, or pursuant to section 2907.06 of the Revised Code  
when the person previously has been convicted of or pleaded  
guilty to three or more violations of section 2907.02, 2907.03,  
2907.04, 2907.05, 2907.06, or 2907.12 of the Revised Code or of  
any combination of those sections, the court may impose as part

of the sentence pursuant to section 2929.28 of the Revised Code 107  
a reimbursement sanction, and, if the local detention facility 108  
in which the term is to be served is covered by a policy adopted 109  
pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 110  
753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code 111  
and section 2929.37 of the Revised Code, both of the following 112  
apply: 113

(1) The court shall specify both of the following as part 114  
of the sentence: 115

(a) If the person is presented with an itemized bill 116  
pursuant to section 2929.37 of the Revised Code for payment of 117  
the costs of confinement, the person is required to pay the bill 118  
in accordance with that section. 119

(b) If the person does not dispute the bill described in 120  
division (D)(1)(a) of this section and does not pay the bill by 121  
the times specified in section 2929.37 of the Revised Code, the 122  
clerk of the court may issue a certificate of judgment against 123  
the person as described in that section. 124

(2) The sentence automatically includes any certificate of 125  
judgment issued as described in division (D)(1)(b) of this 126  
section. 127

(E) If an offender who is convicted of or pleads guilty to 128  
a violation of division (B) of section 4511.19 of the Revised 129  
Code also is convicted of or also pleads guilty to a 130  
specification of the type described in section 2941.1416 of the 131  
Revised Code and if the court imposes a jail term on the 132  
offender for the underlying offense, the court shall impose upon 133  
the offender an additional definite jail term of not more than 134  
six months. The additional jail term shall not be reduced 135

pursuant to any provision of the Revised Code. The offender 136  
shall serve the additional jail term consecutively to and prior 137  
to the jail term imposed for the underlying offense and 138  
consecutively to any other mandatory term imposed in relation to 139  
the offense. 140

(F) (1) If an offender is convicted of or pleads guilty to 141  
a misdemeanor violation of section 2907.23, 2907.24, 2907.241, 142  
or 2907.25 of the Revised Code and to a specification of the 143  
type described in section 2941.1421 of the Revised Code and if 144  
the court imposes a jail term on the offender for the 145  
misdemeanor violation, the court may impose upon the offender an 146  
additional definite jail term as follows: 147

(a) Subject to division (F) (1) (b) of this section, an 148  
additional definite jail term of not more than sixty days; 149

(b) If the offender previously has been convicted of or 150  
pleaded guilty to one or more misdemeanor or felony violations 151  
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 152  
the Revised Code and also was convicted of or pleaded guilty to 153  
a specification of the type described in section 2941.1421 of 154  
the Revised Code regarding one or more of those violations, an 155  
additional definite jail term of not more than one hundred 156  
twenty days. 157

(2) In lieu of imposing an additional definite jail term 158  
under division (F) (1) of this section, the court may directly 159  
impose on the offender a sanction that requires the offender to 160  
wear a real-time processing, continual tracking electronic 161  
monitoring device during the period of time specified by the 162  
court. The period of time specified by the court shall equal the 163  
duration of an additional jail term that the court could have 164  
imposed upon the offender under division (F) (1) of this section. 165

A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of section 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.26 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.25 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(G) If an offender is convicted of or pleads guilty to a misdemeanor violation of section 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least thirty days.

(H) If a court sentences an offender to a jail term under this section, the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under section 2929.26 or 2929.27 of the Revised Code for any jail days that are not mandatory jail days.

**Sec. 2929.41.** (A) Except as provided in division (B) of 197  
this section, division (C) of section 2929.14, or division (D) 198  
or (E) of section 2971.03 of the Revised Code, a prison term, 199  
jail term, or sentence of imprisonment shall be served 200  
concurrently with any other prison term, jail term, or sentence 201  
of imprisonment imposed by a court of this state, another state, 202  
or the United States. Except as provided in division (B)(3) of 203  
this section, a jail term or sentence of imprisonment for 204  
misdemeanor shall be served concurrently with a prison term or 205  
sentence of imprisonment for felony served in a state or federal 206  
correctional institution. 207

(B) (1) ~~A~~ (a) Except as provided in division (B) (1) (b) of 208  
this section, a jail term or sentence of imprisonment for a 209  
misdemeanor shall be served consecutively to any other prison 210  
term, jail term, or sentence of imprisonment when the trial 211  
court specifies that it is to be served consecutively or when it 212  
is imposed for a misdemeanor violation of section 2907.322, 213  
2921.34, or 2923.131 of the Revised Code. 214

When consecutive sentences are imposed for misdemeanor 215  
under this division, the term to be served is the aggregate of 216  
the consecutive terms imposed, except that the aggregate term to 217  
be served shall not exceed eighteen months. 218

(b) A jail term imposed for a violation of section 2907.06 219  
of the Revised Code when the offender previously has been 220  
convicted of or pleaded guilty to three or more violations of 221  
section 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.12 222  
of the Revised Code or of any combination of those sections 223  
shall be served consecutively to any other prison term, jail 224  
term, or sentence of imprisonment. 225

When consecutive sentences are imposed for a violation of 226



section 2907.06 of the Revised Code under this division, the 227  
term to be served is the aggregate of the consecutive terms 228  
imposed. 229

(2) If a court of this state imposes a prison term upon 230  
the offender for the commission of a felony and a court of 231  
another state or the United States also has imposed a prison 232  
term upon the offender for the commission of a felony, the court 233  
of this state may order that the offender serve the prison term 234  
it imposes consecutively to any prison term imposed upon the 235  
offender by the court of another state or the United States. 236

(3) A jail term or sentence of imprisonment imposed for a 237  
misdemeanor violation of section 4510.11, 4510.14, 4510.16, 238  
4510.21, or 4511.19 of the Revised Code shall be served 239  
consecutively to a prison term that is imposed for a felony 240  
violation of section 2903.06, 2903.07, 2903.08, or 4511.19 of 241  
the Revised Code or a felony violation of section 2903.04 of the 242  
Revised Code involving the operation of a motor vehicle by the 243  
offender and that is served in a state correctional institution 244  
when the trial court specifies that it is to be served 245  
consecutively. 246

When consecutive jail terms or sentences of imprisonment 247  
and prison terms are imposed for one or more misdemeanors and 248  
one or more felonies under this division, the term to be served 249  
is the aggregate of the consecutive terms imposed, and the 250  
offender shall serve all terms imposed for a felony before 251  
serving any term imposed for a misdemeanor. 252

**Section 2.** That existing sections 2907.06, 2929.24, and 253  
2929.41 of the Revised Code are hereby repealed. 254