



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

Sarah A. Maki

Sub. S.B. 20

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

- Sens.** Hackett, Gardner, Uecker, Yuko, Wilson, Bacon, O'Brien, Balderson, Beagle, Burke, Hite, Hoagland, Hottinger, Huffman, Kunze, LaRose, Manning, Obhof, Oelslager, Peterson, Terhar
- Reps.** Manning, Anielski, Antani, Antonio, Arndt, Boccieri, Boggs, Boyd, Brenner, Brown Butler, Carfagna, Celebrezze, Cupp, Dean, Dever, Duffey, Edwards, Faber, Fedor, Gavarone, Ginter, Greenspan, Hambley, Hill, Holmes, Hoops, Householder, Hughes, T. Johnson, Kent, Kick, Koehler, Landis, Lanese, Leland, Lipps, Merrin, Miller, O'Brien, Patterson, Patton, Perales, Riedel, Rogers, Romanchuk, Schaffer, Scherer, Sheehy, Slaby, T. Smith, Stein, Strahorn, Wiggam, Wilkin, Young, Zeltwanger, R. Smith

Effective date: March 20, 2019

ACT SUMMARY

- Requires an additional prison term of six years for an offender who is convicted of felonious assault if the victim suffered permanent disabling harm and was younger than ten years old at the time of the offense.
 - Entitles the act "Destiny's Law."
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CONTENT AND OPERATION

Felonious assault – permanent disabling harm specification

The act requires an additional prison term of six years for a felonious assault offense, if the victim suffered permanent disabling harm and was younger than ten years old at the time of the offense. The act's specification applies regardless of whether the offender knew the victim's age. The act also provides a model form for the specification.¹

¹ R.C. 2903.11(D)(3) and 2941.1426.

For this purpose, "permanent disabling harm" is serious physical harm 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.²

Under continuing law, the offense of felonious assault prohibits a person from knowingly doing either of the following:

--Causing serious physical harm to another or to another's unborn;

--Causing or attempting to cause physical harm to another or to another's unborn by means of a dangerous weapon or dangerous ordnance.

Generally, it is a second degree felony but, if the victim is a peace officer or a state criminal investigator, it is a first degree felony.³

Mandatory prison term

If an offender is convicted of or pleads guilty to both felonious assault and the act's specification, the court must impose an additional definite prison term of six years. The mandatory prison term may not be reduced pursuant to judicial release, for earned credits, or pursuant to any provision of the Pardon, Parole, or Probation Law or the Department of Rehabilitation and Correction Law.⁴

Consecutive and concurrent prison terms

The mandatory prison term must be served consecutively to and prior to any prison term imposed for the underlying felonious assault. Unless continuing law requires another prison term to be served consecutively to all other prison terms, the court may decide whether any other prison term previously or subsequently imposed will be served concurrently with, or consecutively to, the prison term imposed under the act. The term to be served under this consecutive service provision is the aggregate of all the terms imposed consecutively.⁵

² R.C. 2929.01(FFF). See also R.C. 2901.01(A)(5), not in the act.

³ R.C. 2903.11(A) and (D).

⁴ R.C. 2903.11(D)(3), 2929.13(F)(21), 2929.14(B)(10), and 2941.1426(A).

⁵ R.C. 2929.14(C)(7).

No additional mandatory prison terms

If a court imposes the mandatory prison term based on the specification for causing permanent disabling harm, the court must not impose any other additional prison term relative to the same offense. The act similarly provides that the mandatory prison term of six years cannot be imposed if the offender is convicted of another specification relative to the same offense.⁶

HISTORY

ACTION	DATE
Introduced	01-31-17
Reported, S. Judiciary	03-22-17
Passed Senate (30-3)	04-05-17
Reported, H. Criminal Justice	04-11-18
Passed House (89-1)	11-28-18
Senate concurred in House amendments (31-0)	12-05-18

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⁶ R.C. 2929.14(B)(10) and 2941.1426(B).

