



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Jeff Hobday

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

132nd General Assembly  
(As Reported by H. Criminal Justice)

**Sens.** Hackett, Gardner, Uecker, Yuko, Wilson, Bacon, O'Brien, Balderson, Beagle, Burke, Hite, Hoagland, Hottinger, Huffman, Kunze, LaRose, Manning, Obhof, Oelslager, Peterson, Terhar

**Rep.** Manning

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## **BILL SUMMARY**

- Requires an additional prison term of six years for an offender who is convicted of felonious assault and a specification charging that the victim suffered permanent disabling harm and was less than ten years old at the time of the offense, regardless of whether the offender knew the victim's age.
- 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 six years to be imposed on an offender who is convicted of felonious assault and who also is convicted of a specification charging that the victim suffered permanent disabling harm and was less than ten years old at the time of the offense, regardless of whether the offender knew the victim's age.

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 the purposes and principles of sentencing and may impose any sanctions provided in that Law. For certain felonies, and for felonies committed in specified circumstances, a mandatory prison term is required. One of those circumstances is if the offender, in addition to the felony, also is convicted of a specification. 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, lasting no more than five years.<sup>1</sup>

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

The bill provides that if an offender is convicted of or pleads guilty to felonious assault and a specification that charges that the victim of the offense suffered permanent disabling harm as a result of the offense and was less than ten years old at the time of the offense, regardless of whether the offender knew the victim's age, the court must impose on the offender 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 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 felonious assault. Unless current 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 on the offender will be served concurrently with, or consecutively to, the prison term imposed under the bill. The term to be served under this consecutive service provision is the aggregate of all the terms imposed consecutively.<sup>2</sup>

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 bill 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.<sup>3</sup>

The bill specifies that the mandatory prison term described above only applies if the offender is convicted of or pleads guilty to felonious assault and the charging document specifies that the victim of the offense suffered permanent disabling harm and was less than ten years old at the time of the offense, regardless of whether the offender knew the victim's age. The bill also provides a model form for the specification.<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. 2903.11(D)(3), 2929.14(A), (B)(10), and (C)(7); also R.C. 2929.13(F)(21).

<sup>3</sup> R.C. 2929.14(B)(10) and 2941.1426(B).

<sup>4</sup> R.C.2941.1426.



## 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>5</sup>

**"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 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

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

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<sup>5</sup> R.C. 2929.01(FFF).

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

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

<sup>8</sup> Section 3.

