

As Introduced

136th General Assembly

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H. B. No. 352

Representative Brewer

**Cosponsors: Representatives Grim, Brennan, Brownlee, Piccolantonio,
Upchurch, Sweeney, Mohamed, Brent**

To amend sections 2919.25, 2923.13, and 2923.14 of
the Revised Code to expand the offense of
domestic violence to include a person with whom
the offender is in a dating relationship and to
expand the offense of weapons under disability
to include a person subject to a domestic
violence protection order and a person convicted
of misdemeanor domestic violence.

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

Section 1. That sections 2919.25, 2923.13, and 2923.14 of
the Revised Code be amended to read as follows:

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Sec. 2919.25. (A) No person shall knowingly cause or
attempt to cause physical harm to a family or household member_
or to a person with whom the offender is or was in a dating
relationship.

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(B) No person shall recklessly cause serious physical harm
to a family or household member or to a person with whom the
offender is or was in a dating relationship.

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(C) No person, by threat of force, shall knowingly cause a

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family or household member or a person with whom the offender is 19
or was in a dating relationship to believe that the offender 20
will cause imminent physical harm to the family or household 21
member or to the person with whom the offender is or was in a 22
dating relationship. 23

(D) (1) Whoever violates this section is guilty of domestic 24
violence, and the court shall sentence the offender as provided 25
in divisions (D) (2) to (6) of this section. 26

(2) Except as otherwise provided in divisions (D) (3) to 27
(5) of this section, a violation of division (C) of this section 28
is a misdemeanor of the fourth degree, and a violation of 29
division (A) or (B) of this section is a misdemeanor of the 30
first degree. 31

(3) Except as otherwise provided in division (D) (4) of 32
this section, if the offender previously has pleaded guilty to 33
or been convicted of domestic violence, a violation of an 34
existing or former municipal ordinance or law of this or any 35
other state or the United States that is substantially similar 36
to domestic violence, a violation of section 2903.14, 2909.06, 37
2909.07, 2911.12, 2911.211, or 2919.22 of the Revised Code if 38
the victim of the violation was a family or household member or 39
a person with whom the offender is or was in a dating 40
relationship at the time of the violation, a violation of an 41
existing or former municipal ordinance or law of this or any 42
other state or the United States that is substantially similar 43
to any of those sections if the victim of the violation was a 44
family or household member or a person with whom the offender is 45
or was in a dating relationship at the time of the commission of 46
the violation, or any offense of violence if the victim of the 47
offense was a family or household member or a person with whom 48

the offender is or was in a dating relationship at the time of 49
the commission of the offense, a violation of division (A) or 50
(B) of this section is a felony of the fourth degree, and, if 51
the offender knew that the victim of the violation was pregnant 52
at the time of the violation, the court shall impose a mandatory 53
prison term on the offender pursuant to division (D)(6) of this 54
section, and a violation of division (C) of this section is a 55
misdemeanor of the second degree. 56

(4) If the offender previously has pleaded guilty to or 57
been convicted of two or more offenses of domestic violence or 58
two or more violations or offenses of the type described in 59
division (D)(3) of this section involving a person who was a 60
family or household member or a person with whom the offender is 61
or was in a dating relationship at the time of the violations or 62
offenses, a violation of division (A) or (B) of this section is 63
a felony of the third degree, and, if the offender knew that the 64
victim of the violation was pregnant at the time of the 65
violation, the court shall impose a mandatory prison term on the 66
offender pursuant to division (D)(6) of this section, and a 67
violation of division (C) of this section is a misdemeanor of 68
the first degree. 69

(5) Except as otherwise provided in division (D)(3) or (4) 70
of this section, if the offender knew that the victim of the 71
violation was pregnant at the time of the violation, a violation 72
of division (A) or (B) of this section is a felony of the fifth 73
degree, and the court shall impose a mandatory prison term on 74
the offender pursuant to division (D)(6) of this section, and a 75
violation of division (C) of this section is a misdemeanor of 76
the third degree. 77

(6) If division (D)(3), (4), or (5) of this section 78

requires the court that sentences an offender for a violation of 79
division (A) or (B) of this section to impose a mandatory prison 80
term on the offender pursuant to this division, the court shall 81
impose the mandatory prison term as follows: 82

(a) If the violation of division (A) or (B) of this 83
section is a felony of the fourth or fifth degree, except as 84
otherwise provided in division (D)(6)(b) or (c) of this section, 85
the court shall impose a mandatory prison term on the offender 86
of at least six months. 87

(b) If the violation of division (A) or (B) of this 88
section is a felony of the fifth degree and the offender, in 89
committing the violation, caused serious physical harm to the 90
pregnant woman's unborn or caused the termination of the 91
pregnant woman's pregnancy, the court shall impose a mandatory 92
prison term on the offender of twelve months. 93

(c) If the violation of division (A) or (B) of this 94
section is a felony of the fourth degree and the offender, in 95
committing the violation, caused serious physical harm to the 96
pregnant woman's unborn or caused the termination of the 97
pregnant woman's pregnancy, the court shall impose a mandatory 98
prison term on the offender of at least twelve months. 99

(d) If the violation of division (A) or (B) of this 100
section is a felony of the third degree, except as otherwise 101
provided in division (D)(6)(e) of this section and 102
notwithstanding the range of definite prison terms prescribed in 103
division (A)(3) of section 2929.14 of the Revised Code for a 104
felony of the third degree, the court shall impose a mandatory 105
prison term on the offender of either a definite term of six 106
months or one of the prison terms prescribed in division (A)(3) 107
(b) of section 2929.14 of the Revised Code for felonies of the 108

third degree. 109

(e) If the violation of division (A) or (B) of this 110
section is a felony of the third degree and the offender, in 111
committing the violation, caused serious physical harm to the 112
pregnant woman's unborn or caused the termination of the 113
pregnant woman's pregnancy, notwithstanding the range of 114
definite prison terms prescribed in division (A) (3) of section 115
2929.14 of the Revised Code for a felony of the third degree, 116
the court shall impose a mandatory prison term on the offender 117
of either a definite term of one year or one of the prison terms 118
prescribed in division (A) (3) (b) of section 2929.14 of the 119
Revised Code for felonies of the third degree. 120

(E) Notwithstanding any provision of law to the contrary, 121
no court or unit of state or local government shall charge any 122
fee, cost, deposit, or money in connection with the filing of 123
charges against a person alleging that the person violated this 124
section or a municipal ordinance substantially similar to this 125
section or in connection with the prosecution of any charges so 126
filed. 127

(F) As used in this section and sections 2919.251 and 128
2919.26 of the Revised Code: 129

(1) "Dating relationship" has the same meaning as in 130
section 3113.31 of the Revised Code. 131

(2) "Family or household member" means any of the 132
following: 133

(a) Any of the following who is residing or has resided 134
with the offender: 135

(i) A spouse, a person living as a spouse, or a former 136
spouse of the offender; 137

(ii) A parent, a foster parent, or a child of the 138
offender, or another person related by consanguinity or affinity 139
to the offender; 140

(iii) A parent or a child of a spouse, person living as a 141
spouse, or former spouse of the offender, or another person 142
related by consanguinity or affinity to a spouse, person living 143
as a spouse, or former spouse of the offender. 144

(b) The natural parent of any child of whom the offender 145
is the other natural parent or is the putative other natural 146
parent. 147

~~(2)~~ (3) "Person with whom the offender is or was in a 148
dating relationship" means an individual who, at the time of the 149
offense, is in a dating relationship with the offender or who, 150
within the twelve months preceding the offense, has had a dating 151
relationship with the offender. 152

(4) "Person living as a spouse" means a person who is 153
living or has lived with the offender in a common law marital 154
relationship, who otherwise is cohabiting with the offender, or 155
who otherwise has cohabited with the offender within five years 156
prior to the date of the alleged commission of the act in 157
question. 158

~~(3)~~ (5) "Pregnant woman's unborn" has the same meaning as 159
"such other person's unborn," as set forth in section 2903.09 of 160
the Revised Code, as it relates to the pregnant woman. Division 161
(C) of that section applies regarding the use of the term in 162
this section, except that the second and third sentences of 163
division (C)(1) of that section shall be construed for purposes 164
of this section as if they included a reference to this section 165
in the listing of Revised Code sections they contain. 166

~~(4)~~(6) "Termination of the pregnant woman's pregnancy" has 167
the same meaning as "unlawful termination of another's 168
pregnancy," as set forth in section 2903.09 of the Revised Code, 169
as it relates to the pregnant woman. Division (C) of that 170
section applies regarding the use of the term in this section, 171
except that the second and third sentences of division (C)(1) of 172
that section shall be construed for purposes of this section as 173
if they included a reference to this section in the listing of 174
Revised Code sections they contain. 175

Sec. 2923.13. (A) Unless relieved from disability under 176
operation of law or legal process, no person shall knowingly 177
acquire, have, carry, or use any firearm or dangerous ordnance, 178
if any of the following apply: 179

(1) The person is a fugitive from justice. 180

(2) The person is under indictment for or has been 181
convicted of any felony offense of violence or has been 182
adjudicated a delinquent child for the commission of an offense 183
that, if committed by an adult, would have been a felony offense 184
of violence. 185

(3) The person is under indictment for or has been 186
convicted of any felony offense involving the illegal 187
possession, use, sale, administration, distribution, or 188
trafficking in any drug of abuse or has been adjudicated a 189
delinquent child for the commission of an offense that, if 190
committed by an adult, would have been a felony offense 191
involving the illegal possession, use, sale, administration, 192
distribution, or trafficking in any drug of abuse. 193

(4) The person has been convicted of misdemeanor domestic 194
violence under section 2919.25 of the Revised Code. 195

(5) The person is subject to a protection order issued or 196
consent agreement approved pursuant to section 3113.31 of the 197
Revised Code. 198

(6) The person has a drug dependency, is in danger of drug 199
dependence, or has chronic alcoholism. 200

~~+5)~~ (7) The person is under adjudication of mental 201
incompetence, has been committed to a mental institution, has 202
been found by a court to be a person with a mental illness 203
subject to court order, or is an involuntary patient other than 204
one who is a patient only for purposes of observation. As used 205
in this division, "person with a mental illness subject to court 206
order" and "patient" have the same meanings as in section 207
5122.01 of the Revised Code. 208

(B) Whoever violates this section is guilty of having 209
weapons while under disability, a felony of the third degree. 210

(C) For the purposes of this section, "under operation of 211
law or legal process" shall not itself include mere completion, 212
termination, or expiration of a sentence imposed as a result of 213
a criminal conviction. 214

Sec. 2923.14. (A) (1) Except as otherwise provided in 215
division (A) (2) of this section, any person who is prohibited 216
from acquiring, having, carrying, or using firearms may apply to 217
the court of common pleas in the county in which the person 218
resides for relief from such prohibition. 219

(2) Division (A) (1) of this section does not apply to a 220
person who has been convicted of or pleaded guilty to a 221
violation of section 2923.132 of the Revised Code or to a person 222
who, two or more times, has been convicted of or pleaded guilty 223
to a felony and a specification of the type described in section 224

2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, or 2941.1424 225
of the Revised Code. 226

(B) The application shall recite the following: 227

(1) All indictments, convictions, or adjudications upon 228
which the applicant's disability is based, the sentence imposed 229
and served, and any release granted under a community control 230
sanction, post-release control sanction, or parole, any partial 231
or conditional pardon granted, or other disposition of each 232
case, or, if the disability is based upon a factor other than an 233
indictment, a conviction, or an adjudication, the factor upon 234
which the disability is based and all details related to that 235
factor; 236

(2) Facts showing the applicant to be a fit subject for 237
relief under this section. 238

(C) A copy of the application shall be served on the 239
county prosecutor. The county prosecutor shall cause the matter 240
to be investigated and shall raise before the court any 241
objections to granting relief that the investigation reveals. 242

(D) Upon hearing, the court may grant the applicant relief 243
pursuant to this section, if all of the following apply: 244

(1) One of the following applies: 245

(a) If the disability is based upon an indictment, a 246
conviction, or an adjudication, the applicant has been fully 247
discharged from imprisonment, community control, post-release 248
control, and parole, or, if the applicant is under indictment, 249
has been released on bail or recognizance. 250

(b) If the disability is based upon a factor other than an 251
indictment, a conviction, or an adjudication, that factor no 252

longer is applicable to the applicant. 253

(2) The applicant has led a law-abiding life since 254
discharge or release, and appears likely to continue to do so. 255

(3) The applicant is not otherwise prohibited by law from 256
acquiring, having, or using firearms. 257

(E) Costs of the proceeding shall be charged as in other 258
civil cases, and taxed to the applicant. 259

(F) Relief from disability granted pursuant to this 260
section restores the applicant to all civil firearm rights to 261
the full extent enjoyed by any citizen, and is subject to the 262
following conditions: 263

(1) Applies only with respect to indictments, convictions, 264
or adjudications, or to the other factor, recited in the 265
application as the basis for the applicant's disability; 266

(2) Applies only with respect to firearms lawfully 267
acquired, possessed, carried, or used by the applicant; 268

(3) May be revoked by the court at any time for good cause 269
shown and upon notice to the applicant; 270

(4) Is automatically void upon commission by the applicant 271
of any offense set forth in division (A) (2), (3), or ~~(3)~~(4) of 272
section 2923.13 of the Revised Code, or upon the applicant's 273
becoming one of the class of persons named in division (A) (1), 274
~~(4)~~(5), (6), or ~~(5)~~(7) of that section. 275

(G) As used in this section: 276

(1) "Community control sanction" has the same meaning as 277
in section 2929.01 of the Revised Code. 278

(2) "Post-release control" and "post-release control 279

sanction" have the same meanings as in section 2967.01 of the 280
Revised Code. 281

Section 2. That existing sections 2919.25, 2923.13, and 282
2923.14 of the Revised Code are hereby repealed. 283