



H.B. 352

123rd General Assembly
(As Introduced)

Rep. Gerberry

BILL SUMMARY

- Provides that, in a juvenile court proceeding involving a child alleged to have violated the prohibition against aggravated murder or murder, the child does not have the right to have hearings or proceedings conducted in accordance with the Juvenile Law and the Juvenile Rules; requires the juvenile court to conduct all hearings and proceedings in the case in accordance with the Criminal Code and the Criminal Rules.
- Authorizes a juvenile court to impose a "dispositional sentence" upon a child adjudicated a delinquent child for committing an act that if committed by an adult would be aggravated murder or murder that consists of a term of life imprisonment and a fine comparable to the terms and fines that a criminal court may impose upon a person convicted of aggravated murder or murder.
- Requires a delinquent child serving a term of life imprisonment under a "dispositional sentence" to serve the term in the custody of the Department of Youth Services until the child attains 21 years of age and in the custody of the Department of Rehabilitation and Correction thereafter.

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CONTENT AND OPERATION

Overview

Under existing law, a child alleged to have violated section 2903.01 (aggravated murder) or 2903.02 (murder) may, and in specified circumstances must, be bound over for trial as an adult. If the child is tried as an adult for aggravated murder, and if the child is convicted of both the offense and an aggravating circumstances specification, the child may be sentenced to life without parole, 30 full years to life, or 25 full years to life.¹ If the child is tried as an adult for aggravated murder, and if the child is convicted of the offense but not an aggravating circumstances specification, the child may be sentenced to 20 years to life. If the child is tried and convicted as an adult for murder, the child may be sentenced to 15 years to life. (Secs. 2151.26 and 2929.02 to 2929.04 -- not in the bill.)

If the child is not bound over for trial as an adult, the child is the subject of proceedings in juvenile court in which the child is alleged to be a delinquent child for committing the act. The proceedings are less formal and some of the constitutional guarantees given to adults in criminal trials are not provided to juveniles in juvenile court. If the child is adjudicated a delinquent child for violating section 2903.01 (aggravated murder) or 2903.02 (murder), the court has a range of dispositional orders that it may impose, including committing the child to the custody of the Department of Youth Services (DYS) for institutionalization in a secure facility until the child's attainment of 21 years of age. The court does not have the authority to confine the child past the child's attainment of 21 years of age. (Secs. 2151.35 and 2151.355.)

The bill authorizes the juvenile court to impose "dispositional sentences" upon a child who is not bound over for trial as an adult and who is adjudicated a delinquent child for violating section 2903.01 or 2903.02 that are comparable to the sentences the child could have received had the child been bound over for trial as an adult. When a child is alleged to be a delinquent child for committing an act

¹ *A person who committed aggravated murder or murder when under 18 years of age may not be sentenced to death (sec. 2929.02(A)).*

that if committed by an adult would be aggravated murder or murder, the juvenile court must follow the procedures established in the Criminal Code and the Criminal Rules.

Proceedings in juvenile court

Existing law

Existing Juvenile Law specifies procedures that must be followed in cases involving alleged abused, neglected, dependent, unruly, and delinquent children and juvenile traffic offenders. Under existing law, the juvenile court may conduct its hearings in an informal manner and may adjourn its hearings from time to time. In the hearing of any case, the court may exclude the general public and admit only those persons who have a direct interest in the case. All cases involving children must be heard separately and apart from the trial of cases against adults. The court may excuse the attendance of the child at the hearing in cases involving abused, neglected, or dependent children. The court must hear and determine all cases of children without a jury. A record of all testimony and other oral proceedings in juvenile court must be made in specified proceedings and must be made upon request in any other proceedings. (Sec. 2151.35(A).)

Operation of the bill

Under the bill, the provisions in existing law regarding how a juvenile court conducts its hearings do not apply to a child alleged to be a delinquent child for violating section 2903.01 (aggravated murder) or 2903.02 (murder). If, pursuant to the Juvenile Bindover Law, the juvenile court does not transfer for criminal prosecution a case involving a child alleged to have violated those sections, the child does not have the right to have hearings or proceedings conducted in accordance with the Juvenile Law and the Juvenile Rules. In that type of case, the court must conduct all hearings and proceedings in the case in accordance with the Criminal Code and the Criminal Rules. The court must afford the child all rights afforded a person who is criminally prosecuted for committing aggravated murder or murder including, but not limited to, the right to trial by jury, preliminary hearing or indictment, and an open court. (Sec. 2151.35(A)(1) and (2) and (C).)

Disposition of a child for violating the prohibition against aggravated murder or murder

Existing law

The following dispositions may be imposed on a child who is adjudicated a delinquent child for violating the prohibition against aggravated murder or murder. Most of these dispositions also may be imposed upon any delinquent child. The

discussion omits dispositions that apply to a child who is adjudicated a delinquent child for violating a criminal prohibition other than the prohibition against aggravated murder or murder.

Optional dispositions. Under existing law, if a child is adjudicated a delinquent child for committing an act that if committed by an adult would be aggravated murder or murder, the court may make any of the following orders of disposition (sec. 2151.355(A)):

(1) If the child is adjudicated a delinquent child for violating the prohibition against aggravated murder or murder, commit the child to the legal custody of DYS for institutionalization in a secure facility until the child's attainment of 21 years of age;

(2)(a) If the child is adjudicated a delinquent child and is committed to the legal custody of DYS pursuant to paragraph (1), above, and if the court determines that the child, if the child was an adult, would be guilty of a firearms specification in relation to the act for which the child was adjudicated a delinquent child, commit the child to the legal custody of DYS for institutionalization in a secure facility for one or three years, depending on the specification involved;

(b) If the child is committed to the legal custody of DYS pursuant to paragraph (1), above, and if the court determines that the child, if the child was an adult, would be guilty of a gang specification in relation to the act for which the child was adjudicated a delinquent child, commit the child to the legal custody of DYS for institutionalization in a secure facility for a period of not less than one year or more than three years;

(c) The court is prohibited from committing a child to the legal custody of DYS pursuant to the preceding two paragraphs for a period of time that exceeds three years. The period of commitment imposed pursuant to those paragraphs is in addition to, and must be served consecutively with and prior to, a period of commitment ordered pursuant to paragraph (1), provided that the total of all the periods of commitment must not exceed the child's attainment of 21 years of age.

(3)(a) Impose a fine and costs in accordance with a statutorily specified schedule;

(b) Require the child to make restitution for all or part of the property damage caused by the child's delinquent act. If the court determines that the victim of the child's delinquent act was 65 years of age or older or permanently and totally disabled at the time of the commission of the act, the court, regardless of whether

or not the child knew the age of the victim, must consider that fact in favor of imposing restitution, but that fact does not control the decision of the court.

(4) Any order that is authorized for adjudicated abused, neglected, or delinquent children (see **COMMENT 1**);

(5) Place the child on probation under any conditions that the court prescribes;

(6) Commit the child to the temporary custody of specified schools, camps, institutions, or other facilities operated for the care of delinquent children;

(7) Subject to statutorily specified limitations, suspend or revoke the driver's license, probationary driver's license, or temporary instruction permit issued to the child or suspend or revoke the registration of all motor vehicles registered in the name of the child.

(8) Impose a period of day reporting in which the child is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center;

(9) Impose a period of community service of up to 500 hours;

(10) Impose a period in an alcohol or drug treatment program with a level of security for the child as determined necessary by the court;

(11) Impose a period of intensive supervision, in which the child is required to maintain frequent contact with a person appointed by the court to supervise the child while the child is seeking or maintaining employment and participating in training, education, and treatment programs as the order of disposition;

(12) Impose a period of basic supervision, in which the child is required to maintain contact with a person appointed to supervise the child in accordance with sanctions imposed by the court;

(13) Impose a period of drug and alcohol use monitoring;

(14) Impose a period in which the court orders the child to observe a curfew that may involve daytime or evening hours;

(15) Require the child to obtain a high school diploma, a certificate of high school equivalence, or employment;

(16) If the court obtains the assent of the victim of the criminal act committed by the child, require the child to participate in a reconciliation or mediation program that includes a meeting in which the child and the victim may discuss the criminal act, discuss restitution, and consider other sanctions for the criminal act;

(17) Commit the child to the temporary or permanent custody of the court;

(18) Make any further disposition that the court finds proper, except that the child must not be placed in any state correctional institution, county, multicounty, or municipal jail or workhouse, or other place in which an adult convicted of a crime, under arrest, or charged with a crime is held.

Other dispositions. If a child is adjudicated a delinquent child for committing two or more acts that would be felonies if committed by an adult and if the court entering the delinquent child adjudication orders the commitment of the child, for two or more of those acts, to the legal custody of DYS for institutionalization in a secure facility pursuant to paragraph (1) under "**Optional dispositions**," the court may order that all of the periods of commitment imposed for those acts be served consecutively in the legal custody of DYS and, if applicable, be in addition to and commence immediately following the expiration of a period of commitment that the court imposes pursuant to a firearms or gang specification. A court is prohibited from committing a delinquent child to the legal custody of DYS for a period that exceeds the child's attainment of 21 years of age. (Sec. 2151.355(B)(2).)

At the dispositional hearing and prior to making any disposition, the court must determine whether a victim of the delinquent act committed by the child was five years of age or younger at the time the delinquent act was committed, whether a victim of the delinquent act sustained physical harm to the victim's person during the commission of or otherwise as a result of the delinquent act, whether a victim of the delinquent act was 65 years of age or older or permanently and totally disabled at the time the delinquent act was committed, and whether the delinquent act would have been an offense of violence if committed by an adult. If the court determines that any of those circumstances apply, the court must consider those facts in favor of imposing commitment under the optional dispositions described in paragraphs (1) or (6) under "**Optional dispositions**," above, but those facts do not control the court's decision. (Sec. 2151.355(E)(1).)

If a child is adjudicated a delinquent child for committing an act that, if committed by an adult, would be aggravated murder or murder and if the court in its order of disposition for that act commits the child to the custody of DYS, the court may make a specific finding that the adjudication should be considered a

conviction for purposes of a determination in the future, pursuant to the Criminal Code, as to whether the child is a repeat violent offender. If the court makes such a finding, it must include the specific finding in its order of disposition and in the record in the case. (Sec. 2151.355(G)(2).)

If a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult and if the child caused, attempted to cause, threatened to cause, or created the risk of physical harm to the victim of the act, the court, prior to issuing an order of disposition, must order the preparation of a victim impact statement by the probation department of the county in which the victim of the act resides, by the court's own probation department, or by a victim assistance program that is operated by the state, a county, a municipal corporation, or another governmental entity. The court must consider the victim impact statement in determining the order of disposition to issue for the child. (Sec. 2151.355(H)(1).)

Within ten days after completion of the adjudication, the court must give written notice of an adjudication that a child is a delinquent child to the superintendent of a city, local, exempted village, or joint vocational school district if the basis of the adjudication was the commission of an act that would be a criminal offense if committed by an adult and that was committed by the delinquent child when the child was 16 years of age or older and if the act is any of specified acts, including a violation of the prohibitions against aggravated murder and murder that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district, if the victim at the time of the commission of the act was an employee of the board of education of that school district (sec. 2151.355(K)).

Operation of the bill

The bill provides several optional dispositions for a child who is adjudicated a delinquent child for committing an act that if committed by an adult would be aggravated murder or murder in addition to the disposition described in paragraph (1) under "**Optional dispositions**" in "**Existing law**" of committing the child to the legal custody of DYS for institutionalization in a secure facility until the child's attainment of 21 years of age. Under the bill, the court also may issue an order that does one of the following (sec. 2151.355(A)(6)(b) and (c)):

(1) If the child is adjudicated a delinquent child for violating section 2903.01 (aggravated murder), impose a "dispositional sentence" of life imprisonment without parole, life imprisonment without parole that must be served pursuant to the Sexually Violent Predator Laws, life imprisonment with parole eligibility after serving 30 full years of imprisonment, life imprisonment with

parole eligibility after serving 25 full years of imprisonment, or life imprisonment with parole eligibility after serving 20 years of imprisonment. In addition, the court may fine the child an amount not to exceed \$25,000 and subject the child to the financial sanctions described in section 2929.18 (see **COMMENT 2**).

(2) If the child is adjudicated a delinquent child for committing a violation of section 2903.02 (murder), impose a "dispositional sentence" of life imprisonment without parole under the Sexually Violent Predator Laws or an indefinite term of 15 years to life. In addition, the court may fine the child an amount not to exceed \$15,000 and subject the child to the financial sanctions described in section 2929.18.

In a dispositional sentence imposed pursuant to paragraph (1) or (2), above, the court must commit the child to the legal custody of DYS for institutionalization in a secure facility until the child's attainment of 21 years of age and, upon the child's attainment of 21 years of age, to the custody of the Department of Rehabilitation and Correction (DRC) to serve the remainder of the sentence, unless the child is paroled prior to attaining 21 years of age.

DYS may transfer the child to another appropriate institution or facility whenever it appears that the child by reason of mental illness, mental retardation, or other developmental disability ought to be in another state institution or whenever the child has an illness, physical condition, or other medical problem and it appears that the child would benefit from diagnosis or treatment at a correctional medical center established by DRC. Except as otherwise provided in the bill, the "dispositional sentence" is considered a sentence imposed under the Criminal Code. While serving the dispositional sentence in the custody of DYS, the child is subject to all sections of the Revised Code and rules applicable to persons in the custody of DYS. While serving the dispositional sentence in the custody of DRC, the child is subject to all sections of the Revised Code and rules applicable to persons in the custody of DRC.

DYS may release the child from institutionalization in a secure facility only if the child is granted parole in accordance with the Criminal Parole Laws. If the child is eligible for parole under the dispositional sentence, parole must be determined in accordance with the Criminal Parole Laws, and the child must serve the parole in accordance with those laws. (Sec. 2151.355(A)(6)(d).)

The bill also makes conforming changes to other provisions in section 2151.355 (sec. 2151.355(A)(7) and (8) and (B)(2)).

Subjecting the delinquent child to the Sexually Violent Predator Laws

As part of the dispositional sentence that a court may impose upon a child described under "*Disposition of a child for committing a violation of the prohibition against aggravated murder or murder,*" the court may impose upon the child a term of life imprisonment to be served under the Sexually Violent Predator Laws.

Existing law

Generally, notwithstanding the Felony Sentencing Laws and the Murder Sentencing Laws, the Sexually Violent Predator Laws require a court to impose a sentence upon a person who is convicted of or pleads guilty to a sexually violent offense (which includes aggravated murder and murder when committed with a sexual motivation, see **COMMENT 3**) and who also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense as follows (sec. 2971.03(A)):

(1) If the offense is aggravated murder and if the court does not impose upon the offender a sentence of death, it must impose upon the offender a term of life imprisonment without parole. If the court sentences the offender to death and the sentence of death is vacated, overturned, or otherwise set aside, the court must impose upon the offender a term of life imprisonment without parole.

(2) If the offense is murder or an offense other than aggravated murder or murder for which a term of life imprisonment may be imposed, it must impose upon the offender a term of life imprisonment without parole.

(3) Except as otherwise provided in paragraph (4), below, if the offense is an offense other than aggravated murder, murder, or an offense for which a term of life imprisonment may be imposed, it must impose an indefinite prison term consisting of a minimum term fixed by the court from among the range of terms available as a definite term for the offense, but not less than two years, and a maximum term of life imprisonment.

(4) For any offense, if the offender previously has been convicted of or pleaded guilty to a sexually violent offense and also to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, it must impose upon the offender a term of life imprisonment without parole.

If the offender is sentenced to a prison term pursuant to paragraph (3), above, the Parole Board generally has control over the offender's service of the term during the entire term. An offender sentenced to a term of life imprisonment without parole must serve the entire term of life imprisonment in a state correctional institution and may not be released from the term of life imprisonment or be permitted to serve a portion of it in a place other than a state correctional institution. An offender sentenced to a prison term generally must serve the entire prison term in a state correctional institution but may be released from imprisonment in specified circumstances. The offender is not eligible for judicial release. (Sec. 2971.03(B) and (C).)

Operation of the bill

The bill expands the Sexually Violent Predator Laws to apply to children who are adjudicated delinquent children for committing an act that if committed by an adult would be aggravated murder or murder when the child also is convicted of a sexually violent predator specification and a sexual motivation specification.

Thus, under the bill a court must impose a sentence of life imprisonment without parole upon a person who is adjudicated a delinquent child for committing an act that would be aggravated murder or murder if committed by an adult and who also is convicted of or pleads guilty to a sexual motivation specification and a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that act (sec. 2971.03(A)(1) and (2)).

Generally, the child is required to serve the entire term of life imprisonment in a state correctional institution and may not be released from the term or be permitted to serve a portion of it in a place other than a state correctional institution. This provision is made subject to the part of the dispositional sentence that requires the child to serve the term of life imprisonment in DYS custody until the child attains 21 years of age. (Secs. 2151.355(A)(6)(d) and 2971.03(C).)

The bill also amends the sexually violent predator specification and the sexual motivation specification to permit their use in delinquency proceedings when the child is alleged to be a delinquent child for committing a violation of section 2903.01 (aggravated murder) or 2903.02 (murder) (secs. 2941.147 and 2941.148).

Conforming changes

The bill conforms the following provisions in existing law to the changes it makes in the Delinquent Child Dispositions Law regarding the dispositional sentences proposed by the bill:

(1) A provision that provides that subject to specified exceptions, all dispositional orders made by the court are temporary and continue for a period that is designated by the court in its order, until terminated or modified by the court or until the child attains 21 years of age. Under the bill, the above provision is subject to a dispositional sentence of life imprisonment imposed on the child under the bill. (Secs. 2151.38(A) and 5139.05(A).)

(2) Provisions that regulate the judicial release of a child from institutional care or institutional care in a secure facility. Under the bill, these provisions would not apply to delinquent children who have been given a dispositional sentence; such a child may be paroled only under the Criminal Parole Laws. (Secs. 2151.38(A) and (B) and 5139.06(B).)

(3) Provisions that regulate the release and early release of a child from institutional care or institutional care in a secure facility. Under the bill, these provisions would not apply to delinquent children who have been given a dispositional sentence; such a child may be paroled only under the Criminal Parole Laws. The bill also amends these provisions to provide for the release to DRC custody of a child who is the subject of a dispositional sentence. (Secs. 2151.38(C), 5139.05(A) and (B), and 5139.06(B) and (C).)

(4) A provision that provides that if a child is committed to the legal custody of DYS, the court retains jurisdiction to perform specified functions with respect to the granting of supervised release and to perform specified functions with respect to violations of the terms and conditions of supervised release and to the revocation of supervised release. Under the bill, this provision would not apply to delinquent children who have been given a dispositional sentence; such a child may be paroled only under the Criminal Parole Laws. (Sec. 2151.38(G).)

(5) A provision that provides that the juvenile court may commit any child adjudicated a delinquent child to DYS permanently, provided that any child so committed is at least 12 years of age at the time of the child's commitment. Any order to commit a child to an institution under DYS control and management has the effect of ordering that the child be committed to DYS and assigned to an institution as follows: (a) for an indefinite term consisting of the prescribed minimum period of time and a maximum period not to exceed the child's attainment of 21 years of age, if the child was committed for committing an act that if committed by an adult would be a felony other than aggravated murder or murder, (b) until the child's attainment of 21 years of age, if the child was committed for committing an act that if committed by an adult would be aggravated murder or murder, (c) for a period of commitment that is in addition to, and must be served consecutively with and prior to, a period of commitment described in the two preceding paragraphs, if the child was committed pursuant to

a gun or gang specification, and (d) for any period of commitment imposed under a gun or gang specification and for consecutive periods of commitment as described in paragraphs (a) and (b), above, if the child was the subject of a consecutive periods of commitment order issued by the court.

This provision is amended to permit a child younger than 12 years of age to be committed to the custody of DYS if the child was made the subject of a dispositional sentence for committing an act that if committed by an adult would be aggravated murder or murder. This provision also is amended to reflect the requirement that a child receiving a dispositional sentence under the bill is required to be transferred to the custody of DRC when the child attains 21 years of age. (Sec. 5139.05(A).)

(6) Provisions that provide that a child in the legal custody of DYS who is transferred to a state reformatory may be paroled or released upon the recommendation of the reformatory and the approval of the Department of Youth Services after having reached 21 years of age. This bill exempts from the release provisions a child who has been subject to a dispositional sentence because a dispositional sentence extends beyond the child's 21st birthday and because such a child may only be paroled pursuant to the Criminal Parole Laws. (Sec. 5139.24.)

(7) A provision that authorizes DYS to discharge or release a child committed to DYS if the child is unable to benefit from the programs conducted by DYS. DYS releases or discharges the child from its jurisdiction and either returns the child to the committing court with the court's consent or direction or otherwise secures for the child an environment more beneficial to the child's future development. The bill subjects this provision to the dispositional sentence provisions of the bill, because, under the bill, a child who is the subject of a dispositional sentence may not be released from DYS custody prior to the child attaining the age of 21, at which time the child is transferred to DRC custody. (Sec. 5139.32(A).)

COMMENT

1. If a child is adjudicated an abused, neglected, or dependent child, the court may make any of the following orders of disposition (sec. 2151.353(A) -- not in the bill):

(a) Place the child in protective supervision;

(b) Commit the child to the temporary custody of a public children services agency, a private child placing agency, either parent, a relative residing within or

outside Ohio, or a probation officer for placement in a certified family foster home or in any other home approved by the court;

(c) Award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody of the child;

(d) Commit the child to the permanent custody of a public children services agency or private child placing agency, if the court determines that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and determines that the permanent commitment is in the best interest of the child.

(e) Place the child in a planned permanent living arrangement with a public children services agency or private child placing agency, if a public children services agency or private child placing agency requests the court to place the child in a planned permanent living arrangement and if the court finds, by clear and convincing evidence, that a planned permanent living arrangement is in the best interest of the child and that one of three specified circumstances exists.

(f) Order the removal from the child's home until further order of the court of the person who committed abuse against the child, who caused or allowed the child to suffer neglect, or who is the parent, guardian, or custodian of a child who is adjudicated a dependent child and order any person not to have contact with the child or the child's siblings.

2. Section 2929.18 authorizes the imposition of the following financial sanctions (sec. 2929.18(A) -- not in the bill):

(a) Restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss;

(b) Except for certain fines imposed for a violation of the Drug Laws, Controlled Substances and Pharmacy Laws, and state OMVI, a day fine payable by the offender to the state, to a political subdivision, or to one or more law enforcement agencies, with the amount of the fine based on a standard percentage of the offender's daily income over a period of time determined by the court and based upon the seriousness of the offense. A day fine must not exceed the statutory fine amount authorized for the level of the offense.

(c) Except for certain fines imposed for a violation of the Drug Laws, Controlled Substances and Pharmacy Laws, and state OMVI, a statutory fine payable by the offender to the state, to a political subdivision when appropriate for

a felony, or to one or more law enforcement agencies, in the following amount: (i) for a felony of the first degree, not more than \$20,000, (ii) for a felony of the second degree, not more than \$15,000, (iii) for a felony of the third degree, not more than \$10,000, (iv) for a felony of the fourth degree, not more than \$5,000, and (v) for a felony of the fifth degree, not more than \$2,500.

(d) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government.

3. "Sexually violent offense" means a "violent sex offense," or a "designated homicide, assault, or kidnapping offense" for which the offender also was convicted of or pleaded guilty to a sexual motivation specification under the Sexually Violent Predator Law (sec. 2971.01(G)--not in the bill).

"Violent sex offense" means any of the following (sec. 2971.01(L)--not in the bill):

(1) The offense of rape, sexual battery, gross sexual imposition when the victim or one of the victims of the offense is less than 13 years of age, or the former offense of felonious sexual penetration;

(2) A felony violation of a former Ohio law that is substantially equivalent to a violation listed in paragraph (1) or of an existing or former law of the United States or of another state that is substantially equivalent to a violation listed in paragraph (1);

(3) An attempt to commit or complicity in committing a violation listed in paragraph (1) or (2) if the attempt or complicity is a felony.

"Designated homicide, assault, or kidnapping offense" means any of the following (sec. 2971.01(B)--not in the bill):

(1) The offense of aggravated murder, murder, felonious assault, or kidnapping, or involuntary manslaughter committed as a proximate result of the offender's committing or attempting to commit a felony;

(2) An attempt to commit or complicity in committing a violation listed in paragraph (1), if the attempt or complicity is a felony.

HISTORY

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