



**H.B. 37**

125th General Assembly  
(As Introduced)

Reps. Willamowski, McGregor, Seitz, Schaffer, Seaver, Williams, Driehaus

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**BILL SUMMARY**

- Increases from a felony of the fourth degree to a felony of the third degree the penalty for theft of a firearm or dangerous ordnance and creates a presumption in favor of the court imposing a prison term for the offense.
- Requires the offender to serve a prison term imposed for theft of a firearm or dangerous ordnance consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

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**CONTENT AND OPERATION**

**Theft of a firearm or dangerous ordnance**

**Existing law**

Existing law prohibits a person, with purpose to deprive the owner of property or services, from knowingly obtaining or exerting control over either the property or services in any of the following ways (R.C. 2913.02(A)):

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

A person who violates this prohibition is guilty of theft. The precise name of the offense and the penalty for the offense depend on the type of the property or the value of the property or services involved in the offense. If the property stolen is a firearm or dangerous ordnance, the violation is grand theft, a felony of the fourth degree. (See "**Background--Other theft penalties,**" below, for the penalties for other theft offenses) (R.C. 2913.02(B)(1) and (4)).

### **Operation of the bill**

The bill increases the penalty for theft when the property stolen is a firearm or a dangerous ordnance to a felony of the third degree. The violation continues to be grand theft. The bill creates a presumption in favor of the court imposing a prison term for the offense. The offender must serve the prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender. Under the existing Felony Sentencing Law, when consecutive prison terms are imposed pursuant to that law, the term to be served is the aggregate of all of the terms so imposed. (R.C. 2913.02(B)(1) and (4) and 2929.14(E)(3) and (5).)

### **Background**

#### **Other theft penalties**

When a person violates the prohibition described above in "**Theft of a firearm or dangerous ordnance**" and the violation involves property other than a firearm or involves services, existing law provides that the person is penalized as follows (R.C. 2903.02(B)):

(1) Generally, the violation is *petty theft*, a misdemeanor of the first degree. If the value of the property or services stolen is \$500 or more and is less than \$5,000 or if the property stolen is any of certain statutorily specified property, the violation is *theft*, a felony of the fifth degree. If the value of the property or services stolen is \$5,000 or more and is less than \$100,000, the violation is *grand theft*, a felony of the fourth degree. If the value of the property or services stolen is \$100,000 or more, the violation is *aggravated theft*, a felony of the third degree.

(2) If the victim of the offense is an elderly person or disabled adult, the violation generally is *theft from an elderly person or disabled adult*. Generally, theft from an elderly person or disabled adult is a felony of the fifth degree. If the value of the property or services stolen is \$500 or more and is less than \$5,000, it is a felony of the fourth degree. If the value is \$5,000 or more and is less than \$25,000, it is a felony of the third degree. If the value is \$25,000 or more, it is a felony of the second degree.

(3) If the property stolen is a motor vehicle, the violation is *grand theft of a motor vehicle*, a felony of the fourth degree.

(4) If the property stolen is any dangerous drug, the violation is *theft of drugs*, a felony of the fourth degree, or, if the offender previously has been convicted of a felony drug abuse offense, a felony of the third degree.

**Other circumstances in which consecutive sentences are imposed under the Felony Sentencing Law**

Under existing law, consecutive sentencing is required or authorized in the following cases (R.C. 2929.14(E)):

(1) If a mandatory prison term is imposed upon an offender for having a firearm on or about the offender's person or under the offender's control while committing a felony or for committing a specified felony by discharging a firearm from a motor vehicle (required);

(2) If a mandatory prison term is imposed upon an offender for wearing or carrying body armor while committing an offense of violence that is a felony (required);

(3) If (a) an offender who is an inmate in a jail, prison, or other residential detention facility commits aggravated riot, riot, escape, or aiding escape or resistance to authority, (b) an offender who is under detention at a detention facility commits possession of a deadly weapon while under detention circumstances in which it is a felony, or (c) an offender who is an inmate in a jail, prison, or other residential detention facility or is under detention at a detention facility commits another felony while the offender is an escapee in violation of R.C. 2921.34 (escape) (required);

(4) If a prison term is imposed for an aggravated robbery in which the offender removed or attempted to remove a deadly weapon from a law enforcement officer or for a felony violation of failure to comply with an order or signal of a police officer in circumstances in which the person operated a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop (required);

(5) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds that the

offender committed the multiple offenses while awaiting trial or sentencing or under a community control sanction or post-release control, the harm caused by the multiple offenses was so great or unusual that no single prison term for any of the offenses adequately reflects the seriousness of the offender's conduct, or the offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender (authorized).

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## **HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	02-03-03	p. 85

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