



# ENACTMENT NEWS

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## Senate Bill 97

### “Violent career criminal” and firearm specifications/restrictions

Effective September 14, 2016

Governor Kasich signed SB 97 (Sens. Hughes and LaRose) into law on September 12, 2016. The bill creates a new category of offender, the “violent career criminal,” subject to certain firearm restrictions and increased penalties. The bill takes effect on September 14, 2016.

#### **“Violent career criminals” defined**

The bill defines a “violent career criminal” as a person who, within the prior eight years (excluding time spent incarcerated), has been convicted of two or more “violent felony offenses.”

The following constitute “violent felony offenses” under the bill:

- *Chapter 2903*: Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault
- *Chapter 2905*: Kidnapping, abduction
- *Chapter 2909*: Aggravated arson, making terroristic threat, felony terrorism
- *Chapter 2911*: Aggravated robbery, robbery, aggravated burglary, burglary [R.C. 2911.12 (A)(1) and (A)(2) only]
- *Chapter 2907*: Felony rape, felony sexual battery, felony unlawful sexual conduct with a minor, felony gross sexual imposition
- *Chapter 2919*: F3 domestic violence
- Conspiracy or attempt to commit any of the above offenses, if F1 or F2

Juvenile delinquency adjudications are not “convictions” for purposes of determining an offender’s status as a violent career criminals.

#### **Firearms restrictions for violent career criminals**

##### *Use of a firearm*

The bill prohibits a “violent career criminal” from knowingly using any firearm or dangerous ordnance. A person who violates this prohibition is guilty of the new offense of unlawful use of a weapon by a violent career criminal, a felony of the first degree, is subject to a mandatory prison term of two, three, four, five, six, seven, eight, nine, ten, or eleven years, selected at the judge’s discretion, and is ineligible for restoration of any future gun rights.

##### *Brandishing, displaying, indicating possession of a firearm while committing subsequent violent felony offense*

Additionally, an offender is subject to a mandatory prison term of two, three, four, five, six, seven, eight, nine, ten, or eleven years, selected at the judge’s discretion, if the offender is

a violent career criminal, commits a subsequent violent felony offense, and displays or brandishes a firearm, or indicates that he or she possesses a firearm, while committing the offense.

**Increased firearm specification**

SB 97 also increases by 50% the mandatory prison term for firearms specifications if an offender is convicted of the felony and the specification, and had a prior conviction of a firearm specification. Imposition of these increased terms is precluded if the court imposes a different mandatory term for another firearm specification related to the same underlying felony.

**PSI reports and shock probation**

SB 97 provides that a pre-sentence investigation report is not required before granting shock probation for an offense committed before July 1, 1996.

**Credit for time in custody – judicial release**

Current law states that an offender serving a prison term of five years may not seek judicial release until a certain number of years after the offender is “delivered to a state correctional institution.” SB 97 modifies this to allow any time served in custody to be included in that calculation.