

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 391

Representative Merrin

A BILL

To amend section 2929.01 of the Revised Code to 1
include the cost of accounting done to determine 2
the extent of economic loss as a type of 3
economic loss for which restitution may be 4
granted. 5

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

Section 1. That section 2929.01 of the Revised Code be 6
amended to read as follows: 7

Sec. 2929.01. As used in this chapter: 8

(A) (1) "Alternative residential facility" means, subject 9
to division (A) (2) of this section, any facility other than an 10
offender's home or residence in which an offender is assigned to 11
live and that satisfies all of the following criteria: 12

(a) It provides programs through which the offender may 13
seek or maintain employment or may receive education, training, 14
treatment, or habilitation. 15

(b) It has received the appropriate license or certificate 16
for any specialized education, training, treatment, 17
habilitation, or other service that it provides from the 18

government agency that is responsible for licensing or 19
certifying that type of education, training, treatment, 20
habilitation, or service. 21

(2) "Alternative residential facility" does not include a 22
community-based correctional facility, jail, halfway house, or 23
prison. 24

(B) "Basic probation supervision" means a requirement that 25
the offender maintain contact with a person appointed to 26
supervise the offender in accordance with sanctions imposed by 27
the court or imposed by the parole board pursuant to section 28
2967.28 of the Revised Code. "Basic probation supervision" 29
includes basic parole supervision and basic post-release control 30
supervision. 31

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have 32
the same meanings as in section 2925.01 of the Revised Code. 33

(D) "Community-based correctional facility" means a 34
community-based correctional facility and program or district 35
community-based correctional facility and program developed 36
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 37

(E) "Community control sanction" means a sanction that is 38
not a prison term and that is described in section 2929.15, 39
2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction 40
that is not a jail term and that is described in section 41
2929.26, 2929.27, or 2929.28 of the Revised Code. "Community 42
control sanction" includes probation if the sentence involved 43
was imposed for a felony that was committed prior to July 1, 44
1996, or if the sentence involved was imposed for a misdemeanor 45
that was committed prior to January 1, 2004. 46

(F) "Controlled substance," "marihuana," "schedule I," and 47

"schedule II" have the same meanings as in section 3719.01 of 48
the Revised Code. 49

(G) "Curfew" means a requirement that an offender during a 50
specified period of time be at a designated place. 51

(H) "Day reporting" means a sanction pursuant to which an 52
offender is required each day to report to and leave a center or 53
other approved reporting location at specified times in order to 54
participate in work, education or training, treatment, and other 55
approved programs at the center or outside the center. 56

(I) "Deadly weapon" has the same meaning as in section 57
2923.11 of the Revised Code. 58

(J) "Drug and alcohol use monitoring" means a program 59
under which an offender agrees to submit to random chemical 60
analysis of the offender's blood, breath, or urine to determine 61
whether the offender has ingested any alcohol or other drugs. 62

(K) "Drug treatment program" means any program under which 63
a person undergoes assessment and treatment designed to reduce 64
or completely eliminate the person's physical or emotional 65
reliance upon alcohol, another drug, or alcohol and another drug 66
and under which the person may be required to receive assessment 67
and treatment on an outpatient basis or may be required to 68
reside at a facility other than the person's home or residence 69
while undergoing assessment and treatment. 70

(L) "Economic loss" means any economic detriment suffered 71
by a victim as a direct and proximate result of the commission 72
of an offense and includes any loss of income due to lost time 73
at work because of any injury caused to the victim, ~~and~~ any 74
property loss, medical cost, or funeral expense incurred as a 75
result of the commission of the offense, and the cost of any 76

accounting done to determine the extent of loss. "Economic loss" 77
does not include non-economic loss or any punitive or exemplary 78
damages. 79

(M) "Education or training" includes study at, or in 80
conjunction with a program offered by, a university, college, or 81
technical college or vocational study and also includes the 82
completion of primary school, secondary school, and literacy 83
curricula or their equivalent. 84

(N) "Firearm" has the same meaning as in section 2923.11 85
of the Revised Code. 86

(O) "Halfway house" means a facility licensed by the 87
division of parole and community services of the department of 88
rehabilitation and correction pursuant to section 2967.14 of the 89
Revised Code as a suitable facility for the care and treatment 90
of adult offenders. 91

(P) "House arrest" means a period of confinement of an 92
offender that is in the offender's home or in other premises 93
specified by the sentencing court or by the parole board 94
pursuant to section 2967.28 of the Revised Code and during which 95
all of the following apply: 96

(1) The offender is required to remain in the offender's 97
home or other specified premises for the specified period of 98
confinement, except for periods of time during which the 99
offender is at the offender's place of employment or at other 100
premises as authorized by the sentencing court or by the parole 101
board. 102

(2) The offender is required to report periodically to a 103
person designated by the court or parole board. 104

(3) The offender is subject to any other restrictions and 105

requirements that may be imposed by the sentencing court or by 106
the parole board. 107

(Q) "Intensive probation supervision" means a requirement 108
that an offender maintain frequent contact with a person 109
appointed by the court, or by the parole board pursuant to 110
section 2967.28 of the Revised Code, to supervise the offender 111
while the offender is seeking or maintaining necessary 112
employment and participating in training, education, and 113
treatment programs as required in the court's or parole board's 114
order. "Intensive probation supervision" includes intensive 115
parole supervision and intensive post-release control 116
supervision. 117

(R) "Jail" means a jail, workhouse, minimum security jail, 118
or other residential facility used for the confinement of 119
alleged or convicted offenders that is operated by a political 120
subdivision or a combination of political subdivisions of this 121
state. 122

(S) "Jail term" means the term in a jail that a sentencing 123
court imposes or is authorized to impose pursuant to section 124
2929.24 or 2929.25 of the Revised Code or pursuant to any other 125
provision of the Revised Code that authorizes a term in a jail 126
for a misdemeanor conviction. 127

(T) "Mandatory jail term" means the term in a jail that a 128
sentencing court is required to impose pursuant to division (G) 129
of section 1547.99 of the Revised Code, division (E) of section 130
2903.06 or division (D) of section 2903.08 of the Revised Code, 131
division (E) or (G) of section 2929.24 of the Revised Code, 132
division (B) of section 4510.14 of the Revised Code, or division 133
(G) of section 4511.19 of the Revised Code or pursuant to any 134
other provision of the Revised Code that requires a term in a 135

jail for a misdemeanor conviction.	136
(U) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.	137 138
(V) "License violation report" means a report that is made by a sentencing court, or by the parole board pursuant to section 2967.28 of the Revised Code, to the regulatory or licensing board or agency that issued an offender a professional license or a license or permit to do business in this state and that specifies that the offender has been convicted of or pleaded guilty to an offense that may violate the conditions under which the offender's professional license or license or permit to do business in this state was granted or an offense for which the offender's professional license or license or permit to do business in this state may be revoked or suspended.	139 140 141 142 143 144 145 146 147 148 149
(W) "Major drug offender" means an offender who is convicted of or pleads guilty to the possession of, sale of, or offer to sell any drug, compound, mixture, preparation, or substance that consists of or contains at least one thousand grams of hashish; at least one hundred grams of cocaine; at least one thousand unit doses or one hundred grams of heroin; at least five thousand unit doses of L.S.D. or five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form; at least fifty grams of a controlled substance analog; or at least one hundred times the amount of any other schedule I or II controlled substance other than marihuana that is necessary to commit a felony of the third degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised Code that is based on the possession of, sale of, or offer to sell the controlled substance.	150 151 152 153 154 155 156 157 158 159 160 161 162 163 164
(X) "Mandatory prison term" means any of the following:	165

(1) Subject to division (X) (2) of this section, the term 166
in prison that must be imposed for the offenses or circumstances 167
set forth in divisions (F) (1) to (8) or (F) (12) to (18) of 168
section 2929.13 and division (B) of section 2929.14 of the 169
Revised Code. Except as provided in sections 2925.02, 2925.03, 170
2925.04, 2925.05, and 2925.11 of the Revised Code, unless the 171
maximum or another specific term is required under section 172
2929.14 or 2929.142 of the Revised Code, a mandatory prison term 173
described in this division may be any prison term authorized for 174
the level of offense. 175

(2) The term of sixty or one hundred twenty days in prison 176
that a sentencing court is required to impose for a third or 177
fourth degree felony OVI offense pursuant to division (G) (2) of 178
section 2929.13 and division (G) (1) (d) or (e) of section 4511.19 179
of the Revised Code or the term of one, two, three, four, or 180
five years in prison that a sentencing court is required to 181
impose pursuant to division (G) (2) of section 2929.13 of the 182
Revised Code. 183

(3) The term in prison imposed pursuant to division (A) of 184
section 2971.03 of the Revised Code for the offenses and in the 185
circumstances described in division (F) (11) of section 2929.13 186
of the Revised Code or pursuant to division (B) (1) (a), (b), or 187
(c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of 188
section 2971.03 of the Revised Code and that term as modified or 189
terminated pursuant to section 2971.05 of the Revised Code. 190

(Y) "Monitored time" means a period of time during which 191
an offender continues to be under the control of the sentencing 192
court or parole board, subject to no conditions other than 193
leading a law-abiding life. 194

(Z) "Offender" means a person who, in this state, is 195

convicted of or pleads guilty to a felony or a misdemeanor.	196
(AA) "Prison" means a residential facility used for the	197
confinement of convicted felony offenders that is under the	198
control of the department of rehabilitation and correction but	199
does not include a violation sanction center operated under	200
authority of section 2967.141 of the Revised Code.	201
(BB) "Prison term" includes either of the following	202
sanctions for an offender:	203
(1) A stated prison term;	204
(2) A term in a prison shortened by, or with the approval	205
of, the sentencing court pursuant to section 2929.143, 2929.20,	206
2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code.	207
(CC) "Repeat violent offender" means a person about whom	208
both of the following apply:	209
(1) The person is being sentenced for committing or for	210
complicity in committing any of the following:	211
(a) Aggravated murder, murder, any felony of the first or	212
second degree that is an offense of violence, or an attempt to	213
commit any of these offenses if the attempt is a felony of the	214
first or second degree;	215
(b) An offense under an existing or former law of this	216
state, another state, or the United States that is or was	217
substantially equivalent to an offense described in division	218
(CC) (1) (a) of this section.	219
(2) The person previously was convicted of or pleaded	220
guilty to an offense described in division (CC) (1) (a) or (b) of	221
this section.	222

(DD) "Sanction" means any penalty imposed upon an offender 223
who is convicted of or pleads guilty to an offense, as 224
punishment for the offense. "Sanction" includes any sanction 225
imposed pursuant to any provision of sections 2929.14 to 2929.18 226
or 2929.24 to 2929.28 of the Revised Code. 227

(EE) "Sentence" means the sanction or combination of 228
sanctions imposed by the sentencing court on an offender who is 229
convicted of or pleads guilty to an offense. 230

(FF) "Stated prison term" means the prison term, mandatory 231
prison term, or combination of all prison terms and mandatory 232
prison terms imposed by the sentencing court pursuant to section 233
2929.14, 2929.142, or 2971.03 of the Revised Code or under 234
section 2919.25 of the Revised Code. "Stated prison term" 235
includes any credit received by the offender for time spent in 236
jail awaiting trial, sentencing, or transfer to prison for the 237
offense and any time spent under house arrest or house arrest 238
with electronic monitoring imposed after earning credits 239
pursuant to section 2967.193 of the Revised Code. If an offender 240
is serving a prison term as a risk reduction sentence under 241
sections 2929.143 and 5120.036 of the Revised Code, "stated 242
prison term" includes any period of time by which the prison 243
term imposed upon the offender is shortened by the offender's 244
successful completion of all assessment and treatment or 245
programming pursuant to those sections. 246

(GG) "Victim-offender mediation" means a reconciliation or 247
mediation program that involves an offender and the victim of 248
the offense committed by the offender and that includes a 249
meeting in which the offender and the victim may discuss the 250
offense, discuss restitution, and consider other sanctions for 251
the offense. 252

(HH) "Fourth degree felony OVI offense" means a violation 253
of division (A) of section 4511.19 of the Revised Code that, 254
under division (G) of that section, is a felony of the fourth 255
degree. 256

(II) "Mandatory term of local incarceration" means the 257
term of sixty or one hundred twenty days in a jail, a community- 258
based correctional facility, a halfway house, or an alternative 259
residential facility that a sentencing court may impose upon a 260
person who is convicted of or pleads guilty to a fourth degree 261
felony OVI offense pursuant to division (G) (1) of section 262
2929.13 of the Revised Code and division (G) (1) (d) or (e) of 263
section 4511.19 of the Revised Code. 264

(JJ) "Designated homicide, assault, or kidnapping 265
offense," "violent sex offense," "sexual motivation 266
specification," "sexually violent offense," "sexually violent 267
predator," and "sexually violent predator specification" have 268
the same meanings as in section 2971.01 of the Revised Code. 269

(KK) "Sexually oriented offense," "child-victim oriented 270
offense," and "tier III sex offender/child-victim offender" have 271
the same meanings as in section 2950.01 of the Revised Code. 272

(LL) An offense is "committed in the vicinity of a child" 273
if the offender commits the offense within thirty feet of or 274
within the same residential unit as a child who is under 275
eighteen years of age, regardless of whether the offender knows 276
the age of the child or whether the offender knows the offense 277
is being committed within thirty feet of or within the same 278
residential unit as the child and regardless of whether the 279
child actually views the commission of the offense. 280

(MM) "Family or household member" has the same meaning as 281

in section 2919.25 of the Revised Code.	282
(NN) "Motor vehicle" and "manufactured home" have the same meanings as in section 4501.01 of the Revised Code.	283 284
(OO) "Detention" and "detention facility" have the same meanings as in section 2921.01 of the Revised Code.	285 286
(PP) "Third degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the third degree.	287 288 289 290
(QQ) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code.	291 292
(RR) "Felony sex offense" has the same meaning as in section 2967.28 of the Revised Code.	293 294
(SS) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code.	295 296
(TT) "Electronic monitoring" means monitoring through the use of an electronic monitoring device.	297 298
(UU) "Electronic monitoring device" means any of the following:	299 300
(1) Any device that can be operated by electrical or battery power and that conforms with all of the following:	301 302
(a) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in division (UU) (1) (b) of this section if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronic monitoring or without prior approval of the	303 304 305 306 307 308

department of rehabilitation and correction in relation to the 309
use of an electronic monitoring device for an inmate on 310
transitional control or otherwise is tampered with, that can 311
transmit continuously and periodically a signal to that receiver 312
when the person is within a specified distance from the 313
receiver, and that can transmit an appropriate signal to that 314
receiver if the person to whom it is attached travels a 315
specified distance from that receiver. 316

(b) The device has a receiver that can receive 317
continuously the signals transmitted by a transmitter of the 318
type described in division (UU) (1) (a) of this section, can 319
transmit continuously those signals by a wireless or landline 320
telephone connection to a central monitoring computer of the 321
type described in division (UU) (1) (c) of this section, and can 322
transmit continuously an appropriate signal to that central 323
monitoring computer if the device has been turned off or altered 324
without prior court approval or otherwise tampered with. The 325
device is designed specifically for use in electronic 326
monitoring, is not a converted wireless phone or another 327
tracking device that is clearly not designed for electronic 328
monitoring, and provides a means of text-based or voice 329
communication with the person. 330

(c) The device has a central monitoring computer that can 331
receive continuously the signals transmitted by a wireless or 332
landline telephone connection by a receiver of the type 333
described in division (UU) (1) (b) of this section and can monitor 334
continuously the person to whom an electronic monitoring device 335
of the type described in division (UU) (1) (a) of this section is 336
attached. 337

(2) Any device that is not a device of the type described 338

in division (UU) (1) of this section and that conforms with all 339
of the following: 340

(a) The device includes a transmitter and receiver that 341
can monitor and determine the location of a subject person at 342
any time, or at a designated point in time, through the use of a 343
central monitoring computer or through other electronic means. 344

(b) The device includes a transmitter and receiver that 345
can determine at any time, or at a designated point in time, 346
through the use of a central monitoring computer or other 347
electronic means the fact that the transmitter is turned off or 348
altered in any manner without prior approval of the court in 349
relation to the electronic monitoring or without prior approval 350
of the department of rehabilitation and correction in relation 351
to the use of an electronic monitoring device for an inmate on 352
transitional control or otherwise is tampered with. 353

(3) Any type of technology that can adequately track or 354
determine the location of a subject person at any time and that 355
is approved by the director of rehabilitation and correction, 356
including, but not limited to, any satellite technology, voice 357
tracking system, or retinal scanning system that is so approved. 358

(VV) "Non-economic loss" means nonpecuniary harm suffered 359
by a victim of an offense as a result of or related to the 360
commission of the offense, including, but not limited to, pain 361
and suffering; loss of society, consortium, companionship, care, 362
assistance, attention, protection, advice, guidance, counsel, 363
instruction, training, or education; mental anguish; and any 364
other intangible loss. 365

(WW) "Prosecutor" has the same meaning as in section 366
2935.01 of the Revised Code. 367

(XX) "Continuous alcohol monitoring" means the ability to 368
automatically test and periodically transmit alcohol consumption 369
levels and tamper attempts at least every hour, regardless of 370
the location of the person who is being monitored. 371

(YY) A person is "adjudicated a sexually violent predator" 372
if the person is convicted of or pleads guilty to a violent sex 373
offense and also is convicted of or pleads guilty to a sexually 374
violent predator specification that was included in the 375
indictment, count in the indictment, or information charging 376
that violent sex offense or if the person is convicted of or 377
pleads guilty to a designated homicide, assault, or kidnapping 378
offense and also is convicted of or pleads guilty to both a 379
sexual motivation specification and a sexually violent predator 380
specification that were included in the indictment, count in the 381
indictment, or information charging that designated homicide, 382
assault, or kidnapping offense. 383

(ZZ) An offense is "committed in proximity to a school" if 384
the offender commits the offense in a school safety zone or 385
within five hundred feet of any school building or the 386
boundaries of any school premises, regardless of whether the 387
offender knows the offense is being committed in a school safety 388
zone or within five hundred feet of any school building or the 389
boundaries of any school premises. 390

(AAA) "Human trafficking" means a scheme or plan to which 391
all of the following apply: 392

(1) Its object is one or more of the following: 393

(a) To subject a victim or victims to involuntary 394
servitude, as defined in section 2905.31 of the Revised Code or 395
to compel a victim or victims to engage in sexual activity for 396

hire, to engage in a performance that is obscene, sexually 397
oriented, or nudity oriented, or to be a model or participant in 398
the production of material that is obscene, sexually oriented, 399
or nudity oriented; 400

(b) To facilitate, encourage, or recruit a victim who is 401
less than sixteen years of age or is a person with a 402
developmental disability, or victims who are less than sixteen 403
years of age or are persons with developmental disabilities, for 404
any purpose listed in divisions (A) (2) (a) to (c) of section 405
2905.32 of the Revised Code; 406

(c) To facilitate, encourage, or recruit a victim who is 407
sixteen or seventeen years of age, or victims who are sixteen or 408
seventeen years of age, for any purpose listed in divisions (A) 409
(2) (a) to (c) of section 2905.32 of the Revised Code, if the 410
circumstances described in division (A) (5), (6), (7), (8), (9), 411
(10), (11), (12), or (13) of section 2907.03 of the Revised Code 412
apply with respect to the person engaging in the conduct and the 413
victim or victims. 414

(2) It involves at least two felony offenses, whether or 415
not there has been a prior conviction for any of the felony 416
offenses, to which all of the following apply: 417

(a) Each of the felony offenses is a violation of section 418
2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, 419
division (A) (1) or (2) of section 2907.323, or division (B) (1), 420
(2), (3), (4), or (5) of section 2919.22 of the Revised Code or 421
is a violation of a law of any state other than this state that 422
is substantially similar to any of the sections or divisions of 423
the Revised Code identified in this division. 424

(b) At least one of the felony offenses was committed in 425

this state. 426

(c) The felony offenses are related to the same scheme or 427
plan and are not isolated instances. 428

(BBB) "Material," "nudity," "obscene," "performance," and 429
"sexual activity" have the same meanings as in section 2907.01 430
of the Revised Code. 431

(CCC) "Material that is obscene, sexually oriented, or 432
nudity oriented" means any material that is obscene, that shows 433
a person participating or engaging in sexual activity, 434
masturbation, or bestiality, or that shows a person in a state 435
of nudity. 436

(DDD) "Performance that is obscene, sexually oriented, or 437
nudity oriented" means any performance that is obscene, that 438
shows a person participating or engaging in sexual activity, 439
masturbation, or bestiality, or that shows a person in a state 440
of nudity. 441

(EEE) "Accelerant" means a fuel or oxidizing agent, such 442
as an ignitable liquid, used to initiate a fire or increase the 443
rate of growth or spread of a fire. 444

Section 2. That existing section 2929.01 of the Revised 445
Code is hereby repealed. 446