

Sub. S. B. No. 66  
As Passed by the Senate

**Topic:** Revised eligibility criteria for pre-trial diversion 1

\_\_\_\_\_ moved to amend as follows:

In line 2 of the title, after "2929.19," insert "2935.36," 2

In line 13 of the title, after "granting" insert "pre-trial 3  
diversion and" 4

In line 29, after "2929.19," insert "2935.36," 5

After line 1226, insert: 6

"Sec. 2935.36. (A) The prosecuting attorney may establish 7  
pre-trial diversion programs for adults who are accused of 8  
committing criminal offenses and whom the prosecuting attorney 9  
believes probably will not offend again. The prosecuting 10  
attorney may require, as a condition of an accused's 11  
participation in the program, the accused to pay a reasonable 12  
fee for supervision services that include, but are not limited 13  
to, monitoring and drug testing. The programs shall be operated 14  
pursuant to written standards approved by journal entry by the 15  
presiding judge or, in courts with only one judge, the judge of 16



the court of common pleas and shall not be applicable to any of 17  
the following: 18

(1) Repeat offenders or dangerous offenders; 19

(2) Persons accused of an offense of violence, of a 20  
violation of section 2903.06, 2907.04, 2907.05, 2907.21, 21  
2907.22, 2907.31, 2907.32, 2907.34, 2911.31, 2919.12, 2919.13, 22  
2919.22, 2921.02, 2921.11, 2921.12, 2921.32, or 2923.20 of the 23  
Revised Code, or of a violation of section 2905.01, 2905.02, or 24  
2919.23 of the Revised Code that, had it occurred prior to July 25  
1, 1996, would have been a violation of section 2905.04 of the 26  
Revised Code as it existed prior to that date, with the 27  
exception that the prosecuting attorney may permit persons 28  
accused of any such offense to enter a pre-trial diversion 29  
program, if the prosecuting attorney finds any of the following: 30

(a) The accused did not cause, threaten, or intend serious 31  
physical harm to any person; 32

(b) The offense was the result of circumstances not likely 33  
to recur; 34

(c) The accused has no history of prior delinquency or 35  
criminal activity; 36

(d) The accused has led a law-abiding life for a 37  
substantial time before commission of the alleged offense; 38

(e) Substantial grounds tending to excuse or justify the 39  
alleged offense. 40

(3) Persons accused of a violation of Chapter 2925. or 41  
3719. of the Revised Code, with the exception that the 42  
prosecuting attorney may permit persons accused of any of the 43  
following to enter a pre-trial diversion program: 44

(a) A misdemeanor, fifth degree felony, or fourth degree 45  
felony violation of section 2925.11 of the Revised Code; 46

(b) A misdemeanor violation of section 2925.12, 2925.13, 47  
or division (C) (1) of section 2925.14 of the Revised Code. 48

(4) Persons accused of a violation of section 4511.19 of 49  
the Revised Code or a violation of any substantially similar 50  
municipal ordinance; 51

(5) (a) Persons who are accused of an offense while 52  
operating a commercial motor vehicle or persons who hold a 53  
commercial driver's license and are accused of any offense, if 54  
conviction of the offense would disqualify the person from 55  
operating a commercial motor vehicle under Chapter 4506. of the 56  
Revised Code or would subject the person to any other sanction 57  
under that chapter; 58

(b) As used in division (A) (5) of this section, 59  
"commercial driver's license" and "commercial motor vehicle" 60  
have the same meanings as in section 4506.01 of the Revised 61  
Code. 62

(B) An accused who enters a diversion program shall do all 63  
of the following: 64

(1) Waive, in writing and contingent upon the accused's 65  
successful completion of the program, the accused's right to a 66  
speedy trial, the preliminary hearing, the time period within 67  
which the grand jury may consider an indictment against the 68  
accused, and arraignment, unless the hearing, indictment, or 69  
arraignment has already occurred; 70

(2) Agree, in writing, to the tolling while in the program 71  
of all periods of limitation established by statutes or rules of 72

court, that are applicable to the offense with which the accused 73  
is charged and to the conditions of the diversion program 74  
established by the prosecuting attorney; 75

(3) Agree, in writing, to pay any reasonable fee for 76  
supervision services established by the prosecuting attorney. 77

(C) The trial court, upon the application of the 78  
prosecuting attorney, shall order the release from confinement 79  
of any accused who has agreed to enter a pre-trial diversion 80  
program and shall discharge and release any existing bail and 81  
release any sureties on recognizances and shall release the 82  
accused on a recognizance bond conditioned upon the accused's 83  
compliance with the terms of the diversion program. The 84  
prosecuting attorney shall notify every victim of the crime and 85  
the arresting officers of the prosecuting attorney's intent to 86  
permit the accused to enter a pre-trial diversion program. The 87  
victim of the crime and the arresting officers shall have the 88  
opportunity to file written objections with the prosecuting 89  
attorney prior to the commencement of the pre-trial diversion 90  
program. 91

(D) If the accused satisfactorily completes the diversion 92  
program, the prosecuting attorney shall recommend to the trial 93  
court that the charges against the accused be dismissed, and the 94  
court, upon the recommendation of the prosecuting attorney, 95  
shall dismiss the charges. If the accused chooses not to enter 96  
the prosecuting attorney's diversion program, or if the accused 97  
violates the conditions of the agreement pursuant to which the 98  
accused has been released, the accused may be brought to trial 99  
upon the charges in the manner provided by law, and the waiver 100  
executed pursuant to division (B) (1) of this section shall be 101  
void on the date the accused is removed from the program for the 102

violation.	103
(E) As used in this section:	104
(1) "Repeat offender" means a person who has a history of	105
persistent criminal activity and whose character and condition	106
reveal a substantial risk that the person will commit another	107
offense. It is prima-facie evidence that a person is a repeat	108
offender if any of the following applies:	109
(a) Having been convicted of one or more offenses of	110
violence and having been imprisoned pursuant to sentence for any	111
such offense, the person commits a subsequent offense of	112
violence;	113
(b) Having been convicted of one or more sexually oriented	114
offenses or child-victim oriented offenses, both as defined in	115
section 2950.01 of the Revised Code, and having been imprisoned	116
pursuant to sentence for one or more of those offenses, the	117
person commits a subsequent sexually oriented offense or child-	118
victim oriented offense;	119
(c) Having been convicted of one or more theft offenses as	120
defined in section 2913.01 of the Revised Code and having been	121
imprisoned pursuant to sentence for one or more of those theft	122
offenses, the person commits a subsequent theft offense;	123
(d) Having been convicted of one or more felony drug abuse	124
offenses as defined in section 2925.01 of the Revised Code and	125
having been imprisoned pursuant to sentence for one or more of	126
those felony drug abuse offenses, the person commits a	127
subsequent felony drug abuse offense;	128
(e) Having been convicted of two or more felonies and	129
having been imprisoned pursuant to sentence for one or more	130

felonies, the person commits a subsequent offense;	131
(f) Having been convicted of three or more offenses of any	132
type or degree other than traffic offenses, alcoholic	133
intoxication offenses, or minor misdemeanors and having been	134
imprisoned pursuant to sentence for any such offense, the person	135
commits a subsequent offense.	136
(2) "Dangerous offender" means a person who has committed	137
an offense, whose history, character, and condition reveal a	138
substantial risk that the person will be a danger to others, and	139
whose conduct has been characterized by a pattern of repetitive,	140
compulsive, or aggressive behavior with heedless indifference to	141
the consequences."	142
In line 2313, after "2929.19," insert "2935.36,"	143

The motion was \_\_\_\_\_ agreed to.