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132nd General Assembly
Regular Session
2017-2018

Sub. H. B. No. 568

A BILL

To amend sections 2152.02, 2152.10, 2152.12, and 1
4511.181 and to enact section 4511.199 of the 2
Revised Code to establish procedures and 3
requirements that apply when a motor vehicle 4
accident results in serious physical injury or 5
death, to establish qualified immunity and 6
specific requirements that apply to certain 7
medical professionals regarding chemical tests 8
performed after such an accident, and to require 9
the mandatory bindover (for trial as an adult 10
rather than a juvenile) of a 16- or 17- year-old 11
who is alleged to have committed aggravated 12
vehicular homicide, and to designate this act as 13
"Sophie's Law." 14

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

Section 1. That sections 2152.02, 2152.10, 2152.12, and 15
4511.181 be amended and section 4511.199 of the Revised Code be 16
enacted to read as follows: 17

Sec. 2152.02. As used in this chapter: 18



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(A) "Act charged" means the act that is identified in a complaint, indictment, or information alleging that a child is a delinquent child.

(B) "Admitted to a department of youth services facility" includes admission to a facility operated, or contracted for, by the department and admission to a comparable facility outside this state by another state or the United States.

(C) (1) "Child" means a person who is under eighteen years of age, except as otherwise provided in divisions (C) (2) to (8) of this section.

(2) Subject to division (C) (3) of this section, any person who violates a federal or state law or a municipal ordinance prior to attaining eighteen years of age shall be deemed a "child" irrespective of that person's age at the time the complaint with respect to that violation is filed or the hearing on the complaint is held.

(3) Any person who, while under eighteen years of age, commits an act that would be a felony if committed by an adult and who is not taken into custody or apprehended for that act until after the person attains twenty-one years of age is not a child in relation to that act.

(4) Except as otherwise provided in divisions (C) (5) and (7) of this section, any person whose case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code shall be deemed after the transfer not to be a child in the transferred case.

(5) Any person whose case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code and who subsequently is convicted of or pleads guilty to a felony in

that case, unless a serious youthful offender dispositional 48
sentence is imposed on the child for that offense under division 49
(B) (2) or (3) of section 2152.121 of the Revised Code and the 50
adult portion of that sentence is not invoked pursuant to 51
section 2152.14 of the Revised Code, and any person who is 52
adjudicated a delinquent child for the commission of an act, who 53
has a serious youthful offender dispositional sentence imposed 54
for the act pursuant to section 2152.13 of the Revised Code, and 55
whose adult portion of the dispositional sentence is invoked 56
pursuant to section 2152.14 of the Revised Code, shall be deemed 57
after the conviction, plea, or invocation not to be a child in 58
any case in which a complaint is filed against the person. 59

(6) The juvenile court has jurisdiction over a person who 60
is adjudicated a delinquent child or juvenile traffic offender 61
prior to attaining eighteen years of age until the person 62
attains twenty-one years of age, and, for purposes of that 63
jurisdiction related to that adjudication, except as otherwise 64
provided in this division, a person who is so adjudicated a 65
delinquent child or juvenile traffic offender shall be deemed a 66
"child" until the person attains twenty-one years of age. If a 67
person is so adjudicated a delinquent child or juvenile traffic 68
offender and the court makes a disposition of the person under 69
this chapter, at any time after the person attains twenty-one 70
years of age, the places at which the person may be held under 71
that disposition are not limited to places authorized under this 72
chapter solely for confinement of children, and the person may 73
be confined under that disposition, in accordance with division 74
(F) (2) of section 2152.26 of the Revised Code, in places other 75
than those authorized under this chapter solely for confinement 76
of children. 77

(7) The juvenile court has jurisdiction over any person 78

whose case is transferred for criminal prosecution solely for 79
the purpose of detaining the person as authorized in division 80
(F) (1) or (4) of section 2152.26 of the Revised Code unless the 81
person is convicted of or pleads guilty to a felony in the adult 82
court. 83

(8) Any person who, while eighteen years of age, violates 84
division (A) (1) or (2) of section 2919.27 of the Revised Code by 85
violating a protection order issued or consent agreement 86
approved under section 2151.34 or 3113.31 of the Revised Code 87
shall be considered a child for the purposes of that violation 88
of section 2919.27 of the Revised Code. 89

(D) "Community corrections facility," "public safety 90
beds," "release authority," and "supervised release" have the 91
same meanings as in section 5139.01 of the Revised Code. 92

(E) "Delinquent child" includes any of the following: 93

(1) Any child, except a juvenile traffic offender, who 94
violates any law of this state or the United States, or any 95
ordinance of a political subdivision of the state, that would be 96
an offense if committed by an adult; 97

(2) Any child who violates any lawful order of the court 98
made under this chapter, including a child who violates a court 99
order regarding the child's prior adjudication as an unruly 100
child for being an habitual truant; 101

(3) Any child who violates any lawful order of the court 102
made under Chapter 2151. of the Revised Code other than an order 103
issued under section 2151.87 of the Revised Code; 104

(4) Any child who violates division (C) of section 105
2907.39, division (A) of section 2923.211, or division (C) (1) or 106
(D) of section 2925.55 of the Revised Code. 107

(F) "Discretionary serious youthful offender" means a 108
person who is eligible for a discretionary SYO and who is not 109
transferred to adult court under a mandatory or discretionary 110
transfer. 111

(G) "Discretionary SYO" means a case in which the juvenile 112
court, in the juvenile court's discretion, may impose a serious 113
youthful offender disposition under section 2152.13 of the 114
Revised Code. 115

(H) "Discretionary transfer" means that the juvenile court 116
has discretion to transfer a case for criminal prosecution under 117
division (B) of section 2152.12 of the Revised Code. 118

(I) "Drug abuse offense," "felony drug abuse offense," and 119
"minor drug possession offense" have the same meanings as in 120
section 2925.01 of the Revised Code. 121

(J) "Electronic monitoring" and "electronic monitoring 122
device" have the same meanings as in section 2929.01 of the 123
Revised Code. 124

(K) "Economic loss" means any economic detriment suffered 125
by a victim of a delinquent act or juvenile traffic offense as a 126
direct and proximate result of the delinquent act or juvenile 127
traffic offense and includes any loss of income due to lost time 128
at work because of any injury caused to the victim and any 129
property loss, medical cost, or funeral expense incurred as a 130
result of the delinquent act or juvenile traffic offense. 131
"Economic loss" does not include non-economic loss or any 132
punitive or exemplary damages. 133

(L) "Firearm" has the same meaning as in section 2923.11 134
of the Revised Code. 135

(M) "Intellectual disability" has the same meaning as in 136

section 5123.01 of the Revised Code.	137
(N) "Juvenile traffic offender" means any child who	138
violates any traffic law, traffic ordinance, or traffic	139
regulation of this state, the United States, or any political	140
subdivision of this state, other than a resolution, ordinance,	141
or regulation of a political subdivision of this state the	142
violation of which is required to be handled by a parking	143
violations bureau or a joint parking violations bureau pursuant	144
to Chapter 4521. of the Revised Code.	145
(O) A "legitimate excuse for absence from the public	146
school the child is supposed to attend" has the same meaning as	147
in section 2151.011 of the Revised Code.	148
(P) "Mandatory serious youthful offender" means a person	149
who is eligible for a mandatory SYO and who is not transferred	150
to adult court under a mandatory or discretionary transfer and	151
also includes, for purposes of imposition of a mandatory serious	152
youthful dispositional sentence under section 2152.13 of the	153
Revised Code, a person upon whom a juvenile court is required to	154
impose such a sentence under division (B) (3) of section 2152.121	155
of the Revised Code.	156
(Q) "Mandatory SYO" means a case in which the juvenile	157
court is required to impose a mandatory serious youthful	158
offender disposition under section 2152.13 of the Revised Code.	159
(R) "Mandatory transfer" means that a case is required to	160
be transferred for criminal prosecution under division (A) of	161
section 2152.12 of the Revised Code.	162
(S) "Mental illness" has the same meaning as in section	163
5122.01 of the Revised Code.	164
(T) "Monitored time" and "repeat violent offender" have	165

the same meanings as in section 2929.01 of the Revised Code. 166

(U) "Of compulsory school age" has the same meaning as in 167
section 3321.01 of the Revised Code. 168

(V) "Public record" has the same meaning as in section 169
149.43 of the Revised Code. 170

(W) "Serious youthful offender" means a person who is 171
eligible for a mandatory SYO or discretionary SYO but who is not 172
transferred to adult court under a mandatory or discretionary 173
transfer and also includes, for purposes of imposition of a 174
mandatory serious youthful dispositional sentence under section 175
2152.13 of the Revised Code, a person upon whom a juvenile court 176
is required to impose such a sentence under division (B) (3) of 177
section 2152.121 of the Revised Code. 178

(X) "Sexually oriented offense," "juvenile offender 179
registrant," "child-victim oriented offense," "tier I sex 180
offender/child-victim offender," "tier II sex offender/child- 181
victim offender," "tier III sex offender/child-victim offender," 182
and "public registry-qualified juvenile offender registrant" 183
have the same meanings as in section 2950.01 of the Revised 184
Code. 185

(Y) "Traditional juvenile" means a case that is not 186
transferred to adult court under a mandatory or discretionary 187
transfer, that is eligible for a disposition under sections 188
2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and 189
that is not eligible for a disposition under section 2152.13 of 190
the Revised Code. 191

(Z) "Transfer" means the transfer for criminal prosecution 192
of a case involving the alleged commission by a child of an act 193
that would be an offense if committed by an adult from the 194

juvenile court to the appropriate court that has jurisdiction of	195
the offense.	196
(AA) "Category one offense" means any of the following:	197
(1) A violation of section 2903.01 or 2903.02 of the	198
Revised Code;	199
(2) A violation of section 2923.02 of the Revised Code	200
involving an attempt to commit aggravated murder or murder;	201
<u>(3) A violation of division (A) (1) of section 2903.06 of</u>	202
<u>the Revised Code if the person who committed the violation was</u>	203
<u>sixteen or seventeen years of age at the time of the violation.</u>	204
(BB) "Category two offense" means any of the following:	205
(1) A violation of section 2903.03, 2905.01, 2907.02,	206
2909.02, 2911.01, or 2911.11 of the Revised Code;	207
(2) A violation of section 2903.04 of the Revised Code	208
that is a felony of the first degree;	209
(3) A violation of section 2907.12 of the Revised Code as	210
it existed prior to September 3, 1996.	211
(CC) "Non-economic loss" means nonpecuniary harm suffered	212
by a victim of a delinquent act or juvenile traffic offense as a	213
result of or related to the delinquent act or juvenile traffic	214
offense, including, but not limited to, pain and suffering; loss	215
of society, consortium, companionship, care, assistance,	216
attention, protection, advice, guidance, counsel, instruction,	217
training, or education; mental anguish; and any other intangible	218
loss.	219
Sec. 2152.10. (A) A child who is alleged to be a	220
delinquent child is eligible for mandatory transfer and shall be	221

transferred as provided in section 2152.12 of the Revised Code 222
in any of the following circumstances: 223

(1) The child is charged with a category one offense and 224
either of the following apply: 225

(a) The child was sixteen years of age or older at the 226
time of the act charged. 227

(b) The child was fourteen or fifteen years of age at the 228
time of the act charged and previously was adjudicated a 229
delinquent child for committing an act that is a category one or 230
category two offense and was committed to the legal custody of 231
the department of youth services upon the basis of that 232
adjudication. 233

Division (A)(1)(b) of this section does not apply if the 234
offense charged was, or the prior adjudication of the child as a 235
delinquent child was for, a violation of division (A)(1) of 236
section 2903.06 of the Revised Code. 237

(2) The child is charged with a category two offense, 238
other than a violation of section 2905.01 of the Revised Code, 239
the child was sixteen years of age or older at the time of the 240
commission of the act charged, and either or both of the 241
following apply: 242

(a) The child previously was adjudicated a delinquent 243
child for committing an act that is a category one or a category 244
two offense, other than a violation of division (A)(1) of 245
section 2903.06 of the Revised Code, and was committed to the 246
legal custody of the department of youth services on the basis 247
of that adjudication. 248

(b) The child is alleged to have had a firearm on or about 249
the child's person or under the child's control while committing 250

the act charged and to have displayed the firearm, brandished 251
the firearm, indicated possession of the firearm, or used the 252
firearm to facilitate the commission of the act charged. 253

(3) Division (A)(2) of section 2152.12 of the Revised Code 254
applies. 255

(B) Unless the child is subject to mandatory transfer, if 256
a child is fourteen years of age or older at the time of the act 257
charged and if the child is charged with an act that would be a 258
felony if committed by an adult, the child is eligible for 259
discretionary transfer to the appropriate court for criminal 260
prosecution. In determining whether to transfer the child for 261
criminal prosecution, the juvenile court shall follow the 262
procedures in section 2152.12 of the Revised Code. If the court 263
does not transfer the child and if the court adjudicates the 264
child to be a delinquent child for the act charged, the court 265
shall issue an order of disposition in accordance with section 266
2152.11 of the Revised Code. 267

Sec. 2152.12. (A)(1)(a) After a complaint has been filed 268
alleging that a child is a delinquent child for committing ~~an~~ 269
~~act that would be aggravated murder, murder, attempted~~ 270
~~aggravated murder, or attempted murder if committed by an adult~~ 271
a category one offense, the juvenile court at a hearing shall 272
transfer the case if either of the following applies: 273

(i) The child was sixteen or seventeen years of age at the 274
time of the act charged and there is probable cause to believe 275
that the child committed the act charged. 276

(ii) The child was fourteen or fifteen years of age at the 277
time of the act charged, section 2152.10 of the Revised Code 278
provides that the child is eligible for mandatory transfer, and 279

there is probable cause to believe that the child committed the 280
act charged. 281

(b) After a complaint has been filed alleging that a child 282
is a delinquent child by reason of committing a category two 283
offense, the juvenile court at a hearing shall transfer the case 284
if the child was sixteen or seventeen years of age at the time 285
of the act charged and either of the following applies: 286

(i) Division (A) (2) (a) of section 2152.10 of the Revised 287
Code requires the mandatory transfer of the case, and there is 288
probable cause to believe that the child committed the act 289
charged. 290

(ii) Division (A) (2) (b) of section 2152.10 of the Revised 291
Code requires the mandatory transfer of the case, and there is 292
probable cause to believe that the child committed the act 293
charged. 294

(2) The juvenile court also shall transfer a case in the 295
circumstances described in division (C) (5) of section 2152.02 of 296
the Revised Code or if either of the following applies: 297

(a) A complaint is filed against a child who is eligible 298
for a discretionary transfer under section 2152.10 of the 299
Revised Code and who previously was convicted of or pleaded 300
guilty to a felony in a case that was transferred to a criminal 301
court. 302

(b) A complaint is filed against a child who is domiciled 303
in another state alleging that the child is a delinquent child 304
for committing an act that would be a felony if committed by an 305
adult, and, if the act charged had been committed in that other 306
state, the child would be subject to criminal prosecution as an 307
adult under the law of that other state without the need for a 308

transfer of jurisdiction from a juvenile, family, or similar 309
noncriminal court to a criminal court. 310

(3) If a complaint is filed against a child alleging that 311
the child is a delinquent child and the case is transferred 312
pursuant to division (A) (1) (a) (i) or (A) (1) (b) (ii) of this 313
section and if the child subsequently is convicted of or pleads 314
guilty to an offense in that case, the sentence to be imposed or 315
disposition to be made of the child shall be determined in 316
accordance with section 2152.121 of the Revised Code. 317

(B) Except as provided in division (A) of this section, 318
after a complaint has been filed alleging that a child is a 319
delinquent child for committing an act that would be a felony if 320
committed by an adult, the juvenile court at a hearing may 321
transfer the case if the court finds all of the following: 322

(1) The child was fourteen years of age or older at the 323
time of the act charged. 324

(2) There is probable cause to believe that the child 325
committed the act charged. 326

(3) The child is not amenable to care or rehabilitation 327
within the juvenile system, and the safety of the community may 328
require that the child be subject to adult sanctions. In making 329
its decision under this division, the court shall consider 330
whether the applicable factors under division (D) of this 331
section indicating that the case should be transferred outweigh 332
the applicable factors under division (E) of this section 333
indicating that the case should not be transferred. The record 334
shall indicate the specific factors that were applicable and 335
that the court weighed. 336

(C) Before considering a transfer under division (B) of 337

this section, the juvenile court shall order an investigation 338
into the child's social history, education, family situation, 339
and any other factor bearing on whether the child is amenable to 340
juvenile rehabilitation, including a mental examination of the 341
child by a public or private agency or a person qualified to 342
make the examination. The investigation shall be completed and a 343
report on the investigation shall be submitted to the court as 344
soon as possible but not more than forty-five calendar days 345
after the court orders the investigation. The court may grant 346
one or more extensions for a reasonable length of time. The 347
child may waive the examination required by this division if the 348
court finds that the waiver is competently and intelligently 349
made. Refusal to submit to a mental examination by the child 350
constitutes a waiver of the examination. 351

(D) In considering whether to transfer a child under 352
division (B) of this section, the juvenile court shall consider 353
the following relevant factors, and any other relevant factors, 354
in favor of a transfer under that division: 355

(1) The victim of the act charged suffered physical or 356
psychological harm, or serious economic harm, as a result of the 357
alleged act. 358

(2) The physical or psychological harm suffered by the 359
victim due to the alleged act of the child was exacerbated 360
because of the physical or psychological vulnerability or the 361
age of the victim. 362

(3) The child's relationship with the victim facilitated 363
the act charged. 364

(4) The child allegedly committed the act charged for hire 365
or as a part of a gang or other organized criminal activity. 366

(5) The child had a firearm on or about the child's person 367
or under the child's control at the time of the act charged, the 368
act charged is not a violation of section 2923.12 of the Revised 369
Code, and the child, during the commission of the act charged, 370
allegedly used or displayed the firearm, brandished the firearm, 371
or indicated that the child possessed a firearm. 372

(6) At the time of the act charged, the child was awaiting 373
adjudication or disposition as a delinquent child, was under a 374
community control sanction, or was on parole for a prior 375
delinquent child adjudication or conviction. 376

(7) The results of any previous juvenile sanctions and 377
programs indicate that rehabilitation of the child will not 378
occur in the juvenile system. 379

(8) The child is emotionally, physically, or 380
psychologically mature enough for the transfer. 381

(9) There is not sufficient time to rehabilitate the child 382
within the juvenile system. 383

(E) In considering whether to transfer a child under 384
division (B) of this section, the juvenile court shall consider 385
the following relevant factors, and any other relevant factors, 386
against a transfer under that division: 387

(1) The victim induced or facilitated the act charged. 388

(2) The child acted under provocation in allegedly 389
committing the act charged. 390

(3) The child was not the principal actor in the act 391
charged, or, at the time of the act charged, the child was under 392
the negative influence or coercion of another person. 393

(4) The child did not cause physical harm to any person or 394

property, or have reasonable cause to believe that harm of that 395
nature would occur, in allegedly committing the act charged. 396

(5) The child previously has not been adjudicated a 397
delinquent child. 398

(6) The child is not emotionally, physically, or 399
psychologically mature enough for the transfer. 400

(7) The child has a mental illness or intellectual 401
disability. 402

(8) There is sufficient time to rehabilitate the child 403
within the juvenile system and the level of security available 404
in the juvenile system provides a reasonable assurance of public 405
safety. 406

(F) If one or more complaints are filed alleging that a 407
child is a delinquent child for committing two or more acts that 408
would be offenses if committed by an adult, if a motion is made 409
alleging that division (A) of this section applies and requires 410
that the case or cases involving one or more of the acts charged 411
be transferred, and if a motion also is made requesting that the 412
case or cases involving one or more of the acts charged be 413
transferred pursuant to division (B) of this section, the 414
juvenile court, in deciding the motions, shall proceed in the 415
following manner: 416

(1) Initially, the court shall decide the motion alleging 417
that division (A) of this section applies and requires that the 418
case or cases involving one or more of the acts charged be 419
transferred. 420

(2) If the court determines that division (A) of this 421
section applies and requires that the case or cases involving 422
one or more of the acts charged be transferred, the court shall 423

transfer the case or cases in accordance with that division. 424
After the transfer pursuant to division (A) of this section, the 425
court shall decide, in accordance with division (B) of this 426
section, whether to grant the motion requesting that the case or 427
cases involving one or more of the acts charged be transferred 428
pursuant to that division. Notwithstanding division (B) of this 429
section, prior to transferring a case pursuant to division (A) 430
of this section, the court is not required to consider any 431
factor specified in division (D) or (E) of this section or to 432
conduct an investigation under division (C) of this section. 433

(3) If the court determines that division (A) of this 434
section does not require that the case or cases involving one or 435
more of the acts charged be transferred, the court shall decide 436
in accordance with division (B) of this section whether to grant 437
the motion requesting that the case or cases involving one or 438
more of the acts charged be transferred pursuant to that 439
division. 440

(4) No report on an investigation conducted pursuant to 441
division (C) of this section shall include details of the 442
alleged offense as reported by the child. 443

(G) The court shall give notice in writing of the time, 444
place, and purpose of any hearing held pursuant to division (A) 445
or (B) of this section to the child's parents, guardian, or 446
other custodian and to the child's counsel at least three days 447
prior to the hearing. 448

(H) No person, either before or after reaching eighteen 449
years of age, shall be prosecuted as an adult for an offense 450
committed prior to becoming eighteen years of age, unless the 451
person has been transferred as provided in division (A) or (B) 452
of this section or unless division (J) of this section applies. 453

Any prosecution that is had in a criminal court on the mistaken 454
belief that the person who is the subject of the case was 455
eighteen years of age or older at the time of the commission of 456
the offense shall be deemed a nullity, and the person shall not 457
be considered to have been in jeopardy on the offense. 458

(I) Upon the transfer of a case under division (A) or (B) 459
of this section, the juvenile court shall state the reasons for 460
the transfer on the record, and shall order the child to enter 461
into a recognizance with good and sufficient surety for the 462
child's appearance before the appropriate court for any 463
disposition that the court is authorized to make for a similar 464
act committed by an adult. The transfer abates the jurisdiction 465
of the juvenile court with respect to the delinquent acts 466
alleged in the complaint, and, upon the transfer, all further 467
proceedings pertaining to the act charged shall be discontinued 468
in the juvenile court, and the case then shall be within the 469
jurisdiction of the court to which it is transferred as 470
described in division (H) of section 2151.23 of the Revised 471
Code. 472

(J) If a person under eighteen years of age allegedly 473
commits an act that would be a felony if committed by an adult 474
and if the person is not taken into custody or apprehended for 475
that act until after the person attains twenty-one years of age, 476
the juvenile court does not have jurisdiction to hear or 477
determine any portion of the case charging the person with 478
committing that act. In those circumstances, divisions (A) and 479
(B) of this section do not apply regarding the act, and the case 480
charging the person with committing the act shall be a criminal 481
prosecution commenced and heard in the appropriate court having 482
jurisdiction of the offense as if the person had been eighteen 483
years of age or older when the person committed the act. All 484

proceedings pertaining to the act shall be within the 485
jurisdiction of the court having jurisdiction of the offense, 486
and that court has all the authority and duties in the case as 487
it has in other criminal cases in that court. 488

Sec. 4511.181. As used in sections 4511.181 to ~~4511.198~~ 489
4511.199 of the Revised Code: 490

(A) "Equivalent offense" means any of the following: 491

(1) A violation of division (A) or (B) of section 4511.19 492
of the Revised Code; 493

(2) A violation of a municipal OVI ordinance; 494

(3) A violation of section 2903.04 of the Revised Code in 495
a case in which the offender was subject to the sanctions 496
described in division (D) of that section; 497

(4) A violation of division (A) (1) of section 2903.06 or 498
2903.08 of the Revised Code or a municipal ordinance that is 499
substantially equivalent to either of those divisions; 500

(5) A violation of division (A) (2), (3), or (4) of section 501
2903.06, division (A) (2) of section 2903.08, or former section 502
2903.07 of the Revised Code, or a municipal ordinance that is 503
substantially equivalent to any of those divisions or that 504
former section, in a case in which a judge or jury as the trier 505
of fact found that the offender was under the influence of 506
alcohol, a drug of abuse, or a combination of them; 507

(6) A violation of division (A) or (B) of section 1547.11 508
of the Revised Code; 509

(7) A violation of a municipal ordinance prohibiting a 510
person from operating or being in physical control of any vessel 511
underway or from manipulating any water skis, aquaplane, or 512

similar device on the waters of this state while under the 513
influence of alcohol, a drug of abuse, or a combination of them 514
or prohibiting a person from operating or being in physical 515
control of any vessel underway or from manipulating any water 516
skis, aquaplane, or similar device on the waters of this state 517
with a prohibited concentration of alcohol, a controlled 518
substance, or a metabolite of a controlled substance in the 519
whole blood, blood serum or plasma, breath, or urine; 520

(8) A violation of an existing or former municipal 521
ordinance, law of another state, or law of the United States 522
that is substantially equivalent to division (A) or (B) of 523
section 4511.19 or division (A) or (B) of section 1547.11 of the 524
Revised Code; 525

(9) A violation of a former law of this state that was 526
substantially equivalent to division (A) or (B) of section 527
4511.19 or division (A) or (B) of section 1547.11 of the Revised 528
Code. 529

(B) "Mandatory jail term" means the mandatory term in jail 530
of three, six, ten, twenty, thirty, or sixty days that must be 531
imposed under division (G) (1) (a), (b), or (c) of section 4511.19 532
of the Revised Code upon an offender convicted of a violation of 533
division (A) of that section and in relation to which all of the 534
following apply: 535

(1) Except as specifically authorized under section 536
4511.19 of the Revised Code, the term must be served in a jail. 537

(2) Except as specifically authorized under section 538
4511.19 of the Revised Code, the term cannot be suspended, 539
reduced, or otherwise modified pursuant to sections 2929.21 to 540
2929.28 or any other provision of the Revised Code. 541

(C) "Municipal OVI ordinance" and "municipal OVI offense" 542
mean any municipal ordinance prohibiting a person from operating 543
a vehicle while under the influence of alcohol, a drug of abuse, 544
or a combination of them or prohibiting a person from operating 545
a vehicle with a prohibited concentration of alcohol, a 546
controlled substance, or a metabolite of a controlled substance 547
in the whole blood, blood serum or plasma, breath, or urine. 548

(D) "Community residential sanction," "continuous alcohol 549
monitoring," "jail," "mandatory prison term," "mandatory term of 550
local incarceration," "sanction," and "prison term" have the 551
same meanings as in section 2929.01 of the Revised Code. 552

(E) "Drug of abuse" has the same meaning as in section 553
4506.01 of the Revised Code. 554

(F) "Equivalent offense that is vehicle-related" means an 555
equivalent offense that is any of the following: 556

(1) A violation described in division (A) (1), (2), (3), 557
(4), or (5) of this section; 558

(2) A violation of an existing or former municipal 559
ordinance, law of another state, or law of the United States 560
that is substantially equivalent to division (A) or (B) of 561
section 4511.19 of the Revised Code; 562

(3) A violation of a former law of this state that was 563
substantially equivalent to division (A) or (B) of section 564
4511.19 of the Revised Code. 565

Sec. 4511.199. (A) As used in this section: 566

(1) "Blood or urine test" means a chemical test or tests 567
of a driver's whole blood, blood serum, plasma, or urine to 568
determine the concentration of alcohol, a drug of abuse, 569

controlled substance, metabolite of a controlled substance, or 570
combination in the whole blood, blood serum, plasma, or urine. 571

(2) "Law enforcement officer" means any person specified 572
in division (A) (11) of section 2901.01 of the Revised Code who 573
has the authority to enforce traffic laws. 574

(3) "Moving violation" means any violation of any statute 575
or ordinance that regulates the operation of vehicles, 576
streetcars, or trackless trolleys on the highways or streets. 577
"Moving violation" does not include a violation of section 578
4513.263 of the Revised Code or a substantially equivalent 579
municipal ordinance, or a violation of any statute or ordinance 580
regulating pedestrians or the parking of vehicles, vehicle size 581
or load limitations, vehicle fitness requirements, or vehicle 582
registration. 583

(4) "Serious physical harm" means any of the following: 584

(a) Any physical harm that carries a substantial risk of 585
death; 586

(b) Any physical harm that involves some permanent 587
incapacity, whether partial or total, or that involves some 588
temporary, substantial incapacity; 589

(c) Any physical harm that involves some permanent 590
disfigurement or that involves some temporary, serious 591
disfigurement; 592

(d) Any physical harm that involves acute pain of such 593
duration as to result in substantial suffering or that involves 594
any degree of prolonged or intractable pain. 595

(B) A law enforcement officer shall arrest the driver of a 596
motor vehicle if the officer has probable cause of all the 597

following: 598

(1) The driver committed a moving violation. 599

(2) The moving violation was a contributing factor in an 600
accident that caused serious physical harm to, or the death of, 601
another person. 602

(3) The driver violated section 4511.19 of the Revised 603
Code or a substantially equivalent municipal ordinance. 604

(C) After an arrest under division (B) of this section, 605
the law enforcement officer shall request the driver to consent 606
to a chemical test of the driver's breath unless the driver is 607
incapable of consenting. 608

(D) Unless the arrested driver is incapable of consenting, 609
the officer shall request the driver to consent to a blood or 610
urine test if either of the following applies: 611

(1) The driver refuses to consent to the request for a 612
chemical test of the driver's breath under division (C) of this 613
section. 614

(2) There is probable cause that, at the time of the 615
moving violation, the driver was under the influence of alcohol, 616
a drug of abuse, controlled substance, metabolite of a 617
controlled substance, or combination that cannot be detected by 618
a chemical test of the driver's breath. 619

(E) Unless exigent circumstances exist, the officer shall, 620
as soon as possible, request a warrant from a court of competent 621
jurisdiction for authorization to order the blood or urine test 622
if either of the following applies: 623

(1) The driver refused to consent to the request made 624
under division (D) of this section. 625

(2) The driver was incapable of consenting to the requests 626
made under division (C) or (D) of this section. 627

When requesting the warrant, the officer shall file an 628
affidavit as required under section 2933.23 of the Revised Code. 629
The request for a warrant shall state that the officer has 630
probable cause to believe that the driver committed a moving 631
violation, that the moving violation was a contributing factor 632
in a motor vehicle accident that caused serious physical harm to 633
or the death of another person, and that the driver violated 634
section 4511.19 of the Revised Code or a substantially 635
equivalent municipal ordinance. The request for the warrant also 636
shall state the circumstances supporting those determinations. 637

(F) An officer shall order the blood or urine test of a 638
driver under this section under any of the following 639
circumstances: 640

(1) The driver consents to the test. 641

(2) A court of competent jurisdiction has issued the 642
search warrant described in division (E) of this section that 643
authorizes the test. 644

(3) The officer has probable cause as specified in 645
divisions (B) (1) to (3) of this section, and the officer can not 646
request a warrant described under division (E) of this section 647
because exigent circumstances exist. 648

(4) All of the following apply: 649

(a) The officer has probable cause as specified in 650
divisions (B) (1) and (2) of this section; 651

(b) The officer has probable cause that the driver is 652
under the influence of alcohol; 653

(c) Divisions (F) (1) to (3) of this section do not apply; 654
and 655

(d) No response has been received from a court of 656
competent jurisdiction regarding a warrant described in division 657
(E) of this section within one hour of the time that the warrant 658
was requested. 659

Notwithstanding division (A) of section 4511.192 of the 660
Revised Code, if the driver does not submit to a blood or urine 661
test within the one-hour time limit specified in division (F) (4) 662
of this section, the failure to submit automatically constitutes 663
a refusal to submit to the test. 664

The three-hour time limit specified in division (D) (1) (b) 665
of section 4511.19 of the Revised Code regarding the admission 666
of evidence does not extend or affect the one-hour time limit 667
specified in division (F) (4) of this section as the maximum 668
period of time during which a driver may consent to a blood or 669
urine test as described in this section. 670

(G) If an officer orders a blood or urine test prior to 671
receiving a response regarding the request for a warrant under 672
division (E) of this section, and if the warrant is subsequently 673
denied, the results of the blood or urine test are not 674
admissible as evidence in any criminal or civil proceeding. 675

(H) Notwithstanding any provision in section 4511.19 of 676
the Revised Code to the contrary, the procedures associated with 677
blood tests conducted by the medical professionals listed in 678
division (D) (1) (b) of that section, and the immunities granted 679
to the medical professionals in association with those blood 680
tests, both apply to blood and urine tests performed under this 681
section. 682

(I) When a law enforcement officer requests a medical professional referenced in division (H) of this section to administer a blood or urine test for an investigation after an arrest, the medical professional shall comply with the request. 683
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(J)(1) If a law enforcement officer determines that there is not probable cause that the driver violated section 4511.19 of the Revised Code or an equivalent municipal ordinance at the time of the accident, the officer shall file a report detailing the circumstances supporting that determination with the law enforcement agency with which the officer is employed. The officer shall include in the report a statement about whether alcohol, a drug of abuse, or a controlled substance was present in the vehicle and whether the driver or any passenger appeared to be under the influence of alcohol, a drug of abuse, or a controlled substance. 687
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(2) An officer's failure to either file the report, or to include a statement in the report as required under division (H)(1) of this section, does not preclude the admission of the information required to be included in the report or the statement as evidence in any court proceeding. 698
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(3) On an annual basis, an officer who is employed by a law enforcement agency and who has supervisory authority over officers who filed reports with the law enforcement agency under division (H)(1) of this section shall review the reports filed with the agency during the previous year. The officer with supervisory authority shall document the fact that the reports have been reviewed and any subsequent actions taken. 703
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Section 2. That existing sections 2152.02, 2152.10, 2152.12, and 4511.181 of the Revised Code are hereby repealed. 710
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Section 3. This act shall be known as "Sophie's Law."

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