

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

- In line 4 of the title, after "2967.14" insert ", 2967.191, 2967.193" 1
- In line 18, after "2967.14" insert ", 2967.191, 2967.193" 3
- In line 1819, delete "non-life" 4
- In line 1820, delete "felony" 5
- In line 2042, after "serious" insert "qualifying"; delete the second "felony" 6
- In line 2043, delete "offense" and insert "qualifying felony of the first or second degree" 8
- In line 2044, delete "offenses" and insert "qualifying felonies of the first or second degree" 10
- In line 2074, strike through "or definite term"; after "serious" insert "qualifying" 12
- In line 3419, strike through "increase, reduce, or otherwise" 14
- In line 3420, strike through "modify" and insert "vacate"; strike through "or may" 15



In line 3421, strike through "vacate the sentence" 17

After line 3513, insert: 18

**"Sec. 2967.191.** (A) The department of rehabilitation and 19  
correction shall reduce the prison term of a prisoner, as 20  
described in division (B) of this section, by the total number 21  
of days that the prisoner was confined for any reason arising 22  
out of the offense for which the prisoner was convicted and 23  
sentenced, including confinement in lieu of bail while awaiting 24  
trial, confinement for examination to determine the prisoner's 25  
competence to stand trial or sanity, confinement while awaiting 26  
transportation to the place where the prisoner is to serve the 27  
prisoner's prison term, as determined by the sentencing court 28  
under division (B) (2) (g) (i) of section 2929.19 of the Revised 29  
Code, and confinement in a juvenile facility. The department of 30  
rehabilitation and correction also shall reduce the stated 31  
prison term of a prisoner or, if the prisoner is serving a term 32  
for which there is parole eligibility, the minimum and maximum 33  
term or the parole eligibility date of the prisoner by the total 34  
number of days, if any, that the prisoner previously served in 35  
the custody of the department of rehabilitation and correction 36  
arising out of the offense for which the prisoner was convicted 37  
and sentenced. 38

(B) The reductions described in division (A) of this 39  
section shall be made to the following prison terms, as 40  
applicable: 41

(1) The definite prison term of a prisoner serving a 42  
definite prison term as a stated prison term; 43

(2) The minimum ~~and maximum~~ term of a prisoner serving a 44  
non-life felony indefinite prison term as a stated prison term; 45

(3) The minimum and maximum term or the parole eligibility date of a prisoner serving a term for which there is parole eligibility.

**Sec. 2967.193.** (A) (1) Except as provided in division (C) of this section and subject to the maximum aggregate total specified in division (A) (3) of this section, a person confined in a state correctional institution or placed in the substance use disorder treatment program may provisionally earn one day or five days of credit, based on the category set forth in division (D) (1), (2), (3), (4), or (5) of this section in which the person is included, toward satisfaction of the person's stated prison term, as described in division (F) of this section, for each completed month during which the person, if confined in a state correctional institution, productively participates in an education program, vocational training, employment in prison industries, treatment for substance abuse, or any other constructive program developed by the department with specific standards for performance by prisoners or during which the person, if placed in the substance use disorder treatment program, productively participates in the program. Except as provided in division (C) of this section and subject to the maximum aggregate total specified in division (A) (3) of this section, a person so confined in a state correctional institution who successfully completes two programs or activities of that type may, in addition, provisionally earn up to five days of credit toward satisfaction of the person's stated prison term, as described in division (F) of this section, for the successful completion of the second program or activity. The person shall not be awarded any provisional days of credit for the successful completion of the first program or activity or for the successful completion of any program or

activity that is completed after the second program or activity. 77  
At the end of each calendar month in which a person productively 78  
participates in a program or activity listed in this division or 79  
successfully completes a program or activity listed in this 80  
division, the department of rehabilitation and correction shall 81  
determine and record the total number of days credit that the 82  
person provisionally earned in that calendar month. If the 83  
person in a state correctional institution violates prison rules 84  
or the person in the substance use disorder treatment program 85  
violates program or department rules, the department may deny 86  
the person a credit that otherwise could have been provisionally 87  
awarded to the person or may withdraw one or more credits 88  
previously provisionally earned by the person. Days of credit 89  
provisionally earned by a person shall be finalized and awarded 90  
by the department subject to administrative review by the 91  
department of the person's conduct. 92

(2) Unless a person is serving a mandatory prison term or 93  
a prison term for an offense of violence or a sexually oriented 94  
offense, and notwithstanding the maximum aggregate total 95  
specified in division (A) (3) of this section, a person who 96  
successfully completes any of the following shall earn ninety 97  
days of credit toward satisfaction of the person's stated prison 98  
term or a ten per cent reduction of the person's stated prison 99  
term, whichever is less: 100

(a) An Ohio high school diploma or Ohio certificate of 101  
high school equivalence certified by the Ohio central school 102  
system; 103

(b) A therapeutic drug community program; 104

(c) All three phases of the department of rehabilitation 105  
and correction's intensive outpatient drug treatment program; 106

(d) A career technical vocational school program;	107
(e) A college certification program;	108
(f) The criteria for a certificate of achievement and employability as specified in division (A) (1) of section 2961.22 of the Revised Code.	109 110 111
(3) Except for persons described in division (A) (2) of this section, the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion under this section and the aggregate days of credit finally credited to a person under this section shall not exceed eight per cent of the total number of days in the person's stated prison term.	112 113 114 115 116 117 118
(B) The department of rehabilitation and correction shall adopt rules that specify the programs or activities for which credit may be earned under this section, the criteria for determining productive participation in, or completion of, the programs or activities and the criteria for awarding credit, including criteria for awarding additional credit for successful program or activity completion, and the criteria for denying or withdrawing previously provisionally earned credit as a result of a violation of prison rules, or program or department rules, whichever is applicable.	119 120 121 122 123 124 125 126 127 128
(C) No person confined in a state correctional institution or placed in a substance use disorder treatment program to whom any of the following applies shall be awarded any days of credit under division (A) of this section:	129 130 131 132
(1) The person is serving a prison term that section 2929.13 or section 2929.14 of the Revised Code specifies cannot be reduced pursuant to this section or this chapter or is	133 134 135

serving a sentence for which section 2967.13 or division (B) of 136  
section 2929.143 of the Revised Code specifies that the person 137  
is not entitled to any earned credit under this section. 138

(2) The person is sentenced to death or is serving a 139  
prison term or a term of life imprisonment for aggravated 140  
murder, murder, or a conspiracy or attempt to commit, or 141  
complicity in committing, aggravated murder or murder. 142

(3) The person is serving a sentence of life imprisonment 143  
without parole imposed pursuant to section 2929.03 or 2929.06 of 144  
the Revised Code, a prison term or a term of life imprisonment 145  
without parole imposed pursuant to section 2971.03 of the 146  
Revised Code, or a sentence for a sexually oriented offense that 147  
was committed on or after September 30, 2011. 148

(D) This division does not apply to a determination of 149  
whether a person confined in a state correctional institution or 150  
placed in a substance use disorder treatment program may earn 151  
any days of credit under division (A) of this section for 152  
successful completion of a second program or activity. The 153  
determination of whether a person confined in a state 154  
correctional institution may earn one day of credit or five days 155  
of credit under division (A) of this section for each completed 156  
month during which the person productively participates in a 157  
program or activity specified under that division shall be made 158  
in accordance with the following: 159

(1) The offender may earn one day of credit under division 160  
(A) of this section, except as provided in division (C) of this 161  
section, if the most serious offense for which the offender is 162  
confined is any of the following that is a felony of the first 163  
or second degree: 164

(a) A violation of division (A) of section 2903.04 or of section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.15, 2919.151, 2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 2927.24 of the Revised Code;

(b) A conspiracy or attempt to commit, or complicity in committing, any other offense for which the maximum penalty is imprisonment for life or any offense listed in division (D) (1) (a) of this section.

(2) The offender may earn one day of credit under division (A) of this section, except as provided in division (C) of this section, if the offender is serving a stated prison term that includes a prison term imposed for a sexually oriented offense that the offender committed prior to September 30, 2011.

(3) The offender may earn one day of credit under division (A) of this section, except as provided in division (C) of this section, if the offender is serving a stated prison term that includes a prison term imposed for a felony other than carrying a concealed weapon an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance.

(4) Except as provided in division (C) of this section, if the most serious offense for which the offender is confined is a felony of the first or second degree and divisions (D) (1), (2), and (3) of this section do not apply to the offender, the offender may earn one day of credit under division (A) of this section if the offender committed that offense prior to September 30, 2011, and the offender may earn five days of credit under division (A) of this section if the offender

committed that offense on or after September 30, 2011. 195

(5) Except as provided in division (C) of this section, if 196  
the most serious offense for which the offender is confined is a 197  
felony of the third, fourth, or fifth degree or an unclassified 198  
felony and neither division (D) (2) nor (3) of this section 199  
applies to the offender, the offender may earn one day of credit 200  
under division (A) of this section if the offender committed 201  
that offense prior to September 30, 2011, and the offender may 202  
earn five days of credit under division (A) of this section if 203  
the offender committed that offense on or after September 30, 204  
2011. 205

(E) The department annually shall seek and consider the 206  
written feedback of the Ohio prosecuting attorneys association, 207  
the Ohio judicial conference, the Ohio public defender, the Ohio 208  
association of criminal defense lawyers, and other organizations 209  
and associations that have an interest in the operation of the 210  
corrections system and the earned credits program under this 211  
section as part of its evaluation of the program and in 212  
determining whether to modify the program. 213

(F) Days of credit awarded under this section shall be 214  
applied toward satisfaction of a person's stated prison term as 215  
follows: 216

(1) Toward the definite prison term of a prisoner serving 217  
a definite prison term as a stated prison term; 218

(2) Toward the minimum ~~and maximum terms~~ term of a 219  
prisoner serving an indefinite prison term imposed under 220  
division (A) (1) (a) or (2) (a) of section 2929.14 of the Revised 221  
Code for a felony of the first or second degree committed on or 222  
after ~~the effective date of this amendment~~ March 22, 2019. 223

(G) As used in this section:	224
(1) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.	225 226
(2) "Substance use disorder treatment program" means the substance use disorder treatment program established by the department of rehabilitation and correction under section 5120.035 of the Revised Code."	227 228 229 230
In line 3517, after "term," insert " <u>or the aggregate minimum prison term imposed on an offender for multiple non-life felony indefinite prison terms under division (C) (10) (b) of section 2929.14 of the Revised Code,</u> "	231 232 233
In line 3630, delete " <u>(B) (2)</u> " and insert " <u>(C) (10) (b)</u> "; delete " <u>2929.144</u> " and insert " <u>2929.14</u> "	234 235
In line 3634, delete " <u>(B) (2)</u> " and insert " <u>(C) (10) (b)</u> "	236
In line 3635, delete " <u>2929.144</u> " and insert " <u>2929.14</u> "	237
In line 4229, after "2967.14" insert ", 2967.191, 2967.193"	238
After line 4247, insert:	239
"Section 2967.191 of the Revised Code as amended by both S.B. 66 and S.B. 201 of the 132nd General Assembly.	240 241
Section 2967.193 of the Revised Code as amended by both S.B. 145 and S.B. 201 of the 132nd General Assembly."	242 243

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

SYNOPSIS 244

**Appellate court sentence modification; non-life felony** 245

<b>indefinite sentences</b>	246
<b>R.C. 2929.14, 2929.144, 2953.08, 2967.191, 2967.193,</b>	247
<b>and 2967.271</b>	248
Eliminates the ability of an appellate court to increase,	249
reduce, or otherwise modify a criminal sentence before the court	250
for appeal of that sentence, only permitting the court to remand	251
the case to the sentencing court for resentencing.	252
Eliminates the use of other felonies not punishable by	253
non-life felony indefinite prison terms in calculating the	254
maximum portion of a non-life felony indefinite prison term.	255
Clarifies the presumptive release process for offenders	256
subject to an aggregate minimum prison term as provided in the	257
bill.	258
Makes conforming changes to clarify that minimum and	259
maximum portions of non-life felony indefinite prison terms are	260
separate and distinct and that any statutory reduction of the	261
prison term does not affect the maximum portion of the prison	262
term.	263
Corrects an erroneous reference to indefinite sentences	264
imposed prior to July 1, 1996.	265