

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 389**

**Representative Antonio**

**Cosponsors: Representatives Antani, Fedor, Howse, Ingram, Lepore-Hagan,  
Ramos, Riedel, Smith, K.**

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**A BILL**

To amend sections 9.07, 120.03, 120.06, 120.14, 1  
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 2  
120.34, 149.43, 1901.183, 2152.13, 2152.67, 3  
2301.20, 2307.60, 2317.02, 2701.07, 2743.51, 4  
2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 5  
2929.20, 2929.61, 2930.03, 2930.06, 2930.16, 6  
2930.19, 2937.222, 2941.021, 2941.14, 2941.148, 7  
2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 8  
2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 9  
2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 10  
2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 11  
2953.72, 2953.73, 2953.81, 2967.03, 2967.05, 12  
2967.12, 2967.13, 2967.19, 2967.193, 2967.26, 13  
2967.28, 2971.03, 2971.07, 5120.113, 5120.53, 14  
5120.61, 5139.04, 5149.101, and 5919.16 and to 15  
repeal sections 109.97, 120.35, 2725.19, 16  
2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 17  
2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 18  
2949.21, 2949.22, 2949.221, 2949.222, 2949.24, 19  
2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 20  
2949.31, and 2967.08 of the Revised Code to 21  
abolish the death penalty. 22

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

**Section 1.** That sections 9.07, 120.03, 120.06, 120.14, 23  
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 149.43, 24  
1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 2701.07, 25  
2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 26  
2929.61, 2930.03, 2930.06, 2930.16, 2930.19, 2937.222, 2941.021, 27  
2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 28  
2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 29  
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 30  
2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 2967.05, 2967.12, 31  
2967.13, 2967.19, 2967.193, 2967.26, 2967.28, 2971.03, 2971.07, 32  
5120.113, 5120.53, 5120.61, 5139.04, 5149.101, and 5919.16 of 33  
the Revised Code be amended to read as follows: 34

**Sec. 9.07.** (A) As used in this section: 35

(1) "Deadly weapon" has the same meaning as in section 36  
2923.11 of the Revised Code. 37

(2) "Governing authority of a local public entity" means 38  
whichever of the following is applicable: 39

(a) For a county, the board of county commissioners of the 40  
county; 41

(b) For a municipal corporation, the legislative authority 42  
of the municipal corporation; 43

(c) For a combination of counties, a combination of 44  
municipal corporations, or a combination of one or more counties 45  
and one or more municipal corporations, all boards of county 46  
commissioners and legislative authorities of all of the counties 47  
and municipal corporations that combined to form a local public 48

entity for purposes of this section. 49

(3) "Local public entity" means a county, a municipal 50  
corporation, a combination of counties, a combination of 51  
municipal corporations, or a combination of one or more counties 52  
and one or more municipal corporations. 53

(4) "Non-contracting political subdivision" means any 54  
political subdivision to which all of the following apply: 55

(a) A correctional facility for the housing of out-of- 56  
state prisoners in this state is or will be located in the 57  
political subdivision. 58

(b) The correctional facility described in division (A) (4) 59  
(a) of this section is being operated and managed, or will be 60  
operated and managed, by a local public entity or a private 61  
contractor pursuant to a contract entered into prior to March 62  
17, 1998, or a contract entered into on or after March 17, 1998, 63  
under this section. 64

(c) The political subdivision is not a party to the 65  
contract described in division (A) (4) (b) of this section for the 66  
management and operation of the correctional facility. 67

(5) "Out-of-state jurisdiction" means the United States, 68  
any state other than this state, and any political subdivision 69  
or other jurisdiction located in a state other than this state. 70

(6) "Out-of-state prisoner" means a person who is 71  
convicted of a crime in another state or under the laws of the 72  
United States or who is found under the laws of another state or 73  
of the United States to be a delinquent child or the 74  
substantially equivalent designation. 75

(7) "Private contractor" means either of the following: 76

(a) A person who, on or after March 17, 1998, enters into a contract under this section with a local public entity to operate and manage a correctional facility in this state for out-of-state prisoners.

(b) A person who, pursuant to a contract with a local public entity entered into prior to March 17, 1998, operates and manages on March 17, 1998, a correctional facility in this state for housing out-of-state prisoners.

(B) Subject to division (I) of this section, the only entities other than this state that are authorized to operate a correctional facility to house out-of-state prisoners in this state are a local public entity that operates a correctional facility pursuant to this section or a private contractor that operates a correctional facility pursuant to this section under a contract with a local public entity.

Subject to division (I) of this section, a private entity may operate a correctional facility in this state for the housing of out-of-state prisoners only if the private entity is a private contractor that enters into a contract that comports with division (D) of this section with a local public entity for the management and operation of the correctional facility.

(C) (1) Except as provided in this division, on and after March 17, 1998, a local public entity shall not enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state. On and after March 17, 1998, a local public entity may enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state only if the local public entity and the out-of-state jurisdiction with which the local public entity intends to contract jointly submit to

the department of rehabilitation and correction a statement that 107  
certifies the correctional facility's intended use, intended 108  
prisoner population, and custody level, and the department 109  
reviews and comments upon the plans for the design or renovation 110  
of the correctional facility regarding their suitability for the 111  
intended prisoner population specified in the submitted 112  
statement. 113

(2) If a local public entity and an out-of-state 114  
jurisdiction enter into a contract to house out-of-state 115  
prisoners in a correctional facility in this state as authorized 116  
under division (C) (1) of this section, in addition to any other 117  
provisions it contains, the contract shall include whichever of 118  
the following provisions is applicable: 119

(a) If a private contractor will operate the facility in 120  
question pursuant to a contract entered into in accordance with 121  
division (D) of this section, a requirement that, if the 122  
facility is closed or ceases to operate for any reason and if 123  
the conversion plan described in division (D) (16) of this 124  
section is not complied with, the out-of-state jurisdiction will 125  
be responsible for housing and transporting the prisoners who 126  
are in the facility at the time it is closed or ceases to 127  
operate and for the cost of so housing and transporting those 128  
prisoners; 129

(b) If a private contractor will not operate the facility 130  
in question pursuant to a contract entered into in accordance 131  
with division (D) of this section, a conversion plan that will 132  
be followed if, for any reason, the facility is closed or ceases 133  
to operate. The conversion plan shall include, but is not 134  
limited to, provisions that specify whether the local public 135  
entity or the out-of-state jurisdiction will be responsible for 136

housing and transporting the prisoners who are in the facility 137  
at the time it is closed or ceases to operate and for the cost 138  
of so housing and transporting those prisoners. 139

(3) If a local public entity and an out-of-state 140  
jurisdiction intend to enter into a contract to house out-of- 141  
state prisoners in a correctional facility in this state as 142  
authorized under division (C)(1) of this section, or if a local 143  
public entity and a private contractor intend to enter into a 144  
contract pursuant to division (D) of this section for the 145  
private contractor's management and operation of a correctional 146  
facility in this state to house out-of-state prisoners, prior to 147  
entering into the contract the local public entity and the out- 148  
of-state jurisdiction, or the local public entity and the 149  
private contractor, whichever is applicable, shall conduct a 150  
public hearing in accordance with this division, and, prior to 151  
entering into the contract, the governing authority of the local 152  
public entity in which the facility is or will be located shall 153  
authorize the location and operation of the facility. The 154  
hearing shall be conducted at a location within the municipal 155  
corporation or township in which the facility is or will be 156  
located. At least one week prior to conducting the hearing, the 157  
local public entity and the out-of-state jurisdiction or private 158  
contractor with the duty to conduct the hearing shall cause 159  
notice of the date, time, and place of the hearing to be made by 160  
publication in the newspaper with the largest general 161  
circulation in the county in which the municipal corporation or 162  
township is located. The notice shall be of a sufficient size 163  
that it covers at least one-quarter of a page of the newspaper 164  
in which it is published. This division applies to a private 165  
contractor that, pursuant to the requirement set forth in 166  
division (I) of this section, is required to enter into a 167

contract under division (D) of this section.	168
(D) Subject to division (I) of this section, on and after	169
March 17, 1998, if a local public entity enters into a contract	170
with a private contractor for the management and operation of a	171
correctional facility in this state to house out-of-state	172
prisoners, the contract, at a minimum, shall include all of the	173
following provisions:	174
(1) A requirement that the private contractor seek and	175
obtain accreditation from the American correctional association	176
for the correctional facility within two years after accepting	177
the first out-of-state prisoner at the correctional facility	178
under the contract and that it maintain that accreditation for	179
the term of the contract;	180
(2) A requirement that the private contractor comply with	181
all applicable laws, rules, or regulations of the government of	182
this state, political subdivisions of this state, and the United	183
States, including, but not limited to, all sanitation, food	184
service, safety, and health regulations;	185
(3) A requirement that the private contractor send copies	186
of reports of inspections completed by appropriate authorities	187
regarding compliance with laws, rules, and regulations of the	188
type described in division (D) (2) of this section to the	189
director of rehabilitation and correction or the director's	190
designee and to the governing authority of the local public	191
entity in which the correctional facility is located;	192
(4) A requirement that the private contractor report to	193
the local law enforcement agencies with jurisdiction over the	194
place at which the correctional facility is located, for	195
investigation, all criminal offenses or delinquent acts that are	196

committed in or on the grounds of, or otherwise in connection 197  
with, the correctional facility and report to the department of 198  
rehabilitation and correction all disturbances at the facility; 199

(5) A requirement that the private contractor immediately 200  
report all escapes from the facility, and the apprehension of 201  
all escapees, by telephone and in writing to the department of 202  
rehabilitation and correction, to all local law enforcement 203  
agencies with jurisdiction over the place at which the facility 204  
is located, to the state highway patrol, to the prosecuting 205  
attorney of the county in which the facility is located, and to 206  
a daily newspaper having general circulation in the county in 207  
which the facility is located. The written notice may be by 208  
either facsimile transmission or mail. A failure to comply with 209  
this requirement is a violation of section 2921.22 of the 210  
Revised Code. 211

(6) A requirement that the private contractor provide a 212  
written report to the director of rehabilitation and correction 213  
or the director's designee and to the governing authority of the 214  
local public entity in which the correctional facility is 215  
located of all unusual incidents occurring at the correctional 216  
facility. The private contractor shall report the incidents in 217  
accordance with the incident reporting rules that, at the time 218  
of the incident, are applicable to state correctional facilities 219  
for similar incidents occurring at state correctional 220  
facilities. 221

(7) A requirement that the private contractor provide 222  
internal and perimeter security to protect the public, staff 223  
members of the correctional facility, and prisoners in the 224  
correctional facility; 225

(8) A requirement that the correctional facility be 226



staffed at all times with a staffing pattern that is adequate to 227  
ensure supervision of inmates and maintenance of security within 228  
the correctional facility and to provide for appropriate 229  
programs, transportation, security, and other operational needs. 230  
In determining security needs for the correctional facility, the 231  
private contractor and the contract requirements shall fully 232  
take into account all relevant factors, including, but not 233  
limited to, the proximity of the facility to neighborhoods and 234  
schools. 235

(9) A requirement that the private contractor provide an 236  
adequate policy of insurance that satisfies the requirements set 237  
forth in division (D) of section 9.06 of the Revised Code 238  
regarding contractors who operate and manage a facility under 239  
that section, and that the private contractor indemnify and hold 240  
harmless the state, its officers, agents, and employees, and any 241  
local public entity in the state with jurisdiction over the 242  
place at which the correctional facility is located or that owns 243  
the correctional facility, reimburse the state for its costs in 244  
defending the state or any of its officers, agents, or 245  
employees, and reimburse any local government entity of that 246  
nature for its costs in defending the local government entity, 247  
in the manner described in division (D) of that section 248  
regarding contractors who operate and manage a facility under 249  
that section; 250

(10) A requirement that the private contractor adopt for 251  
prisoners housed in the correctional facility the security 252  
classification system and schedule adopted by the department of 253  
rehabilitation and correction under section 5145.03 of the 254  
Revised Code, classify in accordance with the system and 255  
schedule each prisoner housed in the facility, and house all 256  
prisoners in the facility in accordance with their 257

classification under this division; 258

(11) A requirement that the private contractor will not 259  
accept for housing, and will not house, in the correctional 260  
facility any out-of-state prisoner in relation to whom any of 261  
the following applies: 262

(a) The private entity has not obtained from the out-of- 263  
state jurisdiction that imposed the sentence or sanction under 264  
which the prisoner will be confined in this state a copy of the 265  
institutional record of the prisoner while previously confined 266  
in that out-of-state jurisdiction or a statement that the 267  
prisoner previously has not been confined in that out-of-state 268  
jurisdiction and a copy of all medical records pertaining to 269  
that prisoner that are in the possession of the out-of-state 270  
jurisdiction. 271

(b) The prisoner, while confined in any out-of-state 272  
jurisdiction, has a record of institutional violence involving 273  
the use of a deadly weapon or a pattern of committing acts of an 274  
assaultive nature against employees of, or visitors to, the 275  
place of confinement or has a record of escape or attempted 276  
escape from secure custody. 277

(c) Under the securityclassification system and schedule 278  
adopted by the department of rehabilitation and correction under 279  
section 5145.03 of the Revised Code and adopted by the private 280  
contractor under division (B)(10) of this section, the out-of- 281  
state prisoner would be classified as being at a security level 282  
higher than medium security. 283

(12) A requirement that the private contractor, prior to 284  
housing any out-of-state prisoner in the correctional facility 285  
under the contract, enter into a written agreement with the 286

department of rehabilitation and correction that sets forth a 287  
plan and procedure that will be used to coordinate law 288  
enforcement activities of state law enforcement agencies and of 289  
local law enforcement agencies with jurisdiction over the place 290  
at which the facility is located in response to any riot, 291  
rebellion, escape, insurrection, or other emergency occurring 292  
inside or outside the facility; 293

(13) A requirement that the private contractor cooperate 294  
with the correctional institution inspection committee in the 295  
committee's performance of its duties under section 103.73 of 296  
the Revised Code and provide the committee, its subcommittees, 297  
and its staff members, in performing those duties, with access 298  
to the correctional facility as described in that section; 299

(14) A requirement that the private contractor permit any 300  
peace officer who serves a law enforcement agency with 301  
jurisdiction over the place at which the correctional facility 302  
is located to enter into the facility to investigate any 303  
criminal offense or delinquent act that allegedly has been 304  
committed in or on the grounds of, or otherwise in connection 305  
with, the facility; 306

(15) A requirement that the private contractor will not 307  
employ any person at the correctional facility until after the 308  
private contractor has submitted to the bureau of criminal 309  
identification and investigation, on a form prescribed by the 310  
superintendent of the bureau, a request that the bureau conduct 311  
a criminal records check of the person and a requirement that 312  
the private contractor will not employ any person at the 313  
facility if the records check or other information possessed by 314  
the contractor indicates that the person previously has engaged 315  
in malfeasance; 316

(16) A requirement that the private contractor will not 317  
accept for housing, and will not house, in the correctional 318  
facility any out-of-state prisoner unless the private contractor 319  
and the out-of-state jurisdiction that imposed the sentence for 320  
which the prisoner is to be confined agree that, if the out-of- 321  
state prisoner is confined in the facility in this state, 322  
commits a criminal offense while confined in the facility, is 323  
convicted of or pleads guilty to that offense, and is sentenced 324  
to a term of confinement for that offense ~~but is not sentenced~~ 325  
~~to death for that offense~~, the private contractor and the out- 326  
of-state jurisdiction will do all of the following: 327

(a) Unless section 5120.50 of the Revised Code does not 328  
apply in relation to the offense the prisoner committed while 329  
confined in this state and the term of confinement imposed for 330  
that offense, the out-of-state jurisdiction will accept the 331  
prisoner pursuant to that section for service of that term of 332  
confinement and for any period of time remaining under the 333  
sentence for which the prisoner was confined in the facility in 334  
this state, the out-of-state jurisdiction will confine the 335  
prisoner pursuant to that section for that term and that 336  
remaining period of time, and the private contractor will 337  
transport the prisoner to the out-of-state jurisdiction for 338  
service of that term and that remaining period of time. 339

(b) If section 5120.50 of the Revised Code does not apply 340  
in relation to the offense the prisoner committed while confined 341  
in this state and the term of confinement imposed for that 342  
offense, the prisoner shall be returned to the out-of-state 343  
jurisdiction or its private contractor for completion of the 344  
period of time remaining under the out-of-state sentence for 345  
which the prisoner was confined in the facility in this state 346  
before starting service of the term of confinement imposed for 347

the offense committed while confined in this state, the out-of- 348  
state jurisdiction or its private contractor will confine the 349  
prisoner for that remaining period of time and will transport 350  
the prisoner outside of this state for service of that remaining 351  
period of time, and, if the prisoner is confined in this state 352  
in a facility operated by the department of rehabilitation and 353  
correction, the private contractor will be financially 354  
responsible for reimbursing the department at the per diem cost 355  
of confinement for the duration of that incarceration, with the 356  
amount of the reimbursement so paid to be deposited in the 357  
department's prisoner programs fund. 358

(17) A requirement that the private contractor, prior to 359  
housing any out-of-state prisoner in the correctional facility 360  
under the contract, enter into an agreement with the local 361  
public entity that sets forth a conversion plan that will be 362  
followed if, for any reason, the facility is closed or ceases to 363  
operate. The conversion plan shall include, but is not limited 364  
to, provisions that specify whether the private contractor, the 365  
local public entity, or the out-of-state jurisdictions that 366  
imposed the sentences for which the out-of-state prisoners are 367  
confined in the facility will be responsible for housing and 368  
transporting the prisoners who are in the facility at the time 369  
it is closed or ceases to operate and for the cost of so housing 370  
and transporting those prisoners. 371

(18) A schedule of fines that the local public entity 372  
shall impose upon the private contractor if the private 373  
contractor fails to perform its contractual duties, and a 374  
requirement that, if the private contractor fails to perform its 375  
contractual duties, the local public entity shall impose a fine 376  
on the private contractor from the schedule of fines and, in 377  
addition to the fine, may exercise any other rights it has under 378

the contract. Division (F) (2) of this section applies regarding 379  
a fine described in this division. 380

(19) A requirement that the private contractor adopt and 381  
use in the correctional facility the drug testing and treatment 382  
program that the department of rehabilitation and correction 383  
uses for inmates in state correctional institutions; 384

(20) A requirement that the private contractor provide 385  
clothing for all out-of-state prisoners housed in the 386  
correctional facility that is conspicuous in its color, style, 387  
or color and style, that conspicuously identifies its wearer as 388  
a prisoner, and that is readily distinguishable from clothing of 389  
a nature that normally is worn outside the facility by non- 390  
prisoners, that the private contractor require all out-of-state 391  
prisoners housed in the facility to wear the clothing so 392  
provided, and that the private contractor not permit any out-of- 393  
state prisoner, while inside or on the premises of the facility 394  
or while being transported to or from the facility, to wear any 395  
clothing of a nature that does not conspicuously identify its 396  
wearer as a prisoner and that normally is worn outside the 397  
facility by non-prisoners; 398

(21) A requirement that, at the time the contract is made, 399  
the private contractor provide to all parties to the contract 400  
adequate proof that it has complied with the requirement 401  
described in division (D) (9) of this section, and a requirement 402  
that, at any time during the term of the contract, the private 403  
contractor upon request provide to any party to the contract 404  
adequate proof that it continues to be in compliance with the 405  
requirement described in division (D) (9) of this section. 406

(E) A private correctional officer or other designated 407  
employee of a private contractor that operates a correctional 408

facility that houses out-of-state prisoners in this state under 409  
a contract entered into prior to, on, or after March 17, 1998, 410  
may carry and use firearms in the course of the officer's or 411  
employee's employment only if the officer or employee is 412  
certified as having satisfactorily completed an approved 413  
training program designed to qualify persons for positions as 414  
special police officers, security guards, or persons otherwise 415  
privately employed in a police capacity, as described in 416  
division (A) of section 109.78 of the Revised Code. 417

(F) (1) Upon notification by the private contractor of an 418  
escape from, or of a disturbance at, a correctional facility 419  
that is operated by a private contractor under a contract 420  
entered into prior to, on, or after March 17, 1998, and that 421  
houses out-of-state prisoners in this state, the department of 422  
rehabilitation and correction and state and local law 423  
enforcement agencies shall use all reasonable means to recapture 424  
persons who escaped from the facility or quell any disturbance 425  
at the facility, in accordance with the plan and procedure 426  
included in the written agreement entered into under division 427  
(D) (12) of this section in relation to contracts entered into on 428  
or after March 17, 1998, and in accordance with their normal 429  
procedures in relation to contracts entered into prior to March 430  
17, 1998. Any cost incurred by this state or a political 431  
subdivision of this state relating to the apprehension of a 432  
person who escaped from the facility, to the quelling of a 433  
disturbance at the facility, or to the investigation or 434  
prosecution as described in division (G) (2) of this section of 435  
any offense relating to the escape or disturbance shall be 436  
chargeable to and borne by the private contractor. The 437  
contractor also shall reimburse the state or its political 438  
subdivisions for all reasonable costs incurred relating to the 439

temporary detention of a person who escaped from the facility, 440  
following the person's recapture. 441

(2) If a private contractor that, on or after March 17, 442  
1998, enters into a contract under this section with a local 443  
public entity for the operation of a correctional facility that 444  
houses out-of-state prisoners fails to perform its contractual 445  
duties, the local public entity shall impose upon the private 446  
contractor a fine from the schedule of fines included in the 447  
contract and may exercise any other rights it has under the 448  
contract. A fine imposed under this division shall be paid to 449  
the local public entity that enters into the contract, and the 450  
local public entity shall deposit the money so paid into its 451  
treasury to the credit of the fund used to pay for community 452  
policing. If a fine is imposed under this division, the local 453  
public entity may reduce the payment owed to the private 454  
contractor pursuant to any invoice in the amount of the fine. 455

(3) If a private contractor, on or after March 17, 1998, 456  
enters into a contract under this section with a local public 457  
entity for the operation of a correctional facility that houses 458  
out-of-state prisoners in this state, the private contractor 459  
shall comply with the insurance, indemnification, hold harmless, 460  
and cost reimbursement provisions described in division (D) (9) 461  
of this section. 462

(G) (1) Any act or omission that would be a criminal 463  
offense or a delinquent act if committed at a state correctional 464  
institution or at a jail, workhouse, prison, or other 465  
correctional facility operated by this state or by any political 466  
subdivision or group of political subdivisions of this state 467  
shall be a criminal offense or delinquent act if committed by or 468  
with regard to any out-of-state prisoner who is housed at any 469



correctional facility operated by a private contractor in this 470  
state pursuant to a contract entered into prior to, on, or after 471  
March 17, 1998. 472

(2) If any political subdivision of this state experiences 473  
any cost in the investigation or prosecution of an offense 474  
committed by an out-of-state prisoner housed in a correctional 475  
facility operated by a private contractor in this state pursuant 476  
to a contract entered into prior to, on, or after March 17, 477  
1998, the private contractor shall reimburse the political 478  
subdivision for the costs so experienced. 479

(3) (a) Except as otherwise provided in this division, the 480  
state, and any officer or employee, as defined in section 109.36 481  
of the Revised Code, of the state is not liable in damages in a 482  
civil action for any injury, death, or loss to person or 483  
property that allegedly arises from, or is related to, the 484  
establishment, management, or operation of a correctional 485  
facility to house out-of-state prisoners in this state pursuant 486  
to a contract between a local public entity and an out-of-state 487  
jurisdiction, a local public entity and a private contractor, or 488  
a private contractor and an out-of-state jurisdiction that was 489  
entered into prior to March 17, 1998, or that is entered into on 490  
or after March 17, 1998, in accordance with its provisions. The 491  
immunity provided in this division does not apply regarding an 492  
act or omission of an officer or employee, as defined in section 493  
109.36 of the Revised Code, of the state that is manifestly 494  
outside the scope of the officer's or employee's official 495  
responsibilities or regarding an act or omission of the state, 496  
or of an officer or employee, as so defined, of the state that 497  
is undertaken with malicious purpose, in bad faith, or in a 498  
wanton or reckless manner. 499

(b) Except as otherwise provided in this division, a non- 500  
contracting political subdivision, and any employee, as defined 501  
in section 2744.01 of the Revised Code, of a non-contracting 502  
political subdivision is not liable in damages in a civil action 503  
for any injury, death, or loss to person or property that 504  
allegedly arises from, or is related to, the establishment, 505  
management, or operation of a correctional facility to house 506  
out-of-state prisoners in this state pursuant to a contract 507  
between a local public entity other than the non-contracting 508  
political subdivision and an out-of-state jurisdiction, a local 509  
public entity other than the non-contracting political 510  
subdivision and a private contractor, or a private contractor 511  
and an out-of-state jurisdiction that was entered into prior to 512  
March 17, 1998, or that is entered into on or after March 17, 513  
1998, in accordance with its provisions. The immunity provided 514  
in this division does not apply regarding an act or omission of 515  
an employee, as defined in section 2744.01 of the Revised Code, 516  
of a non-contracting political subdivision that is manifestly 517  
outside the scope of the employee's employment or official 518  
responsibilities or regarding an act or omission of a non- 519  
contracting political subdivision or an employee, as so defined, 520  
of a non-contracting political subdivision that is undertaken 521  
with malicious purpose, in bad faith, or in a wanton or reckless 522  
manner. 523

(c) Divisions (G) (3) (a) and (b) of this section do not 524  
affect any immunity or defense that the state and its officers 525  
and employees or a non-contracting political subdivision and its 526  
employees may be entitled to under another section of the 527  
Revised Code or the common law of this state, including, but not 528  
limited to, section 9.86 or Chapter 2744. of the Revised Code. 529

(H) (1) Upon the completion of an out-of-state prisoner's 530

term of detention at a correctional facility operated by a 531  
private contractor in this state pursuant to a contract entered 532  
into prior to, on, or after March 17, 1998, the operator of the 533  
correctional facility shall transport the prisoner to the out- 534  
of-state jurisdiction that imposed the sentence for which the 535  
prisoner was confined before it releases the prisoner from its 536  
custody. 537

(2) No private contractor that operates and manages a 538  
correctional facility housing out-of-state prisoners in this 539  
state pursuant to a contract entered into prior to, on, or after 540  
March 17, 1998, shall fail to comply with division (H)(1) of 541  
this section. 542

(3) Whoever violates division (H)(2) of this section is 543  
guilty of a misdemeanor of the first degree. 544

(I) Except as otherwise provided in this division, the 545  
provisions of divisions (A) to (H) of this section apply in 546  
relation to any correctional facility operated by a private 547  
contractor in this state to house out-of-state prisoners, 548  
regardless of whether the facility is operated pursuant to a 549  
contract entered into prior to, on, or after March 17, 1998. 550  
Division (C)(1) of this section shall not apply in relation to 551  
any correctional facility for housing out-of-state prisoners in 552  
this state that is operated by a private contractor under a 553  
contract entered into with a local public entity prior to March 554  
17, 1998. If a private contractor operates a correctional 555  
facility in this state for the housing of out-of-state prisoners 556  
under a contract entered into with a local public entity prior 557  
to March 17, 1998, no later than thirty days after the effective 558  
date of this amendment, the private contractor shall enter into 559  
a contract with the local public entity that comports to the 560

requirements and criteria of division (D) of this section. 561

**Sec. 120.03.** (A) The Ohio public defender commission shall 562  
appoint the state public defender, who shall serve at the 563  
pleasure of the commission. 564

(B) The Ohio public defender commission shall establish 565  
rules for the conduct of the offices of the county and joint 566  
county public defenders and for the conduct of county appointed 567  
counsel systems in the state. These rules shall include, but are 568  
not limited to, the following: 569

(1) Standards of indigency and minimum qualifications for 570  
legal representation by a public defender or appointed counsel. 571  
In establishing standards of indigency and determining who is 572  
eligible for legal representation by a public defender or 573  
appointed counsel, the commission shall consider an indigent 574  
person to be an individual who at the time ~~his~~ the person's need 575  
is determined is unable to provide for the payment of an 576  
attorney and all other necessary expenses of representation. 577  
Release on bail shall not prevent a person from being determined 578  
to be indigent. 579

(2) Standards for the hiring of outside counsel; 580

(3) Standards for contracts by a public defender with law 581  
schools, legal aid societies, and nonprofit organizations for 582  
providing counsel; 583

(4) Standards for the qualifications, training, and size 584  
of the legal and supporting staff for a public defender, 585  
facilities, and other requirements needed to maintain and 586  
operate an office of a public defender; 587

(5) Minimum caseload standards; 588

(6) Procedures for the assessment and collection of the 589  
costs of legal representation that is provided by public 590  
defenders or appointed counsel; 591

(7) Standards and guidelines for determining whether a 592  
client is able to make an up-front contribution toward the cost 593  
of ~~his~~ the client's legal representation; 594

(8) Procedures for the collection of up-front 595  
contributions from clients who are able to contribute toward the 596  
cost of their legal representation, as determined pursuant to 597  
the standards and guidelines developed under division (B) (7) of 598  
this section. All of such up-front contributions shall be paid 599  
into the appropriate county fund. 600

(9) Standards for contracts between a board of county 601  
commissioners, a county public defender commission, or a joint 602  
county public defender commission and a municipal corporation 603  
for the legal representation of indigent persons charged with 604  
violations of the ordinances of the municipal corporation. 605

(C) The Ohio public defender commission shall adopt rules 606  
prescribing minimum qualifications of counsel appointed pursuant 607  
to this chapter or appointed by the courts. Without limiting its 608  
general authority to prescribe different qualifications for 609  
different categories of appointed counsel, the commission shall 610  
prescribe, by rule, special qualifications for counsel and co- 611  
counsel appointed in capital cases in which the defendant was 612  
sentenced to death before the effective date of this amendment. 613

(D) In administering the office of the Ohio public 614  
defender commission: 615

(1) The commission shall do the following: 616

(a) Approve an annual operating budget; 617

(b) Make an annual report to the governor, the general assembly, and the supreme court of Ohio on the operation of the state public defender's office, the county appointed counsel systems, and the county and joint county public defenders' offices.

(2) The commission may do the following:

(a) Accept the services of volunteer workers and consultants at no compensation other than reimbursement of actual and necessary expenses;

(b) Prepare and publish statistical and case studies and other data pertinent to the legal representation of indigent persons;

(c) Conduct programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons.

(E) There is hereby established in the state treasury the public defender training fund for the deposit of fees received by the Ohio public defender commission from educational seminars, and the sale of publications, on topics concerning criminal law and procedure. Expenditures from this fund shall be made only for the operation of activities authorized by division (D) (2) (c) of this section.

(F) (1) In accordance with sections 109.02, 109.07, and 109.361 to 109.366 of the Revised Code, but subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of the Ohio public defender commission, the state public defender, assistant state public defenders, and other employees of the commission or the state public defender.

(2) Subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of attorneys described in division (C) of section 120.41 of the Revised Code in malpractice or other civil actions or proceedings that arise from alleged actions or omissions related to responsibilities derived pursuant to this chapter, or in civil actions that are based upon alleged violations of the constitution or statutes of the United States, including section 1983 of Title 42 of the United States Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise from alleged actions or omissions related to responsibilities derived pursuant to this chapter. For purposes of the representation, sections 109.361 to 109.366 of the Revised Code shall apply to an attorney described in division (C) of section 120.41 of the Revised Code as if ~~he~~ the attorney were an officer or employee, as defined in section 109.36 of the Revised Code, and the Ohio public defender commission or the state public defender, whichever contracted with the attorney, shall be considered ~~his~~ the attorney's employer.

**Sec. 120.06.** (A) (1) The state public defender, when designated by the court or requested by a county public defender or joint county public defender, may provide legal representation in all courts throughout the state to indigent adults and juveniles who are charged with the commission of an offense or act for which the penalty or any possible adjudication includes the potential loss of liberty.

(2) The state public defender may provide legal representation to any indigent person who, while incarcerated in any state correctional institution, is charged with a felony offense, for which the penalty or any possible adjudication that may be imposed by a court upon conviction includes the potential

loss of liberty. 678

(3) The state public defender may provide legal 679  
representation to any person incarcerated in any correctional 680  
institution of the state, in any matter in which the person 681  
asserts the person is unlawfully imprisoned or detained. 682

(4) The state public defender, in any case in which the 683  
state public defender has provided legal representation or is 684  
requested to do so by a county public defender or joint county 685  
public defender, may provide legal representation on appeal. 686

(5) The state public defender, when designated by the 687  
court or requested by a county public defender, joint county 688  
public defender, or the director of rehabilitation and 689  
correction, shall provide legal representation in parole and 690  
probation revocation matters or matters relating to the 691  
revocation of community control or post-release control under a 692  
community control sanction or post-release control sanction, 693  
unless the state public defender finds that the alleged parole 694  
or probation violator or alleged violator of a community control 695  
sanction or post-release control sanction has the financial 696  
capacity to retain the alleged violator's own counsel. 697

(6) If the state public defender contracts with a county 698  
public defender commission, a joint county public defender 699  
commission, or a board of county commissioners for the provision 700  
of services, under authority of division (C)(7) of section 701  
120.04 of the Revised Code, the state public defender shall 702  
provide legal representation in accordance with the contract. 703

(B) The state public defender shall not be required to 704  
prosecute any appeal, postconviction remedy, or other proceeding 705  
pursuant to division (A)(3), (4), or (5) of this section, unless 706



the state public defender first is satisfied that there is 707  
arguable merit to the proceeding. 708

(C) A court may appoint counsel or allow an indigent 709  
person to select the indigent's own personal counsel to assist 710  
the state public defender as co-counsel when the interests of 711  
justice so require. When co-counsel is appointed to assist the 712  
state public defender, the co-counsel shall receive any 713  
compensation that the court may approve, not to exceed the 714  
amounts provided for in section 2941.51 of the Revised Code. 715

(D) (1) When the state public defender is designated by the 716  
court or requested by a county public defender or joint county 717  
public defender to provide legal representation for an indigent 718  
person in any case, other than pursuant to a contract entered 719  
into under authority of division (C) (7) of section 120.04 of the 720  
Revised Code, the state public defender shall send to the county 721  
in which the case is filed a bill detailing the actual cost of 722  
the representation that separately itemizes legal fees and 723  
expenses. The county, upon receipt of an itemized bill from the 724  
state public defender pursuant to this division, shall pay the 725  
state public defender each of the following amounts: 726

(a) For the amount identified as legal fees in the 727  
itemized bill, one hundred per cent of the amount identified as 728  
legal fees less the state reimbursement rate as calculated by 729  
the state public defender pursuant to section 120.34 of the 730  
Revised Code for the month the case terminated, as set forth in 731  
the itemized bill; 732

(b) For the amount identified as expenses in the itemized 733  
bill, one hundred per cent. 734

(2) Upon payment of the itemized bill under division (D) 735

(1) of this section, the county may submit the cost of the 736  
expenses, excluding legal fees, to the state public defender for 737  
reimbursement pursuant to section 120.33 of the Revised Code. 738

(3) When the state public defender provides investigation 739  
or mitigation services to private appointed counsel or to a 740  
county or joint county public defender as approved by the 741  
appointing court, other than pursuant to a contract entered into 742  
under authority of division (C) (7) of section 120.04 of the 743  
Revised Code, the state public defender shall send to the county 744  
in which the case is filed a bill itemizing the actual cost of 745  
the services provided. The county, upon receipt of an itemized 746  
bill from the state public defender pursuant to this division, 747  
shall pay one hundred per cent of the amount as set forth in the 748  
itemized bill. Upon payment of the itemized bill received 749  
pursuant to this division, the county may submit the cost of the 750  
investigation and mitigation services to the state public 751  
defender for reimbursement pursuant to section 120.33 of the 752  
Revised Code. 753

(4) There is hereby created in the state treasury the 754  
county representation fund for the deposit of moneys received 755  
from counties under this division. All moneys credited to the 756  
fund shall be used by the state public defender to provide legal 757  
representation for indigent persons when designated by the court 758  
or requested by a county or joint county public defender or to 759  
provide investigation or mitigation services, including 760  
investigation or mitigation services to private appointed 761  
counsel or a county or joint county public defender, as approved 762  
by the court. 763

(E) (1) Notwithstanding any contrary provision of sections 764  
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised 765

Code that pertains to representation by the attorney general, an 766  
assistant attorney general, or special counsel of an officer or 767  
employee, as defined in section 109.36 of the Revised Code, or 768  
of an entity of state government, the state public defender may 769  
elect to contract with, and to have the state pay pursuant to 770  
division (E) (2) of this section for the services of, private 771  
legal counsel to represent the Ohio public defender commission, 772  
the state public defender, assistant state public defenders, 773  
other employees of the commission or the state public defender, 774  
and attorneys described in division (C) of section 120.41 of the 775  
Revised Code in a malpractice or other civil action or 776  
proceeding that arises from alleged actions or omissions related 777  
to responsibilities derived pursuant to this chapter, or in a 778  
civil action that is based upon alleged violations of the 779  
constitution or statutes of the United States, including section 780  
1983 of Title 42 of the United States Code, 93 Stat. 1284 781  
(1979), 42 U.S.C.A. 1983, as amended, and that arises from 782  
alleged actions or omissions related to responsibilities derived 783  
pursuant to this chapter, if the state public defender 784  
determines, in good faith, that the defendant in the civil 785  
action or proceeding did not act manifestly outside the scope of 786  
the defendant's employment or official responsibilities, with 787  
malicious purpose, in bad faith, or in a wanton or reckless 788  
manner. If the state public defender elects not to contract 789  
pursuant to this division for private legal counsel in a civil 790  
action or proceeding, then, in accordance with sections 109.02, 791  
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 792  
attorney general shall represent or provide for the 793  
representation of the Ohio public defender commission, the state 794  
public defender, assistant state public defenders, other 795  
employees of the commission or the state public defender, or 796  
attorneys described in division (C) of section 120.41 of the 797

Revised Code in the civil action or proceeding. 798

(2) (a) Subject to division (E) (2) (b) of this section, 799  
payment from the state treasury for the services of private 800  
legal counsel with whom the state public defender has contracted 801  
pursuant to division (E) (1) of this section shall be 802  
accomplished only through the following procedure: 803

(i) The private legal counsel shall file with the attorney 804  
general a copy of the contract; a request for an award of legal 805  
fees, court costs, and expenses earned or incurred in connection 806  
with the defense of the Ohio public defender commission, the 807  
state public defender, an assistant state public defender, an 808  
employee, or an attorney in a specified civil action or 809  
proceeding; a written itemization of those fees, costs, and 810  
expenses, including the signature of the state public defender 811  
and the state public defender's attestation that the fees, 812  
costs, and expenses were earned or incurred pursuant to division 813  
(E) (1) of this section to the best of the state public 814  
defender's knowledge and information; a written statement 815  
whether the fees, costs, and expenses are for all legal services 816  
to be rendered in connection with that defense, are only for 817  
legal services rendered to the date of the request and 818  
additional legal services likely will have to be provided in 819  
connection with that defense, or are for the final legal 820  
services rendered in connection with that defense; a written 821  
statement indicating whether the private legal counsel 822  
previously submitted a request for an award under division (E) 823  
(2) of this section in connection with that defense and, if so, 824  
the date and the amount of each award granted; and, if the fees, 825  
costs, and expenses are for all legal services to be rendered in 826  
connection with that defense or are for the final legal services 827  
rendered in connection with that defense, a certified copy of 828

any judgment entry in the civil action or proceeding or a signed 829  
copy of any settlement agreement entered into between the 830  
parties to the civil action or proceeding. 831

(ii) Upon receipt of a request for an award of legal fees, 832  
court costs, and expenses and the requisite supportive 833  
documentation described in division (E) (2) (a) (i) of this 834  
section, the attorney general shall review the request and 835  
documentation; determine whether any of the limitations 836  
specified in division (E) (2) (b) of this section apply to the 837  
request; and, if an award of legal fees, court costs, or 838  
expenses is permissible after applying the limitations, prepare 839  
a document awarding legal fees, court costs, or expenses to the 840  
private legal counsel. The document shall name the private legal 841  
counsel as the recipient of the award; specify the total amount 842  
of the award as determined by the attorney general; itemize the 843  
portions of the award that represent legal fees, court costs, 844  
and expenses; specify any limitation applied pursuant to 845  
division (E) (2) (b) of this section to reduce the amount of the 846  
award sought by the private legal counsel; state that the award 847  
is payable from the state treasury pursuant to division (E) (2) 848  
(a) (iii) of this section; and be approved by the inclusion of 849  
the signatures of the attorney general, the state public 850  
defender, and the private legal counsel. 851

(iii) The attorney general shall forward a copy of the 852  
document prepared pursuant to division (E) (2) (a) (ii) of this 853  
section to the director of budget and management. The award of 854  
legal fees, court costs, or expenses shall be paid out of the 855  
state public defender's appropriations, to the extent there is a 856  
sufficient available balance in those appropriations. If the 857  
state public defender does not have a sufficient available 858  
balance in the state public defender's appropriations to pay the 859

entire award of legal fees, court costs, or expenses, the 860  
director shall make application for a transfer of appropriations 861  
out of the emergency purposes account or any other appropriation 862  
for emergencies or contingencies in an amount equal to the 863  
portion of the award that exceeds the sufficient available 864  
balance in the state public defender's appropriations. A 865  
transfer of appropriations out of the emergency purposes account 866  
or any other appropriation for emergencies or contingencies 867  
shall be authorized if there are sufficient moneys greater than 868  
the sum total of then pending emergency purposes account 869  
requests, or requests for releases from the other appropriation. 870  
If a transfer of appropriations out of the emergency purposes 871  
account or other appropriation for emergencies or contingencies 872  
is made to pay an amount equal to the portion of the award that 873  
exceeds the sufficient available balance in the state public 874  
defender's appropriations, the director shall cause the payment 875  
to be made to the private legal counsel. If sufficient moneys do 876  
not exist in the emergency purposes account or other 877  
appropriation for emergencies or contingencies to pay an amount 878  
equal to the portion of the award that exceeds the sufficient 879  
available balance in the state public defender's appropriations, 880  
the private legal counsel shall request the general assembly to 881  
make an appropriation sufficient to pay an amount equal to the 882  
portion of the award that exceeds the sufficient available 883  
balance in the state public defender's appropriations, and no 884  
payment in that amount shall be made until the appropriation has 885  
been made. The private legal counsel shall make the request 886  
during the current biennium and during each succeeding biennium 887  
until a sufficient appropriation is made. 888

(b) An award of legal fees, court costs, and expenses 889  
pursuant to division (E) of this section is subject to the 890

following limitations: 891

(i) The maximum award or maximum aggregate of a series of 892  
awards of legal fees, court costs, and expenses to the private 893  
legal counsel in connection with the defense of the Ohio public 894  
defender commission, the state public defender, an assistant 895  
state public defender, an employee, or an attorney in a 896  
specified civil action or proceeding shall not exceed fifty 897  
thousand dollars. 898

(ii) The private legal counsel shall not be awarded legal 899  
fees, court costs, or expenses to the extent the fees, costs, or 900  
expenses are covered by a policy of malpractice or other 901  
insurance. 902

(iii) The private legal counsel shall be awarded legal 903  
fees and expenses only to the extent that the fees and expenses 904  
are reasonable in light of the legal services rendered by the 905  
private legal counsel in connection with the defense of the Ohio 906  
public defender commission, the state public defender, an 907  
assistant state public defender, an employee, or an attorney in 908  
a specified civil action or proceeding. 909

(c) If, pursuant to division (E) (2) (a) of this section, 910  
the attorney general denies a request for an award of legal 911  
fees, court costs, or expenses to private legal counsel because 912  
of the application of a limitation specified in division (E) (2) 913  
(b) of this section, the attorney general shall notify the 914  
private legal counsel in writing of the denial and of the 915  
limitation applied. 916

(d) If, pursuant to division (E) (2) (c) of this section, a 917  
private legal counsel receives a denial of an award notification 918  
or if a private legal counsel refuses to approve a document 919

under division (E) (2) (a) (ii) of this section because of the 920  
proposed application of a limitation specified in division (E) 921  
(2) (b) of this section, the private legal counsel may commence a 922  
civil action against the attorney general in the court of claims 923  
to prove the private legal counsel's entitlement to the award 924  
sought, to prove that division (E) (2) (b) of this section does 925  
not prohibit or otherwise limit the award sought, and to recover 926  
a judgment for the amount of the award sought. A civil action 927  
under division (E) (2) (d) of this section shall be commenced no 928  
later than two years after receipt of a denial of award 929  
notification or, if the private legal counsel refused to approve 930  
a document under division (E) (2) (a) (ii) of this section because 931  
of the proposed application of a limitation specified in 932  
division (E) (2) (b) of this section, no later than two years 933  
after the refusal. Any judgment of the court of claims in favor 934  
of the private legal counsel shall be paid from the state 935  
treasury in accordance with division (E) (2) (a) of this section. 936

~~(F) If a court appoints the office of the state public 937  
defender to represent a petitioner in a postconviction relief 938  
proceeding under section 2953.21 of the Revised Code, the 939  
petitioner has received a sentence of death, and the proceeding 940  
relates to that sentence, all of the attorneys who represent the 941  
petitioner in the proceeding pursuant to the appointment, 942  
whether an assistant state public defender, the state public 943  
defender, or another attorney, shall be certified under Rule 20 944  
of the Rules of Superintendence for the Courts of Ohio to 945  
represent indigent defendants charged with or convicted of an 946  
offense for which the death penalty can be or has been imposed. 947~~

~~(G)~~ (1) The state public defender may conduct a legal 948  
assistance referral service for children committed to the 949  
department of youth services relative to conditions of 950



confinement claims. If the legal assistance referral service 951  
receives a request for assistance from a child confined in a 952  
facility operated, or contracted for, by the department of youth 953  
services and the state public defender determines that the child 954  
has a conditions of confinement claim that has merit, the state 955  
public defender may refer the child to a private attorney. If no 956  
private attorney who the child has been referred to by the state 957  
public defender accepts the case within a reasonable time, the 958  
state public defender may prepare, as appropriate, pro se 959  
pleadings in the form of a complaint regarding the conditions of 960  
confinement at the facility where the child is confined with a 961  
motion for appointment of counsel and other applicable pleadings 962  
necessary for sufficient pro se representation. 963

(2) Division ~~(G)~~(F) (1) of this section does not authorize 964  
the state public defender to represent a child committed to the 965  
department of youth services in general civil matters arising 966  
solely out of state law. 967

(3) The state public defender shall not undertake the 968  
representation of a child in court based on a conditions of 969  
confinement claim arising under this division. 970

~~(H)~~(G) A child's right to representation or services 971  
under this section is not affected by the child, or another 972  
person on behalf of the child, previously having paid for 973  
similar representation or services or having waived legal 974  
representation. 975

~~(I)~~(H) The state public defender shall have reasonable 976  
access to any child committed to the department of youth 977  
services, department of youth services institution, and 978  
department of youth services record as needed to implement this 979  
section. 980

<del>(J)</del> —(I) As used in this section:	981
(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	982 983
(2) "Conditions of confinement" means any issue involving a constitutional right or other civil right related to a child's incarceration, including, but not limited to, actions cognizable under 42 U.S.C. 1983.	984 985 986 987
(3) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	988 989
<b>Sec. 120.14.</b> (A) (1) Except as provided in division (A) (2) of this section, the county public defender commission shall appoint the county public defender and may remove <del>him</del> <u>the county public defender</u> from office only for good cause.	990 991 992 993
(2) If a county public defender commission contracts with the state public defender or with one or more nonprofit organizations for the state public defender or the organizations to provide all of the services that the county public defender is required or permitted to provide by this chapter, the commission shall not appoint a county public defender.	994 995 996 997 998 999
(B) The commission shall determine the qualifications and size of the supporting staff and facilities and other requirements needed to maintain and operate the office of the county public defender.	1000 1001 1002 1003
(C) In administering the office of county public defender, the commission shall:	1004 1005
(1) Recommend to the county commissioners an annual operating budget which is subject to the review, amendment, and approval of the board of county commissioners;	1006 1007 1008

(2) (a) Make an annual report to the county commissioners 1009  
and the Ohio public defender commission on the operation of the 1010  
county public defender's office, ~~including complete and detailed~~ 1011  
~~information on finances and costs that separately states costs~~ 1012  
~~and expenses that are reimbursable under section 120.35 of the~~ 1013  
~~Revised Code~~, and any other data and information requested by 1014  
the state public defender; 1015

(b) Make monthly reports relating to reimbursement and 1016  
associated case data pursuant to the rules of the Ohio public 1017  
defender commission to the board of county commissioners and the 1018  
Ohio public defender commission on the total costs of the public 1019  
defender's office. 1020

(3) Cooperate with the Ohio public defender commission in 1021  
maintaining the standards established by rules of the Ohio 1022  
public defender commission pursuant to divisions (B) and (C) of 1023  
section 120.03 of the Revised Code, and cooperate with the state 1024  
public defender in ~~his~~ the state public defender's programs 1025  
providing technical aid and assistance to county systems. 1026

(D) The commission may accept the services of volunteer 1027  
workers and consultants at no compensation except reimbursement 1028  
for actual and necessary expenses. 1029

(E) The commission may contract with any municipal 1030  
corporation, within the county served by the county public 1031  
defender, for the county public defender to provide legal 1032  
representation for indigent persons who are charged with a 1033  
violation of the ordinances of the municipal corporation. 1034

(F) A county public defender commission, with the approval 1035  
of the board of county commissioners regarding all provisions 1036  
that pertain to the financing of defense counsel for indigent 1037

persons, may contract with the state public defender or with any 1038  
nonprofit organization, the primary purpose of which is to 1039  
provide legal representation to indigent persons, for the state 1040  
public defender or the organization to provide all or any part 1041  
of the services that a county public defender is required or 1042  
permitted to provide by this chapter. A contract entered into 1043  
pursuant to this division may provide for payment for the 1044  
services provided on a per case, hourly, or fixed contract 1045  
basis. The state public defender and any nonprofit organization 1046  
that contracts with a county public defender commission pursuant 1047  
to this division shall do all of the following: 1048

(1) Comply with all standards established by the rules of 1049  
the Ohio public defender commission; 1050

(2) Comply with all standards established by the state 1051  
public defender; 1052

(3) Comply with all statutory duties and other laws 1053  
applicable to county public defenders. 1054

**Sec. 120.16.** (A) (1) The county public defender shall 1055  
provide legal representation to indigent adults and juveniles 1056  
who are charged with the commission of an offense or act that is 1057  
a violation of a state statute and for which the penalty or any 1058  
possible adjudication includes the potential loss of liberty and 1059  
in postconviction proceedings as defined in this section. 1060

(2) The county public defender may provide legal 1061  
representation to indigent adults and juveniles charged with the 1062  
violation of an ordinance of a municipal corporation for which 1063  
the penalty or any possible adjudication includes the potential 1064  
loss of liberty, if the county public defender commission has 1065  
contracted with the municipal corporation to provide legal 1066

representation for indigent persons charged with a violation of 1067  
an ordinance of the municipal corporation. 1068

(B) The county public defender shall provide the legal 1069  
representation authorized by division (A) of this section at 1070  
every stage of the proceedings following arrest, detention, 1071  
service of summons, or indictment. 1072

(C) The county public defender may request the state 1073  
public defender to prosecute any appeal or other remedy before 1074  
or after conviction that the county public defender decides is 1075  
in the interests of justice, and may provide legal 1076  
representation in parole and probation revocation matters and 1077  
matters relating to the revocation of community control or post- 1078  
release control under a community control sanction or post- 1079  
release control sanction. 1080

(D) The county public defender shall not be required to 1081  
prosecute any appeal, postconviction remedy, or other 1082  
proceeding, unless the county public defender is first satisfied 1083  
there is arguable merit to the proceeding. 1084

(E) Nothing in this section shall prevent a court from 1085  
appointing counsel other than the county public defender or from 1086  
allowing an indigent person to select the indigent person's own 1087  
personal counsel to represent the indigent person. A court may 1088  
also appoint counsel or allow an indigent person to select the 1089  
indigent person's own personal counsel to assist the county 1090  
public defender as co-counsel when the interests of justice so 1091  
require. 1092

(F) Information as to the right to legal representation by 1093  
the county public defender or assigned counsel shall be afforded 1094  
to an accused person immediately upon arrest, when brought 1095

before a magistrate, or when formally charged, whichever occurs 1096  
first. 1097

~~(G) If a court appoints the office of the county public 1098  
defender to represent a petitioner in a postconviction relief 1099  
proceeding under section 2953.21 of the Revised Code, the 1100  
petitioner has received a sentence of death, and the proceeding 1101  
relates to that sentence, all of the attorneys who represent the 1102  
petitioner in the proceeding pursuant to the appointment, 1103  
whether an assistant county public defender or the county public 1104  
defender, shall be certified under Rule 20 of the Rules of 1105  
Superintendence for the Courts of Ohio to represent indigent 1106  
defendants charged with or convicted of an offense for which the 1107  
death penalty can be or has been imposed. 1108~~

~~(H) As used in this section: 1109~~

(1) "Community control sanction" has the same meaning as 1110  
in section 2929.01 of the Revised Code. 1111

(2) "Post-release control sanction" has the same meaning 1112  
as in section 2967.01 of the Revised Code. 1113

**Sec. 120.18.** (A) The county public defender commission's 1114  
report to the board of county commissioners shall be audited by 1115  
the county auditor. The board of county commissioners, after 1116  
review and approval of the audited report, may then certify it 1117  
to the state public defender for reimbursement. If a request for 1118  
the reimbursement of any operating expenditure incurred by a 1119  
county public defender office is not received by the state 1120  
public defender within sixty days after the end of the calendar 1121  
month in which the expenditure is incurred, the state public 1122  
defender shall not pay the requested reimbursement, unless the 1123  
county has requested, and the state public defender has granted, 1124

an extension of the sixty-day time limit. Each request for 1125  
reimbursement shall include a certification by the county public 1126  
defender that the persons provided representation by the county 1127  
public defender's office during the period covered by the report 1128  
were indigent and, for each person provided representation 1129  
during that period, a financial disclosure form completed by the 1130  
person on a form prescribed by the state public defender. The 1131  
state public defender shall also review the report and, in 1132  
accordance with the standards, guidelines, and maximums 1133  
established pursuant to divisions (B) (7) and (8) of section 1134  
120.04 of the Revised Code, prepare a voucher for fifty per cent 1135  
of the total cost of each county public defender's office for 1136  
the period of time covered by the certified report ~~and a voucher~~ 1137  
~~for fifty per cent of the costs and expenses that are~~ 1138  
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 1139  
or, if the amount of money appropriated by the general assembly 1140  
to reimburse counties for the operation of county public 1141  
defender offices, joint county public defender offices, and 1142  
county appointed counsel systems is not sufficient to pay fifty 1143  
per cent of the total cost of all of the offices and systems, 1144  
for the lesser amount required by section 120.34 of the Revised 1145  
Code. For the purposes of this section, "total cost" means total 1146  
expenses minus ~~costs and expenses reimbursable under section~~ 1147  
~~120.35 of the Revised Code and any funds received by the county~~ 1148  
public defender commission pursuant to a contract, except a 1149  
contract entered into with a municipal corporation pursuant to 1150  
division (E) of section 120.14 of the Revised Code, gift, or 1151  
grant. 1152

(B) If the county public defender fails to maintain the 1153  
standards for the conduct of the office established by rules of 1154  
the Ohio public defender commission pursuant to divisions (B) 1155

and (C) of section 120.03 or the standards established by the 1156  
state public defender pursuant to division (B)(7) of section 1157  
120.04 of the Revised Code, the Ohio public defender commission 1158  
shall notify the county public defender commission and the board 1159  
of county commissioners of the county that the county public 1160  
defender has failed to comply with its rules or the standards of 1161  
the state public defender. Unless the county public defender 1162  
commission or the county public defender corrects the conduct of 1163  
the county public defender's office to comply with the rules and 1164  
standards within ninety days after the date of the notice, the 1165  
state public defender may deny payment of all or part of the 1166  
county's reimbursement from the state provided for in division 1167  
(A) of this section. 1168

**Sec. 120.24.** (A)(1) Except as provided in division (A)(2) 1169  
of this section, the joint county public defender commission 1170  
shall appoint the joint county public defender and may remove 1171  
~~him~~ the joint county public defender from office only for good 1172  
cause. 1173

(2) If a joint county public defender commission contracts 1174  
with the state public defender or with one or more nonprofit 1175  
organizations for the state public defender or the organizations 1176  
to provide all of the services that the joint county public 1177  
defender is required or permitted to provide by this chapter, 1178  
the commission shall not appoint a joint county public defender. 1179

(B) The commission shall determine the qualifications and 1180  
size of the supporting staff and facilities and other 1181  
requirements needed to maintain and operate the office. 1182

(C) In administering the office of joint county public 1183  
defender, the commission shall: 1184



(1) Recommend to the boards of county commissioners in the 1185  
district an annual operating budget which is subject to the 1186  
review, amendment, and approval of the boards of county 1187  
commissioners in the district; 1188

(2) (a) Make an annual report to the boards of county 1189  
commissioners in the district and the Ohio public defender 1190  
commission on the operation of the public defender's office, ~~—~~ 1191  
~~including complete and detailed information on finances and~~ 1192  
~~costs that separately states costs and expenses that are~~ 1193  
~~reimbursable under section 120.35 of the Revised Code,~~ and such 1194  
other data and information requested by the state public 1195  
defender; 1196

(b) Make monthly reports relating to reimbursement and 1197  
associated case data pursuant to the rules of the Ohio public 1198  
defender commission to the boards of county commissioners in the 1199  
district and the Ohio public defender commission on the total 1200  
costs of the public defender's office. 1201

(3) Cooperate with the Ohio public defender commission in 1202  
maintaining the standards established by rules of the Ohio 1203  
public defender commission pursuant to divisions (B) and (C) of 1204  
section 120.03 of the Revised Code, and cooperate with the state 1205  
public defender in ~~his~~ the state public defender's programs 1206  
providing technical aid and assistance to county systems. 1207

(D) The commission may accept the services of volunteer 1208  
workers and consultants at no compensation except reimbursement 1209  
for actual and necessary expenses. 1210

(E) The commission may contract with any municipal 1211  
corporation, within the counties served by the joint county 1212  
public defender, for the joint county public defender to provide 1213

legal representation for indigent persons who are charged with a 1214  
violation of the ordinances of the municipal corporation. 1215

(F) A joint county public defender commission, with the 1216  
approval of each participating board of county commissioners 1217  
regarding all provisions that pertain to the financing of 1218  
defense counsel for indigent persons, may contract with the 1219  
state public defender or with any nonprofit organization, the 1220  
primary purpose of which is to provide legal representation to 1221  
indigent persons, for the state public defender or the 1222  
organization to provide all or any part of the services that a 1223  
joint county public defender is required or permitted to provide 1224  
by this chapter. A contract entered into pursuant to this 1225  
division may provide for payment for the services provided on a 1226  
per case, hourly, or fixed contract basis. The state public 1227  
defender and any nonprofit organization that contracts with a 1228  
joint county public defender commission pursuant to this 1229  
division shall do all of the following: 1230

(1) Comply with all standards established by the rules of 1231  
the Ohio public defender commission; 1232

(2) Comply with all standards established by the Ohio 1233  
public defender; 1234

(3) Comply with all statutory duties and other laws 1235  
applicable to joint county public defenders. 1236

**Sec. 120.26.** (A) (1) The joint county public defender shall 1237  
provide legal representation to indigent adults and juveniles 1238  
who are charged with the commission of an offense or act that is 1239  
a violation of a state statute and for which the penalty or any 1240  
possible adjudication includes the potential loss of liberty and 1241  
in postconviction proceedings as defined in this section. 1242

(2) The joint county public defender may provide legal 1243  
representation to indigent adults and juveniles charged with the 1244  
violation of an ordinance of a municipal corporation for which 1245  
the penalty or any possible adjudication includes the potential 1246  
loss of liberty, if the joint county public defender commission 1247  
has contracted with the municipal corporation to provide legal 1248  
representation for indigent persons charged with a violation of 1249  
an ordinance of the municipal corporation. 1250

(B) The joint county public defender shall provide the 1251  
legal representation authorized by division (A) of this section 1252  
at every stage of the proceedings following arrest, detention, 1253  
service of summons, or indictment. 1254

(C) The joint county public defender may request the Ohio 1255  
public defender to prosecute any appeal or other remedy before 1256  
or after conviction that the joint county public defender 1257  
decides is in the interests of justice and may provide legal 1258  
representation in parole and probation revocation matters and 1259  
matters relating to the revocation of community control or post- 1260  
release control under a community control sanction or post- 1261  
release control sanction. 1262

(D) The joint county public defender shall not be required 1263  
to prosecute any appeal, postconviction remedy, or other 1264  
proceeding, unless the joint county public defender is first 1265  
satisfied that there is arguable merit to the proceeding. 1266

(E) Nothing in this section shall prevent a court from 1267  
appointing counsel other than the joint county public defender 1268  
or from allowing an indigent person to select the indigent 1269  
person's own personal counsel to represent the indigent person. 1270  
A court may also appoint counsel or allow an indigent person to 1271  
select the indigent person's own personal counsel to assist the 1272

joint county public defender as co-counsel when the interests of 1273  
justice so require. 1274

(F) Information as to the right to legal representation by 1275  
the joint county public defender or assigned counsel shall be 1276  
afforded to an accused person immediately upon arrest, when 1277  
brought before a magistrate, or when formally charged, whichever 1278  
occurs first. 1279

~~(G) If a court appoints the office of the joint county 1280  
public defender to represent a petitioner in a postconviction- 1281  
relief proceeding under section 2953.21 of the Revised Code, the 1282  
petitioner has received a sentence of death, and the proceeding- 1283  
relates to that sentence, all of the attorneys who represent the 1284  
petitioner in the proceeding pursuant to the appointment, 1285  
whether an assistant joint county defender or the joint county 1286  
public defender, shall be certified under Rule 20 of the Rules- 1287  
of Superintendence for the Courts of Ohio to represent indigent 1288  
defendants charged with or convicted of an offense for which the 1289  
death penalty can be or has been imposed. 1290~~

~~(H) As used in this section: 1291~~

(1) "Community control sanction" has the same meaning as 1292  
in section 2929.01 of the Revised Code. 1293

(2) "Post-release control sanction" has the same meaning 1294  
as in section 2967.01 of the Revised Code. 1295

**Sec. 120.28.** (A) The joint county public defender 1296  
commission's report to the joint board of county commissioners 1297  
shall be audited by the fiscal officer of the district. The 1298  
joint board of county commissioners, after review and approval 1299  
of the audited report, may then certify it to the state public 1300  
defender for reimbursement. If a request for the reimbursement 1301

of any operating expenditure incurred by a joint county public 1302  
defender office is not received by the state public defender 1303  
within sixty days after the end of the calendar month in which 1304  
the expenditure is incurred, the state public defender shall not 1305  
pay the requested reimbursement, unless the joint board of 1306  
county commissioners has requested, and the state public 1307  
defender has granted, an extension of the sixty-day time limit. 1308  
Each request for reimbursement shall include a certification by 1309  
the joint county public defender that all persons provided 1310  
representation by the joint county public defender's office 1311  
during the period covered by the request were indigent and, for 1312  
each person provided representation during that period, a 1313  
financial disclosure form completed by the person on a form 1314  
prescribed by the state public defender. The state public 1315  
defender shall also review the report and, in accordance with 1316  
the standards, guidelines, and maximums established pursuant to 1317  
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1318  
prepare a voucher for fifty per cent of the total cost of each 1319  
joint county public defender's office for the period of time 1320  
covered by the certified report ~~and a voucher for fifty per cent~~ 1321  
~~of the costs and expenses that are reimbursable under section~~ 1322  
~~120.35 of the Revised Code, if any, or, if the amount of money~~ 1323  
appropriated by the general assembly to reimburse counties for 1324  
the operation of county public defender offices, joint county 1325  
public defender offices, and county appointed counsel systems is 1326  
not sufficient to pay fifty per cent of the total cost of all of 1327  
the offices and systems, for the lesser amount required by 1328  
section 120.34 of the Revised Code. For purposes of this 1329  
section, "total cost" means total expenses minus ~~costs and~~ 1330  
~~expenses reimbursable under section 120.35 of the Revised Code~~ 1331  
~~and~~ any funds received by the joint county public defender 1332  
commission pursuant to a contract, except a contract entered 1333

into with a municipal corporation pursuant to division (E) of 1334  
section 120.24 of the Revised Code, gift, or grant. Each county 1335  
in the district shall be entitled to a share of such state 1336  
reimbursement in proportion to the percentage of the total cost 1337  
it has agreed to pay. 1338

(B) If the joint county public defender fails to maintain 1339  
the standards for the conduct of the office established by the 1340  
rules of the Ohio public defender commission pursuant to 1341  
divisions (B) and (C) of section 120.03 or the standards 1342  
established by the state public defender pursuant to division 1343  
(B)(7) of section 120.04 of the Revised Code, the Ohio public 1344  
defender commission shall notify the joint county public 1345  
defender commission and the board of county commissioners of 1346  
each county in the district that the joint county public 1347  
defender has failed to comply with its rules or the standards of 1348  
the state public defender. Unless the joint public defender 1349  
commission or the joint county public defender corrects the 1350  
conduct of the joint county public defender's office to comply 1351  
with the rules and standards within ninety days after the date 1352  
of the notice, the state public defender may deny all or part of 1353  
the counties' reimbursement from the state provided for in 1354  
division (A) of this section. 1355

**Sec. 120.33.** (A) In lieu of using a county public defender 1356  
or joint county public defender to represent indigent persons in 1357  
the proceedings set forth in division (A) of section 120.16 of 1358  
the Revised Code, the board of county commissioners of any 1359  
county may adopt a resolution to pay counsel who are either 1360  
personally selected by the indigent person or appointed by the 1361  
court. The resolution shall include those provisions the board 1362  
of county commissioners considers necessary to provide effective 1363  
representation of indigent persons in any proceeding for which 1364

counsel is provided under this section. The resolution shall 1365  
include provisions for contracts with any municipal corporation 1366  
under which the municipal corporation shall reimburse the county 1367  
for counsel appointed to represent indigent persons charged with 1368  
violations of the ordinances of the municipal corporation. 1369

(1) In a county that adopts a resolution to pay counsel, 1370  
an indigent person shall have the right to do either of the 1371  
following: 1372

(a) To select the person's own personal counsel to 1373  
represent the person in any proceeding included within the 1374  
provisions of the resolution; 1375

(b) To request the court to appoint counsel to represent 1376  
the person in such a proceeding. 1377

(2) The court having jurisdiction over the proceeding in a 1378  
county that adopts a resolution to pay counsel shall, after 1379  
determining that the person is indigent and entitled to legal 1380  
representation under this section, do either of the following: 1381

(a) By signed journal entry recorded on its docket, enter 1382  
the name of the lawyer selected by the indigent person as 1383  
counsel of record; 1384

(b) Appoint counsel for the indigent person if the person 1385  
has requested the court to appoint counsel and, by signed 1386  
journal entry recorded on its dockets, enter the name of the 1387  
lawyer appointed for the indigent person as counsel of record. 1388

(3) The board of county commissioners shall establish a 1389  
schedule of fees by case or on an hourly basis to be paid to 1390  
counsel for legal services provided pursuant to a resolution 1391  
adopted under this section. Prior to establishing the schedule, 1392  
the board of county commissioners shall request the bar 1393

association or associations of the county to submit a proposed 1394  
~~schedule for cases other than capital cases.~~ The schedule 1395  
submitted shall be subject to the review, amendment, and 1396  
approval of the board of county commissioners, ~~except with~~ 1397  
~~respect to capital cases. With respect to capital cases, the~~ 1398  
~~schedule shall provide for fees by case or on an hourly basis to~~ 1399  
~~be paid to counsel in the amount or at the rate set by the~~ 1400  
~~capital case attorney fee council pursuant to division (D) of~~ 1401  
~~this section, and the board of county commissioners shall~~ 1402  
~~approve that amount or rate.~~ 1403

(4) Counsel selected by the indigent person or appointed 1404  
by the court at the request of an indigent person in a county 1405  
that adopts a resolution to pay counsel, except for counsel 1406  
appointed to represent a person charged with any violation of an 1407  
ordinance of a municipal corporation that has not contracted 1408  
with the county commissioners for the payment of appointed 1409  
counsel, shall be paid by the county and shall receive the 1410  
compensation and expenses the court approves. ~~With respect to~~ 1411  
~~capital cases, the court shall approve compensation and expenses~~ 1412  
~~in accordance with the amount or at the rate set by the capital~~ 1413  
~~case attorney fee council pursuant to division (D) of this~~ 1414  
~~section.~~ Each request for payment shall be accompanied by a 1415  
financial disclosure form and an affidavit of indigency that are 1416  
completed by the indigent person on forms prescribed by the 1417  
state public defender. Compensation and expenses shall not 1418  
exceed the amounts fixed by the board of county commissioners in 1419  
the schedule adopted pursuant to division (A) (3) of this 1420  
section. No court shall approve compensation and expenses that 1421  
exceed the amount fixed pursuant to division (A) (3) of this 1422  
section. 1423

The fees and expenses approved by the court shall not be 1424



taxed as part of the costs and shall be paid by the county. 1425  
However, if the person represented has, or may reasonably be 1426  
expected to have, the means to meet some part of the cost of the 1427  
services rendered to the person, the person shall pay the county 1428  
an amount that the person reasonably can be expected to pay. 1429  
Pursuant to section 120.04 of the Revised Code, the county shall 1430  
pay to the state public defender a percentage of the payment 1431  
received from the person in an amount proportionate to the 1432  
percentage of the costs of the person's case that were paid to 1433  
the county by the state public defender pursuant to this 1434  
section. The money paid to the state public defender shall be 1435  
credited to the client payment fund created pursuant to division 1436  
(B) (5) of section 120.04 of the Revised Code. 1437

The county auditor shall draw a warrant on the county 1438  
treasurer for the payment of counsel in the amount fixed by the 1439  
court, plus the expenses the court fixes and certifies to the 1440  
auditor. The county auditor shall report periodically, but not 1441  
less than annually, to the board of county commissioners and to 1442  
the state public defender the amounts paid out pursuant to the 1443  
approval of the court. The board of county commissioners, after 1444  
review and approval of the auditor's report, or the county 1445  
auditor, with permission from and notice to the board of county 1446  
commissioners, may then certify it to the state public defender 1447  
for reimbursement. The state public defender may pay a requested 1448  
reimbursement only if the request for reimbursement is 1449  
accompanied by a financial disclosure form and an affidavit of 1450  
indigency completed by the indigent person on forms prescribed 1451  
by the state public defender or if the court certifies by 1452  
electronic signature as prescribed by the state public defender 1453  
that a financial disclosure form and affidavit of indigency have 1454  
been completed by the indigent person and are available for 1455

inspection. If a request for the reimbursement of the cost of 1456  
counsel in any case is not received by the state public defender 1457  
within ninety days after the end of the calendar month in which 1458  
the case is finally disposed of by the court, unless the county 1459  
has requested and the state public defender has granted an 1460  
extension of the ninety-day limit, the state public defender 1461  
shall not pay the requested reimbursement. The state public 1462  
defender shall also review the report and, in accordance with 1463  
the standards, guidelines, and maximums established pursuant to 1464  
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1465  
prepare a voucher for fifty per cent of the total cost of each 1466  
county appointed counsel system in the period of time covered by 1467  
the certified report ~~and a voucher for fifty per cent of the~~ 1468  
~~costs and expenses that are reimbursable under section 120.35 of~~ 1469  
~~the Revised Code, if any, or, if the amount of money~~ 1470  
appropriated by the general assembly to reimburse counties for 1471  
the operation of county public defender offices, joint county 1472  
public defender offices, and county appointed counsel systems is 1473  
not sufficient to pay fifty per cent of the total cost of all of 1474  
the offices and systems ~~other than costs and expenses that are~~ 1475  
~~reimbursable under section 120.35 of the Revised Code~~, for the 1476  
lesser amount required by section 120.34 of the Revised Code. 1477

(5) If any county appointed counsel system fails to 1478  
maintain the standards for the conduct of the system established 1479  
by the rules of the Ohio public defender commission pursuant to 1480  
divisions (B) and (C) of section 120.03 or the standards 1481  
established by the state public defender pursuant to division 1482  
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1483  
defender commission shall notify the board of county 1484  
commissioners of the county that the county appointed counsel 1485  
system has failed to comply with its rules or the standards of 1486

the state public defender. Unless the board of county 1487  
commissioners corrects the conduct of its appointed counsel 1488  
system to comply with the rules and standards within ninety days 1489  
after the date of the notice, the state public defender may deny 1490  
all or part of the county's reimbursement from the state 1491  
provided for in division (A) (4) of this section. 1492

(B) In lieu of using a county public defender or joint 1493  
county public defender to represent indigent persons in the 1494  
proceedings set forth in division (A) of section 120.16 of the 1495  
Revised Code, and in lieu of adopting the resolution and 1496  
following the procedure described in division (A) of this 1497  
section, the board of county commissioners of any county may 1498  
contract with the state public defender for the state public 1499  
defender's legal representation of indigent persons. A contract 1500  
entered into pursuant to this division may provide for payment 1501  
for the services provided on a per case, hourly, or fixed 1502  
contract basis. 1503

~~(C) If a court appoints an attorney pursuant to this 1504  
section to represent a petitioner in a postconviction relief- 1505  
proceeding under section 2953.21 of the Revised Code, the 1506  
petitioner has received a sentence of death, and the proceeding- 1507  
relates to that sentence, the attorney who represents the 1508  
petitioner in the proceeding pursuant to the appointment shall 1509  
be certified under Rule 20 of the Rules of Superintendence for 1510  
the Courts of Ohio to represent indigent defendants charged with 1511  
or convicted of an offense for which the death penalty can be or 1512  
has been imposed.- 1513~~

~~(D) (1) There is hereby created the capital case attorney- 1514  
fee council, appointed as described in division (D) (2) of this 1515  
section. The council shall set an amount by case, or a rate on- 1516~~

~~an hourly basis, to be paid under this section to counsel in a  
capital case.~~ 1517  
1518

~~(2) The capital case attorney fee council shall consist of  
five members, all of whom shall be active judges serving on one  
of the district courts of appeals in this state. Terms for  
council members shall be the lesser of three years or until the  
member ceases to be an active judge of a district court of  
appeals. The initial terms shall commence ninety days after the  
effective date of this amendment. The chief justice of the  
supreme court shall appoint the members of the council, and  
shall make all of the appointments not later than sixty days  
after the effective date of this amendment. When any vacancy  
occurs, the chief justice shall appoint an active judge of a  
district court of appeals in this state to fill the vacancy for  
the unexpired term, in the same manner as prescribed in this  
division. The chief justice shall designate a chairperson from  
the appointed members of the council. Members of the council  
shall receive no additional compensation for their service as a  
member, but may be reimbursed for expenses reasonably incurred  
in service to the council, to be paid by the supreme court. The  
supreme court may provide administrative support to the council.~~ 1519  
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~~(3) The capital case attorney fee council initially shall  
meet not later than one hundred twenty days after the effective  
date of this amendment. Thereafter, the council shall meet not  
less than annually.~~ 1538  
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~~(4) Upon setting the amount or rate described in division  
(D) (1) of this section, the chairperson of the capital case  
attorney fee council promptly shall provide written notice to  
the state public defender of the amount or rate so set. The  
amount or rate so set shall become effective ninety days after~~ 1542  
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~~the date on which the chairperson provides that written notice~~ 1547  
~~to the state public defender. The council shall specify that~~ 1548  
~~effective date in the written notice provided to the state~~ 1549  
~~public defender. All amounts or rates set by the council shall~~ 1550  
~~be final, subject to modification as described in division (D)~~ 1551  
~~(5) of this section, and not subject to appeal.~~ 1552

~~(5) The capital case attorney fee council may modify an~~ 1553  
~~amount or rate set as described in division (D) (4) of this~~ 1554  
~~section. The provisions of that division apply with respect to~~ 1555  
~~any such modification of an amount or rate.~~ 1556

**Sec. 120.34.** The total amount of money paid to all 1557  
counties in any fiscal year pursuant to sections 120.18, 120.28, 1558  
and 120.33 of the Revised Code for the reimbursement of a 1559  
percentage of the counties' cost of operating county public 1560  
defender offices, joint county public defender offices, and 1561  
county appointed counsel systems shall not exceed the total 1562  
amount appropriated for that fiscal year by the general assembly 1563  
for the reimbursement of the counties for the operation of the 1564  
offices and systems. If the amount appropriated by the general 1565  
assembly in any fiscal year is insufficient to pay fifty per 1566  
cent of the total cost in the fiscal year of all county public 1567  
defender offices, all joint county public defender offices, and 1568  
all county appointed counsel systems, the amount of money paid 1569  
in that fiscal year pursuant to sections 120.18, 120.28, and 1570  
120.33 of the Revised Code to each county for the fiscal year 1571  
shall be reduced proportionately so that each county is paid an 1572  
equal percentage of its total cost in the fiscal year for 1573  
operating its county public defender system, its joint county 1574  
public defender system, and its county appointed counsel system. 1575

~~The total amount of money paid to all counties in any~~ 1576

~~fiscal year pursuant to section 120.35 of the Revised Code for~~ 1577  
~~the reimbursement of a percentage of the counties' costs and~~ 1578  
~~expenses of conducting the defense in capital cases shall not~~ 1579  
~~exceed the total amount appropriated for that fiscal year by the~~ 1580  
~~general assembly for the reimbursement of the counties for~~ 1581  
~~conducting the defense in capital cases. If the amount~~ 1582  
~~appropriated by the general assembly in any fiscal year is~~ 1583  
~~insufficient to pay fifty per cent of the counties' total costs~~ 1584  
~~and expenses of conducting the defense in capital cases in the~~ 1585  
~~fiscal year, the amount of money paid in that fiscal year~~ 1586  
~~pursuant to section 120.35 of the Revised Code to each county~~ 1587  
~~for the fiscal year shall be reduced proportionately so that~~ 1588  
~~each county is paid an equal percentage of its costs and~~ 1589  
~~expenses of conducting the defense in capital cases in the~~ 1590  
~~fiscal year.~~ All payments relating to capital cases that were 1591  
required to be made under the provisions of this chapter or 1592  
section 2941.51 of the Revised Code as those provisions existed 1593  
immediately before the effective date of this amendment shall be 1594  
made for each calendar or fiscal year, as applicable, in 1595  
accordance with those provisions as they existed immediately 1596  
before the effective date of this amendment until each case in 1597  
which a defendant was sentenced to death before the effective 1598  
date of this amendment is finally resolved. 1599

If any county receives an amount of money pursuant to 1600  
section 120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code 1601  
that is in excess of the amount of reimbursement it is entitled 1602  
to receive pursuant to this section, the state public defender 1603  
shall request the board of county commissioners to return the 1604  
excess payment and the board of county commissioners, upon 1605  
receipt of the request, shall direct the appropriate county 1606  
officer to return the excess payment to the state. 1607

Within thirty days of the end of each fiscal quarter, the state public defender shall provide to the office of budget and management and the ~~legislative budget office of the~~ legislative service commission an estimate of the amount of money that will be required for the balance of the fiscal year to make the payments required by sections 120.18, 120.28, and 120.33, ~~and 120.35~~ of the Revised Code.

**Sec. 149.43.** (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the

department of job and family services or, pursuant to section	1637
3111.69 of the Revised Code, the office of child support in the	1638
department or a child support enforcement agency;	1639
(f) Records specified in division (A) of section 3107.52	1640
of the Revised Code;	1641
(g) Trial preparation records;	1642
(h) Confidential law enforcement investigatory records;	1643
(i) Records containing information that is confidential	1644
under section 2710.03 or 4112.05 of the Revised Code;	1645
(j) DNA records stored in the DNA database pursuant to	1646
section 109.573 of the Revised Code;	1647
(k) Inmate records released by the department of	1648
rehabilitation and correction to the department of youth	1649
services or a court of record pursuant to division (E) of	1650
section 5120.21 of the Revised Code;	1651
(l) Records maintained by the department of youth services	1652
pertaining to children in its custody released by the department	1653
of youth services to the department of rehabilitation and	1654
correction pursuant to section 5139.05 of the Revised Code;	1655
(m) Intellectual property records;	1656
(n) Donor profile records;	1657
(o) Records maintained by the department of job and family	1658
services pursuant to section 3121.894 of the Revised Code;	1659
(p) Peace officer, parole officer, probation officer,	1660
bailiff, prosecuting attorney, assistant prosecuting attorney,	1661
correctional employee, community-based correctional facility	1662
employee, youth services employee, firefighter, EMT,	1663



investigator of the bureau of criminal identification and 1664  
investigation, or federal law enforcement officer residential 1665  
and familial information; 1666

(q) In the case of a county hospital operated pursuant to 1667  
Chapter 339. of the Revised Code or a municipal hospital 1668  
operated pursuant to Chapter 749. of the Revised Code, 1669  
information that constitutes a trade secret, as defined in 1670  
section 1333.61 of the Revised Code; 1671

(r) Information pertaining to the recreational activities 1672  
of a person under the age of eighteen; 1673

(s) In the case of a child fatality review board acting 1674  
under sections 307.621 to 307.629 of the Revised Code or a 1675  
review conducted pursuant to guidelines established by the 1676  
director of health under section 3701.70 of the Revised Code, 1677  
records provided to the board or director, statements made by 1678  
board members during meetings of the board or by persons 1679  
participating in the director's review, and all work products of 1680  
the board or director, and in the case of a child fatality 1681  
review board, child fatality review data submitted by the board 1682  
to the department of health or a national child death review 1683  
database, other than the report prepared pursuant to division 1684  
(A) of section 307.626 of the Revised Code; 1685

(t) Records provided to and statements made by the 1686  
executive director of a public children services agency or a 1687  
prosecuting attorney acting pursuant to section 5153.171 of the 1688  
Revised Code other than the information released under that 1689  
section; 1690

(u) Test materials, examinations, or evaluation tools used 1691  
in an examination for licensure as a nursing home administrator 1692

that the board of executives of long-term services and supports	1693
administers under section 4751.04 of the Revised Code or	1694
contracts under that section with a private or government entity	1695
to administer;	1696
(v) Records the release of which is prohibited by state or	1697
federal law;	1698
(w) Proprietary information of or relating to any person	1699
that is submitted to or compiled by the Ohio venture capital	1700
authority created under section 150.01 of the Revised Code;	1701
(x) Financial statements and data any person submits for	1702
any purpose to the Ohio housing finance agency or the	1703
controlling board in connection with applying for, receiving, or	1704
accounting for financial assistance from the agency, and	1705
information that identifies any individual who benefits directly	1706
or indirectly from financial assistance from the agency;	1707
(y) Records listed in section 5101.29 of the Revised Code;	1708
(z) Discharges recorded with a county recorder under	1709
section 317.24 of the Revised Code, as specified in division (B)	1710
(2) of that section;	1711
(aa) Usage information including names and addresses of	1712
specific residential and commercial customers of a municipally	1713
owned or operated public utility;	1714
(bb) Records described in division (C) of section 187.04	1715
of the Revised Code that are not designated to be made available	1716
to the public as provided in that division;	1717
(cc) <del>Information and records that are made confidential,</del>	1718
<del>privileged, and not subject to disclosure under divisions (B)</del>	1719
<del>and (C) of section 2949.221 of the Revised Code;</del>	1720

~~(dd)~~ Personal information, as defined in section 149.45 of  
the Revised Code; 1721  
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~~(ee)~~ (dd) The confidential name, address, and other 1723  
personally identifiable information of a program participant in 1724  
the address confidentiality program established under sections 1725  
111.41 to 111.47 of the Revised Code, including the contents of 1726  
any application for absent voter's ballots, absent voter's 1727  
ballot identification envelope statement of voter, or 1728  
provisional ballot affirmation completed by a program 1729  
participant who has a confidential voter registration record, 1730  
and records or portions of records pertaining to that program 1731  
that identify the number of program participants that reside 1732  
within a precinct, ward, township, municipal corporation, 1733  
county, or any other geographic area smaller than the state. As 1734  
used in this division, "confidential address" and "program 1735  
participant" have the meaning defined in section 111.41 of the 1736  
Revised Code. 1737

~~(ff)~~ (ee) Orders for active military service of an 1738  
individual serving or with previous service in the armed forces 1739  
of the United States, including a reserve component, or the Ohio 1740  
organized militia, except that, such order becomes a public 1741  
record on the day that is fifteen years after the published date 1742  
or effective date of the call to order. 1743

(2) "Confidential law enforcement investigatory record" 1744  
means any record that pertains to a law enforcement matter of a 1745  
criminal, quasi-criminal, civil, or administrative nature, but 1746  
only to the extent that the release of the record would create a 1747  
high probability of disclosure of any of the following: 1748

(a) The identity of a suspect who has not been charged 1749  
with the offense to which the record pertains, or of an 1750

information source or witness to whom confidentiality has been 1751  
reasonably promised; 1752

(b) Information provided by an information source or 1753  
witness to whom confidentiality has been reasonably promised, 1754  
which information would reasonably tend to disclose the source's 1755  
or witness's identity; 1756

(c) Specific confidential investigatory techniques or 1757  
procedures or specific investigatory work product; 1758

(d) Information that would endanger the life or physical 1759  
safety of law enforcement personnel, a crime victim, a witness, 1760  
or a confidential information source. 1761

(3) "Medical record" means any document or combination of 1762  
documents, except births, deaths, and the fact of admission to 1763  
or discharge from a hospital, that pertains to the medical 1764  
history, diagnosis, prognosis, or medical condition of a patient 1765  
and that is generated and maintained in the process of medical 1766  
treatment. 1767

(4) "Trial preparation record" means any record that 1768  
contains information that is specifically compiled in reasonable 1769  
anticipation of, or in defense of, a civil or criminal action or 1770  
proceeding, including the independent thought processes and 1771  
personal trial preparation of an attorney. 1772

(5) "Intellectual property record" means a record, other 1773  
than a financial or administrative record, that is produced or 1774  
collected by or for faculty or staff of a state institution of 1775  
higher learning in the conduct of or as a result of study or 1776  
research on an educational, commercial, scientific, artistic, 1777  
technical, or scholarly issue, regardless of whether the study 1778  
or research was sponsored by the institution alone or in 1779

conjunction with a governmental body or private concern, and 1780  
that has not been publicly released, published, or patented. 1781

(6) "Donor profile record" means all records about donors 1782  
or potential donors to a public institution of higher education 1783  
except the names and reported addresses of the actual donors and 1784  
the date, amount, and conditions of the actual donation. 1785

(7) "Peace officer, parole officer, probation officer, 1786  
bailiff, prosecuting attorney, assistant prosecuting attorney, 1787  
correctional employee, community-based correctional facility 1788  
employee, youth services employee, firefighter, EMT, 1789  
investigator of the bureau of criminal identification and 1790  
investigation, or federal law enforcement officer residential 1791  
and familial information" means any information that discloses 1792  
any of the following about a peace officer, parole officer, 1793  
probation officer, bailiff, prosecuting attorney, assistant 1794  
prosecuting attorney, correctional employee, community-based 1795  
correctional facility employee, youth services employee, 1796  
firefighter, EMT, investigator of the bureau of criminal 1797  
identification and investigation, or federal law enforcement 1798  
officer: 1799

(a) The address of the actual personal residence of a 1800  
peace officer, parole officer, probation officer, bailiff, 1801  
assistant prosecuting attorney, correctional employee, 1802  
community-based correctional facility employee, youth services 1803  
employee, firefighter, EMT, an investigator of the bureau of 1804  
criminal identification and investigation, or federal law 1805  
enforcement officer, except for the state or political 1806  
subdivision in which the peace officer, parole officer, 1807  
probation officer, bailiff, assistant prosecuting attorney, 1808  
correctional employee, community-based correctional facility 1809

employee, youth services employee, firefighter, EMT, 1810  
investigator of the bureau of criminal identification and 1811  
investigation, or federal law enforcement officer resides; 1812

(b) Information compiled from referral to or participation 1813  
in an employee assistance program; 1814

(c) The social security number, the residential telephone 1815  
number, any bank account, debit card, charge card, or credit 1816  
card number, or the emergency telephone number of, or any 1817  
medical information pertaining to, a peace officer, parole 1818  
officer, probation officer, bailiff, prosecuting attorney, 1819  
assistant prosecuting attorney, correctional employee, 1820  
community-based correctional facility employee, youth services 1821  
employee, firefighter, EMT, investigator of the bureau of 1822  
criminal identification and investigation, or federal law 1823  
enforcement officer; 1824

(d) The name of any beneficiary of employment benefits, 1825  
including, but not limited to, life insurance benefits, provided 1826  
to a peace officer, parole officer, probation officer, bailiff, 1827  
prosecuting attorney, assistant prosecuting attorney, 1828  
correctional employee, community-based correctional facility 1829  
employee, youth services employee, firefighter, EMT, 1830  
investigator of the bureau of criminal identification and 1831  
investigation, or federal law enforcement officer by the peace 1832  
officer's, parole officer's, probation officer's, bailiff's, 1833  
prosecuting attorney's, assistant prosecuting attorney's, 1834  
correctional employee's, community-based correctional facility 1835  
employee's, youth services employee's, firefighter's, EMT's, 1836  
investigator of the bureau of criminal identification and 1837  
investigation's, or federal law enforcement officer's employer; 1838

(e) The identity and amount of any charitable or 1839

employment benefit deduction made by the peace officer's, parole 1840  
officer's, probation officer's, bailiff's, prosecuting 1841  
attorney's, assistant prosecuting attorney's, correctional 1842  
employee's, community-based correctional facility employee's, 1843  
youth services employee's, firefighter's, EMT's, investigator of 1844  
the bureau of criminal identification and investigation's, or 1845  
federal law enforcement officer's employer from the peace 1846  
officer's, parole officer's, probation officer's, bailiff's, 1847  
prosecuting attorney's, assistant prosecuting attorney's, 1848  
correctional employee's, community-based correctional facility 1849  
employee's, youth services employee's, firefighter's, EMT's, 1850  
investigator of the bureau of criminal identification and 1851  
investigation's, or federal law enforcement officer's 1852  
compensation unless the amount of the deduction is required by 1853  
state or federal law; 1854

(f) The name, the residential address, the name of the 1855  
employer, the address of the employer, the social security 1856  
number, the residential telephone number, any bank account, 1857  
debit card, charge card, or credit card number, or the emergency 1858  
telephone number of the spouse, a former spouse, or any child of 1859  
a peace officer, parole officer, probation officer, bailiff, 1860  
prosecuting attorney, assistant prosecuting attorney, 1861  
correctional employee, community-based correctional facility 1862  
employee, youth services employee, firefighter, EMT, 1863  
investigator of the bureau of criminal identification and 1864  
investigation, or federal law enforcement officer; 1865

(g) A photograph of a peace officer who holds a position 1866  
or has an assignment that may include undercover or plain 1867  
clothes positions or assignments as determined by the peace 1868  
officer's appointing authority. 1869

As used in divisions (A) (7) and (B) (9) of this section, 1870  
"peace officer" has the same meaning as in section 109.71 of the 1871  
Revised Code and also includes the superintendent and troopers 1872  
of the state highway patrol; it does not include the sheriff of 1873  
a county or a supervisory employee who, in the absence of the 1874  
sheriff, is authorized to stand in for, exercise the authority 1875  
of, and perform the duties of the sheriff. 1876

As used in divisions (A) (7) and (B) (9) of this section, 1877  
"correctional employee" means any employee of the department of 1878  
rehabilitation and correction who in the course of performing 1879  
the employee's job duties has or has had contact with inmates 1880  
and persons under supervision. 1881

As used in divisions (A) (7) and (B) (9) of this section, 1882  
"youth services employee" means any employee of the department 1883  
of youth services who in the course of performing the employee's 1884  
job duties has or has had contact with children committed to the 1885  
custody of the department of youth services. 1886

As used in divisions (A) (7) and (B) (9) of this section, 1887  
"firefighter" means any regular, paid or volunteer, member of a 1888  
lawfully constituted fire department of a municipal corporation, 1889  
township, fire district, or village. 1890

As used in divisions (A) (7) and (B) (9) of this section, 1891  
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 1892  
emergency medical services for a public emergency medical 1893  
service organization. "Emergency medical service organization," 1894  
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 1895  
in section 4765.01 of the Revised Code. 1896

As used in divisions (A) (7) and (B) (9) of this section, 1897  
"investigator of the bureau of criminal identification and 1898



investigation" has the meaning defined in section 2903.11 of the Revised Code. 1899  
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As used in divisions (A)(7) and (B)(9) of this section, "federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code. 1901  
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(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following: 1904  
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(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person; 1909  
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(b) The social security number, birth date, or photographic image of a person under the age of eighteen; 1913  
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(c) Any medical record, history, or information pertaining to a person under the age of eighteen; 1915  
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(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office. 1917  
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(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code. 1923  
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(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code. 1925  
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(11) "Redaction" means obscuring or deleting any 1927  
information that is exempt from the duty to permit public 1928  
inspection or copying from an item that otherwise meets the 1929  
definition of a "record" in section 149.011 of the Revised Code. 1930

(12) "Designee" and "elected official" have the same 1931  
meanings as in section 109.43 of the Revised Code. 1932

(B) (1) Upon request and subject to division (B) (8) of this 1933  
section, all public records responsive to the request shall be 1934  
promptly prepared and made available for inspection to any 1935  
person at all reasonable times during regular business hours. 1936  
Subject to division (B) (8) of this section, upon request, a 1937  
public office or person responsible for public records shall 1938  
make copies of the requested public record available at cost and 1939  
within a reasonable period of time. If a public record contains 1940  
information that is exempt from the duty to permit public 1941  
inspection or to copy the public record, the public office or 1942  
the person responsible for the public record shall make 1943  
available all of the information within the public record that 1944  
is not exempt. When making that public record available for 1945  
public inspection or copying that public record, the public 1946  
office or the person responsible for the public record shall 1947  
notify the requester of any redaction or make the redaction 1948  
plainly visible. A redaction shall be deemed a denial of a 1949  
request to inspect or copy the redacted information, except if 1950  
federal or state law authorizes or requires a public office to 1951  
make the redaction. 1952

(2) To facilitate broader access to public records, a 1953  
public office or the person responsible for public records shall 1954  
organize and maintain public records in a manner that they can 1955  
be made available for inspection or copying in accordance with 1956

division (B) of this section. A public office also shall have 1957  
available a copy of its current records retention schedule at a 1958  
location readily available to the public. If a requester makes 1959  
an ambiguous or overly broad request or has difficulty in making 1960  
a request for copies or inspection of public records under this 1961  
section such that the public office or the person responsible 1962  
for the requested public record cannot reasonably identify what 1963  
public records are being requested, the public office or the 1964  
person responsible for the requested public record may deny the 1965  
request but shall provide the requester with an opportunity to 1966  
revise the request by informing the requester of the manner in 1967  
which records are maintained by the public office and accessed 1968  
in the ordinary course of the public office's or person's 1969  
duties. 1970

(3) If a request is ultimately denied, in part or in 1971  
whole, the public office or the person responsible for the 1972  
requested public record shall provide the requester with an 1973  
explanation, including legal authority, setting forth why the 1974  
request was denied. If the initial request was provided in 1975  
writing, the explanation also shall be provided to the requester 1976  
in writing. The explanation shall not preclude the public office 1977  
or the person responsible for the requested public record from 1978  
relying upon additional reasons or legal authority in defending 1979  
an action commenced under division (C) of this section. 1980

(4) Unless specifically required or authorized by state or 1981  
federal law or in accordance with division (B) of this section, 1982  
no public office or person responsible for public records may 1983  
limit or condition the availability of public records by 1984  
requiring disclosure of the requester's identity or the intended 1985  
use of the requested public record. Any requirement that the 1986  
requester disclose the requester's identity or the intended use 1987

of the requested public record constitutes a denial of the request. 1988  
1989

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester. 1990  
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(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this 2001  
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section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

(7) (a) Upon a request made in accordance with division (B) of this section and subject to division (B) (6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

(b) Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to division (B) (7) of this section. A public office that adopts a policy and procedures under division (B) (7) of this section shall comply with them in performing its duties under that division.

(c) In any policy and procedures adopted under division (B) (7) of this section:

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service to ten per month, unless the person certifies to the office in writing that

the person does not intend to use or forward the requested 2049  
records, or the information contained in them, for commercial 2050  
purposes; 2051

(ii) A public office that chooses to provide some or all 2052  
of its public records on a web site that is fully accessible to 2053  
and searchable by members of the public at all times, other than 2054  
during acts of God outside the public office's control or 2055  
maintenance, and that charges no fee to search, access, 2056  
download, or otherwise receive records provided on the web site, 2057  
may limit to ten per month the number of records requested by a 2058  
person that the office will deliver in a digital format, unless 2059  
the requested records are not provided on the web site and 2060  
unless the person certifies to the office in writing that the 2061  
person does not intend to use or forward the requested records, 2062  
or the information contained in them, for commercial purposes. 2063

(iii) For purposes of division (B)(7) of this section, 2064  
"commercial" shall be narrowly construed and does not include 2065  
reporting or gathering news, reporting or gathering information 2066  
to assist citizen oversight or understanding of the operation or 2067  
activities of government, or nonprofit educational research. 2068

(8) A public office or person responsible for public 2069  
records is not required to permit a person who is incarcerated 2070  
pursuant to a criminal conviction or a juvenile adjudication to 2071  
inspect or to obtain a copy of any public record concerning a 2072  
criminal investigation or prosecution or concerning what would 2073  
be a criminal investigation or prosecution if the subject of the 2074  
investigation or prosecution were an adult, unless the request 2075  
to inspect or to obtain a copy of the record is for the purpose 2076  
of acquiring information that is subject to release as a public 2077  
record under this section and the judge who imposed the sentence 2078

or made the adjudication with respect to the person, or the 2079  
judge's successor in office, finds that the information sought 2080  
in the public record is necessary to support what appears to be 2081  
a justiciable claim of the person. 2082

(9) (a) Upon written request made and signed by a 2083  
journalist on or after December 16, 1999, a public office, or 2084  
person responsible for public records, having custody of the 2085  
records of the agency employing a specified peace officer, 2086  
parole officer, probation officer, bailiff, prosecuting 2087  
attorney, assistant prosecuting attorney, correctional employee, 2088  
community-based correctional facility employee, youth services 2089  
employee, firefighter, EMT, investigator of the bureau of 2090  
criminal identification and investigation, or federal law 2091  
enforcement officer shall disclose to the journalist the address 2092  
of the actual personal residence of the peace officer, parole 2093  
officer, probation officer, bailiff, prosecuting attorney, 2094  
assistant prosecuting attorney, correctional employee, 2095  
community-based correctional facility employee, youth services 2096  
employee, firefighter, EMT, investigator of the bureau of 2097  
criminal identification and investigation, or federal law 2098  
enforcement officer and, if the peace officer's, parole 2099  
officer's, probation officer's, bailiff's, prosecuting 2100  
attorney's, assistant prosecuting attorney's, correctional 2101  
employee's, community-based correctional facility employee's, 2102  
youth services employee's, firefighter's, EMT's, investigator of 2103  
the bureau of criminal identification and investigation's, or 2104  
federal law enforcement officer's spouse, former spouse, or 2105  
child is employed by a public office, the name and address of 2106  
the employer of the peace officer's, parole officer's, probation 2107  
officer's, bailiff's, prosecuting attorney's, assistant 2108  
prosecuting attorney's, correctional employee's, community-based 2109

correctional facility employee's, youth services employee's, 2110  
firefighter's, EMT's, investigator of the bureau of criminal 2111  
identification and investigation's, or federal law enforcement 2112  
officer's spouse, former spouse, or child. The request shall 2113  
include the journalist's name and title and the name and address 2114  
of the journalist's employer and shall state that disclosure of 2115  
the information sought would be in the public interest. 2116

(b) Division (B) (9) (a) of this section also applies to 2117  
journalist requests for customer information maintained by a 2118  
municipally owned or operated public utility, other than social 2119  
security numbers and any private financial information such as 2120  
credit reports, payment methods, credit card numbers, and bank 2121  
account information. 2122

(c) As used in division (B) (9) of this section, 2123  
"journalist" means a person engaged in, connected with, or 2124  
employed by any news medium, including a newspaper, magazine, 2125  
press association, news agency, or wire service, a radio or 2126  
television station, or a similar medium, for the purpose of 2127  
gathering, processing, transmitting, compiling, editing, or 2128  
disseminating information for the general public. 2129

(C) (1) If a person allegedly is aggrieved by the failure 2130  
of a public office or the person responsible for public records 2131  
to promptly prepare a public record and to make it available to 2132  
the person for inspection in accordance with division (B) of 2133  
this section or by any other failure of a public office or the 2134  
person responsible for public records to comply with an 2135  
obligation in accordance with division (B) of this section, the 2136  
person allegedly aggrieved may do only one of the following, and 2137  
not both: 2138

(a) File a complaint with the clerk of the court of claims 2139



or the clerk of the court of common pleas under section 2743.75 2140  
of the Revised Code; 2141

(b) Commence a mandamus action to obtain a judgment that 2142  
orders the public office or the person responsible for the 2143  
public record to comply with division (B) of this section, that 2144  
awards court costs and reasonable attorney's fees to the person 2145  
that instituted the mandamus action, and, if applicable, that 2146  
includes an order fixing statutory damages under division (C) (2) 2147  
of this section. The mandamus action may be commenced in the 2148  
court of common pleas of the county in which division (B) of 2149  
this section allegedly was not complied with, in the supreme 2150  
court pursuant to its original jurisdiction under Section 2 of 2151  
Article IV, Ohio Constitution, or in the court of appeals for 2152  
the appellate district in which division (B) of this section 2153  
allegedly was not complied with pursuant to its original 2154  
jurisdiction under Section 3 of Article IV, Ohio Constitution. 2155

(2) If a requester transmits a written request by hand 2156  
delivery or certified mail to inspect or receive copies of any 2157  
public record in a manner that fairly describes the public 2158  
record or class of public records to the public office or person 2159  
responsible for the requested public records, except as 2160  
otherwise provided in this section, the requester shall be 2161  
entitled to recover the amount of statutory damages set forth in 2162  
this division if a court determines that the public office or 2163  
the person responsible for public records failed to comply with 2164  
an obligation in accordance with division (B) of this section. 2165

The amount of statutory damages shall be fixed at one 2166  
hundred dollars for each business day during which the public 2167  
office or person responsible for the requested public records 2168  
failed to comply with an obligation in accordance with division 2169

(B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(3) In a mandamus action filed under division (C) (1) of

this section, the following apply: 2200

(a) (i) If the court orders the public office or the person 2201  
responsible for the public record to comply with division (B) of 2202  
this section, the court shall determine and award to the relator 2203  
all court costs, which shall be construed as remedial and not 2204  
punitive. 2205

(ii) If the court makes a determination described in 2206  
division (C) (3) (b) (iii) of this section, the court shall 2207  
determine and award to the relator all court costs, which shall 2208  
be construed as remedial and not punitive. 2209

(b) If the court renders a judgment that orders the public 2210  
office or the person responsible for the public record to comply 2211  
with division (B) of this section or if the court determines any 2212  
of the following, the court may award reasonable attorney's fees 2213  
to the relator, subject to the provisions of division (C) (4) of 2214  
this section: 2215

(i) The public office or the person responsible for the 2216  
public records failed to respond affirmatively or negatively to 2217  
the public records request in accordance with the time allowed 2218  
under division (B) of this section. 2219

(ii) The public office or the person responsible for the 2220  
public records promised to permit the relator to inspect or 2221  
receive copies of the public records requested within a 2222  
specified period of time but failed to fulfill that promise 2223  
within that specified period of time. 2224

(iii) The public office or the person responsible for the 2225  
public records acted in bad faith when the office or person 2226  
voluntarily made the public records available to the relator for 2227  
the first time after the relator commenced the mandamus action, 2228

but before the court issued any order concluding whether or not 2229  
the public office or person was required to comply with division 2230  
(B) of this section. No discovery may be conducted on the issue 2231  
of the alleged bad faith of the public office or person 2232  
responsible for the public records. This division shall not be 2233  
construed as creating a presumption that the public office or 2234  
the person responsible for the public records acted in bad faith 2235  
when the office or person voluntarily made the public records 2236  
available to the relator for the first time after the relator 2237  
commenced the mandamus action, but before the court issued any 2238  
order described in this division. 2239

(c) The court shall not award attorney's fees to the 2240  
relator if the court determines both of the following: 2241

(i) That, based on the ordinary application of statutory 2242  
law and case law as it existed at the time of the conduct or 2243  
threatened conduct of the public office or person responsible 2244  
for the requested public records that allegedly constitutes a 2245  
failure to comply with an obligation in accordance with division 2246  
(B) of this section and that was the basis of the mandamus 2247  
action, a well-informed public office or person responsible for 2248  
the requested public records reasonably would believe that the 2249  
conduct or threatened conduct of the public office or person 2250  
responsible for the requested public records did not constitute 2251  
a failure to comply with an obligation in accordance with 2252  
division (B) of this section; 2253

(ii) That a well-informed public office or person 2254  
responsible for the requested public records reasonably would 2255  
believe that the conduct or threatened conduct of the public 2256  
office or person responsible for the requested public records 2257  
would serve the public policy that underlies the authority that 2258

is asserted as permitting that conduct or threatened conduct. 2259

(4) All of the following apply to any award of reasonable 2260  
attorney's fees awarded under division (C) (3) (b) of this 2261  
section: 2262

(a) The fees shall be construed as remedial and not 2263  
punitive. 2264

(b) The fees awarded shall not exceed the total of the 2265  
reasonable attorney's fees incurred before the public record was 2266  
made available to the relator and the fees described in division 2267  
(C) (4) (c) of this section. 2268

(c) Reasonable attorney's fees shall include reasonable 2269  
fees incurred to produce proof of the reasonableness and amount 2270  
of the fees and to otherwise litigate entitlement to the fees. 2271

(d) The court may reduce the amount of fees awarded if the 2272  
court determines that, given the factual circumstances involved 2273  
with the specific public records request, an alternative means 2274  
should have been pursued to more effectively and efficiently 2275  
resolve the dispute that was subject to the mandamus action 2276  
filed under division (C) (1) of this section. 2277

(5) If the court does not issue a writ of mandamus under 2278  
division (C) of this section and the court determines at that 2279  
time that the bringing of the mandamus action was frivolous 2280  
conduct as defined in division (A) of section 2323.51 of the 2281  
Revised Code, the court may award to the public office all court 2282  
costs, expenses, and reasonable attorney's fees, as determined 2283  
by the court. 2284

(D) Chapter 1347. of the Revised Code does not limit the 2285  
provisions of this section. 2286

(E) (1) To ensure that all employees of public offices are 2287  
appropriately educated about a public office's obligations under 2288  
division (B) of this section, all elected officials or their 2289  
appropriate designees shall attend training approved by the 2290  
attorney general as provided in section 109.43 of the Revised 2291  
Code. In addition, all public offices shall adopt a public 2292  
records policy in compliance with this section for responding to 2293  
public records requests. In adopting a public records policy 2294  
under this division, a public office may obtain guidance from 2295  
the model public records policy developed and provided to the 2296  
public office by the attorney general under section 109.43 of 2297  
the Revised Code. Except as otherwise provided in this section, 2298  
the policy may not limit the number of public records that the 2299  
public office will make available to a single person, may not 2300  
limit the number of public records that it will make available 2301  
during a fixed period of time, and may not establish a fixed 2302  
period of time before it will respond to a request for 2303  
inspection or copying of public records, unless that period is 2304  
less than eight hours. 2305

(2) The public office shall distribute the public records 2306  
policy adopted by the public office under division (E) (1) of 2307  
this section to the employee of the public office who is the 2308  
records custodian or records manager or otherwise has custody of 2309  
the records of that office. The public office shall require that 2310  
employee to acknowledge receipt of the copy of the public 2311  
records policy. The public office shall create a poster that 2312  
describes its public records policy and shall post the poster in 2313  
a conspicuous place in the public office and in all locations 2314  
where the public office has branch offices. The public office 2315  
may post its public records policy on the internet web site of 2316  
the public office if the public office maintains an internet web 2317

site. A public office that has established a manual or handbook 2318  
of its general policies and procedures for all employees of the 2319  
public office shall include the public records policy of the 2320  
public office in the manual or handbook. 2321

(F) (1) The bureau of motor vehicles may adopt rules 2322  
pursuant to Chapter 119. of the Revised Code to reasonably limit 2323  
the number of bulk commercial special extraction requests made 2324  
by a person for the same records or for updated records during a 2325  
calendar year. The rules may include provisions for charges to 2326  
be made for bulk commercial special extraction requests for the 2327  
actual cost of the bureau, plus special extraction costs, plus 2328  
ten per cent. The bureau may charge for expenses for redacting 2329  
information, the release of which is prohibited by law. 2330

(2) As used in division (F) (1) of this section: 2331

(a) "Actual cost" means the cost of depleted supplies, 2332  
records storage media costs, actual mailing and alternative 2333  
delivery costs, or other transmitting costs, and any direct 2334  
equipment operating and maintenance costs, including actual 2335  
costs paid to private contractors for copying services. 2336

(b) "Bulk commercial special extraction request" means a 2337  
request for copies of a record for information in a format other 2338  
than the format already available, or information that cannot be 2339  
extracted without examination of all items in a records series, 2340  
class of records, or database by a person who intends to use or 2341  
forward the copies for surveys, marketing, solicitation, or 2342  
resale for commercial purposes. "Bulk commercial special 2343  
extraction request" does not include a request by a person who 2344  
gives assurance to the bureau that the person making the request 2345  
does not intend to use or forward the requested copies for 2346  
surveys, marketing, solicitation, or resale for commercial 2347

purposes. 2348

(c) "Commercial" means profit-seeking production, buying, 2349  
or selling of any good, service, or other product. 2350

(d) "Special extraction costs" means the cost of the time 2351  
spent by the lowest paid employee competent to perform the task, 2352  
the actual amount paid to outside private contractors employed 2353  
by the bureau, or the actual cost incurred to create computer 2354  
programs to make the special extraction. "Special extraction 2355  
costs" include any charges paid to a public agency for computer 2356  
or records services. 2357

(3) For purposes of divisions (F) (1) and (2) of this 2358  
section, "surveys, marketing, solicitation, or resale for 2359  
commercial purposes" shall be narrowly construed and does not 2360  
include reporting or gathering news, reporting or gathering 2361  
information to assist citizen oversight or understanding of the 2362  
operation or activities of government, or nonprofit educational 2363  
research. 2364

(G) A request by a defendant, counsel of a defendant, or 2365  
any agent of a defendant in a criminal action that public 2366  
records related to that action be made available under this 2367  
section shall be considered a demand for discovery pursuant to 2368  
the Criminal Rules, except to the extent that the Criminal Rules 2369  
plainly indicate a contrary intent. The defendant, counsel of 2370  
the defendant, or agent of the defendant making a request under 2371  
this division shall serve a copy of the request on the 2372  
prosecuting attorney, director of law, or other chief legal 2373  
officer responsible for prosecuting the action. 2374

**Sec. 1901.183.** In addition to jurisdiction otherwise 2375  
granted in this chapter, the environmental division of a 2376



municipal court shall have jurisdiction within its territory in 2377  
all of the following actions or proceedings and to perform all 2378  
of the following functions: 2379

(A) Notwithstanding any monetary limitations in section 2380  
1901.17 of the Revised Code, in all actions and proceedings for 2381  
the sale of real or personal property under lien of a judgment 2382  
of the environmental division of the municipal court, or a lien 2383  
for machinery, material, fuel furnished, or labor performed, 2384  
irrespective of amount, and, in those cases, the environmental 2385  
division may proceed to foreclose and marshal all liens and all 2386  
vested or contingent rights, to appoint a receiver, and to 2387  
render personal judgment irrespective of amount in favor of any 2388  
party; 2389

(B) When in aid of execution of a judgment of the 2390  
environmental division of the municipal court, in all actions 2391  
for the foreclosure of a mortgage on real property given to 2392  
secure the payment of money, or the enforcement of a specific 2393  
lien for money or other encumbrance or charge on real property, 2394  
when the real property is situated within the territory, and, in 2395  
those cases, the environmental division may proceed to foreclose 2396  
all liens and all vested and contingent rights and proceed to 2397  
render judgments, and make findings and orders, between the 2398  
parties, in the same manner and to the same extent as in similar 2399  
cases in the court of common pleas; 2400

(C) When in aid of execution of a judgment of the 2401  
environmental division of the municipal court, in all actions 2402  
for the recovery of real property situated within the territory 2403  
to the same extent as courts of common pleas have jurisdiction; 2404

(D) In all actions for injunction to prevent or terminate 2405  
violations of the ordinances and regulations of any municipal 2406

corporation within its territory enacted or promulgated under 2407  
the police power of that municipal corporation pursuant to 2408  
Section 3 of Article XVIII, Ohio Constitution, over which the 2409  
court of common pleas has or may have jurisdiction, and, in 2410  
those cases, the environmental division of the municipal court 2411  
may proceed to render judgments, and make findings and orders, 2412  
in the same manner and to the same extent as in similar cases in 2413  
the court of common pleas; 2414

(E) In all actions for injunction to prevent or terminate 2415  
violations of the resolutions and regulations of any political 2416  
subdivision within its territory enacted or promulgated under 2417  
the power of that political subdivision pursuant to Article X of 2418  
the Ohio Constitution, over which the court of common pleas has 2419  
or may have jurisdiction, and, in those cases, the environmental 2420  
division of the municipal court may proceed to render judgments, 2421  
and make findings and orders, in the same manner and to the same 2422  
extent as in similar cases in the court of common pleas; 2423

(F) In any civil action to enforce any provision of 2424  
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 2425  
Revised Code over which the court of common pleas has or may 2426  
have jurisdiction, and, in those actions, the environmental 2427  
division of the municipal court may proceed to render judgments, 2428  
and make findings and orders, in the same manner and to the same 2429  
extent as in similar actions in the court of common pleas; 2430

(G) In all actions and proceedings in the nature of 2431  
creditors' bills, and in aid of execution to subject the 2432  
interests of a judgment debtor in real or personal property to 2433  
the payment of a judgment of the division, and, in those actions 2434  
and proceedings, the environmental division may proceed to 2435  
marshal and foreclose all liens on the property irrespective of 2436

the amount of the lien, and all vested or contingent rights in 2437  
the property; 2438

(H) Concurrent jurisdiction with the court of common pleas 2439  
of all criminal actions or proceedings related to the pollution 2440  
of the air, ground, or water within the territory of the 2441  
environmental division of the municipal court, ~~for which a~~ 2442  
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 2443  
~~Revised Code;~~ 2444

(I) In any review or appeal of any final order of any 2445  
administrative officer, agency, board, department, tribunal, 2446  
commission, or other instrumentality that relates to a local 2447  
building, housing, air pollution, sanitation, health, fire, 2448  
zoning, or safety code, ordinance, or regulation, in the same 2449  
manner and to the same extent as in similar appeals in the court 2450  
of common pleas; 2451

(J) With respect to the environmental division of the 2452  
Franklin county municipal court, to hear appeals from 2453  
adjudication hearings conducted under Chapter 956. of the 2454  
Revised Code. 2455

**Sec. 2152.13.** (A) A juvenile court shall impose a serious 2456  
youthful dispositional sentence on a child when required under 2457  
division (B) (3) of section 2152.121 of the Revised Code. In such 2458  
a case, the remaining provisions of this division and divisions 2459  
(B) and (C) do not apply to the child, and the court shall 2460  
impose the mandatory serious youthful dispositional sentence 2461  
under division (D) (1) of this section. 2462

In all other cases, a juvenile court may impose a serious 2463  
youthful offender dispositional sentence on a child only if the 2464  
prosecuting attorney of the county in which the delinquent act 2465

allegedly occurred initiates the process against the child in 2466  
accordance with this division, and the child is an alleged 2467  
delinquent child who is eligible for the dispositional sentence. 2468  
The prosecuting attorney may initiate the process in any of the 2469  
following ways: 2470

(1) Obtaining an indictment of the child as a serious 2471  
youthful offender; 2472

(2) The child waives the right to indictment, charging the 2473  
child in a bill of information as a serious youthful offender; 2474

(3) Until an indictment or information is obtained, 2475  
requesting a serious youthful offender dispositional sentence in 2476  
the original complaint alleging that the child is a delinquent 2477  
child; 2478

(4) Until an indictment or information is obtained, if the 2479  
original complaint does not request a serious youthful offender 2480  
dispositional sentence, filing with the juvenile court a written 2481  
notice of intent to seek a serious youthful offender 2482  
dispositional sentence within twenty days after the later of the 2483  
following, unless the time is extended by the juvenile court for 2484  
good cause shown: 2485

(a) The date of the child's first juvenile court hearing 2486  
regarding the complaint; 2487

(b) The date the juvenile court determines not to transfer 2488  
the case under section 2152.12 of the Revised Code. 2489

After a written notice is filed under division (A) (4) of 2490  
this section, the juvenile court shall serve a copy of the 2491  
notice on the child and advise the child of the prosecuting 2492  
attorney's intent to seek a serious youthful offender 2493  
dispositional sentence in the case. 2494

(B) If an alleged delinquent child is not indicted or charged by information as described in division (A) (1) or (2) of this section and if a notice or complaint as described in division (A) (3) or (4) of this section indicates that the prosecuting attorney intends to pursue a serious youthful offender dispositional sentence in the case, the juvenile court shall hold a preliminary hearing to determine if there is probable cause that the child committed the act charged and is by age eligible for, or required to receive, a serious youthful offender dispositional sentence.

(C) (1) A child for whom a serious youthful offender dispositional sentence is sought by a prosecuting attorney has the right to a grand jury determination of probable cause that the child committed the act charged and that the child is eligible by age for a serious youthful offender dispositional sentence. The grand jury may be impaneled by the court of common pleas or the juvenile court.

Once a child is indicted, or charged by information or the juvenile court determines that the child is eligible for a serious youthful offender dispositional sentence, the child is entitled to an open and speedy trial by jury in juvenile court and to be provided with a transcript of the proceedings. The time within which the trial is to be held under Title XXIX of the Revised Code commences on whichever of the following dates is applicable:

(a) If the child is indicted or charged by information, on the date of the filing of the indictment or information.

(b) If the child is charged by an original complaint that requests a serious youthful offender dispositional sentence, on the date of the filing of the complaint.

(c) If the child is not charged by an original complaint 2525  
that requests a serious youthful offender dispositional 2526  
sentence, on the date that the prosecuting attorney files the 2527  
written notice of intent to seek a serious youthful offender 2528  
dispositional sentence. 2529

(2) If the child is detained awaiting adjudication, upon 2530  
indictment or being charged by information, the child has the 2531  
same right to bail as an adult charged with the offense the 2532  
alleged delinquent act would be if committed by an adult. Except 2533  
as provided in division (D) of section 2152.14 of the Revised 2534  
Code, all provisions of Title XXIX of the Revised Code and the 2535  
Criminal Rules shall apply in the case and to the child. The 2536  
juvenile court shall afford the child all rights afforded a 2537  
person who is prosecuted for committing a crime including the 2538  
right to counsel and the right to raise the issue of competency. 2539  
The child may not waive the right to counsel. 2540

(D)(1) If a child is adjudicated a delinquent child for 2541  
committing an act under circumstances that require the juvenile 2542  
court to impose upon the child a serious youthful offender 2543  
dispositional sentence under section 2152.11 of the Revised 2544  
Code, all of the following apply: 2545

(a) The juvenile court shall impose upon the child a 2546  
sentence available for the violation, as if the child were an 2547  
adult, under Chapter 2929. of the Revised Code, except that the 2548  
juvenile court shall not impose on the child a sentence of ~~death-~~ 2549  
~~or~~-life imprisonment without parole. 2550

(b) The juvenile court also shall impose upon the child 2551  
one or more traditional juvenile dispositions under sections 2552  
2152.16, 2152.19, and 2152.20, and, if applicable, section 2553  
2152.17 of the Revised Code. 2554

(c) The juvenile court shall stay the adult portion of the  
serious youthful offender dispositional sentence pending the  
successful completion of the traditional juvenile dispositions  
imposed.

(2) (a) If a child is adjudicated a delinquent child for  
committing an act under circumstances that allow, but do not  
require, the juvenile court to impose on the child a serious  
youthful offender dispositional sentence under section 2152.11  
of the Revised Code, all of the following apply:

(i) If the juvenile court on the record makes a finding  
that, given the nature and circumstances of the violation and  
the history of the child, the length of time, level of security,  
and types of programming and resources available in the juvenile  
system alone are not adequate to provide the juvenile court with  
a reasonable expectation that the purposes set forth in section  
2152.01 of the Revised Code will be met, the juvenile court may  
impose upon the child a sentence available for the violation, as  
if the child were an adult, under Chapter 2929. of the Revised  
Code, except that the juvenile court shall not impose on the  
child a sentence of ~~death or~~ life imprisonment without parole.

(ii) If a sentence is imposed under division (D) (2) (a) (i)  
of this section, the juvenile court also shall impose upon the  
child one or more traditional juvenile dispositions under  
sections 2152.16, 2152.19, and 2152.20 and, if applicable,  
section 2152.17 of the Revised Code.

(iii) The juvenile court shall stay the adult portion of  
the serious youthful offender dispositional sentence pending the  
successful completion of the traditional juvenile dispositions  
imposed.

(b) If the juvenile court does not find that a sentence 2584  
should be imposed under division (D) (2) (a) (i) of this section, 2585  
the juvenile court may impose one or more traditional juvenile 2586  
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 2587  
applicable, section 2152.17 of the Revised Code. 2588

(3) A child upon whom a serious youthful offender 2589  
dispositional sentence is imposed under division (D) (1) or (2) 2590  
of this section has a right to appeal under division (A) (1), 2591  
(3), (4), or (5) of section 2953.08 of the Revised Code the 2592  
adult portion of the serious youthful offender dispositional 2593  
sentence when any of those divisions apply. The child may appeal 2594  
the adult portion, and the court shall consider the appeal as if 2595  
the adult portion were not stayed. 2596

**Sec. 2152.67.** Any adult who is arrested or charged under 2597  
any provision in this chapter and who is charged with a crime 2598  
may demand a trial by jury, or the juvenile judge upon the 2599  
judge's own motion may call a jury. A demand for a jury trial 2600  
shall be made in writing in not less than three days before the 2601  
date set for trial, or within three days after counsel has been 2602  
retained, whichever is later. Sections 2945.17 and 2945.23 to 2603  
2945.36 of the Revised Code, relating to the drawing and 2604  
impaneling of jurors in criminal cases in the court of common 2605  
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 2606  
under this section. The compensation of jurors and costs of the 2607  
clerk and sheriff shall be taxed and paid in the same manner as 2608  
in criminal cases in the court of common pleas. 2609

**Sec. 2301.20.** All civil and criminal actions in the court 2610  
of common pleas shall be recorded. The reporter shall take 2611  
accurate notes of or electronically record the oral testimony. 2612  
The notes and electronic records shall be filed in the office of 2613



the official reporter and carefully preserved for ~~either of the~~ 2614  
~~following periods of time:~~ 2615

~~(A) If the action is not a capital case, the notes and~~ 2616  
~~electronic records shall be preserved for the period of time~~ 2617  
specified by the court of common pleas, which period of time 2618  
shall not be longer than the period of time that the other 2619  
records of the particular action are required to be kept. 2620

~~(B) If the action is a capital case, the notes and~~ 2621  
~~electronic records shall be preserved for the longer of ten~~ 2622  
~~years or until the final disposition of the action and~~ 2623  
~~exhaustion of all appeals.~~ 2624

**Sec. 2307.60.** (A) (1) Anyone injured in person or property 2625  
by a criminal act has, and may recover full damages in, a civil 2626  
action unless specifically excepted by law, may recover the 2627  
costs of maintaining the civil action and attorney's fees if 2628  
authorized by any provision of the Rules of Civil Procedure or 2629  
another section of the Revised Code or under the common law of 2630  
this state, and may recover punitive or exemplary damages if 2631  
authorized by section 2315.21 or another section of the Revised 2632  
Code. 2633

(2) A final judgment of a trial court that has not been 2634  
reversed on appeal or otherwise set aside, nullified, or 2635  
vacated, entered after a trial or upon a plea of guilty, but not 2636  
upon a plea of no contest or the equivalent plea from another 2637  
jurisdiction, that adjudges an offender guilty of an offense of 2638  
violence punishable by ~~death or~~ imprisonment in excess of one 2639  
year, when entered as evidence in any subsequent civil 2640  
proceeding based on the criminal act, shall preclude the 2641  
offender from denying in the subsequent civil proceeding any 2642  
fact essential to sustaining that judgment, unless the offender 2643

can demonstrate that extraordinary circumstances prevented the 2644  
offender from having a full and fair opportunity to litigate the 2645  
issue in the criminal proceeding or other extraordinary 2646  
circumstances justify affording the offender an opportunity to 2647  
relitigate the issue. The offender may introduce evidence of the 2648  
offender's pending appeal of the final judgment of the trial 2649  
court, if applicable, and the court may consider that evidence 2650  
in determining the liability of the offender. 2651

(B) (1) As used in division (B) of this section: 2652

(a) "Tort action" means a civil action for damages for 2653  
injury, death, or loss to person or property other than a civil 2654  
action for damages for a breach of contract or another agreement 2655  
between persons. "Tort action" includes, but is not limited to, 2656  
a product liability claim, as defined in section 2307.71 of the 2657  
Revised Code, and an asbestos claim, as defined in section 2658  
2307.91 of the Revised Code, an action for wrongful death under 2659  
Chapter 2125. of the Revised Code, and an action based on 2660  
derivative claims for relief. 2661

(b) "Residence" has the same meaning as in section 2901.05 2662  
of the Revised Code. 2663

(2) Recovery on a claim for relief in a tort action is 2664  
barred to any person or the person's legal representative if any 2665  
of the following apply: 2666

(a) The person has been convicted of or has pleaded guilty 2667  
to a felony, or to a misdemeanor that is an offense of violence, 2668  
arising out of criminal conduct that was a proximate cause of 2669  
the injury or loss for which relief is claimed in the tort 2670  
action. 2671

(b) The person engaged in conduct that, if prosecuted, 2672

would constitute a felony, a misdemeanor that is an offense of violence, an attempt to commit a felony, or an attempt to commit a misdemeanor that is an offense of violence and that conduct was a proximate cause of the injury or loss for which relief is claimed in the tort action, regardless of whether the person has been convicted of or pleaded guilty to or has been charged with committing the felony, the misdemeanor, or the attempt to commit the felony or misdemeanor.

(c) The person suffered the injury or loss for which relief is claimed in the tort action as a proximate result of the victim of conduct that, if prosecuted, would constitute a felony, a misdemeanor that is an offense of violence, an attempt to commit a felony, or an attempt to commit a misdemeanor that is an offense of violence acting against the person in self-defense, defense of another, or defense of the victim's residence, regardless of whether the person has been convicted of or pleaded guilty to or has been charged with committing the felony, the misdemeanor, or the attempt to commit the felony or misdemeanor. Division (B) (2) (c) of this section does not apply if the person who suffered the injury or loss, at the time of the victim's act of self-defense, defense of another, or defense of residence, was an innocent bystander who had no connection with the underlying conduct that prompted the victim's exercise of self-defense, defense of another, or defense of residence.

(3) Recovery against a victim of conduct that, if prosecuted, would constitute a felony, a misdemeanor that is an offense of violence, an attempt to commit a felony, or an attempt to commit a misdemeanor that is an offense of violence, on a claim for relief in a tort action is barred to any person or the person's legal representative if conduct the person engaged in against that victim was a proximate cause of the

injury or loss for which relief is claimed in the tort action 2704  
and that conduct, if prosecuted, would constitute a felony, a 2705  
misdemeanor that is an offense of violence, an attempt to commit 2706  
a felony, or an attempt to commit a misdemeanor that is an 2707  
offense of violence, regardless of whether the person has been 2708  
convicted of or pleaded guilty to or has been charged with 2709  
committing the felony, the misdemeanor, or the attempt to commit 2710  
the felony or misdemeanor. 2711

(4) Divisions (B) (1) to (3) of this section do not apply 2712  
to civil claims based upon alleged intentionally tortious 2713  
conduct, alleged violations of the United States Constitution, 2714  
or alleged violations of statutes of the United States 2715  
pertaining to civil rights. For purposes of division (B) (4) of 2716  
this section, a person's act of self-defense, defense of 2717  
another, or defense of the person's residence does not 2718  
constitute intentionally tortious conduct. 2719

**Sec. 2317.02.** The following persons shall not testify in 2720  
certain respects: 2721

(A) (1) An attorney, concerning a communication made to the 2722  
attorney by a client in that relation or concerning the 2723  
attorney's advice to a client, except that the attorney may 2724  
testify by express consent of the client or, if the client is 2725  
deceased, by the express consent of the surviving spouse or the 2726  
executor or administrator of the estate of the deceased client. 2727  
However, if the client voluntarily reveals the substance of 2728  
attorney-client communications in a nonprivileged context or is 2729  
deemed by section 2151.421 of the Revised Code to have waived 2730  
any testimonial privilege under this division, the attorney may 2731  
be compelled to testify on the same subject. 2732

The testimonial privilege established under this division 2733

does not apply concerning ~~either of the following:~~ 2734

~~(a) A communication between a client in a capital case, as 2735  
defined in section 2901.02 of the Revised Code, and the client's 2736  
attorney if the communication is relevant to a subsequent 2737  
ineffective assistance of counsel claim by the client alleging 2738  
that the attorney did not effectively represent the client in 2739  
the case; 2740~~

~~(b) A a communication between a client who has since died 2741  
and the deceased client's attorney if the communication is 2742  
relevant to a dispute between parties who claim through that 2743  
deceased client, regardless of whether the claims are by testate 2744  
or intestate succession or by inter vivos transaction, and the 2745  
dispute addresses the competency of the deceased client when the 2746  
deceased client executed a document that is the basis of the 2747  
dispute or whether the deceased client was a victim of fraud, 2748  
undue influence, or duress when the deceased client executed a 2749  
document that is the basis of the dispute. 2750~~

(2) An attorney, concerning a communication made to the 2751  
attorney by a client in that relationship or the attorney's 2752  
advice to a client, except that if the client is an insurance 2753  
company, the attorney may be compelled to testify, subject to an 2754  
in camera inspection by a court, about communications made by 2755  
the client to the attorney or by the attorney to the client that 2756  
are related to the attorney's aiding or furthering an ongoing or 2757  
future commission of bad faith by the client, if the party 2758  
seeking disclosure of the communications has made a prima-facie 2759  
showing of bad faith, fraud, or criminal misconduct by the 2760  
client. 2761

(B) (1) A physician, advanced practice registered nurse, or 2762  
dentist concerning a communication made to the physician, 2763

advanced practice registered nurse, or dentist by a patient in 2764  
that relation or the advice of a physician, advanced practice 2765  
registered nurse, or dentist given to a patient, except as 2766  
otherwise provided in this division, division (B) (2), and 2767  
division (B) (3) of this section, and except that, if the patient 2768  
is deemed by section 2151.421 of the Revised Code to have waived 2769  
any testimonial privilege under this division, the physician or 2770  
advanced practice registered nurse may be compelled to testify 2771  
on the same subject. 2772

The testimonial privilege established under this division 2773  
does not apply, and a physician, advanced practice registered 2774  
nurse, or dentist may testify or may be compelled to testify, in 2775  
any of the following circumstances: 2776

(a) In any civil action, in accordance with the discovery 2777  
provisions of the Rules of Civil Procedure in connection with a 2778  
civil action, or in connection with a claim under Chapter 4123. 2779  
of the Revised Code, under any of the following circumstances: 2780

(i) If the patient or the guardian or other legal 2781  
representative of the patient gives express consent; 2782

(ii) If the patient is deceased, the spouse of the patient 2783  
or the executor or administrator of the patient's estate gives 2784  
express consent; 2785

(iii) If a medical claim, dental claim, chiropractic 2786  
claim, or optometric claim, as defined in section 2305.113 of 2787  
the Revised Code, an action for wrongful death, any other type 2788  
of civil action, or a claim under Chapter 4123. of the Revised 2789  
Code is filed by the patient, the personal representative of the 2790  
estate of the patient if deceased, or the patient's guardian or 2791  
other legal representative. 2792

(b) In any civil action concerning court-ordered treatment 2793  
or services received by a patient, if the court-ordered 2794  
treatment or services were ordered as part of a case plan 2795  
journalized under section 2151.412 of the Revised Code or the 2796  
court-ordered treatment or services are necessary or relevant to 2797  
dependency, neglect, or abuse or temporary or permanent custody 2798  
proceedings under Chapter 2151. of the Revised Code. 2799

(c) In any criminal action concerning any test or the 2800  
results of any test that determines the presence or 2801  
concentration of alcohol, a drug of abuse, a combination of 2802  
them, a controlled substance, or a metabolite of a controlled 2803  
substance in the patient's whole blood, blood serum or plasma, 2804  
breath, urine, or other bodily substance at any time relevant to 2805  
the criminal offense in question. 2806

(d) In any criminal action against a physician, advanced 2807  
practice registered nurse, or dentist. In such an action, the 2808  
testimonial privilege established under this division does not 2809  
prohibit the admission into evidence, in accordance with the 2810  
Rules of Evidence, of a patient's medical or dental records or 2811  
other communications between a patient and the physician, 2812  
advanced practice registered nurse, or dentist that are related 2813  
to the action and obtained by subpoena, search warrant, or other 2814  
lawful means. A court that permits or compels a physician, 2815  
advanced practice registered nurse, or dentist to testify in 2816  
such an action or permits the introduction into evidence of 2817  
patient records or other communications in such an action shall 2818  
require that appropriate measures be taken to ensure that the 2819  
confidentiality of any patient named or otherwise identified in 2820  
the records is maintained. Measures to ensure confidentiality 2821  
that may be taken by the court include sealing its records or 2822  
deleting specific information from its records. 2823

(e) (i) If the communication was between a patient who has since died and the deceased patient's physician, advanced practice registered nurse, or dentist, the communication is relevant to a dispute between parties who claim through that deceased patient, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction, and the dispute addresses the competency of the deceased patient when the deceased patient executed a document that is the basis of the dispute or whether the deceased patient was a victim of fraud, undue influence, or duress when the deceased patient executed a document that is the basis of the dispute.

(ii) If neither the spouse of a patient nor the executor or administrator of that patient's estate gives consent under division (B) (1) (a) (ii) of this section, testimony or the disclosure of the patient's medical records by a physician, advanced practice registered nurse, dentist, or other health care provider under division (B) (1) (e) (i) of this section is a permitted use or disclosure of protected health information, as defined in 45 C.F.R. 160.103, and an authorization or opportunity to be heard shall not be required.

(iii) Division (B) (1) (e) (i) of this section does not require a mental health professional to disclose psychotherapy notes, as defined in 45 C.F.R. 164.501.

(iv) An interested person who objects to testimony or disclosure under division (B) (1) (e) (i) of this section may seek a protective order pursuant to Civil Rule 26.

(v) A person to whom protected health information is disclosed under division (B) (1) (e) (i) of this section shall not use or disclose the protected health information for any purpose other than the litigation or proceeding for which the



information was requested and shall return the protected health 2854  
information to the covered entity or destroy the protected 2855  
health information, including all copies made, at the conclusion 2856  
of the litigation or proceeding. 2857

(2) (a) If any law enforcement officer submits a written 2858  
statement to a health care provider that states that an official 2859  
criminal investigation has begun regarding a specified person or 2860  
that a criminal action or proceeding has been commenced against 2861  
a specified person, that requests the provider to supply to the 2862  
officer copies of any records the provider possesses that 2863  
pertain to any test or the results of any test administered to 2864  
the specified person to determine the presence or concentration 2865  
of alcohol, a drug of abuse, a combination of them, a controlled 2866  
substance, or a metabolite of a controlled substance in the 2867  
person's whole blood, blood serum or plasma, breath, or urine at 2868  
any time relevant to the criminal offense in question, and that 2869  
conforms to section 2317.022 of the Revised Code, the provider, 2870  
except to the extent specifically prohibited by any law of this 2871  
state or of the United States, shall supply to the officer a 2872  
copy of any of the requested records the provider possesses. If 2873  
the health care provider does not possess any of the requested 2874  
records, the provider shall give the officer a written statement 2875  
that indicates that the provider does not possess any of the 2876  
requested records. 2877

(b) If a health care provider possesses any records of the 2878  
type described in division (B) (2) (a) of this section regarding 2879  
the person in question at any time relevant to the criminal 2880  
offense in question, in lieu of personally testifying as to the 2881  
results of the test in question, the custodian of the records 2882  
may submit a certified copy of the records, and, upon its 2883  
submission, the certified copy is qualified as authentic 2884

evidence and may be admitted as evidence in accordance with the 2885  
Rules of Evidence. Division (A) of section 2317.422 of the 2886  
Revised Code does not apply to any certified copy of records 2887  
submitted in accordance with this division. Nothing in this 2888  
division shall be construed to limit the right of any party to 2889  
call as a witness the person who administered the test to which 2890  
the records pertain, the person under whose supervision the test 2891  
was administered, the custodian of the records, the person who 2892  
made the records, or the person under whose supervision the 2893  
records were made. 2894

(3) (a) If the testimonial privilege described in division 2895  
(B) (1) of this section does not apply as provided in division 2896  
(B) (1) (a) (iii) of this section, a physician, advanced practice 2897  
registered nurse, or dentist may be compelled to testify or to 2898  
submit to discovery under the Rules of Civil Procedure only as 2899  
to a communication made to the physician, advanced practice 2900  
registered nurse, or dentist by the patient in question in that 2901  
relation, or the advice of the physician, advanced practice 2902  
registered nurse, or dentist given to the patient in question, 2903  
that related causally or historically to physical or mental 2904  
injuries that are relevant to issues in the medical claim, 2905  
dental claim, chiropractic claim, or optometric claim, action 2906  
for wrongful death, other civil action, or claim under Chapter 2907  
4123. of the Revised Code. 2908

(b) If the testimonial privilege described in division (B) 2909  
(1) of this section does not apply to a physician, advanced 2910  
practice registered nurse, or dentist as provided in division 2911  
(B) (1) (c) of this section, the physician, advanced practice 2912  
registered nurse, or dentist, in lieu of personally testifying 2913  
as to the results of the test in question, may submit a 2914  
certified copy of those results, and, upon its submission, the 2915

certified copy is qualified as authentic evidence and may be 2916  
admitted as evidence in accordance with the Rules of Evidence. 2917  
Division (A) of section 2317.422 of the Revised Code does not 2918  
apply to any certified copy of results submitted in accordance 2919  
with this division. Nothing in this division shall be construed 2920  
to limit the right of any party to call as a witness the person 2921  
who administered the test in question, the person under whose 2922  
supervision the test was administered, the custodian of the 2923  
results of the test, the person who compiled the results, or the 2924  
person under whose supervision the results were compiled. 2925

(4) The testimonial privilege described in division (B) (1) 2926  
of this section is not waived when a communication is made by a 2927  
physician or advanced practice registered nurse to a pharmacist 2928  
or when there is communication between a patient and a 2929  
pharmacist in furtherance of the physician-patient or advanced 2930  
practice registered nurse-patient relation. 2931

(5) (a) As used in divisions (B) (1) to (4) of this section, 2932  
"communication" means acquiring, recording, or transmitting any 2933  
information, in any manner, concerning any facts, opinions, or 2934  
statements necessary to enable a physician, advanced practice 2935  
registered nurse, or dentist to diagnose, treat, prescribe, or 2936  
act for a patient. A "communication" may include, but is not 2937  
limited to, any medical or dental, office, or hospital 2938  
communication such as a record, chart, letter, memorandum, 2939  
laboratory test and results, x-ray, photograph, financial 2940  
statement, diagnosis, or prognosis. 2941

(b) As used in division (B) (2) of this section, "health 2942  
care provider" means a hospital, ambulatory care facility, long- 2943  
term care facility, pharmacy, emergency facility, or health care 2944  
practitioner. 2945

- (c) As used in division (B) (5) (b) of this section: 2946
- (i) "Ambulatory care facility" means a facility that 2947  
provides medical, diagnostic, or surgical treatment to patients 2948  
who do not require hospitalization, including a dialysis center, 2949  
ambulatory surgical facility, cardiac catheterization facility, 2950  
diagnostic imaging center, extracorporeal shock wave lithotripsy 2951  
center, home health agency, inpatient hospice, birthing center, 2952  
radiation therapy center, emergency facility, and an urgent care 2953  
center. "Ambulatory health care facility" does not include the 2954  
private office of a physician, advanced practice registered 2955  
nurse, or dentist, whether the office is for an individual or 2956  
group practice. 2957
- (ii) "Emergency facility" means a hospital emergency 2958  
department or any other facility that provides emergency medical 2959  
services. 2960
- (iii) "Health care practitioner" has the same meaning as 2961  
in section 4769.01 of the Revised Code. 2962
- (iv) "Hospital" has the same meaning as in section 3727.01 2963  
of the Revised Code. 2964
- (v) "Long-term care facility" means a nursing home, 2965  
residential care facility, or home for the aging, as those terms 2966  
are defined in section 3721.01 of the Revised Code; a 2967  
residential facility licensed under section 5119.34 of the 2968  
Revised Code that provides accommodations, supervision, and 2969  
personal care services for three to sixteen unrelated adults; a 2970  
nursing facility, as defined in section 5165.01 of the Revised 2971  
Code; a skilled nursing facility, as defined in section 5165.01 2972  
of the Revised Code; and an intermediate care facility for 2973  
individuals with intellectual disabilities, as defined in 2974

section 5124.01 of the Revised Code. 2975

(vi) "Pharmacy" has the same meaning as in section 4729.01 2976  
of the Revised Code. 2977

(d) As used in divisions (B)(1) and (2) of this section, 2978  
"drug of abuse" has the same meaning as in section 4506.01 of 2979  
the Revised Code. 2980

(6) Divisions (B)(1), (2), (3), (4), and (5) of this 2981  
section apply to doctors of medicine, doctors of osteopathic 2982  
medicine, doctors of podiatry, advanced practice registered 2983  
nurses, and dentists. 2984

(7) Nothing in divisions (B)(1) to (6) of this section 2985  
affects, or shall be construed as affecting, the immunity from 2986  
civil liability conferred by section 307.628 of the Revised Code 2987  
or the immunity from civil liability conferred by section 2988  
2305.33 of the Revised Code upon physicians or advanced practice 2989  
registered nurses who report an employee's use of a drug of 2990  
abuse, or a condition of an employee other than one involving 2991  
the use of a drug of abuse, to the employer of the employee in 2992  
accordance with division (B) of that section. As used in 2993  
division (B)(7) of this section, "employee," "employer," and 2994  
"physician" have the same meanings as in section 2305.33 of the 2995  
Revised Code and "advanced practice registered nurse" has the 2996  
same meaning as in section 4723.01 of the Revised Code. 2997

(C)(1) A cleric, when the cleric remains accountable to 2998  
the authority of that cleric's church, denomination, or sect, 2999  
concerning a confession made, or any information confidentially 3000  
communicated, to the cleric for a religious counseling purpose 3001  
in the cleric's professional character. The cleric may testify 3002  
by express consent of the person making the communication, 3003

except when the disclosure of the information is in violation of 3004  
a sacred trust and except that, if the person voluntarily 3005  
testifies or is deemed by division (A) (4) (c) of section 2151.421 3006  
of the Revised Code to have waived any testimonial privilege 3007  
under this division, the cleric may be compelled to testify on 3008  
the same subject except when disclosure of the information is in 3009  
violation of a sacred trust. 3010

(2) As used in division (C) of this section: 3011

(a) "Cleric" means a member of the clergy, rabbi, priest, 3012  
Christian Science practitioner, or regularly ordained, 3013  
accredited, or licensed minister of an established and legally 3014  
cognizable church, denomination, or sect. 3015

(b) "Sacred trust" means a confession or confidential 3016  
communication made to a cleric in the cleric's ecclesiastical 3017  
capacity in the course of discipline enjoined by the church to 3018  
which the cleric belongs, including, but not limited to, the 3019  
Catholic Church, if both of the following apply: 3020

(i) The confession or confidential communication was made 3021  
directly to the cleric. 3022

(ii) The confession or confidential communication was made 3023  
in the manner and context that places the cleric specifically 3024  
and strictly under a level of confidentiality that is considered 3025  
inviolable by canon law or church doctrine. 3026

(D) Husband or wife, concerning any communication made by 3027  
one to the other, or an act done by either in the presence of 3028  
the other, during coverture, unless the communication was made, 3029  
or act done, in the known presence or hearing of a third person 3030  
competent to be a witness; and such rule is the same if the 3031  
marital relation has ceased to exist; 3032

(E) A person who assigns a claim or interest, concerning 3033  
any matter in respect to which the person would not, if a party, 3034  
be permitted to testify; 3035

(F) A person who, if a party, would be restricted under 3036  
section 2317.03 of the Revised Code, when the property or thing 3037  
is sold or transferred by an executor, administrator, guardian, 3038  
trustee, heir, devisee, or legatee, shall be restricted in the 3039  
same manner in any action or proceeding concerning the property 3040  
or thing. 3041

(G) (1) A school guidance counselor who holds a valid 3042  
educator license from the state board of education as provided 3043  
for in section 3319.22 of the Revised Code, a person licensed 3044  
under Chapter 4757. of the Revised Code as a licensed 3045  
professional clinical counselor, licensed professional 3046  
counselor, social worker, independent social worker, marriage 3047  
and family therapist or independent marriage and family 3048  
therapist, or registered under Chapter 4757. of the Revised Code 3049  
as a social work assistant concerning a confidential 3050  
communication received from a client in that relation or the 3051  
person's advice to a client unless any of the following applies: 3052

(a) The communication or advice indicates clear and 3053  
present danger to the client or other persons. For the purposes 3054  
of this division, cases in which there are indications of 3055  
present or past child abuse or neglect of the client constitute 3056  
a clear and present danger. 3057

(b) The client gives express consent to the testimony. 3058

(c) If the client is deceased, the surviving spouse or the 3059  
executor or administrator of the estate of the deceased client 3060  
gives express consent. 3061

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G) (1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any



action or proceeding, other than a criminal, delinquency, child 3091  
abuse, child neglect, or dependent child action or proceeding, 3092  
that is brought by or against either parent who takes part in 3093  
mediation in accordance with the order and that pertains to the 3094  
mediation process, to any information discussed or presented in 3095  
the mediation process, to the allocation of parental rights and 3096  
responsibilities for the care of the parents' children, or to 3097  
the awarding of parenting time rights in relation to their 3098  
children; 3099

(I) A communications assistant, acting within the scope of 3100  
the communication assistant's authority, when providing 3101  
telecommunications relay service pursuant to section 4931.06 of 3102  
the Revised Code or Title II of the "Communications Act of 3103  
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 3104  
communication made through a telecommunications relay service. 3105  
Nothing in this section shall limit the obligation of a 3106  
communications assistant to divulge information or testify when 3107  
mandated by federal law or regulation or pursuant to subpoena in 3108  
a criminal proceeding. 3109

Nothing in this section shall limit any immunity or 3110  
privilege granted under federal law or regulation. 3111

(J) (1) A chiropractor in a civil proceeding concerning a 3112  
communication made to the chiropractor by a patient in that 3113  
relation or the chiropractor's advice to a patient, except as 3114  
otherwise provided in this division. The testimonial privilege 3115  
established under this division does not apply, and a 3116  
chiropractor may testify or may be compelled to testify, in any 3117  
civil action, in accordance with the discovery provisions of the 3118  
Rules of Civil Procedure in connection with a civil action, or 3119  
in connection with a claim under Chapter 4123. of the Revised 3120

Code, under any of the following circumstances:	3121
(a) If the patient or the guardian or other legal representative of the patient gives express consent.	3122 3123
(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.	3124 3125 3126
(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.	3127 3128 3129 3130 3131 3132 3133
(2) If the testimonial privilege described in division (J) (1) of this section does not apply as provided in division (J) (1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.	3134 3135 3136 3137 3138 3139 3140 3141 3142 3143 3144
(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.	3145 3146 3147 3148
(4) As used in this division, "communication" means	3149

acquiring, recording, or transmitting any information, in any 3150  
manner, concerning any facts, opinions, or statements necessary 3151  
to enable a chiropractor to diagnose, treat, or act for a 3152  
patient. A communication may include, but is not limited to, any 3153  
chiropractic, office, or hospital communication such as a 3154  
record, chart, letter, memorandum, laboratory test and results, 3155  
x-ray, photograph, financial statement, diagnosis, or prognosis. 3156

(K) (1) Except as provided under division (K) (2) of this 3157  
section, a critical incident stress management team member 3158  
concerning a communication received from an individual who 3159  
receives crisis response services from the team member, or the 3160  
team member's advice to the individual, during a debriefing 3161  
session. 3162

(2) The testimonial privilege established under division 3163  
(K) (1) of this section does not apply if any of the following 3164  
are true: 3165

(a) The communication or advice indicates clear and 3166  
present danger to the individual who receives crisis response 3167  
services or to other persons. For purposes of this division, 3168  
cases in which there are indications of present or past child 3169  
abuse or neglect of the individual constitute a clear and 3170  
present danger. 3171

(b) The individual who received crisis response services 3172  
gives express consent to the testimony. 3173

(c) If the individual who received crisis response 3174  
services is deceased, the surviving spouse or the executor or 3175  
administrator of the estate of the deceased individual gives 3176  
express consent. 3177

(d) The individual who received crisis response services 3178

voluntarily testifies, in which case the team member may be 3179  
compelled to testify on the same subject. 3180

(e) The court in camera determines that the information 3181  
communicated by the individual who received crisis response 3182  
services is not germane to the relationship between the 3183  
individual and the team member. 3184

(f) The communication or advice pertains or is related to 3185  
any criminal act. 3186

(3) As used in division (K) of this section: 3187

(a) "Crisis response services" means consultation, risk 3188  
assessment, referral, and on-site crisis intervention services 3189  
provided by a critical incident stress management team to 3190  
individuals affected by crisis or disaster. 3191

(b) "Critical incident stress management team member" or 3192  
"team member" means an individual specially trained to provide 3193  
crisis response services as a member of an organized community 3194  
or local crisis response team that holds membership in the Ohio 3195  
critical incident stress management network. 3196

(c) "Debriefing session" means a session at which crisis 3197  
response services are rendered by a critical incident stress 3198  
management team member during or after a crisis or disaster. 3199

(L)(1) Subject to division (L)(2) of this section and 3200  
except as provided in division (L)(3) of this section, an 3201  
employee assistance professional, concerning a communication 3202  
made to the employee assistance professional by a client in the 3203  
employee assistance professional's official capacity as an 3204  
employee assistance professional. 3205

(2) Division (L)(1) of this section applies to an employee 3206

assistance professional who meets either or both of the 3207  
following requirements: 3208

(a) Is certified by the employee assistance certification 3209  
commission to engage in the employee assistance profession; 3210

(b) Has education, training, and experience in all of the 3211  
following: 3212

(i) Providing workplace-based services designed to address 3213  
employer and employee productivity issues; 3214

(ii) Providing assistance to employees and employees' 3215  
dependents in identifying and finding the means to resolve 3216  
personal problems that affect the employees or the employees' 3217  
performance; 3218

(iii) Identifying and resolving productivity problems 3219  
associated with an employee's concerns about any of the 3220  
following matters: health, marriage, family, finances, substance 3221  
abuse or other addiction, workplace, law, and emotional issues; 3222

(iv) Selecting and evaluating available community 3223  
resources; 3224

(v) Making appropriate referrals; 3225

(vi) Local and national employee assistance agreements; 3226

(vii) Client confidentiality. 3227

(3) Division (L)(1) of this section does not apply to any 3228  
of the following: 3229

(a) A criminal action or proceeding involving an offense 3230  
under sections 2903.01 to 2903.06 of the Revised Code if the 3231  
employee assistance professional's disclosure or testimony 3232  
relates directly to the facts or immediate circumstances of the 3233

offense; 3234

(b) A communication made by a client to an employee 3235  
assistance professional that reveals the contemplation or 3236  
commission of a crime or serious, harmful act; 3237

(c) A communication that is made by a client who is an 3238  
unemancipated minor or an adult adjudicated to be incompetent 3239  
and indicates that the client was the victim of a crime or 3240  
abuse; 3241

(d) A civil proceeding to determine an individual's mental 3242  
competency or a criminal action in which a plea of not guilty by 3243  
reason of insanity is entered; 3244

(e) A civil or criminal malpractice action brought against 3245  
the employee assistance professional; 3246

(f) When the employee assistance professional has the 3247  
express consent of the client or, if the client is deceased or 3248  
disabled, the client's legal representative; 3249

(g) When the testimonial privilege otherwise provided by 3250  
division (L)(1) of this section is abrogated under law. 3251

**Sec. 2701.07.** When, in the opinion of the court, the 3252  
business thereof so requires, each court of common pleas, court 3253  
of appeals, and, in counties having at the last or any future 3254  
federal census more than seventy thousand inhabitants, the 3255  
probate court, may appoint one or more constables to preserve 3256  
order, attend the assignment of cases in counties where more 3257  
than two judges of the court of common pleas regularly hold 3258  
court at the same time, and discharge such other duties as the 3259  
court requires. When so directed by the court, each constable 3260  
has the same powers as sheriffs to call and impanel jurors,~~—~~ 3261  
~~except in capital cases.~~ 3262

<b>Sec. 2743.51.</b> As used in sections 2743.51 to 2743.72 of	3263
the Revised Code:	3264
(A) "Claimant" means both of the following categories of	3265
persons:	3266
(1) Any of the following persons who claim an award of	3267
reparations under sections 2743.51 to 2743.72 of the Revised	3268
Code:	3269
(a) A victim who was one of the following at the time of	3270
the criminally injurious conduct:	3271
(i) A resident of the United States;	3272
(ii) A resident of a foreign country the laws of which	3273
permit residents of this state to recover compensation as	3274
victims of offenses committed in that country.	3275
(b) A dependent of a deceased victim who is described in	3276
division (A) (1) (a) of this section;	3277
(c) A third person, other than a collateral source, who	3278
legally assumes or voluntarily pays the obligations of a victim,	3279
or of a dependent of a victim, who is described in division (A)	3280
(1) (a) of this section, which obligations are incurred as a	3281
result of the criminally injurious conduct that is the subject	3282
of the claim and may include, but are not limited to, medical or	3283
burial expenses;	3284
(d) A person who is authorized to act on behalf of any	3285
person who is described in division (A) (1) (a), (b), or (c) of	3286
this section;	3287
(e) The estate of a deceased victim who is described in	3288
division (A) (1) (a) of this section.	3289

(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:	3290 3291 3292
(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:	3293 3294 3295 3296
(i) Had a permanent place of employment in this state;	3297
(ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;	3298 3299 3300 3301
(iii) Was retired and receiving social security or any other retirement income;	3302 3303
(iv) Was sixty years of age or older;	3304
(v) Was temporarily in another state for the purpose of receiving medical treatment;	3305 3306
(vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;	3307 3308 3309 3310
(vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;	3311 3312 3313 3314 3315
(viii) Was a full-time student at an academic institution, college, or university located in another state;	3316 3317



(ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

(b) A dependent of a deceased victim who is described in division (A) (2) (a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A) (2) (a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A) (2) (a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division (A) (2) (a) of this section.

(B) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available to the victim or claimant, from any of the following sources:

(1) The offender;

(2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;

(3) Social security, medicare, and medicaid;	3346
(4) State-required, temporary, nonoccupational disability insurance;	3347 3348
(5) Workers' compensation;	3349
(6) Wage continuation programs of any employer;	3350
(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;	3351 3352 3353
(8) A contract providing prepaid hospital and other health care services, or benefits for disability;	3354 3355
(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;	3356 3357 3358
(10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.	3359 3360 3361 3362
"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.	3363 3364 3365 3366 3367
(C) "Criminally injurious conduct" means one of the following:	3368 3369
(1) For the purposes of any person described in division (A) (1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or	3370 3371 3372

death; and is punishable by fine, or imprisonment, ~~or death~~, or 3373  
would be so punishable but for the fact that the person engaging 3374  
in the conduct lacked capacity to commit the crime under the 3375  
laws of this state. Criminally injurious conduct does not 3376  
include conduct arising out of the ownership, maintenance, or 3377  
use of a motor vehicle, except when any of the following 3378  
applies: 3379

(a) The person engaging in the conduct intended to cause 3380  
personal injury or death; 3381

(b) The person engaging in the conduct was using the 3382  
vehicle to flee immediately after committing a felony or an act 3383  
that would constitute a felony but for the fact that the person 3384  
engaging in the conduct lacked the capacity to commit the felony 3385  
under the laws of this state; 3386

(c) The person engaging in the conduct was using the 3387  
vehicle in a manner that constitutes an OVI violation; 3388

(d) The conduct occurred on or after July 25, 1990, and 3389  
the person engaging in the conduct was using the vehicle in a 3390  
manner that constitutes a violation of section 2903.08 of the 3391  
Revised Code; 3392

(e) The person engaging in the conduct acted in a manner 3393  
that caused serious physical harm to a person and that 3394  
constituted a violation of section 4549.02 or 4549.021 of the 3395  
Revised Code. 3396

(2) For the purposes of any person described in division 3397  
(A) (2) of this section, any conduct that occurs or is attempted 3398  
in another state, district, territory, or foreign country; poses 3399  
a substantial threat of personal injury or death; and is 3400  
punishable by fine, imprisonment, or death, or would be so 3401

punishable but for the fact that the person engaging in the 3402  
conduct lacked capacity to commit the crime under the laws of 3403  
the state, district, territory, or foreign country in which the 3404  
conduct occurred or was attempted. Criminally injurious conduct 3405  
does not include conduct arising out of the ownership, 3406  
maintenance, or use of a motor vehicle, except when any of the 3407  
following applies: 3408

(a) The person engaging in the conduct intended to cause 3409  
personal injury or death; 3410

(b) The person engaging in the conduct was using the 3411  
vehicle to flee immediately after committing a felony or an act 3412  
that would constitute a felony but for the fact that the person 3413  
engaging in the conduct lacked the capacity to commit the felony 3414  
under the laws of the state, district, territory, or foreign 3415  
country in which the conduct occurred or was attempted; 3416

(c) The person engaging in the conduct was using the 3417  
vehicle in a manner that constitutes an OVI violation; 3418

(d) The conduct occurred on or after July 25, 1990, the 3419  
person engaging in the conduct was using the vehicle in a manner 3420  
that constitutes a violation of any law of the state, district, 3421  
territory, or foreign country in which the conduct occurred, and 3422  
that law is substantially similar to a violation of section 3423  
2903.08 of the Revised Code; 3424

(e) The person engaging in the conduct acted in a manner 3425  
that caused serious physical harm to a person and that 3426  
constituted a violation of any law of the state, district, 3427  
territory, or foreign country in which the conduct occurred, and 3428  
that law is substantially similar to section 4549.02 or 4549.021 3429  
of the Revised Code. 3430

(3) For the purposes of any person described in division 3431  
(A) (1) or (2) of this section, terrorism that occurs within or 3432  
outside the territorial jurisdiction of the United States. 3433

(D) "Dependent" means an individual wholly or partially 3434  
dependent upon the victim for care and support, and includes a 3435  
child of the victim born after the victim's death. 3436

(E) "Economic loss" means economic detriment consisting 3437  
only of allowable expense, work loss, funeral expense, 3438  
unemployment benefits loss, replacement services loss, cost of 3439  
crime scene cleanup, and cost of evidence replacement. If 3440  
criminally injurious conduct causes death, economic loss 3441  
includes a dependent's economic loss and a dependent's 3442  
replacement services loss. Noneconomic detriment is not economic 3443  
loss; however, economic loss may be caused by pain and suffering 3444  
or physical impairment. 3445

(F) (1) "Allowable expense" means reasonable charges 3446  
incurred for reasonably needed products, services, and 3447  
accommodations, including those for medical care, 3448  
rehabilitation, rehabilitative occupational training, and other 3449  
remedial treatment and care and including replacement costs for 3450  
hearing aids; dentures, retainers, and other dental appliances; 3451  
canes, walkers, and other mobility tools; and eyeglasses and 3452  
other corrective lenses. It does not include that portion of a 3453  
charge for a room in a hospital, clinic, convalescent home, 3454  
nursing home, or any other institution engaged in providing 3455  
nursing care and related services in excess of a reasonable and 3456  
customary charge for semiprivate accommodations, unless 3457  
accommodations other than semiprivate accommodations are 3458  
medically required. 3459

(2) An immediate family member of a victim of criminally 3460

injurious conduct that consists of a homicide, a sexual assault, 3461  
domestic violence, or a severe and permanent incapacitating 3462  
injury resulting in paraplegia or a similar life-altering 3463  
condition, who requires psychiatric care or counseling as a 3464  
result of the criminally injurious conduct, may be reimbursed 3465  
for that care or counseling as an allowable expense through the 3466  
victim's application. The cumulative allowable expense for care 3467  
or counseling of that nature shall not exceed two thousand five 3468  
hundred dollars for each immediate family member of a victim of 3469  
that type and seven thousand five hundred dollars in the 3470  
aggregate for all immediate family members of a victim of that 3471  
type. 3472

(3) A family member of a victim who died as a proximate 3473  
result of criminally injurious conduct may be reimbursed as an 3474  
allowable expense through the victim's application for wages 3475  
lost and travel expenses incurred in order to attend criminal 3476  
justice proceedings arising from the criminally injurious 3477  
conduct. The cumulative allowable expense for wages lost and 3478  
travel expenses incurred by a family member to attend criminal 3479  
justice proceedings shall not exceed five hundred dollars for 3480  
each family member of the victim and two thousand dollars in the 3481  
aggregate for all family members of the victim. 3482

(4) (a) "Allowable expense" includes reasonable expenses 3483  
and fees necessary to obtain a guardian's bond pursuant to 3484  
section 2109.04 of the Revised Code when the bond is required to 3485  
pay an award to a fiduciary on behalf of a minor or other 3486  
incompetent. 3487

(b) "Allowable expense" includes attorney's fees not 3488  
exceeding one thousand dollars, at a rate not exceeding one 3489  
hundred dollars per hour, incurred to successfully obtain a 3490

restraining order, custody order, or other order to physically 3491  
separate a victim from an offender. Attorney's fees for the 3492  
services described in this division may include an amount for 3493  
reasonable travel time incurred to attend court hearings, not 3494  
exceeding three hours' round-trip for each court hearing, 3495  
assessed at a rate not exceeding thirty dollars per hour. 3496

(G) "Work loss" means loss of income from work that the 3497  
injured person would have performed if the person had not been 3498  
injured and expenses reasonably incurred by the person to obtain 3499  
services in lieu of those the person would have performed for 3500  
income, reduced by any income from substitute work actually 3501  
performed by the person, or by income the person would have 3502  
earned in available appropriate substitute work that the person 3503  
was capable of performing but unreasonably failed to undertake. 3504

(H) "Replacement services loss" means expenses reasonably 3505  
incurred in obtaining ordinary and necessary services in lieu of 3506  
those the injured person would have performed, not for income, 3507  
but for the benefit of the person's self or family, if the 3508  
person had not been injured. 3509

(I) "Dependent's economic loss" means loss after a 3510  
victim's death of contributions of things of economic value to 3511  
the victim's dependents, not including services they would have 3512  
received from the victim if the victim had not suffered the 3513  
fatal injury, less expenses of the dependents avoided by reason 3514  
of the victim's death. If a minor child of a victim is adopted 3515  
after the victim's death, the minor child continues after the 3516  
adoption to incur a dependent's economic loss as a result of the 3517  
victim's death. If the surviving spouse of a victim remarries, 3518  
the surviving spouse continues after the remarriage to incur a 3519  
dependent's economic loss as a result of the victim's death. 3520

(J) "Dependent's replacement services loss" means loss 3521  
reasonably incurred by dependents after a victim's death in 3522  
obtaining ordinary and necessary services in lieu of those the 3523  
victim would have performed for their benefit if the victim had 3524  
not suffered the fatal injury, less expenses of the dependents 3525  
avoided by reason of the victim's death and not subtracted in 3526  
calculating the dependent's economic loss. If a minor child of a 3527  
victim is adopted after the victim's death, the minor child 3528  
continues after the adoption to incur a dependent's replacement 3529  
services loss as a result of the victim's death. If the 3530  
surviving spouse of a victim remarries, the surviving spouse 3531  
continues after the remarriage to incur a dependent's 3532  
replacement services loss as a result of the victim's death. 3533

(K) "Noneconomic detriment" means pain, suffering, 3534  
inconvenience, physical impairment, or other nonpecuniary 3535  
damage. 3536

(L) "Victim" means a person who suffers personal injury or 3537  
death as a result of any of the following: 3538

(1) Criminally injurious conduct; 3539

(2) The good faith effort of any person to prevent 3540  
criminally injurious conduct; 3541

(3) The good faith effort of any person to apprehend a 3542  
person suspected of engaging in criminally injurious conduct. 3543

(M) "Contributory misconduct" means any conduct of the 3544  
claimant or of the victim through whom the claimant claims an 3545  
award of reparations that is unlawful or intentionally tortious 3546  
and that, without regard to the conduct's proximity in time or 3547  
space to the criminally injurious conduct, has a causal 3548  
relationship to the criminally injurious conduct that is the 3549



basis of the claim. 3550

(N) (1) "Funeral expense" means any reasonable charges that 3551  
are not in excess of seven thousand five hundred dollars per 3552  
funeral and that are incurred for expenses directly related to a 3553  
victim's funeral, cremation, or burial and any wages lost or 3554  
travel expenses incurred by a family member of a victim in order 3555  
to attend the victim's funeral, cremation, or burial. 3556

(2) An award for funeral expenses shall be applied first 3557  
to expenses directly related to the victim's funeral, cremation, 3558  
or burial. An award for wages lost or travel expenses incurred 3559  
by a family member of the victim shall not exceed five hundred 3560  
dollars for each family member and shall not exceed in the 3561  
aggregate the difference between seven thousand five hundred 3562  
dollars and expenses that are reimbursed by the program and that 3563  
are directly related to the victim's funeral, cremation, or 3564  
burial. 3565

(O) "Unemployment benefits loss" means a loss of 3566  
unemployment benefits pursuant to Chapter 4141. of the Revised 3567  
Code when the loss arises solely from the inability of a victim 3568  
to meet the able to work, available for suitable work, or the 3569  
actively seeking suitable work requirements of division (A) (4) 3570  
(a) of section 4141.29 of the Revised Code. 3571

(P) "OVI violation" means any of the following: 3572

(1) A violation of section 4511.19 of the Revised Code, of 3573  
any municipal ordinance prohibiting the operation of a vehicle 3574  
while under the influence of alcohol, a drug of abuse, or a 3575  
combination of them, or of any municipal ordinance prohibiting 3576  
the operation of a vehicle with a prohibited concentration of 3577  
alcohol, a controlled substance, or a metabolite of a controlled 3578

substance in the whole blood, blood serum or plasma, breath, or 3579  
urine; 3580

(2) A violation of division (A) (1) of section 2903.06 of 3581  
the Revised Code; 3582

(3) A violation of division (A) (2), (3), or (4) of section 3583  
2903.06 of the Revised Code or of a municipal ordinance 3584  
substantially similar to any of those divisions, if the offender 3585  
was under the influence of alcohol, a drug of abuse, or a 3586  
combination of them, at the time of the commission of the 3587  
offense; 3588

(4) For purposes of any person described in division (A) 3589  
(2) of this section, a violation of any law of the state, 3590  
district, territory, or foreign country in which the criminally 3591  
injurious conduct occurred, if that law is substantially similar 3592  
to a violation described in division (P) (1) or (2) of this 3593  
section or if that law is substantially similar to a violation 3594  
described in division (P) (3) of this section and the offender 3595  
was under the influence of alcohol, a drug of abuse, or a 3596  
combination of them, at the time of the commission of the 3597  
offense. 3598

(Q) "Pendency of the claim" for an original reparations 3599  
application or supplemental reparations application means the 3600  
period of time from the date the criminally injurious conduct 3601  
upon which the application is based occurred until the date a 3602  
final decision, order, or judgment concerning that original 3603  
reparations application or supplemental reparations application 3604  
is issued. 3605

(R) "Terrorism" means any activity to which all of the 3606  
following apply: 3607

(1) The activity involves a violent act or an act that is dangerous to human life.

(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.

(3) The activity appears to be intended to do any of the following:

(a) Intimidate or coerce a civilian population;

(b) Influence the policy of any government by intimidation or coercion;

(c) Affect the conduct of any government by assassination or kidnapping.

(4) The activity occurs primarily outside the territorial jurisdiction of the United States or transcends the national boundaries of the United States in terms of the means by which the activity is accomplished, the person or persons that the activity appears intended to intimidate or coerce, or the area or locale in which the perpetrator or perpetrators of the activity operate or seek asylum.

(S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of the United States in addition to occurring within the territorial jurisdiction of the United States.

(T) "Cost of crime scene cleanup" means any of the 3637  
following: 3638

(1) The replacement cost for items of clothing removed 3639  
from a victim in order to make an assessment of possible 3640  
physical harm or to treat physical harm; 3641

(2) Reasonable and necessary costs of cleaning the scene 3642  
and repairing, for the purpose of personal security, property 3643  
damaged at the scene where the criminally injurious conduct 3644  
occurred, not to exceed seven hundred fifty dollars in the 3645  
aggregate per claim. 3646

(U) "Cost of evidence replacement" means costs for 3647  
replacement of property confiscated for evidentiary purposes 3648  
related to the criminally injurious conduct, not to exceed seven 3649  
hundred fifty dollars in the aggregate per claim. 3650

(V) "Provider" means any person who provides a victim or 3651  
claimant with a product, service, or accommodations that are an 3652  
allowable expense or a funeral expense. 3653

(W) "Immediate family member" means an individual who 3654  
resided in the same permanent household as a victim at the time 3655  
of the criminally injurious conduct and who is related to the 3656  
victim by affinity or consanguinity. 3657

(X) "Family member" means an individual who is related to 3658  
a victim by affinity or consanguinity. 3659

**Sec. 2901.02.** As used in the Revised Code: 3660

(A) Offenses include aggravated murder, murder, felonies 3661  
of the first, second, third, fourth, and fifth degree, 3662  
misdemeanors of the first, second, third, and fourth degree, 3663  
minor misdemeanors, and offenses not specifically classified. 3664

~~(B) Aggravated murder when the indictment or the count in the indictment charging aggravated murder contains one or more specifications of aggravating circumstances listed in division (A) of section 2929.04 of Revised Code, and any other offense for which death may be imposed as a penalty, is a capital offense.~~ 3665  
3666  
3667  
3668  
3669  
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~~(C)~~ Aggravated murder and murder are felonies. 3671

~~(D)~~ (C) Regardless of the penalty that may be imposed, any offense specifically classified as a felony is a felony, and any offense specifically classified as a misdemeanor is a misdemeanor. 3672  
3673  
3674  
3675

~~(E)~~ (D) Any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty. 3676  
3677  
3678

~~(F)~~ (E) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty. 3679  
3680  
3681

~~(G)~~ (F) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following: 3682  
3683  
3684

(1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars; 3685  
3686

(2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars, community service under division (D) of section 2929.27 of the Revised Code, or a financial sanction other than a fine under section 2929.28 of the Revised Code. 3687  
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3689  
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**Sec. 2909.24.** (A) No person shall commit a specified 3692

offense with purpose to do any of the following: 3693

(1) Intimidate or coerce a civilian population; 3694

(2) Influence the policy of any government by intimidation or coercion; 3695  
3696

(3) Affect the conduct of any government by the specified offense. 3697  
3698

(B) (1) Whoever violates this section is guilty of terrorism. 3699  
3700

(2) Except as otherwise provided in divisions (B) (3) and (4) of this section, terrorism is an offense one degree higher than the most serious underlying specified offense the defendant committed. 3701  
3702  
3703  
3704

(3) If the most serious underlying specified offense the defendant committed is a felony of the first degree or murder, the person shall be sentenced to life imprisonment without parole. 3705  
3706  
3707  
3708

(4) If the most serious underlying specified offense the defendant committed is aggravated murder, the offender shall be sentenced to life imprisonment without parole ~~or death pursuant to sections 2929.02 to 2929.06 of the Revised Code.~~ 3709  
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3711  
3712

(5) Section 2909.25 of the Revised Code applies regarding an offender who is convicted of or pleads guilty to a violation of this section. 3713  
3714  
3715

**Sec. 2929.02.** (A) ~~Whoever~~ Except as provided in division (C) of this section, whoever is convicted of or pleads guilty to aggravated murder in violation of section 2903.01 of the Revised Code shall ~~suffer death or be imprisoned for life, as determined pursuant to sections 2929.022, 2929.03, and 2929.04 of the~~ 3716  
3717  
3718  
3719  
3720

~~Revised Code, except that no person who raises the matter of age~~ 3721  
~~pursuant to section 2929.023 of the Revised Code and who is not~~ 3722  
~~found to have been eighteen years of age or older at the time of~~ 3723  
~~the commission of the offense shall suffer death. In addition,~~ 3724  
~~the offender may be fined an amount fixed by the court, but not~~ 3725  
~~more than twenty five thousand dollars~~ sentenced to life 3726  
imprisonment with parole eligibility after serving twenty full 3727  
years of imprisonment, life imprisonment with parole eligibility 3728  
after serving thirty full years of imprisonment, or life 3729  
imprisonment without parole. 3730

(B) ~~(1)~~ Except as otherwise provided in division ~~(B) (2) or~~ 3731  
~~(3)~~ (C) of this section, whoever is convicted of or pleads 3732  
guilty to murder in violation of section 2903.02 of the Revised 3733  
Code shall be imprisoned for an indefinite term of fifteen years 3734  
to life. 3735

~~(2)~~ (C) (1) Except as otherwise provided in division ~~(B) (3)~~ 3736  
~~(C) (2)~~ of this section, if a person is convicted of or pleads 3737  
guilty to aggravated murder in violation of section 2903.01 of 3738  
the Revised Code or to murder in violation of section 2903.02 of 3739  
the Revised Code, the victim of the offense was less than 3740  
thirteen years of age, and the offender also is convicted of or 3741  
pleads guilty to a sexual motivation specification that was 3742  
included in the indictment, count in the indictment, or 3743  
information charging the offense, the court shall impose an 3744  
indefinite prison term of thirty years to life pursuant to 3745  
division (B) (3) of section 2971.03 of the Revised Code. 3746

~~(3)~~ (2) If a person is convicted of or pleads guilty to 3747  
aggravated murder in violation of section 2903.01 of the Revised 3748  
Code or to murder in violation of section 2903.02 of the Revised 3749  
Code and also is convicted of or pleads guilty to a sexual 3750

motivation specification and a sexually violent predator 3751  
specification that were included in the indictment, count in the 3752  
indictment, or information that charged the murder, the court 3753  
shall impose upon the offender a term of life imprisonment 3754  
without parole that shall be served pursuant to section 2971.03 3755  
of the Revised Code. 3756

~~(4)~~ (D) In addition to the prison term imposed under this 3757  
section, the offender may be fined an amount fixed by the court, 3758  
but not more than twenty-five thousand dollars for aggravated 3759  
murder or fifteen thousand dollars for murder. 3760

~~(C)~~ (E) The court shall not impose a fine or fines for 3761  
aggravated murder or murder ~~which~~ that, in the aggregate and to 3762  
the extent not suspended by the court, exceeds the amount ~~which~~ 3763  
that the offender is or will be able to pay by the method and 3764  
within the time allowed without undue hardship to the offender 3765  
or to the dependents of the offender, or will prevent the 3766  
offender from making reparation for the victim's wrongful death. 3767

~~(D)~~ (F) (1) In addition to any other sanctions imposed for a 3768  
violation of section 2903.01 or 2903.02 of the Revised Code, if 3769  
the offender used a motor vehicle as the means to commit the 3770  
violation, the court shall impose upon the offender a class two 3771  
suspension of the offender's driver's license, commercial 3772  
driver's license, temporary instruction permit, probationary 3773  
license, or nonresident operating privilege as specified in 3774  
division (A) (2) of section 4510.02 of the Revised Code. 3775

(2) As used in division ~~(D)~~ (F) of this section, "motor 3776  
vehicle" has the same meaning as in section 4501.01 of the 3777  
Revised Code. 3778

**Sec. 2929.13.** (A) Except as provided in division (E), (F), 3779



or (G) of this section and unless a specific sanction is 3780  
required to be imposed or is precluded from being imposed 3781  
pursuant to law, a court that imposes a sentence upon an 3782  
offender for a felony may impose any sanction or combination of 3783  
sanctions on the offender that are provided in sections 2929.14 3784  
to 2929.18 of the Revised Code. 3785

If the offender is eligible to be sentenced to community 3786  
control sanctions, the court shall consider the appropriateness 3787  
of imposing a financial sanction pursuant to section 2929.18 of 3788  
the Revised Code or a sanction of community service pursuant to 3789  
section 2929.17 of the Revised Code as the sole sanction for the 3790  
offense. Except as otherwise provided in this division, if the 3791  
court is required to impose a mandatory prison term for the 3792  
offense for which sentence is being imposed, the court also 3793  
shall impose any financial sanction pursuant to section 2929.18 3794  
of the Revised Code that is required for the offense and may 3795  
impose any other financial sanction pursuant to that section but 3796  
may not impose any additional sanction or combination of 3797  
sanctions under section 2929.16 or 2929.17 of the Revised Code. 3798

If the offender is being sentenced for a fourth degree 3799  
felony OVI offense or for a third degree felony OVI offense, in 3800  
addition to the mandatory term of local incarceration or the 3801  
mandatory prison term required for the offense by division (G) 3802  
(1) or (2) of this section, the court shall impose upon the 3803  
offender a mandatory fine in accordance with division (B) (3) of 3804  
section 2929.18 of the Revised Code and may impose whichever of 3805  
the following is applicable: 3806

(1) For a fourth degree felony OVI offense for which 3807  
sentence is imposed under division (G) (1) of this section, an 3808  
additional community control sanction or combination of 3809

community control sanctions under section 2929.16 or 2929.17 of 3810  
the Revised Code. If the court imposes upon the offender a 3811  
community control sanction and the offender violates any 3812  
condition of the community control sanction, the court may take 3813  
any action prescribed in division (B) of section 2929.15 of the 3814  
Revised Code relative to the offender, including imposing a 3815  
prison term on the offender pursuant to that division. 3816

(2) For a third or fourth degree felony OVI offense for 3817  
which sentence is imposed under division (G) (2) of this section, 3818  
an additional prison term as described in division (B) (4) of 3819  
section 2929.14 of the Revised Code or a community control 3820  
sanction as described in division (G) (2) of this section. 3821

(B) (1) (a) Except as provided in division (B) (1) (b) of this 3822  
section, if an offender is convicted of or pleads guilty to a 3823  
felony of the fourth or fifth degree that is not an offense of 3824  
violence or that is a qualifying assault offense, the court 3825  
shall sentence the offender to a community control sanction of 3826  
at least one year's duration if all of the following apply: 3827

(i) The offender previously has not been convicted of or 3828  
pleaded guilty to a felony offense. 3829

(ii) The most serious charge against the offender at the 3830  
time of sentencing is a felony of the fourth or fifth degree. 3831

(iii) If the court made a request of the department of 3832  
rehabilitation and correction pursuant to division (B) (1) (c) of 3833  
this section, the department, within the forty-five-day period 3834  
specified in that division, provided the court with the names 3835  
of, contact information for, and program details of one or more 3836  
community control sanctions of at least one year's duration that 3837  
are available for persons sentenced by the court. 3838

(iv) The offender previously has not been convicted of or  
pleaded guilty to a misdemeanor offense of violence that the  
offender committed within two years prior to the offense for  
which sentence is being imposed.

(b) The court has discretion to impose a prison term upon  
an offender who is convicted of or pleads guilty to a felony of  
the fourth or fifth degree that is not an offense of violence or  
that is a qualifying assault offense if any of the following  
apply:

(i) The offender committed the offense while having a  
firearm on or about the offender's person or under the  
offender's control.

(ii) If the offense is a qualifying assault offense, the  
offender caused serious physical harm to another person while  
committing the offense, and, if the offense is not a qualifying  
assault offense, the offender caused physical harm to another  
person while committing the offense.

(iii) The offender violated a term of the conditions of  
bond as set by the court.

(iv) The court made a request of the department of  
rehabilitation and correction pursuant to division (B)(1)(c) of  
this section, and the department, within the forty-five-day  
period specified in that division, did not provide the court  
with the name of, contact information for, and program details  
of any community control sanction of at least one year's  
duration that is available for persons sentenced by the court.

(v) The offense is a sex offense that is a fourth or fifth  
degree felony violation of any provision of Chapter 2907. of the  
Revised Code.

(vi) In committing the offense, the offender attempted to 3868  
cause or made an actual threat of physical harm to a person with 3869  
a deadly weapon. 3870

(vii) In committing the offense, the offender attempted to 3871  
cause or made an actual threat of physical harm to a person, and 3872  
the offender previously was convicted of an offense that caused 3873  
physical harm to a person. 3874

(viii) The offender held a public office or position of 3875  
trust, and the offense related to that office or position; the 3876  
offender's position obliged the offender to prevent the offense 3877  
or to bring those committing it to justice; or the offender's 3878  
professional reputation or position facilitated the offense or 3879  
was likely to influence the future conduct of others. 3880

(ix) The offender committed the offense for hire or as 3881  
part of an organized criminal activity. 3882

(x) The offender at the time of the offense was serving, 3883  
or the offender previously had served, a prison term. 3884

(xi) The offender committed the offense while under a 3885  
community control sanction, while on probation, or while 3886  
released from custody on a bond or personal recognizance. 3887

(c) If a court that is sentencing an offender who is 3888  
convicted of or pleads guilty to a felony of the fourth or fifth 3889  
degree that is not an offense of violence or that is a 3890  
qualifying assault offense believes that no community control 3891  
sanctions are available for its use that, if imposed on the 3892  
offender, will adequately fulfill the overriding principles and 3893  
purposes of sentencing, the court shall contact the department 3894  
of rehabilitation and correction and ask the department to 3895  
provide the court with the names of, contact information for, 3896

and program details of one or more community control sanctions 3897  
of at least one year's duration that are available for persons 3898  
sentenced by the court. Not later than forty-five days after 3899  
receipt of a request from a court under this division, the 3900  
department shall provide the court with the names of, contact 3901  
information for, and program details of one or more community 3902  
control sanctions of at least one year's duration that are 3903  
available for persons sentenced by the court, if any. Upon 3904  
making a request under this division that relates to a 3905  
particular offender, a court shall defer sentencing of that 3906  
offender until it receives from the department the names of, 3907  
contact information for, and program details of one or more 3908  
community control sanctions of at least one year's duration that 3909  
are available for persons sentenced by the court or for forty- 3910  
five days, whichever is the earlier. 3911

If the department provides the court with the names of, 3912  
contact information for, and program details of one or more 3913  
community control sanctions of at least one year's duration that 3914  
are available for persons sentenced by the court within the 3915  
forty-five-day period specified in this division, the court 3916  
shall impose upon the offender a community control sanction 3917  
under division (B) (1) (a) of this section, except that the court 3918  
may impose a prison term under division (B) (1) (b) of this 3919  
section if a factor described in division (B) (1) (b) (i) or (ii) 3920  
of this section applies. If the department does not provide the 3921  
court with the names of, contact information for, and program 3922  
details of one or more community control sanctions of at least 3923  
one year's duration that are available for persons sentenced by 3924  
the court within the forty-five-day period specified in this 3925  
division, the court may impose upon the offender a prison term 3926  
under division (B) (1) (b) (iv) of this section. 3927

(d) A sentencing court may impose an additional penalty 3928  
under division (B) of section 2929.15 of the Revised Code upon 3929  
an offender sentenced to a community control sanction under 3930  
division (B) (1) (a) of this section if the offender violates the 3931  
conditions of the community control sanction, violates a law, or 3932  
leaves the state without the permission of the court or the 3933  
offender's probation officer. 3934

(2) If division (B) (1) of this section does not apply, 3935  
except as provided in division (E), (F), or (G) of this section, 3936  
in determining whether to impose a prison term as a sanction for 3937  
a felony of the fourth or fifth degree, the sentencing court 3938  
shall comply with the purposes and principles of sentencing 3939  
under section 2929.11 of the Revised Code and with section 3940  
2929.12 of the Revised Code. 3941

(C) Except as provided in division (D), (E), (F), or (G) 3942  
of this section, in determining whether to impose a prison term 3943  
as a sanction for a felony of the third degree or a felony drug 3944  
offense that is a violation of a provision of Chapter 2925. of 3945  
the Revised Code and that is specified as being subject to this 3946  
division for purposes of sentencing, the sentencing court shall 3947  
comply with the purposes and principles of sentencing under 3948  
section 2929.11 of the Revised Code and with section 2929.12 of 3949  
the Revised Code. 3950

(D) (1) Except as provided in division (E) or (F) of this 3951  
section, for a felony of the first or second degree, for a 3952  
felony drug offense that is a violation of any provision of 3953  
Chapter 2925., 3719., or 4729. of the Revised Code for which a 3954  
presumption in favor of a prison term is specified as being 3955  
applicable, and for a violation of division (A) (4) or (B) of 3956  
section 2907.05 of the Revised Code for which a presumption in 3957

favor of a prison term is specified as being applicable, it is 3958  
presumed that a prison term is necessary in order to comply with 3959  
the purposes and principles of sentencing under section 2929.11 3960  
of the Revised Code. Division (D) (2) of this section does not 3961  
apply to a presumption established under this division for a 3962  
violation of division (A) (4) of section 2907.05 of the Revised 3963  
Code. 3964

(2) Notwithstanding the presumption established under 3965  
division (D) (1) of this section for the offenses listed in that 3966  
division other than a violation of division (A) (4) or (B) of 3967  
section 2907.05 of the Revised Code, the sentencing court may 3968  
impose a community control sanction or a combination of 3969  
community control sanctions instead of a prison term on an 3970  
offender for a felony of the first or second degree or for a 3971  
felony drug offense that is a violation of any provision of 3972  
Chapter 2925., 3719., or 4729. of the Revised Code for which a 3973  
presumption in favor of a prison term is specified as being 3974  
applicable if it makes both of the following findings: 3975

(a) A community control sanction or a combination of 3976  
community control sanctions would adequately punish the offender 3977  
and protect the public from future crime, because the applicable 3978  
factors under section 2929.12 of the Revised Code indicating a 3979  
lesser likelihood of recidivism outweigh the applicable factors 3980  
under that section indicating a greater likelihood of 3981  
recidivism. 3982

(b) A community control sanction or a combination of 3983  
community control sanctions would not demean the seriousness of 3984  
the offense, because one or more factors under section 2929.12 3985  
of the Revised Code that indicate that the offender's conduct 3986  
was less serious than conduct normally constituting the offense 3987

are applicable, and they outweigh the applicable factors under 3988  
that section that indicate that the offender's conduct was more 3989  
serious than conduct normally constituting the offense. 3990

(E) (1) Except as provided in division (F) of this section, 3991  
for any drug offense that is a violation of any provision of 3992  
Chapter 2925. of the Revised Code and that is a felony of the 3993  
third, fourth, or fifth degree, the applicability of a 3994  
presumption under division (D) of this section in favor of a 3995  
prison term or of division (B) or (C) of this section in 3996  
determining whether to impose a prison term for the offense 3997  
shall be determined as specified in section 2925.02, 2925.03, 3998  
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 3999  
2925.36, or 2925.37 of the Revised Code, whichever is applicable 4000  
regarding the violation. 4001

(2) If an offender who was convicted of or pleaded guilty 4002  
to a felony violates the conditions of a community control 4003  
sanction imposed for the offense solely by reason of producing 4004  
positive results on a drug test or by acting pursuant to 4005  
division (B) (2) (b) of section 2925.11 of the Revised Code with 4006  
respect to a minor drug possession offense, the court, as 4007  
punishment for the violation of the sanction, shall not order 4008  
that the offender be imprisoned unless the court determines on 4009  
the record either of the following: 4010

(a) The offender had been ordered as a sanction for the 4011  
felony to participate in a drug treatment program, in a drug 4012  
education program, or in narcotics anonymous or a similar 4013  
program, and the offender continued to use illegal drugs after a 4014  
reasonable period of participation in the program. 4015

(b) The imprisonment of the offender for the violation is 4016  
consistent with the purposes and principles of sentencing set 4017



forth in section 2929.11 of the Revised Code. 4018

(3) A court that sentences an offender for a drug abuse 4019  
offense that is a felony of the third, fourth, or fifth degree 4020  
may require that the offender be assessed by a properly 4021  
credentialed professional within a specified period of time. The 4022  
court shall require the professional to file a written 4023  
assessment of the offender with the court. If the offender is 4024  
eligible for a community control sanction and after considering 4025  
the written assessment, the court may impose a community control 4026  
sanction that includes addiction services and recovery supports 4027  
included in a community-based continuum of care established 4028  
under section 340.032 of the Revised Code. If the court imposes 4029  
addiction services and recovery supports as a community control 4030  
sanction, the court shall direct the level and type of addiction 4031  
services and recovery supports after considering the assessment 4032  
and recommendation of community addiction services providers. 4033

(F) Notwithstanding divisions (A) to (E) of this section, 4034  
the court shall impose a prison term or terms under ~~sections~~ 4035  
section 2929.02 to 2929.06, section 2929.14, section 2929.142, 4036  
or ~~section~~ 2971.03 of the Revised Code and except as 4037  
specifically provided in section 2929.20, divisions (C) to (I) 4038  
of section 2967.19, or section 2967.191 of the Revised Code or 4039  
when parole is authorized for the offense under section 2967.13 4040  
of the Revised Code shall not reduce the term or terms pursuant 4041  
to section 2929.20, section 2967.19, section 2967.193, or any 4042  
other provision of Chapter 2967. or Chapter 5120. of the Revised 4043  
Code for any of the following offenses: 4044

(1) Aggravated murder ~~when death is not imposed~~ or murder; 4045

(2) Any rape, regardless of whether force was involved and 4046  
regardless of the age of the victim, or an attempt to commit 4047

rape if, had the offender completed the rape that was attempted, 4048  
the offender would have been guilty of a violation of division 4049  
(A) (1) (b) of section 2907.02 of the Revised Code and would be 4050  
sentenced under section 2971.03 of the Revised Code; 4051

(3) Gross sexual imposition or sexual battery, if the 4052  
victim is less than thirteen years of age and if any of the 4053  
following applies: 4054

(a) Regarding gross sexual imposition, the offender 4055  
previously was convicted of or pleaded guilty to rape, the 4056  
former offense of felonious sexual penetration, gross sexual 4057  
imposition, or sexual battery, and the victim of the previous 4058  
offense was less than thirteen years of age; 4059

(b) Regarding gross sexual imposition, the offense was 4060  
committed on or after August 3, 2006, and evidence other than 4061  
the testimony of the victim was admitted in the case 4062  
corroborating the violation. 4063

(c) Regarding sexual battery, either of the following 4064  
applies: 4065

(i) The offense was committed prior to August 3, 2006, the 4066  
offender previously was convicted of or pleaded guilty to rape, 4067  
the former offense of felonious sexual penetration, or sexual 4068  
battery, and the victim of the previous offense was less than 4069  
thirteen years of age. 4070

(ii) The offense was committed on or after August 3, 2006. 4071

(4) A felony violation of section 2903.04, 2903.06, 4072  
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 4073  
or 2923.132 of the Revised Code if the section requires the 4074  
imposition of a prison term; 4075

(5) A first, second, or third degree felony drug offense 4076  
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 4077  
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 4078  
or 4729.99 of the Revised Code, whichever is applicable 4079  
regarding the violation, requires the imposition of a mandatory 4080  
prison term; 4081

(6) Any offense that is a first or second degree felony 4082  
and that is not set forth in division (F) (1), (2), (3), or (4) 4083  
of this section, if the offender previously was convicted of or 4084  
pleaded guilty to aggravated murder, murder, any first or second 4085  
degree felony, or an offense under an existing or former law of 4086  
this state, another state, or the United States that is or was 4087  
substantially equivalent to one of those offenses; 4088

(7) Any offense that is a third degree felony and either 4089  
is a violation of section 2903.04 of the Revised Code or an 4090  
attempt to commit a felony of the second degree that is an 4091  
offense of violence and involved an attempt to cause serious 4092  
physical harm to a person or that resulted in serious physical 4093  
harm to a person if the offender previously was convicted of or 4094  
pleaded guilty to any of the following offenses: 4095

(a) Aggravated murder, murder, involuntary manslaughter, 4096  
rape, felonious sexual penetration as it existed under section 4097  
2907.12 of the Revised Code prior to September 3, 1996, a felony 4098  
of the first or second degree that resulted in the death of a 4099  
person or in physical harm to a person, or complicity in or an 4100  
attempt to commit any of those offenses; 4101

(b) An offense under an existing or former law of this 4102  
state, another state, or the United States that is or was 4103  
substantially equivalent to an offense listed in division (F) (7) 4104  
(a) of this section that resulted in the death of a person or in 4105

physical harm to a person. 4106

(8) Any offense, other than a violation of section 2923.12 4107  
of the Revised Code, that is a felony, if the offender had a 4108  
firearm on or about the offender's person or under the 4109  
offender's control while committing the felony, with respect to 4110  
a portion of the sentence imposed pursuant to division (B)(1)(a) 4111  
of section 2929.14 of the Revised Code for having the firearm; 4112

(9) Any offense of violence that is a felony, if the 4113  
offender wore or carried body armor while committing the felony 4114  
offense of violence, with respect to the portion of the sentence 4115  
imposed pursuant to division (B)(1)(d) of section 2929.14 of the 4116  
Revised Code for wearing or carrying the body armor; 4117

(10) Corrupt activity in violation of section 2923.32 of 4118  
the Revised Code when the most serious offense in the pattern of 4119  
corrupt activity that is the basis of the offense is a felony of 4120  
the first degree; 4121

(11) Any violent sex offense or designated homicide, 4122  
assault, or kidnapping offense if, in relation to that offense, 4123  
the offender is adjudicated a sexually violent predator; 4124

(12) A violation of division (A)(1) or (2) of section 4125  
2921.36 of the Revised Code, or a violation of division (C) of 4126  
that section involving an item listed in division (A)(1) or (2) 4127  
of that section, if the offender is an officer or employee of 4128  
the department of rehabilitation and correction; 4129

(13) A violation of division (A)(1) or (2) of section 4130  
2903.06 of the Revised Code if the victim of the offense is a 4131  
peace officer, as defined in section 2935.01 of the Revised 4132  
Code, or an investigator of the bureau of criminal 4133  
identification and investigation, as defined in section 2903.11 4134

of the Revised Code, with respect to the portion of the sentence 4135  
imposed pursuant to division (B) (5) of section 2929.14 of the 4136  
Revised Code; 4137

(14) A violation of division (A) (1) or (2) of section 4138  
2903.06 of the Revised Code if the offender has been convicted 4139  
of or pleaded guilty to three or more violations of division (A) 4140  
or (B) of section 4511.19 of the Revised Code or an equivalent 4141  
offense, as defined in section 2941.1415 of the Revised Code, or 4142  
three or more violations of any combination of those divisions 4143  
and offenses, with respect to the portion of the sentence 4144  
imposed pursuant to division (B) (6) of section 2929.14 of the 4145  
Revised Code; 4146

(15) Kidnapping, in the circumstances specified in section 4147  
2971.03 of the Revised Code and when no other provision of 4148  
division (F) of this section applies; 4149

(16) Kidnapping, abduction, compelling prostitution, 4150  
promoting prostitution, engaging in a pattern of corrupt 4151  
activity, illegal use of a minor in a nudity-oriented material 4152  
or performance in violation of division (A) (1) or (2) of section 4153  
2907.323 of the Revised Code, or endangering children in 4154  
violation of division (B) (1), (2), (3), (4), or (5) of section 4155  
2919.22 of the Revised Code, if the offender is convicted of or 4156  
pleads guilty to a specification as described in section 4157  
2941.1422 of the Revised Code that was included in the 4158  
indictment, count in the indictment, or information charging the 4159  
offense; 4160

(17) A felony violation of division (A) or (B) of section 4161  
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 4162  
that section, and division (D) (6) of that section, require the 4163  
imposition of a prison term; 4164

(18) A felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code, if the victim of the offense was a woman that the offender knew was pregnant at the time of the violation, with respect to a portion of the sentence imposed pursuant to division (B) (8) of section 2929.14 of the Revised Code;

(19) (a) Any violent felony offense if the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control during the commission of the violent felony offense and displayed or brandished the firearm, indicated that the offender possessed a firearm, or used the firearm to facilitate the offense, with respect to the portion of the sentence imposed under division (K) of section 2929.14 of the Revised Code.

(b) As used in division (F) (19) (a) of this section, "violent career criminal" and "violent felony offense" have the same meanings as in section 2923.132 of the Revised Code.

(G) Notwithstanding divisions (A) to (E) of this section, if an offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, the court shall impose upon the offender a mandatory term of local incarceration or a mandatory prison term in accordance with the following:

(1) If the offender is being sentenced for a fourth degree felony OVI offense and if the offender has not been convicted of and has not pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code, the court may impose upon the offender a mandatory term of local incarceration of sixty days or one hundred twenty days as specified in division (G) (1) (d) of section 4511.19 of the

Revised Code. The court shall not reduce the term pursuant to 4195  
section 2929.20, 2967.193, or any other provision of the Revised 4196  
Code. The court that imposes a mandatory term of local 4197  
incarceration under this division shall specify whether the term 4198  
is to be served in a jail, a community-based correctional 4199  
facility, a halfway house, or an alternative residential 4200  
facility, and the offender shall serve the term in the type of 4201  
facility specified by the court. A mandatory term of local 4202  
incarceration imposed under division (G) (1) of this section is 4203  
not subject to any other Revised Code provision that pertains to 4204  
a prison term except as provided in division (A) (1) of this 4205  
section. 4206

(2) If the offender is being sentenced for a third degree 4207  
felony OVI offense, or if the offender is being sentenced for a 4208  
fourth degree felony OVI offense and the court does not impose a 4209  
mandatory term of local incarceration under division (G) (1) of 4210  
this section, the court shall impose upon the offender a 4211  
mandatory prison term of one, two, three, four, or five years if 4212  
the offender also is convicted of or also pleads guilty to a 4213  
specification of the type described in section 2941.1413 of the 4214  
Revised Code or shall impose upon the offender a mandatory 4215  
prison term of sixty days or one hundred twenty days as 4216  
specified in division (G) (1) (d) or (e) of section 4511.19 of the 4217  
Revised Code if the offender has not been convicted of and has 4218  
not pleaded guilty to a specification of that type. Subject to 4219  
divisions (C) to (I) of section 2967.19 of the Revised Code, the 4220  
court shall not reduce the term pursuant to section 2929.20, 4221  
2967.19, 2967.193, or any other provision of the Revised Code. 4222  
The offender shall serve the one-, two-, three-, four-, or five- 4223  
year mandatory prison term consecutively to and prior to the 4224  
prison term imposed for the underlying offense and consecutively 4225

to any other mandatory prison term imposed in relation to the 4226  
offense. In no case shall an offender who once has been 4227  
sentenced to a mandatory term of local incarceration pursuant to 4228  
division (G) (1) of this section for a fourth degree felony OVI 4229  
offense be sentenced to another mandatory term of local 4230  
incarceration under that division for any violation of division 4231  
(A) of section 4511.19 of the Revised Code. In addition to the 4232  
mandatory prison term described in division (G) (2) of this 4233  
section, the court may sentence the offender to a community 4234  
control sanction under section 2929.16 or 2929.17 of the Revised 4235  
Code, but the offender shall serve the prison term prior to 4236  
serving the community control sanction. The department of 4237  
rehabilitation and correction may place an offender sentenced to 4238  
a mandatory prison term under this division in an intensive 4239  
program prison established pursuant to section 5120.033 of the 4240  
Revised Code if the department gave the sentencing judge prior 4241  
notice of its intent to place the offender in an intensive 4242  
program prison established under that section and if the judge 4243  
did not notify the department that the judge disapproved the 4244  
placement. Upon the establishment of the initial intensive 4245  
program prison pursuant to section 5120.033 of the Revised Code 4246  
that is privately operated and managed by a contractor pursuant 4247  
to a contract entered into under section 9.06 of the Revised 4248  
Code, both of the following apply: 4249

(a) The department of rehabilitation and correction shall 4250  
make a reasonable effort to ensure that a sufficient number of 4251  
offenders sentenced to a mandatory prison term under this 4252  
division are placed in the privately operated and managed prison 4253  
so that the privately operated and managed prison has full 4254  
occupancy. 4255

(b) Unless the privately operated and managed prison has 4256



full occupancy, the department of rehabilitation and correction 4257  
shall not place any offender sentenced to a mandatory prison 4258  
term under this division in any intensive program prison 4259  
established pursuant to section 5120.033 of the Revised Code 4260  
other than the privately operated and managed prison. 4261

(H) If an offender is being sentenced for a sexually 4262  
oriented offense or child-victim oriented offense that is a 4263  
felony committed on or after January 1, 1997, the judge shall 4264  
require the offender to submit to a DNA specimen collection 4265  
procedure pursuant to section 2901.07 of the Revised Code. 4266

(I) If an offender is being sentenced for a sexually 4267  
oriented offense or a child-victim oriented offense committed on 4268  
or after January 1, 1997, the judge shall include in the 4269  
sentence a summary of the offender's duties imposed under 4270  
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 4271  
Code and the duration of the duties. The judge shall inform the 4272  
offender, at the time of sentencing, of those duties and of 4273  
their duration. If required under division (A)(2) of section 4274  
2950.03 of the Revised Code, the judge shall perform the duties 4275  
specified in that section, or, if required under division (A)(6) 4276  
of section 2950.03 of the Revised Code, the judge shall perform 4277  
the duties specified in that division. 4278

(J)(1) Except as provided in division (J)(2) of this 4279  
section, when considering sentencing factors under this section 4280  
in relation to an offender who is convicted of or pleads guilty 4281  
to an attempt to commit an offense in violation of section 4282  
2923.02 of the Revised Code, the sentencing court shall consider 4283  
the factors applicable to the felony category of the violation 4284  
of section 2923.02 of the Revised Code instead of the factors 4285  
applicable to the felony category of the offense attempted. 4286

(2) When considering sentencing factors under this section 4287  
in relation to an offender who is convicted of or pleads guilty 4288  
to an attempt to commit a drug abuse offense for which the 4289  
penalty is determined by the amount or number of unit doses of 4290  
the controlled substance involved in the drug abuse offense, the 4291  
sentencing court shall consider the factors applicable to the 4292  
felony category that the drug abuse offense attempted would be 4293  
if that drug abuse offense had been committed and had involved 4294  
an amount or number of unit doses of the controlled substance 4295  
that is within the next lower range of controlled substance 4296  
amounts than was involved in the attempt. 4297

(K) As used in this section: 4298

(1) "Community addiction services provider" has the same 4299  
meaning as in section 5119.01 of the Revised Code. 4300

(2) "Drug abuse offense" has the same meaning as in 4301  
section 2925.01 of the Revised Code. 4302

(3) "Minor drug possession offense" has the same meaning 4303  
as in section 2925.11 of the Revised Code. 4304

(4) "Qualifying assault offense" means a violation of 4305  
section 2903.13 of the Revised Code for which the penalty 4306  
provision in division (C) (8) (b) or (C) (9) (b) of that section 4307  
applies. 4308

(L) At the time of sentencing an offender for any sexually 4309  
oriented offense, if the offender is a tier III sex 4310  
offender/child-victim offender relative to that offense and the 4311  
offender does not serve a prison term or jail term, the court 4312  
may require that the offender be monitored by means of a global 4313  
positioning device. If the court requires such monitoring, the 4314  
cost of monitoring shall be borne by the offender. If the 4315

offender is indigent, the cost of compliance shall be paid by 4316  
the crime victims reparations fund. 4317

**Sec. 2929.14.** (A) Except as provided in division (B) (1), 4318  
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (E), 4319  
(G), (H), (J), or (K) of this section or in division (D) (6) of 4320  
section 2919.25 of the Revised Code and except in relation to an 4321  
offense for which a sentence of ~~death or~~ life imprisonment is to 4322  
be imposed, if the court imposing a sentence upon an offender 4323  
for a felony elects or is required to impose a prison term on 4324  
the offender pursuant to this chapter, the court shall impose a 4325  
definite prison term that shall be one of the following: 4326

(1) For a felony of the first degree, the prison term 4327  
shall be three, four, five, six, seven, eight, nine, ten, or 4328  
eleven years. 4329

(2) For a felony of the second degree, the prison term 4330  
shall be two, three, four, five, six, seven, or eight years. 4331

(3) (a) For a felony of the third degree that is a 4332  
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 4333  
2907.05, or 3795.04 of the Revised Code or that is a violation 4334  
of section 2911.02 or 2911.12 of the Revised Code if the 4335  
offender previously has been convicted of or pleaded guilty in 4336  
two or more separate proceedings to two or more violations of 4337  
section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised 4338  
Code, the prison term shall be twelve, eighteen, twenty-four, 4339  
thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty 4340  
months. 4341

(b) For a felony of the third degree that is not an 4342  
offense for which division (A) (3) (a) of this section applies, 4343  
the prison term shall be nine, twelve, eighteen, twenty-four, 4344

thirty, or thirty-six months. 4345

(4) For a felony of the fourth degree, the prison term 4346  
shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, 4347  
fourteen, fifteen, sixteen, seventeen, or eighteen months. 4348

(5) For a felony of the fifth degree, the prison term 4349  
shall be six, seven, eight, nine, ten, eleven, or twelve months. 4350

(B) (1) (a) Except as provided in division (B) (1) (e) of this 4351  
section, if an offender who is convicted of or pleads guilty to 4352  
a felony also is convicted of or pleads guilty to a 4353  
specification of the type described in section 2941.141, 4354  
2941.144, or 2941.145 of the Revised Code, the court shall 4355  
impose on the offender one of the following prison terms: 4356

(i) A prison term of six years if the specification is of 4357  
the type described in division (A) of section 2941.144 of the 4358  
Revised Code that charges the offender with having a firearm 4359  
that is an automatic firearm or that was equipped with a firearm 4360  
muffler or suppressor on or about the offender's person or under 4361  
the offender's control while committing the offense; 4362

(ii) A prison term of three years if the specification is 4363  
of the type described in division (A) of section 2941.145 of the 4364  
Revised Code that charges the offender with having a firearm on 4365  
or about the offender's person or under the offender's control 4366  
while committing the offense and displaying the firearm, 4367  
brandishing the firearm, indicating that the offender possessed 4368  
the firearm, or using it to facilitate the offense; 4369

(iii) A prison term of one year if the specification is of 4370  
the type described in division (A) of section 2941.141 of the 4371  
Revised Code that charges the offender with having a firearm on 4372  
or about the offender's person or under the offender's control 4373

while committing the offense; 4374

(iv) A prison term of nine years if the specification is 4375  
of the type described in division (D) of section 2941.144 of the 4376  
Revised Code that charges the offender with having a firearm 4377  
that is an automatic firearm or that was equipped with a firearm 4378  
muffler or suppressor on or about the offender's person or under 4379  
the offender's control while committing the offense and 4380  
specifies that the offender previously has been convicted of or 4381  
pleaded guilty to a specification of the type described in 4382  
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4383  
the Revised Code; 4384

(v) A prison term of fifty-four months if the 4385  
specification is of the type described in division (D) of 4386  
section 2941.145 of the Revised Code that charges the offender 4387  
with having a firearm on or about the offender's person or under 4388  
the offender's control while committing the offense and 4389  
displaying the firearm, brandishing the firearm, indicating that 4390  
the offender possessed the firearm, or using the firearm to 4391  
facilitate the offense and that the offender previously has been 4392  
convicted of or pleaded guilty to a specification of the type 4393  
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 4394  
2941.1412 of the Revised Code; 4395

(vi) A prison term of eighteen months if the specification 4396  
is of the type described in division (D) of section 2941.141 of 4397  
the Revised Code that charges the offender with having a firearm 4398  
on or about the offender's person or under the offender's 4399  
control while committing the offense and that the offender 4400  
previously has been convicted of or pleaded guilty to a 4401  
specification of the type described in section 2941.141, 4402  
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 4403

(b) If a court imposes a prison term on an offender under 4404  
division (B)(1)(a) of this section, the prison term shall not be 4405  
reduced pursuant to section 2967.19, section 2929.20, section 4406  
2967.193, or any other provision of Chapter 2967. or Chapter 4407  
5120. of the Revised Code. Except as provided in division (B)(1) 4408  
(g) of this section, a court shall not impose more than one 4409  
prison term on an offender under division (B)(1)(a) of this 4410  
section for felonies committed as part of the same act or 4411  
transaction. 4412

(c)(i) Except as provided in division (B)(1)(e) of this 4413  
section, if an offender who is convicted of or pleads guilty to 4414  
a violation of section 2923.161 of the Revised Code or to a 4415  
felony that includes, as an essential element, purposely or 4416  
knowingly causing or attempting to cause the death of or 4417  
physical harm to another, also is convicted of or pleads guilty 4418  
to a specification of the type described in division (A) of 4419  
section 2941.146 of the Revised Code that charges the offender 4420  
with committing the offense by discharging a firearm from a 4421  
motor vehicle other than a manufactured home, the court, after 4422  
imposing a prison term on the offender for the violation of 4423  
section 2923.161 of the Revised Code or for the other felony 4424  
offense under division (A), (B)(2), or (B)(3) of this section, 4425  
shall impose an additional prison term of five years upon the 4426  
offender that shall not be reduced pursuant to section 2929.20, 4427  
section 2967.19, section 2967.193, or any other provision of 4428  
Chapter 2967. or Chapter 5120. of the Revised Code. 4429

(ii) Except as provided in division (B)(1)(e) of this 4430  
section, if an offender who is convicted of or pleads guilty to 4431  
a violation of section 2923.161 of the Revised Code or to a 4432  
felony that includes, as an essential element, purposely or 4433  
knowingly causing or attempting to cause the death of or 4434

physical harm to another, also is convicted of or pleads guilty 4435  
to a specification of the type described in division (C) of 4436  
section 2941.146 of the Revised Code that charges the offender 4437  
with committing the offense by discharging a firearm from a 4438  
motor vehicle other than a manufactured home and that the 4439  
offender previously has been convicted of or pleaded guilty to a 4440  
specification of the type described in section 2941.141, 4441  
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 4442  
the court, after imposing a prison term on the offender for the 4443  
violation of section 2923.161 of the Revised Code or for the 4444  
other felony offense under division (A), (B) (2), or (3) of this 4445  
section, shall impose an additional prison term of ninety months 4446  
upon the offender that shall not be reduced pursuant to section 4447  
2929.20, 2967.19, 2967.193, or any other provision of Chapter 4448  
2967. or Chapter 5120. of the Revised Code. 4449

(iii) A court shall not impose more than one additional 4450  
prison term on an offender under division (B) (1) (c) of this 4451  
section for felonies committed as part of the same act or 4452  
transaction. If a court imposes an additional prison term on an 4453  
offender under division (B) (1) (c) of this section relative to an 4454  
offense, the court also shall impose a prison term under 4455  
division (B) (1) (a) of this section relative to the same offense, 4456  
provided the criteria specified in that division for imposing an 4457  
additional prison term are satisfied relative to the offender 4458  
and the offense. 4459

(d) If an offender who is convicted of or pleads guilty to 4460  
an offense of violence that is a felony also is convicted of or 4461  
pleads guilty to a specification of the type described in 4462  
section 2941.1411 of the Revised Code that charges the offender 4463  
with wearing or carrying body armor while committing the felony 4464  
offense of violence, the court shall impose on the offender a 4465

prison term of two years. The prison term so imposed, subject to 4466  
divisions (C) to (I) of section 2967.19 of the Revised Code, 4467  
shall not be reduced pursuant to section 2929.20, section 4468  
2967.19, section 2967.193, or any other provision of Chapter 4469  
2967. or Chapter 5120. of the Revised Code. A court shall not 4470  
impose more than one prison term on an offender under division 4471  
(B) (1) (d) of this section for felonies committed as part of the 4472  
same act or transaction. If a court imposes an additional prison 4473  
term under division (B) (1) (a) or (c) of this section, the court 4474  
is not precluded from imposing an additional prison term under 4475  
division (B) (1) (d) of this section. 4476

(e) The court shall not impose any of the prison terms 4477  
described in division (B) (1) (a) of this section or any of the 4478  
additional prison terms described in division (B) (1) (c) of this 4479  
section upon an offender for a violation of section 2923.12 or 4480  
2923.123 of the Revised Code. The court shall not impose any of 4481  
the prison terms described in division (B) (1) (a) or (b) of this 4482  
section upon an offender for a violation of section 2923.122 4483  
that involves a deadly weapon that is a firearm other than a 4484  
dangerous ordnance, section 2923.16, or section 2923.121 of the 4485  
Revised Code. The court shall not impose any of the prison terms 4486  
described in division (B) (1) (a) of this section or any of the 4487  
additional prison terms described in division (B) (1) (c) of this 4488  
section upon an offender for a violation of section 2923.13 of 4489  
the Revised Code unless all of the following apply: 4490

(i) The offender previously has been convicted of 4491  
aggravated murder, murder, or any felony of the first or second 4492  
degree. 4493

(ii) Less than five years have passed since the offender 4494  
was released from prison or post-release control, whichever is 4495



later, for the prior offense. 4496

(f) (i) If an offender is convicted of or pleads guilty to 4497  
a felony that includes, as an essential element, causing or 4498  
attempting to cause the death of or physical harm to another and 4499  
also is convicted of or pleads guilty to a specification of the 4500  
type described in division (A) of section 2941.1412 of the 4501  
Revised Code that charges the offender with committing the 4502  
offense by discharging a firearm at a peace officer as defined 4503  
in section 2935.01 of the Revised Code or a corrections officer, 4504  
as defined in section 2941.1412 of the Revised Code, the court, 4505  
after imposing a prison term on the offender for the felony 4506  
offense under division (A), (B) (2), or (B) (3) of this section, 4507  
shall impose an additional prison term of seven years upon the 4508  
offender that shall not be reduced pursuant to section 2929.20, 4509  
section 2967.19, section 2967.193, or any other provision of 4510  
Chapter 2967. or Chapter 5120. of the Revised Code. 4511

(ii) If an offender is convicted of or pleads guilty to a 4512  
felony that includes, as an essential element, causing or 4513  
attempting to cause the death of or physical harm to another and 4514  
also is convicted of or pleads guilty to a specification of the 4515  
type described in division (B) of section 2941.1412 of the 4516  
Revised Code that charges the offender with committing the 4517  
offense by discharging a firearm at a peace officer, as defined 4518  
in section 2935.01 of the Revised Code, or a corrections 4519  
officer, as defined in section 2941.1412 of the Revised Code, 4520  
and that the offender previously has been convicted of or 4521  
pleaded guilty to a specification of the type described in 4522  
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4523  
the Revised Code, the court, after imposing a prison term on the 4524  
offender for the felony offense under division (A), (B) (2), or 4525  
(3) of this section, shall impose an additional prison term of 4526

one hundred twenty-six months upon the offender that shall not  
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or  
any other provision of Chapter 2967. or 5120. of the Revised  
Code.

(iii) If an offender is convicted of or pleads guilty to  
two or more felonies that include, as an essential element,  
causing or attempting to cause the death or physical harm to  
another and also is convicted of or pleads guilty to a  
specification of the type described under division (B)(1)(f) of  
this section in connection with two or more of the felonies of  
which the offender is convicted or to which the offender pleads  
guilty, the sentencing court shall impose on the offender the  
prison term specified under division (B)(1)(f) of this section  
for each of two of the specifications of which the offender is  
convicted or to which the offender pleads guilty and, in its  
discretion, also may impose on the offender the prison term  
specified under that division for any or all of the remaining  
specifications. If a court imposes an additional prison term on  
an offender under division (B)(1)(f) of this section relative to  
an offense, the court shall not impose a prison term under  
division (B)(1)(a) or (c) of this section relative to the same  
offense.

(g) If an offender is convicted of or pleads guilty to two  
or more felonies, if one or more of those felonies are  
aggravated murder, murder, attempted aggravated murder,  
attempted murder, aggravated robbery, felonious assault, or  
rape, and if the offender is convicted of or pleads guilty to a  
specification of the type described under division (B)(1)(a) of  
this section in connection with two or more of the felonies, the  
sentencing court shall impose on the offender the prison term  
specified under division (B)(1)(a) of this section for each of

the two most serious specifications of which the offender is 4558  
convicted or to which the offender pleads guilty and, in its 4559  
discretion, also may impose on the offender the prison term 4560  
specified under that division for any or all of the remaining 4561  
specifications. 4562

(2) (a) If division (B) (2) (b) of this section does not 4563  
apply, the court may impose on an offender, in addition to the 4564  
longest prison term authorized or required for the offense, an 4565  
additional definite prison term of one, two, three, four, five, 4566  
six, seven, eight, nine, or ten years if all of the following 4567  
criteria are met: 4568

(i) The offender is convicted of or pleads guilty to a 4569  
specification of the type described in section 2941.149 of the 4570  
Revised Code that the offender is a repeat violent offender. 4571

(ii) The offense of which the offender currently is 4572  
convicted or to which the offender currently pleads guilty is 4573  
aggravated murder and the court does not impose a sentence of 4574  
~~death or~~ life imprisonment without parole, murder, terrorism and 4575  
the court does not impose a sentence of life imprisonment 4576  
without parole, any felony of the first degree that is an 4577  
offense of violence and the court does not impose a sentence of 4578  
life imprisonment without parole, or any felony of the second 4579  
degree that is an offense of violence and the trier of fact 4580  
finds that the offense involved an attempt to cause or a threat 4581  
to cause serious physical harm to a person or resulted in 4582  
serious physical harm to a person. 4583

(iii) The court imposes the longest prison term for the 4584  
offense that is not life imprisonment without parole. 4585

(iv) The court finds that the prison terms imposed 4586

pursuant to division (B) (2) (a) (iii) of this section and, if 4587  
applicable, division (B) (1) or (3) of this section are 4588  
inadequate to punish the offender and protect the public from 4589  
future crime, because the applicable factors under section 4590  
2929.12 of the Revised Code indicating a greater likelihood of 4591  
recidivism outweigh the applicable factors under that section 4592  
indicating a lesser likelihood of recidivism. 4593

(v) The court finds that the prison terms imposed pursuant 4594  
to division (B) (2) (a) (iii) of this section and, if applicable, 4595  
division (B) (1) or (3) of this section are demeaning to the 4596  
seriousness of the offense, because one or more of the factors 4597  
under section 2929.12 of the Revised Code indicating that the 4598  
offender's conduct is more serious than conduct normally 4599  
constituting the offense are present, and they outweigh the 4600  
applicable factors under that section indicating that the 4601  
offender's conduct is less serious than conduct normally 4602  
constituting the offense. 4603

(b) The court shall impose on an offender the longest 4604  
prison term authorized or required for the offense and shall 4605  
impose on the offender an additional definite prison term of 4606  
one, two, three, four, five, six, seven, eight, nine, or ten 4607  
years if all of the following criteria are met: 4608

(i) The offender is convicted of or pleads guilty to a 4609  
specification of the type described in section 2941.149 of the 4610  
Revised Code that the offender is a repeat violent offender. 4611

(ii) The offender within the preceding twenty years has 4612  
been convicted of or pleaded guilty to three or more offenses 4613  
described in division (CC) (1) of section 2929.01 of the Revised 4614  
Code, including all offenses described in that division of which 4615  
the offender is convicted or to which the offender pleads guilty 4616

in the current prosecution and all offenses described in that 4617  
division of which the offender previously has been convicted or 4618  
to which the offender previously pleaded guilty, whether 4619  
prosecuted together or separately. 4620

(iii) The offense or offenses of which the offender 4621  
currently is convicted or to which the offender currently pleads 4622  
guilty is aggravated murder and the court does not impose a 4623  
sentence of ~~death or~~ life imprisonment without parole, murder, 4624  
terrorism and the court does not impose a sentence of life 4625  
imprisonment without parole, any felony of the first degree that 4626  
is an offense of violence and the court does not impose a 4627  
sentence of life imprisonment without parole, or any felony of 4628  
the second degree that is an offense of violence and the trier 4629  
of fact finds that the offense involved an attempt to cause or a 4630  
threat to cause serious physical harm to a person or resulted in 4631  
serious physical harm to a person. 4632

(c) For purposes of division (B) (2) (b) of this section, 4633  
two or more offenses committed at the same time or as part of 4634  
the same act or event shall be considered one offense, and that 4635  
one offense shall be the offense with the greatest penalty. 4636

(d) A sentence imposed under division (B) (2) (a) or (b) of 4637  
this section shall not be reduced pursuant to section 2929.20, 4638  
section 2967.19, or section 2967.193, or any other provision of 4639  
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 4640  
shall serve an additional prison term imposed under this section 4641  
consecutively to and prior to the prison term imposed for the 4642  
underlying offense. 4643

(e) When imposing a sentence pursuant to division (B) (2) 4644  
(a) or (b) of this section, the court shall state its findings 4645  
explaining the imposed sentence. 4646

(3) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (E) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a mandatory prison term of the maximum prison term prescribed for a felony of the first degree that, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, cannot be reduced pursuant to section 2929.20, section 2967.19, or any other provision of Chapter 2967. or 5120. of the Revised Code.

(4) If the offender is being sentenced for a third or 4679  
fourth degree felony OVI offense under division (G) (2) of 4680  
section 2929.13 of the Revised Code, the sentencing court shall 4681  
impose upon the offender a mandatory prison term in accordance 4682  
with that division. In addition to the mandatory prison term, if 4683  
the offender is being sentenced for a fourth degree felony OVI 4684  
offense, the court, notwithstanding division (A) (4) of this 4685  
section, may sentence the offender to a definite prison term of 4686  
not less than six months and not more than thirty months, and if 4687  
the offender is being sentenced for a third degree felony OVI 4688  
offense, the sentencing court may sentence the offender to an 4689  
additional prison term of any duration specified in division (A) 4690  
(3) of this section. In either case, the additional prison term 4691  
imposed shall be reduced by the sixty or one hundred twenty days 4692  
imposed upon the offender as the mandatory prison term. The 4693  
total of the additional prison term imposed under division (B) 4694  
(4) of this section plus the sixty or one hundred twenty days 4695  
imposed as the mandatory prison term shall equal a definite term 4696  
in the range of six months to thirty months for a fourth degree 4697  
felony OVI offense and shall equal one of the authorized prison 4698  
terms specified in division (A) (3) of this section for a third 4699  
degree felony OVI offense. If the court imposes an additional 4700  
prison term under division (B) (4) of this section, the offender 4701  
shall serve the additional prison term after the offender has 4702  
served the mandatory prison term required for the offense. In 4703  
addition to the mandatory prison term or mandatory and 4704  
additional prison term imposed as described in division (B) (4) 4705  
of this section, the court also may sentence the offender to a 4706  
community control sanction under section 2929.16 or 2929.17 of 4707  
the Revised Code, but the offender shall serve all of the prison 4708  
terms so imposed prior to serving the community control 4709  
sanction. 4710

If the offender is being sentenced for a fourth degree 4711  
felony OVI offense under division (G) (1) of section 2929.13 of 4712  
the Revised Code and the court imposes a mandatory term of local 4713  
incarceration, the court may impose a prison term as described 4714  
in division (A) (1) of that section. 4715

(5) If an offender is convicted of or pleads guilty to a 4716  
violation of division (A) (1) or (2) of section 2903.06 of the 4717  
Revised Code and also is convicted of or pleads guilty to a 4718  
specification of the type described in section 2941.1414 of the 4719  
Revised Code that charges that the victim of the offense is a 4720  
peace officer, as defined in section 2935.01 of the Revised 4721  
Code, or an investigator of the bureau of criminal 4722  
identification and investigation, as defined in section 2903.11 4723  
of the Revised Code, the court shall impose on the offender a 4724  
prison term of five years. If a court imposes a prison term on 4725  
an offender under division (B) (5) of this section, the prison 4726  
term, subject to divisions (C) to (I) of section 2967.19 of the 4727  
Revised Code, shall not be reduced pursuant to section 2929.20, 4728  
section 2967.19, section 2967.193, or any other provision of 4729  
Chapter 2967. or Chapter 5120. of the Revised Code. A court 4730  
shall not impose more than one prison term on an offender under 4731  
division (B) (5) of this section for felonies committed as part 4732  
of the same act. 4733

(6) If an offender is convicted of or pleads guilty to a 4734  
violation of division (A) (1) or (2) of section 2903.06 of the 4735  
Revised Code and also is convicted of or pleads guilty to a 4736  
specification of the type described in section 2941.1415 of the 4737  
Revised Code that charges that the offender previously has been 4738  
convicted of or pleaded guilty to three or more violations of 4739  
division (A) or (B) of section 4511.19 of the Revised Code or an 4740  
equivalent offense, as defined in section 2941.1415 of the 4741



Revised Code, or three or more violations of any combination of 4742  
those divisions and offenses, the court shall impose on the 4743  
offender a prison term of three years. If a court imposes a 4744  
prison term on an offender under division (B) (6) of this 4745  
section, the prison term, subject to divisions (C) to (I) of 4746  
section 2967.19 of the Revised Code, shall not be reduced 4747  
pursuant to section 2929.20, section 2967.19, section 2967.193, 4748  
or any other provision of Chapter 2967. or Chapter 5120. of the 4749  
Revised Code. A court shall not impose more than one prison term 4750  
on an offender under division (B) (6) of this section for 4751  
felonies committed as part of the same act. 4752

(7) (a) If an offender is convicted of or pleads guilty to 4753  
a felony violation of section 2905.01, 2905.02, 2907.21, 4754  
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 4755  
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 4756  
the Revised Code and also is convicted of or pleads guilty to a 4757  
specification of the type described in section 2941.1422 of the 4758  
Revised Code that charges that the offender knowingly committed 4759  
the offense in furtherance of human trafficking, the court shall 4760  
impose on the offender a mandatory prison term that is one of 4761  
the following: 4762

(i) If the offense is a felony of the first degree, a 4763  
definite prison term of not less than five years and not greater 4764  
than ten years; 4765

(ii) If the offense is a felony of the second or third 4766  
degree, a definite prison term of not less than three years and 4767  
not greater than the maximum prison term allowed for the offense 4768  
by division (A) of section 2929.14 of the Revised Code; 4769

(iii) If the offense is a felony of the fourth or fifth 4770  
degree, a definite prison term that is the maximum prison term 4771

allowed for the offense by division (A) of section 2929.14 of 4772  
the Revised Code. 4773

(b) Subject to divisions (C) to (I) of section 2967.19 of 4774  
the Revised Code, the prison term imposed under division (B) (7) 4775  
(a) of this section shall not be reduced pursuant to section 4776  
2929.20, section 2967.19, section 2967.193, or any other 4777  
provision of Chapter 2967. of the Revised Code. A court shall 4778  
not impose more than one prison term on an offender under 4779  
division (B) (7) (a) of this section for felonies committed as 4780  
part of the same act, scheme, or plan. 4781

(8) If an offender is convicted of or pleads guilty to a 4782  
felony violation of section 2903.11, 2903.12, or 2903.13 of the 4783  
Revised Code and also is convicted of or pleads guilty to a 4784  
specification of the type described in section 2941.1423 of the 4785  
Revised Code that charges that the victim of the violation was a 4786  
woman whom the offender knew was pregnant at the time of the 4787  
violation, notwithstanding the range of prison terms prescribed 4788  
in division (A) of this section for felonies of the same degree 4789  
as the violation, the court shall impose on the offender a 4790  
mandatory prison term that is either a definite prison term of 4791  
six months or one of the prison terms prescribed in section 4792  
2929.14 of the Revised Code for felonies of the same degree as 4793  
the violation. 4794

(C) (1) (a) Subject to division (C) (1) (b) of this section, 4795  
if a mandatory prison term is imposed upon an offender pursuant 4796  
to division (B) (1) (a) of this section for having a firearm on or 4797  
about the offender's person or under the offender's control 4798  
while committing a felony, if a mandatory prison term is imposed 4799  
upon an offender pursuant to division (B) (1) (c) of this section 4800  
for committing a felony specified in that division by 4801

discharging a firearm from a motor vehicle, or if both types of 4802  
mandatory prison terms are imposed, the offender shall serve any 4803  
mandatory prison term imposed under either division 4804  
consecutively to any other mandatory prison term imposed under 4805  
either division or under division (B) (1) (d) of this section, 4806  
consecutively to and prior to any prison term imposed for the 4807  
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 4808  
this section or any other section of the Revised Code, and 4809  
consecutively to any other prison term or mandatory prison term 4810  
previously or subsequently imposed upon the offender. 4811

(b) If a mandatory prison term is imposed upon an offender 4812  
pursuant to division (B) (1) (d) of this section for wearing or 4813  
carrying body armor while committing an offense of violence that 4814  
is a felony, the offender shall serve the mandatory term so 4815  
imposed consecutively to any other mandatory prison term imposed 4816  
under that division or under division (B) (1) (a) or (c) of this 4817  
section, consecutively to and prior to any prison term imposed 4818  
for the underlying felony under division (A), (B) (2), or (B) (3) 4819  
of this section or any other section of the Revised Code, and 4820  
consecutively to any other prison term or mandatory prison term 4821  
previously or subsequently imposed upon the offender. 4822

(c) If a mandatory prison term is imposed upon an offender 4823  
pursuant to division (B) (1) (f) of this section, the offender 4824  
shall serve the mandatory prison term so imposed consecutively 4825  
to and prior to any prison term imposed for the underlying 4826  
felony under division (A), (B) (2), or (B) (3) of this section or 4827  
any other section of the Revised Code, and consecutively to any 4828  
other prison term or mandatory prison term previously or 4829  
subsequently imposed upon the offender. 4830

(d) If a mandatory prison term is imposed upon an offender 4831

pursuant to division (B) (7) or (8) of this section, the offender 4832  
shall serve the mandatory prison term so imposed consecutively 4833  
to any other mandatory prison term imposed under that division 4834  
or under any other provision of law and consecutively to any 4835  
other prison term or mandatory prison term previously or 4836  
subsequently imposed upon the offender. 4837

(2) If an offender who is an inmate in a jail, prison, or 4838  
other residential detention facility violates section 2917.02, 4839  
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 4840  
(2) of section 2921.34 of the Revised Code, if an offender who 4841  
is under detention at a detention facility commits a felony 4842  
violation of section 2923.131 of the Revised Code, or if an 4843  
offender who is an inmate in a jail, prison, or other 4844  
residential detention facility or is under detention at a 4845  
detention facility commits another felony while the offender is 4846  
an escapee in violation of division (A) (1) or (2) of section 4847  
2921.34 of the Revised Code, any prison term imposed upon the 4848  
offender for one of those violations shall be served by the 4849  
offender consecutively to the prison term or term of 4850  
imprisonment the offender was serving when the offender 4851  
committed that offense and to any other prison term previously 4852  
or subsequently imposed upon the offender. 4853

(3) If a prison term is imposed for a violation of 4854  
division (B) of section 2911.01 of the Revised Code, a violation 4855  
of division (A) of section 2913.02 of the Revised Code in which 4856  
the stolen property is a firearm or dangerous ordnance, or a 4857  
felony violation of division (B) of section 2921.331 of the 4858  
Revised Code, the offender shall serve that prison term 4859  
consecutively to any other prison term or mandatory prison term 4860  
previously or subsequently imposed upon the offender. 4861

(4) If multiple prison terms are imposed on an offender 4862  
for convictions of multiple offenses, the court may require the 4863  
offender to serve the prison terms consecutively if the court 4864  
finds that the consecutive service is necessary to protect the 4865  
public from future crime or to punish the offender and that 4866  
consecutive sentences are not disproportionate to the 4867  
seriousness of the offender's conduct and to the danger the 4868  
offender poses to the public, and if the court also finds any of 4869  
the following: 4870

(a) The offender committed one or more of the multiple 4871  
offenses while the offender was awaiting trial or sentencing, 4872  
was under a sanction imposed pursuant to section 2929.16, 4873  
2929.17, or 2929.18 of the Revised Code, or was under post- 4874  
release control for a prior offense. 4875

(b) At least two of the multiple offenses were committed 4876  
as part of one or more courses of conduct, and the harm caused 4877  
by two or more of the multiple offenses so committed was so 4878  
great or unusual that no single prison term for any of the 4879  
offenses committed as part of any of the courses of conduct 4880  
adequately reflects the seriousness of the offender's conduct. 4881

(c) The offender's history of criminal conduct 4882  
demonstrates that consecutive sentences are necessary to protect 4883  
the public from future crime by the offender. 4884

(5) If a mandatory prison term is imposed upon an offender 4885  
pursuant to division (B) (5) or (6) of this section, the offender 4886  
shall serve the mandatory prison term consecutively to and prior 4887  
to any prison term imposed for the underlying violation of 4888  
division (A) (1) or (2) of section 2903.06 of the Revised Code 4889  
pursuant to division (A) of this section or section 2929.142 of 4890  
the Revised Code. If a mandatory prison term is imposed upon an 4891

offender pursuant to division (B)(5) of this section, and if a  
mandatory prison term also is imposed upon the offender pursuant  
to division (B)(6) of this section in relation to the same  
violation, the offender shall serve the mandatory prison term  
imposed pursuant to division (B)(5) of this section  
consecutively to and prior to the mandatory prison term imposed  
pursuant to division (B)(6) of this section and consecutively to  
and prior to any prison term imposed for the underlying  
violation of division (A)(1) or (2) of section 2903.06 of the  
Revised Code pursuant to division (A) of this section or section  
2929.142 of the Revised Code.

(6) When consecutive prison terms are imposed pursuant to  
division (C)(1), (2), (3), (4), or (5) or division (H)(1) or (2)  
of this section, the term to be served is the aggregate of all  
of the terms so imposed.

(D)(1) If a court imposes a prison term for a felony of  
the first degree, for a felony of the second degree, for a  
felony sex offense, or for a felony of the third degree that is  
not a felony sex offense and in the commission of which the  
offender caused or threatened to cause physical harm to a  
person, it shall include in the sentence a requirement that the  
offender be subject to a period of post-release control after  
the offender's release from imprisonment, in accordance with  
that division. If a court imposes a sentence including a prison  
term of a type described in this division on or after July 11,  
2006, the failure of a court to include a post-release control  
requirement in the sentence pursuant to this division does not  
negate, limit, or otherwise affect the mandatory period of post-  
release control that is required for the offender under division  
(B) of section 2967.28 of the Revised Code. Section 2929.191 of  
the Revised Code applies if, prior to July 11, 2006, a court

imposed a sentence including a prison term of a type described 4923  
in this division and failed to include in the sentence pursuant 4924  
to this division a statement regarding post-release control. 4925

(2) If a court imposes a prison term for a felony of the 4926  
third, fourth, or fifth degree that is not subject to division 4927  
(D) (1) of this section, it shall include in the sentence a 4928  
requirement that the offender be subject to a period of post- 4929  
release control after the offender's release from imprisonment, 4930  
in accordance with that division, if the parole board determines 4931  
that a period of post-release control is necessary. Section 4932  
2929.191 of the Revised Code applies if, prior to July 11, 2006, 4933  
a court imposed a sentence including a prison term of a type 4934  
described in this division and failed to include in the sentence 4935  
pursuant to this division a statement regarding post-release 4936  
control. 4937

(E) The court shall impose sentence upon the offender in 4938  
accordance with section 2971.03 of the Revised Code, and Chapter 4939  
2971. of the Revised Code applies regarding the prison term or 4940  
term of life imprisonment without parole imposed upon the 4941  
offender and the service of that term of imprisonment if any of 4942  
the following apply: 4943

(1) A person is convicted of or pleads guilty to a violent 4944  
sex offense or a designated homicide, assault, or kidnapping 4945  
offense, and, in relation to that offense, the offender is 4946  
adjudicated a sexually violent predator. 4947

(2) A person is convicted of or pleads guilty to a 4948  
violation of division (A) (1) (b) of section 2907.02 of the 4949  
Revised Code committed on or after January 2, 2007, and either 4950  
the court does not impose a sentence of life without parole when 4951  
authorized pursuant to division (B) of section 2907.02 of the 4952

Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code.

(3) A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, and ~~division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ of the Revised Code requires the court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(6) A person is convicted of or pleads guilty to murder committed on or after January 1, 2008, and ~~division (B) (2) (C) (1)~~ of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(F) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, ~~sections-section 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised~~



Code, ~~section or~~ 2971.03 of the Revised Code, or any other 4982  
provision of law, section 5120.163 of the Revised Code applies 4983  
regarding the person while the person is confined in a state 4984  
correctional institution. 4985

(G) If an offender who is convicted of or pleads guilty to 4986  
a felony that is an offense of violence also is convicted of or 4987  
pleads guilty to a specification of the type described in 4988  
section 2941.142 of the Revised Code that charges the offender 4989  
with having committed the felony while participating in a 4990  
criminal gang, the court shall impose upon the offender an 4991  
additional prison term of one, two, or three years. 4992

(H) (1) If an offender who is convicted of or pleads guilty 4993  
to aggravated murder, murder, or a felony of the first, second, 4994  
or third degree that is an offense of violence also is convicted 4995  
of or pleads guilty to a specification of the type described in 4996  
section 2941.143 of the Revised Code that charges the offender 4997  
with having committed the offense in a school safety zone or 4998  
towards a person in a school safety zone, the court shall impose 4999  
upon the offender an additional prison term of two years. The 5000  
offender shall serve the additional two years consecutively to 5001  
and prior to the prison term imposed for the underlying offense. 5002

(2) (a) If an offender is convicted of or pleads guilty to 5003  
a felony violation of section 2907.22, 2907.24, 2907.241, or 5004  
2907.25 of the Revised Code and to a specification of the type 5005  
described in section 2941.1421 of the Revised Code and if the 5006  
court imposes a prison term on the offender for the felony 5007  
violation, the court may impose upon the offender an additional 5008  
prison term as follows: 5009

(i) Subject to division (H) (2) (a) (ii) of this section, an 5010  
additional prison term of one, two, three, four, five, or six 5011

months; 5012

(ii) If the offender previously has been convicted of or 5013  
pleaded guilty to one or more felony or misdemeanor violations 5014  
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 5015  
the Revised Code and also was convicted of or pleaded guilty to 5016  
a specification of the type described in section 2941.1421 of 5017  
the Revised Code regarding one or more of those violations, an 5018  
additional prison term of one, two, three, four, five, six, 5019  
seven, eight, nine, ten, eleven, or twelve months. 5020

(b) In lieu of imposing an additional prison term under 5021  
division (H)(2)(a) of this section, the court may directly 5022  
impose on the offender a sanction that requires the offender to 5023  
wear a real-time processing, continual tracking electronic 5024  
monitoring device during the period of time specified by the 5025  
court. The period of time specified by the court shall equal the 5026  
duration of an additional prison term that the court could have 5027  
imposed upon the offender under division (H)(2)(a) of this 5028  
section. A sanction imposed under this division shall commence 5029  
on the date specified by the court, provided that the sanction 5030  
shall not commence until after the offender has served the 5031  
prison term imposed for the felony violation of section 2907.22, 5032  
2907.24, 2907.241, or 2907.25 of the Revised Code and any 5033  
residential sanction imposed for the violation under section 5034  
2929.16 of the Revised Code. A sanction imposed under this 5035  
division shall be considered to be a community control sanction 5036  
for purposes of section 2929.15 of the Revised Code, and all 5037  
provisions of the Revised Code that pertain to community control 5038  
sanctions shall apply to a sanction imposed under this division, 5039  
except to the extent that they would by their nature be clearly 5040  
inapplicable. The offender shall pay all costs associated with a 5041  
sanction imposed under this division, including the cost of the 5042

use of the monitoring device. 5043

(I) At the time of sentencing, the court may recommend the 5044  
offender for placement in a program of shock incarceration under 5045  
section 5120.031 of the Revised Code or for placement in an 5046  
intensive program prison under section 5120.032 of the Revised 5047  
Code, disapprove placement of the offender in a program of shock 5048  
incarceration or an intensive program prison of that nature, or 5049  
make no recommendation on placement of the offender. In no case 5050  
shall the department of rehabilitation and correction place the 5051  
offender in a program or prison of that nature unless the 5052  
department determines as specified in section 5120.031 or 5053  
5120.032 of the Revised Code, whichever is applicable, that the 5054  
offender is eligible for the placement. 5055

If the court disapproves placement of the offender in a 5056  
program or prison of that nature, the department of 5057  
rehabilitation and correction shall not place the offender in 5058  
any program of shock incarceration or intensive program prison. 5059

If the court recommends placement of the offender in a 5060  
program of shock incarceration or in an intensive program 5061  
prison, and if the offender is subsequently placed in the 5062  
recommended program or prison, the department shall notify the 5063  
court of the placement and shall include with the notice a brief 5064  
description of the placement. 5065

If the court recommends placement of the offender in a 5066  
program of shock incarceration or in an intensive program prison 5067  
and the department does not subsequently place the offender in 5068  
the recommended program or prison, the department shall send a 5069  
notice to the court indicating why the offender was not placed 5070  
in the recommended program or prison. 5071

If the court does not make a recommendation under this 5072  
division with respect to an offender and if the department 5073  
determines as specified in section 5120.031 or 5120.032 of the 5074  
Revised Code, whichever is applicable, that the offender is 5075  
eligible for placement in a program or prison of that nature, 5076  
the department shall screen the offender and determine if there 5077  
is an available program of shock incarceration or an intensive 5078  
program prison for which the offender is suited. If there is an 5079  
available program of shock incarceration or an intensive program 5080  
prison for which the offender is suited, the department shall 5081  
notify the court of the proposed placement of the offender as 5082  
specified in section 5120.031 or 5120.032 of the Revised Code 5083  
and shall include with the notice a brief description of the 5084  
placement. The court shall have ten days from receipt of the 5085  
notice to disapprove the placement. 5086

(J) If a person is convicted of or pleads guilty to 5087  
aggravated vehicular homicide in violation of division (A) (1) of 5088  
section 2903.06 of the Revised Code and division (B) (2) (c) of 5089  
that section applies, the person shall be sentenced pursuant to 5090  
section 2929.142 of the Revised Code. 5091

(K) (1) The court shall impose an additional mandatory 5092  
prison term of two, three, four, five, six, seven, eight, nine, 5093  
ten, or eleven years on an offender who is convicted of or 5094  
pleads guilty to a violent felony offense if the offender also 5095  
is convicted of or pleads guilty to a specification of the type 5096  
described in section 2941.1424 of the Revised Code that charges 5097  
that the offender is a violent career criminal and had a firearm 5098  
on or about the offender's person or under the offender's 5099  
control while committing the presently charged violent felony 5100  
offense and displayed or brandished the firearm, indicated that 5101  
the offender possessed a firearm, or used the firearm to 5102

facilitate the offense. The offender shall serve the prison term 5103  
imposed under this division consecutively to and prior to the 5104  
prison term imposed for the underlying offense. The prison term 5105  
shall not be reduced pursuant to section 2929.20 or 2967.19 or 5106  
any other provision of Chapter 2967. or 5120. of the Revised 5107  
Code. A court may not impose more than one sentence under 5108  
division (B) (2) (a) of this section and this division for acts 5109  
committed as part of the same act or transaction. 5110

(2) As used in division (K) (1) of this section, "violent 5111  
career criminal" and "violent felony offense" have the same 5112  
meanings as in section 2923.132 of the Revised Code. 5113

**Sec. 2929.20.** (A) As used in this section: 5114

(1) (a) Except as provided in division (A) (1) (b) of this 5115  
section, "eligible offender" means any person who, on or after 5116  
April 7, 2009, is serving a stated prison term that includes one 5117  
or more nonmandatory prison terms. 5118

(b) "Eligible offender" does not include any person who, 5119  
on or after April 7, 2009, is serving a stated prison term for 5120  
any of the following criminal offenses that was a felony and was 5121  
committed while the person held a public office in this state: 5122

(i) A violation of section 2921.02, 2921.03, 2921.05, 5123  
2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised 5124  
Code; 5125

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 5126  
2921.12 of the Revised Code, when the conduct constituting the 5127  
violation was related to the duties of the offender's public 5128  
office or to the offender's actions as a public official holding 5129  
that public office; 5130

(iii) A violation of an existing or former municipal 5131

ordinance or law of this or any other state or the United States 5132  
that is substantially equivalent to any violation listed in 5133  
division (A) (1) (b) (i) of this section; 5134

(iv) A violation of an existing or former municipal 5135  
ordinance or law of this or any other state or the United States 5136  
that is substantially equivalent to any violation listed in 5137  
division (A) (1) (b) (ii) of this section, when the conduct 5138  
constituting the violation was related to the duties of the 5139  
offender's public office or to the offender's actions as a 5140  
public official holding that public office; 5141

(v) A conspiracy to commit, attempt to commit, or 5142  
complicity in committing any offense listed in division (A) (1) 5143  
(b) (i) or described in division (A) (1) (b) (iii) of this section; 5144

(vi) A conspiracy to commit, attempt to commit, or 5145  
complicity in committing any offense listed in division (A) (1) 5146  
(b) (ii) or described in division (A) (1) (b) (iv) of this section, 5147  
if the conduct constituting the offense that was the subject of 5148  
the conspiracy, that would have constituted the offense 5149  
attempted, or constituting the offense in which the offender was 5150  
complicit was or would have been related to the duties of the 5151  
offender's public office or to the offender's actions as a 5152  
public official holding that public office. 5153

(2) "Nonmandatory prison term" means a prison term that is 5154  
not a mandatory prison term. 5155

(3) "Public office" means any elected federal, state, or 5156  
local government office in this state. 5157

(4) "Victim's representative" has the same meaning as in 5158  
section 2930.01 of the Revised Code. 5159

(5) "Imminent danger of death," "medically incapacitated," 5160

and "terminal illness" have the same meanings as in section 5161  
2967.05 of the Revised Code. 5162

(B) On the motion of an eligible offender or upon its own 5163  
motion, the sentencing court may reduce the eligible offender's 5164  
aggregated nonmandatory prison term or terms through a judicial 5165  
release under this section. 5166

(C) An eligible offender may file a motion for judicial 5167  
release with the sentencing court within the following 5168  
applicable periods: 5169

(1) If the aggregated nonmandatory prison term or terms is 5170  
less than two years, the eligible offender may file the motion 5171  
not earlier than thirty days after the offender is delivered to 5172  
a state correctional institution or, if the prison term includes 5173  
a mandatory prison term or terms, not earlier than thirty days 5174  
after the expiration of all mandatory prison terms. 5175

(2) If the aggregated nonmandatory prison term or terms is 5176  
at least two years but less than five years, the eligible 5177  
offender may file the motion not earlier than one hundred eighty 5178  
days after the offender is delivered to a state correctional 5179  
institution or, if the prison term includes a mandatory prison 5180  
term or terms, not earlier than one hundred eighty days after 5181  
the expiration of all mandatory prison terms. 5182

(3) If the aggregated nonmandatory prison term or terms is 5183  
five years, the eligible offender may file the motion not 5184  
earlier than the date on which the eligible offender has served 5185  
four years of the offender's stated prison term or, if the 5186  
prison term includes a mandatory prison term or terms, not 5187  
earlier than four years after the expiration of all mandatory 5188  
prison terms. 5189

(4) If the aggregated nonmandatory prison term or terms is 5190  
more than five years but not more than ten years, the eligible 5191  
offender may file the motion not earlier than the date on which 5192  
the eligible offender has served five years of the offender's 5193  
stated prison term or, if the prison term includes a mandatory 5194  
prison term or terms, not earlier than five years after the 5195  
expiration of all mandatory prison terms. 5196

(5) If the aggregated nonmandatory prison term or terms is 5197  
more than ten years, the eligible offender may file the motion 5198  
not earlier than the later of the date on which the offender has 5199  
served one-half of the offender's stated prison term or the date 5200  
specified in division (C) (4) of this section. 5201

(D) Upon receipt of a timely motion for judicial release 5202  
filed by an eligible offender under division (C) of this section 5203  
or upon the sentencing court's own motion made within the 5204  
appropriate time specified in that division, the court may deny 5205  
the motion without a hearing or schedule a hearing on the 5206  
motion. The court shall not grant the motion without a hearing. 5207  
If a court denies a motion without a hearing, the court later 5208  
may consider judicial release for that eligible offender on a 5209  
subsequent motion filed by that eligible offender unless the 5210  
court denies the motion with prejudice. If a court denies a 5211  
motion with prejudice, the court may later consider judicial 5212  
release on its own motion. If a court denies a motion after a 5213  
hearing, the court shall not consider a subsequent motion for 5214  
that eligible offender. The court shall hold only one hearing 5215  
for any eligible offender. 5216

A hearing under this section shall be conducted in open 5217  
court not less than thirty or more than sixty days after the 5218  
motion is filed, provided that the court may delay the hearing 5219



for one hundred eighty additional days. If the court holds a hearing, the court shall enter a ruling on the motion within ten days after the hearing. If the court denies the motion without a hearing, the court shall enter its ruling on the motion within sixty days after the motion is filed.

(E) If a court schedules a hearing under division (D) of this section, the court shall notify the eligible offender and the head of the state correctional institution in which the eligible offender is confined prior to the hearing. The head of the state correctional institution immediately shall notify the appropriate person at the department of rehabilitation and correction of the hearing, and the department within twenty-four hours after receipt of the notice, shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the offender's name and all of the information specified in division (A) (1) (c) (i) of that section. If the court schedules a hearing for judicial release, the court promptly shall give notice of the hearing to the prosecuting attorney of the county in which the eligible offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney shall do whichever of the following is applicable:

(1) Subject to division (E) (2) of this section, notify the victim of the offense or the victim's representative pursuant to division (B) of section 2930.16 of the Revised Code;

(2) If the offense was an offense of violence that is a felony of the first, second, or third degree, except as otherwise provided in this division, notify the victim or the victim's representative of the hearing regardless of whether the victim or victim's representative has requested the notification. The notice of the hearing shall not be given under

this division to a victim or victim's representative if the 5250  
victim or victim's representative has requested pursuant to 5251  
division (B) (2) of section 2930.03 of the Revised Code that the 5252  
victim or the victim's representative not be provided the 5253  
notice. If notice is to be provided to a victim or victim's 5254  
representative under this division, the prosecuting attorney may 5255  
give the notice by any reasonable means, including regular mail, 5256  
telephone, and electronic mail, in accordance with division (D) 5257  
(1) of section 2930.16 of the Revised Code. If the notice is 5258  
based on an offense committed prior to March 22, 2013, the 5259  
notice also shall include the opt-out information described in 5260  
division (D) (1) of section 2930.16 of the Revised Code. The 5261  
prosecuting attorney, in accordance with division (D) (2) of 5262  
section 2930.16 of the Revised Code, shall keep a record of all 5263  
attempts to provide the notice, and of all notices provided, 5264  
under this division. Division (E) (2) of this section, and the 5265  
notice-related provisions of division (K) of this section, 5266  
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 5267  
2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) 5268  
(b) of section 2967.26, division (D) (1) of section 2967.28, and 5269  
division (A) (2) of section 5149.101 of the Revised Code enacted 5270  
in the act in which division (E) (2) of this section was enacted, 5271  
shall be known as "Roberta's Law." 5272

(F) Upon an offender's successful completion of 5273  
rehabilitative activities, the head of the state correctional 5274  
institution may notify the sentencing court of the successful 5275  
completion of the activities. 5276

(G) Prior to the date of the hearing on a motion for 5277  
judicial release under this section, the head of the state 5278  
correctional institution in which the eligible offender is 5279  
confined shall send to the court an institutional summary report 5280

on the eligible offender's conduct in the institution and in any 5281  
institution from which the eligible offender may have been 5282  
transferred. Upon the request of the prosecuting attorney of the 5283  
county in which the eligible offender was indicted or of any law 5284  
enforcement agency, the head of the state correctional 5285  
institution, at the same time the person sends the institutional 5286  
summary report to the court, also shall send a copy of the 5287  
report to the requesting prosecuting attorney and law 5288  
enforcement agencies. The institutional summary report shall 5289  
cover the eligible offender's participation in school, 5290  
vocational training, work, treatment, and other rehabilitative 5291  
activities and any disciplinary action taken against the 5292  
eligible offender. The report shall be made part of the record 5293  
of the hearing. A presentence investigation report is not 5294  
required for judicial release. 5295

(H) If the court grants a hearing on a motion for judicial 5296  
release under this section, the eligible offender shall attend 5297  
the hearing if ordered to do so by the court. Upon receipt of a 5298  
copy of the journal entry containing the order, the head of the 5299  
state correctional institution in which the eligible offender is 5300  
incarcerated shall deliver the eligible offender to the sheriff 5301  
of the county in which the hearing is to be held. The sheriff 5302  
shall convey the eligible offender to and from the hearing. 5303

(I) At the hearing on a motion for judicial release under 5304  
this section, the court shall afford the eligible offender and 5305  
the eligible offender's attorney an opportunity to present 5306  
written and, if present, oral information relevant to the 5307  
motion. The court shall afford a similar opportunity to the 5308  
prosecuting attorney, the victim or the victim's representative, 5309  
and any other person the court determines is likely to present 5310  
additional relevant information. The court shall consider any 5311

statement of a victim made pursuant to section 2930.14 or 5312  
2930.17 of the Revised Code, any victim impact statement 5313  
prepared pursuant to section 2947.051 of the Revised Code, and 5314  
any report made under division (G) of this section. The court 5315  
may consider any written statement of any person submitted to 5316  
the court pursuant to division (L) of this section. After ruling 5317  
on the motion, the court shall notify the victim of the ruling 5318  
in accordance with sections 2930.03 and 2930.16 of the Revised 5319  
Code. 5320

(J) (1) A court shall not grant a judicial release under 5321  
this section to an eligible offender who is imprisoned for a 5322  
felony of the first or second degree, or to an eligible offender 5323  
who committed an offense under Chapter 2925. or 3719. of the 5324  
Revised Code and for whom there was a presumption under section 5325  
2929.13 of the Revised Code in favor of a prison term, unless 5326  
the court, with reference to factors under section 2929.12 of 5327  
the Revised Code, finds both of the following: 5328

(a) That a sanction other than a prison term would 5329  
adequately punish the offender and protect the public from 5330  
future criminal violations by the eligible offender because the 5331  
applicable factors indicating a lesser likelihood of recidivism 5332  
outweigh the applicable factors indicating a greater likelihood 5333  
of recidivism; 5334

(b) That a sanction other than a prison term would not 5335  
demean the seriousness of the offense because factors indicating 5336  
that the eligible offender's conduct in committing the offense 5337  
was less serious than conduct normally constituting the offense 5338  
outweigh factors indicating that the eligible offender's conduct 5339  
was more serious than conduct normally constituting the offense. 5340

(2) A court that grants a judicial release to an eligible 5341

offender under division (J) (1) of this section shall specify on 5342  
the record both findings required in that division and also 5343  
shall list all the factors described in that division that were 5344  
presented at the hearing. 5345

(K) If the court grants a motion for judicial release 5346  
under this section, the court shall order the release of the 5347  
eligible offender, shall place the eligible offender under an 5348  
appropriate community control sanction, under appropriate 5349  
conditions, and under the supervision of the department of 5350  
probation serving the court and shall reserve the right to 5351  
reimpose the sentence that it reduced if the offender violates 5352  
the sanction. If the court reimposes the reduced sentence, it 5353  
may do so either concurrently with, or consecutive to, any new 5354  
sentence imposed upon the eligible offender as a result of the 5355  
violation that is a new offense. Except as provided in division 5356  
(R) (2) of this section, the period of community control shall be 5357  
no longer than five years. The court, in its discretion, may 5358  
reduce the period of community control by the amount of time the 5359  
eligible offender spent in jail or prison for the offense and in 5360  
prison. If the court made any findings pursuant to division (J) 5361  
(1) of this section, the court shall serve a copy of the 5362  
findings upon counsel for the parties within fifteen days after 5363  
the date on which the court grants the motion for judicial 5364  
release. 5365

If the court grants a motion for judicial release, the 5366  
court shall notify the appropriate person at the department of 5367  
rehabilitation and correction, and the department shall post 5368  
notice of the release on the database it maintains pursuant to 5369  
section 5120.66 of the Revised Code. The court also shall notify 5370  
the prosecuting attorney of the county in which the eligible 5371  
offender was indicted that the motion has been granted. Unless 5372

the victim or the victim's representative has requested pursuant 5373  
to division (B) (2) of section 2930.03 of the Revised Code that 5374  
the victim or victim's representative not be provided the 5375  
notice, the prosecuting attorney shall notify the victim or the 5376  
victim's representative of the judicial release in any manner, 5377  
and in accordance with the same procedures, pursuant to which 5378  
the prosecuting attorney is authorized to provide notice of the 5379  
hearing pursuant to division (E) (2) of this section. If the 5380  
notice is based on an offense committed prior to March 22, 2013, 5381  
the notice to the victim or victim's representative also shall 5382  
include the opt-out information described in division (D) (1) of 5383  
section 2930.16 of the Revised Code. 5384

(L) In addition to and independent of the right of a 5385  
victim to make a statement pursuant to section 2930.14, 2930.17, 5386  
or 2946.051 of the Revised Code and any right of a person to 5387  
present written information or make a statement pursuant to 5388  
division (I) of this section, any person may submit to the 5389  
court, at any time prior to the hearing on the offender's motion 5390  
for judicial release, a written statement concerning the effects 5391  
of the offender's crime or crimes, the circumstances surrounding 5392  
the crime or crimes, the manner in which the crime or crimes 5393  
were perpetrated, and the person's opinion as to whether the 5394  
offender should be released. 5395

(M) The changes to this section that are made on September 5396  
30, 2011, apply to any judicial release decision made on or 5397  
after September 30, 2011, for any eligible offender. 5398

(N) Notwithstanding the eligibility requirements specified 5399  
in division (A) of this section and the filing time frames 5400  
specified in division (C) of this section and notwithstanding 5401  
the findings required under division (J) of this section, the 5402

sentencing court, upon the court's own motion and after 5403  
considering whether the release of the offender into society 5404  
would create undue risk to public safety, may grant a judicial 5405  
release to an offender who is not serving a life sentence at any 5406  
time during the offender's imposed sentence when the director of 5407  
rehabilitation and correction certifies to the sentencing court 5408  
through the chief medical officer for the department of 5409  
rehabilitation and correction that the offender is in imminent 5410  
danger of death, is medically incapacitated, or is suffering 5411  
from a terminal illness. 5412

(O) The director of rehabilitation and correction shall 5413  
not certify any offender under division (N) of this section who 5414  
is serving a death sentence. 5415

(P) A motion made by the court under division (N) of this 5416  
section is subject to the notice, hearing, and other procedural 5417  
requirements specified in divisions (D), (E), (G), (H), (I), 5418  
(K), and (L) of this section, except for the following: 5419

(1) The court may waive the offender's appearance at any 5420  
hearing scheduled by the court if the offender's condition makes 5421  
it impossible for the offender to participate meaningfully in 5422  
the proceeding. 5423

(2) The court may grant the motion without a hearing, 5424  
provided that the prosecuting attorney and victim or victim's 5425  
representative to whom notice of the hearing was provided under 5426  
division (E) of this section indicate that they do not wish to 5427  
participate in the hearing or present information relevant to 5428  
the motion. 5429

(Q) The court may request health care records from the 5430  
department of rehabilitation and correction to verify the 5431

certification made under division (N) of this section. 5432

(R) (1) If the court grants judicial release under division 5433  
(N) of this section, the court shall do all of the following: 5434

(a) Order the release of the offender; 5435

(b) Place the offender under an appropriate community 5436  
control sanction, under appropriate conditions; 5437

(c) Place the offender under the supervision of the 5438  
department of probation serving the court or under the 5439  
supervision of the adult parole authority. 5440

(2) The court, in its discretion, may revoke the judicial 5441  
release if the offender violates the community control sanction 5442  
described in division (R) (1) of this section. The period of that 5443  
community control is not subject to the five-year limitation 5444  
described in division (K) of this section and shall not expire 5445  
earlier than the date on which all of the offender's mandatory 5446  
prison terms expire. 5447

(S) If the health of an offender who is released under 5448  
division (N) of this section improves so that the offender is no 5449  
longer terminally ill, medically incapacitated, or in imminent 5450  
danger of death, the court shall, upon the court's own motion, 5451  
revoke the judicial release. The court shall not grant the 5452  
motion without a hearing unless the offender waives a hearing. 5453  
If a hearing is held, the court shall afford the offender and 5454  
the offender's attorney an opportunity to present written and, 5455  
if the offender or the offender's attorney is present, oral 5456  
information relevant to the motion. The court shall afford a 5457  
similar opportunity to the prosecuting attorney, the victim or 5458  
the victim's representative, and any other person the court 5459  
determines is likely to present additional relevant information. 5460



A court that grants a motion under this division shall specify 5461  
its findings on the record. 5462

**Sec. 2929.61.** (A) Persons charged with an offense that was 5463  
formerly a capital offense and that was committed prior to 5464  
January 1, 1974, shall be prosecuted under the law as it existed 5465  
at the time the offense was committed, and, if convicted, shall 5466  
be imprisoned for life, except that whenever the statute under 5467  
which any such person is prosecuted provides for a lesser 5468  
penalty under the circumstances of the particular case, such 5469  
lesser penalty shall be imposed. 5470

(B) Persons charged with an offense, other than an offense 5471  
that was formerly a capital offense, that was committed prior to 5472  
January 1, 1974, shall be prosecuted under the law as it existed 5473  
at the time the offense was committed. Persons convicted or 5474  
sentenced on or after January 1, 1974, for an offense committed 5475  
prior to January 1, 1974, shall be sentenced according to the 5476  
penalty for commission of the substantially equivalent offense 5477  
under Amended Substitute House Bill 511 of the 109th General 5478  
Assembly. If the offense for which sentence is being imposed 5479  
does not have a substantial equivalent under that act, or if 5480  
that act provides a more severe penalty than that originally 5481  
prescribed for the offense of which the person is convicted, 5482  
then sentence shall be imposed under the law as it existed prior 5483  
to January 1, 1974. 5484

(C) Persons charged with an offense that is a felony of 5485  
the third or fourth degree and that was committed on or after 5486  
January 1, 1974, and before July 1, 1983, shall be prosecuted 5487  
under the law as it existed at the time the offense was 5488  
committed. Persons convicted or sentenced on or after July 1, 5489  
1983, for an offense that is a felony of the third or fourth 5490

degree and that was committed on or after January 1, 1974, and 5491  
before July 1, 1983, shall be notified by the court sufficiently 5492  
in advance of sentencing that they may choose to be sentenced 5493  
pursuant to either the law in effect at the time of the 5494  
commission of the offense or the law in effect at the time of 5495  
sentencing. This notice shall be written and shall include the 5496  
differences between and possible effects of the alternative 5497  
sentence forms and the effect of the person's refusal to choose. 5498  
The person to be sentenced shall then inform the court in 5499  
writing of ~~his~~ the person's choice, and shall be sentenced 5500  
accordingly. Any person choosing to be sentenced pursuant to the 5501  
law in effect at the time of the commission of an offense that 5502  
is a felony of the third or fourth degree shall then be eligible 5503  
for parole, and this person cannot at a later date have ~~his~~ the 5504  
person's sentence converted to a definite sentence. If the 5505  
person refuses to choose between the two possible sentences, the 5506  
person shall be sentenced pursuant to the law in effect at the 5507  
time of the commission of the offense. 5508

(D) Persons charged with an offense that was a felony of 5509  
the first or second degree at the time it was committed, that 5510  
was committed on or after January 1, 1974, and that was 5511  
committed prior to July 1, 1983, shall be prosecuted for that 5512  
offense and, if convicted, shall be sentenced under the law as 5513  
it existed at the time the offense was committed. 5514

**Sec. 2930.03.** (A) A person or entity required or 5515  
authorized under this chapter to give notice to a victim shall 5516  
give the notice to the victim by any means reasonably calculated 5517  
to provide prompt actual notice. Except when a provision 5518  
requires that notice is to be given in a specific manner, a 5519  
notice may be oral or written. 5520

(B) (1) Except for receipt of the initial information and 5521  
notice required to be given to a victim under divisions (A) and 5522  
(B) of section 2930.04, section 2930.05, and divisions (A) and 5523  
(B) of section 2930.06 of the Revised Code and the notice 5524  
required to be given to a victim under division (D) of section 5525  
2930.16 of the Revised Code, a victim who wishes to receive any 5526  
notice authorized by this chapter shall make a request for the 5527  
notice to the prosecutor or the custodial agency that is to 5528  
provide the notice, as specified in this chapter. If the victim 5529  
does not make a request as described in this division, the 5530  
prosecutor or custodial agency is not required to provide any 5531  
notice described in this chapter other than the initial 5532  
information and notice required to be given to a victim under 5533  
divisions (A) and (B) of section 2930.04, section 2930.05, and 5534  
divisions (A) and (B) of section 2930.06 of the Revised Code and 5535  
the notice required to be given to a victim under division (D) 5536  
of section 2930.16 of the Revised Code. 5537

(2) A victim who does not wish to receive any of the 5538  
notices required to be given to a victim under division (E) (2) 5539  
or (K) of section 2929.20, division (D) of section 2930.16, 5540  
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 5541  
section 2967.19, division (A) (3) (b) of section 2967.26, division 5542  
(D) (1) of section 2967.28, or division (A) (2) of section 5543  
5149.101 of the Revised Code shall make a request to the 5544  
prosecutor or custodial agency that is to provide the particular 5545  
notice that the notice not be provided to the victim. Unless the 5546  
victim makes a request as described in this division, the 5547  
prosecutor or custodial agency shall provide the notices 5548  
required to be given to a victim under division (E) (2) or (K) of 5549  
section 2929.20, division (D) of section 2930.16, division ~~(H)~~ 5550  
(G) of section 2967.12, division (E) (1) (b) of section 2967.19, 5551

division (A) (3) (b) of section 2967.26, division (D) (1) of 5552  
section 2967.28, or division (A) (2) of section 5149.101 of the 5553  
Revised Code in any manner, and in accordance with the 5554  
procedures, specified in the particular division. This division 5555  
also applies to a victim's representative or a member of a 5556  
victim's immediate family that is authorized to receive any of 5557  
the notices specified in this division. 5558

(C) A person or agency that is required to furnish notice 5559  
under this chapter shall give the notice to the victim at the 5560  
address or telephone number provided to the person or agency by 5561  
the victim. A victim who requests to receive notice under this 5562  
chapter as described in division (B) of this section shall 5563  
inform the person or agency of the name, address, or telephone 5564  
number of the victim and of any change to that information. 5565

(D) A person or agency that has furnished information to a 5566  
victim in accordance with any requirement or authorization under 5567  
this chapter shall notify the victim promptly of any significant 5568  
changes to that information. 5569

(E) Divisions (A) to (D) of this section do not apply 5570  
regarding a notice that a prosecutor is required to provide 5571  
under section 2930.061 of the Revised Code. A prosecutor 5572  
required to provide notice under that section shall provide the 5573  
notice as specified in that section. 5574

**Sec. 2930.06.** (A) The prosecutor in a case, to the extent 5575  
practicable, shall confer with the victim in the case before 5576  
pretrial diversion is granted to the defendant or alleged 5577  
juvenile offender in the case, before amending or dismissing an 5578  
indictment, information, or complaint against that defendant or 5579  
alleged juvenile offender, before agreeing to a negotiated plea 5580  
for that defendant or alleged juvenile offender, before a trial 5581

of that defendant by judge or jury, or before the juvenile court 5582  
conducts an adjudicatory hearing for that alleged juvenile 5583  
offender. If the juvenile court disposes of a case prior to the 5584  
prosecutor's involvement in the case, the court or a court 5585  
employee shall notify the victim in the case that the alleged 5586  
juvenile offender will be granted pretrial diversion, the 5587  
complaint against that alleged juvenile offender will be amended 5588  
or dismissed, or the court will conduct an adjudicatory hearing 5589  
for that alleged juvenile offender. If the prosecutor fails to 5590  
confer with the victim at any of those times, the court, if 5591  
informed of the failure, shall note on the record the failure 5592  
and the prosecutor's reasons for the failure. A prosecutor's 5593  
failure to confer with a victim as required by this division and 5594  
a court's failure to provide the notice as required by this 5595  
division do not affect the validity of an agreement between the 5596  
prosecutor and the defendant or alleged juvenile offender in the 5597  
case, a pretrial diversion of the defendant or alleged juvenile 5598  
offender, an amendment or dismissal of an indictment, 5599  
information, or complaint filed against the defendant or alleged 5600  
juvenile offender, a plea entered by the defendant or alleged 5601  
juvenile defender, an admission entered by the defendant or 5602  
alleged juvenile offender, or any other disposition in the case. 5603  
A court shall not dismiss a criminal complaint, charge, 5604  
information, or indictment or a delinquent child complaint 5605  
solely at the request of the victim and over the objection of 5606  
the prosecuting attorney, village solicitor, city director of 5607  
law, or other chief legal officer responsible for the 5608  
prosecution of the case. 5609

(B) After a prosecution in a case has been commenced, the 5610  
prosecutor or a designee of the prosecutor other than a court or 5611  
court employee, to the extent practicable, promptly shall give 5612

the victim all of the following information, except that, if the 5613  
juvenile court disposes of a case prior to the prosecutor's 5614  
involvement in the case, the court or a court employee, to the 5615  
extent practicable, promptly shall give the victim all of the 5616  
following information: 5617

(1) The name of the crime or specified delinquent act with 5618  
which the defendant or alleged juvenile offender in the case has 5619  
been charged and the name of the defendant or alleged juvenile 5620  
offender; 5621

(2) The file number of the case; 5622

(3) A brief statement regarding the procedural steps in a 5623  
criminal prosecution or delinquency proceeding involving a crime 5624  
or specified delinquent act similar to the crime or specified 5625  
delinquent act with which the defendant or alleged juvenile 5626  
offender has been charged and the right of the victim to be 5627  
present during all proceedings held throughout the prosecution 5628  
of the case; 5629

(4) A summary of the rights of a victim under this 5630  
chapter; 5631

(5) Procedures the victim or the prosecutor may follow if 5632  
the victim becomes subject to threats or intimidation by the 5633  
defendant, alleged juvenile offender, or any other person; 5634

(6) The name and business telephone number of a person to 5635  
contact for further information with respect to the case; 5636

(7) The right of the victim to have a victim's 5637  
representative exercise the victim's rights under this chapter 5638  
in accordance with section 2930.02 of the Revised Code and the 5639  
procedure by which a victim's representative may be designated; 5640

(8) Notice that any notification under division (C) of 5641  
this section, sections 2930.07 to 2930.15, division (A), (B), or 5642  
(C) of section 2930.16, sections 2930.17 to 2930.19, and section 5643  
5139.56 of the Revised Code will be given to the victim only if 5644  
the victim asks to receive the notification and that notice 5645  
under division (E) (2) or (K) of section 2929.20, division (D) of 5646  
section 2930.16, division ~~(H)~~ (G) of section 2967.12, division 5647  
(E) (1) (b) of section 2967.19, division (A) (3) (b) of section 5648  
2967.26, division (D) (1) of section 2967.28, or division (A) (2) 5649  
of section 5149.101 of the Revised Code will be given unless the 5650  
victim asks that the notification not be provided. 5651

(C) Upon the request of the victim, the prosecutor or, if 5652  
it is a delinquency proceeding and a prosecutor is not involved 5653  
in the case, the court shall give the victim notice of the date, 5654  
time, and place of any scheduled criminal or juvenile 5655  
proceedings in the case and notice of any changes in those 5656  
proceedings or in the schedule in the case. 5657

(D) A victim who requests notice under division (C) of 5658  
this section and who elects pursuant to division (B) of section 5659  
2930.03 of the Revised Code to receive any further notice from 5660  
the prosecutor or, if it is a delinquency proceeding and a 5661  
prosecutor is not involved in the case, the court under this 5662  
chapter shall keep the prosecutor or the court informed of the 5663  
victim's current address and telephone number until the case is 5664  
dismissed or terminated, the defendant is acquitted or 5665  
sentenced, the delinquent child complaint is dismissed, the 5666  
defendant is adjudicated a delinquent child, or the appellate 5667  
process is completed, whichever is the final disposition in the 5668  
case. 5669

(E) If a defendant is charged with the commission of a 5670

misdemeanor offense that is not identified in division (A) (2) of 5671  
section 2930.01 of the Revised Code and if a police report or a 5672  
complaint, indictment, or information that charges the 5673  
commission of that offense and provides the basis for a criminal 5674  
prosecution of that defendant identifies one or more individuals 5675  
as individuals against whom that offense was committed, after a 5676  
prosecution in the case has been commenced, the prosecutor or a 5677  
designee of the prosecutor other than a court or court employee, 5678  
to the extent practicable, promptly shall notify each of the 5679  
individuals so identified in the report, complaint, indictment, 5680  
or information that, if the defendant is convicted of or pleads 5681  
guilty to the offense, the individual may make an oral or 5682  
written statement to the court hearing the case regarding the 5683  
sentence to be imposed upon the defendant and that the court 5684  
must consider any statement so made that is relevant. Before 5685  
imposing sentence in the case, the court shall permit the 5686  
individuals so identified in the report, complaint, indictment, 5687  
or information to make an oral or written statement. Division 5688  
(A) of section 2930.14 of the Revised Code applies regarding any 5689  
statement so made. The court shall consider a statement so made, 5690  
in accordance with division (B) of that section and division (D) 5691  
of section 2929.22 of the Revised Code. 5692

**Sec. 2930.16.** (A) If a defendant is incarcerated, a victim 5693  
in a case who has requested to receive notice under this section 5694  
shall be given notice of the incarceration of the defendant. If 5695  
an alleged juvenile offender is committed to the temporary 5696  
custody of a school, camp, institution, or other facility 5697  
operated for the care of delinquent children or to the legal 5698  
custody of the department of youth services, a victim in a case 5699  
who has requested to receive notice under this section shall be 5700  
given notice of the commitment. Promptly after sentence is 5701



imposed upon the defendant or the commitment of the alleged 5702  
juvenile offender is ordered, the prosecutor in the case shall 5703  
notify the victim of the date on which the defendant will be 5704  
released from confinement or the prosecutor's reasonable 5705  
estimate of that date or the date on which the alleged juvenile 5706  
offender will have served the minimum period of commitment or 5707  
the prosecutor's reasonable estimate of that date. The 5708  
prosecutor also shall notify the victim of the name of the 5709  
custodial agency of the defendant or alleged juvenile offender 5710  
and tell the victim how to contact that custodial agency. If the 5711  
custodial agency is the department of rehabilitation and 5712  
correction, the prosecutor shall notify the victim of the 5713  
services offered by the office of victims' services pursuant to 5714  
section 5120.60 of the Revised Code. If the custodial agency is 5715  
the department of youth services, the prosecutor shall notify 5716  
the victim of the services provided by the office of victims' 5717  
services within the release authority of the department pursuant 5718  
to section 5139.55 of the Revised Code and the victim's right 5719  
pursuant to section 5139.56 of the Revised Code to submit a 5720  
written request to the release authority to be notified of 5721  
actions the release authority takes with respect to the alleged 5722  
juvenile offender. The victim shall keep the custodial agency 5723  
informed of the victim's current address and telephone number. 5724

(B) (1) Upon the victim's request or in accordance with 5725  
division (D) of this section, the prosecutor promptly shall 5726  
notify the victim of any hearing for judicial release of the 5727  
defendant pursuant to section 2929.20 of the Revised Code, of 5728  
any hearing for release of the defendant pursuant to section 5729  
2967.19 of the Revised Code, or of any hearing for judicial 5730  
release or early release of the alleged juvenile offender 5731  
pursuant to section 2151.38 of the Revised Code and of the 5732

victim's right to make a statement under those sections. The 5733  
court shall notify the victim of its ruling in each of those 5734  
hearings and on each of those applications. 5735

(2) If an offender is sentenced to a prison term pursuant 5736  
to division (A) (3) or (B) of section 2971.03 of the Revised 5737  
Code, upon the request of the victim of the crime or in 5738  
accordance with division (D) of this section, the prosecutor 5739  
promptly shall notify the victim of any hearing to be conducted 5740  
pursuant to section 2971.05 of the Revised Code to determine 5741  
whether to modify the requirement that the offender serve the 5742  
entire prison term in a state correctional facility in 5743  
accordance with division (C) of that section, whether to 5744  
continue, revise, or revoke any existing modification of that 5745  
requirement, or whether to terminate the prison term in 5746  
accordance with division (D) of that section. The court shall 5747  
notify the victim of any order issued at the conclusion of the 5748  
hearing. 5749

(C) Upon the victim's request made at any time before the 5750  
particular notice would be due or in accordance with division 5751  
(D) of this section, the custodial agency of a defendant or 5752  
alleged juvenile offender shall give the victim any of the 5753  
following notices that is applicable: 5754

(1) At least sixty days before the adult parole authority 5755  
recommends a pardon or commutation of sentence for the defendant 5756  
or at least sixty days prior to a hearing before the adult 5757  
parole authority regarding a grant of parole to the defendant, 5758  
notice of the victim's right to submit a statement regarding the 5759  
impact of the defendant's release in accordance with section 5760  
2967.12 of the Revised Code and, if applicable, of the victim's 5761  
right to appear at a full board hearing of the parole board to 5762

give testimony as authorized by section 5149.101 of the Revised Code; 5763  
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(2) At least sixty days before the defendant is transferred to transitional control under section 2967.26 of the Revised Code, notice of the pendency of the transfer and of the victim's right under that section to submit a statement regarding the impact of the transfer; 5765  
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(3) At least sixty days before the release authority of the department of youth services holds a release review, release hearing, or discharge review for the alleged juvenile offender, notice of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the crime upon the victim or regarding the possible release or discharge, and, if the notice pertains to a hearing, of the victim's right to attend and make statements or comments at the hearing as authorized by section 5139.56 of the Revised Code; 5770  
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(4) Prompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency in which the defendant was incarcerated or in which the alleged juvenile offender was placed after commitment, of the defendant's or alleged juvenile offender's absence without leave from a mental health or developmental disabilities facility or from other custody, and of the capture of the defendant or alleged juvenile offender after an escape or absence; 5779  
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(5) Notice of the defendant's or alleged juvenile offender's death while in confinement or custody; 5787  
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(6) Notice of the filing of a petition by the director of rehabilitation and correction pursuant to section 2967.19 of the Revised Code requesting the early release under that section of 5789  
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5791

the defendant; 5792

(7) Notice of the defendant's or alleged juvenile 5793  
offender's release from confinement or custody and the terms and 5794  
conditions of the release. 5795

(D) (1) If a defendant is incarcerated for the commission 5796  
of aggravated murder, murder, or an offense of violence that is 5797  
a felony of the first, second, or third degree or is under a 5798  
sentence of life imprisonment or if an alleged juvenile offender 5799  
has been charged with the commission of an act that would be 5800  
aggravated murder, murder, or an offense of violence that is a 5801  
felony of the first, second, or third degree or be subject to a 5802  
sentence of life imprisonment if committed by an adult, except 5803  
as otherwise provided in this division, the notices described in 5804  
divisions (B) and (C) of this section shall be given regardless 5805  
of whether the victim has requested the notification. The 5806  
notices described in divisions (B) and (C) of this section shall 5807  
not be given under this division to a victim if the victim has 5808  
requested pursuant to division (B) (2) of section 2930.03 of the 5809  
Revised Code that the victim not be provided the notice. 5810  
Regardless of whether the victim has requested that the notices 5811  
described in division (C) of this section be provided or not be 5812  
provided, the custodial agency shall give notice similar to 5813  
those notices to the prosecutor in the case, to the sentencing 5814  
court, to the law enforcement agency that arrested the defendant 5815  
or alleged juvenile offender if any officer of that agency was a 5816  
victim of the offense, and to any member of the victim's 5817  
immediate family who requests notification. If the notice given 5818  
under this division to the victim is based on an offense 5819  
committed prior to March 22, 2013, and if the prosecutor or 5820  
custodial agency has not previously successfully provided any 5821  
notice to the victim under this division or division (B) or (C) 5822

of this section with respect to that offense and the offender 5823  
who committed it, the notice also shall inform the victim that 5824  
the victim may request that the victim not be provided any 5825  
further notices with respect to that offense and the offender 5826  
who committed it and shall describe the procedure for making 5827  
that request. If the notice given under this division to the 5828  
victim pertains to a hearing regarding a grant of a parole to 5829  
the defendant, the notice also shall inform the victim that the 5830  
victim, a member of the victim's immediate family, or the 5831  
victim's representative may request a victim conference, as 5832  
described in division (E) of this section, and shall provide an 5833  
explanation of a victim conference. 5834

The prosecutor or custodial agency may give the notices to 5835  
which this division applies by any reasonable means, including 5836  
regular mail, telephone, and electronic mail. If the prosecutor 5837  
or custodial agency attempts to provide notice to a victim under 5838  
this division but the attempt is unsuccessful because the 5839  
prosecutor or custodial agency is unable to locate the victim, 5840  
is unable to provide the notice by its chosen method because it 5841  
cannot determine the mailing address, telephone number, or 5842  
electronic mail address at which to provide the notice, or, if 5843  
the notice is sent by mail, the notice is returned, the 5844  
prosecutor or custodial agency shall make another attempt to 5845  
provide the notice to the victim. If the second attempt is 5846  
unsuccessful, the prosecutor or custodial agency shall make at 5847  
least one more attempt to provide the notice. If the notice is 5848  
based on an offense committed prior to March 22, 2013, in each 5849  
attempt to provide the notice to the victim, the notice shall 5850  
include the opt-out information described in the preceding 5851  
paragraph. The prosecutor or custodial agency, in accordance 5852  
with division (D) (2) of this section, shall keep a record of all 5853

attempts to provide the notice, and of all notices provided, 5854  
under this division. 5855

Division (D) (1) of this section, and the notice-related 5856  
provisions of divisions (E) (2) and (K) of section 2929.20, 5857  
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 5858  
section 2967.19, division (A) (3) (b) of section 2967.26, division 5859  
(D) (1) of section 2967.28, and division (A) (2) of section 5860  
5149.101 of the Revised Code enacted in the act in which 5861  
division (D) (1) of this section was enacted, shall be known as 5862  
"Roberta's Law." 5863

(2) Each prosecutor and custodial agency that attempts to 5864  
give any notice to which division (D) (1) of this section applies 5865  
shall keep a record of all attempts to give the notice. The 5866  
record shall indicate the person who was to be the recipient of 5867  
the notice, the date on which the attempt was made, the manner 5868  
in which the attempt was made, and the person who made the 5869  
attempt. If the attempt is successful and the notice is given, 5870  
the record shall indicate that fact. The record shall be kept in 5871  
a manner that allows public inspection of attempts and notices 5872  
given to persons other than victims without revealing the names, 5873  
addresses, or other identifying information relating to victims. 5874  
The record of attempts and notices given to victims is not a 5875  
public record, but the prosecutor or custodial agency shall 5876  
provide upon request a copy of that record to a prosecuting 5877  
attorney, judge, law enforcement agency, or member of the 5878  
general assembly. The record of attempts and notices given to 5879  
persons other than victims is a public record. A record kept 5880  
under this division may be indexed by offender name, or in any 5881  
other manner determined by the prosecutor or the custodial 5882  
agency. Each prosecutor or custodial agency that is required to 5883  
keep a record under this division shall determine the procedures 5884

for keeping the record and the manner in which it is to be kept, 5885  
subject to the requirements of this division. 5886

(E) The adult parole authority shall adopt rules under 5887  
Chapter 119. of the Revised Code providing for a victim 5888  
conference, upon request of the victim, a member of the victim's 5889  
immediate family, or the victim's representative, prior to a 5890  
parole hearing in the case of a prisoner who is incarcerated for 5891  
the commission of aggravated murder, murder, or an offense of 5892  
violence that is a felony of the first, second, or third degree 5893  
or is under a sentence of life imprisonment. The rules shall 5894  
provide for, but not be limited to, all of the following: 5895

(1) Subject to division (E) (3) of this section, attendance 5896  
by the victim, members of the victim's immediate family, the 5897  
victim's representative, and, if practicable, other individuals; 5898

(2) Allotment of up to one hour for the conference; 5899

(3) A specification of the number of persons specified in 5900  
division (E) (1) of this section who may be present at any single 5901  
victim conference, if limited by the department pursuant to 5902  
division (F) of this section. 5903

(F) The department may limit the number of persons 5904  
specified in division (E) (1) of this section who may be present 5905  
at any single victim conference, provided that the department 5906  
shall not limit the number of persons who may be present at any 5907  
single conference to fewer than three. If the department limits 5908  
the number of persons who may be present at any single victim 5909  
conference, the department shall permit and schedule, upon 5910  
request of the victim, a member of the victim's immediate 5911  
family, or the victim's representative, multiple victim 5912  
conferences for the persons specified in division (E) (1) of this 5913

section. 5914

(G) As used in this section, "victim's immediate family" 5915  
has the same meaning as in section 2967.12 of the Revised Code. 5916

**Sec. 2930.19.** (A) In a manner consistent with the duty of 5917  
a prosecutor to represent the interests of the public as a 5918  
whole, a prosecutor shall seek compliance with this chapter on 5919  
behalf of a victim, a member of the victim's family, or the 5920  
victim's representative. 5921

(B) The failure of a public official or public agency to 5922  
comply with the requirements of this chapter does not give rise 5923  
to a claim for damages against that public official or public 5924  
agency, except that a public agency as an employer may be held 5925  
responsible for a violation of section 2930.18 of the Revised 5926  
Code. 5927

(C) The failure of any person or entity to provide a 5928  
right, privilege, or notice to a victim under this chapter does 5929  
not constitute grounds for declaring a mistrial or new trial, 5930  
for setting aside a conviction, sentence, adjudication, or 5931  
disposition, or for granting postconviction release to a 5932  
defendant or alleged juvenile offender. 5933

~~(D) If there is a conflict between a provision in this 5934  
chapter and a specific statute governing the procedure in a case 5935  
involving a capital offense, the specific statute supersedes the 5936  
provision in this chapter. 5937~~

~~(E) If the victim of a crime is incarcerated in a state or 5938  
local correctional facility or is in the legal custody of the 5939  
department of youth services, the victim's rights under this 5940  
chapter may be modified by court order to prevent any security 5941  
risk, hardship, or undue burden upon a public official or public 5942~~



agency with a duty under this chapter. 5943

**Sec. 2937.222.** (A) On the motion of the prosecuting 5944  
attorney or on the judge's own motion, the judge shall hold a 5945  
hearing to determine whether an accused person charged with 5946  
aggravated murder ~~when it is not a capital offense~~, murder, a 5947  
felony of the first or second degree, a violation of section 5948  
2903.06 of the Revised Code, a violation of section 2903.211 of 5949  
the Revised Code that is a felony, or a felony OVI offense shall 5950  
be denied bail. The judge shall order that the accused be 5951  
detained until the conclusion of the hearing. Except for good 5952  
cause, a continuance on the motion of the state shall not exceed 5953  
three court days. Except for good cause, a continuance on the 5954  
motion of the accused shall not exceed five court days unless 5955  
the motion of the accused waives in writing the five-day limit 5956  
and states in writing a specific period for which the accused 5957  
requests a continuance. A continuance granted upon a motion of 5958  
the accused that waives in writing the five-day limit shall not 5959  
exceed five court days after the period of continuance requested 5960  
in the motion. 5961

At the hearing, the accused has the right to be 5962  
represented by counsel and, if the accused is indigent, to have 5963  
counsel appointed. The judge shall afford the accused an 5964  
opportunity to testify, to present witnesses and other 5965  
information, and to cross-examine witnesses who appear at the 5966  
hearing. The rules concerning admissibility of evidence in 5967  
criminal trials do not apply to the presentation and 5968  
consideration of information at the hearing. Regardless of 5969  
whether the hearing is being held on the motion of the 5970  
prosecuting attorney or on the court's own motion, the state has 5971  
the burden of proving that the proof is evident or the 5972  
presumption great that the accused committed the offense with 5973

which the accused is charged, of proving that the accused poses 5974  
a substantial risk of serious physical harm to any person or to 5975  
the community, and of proving that no release conditions will 5976  
reasonably assure the safety of that person and the community. 5977

The judge may reopen the hearing at any time before trial 5978  
if the judge finds that information exists that was not known to 5979  
the movant at the time of the hearing and that that information 5980  
has a material bearing on whether bail should be denied. If a 5981  
municipal court or county court enters an order denying bail, a 5982  
judge of the court of common pleas having jurisdiction over the 5983  
case may continue that order or may hold a hearing pursuant to 5984  
this section to determine whether to continue that order. 5985

(B) No accused person shall be denied bail pursuant to 5986  
this section unless the judge finds by clear and convincing 5987  
evidence that the proof is evident or the presumption great that 5988  
the accused committed the offense described in division (A) of 5989  
this section with which the accused is charged, finds by clear 5990  
and convincing evidence that the accused poses a substantial 5991  
risk of serious physical harm to any person or to the community, 5992  
and finds by clear and convincing evidence that no release 5993  
conditions will reasonably assure the safety of that person and 5994  
the community. 5995

(C) The judge, in determining whether the accused person 5996  
described in division (A) of this section poses a substantial 5997  
risk of serious physical harm to any person or to the community 5998  
and whether there are conditions of release that will reasonably 5999  
assure the safety of that person and the community, shall 6000  
consider all available information regarding all of the 6001  
following: 6002

(1) The nature and circumstances of the offense charged, 6003

including whether the offense is an offense of violence or 6004  
involves alcohol or a drug of abuse; 6005

(2) The weight of the evidence against the accused; 6006

(3) The history and characteristics of the accused, 6007  
including, but not limited to, both of the following: 6008

(a) The character, physical and mental condition, family 6009  
ties, employment, financial resources, length of residence in 6010  
the community, community ties, past conduct, history relating to 6011  
drug or alcohol abuse, and criminal history of the accused; 6012

(b) Whether, at the time of the current alleged offense or 6013  
at the time of the arrest of the accused, the accused was on 6014  
probation, parole, post-release control, or other release 6015  
pending trial, sentencing, appeal, or completion of sentence for 6016  
the commission of an offense under the laws of this state, 6017  
another state, or the United States or under a municipal 6018  
ordinance. 6019

(4) The nature and seriousness of the danger to any person 6020  
or the community that would be posed by the person's release. 6021

(D) (1) An order of the court of common pleas denying bail 6022  
pursuant to this section is a final appealable order. In an 6023  
appeal pursuant to division (D) of this section, the court of 6024  
appeals shall do all of the following: 6025

(a) Give the appeal priority on its calendar; 6026

(b) Liberally modify or dispense with formal requirements 6027  
in the interest of a speedy and just resolution of the appeal; 6028

(c) Decide the appeal expeditiously; 6029

(d) Promptly enter its judgment affirming or reversing the 6030

order denying bail. 6031

(2) The pendency of an appeal under this section does not 6032  
deprive the court of common pleas of jurisdiction to conduct 6033  
further proceedings in the case or to further consider the order 6034  
denying bail in accordance with this section. If, during the 6035  
pendency of an appeal under division (D) of this section, the 6036  
court of common pleas sets aside or terminates the order denying 6037  
bail, the court of appeals shall dismiss the appeal. 6038

(E) As used in this section: 6039

(1) "Court day" has the same meaning as in section 5122.01 6040  
of the Revised Code. 6041

(2) "Felony OVI offense" means a third degree felony OVI 6042  
offense and a fourth degree felony OVI offense. 6043

(3) "Fourth degree felony OVI offense" and "third degree 6044  
felony OVI offense" have the same meanings as in section 2929.01 6045  
of the Revised Code. 6046

**Sec. 2941.021.** Any criminal offense which is not 6047  
punishable by ~~death or~~ life imprisonment may be prosecuted by 6048  
information filed in the common pleas court by the prosecuting 6049  
attorney if the defendant, after ~~he has~~ having been advised by 6050  
the court of the nature of the charge against ~~him~~ the defendant 6051  
and of ~~his~~ the defendant's rights under the constitution, is 6052  
represented by counsel or has affirmatively waived counsel by 6053  
waiver in writing and in open court, waives in writing and in 6054  
open court prosecution by indictment. 6055

**Sec. 2941.14.** ~~(A)~~ In an indictment for aggravated murder, 6056  
murder, or voluntary or involuntary manslaughter, the manner in 6057  
which, or the means by which the death was caused need not be 6058  
set forth. 6059

~~(B) Imposition of the death penalty for aggravated murder is precluded unless the indictment or count in the indictment charging the offense specifies one or more of the aggravating circumstances listed in division (A) of section 2929.04 of the Revised Code. If more than one aggravating circumstance is specified to an indictment or count, each shall be in a separately numbered specification, and if an aggravating circumstance is specified to a count in an indictment containing more than one count, such specification shall be identified as to the count to which it applies.~~

~~(C) A specification to an indictment or count in an indictment charging aggravated murder shall be stated at the end of the body of the indictment or count, and may be in substantially the following form:~~

~~"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand Jurors further find and specify that (set forth the applicable aggravating circumstance listed in divisions (A) (1) to (10) of section 2929.04 of the Revised Code. The aggravating circumstance may be stated in the words of the subdivision in which it appears, or in words sufficient to give the accused notice of the same)."~~

**Sec. 2941.148.** (A) (1) The application of Chapter 2971. of the Revised Code to an offender is precluded unless one of the following applies:

(a) The offender is charged with a violent sex offense, and the indictment, count in the indictment, or information charging the violent sex offense also includes a specification that the offender is a sexually violent predator, or the offender is charged with a designated homicide, assault, or

kidnapping offense, and the indictment, count in the indictment, 6090  
or information charging the designated homicide, assault, or 6091  
kidnapping offense also includes both a specification of the 6092  
type described in section 2941.147 of the Revised Code and a 6093  
specification that the offender is a sexually violent predator. 6094

(b) The offender is convicted of or pleads guilty to a 6095  
violation of division (A) (1) (b) of section 2907.02 of the 6096  
Revised Code committed on or after January 2, 2007, and division 6097  
(B) of section 2907.02 of the Revised Code does not prohibit the 6098  
court from sentencing the offender pursuant to section 2971.03 6099  
of the Revised Code. 6100

(c) The offender is convicted of or pleads guilty to 6101  
attempted rape committed on or after January 2, 2007, and to a 6102  
specification of the type described in section 2941.1418, 6103  
2941.1419, or 2941.1420 of the Revised Code. 6104

(d) The offender is convicted of or pleads guilty to a 6105  
violation of section 2905.01 of the Revised Code and to a 6106  
specification of the type described in section 2941.147 of the 6107  
Revised Code, and section 2905.01 of the Revised Code requires a 6108  
court to sentence the offender pursuant to section 2971.03 of 6109  
the Revised Code. 6110

(e) The offender is convicted of or pleads guilty to 6111  
aggravated murder and to a specification of the type described 6112  
in section 2941.147 of the Revised Code, and division ~~(A) (2) (b)~~ 6113  
~~(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C)~~ 6114  
~~(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section~~ 6115  
~~2929.03, or division (A) or (B) (C) (1) of section 2929.06~~ 6116  
2929.02 of the Revised Code requires a court to sentence the 6117  
offender pursuant to division (B) (3) of section 2971.03 of the 6118  
Revised Code. 6119

(f) The offender is convicted of or pleads guilty to 6120  
murder and to a specification of the type described in section 6121  
2941.147 of the Revised Code, and division ~~(B) (2)~~ (C) (1) of 6122  
section 2929.02 of the Revised Code requires a court to sentence 6123  
the offender pursuant to section 2971.03 of the Revised Code. 6124

(2) A specification required under division (A) (1) (a) of 6125  
this section that an offender is a sexually violent predator 6126  
shall be stated at the end of the body of the indictment, count, 6127  
or information and shall be stated in substantially the 6128  
following form: 6129

"Specification (or, specification to the first count). The 6130  
grand jury (or insert the person's or prosecuting attorney's 6131  
name when appropriate) further find and specify that the 6132  
offender is a sexually violent predator." 6133

(B) In determining for purposes of this section whether a 6134  
person is a sexually violent predator, all of the factors set 6135  
forth in divisions (H) (1) to (6) of section 2971.01 of the 6136  
Revised Code that apply regarding the person may be considered 6137  
as evidence tending to indicate that it is likely that the 6138  
person will engage in the future in one or more sexually violent 6139  
offenses. 6140

(C) As used in this section, "designated homicide, 6141  
assault, or kidnapping offense," "violent sex offense," and 6142  
"sexually violent predator" have the same meanings as in section 6143  
2971.01 of the Revised Code. 6144

**Sec. 2941.401.** When a person has entered upon a term of 6145  
imprisonment in a correctional institution of this state, and 6146  
when during the continuance of the term of imprisonment there is 6147  
pending in this state any untried indictment, information, or 6148

complaint against the prisoner, ~~he~~ the prisoner shall be brought 6149  
to trial within one hundred eighty days after ~~he~~ the prisoner 6150  
causes to be delivered to the prosecuting attorney and the 6151  
appropriate court in which the matter is pending, written notice 6152  
of the place of ~~his~~ the prisoner's imprisonment and a request 6153  
for a final disposition to be made of the matter, except that 6154  
for good cause shown in open court, with the prisoner or ~~his~~ the 6155  
prisoner's counsel present, the court may grant any necessary or 6156  
reasonable continuance. The request of the prisoner shall be 6157  
accompanied by a certificate of the warden or superintendent 6158  
having custody of the prisoner, stating the term of commitment 6159  
under which the prisoner is being held, the time served and 6160  
remaining to be served on the sentence, the amount of good time 6161  
earned, the time of parole eligibility of the prisoner, and any 6162  
decisions of the adult parole authority relating to the 6163  
prisoner. 6164

The written notice and request for final disposition shall 6165  
be given or sent by the prisoner to the warden or superintendent 6166  
having custody of ~~him~~ the prisoner, who shall promptly forward 6167  
it with the certificate to the appropriate prosecuting attorney 6168  
and court by registered or certified mail, return receipt 6169  
requested. 6170

The warden or superintendent having custody of the 6171  
prisoner shall promptly inform ~~him~~ the prisoner in writing of 6172  
the source and contents of any untried indictment, information, 6173  
or complaint against ~~him~~ the prisoner, concerning which the 6174  
warden or superintendent has knowledge, and of ~~his~~ the 6175  
prisoner's right to make a request for final disposition 6176  
thereof. 6177

Escape from custody by the prisoner, subsequent to ~~his~~ the 6178



prisoner's execution of the request for final disposition, voids 6179  
the request. 6180

If the action is not brought to trial within the time 6181  
provided, subject to continuance allowed pursuant to this 6182  
section, no court any longer has jurisdiction thereof, the 6183  
indictment, information, or complaint is void, and the court 6184  
shall enter an order dismissing the action with prejudice. 6185

This section does not apply to any person adjudged to be 6186  
mentally ill or who is under sentence of life imprisonment ~~or~~ 6187  
~~death, or to any prisoner under sentence of death.~~ 6188

**Sec. 2941.43.** If the convict referred to in section 6189  
2941.40 of the Revised Code is acquitted, he the convict shall 6190  
be forthwith returned by the sheriff to the state correctional 6191  
institution to serve out the remainder of ~~his~~ the convict's 6192  
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 6193  
state correctional institution, ~~he~~ the convict shall be returned 6194  
to the state correctional institution by the sheriff to serve 6195  
~~his new~~ the convict's term. If ~~he is sentenced to death, the~~ 6196  
~~death sentence shall be executed as if he were not under~~ 6197  
~~sentence of imprisonment in a state correctional institution.~~ 6198

**Sec. 2941.51.** (A) Counsel appointed to a case or selected 6199  
by an indigent person under division (E) of section 120.16 or 6200  
division (E) of section 120.26 of the Revised Code, or otherwise 6201  
appointed by the court, except for counsel appointed by the 6202  
court to provide legal representation for a person charged with 6203  
a violation of an ordinance of a municipal corporation, shall be 6204  
paid for their services by the county the compensation and 6205  
expenses that the trial court approves. Each request for payment 6206  
shall be accompanied by a financial disclosure form and an 6207  
affidavit of indigency that are completed by the indigent person 6208

on forms prescribed by the state public defender. Compensation 6209  
and expenses shall not exceed the amounts fixed by the board of 6210  
county commissioners pursuant to division (B) of this section. 6211

(B) The board of county commissioners shall establish a 6212  
schedule of fees by case or on an hourly basis to be paid by the 6213  
county for legal services provided by appointed counsel. Prior 6214  
to establishing such schedule, the board shall request the bar 6215  
association or associations of the county to submit a proposed 6216  
~~schedule for cases other than capital cases.~~ The schedule 6217  
submitted shall be subject to the review, amendment, and 6218  
approval of the board of county commissioners, ~~except with~~ 6219  
~~respect to capital cases. With respect to capital cases, the~~ 6220  
~~schedule shall provide for fees by case or on an hourly basis to~~ 6221  
~~be paid to counsel in the amount or at the rate set by the~~ 6222  
~~capital case attorney fee council pursuant to division (D) of~~ 6223  
~~section 120.33 of the Revised Code, and the board of county~~ 6224  
~~commissioners shall approve that amount or rate.~~ 6225

~~With respect to capital cases, counsel shall be paid~~ 6226  
~~compensation and expenses in accordance with the amount or at~~ 6227  
~~the rate set by the capital case attorney fee council pursuant~~ 6228  
~~to division (D) of section 120.33 of the Revised Code.~~ 6229

(C) In a case where counsel have been appointed to conduct 6230  
an appeal under Chapter 120. of the Revised Code, such 6231  
compensation shall be fixed by the court of appeals or the 6232  
supreme court, as provided in divisions (A) and (B) of this 6233  
section. 6234

(D) The fees and expenses approved by the court under this 6235  
section shall not be taxed as part of the costs and shall be 6236  
paid by the county. However, if the person represented has, or 6237  
reasonably may be expected to have, the means to meet some part 6238

of the cost of the services rendered to the person, the person 6239  
shall pay the county an amount that the person reasonably can be 6240  
expected to pay. Pursuant to section 120.04 of the Revised Code, 6241  
the county shall pay to the state public defender a percentage 6242  
of the payment received from the person in an amount 6243  
proportionate to the percentage of the costs of the person's 6244  
case that were paid to the county by the state public defender 6245  
pursuant to this section. The money paid to the state public 6246  
defender shall be credited to the client payment fund created 6247  
pursuant to division (B) (5) of section 120.04 of the Revised 6248  
Code. 6249

(E) The county auditor shall draw a warrant on the county 6250  
treasurer for the payment of such counsel in the amount fixed by 6251  
the court, plus the expenses that the court fixes and certifies 6252  
to the auditor. The county auditor shall report periodically, 6253  
but not less than annually, to the board of county commissioners 6254  
and to the Ohio public defender commission the amounts paid out 6255  
pursuant to the approval of the court under this section, ~~—~~ 6256  
~~separately stating costs and expenses that are reimbursable—~~ 6257  
~~under section 120.35 of the Revised Code.~~ The board, after 6258  
review and approval of the auditor's report, may then certify it 6259  
to the state public defender for reimbursement. The request for 6260  
reimbursement shall be accompanied by a financial disclosure 6261  
form completed by each indigent person for whom counsel was 6262  
provided on a form prescribed by the state public defender. The 6263  
state public defender shall review the report and, in accordance 6264  
with the standards, guidelines, and maximums established 6265  
pursuant to divisions (B) (7) and (8) of section 120.04 of the 6266  
Revised Code, pay fifty per cent of the total cost, ~~other than—~~ 6267  
~~costs and expenses that are reimbursable under section 120.35 of—~~ 6268  
~~the Revised Code, if any,~~ of paying appointed counsel in each 6269

county and pay fifty per cent of costs and expenses that are 6270  
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 6271  
to the board. 6272

(F) If any county system for paying appointed counsel 6273  
fails to maintain the standards for the conduct of the system 6274  
established by the rules of the Ohio public defender commission 6275  
pursuant to divisions (B) and (C) of section 120.03 of the 6276  
Revised Code or the standards established by the state public 6277  
defender pursuant to division (B) (7) of section 120.04 of the 6278  
Revised Code, the commission shall notify the board of county 6279  
commissioners of the county that the county system for paying 6280  
appointed counsel has failed to comply with its rules. Unless 6281  
the board corrects the conduct of its appointed counsel system 6282  
to comply with the rules within ninety days after the date of 6283  
the notice, the state public defender may deny all or part of 6284  
the county's reimbursement from the state provided for in this 6285  
section. 6286

**Sec. 2945.06.** In any case in which a defendant waives ~~his~~ 6287  
the defendant's right to trial by jury and elects to be tried by 6288  
the court under section 2945.05 of the Revised Code, any judge 6289  
of the court in which the cause is pending shall proceed to 6290  
hear, try, and determine the cause in accordance with the rules 6291  
and in like manner as if the cause were being tried before a 6292  
jury. ~~If the accused is charged with an offense punishable with~~ 6293  
~~death, he shall be tried by a court to be composed of three~~ 6294  
~~judges, consisting of the judge presiding at the time in the~~ 6295  
~~trial of criminal cases and two other judges to be designated by~~ 6296  
~~the presiding judge or chief justice of that court, and in case~~ 6297  
~~there is neither a presiding judge nor a chief justice, by the~~ 6298  
~~chief justice of the supreme court. The judges or a majority of~~ 6299  
~~them may decide all questions of fact and law arising upon the~~ 6300

~~trial; however the accused shall not be found guilty or not  
guilty of any offense unless the judges unanimously find the  
accused guilty or not guilty. If the accused pleads guilty of  
aggravated murder, a court composed of three judges shall  
examine the witnesses, determine whether the accused is guilty  
of aggravated murder or any other offense, and pronounce  
sentence accordingly. The court shall follow the procedures  
contained in sections 2929.03 and 2929.04 of the Revised Code in  
all cases in which the accused is charged with an offense  
punishable by death. If in the composition of the court it is  
necessary that a judge from another county be assigned by the  
chief justice, the judge from another county shall be  
compensated for his services as provided by section 141.07 of  
the Revised Code.~~

**Sec. 2945.10.** The trial of an issue upon an indictment or  
information shall proceed before the trial court or jury as  
follows:

(A) Counsel for the state must first state the case for  
the prosecution, and may briefly state the evidence by which the  
counsel for the state expects to sustain it.

(B) The defendant or the defendant's counsel must then  
state the defense, and may briefly state the evidence which the  
defendant or the defendant's counsel expects to offer in support  
of it.

(C) The state must first produce its evidence and the  
defendant shall then produce the defendant's evidence.

(D) The state will then be confined to rebutting evidence,  
but the court, for good reason, in furtherance of justice, may  
permit evidence to be offered by either side out of its order.

(E) When the evidence is concluded, ~~one of the following~~ 6330  
~~applies regarding jury instructions:~~ 6331

~~(1) In a capital case that is being heard by a jury, the~~ 6332  
~~court shall prepare written instructions to the jury on the~~ 6333  
~~points of law, shall provide copies of the written instructions~~ 6334  
~~to the jury before orally instructing the jury, and shall permit~~ 6335  
~~the jury to retain and consult the instructions during the~~ 6336  
~~court's presentation of the oral instructions and during the~~ 6337  
~~jury's deliberations.~~ 6338

~~(2) In a case that is not a capital case, either party may~~ 6339  
request instructions to the jury on the points of law, which 6340  
instructions shall be reduced to writing if either party 6341  
requests it. 6342

(F) When the evidence is concluded, unless the case is 6343  
submitted without argument, the counsel for the state shall 6344  
commence, the defendant or the defendant's counsel follow, and 6345  
the counsel for the state conclude the argument to the jury. 6346

(G) The court, after the argument is concluded and before 6347  
proceeding with other business, shall forthwith charge the jury. 6348  
Such charge shall be reduced to writing by the court if either 6349  
party requests it before the argument to the jury is commenced. 6350  
Such charge, or other charge or instruction provided for in this 6351  
section, when so written and given, shall not be orally 6352  
qualified, modified, or explained to the jury by the court. 6353  
Written charges and instructions shall be taken by the jury in 6354  
their retirement and returned with their verdict into court and 6355  
remain on file with the papers of the case. 6356

The court may deviate from the order of proceedings listed 6357  
in this section. 6358

**Sec. 2945.13.** When two or more persons are jointly 6359  
indicted for a felony, ~~except a capital offense,~~ they shall be 6360  
tried jointly unless the court, for good cause shown on 6361  
application therefor by the prosecuting attorney or one or more 6362  
of said defendants, orders one or more of said defendants to be 6363  
tried separately. 6364

**Sec. 2945.21.** (A) (1) In criminal cases in which there is 6365  
only one defendant, each party, in addition to the challenges 6366  
for cause authorized by law, may peremptorily challenge three of 6367  
the jurors in misdemeanor cases and four of the jurors in felony 6368  
cases ~~other than capital cases.~~ If there is more than one 6369  
defendant, each defendant may peremptorily challenge the same 6370  
number of jurors as if ~~he~~ the defendant were the sole defendant. 6371

~~(2) Notwithstanding Criminal Rule 24, in capital cases in~~ 6372  
~~which there is only one defendant, each party, in addition to~~ 6373  
~~the challenges for cause authorized by law, may peremptorily~~ 6374  
~~challenge twelve of the jurors. If there is more than one~~ 6375  
~~defendant, each defendant may peremptorily challenge the same~~ 6376  
~~number of jurors as if he were the sole defendant.~~ 6377

~~(3)~~ In any case in which there are multiple defendants, 6378  
the prosecuting attorney may peremptorily challenge a number of 6379  
jurors equal to the total number of peremptory challenges 6380  
allowed to all of the defendants. 6381

(B) If any indictments, informations, or complaints are 6382  
consolidated for trial, the consolidated cases shall be 6383  
considered, for purposes of exercising peremptory challenges, as 6384  
though the defendants or offenses had been joined in the same 6385  
indictment, information, or complaint. 6386

(C) The exercise of peremptory challenges authorized by 6387

this section shall be in accordance with the procedures of 6388  
Criminal Rule 24. 6389

**Sec. 2945.25.** A person called as a juror in a criminal 6390  
case may be challenged for the following causes: 6391

(A) That ~~he~~ the person was a member of the grand jury that 6392  
found the indictment in the case; 6393

(B) That ~~he~~ the person is possessed of a state of mind 6394  
evinced enmity or bias toward the defendant or the state; but 6395  
no person summoned as a juror shall be disqualified by reason of 6396  
a previously formed or expressed opinion with reference to the 6397  
guilt or innocence of the accused, if the court is satisfied, 6398  
from examination of the juror or from other evidence, that ~~he~~ 6399  
the juror will render an impartial verdict according to the law 6400  
and the evidence submitted to the jury at the trial; 6401

~~(C) In the trial of a capital offense, that he~~ 6402  
~~unequivocally states that under no circumstances will he follow~~ 6403  
~~the instructions of a trial judge and consider fairly the~~ 6404  
~~imposition of a sentence of death in a particular case. A~~ 6405  
~~prospective juror's conscientious or religious opposition to the~~ 6406  
~~death penalty in and of itself is not grounds for a challenge~~ 6407  
~~for cause. All parties shall be given wide latitude in voir dire~~ 6408  
~~questioning in this regard.~~ 6409

~~(D)~~ That ~~he~~ the person is related by consanguinity or 6410  
affinity within the fifth degree to the person alleged to be 6411  
injured or attempted to be injured by the offense charged, or to 6412  
the person on whose complaint the prosecution was instituted, or 6413  
to the defendant; 6414

~~(E)~~ ~~(D)~~ That ~~he~~ the person served on a petit jury drawn in 6415  
the same cause against the same defendant, and that jury was 6416



discharged after hearing the evidence or rendering a verdict on 6417  
the evidence that was set aside; 6418

~~(F)~~ (E) That ~~he~~ the person served as a juror in a civil 6419  
case brought against the defendant for the same act; 6420

~~(G)~~ (F) That ~~he~~ the person has been subpoenaed in good 6421  
faith as a witness in the case; 6422

~~(H)~~ (G) That ~~he~~ the person is a chronic alcoholic, or drug 6423  
dependent person; 6424

~~(I)~~ (H) That ~~he~~ the person has been convicted of a crime 6425  
that by law disqualifies ~~him~~ the person from serving on a jury; 6426

~~(J)~~ (I) That ~~he~~ the person has an action pending between 6427  
~~him~~ the person and the state or the defendant; 6428

~~(K)~~ (J) That ~~he~~ the person or ~~his~~ the person's spouse is a 6429  
party to another action then pending in any court in which an 6430  
attorney in the cause then on trial is an attorney, either for 6431  
or against ~~him~~ the person; 6432

~~(L)~~ (K) That ~~he~~ the person is the person alleged to be 6433  
injured or attempted to be injured by the offense charged, or is 6434  
the person on whose complaint the prosecution was instituted, or 6435  
the defendant; 6436

~~(M)~~ (L) That ~~he~~ the person is the employer or employee, or 6437  
the spouse, parent, son, or daughter of the employer or 6438  
employee, or the counselor, agent, or attorney of any person 6439  
included in division (L) of this section; 6440

~~(N)~~ (M) That English is not ~~his~~ the person's native 6441  
language, and ~~his~~ the person's knowledge of English is 6442  
insufficient to permit ~~him~~ the person to understand the facts 6443  
and law in the case; 6444

~~(O)~~ ~~(N)~~ That ~~he~~ the person otherwise is unsuitable for any 6445  
other cause to serve as a juror. 6446

The validity of each challenge listed in this section 6447  
shall be determined by the court. 6448

**Sec. 2945.33.** When a cause is finally submitted the jurors 6449  
must be kept together in a convenient place under the charge of 6450  
an officer until they agree upon a verdict, or are discharged by 6451  
the court. The court, ~~except in cases where the offense charged~~ 6452  
~~may be punishable by death,~~ may permit the jurors to separate 6453  
during the adjournment of court overnight, under proper 6454  
cautions, or under supervision of an officer. Such officer shall 6455  
not permit a communication to be made to them, nor make any 6456  
~~himself communication to them~~ except to ask if they have agreed 6457  
upon a verdict, unless ~~he~~ the officer does so by order of the 6458  
court. Such officer shall not communicate to any person, before 6459  
the verdict is delivered, any matter in relation to their 6460  
deliberation. Upon the trial of any prosecution for misdemeanor, 6461  
the court may permit the jury to separate during their 6462  
deliberation, or upon adjournment of the court overnight. 6463

~~In cases where the offense charged may be punished by~~ 6464  
~~death, after the case is finally submitted to the jury, the~~ 6465  
~~jurors shall be kept in charge of the proper officer and proper~~ 6466  
~~arrangements for their care and maintenance shall be made as~~ 6467  
~~under section 2945.31 of the Revised Code.~~ 6468

**Sec. 2945.38.** (A) If the issue of a defendant's competence 6469  
to stand trial is raised and if the court, upon conducting the 6470  
hearing provided for in section 2945.37 of the Revised Code, 6471  
finds that the defendant is competent to stand trial, the 6472  
defendant shall be proceeded against as provided by law. If the 6473  
court finds the defendant competent to stand trial and the 6474

defendant is receiving psychotropic drugs or other medication, 6475  
the court may authorize the continued administration of the 6476  
drugs or medication or other appropriate treatment in order to 6477  
maintain the defendant's competence to stand trial, unless the 6478  
defendant's attending physician advises the court against 6479  
continuation of the drugs, other medication, or treatment. 6480

(B) (1) (a) If, after taking into consideration all relevant 6481  
reports, information, and other evidence, the court finds that 6482  
the defendant is incompetent to stand trial and that there is a 6483  
substantial probability that the defendant will become competent 6484  
to stand trial within one year if the defendant is provided with 6485  
a course of treatment, the court shall order the defendant to 6486  
undergo treatment. If the defendant has been charged with a 6487  
felony offense and if, after taking into consideration all 6488  
relevant reports, information, and other evidence, the court 6489  
finds that the defendant is incompetent to stand trial, but the 6490  
court is unable at that time to determine whether there is a 6491  
substantial probability that the defendant will become competent 6492  
to stand trial within one year if the defendant is provided with 6493  
a course of treatment, the court shall order continuing 6494  
evaluation and treatment of the defendant for a period not to 6495  
exceed four months to determine whether there is a substantial 6496  
probability that the defendant will become competent to stand 6497  
trial within one year if the defendant is provided with a course 6498  
of treatment. 6499

(b) The court order for the defendant to undergo treatment 6500  
or continuing evaluation and treatment under division (B) (1) (a) 6501  
of this section shall specify that the defendant, if determined 6502  
to require mental health treatment or continuing evaluation and 6503  
treatment, either shall be committed to the department of mental 6504  
health and addiction services for treatment or continuing 6505

evaluation and treatment at a hospital, facility, or agency, as 6506  
determined to be clinically appropriate by the department of 6507  
mental health and addiction services or shall be committed to a 6508  
facility certified by the department of mental health and 6509  
addiction services as being qualified to treat mental illness, 6510  
to a public or community mental health facility, or to a 6511  
psychiatrist or another mental health professional for treatment 6512  
or continuing evaluation and treatment. Prior to placing the 6513  
defendant, the department of mental health and addiction 6514  
services shall obtain court approval for that placement 6515  
following a hearing. The court order for the defendant to 6516  
undergo treatment or continuing evaluation and treatment under 6517  
division (B) (1) (a) of this section shall specify that the 6518  
defendant, if determined to require treatment or continuing 6519  
evaluation and treatment for an intellectual disability, shall 6520  
receive treatment or continuing evaluation and treatment at an 6521  
institution or facility operated by the department of 6522  
developmental disabilities, at a facility certified by the 6523  
department of developmental disabilities as being qualified to 6524  
treat intellectual disabilities, at a public or private 6525  
intellectual disabilities facility, or by a psychiatrist or 6526  
another intellectual disabilities professional. In any case, the 6527  
order may restrict the defendant's freedom of movement as the 6528  
court considers necessary. The prosecutor in the defendant's 6529  
case shall send to the chief clinical officer of the hospital, 6530  
facility, or agency where the defendant is placed by the 6531  
department of mental health and addiction services, or to the 6532  
managing officer of the institution, the director of the program 6533  
or facility, or the person to which the defendant is committed, 6534  
copies of relevant police reports and other background 6535  
information that pertains to the defendant and is available to 6536  
the prosecutor unless the prosecutor determines that the release 6537

of any of the information in the police reports or any of the 6538  
other background information to unauthorized persons would 6539  
interfere with the effective prosecution of any person or would 6540  
create a substantial risk of harm to any person. 6541

In determining the place of commitment, the court shall 6542  
consider the extent to which the person is a danger to the 6543  
person and to others, the need for security, and the type of 6544  
crime involved and shall order the least restrictive alternative 6545  
available that is consistent with public safety and treatment 6546  
goals. In weighing these factors, the court shall give 6547  
preference to protecting public safety. 6548

(c) If the defendant is found incompetent to stand trial, 6549  
if the chief clinical officer of the hospital, facility, or 6550  
agency where the defendant is placed, or the managing officer of 6551  
the institution, the director of the program or facility, or the 6552  
person to which the defendant is committed for treatment or 6553  
continuing evaluation and treatment under division (B)(1)(b) of 6554  
this section determines that medication is necessary to restore 6555  
the defendant's competency to stand trial, and if the defendant 6556  
lacks the capacity to give informed consent or refuses 6557  
medication, the chief clinical officer of the hospital, 6558  
facility, or agency where the defendant is placed, or the 6559  
managing officer of the institution, the director of the program 6560  
or facility, or the person to which the defendant is committed 6561  
for treatment or continuing evaluation and treatment may 6562  
petition the court for authorization for the involuntary 6563  
administration of medication. The court shall hold a hearing on 6564  
the petition within five days of the filing of the petition if 6565  
the petition was filed in a municipal court or a county court 6566  
regarding an incompetent defendant charged with a misdemeanor or 6567  
within ten days of the filing of the petition if the petition 6568

was filed in a court of common pleas regarding an incompetent 6569  
defendant charged with a felony offense. Following the hearing, 6570  
the court may authorize the involuntary administration of 6571  
medication or may dismiss the petition. 6572

(2) If the court finds that the defendant is incompetent 6573  
to stand trial and that, even if the defendant is provided with 6574  
a course of treatment, there is not a substantial probability 6575  
that the defendant will become competent to stand trial within 6576  
one year, the court shall order the discharge of the defendant, 6577  
unless upon motion of the prosecutor or on its own motion, the 6578  
court either seeks to retain jurisdiction over the defendant 6579  
pursuant to section 2945.39 of the Revised Code or files an 6580  
affidavit in the probate court for the civil commitment of the 6581  
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 6582  
alleging that the defendant is a mentally ill person subject to 6583  
court order or a person with an intellectual disability subject 6584  
to institutionalization by court order. If an affidavit is filed 6585  
in the probate court, the trial court shall send to the probate 6586  
court copies of all written reports of the defendant's mental 6587  
condition that were prepared pursuant to section 2945.371 of the 6588  
Revised Code. 6589

The trial court may issue the temporary order of detention 6590  
that a probate court may issue under section 5122.11 or 5123.71 6591  
of the Revised Code, to remain in effect until the probable 6592  
cause or initial hearing in the probate court. Further 6593  
proceedings in the probate court are civil proceedings governed 6594  
by Chapter 5122. or 5123. of the Revised Code. 6595

(C) No defendant shall be required to undergo treatment, 6596  
including any continuing evaluation and treatment, under 6597  
division (B) (1) of this section for longer than whichever of the 6598

following periods is applicable: 6599

(1) One year, if the most serious offense with which the 6600  
defendant is charged is one of the following offenses: 6601

(a) Aggravated murder, murder, or an offense of violence 6602  
for which a sentence of ~~death or~~ life imprisonment may be 6603  
imposed; 6604

(b) An offense of violence that is a felony of the first 6605  
or second degree; 6606

(c) A conspiracy to commit, an attempt to commit, or 6607  
complicity in the commission of an offense described in division 6608  
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 6609  
complicity is a felony of the first or second degree. 6610

(2) Six months, if the most serious offense with which the 6611  
defendant is charged is a felony other than a felony described 6612  
in division (C) (1) of this section; 6613

(3) Sixty days, if the most serious offense with which the 6614  
defendant is charged is a misdemeanor of the first or second 6615  
degree; 6616

(4) Thirty days, if the most serious offense with which 6617  
the defendant is charged is a misdemeanor of the third or fourth 6618  
degree, a minor misdemeanor, or an unclassified misdemeanor. 6619

(D) Any defendant who is committed pursuant to this 6620  
section shall not voluntarily admit the defendant or be 6621  
voluntarily admitted to a hospital or institution pursuant to 6622  
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 6623  
Code. 6624

(E) Except as otherwise provided in this division, a 6625  
defendant who is charged with an offense and is committed by the 6626

court under this section to the department of mental health and 6627  
addiction services or is committed to an institution or facility 6628  
for the treatment of intellectual disabilities shall not be 6629  
granted unsupervised on-grounds movement, supervised off-grounds 6630  
movement, or nonsecured status except in accordance with the 6631  
court order. The court may grant a defendant supervised off- 6632  
grounds movement to obtain medical treatment or specialized 6633  
habilitation treatment services if the person who supervises the 6634  
treatment or the continuing evaluation and treatment of the 6635  
defendant ordered under division (B)(1)(a) of this section 6636  
informs the court that the treatment or continuing evaluation 6637  
and treatment cannot be provided at the hospital or facility 6638  
where the defendant is placed by the department of mental health 6639  
and addiction services or the institution or facility to which 6640  
the defendant is committed. The chief clinical officer of the 6641  
hospital or facility where the defendant is placed by the 6642  
department of mental health and addiction services or the 6643  
managing officer of the institution or director of the facility 6644  
to which the defendant is committed, or a designee of any of 6645  
those persons, may grant a defendant movement to a medical 6646  
facility for an emergency medical situation with appropriate 6647  
supervision to ensure the safety of the defendant, staff, and 6648  
community during that emergency medical situation. The chief 6649  
clinical officer of the hospital or facility where the defendant 6650  
is placed by the department of mental health and addiction 6651  
services or the managing officer of the institution or director 6652  
of the facility to which the defendant is committed shall notify 6653  
the court within twenty-four hours of the defendant's movement 6654  
to the medical facility for an emergency medical situation under 6655  
this division. 6656

(F) The person who supervises the treatment or continuing 6657



evaluation and treatment of a defendant ordered to undergo 6658  
treatment or continuing evaluation and treatment under division 6659  
(B) (1) (a) of this section shall file a written report with the 6660  
court at the following times: 6661

(1) Whenever the person believes the defendant is capable 6662  
of understanding the nature and objective of the proceedings 6663  
against the defendant and of assisting in the defendant's 6664  
defense; 6665

(2) For a felony offense, fourteen days before expiration 6666  
of the maximum time for treatment as specified in division (C) 6667  
of this section and fourteen days before the expiration of the 6668  
maximum time for continuing evaluation and treatment as 6669  
specified in division (B) (1) (a) of this section, and, for a 6670  
misdemeanor offense, ten days before the expiration of the 6671  
maximum time for treatment, as specified in division (C) of this 6672  
section; 6673

(3) At a minimum, after each six months of treatment; 6674

(4) Whenever the person who supervises the treatment or 6675  
continuing evaluation and treatment of a defendant ordered under 6676  
division (B) (1) (a) of this section believes that there is not a 6677  
substantial probability that the defendant will become capable 6678  
of understanding the nature and objective of the proceedings 6679  
against the defendant or of assisting in the defendant's defense 6680  
even if the defendant is provided with a course of treatment. 6681

(G) A report under division (F) of this section shall 6682  
contain the examiner's findings, the facts in reasonable detail 6683  
on which the findings are based, and the examiner's opinion as 6684  
to the defendant's capability of understanding the nature and 6685  
objective of the proceedings against the defendant and of 6686

assisting in the defendant's defense. If, in the examiner's 6687  
opinion, the defendant remains incapable of understanding the 6688  
nature and objective of the proceedings against the defendant 6689  
and of assisting in the defendant's defense and there is a 6690  
substantial probability that the defendant will become capable 6691  
of understanding the nature and objective of the proceedings 6692  
against the defendant and of assisting in the defendant's 6693  
defense if the defendant is provided with a course of treatment, 6694  
if in the examiner's opinion the defendant remains mentally ill 6695  
or continues to have an intellectual disability, and if the 6696  
maximum time for treatment as specified in division (C) of this 6697  
section has not expired, the report also shall contain the 6698  
examiner's recommendation as to the least restrictive placement 6699  
or commitment alternative that is consistent with the 6700  
defendant's treatment needs for restoration to competency and 6701  
with the safety of the community. The court shall provide copies 6702  
of the report to the prosecutor and defense counsel. 6703

(H) If a defendant is committed pursuant to division (B) 6704  
(1) of this section, within ten days after the treating 6705  
physician of the defendant or the examiner of the defendant who 6706  
is employed or retained by the treating facility advises that 6707  
there is not a substantial probability that the defendant will 6708  
become capable of understanding the nature and objective of the 6709  
proceedings against the defendant or of assisting in the 6710  
defendant's defense even if the defendant is provided with a 6711  
course of treatment, within ten days after the expiration of the 6712  
maximum time for treatment as specified in division (C) of this 6713  
section, within ten days after the expiration of the maximum 6714  
time for continuing evaluation and treatment as specified in 6715  
division (B) (1) (a) of this section, within thirty days after a 6716  
defendant's request for a hearing that is made after six months 6717

of treatment, or within thirty days after being advised by the 6718  
treating physician or examiner that the defendant is competent 6719  
to stand trial, whichever is the earliest, the court shall 6720  
conduct another hearing to determine if the defendant is 6721  
competent to stand trial and shall do whichever of the following 6722  
is applicable: 6723

(1) If the court finds that the defendant is competent to 6724  
stand trial, the defendant shall be proceeded against as 6725  
provided by law. 6726

(2) If the court finds that the defendant is incompetent 6727  
to stand trial, but that there is a substantial probability that 6728  
the defendant will become competent to stand trial if the 6729  
defendant is provided with a course of treatment, and the 6730  
maximum time for treatment as specified in division (C) of this 6731  
section has not expired, the court, after consideration of the 6732  
examiner's recommendation, shall order that treatment be 6733  
continued, may change the facility or program at which the 6734  
treatment is to be continued, and shall specify whether the 6735  
treatment is to be continued at the same or a different facility 6736  
or program. 6737

(3) If the court finds that the defendant is incompetent 6738  
to stand trial, if the defendant is charged with an offense 6739  
listed in division (C)(1) of this section, and if the court 6740  
finds that there is not a substantial probability that the 6741  
defendant will become competent to stand trial even if the 6742  
defendant is provided with a course of treatment, or if the 6743  
maximum time for treatment relative to that offense as specified 6744  
in division (C) of this section has expired, further proceedings 6745  
shall be as provided in sections 2945.39, 2945.401, and 2945.402 6746  
of the Revised Code. 6747

(4) If the court finds that the defendant is incompetent 6748  
to stand trial, if the most serious offense with which the 6749  
defendant is charged is a misdemeanor or a felony other than a 6750  
felony listed in division (C)(1) of this section, and if the 6751  
court finds that there is not a substantial probability that the 6752  
defendant will become competent to stand trial even if the 6753  
defendant is provided with a course of treatment, or if the 6754  
maximum time for treatment relative to that offense as specified 6755  
in division (C) of this section has expired, the court shall 6756  
dismiss the indictment, information, or complaint against the 6757  
defendant. A dismissal under this division is not a bar to 6758  
further prosecution based on the same conduct. The court shall 6759  
discharge the defendant unless the court or prosecutor files an 6760  
affidavit in probate court for civil commitment pursuant to 6761  
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 6762  
civil commitment is filed, the court may detain the defendant 6763  
for ten days pending civil commitment. All of the following 6764  
provisions apply to persons charged with a misdemeanor or a 6765  
felony other than a felony listed in division (C)(1) of this 6766  
section who are committed by the probate court subsequent to the 6767  
court's or prosecutor's filing of an affidavit for civil 6768  
commitment under authority of this division: 6769

(a) The chief clinical officer of the entity, hospital, or 6770  
facility, the managing officer of the institution, the director 6771  
of the program, or the person to which the defendant is 6772  
committed or admitted shall do all of the following: 6773

(i) Notify the prosecutor, in writing, of the discharge of 6774  
the defendant, send the notice at least ten days prior to the 6775  
discharge unless the discharge is by the probate court, and 6776  
state in the notice the date on which the defendant will be 6777  
discharged; 6778

(ii) Notify the prosecutor, in writing, when the defendant 6779  
is absent without leave or is granted unsupervised, off-grounds 6780  
movement, and send this notice promptly after the discovery of 6781  
the absence without leave or prior to the granting of the 6782  
unsupervised, off-grounds movement, whichever is applicable; 6783

(iii) Notify the prosecutor, in writing, of the change of 6784  
the defendant's commitment or admission to voluntary status, 6785  
send the notice promptly upon learning of the change to 6786  
voluntary status, and state in the notice the date on which the 6787  
defendant was committed or admitted on a voluntary status. 6788

(b) Upon receiving notice that the defendant will be 6789  
granted unsupervised, off-grounds movement, the prosecutor 6790  
either shall re-indict the defendant or promptly notify the 6791  
court that the prosecutor does not intend to prosecute the 6792  
charges against the defendant. 6793

(I) If a defendant is convicted of a crime and sentenced 6794  
to a jail or workhouse, the defendant's sentence shall be 6795  
reduced by the total number of days the defendant is confined 6796  
for evaluation to determine the defendant's competence to stand 6797  
trial or treatment under this section and sections 2945.37 and 6798  
2945.371 of the Revised Code or by the total number of days the 6799  
defendant is confined for evaluation to determine the 6800  
defendant's mental condition at the time of the offense charged. 6801

**Sec. 2949.02.** (A) If a person is convicted of any bailable 6802  
offense, including, but not limited to, a violation of an 6803  
ordinance of a municipal corporation, in a municipal or county 6804  
court or in a court of common pleas and if the person gives to 6805  
the trial judge or magistrate a written notice of the person's 6806  
intention to file or apply for leave to file an appeal to the 6807  
court of appeals, the trial judge or magistrate may suspend~~7-~~ 6808

~~subject to division (A) (2) (b) of section 2953.09 of the Revised Code,~~ execution of the sentence or judgment imposed for any fixed time that will give the person time either to prepare and file, or to apply for leave to file, the appeal. In all bailable cases, except as provided in division (B) of this section, the trial judge or magistrate may release the person on bail in accordance with Criminal Rule 46, and the bail shall at least be conditioned that the person will appeal without delay and abide by the judgment and sentence of the court.

(B) Notwithstanding any provision of Criminal Rule 46 to the contrary, a trial judge of a court of common pleas shall not release on bail pursuant to division (A) of this section a person who is convicted of a bailable offense if the person is sentenced to imprisonment for life or if that offense is a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious sexual penetration in violation of former section 2907.12 of the Revised Code.

(C) If a trial judge of a court of common pleas is prohibited by division (B) of this section from releasing on bail pursuant to division (A) of this section a person who is convicted of a bailable offense and not sentenced to imprisonment for life, the appropriate court of appeals or two judges of it, upon motion of such a person and for good cause shown, may release the person on bail in accordance with Appellate Rule 8 and Criminal Rule 46, and the bail shall at least be conditioned as described in division (A) of this section.

**Sec. 2949.03.** If a judgment of conviction by a court of

common pleas, municipal court, or county court is affirmed by a 6839  
court of appeals and remanded to the trial court for execution 6840  
of the sentence or judgment imposed, and the person so convicted 6841  
gives notice of ~~his~~ the person's intention to file a notice of 6842  
appeal to the supreme court, the trial court, on the filing of a 6843  
motion by such person within three days after the rendition by 6844  
the court of appeals of the judgment of affirmation, may further 6845  
~~suspend, subject to division (A) (2) (b) of section 2953.09 of the~~ 6846  
~~Revised Code,~~ the execution of the sentence or judgment imposed 6847  
for a time sufficient to give such person an opportunity to file 6848  
a notice of appeal to the supreme court, but the sentence or 6849  
judgment imposed shall not be suspended more than thirty days 6850  
for that purpose. 6851

**Sec. 2953.02.** In ~~a capital case in which a sentence of~~ 6852  
~~death is imposed for an offense committed before January 1,~~ 6853  
~~1995, and in any other~~ criminal case, including a conviction for 6854  
the violation of an ordinance of a municipal corporation, the 6855  
judgment or final order of a court of record inferior to the 6856  
court of appeals may be reviewed in the court of appeals. A 6857  
final order of an administrative officer or agency may be 6858  
reviewed in the court of common pleas. A judgment or final order 6859  
of the court of appeals involving a question arising under the 6860  
Constitution of the United States or of this state may be 6861  
appealed to the supreme court as a matter of right. This right 6862  
of appeal from judgments and final orders of the court of 6863  
appeals shall extend to ~~cases in which a sentence of death is~~ 6864  
~~imposed for an offense committed before January 1, 1995, and in~~ 6865  
~~which the death penalty has been affirmed,~~ felony cases in which 6866  
the supreme court has directed the court of appeals to certify 6867  
its record, and in all other criminal cases of public or general 6868  
interest wherein the supreme court has granted a motion to 6869

certify the record of the court of appeals. ~~In a capital case in~~ 6870  
~~which a sentence of death is imposed for an offense committed on~~ 6871  
~~or after January 1, 1995, the judgment or final order may be~~ 6872  
~~appealed from the trial court directly to the supreme court as a~~ 6873  
~~matter of right. The supreme court in criminal cases shall not~~ 6874  
~~be required to determine as to the weight of the evidence,~~ 6875  
~~except that, in cases in which a sentence of death is imposed~~ 6876  
~~for an offense committed on or after January 1, 1995, and in~~ 6877  
~~which the question of the weight of the evidence to support the~~ 6878  
~~judgment has been raised on appeal, the supreme court shall~~ 6879  
~~determine as to the weight of the evidence to support the~~ 6880  
~~judgment and shall determine as to the weight of the evidence to~~ 6881  
~~support the sentence of death as provided in section 2929.05 of~~ 6882  
~~the Revised Code.~~ 6883

**Sec. 2953.07.** ~~(A)~~ Upon the hearing of an appeal other than 6884  
an appeal from a mayor's court, the appellate court may affirm 6885  
the judgment or reverse it, in whole or in part, or modify it, 6886  
and order the accused to be discharged or grant a new trial. The 6887  
appellate court may remand the accused for the sole purpose of 6888  
correcting a sentence imposed contrary to law, provided that, on 6889  
an appeal of a sentence imposed upon a person who is convicted 6890  
of or pleads guilty to a felony that is brought under section 6891  
2953.08 of the Revised Code, division (G) of that section 6892  
applies to the court. If the judgment is reversed, the appellant 6893  
shall recover from the appellee all court costs incurred to 6894  
secure the reversal, including the cost of transcripts. ~~In~~ 6895  
~~capital cases, when the judgment is affirmed and the day fixed~~ 6896  
~~for the execution is passed, the appellate court shall appoint a~~ 6897  
~~day for it, and the clerk of the appellate court shall issue a~~ 6898  
~~warrant under the seal of the appellate court, to the sheriff of~~ 6899  
~~the proper county, or the warden of the appropriate state~~ 6900



~~correctional institution, commanding the sheriff or warden to  
carry the sentence into execution on the day so appointed. The  
sheriff or warden shall execute and return the warrant as in  
other cases, and the clerk shall record the warrant and return.~~

~~(B) As used in this section, "appellate court" means, for  
a case in which a sentence of death is imposed for an offense  
committed before January 1, 1995, both the court of appeals and  
the supreme court, and for a case in which a sentence of death  
is imposed for an offense committed on or after January 1, 1995,  
the supreme court.~~

**Sec. 2953.08.** (A) In addition to any other right to appeal  
and except as provided in division (D) of this section, a  
defendant who is convicted of or pleads guilty to a felony may  
appeal as a matter of right the sentence imposed upon the  
defendant on one of the following grounds:

(1) The sentence consisted of or included the maximum  
prison term allowed for the offense by division (A) of section  
2929.14 or section 2929.142 of the Revised Code, the maximum  
prison term was not required for the offense pursuant to Chapter  
2925. or any other provision of the Revised Code, and the court  
imposed the sentence under one of the following circumstances:

(a) The sentence was imposed for only one offense.

(b) The sentence was imposed for two or more offenses  
arising out of a single incident, and the court imposed the  
maximum prison term for the offense of the highest degree.

(2) The sentence consisted of or included a prison term  
and the offense for which it was imposed is a felony of the  
fourth or fifth degree or is a felony drug offense that is a  
violation of a provision of Chapter 2925. of the Revised Code

and that is specified as being subject to division (B) of 6930  
section 2929.13 of the Revised Code for purposes of sentencing. 6931  
If the court specifies that it found one or more of the factors 6932  
in division (B) (1) (b) of section 2929.13 of the Revised Code to 6933  
apply relative to the defendant, the defendant is not entitled 6934  
under this division to appeal as a matter of right the sentence 6935  
imposed upon the offender. 6936

(3) The person was convicted of or pleaded guilty to a 6937  
violent sex offense or a designated homicide, assault, or 6938  
kidnapping offense, was adjudicated a sexually violent predator 6939  
in relation to that offense, and was sentenced pursuant to 6940  
division (A) (3) of section 2971.03 of the Revised Code, if the 6941  
minimum term of the indefinite term imposed pursuant to division 6942  
(A) (3) of section 2971.03 of the Revised Code is the longest 6943  
term available for the offense from among the range of terms 6944  
listed in section 2929.14 of the Revised Code. As used in this 6945  
division, "designated homicide, assault, or kidnapping offense" 6946  
and "violent sex offense" have the same meanings as in section 6947  
2971.01 of the Revised Code. As used in this division, 6948  
"adjudicated a sexually violent predator" has the same meaning 6949  
as in section 2929.01 of the Revised Code, and a person is 6950  
"adjudicated a sexually violent predator" in the same manner and 6951  
the same circumstances as are described in that section. 6952

(4) The sentence is contrary to law. 6953

(5) The sentence consisted of an additional prison term of 6954  
ten years imposed pursuant to division (B) (2) (a) of section 6955  
2929.14 of the Revised Code. 6956

(B) In addition to any other right to appeal and except as 6957  
provided in division (D) of this section, a prosecuting 6958  
attorney, a city director of law, village solicitor, or similar 6959

chief legal officer of a municipal corporation, or the attorney 6960  
general, if one of those persons prosecuted the case, may appeal 6961  
as a matter of right a sentence imposed upon a defendant who is 6962  
convicted of or pleads guilty to a felony or, in the 6963  
circumstances described in division (B) (3) of this section the 6964  
modification of a sentence imposed upon such a defendant, on any 6965  
of the following grounds: 6966

(1) The sentence did not include a prison term despite a 6967  
presumption favoring a prison term for the offense for which it 6968  
was imposed, as set forth in section 2929.13 or Chapter 2925. of 6969  
the Revised Code. 6970

(2) The sentence is contrary to law. 6971

(3) The sentence is a modification under section 2929.20 6972  
of the Revised Code of a sentence that was imposed for a felony 6973  
of the first or second degree. 6974

(C) (1) In addition to the right to appeal a sentence 6975  
granted under division (A) or (B) of this section, a defendant 6976  
who is convicted of or pleads guilty to a felony may seek leave 6977  
to appeal a sentence imposed upon the defendant on the basis 6978  
that the sentencing judge has imposed consecutive sentences 6979  
under division (C) (3) of section 2929.14 of the Revised Code and 6980  
that the consecutive sentences exceed the maximum prison term 6981  
allowed by division (A) of that section for the most serious 6982  
offense of which the defendant was convicted. Upon the filing of 6983  
a motion under this division, the court of appeals may grant 6984  
leave to appeal the sentence if the court determines that the 6985  
allegation included as the basis of the motion is true. 6986

(2) A defendant may seek leave to appeal an additional 6987  
sentence imposed upon the defendant pursuant to division (B) (2) 6988

(a) or (b) of section 2929.14 of the Revised Code if the 6989  
additional sentence is for a definite prison term that is longer 6990  
than five years. 6991

(D) (1) A sentence imposed upon a defendant is not subject 6992  
to review under this section if the sentence is authorized by 6993  
law, has been recommended jointly by the defendant and the 6994  
prosecution in the case, and is imposed by a sentencing judge. 6995

(2) Except as provided in division (C) (2) of this section, 6996  
a sentence imposed upon a defendant is not subject to review 6997  
under this section if the sentence is imposed pursuant to 6998  
division (B) (2) (b) of section 2929.14 of the Revised Code. 6999  
Except as otherwise provided in this division, a defendant 7000  
retains all rights to appeal as provided under this chapter or 7001  
any other provision of the Revised Code. A defendant has the 7002  
right to appeal under this chapter or any other provision of the 7003  
Revised Code the court's application of division (B) (2) (c) of 7004  
section 2929.14 of the Revised Code. 7005

(3) A sentence imposed for aggravated murder or murder 7006  
pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised 7007  
Code is not subject to review under this section. 7008

(E) A defendant, prosecuting attorney, city director of 7009  
law, village solicitor, or chief municipal legal officer shall 7010  
file an appeal of a sentence under this section to a court of 7011  
appeals within the time limits specified in Rule 4(B) of the 7012  
Rules of Appellate Procedure, provided that if the appeal is 7013  
pursuant to division (B) (3) of this section, the time limits 7014  
specified in that rule shall not commence running until the 7015  
court grants the motion that makes the sentence modification in 7016  
question. A sentence appeal under this section shall be 7017  
consolidated with any other appeal in the case. If no other 7018

appeal is filed, the court of appeals may review only the 7019  
portions of the trial record that pertain to sentencing. 7020

(F) On the appeal of a sentence under this section, the 7021  
record to be reviewed shall include all of the following, as 7022  
applicable: 7023

(1) Any presentence, psychiatric, or other investigative 7024  
report that was submitted to the court in writing before the 7025  
sentence was imposed. An appellate court that reviews a 7026  
presentence investigation report prepared pursuant to section 7027  
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 7028  
connection with the appeal of a sentence under this section 7029  
shall comply with division (D) (3) of section 2951.03 of the 7030  
Revised Code when the appellate court is not using the 7031  
presentence investigation report, and the appellate court's use 7032  
of a presentence investigation report of that nature in 7033  
connection with the appeal of a sentence under this section does 7034  
not affect the otherwise confidential character of the contents 7035  
of that report as described in division (D) (1) of section 7036  
2951.03 of the Revised Code and does not cause that report to 7037  
become a public record, as defined in section 149.43 of the 7038  
Revised Code, following the appellate court's use of the report. 7039

(2) The trial record in the case in which the sentence was 7040  
imposed; 7041

(3) Any oral or written statements made to or by the court 7042  
at the sentencing hearing at which the sentence was imposed; 7043

(4) Any written findings that the court was required to 7044  
make in connection with the modification of the sentence 7045  
pursuant to a judicial release under division (I) of section 7046  
2929.20 of the Revised Code. 7047

(G) (1) If the sentencing court was required to make the findings required by division (B) or (D) of section 2929.13 or division (I) of section 2929.20 of the Revised Code, or to state the findings of the trier of fact required by division (B) (2) (e) of section 2929.14 of the Revised Code, relative to the imposition or modification of the sentence, and if the sentencing court failed to state the required findings on the record, the court hearing an appeal under division (A), (B), or (C) of this section shall remand the case to the sentencing court and instruct the sentencing court to state, on the record, the required findings.

(2) The court hearing an appeal under division (A), (B), or (C) of this section shall review the record, including the findings underlying the sentence or modification given by the sentencing court.

The appellate court may increase, reduce, or otherwise modify a sentence that is appealed under this section or may vacate the sentence and remand the matter to the sentencing court for resentencing. The appellate court's standard for review is not whether the sentencing court abused its discretion. The appellate court may take any action authorized by this division if it clearly and convincingly finds either of the following:

(a) That the record does not support the sentencing court's findings under division (B) or (D) of section 2929.13, division (B) (2) (e) or (C) (4) of section 2929.14, or division (I) of section 2929.20 of the Revised Code, whichever, if any, is relevant;

(b) That the sentence is otherwise contrary to law.

(H) A judgment or final order of a court of appeals under this section may be appealed, by leave of court, to the supreme court. 7077  
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**Sec. 2953.09.** (A) (1) Upon filing an appeal in the supreme court, the execution of the sentence or judgment imposed in cases of felony is suspended. 7080  
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(2) ~~(a)~~ If a notice of appeal is filed pursuant to the Rules of Appellate Procedure by a defendant who is convicted in a municipal or county court or a court of common pleas of a felony or misdemeanor under the Revised Code or an ordinance of a municipal corporation, the filing of the notice of appeal does not suspend execution of the sentence or judgment imposed. However, consistent with divisions (A) (2) (b), (B), and (C) of this section, Appellate Rule 8, and Criminal Rule 46, the municipal or county court, court of common pleas, or court of appeals may suspend execution of the sentence or judgment imposed during the pendency of the appeal and shall determine whether that defendant is entitled to bail and the amount and nature of any bail that is required. The bail shall at least be conditioned that the defendant will prosecute the appeal without delay and abide by the judgment and sentence of the court. 7083  
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~~(b) (i) A court of common pleas or court of appeals may suspend the execution of a sentence of death imposed for an offense committed before January 1, 1995, only if no date for execution has been set by the supreme court, good cause is shown for the suspension, the defendant files a motion requesting the suspension, and notice has been given to the prosecuting attorney of the appropriate county.~~ 7098  
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~~(ii) A court of common pleas may suspend the execution of a sentence of death imposed for an offense committed on or after~~ 7105  
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~~January 1, 1995, only if no date for execution has been set by  
the supreme court, good cause is shown, the defendant files a  
motion requesting the suspension, and notice has been given to  
the prosecuting attorney of the appropriate county.~~

~~(iii) A court of common pleas or court of appeals may  
suspend the execution of the sentence or judgment imposed for a  
felony in a capital case in which a sentence of death is not  
imposed only if no date for execution of the sentence has been  
set by the supreme court, good cause is shown for the  
suspension, the defendant files a motion requesting the  
suspension, and only after notice has been given to the  
prosecuting attorney of the appropriate county.~~

(B) Notwithstanding any provision of Criminal Rule 46 to  
the contrary, a trial judge of a court of common pleas shall not  
release on bail pursuant to division (A) (2) (a) of this section a  
defendant who is convicted of a bailable offense if the  
defendant is sentenced to imprisonment for life or if that  
offense is a violation of section 2903.01, 2903.02, 2903.03,  
2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02,  
2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious  
sexual penetration in violation of former section 2907.12 of the  
Revised Code.

(C) If a trial judge of a court of common pleas is  
prohibited by division (B) of this section from releasing on  
bail pursuant to division (A) (2) (a) of this section a defendant  
who is convicted of a bailable offense and not sentenced to  
imprisonment for life, the appropriate court of appeals or two  
judges of it, upon motion of the defendant and for good cause  
shown, may release the defendant on bail in accordance with  
division (A) (2) of this section.



**Sec. 2953.10.** When an appeal is taken from a court of 7137  
appeals to the supreme court, the supreme court has the same 7138  
power and authority to suspend the execution of sentence during 7139  
the pendency of the appeal and admit the defendant to bail as 7140  
does the court of appeals unless another section of the Revised 7141  
Code or the Rules of Practice of the Supreme Court specify a 7142  
distinct bail or suspension of sentence authority. 7143

~~When an appeal in a case in which a sentence of death is~~ 7144  
~~imposed for an offense committed on or after January 1, 1995, is~~ 7145  
~~taken directly from the trial court to the supreme court, the~~ 7146  
~~supreme court has the same power and authority to suspend the~~ 7147  
~~execution of the sentence during the pendency of the appeal and~~ 7148  
~~admit the defendant to bail as does the court of appeals for~~ 7149  
~~cases in which a sentence of death is imposed for an offense~~ 7150  
~~committed before January 1, 1995, unless another section of the~~ 7151  
~~Revised Code or the Rules of Practice of the Supreme Court~~ 7152  
~~specify a distinct bail or suspension of sentence authority.~~ 7153

**Sec. 2953.21.** (A) (1) (a) Any person who has been convicted 7154  
of a criminal offense or adjudicated a delinquent child and who 7155  
claims that there was such a denial or infringement of the 7156  
person's rights as to render the judgment void or voidable under 7157  
the Ohio Constitution or the Constitution of the United States, 7158  
~~any person who has been convicted of a criminal offense and~~ 7159  
~~sentenced to death and who claims that there was a denial or~~ 7160  
~~infringement of the person's rights under either of those~~ 7161  
~~Constitutions that creates a reasonable probability of an~~ 7162  
~~altered verdict,~~ and any person who has been convicted of a 7163  
criminal offense that is a felony and who is an offender for 7164  
whom DNA testing that was performed under sections 2953.71 to 7165  
2953.81 of the Revised Code or under former section 2953.82 of 7166  
the Revised Code and analyzed in the context of and upon 7167

consideration of all available admissible evidence related to 7168  
the person's case as described in division (D) of section 7169  
2953.74 of the Revised Code provided results that establish, by 7170  
clear and convincing evidence, actual innocence of that felony 7171  
offense ~~or, if the person was sentenced to death, establish, by~~ 7172  
~~clear and convincing evidence, actual innocence of the~~ 7173  
~~aggravating circumstance or circumstances the person was found~~ 7174  
~~guilty of committing and that is or are the basis of that~~ 7175  
~~sentence of death,~~ may file a petition in the court that imposed 7176  
sentence, stating the grounds for relief relied upon, and asking 7177  
the court to vacate or set aside the judgment or sentence or to 7178  
grant other appropriate relief. The petitioner may file a 7179  
supporting affidavit and other documentary evidence in support 7180  
of the claim for relief. 7181

(b) As used in division (A) (1) (a) of this section, "actual 7182  
innocence" means that, had the results of the DNA testing 7183  
conducted under sections 2953.71 to 2953.81 of the Revised Code 7184  
or under former section 2953.82 of the Revised Code been 7185  
presented at trial, and had those results been analyzed in the 7186  
context of and upon consideration of all available admissible 7187  
evidence related to the person's case as described in division 7188  
(D) of section 2953.74 of the Revised Code, no reasonable 7189  
factfinder would have found the petitioner guilty of the offense 7190  
of which the petitioner was convicted, ~~or, if the person was~~ 7191  
~~sentenced to death, no reasonable factfinder would have found~~ 7192  
~~the petitioner guilty of the aggravating circumstance or~~ 7193  
~~circumstances the petitioner was found guilty of committing and~~ 7194  
~~that is or are the basis of that sentence of death.~~ 7195

(c) As used in divisions (A) (1) (a) and (b) of this 7196  
section, "former section 2953.82 of the Revised Code" means 7197  
section 2953.82 of the Revised Code as it existed prior to July 7198

6, 2010.

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~~(d) At any time in conjunction with the filing of a petition for postconviction relief under division (A) of this section by a person who has been sentenced to death, or with the litigation of a petition so filed, the court, for good cause shown, may authorize the petitioner in seeking the postconviction relief and the prosecuting attorney of the county served by the court in defending the proceeding, to take depositions and to issue subpoenas and subpoenas duces tecum in accordance with divisions (A) (1) (d), (A) (1) (e), and (C) of this section, and to any other form of discovery as in a civil action that the court in its discretion permits. The court may limit the extent of discovery under this division. In addition to discovery that is relevant to the claim and was available under Criminal Rule 16 through conclusion of the original criminal trial, the court, for good cause shown, may authorize the petitioner or prosecuting attorney to take depositions and issue subpoenas and subpoenas duces tecum in either of the following circumstances:~~

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~~(i) For any witness who testified at trial or who was disclosed by the state prior to trial, except as otherwise provided in this division, the petitioner or prosecuting attorney shows clear and convincing evidence that the witness is material and that a deposition of the witness or the issuing of a subpoena or subpoena duces tecum is of assistance in order to substantiate or refute the petitioner's claim that there is a reasonable probability of an altered verdict. This division does not apply if the witness was unavailable for trial or would not voluntarily be interviewed by the defendant or prosecuting attorney.~~

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~~(ii) For any witness with respect to whom division (A) (1) (d) (i) of this section does not apply, the petitioner or prosecuting attorney shows good cause that the witness is material and that a deposition of the witness or the issuing of a subpoena or subpoena duces tecum is of assistance in order to substantiate or refute the petitioner's claim that there is a reasonable probability of an altered verdict.~~

~~(e) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests postconviction discovery as described in division (A) (1) (d) of this section or if the prosecuting attorney of the county served by the court requests postconviction discovery as described in that division, within ten days after the docketing of the request, or within any other time that the court sets for good cause shown, the prosecuting attorney shall respond by answer or motion to the petitioner's request or the petitioner shall respond by answer or motion to the prosecuting attorney's request, whichever is applicable.~~

~~(f) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests postconviction discovery as described in division (A) (1) (d) of this section or if the prosecuting attorney of the county served by the court requests postconviction discovery as described in that division, upon motion by the petitioner, the prosecuting attorney, or the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order that justice requires to protect a party or person from oppression or undue burden or expense, including but not limited to the orders described in divisions (A) (1) (g) (i) to (viii) of this section. The court also may make any such order if, in its discretion, it~~

~~determines that the discovery sought would be irrelevant to the  
claims made in the petition; and if the court makes any such  
order on that basis, it shall explain in the order the reasons  
why the discovery would be irrelevant.~~ 7260  
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~~(g) If a petitioner, prosecuting attorney, or person from  
whom discovery is sought makes a motion for an order under  
division (A) (1) (f) of this section and the order is denied in  
whole or in part, the court, on terms and conditions as are  
just, may order that any party or person provide or permit  
discovery as described in division (A) (1) (d) of this section.  
The provisions of Civil Rule 37(A) (4) apply to the award of  
expenses incurred in relation to the motion, except that in no  
case shall a court require a petitioner who is indigent to pay  
expenses under those provisions.~~ 7264  
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~~Before any person moves for an order under division (A) (1)  
(f) of this section, that person shall make a reasonable effort  
to resolve the matter through discussion with the petitioner or  
prosecuting attorney seeking discovery. A motion for an order  
under division (A) (1) (f) of this section shall be accompanied by  
a statement reciting the effort made to resolve the matter in  
accordance with this paragraph.~~ 7274  
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~~The orders that may be made under division (A) (1) (f) of  
this section include, but are not limited to, any of the  
following:~~ 7281  
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~~(i) That the discovery not be had;~~ 7284

~~(ii) That the discovery may be had only on specified terms  
and conditions, including a designation of the time or place;~~ 7285  
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~~(iii) That the discovery may be had only by a method of  
discovery other than that selected by the party seeking~~ 7287  
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~~discovery;~~ 7289

~~(iv) That certain matters not be inquired into or that the scope of the discovery be limited to certain matters;~~ 7290  
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~~(v) That discovery be conducted with no one present except persons designated by the court;~~ 7292  
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~~(vi) That a deposition after being sealed be opened only by order of the court;~~ 7294  
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~~(vii) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;~~ 7296  
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~~(viii) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.~~ 7299  
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~~(h) Any postconviction discovery authorized under division (A) (1) (d) of this section shall be completed not later than eighteen months after the start of the discovery proceedings unless, for good cause shown, the court extends that period for completing the discovery.~~ 7302  
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~~(i) Nothing in division (A) (1) (d) of this section authorizes, or shall be construed as authorizing, the relitigation, or discovery in support of relitigation, of any matter barred by the doctrine of res judicata.~~ 7307  
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~~(j) Division (A) (1) of this section does not apply to any person who has been convicted of a criminal offense and sentenced to death and who has unsuccessfully raised the same claims in a petition for postconviction relief.~~ 7311  
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(2) Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division (A) (1) of this section 7315  
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shall be filed no later than three hundred sixty-five days after 7317  
the date on which the trial transcript is filed in the court of 7318  
appeals in the direct appeal of the judgment of conviction or 7319  
adjudication ~~or, if the direct appeal involves a sentence of~~ 7320  
~~death, the date on which the trial transcript is filed in the~~ 7321  
~~supreme court.~~ If no appeal is taken, except as otherwise 7322  
provided in section 2953.23 of the Revised Code, the petition 7323  
shall be filed no later than three hundred sixty-five days after 7324  
the expiration of the time for filing the appeal. 7325

~~(3) In a petition filed under division (A) of this~~ 7326  
~~section, a person who has been sentenced to death may ask the~~ 7327  
~~court to render void or voidable the judgment with respect to~~ 7328  
~~the conviction of aggravated murder or the specification of an~~ 7329  
~~aggravating circumstance or the sentence of death.~~ 7330

~~(4)~~ A petitioner shall state in the original or amended 7331  
petition filed under division (A) of this section all grounds 7332  
for relief claimed by the petitioner. Except as provided in 7333  
section 2953.23 of the Revised Code, any ground for relief that 7334  
is not so stated in the petition is waived. 7335

~~(5)~~ (4) If the petitioner in a petition filed under 7336  
division (A) of this section was convicted of or pleaded guilty 7337  
to a felony, the petition may include a claim that the 7338  
petitioner was denied the equal protection of the laws in 7339  
violation of the Ohio Constitution or the United States 7340  
Constitution because the sentence imposed upon the petitioner 7341  
for the felony was part of a consistent pattern of disparity in 7342  
sentencing by the judge who imposed the sentence, with regard to 7343  
the petitioner's race, gender, ethnic background, or religion. 7344  
If the supreme court adopts a rule requiring a court of common 7345  
pleas to maintain information with regard to an offender's race, 7346

gender, ethnic background, or religion, the supporting evidence 7347  
for the petition shall include, but shall not be limited to, a 7348  
copy of that type of information relative to the petitioner's 7349  
sentence and copies of that type of information relative to 7350  
sentences that the same judge imposed upon other persons. 7351

~~(6) Notwithstanding any law or court rule to the contrary, 7352  
there is no limit on the number of pages in, or on the length 7353  
of, a petition filed under division (A) of this section by a 7354  
person who has been sentenced to death. If any court rule 7355  
specifies a limit on the number of pages in, or on the length 7356  
of, a petition filed under division (A) of this section or on a 7357  
prosecuting attorney's response to such a petition by answer or 7358  
motion and a person who has been sentenced to death files a 7359  
petition that exceeds the limit specified for the petition, the 7360  
prosecuting attorney may respond by an answer or motion that 7361  
exceeds the limit specified for the response. 7362~~

(B) The clerk of the court in which the petition for 7363  
postconviction relief and, if applicable, a request for 7364  
~~postconviction discovery described in division (A) (1) (d) of this 7365  
section is filed shall docket the petition and the request and 7366  
bring ~~them~~ it promptly to the attention of the court. The clerk 7367  
of the court in which the petition for postconviction relief 7368  
and, if applicable, a request for postconviction discovery 7369  
~~described in division (A) (1) (d) of this section is filed 7370  
immediately shall forward a copy of the petition and a copy of 7371  
the request if filed by the petitioner to the prosecuting 7372  
attorney of the county served by the court. If the request for 7373  
postconviction discovery is filed by the prosecuting attorney, 7374  
the clerk of the court immediately shall forward a copy of the 7375  
request to the petitioner or the petitioner's counsel. 7376~~~~



~~(C) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests a deposition or the prosecuting attorney in the case requests a deposition, and if the court grants the request under division (A) (1) (d) of this section, the court shall notify the petitioner or the petitioner's counsel and the prosecuting attorney. The deposition shall be conducted pursuant to divisions (B), (D), and (E) of Criminal Rule 15. Notwithstanding division (C) of Criminal Rule 15, the petitioner is not entitled to attend the deposition. The prosecuting attorney shall be permitted to attend and participate in any deposition.~~

~~(D) The court shall consider a petition that is timely filed under division (A) (2) of this section even if a direct appeal of the judgment is pending. Before granting a hearing on a petition filed under division (A) of this section, the court shall determine whether there are substantive grounds for relief. In making such a determination, the court shall consider, in addition to the petition, the supporting affidavits, and the documentary evidence, all the files and records pertaining to the proceedings against the petitioner, including, but not limited to, the indictment, the court's journal entries, the journalized records of the clerk of the court, and the court reporter's transcript. The court reporter's transcript, if ordered and certified by the court, shall be taxed as court costs. If the court dismisses the petition, it shall make and file findings of fact and conclusions of law with respect to such dismissal. If the petition was filed by a person who has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the dismissal of the petition and of each claim it contains.~~

~~(E)~~ (D) Within ten days after the docketing of the 7408  
petition, or within any further time that the court may fix for 7409  
good cause shown, the prosecuting attorney shall respond by 7410  
answer or motion. ~~Division (A) (6) of this section applies with~~ 7411  
~~respect to the prosecuting attorney's response.~~ Within twenty 7412  
days from the date the issues are raised, either party may move 7413  
for summary judgment. The right to summary judgment shall appear 7414  
on the face of the record. 7415

~~(F)~~ (E) Unless the petition and the files and records of 7416  
the case show the petitioner is not entitled to relief, the 7417  
court shall proceed to a prompt hearing on the issues even if a 7418  
direct appeal of the case is pending. If the court notifies the 7419  
parties that it has found grounds for granting relief, either 7420  
party may request an appellate court in which a direct appeal of 7421  
the judgment is pending to remand the pending case to the court. 7422

~~(G) A petitioner who files a petition under division (A)~~ 7423  
~~of this section may amend the petition as follows:~~ 7424

~~(1) If the petition was filed by a person who has been~~ 7425  
~~sentenced to death, at any time that is not later than one~~ 7426  
~~hundred eighty days after the petition is filed, the petitioner~~ 7427  
~~may amend the petition with or without leave or prejudice to the~~ 7428  
~~proceedings.~~ 7429

~~(2) If division (G) (1) of this section does not apply, at~~ 7430  
(F) At any time before the answer or motion is filed, the 7431  
petitioner may amend the petition with or without leave or 7432  
prejudice to the proceedings. 7433

~~(3) The petitioner may amend the petition with leave of~~ 7434  
court at any time ~~after the expiration of the applicable period~~ 7435  
~~specified in division (G) (1) or (2) of this section thereafter.~~ 7436

~~(H)~~ (G) If the court does not find grounds for granting relief, it shall make and file findings of fact and conclusions of law and shall enter judgment denying relief on the petition. ~~If the petition was filed by a person who has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the denial of relief on the petition and of each claim it contains.~~ If no direct appeal of the case is pending and the court finds grounds for relief or if a pending direct appeal of the case has been remanded to the court pursuant to a request made pursuant to division ~~(F)~~ (E) of this section and the court finds grounds for granting relief, it shall make and file findings of fact and conclusions of law and shall enter a judgment that vacates and sets aside the judgment in question, and, in the case of a petitioner who is a prisoner in custody, shall discharge or resentence the petitioner or grant a new trial as the court determines appropriate. ~~If the petitioner has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the finding of grounds for granting the relief, with respect to each claim contained in the petition.~~ The court also may make supplementary orders to the relief granted, concerning such matters as rearraignment, retrial, custody, and bail. If the trial court's order granting the petition is reversed on appeal and if the direct appeal of the case has been remanded from an appellate court pursuant to a request under division ~~(F)~~ (E) of this section, the appellate court reversing the order granting the petition shall notify the appellate court in which the direct appeal of the case was pending at the time of the remand of the reversal and remand of the trial court's order. Upon the reversal and remand of the trial court's order granting the petition, regardless of whether notice is sent or received, the direct appeal of the case that was remanded is reinstated.

~~(I) Upon the filing of a petition pursuant to division (A) of this section by a person sentenced to death, only the supreme court may stay execution of the sentence of death.~~ 7469  
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~~(J) (1) If a person sentenced to death intends to file a petition under this section, the court shall appoint counsel to represent the person upon a finding that the person is indigent and that the person either accepts the appointment of counsel or is unable to make a competent decision whether to accept or reject the appointment of counsel. The court may decline to appoint counsel for the person only upon a finding, after a hearing if necessary, that the person rejects the appointment of counsel and understands the legal consequences of that decision or upon a finding that the person is not indigent.~~ 7472  
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~~(2) The court shall not appoint as counsel under division (J) (1) of this section an attorney who represented the petitioner at trial in the case to which the petition relates unless the person and the attorney expressly request the appointment. The court shall appoint as counsel under division (J) (1) of this section only an attorney who is certified under Rule 20 of the Rules of Superintendence for the Courts of Ohio to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed. The ineffectiveness or incompetence of counsel during proceedings under this section does not constitute grounds for relief in a proceeding under this section, in an appeal of any action under this section, or in an application to reopen a direct appeal.~~ 7482  
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~~(3) Division (J) of this section does not preclude attorneys who represent the state of Ohio from invoking the provisions of 28 U.S.C. 154 with respect to capital cases that~~ 7496  
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~~were pending in federal habeas corpus proceedings prior to July 1, 1996, insofar as the petitioners in those cases were represented in proceedings under this section by one or more counsel appointed by the court under this section or section 120.06, 120.16, 120.26, or 120.33 of the Revised Code and those appointed counsel meet the requirements of division (J) (2) of this section.~~

~~(K)~~ (H) Subject to the appeal of a sentence for a felony that is authorized by section 2953.08 of the Revised Code, the remedy set forth in this section is the exclusive remedy by which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case or to the validity of an adjudication of a child as a delinquent child for the commission of an act that would be a criminal offense if committed by an adult or the validity of a related order of disposition.

**Sec. 2953.23.** (A) Whether a hearing is or is not held on a petition filed pursuant to section 2953.21 of the Revised Code, a court may not entertain a petition filed after the expiration of the period prescribed in division (A) of that section or a second petition or successive petitions for similar relief on behalf of a petitioner unless division (A) (1) or (2) of this section applies:

(1) Both of the following apply:

(a) Either the petitioner shows that the petitioner was unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief, or, subsequent to the period prescribed in division (A) (2) of section 2953.21 of the Revised Code or to the filing of an earlier petition, the United States Supreme Court recognized a

new federal or state right that applies retroactively to persons 7529  
in the petitioner's situation, and the petition asserts a claim 7530  
based on that right. 7531

(b) The petitioner shows by clear and convincing evidence 7532  
that, but for constitutional error at trial, no reasonable 7533  
factfinder would have found the petitioner guilty of the offense 7534  
of which the petitioner was convicted ~~or, if the claim~~ 7535  
~~challenges a sentence of death that, but for constitutional~~ 7536  
~~error at the sentencing hearing, no reasonable factfinder would~~ 7537  
~~have found the petitioner eligible for the death sentence.~~ 7538

(2) The petitioner was convicted of a felony, the 7539  
petitioner is an offender for whom DNA testing was performed 7540  
under sections 2953.71 to 2953.81 of the Revised Code or under 7541  
former section 2953.82 of the Revised Code and analyzed in the 7542  
context of and upon consideration of all available admissible 7543  
evidence related to the inmate's case as described in division 7544  
(D) of section 2953.74 of the Revised Code, and the results of 7545  
the DNA testing establish, by clear and convincing evidence, 7546  
actual innocence of that felony offense ~~or, if the person was~~ 7547  
~~sentenced to death, establish, by clear and convincing evidence,~~ 7548  
~~actual innocence of the aggravating circumstance or~~ 7549  
~~circumstances the person was found guilty of committing and that~~ 7550  
~~is or are the basis of that sentence of death.~~ 7551

As used in this division, "actual innocence" has the same 7552  
meaning as in division (A) (1) (b) of section 2953.21 of the 7553  
Revised Code, and "former section 2953.82 of the Revised Code" 7554  
has the same meaning as in division (A) (1) (c) of section 2953.21 7555  
of the Revised Code. 7556

(B) An order awarding or denying relief sought in a 7557  
petition filed pursuant to section 2953.21 of the Revised Code 7558

is a final judgment and may be appealed pursuant to Chapter 7559  
2953. of the Revised Code. 7560

~~If a petition filed pursuant to section 2953.21 of the 7561  
Revised Code by a person who has been sentenced to death is 7562  
denied and the person appeals the judgment, notwithstanding any 7563  
law or court rule to the contrary, there is no limit on the 7564  
number of pages in, or on the length of, a notice of appeal or 7565  
briefs related to an appeal filed by the person. If any court 7566  
rule specifies a limit on the number of pages in, or on the 7567  
length of, a notice of appeal or briefs described in this 7568  
division or on a prosecuting attorney's response or briefs with 7569  
respect to such an appeal and a person who has been sentenced to 7570  
death files a notice of appeal or briefs that exceed the limit 7571  
specified for the petition, the prosecuting attorney may file a 7572  
response or briefs that exceed the limit specified for the 7573  
answer or briefs. 7574~~

**Sec. 2953.71.** As used in sections 2953.71 to 2953.83 of 7575  
the Revised Code: 7576

(A) "Application" or "application for DNA testing" means a 7577  
request through postconviction relief for the state to do DNA 7578  
testing on biological material from the case in which the 7579  
offender was convicted of the offense for which the offender is 7580  
an eligible offender and is requesting the DNA testing under 7581  
sections 2953.71 to 2953.81 of the Revised Code. 7582

(B) "Biological material" means any product of a human 7583  
body containing DNA. 7584

(C) "Chain of custody" means a record or other evidence 7585  
that tracks a subject sample of biological material from the 7586  
time the biological material was first obtained until the time 7587

it currently exists in its place of storage and, in relation to 7588  
a DNA sample, a record or other evidence that tracks the DNA 7589  
sample from the time it was first obtained until it currently 7590  
exists in its place of storage. For purposes of this division, 7591  
examples of when biological material or a DNA sample is first 7592  
obtained include, but are not limited to, obtaining the material 7593  
or sample at the scene of a crime, from a victim, from an 7594  
offender, or in any other manner or time as is appropriate in 7595  
the facts and circumstances present. 7596

(D) "Custodial agency" means the group or entity that has 7597  
the responsibility to maintain biological material in question. 7598

(E) "Custodian" means the person who is the primary 7599  
representative of a custodial agency. 7600

(F) "Eligible offender" means an offender who is eligible 7601  
under division (C) of section 2953.72 of the Revised Code to 7602  
request DNA testing to be conducted under sections 2953.71 to 7603  
2953.81 of the Revised Code. 7604

(G) "Exclusion" or "exclusion result" means a result of 7605  
DNA testing that scientifically precludes or forecloses the 7606  
subject offender as a contributor of biological material 7607  
recovered from the crime scene or victim in question, in 7608  
relation to the offense for which the offender is an eligible 7609  
offender and for which the ~~sentence of death or prison~~ term was 7610  
imposed upon the offender. 7611

(H) "Extracting personnel" means medically approved 7612  
personnel who are employed to physically obtain an offender's 7613  
DNA specimen for purposes of DNA testing under sections 2953.71 7614  
to 2953.81 of the Revised Code. 7615

(I) "Inclusion" or "inclusion result" means a result of 7616



DNA testing that scientifically cannot exclude, or that holds 7617  
accountable, the subject offender as a contributor of biological 7618  
material recovered from the crime scene or victim in question, 7619  
in relation to the offense for which the offender is an eligible 7620  
offender and for which the ~~sentence of death or prison~~ term was 7621  
imposed upon the offender. 7622

(J) "Inconclusive" or "inconclusive result" means a result 7623  
of DNA testing that is rendered when a scientifically 7624  
appropriate and definitive DNA analysis or result, or both, 7625  
cannot be determined. 7626

(K) "Offender" means a criminal offender who was sentenced 7627  
by a court, or by a jury and a court, of this state. 7628

(L) "Outcome determinative" means that had the results of 7629  
DNA testing of the subject offender been presented at the trial 7630  
of the subject offender requesting DNA testing and been found 7631  
relevant and admissible with respect to the felony offense for 7632  
which the offender is an eligible offender and is requesting the 7633  
DNA testing, and had those results been analyzed in the context 7634  
of and upon consideration of all available admissible evidence 7635  
related to the offender's case as described in division (D) of 7636  
section 2953.74 of the Revised Code, there is a strong 7637  
probability that no reasonable factfinder would have found the 7638  
offender guilty of that offense ~~or, if the offender was~~ 7639  
~~sentenced to death relative to that offense, would have found~~ 7640  
~~the offender guilty of the aggravating circumstance or~~ 7641  
~~circumstances the offender was found guilty of committing and~~ 7642  
~~that is or are the basis of that sentence of death.~~ 7643

(M) "Parent sample" means the biological material first 7644  
obtained from a crime scene or a victim of an offense for which 7645  
an offender is an eligible offender, and from which a sample 7646

will be presently taken to do a DNA comparison to the DNA of the 7647  
subject offender under sections 2953.71 to 2953.81 of the 7648  
Revised Code. 7649

(N) "Prison" and "community control sanction" have the 7650  
same meanings as in section 2929.01 of the Revised Code. 7651

(O) "Prosecuting attorney" means the prosecuting attorney 7652  
who, or whose office, prosecuted the case in which the subject 7653  
offender was convicted of the offense for which the offender is 7654  
an eligible offender and is requesting the DNA testing. 7655

(P) "Prosecuting authority" means the prosecuting attorney 7656  
or the attorney general. 7657

(Q) "Reasonable diligence" means a degree of diligence 7658  
that is comparable to the diligence a reasonable person would 7659  
employ in searching for information regarding an important 7660  
matter in the person's own life. 7661

(R) "Testing authority" means a laboratory at which DNA 7662  
testing will be conducted under sections 2953.71 to 2953.81 of 7663  
the Revised Code. 7664

(S) "Parole" and "post-release control" have the same 7665  
meanings as in section 2967.01 of the Revised Code. 7666

(T) "Sexually oriented offense" and "child-victim oriented 7667  
offense" have the same meanings as in section 2950.01 of the 7668  
Revised Code. 7669

(U) "Definitive DNA test" means a DNA test that clearly 7670  
establishes that biological material from the perpetrator of the 7671  
crime was recovered from the crime scene and also clearly 7672  
establishes whether or not the biological material is that of 7673  
the eligible offender. A prior DNA test is not definitive if the 7674

eligible offender proves by a preponderance of the evidence that 7675  
because of advances in DNA technology there is a possibility of 7676  
discovering new biological material from the perpetrator that 7677  
the prior DNA test may have failed to discover. Prior testing 7678  
may have been a prior "definitive DNA test" as to some 7679  
biological evidence but may not have been a prior "definitive 7680  
DNA test" as to other biological evidence. 7681

**Sec. 2953.72.** (A) Any eligible offender who wishes to 7682  
request DNA testing under sections 2953.71 to 2953.81 of the 7683  
Revised Code shall submit an application for the testing to the 7684  
court of common pleas specified in section 2953.73 of the 7685  
Revised Code, on a form prescribed by the attorney general for 7686  
this purpose. The eligible offender shall submit the application 7687  
in accordance with the procedures set forth in section 2953.73 7688  
of the Revised Code. The eligible offender shall specify on the 7689  
application the offense or offenses for which the offender is an 7690  
eligible offender and is requesting the DNA testing. Along with 7691  
the application, the eligible offender shall submit an 7692  
acknowledgment that is on a form prescribed by the attorney 7693  
general for this purpose and that is signed by the offender. The 7694  
acknowledgment shall set forth all of the following: 7695

(1) That sections 2953.71 to 2953.81 of the Revised Code 7696  
contemplate applications for DNA testing of an eligible offender 7697  
at a stage of a prosecution or case after the offender has been 7698  
sentenced, that any exclusion or inclusion result of DNA testing 7699  
rendered pursuant to those sections may be used by a party in 7700  
any proceeding as described in section 2953.81 of the Revised 7701  
Code, and that all requests for any DNA testing made at trial 7702  
will continue to be handled by the prosecuting attorney in the 7703  
case; 7704

(2) That the process of conducting postconviction DNA testing for an eligible offender under sections 2953.71 to 2953.81 of the Revised Code begins when the offender submits an application under section 2953.73 of the Revised Code and the acknowledgment described in this section;

(3) That the eligible offender must submit the application and acknowledgment to the court of common pleas that heard the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing;

(4) That the state has established a set of criteria set forth in section 2953.74 of the Revised Code by which eligible offender applications for DNA testing will be screened and that a judge of a court of common pleas upon receipt of a properly filed application and accompanying acknowledgment will apply those criteria to determine whether to accept or reject the application;

(5) That the results of DNA testing conducted under sections 2953.71 to 2953.81 of the Revised Code will be provided as described in section 2953.81 of the Revised Code to all parties in the postconviction proceedings and will be reported to various courts;

(6) That, if DNA testing is conducted with respect to an offender under sections 2953.71 to 2953.81 of the Revised Code, the state will not offer the offender a retest if an inclusion result is achieved relative to the testing and that, if the state were to offer a retest after an inclusion result, the policy would create an atmosphere in which endless testing could occur and in which postconviction proceedings could be stalled for many years;

(7) That, if the court rejects an eligible offender's application for DNA testing because the offender does not satisfy the acceptance criteria described in division (A) (4) of this section, the court will not accept or consider subsequent applications;

(8) That the acknowledgment memorializes the provisions of sections 2953.71 to 2953.81 of the Revised Code with respect to the application of postconviction DNA testing to offenders, that those provisions do not give any offender any additional constitutional right that the offender did not already have, that the court has no duty or obligation to provide postconviction DNA testing to offenders, that the court of common pleas has the sole discretion subject to an appeal as described in this division to determine whether an offender is an eligible offender and whether an eligible offender's application for DNA testing satisfies the acceptance criteria described in division (A) (4) of this section and whether the application should be accepted or rejected, that if the court of common pleas rejects an eligible offender's application, the offender may ~~seek leave of the supreme court to appeal the rejection to that court if the offender was sentenced to death for the offense for which the offender is requesting the DNA testing and, if the offender was not sentenced to death for that offense, may~~ appeal the rejection to the court of appeals, and that no determination otherwise made by the court of common pleas in the exercise of its discretion regarding the eligibility of an offender or regarding postconviction DNA testing under those provisions is reviewable by or appealable to any court;

(9) That the manner in which sections 2953.71 to 2953.81 of the Revised Code with respect to the offering of

postconviction DNA testing to offenders are carried out does not 7766  
confer any constitutional right upon any offender, that the 7767  
state has established guidelines and procedures relative to 7768  
those provisions to ensure that they are carried out with both 7769  
justice and efficiency in mind, and that an offender who 7770  
participates in any phase of the mechanism contained in those 7771  
provisions, including, but not limited to, applying for DNA 7772  
testing and being rejected, having an application for DNA 7773  
testing accepted and not receiving the test, or having DNA 7774  
testing conducted and receiving unfavorable results, does not 7775  
gain as a result of the participation any constitutional right 7776  
to challenge, or, except as provided in division (A) (8) of this 7777  
section, any right to any review or appeal of, the manner in 7778  
which those provisions are carried out; 7779

(10) That the most basic aspect of sections 2953.71 to 7780  
2953.81 of the Revised Code is that, in order for DNA testing to 7781  
occur, there must be an offender sample against which other 7782  
evidence may be compared, that, if an eligible offender's 7783  
application is accepted but the offender subsequently refuses to 7784  
submit to the collection of the sample of biological material 7785  
from the offender or hinders the state from obtaining a sample 7786  
of biological material from the offender, the goal of those 7787  
provisions will be frustrated, and that an offender's refusal or 7788  
hindrance shall cause the court to rescind its prior acceptance 7789  
of the application for DNA testing for the offender and deny the 7790  
application. 7791

(B) The attorney general shall prescribe a form to be used 7792  
to make an application for DNA testing under division (A) of 7793  
this section and section 2953.73 of the Revised Code and a form 7794  
to be used to provide the acknowledgment described in division 7795  
(A) of this section. The forms shall include all information 7796

described in division (A) of this section, spaces for an 7797  
offender to insert all information necessary to complete the 7798  
forms, including, but not limited to, specifying the offense or 7799  
offenses for which the offender is an eligible offender and is 7800  
requesting the DNA testing, and any other information or 7801  
material the attorney general determines is necessary or 7802  
relevant. The attorney general shall distribute copies of the 7803  
prescribed forms to the department of rehabilitation and 7804  
correction, the department shall ensure that each prison in 7805  
which offenders are housed has a supply of copies of the forms, 7806  
and the department shall ensure that copies of the forms are 7807  
provided free of charge to any offender who requests them. 7808

(C) (1) An offender is eligible to request DNA testing to 7809  
be conducted under sections 2953.71 to 2953.81 of the Revised 7810  
Code only if all of the following apply: 7811

(a) The offense for which the offender claims to be an 7812  
eligible offender is a felony, and the offender was convicted by 7813  
a judge or jury of that offense. 7814

(b) One of the following applies: 7815

(i) The offender was sentenced to a prison term ~~or~~ 7816  
~~sentence of death~~ for the felony described in division (C) (1) (a) 7817  
of this section, and the offender is in prison serving that 7818  
prison term ~~or under that sentence of death~~, has been paroled or 7819  
is on probation regarding that felony, is under post-release 7820  
control regarding that felony, or has been released from that 7821  
prison term and is under a community control sanction regarding 7822  
that felony. 7823

(ii) The offender was not sentenced to a prison term ~~or~~ 7824  
~~sentence of death~~ for the felony described in division (C) (1) (a) 7825

of this section, but was sentenced to a community control 7826  
sanction for that felony and is under that community control 7827  
sanction. 7828

(iii) The felony described in division (C) (1) (a) of this 7829  
section was a sexually oriented offense or child-victim oriented 7830  
offense, and the offender has a duty to comply with sections 7831  
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7832  
relative to that felony. 7833

(2) An offender is not an eligible offender under division 7834  
(C) (1) of this section regarding any offense to which the 7835  
offender pleaded guilty or no contest. 7836

(3) An offender is not an eligible offender under division 7837  
(C) (1) of this section regarding any offense if the offender 7838  
dies prior to submitting an application for DNA testing related 7839  
to that offense under section 2953.73 of the Revised Code. 7840

**Sec. 2953.73.** (A) An eligible offender who wishes to 7841  
request DNA testing to be conducted under sections 2953.71 to 7842  
2953.81 of the Revised Code shall submit an application for DNA 7843  
testing on a form prescribed by the attorney general for this 7844  
purpose and shall submit the form to the court of common pleas 7845  
that sentenced the offender for the offense for which the 7846  
offender is an eligible offender and is requesting DNA testing. 7847

(B) If an eligible offender submits an application for DNA 7848  
testing under division (A) of this section, upon the submission 7849  
of the application, all of the following apply: 7850

(1) The eligible offender shall serve a copy of the 7851  
application on the prosecuting attorney and the attorney 7852  
general. 7853

(2) The application shall be assigned to the judge of that 7854



court of common pleas who was the trial judge in the case in 7855  
which the eligible offender was convicted of the offense for 7856  
which the offender is requesting DNA testing, or, if that judge 7857  
no longer is a judge of that court, it shall be assigned 7858  
according to court rules. The judge to whom the application is 7859  
assigned shall decide the application. The application shall 7860  
become part of the file in the case. 7861

(C) If an eligible offender submits an application for DNA 7862  
testing under division (A) of this section, regardless of 7863  
whether the offender has commenced any federal habeas corpus 7864  
proceeding relative to the case in which the offender was 7865  
convicted of the offense for which the offender is an eligible 7866  
offender and is requesting DNA testing, any response to the 7867  
application by the prosecuting attorney or the attorney general 7868  
shall be filed not later than forty-five days after the date on 7869  
which the eligible offender submits the application. The 7870  
prosecuting attorney or the attorney general, or both, may, but 7871  
are not required to, file a response to the application. If the 7872  
prosecuting attorney or the attorney general files a response 7873  
under this division, the prosecuting attorney or attorney 7874  
general, whoever filed the response, shall serve a copy of the 7875  
response on the eligible offender. 7876

(D) If an eligible offender submits an application for DNA 7877  
testing under division (A) of this section, the court shall make 7878  
the determination as to whether the application should be 7879  
accepted or rejected. The court shall expedite its review of the 7880  
application. The court shall make the determination in 7881  
accordance with the criteria and procedures set forth in 7882  
sections 2953.74 to 2953.81 of the Revised Code and, in making 7883  
the determination, shall consider the application, the 7884  
supporting affidavits, and the documentary evidence and, in 7885

addition to those materials, shall consider all the files and 7886  
records pertaining to the proceedings against the applicant, 7887  
including, but not limited to, the indictment, the court's 7888  
journal entries, the journalized records of the clerk of the 7889  
court, and the court reporter's transcript and all responses to 7890  
the application filed under division (C) of this section by a 7891  
prosecuting attorney or the attorney general, unless the 7892  
application and the files and records show the applicant is not 7893  
entitled to DNA testing, in which case the application may be 7894  
denied. The court is not required to conduct an evidentiary 7895  
hearing in conducting its review of, and in making its 7896  
determination as to whether to accept or reject, the 7897  
application. Upon making its determination, the court shall 7898  
enter a judgment and order that either accepts or rejects the 7899  
application and that includes within the judgment and order the 7900  
reasons for the acceptance or rejection as applied to the 7901  
criteria and procedures set forth in sections 2953.71 to 2953.81 7902  
of the Revised Code. The court shall send a copy of the judgment 7903  
and order to the eligible offender who filed it, the prosecuting 7904  
attorney, and the attorney general. 7905

(E) A judgment and order of a court entered under division 7906  
(D) of this section is appealable only as provided in this 7907  
division. If an eligible offender submits an application for DNA 7908  
testing under section 2953.73 of the Revised Code and the court 7909  
of common pleas rejects the application under division (D) of 7910  
this section, ~~one of the following applies:~~ 7911

~~(1) If the offender was sentenced to death for the offense~~ 7912  
~~for which the offender claims to be an eligible offender and is~~ 7913  
~~requesting DNA testing, the offender may seek leave of the~~ 7914  
~~supreme court to appeal the rejection to the supreme court.~~ 7915  
~~Courts of appeals do not have jurisdiction to review any~~ 7916

~~rejection if the offender was sentenced to death for the offense~~ 7917  
~~for which the offender claims to be an eligible offender and is~~ 7918  
~~requesting DNA testing.~~ 7919

~~(2) If the offender was not sentenced to death for the~~ 7920  
~~offense for which the offender claims to be an eligible offender~~ 7921  
~~and is requesting DNA testing,~~ the rejection is a final 7922  
appealable order, and the offender may appeal it to the court of 7923  
appeals of the district in which is located that court of common 7924  
pleas. 7925

(F) Notwithstanding any provision of law regarding fees 7926  
and costs, no filing fee shall be required of, and no court 7927  
costs shall be assessed against, an eligible offender who is 7928  
indigent and who submits an application under this section. 7929

(G) If a court rejects an eligible offender's application 7930  
for DNA testing under division (D) of this section, unless the 7931  
rejection is overturned on appeal, no court shall require the 7932  
state to administer a DNA test under sections 2953.71 to 2953.81 7933  
of the Revised Code on the eligible offender. 7934

**Sec. 2953.81.** If an eligible offender submits an 7935  
application for DNA testing under section 2953.73 of the Revised 7936  
Code and if DNA testing is performed based on that application, 7937  
upon completion of the testing, all of the following apply: 7938

(A) The court or a designee of the court shall require the 7939  
state to maintain the results of the testing and to maintain and 7940  
preserve both the parent sample of the biological material used 7941  
and the offender sample of the biological material used. The 7942  
testing authority may be designated as the person to maintain 7943  
the results of the testing or to maintain and preserve some or 7944  
all of the samples, or both. The results of the testing remain 7945

state's evidence. The samples shall be preserved during the 7946  
entire period of time for which the offender is imprisoned or 7947  
confined relative to the sentence in question, is on parole or 7948  
probation relative to that sentence, is under post-release 7949  
control or a community control sanction relative to that 7950  
sentence, or has a duty to comply with sections 2950.04, 7951  
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 7952  
that sentence. Additionally, if the prison term or confinement 7953  
under the sentence in question expires, ~~if the sentence in~~ 7954  
~~question is a sentence of death and the offender is executed,~~ or 7955  
if the parole or probation period, the period of post-release 7956  
control, the community control sanction, or the duty to comply 7957  
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 7958  
Revised Code under the sentence in question ends, the samples 7959  
shall be preserved for a reasonable period of time of not less 7960  
than twenty-four months after the term or confinement expires, ~~the~~ 7961  
~~offender is executed,~~ or the parole or probation period, the 7962  
period of post-release control, the community control sanction, 7963  
or the duty to comply with sections 2950.04, 2950.041, 2950.05, 7964  
and 2950.06 of the Revised Code ends, whichever is applicable. 7965  
The court shall determine the period of time that is reasonable 7966  
for purposes of this division, provided that the period shall 7967  
not be less than twenty-four months after the term or 7968  
confinement expires, ~~the offender is executed,~~ or the parole or 7969  
probation period, the period of post-release control, the 7970  
community control sanction, or the duty to comply with sections 7971  
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7972  
ends, whichever is applicable. 7973

(B) The results of the testing are a public record. 7974

(C) The court or the testing authority shall provide a 7975  
copy of the results of the testing to the prosecuting attorney, 7976

the attorney general, and the subject offender. 7977

(D) If the postconviction proceeding in question is 7978  
pending at that time in a court of this state, the court of 7979  
common pleas that decided the DNA application or the testing 7980  
authority shall provide a copy of the results of the testing to 7981  
any court of this state, and, if it is pending in a federal 7982  
court, the court of common pleas that decided the DNA 7983  
application or the testing authority shall provide a copy of the 7984  
results of the testing to that federal court. 7985

(E) The testing authority shall provide a copy of the 7986  
results of the testing to the court of common pleas that decided 7987  
the DNA application. 7988

(F) The offender or the state may enter the results of the 7989  
testing into any proceeding. 7990

**Sec. 2967.03.** The adult parole authority may exercise its 7991  
functions and duties in relation to the pardon, commutation of 7992  
sentence, or reprieve of a convict upon direction of the 7993  
governor or upon its own initiative. It may exercise its 7994  
functions and duties in relation to the parole of a prisoner who 7995  
is eligible for parole upon the initiative of the head of the 7996  
institution in which the prisoner is confined or upon its own 7997  
initiative. When a prisoner becomes eligible for parole, the 7998  
head of the institution in which the prisoner is confined shall 7999  
notify the authority in the manner prescribed by the authority. 8000  
The authority may investigate and examine, or cause the 8001  
investigation and examination of, prisoners confined in state 8002  
correctional institutions concerning their conduct in the 8003  
institutions, their mental and moral qualities and 8004  
characteristics, their knowledge of a trade or profession, their 8005  
former means of livelihood, their family relationships, and any 8006

other matters affecting their fitness to be at liberty without 8007  
being a threat to society. 8008

The authority may recommend to the governor the pardon, 8009  
commutation of sentence, or reprieve of any convict or prisoner 8010  
or grant a parole to any prisoner for whom parole is authorized, 8011  
if in its judgment there is reasonable ground to believe that 8012  
granting a pardon, commutation, or reprieve to the convict or 8013  
paroling the prisoner would further the interests of justice and 8014  
be consistent with the welfare and security of society. However, 8015  
the authority shall not recommend a pardon or commutation of 8016  
sentence, or grant a parole to, any convict or prisoner until 8017  
the authority has complied with the applicable notice 8018  
requirements of sections 2930.16 and 2967.12 of the Revised Code 8019  
and until it has considered any statement made by a victim or a 8020  
victim's representative that is relevant to the convict's or 8021  
prisoner's case and that was sent to the authority pursuant to 8022  
section 2930.17 of the Revised Code, any other statement made by 8023  
a victim or a victim's representative that is relevant to the 8024  
convict's or prisoner's case and that was received by the 8025  
authority after it provided notice of the pendency of the action 8026  
under sections 2930.16 and 2967.12 of the Revised Code, and any 8027  
written statement of any person submitted to the court pursuant 8028  
to division ~~(I)~~(H) of section 2967.12 of the Revised Code. If a 8029  
victim, victim's representative, or the victim's spouse, parent, 8030  
sibling, or child appears at a full board hearing of the parole 8031  
board and gives testimony as authorized by section 5149.101 of 8032  
the Revised Code, the authority shall consider the testimony in 8033  
determining whether to grant a parole. The trial judge and 8034  
prosecuting attorney of the trial court in which a person was 8035  
convicted shall furnish to the authority, at the request of the 8036  
authority, a summarized statement of the facts proved at the 8037

trial and of all other facts having reference to the propriety 8038  
of recommending a pardon or commutation or granting a parole, 8039  
together with a recommendation for or against a pardon, 8040  
commutation, or parole, and the reasons for the recommendation. 8041  
The trial judge, the prosecuting attorney, specified law 8042  
enforcement agency members, and a representative of the prisoner 8043  
may appear at a full board hearing of the parole board and give 8044  
testimony in regard to the grant of a parole to the prisoner as 8045  
authorized by section 5149.101 of the Revised Code. All state 8046  
and local officials shall furnish information to the authority, 8047  
when so requested by it in the performance of its duties. 8048

The adult parole authority shall exercise its functions 8049  
and duties in relation to the release of prisoners who are 8050  
serving a stated prison term in accordance with section 2967.28 8051  
of the Revised Code. 8052

**Sec. 2967.05.** (A) As used in this section: 8053

(1) "Imminent danger of death" means that the inmate has a 8054  
medically diagnosable condition that will cause death to occur 8055  
within a short period of time. 8056

As used in division (A) (1) of this section, "within a 8057  
short period of time" means generally within six months. 8058

(2) (a) "Medically incapacitated" means any diagnosable 8059  
medical condition, including mental dementia and severe, 8060  
permanent medical or cognitive disability, that prevents the 8061  
inmate from completing activities of daily living without 8062  
significant assistance, that incapacitates the inmate to the 8063  
extent that institutional confinement does not offer additional 8064  
restrictions, that is likely to continue throughout the entire 8065  
period of parole, and that is unlikely to improve noticeably. 8066

(b) "Medically incapacitated" does not include conditions 8067  
related solely to mental illness unless the mental illness is 8068  
accompanied by injury, disease, or organic defect. 8069

(3) (a) "Terminal illness" means a condition that satisfies 8070  
all of the following criteria: 8071

(i) The condition is irreversible and incurable and is 8072  
caused by disease, illness, or injury from which the inmate is 8073  
unlikely to recover. 8074

(ii) In accordance with reasonable medical standards and a 8075  
reasonable degree of medical certainty, the condition is likely 8076  
to cause death to the inmate within twelve months. 8077

(iii) Institutional confinement of the inmate does not 8078  
offer additional protections for public safety or against the 8079  
inmate's risk to reoffend. 8080

(b) The department of rehabilitation and correction shall 8081  
adopt rules pursuant to Chapter 119. of the Revised Code to 8082  
implement the definition of "terminal illness" in division (A) 8083  
(3) (a) of this section. 8084

(B) Upon the recommendation of the director of 8085  
rehabilitation and correction, accompanied by a certificate of 8086  
the attending physician that an inmate is terminally ill, 8087  
medically incapacitated, or in imminent danger of death, the 8088  
governor may order the inmate's release as if on parole, 8089  
reserving the right to return the inmate to the institution 8090  
pursuant to this section. If, subsequent to the inmate's 8091  
release, the inmate's health improves so that the inmate is no 8092  
longer terminally ill, medically incapacitated, or in imminent 8093  
danger of death, the inmate shall be returned, by order of the 8094  
governor, to the institution from which the inmate was released. 8095



If the inmate violates any rules or conditions applicable to the 8096  
inmate, the inmate may be returned to an institution under the 8097  
control of the department of rehabilitation and correction. The 8098  
governor may direct the adult parole authority to investigate or 8099  
cause to be investigated the inmate and make a recommendation. 8100  
An inmate released under this section shall be subject to 8101  
supervision by the adult parole authority in accordance with any 8102  
recommendation of the adult parole authority that is approved by 8103  
the governor. The adult parole authority shall adopt rules 8104  
pursuant to section 119.03 of the Revised Code to establish the 8105  
procedure for medical release of an inmate when an inmate is 8106  
terminally ill, medically incapacitated, or in imminent danger 8107  
of death. 8108

(C) No inmate is eligible for release under this section 8109  
if the inmate is serving ~~a death sentence,~~ a sentence of life 8110  
without parole, a sentence under Chapter 2971. of the Revised 8111  
Code for a felony of the first or second degree, a sentence for 8112  
aggravated murder or murder, or a mandatory prison term for an 8113  
offense of violence or any specification described in Chapter 8114  
2941. of the Revised Code. 8115

**Sec. 2967.12.** (A) Except as provided in division (G) of 8116  
this section, at least sixty days before the adult parole 8117  
authority recommends any pardon or commutation of sentence, or 8118  
grants any parole, the authority shall provide a notice of the 8119  
pendency of the pardon, commutation, or parole, setting forth 8120  
the name of the person on whose behalf it is made, the offense 8121  
of which the person was convicted or to which the person pleaded 8122  
guilty, the time of conviction or the guilty plea, and the term 8123  
of the person's sentence, to the prosecuting attorney and the 8124  
judge of the court of common pleas of the county in which the 8125  
indictment against the person was found. If there is more than 8126

one judge of that court of common pleas, the authority shall 8127  
provide the notice to the presiding judge. Upon the request of 8128  
the prosecuting attorney or of any law enforcement agency, the 8129  
authority shall provide to the requesting prosecuting attorney 8130  
and law enforcement agencies an institutional summary report 8131  
that covers the subject person's participation while confined in 8132  
a state correctional institution in training, work, and other 8133  
rehabilitative activities and any disciplinary action taken 8134  
against the person while so confined. The department of 8135  
rehabilitation and correction may utilize electronic means to 8136  
provide this notice. The department of rehabilitation and 8137  
correction, at the same time that it provides the notice to the 8138  
prosecuting attorney and judge under this division, also shall 8139  
post on the database it maintains pursuant to section 5120.66 of 8140  
the Revised Code the offender's name and all of the information 8141  
specified in division (A) (1) (c) (iii) of that section. 8142

(B) If a request for notification has been made pursuant 8143  
to section 2930.16 of the Revised Code or if division (H) of 8144  
this section applies, the office of victim services or the adult 8145  
parole authority also shall provide notice to the victim or the 8146  
victim's representative at least sixty days prior to 8147  
recommending any pardon or commutation of sentence for, or 8148  
granting any parole to, the person. The notice shall include the 8149  
information required by division (A) of this section and may be 8150  
provided by telephone or through electronic means. The notice 8151  
also shall inform the victim or the victim's representative that 8152  
the victim or representative may send a written statement 8153  
relative to the victimization and the pending action to the 8154  
adult parole authority and that, if the authority receives any 8155  
written statement prior to recommending a pardon or commutation 8156  
or granting a parole for a person, the authority will consider 8157

the statement before it recommends a pardon or commutation or 8158  
grants a parole. If the person is being considered for parole, 8159  
the notice shall inform the victim or the victim's 8160  
representative that a full board hearing of the parole board may 8161  
be held and that the victim or victim's representative may 8162  
contact the office of victims' services for further information. 8163  
If the person being considered for parole was convicted of or 8164  
pleaded guilty to a violation of section 2903.01 or 2903.02 of 8165  
the Revised Code, an offense of violence that is a felony of the 8166  
first, second, or third degree, or an offense punished by a 8167  
sentence of life imprisonment, the notice shall inform the 8168  
victim of that offense, the victim's representative, or a member 8169  
of the victim's immediate family that the victim, the victim's 8170  
representative, and the victim's immediate family have the right 8171  
to give testimony at a full board hearing of the parole board 8172  
and that the victim or victim's representative may contact the 8173  
office of victims' services for further information. 8174

(C) When notice of the pendency of any pardon, commutation 8175  
of sentence, or parole has been provided to a judge or 8176  
prosecutor or posted on the database as required in division (A) 8177  
of this section and a hearing on the pardon, commutation, or 8178  
parole is continued to a date certain, the authority shall 8179  
provide notice of the further consideration of the pardon, 8180  
commutation, or parole at least sixty days before the further 8181  
consideration. The notice of the further consideration shall be 8182  
provided to the proper judge and prosecuting attorney at least 8183  
sixty days before the further consideration, and may be provided 8184  
using electronic means, and, if the initial notice was posted on 8185  
the database as provided in division (A) of this section, the 8186  
notice of the further consideration shall be posted on the 8187  
database at least sixty days before the further consideration. 8188

If the prosecuting attorney or a law enforcement agency was 8189  
provided a copy of the institutional summary report relative to 8190  
the subject person under division (A) of this section, the 8191  
authority shall include with the notice of the further 8192  
consideration sent to the prosecuting attorney any new 8193  
information with respect to the person that relates to 8194  
activities and actions of the person that are of a type covered 8195  
by the report and shall send to the law enforcement agency a 8196  
report that provides notice of the further consideration and 8197  
includes any such new information with respect to the person. 8198  
When notice of the pendency of any pardon, commutation, or 8199  
parole has been given as provided in division (B) of this 8200  
section and the hearing on it is continued to a date certain, 8201  
the authority shall give notice of the further consideration to 8202  
the victim or the victim's representative in accordance with 8203  
section 2930.03 of the Revised Code. 8204

~~(D) In case of an application for the pardon or 8205  
commutation of sentence of a person sentenced to capital- 8206  
punishment, the governor may modify the requirements of 8207  
notification and publication if there is not sufficient time for 8208  
compliance with the requirements before the date fixed for the 8209  
execution of sentence. 8210~~

~~(E)~~ If an offender is serving a prison term imposed under 8211  
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8212  
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8213  
Code and if the parole board terminates its control over the 8214  
offender's service of that term pursuant to section 2971.04 of 8215  
the Revised Code, the parole board immediately shall provide 8216  
written notice of its termination of control or the transfer of 8217  
control to the entities and persons specified in section 2971.04 8218  
of the Revised Code. 8219

~~(F)~~(E) The failure of the adult parole authority to 8220  
comply with the notice or posting provisions of division (A), 8221  
(B), or (C) of this section or the failure of the parole board 8222  
to comply with the notice provisions of division ~~(E)~~(D) of this 8223  
section do not give any rights or any grounds for appeal or 8224  
post-conviction relief to the person serving the sentence. 8225

~~(G)~~(F) Divisions (A), (B), and (C) of this section do not 8226  
apply to any release of a person that is of the type described 8227  
in division (B) (2) (b) of section 5120.031 of the Revised Code. 8228

~~(H)~~(G) If a defendant is incarcerated for the commission 8229  
of aggravated murder, murder, or an offense of violence that is 8230  
a felony of the first, second, or third degree or is under a 8231  
sentence of life imprisonment, except as otherwise provided in 8232  
this division, the notice described in division (B) of this 8233  
section shall be given to the victim or victim's representative 8234  
regardless of whether the victim or victim's representative has 8235  
made a request for notification. The notice described in 8236  
division (B) of this section shall not be given under this 8237  
division to a victim or victim's representative if the victim or 8238  
victim's representative has requested pursuant to division (B) 8239  
(2) of section 2930.03 of the Revised Code that the victim or 8240  
the victim's representative not be provided the notice. The 8241  
notice described in division (B) of this section does not have 8242  
to be given under this division to a victim or victim's 8243  
representative if notice was given to the victim or victim's 8244  
representative with respect to at least two prior considerations 8245  
of pardon, commutation, or parole of a person and the victim or 8246  
victim's representative did not provide any written statement 8247  
relative to the victimization and the pending action, did not 8248  
attend any hearing conducted relative to the pending action, and 8249  
did not otherwise respond to the office with respect to the 8250

pending action. Regardless of whether the victim or victim's 8251  
representative has requested that the notice described in 8252  
division (B) of this section be provided or not be provided, the 8253  
office of victim services or adult parole authority shall give 8254  
similar notice to the law enforcement agency that arrested the 8255  
defendant if any officer of that agency was a victim of the 8256  
offense and to any member of the victim's immediate family who 8257  
requests notification. If notice is to be given under this 8258  
division, the office or authority may give the notice by any 8259  
reasonable means, including regular mail, telephone, and 8260  
electronic mail, in accordance with division (D) (1) of section 8261  
2930.16 of the Revised Code. If the notice is based on an 8262  
offense committed prior to ~~the effective date of this amendment~~ 8263  
March 22, 2013, the notice to the victim or victim's 8264  
representative also shall include the opt-out information 8265  
described in division (D) (1) of section 2930.16 of the Revised 8266  
Code. The office or authority, in accordance with division (D) 8267  
(2) of section 2930.16 of the Revised Code, shall keep a record 8268  
of all attempts to provide the notice, and of all notices 8269  
provided, under this division. 8270

Division ~~(H)~~ (G) of this section, and the notice-related 8271  
provisions of divisions (E) (2) and (K) of section 2929.20, 8272  
division (D) (1) of section 2930.16, division (E) (1) (b) of 8273  
section 2967.19, division (A) (3) (b) of section 2967.26, division 8274  
(D) (1) of section 2967.28, and division (A) (2) of section 8275  
5149.101 of the Revised Code enacted in the act in which 8276  
division ~~(H)~~ (G) of this section was enacted, shall be known as 8277  
"Roberta's Law." 8278

~~(I)~~ (H) In addition to and independent of the right of a 8279  
victim to make a statement as described in division (A) of this 8280  
section or pursuant to section 2930.17 of the Revised Code or to 8281

otherwise make a statement, the authority for a judge or 8282  
prosecuting attorney to furnish statements and information, make 8283  
recommendations, and give testimony as described in division (A) 8284  
of this section, the right of a prosecuting attorney, judge, or 8285  
victim to give testimony or submit a statement at a full parole 8286  
board hearing pursuant to section 5149.101 of the Revised Code, 8287  
and any other right or duty of a person to present information 8288  
or make a statement, any person may send to the adult parole 8289  
authority at any time prior to the authority's recommending a 8290  
pardon or commutation or granting a parole for the offender a 8291  
written statement relative to the offense and the pending 8292  
action. 8293

~~(J)~~(I) As used in this section, "victim's immediate 8294  
family" means the mother, father, spouse, sibling, or child of 8295  
the victim, provided that in no case does "victim's immediate 8296  
family" include the offender with respect to whom the notice in 8297  
question applies. 8298

**Sec. 2967.13.** (A) Except as provided in division (G) of 8299  
this section, a prisoner serving a sentence of imprisonment for 8300  
life for an offense committed on or after July 1, 1996, is not 8301  
entitled to any earned credit under section 2967.193 of the 8302  
Revised Code and becomes eligible for parole as follows: 8303

(1) If a sentence of imprisonment for life was imposed for 8304  
the offense of murder, at the expiration of the prisoner's 8305  
minimum term; 8306

(2) If a sentence of imprisonment for life with parole 8307  
eligibility after serving twenty years of imprisonment was 8308  
imposed pursuant to section 2929.02 or former section 2929.022 8309  
or 2929.03 of the Revised Code, after serving a term of twenty 8310  
years; 8311

(3) If a sentence of imprisonment for life with parole 8312  
eligibility after serving twenty-five full years of imprisonment 8313  
was imposed pursuant to section 2929.02 or former section 8314  
2929.022 or 2929.03 of the Revised Code, after serving a term of 8315  
twenty-five full years; 8316

(4) If a sentence of imprisonment for life with parole 8317  
eligibility after serving thirty full years of imprisonment was 8318  
imposed pursuant to section 2929.02 or former section 2929.022 8319  
or 2929.03 of the Revised Code, after serving a term of thirty 8320  
full years; 8321

(5) If a sentence of imprisonment for life was imposed for 8322  
rape, after serving a term of ten full years' imprisonment; 8323

(6) If a sentence of imprisonment for life with parole 8324  
eligibility after serving fifteen years of imprisonment was 8325  
imposed for a violation of section 2927.24 of the Revised Code, 8326  
after serving a term of fifteen years. 8327

(B) Except as provided in division (G) of this section, a 8328  
prisoner serving a sentence of imprisonment for life with parole 8329  
eligibility after serving twenty years of imprisonment or a 8330  
sentence of imprisonment for life with parole eligibility after 8331  
serving twenty-five full years or thirty full years of 8332  
imprisonment imposed pursuant to section 2929.02 or former 8333  
section 2929.022 or 2929.03 of the Revised Code for an offense 8334  
committed on or after July 1, 1996, consecutively to any other 8335  
term of imprisonment, becomes eligible for parole after serving 8336  
twenty years, twenty full years, or thirty full years, as 8337  
applicable, as to each such sentence of life imprisonment, which 8338  
shall not be reduced for earned credits under section 2967.193 8339  
of the Revised Code, plus the term or terms of the other 8340  
sentences consecutively imposed or, if one of the other 8341



sentences is another type of life sentence with parole 8342  
eligibility, the number of years before parole eligibility for 8343  
that sentence. 8344

(C) Except as provided in division (G) of this section, a 8345  
prisoner serving consecutively two or more sentences in which an 8346  
indefinite term of imprisonment is imposed becomes eligible for 8347  
parole upon the expiration of the aggregate of the minimum terms 8348  
of the sentences. 8349

(D) Except as provided in division (G) of this section, a 8350  
prisoner serving a term of imprisonment who is described in 8351  
division (A) of section 2967.021 of the Revised Code becomes 8352  
eligible for parole as described in that division or, if the 8353  
prisoner is serving a definite term of imprisonment, shall be 8354  
released as described in that division. 8355

(E) A prisoner serving a sentence of life imprisonment 8356  
without parole imposed pursuant to section 2907.02 or 2929.02 or 8357  
former section 2929.03 or 2929.06 of the Revised Code is not 8358  
eligible for parole and shall be imprisoned until death. 8359

(F) A prisoner serving a stated prison term shall be 8360  
released in accordance with section 2967.28 of the Revised Code. 8361

(G) A prisoner serving a prison term or term of life 8362  
imprisonment without parole imposed pursuant to section 2971.03 8363  
of the Revised Code never becomes eligible for parole during 8364  
that term of imprisonment. 8365

**Sec. 2967.19.** (A) As used in this section: 8366

(1) "Deadly weapon" and "dangerous ordnance" have the same 8367  
meanings as in section 2923.11 of the Revised Code. 8368

(2) "Disqualifying prison term" means any of the 8369

following:	8370
(a) A prison term imposed for aggravated murder, murder,	8371
voluntary manslaughter, involuntary manslaughter, felonious	8372
assault, kidnapping, rape, aggravated arson, aggravated	8373
burglary, or aggravated robbery;	8374
(b) A prison term imposed for complicity in, an attempt to	8375
commit, or conspiracy to commit any offense listed in division	8376
(A) (2) (a) of this section;	8377
(c) A prison term of life imprisonment, including any term	8378
of life imprisonment that has parole eligibility;	8379
(d) A prison term imposed for any felony other than	8380
carrying a concealed weapon an essential element of which is any	8381
conduct or failure to act expressly involving any deadly weapon	8382
or dangerous ordnance;	8383
(e) A prison term imposed for any violation of section	8384
2925.03 of the Revised Code that is a felony of the first or	8385
second degree;	8386
(f) A prison term imposed for engaging in a pattern of	8387
corrupt activity in violation of section 2923.32 of the Revised	8388
Code;	8389
(g) A prison term imposed pursuant to section 2971.03 of	8390
the Revised Code;	8391
(h) A prison term imposed for any sexually oriented	8392
offense.	8393
(3) "Eligible prison term" means any prison term that is	8394
not a disqualifying prison term and is not a restricting prison	8395
term.	8396

(4) "Restricting prison term" means any of the following:	8397
(a) A mandatory prison term imposed under division (B) (1)	8398
(a), (B) (1) (c), (B) (1) (f), (B) (1) (g), (B) (2), or (B) (7) of	8399
section 2929.14 of the Revised Code for a specification of the	8400
type described in that division;	8401
(b) In the case of an offender who has been sentenced to a	8402
mandatory prison term for a specification of the type described	8403
in division (A) (4) (a) of this section, the prison term imposed	8404
for the felony offense for which the specification was stated at	8405
the end of the body of the indictment, count in the indictment,	8406
or information charging the offense;	8407
(c) A prison term imposed for trafficking in persons;	8408
(d) A prison term imposed for any offense that is	8409
described in division (A) (4) (d) (i) of this section if division	8410
(A) (4) (d) (ii) of this section applies to the offender:	8411
(i) The offense is a felony of the first or second degree	8412
that is an offense of violence and that is not described in	8413
division (A) (2) (a) or (b) of this section, an attempt to commit	8414
a felony of the first or second degree that is an offense of	8415
violence and that is not described in division (A) (2) (a) or (b)	8416
of this section if the attempt is a felony of the first or	8417
second degree, or an offense under an existing or former law of	8418
this state, another state, or the United States that is or was	8419
substantially equivalent to any other offense described in this	8420
division.	8421
(ii) The offender previously was convicted of or pleaded	8422
guilty to any offense listed in division (A) (2) or (A) (4) (d) (i)	8423
of this section.	8424
(5) "Sexually oriented offense" has the same meaning as in	8425

section 2950.01 of the Revised Code. 8426

(B) The director of the department of rehabilitation and 8427  
correction may recommend in writing to the sentencing court that 8428  
the court consider releasing from prison any offender who, on or 8429  
after September 30, 2011, is confined in a state correctional 8430  
institution, who is serving a stated prison term of one year or 8431  
more, and who is eligible under division (C) of this section for 8432  
a release under this section. If the director wishes to 8433  
recommend that the sentencing court consider releasing an 8434  
offender under this section, the director shall notify the 8435  
sentencing court in writing of the offender's eligibility not 8436  
earlier than ninety days prior to the date on which the offender 8437  
becomes eligible as described in division (C) of this section. 8438  
The director's submission of the written notice constitutes a 8439  
recommendation by the director that the court strongly consider 8440  
release of the offender consistent with the purposes and 8441  
principles of sentencing set forth in sections 2929.11 and 8442  
2929.13 of the Revised Code. Only an offender recommended by the 8443  
director under division (B) of this section may be considered 8444  
for early release under this section. 8445

(C) (1) An offender serving a stated prison term of one 8446  
year or more and who has commenced service of that stated prison 8447  
term becomes eligible for release from prison under this section 8448  
only as described in this division. An offender serving a stated 8449  
prison term that includes a disqualifying prison term is not 8450  
eligible for release from prison under this section. An offender 8451  
serving a stated prison term that consists solely of one or more 8452  
restricting prison terms is not eligible for release under this 8453  
section. An offender serving a stated prison term of one year or 8454  
more that includes one or more restricting prison terms and one 8455  
or more eligible prison terms becomes eligible for release under 8456

this section after having fully served all restricting prison 8457  
terms and having served eighty per cent of the stated prison 8458  
term that remains to be served after all restricting prison 8459  
terms have been fully served. An offender serving a stated 8460  
prison term that consists solely of one or more eligible prison 8461  
terms becomes eligible for release under this section after 8462  
having served eighty per cent of that stated prison term. For 8463  
purposes of determining an offender's eligibility for release 8464  
under this section, if the offender's stated prison term 8465  
includes consecutive prison terms, any restricting prison terms 8466  
shall be deemed served prior to any eligible prison terms that 8467  
run consecutively to the restricting prison terms, and the 8468  
eligible prison terms are deemed to commence after all of the 8469  
restricting prison terms have been fully served. 8470

An offender serving a stated prison term of one year or 8471  
more that includes a mandatory prison term that is not a 8472  
disqualifying prison term and is not a restricting prison term 8473  
is not automatically ineligible as a result of the offender's 8474  
service of that mandatory term for release from prison under 8475  
this section, and the offender's eligibility for release from 8476  
prison under this section is determined in accordance with this 8477  
division. 8478

(2) If an offender confined in a state correctional 8479  
institution under a stated prison term is eligible for release 8480  
under this section as described in division (C)(1) of this 8481  
section, the director of the department of rehabilitation and 8482  
correction may recommend in writing that the sentencing court 8483  
consider releasing the offender from prison under this section 8484  
by submitting to the sentencing court the written notice 8485  
described in division (B) of this section. 8486

(D) The director shall include with any notice submitted 8487  
to the sentencing court under division (B) of this section an 8488  
institutional summary report that covers the offender's 8489  
participation while confined in a state correctional institution 8490  
in school, training, work, treatment, and other rehabilitative 8491  
activities and any disciplinary action taken against the 8492  
offender while so confined. The director shall include with the 8493  
notice any other documentation requested by the court, if 8494  
available. 8495

(E) (1) When the director submits a written notice to a 8496  
sentencing court that an offender is eligible to be considered 8497  
for early release under this section, the department promptly 8498  
shall provide to the prosecuting attorney of the county in which 8499  
the offender was indicted a copy of the written notice, a copy 8500  
of the institutional summary report, and any other information 8501  
provided to the court and shall provide a copy of the 8502  
institutional summary report to any law enforcement agency that 8503  
requests the report. The department also promptly shall do 8504  
whichever of the following is applicable: 8505

(a) Subject to division (E) (1) (b) of this section, give 8506  
written notice of the submission to any victim of the offender 8507  
or victim's representative of any victim of the offender who is 8508  
registered with the office of victim's services. 8509

(b) If the offense was aggravated murder, murder, an 8510  
offense of violence that is a felony of the first, second, or 8511  
third degree, or an offense punished by a sentence of life 8512  
imprisonment, except as otherwise provided in this division, 8513  
notify the victim or the victim's representative of the filing 8514  
of the petition regardless of whether the victim or victim's 8515  
representative has registered with the office of victim's 8516

services. The notice of the filing of the petition shall not be 8517  
given under this division to a victim or victim's representative 8518  
if the victim or victim's representative has requested pursuant 8519  
to division (B) (2) of section 2930.03 of the Revised Code that 8520  
the victim or the victim's representative not be provided the 8521  
notice. If notice is to be provided to a victim or victim's 8522  
representative under this division, the department may give the 8523  
notice by any reasonable means, including regular mail, 8524  
telephone, and electronic mail, in accordance with division (D) 8525  
(1) of section 2930.16 of the Revised Code. If the notice is 8526  
based on an offense committed prior to ~~the effective date of~~ 8527  
~~this amendment~~ March 22, 2013, the notice also shall include the 8528  
opt-out information described in division (D) (1) of section 8529  
2930.16 of the Revised Code. The department, in accordance with 8530  
division (D) (2) of section 2930.16 of the Revised Code, shall 8531  
keep a record of all attempts to provide the notice, and of all 8532  
notices provided, under this division. 8533

Division (E) (1) (b) of this section, and the notice-related 8534  
provisions of divisions (E) (2) and (K) of section 2929.20, 8535  
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 8536  
2967.12, division (A) (3) (b) of section 2967.26, division (D) (1) 8537  
of section 2967.28, and division (A) (2) of section 5149.101 of 8538  
the Revised Code enacted in the act in which division (E) (2) of 8539  
this section was enacted, shall be known as "Roberta's Law." 8540

(2) When the director submits a petition under this 8541  
section, the department also promptly shall post a copy of the 8542  
written notice on the database it maintains under section 8543  
5120.66 of the Revised Code and include information on where a 8544  
person may send comments regarding the recommendation of early 8545  
release. 8546

The information provided to the court, the prosecutor, and the victim or victim's representative under divisions (D) and (E) of this section shall include the name and contact information of a specific department of rehabilitation and correction employee who is available to answer questions about the offender who is the subject of the written notice submitted by the director, including, but not limited to, the offender's institutional conduct and rehabilitative activities while incarcerated.

(F) Upon receipt of a written notice submitted by the director under division (B) of this section, the court either shall, on its own motion, schedule a hearing to consider releasing the offender who is the subject of the notice or shall inform the department that it will not be conducting a hearing relative to the offender. The court shall not grant an early release to an offender without holding a hearing. If a court declines to hold a hearing relative to an offender with respect to a written notice submitted by the director, the court may later consider release of that offender under this section on its own motion by scheduling a hearing for that purpose. Within thirty days after the written notice is submitted, the court shall inform the department whether or not the court is scheduling a hearing on the offender who is the subject of the notice.

(G) If the court schedules a hearing upon receiving a written notice submitted under division (B) of this section or upon its own motion under division (F) of this section, the court shall notify the head of the state correctional institution in which the offender is confined of the hearing prior to the hearing. If the court makes a journal entry ordering the offender to be conveyed to the hearing, except as



otherwise provided in this division, the head of the 8578  
correctional institution shall deliver the offender to the 8579  
sheriff of the county in which the hearing is to be held, and 8580  
the sheriff shall convey the offender to and from the hearing. 8581  
Upon the court's own motion or the motion of the offender or the 8582  
prosecuting attorney of the county in which the offender was 8583  
indicted, the court may permit the offender to appear at the 8584  
hearing by video conferencing equipment if equipment of that 8585  
nature is available and compatible. 8586

Upon receipt of notice from a court of a hearing on the 8587  
release of an offender under this division, the head of the 8588  
state correctional institution in which the offender is confined 8589  
immediately shall notify the appropriate person at the 8590  
department of rehabilitation and correction of the hearing, and 8591  
the department within twenty-four hours after receipt of the 8592  
notice shall post on the database it maintains pursuant to 8593  
section 5120.66 of the Revised Code the offender's name and all 8594  
of the information specified in division (A)(1)(c)(i) of that 8595  
section. If the court schedules a hearing under this section, 8596  
the court promptly shall give notice of the hearing to the 8597  
prosecuting attorney of the county in which the offender was 8598  
indicted. Upon receipt of the notice from the court, the 8599  
prosecuting attorney shall notify pursuant to section 2930.16 of 8600  
the Revised Code any victim of the offender or the victim's 8601  
representative of the hearing. 8602

(H) If the court schedules a hearing under this section, 8603  
at the hearing, the court shall afford the offender and the 8604  
offender's attorney an opportunity to present written 8605  
information and, if present, oral information relevant to the 8606  
offender's early release. The court shall afford a similar 8607  
opportunity to the prosecuting attorney, victim or victim's 8608

representative, as defined in section 2930.01 of the Revised Code, and any other person the court determines is likely to present additional relevant information. If the court pursuant to division (G) of this section permits the offender to appear at the hearing by video conferencing equipment, the offender's opportunity to present oral information shall be as a part of the video conferencing. The court shall consider any statement of a victim made under section 2930.14 or 2930.17 of the Revised Code, any victim impact statement prepared under section 2947.051 of the Revised Code, and any report and other documentation submitted by the director under division (D) of this section. After ruling on whether to grant the offender early release, the court shall notify the victim in accordance with sections 2930.03 and 2930.16 of the Revised Code.

(I) If the court grants an offender early release under this section, it shall order the release of the offender, shall place the offender under one or more appropriate community control sanctions, under appropriate conditions, and under the supervision of the department of probation that serves the court, and shall reserve the right to reimpose the sentence that it reduced and from which the offender was released if the offender violates the sanction. The court shall not make a release under this section effective prior to the date on which the offender becomes eligible as described in division (C) of this section. If the sentence under which the offender is confined in a state correctional institution and from which the offender is being released was imposed for a felony of the first or second degree, the court shall consider ordering that the offender be monitored by means of a global positioning device. If the court reimposes the sentence that it reduced and from which the offender was released and if the violation of the

sanction is a new offense, the court may order that the 8640  
reimposed sentence be served either concurrently with, or 8641  
consecutive to, any new sentence imposed upon the offender as a 8642  
result of the violation that is a new offense. The period of all 8643  
community control sanctions imposed under this division shall 8644  
not exceed five years. The court, in its discretion, may reduce 8645  
the period of community control sanctions by the amount of time 8646  
the offender spent in jail or prison for the offense. 8647

If the court grants an offender early release under this 8648  
section, it shall notify the appropriate person at the 8649  
department of rehabilitation and correction of the release, and 8650  
the department shall post notice of the release on the database 8651  
it maintains pursuant to section 5120.66 of the Revised Code. 8652

(J) The department shall adopt under Chapter 119. of the 8653  
Revised Code any rules necessary to implement this section. 8654

**Sec. 2967.193.** (A) (1) Except as provided in division (C) 8655  
of this section and subject to the maximum aggregate total 8656  
specified in division (A) (2) of this section, a person confined 8657  
in a state correctional institution or placed in the substance 8658  
use disorder treatment program may provisionally earn one day or 8659  
five days of credit, based on the category set forth in division 8660  
(D) (1), (2), (3), (4), or (5) of this section in which the 8661  
person is included, toward satisfaction of the person's stated 8662  
prison term for each completed month during which the person, if 8663  
confined in a state correctional institution, productively 8664  
participates in an education program, vocational training, 8665  
employment in prison industries, treatment for substance abuse, 8666  
or any other constructive program developed by the department 8667  
with specific standards for performance by prisoners or during 8668  
which the person, if placed in the substance use disorder 8669

treatment program, productively participates in the program. 8670  
Except as provided in division (C) of this section and subject 8671  
to the maximum aggregate total specified in division (A) (2) of 8672  
this section, a person so confined in a state correctional 8673  
institution who successfully completes two programs or 8674  
activities of that type may, in addition, provisionally earn up 8675  
to five days of credit toward satisfaction of the person's 8676  
stated prison term for the successful completion of the second 8677  
program or activity. The person shall not be awarded any 8678  
provisional days of credit for the successful completion of the 8679  
first program or activity or for the successful completion of 8680  
any program or activity that is completed after the second 8681  
program or activity. At the end of each calendar month in which 8682  
a person productively participates in a program or activity 8683  
listed in this division or successfully completes a program or 8684  
activity listed in this division, the department of 8685  
rehabilitation and correction shall determine and record the 8686  
total number of days credit that the person provisionally earned 8687  
in that calendar month. If the person in a state correctional 8688  
institution violates prison rules or the person in the substance 8689  
use disorder treatment program violates program or department 8690  
rules, the department may deny the person a credit that 8691  
otherwise could have been provisionally awarded to the person or 8692  
may withdraw one or more credits previously provisionally earned 8693  
by the person. Days of credit provisionally earned by a person 8694  
shall be finalized and awarded by the department subject to 8695  
administrative review by the department of the person's conduct. 8696

(2) The aggregate days of credit provisionally earned by a 8697  
person for program or activity participation and program and 8698  
activity completion under this section and the aggregate days of 8699  
credit finally credited to a person under this section shall not 8700

exceed eight per cent of the total number of days in the 8701  
person's stated prison term. 8702

(B) The department of rehabilitation and correction shall 8703  
adopt rules that specify the programs or activities for which 8704  
credit may be earned under this section, the criteria for 8705  
determining productive participation in, or completion of, the 8706  
programs or activities and the criteria for awarding credit, 8707  
including criteria for awarding additional credit for successful 8708  
program or activity completion, and the criteria for denying or 8709  
withdrawing previously provisionally earned credit as a result 8710  
of a violation of prison rules, or program or department rules, 8711  
whichever is applicable. 8712

(C) No person confined in a state correctional institution 8713  
or placed in a substance use disorder treatment program to whom 8714  
any of the following applies shall be awarded any days of credit 8715  
under division (A) of this section: 8716

(1) The person is serving a prison term that section 8717  
2929.13 or section 2929.14 of the Revised Code specifies cannot 8718  
be reduced pursuant to this section or this chapter or is 8719  
serving a sentence for which section 2967.13 or division (B) of 8720  
section 2929.143 of the Revised Code specifies that the person 8721  
is not entitled to any earned credit under this section. 8722

(2) The person is ~~sentenced to death or is~~ serving a 8723  
prison term or a term of life imprisonment for aggravated 8724  
murder, murder, or a conspiracy or attempt to commit, or 8725  
complicity in committing, aggravated murder or murder. 8726

(3) The person is serving a sentence of life imprisonment 8727  
without parole imposed pursuant to section 2929.02 or former 8728  
section 2929.03 or 2929.06 of the Revised Code, a prison term or 8729

a term of life imprisonment without parole imposed pursuant to 8730  
section 2971.03 of the Revised Code, or a sentence for a 8731  
sexually oriented offense that was committed on or after 8732  
September 30, 2011. 8733

(D) This division does not apply to a determination of 8734  
whether a person confined in a state correctional institution or 8735  
placed in a substance use disorder treatment program may earn 8736  
any days of credit under division (A) of this section for 8737  
successful completion of a second program or activity. The 8738  
determination of whether a person confined in a state 8739  
correctional institution may earn one day of credit or five days 8740  
of credit under division (A) of this section for each completed 8741  
month during which the person productively participates in a 8742  
program or activity specified under that division shall be made 8743  
in accordance with the following: 8744

(1) The offender may earn one day of credit under division 8745  
(A) of this section, except as provided in division (C) of this 8746  
section, if the most serious offense for which the offender is 8747  
confined is any of the following that is a felony of the first 8748  
or second degree: 8749

(a) A violation of division (A) of section 2903.04 or of 8750  
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 8751  
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 8752  
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.151, 2919.22, 8753  
2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 8754  
2927.24 of the Revised Code; 8755

(b) A conspiracy or attempt to commit, or complicity in 8756  
committing, any other offense for which the maximum penalty is 8757  
imprisonment for life or any offense listed in division (D) (1) 8758  
(a) of this section. 8759

(2) The offender may earn one day of credit under division 8760  
(A) of this section, except as provided in division (C) of this 8761  
section, if the offender is serving a stated prison term that 8762  
includes a prison term imposed for a sexually oriented offense 8763  
that the offender committed prior to September 30, 2011. 8764

(3) The offender may earn one day of credit under division 8765  
(A) of this section, except as provided in division (C) of this 8766  
section, if the offender is serving a stated prison term that 8767  
includes a prison term imposed for a felony other than carrying 8768  
a concealed weapon an essential element of which is any conduct 8769  
or failure to act expressly involving any deadly weapon or 8770  
dangerous ordnance. 8771

(4) Except as provided in division (C) of this section, if 8772  
the most serious offense for which the offender is confined is a 8773  
felony of the first or second degree and divisions (D) (1), (2), 8774  
and (3) of this section do not apply to the offender, the 8775  
offender may earn one day of credit under division (A) of this 8776  
section if the offender committed that offense prior to 8777  
September 30, 2011, and the offender may earn five days of 8778  
credit under division (A) of this section if the offender 8779  
committed that offense on or after September 30, 2011. 8780

(5) Except as provided in division (C) of this section, if 8781  
the most serious offense for which the offender is confined is a 8782  
felony of the third, fourth, or fifth degree or an unclassified 8783  
felony and neither division (D) (2) nor (3) of this section 8784  
applies to the offender, the offender may earn one day of credit 8785  
under division (A) of this section if the offender committed 8786  
that offense prior to September 30, 2011, and the offender may 8787  
earn five days of credit under division (A) of this section if 8788  
the offender committed that offense on or after September 30, 8789

2011. 8790

(E) The department annually shall seek and consider the 8791  
written feedback of the Ohio prosecuting attorneys association, 8792  
the Ohio judicial conference, the Ohio public defender, the Ohio 8793  
association of criminal defense lawyers, and other organizations 8794  
and associations that have an interest in the operation of the 8795  
corrections system and the earned credits program under this 8796  
section as part of its evaluation of the program and in 8797  
determining whether to modify the program. 8798

(F) As used in this section: 8799

(1) "Sexually oriented offense" has the same meaning as in 8800  
section 2950.01 of the Revised Code. 8801

(2) "Substance use disorder treatment program" means the 8802  
substance use disorder treatment program established by the 8803  
department of rehabilitation and correction under section 8804  
5120.035 of the Revised Code. 8805

**Sec. 2967.26.** (A) (1) The department of rehabilitation and 8806  
correction, by rule, may establish a transitional control 8807  
program for the purpose of closely monitoring a prisoner's 8808  
adjustment to community supervision during the final one hundred 8809  
eighty days of the prisoner's confinement. If the department 8810  
establishes a transitional control program under this division, 8811  
the division of parole and community services of the department 8812  
of rehabilitation and correction may transfer eligible prisoners 8813  
to transitional control status under the program during the 8814  
final one hundred eighty days of their confinement and under the 8815  
terms and conditions established by the department, shall 8816  
provide for the confinement as provided in this division of each 8817  
eligible prisoner so transferred, and shall supervise each 8818



eligible prisoner so transferred in one or more community 8819  
control sanctions. Each eligible prisoner who is transferred to 8820  
transitional control status under the program shall be confined 8821  
in a suitable facility that is licensed pursuant to division (C) 8822  
of section 2967.14 of the Revised Code, or shall be confined in 8823  
a residence the department has approved for this purpose and be 8824  
monitored pursuant to an electronic monitoring device, as 8825  
defined in section 2929.01 of the Revised Code. If the 8826  
department establishes a transitional control program under this 8827  
division, the rules establishing the program shall include 8828  
criteria that define which prisoners are eligible for the 8829  
program, criteria that must be satisfied to be approved as a 8830  
residence that may be used for confinement under the program of 8831  
a prisoner that is transferred to it and procedures for the 8832  
department to approve residences that satisfy those criteria, 8833  
and provisions of the type described in division (C) of this 8834  
section. At a minimum, the criteria that define which prisoners 8835  
are eligible for the program shall provide all of the following: 8836

(a) That a prisoner is eligible for the program if the 8837  
prisoner is serving a prison term or term of imprisonment for an 8838  
offense committed prior to March 17, 1998, and if, at the time 8839  
at which eligibility is being determined, the prisoner would 8840  
have been eligible for a furlough under this section as it 8841  
existed immediately prior to March 17, 1998, or would have been 8842  
eligible for conditional release under former section 2967.23 of 8843  
the Revised Code as that section existed immediately prior to 8844  
March 17, 1998; 8845

(b) That no prisoner who is serving a mandatory prison 8846  
term is eligible for the program until after expiration of the 8847  
mandatory term; 8848

(c) That no prisoner who is serving a prison term or term 8849  
of life imprisonment without parole imposed pursuant to section 8850  
2971.03 of the Revised Code is eligible for the program. 8851

(2) At least sixty days prior to transferring to 8852  
transitional control under this section a prisoner who is 8853  
serving a term of imprisonment or prison term of two years or 8854  
less for an offense committed on or after July 1, 1996, the 8855  
division of parole and community services of the department of 8856  
rehabilitation and correction shall give notice of the pendency 8857  
of the transfer to transitional control to the court of common 8858  
pleas of the county in which the indictment against the prisoner 8859  
was found and of the fact that the court may disapprove the 8860  
transfer of the prisoner to transitional control and shall 8861  
include the institutional summary report prepared by the head of 8862  
the state correctional institution in which the prisoner is 8863  
confined. The head of the state correctional institution in 8864  
which the prisoner is confined, upon the request of the division 8865  
of parole and community services, shall provide to the division 8866  
for inclusion in the notice sent to the court under this 8867  
division an institutional summary report on the prisoner's 8868  
conduct in the institution and in any institution from which the 8869  
prisoner may have been transferred. The institutional summary 8870  
report shall cover the prisoner's participation in school, 8871  
vocational training, work, treatment, and other rehabilitative 8872  
activities and any disciplinary action taken against the 8873  
prisoner. If the court disapproves of the transfer of the 8874  
prisoner to transitional control, the court shall notify the 8875  
division of the disapproval within thirty days after receipt of 8876  
the notice. If the court timely disapproves the transfer of the 8877  
prisoner to transitional control, the division shall not proceed 8878  
with the transfer. If the court does not timely disapprove the 8879

transfer of the prisoner to transitional control, the division 8880  
may transfer the prisoner to transitional control. 8881

(3) (a) If the victim of an offense for which a prisoner 8882  
was sentenced to a prison term or term of imprisonment has 8883  
requested notification under section 2930.16 of the Revised Code 8884  
and has provided the department of rehabilitation and correction 8885  
with the victim's name and address or if division (A) (3) (b) of 8886  
this section applies, the division of parole and community 8887  
services, at least sixty days prior to transferring the prisoner 8888  
to transitional control pursuant to this section, shall notify 8889  
the victim of the pendency of the transfer and of the victim's 8890  
right to submit a statement to the division regarding the impact 8891  
of the transfer of the prisoner to transitional control. If the 8892  
victim subsequently submits a statement of that nature to the 8893  
division, the division shall consider the statement in deciding 8894  
whether to transfer the prisoner to transitional control. 8895

(b) If a prisoner is incarcerated for the commission of 8896  
aggravated murder, murder, or an offense of violence that is a 8897  
felony of the first, second, or third degree or under a sentence 8898  
of life imprisonment, except as otherwise provided in this 8899  
division, the notice described in division (A) (3) (a) of this 8900  
section shall be given regardless of whether the victim has 8901  
requested the notification. The notice described in division (A) 8902  
(3) (a) of this section shall not be given under this division to 8903  
a victim if the victim has requested pursuant to division (B) (2) 8904  
of section 2930.03 of the Revised Code that the victim not be 8905  
provided the notice. If notice is to be provided to a victim 8906  
under this division, the authority may give the notice by any 8907  
reasonable means, including regular mail, telephone, and 8908  
electronic mail, in accordance with division (D) (1) of section 8909  
2930.16 of the Revised Code. If the notice is based on an 8910

offense committed prior to March 22, 2013, the notice also shall 8911  
include the opt-out information described in division (D) (1) of 8912  
section 2930.16 of the Revised Code. The authority, in 8913  
accordance with division (D) (2) of section 2930.16 of the 8914  
Revised Code, shall keep a record of all attempts to provide the 8915  
notice, and of all notices provided, under this division. 8916

Division (A) (3) (b) of this section, and the notice-related 8917  
provisions of divisions (E) (2) and (K) of section 2929.20, 8918  
division (D) (1) of section 2930.16, division ~~(H)~~(G) of section 8919  
2967.12, division (E) (1) (b) of section 2967.19, division (D) (1) 8920  
of section 2967.28, and division (A) (2) of section 5149.101 of 8921  
the Revised Code enacted in the act in which division (A) (3) (b) 8922  
of this section was enacted, shall be known as "Roberta's Law." 8923

(4) The department of rehabilitation and correction, at 8924  
least sixty days prior to transferring a prisoner to 8925  
transitional control pursuant to this section, shall post on the 8926  
database it maintains pursuant to section 5120.66 of the Revised 8927  
Code the prisoner's name and all of the information specified in 8928  
division (A) (1) (c) (iv) of that section. In addition to and 8929  
independent of the right of a victim to submit a statement as 8930  
described in division (A) (3) of this section or to otherwise 8931  
make a statement and in addition to and independent of any other 8932  
right or duty of a person to present information or make a 8933  
statement, any person may send to the division of parole and 8934  
community services at any time prior to the division's transfer 8935  
of the prisoner to transitional control a written statement 8936  
regarding the transfer of the prisoner to transitional control. 8937  
In addition to the information, reports, and statements it 8938  
considers under divisions (A) (2) and (3) of this section or that 8939  
it otherwise considers, the division shall consider each 8940  
statement submitted in accordance with this division in deciding 8941

whether to transfer the prisoner to transitional control. 8942

(B) Each prisoner transferred to transitional control 8943  
under this section shall be confined in the manner described in 8944  
division (A) of this section during any period of time that the 8945  
prisoner is not actually working at the prisoner's approved 8946  
employment, engaged in a vocational training or another 8947  
educational program, engaged in another program designated by 8948  
the director, or engaged in other activities approved by the 8949  
department. 8950

(C) The department of rehabilitation and correction shall 8951  
adopt rules for transferring eligible prisoners to transitional 8952  
control, supervising and confining prisoners so transferred, 8953  
administering the transitional control program in accordance 8954  
with this section, and using the moneys deposited into the 8955  
transitional control fund established under division (E) of this 8956  
section. 8957

(D) The department of rehabilitation and correction may 8958  
adopt rules for the issuance of passes for the limited purposes 8959  
described in this division to prisoners who are transferred to 8960  
transitional control under this section. If the department 8961  
adopts rules of that nature, the rules shall govern the granting 8962  
of the passes and shall provide for the supervision of prisoners 8963  
who are temporarily released pursuant to one of those passes. 8964  
Upon the adoption of rules under this division, the department 8965  
may issue passes to prisoners who are transferred to 8966  
transitional control status under this section in accordance 8967  
with the rules and the provisions of this division. All passes 8968  
issued under this division shall be for a maximum of forty-eight 8969  
hours and may be issued only for the following purposes: 8970

(1) To visit a relative in imminent danger of death; 8971

(2) To have a private viewing of the body of a deceased relative; 8972  
8973

(3) To visit with family; 8974

(4) To otherwise aid in the rehabilitation of the prisoner. 8975  
8976

(E) The division of parole and community services may 8977  
require a prisoner who is transferred to transitional control to 8978  
pay to the division the reasonable expenses incurred by the 8979  
division in supervising or confining the prisoner while under 8980  
transitional control. Inability to pay those reasonable expenses 8981  
shall not be grounds for refusing to transfer an otherwise 8982  
eligible prisoner to transitional control. Amounts received by 8983  
the division of parole and community services under this 8984  
division shall be deposited into the transitional control fund, 8985  
which is hereby created in the state treasury and which hereby 8986  
replaces and succeeds the furlough services fund that formerly 8987  
existed in the state treasury. All moneys that remain in the 8988  
furlough services fund on March 17, 1998, shall be transferred 8989  
on that date to the transitional control fund. The transitional 8990  
control fund shall be used solely to pay costs related to the 8991  
operation of the transitional control program established under 8992  
this section. The director of rehabilitation and correction 8993  
shall adopt rules in accordance with section 111.15 of the 8994  
Revised Code for the use of the fund. 8995

(F) A prisoner who violates any rule established by the 8996  
department of rehabilitation and correction under division (A), 8997  
(C), or (D) of this section may be transferred to a state 8998  
correctional institution pursuant to rules adopted under 8999  
division (A), (C), or (D) of this section, but the prisoner 9000  
shall receive credit towards completing the prisoner's sentence 9001

for the time spent under transitional control. 9002

If a prisoner is transferred to transitional control under 9003  
this section, upon successful completion of the period of 9004  
transitional control, the prisoner may be released on parole or 9005  
under post-release control pursuant to section 2967.13 or 9006  
2967.28 of the Revised Code and rules adopted by the department 9007  
of rehabilitation and correction. If the prisoner is released 9008  
under post-release control, the duration of the post-release 9009  
control, the type of post-release control sanctions that may be 9010  
imposed, the enforcement of the sanctions, and the treatment of 9011  
prisoners who violate any sanction applicable to the prisoner 9012  
are governed by section 2967.28 of the Revised Code. 9013

**Sec. 2967.28.** (A) As used in this section: 9014

(1) "Monitored time" means the monitored time sanction 9015  
specified in section 2929.17 of the Revised Code. 9016

(2) "Deadly weapon" and "dangerous ordnance" have the same 9017  
meanings as in section 2923.11 of the Revised Code. 9018

(3) "Felony sex offense" means a violation of a section 9019  
contained in Chapter 2907. of the Revised Code that is a felony. 9020

(4) "Risk reduction sentence" means a prison term imposed 9021  
by a court, when the court recommends pursuant to section 9022  
2929.143 of the Revised Code that the offender serve the 9023  
sentence under section 5120.036 of the Revised Code, and the 9024  
offender may potentially be released from imprisonment prior to 9025  
the expiration of the prison term if the offender successfully 9026  
completes all assessment and treatment or programming required 9027  
by the department of rehabilitation and correction under section 9028  
5120.036 of the Revised Code. 9029

(5) "Victim's immediate family" has the same meaning as in 9030

section 2967.12 of the Revised Code. 9031

(6) "Minor drug possession offense" has the same meaning 9032  
as in section 2925.11 of the Revised Code. 9033

(B) Each sentence to a prison term for a felony of the 9034  
first degree, for a felony of the second degree, for a felony 9035  
sex offense, or for a felony of the third degree that is an 9036  
offense of violence and is not a felony sex offense shall 9037  
include a requirement that the offender be subject to a period 9038  
of post-release control imposed by the parole board after the 9039  
offender's release from imprisonment. This division applies with 9040  
respect to all prison terms of a type described in this 9041  
division, including a term of any such type that is a risk 9042  
reduction sentence. If a court imposes a sentence including a 9043  
prison term of a type described in this division on or after 9044  
July 11, 2006, the failure of a sentencing court to notify the 9045  
offender pursuant to division (B) (2) (c) of section 2929.19 of 9046  
the Revised Code of this requirement or to include in the 9047  
judgment of conviction entered on the journal a statement that 9048  
the offender's sentence includes this requirement does not 9049  
negate, limit, or otherwise affect the mandatory period of 9050  
supervision that is required for the offender under this 9051  
division. Section 2929.191 of the Revised Code applies if, prior 9052  
to July 11, 2006, a court imposed a sentence including a prison 9053  
term of a type described in this division and failed to notify 9054  
the offender pursuant to division (B) (2) (c) of section 2929.19 9055  
of the Revised Code regarding post-release control or to include 9056  
in the judgment of conviction entered on the journal or in the 9057  
sentence pursuant to division (D) (1) of section 2929.14 of the 9058  
Revised Code a statement regarding post-release control. Unless 9059  
reduced by the parole board pursuant to division (D) of this 9060  
section when authorized under that division, a period of post- 9061



release control required by this division for an offender shall 9062  
be of one of the following periods: 9063

(1) For a felony of the first degree or for a felony sex 9064  
offense, five years; 9065

(2) For a felony of the second degree that is not a felony 9066  
sex offense, three years; 9067

(3) For a felony of the third degree that is an offense of 9068  
violence and is not a felony sex offense, three years. 9069

(C) Any sentence to a prison term for a felony of the 9070  
third, fourth, or fifth degree that is not subject to division 9071  
(B) (1) or (3) of this section shall include a requirement that 9072  
the offender be subject to a period of post-release control of 9073  
up to three years after the offender's release from 9074  
imprisonment, if the parole board, in accordance with division 9075  
(D) of this section, determines that a period of post-release 9076  
control is necessary for that offender. This division applies 9077  
with respect to all prison terms of a type described in this 9078  
division, including a term of any such type that is a risk 9079  
reduction sentence. Section 2929.191 of the Revised Code applies 9080  
if, prior to July 11, 2006, a court imposed a sentence including 9081  
a prison term of a type described in this division and failed to 9082  
notify the offender pursuant to division (B) (2) (d) of section 9083  
2929.19 of the Revised Code regarding post-release control or to 9084  
include in the judgment of conviction entered on the journal or 9085  
in the sentence pursuant to division (D) (2) of section 2929.14 9086  
of the Revised Code a statement regarding post-release control. 9087  
Pursuant to an agreement entered into under section 2967.29 of 9088  
the Revised Code, a court of common pleas or parole board may 9089  
impose sanctions or conditions on an offender who is placed on 9090  
post-release control under this division. 9091

(D) (1) Before the prisoner is released from imprisonment, 9092  
the parole board or, pursuant to an agreement under section 9093  
2967.29 of the Revised Code, the court shall impose upon a 9094  
prisoner described in division (B) of this section, shall impose 9095  
upon a prisoner described in division (C) of this section who is 9096  
to be released before the expiration of the prisoner's stated 9097  
prison term under a risk reduction sentence, may impose upon a 9098  
prisoner described in division (C) of this section who is not to 9099  
be released before the expiration of the prisoner's stated 9100  
prison term under a risk reduction sentence, and shall impose 9101  
upon a prisoner described in division (B) (2) (b) of section 9102  
5120.031 or in division (B) (1) of section 5120.032 of the 9103  
Revised Code, one or more post-release control sanctions to 9104  
apply during the prisoner's period of post-release control. 9105  
Whenever the board or court imposes one or more post-release 9106  
control sanctions upon a prisoner, the board or court, in 9107  
addition to imposing the sanctions, also shall include as a 9108  
condition of the post-release control that the offender not 9109  
leave the state without permission of the court or the 9110  
offender's parole or probation officer and that the offender 9111  
abide by the law. The board or court may impose any other 9112  
conditions of release under a post-release control sanction that 9113  
the board or court considers appropriate, and the conditions of 9114  
release may include any community residential sanction, 9115  
community nonresidential sanction, or financial sanction that 9116  
the sentencing court was authorized to impose pursuant to 9117  
sections 2929.16, 2929.17, and 2929.18 of the Revised Code. 9118  
Prior to the release of a prisoner for whom it will impose one 9119  
or more post-release control sanctions under this division, the 9120  
parole board or court shall review the prisoner's criminal 9121  
history, results from the single validated risk assessment tool 9122  
selected by the department of rehabilitation and correction 9123

under section 5120.114 of the Revised Code, all juvenile court 9124  
adjudications finding the prisoner, while a juvenile, to be a 9125  
delinquent child, and the record of the prisoner's conduct while 9126  
imprisoned. The parole board or court shall consider any 9127  
recommendation regarding post-release control sanctions for the 9128  
prisoner made by the office of victims' services. After 9129  
considering those materials, the board or court shall determine, 9130  
for a prisoner described in division (B) of this section, 9131  
division (B) (2) (b) of section 5120.031, or division (B) (1) of 9132  
section 5120.032 of the Revised Code and for a prisoner 9133  
described in division (C) of this section who is to be released 9134  
before the expiration of the prisoner's stated prison term under 9135  
a risk reduction sentence, which post-release control sanction 9136  
or combination of post-release control sanctions is reasonable 9137  
under the circumstances or, for a prisoner described in division 9138  
(C) of this section who is not to be released before the 9139  
expiration of the prisoner's stated prison term under a risk 9140  
reduction sentence, whether a post-release control sanction is 9141  
necessary and, if so, which post-release control sanction or 9142  
combination of post-release control sanctions is reasonable 9143  
under the circumstances. In the case of a prisoner convicted of 9144  
a felony of the fourth or fifth degree other than a felony sex 9145  
offense, the board or court shall presume that monitored time is 9146  
the appropriate post-release control sanction unless the board 9147  
or court determines that a more restrictive sanction is 9148  
warranted. A post-release control sanction imposed under this 9149  
division takes effect upon the prisoner's release from 9150  
imprisonment. 9151

Regardless of whether the prisoner was sentenced to the 9152  
prison term prior to, on, or after July 11, 2006, prior to the 9153  
release of a prisoner for whom it will impose one or more post- 9154

release control sanctions under this division, the parole board 9155  
shall notify the prisoner that, if the prisoner violates any 9156  
sanction so imposed or any condition of post-release control 9157  
described in division (B) of section 2967.131 of the Revised 9158  
Code that is imposed on the prisoner, the parole board may 9159  
impose a prison term of up to one-half of the stated prison term 9160  
originally imposed upon the prisoner. 9161

At least thirty days before the prisoner is released from 9162  
imprisonment, except as otherwise provided in this paragraph, 9163  
the department of rehabilitation and correction shall notify the 9164  
victim and the victim's immediate family of the date on which 9165  
the prisoner will be released, the period for which the prisoner 9166  
will be under post-release control supervision, and the terms 9167  
and conditions of the prisoner's post-release control regardless 9168  
of whether the victim or victim's immediate family has requested 9169  
the notification. The notice described in this paragraph shall 9170  
not be given to a victim or victim's immediate family if the 9171  
victim or the victim's immediate family has requested pursuant 9172  
to division (B) (2) of section 2930.03 of the Revised Code that 9173  
the notice not be provided to the victim or the victim's 9174  
immediate family. At least thirty days before the prisoner is 9175  
released from imprisonment and regardless of whether the victim 9176  
or victim's immediate family has requested that the notice 9177  
described in this paragraph be provided or not be provided to 9178  
the victim or the victim's immediate family, the department also 9179  
shall provide notice of that nature to the prosecuting attorney 9180  
in the case and the law enforcement agency that arrested the 9181  
prisoner if any officer of that agency was a victim of the 9182  
offense. 9183

If the notice given under the preceding paragraph to the 9184  
victim or the victim's immediate family is based on an offense 9185

committed prior to March 22, 2013, and if the department of 9186  
rehabilitation and correction has not previously successfully 9187  
provided any notice to the victim or the victim's immediate 9188  
family under division (B), (C), or (D) of section 2930.16 of the 9189  
Revised Code with respect to that offense and the offender who 9190  
committed it, the notice also shall inform the victim or the 9191  
victim's immediate family that the victim or the victim's 9192  
immediate family may request that the victim or the victim's 9193  
immediate family not be provided any further notices with 9194  
respect to that offense and the offender who committed it and 9195  
shall describe the procedure for making that request. The 9196  
department may give the notices to which the preceding paragraph 9197  
applies by any reasonable means, including regular mail, 9198  
telephone, and electronic mail. If the department attempts to 9199  
provide notice to any specified person under the preceding 9200  
paragraph but the attempt is unsuccessful because the department 9201  
is unable to locate the specified person, is unable to provide 9202  
the notice by its chosen method because it cannot determine the 9203  
mailing address, electronic mail address, or telephone number at 9204  
which to provide the notice, or, if the notice is sent by mail, 9205  
the notice is returned, the department shall make another 9206  
attempt to provide the notice to the specified person. If the 9207  
second attempt is unsuccessful, the department shall make at 9208  
least one more attempt to provide the notice. If the notice is 9209  
based on an offense committed prior to March 22, 2013, in each 9210  
attempt to provide the notice to the victim or victim's 9211  
immediate family, the notice shall include the opt-out 9212  
information described in this paragraph. The department, in the 9213  
manner described in division (D) (2) of section 2930.16 of the 9214  
Revised Code, shall keep a record of all attempts to provide the 9215  
notice, and of all notices provided, under this paragraph and 9216  
the preceding paragraph. The record shall be considered as if it 9217

was kept under division (D) (2) of section 2930.16 of the Revised Code. This paragraph, the preceding paragraph, and the notice-related provisions of divisions (E) (2) and (K) of section 2929.20, division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) (b) of section 2967.26, and division (A) (2) of section 5149.101 of the Revised Code enacted in the act in which this paragraph and the preceding paragraph were enacted, shall be known as "Roberta's Law."

(2) If a prisoner who is placed on post-release control under this section is released before the expiration of the prisoner's stated prison term by reason of credit earned under section 2967.193 of the Revised Code and if the prisoner earned sixty or more days of credit, the adult parole authority shall supervise the offender with an active global positioning system device for the first fourteen days after the offender's release from imprisonment. This division does not prohibit or limit the imposition of any post-release control sanction otherwise authorized by this section.

(3) At any time after a prisoner is released from imprisonment and during the period of post-release control applicable to the releasee, the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court may review the releasee's behavior under the post-release control sanctions imposed upon the releasee under this section. The authority or court may determine, based upon the review and in accordance with the standards established under division (E) of this section, that a more restrictive or a less restrictive sanction is appropriate and may impose a different sanction. The authority also may recommend that the parole board or court increase or reduce the duration of the

period of post-release control imposed by the court. If the 9249  
authority recommends that the board or court increase the 9250  
duration of post-release control, the board or court shall 9251  
review the releasee's behavior and may increase the duration of 9252  
the period of post-release control imposed by the court up to 9253  
eight years. If the authority recommends that the board or court 9254  
reduce the duration of control for an offense described in 9255  
division (B) or (C) of this section, the board or court shall 9256  
review the releasee's behavior and may reduce the duration of 9257  
the period of control imposed by the court. In no case shall the 9258  
board or court reduce the duration of the period of control 9259  
imposed for an offense described in division (B)(1) of this 9260  
section to a period less than the length of the stated prison 9261  
term originally imposed, and in no case shall the board or court 9262  
permit the releasee to leave the state without permission of the 9263  
court or the releasee's parole or probation officer. 9264

(E) The department of rehabilitation and correction, in 9265  
accordance with Chapter 119. of the Revised Code, shall adopt 9266  
rules that do all of the following: 9267

(1) Establish standards for the imposition by the parole 9268  
board of post-release control sanctions under this section that 9269  
are consistent with the overriding purposes and sentencing 9270  
principles set forth in section 2929.11 of the Revised Code and 9271  
that are appropriate to the needs of releasees; 9272

(2) Establish standards that provide for a period of post- 9273  
release control of up to three years for all prisoners described 9274  
in division (C) of this section who are to be released before 9275  
the expiration of their stated prison term under a risk 9276  
reduction sentence and standards by which the parole board can 9277  
determine which prisoners described in division (C) of this 9278

section who are not to be released before the expiration of 9279  
their stated prison term under a risk reduction sentence should 9280  
be placed under a period of post-release control; 9281

(3) Establish standards to be used by the parole board in 9282  
reducing the duration of the period of post-release control 9283  
imposed by the court when authorized under division (D) of this 9284  
section, in imposing a more restrictive post-release control 9285  
sanction than monitored time upon a prisoner convicted of a 9286  
felony of the fourth or fifth degree other than a felony sex 9287  
offense, or in imposing a less restrictive control sanction upon 9288  
a releasee based on the releasee's activities including, but not 9289  
limited to, remaining free from criminal activity and from the 9290  
abuse of alcohol or other drugs, successfully participating in 9291  
approved rehabilitation programs, maintaining employment, and 9292  
paying restitution to the victim or meeting the terms of other 9293  
financial sanctions; 9294

(4) Establish standards to be used by the adult parole 9295  
authority in modifying a releasee's post-release control 9296  
sanctions pursuant to division (D)(2) of this section; 9297

(5) Establish standards to be used by the adult parole 9298  
authority or parole board in imposing further sanctions under 9299  
division (F) of this section on releasees who violate post- 9300  
release control sanctions, including standards that do the 9301  
following: 9302

(a) Classify violations according to the degree of 9303  
seriousness; 9304

(b) Define the circumstances under which formal action by 9305  
the parole board is warranted; 9306

(c) Govern the use of evidence at violation hearings; 9307



- (d) Ensure procedural due process to an alleged violator; 9308
- (e) Prescribe nonresidential community control sanctions 9309  
for most misdemeanor and technical violations; 9310
- (f) Provide procedures for the return of a releasee to 9311  
imprisonment for violations of post-release control. 9312
- (F) (1) Whenever the parole board imposes one or more post- 9313  
release control sanctions upon an offender under this section, 9314  
the offender upon release from imprisonment shall be under the 9315  
general jurisdiction of the adult parole authority and generally 9316  
shall be supervised by the field services section through its 9317  
staff of parole and field officers as described in section 9318  
5149.04 of the Revised Code, as if the offender had been placed 9319  
on parole. If the offender upon release from imprisonment 9320  
violates the post-release control sanction or any conditions 9321  
described in division (A) of section 2967.131 of the Revised 9322  
Code that are imposed on the offender, the public or private 9323  
person or entity that operates or administers the sanction or 9324  
the program or activity that comprises the sanction shall report 9325  
the violation directly to the adult parole authority or to the 9326  
officer of the authority who supervises the offender. The 9327  
authority's officers may treat the offender as if the offender 9328  
were on parole and in violation of the parole, and otherwise 9329  
shall comply with this section. 9330
- (2) If the adult parole authority or, pursuant to an 9331  
agreement under section 2967.29 of the Revised Code, the court 9332  
determines that a releasee has violated a post-release control 9333  
sanction or any conditions described in division (A) of section 9334  
2967.131 of the Revised Code imposed upon the releasee and that 9335  
a more restrictive sanction is appropriate, the authority or 9336  
court may impose a more restrictive sanction upon the releasee, 9337

in accordance with the standards established under division (E) 9338  
of this section or in accordance with the agreement made under 9339  
section 2967.29 of the Revised Code, or may report the violation 9340  
to the parole board for a hearing pursuant to division (F) (3) of 9341  
this section. The authority or court may not, pursuant to this 9342  
division, increase the duration of the releasee's post-release 9343  
control or impose as a post-release control sanction a 9344  
residential sanction that includes a prison term, but the 9345  
authority or court may impose on the releasee any other 9346  
residential sanction, nonresidential sanction, or financial 9347  
sanction that the sentencing court was authorized to impose 9348  
pursuant to sections 2929.16, 2929.17, and 2929.18 of the 9349  
Revised Code. 9350

(3) The parole board or, pursuant to an agreement under 9351  
section 2967.29 of the Revised Code, the court may hold a 9352  
hearing on any alleged violation by a releasee of a post-release 9353  
control sanction or any conditions described in division (A) of 9354  
section 2967.131 of the Revised Code that are imposed upon the 9355  
releasee. If after the hearing the board or court finds that the 9356  
releasee violated the sanction or condition, the board or court 9357  
may increase the duration of the releasee's post-release control 9358  
up to the maximum duration authorized by division (B) or (C) of 9359  
this section or impose a more restrictive post-release control 9360  
sanction. If a releasee was acting pursuant to division (B) (2) 9361  
(b) of section 2925.11 of the Revised Code and in so doing 9362  
violated the conditions of a post-release control sanction based 9363  
on a minor drug possession offense as defined in that section, 9364  
the board or the court may consider the releasee's conduct in 9365  
seeking or obtaining medical assistance for another in good 9366  
faith or for self or may consider the releasee being the subject 9367  
of another person seeking or obtaining medical assistance in 9368

accordance with that division as a mitigating factor before 9369  
imposing any of the penalties described in this division. When 9370  
appropriate, the board or court may impose as a post-release 9371  
control sanction a residential sanction that includes a prison 9372  
term. The board or court shall consider a prison term as a post- 9373  
release control sanction imposed for a violation of post-release 9374  
control when the violation involves a deadly weapon or dangerous 9375  
ordnance, physical harm or attempted serious physical harm to a 9376  
person, or sexual misconduct, or when the releasee committed 9377  
repeated violations of post-release control sanctions. Unless a 9378  
releasee's stated prison term was reduced pursuant to section 9379  
5120.032 of the Revised Code, the period of a prison term that 9380  
is imposed as a post-release control sanction under this 9381  
division shall not exceed nine months, and the maximum 9382  
cumulative prison term for all violations under this division 9383  
shall not exceed one-half of the stated prison term originally 9384  
imposed upon the offender as part of this sentence. If a 9385  
releasee's stated prison term was reduced pursuant to section 9386  
5120.032 of the Revised Code, the period of a prison term that 9387  
is imposed as a post-release control sanction under this 9388  
division and the maximum cumulative prison term for all 9389  
violations under this division shall not exceed the period of 9390  
time not served in prison under the sentence imposed by the 9391  
court. The period of a prison term that is imposed as a post- 9392  
release control sanction under this division shall not count as, 9393  
or be credited toward, the remaining period of post-release 9394  
control. 9395

If an offender is imprisoned for a felony committed while 9396  
under post-release control supervision and is again released on 9397  
post-release control for a period of time determined by division 9398  
(F) (4) (d) of this section, the maximum cumulative prison term 9399

for all violations under this division shall not exceed one-half 9400  
of the total stated prison terms of the earlier felony, reduced 9401  
by any prison term administratively imposed by the parole board 9402  
or court, plus one-half of the total stated prison term of the 9403  
new felony. 9404

(4) Any period of post-release control shall commence upon 9405  
an offender's actual release from prison. If an offender is 9406  
serving an indefinite prison term or a life sentence in addition 9407  
to a stated prison term, the offender shall serve the period of 9408  
post-release control in the following manner: 9409

(a) If a period of post-release control is imposed upon 9410  
the offender and if the offender also is subject to a period of 9411  
parole under a life sentence or an indefinite sentence, and if 9412  
the period of post-release control ends prior to the period of 9413  
parole, the offender shall be supervised on parole. The offender 9414  
shall receive credit for post-release control supervision during 9415  
the period of parole. The offender is not eligible for final 9416  
release under section 2967.16 of the Revised Code until the 9417  
post-release control period otherwise would have ended. 9418

(b) If a period of post-release control is imposed upon 9419  
the offender and if the offender also is subject to a period of 9420  
parole under an indefinite sentence, and if the period of parole 9421  
ends prior to the period of post-release control, the offender 9422  
shall be supervised on post-release control. The requirements of 9423  
parole supervision shall be satisfied during the post-release 9424  
control period. 9425

(c) If an offender is subject to more than one period of 9426  
post-release control, the period of post-release control for all 9427  
of the sentences shall be the period of post-release control 9428  
that expires last, as determined by the parole board or court. 9429

Periods of post-release control shall be served concurrently and 9430  
shall not be imposed consecutively to each other. 9431

(d) The period of post-release control for a releasee who 9432  
commits a felony while under post-release control for an earlier 9433  
felony shall be the longer of the period of post-release control 9434  
specified for the new felony under division (B) or (C) of this 9435  
section or the time remaining under the period of post-release 9436  
control imposed for the earlier felony as determined by the 9437  
parole board or court. 9438

**Sec. 2971.03.** (A) Notwithstanding divisions (A) and (D) of 9439  
section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 9440  
another section of the Revised Code, other than divisions (B) 9441  
and (C) of section 2929.14 of the Revised Code, that authorizes 9442  
or requires a specified prison term or a mandatory prison term 9443  
for a person who is convicted of or pleads guilty to a felony or 9444  
that specifies the manner and place of service of a prison term 9445  
or term of imprisonment, the court shall impose a sentence upon 9446  
a person who is convicted of or pleads guilty to a violent sex 9447  
offense and who also is convicted of or pleads guilty to a 9448  
sexually violent predator specification that was included in the 9449  
indictment, count in the indictment, or information charging 9450  
that offense, and upon a person who is convicted of or pleads 9451  
guilty to a designated homicide, assault, or kidnapping offense 9452  
and also is convicted of or pleads guilty to both a sexual 9453  
motivation specification and a sexually violent predator 9454  
specification that were included in the indictment, count in the 9455  
indictment, or information charging that offense, as follows: 9456

(1) If the offense for which the sentence is being imposed 9457  
is aggravated murder ~~and if the court does not impose upon the~~ 9458  
~~offender a sentence of death,~~ it shall impose upon the offender 9459

a term of life imprisonment without parole. ~~If the court~~ 9460  
~~sentences the offender to death and the sentence of death is~~ 9461  
~~vacated, overturned, or otherwise set aside, the court shall~~ 9462  
~~impose upon the offender a term of life imprisonment without~~ 9463  
~~parole.~~ 9464

(2) If the offense for which the sentence is being imposed 9465  
is murder; or if the offense is rape committed in violation of 9466  
division (A) (1) (b) of section 2907.02 of the Revised Code when 9467  
the offender purposely compelled the victim to submit by force 9468  
or threat of force, when the victim was less than ten years of 9469  
age, when the offender previously has been convicted of or 9470  
pleaded guilty to either rape committed in violation of that 9471  
division or a violation of an existing or former law of this 9472  
state, another state, or the United States that is substantially 9473  
similar to division (A) (1) (b) of section 2907.02 of the Revised 9474  
Code, or when the offender during or immediately after the 9475  
commission of the rape caused serious physical harm to the 9476  
victim; or if the offense is an offense other than aggravated 9477  
murder or murder for which a term of life imprisonment may be 9478  
imposed, it shall impose upon the offender a term of life 9479  
imprisonment without parole. 9480

(3) (a) Except as otherwise provided in division (A) (3) (b), 9481  
(c), (d), or (e) or (A) (4) of this section, if the offense for 9482  
which the sentence is being imposed is an offense other than 9483  
aggravated murder, murder, or rape and other than an offense for 9484  
which a term of life imprisonment may be imposed, it shall 9485  
impose an indefinite prison term consisting of a minimum term 9486  
fixed by the court from among the range of terms available as a 9487  
definite term for the offense, but not less than two years, and 9488  
a maximum term of life imprisonment. 9489

(b) Except as otherwise provided in division (A) (4) of 9490  
this section, if the offense for which the sentence is being 9491  
imposed is kidnapping that is a felony of the first degree, it 9492  
shall impose an indefinite prison term as follows: 9493

(i) If the kidnapping is committed on or after January 1, 9494  
2008, and the victim of the offense is less than thirteen years 9495  
of age, except as otherwise provided in this division, it shall 9496  
impose an indefinite prison term consisting of a minimum term of 9497  
fifteen years and a maximum term of life imprisonment. If the 9498  
kidnapping is committed on or after January 1, 2008, the victim 9499  
of the offense is less than thirteen years of age, and the 9500  
offender released the victim in a safe place unharmed, it shall 9501  
impose an indefinite prison term consisting of a minimum term of 9502  
ten years and a maximum term of life imprisonment. 9503

(ii) If the kidnapping is committed prior to January 1, 9504  
2008, or division (A) (3) (b) (i) of this section does not apply, 9505  
it shall impose an indefinite term consisting of a minimum term 9506  
fixed by the court that is not less than ten years and a maximum 9507  
term of life imprisonment. 9508

(c) Except as otherwise provided in division (A) (4) of 9509  
this section, if the offense for which the sentence is being 9510  
imposed is kidnapping that is a felony of the second degree, it 9511  
shall impose an indefinite prison term consisting of a minimum 9512  
term fixed by the court that is not less than eight years, and a 9513  
maximum term of life imprisonment. 9514

(d) Except as otherwise provided in division (A) (4) of 9515  
this section, if the offense for which the sentence is being 9516  
imposed is rape for which a term of life imprisonment is not 9517  
imposed under division (A) (2) of this section or division (B) of 9518  
section 2907.02 of the Revised Code, it shall impose an 9519

indefinite prison term as follows: 9520

(i) If the rape is committed on or after January 2, 2007, 9521  
in violation of division (A) (1) (b) of section 2907.02 of the 9522  
Revised Code, it shall impose an indefinite prison term 9523  
consisting of a minimum term of twenty-five years and a maximum 9524  
term of life imprisonment. 9525

(ii) If the rape is committed prior to January 2, 2007, or 9526  
the rape is committed on or after January 2, 2007, other than in 9527  
violation of division (A) (1) (b) of section 2907.02 of the 9528  
Revised Code, it shall impose an indefinite prison term 9529  
consisting of a minimum term fixed by the court that is not less 9530  
than ten years, and a maximum term of life imprisonment. 9531

(e) Except as otherwise provided in division (A) (4) of 9532  
this section, if the offense for which sentence is being imposed 9533  
is attempted rape, it shall impose an indefinite prison term as 9534  
follows: 9535

(i) Except as otherwise provided in division (A) (3) (e) 9536  
(ii), (iii), or (iv) of this section, it shall impose an 9537  
indefinite prison term pursuant to division (A) (3) (a) of this 9538  
section. 9539

(ii) If the attempted rape for which sentence is being 9540  
imposed was committed on or after January 2, 2007, and if the 9541  
offender also is convicted of or pleads guilty to a 9542  
specification of the type described in section 2941.1418 of the 9543  
Revised Code, it shall impose an indefinite prison term 9544  
consisting of a minimum term of five years and a maximum term of 9545  
twenty-five years. 9546

(iii) If the attempted rape for which sentence is being 9547  
imposed was committed on or after January 2, 2007, and if the 9548



offender also is convicted of or pleads guilty to a 9549  
specification of the type described in section 2941.1419 of the 9550  
Revised Code, it shall impose an indefinite prison term 9551  
consisting of a minimum term of ten years and a maximum of life 9552  
imprisonment. 9553

(iv) If the attempted rape for which sentence is being 9554  
imposed was committed on or after January 2, 2007, and if the 9555  
offender also is convicted of or pleads guilty to a 9556  
specification of the type described in section 2941.1420 of the 9557  
Revised Code, it shall impose an indefinite prison term 9558  
consisting of a minimum term of fifteen years and a maximum of 9559  
life imprisonment. 9560

(4) For any offense for which the sentence is being 9561  
imposed, if the offender previously has been convicted of or 9562  
pleaded guilty to a violent sex offense and also to a sexually 9563  
violent predator specification that was included in the 9564  
indictment, count in the indictment, or information charging 9565  
that offense, or previously has been convicted of or pleaded 9566  
guilty to a designated homicide, assault, or kidnapping offense 9567  
and also to both a sexual motivation specification and a 9568  
sexually violent predator specification that were included in 9569  
the indictment, count in the indictment, or information charging 9570  
that offense, it shall impose upon the offender a term of life 9571  
imprisonment without parole. 9572

(B) (1) Notwithstanding section 2929.13, division (A) or 9573  
(D) of section 2929.14, or another section of the Revised Code 9574  
other than division (B) of section 2907.02 or divisions (B) and 9575  
(C) of section 2929.14 of the Revised Code that authorizes or 9576  
requires a specified prison term or a mandatory prison term for 9577  
a person who is convicted of or pleads guilty to a felony or 9578

that specifies the manner and place of service of a prison term 9579  
or term of imprisonment, if a person is convicted of or pleads 9580  
guilty to a violation of division (A) (1) (b) of section 2907.02 9581  
of the Revised Code committed on or after January 2, 2007, if 9582  
division (A) of this section does not apply regarding the 9583  
person, and if the court does not impose a sentence of life 9584  
without parole when authorized pursuant to division (B) of 9585  
section 2907.02 of the Revised Code, the court shall impose upon 9586  
the person an indefinite prison term consisting of one of the 9587  
following: 9588

(a) Except as otherwise required in division (B) (1) (b) or 9589  
(c) of this section, a minimum term of ten years and a maximum 9590  
term of life imprisonment. 9591

(b) If the victim was less than ten years of age, a 9592  
minimum term of fifteen years and a maximum of life 9593  
imprisonment. 9594

(c) If the offender purposely compels the victim to submit 9595  
by force or threat of force, or if the offender previously has 9596  
been convicted of or pleaded guilty to violating division (A) (1) 9597  
(b) of section 2907.02 of the Revised Code or to violating an 9598  
existing or former law of this state, another state, or the 9599  
United States that is substantially similar to division (A) (1) 9600  
(b) of that section, or if the offender during or immediately 9601  
after the commission of the offense caused serious physical harm 9602  
to the victim, a minimum term of twenty-five years and a maximum 9603  
of life imprisonment. 9604

(2) Notwithstanding section 2929.13, division (A) or (D) 9605  
of section 2929.14, or another section of the Revised Code other 9606  
than divisions (B) and (C) of section 2929.14 of the Revised 9607  
Code that authorizes or requires a specified prison term or a 9608

mandatory prison term for a person who is convicted of or pleads 9609  
guilty to a felony or that specifies the manner and place of 9610  
service of a prison term or term of imprisonment and except as 9611  
otherwise provided in division (B) of section 2907.02 of the 9612  
Revised Code, if a person is convicted of or pleads guilty to 9613  
attempted rape committed on or after January 2, 2007, and if 9614  
division (A) of this section does not apply regarding the 9615  
person, the court shall impose upon the person an indefinite 9616  
prison term consisting of one of the following: 9617

(a) If the person also is convicted of or pleads guilty to 9618  
a specification of the type described in section 2941.1418 of 9619  
the Revised Code, the court shall impose upon the person an 9620  
indefinite prison term consisting of a minimum term of five 9621  
years and a maximum term of twenty-five years. 9622

(b) If the person also is convicted of or pleads guilty to 9623  
a specification of the type described in section 2941.1419 of 9624  
the Revised Code, the court shall impose upon the person an 9625  
indefinite prison term consisting of a minimum term of ten years 9626  
and a maximum term of life imprisonment. 9627

(c) If the person also is convicted of or pleads guilty to 9628  
a specification of the type described in section 2941.1420 of 9629  
the Revised Code, the court shall impose upon the person an 9630  
indefinite prison term consisting of a minimum term of fifteen 9631  
years and a maximum term of life imprisonment. 9632

(3) Notwithstanding section 2929.13, division (A) or (D) 9633  
of section 2929.14, or another section of the Revised Code other 9634  
than divisions (B) and (C) of section 2929.14 of the Revised 9635  
Code that authorizes or requires a specified prison term or a 9636  
mandatory prison term for a person who is convicted of or pleads 9637  
guilty to a felony or that specifies the manner and place of 9638

service of a prison term or term of imprisonment, if a person is 9639  
convicted of or pleads guilty to an offense described in 9640  
division (B) (3) (a), (b), (c), or (d) of this section committed 9641  
on or after January 1, 2008, if the person also is convicted of 9642  
or pleads guilty to a sexual motivation specification that was 9643  
included in the indictment, count in the indictment, or 9644  
information charging that offense, and if division (A) of this 9645  
section does not apply regarding the person, the court shall 9646  
impose upon the person an indefinite prison term consisting of 9647  
one of the following: 9648

(a) An indefinite prison term consisting of a minimum of 9649  
ten years and a maximum term of life imprisonment if the offense 9650  
for which the sentence is being imposed is kidnapping, the 9651  
victim of the offense is less than thirteen years of age, and 9652  
the offender released the victim in a safe place unharmed; 9653

(b) An indefinite prison term consisting of a minimum of 9654  
fifteen years and a maximum term of life imprisonment if the 9655  
offense for which the sentence is being imposed is kidnapping 9656  
when the victim of the offense is less than thirteen years of 9657  
age and division (B) (3) (a) of this section does not apply; 9658

(c) An indefinite term consisting of a minimum of thirty 9659  
years and a maximum term of life imprisonment if the offense for 9660  
which the sentence is being imposed is aggravated murder, when 9661  
the victim of the offense is less than thirteen years of age, a 9662  
sentence of ~~death or life imprisonment without parole~~ is not 9663  
imposed for the offense, and division ~~(A) (2) (b) (ii) of section~~ 9664  
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 9665  
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or~~ 9666  
~~division (A) or (B) (C) of section 2929.06-2929.02~~ of the 9667  
Revised Code requires that the sentence for the offense be 9668

imposed pursuant to this division; 9669

(d) An indefinite prison term consisting of a minimum of 9670  
thirty years and a maximum term of life imprisonment if the 9671  
offense for which the sentence is being imposed is murder when 9672  
the victim of the offense is less than thirteen years of age. 9673

(C) (1) If the offender is sentenced to a prison term 9674  
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 9675  
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 9676  
parole board shall have control over the offender's service of 9677  
the term during the entire term unless the parole board 9678  
terminates its control in accordance with section 2971.04 of the 9679  
Revised Code. 9680

(2) Except as provided in division (C) (3) of this section, 9681  
an offender sentenced to a prison term or term of life 9682  
imprisonment without parole pursuant to division (A) of this 9683  
section shall serve the entire prison term or term of life 9684  
imprisonment in a state correctional institution. The offender 9685  
is not eligible for judicial release under section 2929.20 of 9686  
the Revised Code. 9687

(3) For a prison term imposed pursuant to division (A) (3), 9688  
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 9689  
(b), (c), or (d) of this section, the court, in accordance with 9690  
section 2971.05 of the Revised Code, may terminate the prison 9691  
term or modify the requirement that the offender serve the 9692  
entire term in a state correctional institution if all of the 9693  
following apply: 9694

(a) The offender has served at least the minimum term 9695  
imposed as part of that prison term. 9696

(b) The parole board, pursuant to section 2971.04 of the 9697

Revised Code, has terminated its control over the offender's 9698  
service of that prison term. 9699

(c) The court has held a hearing and found, by clear and 9700  
convincing evidence, one of the following: 9701

(i) In the case of termination of the prison term, that 9702  
the offender is unlikely to commit a sexually violent offense in 9703  
the future; 9704

(ii) In the case of modification of the requirement, that 9705  
the offender does not represent a substantial risk of physical 9706  
harm to others. 9707

(4) An offender who has been sentenced to a term of life 9708  
imprisonment without parole pursuant to division (A)(1), (2), or 9709  
(4) of this section shall not be released from the term of life 9710  
imprisonment or be permitted to serve a portion of it in a place 9711  
other than a state correctional institution. 9712

(D) If a court sentences an offender to a prison term or 9713  
term of life imprisonment without parole pursuant to division 9714  
(A) of this section and the court also imposes on the offender 9715  
one or more additional prison terms pursuant to division (B) of 9716  
section 2929.14 of the Revised Code, all of the additional 9717  
prison terms shall be served consecutively with, and prior to, 9718  
the prison term or term of life imprisonment without parole 9719  
imposed upon the offender pursuant to division (A) of this 9720  
section. 9721

(E) If the offender is convicted of or pleads guilty to 9722  
two or more offenses for which a prison term or term of life 9723  
imprisonment without parole is required to be imposed pursuant 9724  
to division (A) of this section, divisions (A) to (D) of this 9725  
section shall be applied for each offense. All minimum terms 9726

imposed upon the offender pursuant to division (A) (3) or (B) of 9727  
this section for those offenses shall be aggregated and served 9728  
consecutively, as if they were a single minimum term imposed 9729  
under that division. 9730

(F) (1) If an offender is convicted of or pleads guilty to 9731  
a violent sex offense and also is convicted of or pleads guilty 9732  
to a sexually violent predator specification that was included 9733  
in the indictment, count in the indictment, or information 9734  
charging that offense, or is convicted of or pleads guilty to a 9735  
designated homicide, assault, or kidnapping offense and also is 9736  
convicted of or pleads guilty to both a sexual motivation 9737  
specification and a sexually violent predator specification that 9738  
were included in the indictment, count in the indictment, or 9739  
information charging that offense, the conviction of or plea of 9740  
guilty to the offense and the sexually violent predator 9741  
specification automatically classifies the offender as a tier 9742  
III sex offender/child-victim offender for purposes of Chapter 9743  
2950. of the Revised Code. 9744

(2) If an offender is convicted of or pleads guilty to 9745  
committing on or after January 2, 2007, a violation of division 9746  
(A) (1) (b) of section 2907.02 of the Revised Code and either the 9747  
offender is sentenced under section 2971.03 of the Revised Code 9748  
or a sentence of life without parole is imposed under division 9749  
(B) of section 2907.02 of the Revised Code, the conviction of or 9750  
plea of guilty to the offense automatically classifies the 9751  
offender as a tier III sex offender/child-victim offender for 9752  
purposes of Chapter 2950. of the Revised Code. 9753

(3) If a person is convicted of or pleads guilty to 9754  
committing on or after January 2, 2007, attempted rape and also 9755  
is convicted of or pleads guilty to a specification of the type 9756

described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code, the conviction of or plea of guilty to the offense and the specification automatically classify the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

(4) If a person is convicted of or pleads guilty to one of the offenses described in division (B) (3) (a), (b), (c), or (d) of this section and a sexual motivation specification related to the offense and the victim of the offense is less than thirteen years of age, the conviction of or plea of guilty to the offense automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

**Sec. 2971.07.** (A) This chapter does not apply to any offender unless the offender is one of the following:

(1) The offender is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense.

(2) The offender is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information charging that offense.

(3) The offender is convicted of or pleads guilty to a violation of division (A) (1) (b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and the



court does not sentence the offender to a term of life without 9786  
parole pursuant to division (B) of section 2907.02 of the 9787  
Revised Code or division (B) of that section prohibits the court 9788  
from sentencing the offender pursuant to section 2971.03 of the 9789  
Revised Code. 9790

(4) The offender is convicted of or pleads guilty to 9791  
attempted rape committed on or after January 2, 2007, and also 9792  
is convicted of or pleads guilty to a specification of the type 9793  
described in section 2941.1418, 2941.1419, or 2941.1420 of the 9794  
Revised Code. 9795

(5) The offender is convicted of or pleads guilty to a 9796  
violation of section 2905.01 of the Revised Code and also is 9797  
convicted of or pleads guilty to a sexual motivation 9798  
specification that was included in the indictment, count in the 9799  
indictment, or information charging that offense, and that 9800  
section requires a court to sentence the offender pursuant to 9801  
section 2971.03 of the Revised Code. 9802

(6) The offender is convicted of or pleads guilty to 9803  
aggravated murder and also is convicted of or pleads guilty to a 9804  
sexual motivation specification that was included in the 9805  
indictment, count in the indictment, or information charging 9806  
that offense, and ~~division (A) (2) (b) (ii) of section 2929.022,~~ 9807  
~~division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D)~~ 9808  
~~(3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or~~ 9809  
~~(B) (C) of section 2929.06-2929.02~~ of the Revised Code requires 9810  
a court to sentence the offender pursuant to division (B) (3) of 9811  
section 2971.03 of the Revised Code. 9812

(7) The offender is convicted of or pleads guilty to 9813  
murder and also is convicted of or pleads guilty to a sexual 9814  
motivation specification that was included in the indictment, 9815

count in the indictment, or information charging that offense, 9816  
and division ~~(B)(2)~~ (C) of section 2929.02 of the Revised Code 9817  
requires a court to sentence the offender pursuant to section 9818  
2971.03 of the Revised Code. 9819

(B) This chapter does not limit or affect a court in 9820  
imposing upon an offender described in divisions (A)(1) to (9) 9821  
of this section any financial sanction under section 2929.18 or 9822  
any other section of the Revised Code, or, except as 9823  
specifically provided in this chapter, any other sanction that 9824  
is authorized or required for the offense or violation by any 9825  
other provision of law. 9826

(C) If an offender is sentenced to a prison term under 9827  
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 9828  
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 9829  
Code and if, pursuant to section 2971.05 of the Revised Code, 9830  
the court modifies the requirement that the offender serve the 9831  
entire prison term in a state correctional institution or places 9832  
the offender on conditional release that involves the placement 9833  
of the offender under the supervision of the adult parole 9834  
authority, authorized field officers of the authority who are 9835  
engaged within the scope of their supervisory duties or 9836  
responsibilities may search, with or without a warrant, the 9837  
person of the offender, the place of residence of the offender, 9838  
and a motor vehicle, another item of tangible or intangible 9839  
personal property, or any other real property in which the 9840  
offender has the express or implied permission of a person with 9841  
a right, title, or interest to use, occupy, or possess if the 9842  
field officer has reasonable grounds to believe that the 9843  
offender is not abiding by the law or otherwise is not complying 9844  
with the terms and conditions of the offender's modification or 9845  
release. The authority shall provide each offender with a 9846

written notice that informs the offender that authorized field 9847  
officers of the authority who are engaged within the scope of 9848  
their supervisory duties or responsibilities may conduct those 9849  
types of searches during the period of the modification or 9850  
release if they have reasonable grounds to believe that the 9851  
offender is not abiding by the law or otherwise is not complying 9852  
with the terms and conditions of the offender's modification or 9853  
release. 9854

**Sec. 5120.113.** (A) For each inmate committed to the 9855  
department of rehabilitation and correction, except as provided 9856  
in division (B) of this section, the department shall prepare a 9857  
written reentry plan for the inmate to help guide the inmate's 9858  
rehabilitation program during imprisonment, to assist in the 9859  
inmate's reentry into the community, and to assess the inmate's 9860  
needs upon release. 9861

(B) Division (A) of this section does not apply to an 9862  
inmate who has been sentenced to life imprisonment without 9863  
parole or ~~who has been sentenced to death~~ before the effective 9864  
date of this amendment. Division (A) of this section does not 9865  
apply to any inmate who is expected to be imprisoned for thirty 9866  
days or less, but the department may prepare a written reentry 9867  
plan of the type described in that division if the department 9868  
determines that the plan is needed. 9869

(C) The department may collect, if available, any social 9870  
and other information that will aid in the preparation of 9871  
reentry plans under this section. 9872

(D) In the event the department does not prepare a written 9873  
reentry plan as specified in division (A) of this section, or 9874  
makes a decision to not prepare a written reentry plan under 9875  
division (B) of this section or to not collect information under 9876

division (C) of this section, that fact does not give rise to a 9877  
claim for damages against the state, the department, the 9878  
director of the department, or any employee of the department. 9879

**Sec. 5120.53.** (A) If a treaty between the United States 9880  
and a foreign country provides for the transfer or exchange, 9881  
from one of the signatory countries to the other signatory 9882  
country, of convicted offenders who are citizens or nationals of 9883  
the other signatory country, the governor, subject to and in 9884  
accordance with the terms of the treaty, may authorize the 9885  
director of rehabilitation and correction to allow the transfer 9886  
or exchange of convicted offenders and to take any action 9887  
necessary to initiate participation in the treaty. If the 9888  
governor grants the director the authority described in this 9889  
division, the director may take the necessary action to initiate 9890  
participation in the treaty and, subject to and in accordance 9891  
with division (B) of this section and the terms of the treaty, 9892  
may allow the transfer or exchange to a foreign country that has 9893  
signed the treaty of any convicted offender who is a citizen or 9894  
national of that signatory country. 9895

(B) (1) No convicted offender who is serving a term of 9896  
imprisonment in this state for aggravated murder, murder, or a 9897  
felony of the first or second degree, who is serving a mandatory 9898  
prison term imposed under section 2925.03 or 2925.11 of the 9899  
Revised Code in circumstances in which the court was required to 9900  
impose as the mandatory prison term the maximum prison term 9901  
authorized for the degree of offense committed, or who is 9902  
serving a term of imprisonment in this state imposed for an 9903  
offense committed prior to ~~the effective date of this amendment~~ 9904  
July 1, 1996, that was an aggravated felony of the first or 9905  
second degree or that was aggravated trafficking in violation of 9906  
division (A) (9) or (10) of section 2925.03 of the Revised Code, 9907

~~or who has been sentenced to death in this state~~ shall be 9908  
transferred or exchanged to another country pursuant to a treaty 9909  
of the type described in division (A) of this section. 9910

(2) If a convicted offender is serving a term of 9911  
imprisonment in this state and the offender is a citizen or 9912  
national of a foreign country that has signed a treaty of the 9913  
type described in division (A) of this section, if the governor 9914  
has granted the director of rehabilitation and correction the 9915  
authority described in that division, and if the transfer or 9916  
exchange of the offender is not barred by division (B) (1) of 9917  
this section, the director or the director's designee may 9918  
approve the offender for transfer or exchange pursuant to the 9919  
treaty if the director or the designee, after consideration of 9920  
the factors set forth in the rules adopted by the department 9921  
under division (D) of this section and all other relevant 9922  
factors, determines that the transfer or exchange of the 9923  
offender is appropriate. 9924

(C) Notwithstanding any provision of the Revised Code 9925  
regarding the parole eligibility of, or the duration or 9926  
calculation of a sentence of imprisonment imposed upon, an 9927  
offender, if a convicted offender is serving a term of 9928  
imprisonment in this state and the offender is a citizen or 9929  
national of a foreign country that has signed a treaty of the 9930  
type described in division (A) of this section, if the offender 9931  
is serving an indefinite term of imprisonment, if the offender 9932  
is barred from being transferred or exchanged pursuant to the 9933  
treaty due to the indefinite nature of the offender's term of 9934  
imprisonment, and if in accordance with division (B) (2) of this 9935  
section the director of rehabilitation and correction or the 9936  
director's designee approves the offender for transfer or 9937  
exchange pursuant to the treaty, the parole board, pursuant to 9938

rules adopted by the director, shall set a date certain for the 9939  
release of the offender. To the extent possible, the date 9940  
certain that is set shall be reasonably proportionate to the 9941  
indefinite term of imprisonment that the offender is serving. 9942  
The date certain that is set for the release of the offender 9943  
shall be considered only for purposes of facilitating the 9944  
international transfer or exchange of the offender, shall not be 9945  
viable or actionable for any other purpose, and shall not create 9946  
any expectation or guarantee of release. If an offender for whom 9947  
a date certain for release is set under this division is not 9948  
transferred to or exchanged with the foreign country pursuant to 9949  
the treaty, the date certain is null and void, and the 9950  
offender's release shall be determined pursuant to the laws and 9951  
rules of this state pertaining to parole eligibility and the 9952  
duration and calculation of an indefinite sentence of 9953  
imprisonment. 9954

(D) If the governor, pursuant to division (A) of this 9955  
section, authorizes the director of rehabilitation and 9956  
correction to allow any transfer or exchange of convicted 9957  
offenders as described in that division, the director shall 9958  
adopt rules under Chapter 119. of the Revised Code to implement 9959  
the provisions of this section. The rules shall include a rule 9960  
that requires the director or the director's designee, in 9961  
determining whether to approve a convicted offender who is 9962  
serving a term of imprisonment in this state for transfer or 9963  
exchange pursuant to a treaty of the type described in division 9964  
(A) of this section, to consider all of the following factors: 9965

(1) The nature of the offense for which the offender is 9966  
serving the term of imprisonment in this state; 9967

(2) The likelihood that, if the offender is transferred or 9968

exchanged to a foreign country pursuant to the treaty, the 9969  
offender will serve a shorter period of time in imprisonment in 9970  
the foreign country than the offender would serve if the 9971  
offender is not transferred or exchanged to the foreign country 9972  
pursuant to the treaty; 9973

(3) The likelihood that, if the offender is transferred or 9974  
exchanged to a foreign country pursuant to the treaty, the 9975  
offender will return or attempt to return to this state after 9976  
the offender has been released from imprisonment in the foreign 9977  
country; 9978

(4) The degree of any shock to the conscience of justice 9979  
and society that will be experienced in this state if the 9980  
offender is transferred or exchanged to a foreign country 9981  
pursuant to the treaty; 9982

(5) All other factors that the department determines are 9983  
relevant to the determination. 9984

**Sec. 5120.61.** (A) (1) Not later than ninety days after 9985  
January 1, 1997, the department of rehabilitation and correction 9986  
shall adopt standards that it will use under this section to 9987  
assess the following criminal offenders and may periodically 9988  
revise the standards: 9989

(a) A criminal offender who is convicted of or pleads 9990  
guilty to a violent sex offense or designated homicide, assault, 9991  
or kidnapping offense and is adjudicated a sexually violent 9992  
predator in relation to that offense; 9993

(b) A criminal offender who is convicted of or pleads 9994  
guilty to a violation of division (A) (1) (b) of section 2907.02 9995  
of the Revised Code committed on or after January 2, 2007, and 9996  
either who is sentenced under section 2971.03 of the Revised 9997

Code or upon whom a sentence of life without parole is imposed 9998  
under division (B) of section 2907.02 of the Revised Code; 9999

(c) A criminal offender who is convicted of or pleads 10000  
guilty to attempted rape committed on or after January 2, 2007, 10001  
and a specification of the type described in section 2941.1418, 10002  
2941.1419, or 2941.1420 of the Revised Code; 10003

(d) A criminal offender who is convicted of or pleads 10004  
guilty to a violation of section 2905.01 of the Revised Code and 10005  
also is convicted of or pleads guilty to a sexual motivation 10006  
specification that was included in the indictment, count in the 10007  
indictment, or information charging that offense, and who is 10008  
sentenced pursuant to section 2971.03 of the Revised Code; 10009

(e) A criminal offender who is convicted of or pleads 10010  
guilty to aggravated murder and also is convicted of or pleads 10011  
guilty to a sexual motivation specification that was included in 10012  
the indictment, count in the indictment, or information charging 10013  
that offense, and who pursuant to division ~~(A) (2) (b) (ii) of~~ 10014  
~~section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a)~~ 10015  
~~(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03,~~ 10016  
~~or division (A) or (B) (C) of section 2929.06-2929.02~~ of the 10017  
Revised Code is sentenced pursuant to division (B) (3) of section 10018  
2971.03 of the Revised Code; 10019

(f) A criminal offender who is convicted of or pleads 10020  
guilty to murder and also is convicted of or pleads guilty to a 10021  
sexual motivation specification that was included in the 10022  
indictment, count in the indictment, or information charging 10023  
that offense, and who pursuant to division ~~(B) (2) (C) (1)~~ of 10024  
section 2929.02 of the Revised Code is sentenced pursuant to 10025  
section 2971.03 of the Revised Code. 10026



(2) When the department is requested by the parole board 10027  
or the court to provide a risk assessment report of the offender 10028  
under section 2971.04 or 2971.05 of the Revised Code, it shall 10029  
assess the offender and complete the assessment as soon as 10030  
possible after the offender has commenced serving the prison 10031  
term or term of life imprisonment without parole imposed under 10032  
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 10033  
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10034  
Code. Thereafter, the department shall update a risk assessment 10035  
report pertaining to an offender as follows: 10036

(a) Periodically, in the discretion of the department, 10037  
provided that each report shall be updated no later than two 10038  
years after its initial preparation or most recent update; 10039

(b) Upon the request of the parole board for use in 10040  
determining pursuant to section 2971.04 of the Revised Code 10041  
whether it should terminate its control over an offender's 10042  
service of a prison term imposed upon the offender under 10043  
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 10044  
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10045  
Code; 10046

(c) Upon the request of the court. 10047

(3) After the department of rehabilitation and correction 10048  
assesses an offender pursuant to division (A) (2) of this 10049  
section, it shall prepare a report that contains its risk 10050  
assessment for the offender or, if a risk assessment report 10051  
previously has been prepared, it shall update the risk 10052  
assessment report. 10053

(4) The department of rehabilitation and correction shall 10054  
provide each risk assessment report that it prepares or updates 10055

pursuant to this section regarding an offender to all of the following: 10056  
10057

(a) The parole board for its use in determining pursuant to section 2971.04 of the Revised Code whether it should terminate its control over an offender's service of a prison term imposed upon the offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised Code, if the parole board has not terminated its control over the offender; 10058  
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(b) The court for use in determining, pursuant to section 2971.05 of the Revised Code, whether to modify the requirement that the offender serve the entire prison term imposed upon the offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised Code in a state correctional institution, whether to revise any modification previously made, or whether to terminate the prison term; 10065  
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(c) The prosecuting attorney who prosecuted the case, or the successor in office to that prosecuting attorney; 10073  
10074

(d) The offender. 10075

(B) When the department of rehabilitation and correction provides a risk assessment report regarding an offender to the parole board or court pursuant to division (A) (4) (a) or (b) of this section, the department, prior to the parole board's or court's hearing, also shall provide to the offender or to the offender's attorney of record a copy of the report and a copy of any other relevant documents the department possesses regarding the offender that the department does not consider to be confidential. 10076  
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(C) As used in this section:	10085
(1) "Adjudicated a sexually violent predator" has the same meaning as in section 2929.01 of the Revised Code, and a person is "adjudicated a sexually violent predator" in the same manner and the same circumstances as are described in that section.	10086 10087 10088 10089
(2) "Designated homicide, assault, or kidnapping offense" and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code.	10090 10091 10092
<b>Sec. 5139.04.</b> The department of youth services shall do all of the following:	10093 10094
(A) Support service districts through a central administrative office that shall have as its administrative head a deputy director who shall be appointed by the director of the department. When a vacancy occurs in the office of that deputy director, an assistant deputy director shall act as that deputy director until the vacancy is filled. The position of deputy director and assistant deputy director described in this division shall be in the unclassified civil service of the state.	10095 10096 10097 10098 10099 10100 10101 10102 10103
(B) Receive custody of all children committed to it under Chapter 2152. of the Revised Code, cause a study to be made of those children, and issue any orders, as it considers best suited to the needs of any of those children and the interest of the public, for the treatment of each of those children;	10104 10105 10106 10107 10108
(C) Obtain personnel necessary for the performance of its duties;	10109 10110
(D) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.43 of the Revised Code, and that pertain to the	10111 10112 10113

administration of other sections of this chapter; 10114

(E) Submit reports of its operations to the governor and 10115  
the general assembly by the thirty-first day of January of each 10116  
odd-numbered year; 10117

(F) Conduct a program of research in diagnosis, training, 10118  
and treatment of delinquent children to evaluate the 10119  
effectiveness of the department's services and to develop more 10120  
adequate methods; 10121

(G) Develop a standard form for the disposition 10122  
investigation report that a juvenile court is required pursuant 10123  
to section 2152.18 of the Revised Code to complete and provide 10124  
to the department when the court commits a child to the legal 10125  
custody of the department; 10126

(H) Provide the state public defender the reasonable 10127  
access authorized under division ~~(I)~~(H) of section 120.06 of 10128  
the Revised Code in order to fulfill the department's 10129  
constitutional obligation to provide juveniles who have been 10130  
committed to the department's care access to the courts. 10131

(I) Do all other acts necessary or desirable to carry out 10132  
this chapter. 10133

**Sec. 5149.101.** (A) (1) A board hearing officer, a board 10134  
member, or the office of victims' services may petition the 10135  
board for a full board hearing that relates to the proposed 10136  
parole or re-parole of a prisoner. At a meeting of the board at 10137  
which a majority of board members are present, the majority of 10138  
those present shall determine whether a full board hearing shall 10139  
be held. 10140

(2) A victim of a violation of section 2903.01 or 2903.02 10141  
of the Revised Code, an offense of violence that is a felony of 10142

the first, second, or third degree, or an offense punished by a 10143  
sentence of life imprisonment, the victim's representative, or 10144  
any person described in division (B) (5) of this section may 10145  
request the board to hold a full board hearing that relates to 10146  
the proposed parole or re-parole of the person that committed 10147  
the violation. If a victim, victim's representative, or other 10148  
person requests a full board hearing pursuant to this division, 10149  
the board shall hold a full board hearing. 10150

At least thirty days before the full hearing, except as 10151  
otherwise provided in this division, the board shall give notice 10152  
of the date, time, and place of the hearing to the victim 10153  
regardless of whether the victim has requested the notification. 10154  
The notice of the date, time, and place of the hearing shall not 10155  
be given under this division to a victim if the victim has 10156  
requested pursuant to division (B) (2) of section 2930.03 of the 10157  
Revised Code that the notice not be provided to the victim. At 10158  
least thirty days before the full board hearing and regardless 10159  
of whether the victim has requested that the notice be provided 10160  
or not be provided under this division to the victim, the board 10161  
shall give similar notice to the prosecuting attorney in the 10162  
case, the law enforcement agency that arrested the prisoner if 10163  
any officer of that agency was a victim of the offense, and, if 10164  
different than the victim, the person who requested the full 10165  
hearing. If the prosecuting attorney has not previously been 10166  
sent an institutional summary report with respect to the 10167  
prisoner, upon the request of the prosecuting attorney, the 10168  
board shall include with the notice sent to the prosecuting 10169  
attorney an institutional summary report that covers the 10170  
offender's participation while confined in a state correctional 10171  
institution in training, work, and other rehabilitative 10172  
activities and any disciplinary action taken against the 10173

offender while so confined. Upon the request of a law 10174  
enforcement agency that has not previously been sent an 10175  
institutional summary report with respect to the prisoner, the 10176  
board also shall send a copy of the institutional summary report 10177  
to the law enforcement agency. If notice is to be provided as 10178  
described in this division, the board may give the notice by any 10179  
reasonable means, including regular mail, telephone, and 10180  
electronic mail, in accordance with division (D) (1) of section 10181  
2930.16 of the Revised Code. If the notice is based on an 10182  
offense committed prior to ~~the effective date of this amendment~~ 10183  
March 22, 2013, the notice also shall include the opt-out 10184  
information described in division (D) (1) of section 2930.16 of 10185  
the Revised Code. The board, in accordance with division (D) (2) 10186  
of section 2930.16 of the Revised Code, shall keep a record of 10187  
all attempts to provide the notice, and of all notices provided, 10188  
under this division. 10189

The preceding paragraph, and the notice-related provisions 10190  
of divisions (E) (2) and (K) of section 2929.20, division (D) (1) 10191  
of section 2930.16, division ~~(H)~~ (G) of section 2967.12, 10192  
division (E) (1) (b) of section 2967.19, division (A) (3) (b) of 10193  
section 2967.26, and division (D) (1) of section 2967.28 of the 10194  
Revised Code enacted in the act in which this paragraph was 10195  
enacted, shall be known as "Roberta's Law." 10196

(B) At a full board hearing that relates to the proposed 10197  
parole or re-parole of a prisoner and that has been petitioned 10198  
for or requested in accordance with division (A) of this 10199  
section, the parole board shall permit the following persons to 10200  
appear and to give testimony or to submit written statements: 10201

(1) The prosecuting attorney of the county in which the 10202  
original indictment against the prisoner was found and members 10203

of any law enforcement agency that assisted in the prosecution 10204  
of the original offense; 10205

(2) The judge of the court of common pleas who imposed the 10206  
original sentence of incarceration upon the prisoner, or the 10207  
judge's successor; 10208

(3) The victim of the original offense for which the 10209  
prisoner is serving the sentence or the victim's representative 10210  
designated pursuant to section 2930.02 of the Revised Code; 10211

(4) The victim of any behavior that resulted in parole 10212  
being revoked; 10213

(5) With respect to a full board hearing held pursuant to 10214  
division (A)(2) of this section, all of the following: 10215

(a) The spouse of the victim of the original offense; 10216

(b) The parent or parents of the victim of the original 10217  
offense; 10218

(c) The sibling of the victim of the original offense; 10219

(d) The child or children of the victim of the original 10220  
offense. 10221

(6) Counsel or some other person designated by the 10222  
prisoner as a representative, as described in division (C) of 10223  
this section. 10224

(C) Except as otherwise provided in this division, a full 10225  
board hearing of the parole board is not subject to section 10226  
121.22 of the Revised Code. The persons who may attend a full 10227  
board hearing are the persons described in divisions (B)(1) to 10228  
(6) of this section, and representatives of the press, radio and 10229  
television stations, and broadcasting networks who are members 10230

of a generally recognized professional media organization. 10231

At the request of a person described in division (B)(3) of 10232  
this section, representatives of the news media described in 10233  
this division shall be excluded from the hearing while that 10234  
person is giving testimony at the hearing. The prisoner being 10235  
considered for parole has no right to be present at the hearing, 10236  
but may be represented by counsel or some other person 10237  
designated by the prisoner. 10238

If there is an objection at a full board hearing to a 10239  
recommendation for the parole of a prisoner, the board may 10240  
approve or disapprove the recommendation or defer its decision 10241  
until a subsequent full board hearing. The board may permit 10242  
interested persons other than those listed in this division and 10243  
division (B) of this section to attend full board hearings 10244  
pursuant to rules adopted by the adult parole authority. 10245

(D) If the victim of the original offense died as a result 10246  
of the offense and the offense was aggravated murder, murder, an 10247  
offense of violence that is a felony of the first, second, or 10248  
third degree, or an offense punished by a sentence of life 10249  
imprisonment, the family of the victim may show at a full board 10250  
hearing a video recording not exceeding five minutes in length 10251  
memorializing the victim. 10252

(E) The adult parole authority shall adopt rules for the 10253  
implementation of this section. The rules shall specify 10254  
reasonable restrictions on the number of media representatives 10255  
that may attend a hearing, based on considerations of space, and 10256  
other procedures designed to accomplish an effective, orderly 10257  
process for full board hearings. 10258

**Sec. 5919.16.** (A) Commissioned and warrant officers in the 10259



Ohio national guard shall be discharged by the adjutant general 10260  
upon either of the following: 10261

(1) The officer's resignation; 10262

(2) Approval of a board's recommendation for withdrawal of 10263  
federal recognition by the chief of the national guard bureau. 10264

(B) An officer also may be discharged under any of the 10265  
following circumstances: 10266

(1) Pursuant to other federal regulations; 10267

(2) If absent without leave for three months, upon 10268  
recommendation of an efficiency board; 10269

(3) Pursuant to sentence by court-martial; 10270

(4) If the officer has been convicted of a crime 10271  
classified as a felony as described in division (C) or (D) ~~or~~  
~~(E)~~ of section 2901.02 of the Revised Code. 10272  
10273

**Section 2.** That existing sections 9.07, 120.03, 120.06, 10274  
120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 10275  
149.43, 1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 10276  
2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 10277  
2929.20, 2929.61, 2930.03, 2930.06, 2930.16, 2930.19, 2937.222, 10278  
2941.021, 2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 10279  
2945.06, 2945.10, 2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 10280  
2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 10281  
2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 10282  
2967.05, 2967.12, 2967.13, 2967.19, 2967.193, 2967.26, 2967.28, 10283  
2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 5139.04, 5149.101, 10284  
and 5919.16 and sections 109.97, 120.35, 2725.19, 2929.021, 10285  
2929.022, 2929.023, 2929.024, 2929.03, 2929.04, 2929.05, 10286  
2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 2949.221, 2949.222, 10287

2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 2949.31, 10288  
and 2967.08 of the Revised Code are hereby repealed. 10289

**Section 3.** (A) An offender whose sentence of death has 10290  
been set aside, nullified, or vacated pursuant to section 10291  
2929.06 of the Revised Code as it existed immediately before the 10292  
effective date of this act but who has not been resentenced 10293  
under that section as of the effective date of this act shall be 10294  
resentenced in accordance with that section as it existed 10295  
immediately before the effective date of this act. 10296

(B) Nothing in this act is intended to nullify or mitigate 10297  
the sentence of an offender who was sentenced to death before 10298  
the effective date of this act. An offender who was sentenced to 10299  
death before the effective date of this act shall have the same 10300  
rights to appeal and to postconviction remedies as the offender 10301  
had under the provisions of Chapter 2953. of the Revised Code as 10302  
those provisions existed immediately before the effective date 10303  
of this act or as those provisions may hereafter be amended, and 10304  
courts shall have the same powers and duties with respect to 10305  
those offenders under those provisions as courts had before the 10306  
effective date of this act. 10307

(C) All reports and payments relating to capital cases 10308  
that were required to be made under any provision of Chapter 10309  
120. or section 109.97 of the Revised Code as those provisions 10310  
existed immediately before the effective date of this act shall 10311  
be made for the current calendar or fiscal year, as applicable, 10312  
in accordance with those provisions as they existed immediately 10313  
before the effective date of this act until each case in which a 10314  
defendant was sentenced to death before the effective date of 10315  
this act is finally resolved. 10316

(D) In an action in which an offender was sentenced to 10317

death before the effective date of this act, a court of common 10318  
pleas shall preserve the records of the action as required by 10319  
section 2301.20 of the Revised Code as it existed immediately 10320  
before the effective date of this act. 10321

**Section 4.** Attorneys appointed to represent indigent 10322  
defendants in postconviction relief proceedings in cases in 10323  
which the defendant was sentenced to death before the effective 10324  
date of this act shall be certified under Rule 20 of the Rules 10325  
of Superintendence for the Courts of Ohio as required by 10326  
sections 120.06, 120.14, 120.26, and 120.33 of the Revised Code 10327  
as those sections existed immediately before the effective date 10328  
of this act. 10329

**Section 5.** The General Assembly, applying the principle 10330  
stated in division (B) of section 1.52 of the Revised Code that 10331  
amendments are to be harmonized if reasonably capable of 10332  
simultaneous operation, finds that the following sections, 10333  
presented in this act as composites of the sections as amended 10334  
by the acts indicated, are the resulting versions of the 10335  
sections in effect prior to the effective date of the sections 10336  
as presented in this act: 10337

Section 2929.14 of the Revised Code is presented in this 10338  
act as a composite of the section as amended by both Sub. H.B. 10339  
470 and Sub. S.B. 319 of the 131st General Assembly. 10340

Section 2929.20 of the Revised Code is presented in this 10341  
act as a composite of the section as amended by both Am. Sub. 10342  
H.B. 64 and Am. Sub. S.B. 97 of the 131st General Assembly. 10343

Section 2953.07 of the Revised Code is presented in this 10344  
act as a composite of the section as amended by both Am. Sub. 10345  
S.B. 2 and Am. Sub. S.B. 4 of the 121st General Assembly. 10346

Section 2953.08 of the Revised Code is presented in this 10347  
act as a composite of the section as amended by Sub. H.B. 247, 10348  
Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 129th 10349  
General Assembly. 10350

Section 2967.03 of the Revised Code is presented in this 10351  
act as a composite of the section as amended by Am. Sub. H.B. 10352  
487, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 129th 10353  
General Assembly. 10354