

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 439

Representatives Dever, Ginter

A BILL

To amend sections 2903.212, 2907.41, 2919.251, 1
2935.15, 2937.22, 2937.222, 2937.23, and 2941.58 2
and to enact sections 181.27 and 2937.231 of the 3
Revised Code to require courts to use the 4
results of a validated risk assessment tool in 5
bail determinations; to allow nonmonetary bail 6
to be set; to require courts to collect certain 7
data on bail, pretrial release, and sentencing; 8
and to require the state Criminal Sentencing 9
Commission to create a list of validated risk 10
assessment tools and monitor the policies and 11
procedures of courts in setting bail and 12
utilizing pretrial supervision services. 13

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

Section 1. That sections 2903.212, 2907.41, 2919.251, 14
2935.15, 2937.22, 2937.222, 2937.23, and 2941.58 be amended and 15
sections 181.27 and 2937.231 of the Revised Code be enacted to 16
read as follows: 17

Sec. 181.27. (A) In addition to its duties set forth in 18
sections 181.23 to 181.26 of the Revised Code, the state 19

<u>criminal sentencing commission shall do all of the following:</u>	20
<u>(1) Within ninety days after the effective date of this</u>	21
<u>section, create a list of validated risk assessment tools that</u>	22
<u>courts may use for the purpose of setting bail under sections</u>	23
<u>2937.222 and 2937.23 of the Revised Code;</u>	24
<u>(2) Monitor the policies and procedures of courts in</u>	25
<u>setting bail and utilizing pretrial supervision services;</u>	26
<u>(3) Collect all of the following information monthly, from</u>	27
<u>the court of common pleas of each county:</u>	28
<u>(a) The number of individuals placed on probation by the</u>	29
<u>court in the month;</u>	30
<u>(b) The number of individuals whose probation was</u>	31
<u>terminated during the month, differentiated by type of</u>	32
<u>termination, including revocation and successful completion;</u>	33
<u>(c) The number of individuals under supervision on</u>	34
<u>probation at the end of the month covered by the report.</u>	35
<u>(4) Report the information gathered in divisions (A) (2)</u>	36
<u>and (3) of this section to the general assembly by the thirty-</u>	37
<u>first day of December of each even-numbered year.</u>	38
<u>(5) Maintain a centralized database of sentence</u>	39
<u>disposition information reported by municipal courts, county</u>	40
<u>courts, and common pleas courts including all of the following</u>	41
<u>information about each criminal disposition:</u>	42
<u>(a) The date of the disposition;</u>	43
<u>(b) The case number;</u>	44
<u>(c) The name of the court;</u>	45
<u>(d) The name of the judge;</u>	46

<u>(e) The name of the offender;</u>	47
<u>(f) The city, county, and state of the offender's residence;</u>	48 49
<u>(g) All of the following for any offense the offender is convicted of:</u>	50 51
<u>(i) The name of the offense;</u>	52
<u>(ii) The section of the Revised Code that specifies the offense;</u>	53 54
<u>(iii) The degree of the offense;</u>	55
<u>(iv) Whether the conviction followed a trial or plea of guilty;</u>	56 57
<u>(v) The sentence imposed on the offender for the conviction and factors that contributed to that sentence, including the type and duration of the sentence, the risk score assigned to the offender, and the offender's criminal history.</u>	58 59 60 61
<u>(B) The criminal sentencing commission is hereby designated a criminal justice agency in the maintenance of a centralized database of sentence disposition information under this section, and as such is authorized by this state to apply for access to the computerized databases administered by the national crime information center or the law enforcement automated data system in Ohio and to other computerized databases administered for the purpose of making criminal justice information accessible to state criminal justice agencies.</u>	62 63 64 65 66 67 68 69 70 71
Sec. 2903.212. (A) Except when the complaint involves a person who is a family or household member as defined in section 2919.25 of the Revised Code, if a person is charged with a	72 73 74

violation of section 2903.21, 2903.211, 2903.22, or 2911.211 of 75
the Revised Code, a violation of a municipal ordinance that is 76
substantially similar to one of those sections, or a sexually 77
oriented offense and if the person, at the time of the alleged 78
violation, was subject to the terms of any order issued pursuant 79
to section 2903.213, 2933.08, or 2945.04 of the Revised Code or 80
previously had been convicted of or pleaded guilty to a 81
violation of section 2903.21, 2903.211, 2903.22, or 2911.211 of 82
the Revised Code that involves the same complainant, a violation 83
of a municipal ordinance that is substantially similar to one of 84
those sections and that involves the same complainant, or a 85
sexually oriented offense that involves the same complainant, 86
the court shall consider all of the following, in addition to 87
any other circumstances considered by the court including the 88
results of a validated risk assessment tool and notwithstanding 89
any provisions to the contrary contained in Criminal Rule 46, 90
before setting ~~the amount and conditions of the~~ bail for the 91
person: 92

(1) Whether the person has a history of violence toward 93
the complainant or a history of other violent acts; 94

(2) The mental health of the person; 95

(3) Whether the person has a history of violating the 96
orders of any court or governmental entity; 97

(4) Whether the person is potentially a threat to any 98
other person; 99

(5) Whether setting bail at a high level will interfere 100
with any treatment or counseling that the person is undergoing. 101

(B) ~~Any court that has jurisdiction over violations of~~ 102
~~section 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised~~ 103

~~Code, violations of a municipal ordinance that is substantially similar to one of those sections, or sexually oriented offenses may set a schedule for bail to be used in cases involving those violations. The schedule shall require that a judge consider all of the factors listed in division (A) of this section and may require judges to set bail at a certain level or impose other reasonable conditions related to a release on bail or on recognizance if the history of the alleged offender or the circumstances of the alleged offense meet certain criteria in the schedule.~~

~~(C)~~ As used in this section, "sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

Sec. 2907.41. (A) Subject to division ~~(D)~~ (C) of this section, a person who is charged with the commission of any sexually oriented offense or with a violation of section 2907.09 of the Revised Code shall appear before the court for the setting of bail if the person charged previously was convicted of or pleaded guilty to a sexually oriented offense, a violation of section 2907.09 of the Revised Code, or a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to section 2907.09 of the Revised Code.

(B) To the extent that information about any of the following is available to the court, the court, in addition to any other circumstances considered by the court including the results of a validated risk assessment tool and notwithstanding any provisions to the contrary contained in Criminal Rule 46, shall consider all of the following before setting bail for a person who appears before the court pursuant to division (A) of this section:

(1) Whether the person previously has been adjudicated a sexual predator or child-victim predator pursuant to Chapter 2950. of the Revised Code, previously has been determined to be a habitual sex offender or habitual child-victim offender pursuant to that Chapter <u>chapter</u> , has a history of committing sexually oriented offenses or child-victim oriented offenses, or has a history of committing violations of section 2907.09 of the Revised Code or violations of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to that section;	134 135 136 137 138 139 140 141 142 143
(2) The mental health of the person;	144
(3) Whether the person has a history of violating the orders of any court or governmental entity;	145 146
(4) Whether the person is potentially a threat to any other person;	147 148
(5) Whether the person has access to deadly weapons or a history of using deadly weapons;	149 150
(6) Whether the person has a history of abusing alcohol or any controlled substance;	151 152
(7) The severity of the alleged conduct of the person that is the basis of the offense, including but not limited to, the duration of the alleged conduct, and whether the alleged conduct involved physical injury, assault, violence, or forcible entry to gain access to an alleged victim;	153 154 155 156 157
(8) Whether the person has exhibited obsessive or controlling behaviors toward another person, including, but not limited to, stalking, surveillance, or isolation of another person;	158 159 160 161

(9) Whether the person has expressed suicidal or homicidal ideations; 162
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(10) Any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint. 164
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~~(C) Any court that has jurisdiction over charges alleging the commission of a sexually oriented offense or a violation of section 2907.09 of the Revised Code, in circumstances in which the person charged previously was convicted of or pleaded guilty to any of the offenses or violations described in division (A) of this section, may set a schedule for bail to be used in cases involving those offenses and violations. The schedule shall require that a judge consider all of the factors listed in division (B) of this section and may require judges to set bail at a certain level if the history of the alleged offender or the circumstances of the alleged offense meet certain criteria in the schedule.~~ 167
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~~(D)~~ (1) Upon the court's own motion or the motion of a party and upon any terms that the court may direct, a court may permit a person who is required to appear before it by division (A) of this section to appear by video conferencing equipment. 179
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(2) If, in the opinion of the court, the appearance in person or by video conferencing equipment of a person who is charged with a misdemeanor and who is required to appear before the court by division (A) of this section is not practicable, the court may waive the appearance and release the person on bail in accordance with the court's schedule for bail set under division (C) of this section or, if the court has not set a schedule for bail under that division, on one or both of the following types of bail in an amount set by the court: 183
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~~(a) A bail bond secured by a deposit of ten per cent of the amount of the bond in cash;~~ 192
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~~(b) A surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the person set using the results of a validated risk assessment tool.~~ 194
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(3) Division (A) of this section does not create a right in a person to appear before the court for the setting of bail or prohibit a court from requiring any person charged with a sexually oriented offense or a violation of section 2907.09 of the Revised Code who is not described in that division from appearing before the court for the setting of bail. 198
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~~(E)~~ (D) As used in this section, ~~"child-victim";~~ 204

(1) "Child-victim oriented offense," "child-victim predator," "habitual child-victim offender," "habitual sex offender," "sexually oriented offense," and "sexual predator" have the same meanings as in section 2950.01 of the Revised Code. 205
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(2) "Validated risk assessment tool" means a risk assessment tool that has been included in a list of validated risk assessment tools by the state criminal sentencing commission pursuant to section 181.27 of the Revised Code. 210
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Sec. 2919.251. (A) Subject to division ~~(D)~~ (C) of this section, a person who is charged with the commission of any offense of violence shall appear before the court for the setting of bail if the alleged victim of the offense charged was a family or household member at the time of the offense and if any of the following applies: 214
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(1) The person charged, at the time of the alleged 220

offense, was subject to the terms of a protection order issued 221
or consent agreement approved pursuant to section 2919.26 or 222
3113.31 of the Revised Code or previously was convicted of or 223
pleaded guilty to a violation of section 2919.25 of the Revised 224
Code or a violation of section 2919.27 of the Revised Code 225
involving a protection order or consent agreement of that type, 226
a violation of an existing or former municipal ordinance or law 227
of this or any other state or the United States that is 228
substantially similar to either section, a violation of section 229
2909.06, 2909.07, 2911.12, or 2911.211 of the Revised Code if 230
the victim of the violation was a family or household member at 231
the time of the violation, a violation of an existing or former 232
municipal ordinance or law of this or any other state or the 233
United States that is substantially similar to any of those 234
sections if the victim of the violation was a family or 235
household member at the time of the commission of the violation, 236
or any offense of violence if the victim of the offense was a 237
family or household member at the time of the offense; 238

(2) The arresting officer indicates in a police report or 239
other document accompanying the complaint any of the following: 240

(a) That the arresting officer observed on the alleged 241
victim objective manifestations of physical harm that the 242
arresting officer reasonably believes are a result of the 243
alleged offense; 244

(b) That the arresting officer reasonably believes that 245
the person had on the person's person at the time of the alleged 246
offense a deadly weapon or dangerous ordnance; 247

(c) That the arresting officer reasonably believes that 248
the person presents a credible threat of serious physical harm 249
to the alleged victim or to any other person if released on bail 250

before trial.	251
(B) To the extent that information about any of the	252
following is available to the court, the court shall consider	253
all of the following, in addition to any other circumstances	254
considered by the court <u>including the results of a validated</u>	255
<u>risk assessment tool</u> and notwithstanding any provisions to the	256
contrary contained in Criminal Rule 46, before setting bail for	257
a person who appears before the court pursuant to division (A)	258
of this section:	259
(1) Whether the person has a history of domestic violence	260
or a history of other violent acts;	261
(2) The mental health of the person;	262
(3) Whether the person has a history of violating the	263
orders of any court or governmental entity;	264
(4) Whether the person is potentially a threat to any	265
other person;	266
(5) Whether the person has access to deadly weapons or a	267
history of using deadly weapons;	268
(6) Whether the person has a history of abusing alcohol or	269
any controlled substance;	270
(7) The severity of the alleged violence that is the basis	271
of the offense, including but not limited to, the duration of	272
the alleged violent incident, and whether the alleged violent	273
incident involved serious physical injury, sexual assault,	274
strangulation, abuse during the alleged victim's pregnancy,	275
abuse of pets, or forcible entry to gain access to the alleged	276
victim;	277
(8) Whether a separation of the person from the alleged	278

victim or a termination of the relationship between the person	279
and the alleged victim has recently occurred or is pending;	280
(9) Whether the person has exhibited obsessive or	281
controlling behaviors toward the alleged victim, including but	282
not limited to, stalking, surveillance, or isolation of the	283
alleged victim;	284
(10) Whether the person has expressed suicidal or	285
homicidal ideations;	286
(11) Any information contained in the complaint and any	287
police reports, affidavits, or other documents accompanying the	288
complaint.	289
 (C) Any court that has jurisdiction over charges alleging	290
the commission of an offense of violence in circumstances in	291
which the alleged victim of the offense was a family or	292
household member at the time of the offense may set a schedule	293
for bail to be used in cases involving those offenses. The	294
schedule shall require that a judge consider all of the factors	295
listed in division (B) of this section and may require judges to	296
set bail at a certain level if the history of the alleged	297
offender or the circumstances of the alleged offense meet	298
certain criteria in the schedule.	299
(D) (1) Upon the court's own motion or the motion of a	300
party and upon any terms that the court may direct, a court may	301
permit a person who is required to appear before it by division	302
(A) of this section to appear by video conferencing equipment.	303
(2) If in the opinion of the court the appearance in	304
person or by video conferencing equipment of a person who is	305
charged with a misdemeanor and who is required to appear before	306
the court by division (A) of this section is not practicable,	307

the court may waive the appearance and release the person on 308
~~bail in accordance with the court's schedule for bail set under~~ 309
~~division (C) of this section or, if the court has not set a~~ 310
~~schedule for bail under that division, on one or both of the~~ 311
~~following types of bail in an amount set by the court:~~ 312

~~(a) A bail bond secured by a deposit of ten per cent of~~ 313
~~the amount of the bond in cash;~~ 314

~~(b) A surety bond, a bond secured by real estate or~~ 315
~~securities as allowed by law, or the deposit of cash, at the~~ 316
~~option of the person set using the results of a validated risk~~ 317
~~assessment tool.~~ 318

(3) Division (A) of this section does not create a right 319
in a person to appear before the court for the setting of bail 320
or prohibit a court from requiring any person charged with an 321
offense of violence who is not described in that division from 322
appearing before the court for the setting of bail. 323

~~(E)~~ (D) As used in this section: 324

(1) "Controlled substance" has the same meaning as in 325
section 3719.01 of the Revised Code. 326

(2) "Dangerous ordnance" and "deadly weapon" have the same 327
meanings as in section 2923.11 of the Revised Code. 328

(3) "Validated risk assessment tool" means a risk 329
assessment tool that has been included in a list of validated 330
risk assessment tools by the state criminal sentencing 331
commission pursuant to section 181.27 of the Revised Code. 332

Sec. 2935.15. Amount of ~~bail,~~ and nature of security 333
~~therefor set or conditions required as bail~~ in misdemeanor cases 334
may be set by a schedule fixed by the court or magistrate, or it 335

~~may be~~ endorsed on the warrant by the magistrate or clerk of the 336
issuing court. ~~If the amount be not endorsed on the warrant, the~~ 337
~~schedule set by the court or magistrate before whom bail is~~ 338
~~taken shall prevail.~~ All recognizances taken, or cash received 339
shall be promptly transmitted to the court issuing the warrant, 340
and further proceedings ~~thereon~~ on that warrant shall be the 341
same as if taken by the issuing court. 342

Sec. 2937.22. (A) Bail is the security or conditions 343
required for the appearance of an accused to appear and answer 344
to a specific criminal or quasi-criminal charge in any court or 345
before any magistrate at a specific time or at any time to which 346
a case may be continued, and not depart without leave. It may 347
take any of the following forms: 348

(1) Any condition that the judge or magistrate determines 349
is appropriate to ensure public safety and to ensure that the 350
accused appears in court as required and does not depart without 351
leave; 352

(2) The deposit of cash by the accused or by some other 353
person for the accused; 354

~~(2)~~ (3) The deposit by the accused or by some other person 355
for the accused in form of bonds of the United States, this 356
state, or any political subdivision thereof in a face amount 357
equal to the sum set by the court or magistrate. In case of 358
bonds not negotiable by delivery such bonds shall be properly 359
endorsed for transfer. 360

~~(3)~~ (4) The written undertaking by one or more persons to 361
forfeit the sum of money set by the court or magistrate, if the 362
accused is in default for appearance, which shall be known as a 363
recognizance. 364

(B) Whenever a person is charged with any offense other than a traffic offense that is not a moving violation and posts bail, other than bail described in division (A)(1) of this section, the person shall pay a surcharge of twenty-five dollars. The clerk of the court shall retain the twenty-five dollars until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the twenty-five dollars on or before the twentieth day of the month following the month in which the person was convicted, pleaded guilty, or forfeited bail to the treasurer of state, and the treasurer of state shall deposit it into the indigent defense support fund created under section 120.08 of the Revised Code. If the person is found not guilty or the charges are dismissed, the clerk shall return the twenty-five dollars to the person.

(C) All bail shall be received by the clerk of the court, deputy clerk of court, or by the magistrate, or by a special referee appointed by the supreme court pursuant to section 2937.46 of the Revised Code, and, except in cases of recognizances and conditions, receipt shall be given therefor.

(D) As used in this section, "moving violation" has the same meaning as in section 2743.70 of the Revised Code.

Sec. 2937.222. (A) On the motion of the prosecuting attorney or on the judge's own motion, the judge shall hold a hearing to determine whether an accused person charged with aggravated murder when it is not a capital offense, murder, or a felony of the first or second degree, a violation of section 2903.06 of the Revised Code, a violation of section 2903.211 of the Revised Code that is a felony, or a felony OVI offense shall

be denied bail. The judge shall order that the accused be 395
detained until the conclusion of the hearing. Except for good 396
cause, a continuance on the motion of the state shall not exceed 397
three court days. Except for good cause, a continuance on the 398
motion of the accused shall not exceed five court days unless 399
the motion of the accused waives in writing the five-day limit 400
and states in writing a specific period for which the accused 401
requests a continuance. A continuance granted upon a motion of 402
the accused that waives in writing the five-day limit shall not 403
exceed five court days after the period of continuance requested 404
in the motion. 405

At the hearing, the accused has the right to be 406
represented by counsel and, if the accused is indigent, to have 407
counsel appointed. The judge shall afford the accused an 408
opportunity to testify, to present witnesses and other 409
information, and to cross-examine witnesses who appear at the 410
hearing. The rules concerning admissibility of evidence in 411
criminal trials do not apply to the presentation and 412
consideration of information at the hearing. Regardless of 413
whether the hearing is being held on the motion of the 414
prosecuting attorney or on the court's own motion, the state has 415
the burden of proving that the proof is evident or the 416
presumption great that the accused committed the offense with 417
which the accused is charged, of proving that the accused poses 418
a substantial risk of serious physical harm to any person or to 419
the community, and of proving that no release conditions will 420
reasonably assure the safety of that person and the community. 421

The judge may reopen the hearing at any time before trial 422
if the judge finds that information exists that was not known to 423
the movant at the time of the hearing and that that information 424
has a material bearing on whether bail should be denied. If a 425

municipal court or county court enters an order denying bail, a 426
judge of the court of common pleas having jurisdiction over the 427
case may continue that order or may hold a hearing pursuant to 428
this section to determine whether to continue that order. 429

(B) No accused person shall be denied bail pursuant to 430
this section unless the judge finds by clear and convincing 431
evidence that the proof is evident or the presumption great that 432
the accused committed the offense described in division (A) of 433
this section with which the accused is charged, finds by clear 434
and convincing evidence that the accused poses a substantial 435
risk of serious physical harm to any person or to the community, 436
and finds by clear and convincing evidence that no release 437
conditions will reasonably assure the safety of that person and 438
the community. 439

(C) The judge, in determining whether the accused person 440
described in division (A) of this section poses a substantial 441
risk of serious physical harm to any person or to the community 442
and whether there are conditions of release that will reasonably 443
assure the safety of that person and the community, shall use 444
the results of a validated risk assessment tool to consider all 445
available information regarding all of the following: 446

(1) The nature and circumstances of the offense charged, 447
including whether the offense is an offense of violence or 448
involves alcohol or a drug of abuse; 449

(2) The weight of the evidence against the accused; 450

(3) The history and characteristics of the accused, 451
including, but not limited to, both of the following: 452

(a) The character, physical and mental condition, family 453
ties, employment, financial resources, length of residence in 454

the community, community ties, past conduct, history relating to 455
drug or alcohol abuse, and criminal history of the accused; 456

(b) Whether, at the time of the current alleged offense or 457
at the time of the arrest of the accused, the accused was on 458
probation, parole, post-release control, or other release 459
pending trial, sentencing, appeal, or completion of sentence for 460
the commission of an offense under the laws of this state, 461
another state, or the United States or under a municipal 462
ordinance. 463

(4) The nature and seriousness of the danger to any person 464
or the community that would be posed by the person's release. 465

(D) (1) An order of the court of common pleas denying bail 466
pursuant to this section is a final appealable order. In an 467
appeal pursuant to division (D) of this section, the court of 468
appeals shall do all of the following: 469

(a) Give the appeal priority on its calendar; 470

(b) Liberally modify or dispense with formal requirements 471
in the interest of a speedy and just resolution of the appeal; 472

(c) Decide the appeal expeditiously; 473

(d) Promptly enter its judgment affirming or reversing the 474
order denying bail. 475

(2) The pendency of an appeal under this section does not 476
deprive the court of common pleas of jurisdiction to conduct 477
further proceedings in the case or to further consider the order 478
denying bail in accordance with this section. If, during the 479
pendency of an appeal under division (D) of this section, the 480
court of common pleas sets aside or terminates the order denying 481
bail, the court of appeals shall dismiss the appeal. 482

(E) As used in this section: 483

(1) "Court day" has the same meaning as in section 5122.01 484
of the Revised Code. 485

(2) ~~"Felony OVI offense" means a third degree felony OVI-~~ 486
~~offense and a fourth degree felony OVI offense.~~ 487

(3) ~~"Fourth degree felony OVI offense" and "third degree-~~ 488
~~felony OVI offense" have the same meanings as in section 2929.01-~~ 489
~~of the Revised Code. "Validated risk assessment tool" means a~~ 490
risk assessment tool that has been included in a list of 491
validated risk assessment tools by the state criminal sentencing 492
commission pursuant to section 181.27 of the Revised Code. 493

Sec. 2937.23. (A) (1) In a case involving a felony or a 494
violation of section 2903.11, 2903.12, or 2903.13 of the Revised 495
Code when the victim of the offense is a peace officer, the 496
judge or magistrate, except as provided in section 2937.222 of 497
the Revised Code, shall ~~fix the amount of~~ set bail. 498

(2) In a case involving a misdemeanor or a violation of a 499
municipal ordinance and not involving a felony or a violation of 500
section 2903.11, 2903.12, or 2903.13 of the Revised Code when 501
the victim of the offense is a peace officer, the judge, 502
magistrate, or clerk of the court may ~~fix the amount of~~ set bail 503
~~and may do so in accordance with a schedule previously fixed by~~ 504
~~the judge or magistrate~~ using the results of a validated risk 505
assessment tool. If the judge, magistrate, or clerk of the court 506
is not readily available, the sheriff, deputy sheriff, marshal, 507
deputy marshal, police officer, or jailer having custody of the 508
person charged may ~~fix the amount of~~ set bail in accordance with 509
a schedule previously fixed by the judge or magistrate and shall 510
take the bail only in the county courthouse, the municipal or 511

township building, or the county or municipal jail. 512

(3) In any case in which the accused is held in lieu of 513
bond and in which bail was set in accordance with a schedule, 514
the judge, magistrate, or clerk shall set bail for the accused 515
using a validated risk assessment tool as soon as the judge, 516
magistrate, or clerk is readily available. Bail set under 517
division (A) (3) of this section shall supersede any bail set 518
previously in accordance with a schedule. 519

(4) In all cases, the bail shall be ~~fixed set~~ with 520
consideration of the seriousness of the offense charged, the 521
previous criminal record of the defendant, and the probability 522
of the defendant appearing at the trial of the case. A judge, 523
magistrate, or clerk who sets bail shall first consider setting 524
conditions for bail, as described in division (A) (1) of section 525
2937.22 of the Revised Code and shall not require monetary 526
security as bail if the amount of the monetary security is 527
designed to keep the accused detained. 528

(B) In any case involving an alleged violation of section 529
2903.211 of the Revised Code or of a municipal ordinance that is 530
substantially similar to that section, the court shall determine 531
whether it will order an evaluation of the mental condition of 532
the defendant pursuant to section 2919.271 of the Revised Code 533
and, if it decides to so order, shall issue the order requiring 534
the evaluation before it sets bail for the person charged with 535
the violation. In any case involving an alleged violation of 536
section 2919.27 of the Revised Code or of a municipal ordinance 537
that is substantially similar to that section and in which the 538
court finds that either of the following criteria applies, the 539
court shall determine whether it will order an evaluation of the 540
mental condition of the defendant pursuant to section 2919.271 541

of the Revised Code and, if it decides to so order, shall issue 542
the order requiring that evaluation before it sets bail for the 543
person charged with the violation: 544

(1) Regarding an alleged violation of a protection order 545
issued or consent agreement approved pursuant to section 2919.26 546
or 3113.31 of the Revised Code, that the violation allegedly 547
involves conduct by the defendant that caused physical harm to 548
the person or property of a family or household member covered 549
by the order or agreement or conduct by that defendant that 550
caused a family or household member to believe that the 551
defendant would cause physical harm to that member or that 552
member's property; 553

(2) Regarding an alleged violation of a protection order 554
issued pursuant to section 2903.213 or 2903.214 of the Revised 555
Code, or a protection order issued by a court of another state, 556
as defined in section 2919.27 of the Revised Code, that the 557
violation allegedly involves conduct by the defendant that 558
caused physical harm to the person or property of the person 559
covered by the order or conduct by that defendant that caused 560
the person covered by the order to believe that the defendant 561
would cause physical harm to that person or that person's 562
property. 563

(C) As used in this section, ~~"peace~~: 564

(1) "Peace officer" has the same meaning as in section 565
2935.01 of the Revised Code. 566

(2) "Validated risk assessment tool" means a risk 567
assessment tool that has been included in a list of validated 568
risk assessment tools by the state criminal sentencing 569
commission pursuant to section 181.27 of the Revised Code. 570

<u>Sec. 2937.231. (A) Every court that sets bail under</u>	571
<u>section 2937.23 of the Revised Code shall collect data on all of</u>	572
<u>the following:</u>	573
<u>(1) The rate at which defendants released on bail or under</u>	574
<u>pretrial supervision cause physical harm to persons or property;</u>	575
<u>(2) The rate at which defendants released on bail or under</u>	576
<u>pretrial supervision fail to appear before the court as</u>	577
<u>required;</u>	578
<u>(3) The rate at which the court accepts the recommendation</u>	579
<u>of a pretrial service agency in setting bail under this section.</u>	580
<u>(B) Every court shall collect the following information</u>	581
<u>about each criminal case handled by the court:</u>	582
<u>(1) The date of the defendant's arrest;</u>	583
<u>(2) The date of the defendant's final release;</u>	584
<u>(3) The case number;</u>	585
<u>(4) The name of the court;</u>	586
<u>(5) The name of the judge;</u>	587
<u>(6) The name of the offender;</u>	588
<u>(7) The city, county, and state of the offender's</u>	589
<u>residence;</u>	590
<u>(8) All of the following for any offense that the offender</u>	591
<u>is charged with committing:</u>	592
<u>(a) The name of the offense;</u>	593
<u>(b) The section of the Revised Code that specifies the</u>	594
<u>offense;</u>	595

- (c) The degree of the offense; 596
- (d) The validated risk assessment tool used to set bail; 597
- (e) The risk score assigned to the offender; 598
- (f) Release recommendations; 599
- (g) Monetary bail amount set; 600
- (h) Whether a bail schedule was used. 601

Sec. 2941.58. When a motion to quash or a plea in abatement is adjudged in favor of the accused, the trial court may order the case to be resubmitted to the grand jury, if then pending, or to the next succeeding grand jury. The accused then may be committed to jail or ~~held to bail~~ set in such sum as the manner the trial court requires for ~~his~~ the accused's appearance to answer at a time to be fixed by the court.

Section 2. That existing sections 2903.212, 2907.41, 2919.251, 2935.15, 2937.22, 2937.222, 2937.23, and 2941.58 of the Revised Code are hereby repealed.

Section 3. The General Assembly, in enacting this act, respectfully requests that the Supreme Court of Ohio do both of the following:

(A) Provide, in the Rules of Superintendence for the Courts of Ohio, a model policy for the supervision of defendants released prior to trial;

(B) Update the Rules of Criminal Procedure to conform the rules to sections 2907.41, 2919.251, 2935.15, 2937.22, 2937.222, 2937.23, and 2941.58 of the Revised Code, as amended by this act.

Section 4. Section 2937.23 of the Revised Code is

presented in this act as a composite of the section as amended 623
by both Sub. H.B. 202 and Am. S.B. 142 of the 123rd General 624
Assembly. The General Assembly, applying the principle stated in 625
division (B) of section 1.52 of the Revised Code that amendments 626
are to be harmonized if reasonably capable of simultaneous 627
operation, finds that the composite is the resulting version of 628
the section in effect prior to the effective date of the section 629
as presented in this act. 630

Section 5. Sections 1 and 2 of this act, except for 631
sections 2903.212, 2907.41, 2919.251, 2935.15, 2937.22, 632
2937.222, 2937.23, and 2941.58 of the Revised Code, shall take 633
effect at the earliest time permitted by law. Sections 2903.212, 634
2907.41, 2919.251, 2935.15, 2937.22, 2937.222, 2937.23, and 635
2941.58 of the Revised Code, as amended by this act, shall take 636
effect ninety days after the effective date of this act. 637