

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 94

Senator Brown

Cosponsors: Senators Thomas, Yuko, Skindell, Williams, Tavares

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 and to declare an 22
emergency. 23

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

Section 1. That sections 9.07, 120.03, 120.06, 120.14, 24
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 149.43, 25
1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 2701.07, 26
2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 27
2929.61, 2930.03, 2930.06, 2930.16, 2930.19, 2937.222, 2941.021, 28
2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 29
2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 30
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 31
2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 2967.05, 2967.12, 32
2967.13, 2967.19, 2967.193, 2967.26, 2967.28, 2971.03, 2971.07, 33
5120.113, 5120.53, 5120.61, 5139.04, 5149.101, and 5919.16 of 34
the Revised Code be amended to read as follows: 35

Sec. 9.07. (A) As used in this section: 36

(1) "Deadly weapon" has the same meaning as in section 37
2923.11 of the Revised Code. 38

(2) "Governing authority of a local public entity" means 39
whichever of the following is applicable: 40

(a) For a county, the board of county commissioners of the 41
county; 42

(b) For a municipal corporation, the legislative authority 43
of the municipal corporation; 44

(c) For a combination of counties, a combination of 45
municipal corporations, or a combination of one or more counties 46
and one or more municipal corporations, all boards of county 47
commissioners and legislative authorities of all of the counties 48
and municipal corporations that combined to form a local public 49

entity for purposes of this section. 50

(3) "Local public entity" means a county, a municipal 51
corporation, a combination of counties, a combination of 52
municipal corporations, or a combination of one or more counties 53
and one or more municipal corporations. 54

(4) "Non-contracting political subdivision" means any 55
political subdivision to which all of the following apply: 56

(a) A correctional facility for the housing of out-of- 57
state prisoners in this state is or will be located in the 58
political subdivision. 59

(b) The correctional facility described in division (A) (4) 60
(a) of this section is being operated and managed, or will be 61
operated and managed, by a local public entity or a private 62
contractor pursuant to a contract entered into prior to March 63
17, 1998, or a contract entered into on or after March 17, 1998, 64
under this section. 65

(c) The political subdivision is not a party to the 66
contract described in division (A) (4) (b) of this section for the 67
management and operation of the correctional facility. 68

(5) "Out-of-state jurisdiction" means the United States, 69
any state other than this state, and any political subdivision 70
or other jurisdiction located in a state other than this state. 71

(6) "Out-of-state prisoner" means a person who is 72
convicted of a crime in another state or under the laws of the 73
United States or who is found under the laws of another state or 74
of the United States to be a delinquent child or the 75
substantially equivalent designation. 76

(7) "Private contractor" means either of the following: 77

(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 108
certifies the correctional facility's intended use, intended 109
prisoner population, and custody level, and the department 110
reviews and comments upon the plans for the design or renovation 111
of the correctional facility regarding their suitability for the 112
intended prisoner population specified in the submitted 113
statement. 114

(2) If a local public entity and an out-of-state 115
jurisdiction enter into a contract to house out-of-state 116
prisoners in a correctional facility in this state as authorized 117
under division (C) (1) of this section, in addition to any other 118
provisions it contains, the contract shall include whichever of 119
the following provisions is applicable: 120

(a) If a private contractor will operate the facility in 121
question pursuant to a contract entered into in accordance with 122
division (D) of this section, a requirement that, if the 123
facility is closed or ceases to operate for any reason and if 124
the conversion plan described in division (D) (16) of this 125
section is not complied with, the out-of-state jurisdiction will 126
be responsible for housing and transporting the prisoners who 127
are in the facility at the time it is closed or ceases to 128
operate and for the cost of so housing and transporting those 129
prisoners; 130

(b) If a private contractor will not operate the facility 131
in question pursuant to a contract entered into in accordance 132
with division (D) of this section, a conversion plan that will 133
be followed if, for any reason, the facility is closed or ceases 134
to operate. The conversion plan shall include, but is not 135
limited to, provisions that specify whether the local public 136
entity or the out-of-state jurisdiction will be responsible for 137

housing and transporting the prisoners who are in the facility 138
at the time it is closed or ceases to operate and for the cost 139
of so housing and transporting those prisoners. 140

(3) If a local public entity and an out-of-state 141
jurisdiction intend to enter into a contract to house out-of- 142
state prisoners in a correctional facility in this state as 143
authorized under division (C)(1) of this section, or if a local 144
public entity and a private contractor intend to enter into a 145
contract pursuant to division (D) of this section for the 146
private contractor's management and operation of a correctional 147
facility in this state to house out-of-state prisoners, prior to 148
entering into the contract the local public entity and the out- 149
of-state jurisdiction, or the local public entity and the 150
private contractor, whichever is applicable, shall conduct a 151
public hearing in accordance with this division, and, prior to 152
entering into the contract, the governing authority of the local 153
public entity in which the facility is or will be located shall 154
authorize the location and operation of the facility. The 155
hearing shall be conducted at a location within the municipal 156
corporation or township in which the facility is or will be 157
located. At least one week prior to conducting the hearing, the 158
local public entity and the out-of-state jurisdiction or private 159
contractor with the duty to conduct the hearing shall cause 160
notice of the date, time, and place of the hearing to be made by 161
publication in the newspaper with the largest general 162
circulation in the county in which the municipal corporation or 163
township is located. The notice shall be of a sufficient size 164
that it covers at least one-quarter of a page of the newspaper 165
in which it is published. This division applies to a private 166
contractor that, pursuant to the requirement set forth in 167
division (I) of this section, is required to enter into a 168

contract under division (D) of this section.	169
(D) Subject to division (I) of this section, on and after	170
March 17, 1998, if a local public entity enters into a contract	171
with a private contractor for the management and operation of a	172
correctional facility in this state to house out-of-state	173
prisoners, the contract, at a minimum, shall include all of the	174
following provisions:	175
(1) A requirement that the private contractor seek and	176
obtain accreditation from the American correctional association	177
for the correctional facility within two years after accepting	178
the first out-of-state prisoner at the correctional facility	179
under the contract and that it maintain that accreditation for	180
the term of the contract;	181
(2) A requirement that the private contractor comply with	182
all applicable laws, rules, or regulations of the government of	183
this state, political subdivisions of this state, and the United	184
States, including, but not limited to, all sanitation, food	185
service, safety, and health regulations;	186
(3) A requirement that the private contractor send copies	187
of reports of inspections completed by appropriate authorities	188
regarding compliance with laws, rules, and regulations of the	189
type described in division (D) (2) of this section to the	190
director of rehabilitation and correction or the director's	191
designee and to the governing authority of the local public	192
entity in which the correctional facility is located;	193
(4) A requirement that the private contractor report to	194
the local law enforcement agencies with jurisdiction over the	195
place at which the correctional facility is located, for	196
investigation, all criminal offenses or delinquent acts that are	197

committed in or on the grounds of, or otherwise in connection 198
with, the correctional facility and report to the department of 199
rehabilitation and correction all disturbances at the facility; 200

(5) A requirement that the private contractor immediately 201
report all escapes from the facility, and the apprehension of 202
all escapees, by telephone and in writing to the department of 203
rehabilitation and correction, to all local law enforcement 204
agencies with jurisdiction over the place at which the facility 205
is located, to the state highway patrol, to the prosecuting 206
attorney of the county in which the facility is located, and to 207
a daily newspaper having general circulation in the county in 208
which the facility is located. The written notice may be by 209
either facsimile transmission or mail. A failure to comply with 210
this requirement is a violation of section 2921.22 of the 211
Revised Code. 212

(6) A requirement that the private contractor provide a 213
written report to the director of rehabilitation and correction 214
or the director's designee and to the governing authority of the 215
local public entity in which the correctional facility is 216
located of all unusual incidents occurring at the correctional 217
facility. The private contractor shall report the incidents in 218
accordance with the incident reporting rules that, at the time 219
of the incident, are applicable to state correctional facilities 220
for similar incidents occurring at state correctional 221
facilities. 222

(7) A requirement that the private contractor provide 223
internal and perimeter security to protect the public, staff 224
members of the correctional facility, and prisoners in the 225
correctional facility; 226

(8) A requirement that the correctional facility be 227

staffed at all times with a staffing pattern that is adequate to 228
ensure supervision of inmates and maintenance of security within 229
the correctional facility and to provide for appropriate 230
programs, transportation, security, and other operational needs. 231
In determining security needs for the correctional facility, the 232
private contractor and the contract requirements shall fully 233
take into account all relevant factors, including, but not 234
limited to, the proximity of the facility to neighborhoods and 235
schools. 236

(9) A requirement that the private contractor provide an 237
adequate policy of insurance that satisfies the requirements set 238
forth in division (D) of section 9.06 of the Revised Code 239
regarding contractors who operate and manage a facility under 240
that section, and that the private contractor indemnify and hold 241
harmless the state, its officers, agents, and employees, and any 242
local public entity in the state with jurisdiction over the 243
place at which the correctional facility is located or that owns 244
the correctional facility, reimburse the state for its costs in 245
defending the state or any of its officers, agents, or 246
employees, and reimburse any local government entity of that 247
nature for its costs in defending the local government entity, 248
in the manner described in division (D) of that section 249
regarding contractors who operate and manage a facility under 250
that section; 251

(10) A requirement that the private contractor adopt for 252
prisoners housed in the correctional facility the security 253
classification system and schedule adopted by the department of 254
rehabilitation and correction under section 5145.03 of the 255
Revised Code, classify in accordance with the system and 256
schedule each prisoner housed in the facility, and house all 257
prisoners in the facility in accordance with their 258

classification under this division;	259
(11) A requirement that the private contractor will not	260
accept for housing, and will not house, in the correctional	261
facility any out-of-state prisoner in relation to whom any of	262
the following applies:	263
(a) The private entity has not obtained from the out-of-	264
state jurisdiction that imposed the sentence or sanction under	265
which the prisoner will be confined in this state a copy of the	266
institutional record of the prisoner while previously confined	267
in that out-of-state jurisdiction or a statement that the	268
prisoner previously has not been confined in that out-of-state	269
jurisdiction and a copy of all medical records pertaining to	270
that prisoner that are in the possession of the out-of-state	271
jurisdiction.	272
(b) The prisoner, while confined in any out-of-state	273
jurisdiction, has a record of institutional violence involving	274
the use of a deadly weapon or a pattern of committing acts of an	275
assaultive nature against employees of, or visitors to, the	276
place of confinement or has a record of escape or attempted	277
escape from secure custody.	278
(c) Under the securityclassification system and schedule	279
adopted by the department of rehabilitation and correction under	280
section 5145.03 of the Revised Code and adopted by the private	281
contractor under division (B)(10) of this section, the out-of-	282
state prisoner would be classified as being at a security level	283
higher than medium security.	284
(12) A requirement that the private contractor, prior to	285
housing any out-of-state prisoner in the correctional facility	286
under the contract, enter into a written agreement with the	287

department of rehabilitation and correction that sets forth a 288
plan and procedure that will be used to coordinate law 289
enforcement activities of state law enforcement agencies and of 290
local law enforcement agencies with jurisdiction over the place 291
at which the facility is located in response to any riot, 292
rebellion, escape, insurrection, or other emergency occurring 293
inside or outside the facility; 294

(13) A requirement that the private contractor cooperate 295
with the correctional institution inspection committee in the 296
committee's performance of its duties under section 103.73 of 297
the Revised Code and provide the committee, its subcommittees, 298
and its staff members, in performing those duties, with access 299
to the correctional facility as described in that section; 300

(14) A requirement that the private contractor permit any 301
peace officer who serves a law enforcement agency with 302
jurisdiction over the place at which the correctional facility 303
is located to enter into the facility to investigate any 304
criminal offense or delinquent act that allegedly has been 305
committed in or on the grounds of, or otherwise in connection 306
with, the facility; 307

(15) A requirement that the private contractor will not 308
employ any person at the correctional facility until after the 309
private contractor has submitted to the bureau of criminal 310
identification and investigation, on a form prescribed by the 311
superintendent of the bureau, a request that the bureau conduct 312
a criminal records check of the person and a requirement that 313
the private contractor will not employ any person at the 314
facility if the records check or other information possessed by 315
the contractor indicates that the person previously has engaged 316
in malfeasance; 317

(16) A requirement that the private contractor will not 318
accept for housing, and will not house, in the correctional 319
facility any out-of-state prisoner unless the private contractor 320
and the out-of-state jurisdiction that imposed the sentence for 321
which the prisoner is to be confined agree that, if the out-of- 322
state prisoner is confined in the facility in this state, 323
commits a criminal offense while confined in the facility, is 324
convicted of or pleads guilty to that offense, and is sentenced 325
to a term of confinement for that offense ~~but is not sentenced~~ 326
~~to death for that offense~~, the private contractor and the out- 327
of-state jurisdiction will do all of the following: 328

(a) Unless section 5120.50 of the Revised Code does not 329
apply in relation to the offense the prisoner committed while 330
confined in this state and the term of confinement imposed for 331
that offense, the out-of-state jurisdiction will accept the 332
prisoner pursuant to that section for service of that term of 333
confinement and for any period of time remaining under the 334
sentence for which the prisoner was confined in the facility in 335
this state, the out-of-state jurisdiction will confine the 336
prisoner pursuant to that section for that term and that 337
remaining period of time, and the private contractor will 338
transport the prisoner to the out-of-state jurisdiction for 339
service of that term and that remaining period of time. 340

(b) If section 5120.50 of the Revised Code does not apply 341
in relation to the offense the prisoner committed while confined 342
in this state and the term of confinement imposed for that 343
offense, the prisoner shall be returned to the out-of-state 344
jurisdiction or its private contractor for completion of the 345
period of time remaining under the out-of-state sentence for 346
which the prisoner was confined in the facility in this state 347
before starting service of the term of confinement imposed for 348

the offense committed while confined in this state, the out-of- 349
state jurisdiction or its private contractor will confine the 350
prisoner for that remaining period of time and will transport 351
the prisoner outside of this state for service of that remaining 352
period of time, and, if the prisoner is confined in this state 353
in a facility operated by the department of rehabilitation and 354
correction, the private contractor will be financially 355
responsible for reimbursing the department at the per diem cost 356
of confinement for the duration of that incarceration, with the 357
amount of the reimbursement so paid to be deposited in the 358
department's prisoner programs fund. 359

(17) A requirement that the private contractor, prior to 360
housing any out-of-state prisoner in the correctional facility 361
under the contract, enter into an agreement with the local 362
public entity that sets forth a conversion plan that will be 363
followed if, for any reason, the facility is closed or ceases to 364
operate. The conversion plan shall include, but is not limited 365
to, provisions that specify whether the private contractor, the 366
local public entity, or the out-of-state jurisdictions that 367
imposed the sentences for which the out-of-state prisoners are 368
confined in the facility will be responsible for housing and 369
transporting the prisoners who are in the facility at the time 370
it is closed or ceases to operate and for the cost of so housing 371
and transporting those prisoners. 372

(18) A schedule of fines that the local public entity 373
shall impose upon the private contractor if the private 374
contractor fails to perform its contractual duties, and a 375
requirement that, if the private contractor fails to perform its 376
contractual duties, the local public entity shall impose a fine 377
on the private contractor from the schedule of fines and, in 378
addition to the fine, may exercise any other rights it has under 379

the contract. Division (F) (2) of this section applies regarding 380
a fine described in this division. 381

(19) A requirement that the private contractor adopt and 382
use in the correctional facility the drug testing and treatment 383
program that the department of rehabilitation and correction 384
uses for inmates in state correctional institutions; 385

(20) A requirement that the private contractor provide 386
clothing for all out-of-state prisoners housed in the 387
correctional facility that is conspicuous in its color, style, 388
or color and style, that conspicuously identifies its wearer as 389
a prisoner, and that is readily distinguishable from clothing of 390
a nature that normally is worn outside the facility by non- 391
prisoners, that the private contractor require all out-of-state 392
prisoners housed in the facility to wear the clothing so 393
provided, and that the private contractor not permit any out-of- 394
state prisoner, while inside or on the premises of the facility 395
or while being transported to or from the facility, to wear any 396
clothing of a nature that does not conspicuously identify its 397
wearer as a prisoner and that normally is worn outside the 398
facility by non-prisoners; 399

(21) A requirement that, at the time the contract is made, 400
the private contractor provide to all parties to the contract 401
adequate proof that it has complied with the requirement 402
described in division (D) (9) of this section, and a requirement 403
that, at any time during the term of the contract, the private 404
contractor upon request provide to any party to the contract 405
adequate proof that it continues to be in compliance with the 406
requirement described in division (D) (9) of this section. 407

(E) A private correctional officer or other designated 408
employee of a private contractor that operates a correctional 409

facility that houses out-of-state prisoners in this state under 410
a contract entered into prior to, on, or after March 17, 1998, 411
may carry and use firearms in the course of the officer's or 412
employee's employment only if the officer or employee is 413
certified as having satisfactorily completed an approved 414
training program designed to qualify persons for positions as 415
special police officers, security guards, or persons otherwise 416
privately employed in a police capacity, as described in 417
division (A) of section 109.78 of the Revised Code. 418

(F) (1) Upon notification by the private contractor of an 419
escape from, or of a disturbance at, a correctional facility 420
that is operated by a private contractor under a contract 421
entered into prior to, on, or after March 17, 1998, and that 422
houses out-of-state prisoners in this state, the department of 423
rehabilitation and correction and state and local law 424
enforcement agencies shall use all reasonable means to recapture 425
persons who escaped from the facility or quell any disturbance 426
at the facility, in accordance with the plan and procedure 427
included in the written agreement entered into under division 428
(D) (12) of this section in relation to contracts entered into on 429
or after March 17, 1998, and in accordance with their normal 430
procedures in relation to contracts entered into prior to March 431
17, 1998. Any cost incurred by this state or a political 432
subdivision of this state relating to the apprehension of a 433
person who escaped from the facility, to the quelling of a 434
disturbance at the facility, or to the investigation or 435
prosecution as described in division (G) (2) of this section of 436
any offense relating to the escape or disturbance shall be 437
chargeable to and borne by the private contractor. The 438
contractor also shall reimburse the state or its political 439
subdivisions for all reasonable costs incurred relating to the 440

temporary detention of a person who escaped from the facility, 441
following the person's recapture. 442

(2) If a private contractor that, on or after March 17, 443
1998, enters into a contract under this section with a local 444
public entity for the operation of a correctional facility that 445
houses out-of-state prisoners fails to perform its contractual 446
duties, the local public entity shall impose upon the private 447
contractor a fine from the schedule of fines included in the 448
contract and may exercise any other rights it has under the 449
contract. A fine imposed under this division shall be paid to 450
the local public entity that enters into the contract, and the 451
local public entity shall deposit the money so paid into its 452
treasury to the credit of the fund used to pay for community 453
policing. If a fine is imposed under this division, the local 454
public entity may reduce the payment owed to the private 455
contractor pursuant to any invoice in the amount of the fine. 456

(3) If a private contractor, on or after March 17, 1998, 457
enters into a contract under this section with a local public 458
entity for the operation of a correctional facility that houses 459
out-of-state prisoners in this state, the private contractor 460
shall comply with the insurance, indemnification, hold harmless, 461
and cost reimbursement provisions described in division (D) (9) 462
of this section. 463

(G) (1) Any act or omission that would be a criminal 464
offense or a delinquent act if committed at a state correctional 465
institution or at a jail, workhouse, prison, or other 466
correctional facility operated by this state or by any political 467
subdivision or group of political subdivisions of this state 468
shall be a criminal offense or delinquent act if committed by or 469
with regard to any out-of-state prisoner who is housed at any 470

correctional facility operated by a private contractor in this 471
state pursuant to a contract entered into prior to, on, or after 472
March 17, 1998. 473

(2) If any political subdivision of this state experiences 474
any cost in the investigation or prosecution of an offense 475
committed by an out-of-state prisoner housed in a correctional 476
facility operated by a private contractor in this state pursuant 477
to a contract entered into prior to, on, or after March 17, 478
1998, the private contractor shall reimburse the political 479
subdivision for the costs so experienced. 480

(3) (a) Except as otherwise provided in this division, the 481
state, and any officer or employee, as defined in section 109.36 482
of the Revised Code, of the state is not liable in damages in a 483
civil action for any injury, death, or loss to person or 484
property that allegedly arises from, or is related to, the 485
establishment, management, or operation of a correctional 486
facility to house out-of-state prisoners in this state pursuant 487
to a contract between a local public entity and an out-of-state 488
jurisdiction, a local public entity and a private contractor, or 489
a private contractor and an out-of-state jurisdiction that was 490
entered into prior to March 17, 1998, or that is entered into on 491
or after March 17, 1998, in accordance with its provisions. The 492
immunity provided in this division does not apply regarding an 493
act or omission of an officer or employee, as defined in section 494
109.36 of the Revised Code, of the state that is manifestly 495
outside the scope of the officer's or employee's official 496
responsibilities or regarding an act or omission of the state, 497
or of an officer or employee, as so defined, of the state that 498
is undertaken with malicious purpose, in bad faith, or in a 499
wanton or reckless manner. 500

(b) Except as otherwise provided in this division, a non- 501
contracting political subdivision, and any employee, as defined 502
in section 2744.01 of the Revised Code, of a non-contracting 503
political subdivision is not liable in damages in a civil action 504
for any injury, death, or loss to person or property that 505
allegedly arises from, or is related to, the establishment, 506
management, or operation of a correctional facility to house 507
out-of-state prisoners in this state pursuant to a contract 508
between a local public entity other than the non-contracting 509
political subdivision and an out-of-state jurisdiction, a local 510
public entity other than the non-contracting political 511
subdivision and a private contractor, or a private contractor 512
and an out-of-state jurisdiction that was entered into prior to 513
March 17, 1998, or that is entered into on or after March 17, 514
1998, in accordance with its provisions. The immunity provided 515
in this division does not apply regarding an act or omission of 516
an employee, as defined in section 2744.01 of the Revised Code, 517
of a non-contracting political subdivision that is manifestly 518
outside the scope of the employee's employment or official 519
responsibilities or regarding an act or omission of a non- 520
contracting political subdivision or an employee, as so defined, 521
of a non-contracting political subdivision that is undertaken 522
with malicious purpose, in bad faith, or in a wanton or reckless 523
manner. 524

(c) Divisions (G) (3) (a) and (b) of this section do not 525
affect any immunity or defense that the state and its officers 526
and employees or a non-contracting political subdivision and its 527
employees may be entitled to under another section of the 528
Revised Code or the common law of this state, including, but not 529
limited to, section 9.86 or Chapter 2744. of the Revised Code. 530

(H) (1) Upon the completion of an out-of-state prisoner's 531

term of detention at a correctional facility operated by a 532
private contractor in this state pursuant to a contract entered 533
into prior to, on, or after March 17, 1998, the operator of the 534
correctional facility shall transport the prisoner to the out- 535
of-state jurisdiction that imposed the sentence for which the 536
prisoner was confined before it releases the prisoner from its 537
custody. 538

(2) No private contractor that operates and manages a 539
correctional facility housing out-of-state prisoners in this 540
state pursuant to a contract entered into prior to, on, or after 541
March 17, 1998, shall fail to comply with division (H)(1) of 542
this section. 543

(3) Whoever violates division (H)(2) of this section is 544
guilty of a misdemeanor of the first degree. 545

(I) Except as otherwise provided in this division, the 546
provisions of divisions (A) to (H) of this section apply in 547
relation to any correctional facility operated by a private 548
contractor in this state to house out-of-state prisoners, 549
regardless of whether the facility is operated pursuant to a 550
contract entered into prior to, on, or after March 17, 1998. 551
Division (C)(1) of this section shall not apply in relation to 552
any correctional facility for housing out-of-state prisoners in 553
this state that is operated by a private contractor under a 554
contract entered into with a local public entity prior to March 555
17, 1998. If a private contractor operates a correctional 556
facility in this state for the housing of out-of-state prisoners 557
under a contract entered into with a local public entity prior 558
to March 17, 1998, no later than thirty days after the effective 559
date of this amendment, the private contractor shall enter into 560
a contract with the local public entity that comports to the 561

requirements and criteria of division (D) of this section. 562

Sec. 120.03. (A) The Ohio public defender commission shall 563
appoint the state public defender, who shall serve at the 564
pleasure of the commission. 565

(B) The Ohio public defender commission shall establish 566
rules for the conduct of the offices of the county and joint 567
county public defenders and for the conduct of county appointed 568
counsel systems in the state. These rules shall include, but are 569
not limited to, the following: 570

(1) Standards of indigency and minimum qualifications for 571
legal representation by a public defender or appointed counsel. 572
In establishing standards of indigency and determining who is 573
eligible for legal representation by a public defender or 574
appointed counsel, the commission shall consider an indigent 575
person to be an individual who at the time ~~his~~ the person's need 576
is determined is unable to provide for the payment of an 577
attorney and all other necessary expenses of representation. 578
Release on bail shall not prevent a person from being determined 579
to be indigent. 580

(2) Standards for the hiring of outside counsel; 581

(3) Standards for contracts by a public defender with law 582
schools, legal aid societies, and nonprofit organizations for 583
providing counsel; 584

(4) Standards for the qualifications, training, and size 585
of the legal and supporting staff for a public defender, 586
facilities, and other requirements needed to maintain and 587
operate an office of a public defender; 588

(5) Minimum caseload standards; 589

(6) Procedures for the assessment and collection of the 590
costs of legal representation that is provided by public 591
defenders or appointed counsel; 592

(7) Standards and guidelines for determining whether a 593
client is able to make an up-front contribution toward the cost 594
of ~~his~~ the client's legal representation; 595

(8) Procedures for the collection of up-front 596
contributions from clients who are able to contribute toward the 597
cost of their legal representation, as determined pursuant to 598
the standards and guidelines developed under division (B) (7) of 599
this section. All of such up-front contributions shall be paid 600
into the appropriate county fund. 601

(9) Standards for contracts between a board of county 602
commissioners, a county public defender commission, or a joint 603
county public defender commission and a municipal corporation 604
for the legal representation of indigent persons charged with 605
violations of the ordinances of the municipal corporation. 606

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

(J) —(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
Sec. 120.14. (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 him <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
1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1530
1531
1532
1533
1534
1535
1536
1537

~~(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
1539
1540
1541

~~(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
1543
1544
1545
1546

~~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.~~ 1591

If any county receives an amount of money pursuant to 1592
section 120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code 1593
that is in excess of the amount of reimbursement it is entitled 1594
to receive pursuant to this section, the state public defender 1595
shall request the board of county commissioners to return the 1596
excess payment and the board of county commissioners, upon 1597
receipt of the request, shall direct the appropriate county 1598
officer to return the excess payment to the state. 1599

Within thirty days of the end of each fiscal quarter, the 1600
state public defender shall provide to the office of budget and 1601
management and the ~~legislative budget office of the~~ legislative 1602
service commission an estimate of the amount of money that will 1603
be required for the balance of the fiscal year to make the 1604
payments required by sections 120.18, 120.28, and 120.33, ~~and~~ 1605
~~120.35~~ of the Revised Code. 1606

Sec. 149.43. (A) As used in this section:	1607
(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:	1608 1609 1610 1611 1612 1613 1614 1615
(a) Medical records;	1616
(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;	1617 1618 1619
(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;	1620 1621 1622
(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;	1623 1624 1625
(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 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	1626 1627 1628 1629 1630 1631
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	1632 1633
(g) Trial preparation records;	1634

(h) Confidential law enforcement investigatory records;	1635
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	1636 1637
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	1638 1639
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	1640 1641 1642 1643
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	1644 1645 1646 1647
(m) Intellectual property records;	1648
(n) Donor profile records;	1649
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	1650 1651
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, investigator of the bureau of criminal identification and investigation, or federal law enforcement officer residential and familial information;	1652 1653 1654 1655 1656 1657 1658
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in	1659 1660 1661 1662

section 1333.61 of the Revised Code;	1663
(r) Information pertaining to the recreational activities	1664
of a person under the age of eighteen;	1665
(s) In the case of a child fatality review board acting	1666
under sections 307.621 to 307.629 of the Revised Code or a	1667
review conducted pursuant to guidelines established by the	1668
director of health under section 3701.70 of the Revised Code,	1669
records provided to the board or director, statements made by	1670
board members during meetings of the board or by persons	1671
participating in the director's review, and all work products of	1672
the board or director, and in the case of a child fatality	1673
review board, child fatality review data submitted by the board	1674
to the department of health or a national child death review	1675
database, other than the report prepared pursuant to division	1676
(A) of section 307.626 of the Revised Code;	1677
(t) Records provided to and statements made by the	1678
executive director of a public children services agency or a	1679
prosecuting attorney acting pursuant to section 5153.171 of the	1680
Revised Code other than the information released under that	1681
section;	1682
(u) Test materials, examinations, or evaluation tools used	1683
in an examination for licensure as a nursing home administrator	1684
that the board of executives of long-term services and supports	1685
administers under section 4751.04 of the Revised Code or	1686
contracts under that section with a private or government entity	1687
to administer;	1688
(v) Records the release of which is prohibited by state or	1689
federal law;	1690
(w) Proprietary information of or relating to any person	1691

that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;	1692 1693
(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;	1694 1695 1696 1697 1698 1699
(y) Records listed in section 5101.29 of the Revised Code;	1700
(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B) (2) of that section;	1701 1702 1703
(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;	1704 1705 1706
(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;	1707 1708 1709
(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code;	1710 1711 1712
(dd) Personal information, as defined in section 149.45 of the Revised Code;	1713 1714
(ee) <u>(dd)</u> The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections 111.41 to 111.47 of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's	1715 1716 1717 1718 1719

ballot identification envelope statement of voter, or 1720
provisional ballot affirmation completed by a program 1721
participant who has a confidential voter registration record, 1722
and records or portions of records pertaining to that program 1723
that identify the number of program participants that reside 1724
within a precinct, ward, township, municipal corporation, 1725
county, or any other geographic area smaller than the state. As 1726
used in this division, "confidential address" and "program 1727
participant" have the meaning defined in section 111.41 of the 1728
Revised Code. 1729

~~(ff)~~(ee) Orders for active military service of an 1730
individual serving or with previous service in the armed forces 1731
of the United States, including a reserve component, or the Ohio 1732
organized militia, except that, such order becomes a public 1733
record on the day that is fifteen years after the published date 1734
or effective date of the call to order. 1735

(2) "Confidential law enforcement investigatory record" 1736
means any record that pertains to a law enforcement matter of a 1737
criminal, quasi-criminal, civil, or administrative nature, but 1738
only to the extent that the release of the record would create a 1739
high probability of disclosure of any of the following: 1740

(a) The identity of a suspect who has not been charged 1741
with the offense to which the record pertains, or of an 1742
information source or witness to whom confidentiality has been 1743
reasonably promised; 1744

(b) Information provided by an information source or 1745
witness to whom confidentiality has been reasonably promised, 1746
which information would reasonably tend to disclose the source's 1747
or witness's identity; 1748

- (c) Specific confidential investigatory techniques or 1749
procedures or specific investigatory work product; 1750
- (d) Information that would endanger the life or physical 1751
safety of law enforcement personnel, a crime victim, a witness, 1752
or a confidential information source. 1753
- (3) "Medical record" means any document or combination of 1754
documents, except births, deaths, and the fact of admission to 1755
or discharge from a hospital, that pertains to the medical 1756
history, diagnosis, prognosis, or medical condition of a patient 1757
and that is generated and maintained in the process of medical 1758
treatment. 1759
- (4) "Trial preparation record" means any record that 1760
contains information that is specifically compiled in reasonable 1761
anticipation of, or in defense of, a civil or criminal action or 1762
proceeding, including the independent thought processes and 1763
personal trial preparation of an attorney. 1764
- (5) "Intellectual property record" means a record, other 1765
than a financial or administrative record, that is produced or 1766
collected by or for faculty or staff of a state institution of 1767
higher learning in the conduct of or as a result of study or 1768
research on an educational, commercial, scientific, artistic, 1769
technical, or scholarly issue, regardless of whether the study 1770
or research was sponsored by the institution alone or in 1771
conjunction with a governmental body or private concern, and 1772
that has not been publicly released, published, or patented. 1773
- (6) "Donor profile record" means all records about donors 1774
or potential donors to a public institution of higher education 1775
except the names and reported addresses of the actual donors and 1776
the date, amount, and conditions of the actual donation. 1777

(7) "Peace officer, parole officer, probation officer, 1778
bailiff, prosecuting attorney, assistant prosecuting attorney, 1779
correctional employee, community-based correctional facility 1780
employee, youth services employee, firefighter, EMT, 1781
investigator of the bureau of criminal identification and 1782
investigation, or federal law enforcement officer residential 1783
and familial information" means any information that discloses 1784
any of the following about a peace officer, parole officer, 1785
probation officer, bailiff, prosecuting attorney, assistant 1786
prosecuting attorney, correctional employee, community-based 1787
correctional facility employee, youth services employee, 1788
firefighter, EMT, investigator of the bureau of criminal 1789
identification and investigation, or federal law enforcement 1790
officer: 1791

(a) The address of the actual personal residence of a 1792
peace officer, parole officer, probation officer, bailiff, 1793
assistant prosecuting attorney, correctional employee, 1794
community-based correctional facility employee, youth services 1795
employee, firefighter, EMT, an investigator of the bureau of 1796
criminal identification and investigation, or federal law 1797
enforcement officer, except for the state or political 1798
subdivision in which the peace officer, parole officer, 1799
probation officer, bailiff, assistant prosecuting attorney, 1800
correctional employee, community-based correctional facility 1801
employee, youth services employee, firefighter, EMT, 1802
investigator of the bureau of criminal identification and 1803
investigation, or federal law enforcement officer resides; 1804

(b) Information compiled from referral to or participation 1805
in an employee assistance program; 1806

(c) The social security number, the residential telephone 1807

number, any bank account, debit card, charge card, or credit 1808
card number, or the emergency telephone number of, or any 1809
medical information pertaining to, a peace officer, parole 1810
officer, probation officer, bailiff, prosecuting attorney, 1811
assistant prosecuting attorney, correctional employee, 1812
community-based correctional facility employee, youth services 1813
employee, firefighter, EMT, investigator of the bureau of 1814
criminal identification and investigation, or federal law 1815
enforcement officer; 1816

(d) The name of any beneficiary of employment benefits, 1817
including, but not limited to, life insurance benefits, provided 1818
to a peace officer, parole officer, probation officer, bailiff, 1819
prosecuting attorney, assistant prosecuting attorney, 1820
correctional employee, community-based correctional facility 1821
employee, youth services employee, firefighter, EMT, 1822
investigator of the bureau of criminal identification and 1823
investigation, or federal law enforcement officer by the peace 1824
officer's, parole officer's, probation officer's, bailiff's, 1825
prosecuting attorney's, assistant prosecuting attorney's, 1826
correctional employee's, community-based correctional facility 1827
employee's, youth services employee's, firefighter's, EMT's, 1828
investigator of the bureau of criminal identification and 1829
investigation's, or federal law enforcement officer's employer; 1830

(e) The identity and amount of any charitable or 1831
employment benefit deduction made by the peace officer's, parole 1832
officer's, probation officer's, bailiff's, prosecuting 1833
attorney's, assistant prosecuting attorney's, correctional 1834
employee's, community-based correctional facility employee's, 1835
youth services employee's, firefighter's, EMT's, investigator of 1836
the bureau of criminal identification and investigation's, or 1837
federal law enforcement officer's employer from the peace 1838

officer's, parole officer's, probation officer's, bailiff's, 1839
prosecuting attorney's, assistant prosecuting attorney's, 1840
correctional employee's, community-based correctional facility 1841
employee's, youth services employee's, firefighter's, EMT's, 1842
investigator of the bureau of criminal identification and 1843
investigation's, or federal law enforcement officer's 1844
compensation unless the amount of the deduction is required by 1845
state or federal law; 1846

(f) The name, the residential address, the name of the 1847
employer, the address of the employer, the social security 1848
number, the residential telephone number, any bank account, 1849
debit card, charge card, or credit card number, or the emergency 1850
telephone number of the spouse, a former spouse, or any child of 1851
a peace officer, parole officer, probation officer, bailiff, 1852
prosecuting attorney, assistant prosecuting attorney, 1853
correctional employee, community-based correctional facility 1854
employee, youth services employee, firefighter, EMT, 1855
investigator of the bureau of criminal identification and 1856
investigation, or federal law enforcement officer; 1857

(g) A photograph of a peace officer who holds a position 1858
or has an assignment that may include undercover or plain 1859
clothes positions or assignments as determined by the peace 1860
officer's appointing authority. 1861

As used in divisions (A) (7) and (B) (9) of this section, 1862
"peace officer" has the same meaning as in section 109.71 of the 1863
Revised Code and also includes the superintendent and troopers 1864
of the state highway patrol; it does not include the sheriff of 1865
a county or a supervisory employee who, in the absence of the 1866
sheriff, is authorized to stand in for, exercise the authority 1867
of, and perform the duties of the sheriff. 1868

As used in divisions (A) (7) and (B) (9) of this section, 1869
"correctional employee" means any employee of the department of 1870
rehabilitation and correction who in the course of performing 1871
the employee's job duties has or has had contact with inmates 1872
and persons under supervision. 1873

As used in divisions (A) (7) and (B) (9) of this section, 1874
"youth services employee" means any employee of the department 1875
of youth services who in the course of performing the employee's 1876
job duties has or has had contact with children committed to the 1877
custody of the department of youth services. 1878

As used in divisions (A) (7) and (B) (9) of this section, 1879
"firefighter" means any regular, paid or volunteer, member of a 1880
lawfully constituted fire department of a municipal corporation, 1881
township, fire district, or village. 1882

As used in divisions (A) (7) and (B) (9) of this section, 1883
"EMT" means EMTs-basic, EMTs-I, and paramedics that provide 1884
emergency medical services for a public emergency medical 1885
service organization. "Emergency medical service organization," 1886
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as 1887
in section 4765.01 of the Revised Code. 1888

As used in divisions (A) (7) and (B) (9) of this section, 1889
"investigator of the bureau of criminal identification and 1890
investigation" has the meaning defined in section 2903.11 of the 1891
Revised Code. 1892

As used in divisions (A) (7) and (B) (9) of this section, 1893
"federal law enforcement officer" has the meaning defined in 1894
section 9.88 of the Revised Code. 1895

(8) "Information pertaining to the recreational activities 1896
of a person under the age of eighteen" means information that is 1897

kept in the ordinary course of business by a public office, that 1898
pertains to the recreational activities of a person under the 1899
age of eighteen years, and that discloses any of the following: 1900

(a) The address or telephone number of a person under the 1901
age of eighteen or the address or telephone number of that 1902
person's parent, guardian, custodian, or emergency contact 1903
person; 1904

(b) The social security number, birth date, or 1905
photographic image of a person under the age of eighteen; 1906

(c) Any medical record, history, or information pertaining 1907
to a person under the age of eighteen; 1908

(d) Any additional information sought or required about a 1909
person under the age of eighteen for the purpose of allowing 1910
that person to participate in any recreational activity 1911
conducted or sponsored by a public office or to use or obtain 1912
admission privileges to any recreational facility owned or 1913
operated by a public office. 1914

(9) "Community control sanction" has the same meaning as 1915
in section 2929.01 of the Revised Code. 1916

(10) "Post-release control sanction" has the same meaning 1917
as in section 2967.01 of the Revised Code. 1918

(11) "Redaction" means obscuring or deleting any 1919
information that is exempt from the duty to permit public 1920
inspection or copying from an item that otherwise meets the 1921
definition of a "record" in section 149.011 of the Revised Code. 1922

(12) "Designee" and "elected official" have the same 1923
meanings as in section 109.43 of the Revised Code. 1924

(B) (1) Upon request and subject to division (B) (8) of this 1925

section, all public records responsive to the request shall be 1926
promptly prepared and made available for inspection to any 1927
person at all reasonable times during regular business hours. 1928
Subject to division (B) (8) of this section, upon request, a 1929
public office or person responsible for public records shall 1930
make copies of the requested public record available at cost and 1931
within a reasonable period of time. If a public record contains 1932
information that is exempt from the duty to permit public 1933
inspection or to copy the public record, the public office or 1934
the person responsible for the public record shall make 1935
available all of the information within the public record that 1936
is not exempt. When making that public record available for 1937
public inspection or copying that public record, the public 1938
office or the person responsible for the public record shall 1939
notify the requester of any redaction or make the redaction 1940
plainly visible. A redaction shall be deemed a denial of a 1941
request to inspect or copy the redacted information, except if 1942
federal or state law authorizes or requires a public office to 1943
make the redaction. 1944

(2) To facilitate broader access to public records, a 1945
public office or the person responsible for public records shall 1946
organize and maintain public records in a manner that they can 1947
be made available for inspection or copying in accordance with 1948
division (B) of this section. A public office also shall have 1949
available a copy of its current records retention schedule at a 1950
location readily available to the public. If a requester makes 1951
an ambiguous or overly broad request or has difficulty in making 1952
a request for copies or inspection of public records under this 1953
section such that the public office or the person responsible 1954
for the requested public record cannot reasonably identify what 1955
public records are being requested, the public office or the 1956

person responsible for the requested public record may deny the 1957
request but shall provide the requester with an opportunity to 1958
revise the request by informing the requester of the manner in 1959
which records are maintained by the public office and accessed 1960
in the ordinary course of the public office's or person's 1961
duties. 1962

(3) If a request is ultimately denied, in part or in 1963
whole, the public office or the person responsible for the 1964
requested public record shall provide the requester with an 1965
explanation, including legal authority, setting forth why the 1966
request was denied. If the initial request was provided in 1967
writing, the explanation also shall be provided to the requester 1968
in writing. The explanation shall not preclude the public office 1969
or the person responsible for the requested public record from 1970
relying upon additional reasons or legal authority in defending 1971
an action commenced under division (C) of this section. 1972

(4) Unless specifically required or authorized by state or 1973
federal law or in accordance with division (B) of this section, 1974
no public office or person responsible for public records may 1975
limit or condition the availability of public records by 1976
requiring disclosure of the requester's identity or the intended 1977
use of the requested public record. Any requirement that the 1978
requester disclose the requester's identity or the intended use 1979
of the requested public record constitutes a denial of the 1980
request. 1981

(5) A public office or person responsible for public 1982
records may ask a requester to make the request in writing, may 1983
ask for the requester's identity, and may inquire about the 1984
intended use of the information requested, but may do so only 1985
after disclosing to the requester that a written request is not 1986

mandatory and that the requester may decline to reveal the 1987
requester's identity or the intended use and when a written 1988
request or disclosure of the identity or intended use would 1989
benefit the requester by enhancing the ability of the public 1990
office or person responsible for public records to identify, 1991
locate, or deliver the public records sought by the requester. 1992

(6) If any person chooses to obtain a copy of a public 1993
record in accordance with division (B) of this section, the 1994
public office or person responsible for the public record may 1995
require that person to pay in advance the cost involved in 1996
providing the copy of the public record in accordance with the 1997
choice made by the person seeking the copy under this division. 1998
The public office or the person responsible for the public 1999
record shall permit that person to choose to have the public 2000
record duplicated upon paper, upon the same medium upon which 2001
the public office or person responsible for the public record 2002
keeps it, or upon any other medium upon which the public office 2003
or person responsible for the public record determines that it 2004
reasonably can be duplicated as an integral part of the normal 2005
operations of the public office or person responsible for the 2006
public record. When the person seeking the copy makes a choice 2007
under this division, the public office or person responsible for 2008
the public record shall provide a copy of it in accordance with 2009
the choice made by the person seeking the copy. Nothing in this 2010
section requires a public office or person responsible for the 2011
public record to allow the person seeking a copy of the public 2012
record to make the copies of the public record. 2013

(7) (a) Upon a request made in accordance with division (B) 2014
of this section and subject to division (B) (6) of this section, 2015
a public office or person responsible for public records shall 2016
transmit a copy of a public record to any person by United 2017

States mail or by any other means of delivery or transmission 2018
within a reasonable period of time after receiving the request 2019
for the copy. The public office or person responsible for the 2020
public record may require the person making the request to pay 2021
in advance the cost of postage if the copy is transmitted by 2022
United States mail or the cost of delivery if the copy is 2023
transmitted other than by United States mail, and to pay in 2024
advance the costs incurred for other supplies used in the 2025
mailing, delivery, or transmission. 2026

(b) Any public office may adopt a policy and procedures 2027
that it will follow in transmitting, within a reasonable period 2028
of time after receiving a request, copies of public records by 2029
United States mail or by any other means of delivery or 2030
transmission pursuant to division (B) (7) of this section. A 2031
public office that adopts a policy and procedures under division 2032
(B) (7) of this section shall comply with them in performing its 2033
duties under that division. 2034

(c) In any policy and procedures adopted under division 2035
(B) (7) of this section: 2036

(i) A public office may limit the number of records 2037
requested by a person that the office will physically deliver by 2038
United States mail or by another delivery service to ten per 2039
month, unless the person certifies to the office in writing that 2040
the person does not intend to use or forward the requested 2041
records, or the information contained in them, for commercial 2042
purposes; 2043

(ii) A public office that chooses to provide some or all 2044
of its public records on a web site that is fully accessible to 2045
and searchable by members of the public at all times, other than 2046
during acts of God outside the public office's control or 2047

maintenance, and that charges no fee to search, access, 2048
download, or otherwise receive records provided on the web site, 2049
may limit to ten per month the number of records requested by a 2050
person that the office will deliver in a digital format, unless 2051
the requested records are not provided on the web site and 2052
unless the person certifies to the office in writing that the 2053
person does not intend to use or forward the requested records, 2054
or the information contained in them, for commercial purposes. 2055

(iii) For purposes of division (B)(7) of this section, 2056
"commercial" shall be narrowly construed and does not include 2057
reporting or gathering news, reporting or gathering information 2058
to assist citizen oversight or understanding of the operation or 2059
activities of government, or nonprofit educational research. 2060

(8) A public office or person responsible for public 2061
records is not required to permit a person who is incarcerated 2062
pursuant to a criminal conviction or a juvenile adjudication to 2063
inspect or to obtain a copy of any public record concerning a 2064
criminal investigation or prosecution or concerning what would 2065
be a criminal investigation or prosecution if the subject of the 2066
investigation or prosecution were an adult, unless the request 2067
to inspect or to obtain a copy of the record is for the purpose 2068
of acquiring information that is subject to release as a public 2069
record under this section and the judge who imposed the sentence 2070
or made the adjudication with respect to the person, or the 2071
judge's successor in office, finds that the information sought 2072
in the public record is necessary to support what appears to be 2073
a justiciable claim of the person. 2074

(9) (a) Upon written request made and signed by a 2075
journalist on or after December 16, 1999, a public office, or 2076
person responsible for public records, having custody of the 2077

records of the agency employing a specified peace officer, 2078
parole officer, probation officer, bailiff, prosecuting 2079
attorney, assistant prosecuting attorney, correctional employee, 2080
community-based correctional facility employee, youth services 2081
employee, firefighter, EMT, investigator of the bureau of 2082
criminal identification and investigation, or federal law 2083
enforcement officer shall disclose to the journalist the address 2084
of the actual personal residence of the peace officer, parole 2085
officer, probation officer, bailiff, prosecuting attorney, 2086
assistant prosecuting attorney, correctional employee, 2087
community-based correctional facility employee, youth services 2088
employee, firefighter, EMT, investigator of the bureau of 2089
criminal identification and investigation, or federal law 2090
enforcement officer and, if the peace officer's, parole 2091
officer's, probation officer's, bailiff's, prosecuting 2092
attorney's, assistant prosecuting attorney's, correctional 2093
employee's, community-based correctional facility employee's, 2094
youth services employee's, firefighter's, EMT's, investigator of 2095
the bureau of criminal identification and investigation's, or 2096
federal law enforcement officer's spouse, former spouse, or 2097
child is employed by a public office, the name and address of 2098
the employer of the peace officer's, parole officer's, probation 2099
officer's, bailiff's, prosecuting attorney's, assistant 2100
prosecuting attorney's, correctional employee's, community-based 2101
correctional facility employee's, youth services employee's, 2102
firefighter's, EMT's, investigator of the bureau of criminal 2103
identification and investigation's, or federal law enforcement 2104
officer's spouse, former spouse, or child. The request shall 2105
include the journalist's name and title and the name and address 2106
of the journalist's employer and shall state that disclosure of 2107
the information sought would be in the public interest. 2108

(b) Division (B) (9) (a) of this section also applies to 2109
journalist requests for customer information maintained by a 2110
municipally owned or operated public utility, other than social 2111
security numbers and any private financial information such as 2112
credit reports, payment methods, credit card numbers, and bank 2113
account information. 2114

(c) As used in division (B) (9) of this section, 2115
"journalist" means a person engaged in, connected with, or 2116
employed by any news medium, including a newspaper, magazine, 2117
press association, news agency, or wire service, a radio or 2118
television station, or a similar medium, for the purpose of 2119
gathering, processing, transmitting, compiling, editing, or 2120
disseminating information for the general public. 2121

(C) (1) If a person allegedly is aggrieved by the failure 2122
of a public office or the person responsible for public records 2123
to promptly prepare a public record and to make it available to 2124
the person for inspection in accordance with division (B) of 2125
this section or by any other failure of a public office or the 2126
person responsible for public records to comply with an 2127
obligation in accordance with division (B) of this section, the 2128
person allegedly aggrieved may do only one of the following, and 2129
not both: 2130

(a) File a complaint with the clerk of the court of claims 2131
or the clerk of the court of common pleas under section 2743.75 2132
of the Revised Code; 2133

(b) Commence a mandamus action to obtain a judgment that 2134
orders the public office or the person responsible for the 2135
public record to comply with division (B) of this section, that 2136
awards court costs and reasonable attorney's fees to the person 2137
that instituted the mandamus action, and, if applicable, that 2138

includes an order fixing statutory damages under division (C) (2) 2139
of this section. The mandamus action may be commenced in the 2140
court of common pleas of the county in which division (B) of 2141
this section allegedly was not complied with, in the supreme 2142
court pursuant to its original jurisdiction under Section 2 of 2143
Article IV, Ohio Constitution, or in the court of appeals for 2144
the appellate district in which division (B) of this section 2145
allegedly was not complied with pursuant to its original 2146
jurisdiction under Section 3 of Article IV, Ohio Constitution. 2147

(2) If a requester transmits a written request by hand 2148
delivery or certified mail to inspect or receive copies of any 2149
public record in a manner that fairly describes the public 2150
record or class of public records to the public office or person 2151
responsible for the requested public records, except as 2152
otherwise provided in this section, the requester shall be 2153
entitled to recover the amount of statutory damages set forth in 2154
this division if a court determines that the public office or 2155
the person responsible for public records failed to comply with 2156
an obligation in accordance with division (B) of this section. 2157

The amount of statutory damages shall be fixed at one 2158
hundred dollars for each business day during which the public 2159
office or person responsible for the requested public records 2160
failed to comply with an obligation in accordance with division 2161
(B) of this section, beginning with the day on which the 2162
requester files a mandamus action to recover statutory damages, 2163
up to a maximum of one thousand dollars. The award of statutory 2164
damages shall not be construed as a penalty, but as compensation 2165
for injury arising from lost use of the requested information. 2166
The existence of this injury shall be conclusively presumed. The 2167
award of statutory damages shall be in addition to all other 2168
remedies authorized by this section. 2169

The court may reduce an award of statutory damages or not 2170
award statutory damages if the court determines both of the 2171
following: 2172

(a) That, based on the ordinary application of statutory 2173
law and case law as it existed at the time of the conduct or 2174
threatened conduct of the public office or person responsible 2175
for the requested public records that allegedly constitutes a 2176
failure to comply with an obligation in accordance with division 2177
(B) of this section and that was the basis of the mandamus 2178
action, a well-informed public office or person responsible for 2179
the requested public records reasonably would believe that the 2180
conduct or threatened conduct of the public office or person 2181
responsible for the requested public records did not constitute 2182
a failure to comply with an obligation in accordance with 2183
division (B) of this section; 2184

(b) That a well-informed public office or person 2185
responsible for the requested public records reasonably would 2186
believe that the conduct or threatened conduct of the public 2187
office or person responsible for the requested public records 2188
would serve the public policy that underlies the authority that 2189
is asserted as permitting that conduct or threatened conduct. 2190

(3) In a mandamus action filed under division (C) (1) of 2191
this section, the following apply: 2192

(a) (i) If the court orders the public office or the person 2193
responsible for the public record to comply with division (B) of 2194
this section, the court shall determine and award to the relator 2195
all court costs, which shall be construed as remedial and not 2196
punitive. 2197

(ii) If the court makes a determination described in 2198

division (C) (3) (b) (iii) of this section, the court shall 2199
determine and award to the relator all court costs, which shall 2200
be construed as remedial and not punitive. 2201

(b) If the court renders a judgment that orders the public 2202
office or the person responsible for the public record to comply 2203
with division (B) of this section or if the court determines any 2204
of the following, the court may award reasonable attorney's fees 2205
to the relator, subject to the provisions of division (C) (4) of 2206
this section: 2207

(i) The public office or the person responsible for the 2208
public records failed to respond affirmatively or negatively to 2209
the public records request in accordance with the time allowed 2210
under division (B) of this section. 2211

(ii) The public office or the person responsible for the 2212
public records promised to permit the relator to inspect or 2213
receive copies of the public records requested within a 2214
specified period of time but failed to fulfill that promise 2215
within that specified period of time. 2216

(iii) The public office or the person responsible for the 2217
public records acted in bad faith when the office or person 2218
voluntarily made the public records available to the relator for 2219
the first time after the relator commenced the mandamus action, 2220
but before the court issued any order concluding whether or not 2221
the public office or person was required to comply with division 2222
(B) of this section. No discovery may be conducted on the issue 2223
of the alleged bad faith of the public office or person 2224
responsible for the public records. This division shall not be 2225
construed as creating a presumption that the public office or 2226
the person responsible for the public records acted in bad faith 2227
when the office or person voluntarily made the public records 2228

available to the relator for the first time after the relator 2229
commenced the mandamus action, but before the court issued any 2230
order described in this division. 2231

(c) The court shall not award attorney's fees to the 2232
relator if the court determines both of the following: 2233

(i) That, based on the ordinary application of statutory 2234
law and case law as it existed at the time of the conduct or 2235
threatened conduct of the public office or person responsible 2236
for the requested public records that allegedly constitutes a 2237
failure to comply with an obligation in accordance with division 2238
(B) of this section and that was the basis of the mandamus 2239
action, a well-informed public office or person responsible for 2240
the requested public records reasonably would believe that the 2241
conduct or threatened conduct of the public office or person 2242
responsible for the requested public records did not constitute 2243
a failure to comply with an obligation in accordance with 2244
division (B) of this section; 2245

(ii) That a well-informed public office or person 2246
responsible for the requested public records reasonably would 2247
believe that the conduct or threatened conduct of the public 2248
office or person responsible for the requested public records 2249
would serve the public policy that underlies the authority that 2250
is asserted as permitting that conduct or threatened conduct. 2251

(4) All of the following apply to any award of reasonable 2252
attorney's fees awarded under division (C) (3) (b) of this 2253
section: 2254

(a) The fees shall be construed as remedial and not 2255
punitive. 2256

(b) The fees awarded shall not exceed the total of the 2257

reasonable attorney's fees incurred before the public record was 2258
made available to the relator and the fees described in division 2259
(C) (4) (c) of this section. 2260

(c) Reasonable attorney's fees shall include reasonable 2261
fees incurred to produce proof of the reasonableness and amount 2262
of the fees and to otherwise litigate entitlement to the fees. 2263

(d) The court may reduce the amount of fees awarded if the 2264
court determines that, given the factual circumstances involved 2265
with the specific public records request, an alternative means 2266
should have been pursued to more effectively and efficiently 2267
resolve the dispute that was subject to the mandamus action 2268
filed under division (C) (1) of this section. 2269

(5) If the court does not issue a writ of mandamus under 2270
division (C) of this section and the court determines at that 2271
time that the bringing of the mandamus action was frivolous 2272
conduct as defined in division (A) of section 2323.51 of the 2273
Revised Code, the court may award to the public office all court 2274
costs, expenses, and reasonable attorney's fees, as determined 2275
by the court. 2276

(D) Chapter 1347. of the Revised Code does not limit the 2277
provisions of this section. 2278

(E) (1) To ensure that all employees of public offices are 2279
appropriately educated about a public office's obligations under 2280
division (B) of this section, all elected officials or their 2281
appropriate designees shall attend training approved by the 2282
attorney general as provided in section 109.43 of the Revised 2283
Code. In addition, all public offices shall adopt a public 2284
records policy in compliance with this section for responding to 2285
public records requests. In adopting a public records policy 2286

under this division, a public office may obtain guidance from 2287
the model public records policy developed and provided to the 2288
public office by the attorney general under section 109.43 of 2289
the Revised Code. Except as otherwise provided in this section, 2290
the policy may not limit the number of public records that the 2291
public office will make available to a single person, may not 2292
limit the number of public records that it will make available 2293
during a fixed period of time, and may not establish a fixed 2294
period of time before it will respond to a request for 2295
inspection or copying of public records, unless that period is 2296
less than eight hours. 2297

(2) The public office shall distribute the public records 2298
policy adopted by the public office under division (E)(1) of 2299
this section to the employee of the public office who is the 2300
records custodian or records manager or otherwise has custody of 2301
the records of that office. The public office shall require that 2302
employee to acknowledge receipt of the copy of the public 2303
records policy. The public office shall create a poster that 2304
describes its public records policy and shall post the poster in 2305
a conspicuous place in the public office and in all locations 2306
where the public office has branch offices. The public office 2307
may post its public records policy on the internet web site of 2308
the public office if the public office maintains an internet web 2309
site. A public office that has established a manual or handbook 2310
of its general policies and procedures for all employees of the 2311
public office shall include the public records policy of the 2312
public office in the manual or handbook. 2313

(F)(1) The bureau of motor vehicles may adopt rules 2314
pursuant to Chapter 119. of the Revised Code to reasonably limit 2315
the number of bulk commercial special extraction requests made 2316
by a person for the same records or for updated records during a 2317

calendar year. The rules may include provisions for charges to 2318
be made for bulk commercial special extraction requests for the 2319
actual cost of the bureau, plus special extraction costs, plus 2320
ten per cent. The bureau may charge for expenses for redacting 2321
information, the release of which is prohibited by law. 2322

(2) As used in division (F) (1) of this section: 2323

(a) "Actual cost" means the cost of depleted supplies, 2324
records storage media costs, actual mailing and alternative 2325
delivery costs, or other transmitting costs, and any direct 2326
equipment operating and maintenance costs, including actual 2327
costs paid to private contractors for copying services. 2328

(b) "Bulk commercial special extraction request" means a 2329
request for copies of a record for information in a format other 2330
than the format already available, or information that cannot be 2331
extracted without examination of all items in a records series, 2332
class of records, or database by a person who intends to use or 2333
forward the copies for surveys, marketing, solicitation, or 2334
resale for commercial purposes. "Bulk commercial special 2335
extraction request" does not include a request by a person who 2336
gives assurance to the bureau that the person making the request 2337
does not intend to use or forward the requested copies for 2338
surveys, marketing, solicitation, or resale for commercial 2339
purposes. 2340

(c) "Commercial" means profit-seeking production, buying, 2341
or selling of any good, service, or other product. 2342

(d) "Special extraction costs" means the cost of the time 2343
spent by the lowest paid employee competent to perform the task, 2344
the actual amount paid to outside private contractors employed 2345
by the bureau, or the actual cost incurred to create computer 2346

programs to make the special extraction. "Special extraction 2347
costs" include any charges paid to a public agency for computer 2348
or records services. 2349

(3) For purposes of divisions (F)(1) and (2) of this 2350
section, "surveys, marketing, solicitation, or resale for 2351
commercial purposes" shall be narrowly construed and does not 2352
include reporting or gathering news, reporting or gathering 2353
information to assist citizen oversight or understanding of the 2354
operation or activities of government, or nonprofit educational 2355
research. 2356

(G) A request by a defendant, counsel of a defendant, or 2357
any agent of a defendant in a criminal action that public 2358
records related to that action be made available under this 2359
section shall be considered a demand for discovery pursuant to 2360
the Criminal Rules, except to the extent that the Criminal Rules 2361
plainly indicate a contrary intent. The defendant, counsel of 2362
the defendant, or agent of the defendant making a request under 2363
this division shall serve a copy of the request on the 2364
prosecuting attorney, director of law, or other chief legal 2365
officer responsible for prosecuting the action. 2366

Sec. 1901.183. In addition to jurisdiction otherwise 2367
granted in this chapter, the environmental division of a 2368
municipal court shall have jurisdiction within its territory in 2369
all of the following actions or proceedings and to perform all 2370
of the following functions: 2371

(A) Notwithstanding any monetary limitations in section 2372
1901.17 of the Revised Code, in all actions and proceedings for 2373
the sale of real or personal property under lien of a judgment 2374
of the environmental division of the municipal court, or a lien 2375
for machinery, material, fuel furnished, or labor performed, 2376

irrespective of amount, and, in those cases, the environmental 2377
division may proceed to foreclose and marshal all liens and all 2378
vested or contingent rights, to appoint a receiver, and to 2379
render personal judgment irrespective of amount in favor of any 2380
party; 2381

(B) When in aid of execution of a judgment of the 2382
environmental division of the municipal court, in all actions 2383
for the foreclosure of a mortgage on real property given to 2384
secure the payment of money, or the enforcement of a specific 2385
lien for money or other encumbrance or charge on real property, 2386
when the real property is situated within the territory, and, in 2387
those cases, the environmental division may proceed to foreclose 2388
all liens and all vested and contingent rights and proceed to 2389
render judgments, and make findings and orders, between the 2390
parties, in the same manner and to the same extent as in similar 2391
cases in the court of common pleas; 2392

(C) When in aid of execution of a judgment of the 2393
environmental division of the municipal court, in all actions 2394
for the recovery of real property situated within the territory 2395
to the same extent as courts of common pleas have jurisdiction; 2396

(D) In all actions for injunction to prevent or terminate 2397
violations of the ordinances and regulations of any municipal 2398
corporation within its territory enacted or promulgated under 2399
the police power of that municipal corporation pursuant to 2400
Section 3 of Article XVIII, Ohio Constitution, over which the 2401
court of common pleas has or may have jurisdiction, and, in 2402
those cases, the environmental division of the municipal court 2403
may proceed to render judgments, and make findings and orders, 2404
in the same manner and to the same extent as in similar cases in 2405
the court of common pleas; 2406

(E) In all actions for injunction to prevent or terminate 2407
violations of the resolutions and regulations of any political 2408
subdivision within its territory enacted or promulgated under 2409
the power of that political subdivision pursuant to Article X of 2410
the Ohio Constitution, over which the court of common pleas has 2411
or may have jurisdiction, and, in those cases, the environmental 2412
division of the municipal court may proceed to render judgments, 2413
and make findings and orders, in the same manner and to the same 2414
extent as in similar cases in the court of common pleas; 2415

(F) In any civil action to enforce any provision of 2416
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 2417
Revised Code over which the court of common pleas has or may 2418
have jurisdiction, and, in those actions, the environmental 2419
division of the municipal court may proceed to render judgments, 2420
and make findings and orders, in the same manner and to the same 2421
extent as in similar actions in the court of common pleas; 2422

(G) In all actions and proceedings in the nature of 2423
creditors' bills, and in aid of execution to subject the 2424
interests of a judgment debtor in real or personal property to 2425
the payment of a judgment of the division, and, in those actions 2426
and proceedings, the environmental division may proceed to 2427
marshal and foreclose all liens on the property irrespective of 2428
the amount of the lien, and all vested or contingent rights in 2429
the property; 2430

(H) Concurrent jurisdiction with the court of common pleas 2431
of all criminal actions or proceedings related to the pollution 2432
of the air, ground, or water within the territory of the 2433
environmental division of the municipal court, ~~for which a~~ 2434
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 2435
~~Revised Code;~~ 2436

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

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

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

In all other cases, a juvenile court may impose a serious youthful offender dispositional sentence on a child only if the prosecuting attorney of the county in which the delinquent act allegedly occurred initiates the process against the child in accordance with this division, and the child is an alleged delinquent child who is eligible for the dispositional sentence. The prosecuting attorney may initiate the process in any of the following ways:

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

(2) The child waives the right to indictment, charging the

child in a bill of information as a serious youthful offender; 2466

(3) Until an indictment or information is obtained, 2467
requesting a serious youthful offender dispositional sentence in 2468
the original complaint alleging that the child is a delinquent 2469
child; 2470

(4) Until an indictment or information is obtained, if the 2471
original complaint does not request a serious youthful offender 2472
dispositional sentence, filing with the juvenile court a written 2473
notice of intent to seek a serious youthful offender 2474
dispositional sentence within twenty days after the later of the 2475
following, unless the time is extended by the juvenile court for 2476
good cause shown: 2477

(a) The date of the child's first juvenile court hearing 2478
regarding the complaint; 2479

(b) The date the juvenile court determines not to transfer 2480
the case under section 2152.12 of the Revised Code. 2481

After a written notice is filed under division (A) (4) of 2482
this section, the juvenile court shall serve a copy of the 2483
notice on the child and advise the child of the prosecuting 2484
attorney's intent to seek a serious youthful offender 2485
dispositional sentence in the case. 2486

(B) If an alleged delinquent child is not indicted or 2487
charged by information as described in division (A) (1) or (2) of 2488
this section and if a notice or complaint as described in 2489
division (A) (3) or (4) of this section indicates that the 2490
prosecuting attorney intends to pursue a serious youthful 2491
offender dispositional sentence in the case, the juvenile court 2492
shall hold a preliminary hearing to determine if there is 2493
probable cause that the child committed the act charged and is 2494

by age eligible for, or required to receive, a serious youthful 2495
offender dispositional sentence. 2496

(C) (1) A child for whom a serious youthful offender 2497
dispositional sentence is sought by a prosecuting attorney has 2498
the right to a grand jury determination of probable cause that 2499
the child committed the act charged and that the child is 2500
eligible by age for a serious youthful offender dispositional 2501
sentence. The grand jury may be impaneled by the court of common 2502
pleas or the juvenile court. 2503

Once a child is indicted, or charged by information or the 2504
juvenile court determines that the child is eligible for a 2505
serious youthful offender dispositional sentence, the child is 2506
entitled to an open and speedy trial by jury in juvenile court 2507
and to be provided with a transcript of the proceedings. The 2508
time within which the trial is to be held under Title XXIX of 2509
the Revised Code commences on whichever of the following dates 2510
is applicable: 2511

(a) If the child is indicted or charged by information, on 2512
the date of the filing of the indictment or information. 2513

(b) If the child is charged by an original complaint that 2514
requests a serious youthful offender dispositional sentence, on 2515
the date of the filing of the complaint. 2516

(c) If the child is not charged by an original complaint 2517
that requests a serious youthful offender dispositional 2518
sentence, on the date that the prosecuting attorney files the 2519
written notice of intent to seek a serious youthful offender 2520
dispositional sentence. 2521

(2) If the child is detained awaiting adjudication, upon 2522
indictment or being charged by information, the child has the 2523

same right to bail as an adult charged with the offense the 2524
alleged delinquent act would be if committed by an adult. Except 2525
as provided in division (D) of section 2152.14 of the Revised 2526
Code, all provisions of Title XXIX of the Revised Code and the 2527
Criminal Rules shall apply in the case and to the child. The 2528
juvenile court shall afford the child all rights afforded a 2529
person who is prosecuted for committing a crime including the 2530
right to counsel and the right to raise the issue of competency. 2531
The child may not waive the right to counsel. 2532

(D) (1) If a child is adjudicated a delinquent child for 2533
committing an act under circumstances that require the juvenile 2534
court to impose upon the child a serious youthful offender 2535
dispositional sentence under section 2152.11 of the Revised 2536
Code, all of the following apply: 2537

(a) The juvenile court shall impose upon the child a 2538
sentence available for the violation, as if the child were an 2539
adult, under Chapter 2929. of the Revised Code, except that the 2540
juvenile court shall not impose on the child a sentence of ~~death-~~ 2541
~~or~~-life imprisonment without parole. 2542

(b) The juvenile court also shall impose upon the child 2543
one or more traditional juvenile dispositions under sections 2544
2152.16, 2152.19, and 2152.20, and, if applicable, section 2545
2152.17 of the Revised Code. 2546

(c) The juvenile court shall stay the adult portion of the 2547
serious youthful offender dispositional sentence pending the 2548
successful completion of the traditional juvenile dispositions 2549
imposed. 2550

(2) (a) If a child is adjudicated a delinquent child for 2551
committing an act under circumstances that allow, but do not 2552

require, the juvenile court to impose on the child a serious 2553
youthful offender dispositional sentence under section 2152.11 2554
of the Revised Code, all of the following apply: 2555

(i) If the juvenile court on the record makes a finding 2556
that, given the nature and circumstances of the violation and 2557
the history of the child, the length of time, level of security, 2558
and types of programming and resources available in the juvenile 2559
system alone are not adequate to provide the juvenile court with 2560
a reasonable expectation that the purposes set forth in section 2561
2152.01 of the Revised Code will be met, the juvenile court may 2562
impose upon the child a sentence available for the violation, as 2563
if the child were an adult, under Chapter 2929. of the Revised 2564
Code, except that the juvenile court shall not impose on the 2565
child a sentence of ~~death or~~ life imprisonment without parole. 2566

(ii) If a sentence is imposed under division (D) (2) (a) (i) 2567
of this section, the juvenile court also shall impose upon the 2568
child one or more traditional juvenile dispositions under 2569
sections 2152.16, 2152.19, and 2152.20 and, if applicable, 2570
section 2152.17 of the Revised Code. 2571

(iii) The juvenile court shall stay the adult portion of 2572
the serious youthful offender dispositional sentence pending the 2573
successful completion of the traditional juvenile dispositions 2574
imposed. 2575

(b) If the juvenile court does not find that a sentence 2576
should be imposed under division (D) (2) (a) (i) of this section, 2577
the juvenile court may impose one or more traditional juvenile 2578
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 2579
applicable, section 2152.17 of the Revised Code. 2580

(3) A child upon whom a serious youthful offender 2581

dispositional sentence is imposed under division (D) (1) or (2) 2582
of this section has a right to appeal under division (A) (1), 2583
(3), (4), or (5) of section 2953.08 of the Revised Code the 2584
adult portion of the serious youthful offender dispositional 2585
sentence when any of those divisions apply. The child may appeal 2586
the adult portion, and the court shall consider the appeal as if 2587
the adult portion were not stayed. 2588

Sec. 2152.67. Any adult who is arrested or charged under 2589
any provision in this chapter and who is charged with a crime 2590
may demand a trial by jury, or the juvenile judge upon the 2591
judge's own motion may call a jury. A demand for a jury trial 2592
shall be made in writing in not less than three days before the 2593
date set for trial, or within three days after counsel has been 2594
retained, whichever is later. Sections 2945.17 and 2945.23 to 2595
2945.36 of the Revised Code, relating to the drawing and 2596
impaneling of jurors in criminal cases in the court of common 2597
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 2598
under this section. The compensation of jurors and costs of the 2599
clerk and sheriff shall be taxed and paid in the same manner as 2600
in criminal cases in the court of common pleas. 2601

Sec. 2301.20. All civil and criminal actions in the court 2602
of common pleas shall be recorded. The reporter shall take 2603
accurate notes of or electronically record the oral testimony. 2604
The notes and electronic records shall be filed in the office of 2605
the official reporter and carefully preserved for ~~either of the~~ 2606
~~following periods of time:~~ 2607

~~(A) If the action is not a capital case, the notes and~~ 2608
~~electronic records shall be preserved for the period of time~~ 2609
specified by the court of common pleas, which period of time 2610
shall not be longer than the period of time that the other 2611

records of the particular action are required to be kept. 2612

~~(B) If the action is a capital case, the notes and 2613
electronic records shall be preserved for the longer of ten 2614
years or until the final disposition of the action and 2615
exhaustion of all appeals. 2616~~

Sec. 2307.60. (A) (1) Anyone injured in person or property 2617
by a criminal act has, and may recover full damages in, a civil 2618
action unless specifically excepted by law, may recover the 2619
costs of maintaining the civil action and attorney's fees if 2620
authorized by any provision of the Rules of Civil Procedure or 2621
another section of the Revised Code or under the common law of 2622
this state, and may recover punitive or exemplary damages if 2623
authorized by section 2315.21 or another section of the Revised 2624
Code. 2625

(2) A final judgment of a trial court that has not been 2626
reversed on appeal or otherwise set aside, nullified, or 2627
vacated, entered after a trial or upon a plea of guilty, but not 2628
upon a plea of no contest or the equivalent plea from another 2629
jurisdiction, that adjudges an offender guilty of an offense of 2630
violence punishable by ~~death or~~ imprisonment in excess of one 2631
year, when entered as evidence in any subsequent civil 2632
proceeding based on the criminal act, shall preclude the 2633
offender from denying in the subsequent civil proceeding any 2634
fact essential to sustaining that judgment, unless the offender 2635
can demonstrate that extraordinary circumstances prevented the 2636
offender from having a full and fair opportunity to litigate the 2637
issue in the criminal proceeding or other extraordinary 2638
circumstances justify affording the offender an opportunity to 2639
relitigate the issue. The offender may introduce evidence of the 2640
offender's pending appeal of the final judgment of the trial 2641

court, if applicable, and the court may consider that evidence 2642
in determining the liability of the offender. 2643

(B) (1) As used in division (B) of this section: 2644

(a) "Tort action" means a civil action for damages for 2645
injury, death, or loss to person or property other than a civil 2646
action for damages for a breach of contract or another agreement 2647
between persons. "Tort action" includes, but is not limited to, 2648
a product liability claim, as defined in section 2307.71 of the 2649
Revised Code, and an asbestos claim, as defined in section 2650
2307.91 of the Revised Code, an action for wrongful death under 2651
Chapter 2125. of the Revised Code, and an action based on 2652
derivative claims for relief. 2653

(b) "Residence" has the same meaning as in section 2901.05 2654
of the Revised Code. 2655

(2) Recovery on a claim for relief in a tort action is 2656
barred to any person or the person's legal representative if any 2657
of the following apply: 2658

(a) The person has been convicted of or has pleaded guilty 2659
to a felony, or to a misdemeanor that is an offense of violence, 2660
arising out of criminal conduct that was a proximate cause of 2661
the injury or loss for which relief is claimed in the tort 2662
action. 2663

(b) The person engaged in conduct that, if prosecuted, 2664
would constitute a felony, a misdemeanor that is an offense of 2665
violence, an attempt to commit a felony, or an attempt to commit 2666
a misdemeanor that is an offense of violence and that conduct 2667
was a proximate cause of the injury or loss for which relief is 2668
claimed in the tort action, regardless of whether the person has 2669
been convicted of or pleaded guilty to or has been charged with 2670

committing the felony, the misdemeanor, or the attempt to commit 2671
the felony or misdemeanor. 2672

(c) The person suffered the injury or loss for which 2673
relief is claimed in the tort action as a proximate result of 2674
the victim of conduct that, if prosecuted, would constitute a 2675
felony, a misdemeanor that is an offense of violence, an attempt 2676
to commit a felony, or an attempt to commit a misdemeanor that 2677
is an offense of violence acting against the person in self- 2678
defense, defense of another, or defense of the victim's 2679
residence, regardless of whether the person has been convicted 2680
of or pleaded guilty to or has been charged with committing the 2681
felony, the misdemeanor, or the attempt to commit the felony or 2682
misdemeanor. Division (B) (2) (c) of this section does not apply 2683
if the person who suffered the injury or loss, at the time of 2684
the victim's act of self-defense, defense of another, or defense 2685
of residence, was an innocent bystander who had no connection 2686
with the underlying conduct that prompted the victim's exercise 2687
of self-defense, defense of another, or defense of residence. 2688

(3) Recovery against a victim of conduct that, if 2689
prosecuted, would constitute a felony, a misdemeanor that is an 2690
offense of violence, an attempt to commit a felony, or an 2691
attempt to commit a misdemeanor that is an offense of violence, 2692
on a claim for relief in a tort action is barred to any person 2693
or the person's legal representative if conduct the person 2694
engaged in against that victim was a proximate cause of the 2695
injury or loss for which relief is claimed in the tort action 2696
and that conduct, if prosecuted, would constitute a felony, a 2697
misdemeanor that is an offense of violence, an attempt to commit 2698
a felony, or an attempt to commit a misdemeanor that is an 2699
offense of violence, regardless of whether the person has been 2700
convicted of or pleaded guilty to or has been charged with 2701

committing the felony, the misdemeanor, or the attempt to commit 2702
the felony or misdemeanor. 2703

(4) Divisions (B) (1) to (3) of this section do not apply 2704
to civil claims based upon alleged intentionally tortious 2705
conduct, alleged violations of the United States Constitution, 2706
or alleged violations of statutes of the United States 2707
pertaining to civil rights. For purposes of division (B) (4) of 2708
this section, a person's act of self-defense, defense of 2709
another, or defense of the person's residence does not 2710
constitute intentionally tortious conduct. 2711

Sec. 2317.02. The following persons shall not testify in 2712
certain respects: 2713

(A) (1) An attorney, concerning a communication made to the 2714
attorney by a client in that relation or concerning the 2715
attorney's advice to a client, except that the attorney may 2716
testify by express consent of the client or, if the client is 2717
deceased, by the express consent of the surviving spouse or the 2718
executor or administrator of the estate of the deceased client. 2719
However, if the client voluntarily reveals the substance of 2720
attorney-client communications in a nonprivileged context or is 2721
deemed by section 2151.421 of the Revised Code to have waived 2722
any testimonial privilege under this division, the attorney may 2723
be compelled to testify on the same subject. 2724

The testimonial privilege established under this division 2725
does not apply concerning ~~either of the following:~~ 2726

~~(a) A communication between a client in a capital case, as 2727
defined in section 2901.02 of the Revised Code, and the client's 2728
attorney if the communication is relevant to a subsequent 2729
ineffective assistance of counsel claim by the client alleging 2730~~

~~that the attorney did not effectively represent the client in
the case;~~ 2731
2732

~~(b) A~~ a communication between a client who has since died 2733
and the deceased client's attorney if the communication is 2734
relevant to a dispute between parties who claim through that 2735
deceased client, regardless of whether the claims are by testate 2736
or intestate succession or by inter vivos transaction, and the 2737
dispute addresses the competency of the deceased client when the 2738
deceased client executed a document that is the basis of the 2739
dispute or whether the deceased client was a victim of fraud, 2740
undue influence, or duress when the deceased client executed a 2741
document that is the basis of the dispute. 2742

(2) An attorney, concerning a communication made to the 2743
attorney by a client in that relationship or the attorney's 2744
advice to a client, except that if the client is an insurance 2745
company, the attorney may be compelled to testify, subject to an 2746
in camera inspection by a court, about communications made by 2747
the client to the attorney or by the attorney to the client that 2748
are related to the attorney's aiding or furthering an ongoing or 2749
future commission of bad faith by the client, if the party 2750
seeking disclosure of the communications has made a prima-facie 2751
showing of bad faith, fraud, or criminal misconduct by the 2752
client. 2753

(B) (1) A physician, advanced practice registered nurse, or 2754
dentist concerning a communication made to the physician, 2755
advanced practice registered nurse, or dentist by a patient in 2756
that relation or the advice of a physician, advanced practice 2757
registered nurse, or dentist given to a patient, except as 2758
otherwise provided in this division, division (B) (2), and 2759
division (B) (3) of this section, and except that, if the patient 2760

is deemed by section 2151.421 of the Revised Code to have waived 2761
any testimonial privilege under this division, the physician or 2762
advanced practice registered nurse may be compelled to testify 2763
on the same subject. 2764

The testimonial privilege established under this division 2765
does not apply, and a physician, advanced practice registered 2766
nurse, or dentist may testify or may be compelled to testify, in 2767
any of the following circumstances: 2768

(a) In any civil action, in accordance with the discovery 2769
provisions of the Rules of Civil Procedure in connection with a 2770
civil action, or in connection with a claim under Chapter 4123. 2771
of the Revised Code, under any of the following circumstances: 2772

(i) If the patient or the guardian or other legal 2773
representative of the patient gives express consent; 2774

(ii) If the patient is deceased, the spouse of the patient 2775
or the executor or administrator of the patient's estate gives 2776
express consent; 2777

(iii) If a medical claim, dental claim, chiropractic 2778
claim, or optometric claim, as defined in section 2305.113 of 2779
the Revised Code, an action for wrongful death, any other type 2780
of civil action, or a claim under Chapter 4123. of the Revised 2781
Code is filed by the patient, the personal representative of the 2782
estate of the patient if deceased, or the patient's guardian or 2783
other legal representative. 2784

(b) In any civil action concerning court-ordered treatment 2785
or services received by a patient, if the court-ordered 2786
treatment or services were ordered as part of a case plan 2787
journalized under section 2151.412 of the Revised Code or the 2788
court-ordered treatment or services are necessary or relevant to 2789

dependency, neglect, or abuse or temporary or permanent custody 2790
proceedings under Chapter 2151. of the Revised Code. 2791

(c) In any criminal action concerning any test or the 2792
results of any test that determines the presence or 2793
concentration of alcohol, a drug of abuse, a combination of 2794
them, a controlled substance, or a metabolite of a controlled 2795
substance in the patient's whole blood, blood serum or plasma, 2796
breath, urine, or other bodily substance at any time relevant to 2797
the criminal offense in question. 2798

(d) In any criminal action against a physician, advanced 2799
practice registered nurse, or dentist. In such an action, the 2800
testimonial privilege established under this division does not 2801
prohibit the admission into evidence, in accordance with the 2802
Rules of Evidence, of a patient's medical or dental records or 2803
other communications between a patient and the physician, 2804
advanced practice registered nurse, or dentist that are related 2805
to the action and obtained by subpoena, search warrant, or other 2806
lawful means. A court that permits or compels a physician, 2807
advanced practice registered nurse, or dentist to testify in 2808
such an action or permits the introduction into evidence of 2809
patient records or other communications in such an action shall 2810
require that appropriate measures be taken to ensure that the 2811
confidentiality of any patient named or otherwise identified in 2812
the records is maintained. Measures to ensure confidentiality 2813
that may be taken by the court include sealing its records or 2814
deleting specific information from its records. 2815

(e) (i) If the communication was between a patient who has 2816
since died and the deceased patient's physician, advanced 2817
practice registered nurse, or dentist, the communication is 2818
relevant to a dispute between parties who claim through that 2819

deceased patient, regardless of whether the claims are by 2820
testate or intestate succession or by inter vivos transaction, 2821
and the dispute addresses the competency of the deceased patient 2822
when the deceased patient executed a document that is the basis 2823
of the dispute or whether the deceased patient was a victim of 2824
fraud, undue influence, or duress when the deceased patient 2825
executed a document that is the basis of the dispute. 2826

(ii) If neither the spouse of a patient nor the executor 2827
or administrator of that patient's estate gives consent under 2828
division (B) (1) (a) (ii) of this section, testimony or the 2829
disclosure of the patient's medical records by a physician, 2830
advanced practice registered nurse, dentist, or other health 2831
care provider under division (B) (1) (e) (i) of this section is a 2832
permitted use or disclosure of protected health information, as 2833
defined in 45 C.F.R. 160.103, and an authorization or 2834
opportunity to be heard shall not be required. 2835

(iii) Division (B) (1) (e) (i) of this section does not 2836
require a mental health professional to disclose psychotherapy 2837
notes, as defined in 45 C.F.R. 164.501. 2838

(iv) An interested person who objects to testimony or 2839
disclosure under division (B) (1) (e) (i) of this section may seek 2840
a protective order pursuant to Civil Rule 26. 2841

(v) A person to whom protected health information is 2842
disclosed under division (B) (1) (e) (i) of this section shall not 2843
use or disclose the protected health information for any purpose 2844
other than the litigation or proceeding for which the 2845
information was requested and shall return the protected health 2846
information to the covered entity or destroy the protected 2847
health information, including all copies made, at the conclusion 2848
of the litigation or proceeding. 2849

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

(b) If a health care provider possesses any records of the type described in division (B) (2) (a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this

division shall be construed to limit the right of any party to 2881
call as a witness the person who administered the test to which 2882
the records pertain, the person under whose supervision the test 2883
was administered, the custodian of the records, the person who 2884
made the records, or the person under whose supervision the 2885
records were made. 2886

(3) (a) If the testimonial privilege described in division 2887
(B) (1) of this section does not apply as provided in division 2888
(B) (1) (a) (iii) of this section, a physician, advanced practice 2889
registered nurse, or dentist may be compelled to testify or to 2890
submit to discovery under the Rules of Civil Procedure only as 2891
to a communication made to the physician, advanced practice 2892
registered nurse, or dentist by the patient in question in that 2893
relation, or the advice of the physician, advanced practice 2894
registered nurse, or dentist given to the patient in question, 2895
that related causally or historically to physical or mental 2896
injuries that are relevant to issues in the medical claim, 2897
dental claim, chiropractic claim, or optometric claim, action 2898
for wrongful death, other civil action, or claim under Chapter 2899
4123. of the Revised Code. 2900

(b) If the testimonial privilege described in division (B) 2901
(1) of this section does not apply to a physician, advanced 2902
practice registered nurse, or dentist as provided in division 2903
(B) (1) (c) of this section, the physician, advanced practice 2904
registered nurse, or dentist, in lieu of personally testifying 2905
as to the results of the test in question, may submit a 2906
certified copy of those results, and, upon its submission, the 2907
certified copy is qualified as authentic evidence and may be 2908
admitted as evidence in accordance with the Rules of Evidence. 2909
Division (A) of section 2317.422 of the Revised Code does not 2910
apply to any certified copy of results submitted in accordance 2911

with this division. Nothing in this division shall be construed 2912
to limit the right of any party to call as a witness the person 2913
who administered the test in question, the person under whose 2914
supervision the test was administered, the custodian of the 2915
results of the test, the person who compiled the results, or the 2916
person under whose supervision the results were compiled. 2917

(4) The testimonial privilege described in division (B) (1) 2918
of this section is not waived when a communication is made by a 2919
physician or advanced practice registered nurse to a pharmacist 2920
or when there is communication between a patient and a 2921
pharmacist in furtherance of the physician-patient or advanced 2922
practice registered nurse-patient relation. 2923

(5) (a) As used in divisions (B) (1) to (4) of this section, 2924
"communication" means acquiring, recording, or transmitting any 2925
information, in any manner, concerning any facts, opinions, or 2926
statements necessary to enable a physician, advanced practice 2927
registered nurse, or dentist to diagnose, treat, prescribe, or 2928
act for a patient. A "communication" may include, but is not 2929
limited to, any medical or dental, office, or hospital 2930
communication such as a record, chart, letter, memorandum, 2931
laboratory test and results, x-ray, photograph, financial 2932
statement, diagnosis, or prognosis. 2933

(b) As used in division (B) (2) of this section, "health 2934
care provider" means a hospital, ambulatory care facility, long- 2935
term care facility, pharmacy, emergency facility, or health care 2936
practitioner. 2937

(c) As used in division (B) (5) (b) of this section: 2938

(i) "Ambulatory care facility" means a facility that 2939
provides medical, diagnostic, or surgical treatment to patients 2940

who do not require hospitalization, including a dialysis center, 2941
ambulatory surgical facility, cardiac catheterization facility, 2942
diagnostic imaging center, extracorporeal shock wave lithotripsy 2943
center, home health agency, inpatient hospice, birthing center, 2944
radiation therapy center, emergency facility, and an urgent care 2945
center. "Ambulatory health care facility" does not include the 2946
private office of a physician, advanced practice registered 2947
nurse, or dentist, whether the office is for an individual or 2948
group practice. 2949

(ii) "Emergency facility" means a hospital emergency 2950
department or any other facility that provides emergency medical 2951
services. 2952

(iii) "Health care practitioner" has the same meaning as 2953
in section 4769.01 of the Revised Code. 2954

(iv) "Hospital" has the same meaning as in section 3727.01 2955
of the Revised Code. 2956

(v) "Long-term care facility" means a nursing home, 2957
residential care facility, or home for the aging, as those terms 2958
are defined in section 3721.01 of the Revised Code; a 2959
residential facility licensed under section 5119.34 of the 2960
Revised Code that provides accommodations, supervision, and 2961
personal care services for three to sixteen unrelated adults; a 2962
nursing facility, as defined in section 5165.01 of the Revised 2963
Code; a skilled nursing facility, as defined in section 5165.01 2964
of the Revised Code; and an intermediate care facility for 2965
individuals with intellectual disabilities, as defined in 2966
section 5124.01 of the Revised Code. 2967

(vi) "Pharmacy" has the same meaning as in section 4729.01 2968
of the Revised Code. 2969

(d) As used in divisions (B) (1) and (2) of this section, 2970
"drug of abuse" has the same meaning as in section 4506.01 of 2971
the Revised Code. 2972

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 2973
section apply to doctors of medicine, doctors of osteopathic 2974
medicine, doctors of podiatry, advanced practice registered 2975
nurses, and dentists. 2976

(7) Nothing in divisions (B) (1) to (6) of this section 2977
affects, or shall be construed as affecting, the immunity from 2978
civil liability conferred by section 307.628 of the Revised Code 2979
or the immunity from civil liability conferred by section 2980
2305.33 of the Revised Code upon physicians or advanced practice 2981
registered nurses who report an employee's use of a drug of 2982
abuse, or a condition of an employee other than one involving 2983
the use of a drug of abuse, to the employer of the employee in 2984
accordance with division (B) of that section. As used in 2985
division (B) (7) of this section, "employee," "employer," and 2986
"physician" have the same meanings as in section 2305.33 of the 2987
Revised Code and "advanced practice registered nurse" has the 2988
same meaning as in section 4723.01 of the Revised Code. 2989

(C) (1) A cleric, when the cleric remains accountable to 2990
the authority of that cleric's church, denomination, or sect, 2991
concerning a confession made, or any information confidentially 2992
communicated, to the cleric for a religious counseling purpose 2993
in the cleric's professional character. The cleric may testify 2994
by express consent of the person making the communication, 2995
except when the disclosure of the information is in violation of 2996
a sacred trust and except that, if the person voluntarily 2997
testifies or is deemed by division (A) (4) (c) of section 2151.421 2998
of the Revised Code to have waived any testimonial privilege 2999

under this division, the cleric may be compelled to testify on 3000
the same subject except when disclosure of the information is in 3001
violation of a sacred trust. 3002

(2) As used in division (C) of this section: 3003

(a) "Cleric" means a member of the clergy, rabbi, priest, 3004
Christian Science practitioner, or regularly ordained, 3005
accredited, or licensed minister of an established and legally 3006
cognizable church, denomination, or sect. 3007

(b) "Sacred trust" means a confession or confidential 3008
communication made to a cleric in the cleric's ecclesiastical 3009
capacity in the course of discipline enjoined by the church to 3010
which the cleric belongs, including, but not limited to, the 3011
Catholic Church, if both of the following apply: 3012

(i) The confession or confidential communication was made 3013
directly to the cleric. 3014

(ii) The confession or confidential communication was made 3015
in the manner and context that places the cleric specifically 3016
and strictly under a level of confidentiality that is considered 3017
inviolable by canon law or church doctrine. 3018

(D) Husband or wife, concerning any communication made by 3019
one to the other, or an act done by either in the presence of 3020
the other, during coverture, unless the communication was made, 3021
or act done, in the known presence or hearing of a third person 3022
competent to be a witness; and such rule is the same if the 3023
marital relation has ceased to exist; 3024

(E) A person who assigns a claim or interest, concerning 3025
any matter in respect to which the person would not, if a party, 3026
be permitted to testify; 3027

(F) A person who, if a party, would be restricted under 3028
section 2317.03 of the Revised Code, when the property or thing 3029
is sold or transferred by an executor, administrator, guardian, 3030
trustee, heir, devisee, or legatee, shall be restricted in the 3031
same manner in any action or proceeding concerning the property 3032
or thing. 3033

(G) (1) A school guidance counselor who holds a valid 3034
educator license from the state board of education as provided 3035
for in section 3319.22 of the Revised Code, a person licensed 3036
under Chapter 4757. of the Revised Code as a licensed 3037
professional clinical counselor, licensed professional 3038
counselor, social worker, independent social worker, marriage 3039
and family therapist or independent marriage and family 3040
therapist, or registered under Chapter 4757. of the Revised Code 3041
as a social work assistant concerning a confidential 3042
communication received from a client in that relation or the 3043
person's advice to a client unless any of the following applies: 3044

(a) The communication or advice indicates clear and 3045
present danger to the client or other persons. For the purposes 3046
of this division, cases in which there are indications of 3047
present or past child abuse or neglect of the client constitute 3048
a clear and present danger. 3049

(b) The client gives express consent to the testimony. 3050

(c) If the client is deceased, the surviving spouse or the 3051
executor or administrator of the estate of the deceased client 3052
gives express consent. 3053

(d) The client voluntarily testifies, in which case the 3054
school guidance counselor or person licensed or registered under 3055
Chapter 4757. of the Revised Code may be compelled to testify on 3056

the same subject. 3057

(e) The court in camera determines that the information 3058
communicated by the client is not germane to the counselor- 3059
client, marriage and family therapist-client, or social worker- 3060
client relationship. 3061

(f) A court, in an action brought against a school, its 3062
administration, or any of its personnel by the client, rules 3063
after an in-camera inspection that the testimony of the school 3064
guidance counselor is relevant to that action. 3065

(g) The testimony is sought in a civil action and concerns 3066
court-ordered treatment or services received by a patient as 3067
part of a case plan journalized under section 2151.412 of the 3068
Revised Code or the court-ordered treatment or services are 3069
necessary or relevant to dependency, neglect, or abuse or 3070
temporary or permanent custody proceedings under Chapter 2151. 3071
of the Revised Code. 3072

(2) Nothing in division (G) (1) of this section shall 3073
relieve a school guidance counselor or a person licensed or 3074
registered under Chapter 4757. of the Revised Code from the 3075
requirement to report information concerning child abuse or 3076
neglect under section 2151.421 of the Revised Code. 3077

(H) A mediator acting under a mediation order issued under 3078
division (A) of section 3109.052 of the Revised Code or 3079
otherwise issued in any proceeding for divorce, dissolution, 3080
legal separation, annulment, or the allocation of parental 3081
rights and responsibilities for the care of children, in any 3082
action or proceeding, other than a criminal, delinquency, child 3083
abuse, child neglect, or dependent child action or proceeding, 3084
that is brought by or against either parent who takes part in 3085

mediation in accordance with the order and that pertains to the 3086
mediation process, to any information discussed or presented in 3087
the mediation process, to the allocation of parental rights and 3088
responsibilities for the care of the parents' children, or to 3089
the awarding of parenting time rights in relation to their 3090
children; 3091

(I) A communications assistant, acting within the scope of 3092
the communication assistant's authority, when providing 3093
telecommunications relay service pursuant to section 4931.06 of 3094
the Revised Code or Title II of the "Communications Act of 3095
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 3096
communication made through a telecommunications relay service. 3097
Nothing in this section shall limit the obligation of a 3098
communications assistant to divulge information or testify when 3099
mandated by federal law or regulation or pursuant to subpoena in 3100
a criminal proceeding. 3101

Nothing in this section shall limit any immunity or 3102
privilege granted under federal law or regulation. 3103

(J) (1) A chiropractor in a civil proceeding concerning a 3104
communication made to the chiropractor by a patient in that 3105
relation or the chiropractor's advice to a patient, except as 3106
otherwise provided in this division. The testimonial privilege 3107
established under this division does not apply, and a 3108
chiropractor may testify or may be compelled to testify, in any 3109
civil action, in accordance with the discovery provisions of the 3110
Rules of Civil Procedure in connection with a civil action, or 3111
in connection with a claim under Chapter 4123. of the Revised 3112
Code, under any of the following circumstances: 3113

(a) If the patient or the guardian or other legal 3114
representative of the patient gives express consent. 3115

(b) If the patient is deceased, the spouse of the patient 3116
or the executor or administrator of the patient's estate gives 3117
express consent. 3118

(c) If a medical claim, dental claim, chiropractic claim, 3119
or optometric claim, as defined in section 2305.113 of the 3120
Revised Code, an action for wrongful death, any other type of 3121
civil action, or a claim under Chapter 4123. of the Revised Code 3122
is filed by the patient, the personal representative of the 3123
estate of the patient if deceased, or the patient's guardian or 3124
other legal representative. 3125

(2) If the testimonial privilege described in division (J) 3126
(1) of this section does not apply as provided in division (J) 3127
(1)(c) of this section, a chiropractor may be compelled to 3128
testify or to submit to discovery under the Rules of Civil 3129
Procedure only as to a communication made to the chiropractor by 3130
the patient in question in that relation, or the chiropractor's 3131
advice to the patient in question, that related causally or 3132
historically to physical or mental injuries that are relevant to 3133
issues in the medical claim, dental claim, chiropractic claim, 3134
or optometric claim, action for wrongful death, other civil 3135
action, or claim under Chapter 4123. of the Revised Code. 3136

(3) The testimonial privilege established under this 3137
division does not apply, and a chiropractor may testify or be 3138
compelled to testify, in any criminal action or administrative 3139
proceeding. 3140

(4) As used in this division, "communication" means 3141
acquiring, recording, or transmitting any information, in any 3142
manner, concerning any facts, opinions, or statements necessary 3143
to enable a chiropractor to diagnose, treat, or act for a 3144
patient. A communication may include, but is not limited to, any 3145

chiropractic, office, or hospital communication such as a 3146
record, chart, letter, memorandum, laboratory test and results, 3147
x-ray, photograph, financial statement, diagnosis, or prognosis. 3148

(K) (1) Except as provided under division (K) (2) of this 3149
section, a critical incident stress management team member 3150
concerning a communication received from an individual who 3151
receives crisis response services from the team member, or the 3152
team member's advice to the individual, during a debriefing 3153
session. 3154

(2) The testimonial privilege established under division 3155
(K) (1) of this section does not apply if any of the following 3156
are true: 3157

(a) The communication or advice indicates clear and 3158
present danger to the individual who receives crisis response 3159
services or to other persons. For purposes of this division, 3160
cases in which there are indications of present or past child 3161
abuse or neglect of the individual constitute a clear and 3162
present danger. 3163

(b) The individual who received crisis response services 3164
gives express consent to the testimony. 3165

(c) If the individual who received crisis response 3166
services is deceased, the surviving spouse or the executor or 3167
administrator of the estate of the deceased individual gives 3168
express consent. 3169

(d) The individual who received crisis response services 3170
voluntarily testifies, in which case the team member may be 3171
compelled to testify on the same subject. 3172

(e) The court in camera determines that the information 3173
communicated by the individual who received crisis response 3174

services is not germane to the relationship between the 3175
individual and the team member. 3176

(f) The communication or advice pertains or is related to 3177
any criminal act. 3178

(3) As used in division (K) of this section: 3179

(a) "Crisis response services" means consultation, risk 3180
assessment, referral, and on-site crisis intervention services 3181
provided by a critical incident stress management team to 3182
individuals affected by crisis or disaster. 3183

(b) "Critical incident stress management team member" or 3184
"team member" means an individual specially trained to provide 3185
crisis response services as a member of an organized community 3186
or local crisis response team that holds membership in the Ohio 3187
critical incident stress management network. 3188

(c) "Debriefing session" means a session at which crisis 3189
response services are rendered by a critical incident stress 3190
management team member during or after a crisis or disaster. 3191

(L) (1) Subject to division (L) (2) of this section and 3192
except as provided in division (L) (3) of this section, an 3193
employee assistance professional, concerning a communication 3194
made to the employee assistance professional by a client in the 3195
employee assistance professional's official capacity as an 3196
employee assistance professional. 3197

(2) Division (L) (1) of this section applies to an employee 3198
assistance professional who meets either or both of the 3199
following requirements: 3200

(a) Is certified by the employee assistance certification 3201
commission to engage in the employee assistance profession; 3202

(b) Has education, training, and experience in all of the following:	3203 3204
(i) Providing workplace-based services designed to address employer and employee productivity issues;	3205 3206
(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;	3207 3208 3209 3210
(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;	3211 3212 3213 3214
(iv) Selecting and evaluating available community resources;	3215 3216
(v) Making appropriate referrals;	3217
(vi) Local and national employee assistance agreements;	3218
(vii) Client confidentiality.	3219
(3) Division (L)(1) of this section does not apply to any of the following:	3220 3221
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	3222 3223 3224 3225 3226
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;	3227 3228 3229

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

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

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

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

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

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

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of the Revised Code:

(A) "Claimant" means both of the following categories of persons:

(1) Any of the following persons who claim an award of 3259
reparations under sections 2743.51 to 2743.72 of the Revised 3260
Code: 3261

(a) A victim who was one of the following at the time of 3262
the criminally injurious conduct: 3263

(i) A resident of the United States; 3264

(ii) A resident of a foreign country the laws of which 3265
permit residents of this state to recover compensation as 3266
victims of offenses committed in that country. 3267

(b) A dependent of a deceased victim who is described in 3268
division (A) (1) (a) of this section; 3269

(c) A third person, other than a collateral source, who 3270
legally assumes or voluntarily pays the obligations of a victim, 3271
or of a dependent of a victim, who is described in division (A) 3272
(1) (a) of this section, which obligations are incurred as a 3273
result of the criminally injurious conduct that is the subject 3274
of the claim and may include, but are not limited to, medical or 3275
burial expenses; 3276

(d) A person who is authorized to act on behalf of any 3277
person who is described in division (A) (1) (a), (b), or (c) of 3278
this section; 3279

(e) The estate of a deceased victim who is described in 3280
division (A) (1) (a) of this section. 3281

(2) Any of the following persons who claim an award of 3282
reparations under sections 2743.51 to 2743.72 of the Revised 3283
Code: 3284

(a) A victim who had a permanent place of residence within 3285
this state at the time of the criminally injurious conduct and 3286

who, at the time of the criminally injurious conduct, complied	3287
with any one of the following:	3288
(i) Had a permanent place of employment in this state;	3289
(ii) Was a member of the regular armed forces of the	3290
United States or of the United States coast guard or was a full-	3291
time member of the Ohio organized militia or of the United	3292
States army reserve, naval reserve, or air force reserve;	3293
(iii) Was retired and receiving social security or any	3294
other retirement income;	3295
(iv) Was sixty years of age or older;	3296
(v) Was temporarily in another state for the purpose of	3297
receiving medical treatment;	3298
(vi) Was temporarily in another state for the purpose of	3299
performing employment-related duties required by an employer	3300
located within this state as an express condition of employment	3301
or employee benefits;	3302
(vii) Was temporarily in another state for the purpose of	3303
receiving occupational, vocational, or other job-related	3304
training or instruction required by an employer located within	3305
this state as an express condition of employment or employee	3306
benefits;	3307
(viii) Was a full-time student at an academic institution,	3308
college, or university located in another state;	3309
(ix) Had not departed the geographical boundaries of this	3310
state for a period exceeding thirty days or with the intention	3311
of becoming a citizen of another state or establishing a	3312
permanent place of residence in another state.	3313

(b) A dependent of a deceased victim who is described in 3314
division (A) (2) (a) of this section; 3315

(c) A third person, other than a collateral source, who 3316
legally assumes or voluntarily pays the obligations of a victim, 3317
or of a dependent of a victim, who is described in division (A) 3318
(2) (a) of this section, which obligations are incurred as a 3319
result of the criminally injurious conduct that is the subject 3320
of the claim and may include, but are not limited to, medical or 3321
burial expenses; 3322

(d) A person who is authorized to act on behalf of any 3323
person who is described in division (A) (2) (a), (b), or (c) of 3324
this section; 3325

(e) The estate of a deceased victim who is described in 3326
division (A) (2) (a) of this section. 3327

(B) "Collateral source" means a source of benefits or 3328
advantages for economic loss otherwise reparable that the victim 3329
or claimant has received, or that is readily available to the 3330
victim or claimant, from any of the following sources: 3331

(1) The offender; 3332

(2) The government of the United States or any of its 3333
agencies, a state or any of its political subdivisions, or an 3334
instrumentality of two or more states, unless the law providing 3335
for the benefits or advantages makes them excess or secondary to 3336
benefits under sections 2743.51 to 2743.72 of the Revised Code; 3337

(3) Social security, medicare, and medicaid; 3338

(4) State-required, temporary, nonoccupational disability 3339
insurance; 3340

(5) Workers' compensation; 3341

- (6) Wage continuation programs of any employer; 3342
- (7) Proceeds of a contract of insurance payable to the 3343
victim for loss that the victim sustained because of the 3344
criminally injurious conduct; 3345
- (8) A contract providing prepaid hospital and other health 3346
care services, or benefits for disability; 3347
- (9) That portion of the proceeds of all contracts of 3348
insurance payable to the claimant on account of the death of the 3349
victim that exceeds fifty thousand dollars; 3350
- (10) Any compensation recovered or recoverable under the 3351
laws of another state, district, territory, or foreign country 3352
because the victim was the victim of an offense committed in 3353
that state, district, territory, or country. 3354
- "Collateral source" does not include any money, or the 3355
monetary value of any property, that is subject to sections 3356
2969.01 to 2969.06 of the Revised Code or that is received as a 3357
benefit from the Ohio public safety officers death benefit fund 3358
created by section 742.62 of the Revised Code. 3359
- (C) "Criminally injurious conduct" means one of the 3360
following: 3361
- (1) For the purposes of any person described in division 3362
(A)(1) of this section, any conduct that occurs or is attempted 3363
in this state; poses a substantial threat of personal injury or 3364
death; and is punishable by fine, or imprisonment, ~~or death,~~ or 3365
would be so punishable but for the fact that the person engaging 3366
in the conduct lacked capacity to commit the crime under the 3367
laws of this state. Criminally injurious conduct does not 3368
include conduct arising out of the ownership, maintenance, or 3369
use of a motor vehicle, except when any of the following 3370

applies: 3371

(a) The person engaging in the conduct intended to cause 3372
personal injury or death; 3373

(b) The person engaging in the conduct was using the 3374
vehicle to flee immediately after committing a felony or an act 3375
that would constitute a felony but for the fact that the person 3376
engaging in the conduct lacked the capacity to commit the felony 3377
under the laws of this state; 3378

(c) The person engaging in the conduct was using the 3379
vehicle in a manner that constitutes an OVI violation; 3380

(d) The conduct occurred on or after July 25, 1990, and 3381
the person engaging in the conduct was using the vehicle in a 3382
manner that constitutes a violation of section 2903.08 of the 3383
Revised Code; 3384

(e) The person engaging in the conduct acted in a manner 3385
that caused serious physical harm to a person and that 3386
constituted a violation of section 4549.02 or 4549.021 of the 3387
Revised Code. 3388

(2) For the purposes of any person described in division 3389
(A) (2) of this section, any conduct that occurs or is attempted 3390
in another state, district, territory, or foreign country; poses 3391
a substantial threat of personal injury or death; and is 3392
punishable by fine, imprisonment, or death, or would be so 3393
punishable but for the fact that the person engaging in the 3394
conduct lacked capacity to commit the crime under the laws of 3395
the state, district, territory, or foreign country in which the 3396
conduct occurred or was attempted. Criminally injurious conduct 3397
does not include conduct arising out of the ownership, 3398
maintenance, or use of a motor vehicle, except when any of the 3399

following applies: 3400

(a) The person engaging in the conduct intended to cause 3401
personal injury or death; 3402

(b) The person engaging in the conduct was using the 3403
vehicle to flee immediately after committing a felony or an act 3404
that would constitute a felony but for the fact that the person 3405
engaging in the conduct lacked the capacity to commit the felony 3406
under the laws of the state, district, territory, or foreign 3407
country in which the conduct occurred or was attempted; 3408

(c) The person engaging in the conduct was using the 3409
vehicle in a manner that constitutes an OVI violation; 3410

(d) The conduct occurred on or after July 25, 1990, the 3411
person engaging in the conduct was using the vehicle in a manner 3412
that constitutes a violation of any law of the state, district, 3413
territory, or foreign country in which the conduct occurred, and 3414
that law is substantially similar to a violation of section 3415
2903.08 of the Revised Code; 3416

(e) The person engaging in the conduct acted in a manner 3417
that caused serious physical harm to a person and that 3418
constituted a violation of any law of the state, district, 3419
territory, or foreign country in which the conduct occurred, and 3420
that law is substantially similar to section 4549.02 or 4549.021 3421
of the Revised Code. 3422

(3) For the purposes of any person described in division 3423
(A) (1) or (2) of this section, terrorism that occurs within or 3424
outside the territorial jurisdiction of the United States. 3425

(D) "Dependent" means an individual wholly or partially 3426
dependent upon the victim for care and support, and includes a 3427
child of the victim born after the victim's death. 3428

(E) "Economic loss" means economic detriment consisting 3429
only of allowable expense, work loss, funeral expense, 3430
unemployment benefits loss, replacement services loss, cost of 3431
crime scene cleanup, and cost of evidence replacement. If 3432
criminally injurious conduct causes death, economic loss 3433
includes a dependent's economic loss and a dependent's 3434
replacement services loss. Noneconomic detriment is not economic 3435
loss; however, economic loss may be caused by pain and suffering 3436
or physical impairment. 3437

(F) (1) "Allowable expense" means reasonable charges 3438
incurred for reasonably needed products, services, and 3439
accommodations, including those for medical care, 3440
rehabilitation, rehabilitative occupational training, and other 3441
remedial treatment and care and including replacement costs for 3442
hearing aids; dentures, retainers, and other dental appliances; 3443
canes, walkers, and other mobility tools; and eyeglasses and 3444
other corrective lenses. It does not include that portion of a 3445
charge for a room in a hospital, clinic, convalescent home, 3446
nursing home, or any other institution engaged in providing 3447
nursing care and related services in excess of a reasonable and 3448
customary charge for semiprivate accommodations, unless 3449
accommodations other than semiprivate accommodations are 3450
medically required. 3451

(2) An immediate family member of a victim of criminally 3452
injurious conduct that consists of a homicide, a sexual assault, 3453
domestic violence, or a severe and permanent incapacitating 3454
injury resulting in paraplegia or a similar life-altering 3455
condition, who requires psychiatric care or counseling as a 3456
result of the criminally injurious conduct, may be reimbursed 3457
for that care or counseling as an allowable expense through the 3458
victim's application. The cumulative allowable expense for care 3459

or counseling of that nature shall not exceed two thousand five 3460
hundred dollars for each immediate family member of a victim of 3461
that type and seven thousand five hundred dollars in the 3462
aggregate for all immediate family members of a victim of that 3463
type. 3464

(3) A family member of a victim who died as a proximate 3465
result of criminally injurious conduct may be reimbursed as an 3466
allowable expense through the victim's application for wages 3467
lost and travel expenses incurred in order to attend criminal 3468
justice proceedings arising from the criminally injurious 3469
conduct. The cumulative allowable expense for wages lost and 3470
travel expenses incurred by a family member to attend criminal 3471
justice proceedings shall not exceed five hundred dollars for 3472
each family member of the victim and two thousand dollars in the 3473
aggregate for all family members of the victim. 3474

(4) (a) "Allowable expense" includes reasonable expenses 3475
and fees necessary to obtain a guardian's bond pursuant to 3476
section 2109.04 of the Revised Code when the bond is required to 3477
pay an award to a fiduciary on behalf of a minor or other 3478
incompetent. 3479

(b) "Allowable expense" includes attorney's fees not 3480
exceeding one thousand dollars, at a rate not exceeding one 3481
hundred dollars per hour, incurred to successfully obtain a 3482
restraining order, custody order, or other order to physically 3483
separate a victim from an offender. Attorney's fees for the 3484
services described in this division may include an amount for 3485
reasonable travel time incurred to attend court hearings, not 3486
exceeding three hours' round-trip for each court hearing, 3487
assessed at a rate not exceeding thirty dollars per hour. 3488

(G) "Work loss" means loss of income from work that the 3489

injured person would have performed if the person had not been 3490
injured and expenses reasonably incurred by the person to obtain 3491
services in lieu of those the person would have performed for 3492
income, reduced by any income from substitute work actually 3493
performed by the person, or by income the person would have 3494
earned in available appropriate substitute work that the person 3495
was capable of performing but unreasonably failed to undertake. 3496

(H) "Replacement services loss" means expenses reasonably 3497
incurred in obtaining ordinary and necessary services in lieu of 3498
those the injured person would have performed, not for income, 3499
but for the benefit of the person's self or family, if the 3500
person had not been injured. 3501

(I) "Dependent's economic loss" means loss after a 3502
victim's death of contributions of things of economic value to 3503
the victim's dependents, not including services they would have 3504
received from the victim if the victim had not suffered the 3505
fatal injury, less expenses of the dependents avoided by reason 3506
of the victim's death. If a minor child of a victim is adopted 3507
after the victim's death, the minor child continues after the 3508
adoption to incur a dependent's economic loss as a result of the 3509
victim's death. If the surviving spouse of a victim remarries, 3510
the surviving spouse continues after the remarriage to incur a 3511
dependent's economic loss as a result of the victim's death. 3512

(J) "Dependent's replacement services loss" means loss 3513
reasonably incurred by dependents after a victim's death in 3514
obtaining ordinary and necessary services in lieu of those the 3515
victim would have performed for their benefit if the victim had 3516
not suffered the fatal injury, less expenses of the dependents 3517
avoided by reason of the victim's death and not subtracted in 3518
calculating the dependent's economic loss. If a minor child of a 3519

victim is adopted after the victim's death, the minor child 3520
continues after the adoption to incur a dependent's replacement 3521
services loss as a result of the victim's death. If the 3522
surviving spouse of a victim remarries, the surviving spouse 3523
continues after the remarriage to incur a dependent's 3524
replacement services loss as a result of the victim's death. 3525

(K) "Noneconomic detriment" means pain, suffering, 3526
inconvenience, physical impairment, or other nonpecuniary 3527
damage. 3528

(L) "Victim" means a person who suffers personal injury or 3529
death as a result of any of the following: 3530

(1) Criminally injurious conduct; 3531

(2) The good faith effort of any person to prevent 3532
criminally injurious conduct; 3533

(3) The good faith effort of any person to apprehend a 3534
person suspected of engaging in criminally injurious conduct. 3535

(M) "Contributory misconduct" means any conduct of the 3536
claimant or of the victim through whom the claimant claims an 3537
award of reparations that is unlawful or intentionally tortious 3538
and that, without regard to the conduct's proximity in time or 3539
space to the criminally injurious conduct, has a causal 3540
relationship to the criminally injurious conduct that is the 3541
basis of the claim. 3542

(N) (1) "Funeral expense" means any reasonable charges that 3543
are not in excess of seven thousand five hundred dollars per 3544
funeral and that are incurred for expenses directly related to a 3545
victim's funeral, cremation, or burial and any wages lost or 3546
travel expenses incurred by a family member of a victim in order 3547
to attend the victim's funeral, cremation, or burial. 3548

(2) An award for funeral expenses shall be applied first 3549
to expenses directly related to the victim's funeral, cremation, 3550
or burial. An award for wages lost or travel expenses incurred 3551
by a family member of the victim shall not exceed five hundred 3552
dollars for each family member and shall not exceed in the 3553
aggregate the difference between seven thousand five hundred 3554
dollars and expenses that are reimbursed by the program and that 3555
are directly related to the victim's funeral, cremation, or 3556
burial. 3557

(O) "Unemployment benefits loss" means a loss of 3558
unemployment benefits pursuant to Chapter 4141. of the Revised 3559
Code when the loss arises solely from the inability of a victim 3560
to meet the able to work, available for suitable work, or the 3561
actively seeking suitable work requirements of division (A) (4) 3562
(a) of section 4141.29 of the Revised Code. 3563

(P) "OVI violation" means any of the following: 3564

(1) A violation of section 4511.19 of the Revised Code, of 3565
any municipal ordinance prohibiting the operation of a vehicle 3566
while under the influence of alcohol, a drug of abuse, or a 3567
combination of them, or of any municipal ordinance prohibiting 3568
the operation of a vehicle with a prohibited concentration of 3569
alcohol, a controlled substance, or a metabolite of a controlled 3570
substance in the whole blood, blood serum or plasma, breath, or 3571
urine; 3572

(2) A violation of division (A) (1) of section 2903.06 of 3573
the Revised Code; 3574

(3) A violation of division (A) (2), (3), or (4) of section 3575
2903.06 of the Revised Code or of a municipal ordinance 3576
substantially similar to any of those divisions, if the offender 3577

was under the influence of alcohol, a drug of abuse, or a 3578
combination of them, at the time of the commission of the 3579
offense; 3580

(4) For purposes of any person described in division (A) 3581
(2) of this section, a violation of any law of the state, 3582
district, territory, or foreign country in which the criminally 3583
injurious conduct occurred, if that law is substantially similar 3584
to a violation described in division (P) (1) or (2) of this 3585
section or if that law is substantially similar to a violation 3586
described in division (P) (3) of this section and the offender 3587
was under the influence of alcohol, a drug of abuse, or a 3588
combination of them, at the time of the commission of the 3589
offense. 3590

(Q) "Pendency of the claim" for an original reparations 3591
application or supplemental reparations application means the 3592
period of time from the date the criminally injurious conduct 3593
upon which the application is based occurred until the date a 3594
final decision, order, or judgment concerning that original 3595
reparations application or supplemental reparations application 3596
is issued. 3597

(R) "Terrorism" means any activity to which all of the 3598
following apply: 3599

(1) The activity involves a violent act or an act that is 3600
dangerous to human life. 3601

(2) The act described in division (R) (1) of this section 3602
is committed within the territorial jurisdiction of the United 3603
States and is a violation of the criminal laws of the United 3604
States, this state, or any other state or the act described in 3605
division (R) (1) of this section is committed outside the 3606

territorial jurisdiction of the United States and would be a 3607
violation of the criminal laws of the United States, this state, 3608
or any other state if committed within the territorial 3609
jurisdiction of the United States. 3610

(3) The activity appears to be intended to do any of the 3611
following: 3612

(a) Intimidate or coerce a civilian population; 3613

(b) Influence the policy of any government by intimidation 3614
or coercion; 3615

(c) Affect the conduct of any government by assassination 3616
or kidnapping. 3617

(4) The activity occurs primarily outside the territorial 3618
jurisdiction of the United States or transcends the national 3619
boundaries of the United States in terms of the means by which 3620
the activity is accomplished, the person or persons that the 3621
activity appears intended to intimidate or coerce, or the area 3622
or locale in which the perpetrator or perpetrators of the 3623
activity operate or seek asylum. 3624

(S) "Transcends the national boundaries of the United 3625
States" means occurring outside the territorial jurisdiction of 3626
the United States in addition to occurring within the 3627
territorial jurisdiction of the United States. 3628

(T) "Cost of crime scene cleanup" means any of the 3629
following: 3630

(1) The replacement cost for items of clothing removed 3631
from a victim in order to make an assessment of possible 3632
physical harm or to treat physical harm; 3633

(2) Reasonable and necessary costs of cleaning the scene 3634

and repairing, for the purpose of personal security, property 3635
damaged at the scene where the criminally injurious conduct 3636
occurred, not to exceed seven hundred fifty dollars in the 3637
aggregate per claim. 3638

(U) "Cost of evidence replacement" means costs for 3639
replacement of property confiscated for evidentiary purposes 3640
related to the criminally injurious conduct, not to exceed seven 3641
hundred fifty dollars in the aggregate per claim. 3642

(V) "Provider" means any person who provides a victim or 3643
claimant with a product, service, or accommodations that are an 3644
allowable expense or a funeral expense. 3645

(W) "Immediate family member" means an individual who 3646
resided in the same permanent household as a victim at the time 3647
of the criminally injurious conduct and who is related to the 3648
victim by affinity or consanguinity. 3649

(X) "Family member" means an individual who is related to 3650
a victim by affinity or consanguinity. 3651

Sec. 2901.02. As used in the Revised Code: 3652

(A) Offenses include aggravated murder, murder, felonies 3653
of the first, second, third, fourth, and fifth degree, 3654
misdemeanors of the first, second, third, and fourth degree, 3655
minor misdemeanors, and offenses not specifically classified. 3656

~~(B) Aggravated murder when the indictment or the count in~~ 3657
~~the indictment charging aggravated murder contains one or more~~ 3658
~~specifications of aggravating circumstances listed in division~~ 3659
~~(A) of section 2929.04 of Revised Code, and any other offense~~ 3660
~~for which death may be imposed as a penalty, is a capital~~ 3661
~~offense.~~ 3662

(C) —Aggravated murder and murder are felonies.	3663
(D) — <u>(C)</u> 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.	3664 3665 3666 3667
(E) — <u>(D)</u> Any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty.	3668 3669 3670
(F) — <u>(E)</u> Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.	3671 3672 3673
(G) — <u>(F)</u> Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:	3674 3675 3676
(1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars;	3677 3678
(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.	3679 3680 3681 3682 3683
Sec. 2909.24. (A) No person shall commit a specified offense with purpose to do any of the following:	3684 3685
(1) Intimidate or coerce a civilian population;	3686
(2) Influence the policy of any government by intimidation or coercion;	3687 3688
(3) Affect the conduct of any government by the specified	3689

offense. 3690

(B) (1) Whoever violates this section is guilty of 3691
terrorism. 3692

(2) Except as otherwise provided in divisions (B) (3) and 3693
(4) of this section, terrorism is an offense one degree higher 3694
than the most serious underlying specified offense the defendant 3695
committed. 3696

(3) If the most serious underlying specified offense the 3697
defendant committed is a felony of the first degree or murder, 3698
the person shall be sentenced to life imprisonment without 3699
parole. 3700

(4) If the most serious underlying specified offense the 3701
defendant committed is aggravated murder, the offender shall be 3702
sentenced to life imprisonment without parole ~~or death pursuant to~~ 3703
~~to sections 2929.02 to 2929.06 of the Revised Code.~~ 3704

(5) Section 2909.25 of the Revised Code applies regarding 3705
an offender who is convicted of or pleads guilty to a violation 3706
of this section. 3707

Sec. 2929.02. (A) ~~Whoever~~ Except as provided in division 3708
(C) of this section, whoever is convicted of or pleads guilty to 3709
aggravated murder in violation of section 2903.01 of the Revised 3710
Code shall ~~suffer death or be imprisoned for life, as determined~~ 3711
~~pursuant to sections 2929.022, 2929.03, and 2929.04 of the~~ 3712
~~Revised Code, except that no person who raises the matter of age~~ 3713
~~pursuant to section 2929.023 of the Revised Code and who is not~~ 3714
~~found to have been eighteen years of age or older at the time of~~ 3715
~~the commission of the offense shall suffer death. In addition,~~ 3716
~~the offender may be fined an amount fixed by the court, but not~~ 3717
~~more than twenty five thousand dollars~~ sentenced to life 3718

imprisonment with parole eligibility after serving twenty full 3719
years of imprisonment, life imprisonment with parole eligibility 3720
after serving twenty-five full years of imprisonment, life 3721
imprisonment with parole eligibility after serving thirty full 3722
years of imprisonment, or life imprisonment without parole. 3723

~~(B)(1)~~ Except as otherwise provided in division ~~(B)(2)~~ or 3724
~~(3)~~ (C) of this section, whoever is convicted of or pleads 3725
guilty to murder in violation of section 2903.02 of the Revised 3726
Code shall be imprisoned for an indefinite term of fifteen years 3727
to life. 3728

~~(2)~~ (C)(1) Except as otherwise provided in division ~~(B)(3)~~ 3729
(C)(2) of this section, if a person is convicted of or pleads 3730
guilty to aggravated murder in violation of section 2903.01 of 3731
the Revised Code or to murder in violation of section 2903.02 of 3732
the Revised Code, the victim of the offense was less than 3733
thirteen years of age, and the offender also is convicted of or 3734
pleads guilty to a sexual motivation specification that was 3735
included in the indictment, count in the indictment, or 3736
information charging the offense, the court shall impose an 3737
indefinite prison term of thirty years to life pursuant to 3738
division (B)(3) of section 2971.03 of the Revised Code. 3739

~~(3)~~ (2) If a person is convicted of or pleads guilty to 3740
aggravated murder in violation of section 2903.01 of the Revised 3741
Code or to murder in violation of section 2903.02 of the Revised 3742
Code and also is convicted of or pleads guilty to a sexual 3743
motivation specification and a sexually violent predator 3744
specification that were included in the indictment, count in the 3745
indictment, or information that charged the murder, the court 3746
shall impose upon the offender a term of life imprisonment 3747
without parole that shall be served pursuant to section 2971.03 3748

of the Revised Code. 3749

~~(4)~~ (D) In addition to the prison term imposed under this 3750
section, the offender may be fined an amount fixed by the court, 3751
but not more than twenty-five thousand dollars for aggravated 3752
murder or fifteen thousand dollars for murder. 3753

~~(C)~~ (E) The court shall not impose a fine or fines for 3754
aggravated murder or murder ~~which that~~, in the aggregate and to 3755
the extent not suspended by the court, exceeds the amount ~~which~~ 3756
that the offender is or will be able to pay by the method and 3757
within the time allowed without undue hardship to the offender 3758
or to the dependents of the offender, or will prevent the 3759
offender from making reparation for the victim's wrongful death. 3760

~~(D)~~ (F) (1) In addition to any other sanctions imposed for a 3761
violation of section 2903.01 or 2903.02 of the Revised Code, if 3762
the offender used a motor vehicle as the means to commit the 3763
violation, the court shall impose upon the offender a class two 3764
suspension of the offender's driver's license, commercial 3765
driver's license, temporary instruction permit, probationary 3766
license, or nonresident operating privilege as specified in 3767
division (A) (2) of section 4510.02 of the Revised Code. 3768

(2) As used in division ~~(D)~~ (F) of this section, "motor 3769
vehicle" has the same meaning as in section 4501.01 of the 3770
Revised Code. 3771

(G) Capital punishment is hereby abolished. A trial court 3772
that sentenced an offender to death prior to the effective date 3773
of this amendment shall conduct a hearing to resentence the 3774
offender. At the resentencing hearing, the court shall impose 3775
upon the offender a sentence of life imprisonment without 3776
parole. 3777

Sec. 2929.13. (A) Except as provided in division (E), (F), 3778
or (G) of this section and unless a specific sanction is 3779
required to be imposed or is precluded from being imposed 3780
pursuant to law, a court that imposes a sentence upon an 3781
offender for a felony may impose any sanction or combination of 3782
sanctions on the offender that are provided in sections 2929.14 3783
to 2929.18 of the Revised Code. 3784

If the offender is eligible to be sentenced to community 3785
control sanctions, the court shall consider the appropriateness 3786
of imposing a financial sanction pursuant to section 2929.18 of 3787
the Revised Code or a sanction of community service pursuant to 3788
section 2929.17 of the Revised Code as the sole sanction for the 3789
offense. Except as otherwise provided in this division, if the 3790
court is required to impose a mandatory prison term for the 3791
offense for which sentence is being imposed, the court also 3792
shall impose any financial sanction pursuant to section 2929.18 3793
of the Revised Code that is required for the offense and may 3794
impose any other financial sanction pursuant to that section but 3795
may not impose any additional sanction or combination of 3796
sanctions under section 2929.16 or 2929.17 of the Revised Code. 3797

If the offender is being sentenced for a fourth degree 3798
felony OVI offense or for a third degree felony OVI offense, in 3799
addition to the mandatory term of local incarceration or the 3800
mandatory prison term required for the offense by division (G) 3801
(1) or (2) of this section, the court shall impose upon the 3802
offender a mandatory fine in accordance with division (B) (3) of 3803
section 2929.18 of the Revised Code and may impose whichever of 3804
the following is applicable: 3805

(1) For a fourth degree felony OVI offense for which 3806
sentence is imposed under division (G) (1) of this section, an 3807

additional community control sanction or combination of 3808
community control sanctions under section 2929.16 or 2929.17 of 3809
the Revised Code. If the court imposes upon the offender a 3810
community control sanction and the offender violates any 3811
condition of the community control sanction, the court may take 3812
any action prescribed in division (B) of section 2929.15 of the 3813
Revised Code relative to the offender, including imposing a 3814
prison term on the offender pursuant to that division. 3815

(2) For a third or fourth degree felony OVI offense for 3816
which sentence is imposed under division (G) (2) of this section, 3817
an additional prison term as described in division (B) (4) of 3818
section 2929.14 of the Revised Code or a community control 3819
sanction as described in division (G) (2) of this section. 3820

(B) (1) (a) Except as provided in division (B) (1) (b) of this 3821
section, if an offender is convicted of or pleads guilty to a 3822
felony of the fourth or fifth degree that is not an offense of 3823
violence or that is a qualifying assault offense, the court 3824
shall sentence the offender to a community control sanction of 3825
at least one year's duration if all of the following apply: 3826

(i) The offender previously has not been convicted of or 3827
pleaded guilty to a felony offense. 3828

(ii) The most serious charge against the offender at the 3829
time of sentencing is a felony of the fourth or fifth degree. 3830

(iii) If the court made a request of the department of 3831
rehabilitation and correction pursuant to division (B) (1) (c) of 3832
this section, the department, within the forty-five-day period 3833
specified in that division, provided the court with the names 3834
of, contact information for, and program details of one or more 3835
community control sanctions of at least one year's duration that 3836

are available for persons sentenced by the court. 3837

(iv) The offender previously has not been convicted of or 3838
pleaded guilty to a misdemeanor offense of violence that the 3839
offender committed within two years prior to the offense for 3840
which sentence is being imposed. 3841

(b) The court has discretion to impose a prison term upon 3842
an offender who is convicted of or pleads guilty to a felony of 3843
the fourth or fifth degree that is not an offense of violence or 3844
that is a qualifying assault offense if any of the following 3845
apply: 3846

(i) The offender committed the offense while having a 3847
firearm on or about the offender's person or under the 3848
offender's control. 3849

(ii) If the offense is a qualifying assault offense, the 3850
offender caused serious physical harm to another person while 3851
committing the offense, and, if the offense is not a qualifying 3852
assault offense, the offender caused physical harm to another 3853
person while committing the offense. 3854

(iii) The offender violated a term of the conditions of 3855
bond as set by the court. 3856

(iv) The court made a request of the department of 3857
rehabilitation and correction pursuant to division (B)(1)(c) of 3858
this section, and the department, within the forty-five-day 3859
period specified in that division, did not provide the court 3860
with the name of, contact information for, and program details 3861
of any community control sanction of at least one year's 3862
duration that is available for persons sentenced by the court. 3863

(v) The offense is a sex offense that is a fourth or fifth 3864
degree felony violation of any provision of Chapter 2907. of the 3865

Revised Code. 3866

(vi) In committing the offense, the offender attempted to 3867
cause or made an actual threat of physical harm to a person with 3868
a deadly weapon. 3869

(vii) In committing the offense, the offender attempted to 3870
cause or made an actual threat of physical harm to a person, and 3871
the offender previously was convicted of an offense that caused 3872
physical harm to a person. 3873

(viii) The offender held a public office or position of 3874
trust, and the offense related to that office or position; the 3875
offender's position obliged the offender to prevent the offense 3876
or to bring those committing it to justice; or the offender's 3877
professional reputation or position facilitated the offense or 3878
was likely to influence the future conduct of others. 3879

(ix) The offender committed the offense for hire or as 3880
part of an organized criminal activity. 3881

(x) The offender at the time of the offense was serving, 3882
or the offender previously had served, a prison term. 3883

(xi) The offender committed the offense while under a 3884
community control sanction, while on probation, or while 3885
released from custody on a bond or personal recognizance. 3886

(c) If a court that is sentencing an offender who is 3887
convicted of or pleads guilty to a felony of the fourth or fifth 3888
degree that is not an offense of violence or that is a 3889
qualifying assault offense believes that no community control 3890
sanctions are available for its use that, if imposed on the 3891
offender, will adequately fulfill the overriding principles and 3892
purposes of sentencing, the court shall contact the department 3893
of rehabilitation and correction and ask the department to 3894

provide the court with the names of, contact information for, 3895
and program details of one or more community control sanctions 3896
of at least one year's duration that are available for persons 3897
sentenced by the court. Not later than forty-five days after 3898
receipt of a request from a court under this division, the 3899
department shall provide the court with the names of, contact 3900
information for, and program details of one or more community 3901
control sanctions of at least one year's duration that are 3902
available for persons sentenced by the court, if any. Upon 3903
making a request under this division that relates to a 3904
particular offender, a court shall defer sentencing of that 3905
offender until it receives from the department the names of, 3906
contact information for, and program details of one or more 3907
community control sanctions of at least one year's duration that 3908
are available for persons sentenced by the court or for forty- 3909
five days, whichever is the earlier. 3910

If the department provides the court with the names of, 3911
contact information for, and program details of one or more 3912
community control sanctions of at least one year's duration that 3913
are available for persons sentenced by the court within the 3914
forty-five-day period specified in this division, the court 3915
shall impose upon the offender a community control sanction 3916
under division (B) (1) (a) of this section, except that the court 3917
may impose a prison term under division (B) (1) (b) of this 3918
section if a factor described in division (B) (1) (b) (i) or (ii) 3919
of this section applies. If the department does not provide the 3920
court with the names of, contact information for, and program 3921
details of one or more community control sanctions of at least 3922
one year's duration that are available for persons sentenced by 3923
the court within the forty-five-day period specified in this 3924
division, the court may impose upon the offender a prison term 3925

under division (B) (1) (b) (iv) of this section. 3926

(d) A sentencing court may impose an additional penalty 3927
under division (B) of section 2929.15 of the Revised Code upon 3928
an offender sentenced to a community control sanction under 3929
division (B) (1) (a) of this section if the offender violates the 3930
conditions of the community control sanction, violates a law, or 3931
leaves the state without the permission of the court or the 3932
offender's probation officer. 3933

(2) If division (B) (1) of this section does not apply, 3934
except as provided in division (E), (F), or (G) of this section, 3935
in determining whether to impose a prison term as a sanction for 3936
a felony of the fourth or fifth degree, the sentencing court 3937
shall comply with the purposes and principles of sentencing 3938
under section 2929.11 of the Revised Code and with section 3939
2929.12 of the Revised Code. 3940

(C) Except as provided in division (D), (E), (F), or (G) 3941
of this section, in determining whether to impose a prison term 3942
as a sanction for a felony of the third degree or a felony drug 3943
offense that is a violation of a provision of Chapter 2925. of 3944
the Revised Code and that is specified as being subject to this 3945
division for purposes of sentencing, the sentencing court shall 3946
comply with the purposes and principles of sentencing under 3947
section 2929.11 of the Revised Code and with section 2929.12 of 3948
the Revised Code. 3949

(D) (1) Except as provided in division (E) or (F) of this 3950
section, for a felony of the first or second degree, for a 3951
felony drug offense that is a violation of any provision of 3952
Chapter 2925., 3719., or 4729. of the Revised Code for which a 3953
presumption in favor of a prison term is specified as being 3954
applicable, and for a violation of division (A) (4) or (B) of 3955

section 2907.05 of the Revised Code for which a presumption in 3956
favor of a prison term is specified as being applicable, it is 3957
presumed that a prison term is necessary in order to comply with 3958
the purposes and principles of sentencing under section 2929.11 3959
of the Revised Code. Division (D) (2) of this section does not 3960
apply to a presumption established under this division for a 3961
violation of division (A) (4) of section 2907.05 of the Revised 3962
Code. 3963

(2) Notwithstanding the presumption established under 3964
division (D) (1) of this section for the offenses listed in that 3965
division other than a violation of division (A) (4) or (B) of 3966
section 2907.05 of the Revised Code, the sentencing court may 3967
impose a community control sanction or a combination of 3968
community control sanctions instead of a prison term on an 3969
offender for a felony of the first or second degree or for a 3970
felony drug offense that is a violation of any provision of 3971
Chapter 2925., 3719., or 4729. of the Revised Code for which a 3972
presumption in favor of a prison term is specified as being 3973
applicable if it makes both of the following findings: 3974

(a) A community control sanction or a combination of 3975
community control sanctions would adequately punish the offender 3976
and protect the public from future crime, because the applicable 3977
factors under section 2929.12 of the Revised Code indicating a 3978
lesser likelihood of recidivism outweigh the applicable factors 3979
under that section indicating a greater likelihood of 3980
recidivism. 3981

(b) A community control sanction or a combination of 3982
community control sanctions would not demean the seriousness of 3983
the offense, because one or more factors under section 2929.12 3984
of the Revised Code that indicate that the offender's conduct 3985

was less serious than conduct normally constituting the offense 3986
are applicable, and they outweigh the applicable factors under 3987
that section that indicate that the offender's conduct was more 3988
serious than conduct normally constituting the offense. 3989

(E) (1) Except as provided in division (F) of this section, 3990
for any drug offense that is a violation of any provision of 3991
Chapter 2925. of the Revised Code and that is a felony of the 3992
third, fourth, or fifth degree, the applicability of a 3993
presumption under division (D) of this section in favor of a 3994
prison term or of division (B) or (C) of this section in 3995
determining whether to impose a prison term for the offense 3996
shall be determined as specified in section 2925.02, 2925.03, 3997
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 3998
2925.36, or 2925.37 of the Revised Code, whichever is applicable 3999
regarding the violation. 4000

(2) If an offender who was convicted of or pleaded guilty 4001
to a felony violates the conditions of a community control 4002
sanction imposed for the offense solely by reason of producing 4003
positive results on a drug test or by acting pursuant to 4004
division (B) (2) (b) of section 2925.11 of the Revised Code with 4005
respect to a minor drug possession offense, the court, as 4006
punishment for the violation of the sanction, shall not order 4007
that the offender be imprisoned unless the court determines on 4008
the record either of the following: 4009

(a) The offender had been ordered as a sanction for the 4010
felony to participate in a drug treatment program, in a drug 4011
education program, or in narcotics anonymous or a similar 4012
program, and the offender continued to use illegal drugs after a 4013
reasonable period of participation in the program. 4014

(b) The imprisonment of the offender for the violation is 4015

consistent with the purposes and principles of sentencing set 4016
forth in section 2929.11 of the Revised Code. 4017

(3) A court that sentences an offender for a drug abuse 4018
offense that is a felony of the third, fourth, or fifth degree 4019
may require that the offender be assessed by a properly 4020
credentialed professional within a specified period of time. The 4021
court shall require the professional to file a written 4022
assessment of the offender with the court. If the offender is 4023
eligible for a community control sanction and after considering 4024
the written assessment, the court may impose a community control 4025
sanction that includes addiction services and recovery supports 4026
included in a community-based continuum of care established 4027
under section 340.032 of the Revised Code. If the court imposes 4028
addiction services and recovery supports as a community control 4029
sanction, the court shall direct the level and type of addiction 4030
services and recovery supports after considering the assessment 4031
and recommendation of community addiction services providers. 4032

(F) Notwithstanding divisions (A) to (E) of this section, 4033
the court shall impose a prison term or terms under ~~sections~~ 4034
section 2929.02 to 2929.06, section 2929.14, section 2929.142, 4035
or ~~section~~ 2971.03 of the Revised Code and except as 4036
specifically provided in section 2929.20, divisions (C) to (I) 4037
of section 2967.19, or section 2967.191 of the Revised Code or 4038
when parole is authorized for the offense under section 2967.13 4039
of the Revised Code shall not reduce the term or terms pursuant 4040
to section 2929.20, section 2967.19, section 2967.193, or any 4041
other provision of Chapter 2967. or Chapter 5120. of the Revised 4042
Code for any of the following offenses: 4043

(1) Aggravated murder ~~when death is not imposed~~ or murder; 4044

(2) Any rape, regardless of whether force was involved and 4045

regardless of the age of the victim, or an attempt to commit 4046
rape if, had the offender completed the rape that was attempted, 4047
the offender would have been guilty of a violation of division 4048
(A) (1) (b) of section 2907.02 of the Revised Code and would be 4049
sentenced under section 2971.03 of the Revised Code; 4050

(3) Gross sexual imposition or sexual battery, if the 4051
victim is less than thirteen years of age and if any of the 4052
following applies: 4053

(a) Regarding gross sexual imposition, the offender 4054
previously was convicted of or pleaded guilty to rape, the 4055
former offense of felonious sexual penetration, gross sexual 4056
imposition, or sexual battery, and the victim of the previous 4057
offense was less than thirteen years of age; 4058

(b) Regarding gross sexual imposition, the offense was 4059
committed on or after August 3, 2006, and evidence other than 4060
the testimony of the victim was admitted in the case 4061
corroborating the violation. 4062

(c) Regarding sexual battery, either of the following 4063
applies: 4064

(i) The offense was committed prior to August 3, 2006, the 4065
offender previously was convicted of or pleaded guilty to rape, 4066
the former offense of felonious sexual penetration, or sexual 4067
battery, and the victim of the previous offense was less than 4068
thirteen years of age. 4069

(ii) The offense was committed on or after August 3, 2006. 4070

(4) A felony violation of section 2903.04, 2903.06, 4071
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 4072
or 2923.132 of the Revised Code if the section requires the 4073
imposition of a prison term; 4074

(5) A first, second, or third degree felony drug offense 4075
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 4076
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 4077
or 4729.99 of the Revised Code, whichever is applicable 4078
regarding the violation, requires the imposition of a mandatory 4079
prison term; 4080

(6) Any offense that is a first or second degree felony 4081
and that is not set forth in division (F) (1), (2), (3), or (4) 4082
of this section, if the offender previously was convicted of or 4083
pleaded guilty to aggravated murder, murder, any first or second 4084
degree felony, or an offense under an existing or former law of 4085
this state, another state, or the United States that is or was 4086
substantially equivalent to one of those offenses; 4087

(7) Any offense that is a third degree felony and either 4088
is a violation of section 2903.04 of the Revised Code or an 4089
attempt to commit a felony of the second degree that is an 4090
offense of violence and involved an attempt to cause serious 4091
physical harm to a person or that resulted in serious physical 4092
harm to a person if the offender previously was convicted of or 4093
pleaded guilty to any of the following offenses: 4094

(a) Aggravated murder, murder, involuntary manslaughter, 4095
rape, felonious sexual penetration as it existed under section 4096
2907.12 of the Revised Code prior to September 3, 1996, a felony 4097
of the first or second degree that resulted in the death of a 4098
person or in physical harm to a person, or complicity in or an 4099
attempt to commit any of those offenses; 4100

(b) An offense under an existing or former law of this 4101
state, another state, or the United States that is or was 4102
substantially equivalent to an offense listed in division (F) (7) 4103
(a) of this section that resulted in the death of a person or in 4104

physical harm to a person. 4105

(8) Any offense, other than a violation of section 2923.12 4106
of the Revised Code, that is a felony, if the offender had a 4107
firearm on or about the offender's person or under the 4108
offender's control while committing the felony, with respect to 4109
a portion of the sentence imposed pursuant to division (B)(1)(a) 4110
of section 2929.14 of the Revised Code for having the firearm; 4111

(9) Any offense of violence that is a felony, if the 4112
offender wore or carried body armor while committing the felony 4113
offense of violence, with respect to the portion of the sentence 4114
imposed pursuant to division (B)(1)(d) of section 2929.14 of the 4115
Revised Code for wearing or carrying the body armor; 4116

(10) Corrupt activity in violation of section 2923.32 of 4117
the Revised Code when the most serious offense in the pattern of 4118
corrupt activity that is the basis of the offense is a felony of 4119
the first degree; 4120

(11) Any violent sex offense or designated homicide, 4121
assault, or kidnapping offense if, in relation to that offense, 4122
the offender is adjudicated a sexually violent predator; 4123

(12) A violation of division (A)(1) or (2) of section 4124
2921.36 of the Revised Code, or a violation of division (C) of 4125
that section involving an item listed in division (A)(1) or (2) 4126
of that section, if the offender is an officer or employee of 4127
the department of rehabilitation and correction; 4128

(13) A violation of division (A)(1) or (2) of section 4129
2903.06 of the Revised Code if the victim of the offense is a 4130
peace officer, as defined in section 2935.01 of the Revised 4131
Code, or an investigator of the bureau of criminal 4132
identification and investigation, as defined in section 2903.11 4133

of the Revised Code, with respect to the portion of the sentence 4134
imposed pursuant to division (B) (5) of section 2929.14 of the 4135
Revised Code; 4136

(14) A violation of division (A) (1) or (2) of section 4137
2903.06 of the Revised Code if the offender has been convicted 4138
of or pleaded guilty to three or more violations of division (A) 4139
or (B) of section 4511.19 of the Revised Code or an equivalent 4140
offense, as defined in section 2941.1415 of the Revised Code, or 4141
three or more violations of any combination of those divisions 4142
and offenses, with respect to the portion of the sentence 4143
imposed pursuant to division (B) (6) of section 2929.14 of the 4144
Revised Code; 4145

(15) Kidnapping, in the circumstances specified in section 4146
2971.03 of the Revised Code and when no other provision of 4147
division (F) of this section applies; 4148

(16) Kidnapping, abduction, compelling prostitution, 4149
promoting prostitution, engaging in a pattern of corrupt 4150
activity, illegal use of a minor in a nudity-oriented material 4151
or performance in violation of division (A) (1) or (2) of section 4152
2907.323 of the Revised Code, or endangering children in 4153
violation of division (B) (1), (2), (3), (4), or (5) of section 4154
2919.22 of the Revised Code, if the offender is convicted of or 4155
pleads guilty to a specification as described in section 4156
2941.1422 of the Revised Code that was included in the 4157
indictment, count in the indictment, or information charging the 4158
offense; 4159

(17) A felony violation of division (A) or (B) of section 4160
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 4161
that section, and division (D) (6) of that section, require the 4162
imposition of a prison term; 4163

(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 4194
section 2929.20, 2967.193, or any other provision of the Revised 4195
Code. The court that imposes a mandatory term of local 4196
incarceration under this division shall specify whether the term 4197
is to be served in a jail, a community-based correctional 4198
facility, a halfway house, or an alternative residential 4199
facility, and the offender shall serve the term in the type of 4200
facility specified by the court. A mandatory term of local 4201
incarceration imposed under division (G) (1) of this section is 4202
not subject to any other Revised Code provision that pertains to 4203
a prison term except as provided in division (A) (1) of this 4204
section. 4205

(2) If the offender is being sentenced for a third degree 4206
felony OVI offense, or if the offender is being sentenced for a 4207
fourth degree felony OVI offense and the court does not impose a 4208
mandatory term of local incarceration under division (G) (1) of 4209
this section, the court shall impose upon the offender a 4210
mandatory prison term of one, two, three, four, or five years if 4211
the offender also is convicted of or also pleads guilty to a 4212
specification of the type described in section 2941.1413 of the 4213
Revised Code or shall impose upon the offender a mandatory 4214
prison term of sixty days or one hundred twenty days as 4215
specified in division (G) (1) (d) or (e) of section 4511.19 of the 4216
Revised Code if the offender has not been convicted of and has 4217
not pleaded guilty to a specification of that type. Subject to 4218
divisions (C) to (I) of section 2967.19 of the Revised Code, the 4219
court shall not reduce the term pursuant to section 2929.20, 4220
2967.19, 2967.193, or any other provision of the Revised Code. 4221
The offender shall serve the one-, two-, three-, four-, or five- 4222
year mandatory prison term consecutively to and prior to the 4223
prison term imposed for the underlying offense and consecutively 4224

to any other mandatory prison term imposed in relation to the 4225
offense. In no case shall an offender who once has been 4226
sentenced to a mandatory term of local incarceration pursuant to 4227
division (G) (1) of this section for a fourth degree felony OVI 4228
offense be sentenced to another mandatory term of local 4229
incarceration under that division for any violation of division 4230
(A) of section 4511.19 of the Revised Code. In addition to the 4231
mandatory prison term described in division (G) (2) of this 4232
section, the court may sentence the offender to a community 4233
control sanction under section 2929.16 or 2929.17 of the Revised 4234
Code, but the offender shall serve the prison term prior to 4235
serving the community control sanction. The department of 4236
rehabilitation and correction may place an offender sentenced to 4237
a mandatory prison term under this division in an intensive 4238
program prison established pursuant to section 5120.033 of the 4239
Revised Code if the department gave the sentencing judge prior 4240
notice of its intent to place the offender in an intensive 4241
program prison established under that section and if the judge 4242
did not notify the department that the judge disapproved the 4243
placement. Upon the establishment of the initial intensive 4244
program prison pursuant to section 5120.033 of the Revised Code 4245
that is privately operated and managed by a contractor pursuant 4246
to a contract entered into under section 9.06 of the Revised 4247
Code, both of the following apply: 4248

(a) The department of rehabilitation and correction shall 4249
make a reasonable effort to ensure that a sufficient number of 4250
offenders sentenced to a mandatory prison term under this 4251
division are placed in the privately operated and managed prison 4252
so that the privately operated and managed prison has full 4253
occupancy. 4254

(b) Unless the privately operated and managed prison has 4255

full occupancy, the department of rehabilitation and correction 4256
shall not place any offender sentenced to a mandatory prison 4257
term under this division in any intensive program prison 4258
established pursuant to section 5120.033 of the Revised Code 4259
other than the privately operated and managed prison. 4260

(H) If an offender is being sentenced for a sexually 4261
oriented offense or child-victim oriented offense that is a 4262
felony committed on or after January 1, 1997, the judge shall 4263
require the offender to submit to a DNA specimen collection 4264
procedure pursuant to section 2901.07 of the Revised Code. 4265

(I) If an offender is being sentenced for a sexually 4266
oriented offense or a child-victim oriented offense committed on 4267
or after January 1, 1997, the judge shall include in the 4268
sentence a summary of the offender's duties imposed under 4269
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 4270
Code and the duration of the duties. The judge shall inform the 4271
offender, at the time of sentencing, of those duties and of 4272
their duration. If required under division (A)(2) of section 4273
2950.03 of the Revised Code, the judge shall perform the duties 4274
specified in that section, or, if required under division (A)(6) 4275
of section 2950.03 of the Revised Code, the judge shall perform 4276
the duties specified in that division. 4277

(J)(1) Except as provided in division (J)(2) of this 4278
section, when considering sentencing factors under this section 4279
in relation to an offender who is convicted of or pleads guilty 4280
to an attempt to commit an offense in violation of section 4281
2923.02 of the Revised Code, the sentencing court shall consider 4282
the factors applicable to the felony category of the violation 4283
of section 2923.02 of the Revised Code instead of the factors 4284
applicable to the felony category of the offense attempted. 4285

(2) When considering sentencing factors under this section 4286
in relation to an offender who is convicted of or pleads guilty 4287
to an attempt to commit a drug abuse offense for which the 4288
penalty is determined by the amount or number of unit doses of 4289
the controlled substance involved in the drug abuse offense, the 4290
sentencing court shall consider the factors applicable to the 4291
felony category that the drug abuse offense attempted would be 4292
if that drug abuse offense had been committed and had involved 4293
an amount or number of unit doses of the controlled substance 4294
that is within the next lower range of controlled substance 4295
amounts than was involved in the attempt. 4296

(K) As used in this section: 4297

(1) "Community addiction services provider" has the same 4298
meaning as in section 5119.01 of the Revised Code. 4299

(2) "Drug abuse offense" has the same meaning as in 4300
section 2925.01 of the Revised Code. 4301

(3) "Minor drug possession offense" has the same meaning 4302
as in section 2925.11 of the Revised Code. 4303

(4) "Qualifying assault offense" means a violation of 4304
section 2903.13 of the Revised Code for which the penalty 4305
provision in division (C) (8) (b) or (C) (9) (b) of that section 4306
applies. 4307

(L) At the time of sentencing an offender for any sexually 4308
oriented offense, if the offender is a tier III sex 4309
offender/child-victim offender relative to that offense and the 4310
offender does not serve a prison term or jail term, the court 4311
may require that the offender be monitored by means of a global 4312
positioning device. If the court requires such monitoring, the 4313
cost of monitoring shall be borne by the offender. If the 4314

offender is indigent, the cost of compliance shall be paid by 4315
the crime victims reparations fund. 4316

Sec. 2929.14. (A) Except as provided in division (B) (1), 4317
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (E), 4318
(G), (H), (J), or (K) of this section or in division (D) (6) of 4319
section 2919.25 of the Revised Code and except in relation to an 4320
offense for which a sentence of ~~death or~~ life imprisonment is to 4321
be imposed, if the court imposing a sentence upon an offender 4322
for a felony elects or is required to impose a prison term on 4323
the offender pursuant to this chapter, the court shall impose a 4324
definite prison term that shall be one of the following: 4325

(1) For a felony of the first degree, the prison term 4326
shall be three, four, five, six, seven, eight, nine, ten, or 4327
eleven years. 4328

(2) For a felony of the second degree, the prison term 4329
shall be two, three, four, five, six, seven, or eight years. 4330

(3) (a) For a felony of the third degree that is a 4331
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 4332
2907.05, or 3795.04 of the Revised Code or that is a violation 4333
of section 2911.02 or 2911.12 of the Revised Code if the 4334
offender previously has been convicted of or pleaded guilty in 4335
two or more separate proceedings to two or more violations of 4336
section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised 4337
Code, the prison term shall be twelve, eighteen, twenty-four, 4338
thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty 4339
months. 4340

(b) For a felony of the third degree that is not an 4341
offense for which division (A) (3) (a) of this section applies, 4342
the prison term shall be nine, twelve, eighteen, twenty-four, 4343

thirty, or thirty-six months. 4344

(4) For a felony of the fourth degree, the prison term 4345
shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, 4346
fourteen, fifteen, sixteen, seventeen, or eighteen months. 4347

(5) For a felony of the fifth degree, the prison term 4348
shall be six, seven, eight, nine, ten, eleven, or twelve months. 4349

(B) (1) (a) Except as provided in division (B) (1) (e) of this 4350
section, if an offender who is convicted of or pleads guilty to 4351
a felony also is convicted of or pleads guilty to a 4352
specification of the type described in section 2941.141, 4353
2941.144, or 2941.145 of the Revised Code, the court shall 4354
impose on the offender one of the following prison terms: 4355

(i) A prison term of six years if the specification is of 4356
the type described in division (A) of section 2941.144 of the 4357
Revised Code that charges the offender with having a firearm 4358
that is an automatic firearm or that was equipped with a firearm 4359
muffler or suppressor on or about the offender's person or under 4360
the offender's control while committing the offense; 4361

(ii) A prison term of three years if the specification is 4362
of the type described in division (A) of section 2941.145 of the 4363
Revised Code that charges the offender with having a firearm on 4364
or about the offender's person or under the offender's control 4365
while committing the offense and displaying the firearm, 4366
brandishing the firearm, indicating that the offender possessed 4367
the firearm, or using it to facilitate the offense; 4368

(iii) A prison term of one year if the specification is of 4369
the type described in division (A) of section 2941.141 of the 4370
Revised Code that charges the offender with having a firearm on 4371
or about the offender's person or under the offender's control 4372

while committing the offense; 4373

(iv) A prison term of nine years if the specification is 4374
of the type described in division (D) of section 2941.144 of the 4375
Revised Code that charges the offender with having a firearm 4376
that is an automatic firearm or that was equipped with a firearm 4377
muffler or suppressor on or about the offender's person or under 4378
the offender's control while committing the offense and 4379
specifies that the offender previously has been convicted of or 4380
pleaded guilty to a specification of the type described in 4381
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4382
the Revised Code; 4383

(v) A prison term of fifty-four months if the 4384
specification is of the type described in division (D) of 4385
section 2941.145 of the Revised Code that charges the offender 4386
with having a firearm on or about the offender's person or under 4387
the offender's control while committing the offense and 4388
displaying the firearm, brandishing the firearm, indicating that 4389
the offender possessed the firearm, or using the firearm to 4390
facilitate the offense and that the offender previously has been 4391
convicted of or pleaded guilty to a specification of the type 4392
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 4393
2941.1412 of the Revised Code; 4394

(vi) A prison term of eighteen months if the specification 4395
is of the type described in division (D) of section 2941.141 of 4396
the Revised Code that charges the offender with having a firearm 4397
on or about the offender's person or under the offender's 4398
control while committing the offense and that the offender 4399
previously has been convicted of or pleaded guilty to a 4400
specification of the type described in section 2941.141, 4401
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 4402

(b) If a court imposes a prison term on an offender under 4403
division (B)(1)(a) of this section, the prison term shall not be 4404
reduced pursuant to section 2967.19, section 2929.20, section 4405
2967.193, or any other provision of Chapter 2967. or Chapter 4406
5120. of the Revised Code. Except as provided in division (B)(1) 4407
(g) of this section, a court shall not impose more than one 4408
prison term on an offender under division (B)(1)(a) of this 4409
section for felonies committed as part of the same act or 4410
transaction. 4411

(c)(i) Except as provided in division (B)(1)(e) of this 4412
section, if an offender who is convicted of or pleads guilty to 4413
a violation of section 2923.161 of the Revised Code or to a 4414
felony that includes, as an essential element, purposely or 4415
knowingly causing or attempting to cause the death of or 4416
physical harm to another, also is convicted of or pleads guilty 4417
to a specification of the type described in division (A) of 4418
section 2941.146 of the Revised Code that charges the offender 4419
with committing the offense by discharging a firearm from a 4420
motor vehicle other than a manufactured home, the court, after 4421
imposing a prison term on the offender for the violation of 4422
section 2923.161 of the Revised Code or for the other felony 4423
offense under division (A), (B)(2), or (B)(3) of this section, 4424
shall impose an additional prison term of five years upon the 4425
offender that shall not be reduced pursuant to section 2929.20, 4426
section 2967.19, section 2967.193, or any other provision of 4427
Chapter 2967. or Chapter 5120. of the Revised Code. 4428

(ii) Except as provided in division (B)(1)(e) of this 4429
section, if an offender who is convicted of or pleads guilty to 4430
a violation of section 2923.161 of the Revised Code or to a 4431
felony that includes, as an essential element, purposely or 4432
knowingly causing or attempting to cause the death of or 4433

physical harm to another, also is convicted of or pleads guilty 4434
to a specification of the type described in division (C) of 4435
section 2941.146 of the Revised Code that charges the offender 4436
with committing the offense by discharging a firearm from a 4437
motor vehicle other than a manufactured home and that the 4438
offender previously has been convicted of or pleaded guilty to a 4439
specification of the type described in section 2941.141, 4440
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 4441
the court, after imposing a prison term on the offender for the 4442
violation of section 2923.161 of the Revised Code or for the 4443
other felony offense under division (A), (B) (2), or (3) of this 4444
section, shall impose an additional prison term of ninety months 4445
upon the offender that shall not be reduced pursuant to section 4446
2929.20, 2967.19, 2967.193, or any other provision of Chapter 4447
2967. or Chapter 5120. of the Revised Code. 4448

(iii) A court shall not impose more than one additional 4449
prison term on an offender under division (B) (1) (c) of this 4450
section for felonies committed as part of the same act or 4451
transaction. If a court imposes an additional prison term on an 4452
offender under division (B) (1) (c) of this section relative to an 4453
offense, the court also shall impose a prison term under 4454
division (B) (1) (a) of this section relative to the same offense, 4455
provided the criteria specified in that division for imposing an 4456
additional prison term are satisfied relative to the offender 4457
and the offense. 4458

(d) If an offender who is convicted of or pleads guilty to 4459
an offense of violence that is a felony also is convicted of or 4460
pleads guilty to a specification of the type described in 4461
section 2941.1411 of the Revised Code that charges the offender 4462
with wearing or carrying body armor while committing the felony 4463
offense of violence, the court shall impose on the offender a 4464

prison term of two years. The prison term so imposed, subject to 4465
divisions (C) to (I) of section 2967.19 of the Revised Code, 4466
shall not be reduced pursuant to section 2929.20, section 4467
2967.19, section 2967.193, or any other provision of Chapter 4468
2967. or Chapter 5120. of the Revised Code. A court shall not 4469
impose more than one prison term on an offender under division 4470
(B) (1) (d) of this section for felonies committed as part of the 4471
same act or transaction. If a court imposes an additional prison 4472
term under division (B) (1) (a) or (c) of this section, the court 4473
is not precluded from imposing an additional prison term under 4474
division (B) (1) (d) of this section. 4475

(e) The court shall not impose any of the prison terms 4476
described in division (B) (1) (a) of this section or any of the 4477
additional prison terms described in division (B) (1) (c) of this 4478
section upon an offender for a violation of section 2923.12 or 4479
2923.123 of the Revised Code. The court shall not impose any of 4480
the prison terms described in division (B) (1) (a) or (b) of this 4481
section upon an offender for a violation of section 2923.122 4482
that involves a deadly weapon that is a firearm other than a 4483
dangerous ordnance, section 2923.16, or section 2923.121 of the 4484
Revised Code. The court shall not impose any of the prison terms 4485
described in division (B) (1) (a) of this section or any of the 4486
additional prison terms described in division (B) (1) (c) of this 4487
section upon an offender for a violation of section 2923.13 of 4488
the Revised Code unless all of the following apply: 4489

(i) The offender previously has been convicted of 4490
aggravated murder, murder, or any felony of the first or second 4491
degree. 4492

(ii) Less than five years have passed since the offender 4493
was released from prison or post-release control, whichever is 4494

later, for the prior offense. 4495

(f) (i) If an offender is convicted of or pleads guilty to 4496
a felony that includes, as an essential element, causing or 4497
attempting to cause the death of or physical harm to another and 4498
also is convicted of or pleads guilty to a specification of the 4499
type described in division (A) of section 2941.1412 of the 4500
Revised Code that charges the offender with committing the 4501
offense by discharging a firearm at a peace officer as defined 4502
in section 2935.01 of the Revised Code or a corrections officer, 4503
as defined in section 2941.1412 of the Revised Code, the court, 4504
after imposing a prison term on the offender for the felony 4505
offense under division (A), (B) (2), or (B) (3) of this section, 4506
shall impose an additional prison term of seven years upon the 4507
offender that shall not be reduced pursuant to section 2929.20, 4508
section 2967.19, section 2967.193, or any other provision of 4509
Chapter 2967. or Chapter 5120. of the Revised Code. 4510

(ii) If an offender is convicted of or pleads guilty to a 4511
felony that includes, as an essential element, causing or 4512
attempting to cause the death of or physical harm to another and 4513
also is convicted of or pleads guilty to a specification of the 4514
type described in division (B) of section 2941.1412 of the 4515
Revised Code that charges the offender with committing the 4516
offense by discharging a firearm at a peace officer, as defined 4517
in section 2935.01 of the Revised Code, or a corrections 4518
officer, as defined in section 2941.1412 of the Revised Code, 4519
and that the offender previously has been convicted of or 4520
pleaded guilty to a specification of the type described in 4521
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4522
the Revised Code, the court, after imposing a prison term on the 4523
offender for the felony offense under division (A), (B) (2), or 4524
(3) of this section, shall impose an additional prison term of 4525

one hundred twenty-six months upon the offender that shall not 4526
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 4527
any other provision of Chapter 2967. or 5120. of the Revised 4528
Code. 4529

(iii) If an offender is convicted of or pleads guilty to 4530
two or more felonies that include, as an essential element, 4531
causing or attempting to cause the death or physical harm to 4532
another and also is convicted of or pleads guilty to a 4533
specification of the type described under division (B) (1) (f) of 4534
this section in connection with two or more of the felonies of 4535
which the offender is convicted or to which the offender pleads 4536
guilty, the sentencing court shall impose on the offender the 4537
prison term specified under division (B) (1) (f) of this section 4538
for each of two of the specifications of which the offender is 4539
convicted or to which the offender pleads guilty and, in its 4540
discretion, also may impose on the offender the prison term 4541
specified under that division for any or all of the remaining 4542
specifications. If a court imposes an additional prison term on 4543
an offender under division (B) (1) (f) of this section relative to 4544
an offense, the court shall not impose a prison term under 4545
division (B) (1) (a) or (c) of this section relative to the same 4546
offense. 4547

(g) If an offender is convicted of or pleads guilty to two 4548
or more felonies, if one or more of those felonies are 4549
aggravated murder, murder, attempted aggravated murder, 4550
attempted murder, aggravated robbery, felonious assault, or 4551
rape, and if the offender is convicted of or pleads guilty to a 4552
specification of the type described under division (B) (1) (a) of 4553
this section in connection with two or more of the felonies, the 4554
sentencing court shall impose on the offender the prison term 4555
specified under division (B) (1) (a) of this section for each of 4556

the two most serious specifications of which the offender is 4557
convicted or to which the offender pleads guilty and, in its 4558
discretion, also may impose on the offender the prison term 4559
specified under that division for any or all of the remaining 4560
specifications. 4561

(2) (a) If division (B) (2) (b) of this section does not 4562
apply, the court may impose on an offender, in addition to the 4563
longest prison term authorized or required for the offense, an 4564
additional definite prison term of one, two, three, four, five, 4565
six, seven, eight, nine, or ten years if all of the following 4566
criteria are met: 4567

(i) The offender is convicted of or pleads guilty to a 4568
specification of the type described in section 2941.149 of the 4569
Revised Code that the offender is a repeat violent offender. 4570

(ii) The offense of which the offender currently is 4571
convicted or to which the offender currently pleads guilty is 4572
aggravated murder and the court does not impose a sentence of 4573
~~death or~~ life imprisonment without parole, murder, terrorism and 4574
the court does not impose a sentence of life imprisonment 4575
without parole, any felony of the first degree that is an 4576
offense of violence and the court does not impose a sentence of 4577
life imprisonment without parole, or any felony of the second 4578
degree that is an offense of violence and the trier of fact 4579
finds that the offense involved an attempt to cause or a threat 4580
to cause serious physical harm to a person or resulted in 4581
serious physical harm to a person. 4582

(iii) The court imposes the longest prison term for the 4583
offense that is not life imprisonment without parole. 4584

(iv) The court finds that the prison terms imposed 4585

pursuant to division (B) (2) (a) (iii) of this section and, if 4586
applicable, division (B) (1) or (3) of this section are 4587
inadequate to punish the offender and protect the public from 4588
future crime, because the applicable factors under section 4589
2929.12 of the Revised Code indicating a greater likelihood of 4590
recidivism outweigh the applicable factors under that section 4591
indicating a lesser likelihood of recidivism. 4592

(v) The court finds that the prison terms imposed pursuant 4593
to division (B) (2) (a) (iii) of this section and, if applicable, 4594
division (B) (1) or (3) of this section are demeaning to the 4595
seriousness of the offense, because one or more of the factors 4596
under section 2929.12 of the Revised Code indicating that the 4597
offender's conduct is more serious than conduct normally 4598
constituting the offense are present, and they outweigh the 4599
applicable factors under that section indicating that the 4600
offender's conduct is less serious than conduct normally 4601
constituting the offense. 4602

(b) The court shall impose on an offender the longest 4603
prison term authorized or required for the offense and shall 4604
impose on the offender an additional definite prison term of 4605
one, two, three, four, five, six, seven, eight, nine, or ten 4606
years if all of the following criteria are met: 4607

(i) The offender is convicted of or pleads guilty to a 4608
specification of the type described in section 2941.149 of the 4609
Revised Code that the offender is a repeat violent offender. 4610

(ii) The offender within the preceding twenty years has 4611
been convicted of or pleaded guilty to three or more offenses 4612
described in division (CC) (1) of section 2929.01 of the Revised 4613
Code, including all offenses described in that division of which 4614
the offender is convicted or to which the offender pleads guilty 4615

in the current prosecution and all offenses described in that 4616
division of which the offender previously has been convicted or 4617
to which the offender previously pleaded guilty, whether 4618
prosecuted together or separately. 4619

(iii) The offense or offenses of which the offender 4620
currently is convicted or to which the offender currently pleads 4621
guilty is aggravated murder and the court does not impose a 4622
sentence of ~~death or~~ life imprisonment without parole, murder, 4623
terrorism and the court does not impose a sentence of life 4624
imprisonment without parole, any felony of the first degree that 4625
is an offense of violence and the court does not impose a 4626
sentence of life imprisonment without parole, or any felony of 4627
the second degree that is an offense of violence and the trier 4628
of fact finds that the offense involved an attempt to cause or a 4629
threat to cause serious physical harm to a person or resulted in 4630
serious physical harm to a person. 4631

(c) For purposes of division (B) (2) (b) of this section, 4632
two or more offenses committed at the same time or as part of 4633
the same act or event shall be considered one offense, and that 4634
one offense shall be the offense with the greatest penalty. 4635

(d) A sentence imposed under division (B) (2) (a) or (b) of 4636
this section shall not be reduced pursuant to section 2929.20, 4637
section 2967.19, or section 2967.193, or any other provision of 4638
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 4639
shall serve an additional prison term imposed under this section 4640
consecutively to and prior to the prison term imposed for the 4641
underlying offense. 4642

(e) When imposing a sentence pursuant to division (B) (2) 4643
(a) or (b) of this section, the court shall state its findings 4644
explaining the imposed sentence. 4645

(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 4678
fourth degree felony OVI offense under division (G) (2) of 4679
section 2929.13 of the Revised Code, the sentencing court shall 4680
impose upon the offender a mandatory prison term in accordance 4681
with that division. In addition to the mandatory prison term, if 4682
the offender is being sentenced for a fourth degree felony OVI 4683
offense, the court, notwithstanding division (A) (4) of this 4684
section, may sentence the offender to a definite prison term of 4685
not less than six months and not more than thirty months, and if 4686
the offender is being sentenced for a third degree felony OVI 4687
offense, the sentencing court may sentence the offender to an 4688
additional prison term of any duration specified in division (A) 4689
(3) of this section. In either case, the additional prison term 4690
imposed shall be reduced by the sixty or one hundred twenty days 4691
imposed upon the offender as the mandatory prison term. The 4692
total of the additional prison term imposed under division (B) 4693
(4) of this section plus the sixty or one hundred twenty days 4694
imposed as the mandatory prison term shall equal a definite term 4695
in the range of six months to thirty months for a fourth degree 4696
felony OVI offense and shall equal one of the authorized prison 4697
terms specified in division (A) (3) of this section for a third 4698
degree felony OVI offense. If the court imposes an additional 4699
prison term under division (B) (4) of this section, the offender 4700
shall serve the additional prison term after the offender has 4701
served the mandatory prison term required for the offense. In 4702
addition to the mandatory prison term or mandatory and 4703
additional prison term imposed as described in division (B) (4) 4704
of this section, the court also may sentence the offender to a 4705
community control sanction under section 2929.16 or 2929.17 of 4706
the Revised Code, but the offender shall serve all of the prison 4707
terms so imposed prior to serving the community control 4708
sanction. 4709

If the offender is being sentenced for a fourth degree 4710
felony OVI offense under division (G) (1) of section 2929.13 of 4711
the Revised Code and the court imposes a mandatory term of local 4712
incarceration, the court may impose a prison term as described 4713
in division (A) (1) of that section. 4714

(5) If an offender is convicted of or pleads guilty to a 4715
violation of division (A) (1) or (2) of section 2903.06 of the 4716
Revised Code and also is convicted of or pleads guilty to a 4717
specification of the type described in section 2941.1414 of the 4718
Revised Code that charges that the victim of the offense is a 4719
peace officer, as defined in section 2935.01 of the Revised 4720
Code, or an investigator of the bureau of criminal 4721
identification and investigation, as defined in section 2903.11 4722
of the Revised Code, the court shall impose on the offender a 4723
prison term of five years. If a court imposes a prison term on 4724
an offender under division (B) (5) of this section, the prison 4725
term, subject to divisions (C) to (I) of section 2967.19 of the 4726
Revised Code, shall not be reduced pursuant to section 2929.20, 4727
section 2967.19, section 2967.193, or any other provision of 4728
Chapter 2967. or Chapter 5120. of the Revised Code. A court 4729
shall not impose more than one prison term on an offender under 4730
division (B) (5) of this section for felonies committed as part 4731
of the same act. 4732

(6) If an offender is convicted of or pleads guilty to a 4733
violation of division (A) (1) or (2) of section 2903.06 of the 4734
Revised Code and also is convicted of or pleads guilty to a 4735
specification of the type described in section 2941.1415 of the 4736
Revised Code that charges that the offender previously has been 4737
convicted of or pleaded guilty to three or more violations of 4738
division (A) or (B) of section 4511.19 of the Revised Code or an 4739
equivalent offense, as defined in section 2941.1415 of the 4740

Revised Code, or three or more violations of any combination of 4741
those divisions and offenses, the court shall impose on the 4742
offender a prison term of three years. If a court imposes a 4743
prison term on an offender under division (B) (6) of this 4744
section, the prison term, subject to divisions (C) to (I) of 4745
section 2967.19 of the Revised Code, shall not be reduced 4746
pursuant to section 2929.20, section 2967.19, section 2967.193, 4747
or any other provision of Chapter 2967. or Chapter 5120. of the 4748
Revised Code. A court shall not impose more than one prison term 4749
on an offender under division (B) (6) of this section for 4750
felonies committed as part of the same act. 4751

(7) (a) If an offender is convicted of or pleads guilty to 4752
a felony violation of section 2905.01, 2905.02, 2907.21, 4753
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 4754
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 4755
the Revised Code and also is convicted of or pleads guilty to a 4756
specification of the type described in section 2941.1422 of the 4757
Revised Code that charges that the offender knowingly committed 4758
the offense in furtherance of human trafficking, the court shall 4759
impose on the offender a mandatory prison term that is one of 4760
the following: 4761

(i) If the offense is a felony of the first degree, a 4762
definite prison term of not less than five years and not greater 4763
than ten years; 4764

(ii) If the offense is a felony of the second or third 4765
degree, a definite prison term of not less than three years and 4766
not greater than the maximum prison term allowed for the offense 4767
by division (A) of section 2929.14 of the Revised Code; 4768

(iii) If the offense is a felony of the fourth or fifth 4769
degree, a definite prison term that is the maximum prison term 4770

allowed for the offense by division (A) of section 2929.14 of 4771
the Revised Code. 4772

(b) Subject to divisions (C) to (I) of section 2967.19 of 4773
the Revised Code, the prison term imposed under division (B) (7) 4774
(a) of this section shall not be reduced pursuant to section 4775
2929.20, section 2967.19, section 2967.193, or any other 4776
provision of Chapter 2967. of the Revised Code. A court shall 4777
not impose more than one prison term on an offender under 4778
division (B) (7) (a) of this section for felonies committed as 4779
part of the same act, scheme, or plan. 4780

(8) If an offender is convicted of or pleads guilty to a 4781
felony violation of section 2903.11, 2903.12, or 2903.13 of the 4782
Revised Code and also is convicted of or pleads guilty to a 4783
specification of the type described in section 2941.1423 of the 4784
Revised Code that charges that the victim of the violation was a 4785
woman whom the offender knew was pregnant at the time of the 4786
violation, notwithstanding the range of prison terms prescribed 4787
in division (A) of this section for felonies of the same degree 4788
as the violation, the court shall impose on the offender a 4789
mandatory prison term that is either a definite prison term of 4790
six months or one of the prison terms prescribed in section 4791
2929.14 of the Revised Code for felonies of the same degree as 4792
the violation. 4793

(C) (1) (a) Subject to division (C) (1) (b) of this section, 4794
if a mandatory prison term is imposed upon an offender pursuant 4795
to division (B) (1) (a) of this section for having a firearm on or 4796
about the offender's person or under the offender's control 4797
while committing a felony, if a mandatory prison term is imposed 4798
upon an offender pursuant to division (B) (1) (c) of this section 4799
for committing a felony specified in that division by 4800

discharging a firearm from a motor vehicle, or if both types of 4801
mandatory prison terms are imposed, the offender shall serve any 4802
mandatory prison term imposed under either division 4803
consecutively to any other mandatory prison term imposed under 4804
either division or under division (B) (1) (d) of this section, 4805
consecutively to and prior to any prison term imposed for the 4806
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 4807
this section or any other section of the Revised Code, and 4808
consecutively to any other prison term or mandatory prison term 4809
previously or subsequently imposed upon the offender. 4810

(b) If a mandatory prison term is imposed upon an offender 4811
pursuant to division (B) (1) (d) of this section for wearing or 4812
carrying body armor while committing an offense of violence that 4813
is a felony, the offender shall serve the mandatory term so 4814
imposed consecutively to any other mandatory prison term imposed 4815
under that division or under division (B) (1) (a) or (c) of this 4816
section, consecutively to and prior to any prison term imposed 4817
for the underlying felony under division (A), (B) (2), or (B) (3) 4818
of this section or any other section of the Revised Code, and 4819
consecutively to any other prison term or mandatory prison term 4820
previously or subsequently imposed upon the offender. 4821

(c) If a mandatory prison term is imposed upon an offender 4822
pursuant to division (B) (1) (f) of this section, the offender 4823
shall serve the mandatory prison term so imposed consecutively 4824
to and prior to any prison term imposed for the underlying 4825
felony under division (A), (B) (2), or (B) (3) of this section or 4826
any other section of the Revised Code, and consecutively to any 4827
other prison term or mandatory prison term previously or 4828
subsequently imposed upon the offender. 4829

(d) If a mandatory prison term is imposed upon an offender 4830

pursuant to division (B) (7) or (8) of this section, the offender 4831
shall serve the mandatory prison term so imposed consecutively 4832
to any other mandatory prison term imposed under that division 4833
or under any other provision of law and consecutively to any 4834
other prison term or mandatory prison term previously or 4835
subsequently imposed upon the offender. 4836

(2) If an offender who is an inmate in a jail, prison, or 4837
other residential detention facility violates section 2917.02, 4838
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 4839
(2) of section 2921.34 of the Revised Code, if an offender who 4840
is under detention at a detention facility commits a felony 4841
violation of section 2923.131 of the Revised Code, or if an 4842
offender who is an inmate in a jail, prison, or other 4843
residential detention facility or is under detention at a 4844
detention facility commits another felony while the offender is 4845
an escapee in violation of division (A) (1) or (2) of section 4846
2921.34 of the Revised Code, any prison term imposed upon the 4847
offender for one of those violations shall be served by the 4848
offender consecutively to the prison term or term of 4849
imprisonment the offender was serving when the offender 4850
committed that offense and to any other prison term previously 4851
or subsequently imposed upon the offender. 4852

(3) If a prison term is imposed for a violation of 4853
division (B) of section 2911.01 of the Revised Code, a violation 4854
of division (A) of section 2913.02 of the Revised Code in which 4855
the stolen property is a firearm or dangerous ordnance, or a 4856
felony violation of division (B) of section 2921.331 of the 4857
Revised Code, the offender shall serve that prison term 4858
consecutively to any other prison term or mandatory prison term 4859
previously or subsequently imposed upon the offender. 4860

(4) If multiple prison terms are imposed on an offender 4861
for convictions of multiple offenses, the court may require the 4862
offender to serve the prison terms consecutively if the court 4863
finds that the consecutive service is necessary to protect the 4864
public from future crime or to punish the offender and that 4865
consecutive sentences are not disproportionate to the 4866
seriousness of the offender's conduct and to the danger the 4867
offender poses to the public, and if the court also finds any of 4868
the following: 4869

(a) The offender committed one or more of the multiple 4870
offenses while the offender was awaiting trial or sentencing, 4871
was under a sanction imposed pursuant to section 2929.16, 4872
2929.17, or 2929.18 of the Revised Code, or was under post- 4873
release control for a prior offense. 4874

(b) At least two of the multiple offenses were committed 4875
as part of one or more courses of conduct, and the harm caused 4876
by two or more of the multiple offenses so committed was so 4877
great or unusual that no single prison term for any of the 4878
offenses committed as part of any of the courses of conduct 4879
adequately reflects the seriousness of the offender's conduct. 4880

(c) The offender's history of criminal conduct 4881
demonstrates that consecutive sentences are necessary to protect 4882
the public from future crime by the offender. 4883

(5) If a mandatory prison term is imposed upon an offender 4884
pursuant to division (B) (5) or (6) of this section, the offender 4885
shall serve the mandatory prison term consecutively to and prior 4886
to any prison term imposed for the underlying violation of 4887
division (A) (1) or (2) of section 2903.06 of the Revised Code 4888
pursuant to division (A) of this section or section 2929.142 of 4889
the Revised Code. If a mandatory prison term is imposed upon an 4890

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 4922
in this division and failed to include in the sentence pursuant 4923
to this division a statement regarding post-release control. 4924

(2) If a court imposes a prison term for a felony of the 4925
third, fourth, or fifth degree that is not subject to division 4926
(D) (1) of this section, it shall include in the sentence a 4927
requirement that the offender be subject to a period of post- 4928
release control after the offender's release from imprisonment, 4929
in accordance with that division, if the parole board determines 4930
that a period of post-release control is necessary. Section 4931
2929.191 of the Revised Code applies if, prior to July 11, 2006, 4932
a court imposed a sentence including a prison term of a type 4933
described in this division and failed to include in the sentence 4934
pursuant to this division a statement regarding post-release 4935
control. 4936

(E) The court shall impose sentence upon the offender in 4937
accordance with section 2971.03 of the Revised Code, and Chapter 4938
2971. of the Revised Code applies regarding the prison term or 4939
term of life imprisonment without parole imposed upon the 4940
offender and the service of that term of imprisonment if any of 4941
the following apply: 4942

(1) A person is convicted of or pleads guilty to a violent 4943
sex offense or a designated homicide, assault, or kidnapping 4944
offense, and, in relation to that offense, the offender is 4945
adjudicated a sexually violent predator. 4946

(2) A person is convicted of or pleads guilty to a 4947
violation of division (A) (1) (b) of section 2907.02 of the 4948
Revised Code committed on or after January 2, 2007, and either 4949
the court does not impose a sentence of life without parole when 4950
authorized pursuant to division (B) of section 2907.02 of the 4951

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 4981
provision of law, section 5120.163 of the Revised Code applies 4982
regarding the person while the person is confined in a state 4983
correctional institution. 4984

(G) If an offender who is convicted of or pleads guilty to 4985
a felony that is an offense of violence also is convicted of or 4986
pleads guilty to a specification of the type described in 4987
section 2941.142 of the Revised Code that charges the offender 4988
with having committed the felony while participating in a 4989
criminal gang, the court shall impose upon the offender an 4990
additional prison term of one, two, or three years. 4991

(H) (1) If an offender who is convicted of or pleads guilty 4992
to aggravated murder, murder, or a felony of the first, second, 4993
or third degree that is an offense of violence also is convicted 4994
of or pleads guilty to a specification of the type described in 4995
section 2941.143 of the Revised Code that charges the offender 4996
with having committed the offense in a school safety zone or 4997
towards a person in a school safety zone, the court shall impose 4998
upon the offender an additional prison term of two years. The 4999
offender shall serve the additional two years consecutively to 5000
and prior to the prison term imposed for the underlying offense. 5001

(2) (a) If an offender is convicted of or pleads guilty to 5002
a felony violation of section 2907.22, 2907.24, 2907.241, or 5003
2907.25 of the Revised Code and to a specification of the type 5004
described in section 2941.1421 of the Revised Code and if the 5005
court imposes a prison term on the offender for the felony 5006
violation, the court may impose upon the offender an additional 5007
prison term as follows: 5008

(i) Subject to division (H) (2) (a) (ii) of this section, an 5009
additional prison term of one, two, three, four, five, or six 5010

months; 5011

(ii) If the offender previously has been convicted of or 5012
pleaded guilty to one or more felony or misdemeanor violations 5013
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 5014
the Revised Code and also was convicted of or pleaded guilty to 5015
a specification of the type described in section 2941.1421 of 5016
the Revised Code regarding one or more of those violations, an 5017
additional prison term of one, two, three, four, five, six, 5018
seven, eight, nine, ten, eleven, or twelve months. 5019

(b) In lieu of imposing an additional prison term under 5020
division (H)(2)(a) of this section, the court may directly 5021
impose on the offender a sanction that requires the offender to 5022
wear a real-time processing, continual tracking electronic 5023
monitoring device during the period of time specified by the 5024
court. The period of time specified by the court shall equal the 5025
duration of an additional prison term that the court could have 5026
imposed upon the offender under division (H)(2)(a) of this 5027
section. A sanction imposed under this division shall commence 5028
on the date specified by the court, provided that the sanction 5029
shall not commence until after the offender has served the 5030
prison term imposed for the felony violation of section 2907.22, 5031
2907.24, 2907.241, or 2907.25 of the Revised Code and any 5032
residential sanction imposed for the violation under section 5033
2929.16 of the Revised Code. A sanction imposed under this 5034
division shall be considered to be a community control sanction 5035
for purposes of section 2929.15 of the Revised Code, and all 5036
provisions of the Revised Code that pertain to community control 5037
sanctions shall apply to a sanction imposed under this division, 5038
except to the extent that they would by their nature be clearly 5039
inapplicable. The offender shall pay all costs associated with a 5040
sanction imposed under this division, including the cost of the 5041

use of the monitoring device. 5042

(I) At the time of sentencing, the court may recommend the 5043
offender for placement in a program of shock incarceration under 5044
section 5120.031 of the Revised Code or for placement in an 5045
intensive program prison under section 5120.032 of the Revised 5046
Code, disapprove placement of the offender in a program of shock 5047
incarceration or an intensive program prison of that nature, or 5048
make no recommendation on placement of the offender. In no case 5049
shall the department of rehabilitation and correction place the 5050
offender in a program or prison of that nature unless the 5051
department determines as specified in section 5120.031 or 5052
5120.032 of the Revised Code, whichever is applicable, that the 5053
offender is eligible for the placement. 5054

If the court disapproves placement of the offender in a 5055
program or prison of that nature, the department of 5056
rehabilitation and correction shall not place the offender in 5057
any program of shock incarceration or intensive program prison. 5058

If the court recommends placement of the offender in a 5059
program of shock incarceration or in an intensive program 5060
prison, and if the offender is subsequently placed in the 5061
recommended program or prison, the department shall notify the 5062
court of the placement and shall include with the notice a brief 5063
description of the placement. 5064

If the court recommends placement of the offender in a 5065
program of shock incarceration or in an intensive program prison 5066
and the department does not subsequently place the offender in 5067
the recommended program or prison, the department shall send a 5068
notice to the court indicating why the offender was not placed 5069
in the recommended program or prison. 5070

If the court does not make a recommendation under this 5071
division with respect to an offender and if the department 5072
determines as specified in section 5120.031 or 5120.032 of the 5073
Revised Code, whichever is applicable, that the offender is 5074
eligible for placement in a program or prison of that nature, 5075
the department shall screen the offender and determine if there 5076
is an available program of shock incarceration or an intensive 5077
program prison for which the offender is suited. If there is an 5078
available program of shock incarceration or an intensive program 5079
prison for which the offender is suited, the department shall 5080
notify the court of the proposed placement of the offender as 5081
specified in section 5120.031 or 5120.032 of the Revised Code 5082
and shall include with the notice a brief description of the 5083
placement. The court shall have ten days from receipt of the 5084
notice to disapprove the placement. 5085

(J) If a person is convicted of or pleads guilty to 5086
aggravated vehicular homicide in violation of division (A) (1) of 5087
section 2903.06 of the Revised Code and division (B) (2) (c) of 5088
that section applies, the person shall be sentenced pursuant to 5089
section 2929.142 of the Revised Code. 5090

(K) (1) The court shall impose an additional mandatory 5091
prison term of two, three, four, five, six, seven, eight, nine, 5092
ten, or eleven years on an offender who is convicted of or 5093
pleads guilty to a violent felony offense if the offender also 5094
is convicted of or pleads guilty to a specification of the type 5095
described in section 2941.1424 of the Revised Code that charges 5096
that the offender is a violent career criminal and had a firearm 5097
on or about the offender's person or under the offender's 5098
control while committing the presently charged violent felony 5099
offense and displayed or brandished the firearm, indicated that 5100
the offender possessed a firearm, or used the firearm to 5101

facilitate the offense. The offender shall serve the prison term 5102
imposed under this division consecutively to and prior to the 5103
prison term imposed for the underlying offense. The prison term 5104
shall not be reduced pursuant to section 2929.20 or 2967.19 or 5105
any other provision of Chapter 2967. or 5120. of the Revised 5106
Code. A court may not impose more than one sentence under 5107
division (B) (2) (a) of this section and this division for acts 5108
committed as part of the same act or transaction. 5109

(2) As used in division (K) (1) of this section, "violent 5110
career criminal" and "violent felony offense" have the same 5111
meanings as in section 2923.132 of the Revised Code. 5112

Sec. 2929.20. (A) As used in this section: 5113

(1) (a) Except as provided in division (A) (1) (b) of this 5114
section, "eligible offender" means any person who, on or after 5115
April 7, 2009, is serving a stated prison term that includes one 5116
or more nonmandatory prison terms. 5117

(b) "Eligible offender" does not include any person who, 5118
on or after April 7, 2009, is serving a stated prison term for 5119
any of the following criminal offenses that was a felony and was 5120
committed while the person held a public office in this state: 5121

(i) A violation of section 2921.02, 2921.03, 2921.05, 5122
2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised 5123
Code; 5124

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 5125
2921.12 of the Revised Code, when the conduct constituting the 5126
violation was related to the duties of the offender's public 5127
office or to the offender's actions as a public official holding 5128
that public office; 5129

(iii) A violation of an existing or former municipal 5130

ordinance or law of this or any other state or the United States 5131
that is substantially equivalent to any violation listed in 5132
division (A) (1) (b) (i) of this section; 5133

(iv) A violation of an existing or former municipal 5134
ordinance or law of this or any other state or the United States 5135
that is substantially equivalent to any violation listed in 5136
division (A) (1) (b) (ii) of this section, when the conduct 5137
constituting the violation was related to the duties of the 5138
offender's public office or to the offender's actions as a 5139
public official holding that public office; 5140

(v) A conspiracy to commit, attempt to commit, or 5141
complicity in committing any offense listed in division (A) (1) 5142
(b) (i) or described in division (A) (1) (b) (iii) of this section; 5143

(vi) A conspiracy to commit, attempt to commit, or 5144
complicity in committing any offense listed in division (A) (1) 5145
(b) (ii) or described in division (A) (1) (b) (iv) of this section, 5146
if the conduct constituting the offense that was the subject of 5147
the conspiracy, that would have constituted the offense 5148
attempted, or constituting the offense in which the offender was 5149
complicit was or would have been related to the duties of the 5150
offender's public office or to the offender's actions as a 5151
public official holding that public office. 5152

(2) "Nonmandatory prison term" means a prison term that is 5153
not a mandatory prison term. 5154

(3) "Public office" means any elected federal, state, or 5155
local government office in this state. 5156

(4) "Victim's representative" has the same meaning as in 5157
section 2930.01 of the Revised Code. 5158

(5) "Imminent danger of death," "medically incapacitated," 5159

and "terminal illness" have the same meanings as in section 5160
2967.05 of the Revised Code. 5161

(B) On the motion of an eligible offender or upon its own 5162
motion, the sentencing court may reduce the eligible offender's 5163
aggregated nonmandatory prison term or terms through a judicial 5164
release under this section. 5165

(C) An eligible offender may file a motion for judicial 5166
release with the sentencing court within the following 5167
applicable periods: 5168

(1) If the aggregated nonmandatory prison term or terms is 5169
less than two years, the eligible offender may file the motion 5170
not earlier than thirty days after the offender is delivered to 5171
a state correctional institution or, if the prison term includes 5172
a mandatory prison term or terms, not earlier than thirty days 5173
after the expiration of all mandatory prison terms. 5174

(2) If the aggregated nonmandatory prison term or terms is 5175
at least two years but less than five years, the eligible 5176
offender may file the motion not earlier than one hundred eighty 5177
days after the offender is delivered to a state correctional 5178
institution or, if the prison term includes a mandatory prison 5179
term or terms, not earlier than one hundred eighty days after 5180
the expiration of all mandatory prison terms. 5181

(3) If the aggregated nonmandatory prison term or terms is 5182
five years, the eligible offender may file the motion not 5183
earlier than the date on which the eligible offender has served 5184
four years of the offender's stated prison term or, if the 5185
prison term includes a mandatory prison term or terms, not 5186
earlier than four years after the expiration of all mandatory 5187
prison terms. 5188

(4) If the aggregated nonmandatory prison term or terms is 5189
more than five years but not more than ten years, the eligible 5190
offender may file the motion not earlier than the date on which 5191
the eligible offender has served five years of the offender's 5192
stated prison term or, if the prison term includes a mandatory 5193
prison term or terms, not earlier than five years after the 5194
expiration of all mandatory prison terms. 5195

(5) If the aggregated nonmandatory prison term or terms is 5196
more than ten years, the eligible offender may file the motion 5197
not earlier than the later of the date on which the offender has 5198
served one-half of the offender's stated prison term or the date 5199
specified in division (C) (4) of this section. 5200

(D) Upon receipt of a timely motion for judicial release 5201
filed by an eligible offender under division (C) of this section 5202
or upon the sentencing court's own motion made within the 5203
appropriate time specified in that division, the court may deny 5204
the motion without a hearing or schedule a hearing on the 5205
motion. The court shall not grant the motion without a hearing. 5206
If a court denies a motion without a hearing, the court later 5207
may consider judicial release for that eligible offender on a 5208
subsequent motion filed by that eligible offender unless the 5209
court denies the motion with prejudice. If a court denies a 5210
motion with prejudice, the court may later consider judicial 5211
release on its own motion. If a court denies a motion after a 5212
hearing, the court shall not consider a subsequent motion for 5213
that eligible offender. The court shall hold only one hearing 5214
for any eligible offender. 5215

A hearing under this section shall be conducted in open 5216
court not less than thirty or more than sixty days after the 5217
motion is filed, provided that the court may delay the hearing 5218

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 5249
victim or victim's representative has requested pursuant to 5250
division (B) (2) of section 2930.03 of the Revised Code that the 5251
victim or the victim's representative not be provided the 5252
notice. If notice is to be provided to a victim or victim's 5253
representative under this division, the prosecuting attorney may 5254
give the notice by any reasonable means, including regular mail, 5255
telephone, and electronic mail, in accordance with division (D) 5256
(1) of section 2930.16 of the Revised Code. If the notice is 5257
based on an offense committed prior to March 22, 2013, the 5258
notice also shall include the opt-out information described in 5259
division (D) (1) of section 2930.16 of the Revised Code. The 5260
prosecuting attorney, in accordance with division (D) (2) of 5261
section 2930.16 of the Revised Code, shall keep a record of all 5262
attempts to provide the notice, and of all notices provided, 5263
under this division. Division (E) (2) of this section, and the 5264
notice-related provisions of division (K) of this section, 5265
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 5266
2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) 5267
(b) of section 2967.26, division (D) (1) of section 2967.28, and 5268
division (A) (2) of section 5149.101 of the Revised Code enacted 5269
in the act in which division (E) (2) of this section was enacted, 5270
shall be known as "Roberta's Law." 5271

(F) Upon an offender's successful completion of 5272
rehabilitative activities, the head of the state correctional 5273
institution may notify the sentencing court of the successful 5274
completion of the activities. 5275

(G) Prior to the date of the hearing on a motion for 5276
judicial release under this section, the head of the state 5277
correctional institution in which the eligible offender is 5278
confined shall send to the court an institutional summary report 5279

on the eligible offender's conduct in the institution and in any 5280
institution from which the eligible offender may have been 5281
transferred. Upon the request of the prosecuting attorney of the 5282
county in which the eligible offender was indicted or of any law 5283
enforcement agency, the head of the state correctional 5284
institution, at the same time the person sends the institutional 5285
summary report to the court, also shall send a copy of the 5286
report to the requesting prosecuting attorney and law 5287
enforcement agencies. The institutional summary report shall 5288
cover the eligible offender's participation in school, 5289
vocational training, work, treatment, and other rehabilitative 5290
activities and any disciplinary action taken against the 5291
eligible offender. The report shall be made part of the record 5292
of the hearing. A presentence investigation report is not 5293
required for judicial release. 5294

(H) If the court grants a hearing on a motion for judicial 5295
release under this section, the eligible offender shall attend 5296
the hearing if ordered to do so by the court. Upon receipt of a 5297
copy of the journal entry containing the order, the head of the 5298
state correctional institution in which the eligible offender is 5299
incarcerated shall deliver the eligible offender to the sheriff 5300
of the county in which the hearing is to be held. The sheriff 5301
shall convey the eligible offender to and from the hearing. 5302

(I) At the hearing on a motion for judicial release under 5303
this section, the court shall afford the eligible offender and 5304
the eligible offender's attorney an opportunity to present 5305
written and, if present, oral information relevant to the 5306
motion. The court shall afford a similar opportunity to the 5307
prosecuting attorney, the victim or the victim's representative, 5308
and any other person the court determines is likely to present 5309
additional relevant information. The court shall consider any 5310

statement of a victim made pursuant to section 2930.14 or 5311
2930.17 of the Revised Code, any victim impact statement 5312
prepared pursuant to section 2947.051 of the Revised Code, and 5313
any report made under division (G) of this section. The court 5314
may consider any written statement of any person submitted to 5315
the court pursuant to division (L) of this section. After ruling 5316
on the motion, the court shall notify the victim of the ruling 5317
in accordance with sections 2930.03 and 2930.16 of the Revised 5318
Code. 5319

(J) (1) A court shall not grant a judicial release under 5320
this section to an eligible offender who is imprisoned for a 5321
felony of the first or second degree, or to an eligible offender 5322
who committed an offense under Chapter 2925. or 3719. of the 5323
Revised Code and for whom there was a presumption under section 5324
2929.13 of the Revised Code in favor of a prison term, unless 5325
the court, with reference to factors under section 2929.12 of 5326
the Revised Code, finds both of the following: 5327

(a) That a sanction other than a prison term would 5328
adequately punish the offender and protect the public from 5329
future criminal violations by the eligible offender because the 5330
applicable factors indicating a lesser likelihood of recidivism 5331
outweigh the applicable factors indicating a greater likelihood 5332
of recidivism; 5333

(b) That a sanction other than a prison term would not 5334
demean the seriousness of the offense because factors indicating 5335
that the eligible offender's conduct in committing the offense 5336
was less serious than conduct normally constituting the offense 5337
outweigh factors indicating that the eligible offender's conduct 5338
was more serious than conduct normally constituting the offense. 5339

(2) A court that grants a judicial release to an eligible 5340

offender under division (J) (1) of this section shall specify on 5341
the record both findings required in that division and also 5342
shall list all the factors described in that division that were 5343
presented at the hearing. 5344

(K) If the court grants a motion for judicial release 5345
under this section, the court shall order the release of the 5346
eligible offender, shall place the eligible offender under an 5347
appropriate community control sanction, under appropriate 5348
conditions, and under the supervision of the department of 5349
probation serving the court and shall reserve the right to 5350
reimpose the sentence that it reduced if the offender violates 5351
the sanction. If the court reimposes the reduced sentence, it 5352
may do so either concurrently with, or consecutive to, any new 5353
sentence imposed upon the eligible offender as a result of the 5354
violation that is a new offense. Except as provided in division 5355
(R) (2) of this section, the period of community control shall be 5356
no longer than five years. The court, in its discretion, may 5357
reduce the period of community control by the amount of time the 5358
eligible offender spent in jail or prison for the offense and in 5359
prison. If the court made any findings pursuant to division (J) 5360
(1) of this section, the court shall serve a copy of the 5361
findings upon counsel for the parties within fifteen days after 5362
the date on which the court grants the motion for judicial 5363
release. 5364

If the court grants a motion for judicial release, the 5365
court shall notify the appropriate person at the department of 5366
rehabilitation and correction, and the department shall post 5367
notice of the release on the database it maintains pursuant to 5368
section 5120.66 of the Revised Code. The court also shall notify 5369
the prosecuting attorney of the county in which the eligible 5370
offender was indicted that the motion has been granted. Unless 5371

the victim or the victim's representative has requested pursuant 5372
to division (B) (2) of section 2930.03 of the Revised Code that 5373
the victim or victim's representative not be provided the 5374
notice, the prosecuting attorney shall notify the victim or the 5375
victim's representative of the judicial release in any manner, 5376
and in accordance with the same procedures, pursuant to which 5377
the prosecuting attorney is authorized to provide notice of the 5378
hearing pursuant to division (E) (2) of this section. If the 5379
notice is based on an offense committed prior to March 22, 2013, 5380
the notice to the victim or victim's representative also shall 5381
include the opt-out information described in division (D) (1) of 5382
section 2930.16 of the Revised Code. 5383

(L) In addition to and independent of the right of a 5384
victim to make a statement pursuant to section 2930.14, 2930.17, 5385
or 2946.051 of the Revised Code and any right of a person to 5386
present written information or make a statement pursuant to 5387
division (I) of this section, any person may submit to the 5388
court, at any time prior to the hearing on the offender's motion 5389
for judicial release, a written statement concerning the effects 5390
of the offender's crime or crimes, the circumstances surrounding 5391
the crime or crimes, the manner in which the crime or crimes 5392
were perpetrated, and the person's opinion as to whether the 5393
offender should be released. 5394

(M) The changes to this section that are made on September 5395
30, 2011, apply to any judicial release decision made on or 5396
after September 30, 2011, for any eligible offender. 5397

(N) Notwithstanding the eligibility requirements specified 5398
in division (A) of this section and the filing time frames 5399
specified in division (C) of this section and notwithstanding 5400
the findings required under division (J) of this section, the 5401

sentencing court, upon the court's own motion and after 5402
considering whether the release of the offender into society 5403
would create undue risk to public safety, may grant a judicial 5404
release to an offender who is not serving a life sentence at any 5405
time during the offender's imposed sentence when the director of 5406
rehabilitation and correction certifies to the sentencing court 5407
through the chief medical officer for the department of 5408
rehabilitation and correction that the offender is in imminent 5409
danger of death, is medically incapacitated, or is suffering 5410
from a terminal illness. 5411

(O) The director of rehabilitation and correction shall 5412
not certify any offender under division (N) of this section who 5413
is serving a death sentence. 5414

(P) A motion made by the court under division (N) of this 5415
section is subject to the notice, hearing, and other procedural 5416
requirements specified in divisions (D), (E), (G), (H), (I), 5417
(K), and (L) of this section, except for the following: 5418

(1) The court may waive the offender's appearance at any 5419
hearing scheduled by the court if the offender's condition makes 5420
it impossible for the offender to participate meaningfully in 5421
the proceeding. 5422

(2) The court may grant the motion without a hearing, 5423
provided that the prosecuting attorney and victim or victim's 5424
representative to whom notice of the hearing was provided under 5425
division (E) of this section indicate that they do not wish to 5426
participate in the hearing or present information relevant to 5427
the motion. 5428

(Q) The court may request health care records from the 5429
department of rehabilitation and correction to verify the 5430

certification made under division (N) of this section. 5431

(R) (1) If the court grants judicial release under division 5432
(N) of this section, the court shall do all of the following: 5433

(a) Order the release of the offender; 5434

(b) Place the offender under an appropriate community 5435
control sanction, under appropriate conditions; 5436

(c) Place the offender under the supervision of the 5437
department of probation serving the court or under the 5438
supervision of the adult parole authority. 5439

(2) The court, in its discretion, may revoke the judicial 5440
release if the offender violates the community control sanction 5441
described in division (R) (1) of this section. The period of that 5442
community control is not subject to the five-year limitation 5443
described in division (K) of this section and shall not expire 5444
earlier than the date on which all of the offender's mandatory 5445
prison terms expire. 5446

(S) If the health of an offender who is released under 5447
division (N) of this section improves so that the offender is no 5448
longer terminally ill, medically incapacitated, or in imminent 5449
danger of death, the court shall, upon the court's own motion, 5450
revoke the judicial release. The court shall not grant the 5451
motion without a hearing unless the offender waives a hearing. 5452
If a hearing is held, the court shall afford the offender and 5453
the offender's attorney an opportunity to present written and, 5454
if the offender or the offender's attorney is present, oral 5455
information relevant to the motion. The court shall afford a 5456
similar opportunity to the prosecuting attorney, the victim or 5457
the victim's representative, and any other person the court 5458
determines is likely to present additional relevant information. 5459

A court that grants a motion under this division shall specify 5460
its findings on the record. 5461

Sec. 2929.61. (A) Persons charged with an offense that was 5462
formerly a capital offense and that was committed prior to 5463
January 1, 1974, shall be prosecuted under the law as it existed 5464
at the time the offense was committed, and, if convicted, shall 5465
be imprisoned for life, except that whenever the statute under 5466
which any such person is prosecuted provides for a lesser 5467
penalty under the circumstances of the particular case, such 5468
lesser penalty shall be imposed. 5469

(B) Persons charged with an offense, other than an offense 5470
that was formerly a capital offense, that was committed prior to 5471
January 1, 1974, shall be prosecuted under the law as it existed 5472
at the time the offense was committed. Persons convicted or 5473
sentenced on or after January 1, 1974, for an offense committed 5474
prior to January 1, 1974, shall be sentenced according to the 5475
penalty for commission of the substantially equivalent offense 5476
under Amended Substitute House Bill 511 of the 109th General 5477
Assembly. If the offense for which sentence is being imposed 5478
does not have a substantial equivalent under that act, or if 5479
that act provides a more severe penalty than that originally 5480
prescribed for the offense of which the person is convicted, 5481
then sentence shall be imposed under the law as it existed prior 5482
to January 1, 1974. 5483

(C) Persons charged with an offense that is a felony of 5484
the third or fourth degree and that was committed on or after 5485
January 1, 1974, and before July 1, 1983, shall be prosecuted 5486
under the law as it existed at the time the offense was 5487
committed. Persons convicted or sentenced on or after July 1, 5488
1983, for an offense that is a felony of the third or fourth 5489

degree and that was committed on or after January 1, 1974, and 5490
before July 1, 1983, shall be notified by the court sufficiently 5491
in advance of sentencing that they may choose to be sentenced 5492
pursuant to either the law in effect at the time of the 5493
commission of the offense or the law in effect at the time of 5494
sentencing. This notice shall be written and shall include the 5495
differences between and possible effects of the alternative 5496
sentence forms and the effect of the person's refusal to choose. 5497
The person to be sentenced shall then inform the court in 5498
writing of ~~his~~ the person's choice, and shall be sentenced 5499
accordingly. Any person choosing to be sentenced pursuant to the 5500
law in effect at the time of the commission of an offense that 5501
is a felony of the third or fourth degree shall then be eligible 5502
for parole, and this person cannot at a later date have ~~his~~ the 5503
person's sentence converted to a definite sentence. If the 5504
person refuses to choose between the two possible sentences, the 5505
person shall be sentenced pursuant to the law in effect at the 5506
time of the commission of the offense. 5507

(D) Persons charged with an offense that was a felony of 5508
the first or second degree at the time it was committed, that 5509
was committed on or after January 1, 1974, and that was 5510
committed prior to July 1, 1983, shall be prosecuted for that 5511
offense and, if convicted, shall be sentenced under the law as 5512
it existed at the time the offense was committed. 5513

Sec. 2930.03. (A) A person or entity required or 5514
authorized under this chapter to give notice to a victim shall 5515
give the notice to the victim by any means reasonably calculated 5516
to provide prompt actual notice. Except when a provision 5517
requires that notice is to be given in a specific manner, a 5518
notice may be oral or written. 5519

(B) (1) Except for receipt of the initial information and 5520
notice required to be given to a victim under divisions (A) and 5521
(B) of section 2930.04, section 2930.05, and divisions (A) and 5522
(B) of section 2930.06 of the Revised Code and the notice 5523
required to be given to a victim under division (D) of section 5524
2930.16 of the Revised Code, a victim who wishes to receive any 5525
notice authorized by this chapter shall make a request for the 5526
notice to the prosecutor or the custodial agency that is to 5527
provide the notice, as specified in this chapter. If the victim 5528
does not make a request as described in this division, the 5529
prosecutor or custodial agency is not required to provide any 5530
notice described in this chapter other than the initial 5531
information and notice required to be given to a victim under 5532
divisions (A) and (B) of section 2930.04, section 2930.05, and 5533
divisions (A) and (B) of section 2930.06 of the Revised Code and 5534
the notice required to be given to a victim under division (D) 5535
of section 2930.16 of the Revised Code. 5536

(2) A victim who does not wish to receive any of the 5537
notices required to be given to a victim under division (E) (2) 5538
or (K) of section 2929.20, division (D) of section 2930.16, 5539
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 5540
section 2967.19, division (A) (3) (b) of section 2967.26, division 5541
(D) (1) of section 2967.28, or division (A) (2) of section 5542
5149.101 of the Revised Code shall make a request to the 5543
prosecutor or custodial agency that is to provide the particular 5544
notice that the notice not be provided to the victim. Unless the 5545
victim makes a request as described in this division, the 5546
prosecutor or custodial agency shall provide the notices 5547
required to be given to a victim under division (E) (2) or (K) of 5548
section 2929.20, division (D) of section 2930.16, division ~~(H)~~ 5549
(G) of section 2967.12, division (E) (1) (b) of section 2967.19, 5550

division (A) (3) (b) of section 2967.26, division (D) (1) of 5551
section 2967.28, or division (A) (2) of section 5149.101 of the 5552
Revised Code in any manner, and in accordance with the 5553
procedures, specified in the particular division. This division 5554
also applies to a victim's representative or a member of a 5555
victim's immediate family that is authorized to receive any of 5556
the notices specified in this division. 5557

(C) A person or agency that is required to furnish notice 5558
under this chapter shall give the notice to the victim at the 5559
address or telephone number provided to the person or agency by 5560
the victim. A victim who requests to receive notice under this 5561
chapter as described in division (B) of this section shall 5562
inform the person or agency of the name, address, or telephone 5563
number of the victim and of any change to that information. 5564

(D) A person or agency that has furnished information to a 5565
victim in accordance with any requirement or authorization under 5566
this chapter shall notify the victim promptly of any significant 5567
changes to that information. 5568

(E) Divisions (A) to (D) of this section do not apply 5569
regarding a notice that a prosecutor is required to provide 5570
under section 2930.061 of the Revised Code. A prosecutor 5571
required to provide notice under that section shall provide the 5572
notice as specified in that section. 5573

Sec. 2930.06. (A) The prosecutor in a case, to the extent 5574
practicable, shall confer with the victim in the case before 5575
pretrial diversion is granted to the defendant or alleged 5576
juvenile offender in the case, before amending or dismissing an 5577
indictment, information, or complaint against that defendant or 5578
alleged juvenile offender, before agreeing to a negotiated plea 5579
for that defendant or alleged juvenile offender, before a trial 5580

of that defendant by judge or jury, or before the juvenile court 5581
conducts an adjudicatory hearing for that alleged juvenile 5582
offender. If the juvenile court disposes of a case prior to the 5583
prosecutor's involvement in the case, the court or a court 5584
employee shall notify the victim in the case that the alleged 5585
juvenile offender will be granted pretrial diversion, the 5586
complaint against that alleged juvenile offender will be amended 5587
or dismissed, or the court will conduct an adjudicatory hearing 5588
for that alleged juvenile offender. If the prosecutor fails to 5589
confer with the victim at any of those times, the court, if 5590
informed of the failure, shall note on the record the failure 5591
and the prosecutor's reasons for the failure. A prosecutor's 5592
failure to confer with a victim as required by this division and 5593
a court's failure to provide the notice as required by this 5594
division do not affect the validity of an agreement between the 5595
prosecutor and the defendant or alleged juvenile offender in the 5596
case, a pretrial diversion of the defendant or alleged juvenile 5597
offender, an amendment or dismissal of an indictment, 5598
information, or complaint filed against the defendant or alleged 5599
juvenile offender, a plea entered by the defendant or alleged 5600
juvenile defender, an admission entered by the defendant or 5601
alleged juvenile offender, or any other disposition in the case. 5602
A court shall not dismiss a criminal complaint, charge, 5603
information, or indictment or a delinquent child complaint 5604
solely at the request of the victim and over the objection of 5605
the prosecuting attorney, village solicitor, city director of 5606
law, or other chief legal officer responsible for the 5607
prosecution of the case. 5608

(B) After a prosecution in a case has been commenced, the 5609
prosecutor or a designee of the prosecutor other than a court or 5610
court employee, to the extent practicable, promptly shall give 5611

the victim all of the following information, except that, if the 5612
juvenile court disposes of a case prior to the prosecutor's 5613
involvement in the case, the court or a court employee, to the 5614
extent practicable, promptly shall give the victim all of the 5615
following information: 5616

(1) The name of the crime or specified delinquent act with 5617
which the defendant or alleged juvenile offender in the case has 5618
been charged and the name of the defendant or alleged juvenile 5619
offender; 5620

(2) The file number of the case; 5621

(3) A brief statement regarding the procedural steps in a 5622
criminal prosecution or delinquency proceeding involving a crime 5623
or specified delinquent act similar to the crime or specified 5624
delinquent act with which the defendant or alleged juvenile 5625
offender has been charged and the right of the victim to be 5626
present during all proceedings held throughout the prosecution 5627
of the case; 5628

(4) A summary of the rights of a victim under this 5629
chapter; 5630

(5) Procedures the victim or the prosecutor may follow if 5631
the victim becomes subject to threats or intimidation by the 5632
defendant, alleged juvenile offender, or any other person; 5633

(6) The name and business telephone number of a person to 5634
contact for further information with respect to the case; 5635

(7) The right of the victim to have a victim's 5636
representative exercise the victim's rights under this chapter 5637
in accordance with section 2930.02 of the Revised Code and the 5638
procedure by which a victim's representative may be designated; 5639

(8) Notice that any notification under division (C) of 5640
this section, sections 2930.07 to 2930.15, division (A), (B), or 5641
(C) of section 2930.16, sections 2930.17 to 2930.19, and section 5642
5139.56 of the Revised Code will be given to the victim only if 5643
the victim asks to receive the notification and that notice 5644
under division (E) (2) or (K) of section 2929.20, division (D) of 5645
section 2930.16, division ~~(H)~~ (G) of section 2967.12, division 5646
(E) (1) (b) of section 2967.19, division (A) (3) (b) of section 5647
2967.26, division (D) (1) of section 2967.28, or division (A) (2) 5648
of section 5149.101 of the Revised Code will be given unless the 5649
victim asks that the notification not be provided. 5650

(C) Upon the request of the victim, the prosecutor or, if 5651
it is a delinquency proceeding and a prosecutor is not involved 5652
in the case, the court shall give the victim notice of the date, 5653
time, and place of any scheduled criminal or juvenile 5654
proceedings in the case and notice of any changes in those 5655
proceedings or in the schedule in the case. 5656

(D) A victim who requests notice under division (C) of 5657
this section and who elects pursuant to division (B) of section 5658
2930.03 of the Revised Code to receive any further notice from 5659
the prosecutor or, if it is a delinquency proceeding and a 5660
prosecutor is not involved in the case, the court under this 5661
chapter shall keep the prosecutor or the court informed of the 5662
victim's current address and telephone number until the case is 5663
dismissed or terminated, the defendant is acquitted or 5664
sentenced, the delinquent child complaint is dismissed, the 5665
defendant is adjudicated a delinquent child, or the appellate 5666
process is completed, whichever is the final disposition in the 5667
case. 5668

(E) If a defendant is charged with the commission of a 5669

misdemeanor offense that is not identified in division (A) (2) of 5670
section 2930.01 of the Revised Code and if a police report or a 5671
complaint, indictment, or information that charges the 5672
commission of that offense and provides the basis for a criminal 5673
prosecution of that defendant identifies one or more individuals 5674
as individuals against whom that offense was committed, after a 5675
prosecution in the case has been commenced, the prosecutor or a 5676
designee of the prosecutor other than a court or court employee, 5677
to the extent practicable, promptly shall notify each of the 5678
individuals so identified in the report, complaint, indictment, 5679
or information that, if the defendant is convicted of or pleads 5680
guilty to the offense, the individual may make an oral or 5681
written statement to the court hearing the case regarding the 5682
sentence to be imposed upon the defendant and that the court 5683
must consider any statement so made that is relevant. Before 5684
imposing sentence in the case, the court shall permit the 5685
individuals so identified in the report, complaint, indictment, 5686
or information to make an oral or written statement. Division 5687
(A) of section 2930.14 of the Revised Code applies regarding any 5688
statement so made. The court shall consider a statement so made, 5689
in accordance with division (B) of that section and division (D) 5690
of section 2929.22 of the Revised Code. 5691

Sec. 2930.16. (A) If a defendant is incarcerated, a victim 5692
in a case who has requested to receive notice under this section 5693
shall be given notice of the incarceration of the defendant. If 5694
an alleged juvenile offender is committed to the temporary 5695
custody of a school, camp, institution, or other facility 5696
operated for the care of delinquent children or to the legal 5697
custody of the department of youth services, a victim in a case 5698
who has requested to receive notice under this section shall be 5699
given notice of the commitment. Promptly after sentence is 5700

imposed upon the defendant or the commitment of the alleged 5701
juvenile offender is ordered, the prosecutor in the case shall 5702
notify the victim of the date on which the defendant will be 5703
released from confinement or the prosecutor's reasonable 5704
estimate of that date or the date on which the alleged juvenile 5705
offender will have served the minimum period of commitment or 5706
the prosecutor's reasonable estimate of that date. The 5707
prosecutor also shall notify the victim of the name of the 5708
custodial agency of the defendant or alleged juvenile offender 5709
and tell the victim how to contact that custodial agency. If the 5710
custodial agency is the department of rehabilitation and 5711
correction, the prosecutor shall notify the victim of the 5712
services offered by the office of victims' services pursuant to 5713
section 5120.60 of the Revised Code. If the custodial agency is 5714
the department of youth services, the prosecutor shall notify 5715
the victim of the services provided by the office of victims' 5716
services within the release authority of the department pursuant 5717
to section 5139.55 of the Revised Code and the victim's right 5718
pursuant to section 5139.56 of the Revised Code to submit a 5719
written request to the release authority to be notified of 5720
actions the release authority takes with respect to the alleged 5721
juvenile offender. The victim shall keep the custodial agency 5722
informed of the victim's current address and telephone number. 5723

(B) (1) Upon the victim's request or in accordance with 5724
division (D) of this section, the prosecutor promptly shall 5725
notify the victim of any hearing for judicial release of the 5726
defendant pursuant to section 2929.20 of the Revised Code, of 5727
any hearing for release of the defendant pursuant to section 5728
2967.19 of the Revised Code, or of any hearing for judicial 5729
release or early release of the alleged juvenile offender 5730
pursuant to section 2151.38 of the Revised Code and of the 5731

victim's right to make a statement under those sections. The 5732
court shall notify the victim of its ruling in each of those 5733
hearings and on each of those applications. 5734

(2) If an offender is sentenced to a prison term pursuant 5735
to division (A) (3) or (B) of section 2971.03 of the Revised 5736
Code, upon the request of the victim of the crime or in 5737
accordance with division (D) of this section, the prosecutor 5738
promptly shall notify the victim of any hearing to be conducted 5739
pursuant to section 2971.05 of the Revised Code to determine 5740
whether to modify the requirement that the offender serve the 5741
entire prison term in a state correctional facility in 5742
accordance with division (C) of that section, whether to 5743
continue, revise, or revoke any existing modification of that 5744
requirement, or whether to terminate the prison term in 5745
accordance with division (D) of that section. The court shall 5746
notify the victim of any order issued at the conclusion of the 5747
hearing. 5748

(C) Upon the victim's request made at any time before the 5749
particular notice would be due or in accordance with division 5750
(D) of this section, the custodial agency of a defendant or 5751
alleged juvenile offender shall give the victim any of the 5752
following notices that is applicable: 5753

(1) At least sixty days before the adult parole authority 5754
recommends a pardon or commutation of sentence for the defendant 5755
or at least sixty days prior to a hearing before the adult 5756
parole authority regarding a grant of parole to the defendant, 5757
notice of the victim's right to submit a statement regarding the 5758
impact of the defendant's release in accordance with section 5759
2967.12 of the Revised Code and, if applicable, of the victim's 5760
right to appear at a full board hearing of the parole board to 5761

give testimony as authorized by section 5149.101 of the Revised Code; 5762
5763

(2) At least sixty days before the defendant is 5764
transferred to transitional control under section 2967.26 of the 5765
Revised Code, notice of the pendency of the transfer and of the 5766
victim's right under that section to submit a statement 5767
regarding the impact of the transfer; 5768

(3) At least sixty days before the release authority of 5769
the department of youth services holds a release review, release 5770
hearing, or discharge review for the alleged juvenile offender, 5771
notice of the pendency of the review or hearing, of the victim's 5772
right to make an oral or written statement regarding the impact 5773
of the crime upon the victim or regarding the possible release 5774
or discharge, and, if the notice pertains to a hearing, of the 5775
victim's right to attend and make statements or comments at the 5776
hearing as authorized by section 5139.56 of the Revised Code; 5777

(4) Prompt notice of the defendant's or alleged juvenile 5778
offender's escape from a facility of the custodial agency in 5779
which the defendant was incarcerated or in which the alleged 5780
juvenile offender was placed after commitment, of the 5781
defendant's or alleged juvenile offender's absence without leave 5782
from a mental health or developmental disabilities facility or 5783
from other custody, and of the capture of the defendant or 5784
alleged juvenile offender after an escape or absence; 5785

(5) Notice of the defendant's or alleged juvenile 5786
offender's death while in confinement or custody; 5787

(6) Notice of the filing of a petition by the director of 5788
rehabilitation and correction pursuant to section 2967.19 of the 5789
Revised Code requesting the early release under that section of 5790

the defendant; 5791

(7) Notice of the defendant's or alleged juvenile 5792
offender's release from confinement or custody and the terms and 5793
conditions of the release. 5794

(D) (1) If a defendant is incarcerated for the commission 5795
of aggravated murder, murder, or an offense of violence that is 5796
a felony of the first, second, or third degree or is under a 5797
sentence of life imprisonment or if an alleged juvenile offender 5798
has been charged with the commission of an act that would be 5799
aggravated murder, murder, or an offense of violence that is a 5800
felony of the first, second, or third degree or be subject to a 5801
sentence of life imprisonment if committed by an adult, except 5802
as otherwise provided in this division, the notices described in 5803
divisions (B) and (C) of this section shall be given regardless 5804
of whether the victim has requested the notification. The 5805
notices described in divisions (B) and (C) of this section shall 5806
not be given under this division to a victim if the victim has 5807
requested pursuant to division (B) (2) of section 2930.03 of the 5808
Revised Code that the victim not be provided the notice. 5809
Regardless of whether the victim has requested that the notices 5810
described in division (C) of this section be provided or not be 5811
provided, the custodial agency shall give notice similar to 5812
those notices to the prosecutor in the case, to the sentencing 5813
court, to the law enforcement agency that arrested the defendant 5814
or alleged juvenile offender if any officer of that agency was a 5815
victim of the offense, and to any member of the victim's 5816
immediate family who requests notification. If the notice given 5817
under this division to the victim is based on an offense 5818
committed prior to March 22, 2013, and if the prosecutor or 5819
custodial agency has not previously successfully provided any 5820
notice to the victim under this division or division (B) or (C) 5821

of this section with respect to that offense and the offender 5822
who committed it, the notice also shall inform the victim that 5823
the victim may request that the victim not be provided any 5824
further notices with respect to that offense and the offender 5825
who committed it and shall describe the procedure for making 5826
that request. If the notice given under this division to the 5827
victim pertains to a hearing regarding a grant of a parole to 5828
the defendant, the notice also shall inform the victim that the 5829
victim, a member of the victim's immediate family, or the 5830
victim's representative may request a victim conference, as 5831
described in division (E) of this section, and shall provide an 5832
explanation of a victim conference. 5833

The prosecutor or custodial agency may give the notices to 5834
which this division applies by any reasonable means, including 5835
regular mail, telephone, and electronic mail. If the prosecutor 5836
or custodial agency attempts to provide notice to a victim under 5837
this division but the attempt is unsuccessful because the 5838
prosecutor or custodial agency is unable to locate the victim, 5839
is unable to provide the notice by its chosen method because it 5840
cannot determine the mailing address, telephone number, or 5841
electronic mail address at which to provide the notice, or, if 5842
the notice is sent by mail, the notice is returned, the 5843
prosecutor or custodial agency shall make another attempt to 5844
provide the notice to the victim. If the second attempt is 5845
unsuccessful, the prosecutor or custodial agency shall make at 5846
least one more attempt to provide the notice. If the notice is 5847
based on an offense committed prior to March 22, 2013, in each 5848
attempt to provide the notice to the victim, the notice shall 5849
include the opt-out information described in the preceding 5850
paragraph. The prosecutor or custodial agency, in accordance 5851
with division (D) (2) of this section, shall keep a record of all 5852

attempts to provide the notice, and of all notices provided, 5853
under this division. 5854

Division (D) (1) of this section, and the notice-related 5855
provisions of divisions (E) (2) and (K) of section 2929.20, 5856
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 5857
section 2967.19, division (A) (3) (b) of section 2967.26, division 5858
(D) (1) of section 2967.28, and division (A) (2) of section 5859
5149.101 of the Revised Code enacted in the act in which 5860
division (D) (1) of this section was enacted, shall be known as 5861
"Roberta's Law." 5862

(2) Each prosecutor and custodial agency that attempts to 5863
give any notice to which division (D) (1) of this section applies 5864
shall keep a record of all attempts to give the notice. The 5865
record shall indicate the person who was to be the recipient of 5866
the notice, the date on which the attempt was made, the manner 5867
in which the attempt was made, and the person who made the 5868
attempt. If the attempt is successful and the notice is given, 5869
the record shall indicate that fact. The record shall be kept in 5870
a manner that allows public inspection of attempts and notices 5871
given to persons other than victims without revealing the names, 5872
addresses, or other identifying information relating to victims. 5873
The record of attempts and notices given to victims is not a 5874
public record, but the prosecutor or custodial agency shall 5875
provide upon request a copy of that record to a prosecuting 5876
attorney, judge, law enforcement agency, or member of the 5877
general assembly. The record of attempts and notices given to 5878
persons other than victims is a public record. A record kept 5879
under this division may be indexed by offender name, or in any 5880
other manner determined by the prosecutor or the custodial 5881
agency. Each prosecutor or custodial agency that is required to 5882
keep a record under this division shall determine the procedures 5883

for keeping the record and the manner in which it is to be kept, 5884
subject to the requirements of this division. 5885

(E) The adult parole authority shall adopt rules under 5886
Chapter 119. of the Revised Code providing for a victim 5887
conference, upon request of the victim, a member of the victim's 5888
immediate family, or the victim's representative, prior to a 5889
parole hearing in the case of a prisoner who is incarcerated for 5890
the commission of aggravated murder, murder, or an offense of 5891
violence that is a felony of the first, second, or third degree 5892
or is under a sentence of life imprisonment. The rules shall 5893
provide for, but not be limited to, all of the following: 5894

(1) Subject to division (E) (3) of this section, attendance 5895
by the victim, members of the victim's immediate family, the 5896
victim's representative, and, if practicable, other individuals; 5897

(2) Allotment of up to one hour for the conference; 5898

(3) A specification of the number of persons specified in 5899
division (E) (1) of this section who may be present at any single 5900
victim conference, if limited by the department pursuant to 5901
division (F) of this section. 5902

(F) The department may limit the number of persons 5903
specified in division (E) (1) of this section who may be present 5904
at any single victim conference, provided that the department 5905
shall not limit the number of persons who may be present at any 5906
single conference to fewer than three. If the department limits 5907
the number of persons who may be present at any single victim 5908
conference, the department shall permit and schedule, upon 5909
request of the victim, a member of the victim's immediate 5910
family, or the victim's representative, multiple victim 5911
conferences for the persons specified in division (E) (1) of this 5912

section. 5913

(G) As used in this section, "victim's immediate family" 5914
has the same meaning as in section 2967.12 of the Revised Code. 5915

Sec. 2930.19. (A) In a manner consistent with the duty of 5916
a prosecutor to represent the interests of the public as a 5917
whole, a prosecutor shall seek compliance with this chapter on 5918
behalf of a victim, a member of the victim's family, or the 5919
victim's representative. 5920

(B) The failure of a public official or public agency to 5921
comply with the requirements of this chapter does not give rise 5922
to a claim for damages against that public official or public 5923
agency, except that a public agency as an employer may be held 5924
responsible for a violation of section 2930.18 of the Revised 5925
Code. 5926

(C) The failure of any person or entity to provide a 5927
right, privilege, or notice to a victim under this chapter does 5928
not constitute grounds for declaring a mistrial or new trial, 5929
for setting aside a conviction, sentence, adjudication, or 5930
disposition, or for granting postconviction release to a 5931
defendant or alleged juvenile offender. 5932

~~(D) If there is a conflict between a provision in this 5933
chapter and a specific statute governing the procedure in a case 5934
involving a capital offense, the specific statute supersedes the 5935
provision in this chapter. 5936~~

~~(E) If the victim of a crime is incarcerated in a state or 5937
local correctional facility or is in the legal custody of the 5938
department of youth services, the victim's rights under this 5939
chapter may be modified by court order to prevent any security 5940
risk, hardship, or undue burden upon a public official or public 5941~~

agency with a duty under this chapter. 5942

Sec. 2937.222. (A) On the motion of the prosecuting 5943
attorney or on the judge's own motion, the judge shall hold a 5944
hearing to determine whether an accused person charged with 5945
aggravated murder ~~when it is not a capital offense~~, murder, a 5946
felony of the first or second degree, a violation of section 5947
2903.06 of the Revised Code, a violation of section 2903.211 of 5948
the Revised Code that is a felony, or a felony OVI offense shall 5949
be denied bail. The judge shall order that the accused be 5950
detained until the conclusion of the hearing. Except for good 5951
cause, a continuance on the motion of the state shall not exceed 5952
three court days. Except for good cause, a continuance on the 5953
motion of the accused shall not exceed five court days unless 5954
the motion of the accused waives in writing the five-day limit 5955
and states in writing a specific period for which the accused 5956
requests a continuance. A continuance granted upon a motion of 5957
the accused that waives in writing the five-day limit shall not 5958
exceed five court days after the period of continuance requested 5959
in the motion. 5960

At the hearing, the accused has the right to be 5961
represented by counsel and, if the accused is indigent, to have 5962
counsel appointed. The judge shall afford the accused an 5963
opportunity to testify, to present witnesses and other 5964
information, and to cross-examine witnesses who appear at the 5965
hearing. The rules concerning admissibility of evidence in 5966
criminal trials do not apply to the presentation and 5967
consideration of information at the hearing. Regardless of 5968
whether the hearing is being held on the motion of the 5969
prosecuting attorney or on the court's own motion, the state has 5970
the burden of proving that the proof is evident or the 5971
presumption great that the accused committed the offense with 5972

which the accused is charged, of proving that the accused poses 5973
a substantial risk of serious physical harm to any person or to 5974
the community, and of proving that no release conditions will 5975
reasonably assure the safety of that person and the community. 5976

The judge may reopen the hearing at any time before trial 5977
if the judge finds that information exists that was not known to 5978
the movant at the time of the hearing and that that information 5979
has a material bearing on whether bail should be denied. If a 5980
municipal court or county court enters an order denying bail, a 5981
judge of the court of common pleas having jurisdiction over the 5982
case may continue that order or may hold a hearing pursuant to 5983
this section to determine whether to continue that order. 5984

(B) No accused person shall be denied bail pursuant to 5985
this section unless the judge finds by clear and convincing 5986
evidence that the proof is evident or the presumption great that 5987
the accused committed the offense described in division (A) of 5988
this section with which the accused is charged, finds by clear 5989
and convincing evidence that the accused poses a substantial 5990
risk of serious physical harm to any person or to the community, 5991
and finds by clear and convincing evidence that no release 5992
conditions will reasonably assure the safety of that person and 5993
the community. 5994

(C) The judge, in determining whether the accused person 5995
described in division (A) of this section poses a substantial 5996
risk of serious physical harm to any person or to the community 5997
and whether there are conditions of release that will reasonably 5998
assure the safety of that person and the community, shall 5999
consider all available information regarding all of the 6000
following: 6001

(1) The nature and circumstances of the offense charged, 6002

including whether the offense is an offense of violence or 6003
involves alcohol or a drug of abuse; 6004

(2) The weight of the evidence against the accused; 6005

(3) The history and characteristics of the accused, 6006
including, but not limited to, both of the following: 6007

(a) The character, physical and mental condition, family 6008
ties, employment, financial resources, length of residence in 6009
the community, community ties, past conduct, history relating to 6010
drug or alcohol abuse, and criminal history of the accused; 6011

(b) Whether, at the time of the current alleged offense or 6012
at the time of the arrest of the accused, the accused was on 6013
probation, parole, post-release control, or other release 6014
pending trial, sentencing, appeal, or completion of sentence for 6015
the commission of an offense under the laws of this state, 6016
another state, or the United States or under a municipal 6017
ordinance. 6018

(4) The nature and seriousness of the danger to any person 6019
or the community that would be posed by the person's release. 6020

(D) (1) An order of the court of common pleas denying bail 6021
pursuant to this section is a final appealable order. In an 6022
appeal pursuant to division (D) of this section, the court of 6023
appeals shall do all of the following: 6024

(a) Give the appeal priority on its calendar; 6025

(b) Liberally modify or dispense with formal requirements 6026
in the interest of a speedy and just resolution of the appeal; 6027

(c) Decide the appeal expeditiously; 6028

(d) Promptly enter its judgment affirming or reversing the 6029

order denying bail. 6030

(2) The pendency of an appeal under this section does not 6031
deprive the court of common pleas of jurisdiction to conduct 6032
further proceedings in the case or to further consider the order 6033
denying bail in accordance with this section. If, during the 6034
pendency of an appeal under division (D) of this section, the 6035
court of common pleas sets aside or terminates the order denying 6036
bail, the court of appeals shall dismiss the appeal. 6037

(E) As used in this section: 6038

(1) "Court day" has the same meaning as in section 5122.01 6039
of the Revised Code. 6040

(2) "Felony OVI offense" means a third degree felony OVI 6041
offense and a fourth degree felony OVI offense. 6042

(3) "Fourth degree felony OVI offense" and "third degree 6043
felony OVI offense" have the same meanings as in section 2929.01 6044
of the Revised Code. 6045

Sec. 2941.021. Any criminal offense which is not 6046
punishable by ~~death or~~ life imprisonment may be prosecuted by 6047
information filed in the common pleas court by the prosecuting 6048
attorney if the defendant, after ~~he has~~ having been advised by 6049
the court of the nature of the charge against ~~him~~ the defendant 6050
and of ~~his~~ the defendant's rights under the constitution, is 6051
represented by counsel or has affirmatively waived counsel by 6052
waiver in writing and in open court, waives in writing and in 6053
open court prosecution by indictment. 6054

Sec. 2941.14. ~~(A)~~ In an indictment for aggravated murder, 6055
murder, or voluntary or involuntary manslaughter, the manner in 6056
which, or the means by which the death was caused need not be 6057
set forth. 6058

~~(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.~~ 6059
6060
6061
6062
6063
6064
6065
6066
6067
6068

~~(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:~~ 6069
6070
6071
6072

~~"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)."~~ 6073
6074
6075
6076
6077
6078
6079
6080

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: 6081
6082
6083

(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 6084
6085
6086
6087
6088

kidnapping offense, and the indictment, count in the indictment, 6089
or information charging the designated homicide, assault, or 6090
kidnapping offense also includes both a specification of the 6091
type described in section 2941.147 of the Revised Code and a 6092
specification that the offender is a sexually violent predator. 6093

(b) The offender is convicted of or pleads guilty to a 6094
violation of division (A) (1) (b) of section 2907.02 of the 6095
Revised Code committed on or after January 2, 2007, and division 6096
(B) of section 2907.02 of the Revised Code does not prohibit the 6097
court from sentencing the offender pursuant to section 2971.03 6098
of the Revised Code. 6099

(c) The offender is convicted of or pleads guilty to 6100
attempted rape committed on or after January 2, 2007, and to a 6101
specification of the type described in section 2941.1418, 6102
2941.1419, or 2941.1420 of the Revised Code. 6103

(d) The offender is convicted of or pleads guilty to a 6104
violation of section 2905.01 of the Revised Code and to a 6105
specification of the type described in section 2941.147 of the 6106
Revised Code, and section 2905.01 of the Revised Code requires a 6107
court to sentence the offender pursuant to section 2971.03 of 6108
the Revised Code. 6109

(e) The offender is convicted of or pleads guilty to 6110
aggravated murder and to a specification of the type described 6111
in section 2941.147 of the Revised Code, and division ~~(A) (2) (b)~~ 6112
~~(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C)~~ 6113
~~(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section~~ 6114
~~2929.03, or division (A) or (B) (C) (1) of section 2929.06~~ 6115
2929.02 of the Revised Code requires a court to sentence the 6116
offender pursuant to division (B) (3) of section 2971.03 of the 6117
Revised Code. 6118

(f) The offender is convicted of or pleads guilty to 6119
murder and to a specification of the type described in section 6120
2941.147 of the Revised Code, and division ~~(B) (2)~~ (C) (1) of 6121
section 2929.02 of the Revised Code requires a court to sentence 6122
the offender pursuant to section 2971.03 of the Revised Code. 6123

(2) A specification required under division (A) (1) (a) of 6124
this section that an offender is a sexually violent predator 6125
shall be stated at the end of the body of the indictment, count, 6126
or information and shall be stated in substantially the 6127
following form: 6128

"Specification (or, specification to the first count). The 6129
grand jury (or insert the person's or prosecuting attorney's 6130
name when appropriate) further find and specify that the 6131
offender is a sexually violent predator." 6132

(B) In determining for purposes of this section whether a 6133
person is a sexually violent predator, all of the factors set 6134
forth in divisions (H) (1) to (6) of section 2971.01 of the 6135
Revised Code that apply regarding the person may be considered 6136
as evidence tending to indicate that it is likely that the 6137
person will engage in the future in one or more sexually violent 6138
offenses. 6139

(C) As used in this section, "designated homicide, 6140
assault, or kidnapping offense," "violent sex offense," and 6141
"sexually violent predator" have the same meanings as in section 6142
2971.01 of the Revised Code. 6143

Sec. 2941.401. When a person has entered upon a term of 6144
imprisonment in a correctional institution of this state, and 6145
when during the continuance of the term of imprisonment there is 6146
pending in this state any untried indictment, information, or 6147

complaint against the prisoner, ~~he~~ the prisoner shall be brought 6148
to trial within one hundred eighty days after ~~he~~ the prisoner 6149
causes to be delivered to the prosecuting attorney and the 6150
appropriate court in which the matter is pending, written notice 6151
of the place of ~~his~~ the prisoner's imprisonment and a request 6152
for a final disposition to be made of the matter, except that 6153
for good cause shown in open court, with the prisoner or ~~his~~ the 6154
prisoner's counsel present, the court may grant any necessary or 6155
reasonable continuance. The request of the prisoner shall be 6156
accompanied by a certificate of the warden or superintendent 6157
having custody of the prisoner, stating the term of commitment 6158
under which the prisoner is being held, the time served and 6159
remaining to be served on the sentence, the amount of good time 6160
earned, the time of parole eligibility of the prisoner, and any 6161
decisions of the adult parole authority relating to the 6162
prisoner. 6163

The written notice and request for final disposition shall 6164
be given or sent by the prisoner to the warden or superintendent 6165
having custody of ~~him~~ the prisoner, who shall promptly forward 6166
it with the certificate to the appropriate prosecuting attorney 6167
and court by registered or certified mail, return receipt 6168
requested. 6169

The warden or superintendent having custody of the 6170
prisoner shall promptly inform ~~him~~ the prisoner in writing of 6171
the source and contents of any untried indictment, information, 6172
or complaint against ~~him~~ the prisoner, concerning which the 6173
warden or superintendent has knowledge, and of ~~his~~ the 6174
prisoner's right to make a request for final disposition 6175
thereof. 6176

Escape from custody by the prisoner, subsequent to ~~his~~ the 6177

prisoner's execution of the request for final disposition, voids 6178
the request. 6179

If the action is not brought to trial within the time 6180
provided, subject to continuance allowed pursuant to this 6181
section, no court any longer has jurisdiction thereof, the 6182
indictment, information, or complaint is void, and the court 6183
shall enter an order dismissing the action with prejudice. 6184

This section does not apply to any person adjudged to be 6185
mentally ill or who is under sentence of life imprisonment ~~or~~ 6186
~~death, or to any prisoner under sentence of death.~~ 6187

Sec. 2941.43. If the convict referred to in section 6188
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 6189
be forthwith returned by the sheriff to the state correctional 6190
institution to serve out the remainder of ~~his~~ the convict's 6191
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 6192
state correctional institution, ~~he~~ the convict shall be returned 6193
to the state correctional institution by the sheriff to serve 6194
~~his new~~ the convict's term. If ~~he is sentenced to death, the~~ 6195
~~death sentence shall be executed as if he were not under~~ 6196
~~sentence of imprisonment in a state correctional institution.~~ 6197

Sec. 2941.51. (A) Counsel appointed to a case or selected 6198
by an indigent person under division (E) of section 120.16 or 6199
division (E) of section 120.26 of the Revised Code, or otherwise 6200
appointed by the court, except for counsel appointed by the 6201
court to provide legal representation for a person charged with 6202
a violation of an ordinance of a municipal corporation, shall be 6203
paid for their services by the county the compensation and 6204
expenses that the trial court approves. Each request for payment 6205
shall be accompanied by a financial disclosure form and an 6206
affidavit of indigency that are completed by the indigent person 6207

on forms prescribed by the state public defender. Compensation 6208
and expenses shall not exceed the amounts fixed by the board of 6209
county commissioners pursuant to division (B) of this section. 6210

(B) The board of county commissioners shall establish a 6211
schedule of fees by case or on an hourly basis to be paid by the 6212
county for legal services provided by appointed counsel. Prior 6213
to establishing such schedule, the board shall request the bar 6214
association or associations of the county to submit a proposed 6215
~~schedule for cases other than capital cases.~~ The schedule 6216
submitted shall be subject to the review, amendment, and 6217
approval of the board of county commissioners, ~~except with~~ 6218
~~respect to capital cases. With respect to capital cases, the~~ 6219
~~schedule shall provide for fees by case or on an hourly basis to~~ 6220
~~be paid to counsel in the amount or at the rate set by the~~ 6221
~~capital case attorney fee council pursuant to division (D) of~~ 6222
~~section 120.33 of the Revised Code, and the board of county~~ 6223
~~commissioners shall approve that amount or rate.~~ 6224

~~With respect to capital cases, counsel shall be paid~~ 6225
~~compensation and expenses in accordance with the amount or at~~ 6226
~~the rate set by the capital case attorney fee council pursuant~~ 6227
~~to division (D) of section 120.33 of the Revised Code.~~ 6228

(C) In a case where counsel have been appointed to conduct 6229
an appeal under Chapter 120. of the Revised Code, such 6230
compensation shall be fixed by the court of appeals or the 6231
supreme court, as provided in divisions (A) and (B) of this 6232
section. 6233

(D) The fees and expenses approved by the court under this 6234
section shall not be taxed as part of the costs and shall be 6235
paid by the county. However, if the person represented has, or 6236
reasonably may be expected to have, the means to meet some part 6237

of the cost of the services rendered to the person, the person 6238
shall pay the county an amount that the person reasonably can be 6239
expected to pay. Pursuant to section 120.04 of the Revised Code, 6240
the county shall pay to the state public defender a percentage 6241
of the payment received from the person in an amount 6242
proportionate to the percentage of the costs of the person's 6243
case that were paid to the county by the state public defender 6244
pursuant to this section. The money paid to the state public 6245
defender shall be credited to the client payment fund created 6246
pursuant to division (B) (5) of section 120.04 of the Revised 6247
Code. 6248

(E) The county auditor shall draw a warrant on the county 6249
treasurer for the payment of such counsel in the amount fixed by 6250
the court, plus the expenses that the court fixes and certifies 6251
to the auditor. The county auditor shall report periodically, 6252
but not less than annually, to the board of county commissioners 6253
and to the Ohio public defender commission the amounts paid out 6254
pursuant to the approval of the court under this section,~~—~~ 6255
~~separately stating costs and expenses that are reimbursable—~~ 6256
~~under section 120.35 of the Revised Code.~~ The board, after 6257
review and approval of the auditor's report, may then certify it 6258
to the state public defender for reimbursement. The request for 6259
reimbursement shall be accompanied by a financial disclosure 6260
form completed by each indigent person for whom counsel was 6261
provided on a form prescribed by the state public defender. The 6262
state public defender shall review the report and, in accordance 6263
with the standards, guidelines, and maximums established 6264
pursuant to divisions (B) (7) and (8) of section 120.04 of the 6265
Revised Code, pay fifty per cent of the total cost,~~other than—~~ 6266
~~costs and expenses that are reimbursable under section 120.35 of—~~ 6267
~~the Revised Code, if any,~~ of paying appointed counsel in each 6268

county and pay fifty per cent of costs and expenses that are 6269
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 6270
to the board. 6271

(F) If any county system for paying appointed counsel 6272
fails to maintain the standards for the conduct of the system 6273
established by the rules of the Ohio public defender commission 6274
pursuant to divisions (B) and (C) of section 120.03 of the 6275
Revised Code or the standards established by the state public 6276
defender pursuant to division (B) (7) of section 120.04 of the 6277
Revised Code, the commission shall notify the board of county 6278
commissioners of the county that the county system for paying 6279
appointed counsel has failed to comply with its rules. Unless 6280
the board corrects the conduct of its appointed counsel system 6281
to comply with the rules within ninety days after the date of 6282
the notice, the state public defender may deny all or part of 6283
the county's reimbursement from the state provided for in this 6284
section. 6285

Sec. 2945.06. In any case in which a defendant waives ~~his~~ 6286
the defendant's right to trial by jury and elects to be tried by 6287
the court under section 2945.05 of the Revised Code, any judge 6288
of the court in which the cause is pending shall proceed to 6289
hear, try, and determine the cause in accordance with the rules 6290
and in like manner as if the cause were being tried before a 6291
jury. ~~If the accused is charged with an offense punishable with~~ 6292
~~death, he shall be tried by a court to be composed of three~~ 6293
~~judges, consisting of the judge presiding at the time in the~~ 6294
~~trial of criminal cases and two other judges to be designated by~~ 6295
~~the presiding judge or chief justice of that court, and in case~~ 6296
~~there is neither a presiding judge nor a chief justice, by the~~ 6297
~~chief justice of the supreme court. The judges or a majority of~~ 6298
~~them may decide all questions of fact and law arising upon the~~ 6299

~~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~~ 6329
~~applies regarding jury instructions:~~ 6330

~~(1) In a capital case that is being heard by a jury, the~~ 6331
~~court shall prepare written instructions to the jury on the~~ 6332
~~points of law, shall provide copies of the written instructions~~ 6333
~~to the jury before orally instructing the jury, and shall permit~~ 6334
~~the jury to retain and consult the instructions during the~~ 6335
~~court's presentation of the oral instructions and during the~~ 6336
~~jury's deliberations.~~ 6337

~~(2) In a case that is not a capital case, either party may~~ 6338
request instructions to the jury on the points of law, which 6339
instructions shall be reduced to writing if either party 6340
requests it. 6341

(F) When the evidence is concluded, unless the case is 6342
submitted without argument, the counsel for the state shall 6343
commence, the defendant or the defendant's counsel follow, and 6344
the counsel for the state conclude the argument to the jury. 6345

(G) The court, after the argument is concluded and before 6346
proceeding with other business, shall forthwith charge the jury. 6347
Such charge shall be reduced to writing by the court if either 6348
party requests it before the argument to the jury is commenced. 6349
Such charge, or other charge or instruction provided for in this 6350
section, when so written and given, shall not be orally 6351
qualified, modified, or explained to the jury by the court. 6352
Written charges and instructions shall be taken by the jury in 6353
their retirement and returned with their verdict into court and 6354
remain on file with the papers of the case. 6355

The court may deviate from the order of proceedings listed 6356
in this section. 6357

Sec. 2945.13. When two or more persons are jointly 6358
indicted for a felony, ~~except a capital offense,~~ they shall be 6359
tried jointly unless the court, for good cause shown on 6360
application therefor by the prosecuting attorney or one or more 6361
of said defendants, orders one or more of said defendants to be 6362
tried separately. 6363

Sec. 2945.21. (A) (1) In criminal cases in which there is 6364
only one defendant, each party, in addition to the challenges 6365
for cause authorized by law, may peremptorily challenge three of 6366
the jurors in misdemeanor cases and four of the jurors in felony 6367
cases ~~other than capital cases.~~ If there is more than one 6368
defendant, each defendant may peremptorily challenge the same 6369
number of jurors as if ~~he~~ the defendant were the sole defendant. 6370

~~(2) Notwithstanding Criminal Rule 24, in capital cases in~~ 6371
~~which there is only one defendant, each party, in addition to~~ 6372
~~the challenges for cause authorized by law, may peremptorily~~ 6373
~~challenge twelve of the jurors. If there is more than one~~ 6374
~~defendant, each defendant may peremptorily challenge the same~~ 6375
~~number of jurors as if he were the sole defendant.~~ 6376

~~(3)~~ In any case in which there are multiple defendants, 6377
the prosecuting attorney may peremptorily challenge a number of 6378
jurors equal to the total number of peremptory challenges 6379
allowed to all of the defendants. 6380

(B) If any indictments, informations, or complaints are 6381
consolidated for trial, the consolidated cases shall be 6382
considered, for purposes of exercising peremptory challenges, as 6383
though the defendants or offenses had been joined in the same 6384
indictment, information, or complaint. 6385

(C) The exercise of peremptory challenges authorized by 6386

this section shall be in accordance with the procedures of 6387
Criminal Rule 24. 6388

Sec. 2945.25. A person called as a juror in a criminal 6389
case may be challenged for the following causes: 6390

(A) That ~~he~~ the person was a member of the grand jury that 6391
found the indictment in the case; 6392

(B) That ~~he~~ the person is possessed of a state of mind 6393
evinced enmity or bias toward the defendant or the state; but 6394
no person summoned as a juror shall be disqualified by reason of 6395
a previously formed or expressed opinion with reference to the 6396
guilt or innocence of the accused, if the court is satisfied, 6397
from examination of the juror or from other evidence, that ~~he~~ 6398
the juror will render an impartial verdict according to the law 6399
and the evidence submitted to the jury at the trial; 6400

(C) ~~In the trial of a capital offense, that he~~ 6401
~~unequivocally states that under no circumstances will he follow~~ 6402
~~the instructions of a trial judge and consider fairly the~~ 6403
~~imposition of a sentence of death in a particular case. A~~ 6404
~~prospective juror's conscientious or religious opposition to the~~ 6405
~~death penalty in and of itself is not grounds for a challenge~~ 6406
~~for cause. All parties shall be given wide latitude in voir dire~~ 6407
~~questioning in this regard.~~ 6408

~~(D)~~ That ~~he~~ the person is related by consanguinity or 6409
affinity within the fifth degree to the person alleged to be 6410
injured or attempted to be injured by the offense charged, or to 6411
the person on whose complaint the prosecution was instituted, or 6412
to the defendant; 6413

~~(E)~~ ~~(D)~~ That ~~he~~ the person served on a petit jury drawn in 6414
the same cause against the same defendant, and that jury was 6415

discharged after hearing the evidence or rendering a verdict on 6416
the evidence that was set aside; 6417

~~(F)~~ (E) That ~~he~~ the person served as a juror in a civil 6418
case brought against the defendant for the same act; 6419

~~(G)~~ (F) That ~~he~~ the person has been subpoenaed in good 6420
faith as a witness in the case; 6421

~~(H)~~ (G) That ~~he~~ the person is a chronic alcoholic, or drug 6422
dependent person; 6423

~~(I)~~ (H) That ~~he~~ the person has been convicted of a crime 6424
that by law disqualifies ~~him~~ the person from serving on a jury; 6425

~~(J)~~ (I) That ~~he~~ the person has an action pending between 6426
~~him~~ the person and the state or the defendant; 6427

~~(K)~~ (J) That ~~he~~ the person or ~~his~~ the person's spouse is a 6428
party to another action then pending in any court in which an 6429
attorney in the cause then on trial is an attorney, either for 6430
or against ~~him~~ the person; 6431

~~(L)~~ (K) That ~~he~~ the person is the person alleged to be 6432
injured or attempted to be injured by the offense charged, or is 6433
the person on whose complaint the prosecution was instituted, or 6434
the defendant; 6435

~~(M)~~ (L) That ~~he~~ the person is the employer or employee, or 6436
the spouse, parent, son, or daughter of the employer or 6437
employee, or the counselor, agent, or attorney of any person 6438
included in division (L) of this section; 6439

~~(N)~~ (M) That English is not ~~his~~ the person's native 6440
language, and ~~his~~ the person's knowledge of English is 6441
insufficient to permit ~~him~~ the person to understand the facts 6442
and law in the case; 6443

~~(O)~~ (N) That ~~he~~ the person otherwise is unsuitable for any 6444
other cause to serve as a juror. 6445

The validity of each challenge listed in this section 6446
shall be determined by the court. 6447

Sec. 2945.33. When a cause is finally submitted the jurors 6448
must be kept together in a convenient place under the charge of 6449
an officer until they agree upon a verdict, or are discharged by 6450
the court. The court, ~~except in cases where the offense charged~~ 6451
~~may be punishable by death,~~ may permit the jurors to separate 6452
during the adjournment of court overnight, under proper 6453
cautions, or under supervision of an officer. Such officer shall 6454
not permit a communication to be made to them, nor make any 6455
~~himself communication to them~~ except to ask if they have agreed 6456
upon a verdict, unless ~~he~~ the officer does so by order of the 6457
court. Such officer shall not communicate to any person, before 6458
the verdict is delivered, any matter in relation to their 6459
deliberation. Upon the trial of any prosecution for misdemeanor, 6460
the court may permit the jury to separate during their 6461
deliberation, or upon adjournment of the court overnight. 6462

~~In cases where the offense charged may be punished by~~ 6463
~~death, after the case is finally submitted to the jury, the~~ 6464
~~jurors shall be kept in charge of the proper officer and proper~~ 6465
~~arrangements for their care and maintenance shall be made as~~ 6466
~~under section 2945.31 of the Revised Code.~~ 6467

Sec. 2945.38. (A) If the issue of a defendant's competence 6468
to stand trial is raised and if the court, upon conducting the 6469
hearing provided for in section 2945.37 of the Revised Code, 6470
finds that the defendant is competent to stand trial, the 6471
defendant shall be proceeded against as provided by law. If the 6472
court finds the defendant competent to stand trial and the 6473

defendant is receiving psychotropic drugs or other medication, 6474
the court may authorize the continued administration of the 6475
drugs or medication or other appropriate treatment in order to 6476
maintain the defendant's competence to stand trial, unless the 6477
defendant's attending physician advises the court against 6478
continuation of the drugs, other medication, or treatment. 6479

(B) (1) (a) If, after taking into consideration all relevant 6480
reports, information, and other evidence, the court finds that 6481
the defendant is incompetent to stand trial and that there is a 6482
substantial probability that the defendant will become competent 6483
to stand trial within one year if the defendant is provided with 6484
a course of treatment, the court shall order the defendant to 6485
undergo treatment. If the defendant has been charged with a 6486
felony offense and if, after taking into consideration all 6487
relevant reports, information, and other evidence, the court 6488
finds that the defendant is incompetent to stand trial, but the 6489
court is unable at that time to determine whether there is a 6490
substantial probability that the defendant will become competent 6491
to stand trial within one year if the defendant is provided with 6492
a course of treatment, the court shall order continuing 6493
evaluation and treatment of the defendant for a period not to 6494
exceed four months to determine whether there is a substantial 6495
probability that the defendant will become competent to stand 6496
trial within one year if the defendant is provided with a course 6497
of treatment. 6498

(b) The court order for the defendant to undergo treatment 6499
or continuing evaluation and treatment under division (B) (1) (a) 6500
of this section shall specify that the defendant, if determined 6501
to require mental health treatment or continuing evaluation and 6502
treatment, either shall be committed to the department of mental 6503
health and addiction services for treatment or continuing 6504

evaluation and treatment at a hospital, facility, or agency, as 6505
determined to be clinically appropriate by the department of 6506
mental health and addiction services or shall be committed to a 6507
facility certified by the department of mental health and 6508
addiction services as being qualified to treat mental illness, 6509
to a public or community mental health facility, or to a 6510
psychiatrist or another mental health professional for treatment 6511
or continuing evaluation and treatment. Prior to placing the 6512
defendant, the department of mental health and addiction 6513
services shall obtain court approval for that placement 6514
following a hearing. The court order for the defendant to 6515
undergo treatment or continuing evaluation and treatment under 6516
division (B) (1) (a) of this section shall specify that the 6517
defendant, if determined to require treatment or continuing 6518
evaluation and treatment for an intellectual disability, shall 6519
receive treatment or continuing evaluation and treatment at an 6520
institution or facility operated by the department of 6521
developmental disabilities, at a facility certified by the 6522
department of developmental disabilities as being qualified to 6523
treat intellectual disabilities, at a public or private 6524
intellectual disabilities facility, or by a psychiatrist or 6525
another intellectual disabilities professional. In any case, the 6526
order may restrict the defendant's freedom of movement as the 6527
court considers necessary. The prosecutor in the defendant's 6528
case shall send to the chief clinical officer of the hospital, 6529
facility, or agency where the defendant is placed by the 6530
department of mental health and addiction services, or to the 6531
managing officer of the institution, the director of the program 6532
or facility, or the person to which the defendant is committed, 6533
copies of relevant police reports and other background 6534
information that pertains to the defendant and is available to 6535
the prosecutor unless the prosecutor determines that the release 6536

of any of the information in the police reports or any of the 6537
other background information to unauthorized persons would 6538
interfere with the effective prosecution of any person or would 6539
create a substantial risk of harm to any person. 6540

In determining the place of commitment, the court shall 6541
consider the extent to which the person is a danger to the 6542
person and to others, the need for security, and the type of 6543
crime involved and shall order the least restrictive alternative 6544
available that is consistent with public safety and treatment 6545
goals. In weighing these factors, the court shall give 6546
preference to protecting public safety. 6547

(c) If the defendant is found incompetent to stand trial, 6548
if the chief clinical officer of the hospital, facility, or 6549
agency where the defendant is placed, or the managing officer of 6550
the institution, the director of the program or facility, or the 6551
person to which the defendant is committed for treatment or 6552
continuing evaluation and treatment under division (B)(1)(b) of 6553
this section determines that medication is necessary to restore 6554
the defendant's competency to stand trial, and if the defendant 6555
lacks the capacity to give informed consent or refuses 6556
medication, the chief clinical officer of the hospital, 6557
facility, or agency where the defendant is placed, or the 6558
managing officer of the institution, the director of the program 6559
or facility, or the person to which the defendant is committed 6560
for treatment or continuing evaluation and treatment may 6561
petition the court for authorization for the involuntary 6562
administration of medication. The court shall hold a hearing on 6563
the petition within five days of the filing of the petition if 6564
the petition was filed in a municipal court or a county court 6565
regarding an incompetent defendant charged with a misdemeanor or 6566
within ten days of the filing of the petition if the petition 6567

was filed in a court of common pleas regarding an incompetent 6568
defendant charged with a felony offense. Following the hearing, 6569
the court may authorize the involuntary administration of 6570
medication or may dismiss the petition. 6571

(2) If the court finds that the defendant is incompetent 6572
to stand trial and that, even if the defendant is provided with 6573
a course of treatment, there is not a substantial probability 6574
that the defendant will become competent to stand trial within 6575
one year, the court shall order the discharge of the defendant, 6576
unless upon motion of the prosecutor or on its own motion, the 6577
court either seeks to retain jurisdiction over the defendant 6578
pursuant to section 2945.39 of the Revised Code or files an 6579
affidavit in the probate court for the civil commitment of the 6580
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 6581
alleging that the defendant is a mentally ill person subject to 6582
court order or a person with an intellectual disability subject 6583
to institutionalization by court order. If an affidavit is filed 6584
in the probate court, the trial court shall send to the probate 6585
court copies of all written reports of the defendant's mental 6586
condition that were prepared pursuant to section 2945.371 of the 6587
Revised Code. 6588

The trial court may issue the temporary order of detention 6589
that a probate court may issue under section 5122.11 or 5123.71 6590
of the Revised Code, to remain in effect until the probable 6591
cause or initial hearing in the probate court. Further 6592
proceedings in the probate court are civil proceedings governed 6593
by Chapter 5122. or 5123. of the Revised Code. 6594

(C) No defendant shall be required to undergo treatment, 6595
including any continuing evaluation and treatment, under 6596
division (B) (1) of this section for longer than whichever of the 6597

following periods is applicable: 6598

(1) One year, if the most serious offense with which the 6599
defendant is charged is one of the following offenses: 6600

(a) Aggravated murder, murder, or an offense of violence 6601
for which a sentence of ~~death or~~ life imprisonment may be 6602
imposed; 6603

(b) An offense of violence that is a felony of the first 6604
or second degree; 6605

(c) A conspiracy to commit, an attempt to commit, or 6606
complicity in the commission of an offense described in division 6607
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 6608
complicity is a felony of the first or second degree. 6609

(2) Six months, if the most serious offense with which the 6610
defendant is charged is a felony other than a felony described 6611
in division (C) (1) of this section; 6612

(3) Sixty days, if the most serious offense with which the 6613
defendant is charged is a misdemeanor of the first or second 6614
degree; 6615

(4) Thirty days, if the most serious offense with which 6616
the defendant is charged is a misdemeanor of the third or fourth 6617
degree, a minor misdemeanor, or an unclassified misdemeanor. 6618

(D) Any defendant who is committed pursuant to this 6619
section shall not voluntarily admit the defendant or be 6620
voluntarily admitted to a hospital or institution pursuant to 6621
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 6622
Code. 6623

(E) Except as otherwise provided in this division, a 6624
defendant who is charged with an offense and is committed by the 6625

court under this section to the department of mental health and 6626
addiction services or is committed to an institution or facility 6627
for the treatment of intellectual disabilities shall not be 6628
granted unsupervised on-grounds movement, supervised off-grounds 6629
movement, or nonsecured status except in accordance with the 6630
court order. The court may grant a defendant supervised off- 6631
grounds movement to obtain medical treatment or specialized 6632
habilitation treatment services if the person who supervises the 6633
treatment or the continuing evaluation and treatment of the 6634
defendant ordered under division (B)(1)(a) of this section 6635
informs the court that the treatment or continuing evaluation 6636
and treatment cannot be provided at the hospital or facility 6637
where the defendant is placed by the department of mental health 6638
and addiction services or the institution or facility to which 6639
the defendant is committed. The chief clinical officer of the 6640
hospital or facility where the defendant is placed by the 6641
department of mental health and addiction services or the 6642
managing officer of the institution or director of the facility 6643
to which the defendant is committed, or a designee of any of 6644
those persons, may grant a defendant movement to a medical 6645
facility for an emergency medical situation with appropriate 6646
supervision to ensure the safety of the defendant, staff, and 6647
community during that emergency medical situation. The chief 6648
clinical officer of the hospital or facility where the defendant 6649
is placed by the department of mental health and addiction 6650
services or the managing officer of the institution or director 6651
of the facility to which the defendant is committed shall notify 6652
the court within twenty-four hours of the defendant's movement 6653
to the medical facility for an emergency medical situation under 6654
this division. 6655

(F) The person who supervises the treatment or continuing 6656

evaluation and treatment of a defendant ordered to undergo 6657
treatment or continuing evaluation and treatment under division 6658
(B) (1) (a) of this section shall file a written report with the 6659
court at the following times: 6660

(1) Whenever the person believes the defendant is capable 6661
of understanding the nature and objective of the proceedings 6662
against the defendant and of assisting in the defendant's 6663
defense; 6664

(2) For a felony offense, fourteen days before expiration 6665
of the maximum time for treatment as specified in division (C) 6666
of this section and fourteen days before the expiration of the 6667
maximum time for continuing evaluation and treatment as 6668
specified in division (B) (1) (a) of this section, and, for a 6669
misdemeanor offense, ten days before the expiration of the 6670
maximum time for treatment, as specified in division (C) of this 6671
section; 6672

(3) At a minimum, after each six months of treatment; 6673

(4) Whenever the person who supervises the treatment or 6674
continuing evaluation and treatment of a defendant ordered under 6675
division (B) (1) (a) of this section believes that there is not a 6676
substantial probability that the defendant will become capable 6677
of understanding the nature and objective of the proceedings 6678
against the defendant or of assisting in the defendant's defense 6679
even if the defendant is provided with a course of treatment. 6680

(G) A report under division (F) of this section shall 6681
contain the examiner's findings, the facts in reasonable detail 6682
on which the findings are based, and the examiner's opinion as 6683
to the defendant's capability of understanding the nature and 6684
objective of the proceedings against the defendant and of 6685

assisting in the defendant's defense. If, in the examiner's 6686
opinion, the defendant remains incapable of understanding the 6687
nature and objective of the proceedings against the defendant 6688
and of assisting in the defendant's defense and there is a 6689
substantial probability that the defendant will become capable 6690
of understanding the nature and objective of the proceedings 6691
against the defendant and of assisting in the defendant's 6692
defense if the defendant is provided with a course of treatment, 6693
if in the examiner's opinion the defendant remains mentally ill 6694
or continues to have an intellectual disability, and if the 6695
maximum time for treatment as specified in division (C) of this 6696
section has not expired, the report also shall contain the 6697
examiner's recommendation as to the least restrictive placement 6698
or commitment alternative that is consistent with the 6699
defendant's treatment needs for restoration to competency and 6700
with the safety of the community. The court shall provide copies 6701
of the report to the prosecutor and defense counsel. 6702

(H) If a defendant is committed pursuant to division (B) 6703
(1) of this section, within ten days after the treating 6704
physician of the defendant or the examiner of the defendant who 6705
is employed or retained by the treating facility advises that 6706
there is not a substantial probability that the defendant will 6707
become capable of understanding the nature and objective of the 6708
proceedings against the defendant or of assisting in the 6709
defendant's defense even if the defendant is provided with a 6710
course of treatment, within ten days after the expiration of the 6711
maximum time for treatment as specified in division (C) of this 6712
section, within ten days after the expiration of the maximum 6713
time for continuing evaluation and treatment as specified in 6714
division (B) (1) (a) of this section, within thirty days after a 6715
defendant's request for a hearing that is made after six months 6716

of treatment, or within thirty days after being advised by the 6717
treating physician or examiner that the defendant is competent 6718
to stand trial, whichever is the earliest, the court shall 6719
conduct another hearing to determine if the defendant is 6720
competent to stand trial and shall do whichever of the following 6721
is applicable: 6722

(1) If the court finds that the defendant is competent to 6723
stand trial, the defendant shall be proceeded against as 6724
provided by law. 6725

(2) If the court finds that the defendant is incompetent 6726
to stand trial, but that there is a substantial probability that 6727
the defendant will become competent to stand trial if the 6728
defendant is provided with a course of treatment, and the 6729
maximum time for treatment as specified in division (C) of this 6730
section has not expired, the court, after consideration of the 6731
examiner's recommendation, shall order that treatment be 6732
continued, may change the facility or program at which the 6733
treatment is to be continued, and shall specify whether the 6734
treatment is to be continued at the same or a different facility 6735
or program. 6736

(3) If the court finds that the defendant is incompetent 6737
to stand trial, if the defendant is charged with an offense 6738
listed in division (C)(1) of this section, and if the court 6739
finds that there is not a substantial probability that the 6740
defendant will become competent to stand trial even if the 6741
defendant is provided with a course of treatment, or if the 6742
maximum time for treatment relative to that offense as specified 6743
in division (C) of this section has expired, further proceedings 6744
shall be as provided in sections 2945.39, 2945.401, and 2945.402 6745
of the Revised Code. 6746

(4) If the court finds that the defendant is incompetent 6747
to stand trial, if the most serious offense with which the 6748
defendant is charged is a misdemeanor or a felony other than a 6749
felony listed in division (C)(1) of this section, and if the 6750
court finds that there is not a substantial probability that the 6751
defendant will become competent to stand trial even if the 6752
defendant is provided with a course of treatment, or if the 6753
maximum time for treatment relative to that offense as specified 6754
in division (C) of this section has expired, the court shall 6755
dismiss the indictment, information, or complaint against the 6756
defendant. A dismissal under this division is not a bar to 6757
further prosecution based on the same conduct. The court shall 6758
discharge the defendant unless the court or prosecutor files an 6759
affidavit in probate court for civil commitment pursuant to 6760
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 6761
civil commitment is filed, the court may detain the defendant 6762
for ten days pending civil commitment. All of the following 6763
provisions apply to persons charged with a misdemeanor or a 6764
felony other than a felony listed in division (C)(1) of this 6765
section who are committed by the probate court subsequent to the 6766
court's or prosecutor's filing of an affidavit for civil 6767
commitment under authority of this division: 6768

(a) The chief clinical officer of the entity, hospital, or 6769
facility, the managing officer of the institution, the director 6770
of the program, or the person to which the defendant is 6771
committed or admitted shall do all of the following: 6772

(i) Notify the prosecutor, in writing, of the discharge of 6773
the defendant, send the notice at least ten days prior to the 6774
discharge unless the discharge is by the probate court, and 6775
state in the notice the date on which the defendant will be 6776
discharged; 6777

(ii) Notify the prosecutor, in writing, when the defendant 6778
is absent without leave or is granted unsupervised, off-grounds 6779
movement, and send this notice promptly after the discovery of 6780
the absence without leave or prior to the granting of the 6781
unsupervised, off-grounds movement, whichever is applicable; 6782

(iii) Notify the prosecutor, in writing, of the change of 6783
the defendant's commitment or admission to voluntary status, 6784
send the notice promptly upon learning of the change to 6785
voluntary status, and state in the notice the date on which the 6786
defendant was committed or admitted on a voluntary status. 6787

(b) Upon receiving notice that the defendant will be 6788
granted unsupervised, off-grounds movement, the prosecutor 6789
either shall re-indict the defendant or promptly notify the 6790
court that the prosecutor does not intend to prosecute the 6791
charges against the defendant. 6792

(I) If a defendant is convicted of a crime and sentenced 6793
to a jail or workhouse, the defendant's sentence shall be 6794
reduced by the total number of days the defendant is confined 6795
for evaluation to determine the defendant's competence to stand 6796
trial or treatment under this section and sections 2945.37 and 6797
2945.371 of the Revised Code or by the total number of days the 6798
defendant is confined for evaluation to determine the 6799
defendant's mental condition at the time of the offense charged. 6800

Sec. 2949.02. (A) If a person is convicted of any bailable 6801
offense, including, but not limited to, a violation of an 6802
ordinance of a municipal corporation, in a municipal or county 6803
court or in a court of common pleas and if the person gives to 6804
the trial judge or magistrate a written notice of the person's 6805
intention to file or apply for leave to file an appeal to the 6806
court of appeals, the trial judge or magistrate may suspend~~7-~~ 6807

~~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 6838
court of appeals and remanded to the trial court for execution 6839
of the sentence or judgment imposed, and the person so convicted 6840
gives notice of ~~his~~ the person's intention to file a notice of 6841
appeal to the supreme court, the trial court, on the filing of a 6842
motion by such person within three days after the rendition by 6843
the court of appeals of the judgment of affirmation, may further 6844
suspend, ~~subject to division (A) (2) (b) of section 2953.09 of the~~ 6845
~~Revised Code,~~ the execution of the sentence or judgment imposed 6846
for a time sufficient to give such person an opportunity to file 6847
a notice of appeal to the supreme court, but the sentence or 6848
judgment imposed shall not be suspended more than thirty days 6849
for that purpose. 6850

Sec. 2953.02. In ~~a capital case in which a sentence of~~ 6851
~~death is imposed for an offense committed before January 1,~~ 6852
~~1995, and in any other~~ criminal case, including a conviction for 6853
the violation of an ordinance of a municipal corporation, the 6854
judgment or final order of a court of record inferior to the 6855
court of appeals may be reviewed in the court of appeals. A 6856
final order of an administrative officer or agency may be 6857
reviewed in the court of common pleas. A judgment or final order 6858
of the court of appeals involving a question arising under the 6859
Constitution of the United States or of this state may be 6860
appealed to the supreme court as a matter of right. This right 6861
of appeal from judgments and final orders of the court of 6862
appeals shall extend to ~~cases in which a sentence of death is~~ 6863
~~imposed for an offense committed before January 1, 1995, and in~~ 6864
~~which the death penalty has been affirmed,~~ felony cases in which 6865
the supreme court has directed the court of appeals to certify 6866
its record, and in all other criminal cases of public or general 6867
interest wherein the supreme court has granted a motion to 6868

certify the record of the court of appeals. ~~In a capital case in~~ 6869
~~which a sentence of death is imposed for an offense committed on~~ 6870
~~or after January 1, 1995, the judgment or final order may be~~ 6871
~~appealed from the trial court directly to the supreme court as a~~ 6872
~~matter of right. The supreme court in criminal cases shall not~~ 6873
~~be required to determine as to the weight of the evidence,~~ 6874
~~except that, in cases in which a sentence of death is imposed~~ 6875
~~for an offense committed on or after January 1, 1995, and in~~ 6876
~~which the question of the weight of the evidence to support the~~ 6877
~~judgment has been raised on appeal, the supreme court shall~~ 6878
~~determine as to the weight of the evidence to support the~~ 6879
~~judgment and shall determine as to the weight of the evidence to~~ 6880
~~support the sentence of death as provided in section 2929.05 of~~ 6881
~~the Revised Code.~~ 6882

Sec. 2953.07. ~~(A)~~ Upon the hearing of an appeal other than 6883
an appeal from a mayor's court, the appellate court may affirm 6884
the judgment or reverse it, in whole or in part, or modify it, 6885
and order the accused to be discharged or grant a new trial. The 6886
appellate court may remand the accused for the sole purpose of 6887
correcting a sentence imposed contrary to law, provided that, on 6888
an appeal of a sentence imposed upon a person who is convicted 6889
of or pleads guilty to a felony that is brought under section 6890
2953.08 of the Revised Code, division (G) of that section 6891
applies to the court. If the judgment is reversed, the appellant 6892
shall recover from the appellee all court costs incurred to 6893
secure the reversal, including the cost of transcripts. ~~In~~ 6894
~~capital cases, when the judgment is affirmed and the day fixed~~ 6895
~~for the execution is passed, the appellate court shall appoint a~~ 6896
~~day for it, and the clerk of the appellate court shall issue a~~ 6897
~~warrant under the seal of the appellate court, to the sheriff of~~ 6898
~~the proper county, or the warden of the appropriate state~~ 6899

~~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 6929
section 2929.13 of the Revised Code for purposes of sentencing. 6930
If the court specifies that it found one or more of the factors 6931
in division (B) (1) (b) of section 2929.13 of the Revised Code to 6932
apply relative to the defendant, the defendant is not entitled 6933
under this division to appeal as a matter of right the sentence 6934
imposed upon the offender. 6935

(3) The person was convicted of or pleaded guilty to a 6936
violent sex offense or a designated homicide, assault, or 6937
kidnapping offense, was adjudicated a sexually violent predator 6938
in relation to that offense, and was sentenced pursuant to 6939
division (A) (3) of section 2971.03 of the Revised Code, if the 6940
minimum term of the indefinite term imposed pursuant to division 6941
(A) (3) of section 2971.03 of the Revised Code is the longest 6942
term available for the offense from among the range of terms 6943
listed in section 2929.14 of the Revised Code. As used in this 6944
division, "designated homicide, assault, or kidnapping offense" 6945
and "violent sex offense" have the same meanings as in section 6946
2971.01 of the Revised Code. As used in this division, 6947
"adjudicated a sexually violent predator" has the same meaning 6948
as in section 2929.01 of the Revised Code, and a person is 6949
"adjudicated a sexually violent predator" in the same manner and 6950
the same circumstances as are described in that section. 6951

(4) The sentence is contrary to law. 6952

(5) The sentence consisted of an additional prison term of 6953
ten years imposed pursuant to division (B) (2) (a) of section 6954
2929.14 of the Revised Code. 6955

(B) In addition to any other right to appeal and except as 6956
provided in division (D) of this section, a prosecuting 6957
attorney, a city director of law, village solicitor, or similar 6958

chief legal officer of a municipal corporation, or the attorney 6959
general, if one of those persons prosecuted the case, may appeal 6960
as a matter of right a sentence imposed upon a defendant who is 6961
convicted of or pleads guilty to a felony or, in the 6962
circumstances described in division (B) (3) of this section the 6963
modification of a sentence imposed upon such a defendant, on any 6964
of the following grounds: 6965

(1) The sentence did not include a prison term despite a 6966
presumption favoring a prison term for the offense for which it 6967
was imposed, as set forth in section 2929.13 or Chapter 2925. of 6968
the Revised Code. 6969

(2) The sentence is contrary to law. 6970

(3) The sentence is a modification under section 2929.20 6971
of the Revised Code of a sentence that was imposed for a felony 6972
of the first or second degree. 6973

(C) (1) In addition to the right to appeal a sentence 6974
granted under division (A) or (B) of this section, a defendant 6975
who is convicted of or pleads guilty to a felony may seek leave 6976
to appeal a sentence imposed upon the defendant on the basis 6977
that the sentencing judge has imposed consecutive sentences 6978
under division (C) (3) of section 2929.14 of the Revised Code and 6979
that the consecutive sentences exceed the maximum prison term 6980
allowed by division (A) of that section for the most serious 6981
offense of which the defendant was convicted. Upon the filing of 6982
a motion under this division, the court of appeals may grant 6983
leave to appeal the sentence if the court determines that the 6984
allegation included as the basis of the motion is true. 6985

(2) A defendant may seek leave to appeal an additional 6986
sentence imposed upon the defendant pursuant to division (B) (2) 6987

(a) or (b) of section 2929.14 of the Revised Code if the 6988
additional sentence is for a definite prison term that is longer 6989
than five years. 6990

(D) (1) A sentence imposed upon a defendant is not subject 6991
to review under this section if the sentence is authorized by 6992
law, has been recommended jointly by the defendant and the 6993
prosecution in the case, and is imposed by a sentencing judge. 6994

(2) Except as provided in division (C) (2) of this section, 6995
a sentence imposed upon a defendant is not subject to review 6996
under this section if the sentence is imposed pursuant to 6997
division (B) (2) (b) of section 2929.14 of the Revised Code. 6998
Except as otherwise provided in this division, a defendant 6999
retains all rights to appeal as provided under this chapter or 7000
any other provision of the Revised Code. A defendant has the 7001
right to appeal under this chapter or any other provision of the 7002
Revised Code the court's application of division (B) (2) (c) of 7003
section 2929.14 of the Revised Code. 7004

(3) A sentence imposed for aggravated murder or murder 7005
pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised 7006
Code is not subject to review under this section. 7007

(E) A defendant, prosecuting attorney, city director of 7008
law, village solicitor, or chief municipal legal officer shall 7009
file an appeal of a sentence under this section to a court of 7010
appeals within the time limits specified in Rule 4(B) of the 7011
Rules of Appellate Procedure, provided that if the appeal is 7012
pursuant to division (B) (3) of this section, the time limits 7013
specified in that rule shall not commence running until the 7014
court grants the motion that makes the sentence modification in 7015
question. A sentence appeal under this section shall be 7016
consolidated with any other appeal in the case. If no other 7017

appeal is filed, the court of appeals may review only the 7018
portions of the trial record that pertain to sentencing. 7019

(F) On the appeal of a sentence under this section, the 7020
record to be reviewed shall include all of the following, as 7021
applicable: 7022

(1) Any presentence, psychiatric, or other investigative 7023
report that was submitted to the court in writing before the 7024
sentence was imposed. An appellate court that reviews a 7025
presentence investigation report prepared pursuant to section 7026
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 7027
connection with the appeal of a sentence under this section 7028
shall comply with division (D) (3) of section 2951.03 of the 7029
Revised Code when the appellate court is not using the 7030
presentence investigation report, and the appellate court's use 7031
of a presentence investigation report of that nature in 7032
connection with the appeal of a sentence under this section does 7033
not affect the otherwise confidential character of the contents 7034
of that report as described in division (D) (1) of section 7035
2951.03 of the Revised Code and does not cause that report to 7036
become a public record, as defined in section 149.43 of the 7037
Revised Code, following the appellate court's use of the report. 7038

(2) The trial record in the case in which the sentence was 7039
imposed; 7040

(3) Any oral or written statements made to or by the court 7041
at the sentencing hearing at which the sentence was imposed; 7042

(4) Any written findings that the court was required to 7043
make in connection with the modification of the sentence 7044
pursuant to a judicial release under division (I) of section 7045
2929.20 of the Revised Code. 7046

(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. 7076
7077
7078

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. 7079
7080
7081

(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. 7082
7083
7084
7085
7086
7087
7088
7089
7090
7091
7092
7093
7094
7095
7096

~~(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.~~ 7097
7098
7099
7100
7101
7102
7103

~~(ii) A court of common pleas may suspend the execution of a sentence of death imposed for an offense committed on or after~~ 7104
7105

~~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 aailable 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 aailable 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 7136
appeals to the supreme court, the supreme court has the same 7137
power and authority to suspend the execution of sentence during 7138
the pendency of the appeal and admit the defendant to bail as 7139
does the court of appeals unless another section of the Revised 7140
Code or the Rules of Practice of the Supreme Court specify a 7141
distinct bail or suspension of sentence authority. 7142

~~When an appeal in a case in which a sentence of death is 7143
imposed for an offense committed on or after January 1, 1995, is 7144
taken directly from the trial court to the supreme court, the 7145
supreme court has the same power and authority to suspend the 7146
execution of the sentence during the pendency of the appeal and 7147
admit the defendant to bail as does the court of appeals for 7148
cases in which a sentence of death is imposed for an offense 7149
committed before January 1, 1995, unless another section of the 7150
Revised Code or the Rules of Practice of the Supreme Court 7151
specify a distinct bail or suspension of sentence authority. 7152~~

Sec. 2953.21. (A) (1) (a) Any person who has been convicted 7153
of a criminal offense or adjudicated a delinquent child and who 7154
claims that there was such a denial or infringement of the 7155
person's rights as to render the judgment void or voidable under 7156
the Ohio Constitution or the Constitution of the United States, 7157
~~any person who has been convicted of a criminal offense and 7158
sentenced to death and who claims that there was a denial or 7159
infringement of the person's rights under either of those 7160
Constitutions that creates a reasonable probability of an 7161
altered verdict,~~ and any person who has been convicted of a 7162
criminal offense that is a felony and who is an offender for 7163
whom DNA testing that was performed under sections 2953.71 to 7164
2953.81 of the Revised Code or under former section 2953.82 of 7165
the Revised Code and analyzed in the context of and upon 7166

consideration of all available admissible evidence related to 7167
the person's case as described in division (D) of section 7168
2953.74 of the Revised Code provided results that establish, by 7169
clear and convincing evidence, actual innocence of that felony 7170
offense ~~or, if the person was sentenced to death, establish, by~~ 7171
~~clear and convincing evidence, actual innocence of the~~ 7172
~~aggravating circumstance or circumstances the person was found~~ 7173
~~guilty of committing and that is or are the basis of that~~ 7174
~~sentence of death,~~ may file a petition in the court that imposed 7175
sentence, stating the grounds for relief relied upon, and asking 7176
the court to vacate or set aside the judgment or sentence or to 7177
grant other appropriate relief. The petitioner may file a 7178
supporting affidavit and other documentary evidence in support 7179
of the claim for relief. 7180

(b) As used in division (A) (1) (a) of this section, "actual 7181
innocence" means that, had the results of the DNA testing 7182
conducted under sections 2953.71 to 2953.81 of the Revised Code 7183
or under former section 2953.82 of the Revised Code been 7184
presented at trial, and had those results been analyzed in the 7185
context of and upon consideration of all available admissible 7186
evidence related to the person's case as described in division 7187
(D) of section 2953.74 of the Revised Code, no reasonable 7188
factfinder would have found the petitioner guilty of the offense 7189
of which the petitioner was convicted, ~~or, if the person was~~ 7190
~~sentenced to death, no reasonable factfinder would have found~~ 7191
~~the petitioner guilty of the aggravating circumstance or~~ 7192
~~circumstances the petitioner was found guilty of committing and~~ 7193
~~that is or are the basis of that sentence of death.~~ 7194

(c) As used in divisions (A) (1) (a) and (b) of this 7195
section, "former section 2953.82 of the Revised Code" means 7196
section 2953.82 of the Revised Code as it existed prior to July 7197

6, 2010.

7198

~~(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:~~

7199

7200

7201

7202

7203

7204

7205

7206

7207

7208

7209

7210

7211

7212

7213

7214

7215

7216

~~(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.~~

7217

7218

7219

7220

7221

7222

7223

7224

7225

7226

7227

~~(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.~~ 7259
7260
7261
7262

~~(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.~~ 7263
7264
7265
7266
7267
7268
7269
7270
7271
7272

~~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.~~ 7273
7274
7275
7276
7277
7278
7279

~~The orders that may be made under division (A) (1) (f) of
this section include, but are not limited to, any of the
following:~~ 7280
7281
7282

~~(i) That the discovery not be had;~~ 7283

~~(ii) That the discovery may be had only on specified terms
and conditions, including a designation of the time or place;~~ 7284
7285

~~(iii) That the discovery may be had only by a method of
discovery other than that selected by the party seeking~~ 7286
7287

discovery;	7288
(iv) That certain matters not be inquired into or that the scope of the discovery be limited to certain matters;	7289
(v) That discovery be conducted with no one present except persons designated by the court;	7291
(vi) That a deposition after being sealed be opened only by order of the court;	7292
(vii) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;	7293
(viii) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.	7294
(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.	7295
(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.	7296
(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.	7297
(2) Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division (A) (1) of this section	7298
	7299
	7300
	7301
	7302
	7303
	7304
	7305
	7306
	7307
	7308
	7309
	7310
	7311
	7312
	7313
	7314
	7315

shall be filed no later than three hundred sixty-five days after 7316
the date on which the trial transcript is filed in the court of 7317
appeals in the direct appeal of the judgment of conviction or 7318
adjudication ~~or, if the direct appeal involves a sentence of~~ 7319
~~death, the date on which the trial transcript is filed in the~~ 7320
~~supreme court.~~ If no appeal is taken, except as otherwise 7321
provided in section 2953.23 of the Revised Code, the petition 7322
shall be filed no later than three hundred sixty-five days after 7323
the expiration of the time for filing the appeal. 7324

~~(3) In a petition filed under division (A) of this~~ 7325
~~section, a person who has been sentenced to death may ask the~~ 7326
~~court to render void or voidable the judgment with respect to~~ 7327
~~the conviction of aggravated murder or the specification of an~~ 7328
~~aggravating circumstance or the sentence of death.~~ 7329

~~(4)~~ A petitioner shall state in the original or amended 7330
petition filed under division (A) of this section all grounds 7331
for relief claimed by the petitioner. Except as provided in 7332
section 2953.23 of the Revised Code, any ground for relief that 7333
is not so stated in the petition is waived. 7334

~~(5)~~ (4) If the petitioner in a petition filed under 7335
division (A) of this section was convicted of or pleaded guilty 7336
to a felony, the petition may include a claim that the 7337
petitioner was denied the equal protection of the laws in 7338
violation of the Ohio Constitution or the United States 7339
Constitution because the sentence imposed upon the petitioner 7340
for the felony was part of a consistent pattern of disparity in 7341
sentencing by the judge who imposed the sentence, with regard to 7342
the petitioner's race, gender, ethnic background, or religion. 7343
If the supreme court adopts a rule requiring a court of common 7344
pleas to maintain information with regard to an offender's race, 7345

gender, ethnic background, or religion, the supporting evidence 7346
for the petition shall include, but shall not be limited to, a 7347
copy of that type of information relative to the petitioner's 7348
sentence and copies of that type of information relative to 7349
sentences that the same judge imposed upon other persons. 7350

~~(6) Notwithstanding any law or court rule to the contrary, 7351
there is no limit on the number of pages in, or on the length 7352
of, a petition filed under division (A) of this section by a 7353
person who has been sentenced to death. If any court rule 7354
specifies a limit on the number of pages in, or on the length 7355
of, a petition filed under division (A) of this section or on a 7356
prosecuting attorney's response to such a petition by answer or 7357
motion and a person who has been sentenced to death files a 7358
petition that exceeds the limit specified for the petition, the 7359
prosecuting attorney may respond by an answer or motion that 7360
exceeds the limit specified for the response. 7361~~

(B) The clerk of the court in which the petition for 7362
postconviction relief and, if applicable, a request for 7363
~~postconviction discovery described in division (A) (1) (d) of this 7364
section is filed shall docket the petition and the request and 7365
bring ~~them~~ it promptly to the attention of the court. The clerk 7366
of the court in which the petition for postconviction relief 7367
and, if applicable, a request for postconviction discovery 7368
~~described in division (A) (1) (d) of this section is filed 7369
immediately shall forward a copy of the petition and a copy of 7370
the request if filed by the petitioner to the prosecuting 7371
attorney of the county served by the court. If the request for 7372
postconviction discovery is filed by the prosecuting attorney, 7373
the clerk of the court immediately shall forward a copy of the 7374
request to the petitioner or the petitioner's counsel. 7375~~~~

~~(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 7407
petition, or within any further time that the court may fix for 7408
good cause shown, the prosecuting attorney shall respond by 7409
answer or motion. ~~Division (A) (6) of this section applies with~~ 7410
~~respect to the prosecuting attorney's response.~~ Within twenty 7411
days from the date the issues are raised, either party may move 7412
for summary judgment. The right to summary judgment shall appear 7413
on the face of the record. 7414

~~(F)~~ (E) Unless the petition and the files and records of 7415
the case show the petitioner is not entitled to relief, the 7416
court shall proceed to a prompt hearing on the issues even if a 7417
direct appeal of the case is pending. If the court notifies the 7418
parties that it has found grounds for granting relief, either 7419
party may request an appellate court in which a direct appeal of 7420
the judgment is pending to remand the pending case to the court. 7421

~~(G) A petitioner who files a petition under division (A)~~ 7422
~~of this section may amend the petition as follows:~~ 7423

~~(1) If the petition was filed by a person who has been~~ 7424
~~sentenced to death, at any time that is not later than one~~ 7425
~~hundred eighty days after the petition is filed, the petitioner~~ 7426
~~may amend the petition with or without leave or prejudice to the~~ 7427
~~proceedings.~~ 7428

~~(2) If division (G) (1) of this section does not apply, at~~ 7429
(F) At any time before the answer or motion is filed, the 7430
petitioner may amend the petition with or without leave or 7431
prejudice to the proceedings. 7432

~~(3) The petitioner may amend the petition with leave of~~ 7433
court at any time ~~after the expiration of the applicable period~~ 7434
~~specified in division (G) (1) or (2) of this section thereafter.~~ 7435

~~(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.~~ 7468
7469
7470

~~(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.~~ 7471
7472
7473
7474
7475
7476
7477
7478
7479
7480

~~(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.~~ 7481
7482
7483
7484
7485
7486
7487
7488
7489
7490
7491
7492
7493
7494

~~(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~~ 7495
7496
7497

~~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 7528
in the petitioner's situation, and the petition asserts a claim 7529
based on that right. 7530

(b) The petitioner shows by clear and convincing evidence 7531
that, but for constitutional error at trial, no reasonable 7532
factfinder would have found the petitioner guilty of the offense 7533
of which the petitioner was convicted ~~or, if the claim~~ 7534
~~challenges a sentence of death that, but for constitutional~~ 7535
~~error at the sentencing hearing, no reasonable factfinder would~~ 7536
~~have found the petitioner eligible for the death sentence.~~ 7537

(2) The petitioner was convicted of a felony, the 7538
petitioner is an offender for whom DNA testing was performed 7539
under sections 2953.71 to 2953.81 of the Revised Code or under 7540
former section 2953.82 of the Revised Code and analyzed in the 7541
context of and upon consideration of all available admissible 7542
evidence related to the inmate's case as described in division 7543
(D) of section 2953.74 of the Revised Code, and the results of 7544
the DNA testing establish, by clear and convincing evidence, 7545
actual innocence of that felony offense ~~or, if the person was~~ 7546
~~sentenced to death, establish, by clear and convincing evidence,~~ 7547
~~actual innocence of the aggravating circumstance or~~ 7548
~~circumstances the person was found guilty of committing and that~~ 7549
~~is or are the basis of that sentence of death.~~ 7550

As used in this division, "actual innocence" has the same 7551
meaning as in division (A) (1) (b) of section 2953.21 of the 7552
Revised Code, and "former section 2953.82 of the Revised Code" 7553
has the same meaning as in division (A) (1) (c) of section 2953.21 7554
of the Revised Code. 7555

(B) An order awarding or denying relief sought in a 7556
petition filed pursuant to section 2953.21 of the Revised Code 7557

is a final judgment and may be appealed pursuant to Chapter 7558
2953. of the Revised Code. 7559

~~If a petition filed pursuant to section 2953.21 of the 7560
Revised Code by a person who has been sentenced to death is 7561
denied and the person appeals the judgment, notwithstanding any 7562
law or court rule to the contrary, there is no limit on the 7563
number of pages in, or on the length of, a notice of appeal or 7564
briefs related to an appeal filed by the person. If any court 7565
rule specifies a limit on the number of pages in, or on the 7566
length of, a notice of appeal or briefs described in this 7567
division or on a prosecuting attorney's response or briefs with 7568
respect to such an appeal and a person who has been sentenced to 7569
death files a notice of appeal or briefs that exceed the limit 7570
specified for the petition, the prosecuting attorney may file a 7571
response or briefs that exceed the limit specified for the 7572
answer or briefs. 7573~~

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of 7574
the Revised Code: 7575

(A) "Application" or "application for DNA testing" means a 7576
request through postconviction relief for the state to do DNA 7577
testing on biological material from the case in which the 7578
offender was convicted of the offense for which the offender is 7579
an eligible offender and is requesting the DNA testing under 7580
sections 2953.71 to 2953.81 of the Revised Code. 7581

(B) "Biological material" means any product of a human 7582
body containing DNA. 7583

(C) "Chain of custody" means a record or other evidence 7584
that tracks a subject sample of biological material from the 7585
time the biological material was first obtained until the time 7586

it currently exists in its place of storage and, in relation to 7587
a DNA sample, a record or other evidence that tracks the DNA 7588
sample from the time it was first obtained until it currently 7589
exists in its place of storage. For purposes of this division, 7590
examples of when biological material or a DNA sample is first 7591
obtained include, but are not limited to, obtaining the material 7592
or sample at the scene of a crime, from a victim, from an 7593
offender, or in any other manner or time as is appropriate in 7594
the facts and circumstances present. 7595

(D) "Custodial agency" means the group or entity that has 7596
the responsibility to maintain biological material in question. 7597

(E) "Custodian" means the person who is the primary 7598
representative of a custodial agency. 7599

(F) "Eligible offender" means an offender who is eligible 7600
under division (C) of section 2953.72 of the Revised Code to 7601
request DNA testing to be conducted under sections 2953.71 to 7602
2953.81 of the Revised Code. 7603

(G) "Exclusion" or "exclusion result" means a result of 7604
DNA testing that scientifically precludes or forecloses the 7605
subject offender as a contributor of biological material 7606
recovered from the crime scene or victim in question, in 7607
relation to the offense for which the offender is an eligible 7608
offender and for which the ~~sentence of death or prison~~ term was 7609
imposed upon the offender. 7610

(H) "Extracting personnel" means medically approved 7611
personnel who are employed to physically obtain an offender's 7612
DNA specimen for purposes of DNA testing under sections 2953.71 7613
to 2953.81 of the Revised Code. 7614

(I) "Inclusion" or "inclusion result" means a result of 7615

DNA testing that scientifically cannot exclude, or that holds 7616
accountable, the subject offender as a contributor of biological 7617
material recovered from the crime scene or victim in question, 7618
in relation to the offense for which the offender is an eligible 7619
offender and for which the ~~sentence of death or prison~~ term was 7620
imposed upon the offender. 7621

(J) "Inconclusive" or "inconclusive result" means a result 7622
of DNA testing that is rendered when a scientifically 7623
appropriate and definitive DNA analysis or result, or both, 7624
cannot be determined. 7625

(K) "Offender" means a criminal offender who was sentenced 7626
by a court, or by a jury and a court, of this state. 7627

(L) "Outcome determinative" means that had the results of 7628
DNA testing of the subject offender been presented at the trial 7629
of the subject offender requesting DNA testing and been found 7630
relevant and admissible with respect to the felony offense for 7631
which the offender is an eligible offender and is requesting the 7632
DNA testing, and had those results been analyzed in the context 7633
of and upon consideration of all available admissible evidence 7634
related to the offender's case as described in division (D) of 7635
section 2953.74 of the Revised Code, there is a strong 7636
probability that no reasonable factfinder would have found the 7637
offender guilty of that offense ~~or, if the offender was~~ 7638
~~sentenced to death relative to that offense, would have found~~ 7639
~~the offender guilty of the aggravating circumstance or~~ 7640
~~circumstances the offender was found guilty of committing and~~ 7641
~~that is or are the basis of that sentence of death.~~ 7642

(M) "Parent sample" means the biological material first 7643
obtained from a crime scene or a victim of an offense for which 7644
an offender is an eligible offender, and from which a sample 7645

will be presently taken to do a DNA comparison to the DNA of the 7646
subject offender under sections 2953.71 to 2953.81 of the 7647
Revised Code. 7648

(N) "Prison" and "community control sanction" have the 7649
same meanings as in section 2929.01 of the Revised Code. 7650

(O) "Prosecuting attorney" means the prosecuting attorney 7651
who, or whose office, prosecuted the case in which the subject 7652
offender was convicted of the offense for which the offender is 7653
an eligible offender and is requesting the DNA testing. 7654

(P) "Prosecuting authority" means the prosecuting attorney 7655
or the attorney general. 7656

(Q) "Reasonable diligence" means a degree of diligence 7657
that is comparable to the diligence a reasonable person would 7658
employ in searching for information regarding an important 7659
matter in the person's own life. 7660

(R) "Testing authority" means a laboratory at which DNA 7661
testing will be conducted under sections 2953.71 to 2953.81 of 7662
the Revised Code. 7663

(S) "Parole" and "post-release control" have the same 7664
meanings as in section 2967.01 of the Revised Code. 7665

(T) "Sexually oriented offense" and "child-victim oriented 7666
offense" have the same meanings as in section 2950.01 of the 7667
Revised Code. 7668

(U) "Definitive DNA test" means a DNA test that clearly 7669
establishes that biological material from the perpetrator of the 7670
crime was recovered from the crime scene and also clearly 7671
establishes whether or not the biological material is that of 7672
the eligible offender. A prior DNA test is not definitive if the 7673

eligible offender proves by a preponderance of the evidence that 7674
because of advances in DNA technology there is a possibility of 7675
discovering new biological material from the perpetrator that 7676
the prior DNA test may have failed to discover. Prior testing 7677
may have been a prior "definitive DNA test" as to some 7678
biological evidence but may not have been a prior "definitive 7679
DNA test" as to other biological evidence. 7680

Sec. 2953.72. (A) Any eligible offender who wishes to 7681
request DNA testing under sections 2953.71 to 2953.81 of the 7682
Revised Code shall submit an application for the testing to the 7683
court of common pleas specified in section 2953.73 of the 7684
Revised Code, on a form prescribed by the attorney general for 7685
this purpose. The eligible offender shall submit the application 7686
in accordance with the procedures set forth in section 2953.73 7687
of the Revised Code. The eligible offender shall specify on the 7688
application the offense or offenses for which the offender is an 7689
eligible offender and is requesting the DNA testing. Along with 7690
the application, the eligible offender shall submit an 7691
acknowledgment that is on a form prescribed by the attorney 7692
general for this purpose and that is signed by the offender. The 7693
acknowledgment shall set forth all of the following: 7694

(1) That sections 2953.71 to 2953.81 of the Revised Code 7695
contemplate applications for DNA testing of an eligible offender 7696
at a stage of a prosecution or case after the offender has been 7697
sentenced, that any exclusion or inclusion result of DNA testing 7698
rendered pursuant to those sections may be used by a party in 7699
any proceeding as described in section 2953.81 of the Revised 7700
Code, and that all requests for any DNA testing made at trial 7701
will continue to be handled by the prosecuting attorney in the 7702
case; 7703

(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 7765
confer any constitutional right upon any offender, that the 7766
state has established guidelines and procedures relative to 7767
those provisions to ensure that they are carried out with both 7768
justice and efficiency in mind, and that an offender who 7769
participates in any phase of the mechanism contained in those 7770
provisions, including, but not limited to, applying for DNA 7771
testing and being rejected, having an application for DNA 7772
testing accepted and not receiving the test, or having DNA 7773
testing conducted and receiving unfavorable results, does not 7774
gain as a result of the participation any constitutional right 7775
to challenge, or, except as provided in division (A) (8) of this 7776
section, any right to any review or appeal of, the manner in 7777
which those provisions are carried out; 7778

(10) That the most basic aspect of sections 2953.71 to 7779
2953.81 of the Revised Code is that, in order for DNA testing to 7780
occur, there must be an offender sample against which other 7781
evidence may be compared, that, if an eligible offender's 7782
application is accepted but the offender subsequently refuses to 7783
submit to the collection of the sample of biological material 7784
from the offender or hinders the state from obtaining a sample 7785
of biological material from the offender, the goal of those 7786
provisions will be frustrated, and that an offender's refusal or 7787
hindrance shall cause the court to rescind its prior acceptance 7788
of the application for DNA testing for the offender and deny the 7789
application. 7790

(B) The attorney general shall prescribe a form to be used 7791
to make an application for DNA testing under division (A) of 7792
this section and section 2953.73 of the Revised Code and a form 7793
to be used to provide the acknowledgment described in division 7794
(A) of this section. The forms shall include all information 7795

described in division (A) of this section, spaces for an 7796
offender to insert all information necessary to complete the 7797
forms, including, but not limited to, specifying the offense or 7798
offenses for which the offender is an eligible offender and is 7799
requesting the DNA testing, and any other information or 7800
material the attorney general determines is necessary or 7801
relevant. The attorney general shall distribute copies of the 7802
prescribed forms to the department of rehabilitation and 7803
correction, the department shall ensure that each prison in 7804
which offenders are housed has a supply of copies of the forms, 7805
and the department shall ensure that copies of the forms are 7806
provided free of charge to any offender who requests them. 7807

(C) (1) An offender is eligible to request DNA testing to 7808
be conducted under sections 2953.71 to 2953.81 of the Revised 7809
Code only if all of the following apply: 7810

(a) The offense for which the offender claims to be an 7811
eligible offender is a felony, and the offender was convicted by 7812
a judge or jury of that offense. 7813

(b) One of the following applies: 7814

(i) The offender was sentenced to a prison term ~~or~~ 7815
~~sentence of death~~ for the felony described in division (C) (1) (a) 7816
of this section, and the offender is in prison serving that 7817
prison term ~~or under that sentence of death~~, has been paroled or 7818
is on probation regarding that felony, is under post-release 7819
control regarding that felony, or has been released from that 7820
prison term and is under a community control sanction regarding 7821
that felony. 7822

(ii) The offender was not sentenced to a prison term ~~or~~ 7823
~~sentence of death~~ for the felony described in division (C) (1) (a) 7824

of this section, but was sentenced to a community control 7825
sanction for that felony and is under that community control 7826
sanction. 7827

(iii) The felony described in division (C)(1)(a) of this 7828
section was a sexually oriented offense or child-victim oriented 7829
offense, and the offender has a duty to comply with sections 7830
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7831
relative to that felony. 7832

(2) An offender is not an eligible offender under division 7833
(C)(1) of this section regarding any offense to which the 7834
offender pleaded guilty or no contest. 7835

(3) An offender is not an eligible offender under division 7836
(C)(1) of this section regarding any offense if the offender 7837
dies prior to submitting an application for DNA testing related 7838
to that offense under section 2953.73 of the Revised Code. 7839

Sec. 2953.73. (A) An eligible offender who wishes to 7840
request DNA testing to be conducted under sections 2953.71 to 7841
2953.81 of the Revised Code shall submit an application for DNA 7842
testing on a form prescribed by the attorney general for this 7843
purpose and shall submit the form to the court of common pleas 7844
that sentenced the offender for the offense for which the 7845
offender is an eligible offender and is requesting DNA testing. 7846

(B) If an eligible offender submits an application for DNA 7847
testing under division (A) of this section, upon the submission 7848
of the application, all of the following apply: 7849

(1) The eligible offender shall serve a copy of the 7850
application on the prosecuting attorney and the attorney 7851
general. 7852

(2) The application shall be assigned to the judge of that 7853

court of common pleas who was the trial judge in the case in 7854
which the eligible offender was convicted of the offense for 7855
which the offender is requesting DNA testing, or, if that judge 7856
no longer is a judge of that court, it shall be assigned 7857
according to court rules. The judge to whom the application is 7858
assigned shall decide the application. The application shall 7859
become part of the file in the case. 7860

(C) If an eligible offender submits an application for DNA 7861
testing under division (A) of this section, regardless of 7862
whether the offender has commenced any federal habeas corpus 7863
proceeding relative to the case in which the offender was 7864
convicted of the offense for which the offender is an eligible 7865
offender and is requesting DNA testing, any response to the 7866
application by the prosecuting attorney or the attorney general 7867
shall be filed not later than forty-five days after the date on 7868
which the eligible offender submits the application. The 7869
prosecuting attorney or the attorney general, or both, may, but 7870
are not required to, file a response to the application. If the 7871
prosecuting attorney or the attorney general files a response 7872
under this division, the prosecuting attorney or attorney 7873
general, whoever filed the response, shall serve a copy of the 7874
response on the eligible offender. 7875

(D) If an eligible offender submits an application for DNA 7876
testing under division (A) of this section, the court shall make 7877
the determination as to whether the application should be 7878
accepted or rejected. The court shall expedite its review of the 7879
application. The court shall make the determination in 7880
accordance with the criteria and procedures set forth in 7881
sections 2953.74 to 2953.81 of the Revised Code and, in making 7882
the determination, shall consider the application, the 7883
supporting affidavits, and the documentary evidence and, in 7884

addition to those materials, shall consider all the files and 7885
records pertaining to the proceedings against the applicant, 7886
including, but not limited to, the indictment, the court's 7887
journal entries, the journalized records of the clerk of the 7888
court, and the court reporter's transcript and all responses to 7889
the application filed under division (C) of this section by a 7890
prosecuting attorney or the attorney general, unless the 7891
application and the files and records show the applicant is not 7892
entitled to DNA testing, in which case the application may be 7893
denied. The court is not required to conduct an evidentiary 7894
hearing in conducting its review of, and in making its 7895
determination as to whether to accept or reject, the 7896
application. Upon making its determination, the court shall 7897
enter a judgment and order that either accepts or rejects the 7898
application and that includes within the judgment and order the 7899
reasons for the acceptance or rejection as applied to the 7900
criteria and procedures set forth in sections 2953.71 to 2953.81 7901
of the Revised Code. The court shall send a copy of the judgment 7902
and order to the eligible offender who filed it, the prosecuting 7903
attorney, and the attorney general. 7904

(E) A judgment and order of a court entered under division 7905
(D) of this section is appealable only as provided in this 7906
division. If an eligible offender submits an application for DNA 7907
testing under section 2953.73 of the Revised Code and the court 7908
of common pleas rejects the application under division (D) of 7909
this section, ~~one of the following applies:~~ 7910

~~(1) If the offender was sentenced to death for the offense~~ 7911
~~for which the offender claims to be an eligible offender and is~~ 7912
~~requesting DNA testing, the offender may seek leave of the~~ 7913
~~supreme court to appeal the rejection to the supreme court.~~ 7914
~~Courts of appeals do not have jurisdiction to review any~~ 7915

~~rejection if the offender was sentenced to death for the offense~~ 7916
~~for which the offender claims to be an eligible offender and is~~ 7917
~~requesting DNA testing.~~ 7918

~~(2) If the offender was not sentenced to death for the~~ 7919
~~offense for which the offender claims to be an eligible offender~~ 7920
~~and is requesting DNA testing,~~ the rejection is a final 7921
appealable order, and the offender may appeal it to the court of 7922
appeals of the district in which is located that court of common 7923
pleas. 7924

(F) Notwithstanding any provision of law regarding fees 7925
and costs, no filing fee shall be required of, and no court 7926
costs shall be assessed against, an eligible offender who is 7927
indigent and who submits an application under this section. 7928

(G) If a court rejects an eligible offender's application 7929
for DNA testing under division (D) of this section, unless the 7930
rejection is overturned on appeal, no court shall require the 7931
state to administer a DNA test under sections 2953.71 to 2953.81 7932
of the Revised Code on the eligible offender. 7933

Sec. 2953.81. If an eligible offender submits an 7934
application for DNA testing under section 2953.73 of the Revised 7935
Code and if DNA testing is performed based on that application, 7936
upon completion of the testing, all of the following apply: 7937

(A) The court or a designee of the court shall require the 7938
state to maintain the results of the testing and to maintain and 7939
preserve both the parent sample of the biological material used 7940
and the offender sample of the biological material used. The 7941
testing authority may be designated as the person to maintain 7942
the results of the testing or to maintain and preserve some or 7943
all of the samples, or both. The results of the testing remain 7944

state's evidence. The samples shall be preserved during the 7945
entire period of time for which the offender is imprisoned or 7946
confined relative to the sentence in question, is on parole or 7947
probation relative to that sentence, is under post-release 7948
control or a community control sanction relative to that 7949
sentence, or has a duty to comply with sections 2950.04, 7950
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 7951
that sentence. Additionally, if the prison term or confinement 7952
under the sentence in question expires, ~~if the sentence in~~ 7953
~~question is a sentence of death and the offender is executed,~~ or 7954
if the parole or probation period, the period of post-release 7955
control, the community control sanction, or the duty to comply 7956
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 7957
Revised Code under the sentence in question ends, the samples 7958
shall be preserved for a reasonable period of time of not less 7959
than twenty-four months after the term or confinement expires, ~~7960~~
~~the offender is executed,~~ or the parole or probation period, the 7961
period of post-release control, the community control sanction, 7962
or the duty to comply with sections 2950.04, 2950.041, 2950.05, 7963
and 2950.06 of the Revised Code ends, whichever is applicable. 7964
The court shall determine the period of time that is reasonable 7965
for purposes of this division, provided that the period shall 7966
not be less than twenty-four months after the term or 7967
confinement expires, ~~the offender is executed,~~ or the parole or 7968
probation period, the period of post-release control, the 7969
community control sanction, or the duty to comply with sections 7970
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7971
ends, whichever is applicable. 7972

(B) The results of the testing are a public record. 7973

(C) The court or the testing authority shall provide a 7974
copy of the results of the testing to the prosecuting attorney, 7975

the attorney general, and the subject offender. 7976

(D) If the postconviction proceeding in question is 7977
pending at that time in a court of this state, the court of 7978
common pleas that decided the DNA application or the testing 7979
authority shall provide a copy of the results of the testing to 7980
any court of this state, and, if it is pending in a federal 7981
court, the court of common pleas that decided the DNA 7982
application or the testing authority shall provide a copy of the 7983
results of the testing to that federal court. 7984

(E) The testing authority shall provide a copy of the 7985
results of the testing to the court of common pleas that decided 7986
the DNA application. 7987

(F) The offender or the state may enter the results of the 7988
testing into any proceeding. 7989

Sec. 2967.03. The adult parole authority may exercise its 7990
functions and duties in relation to the pardon, commutation of 7991
sentence, or reprieve of a convict upon direction of the 7992
governor or upon its own initiative. It may exercise its 7993
functions and duties in relation to the parole of a prisoner who 7994
is eligible for parole upon the initiative of the head of the 7995
institution in which the prisoner is confined or upon its own 7996
initiative. When a prisoner becomes eligible for parole, the 7997
head of the institution in which the prisoner is confined shall 7998
notify the authority in the manner prescribed by the authority. 7999
The authority may investigate and examine, or cause the 8000
investigation and examination of, prisoners confined in state 8001
correctional institutions concerning their conduct in the 8002
institutions, their mental and moral qualities and 8003
characteristics, their knowledge of a trade or profession, their 8004
former means of livelihood, their family relationships, and any 8005

other matters affecting their fitness to be at liberty without 8006
being a threat to society. 8007

The authority may recommend to the governor the pardon, 8008
commutation of sentence, or reprieve of any convict or prisoner 8009
or grant a parole to any prisoner for whom parole is authorized, 8010
if in its judgment there is reasonable ground to believe that 8011
granting a pardon, commutation, or reprieve to the convict or 8012
paroling the prisoner would further the interests of justice and 8013
be consistent with the welfare and security of society. However, 8014
the authority shall not recommend a pardon or commutation of 8015
sentence, or grant a parole to, any convict or prisoner until 8016
the authority has complied with the applicable notice 8017
requirements of sections 2930.16 and 2967.12 of the Revised Code 8018
and until it has considered any statement made by a victim or a 8019
victim's representative that is relevant to the convict's or 8020
prisoner's case and that was sent to the authority pursuant to 8021
section 2930.17 of the Revised Code, any other statement made by 8022
a victim or a victim's representative that is relevant to the 8023
convict's or prisoner's case and that was received by the 8024
authority after it provided notice of the pendency of the action 8025
under sections 2930.16 and 2967.12 of the Revised Code, and any 8026
written statement of any person submitted to the court pursuant 8027
to division ~~(I)~~(H) of section 2967.12 of the Revised Code. If a 8028
victim, victim's representative, or the victim's spouse, parent, 8029
sibling, or child appears at a full board hearing of the parole 8030
board and gives testimony as authorized by section 5149.101 of 8031
the Revised Code, the authority shall consider the testimony in 8032
determining whether to grant a parole. The trial judge and 8033
prosecuting attorney of the trial court in which a person was 8034
convicted shall furnish to the authority, at the request of the 8035
authority, a summarized statement of the facts proved at the 8036

trial and of all other facts having reference to the propriety 8037
of recommending a pardon or commutation or granting a parole, 8038
together with a recommendation for or against a pardon, 8039
commutation, or parole, and the reasons for the recommendation. 8040
The trial judge, the prosecuting attorney, specified law 8041
enforcement agency members, and a representative of the prisoner 8042
may appear at a full board hearing of the parole board and give 8043
testimony in regard to the grant of a parole to the prisoner as 8044
authorized by section 5149.101 of the Revised Code. All state 8045
and local officials shall furnish information to the authority, 8046
when so requested by it in the performance of its duties. 8047

The adult parole authority shall exercise its functions 8048
and duties in relation to the release of prisoners who are 8049
serving a stated prison term in accordance with section 2967.28 8050
of the Revised Code. 8051

Sec. 2967.05. (A) As used in this section: 8052

(1) "Imminent danger of death" means that the inmate has a 8053
medically diagnosable condition that will cause death to occur 8054
within a short period of time. 8055

As used in division (A) (1) of this section, "within a 8056
short period of time" means generally within six months. 8057

(2) (a) "Medically incapacitated" means any diagnosable 8058
medical condition, including mental dementia and severe, 8059
permanent medical or cognitive disability, that prevents the 8060
inmate from completing activities of daily living without 8061
significant assistance, that incapacitates the inmate to the 8062
extent that institutional confinement does not offer additional 8063
restrictions, that is likely to continue throughout the entire 8064
period of parole, and that is unlikely to improve noticeably. 8065

(b) "Medically incapacitated" does not include conditions 8066
related solely to mental illness unless the mental illness is 8067
accompanied by injury, disease, or organic defect. 8068

(3) (a) "Terminal illness" means a condition that satisfies 8069
all of the following criteria: 8070

(i) The condition is irreversible and incurable and is 8071
caused by disease, illness, or injury from which the inmate is 8072
unlikely to recover. 8073

(ii) In accordance with reasonable medical standards and a 8074
reasonable degree of medical certainty, the condition is likely 8075
to cause death to the inmate within twelve months. 8076

(iii) Institutional confinement of the inmate does not 8077
offer additional protections for public safety or against the 8078
inmate's risk to reoffend. 8079

(b) The department of rehabilitation and correction shall 8080
adopt rules pursuant to Chapter 119. of the Revised Code to 8081
implement the definition of "terminal illness" in division (A) 8082
(3) (a) of this section. 8083

(B) Upon the recommendation of the director of 8084
rehabilitation and correction, accompanied by a certificate of 8085
the attending physician that an inmate is terminally ill, 8086
medically incapacitated, or in imminent danger of death, the 8087
governor may order the inmate's release as if on parole, 8088
reserving the right to return the inmate to the institution 8089
pursuant to this section. If, subsequent to the inmate's 8090
release, the inmate's health improves so that the inmate is no 8091
longer terminally ill, medically incapacitated, or in imminent 8092
danger of death, the inmate shall be returned, by order of the 8093
governor, to the institution from which the inmate was released. 8094

If the inmate violates any rules or conditions applicable to the 8095
inmate, the inmate may be returned to an institution under the 8096
control of the department of rehabilitation and correction. The 8097
governor may direct the adult parole authority to investigate or 8098
cause to be investigated the inmate and make a recommendation. 8099
An inmate released under this section shall be subject to 8100
supervision by the adult parole authority in accordance with any 8101
recommendation of the adult parole authority that is approved by 8102
the governor. The adult parole authority shall adopt rules 8103
pursuant to section 119.03 of the Revised Code to establish the 8104
procedure for medical release of an inmate when an inmate is 8105
terminally ill, medically incapacitated, or in imminent danger 8106
of death. 8107

(C) No inmate is eligible for release under this section 8108
if the inmate is serving ~~a death sentence,~~ a sentence of life 8109
without parole, a sentence under Chapter 2971. of the Revised 8110
Code for a felony of the first or second degree, a sentence for 8111
aggravated murder or murder, or a mandatory prison term for an 8112
offense of violence or any specification described in Chapter 8113
2941. of the Revised Code. 8114

Sec. 2967.12. (A) Except as provided in division (G) of 8115
this section, at least sixty days before the adult parole 8116
authority recommends any pardon or commutation of sentence, or 8117
grants any parole, the authority shall provide a notice of the 8118
pendency of the pardon, commutation, or parole, setting forth 8119
the name of the person on whose behalf it is made, the offense 8120
of which the person was convicted or to which the person pleaded 8121
guilty, the time of conviction or the guilty plea, and the term 8122
of the person's sentence, to the prosecuting attorney and the 8123
judge of the court of common pleas of the county in which the 8124
indictment against the person was found. If there is more than 8125

one judge of that court of common pleas, the authority shall 8126
provide the notice to the presiding judge. Upon the request of 8127
the prosecuting attorney or of any law enforcement agency, the 8128
authority shall provide to the requesting prosecuting attorney 8129
and law enforcement agencies an institutional summary report 8130
that covers the subject person's participation while confined in 8131
a state correctional institution in training, work, and other 8132
rehabilitative activities and any disciplinary action taken 8133
against the person while so confined. The department of 8134
rehabilitation and correction may utilize electronic means to 8135
provide this notice. The department of rehabilitation and 8136
correction, at the same time that it provides the notice to the 8137
prosecuting attorney and judge under this division, also shall 8138
post on the database it maintains pursuant to section 5120.66 of 8139
the Revised Code the offender's name and all of the information 8140
specified in division (A) (1) (c) (iii) of that section. 8141

(B) If a request for notification has been made pursuant 8142
to section 2930.16 of the Revised Code or if division (H) of 8143
this section applies, the office of victim services or the adult 8144
parole authority also shall provide notice to the victim or the 8145
victim's representative at least sixty days prior to 8146
recommending any pardon or commutation of sentence for, or 8147
granting any parole to, the person. The notice shall include the 8148
information required by division (A) of this section and may be 8149
provided by telephone or through electronic means. The notice 8150
also shall inform the victim or the victim's representative that 8151
the victim or representative may send a written statement 8152
relative to the victimization and the pending action to the 8153
adult parole authority and that, if the authority receives any 8154
written statement prior to recommending a pardon or commutation 8155
or granting a parole for a person, the authority will consider 8156

the statement before it recommends a pardon or commutation or 8157
grants a parole. If the person is being considered for parole, 8158
the notice shall inform the victim or the victim's 8159
representative that a full board hearing of the parole board may 8160
be held and that the victim or victim's representative may 8161
contact the office of victims' services for further information. 8162
If the person being considered for parole was convicted of or 8163
pleaded guilty to a violation of section 2903.01 or 2903.02 of 8164
the Revised Code, an offense of violence that is a felony of the 8165
first, second, or third degree, or an offense punished by a 8166
sentence of life imprisonment, the notice shall inform the 8167
victim of that offense, the victim's representative, or a member 8168
of the victim's immediate family that the victim, the victim's 8169
representative, and the victim's immediate family have the right 8170
to give testimony at a full board hearing of the parole board 8171
and that the victim or victim's representative may contact the 8172
office of victims' services for further information. 8173

(C) When notice of the pendency of any pardon, commutation 8174
of sentence, or parole has been provided to a judge or 8175
prosecutor or posted on the database as required in division (A) 8176
of this section and a hearing on the pardon, commutation, or 8177
parole is continued to a date certain, the authority shall 8178
provide notice of the further consideration of the pardon, 8179
commutation, or parole at least sixty days before the further 8180
consideration. The notice of the further consideration shall be 8181
provided to the proper judge and prosecuting attorney at least 8182
sixty days before the further consideration, and may be provided 8183
using electronic means, and, if the initial notice was posted on 8184
the database as provided in division (A) of this section, the 8185
notice of the further consideration shall be posted on the 8186
database at least sixty days before the further consideration. 8187

If the prosecuting attorney or a law enforcement agency was 8188
provided a copy of the institutional summary report relative to 8189
the subject person under division (A) of this section, the 8190
authority shall include with the notice of the further 8191
consideration sent to the prosecuting attorney any new 8192
information with respect to the person that relates to 8193
activities and actions of the person that are of a type covered 8194
by the report and shall send to the law enforcement agency a 8195
report that provides notice of the further consideration and 8196
includes any such new information with respect to the person. 8197
When notice of the pendency of any pardon, commutation, or 8198
parole has been given as provided in division (B) of this 8199
section and the hearing on it is continued to a date certain, 8200
the authority shall give notice of the further consideration to 8201
the victim or the victim's representative in accordance with 8202
section 2930.03 of the Revised Code. 8203

~~(D) In case of an application for the pardon or 8204
commutation of sentence of a person sentenced to capital- 8205
punishment, the governor may modify the requirements of 8206
notification and publication if there is not sufficient time for 8207
compliance with the requirements before the date fixed for the 8208
execution of sentence. 8209~~

~~(E)~~ If an offender is serving a prison term imposed under 8210
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8211
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8212
Code and if the parole board terminates its control over the 8213
offender's service of that term pursuant to section 2971.04 of 8214
the Revised Code, the parole board immediately shall provide 8215
written notice of its termination of control or the transfer of 8216
control to the entities and persons specified in section 2971.04 8217
of the Revised Code. 8218

~~(F)~~(E) The failure of the adult parole authority to 8219
comply with the notice or posting provisions of division (A), 8220
(B), or (C) of this section or the failure of the parole board 8221
to comply with the notice provisions of division ~~(E)~~(D) of this 8222
section do not give any rights or any grounds for appeal or 8223
post-conviction relief to the person serving the sentence. 8224

~~(G)~~(F) Divisions (A), (B), and (C) of this section do not 8225
apply to any release of a person that is of the type described 8226
in division (B) (2) (b) of section 5120.031 of the Revised Code. 8227

~~(H)~~(G) If a defendant is incarcerated for the commission 8228
of aggravated murder, murder, or an offense of violence that is 8229
a felony of the first, second, or third degree or is under a 8230
sentence of life imprisonment, except as otherwise provided in 8231
this division, the notice described in division (B) of this 8232
section shall be given to the victim or victim's representative 8233
regardless of whether the victim or victim's representative has 8234
made a request for notification. The notice described in 8235
division (B) of this section shall not be given under this 8236
division to a victim or victim's representative if the victim or 8237
victim's representative has requested pursuant to division (B) 8238
(2) of section 2930.03 of the Revised Code that the victim or 8239
the victim's representative not be provided the notice. The 8240
notice described in division (B) of this section does not have 8241
to be given under this division to a victim or victim's 8242
representative if notice was given to the victim or victim's 8243
representative with respect to at least two prior considerations 8244
of pardon, commutation, or parole of a person and the victim or 8245
victim's representative did not provide any written statement 8246
relative to the victimization and the pending action, did not 8247
attend any hearing conducted relative to the pending action, and 8248
did not otherwise respond to the office with respect to the 8249

pending action. Regardless of whether the victim or victim's 8250
representative has requested that the notice described in 8251
division (B) of this section be provided or not be provided, the 8252
office of victim services or adult parole authority shall give 8253
similar notice to the law enforcement agency that arrested the 8254
defendant if any officer of that agency was a victim of the 8255
offense and to any member of the victim's immediate family who 8256
requests notification. If notice is to be given under this 8257
division, the office or authority may give the notice by any 8258
reasonable means, including regular mail, telephone, and 8259
electronic mail, in accordance with division (D) (1) of section 8260
2930.16 of the Revised Code. If the notice is based on an 8261
offense committed prior to ~~the effective date of this amendment~~ 8262
March 22, 2013, the notice to the victim or victim's 8263
representative also shall include the opt-out information 8264
described in division (D) (1) of section 2930.16 of the Revised 8265
Code. The office or authority, in accordance with division (D) 8266
(2) of section 2930.16 of the Revised Code, shall keep a record 8267
of all attempts to provide the notice, and of all notices 8268
provided, under this division. 8269

Division ~~(H)~~ (G) of this section, and the notice-related 8270
provisions of divisions (E) (2) and (K) of section 2929.20, 8271
division (D) (1) of section 2930.16, division (E) (1) (b) of 8272
section 2967.19, division (A) (3) (b) of section 2967.26, division 8273
(D) (1) of section 2967.28, and division (A) (2) of section 8274
5149.101 of the Revised Code enacted in the act in which 8275
division ~~(H)~~ (G) of this section was enacted, shall be known as 8276
"Roberta's Law." 8277

~~(I)~~ (H) In addition to and independent of the right of a 8278
victim to make a statement as described in division (A) of this 8279
section or pursuant to section 2930.17 of the Revised Code or to 8280

otherwise make a statement, the authority for a judge or 8281
prosecuting attorney to furnish statements and information, make 8282
recommendations, and give testimony as described in division (A) 8283
of this section, the right of a prosecuting attorney, judge, or 8284
victim to give testimony or submit a statement at a full parole 8285
board hearing pursuant to section 5149.101 of the Revised Code, 8286
and any other right or duty of a person to present information 8287
or make a statement, any person may send to the adult parole 8288
authority at any time prior to the authority's recommending a 8289
pardon or commutation or granting a parole for the offender a 8290
written statement relative to the offense and the pending 8291
action. 8292

~~(J)~~(I) As used in this section, "victim's immediate 8293
family" means the mother, father, spouse, sibling, or child of 8294
the victim, provided that in no case does "victim's immediate 8295
family" include the offender with respect to whom the notice in 8296
question applies. 8297

Sec. 2967.13. (A) Except as provided in division (G) of 8298
this section, a prisoner serving a sentence of imprisonment for 8299
life for an offense committed on or after July 1, 1996, is not 8300
entitled to any earned credit under section 2967.193 of the 8301
Revised Code and becomes eligible for parole as follows: 8302

(1) If a sentence of imprisonment for life was imposed for 8303
the offense of murder, at the expiration of the prisoner's 8304
minimum term; 8305

(2) If a sentence of imprisonment for life with parole 8306
eligibility after serving twenty years of imprisonment was 8307
imposed pursuant to section 2929.02 or former section 2929.022 8308
or 2929.03 of the Revised Code, after serving a term of twenty 8309
years; 8310

(3) If a sentence of imprisonment for life with parole 8311
eligibility after serving twenty-five full years of imprisonment 8312
was imposed pursuant to section 2929.02 or former section 8313
2929.022 or 2929.03 of the Revised Code, after serving a term of 8314
twenty-five full years; 8315

(4) If a sentence of imprisonment for life with parole 8316
eligibility after serving thirty full years of imprisonment was 8317
imposed pursuant to section 2929.02 or former section 2929.022 8318
or 2929.03 of the Revised Code, after serving a term of thirty 8319
full years; 8320

(5) If a sentence of imprisonment for life was imposed for 8321
rape, after serving a term of ten full years' imprisonment; 8322

(6) If a sentence of imprisonment for life with parole 8323
eligibility after serving fifteen years of imprisonment was 8324
imposed for a violation of section 2927.24 of the Revised Code, 8325
after serving a term of fifteen years. 8326

(B) Except as provided in division (G) of this section, a 8327
prisoner serving a sentence of imprisonment for life with parole 8328
eligibility after serving twenty years of imprisonment or a 8329
sentence of imprisonment for life with parole eligibility after 8330
serving twenty-five full years or thirty full years of 8331
imprisonment imposed pursuant to section 2929.02 or former 8332
section 2929.022 or 2929.03 of the Revised Code for an offense 8333
committed on or after July 1, 1996, consecutively to any other 8334
term of imprisonment, becomes eligible for parole after serving 8335
twenty years, twenty full years, or thirty full years, as 8336
applicable, as to each such sentence of life imprisonment, which 8337
shall not be reduced for earned credits under section 2967.193 8338
of the Revised Code, plus the term or terms of the other 8339
sentences consecutively imposed or, if one of the other 8340

sentences is another type of life sentence with parole 8341
eligibility, the number of years before parole eligibility for 8342
that sentence. 8343

(C) Except as provided in division (G) of this section, a 8344
prisoner serving consecutively two or more sentences in which an 8345
indefinite term of imprisonment is imposed becomes eligible for 8346
parole upon the expiration of the aggregate of the minimum terms 8347
of the sentences. 8348

(D) Except as provided in division (G) of this section, a 8349
prisoner serving a term of imprisonment who is described in 8350
division (A) of section 2967.021 of the Revised Code becomes 8351
eligible for parole as described in that division or, if the 8352
prisoner is serving a definite term of imprisonment, shall be 8353
released as described in that division. 8354

(E) A prisoner serving a sentence of life imprisonment 8355
without parole imposed pursuant to section 2907.02 or 2929.02 or 8356
former section 2929.03 or 2929.06 of the Revised Code is not 8357
eligible for parole and shall be imprisoned until death. 8358

(F) A prisoner serving a stated prison term shall be 8359
released in accordance with section 2967.28 of the Revised Code. 8360

(G) A prisoner serving a prison term or term of life 8361
imprisonment without parole imposed pursuant to section 2971.03 8362
of the Revised Code never becomes eligible for parole during 8363
that term of imprisonment. 8364

Sec. 2967.19. (A) As used in this section: 8365

(1) "Deadly weapon" and "dangerous ordnance" have the same 8366
meanings as in section 2923.11 of the Revised Code. 8367

(2) "Disqualifying prison term" means any of the 8368

following:	8369
(a) A prison term imposed for aggravated murder, murder,	8370
voluntary manslaughter, involuntary manslaughter, felonious	8371
assault, kidnapping, rape, aggravated arson, aggravated	8372
burglary, or aggravated robbery;	8373
(b) A prison term imposed for complicity in, an attempt to	8374
commit, or conspiracy to commit any offense listed in division	8375
(A) (2) (a) of this section;	8376
(c) A prison term of life imprisonment, including any term	8377
of life imprisonment that has parole eligibility;	8378
(d) A prison term imposed for any felony other than	8379
carrying a concealed weapon an essential element of which is any	8380
conduct or failure to act expressly involving any deadly weapon	8381
or dangerous ordnance;	8382
(e) A prison term imposed for any violation of section	8383
2925.03 of the Revised Code that is a felony of the first or	8384
second degree;	8385
(f) A prison term imposed for engaging in a pattern of	8386
corrupt activity in violation of section 2923.32 of the Revised	8387
Code;	8388
(g) A prison term imposed pursuant to section 2971.03 of	8389
the Revised Code;	8390
(h) A prison term imposed for any sexually oriented	8391
offense.	8392
(3) "Eligible prison term" means any prison term that is	8393
not a disqualifying prison term and is not a restricting prison	8394
term.	8395

(4) "Restricting prison term" means any of the following:	8396
(a) A mandatory prison term imposed under division (B) (1)	8397
(a), (B) (1) (c), (B) (1) (f), (B) (1) (g), (B) (2), or (B) (7) of	8398
section 2929.14 of the Revised Code for a specification of the	8399
type described in that division;	8400
(b) In the case of an offender who has been sentenced to a	8401
mandatory prison term for a specification of the type described	8402
in division (A) (4) (a) of this section, the prison term imposed	8403
for the felony offense for which the specification was stated at	8404
the end of the body of the indictment, count in the indictment,	8405
or information charging the offense;	8406
(c) A prison term imposed for trafficking in persons;	8407
(d) A prison term imposed for any offense that is	8408
described in division (A) (4) (d) (i) of this section if division	8409
(A) (4) (d) (ii) of this section applies to the offender:	8410
(i) The offense is a felony of the first or second degree	8411
that is an offense of violence and that is not described in	8412
division (A) (2) (a) or (b) of this section, an attempt to commit	8413
a felony of the first or second degree that is an offense of	8414
violence and that is not described in division (A) (2) (a) or (b)	8415
of this section if the attempt is a felony of the first or	8416
second degree, or an offense under an existing or former law of	8417
this state, another state, or the United States that is or was	8418
substantially equivalent to any other offense described in this	8419
division.	8420
(ii) The offender previously was convicted of or pleaded	8421
guilty to any offense listed in division (A) (2) or (A) (4) (d) (i)	8422
of this section.	8423
(5) "Sexually oriented offense" has the same meaning as in	8424

section 2950.01 of the Revised Code. 8425

(B) The director of the department of rehabilitation and 8426
correction may recommend in writing to the sentencing court that 8427
the court consider releasing from prison any offender who, on or 8428
after September 30, 2011, is confined in a state correctional 8429
institution, who is serving a stated prison term of one year or 8430
more, and who is eligible under division (C) of this section for 8431
a release under this section. If the director wishes to 8432
recommend that the sentencing court consider releasing an 8433
offender under this section, the director shall notify the 8434
sentencing court in writing of the offender's eligibility not 8435
earlier than ninety days prior to the date on which the offender 8436
becomes eligible as described in division (C) of this section. 8437
The director's submission of the written notice constitutes a 8438
recommendation by the director that the court strongly consider 8439
release of the offender consistent with the purposes and 8440
principles of sentencing set forth in sections 2929.11 and 8441
2929.13 of the Revised Code. Only an offender recommended by the 8442
director under division (B) of this section may be considered 8443
for early release under this section. 8444

(C) (1) An offender serving a stated prison term of one 8445
year or more and who has commenced service of that stated prison 8446
term becomes eligible for release from prison under this section 8447
only as described in this division. An offender serving a stated 8448
prison term that includes a disqualifying prison term is not 8449
eligible for release from prison under this section. An offender 8450
serving a stated prison term that consists solely of one or more 8451
restricting prison terms is not eligible for release under this 8452
section. An offender serving a stated prison term of one year or 8453
more that includes one or more restricting prison terms and one 8454
or more eligible prison terms becomes eligible for release under 8455

this section after having fully served all restricting prison 8456
terms and having served eighty per cent of the stated prison 8457
term that remains to be served after all restricting prison 8458
terms have been fully served. An offender serving a stated 8459
prison term that consists solely of one or more eligible prison 8460
terms becomes eligible for release under this section after 8461
having served eighty per cent of that stated prison term. For 8462
purposes of determining an offender's eligibility for release 8463
under this section, if the offender's stated prison term 8464
includes consecutive prison terms, any restricting prison terms 8465
shall be deemed served prior to any eligible prison terms that 8466
run consecutively to the restricting prison terms, and the 8467
eligible prison terms are deemed to commence after all of the 8468
restricting prison terms have been fully served. 8469

An offender serving a stated prison term of one year or 8470
more that includes a mandatory prison term that is not a 8471
disqualifying prison term and is not a restricting prison term 8472
is not automatically ineligible as a result of the offender's 8473
service of that mandatory term for release from prison under 8474
this section, and the offender's eligibility for release from 8475
prison under this section is determined in accordance with this 8476
division. 8477

(2) If an offender confined in a state correctional 8478
institution under a stated prison term is eligible for release 8479
under this section as described in division (C)(1) of this 8480
section, the director of the department of rehabilitation and 8481
correction may recommend in writing that the sentencing court 8482
consider releasing the offender from prison under this section 8483
by submitting to the sentencing court the written notice 8484
described in division (B) of this section. 8485

(D) The director shall include with any notice submitted 8486
to the sentencing court under division (B) of this section an 8487
institutional summary report that covers the offender's 8488
participation while confined in a state correctional institution 8489
in school, training, work, treatment, and other rehabilitative 8490
activities and any disciplinary action taken against the 8491
offender while so confined. The director shall include with the 8492
notice any other documentation requested by the court, if 8493
available. 8494

(E) (1) When the director submits a written notice to a 8495
sentencing court that an offender is eligible to be considered 8496
for early release under this section, the department promptly 8497
shall provide to the prosecuting attorney of the county in which 8498
the offender was indicted a copy of the written notice, a copy 8499
of the institutional summary report, and any other information 8500
provided to the court and shall provide a copy of the 8501
institutional summary report to any law enforcement agency that 8502
requests the report. The department also promptly shall do 8503
whichever of the following is applicable: 8504

(a) Subject to division (E) (1) (b) of this section, give 8505
written notice of the submission to any victim of the offender 8506
or victim's representative of any victim of the offender who is 8507
registered with the office of victim's services. 8508

(b) If the offense was aggravated murder, murder, an 8509
offense of violence that is a felony of the first, second, or 8510
third degree, or an offense punished by a sentence of life 8511
imprisonment, except as otherwise provided in this division, 8512
notify the victim or the victim's representative of the filing 8513
of the petition regardless of whether the victim or victim's 8514
representative has registered with the office of victim's 8515

services. The notice of the filing of the petition shall not be 8516
given under this division to a victim or victim's representative 8517
if the victim or victim's representative has requested pursuant 8518
to division (B) (2) of section 2930.03 of the Revised Code that 8519
the victim or the victim's representative not be provided the 8520
notice. If notice is to be provided to a victim or victim's 8521
representative under this division, the department may give the 8522
notice by any reasonable means, including regular mail, 8523
telephone, and electronic mail, in accordance with division (D) 8524
(1) of section 2930.16 of the Revised Code. If the notice is 8525
based on an offense committed prior to ~~the effective date of~~ 8526
~~this amendment~~ March 22, 2013, the notice also shall include the 8527
opt-out information described in division (D) (1) of section 8528
2930.16 of the Revised Code. The department, in accordance with 8529
division (D) (2) of section 2930.16 of the Revised Code, shall 8530
keep a record of all attempts to provide the notice, and of all 8531
notices provided, under this division. 8532

Division (E) (1) (b) of this section, and the notice-related 8533
provisions of divisions (E) (2) and (K) of section 2929.20, 8534
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 8535
2967.12, division (A) (3) (b) of section 2967.26, division (D) (1) 8536
of section 2967.28, and division (A) (2) of section 5149.101 of 8537
the Revised Code enacted in the act in which division (E) (2) of 8538
this section was enacted, shall be known as "Roberta's Law." 8539

(2) When the director submits a petition under this 8540
section, the department also promptly shall post a copy of the 8541
written notice on the database it maintains under section 8542
5120.66 of the Revised Code and include information on where a 8543
person may send comments regarding the recommendation of early 8544
release. 8545

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 8577
correctional institution shall deliver the offender to the 8578
sheriff of the county in which the hearing is to be held, and 8579
the sheriff shall convey the offender to and from the hearing. 8580
Upon the court's own motion or the motion of the offender or the 8581
prosecuting attorney of the county in which the offender was 8582
indicted, the court may permit the offender to appear at the 8583
hearing by video conferencing equipment if equipment of that 8584
nature is available and compatible. 8585

Upon receipt of notice from a court of a hearing on the 8586
release of an offender under this division, the head of the 8587
state correctional institution in which the offender is confined 8588
immediately shall notify the appropriate person at the 8589
department of rehabilitation and correction of the hearing, and 8590
the department within twenty-four hours after receipt of the 8591
notice shall post on the database it maintains pursuant to 8592
section 5120.66 of the Revised Code the offender's name and all 8593
of the information specified in division (A)(1)(c)(i) of that 8594
section. If the court schedules a hearing under this section, 8595
the court promptly shall give notice of the hearing to the 8596
prosecuting attorney of the county in which the offender was 8597
indicted. Upon receipt of the notice from the court, the 8598
prosecuting attorney shall notify pursuant to section 2930.16 of 8599
the Revised Code any victim of the offender or the victim's 8600
representative of the hearing. 8601

(H) If the court schedules a hearing under this section, 8602
at the hearing, the court shall afford the offender and the 8603
offender's attorney an opportunity to present written 8604
information and, if present, oral information relevant to the 8605
offender's early release. The court shall afford a similar 8606
opportunity to the prosecuting attorney, victim or victim's 8607

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 8639
reimposed sentence be served either concurrently with, or 8640
consecutive to, any new sentence imposed upon the offender as a 8641
result of the violation that is a new offense. The period of all 8642
community control sanctions imposed under this division shall 8643
not exceed five years. The court, in its discretion, may reduce 8644
the period of community control sanctions by the amount of time 8645
the offender spent in jail or prison for the offense. 8646

If the court grants an offender early release under this 8647
section, it shall notify the appropriate person at the 8648
department of rehabilitation and correction of the release, and 8649
the department shall post notice of the release on the database 8650
it maintains pursuant to section 5120.66 of the Revised Code. 8651

(J) The department shall adopt under Chapter 119. of the 8652
Revised Code any rules necessary to implement this section. 8653

Sec. 2967.193. (A) (1) Except as provided in division (C) 8654
of this section and subject to the maximum aggregate total 8655
specified in division (A) (2) of this section, a person confined 8656
in a state correctional institution or placed in the substance 8657
use disorder treatment program may provisionally earn one day or 8658
five days of credit, based on the category set forth in division 8659
(D) (1), (2), (3), (4), or (5) of this section in which the 8660
person is included, toward satisfaction of the person's stated 8661
prison term for each completed month during which the person, if 8662
confined in a state correctional institution, productively 8663
participates in an education program, vocational training, 8664
employment in prison industries, treatment for substance abuse, 8665
or any other constructive program developed by the department 8666
with specific standards for performance by prisoners or during 8667
which the person, if placed in the substance use disorder 8668

treatment program, productively participates in the program. 8669
Except as provided in division (C) of this section and subject 8670
to the maximum aggregate total specified in division (A) (2) of 8671
this section, a person so confined in a state correctional 8672
institution who successfully completes two programs or 8673
activities of that type may, in addition, provisionally earn up 8674
to five days of credit toward satisfaction of the person's 8675
stated prison term for the successful completion of the second 8676
program or activity. The person shall not be awarded any 8677
provisional days of credit for the successful completion of the 8678
first program or activity or for the successful completion of 8679
any program or activity that is completed after the second 8680
program or activity. At the end of each calendar month in which 8681
a person productively participates in a program or activity 8682
listed in this division or successfully completes a program or 8683
activity listed in this division, the department of 8684
rehabilitation and correction shall determine and record the 8685
total number of days credit that the person provisionally earned 8686
in that calendar month. If the person in a state correctional 8687
institution violates prison rules or the person in the substance 8688
use disorder treatment program violates program or department 8689
rules, the department may deny the person a credit that 8690
otherwise could have been provisionally awarded to the person or 8691
may withdraw one or more credits previously provisionally earned 8692
by the person. Days of credit provisionally earned by a person 8693
shall be finalized and awarded by the department subject to 8694
administrative review by the department of the person's conduct. 8695

(2) The aggregate days of credit provisionally earned by a 8696
person for program or activity participation and program and 8697
activity completion under this section and the aggregate days of 8698
credit finally credited to a person under this section shall not 8699

exceed eight per cent of the total number of days in the 8700
person's stated prison term. 8701

(B) The department of rehabilitation and correction shall 8702
adopt rules that specify the programs or activities for which 8703
credit may be earned under this section, the criteria for 8704
determining productive participation in, or completion of, the 8705
programs or activities and the criteria for awarding credit, 8706
including criteria for awarding additional credit for successful 8707
program or activity completion, and the criteria for denying or 8708
withdrawing previously provisionally earned credit as a result 8709
of a violation of prison rules, or program or department rules, 8710
whichever is applicable. 8711

(C) No person confined in a state correctional institution 8712
or placed in a substance use disorder treatment program to whom 8713
any of the following applies shall be awarded any days of credit 8714
under division (A) of this section: 8715

(1) The person is serving a prison term that section 8716
2929.13 or section 2929.14 of the Revised Code specifies cannot 8717
be reduced pursuant to this section or this chapter or is 8718
serving a sentence for which section 2967.13 or division (B) of 8719
section 2929.143 of the Revised Code specifies that the person 8720
is not entitled to any earned credit under this section. 8721

(2) The person is ~~sentenced to death or is~~ serving a 8722
prison term or a term of life imprisonment for aggravated 8723
murder, murder, or a conspiracy or attempt to commit, or 8724
complicity in committing, aggravated murder or murder. 8725

(3) The person is serving a sentence of life imprisonment 8726
without parole imposed pursuant to section 2929.02 or former 8727
section 2929.03 or 2929.06 of the Revised Code, a prison term or 8728

a term of life imprisonment without parole imposed pursuant to 8729
section 2971.03 of the Revised Code, or a sentence for a 8730
sexually oriented offense that was committed on or after 8731
September 30, 2011. 8732

(D) This division does not apply to a determination of 8733
whether a person confined in a state correctional institution or 8734
placed in a substance use disorder treatment program may earn 8735
any days of credit under division (A) of this section for 8736
successful completion of a second program or activity. The 8737
determination of whether a person confined in a state 8738
correctional institution may earn one day of credit or five days 8739
of credit under division (A) of this section for each completed 8740
month during which the person productively participates in a 8741
program or activity specified under that division shall be made 8742
in accordance with the following: 8743

(1) The offender may earn one day of credit under division 8744
(A) of this section, except as provided in division (C) of this 8745
section, if the most serious offense for which the offender is 8746
confined is any of the following that is a felony of the first 8747
or second degree: 8748

(a) A violation of division (A) of section 2903.04 or of 8749
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 8750
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 8751
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.151, 2919.22, 8752
2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 8753
2927.24 of the Revised Code; 8754

(b) A conspiracy or attempt to commit, or complicity in 8755
committing, any other offense for which the maximum penalty is 8756
imprisonment for life or any offense listed in division (D) (1) 8757
(a) of this section. 8758

(2) The offender may earn one day of credit under division 8759
(A) of this section, except as provided in division (C) of this 8760
section, if the offender is serving a stated prison term that 8761
includes a prison term imposed for a sexually oriented offense 8762
that the offender committed prior to September 30, 2011. 8763

(3) The offender may earn one day of credit under division 8764
(A) of this section, except as provided in division (C) of this 8765
section, if the offender is serving a stated prison term that 8766
includes a prison term imposed for a felony other than carrying 8767
a concealed weapon an essential element of which is any conduct 8768
or failure to act expressly involving any deadly weapon or 8769
dangerous ordnance. 8770

(4) Except as provided in division (C) of this section, if 8771
the most serious offense for which the offender is confined is a 8772
felony of the first or second degree and divisions (D) (1), (2), 8773
and (3) of this section do not apply to the offender, the 8774
offender may earn one day of credit under division (A) of this 8775
section if the offender committed that offense prior to 8776
September 30, 2011, and the offender may earn five days of 8777
credit under division (A) of this section if the offender 8778
committed that offense on or after September 30, 2011. 8779

(5) Except as provided in division (C) of this section, if 8780
the most serious offense for which the offender is confined is a 8781
felony of the third, fourth, or fifth degree or an unclassified 8782
felony and neither division (D) (2) nor (3) of this section 8783
applies to the offender, the offender may earn one day of credit 8784
under division (A) of this section if the offender committed 8785
that offense prior to September 30, 2011, and the offender may 8786
earn five days of credit under division (A) of this section if 8787
the offender committed that offense on or after September 30, 8788

2011. 8789

(E) The department annually shall seek and consider the 8790
written feedback of the Ohio prosecuting attorneys association, 8791
the Ohio judicial conference, the Ohio public defender, the Ohio 8792
association of criminal defense lawyers, and other organizations 8793
and associations that have an interest in the operation of the 8794
corrections system and the earned credits program under this 8795
section as part of its evaluation of the program and in 8796
determining whether to modify the program. 8797

(F) As used in this section: 8798

(1) "Sexually oriented offense" has the same meaning as in 8799
section 2950.01 of the Revised Code. 8800

(2) "Substance use disorder treatment program" means the 8801
substance use disorder treatment program established by the 8802
department of rehabilitation and correction under section 8803
5120.035 of the Revised Code. 8804

Sec. 2967.26. (A) (1) The department of rehabilitation and 8805
correction, by rule, may establish a transitional control 8806
program for the purpose of closely monitoring a prisoner's 8807
adjustment to community supervision during the final one hundred 8808
eighty days of the prisoner's confinement. If the department 8809
establishes a transitional control program under this division, 8810
the division of parole and community services of the department 8811
of rehabilitation and correction may transfer eligible prisoners 8812
to transitional control status under the program during the 8813
final one hundred eighty days of their confinement and under the 8814
terms and conditions established by the department, shall 8815
provide for the confinement as provided in this division of each 8816
eligible prisoner so transferred, and shall supervise each 8817

eligible prisoner so transferred in one or more community 8818
control sanctions. Each eligible prisoner who is transferred to 8819
transitional control status under the program shall be confined 8820
in a suitable facility that is licensed pursuant to division (C) 8821
of section 2967.14 of the Revised Code, or shall be confined in 8822
a residence the department has approved for this purpose and be 8823
monitored pursuant to an electronic monitoring device, as 8824
defined in section 2929.01 of the Revised Code. If the 8825
department establishes a transitional control program under this 8826
division, the rules establishing the program shall include 8827
criteria that define which prisoners are eligible for the 8828
program, criteria that must be satisfied to be approved as a 8829
residence that may be used for confinement under the program of 8830
a prisoner that is transferred to it and procedures for the 8831
department to approve residences that satisfy those criteria, 8832
and provisions of the type described in division (C) of this 8833
section. At a minimum, the criteria that define which prisoners 8834
are eligible for the program shall provide all of the following: 8835

(a) That a prisoner is eligible for the program if the 8836
prisoner is serving a prison term or term of imprisonment for an 8837
offense committed prior to March 17, 1998, and if, at the time 8838
at which eligibility is being determined, the prisoner would 8839
have been eligible for a furlough under this section as it 8840
existed immediately prior to March 17, 1998, or would have been 8841
eligible for conditional release under former section 2967.23 of 8842
the Revised Code as that section existed immediately prior to 8843
March 17, 1998; 8844

(b) That no prisoner who is serving a mandatory prison 8845
term is eligible for the program until after expiration of the 8846
mandatory term; 8847

(c) That no prisoner who is serving a prison term or term 8848
of life imprisonment without parole imposed pursuant to section 8849
2971.03 of the Revised Code is eligible for the program. 8850

(2) At least sixty days prior to transferring to 8851
transitional control under this section a prisoner who is 8852
serving a term of imprisonment or prison term of two years or 8853
less for an offense committed on or after July 1, 1996, the 8854
division of parole and community services of the department of 8855
rehabilitation and correction shall give notice of the pendency 8856
of the transfer to transitional control to the court of common 8857
pleas of the county in which the indictment against the prisoner 8858
was found and of the fact that the court may disapprove the 8859
transfer of the prisoner to transitional control and shall 8860
include the institutional summary report prepared by the head of 8861
the state correctional institution in which the prisoner is 8862
confined. The head of the state correctional institution in 8863
which the prisoner is confined, upon the request of the division 8864
of parole and community services, shall provide to the division 8865
for inclusion in the notice sent to the court under this 8866
division an institutional summary report on the prisoner's 8867
conduct in the institution and in any institution from which the 8868
prisoner may have been transferred. The institutional summary 8869
report shall cover the prisoner's participation in school, 8870
vocational training, work, treatment, and other rehabilitative 8871
activities and any disciplinary action taken against the 8872
prisoner. If the court disapproves of the transfer of the 8873
prisoner to transitional control, the court shall notify the 8874
division of the disapproval within thirty days after receipt of 8875
the notice. If the court timely disapproves the transfer of the 8876
prisoner to transitional control, the division shall not proceed 8877
with the transfer. If the court does not timely disapprove the 8878

transfer of the prisoner to transitional control, the division 8879
may transfer the prisoner to transitional control. 8880

(3) (a) If the victim of an offense for which a prisoner 8881
was sentenced to a prison term or term of imprisonment has 8882
requested notification under section 2930.16 of the Revised Code 8883
and has provided the department of rehabilitation and correction 8884
with the victim's name and address or if division (A) (3) (b) of 8885
this section applies, the division of parole and community 8886
services, at least sixty days prior to transferring the prisoner 8887
to transitional control pursuant to this section, shall notify 8888
the victim of the pendency of the transfer and of the victim's 8889
right to submit a statement to the division regarding the impact 8890
of the transfer of the prisoner to transitional control. If the 8891
victim subsequently submits a statement of that nature to the 8892
division, the division shall consider the statement in deciding 8893
whether to transfer the prisoner to transitional control. 8894

(b) If a prisoner is incarcerated for the commission of 8895
aggravated murder, murder, or an offense of violence that is a 8896
felony of the first, second, or third degree or under a sentence 8897
of life imprisonment, except as otherwise provided in this 8898
division, the notice described in division (A) (3) (a) of this 8899
section shall be given regardless of whether the victim has 8900
requested the notification. The notice described in division (A) 8901
(3) (a) of this section shall not be given under this division to 8902
a victim if the victim has requested pursuant to division (B) (2) 8903
of section 2930.03 of the Revised Code that the victim not be 8904
provided the notice. If notice is to be provided to a victim 8905
under this division, the authority may give the notice by any 8906
reasonable means, including regular mail, telephone, and 8907
electronic mail, in accordance with division (D) (1) of section 8908
2930.16 of the Revised Code. If the notice is based on an 8909

offense committed prior to March 22, 2013, the notice also shall 8910
include the opt-out information described in division (D) (1) of 8911
section 2930.16 of the Revised Code. The authority, in 8912
accordance with division (D) (2) of section 2930.16 of the 8913
Revised Code, shall keep a record of all attempts to provide the 8914
notice, and of all notices provided, under this division. 8915

Division (A) (3) (b) of this section, and the notice-related 8916
provisions of divisions (E) (2) and (K) of section 2929.20, 8917
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 8918
2967.12, division (E) (1) (b) of section 2967.19, division (D) (1) 8919
of section 2967.28, and division (A) (2) of section 5149.101 of 8920
the Revised Code enacted in the act in which division (A) (3) (b) 8921
of this section was enacted, shall be known as "Roberta's Law." 8922

(4) The department of rehabilitation and correction, at 8923
least sixty days prior to transferring a prisoner to 8924
transitional control pursuant to this section, shall post on the 8925
database it maintains pursuant to section 5120.66 of the Revised 8926
Code the prisoner's name and all of the information specified in 8927
division (A) (1) (c) (iv) of that section. In addition to and 8928
independent of the right of a victim to submit a statement as 8929
described in division (A) (3) of this section or to otherwise 8930
make a statement and in addition to and independent of any other 8931
right or duty of a person to present information or make a 8932
statement, any person may send to the division of parole and 8933
community services at any time prior to the division's transfer 8934
of the prisoner to transitional control a written statement 8935
regarding the transfer of the prisoner to transitional control. 8936
In addition to the information, reports, and statements it 8937
considers under divisions (A) (2) and (3) of this section or that 8938
it otherwise considers, the division shall consider each 8939
statement submitted in accordance with this division in deciding 8940

whether to transfer the prisoner to transitional control. 8941

(B) Each prisoner transferred to transitional control 8942
under this section shall be confined in the manner described in 8943
division (A) of this section during any period of time that the 8944
prisoner is not actually working at the prisoner's approved 8945
employment, engaged in a vocational training or another 8946
educational program, engaged in another program designated by 8947
the director, or engaged in other activities approved by the 8948
department. 8949

(C) The department of rehabilitation and correction shall 8950
adopt rules for transferring eligible prisoners to transitional 8951
control, supervising and confining prisoners so transferred, 8952
administering the transitional control program in accordance 8953
with this section, and using the moneys deposited into the 8954
transitional control fund established under division (E) of this 8955
section. 8956

(D) The department of rehabilitation and correction may 8957
adopt rules for the issuance of passes for the limited purposes 8958
described in this division to prisoners who are transferred to 8959
transitional control under this section. If the department 8960
adopts rules of that nature, the rules shall govern the granting 8961
of the passes and shall provide for the supervision of prisoners 8962
who are temporarily released pursuant to one of those passes. 8963
Upon the adoption of rules under this division, the department 8964
may issue passes to prisoners who are transferred to 8965
transitional control status under this section in accordance 8966
with the rules and the provisions of this division. All passes 8967
issued under this division shall be for a maximum of forty-eight 8968
hours and may be issued only for the following purposes: 8969

(1) To visit a relative in imminent danger of death; 8970

(2) To have a private viewing of the body of a deceased relative; 8971
8972

(3) To visit with family; 8973

(4) To otherwise aid in the rehabilitation of the prisoner. 8974
8975

(E) The division of parole and community services may 8976
require a prisoner who is transferred to transitional control to 8977
pay to the division the reasonable expenses incurred by the 8978
division in supervising or confining the prisoner while under 8979
transitional control. Inability to pay those reasonable expenses 8980
shall not be grounds for refusing to transfer an otherwise 8981
eligible prisoner to transitional control. Amounts received by 8982
the division of parole and community services under this 8983
division shall be deposited into the transitional control fund, 8984
which is hereby created in the state treasury and which hereby 8985
replaces and succeeds the furlough services fund that formerly 8986
existed in the state treasury. All moneys that remain in the 8987
furlough services fund on March 17, 1998, shall be transferred 8988
on that date to the transitional control fund. The transitional 8989
control fund shall be used solely to pay costs related to the 8990
operation of the transitional control program established under 8991
this section. The director of rehabilitation and correction 8992
shall adopt rules in accordance with section 111.15 of the 8993
Revised Code for the use of the fund. 8994

(F) A prisoner who violates any rule established by the 8995
department of rehabilitation and correction under division (A), 8996
(C), or (D) of this section may be transferred to a state 8997
correctional institution pursuant to rules adopted under 8998
division (A), (C), or (D) of this section, but the prisoner 8999
shall receive credit towards completing the prisoner's sentence 9000

for the time spent under transitional control. 9001

If a prisoner is transferred to transitional control under 9002
this section, upon successful completion of the period of 9003
transitional control, the prisoner may be released on parole or 9004
under post-release control pursuant to section 2967.13 or 9005
2967.28 of the Revised Code and rules adopted by the department 9006
of rehabilitation and correction. If the prisoner is released 9007
under post-release control, the duration of the post-release 9008
control, the type of post-release control sanctions that may be 9009
imposed, the enforcement of the sanctions, and the treatment of 9010
prisoners who violate any sanction applicable to the prisoner 9011
are governed by section 2967.28 of the Revised Code. 9012

Sec. 2967.28. (A) As used in this section: 9013

(1) "Monitored time" means the monitored time sanction 9014
specified in section 2929.17 of the Revised Code. 9015

(2) "Deadly weapon" and "dangerous ordnance" have the same 9016
meanings as in section 2923.11 of the Revised Code. 9017

(3) "Felony sex offense" means a violation of a section 9018
contained in Chapter 2907. of the Revised Code that is a felony. 9019

(4) "Risk reduction sentence" means a prison term imposed 9020
by a court, when the court recommends pursuant to section 9021
2929.143 of the Revised Code that the offender serve the 9022
sentence under section 5120.036 of the Revised Code, and the 9023
offender may potentially be released from imprisonment prior to 9024
the expiration of the prison term if the offender successfully 9025
completes all assessment and treatment or programming required 9026
by the department of rehabilitation and correction under section 9027
5120.036 of the Revised Code. 9028

(5) "Victim's immediate family" has the same meaning as in 9029

section 2967.12 of the Revised Code. 9030

(6) "Minor drug possession offense" has the same meaning 9031
as in section 2925.11 of the Revised Code. 9032

(B) Each sentence to a prison term for a felony of the 9033
first degree, for a felony of the second degree, for a felony 9034
sex offense, or for a felony of the third degree that is an 9035
offense of violence and is not a felony sex offense shall 9036
include a requirement that the offender be subject to a period 9037
of post-release control imposed by the parole board after the 9038
offender's release from imprisonment. This division applies with 9039
respect to all prison terms of a type described in this 9040
division, including a term of any such type that is a risk 9041
reduction sentence. If a court imposes a sentence including a 9042
prison term of a type described in this division on or after 9043
July 11, 2006, the failure of a sentencing court to notify the 9044
offender pursuant to division (B) (2) (c) of section 2929.19 of 9045
the Revised Code of this requirement or to include in the 9046
judgment of conviction entered on the journal a statement that 9047
the offender's sentence includes this requirement does not 9048
negate, limit, or otherwise affect the mandatory period of 9049
supervision that is required for the offender under this 9050
division. Section 2929.191 of the Revised Code applies if, prior 9051
to July 11, 2006, a court imposed a sentence including a prison 9052
term of a type described in this division and failed to notify 9053
the offender pursuant to division (B) (2) (c) of section 2929.19 9054
of the Revised Code regarding post-release control or to include 9055
in the judgment of conviction entered on the journal or in the 9056
sentence pursuant to division (D) (1) of section 2929.14 of the 9057
Revised Code a statement regarding post-release control. Unless 9058
reduced by the parole board pursuant to division (D) of this 9059
section when authorized under that division, a period of post- 9060

release control required by this division for an offender shall 9061
be of one of the following periods: 9062

(1) For a felony of the first degree or for a felony sex 9063
offense, five years; 9064

(2) For a felony of the second degree that is not a felony 9065
sex offense, three years; 9066

(3) For a felony of the third degree that is an offense of 9067
violence and is not a felony sex offense, three years. 9068

(C) Any sentence to a prison term for a felony of the 9069
third, fourth, or fifth degree that is not subject to division 9070
(B)(1) or (3) of this section shall include a requirement that 9071
the offender be subject to a period of post-release control of 9072
up to three years after the offender's release from 9073
imprisonment, if the parole board, in accordance with division 9074
(D) of this section, determines that a period of post-release 9075
control is necessary for that offender. This division applies 9076
with respect to all prison terms of a type described in this 9077
division, including a term of any such type that is a risk 9078
reduction sentence. Section 2929.191 of the Revised Code applies 9079
if, prior to July 11, 2006, a court imposed a sentence including 9080
a prison term of a type described in this division and failed to 9081
notify the offender pursuant to division (B)(2)(d) of section 9082
2929.19 of the Revised Code regarding post-release control or to 9083
include in the judgment of conviction entered on the journal or 9084
in the sentence pursuant to division (D)(2) of section 2929.14 9085
of the Revised Code a statement regarding post-release control. 9086
Pursuant to an agreement entered into under section 2967.29 of 9087
the Revised Code, a court of common pleas or parole board may 9088
impose sanctions or conditions on an offender who is placed on 9089
post-release control under this division. 9090

(D) (1) Before the prisoner is released from imprisonment, 9091
the parole board or, pursuant to an agreement under section 9092
2967.29 of the Revised Code, the court shall impose upon a 9093
prisoner described in division (B) of this section, shall impose 9094
upon a prisoner described in division (C) of this section who is 9095
to be released before the expiration of the prisoner's stated 9096
prison term under a risk reduction sentence, may impose upon a 9097
prisoner described in division (C) of this section who is not to 9098
be released before the expiration of the prisoner's stated 9099
prison term under a risk reduction sentence, and shall impose 9100
upon a prisoner described in division (B) (2) (b) of section 9101
5120.031 or in division (B) (1) of section 5120.032 of the 9102
Revised Code, one or more post-release control sanctions to 9103
apply during the prisoner's period of post-release control. 9104
Whenever the board or court imposes one or more post-release 9105
control sanctions upon a prisoner, the board or court, in 9106
addition to imposing the sanctions, also shall include as a 9107
condition of the post-release control that the offender not 9108
leave the state without permission of the court or the 9109
offender's parole or probation officer and that the offender 9110
abide by the law. The board or court may impose any other 9111
conditions of release under a post-release control sanction that 9112
the board or court considers appropriate, and the conditions of 9113
release may include any community residential sanction, 9114
community nonresidential sanction, or financial sanction that 9115
the sentencing court was authorized to impose pursuant to 9116
sections 2929.16, 2929.17, and 2929.18 of the Revised Code. 9117
Prior to the release of a prisoner for whom it will impose one 9118
or more post-release control sanctions under this division, the 9119
parole board or court shall review the prisoner's criminal 9120
history, results from the single validated risk assessment tool 9121
selected by the department of rehabilitation and correction 9122

under section 5120.114 of the Revised Code, all juvenile court 9123
adjudications finding the prisoner, while a juvenile, to be a 9124
delinquent child, and the record of the prisoner's conduct while 9125
imprisoned. The parole board or court shall consider any 9126
recommendation regarding post-release control sanctions for the 9127
prisoner made by the office of victims' services. After 9128
considering those materials, the board or court shall determine, 9129
for a prisoner described in division (B) of this section, 9130
division (B) (2) (b) of section 5120.031, or division (B) (1) of 9131
section 5120.032 of the Revised Code and for a prisoner 9132
described in division (C) of this section who is to be released 9133
before the expiration of the prisoner's stated prison term under 9134
a risk reduction sentence, which post-release control sanction 9135
or combination of post-release control sanctions is reasonable 9136
under the circumstances or, for a prisoner described in division 9137
(C) of this section who is not to be released before the 9138
expiration of the prisoner's stated prison term under a risk 9139
reduction sentence, whether a post-release control sanction is 9140
necessary and, if so, which post-release control sanction or 9141
combination of post-release control sanctions is reasonable 9142
under the circumstances. In the case of a prisoner convicted of 9143
a felony of the fourth or fifth degree other than a felony sex 9144
offense, the board or court shall presume that monitored time is 9145
the appropriate post-release control sanction unless the board 9146
or court determines that a more restrictive sanction is 9147
warranted. A post-release control sanction imposed under this 9148
division takes effect upon the prisoner's release from 9149
imprisonment. 9150

Regardless of whether the prisoner was sentenced to the 9151
prison term prior to, on, or after July 11, 2006, prior to the 9152
release of a prisoner for whom it will impose one or more post- 9153

release control sanctions under this division, the parole board 9154
shall notify the prisoner that, if the prisoner violates any 9155
sanction so imposed or any condition of post-release control 9156
described in division (B) of section 2967.131 of the Revised 9157
Code that is imposed on the prisoner, the parole board may 9158
impose a prison term of up to one-half of the stated prison term 9159
originally imposed upon the prisoner. 9160

At least thirty days before the prisoner is released from 9161
imprisonment, except as otherwise provided in this paragraph, 9162
the department of rehabilitation and correction shall notify the 9163
victim and the victim's immediate family of the date on which 9164
the prisoner will be released, the period for which the prisoner 9165
will be under post-release control supervision, and the terms 9166
and conditions of the prisoner's post-release control regardless 9167
of whether the victim or victim's immediate family has requested 9168
the notification. The notice described in this paragraph shall 9169
not be given to a victim or victim's immediate family if the 9170
victim or the victim's immediate family has requested pursuant 9171
to division (B) (2) of section 2930.03 of the Revised Code that 9172
the notice not be provided to the victim or the victim's 9173
immediate family. At least thirty days before the prisoner is 9174
released from imprisonment and regardless of whether the victim 9175
or victim's immediate family has requested that the notice 9176
described in this paragraph be provided or not be provided to 9177
the victim or the victim's immediate family, the department also 9178
shall provide notice of that nature to the prosecuting attorney 9179
in the case and the law enforcement agency that arrested the 9180
prisoner if any officer of that agency was a victim of the 9181
offense. 9182

If the notice given under the preceding paragraph to the 9183
victim or the victim's immediate family is based on an offense 9184

committed prior to March 22, 2013, and if the department of 9185
rehabilitation and correction has not previously successfully 9186
provided any notice to the victim or the victim's immediate 9187
family under division (B), (C), or (D) of section 2930.16 of the 9188
Revised Code with respect to that offense and the offender who 9189
committed it, the notice also shall inform the victim or the 9190
victim's immediate family that the victim or the victim's 9191
immediate family may request that the victim or the victim's 9192
immediate family not be provided any further notices with 9193
respect to that offense and the offender who committed it and 9194
shall describe the procedure for making that request. The 9195
department may give the notices to which the preceding paragraph 9196
applies by any reasonable means, including regular mail, 9197
telephone, and electronic mail. If the department attempts to 9198
provide notice to any specified person under the preceding 9199
paragraph but the attempt is unsuccessful because the department 9200
is unable to locate the specified person, is unable to provide 9201
the notice by its chosen method because it cannot determine the 9202
mailing address, electronic mail address, or telephone number at 9203
which to provide the notice, or, if the notice is sent by mail, 9204
the notice is returned, the department shall make another 9205
attempt to provide the notice to the specified person. If the 9206
second attempt is unsuccessful, the department shall make at 9207
least one more attempt to provide the notice. If the notice is 9208
based on an offense committed prior to March 22, 2013, in each 9209
attempt to provide the notice to the victim or victim's 9210
immediate family, the notice shall include the opt-out 9211
information described in this paragraph. The department, in the 9212
manner described in division (D) (2) of section 2930.16 of the 9213
Revised Code, shall keep a record of all attempts to provide the 9214
notice, and of all notices provided, under this paragraph and 9215
the preceding paragraph. The record shall be considered as if it 9216

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 9248
authority recommends that the board or court increase the 9249
duration of post-release control, the board or court shall 9250
review the releasee's behavior and may increase the duration of 9251
the period of post-release control imposed by the court up to 9252
eight years. If the authority recommends that the board or court 9253
reduce the duration of control for an offense described in 9254
division (B) or (C) of this section, the board or court shall 9255
review the releasee's behavior and may reduce the duration of 9256
the period of control imposed by the court. In no case shall the 9257
board or court reduce the duration of the period of control 9258
imposed for an offense described in division (B)(1) of this 9259
section to a period less than the length of the stated prison 9260
term originally imposed, and in no case shall the board or court 9261
permit the releasee to leave the state without permission of the 9262
court or the releasee's parole or probation officer. 9263

(E) The department of rehabilitation and correction, in 9264
accordance with Chapter 119. of the Revised Code, shall adopt 9265
rules that do all of the following: 9266

(1) Establish standards for the imposition by the parole 9267
board of post-release control sanctions under this section that 9268
are consistent with the overriding purposes and sentencing 9269
principles set forth in section 2929.11 of the Revised Code and 9270
that are appropriate to the needs of releasees; 9271

(2) Establish standards that provide for a period of post- 9272
release control of up to three years for all prisoners described 9273
in division (C) of this section who are to be released before 9274
the expiration of their stated prison term under a risk 9275
reduction sentence and standards by which the parole board can 9276
determine which prisoners described in division (C) of this 9277

section who are not to be released before the expiration of 9278
their stated prison term under a risk reduction sentence should 9279
be placed under a period of post-release control; 9280

(3) Establish standards to be used by the parole board in 9281
reducing the duration of the period of post-release control 9282
imposed by the court when authorized under division (D) of this 9283
section, in imposing a more restrictive post-release control 9284
sanction than monitored time upon a prisoner convicted of a 9285
felony of the fourth or fifth degree other than a felony sex 9286
offense, or in imposing a less restrictive control sanction upon 9287
a releasee based on the releasee's activities including, but not 9288
limited to, remaining free from criminal activity and from the 9289
abuse of alcohol or other drugs, successfully participating in 9290
approved rehabilitation programs, maintaining employment, and 9291
paying restitution to the victim or meeting the terms of other 9292
financial sanctions; 9293

(4) Establish standards to be used by the adult parole 9294
authority in modifying a releasee's post-release control 9295
sanctions pursuant to division (D)(2) of this section; 9296

(5) Establish standards to be used by the adult parole 9297
authority or parole board in imposing further sanctions under 9298
division (F) of this section on releasees who violate post- 9299
release control sanctions, including standards that do the 9300
following: 9301

(a) Classify violations according to the degree of 9302
seriousness; 9303

(b) Define the circumstances under which formal action by 9304
the parole board is warranted; 9305

(c) Govern the use of evidence at violation hearings; 9306

(d) Ensure procedural due process to an alleged violator;	9307
(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;	9308 9309
(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.	9310 9311
(F) (1) Whenever the parole board imposes one or more post- release control sanctions upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the field services section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section.	9312 9313 9314 9315 9316 9317 9318 9319 9320 9321 9322 9323 9324 9325 9326 9327 9328 9329
(2) If the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code imposed upon the releasee and that a more restrictive sanction is appropriate, the authority or court may impose a more restrictive sanction upon the releasee,	9330 9331 9332 9333 9334 9335 9336

in accordance with the standards established under division (E) 9337
of this section or in accordance with the agreement made under 9338
section 2967.29 of the Revised Code, or may report the violation 9339
to the parole board for a hearing pursuant to division (F) (3) of 9340
this section. The authority or court may not, pursuant to this 9341
division, increase the duration of the releasee's post-release 9342
control or impose as a post-release control sanction a 9343
residential sanction that includes a prison term, but the 9344
authority or court may impose on the releasee any other 9345
residential sanction, nonresidential sanction, or financial 9346
sanction that the sentencing court was authorized to impose 9347
pursuant to sections 2929.16, 2929.17, and 2929.18 of the 9348
Revised Code. 9349

(3) The parole board or, pursuant to an agreement under 9350
section 2967.29 of the Revised Code, the court may hold a 9351
hearing on any alleged violation by a releasee of a post-release 9352
control sanction or any conditions described in division (A) of 9353
section 2967.131 of the Revised Code that are imposed upon the 9354
releasee. If after the hearing the board or court finds that the 9355
releasee violated the sanction or condition, the board or court 9356
may increase the duration of the releasee's post-release control 9357
up to the maximum duration authorized by division (B) or (C) of 9358
this section or impose a more restrictive post-release control 9359
sanction. If a releasee was acting pursuant to division (B) (2) 9360
(b) of section 2925.11 of the Revised Code and in so doing 9361
violated the conditions of a post-release control sanction based 9362
on a minor drug possession offense as defined in that section, 9363
the board or the court may consider the releasee's conduct in 9364
seeking or obtaining medical assistance for another in good 9365
faith or for self or may consider the releasee being the subject 9366
of another person seeking or obtaining medical assistance in 9367

accordance with that division as a mitigating factor before 9368
imposing any of the penalties described in this division. When 9369
appropriate, the board or court may impose as a post-release 9370
control sanction a residential sanction that includes a prison 9371
term. The board or court shall consider a prison term as a post- 9372
release control sanction imposed for a violation of post-release 9373
control when the violation involves a deadly weapon or dangerous 9374
ordnance, physical harm or attempted serious physical harm to a 9375
person, or sexual misconduct, or when the releasee committed 9376
repeated violations of post-release control sanctions. Unless a 9377
releasee's stated prison term was reduced pursuant to section 9378
5120.032 of the Revised Code, the period of a prison term that 9379
is imposed as a post-release control sanction under this 9380
division shall not exceed nine months, and the maximum 9381
cumulative prison term for all violations under this division 9382
shall not exceed one-half of the stated prison term originally 9383
imposed upon the offender as part of this sentence. If a 9384
releasee's stated prison term was reduced pursuant to section 9385
5120.032 of the Revised Code, the period of a prison term that 9386
is imposed as a post-release control sanction under this 9387
division and the maximum cumulative prison term for all 9388
violations under this division shall not exceed the period of 9389
time not served in prison under the sentence imposed by the 9390
court. The period of a prison term that is imposed as a post- 9391
release control sanction under this division shall not count as, 9392
or be credited toward, the remaining period of post-release 9393
control. 9394

If an offender is imprisoned for a felony committed while 9395
under post-release control supervision and is again released on 9396
post-release control for a period of time determined by division 9397
(F) (4) (d) of this section, the maximum cumulative prison term 9398

for all violations under this division shall not exceed one-half 9399
of the total stated prison terms of the earlier felony, reduced 9400
by any prison term administratively imposed by the parole board 9401
or court, plus one-half of the total stated prison term of the 9402
new felony. 9403

(4) Any period of post-release control shall commence upon 9404
an offender's actual release from prison. If an offender is 9405
serving an indefinite prison term or a life sentence in addition 9406
to a stated prison term, the offender shall serve the period of 9407
post-release control in the following manner: 9408

(a) If a period of post-release control is imposed upon 9409
the offender and if the offender also is subject to a period of 9410
parole under a life sentence or an indefinite sentence, and if 9411
the period of post-release control ends prior to the period of 9412
parole, the offender shall be supervised on parole. The offender 9413
shall receive credit for post-release control supervision during 9414
the period of parole. The offender is not eligible for final 9415
release under section 2967.16 of the Revised Code until the 9416
post-release control period otherwise would have ended. 9417

(b) If a period of post-release control is imposed upon 9418
the offender and if the offender also is subject to a period of 9419
parole under an indefinite sentence, and if the period of parole 9420
ends prior to the period of post-release control, the offender 9421
shall be supervised on post-release control. The requirements of 9422
parole supervision shall be satisfied during the post-release 9423
control period. 9424

(c) If an offender is subject to more than one period of 9425
post-release control, the period of post-release control for all 9426
of the sentences shall be the period of post-release control 9427
that expires last, as determined by the parole board or court. 9428

Periods of post-release control shall be served concurrently and 9429
shall not be imposed consecutively to each other. 9430

(d) The period of post-release control for a releasee who 9431
commits a felony while under post-release control for an earlier 9432
felony shall be the longer of the period of post-release control 9433
specified for the new felony under division (B) or (C) of this 9434
section or the time remaining under the period of post-release 9435
control imposed for the earlier felony as determined by the 9436
parole board or court. 9437

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 9438
section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 9439
another section of the Revised Code, other than divisions (B) 9440
and (C) of section 2929.14 of the Revised Code, that authorizes 9441
or requires a specified prison term or a mandatory prison term 9442
for a person who is convicted of or pleads guilty to a felony or 9443
that specifies the manner and place of service of a prison term 9444
or term of imprisonment, the court shall impose a sentence upon 9445
a person who is convicted of or pleads guilty to a violent sex 9446
offense and who also is convicted of or pleads guilty to a 9447
sexually violent predator specification that was included in the 9448
indictment, count in the indictment, or information charging 9449
that offense, and upon a person who is convicted of or pleads 9450
guilty to a designated homicide, assault, or kidnapping offense 9451
and also is convicted of or pleads guilty to both a sexual 9452
motivation specification and a sexually violent predator 9453
specification that were included in the indictment, count in the 9454
indictment, or information charging that offense, as follows: 9455

(1) If the offense for which the sentence is being imposed 9456
is aggravated murder ~~and if the court does not impose upon the~~ 9457
~~offender a sentence of death,~~ it shall impose upon the offender 9458

a term of life imprisonment without parole. ~~If the court~~ 9459
~~sentences the offender to death and the sentence of death is~~ 9460
~~vacated, overturned, or otherwise set aside, the court shall~~ 9461
~~impose upon the offender a term of life imprisonment without~~ 9462
~~parole.~~ 9463

(2) If the offense for which the sentence is being imposed 9464
is murder; or if the offense is rape committed in violation of 9465
division (A) (1) (b) of section 2907.02 of the Revised Code when 9466
the offender purposely compelled the victim to submit by force 9467
or threat of force, when the victim was less than ten years of 9468
age, when the offender previously has been convicted of or 9469
pleaded guilty to either rape committed in violation of that 9470
division or a violation of an existing or former law of this 9471
state, another state, or the United States that is substantially 9472
similar to division (A) (1) (b) of section 2907.02 of the Revised 9473
Code, or when the offender during or immediately after the 9474
commission of the rape caused serious physical harm to the 9475
victim; or if the offense is an offense other than aggravated 9476
murder or murder for which a term of life imprisonment may be 9477
imposed, it shall impose upon the offender a term of life 9478
imprisonment without parole. 9479

(3) (a) Except as otherwise provided in division (A) (3) (b), 9480
(c), (d), or (e) or (A) (4) of this section, if the offense for 9481
which the sentence is being imposed is an offense other than 9482
aggravated murder, murder, or rape and other than an offense for 9483
which a term of life imprisonment may be imposed, it shall 9484
impose an indefinite prison term consisting of a minimum term 9485
fixed by the court from among the range of terms available as a 9486
definite term for the offense, but not less than two years, and 9487
a maximum term of life imprisonment. 9488

(b) Except as otherwise provided in division (A) (4) of 9489
this section, if the offense for which the sentence is being 9490
imposed is kidnapping that is a felony of the first degree, it 9491
shall impose an indefinite prison term as follows: 9492

(i) If the kidnapping is committed on or after January 1, 9493
2008, and the victim of the offense is less than thirteen years 9494
of age, except as otherwise provided in this division, it shall 9495
impose an indefinite prison term consisting of a minimum term of 9496
fifteen years and a maximum term of life imprisonment. If the 9497
kidnapping is committed on or after January 1, 2008, the victim 9498
of the offense is less than thirteen years of age, and the 9499
offender released the victim in a safe place unharmed, it shall 9500
impose an indefinite prison term consisting of a minimum term of 9501
ten years and a maximum term of life imprisonment. 9502

(ii) If the kidnapping is committed prior to January 1, 9503
2008, or division (A) (3) (b) (i) of this section does not apply, 9504
it shall impose an indefinite term consisting of a minimum term 9505
fixed by the court that is not less than ten years and a maximum 9506
term of life imprisonment. 9507

(c) Except as otherwise provided in division (A) (4) of 9508
this section, if the offense for which the sentence is being 9509
imposed is kidnapping that is a felony of the second degree, it 9510
shall impose an indefinite prison term consisting of a minimum 9511
term fixed by the court that is not less than eight years, and a 9512
maximum term of life imprisonment. 9513

(d) Except as otherwise provided in division (A) (4) of 9514
this section, if the offense for which the sentence is being 9515
imposed is rape for which a term of life imprisonment is not 9516
imposed under division (A) (2) of this section or division (B) of 9517
section 2907.02 of the Revised Code, it shall impose an 9518

indefinite prison term as follows: 9519

(i) If the rape is committed on or after January 2, 2007, 9520
in violation of division (A) (1) (b) of section 2907.02 of the 9521
Revised Code, it shall impose an indefinite prison term 9522
consisting of a minimum term of twenty-five years and a maximum 9523
term of life imprisonment. 9524

(ii) If the rape is committed prior to January 2, 2007, or 9525
the rape is committed on or after January 2, 2007, other than in 9526
violation of division (A) (1) (b) of section 2907.02 of the 9527
Revised Code, it shall impose an indefinite prison term 9528
consisting of a minimum term fixed by the court that is not less 9529
than ten years, and a maximum term of life imprisonment. 9530

(e) Except as otherwise provided in division (A) (4) of 9531
this section, if the offense for which sentence is being imposed 9532
is attempted rape, it shall impose an indefinite prison term as 9533
follows: 9534

(i) Except as otherwise provided in division (A) (3) (e) 9535
(ii), (iii), or (iv) of this section, it shall impose an 9536
indefinite prison term pursuant to division (A) (3) (a) of this 9537
section. 9538

(ii) If the attempted rape for which sentence is being 9539
imposed was committed on or after January 2, 2007, and if the 9540
offender also is convicted of or pleads guilty to a 9541
specification of the type described in section 2941.1418 of the 9542
Revised Code, it shall impose an indefinite prison term 9543
consisting of a minimum term of five years and a maximum term of 9544
twenty-five years. 9545

(iii) If the attempted rape for which sentence is being 9546
imposed was committed on or after January 2, 2007, and if the 9547

offender also is convicted of or pleads guilty to a 9548
specification of the type described in section 2941.1419 of the 9549
Revised Code, it shall impose an indefinite prison term 9550
consisting of a minimum term of ten years and a maximum of life 9551
imprisonment. 9552

(iv) If the attempted rape for which sentence is being 9553
imposed was committed on or after January 2, 2007, and if the 9554
offender also is convicted of or pleads guilty to a 9555
specification of the type described in section 2941.1420 of the 9556
Revised Code, it shall impose an indefinite prison term 9557
consisting of a minimum term of fifteen years and a maximum of 9558
life imprisonment. 9559

(4) For any offense for which the sentence is being 9560
imposed, if the offender previously has been convicted of or 9561
pleaded guilty to a violent sex offense and also to a sexually 9562
violent predator specification that was included in the 9563
indictment, count in the indictment, or information charging 9564
that offense, or previously has been convicted of or pleaded 9565
guilty to a designated homicide, assault, or kidnapping offense 9566
and also to both a sexual motivation specification and a 9567
sexually violent predator specification that were included in 9568
the indictment, count in the indictment, or information charging 9569
that offense, it shall impose upon the offender a term of life 9570
imprisonment without parole. 9571

(B) (1) Notwithstanding section 2929.13, division (A) or 9572
(D) of section 2929.14, or another section of the Revised Code 9573
other than division (B) of section 2907.02 or divisions (B) and 9574
(C) of section 2929.14 of the Revised Code that authorizes or 9575
requires a specified prison term or a mandatory prison term for 9576
a person who is convicted of or pleads guilty to a felony or 9577

that specifies the manner and place of service of a prison term 9578
or term of imprisonment, if a person is convicted of or pleads 9579
guilty to a violation of division (A) (1) (b) of section 2907.02 9580
of the Revised Code committed on or after January 2, 2007, if 9581
division (A) of this section does not apply regarding the 9582
person, and if the court does not impose a sentence of life 9583
without parole when authorized pursuant to division (B) of 9584
section 2907.02 of the Revised Code, the court shall impose upon 9585
the person an indefinite prison term consisting of one of the 9586
following: 9587

(a) Except as otherwise required in division (B) (1) (b) or 9588
(c) of this section, a minimum term of ten years and a maximum 9589
term of life imprisonment. 9590

(b) If the victim was less than ten years of age, a 9591
minimum term of fifteen years and a maximum of life 9592
imprisonment. 9593

(c) If the offender purposely compels the victim to submit 9594
by force or threat of force, or if the offender previously has 9595
been convicted of or pleaded guilty to violating division (A) (1) 9596
(b) of section 2907.02 of the Revised Code or to violating an 9597
existing or former law of this state, another state, or the 9598
United States that is substantially similar to division (A) (1) 9599
(b) of that section, or if the offender during or immediately 9600
after the commission of the offense caused serious physical harm 9601
to the victim, a minimum term of twenty-five years and a maximum 9602
of life imprisonment. 9603

(2) Notwithstanding section 2929.13, division (A) or (D) 9604
of section 2929.14, or another section of the Revised Code other 9605
than divisions (B) and (C) of section 2929.14 of the Revised 9606
Code that authorizes or requires a specified prison term or a 9607

mandatory prison term for a person who is convicted of or pleads 9608
guilty to a felony or that specifies the manner and place of 9609
service of a prison term or term of imprisonment and except as 9610
otherwise provided in division (B) of section 2907.02 of the 9611
Revised Code, if a person is convicted of or pleads guilty to 9612
attempted rape committed on or after January 2, 2007, and if 9613
division (A) of this section does not apply regarding the 9614
person, the court shall impose upon the person an indefinite 9615
prison term consisting of one of the following: 9616

(a) If the person also is convicted of or pleads guilty to 9617
a specification of the type described in section 2941.1418 of 9618
the Revised Code, the court shall impose upon the person an 9619
indefinite prison term consisting of a minimum term of five 9620
years and a maximum term of twenty-five years. 9621

(b) If the person also is convicted of or pleads guilty to 9622
a specification of the type described in section 2941.1419 of 9623
the Revised Code, the court shall impose upon the person an 9624
indefinite prison term consisting of a minimum term of ten years 9625
and a maximum term of life imprisonment. 9626

(c) If the person also is convicted of or pleads guilty to 9627
a specification of the type described in section 2941.1420 of 9628
the Revised Code, the court shall impose upon the person an 9629
indefinite prison term consisting of a minimum term of fifteen 9630
years and a maximum term of life imprisonment. 9631

(3) Notwithstanding section 2929.13, division (A) or (D) 9632
of section 2929.14, or another section of the Revised Code other 9633
than divisions (B) and (C) of section 2929.14 of the Revised 9634
Code that authorizes or requires a specified prison term or a 9635
mandatory prison term for a person who is convicted of or pleads 9636
guilty to a felony or that specifies the manner and place of 9637

service of a prison term or term of imprisonment, if a person is 9638
convicted of or pleads guilty to an offense described in 9639
division (B) (3) (a), (b), (c), or (d) of this section committed 9640
on or after January 1, 2008, if the person also is convicted of 9641
or pleads guilty to a sexual motivation specification that was 9642
included in the indictment, count in the indictment, or 9643
information charging that offense, and if division (A) of this 9644
section does not apply regarding the person, the court shall 9645
impose upon the person an indefinite prison term consisting of 9646
one of the following: 9647

(a) An indefinite prison term consisting of a minimum of 9648
ten years and a maximum term of life imprisonment if the offense 9649
for which the sentence is being imposed is kidnapping, the 9650
victim of the offense is less than thirteen years of age, and 9651
the offender released the victim in a safe place unharmed; 9652

(b) An indefinite prison term consisting of a minimum of 9653
fifteen years and a maximum term of life imprisonment if the 9654
offense for which the sentence is being imposed is kidnapping 9655
when the victim of the offense is less than thirteen years of 9656
age and division (B) (3) (a) of this section does not apply; 9657

(c) An indefinite term consisting of a minimum of thirty 9658
years and a maximum term of life imprisonment if the offense for 9659
which the sentence is being imposed is aggravated murder, when 9660
the victim of the offense is less than thirteen years of age, a 9661
sentence of ~~death or life imprisonment without parole~~ is not 9662
imposed for the offense, and division ~~(A) (2) (b) (ii) of section~~ 9663
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 9664
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or~~ 9665
~~division (A) or (B) (C) of section 2929.06-2929.02~~ of the 9666
Revised Code requires that the sentence for the offense be 9667

imposed pursuant to this division; 9668

(d) An indefinite prison term consisting of a minimum of 9669
thirty years and a maximum term of life imprisonment if the 9670
offense for which the sentence is being imposed is murder when 9671
the victim of the offense is less than thirteen years of age. 9672

(C) (1) If the offender is sentenced to a prison term 9673
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 9674
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 9675
parole board shall have control over the offender's service of 9676
the term during the entire term unless the parole board 9677
terminates its control in accordance with section 2971.04 of the 9678
Revised Code. 9679

(2) Except as provided in division (C) (3) of this section, 9680
an offender sentenced to a prison term or term of life 9681
imprisonment without parole pursuant to division (A) of this 9682
section shall serve the entire prison term or term of life 9683
imprisonment in a state correctional institution. The offender 9684
is not eligible for judicial release under section 2929.20 of 9685
the Revised Code. 9686

(3) For a prison term imposed pursuant to division (A) (3), 9687
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 9688
(b), (c), or (d) of this section, the court, in accordance with 9689
section 2971.05 of the Revised Code, may terminate the prison 9690
term or modify the requirement that the offender serve the 9691
entire term in a state correctional institution if all of the 9692
following apply: 9693

(a) The offender has served at least the minimum term 9694
imposed as part of that prison term. 9695

(b) The parole board, pursuant to section 2971.04 of the 9696

Revised Code, has terminated its control over the offender's 9697
service of that prison term. 9698

(c) The court has held a hearing and found, by clear and 9699
convincing evidence, one of the following: 9700

(i) In the case of termination of the prison term, that 9701
the offender is unlikely to commit a sexually violent offense in 9702
the future; 9703

(ii) In the case of modification of the requirement, that 9704
the offender does not represent a substantial risk of physical 9705
harm to others. 9706

(4) An offender who has been sentenced to a term of life 9707
imprisonment without parole pursuant to division (A)(1), (2), or 9708
(4) of this section shall not be released from the term of life 9709
imprisonment or be permitted to serve a portion of it in a place 9710
other than a state correctional institution. 9711

(D) If a court sentences an offender to a prison term or 9712
term of life imprisonment without parole pursuant to division 9713
(A) of this section and the court also imposes on the offender 9714
one or more additional prison terms pursuant to division (B) of 9715
section 2929.14 of the Revised Code, all of the additional 9716
prison terms shall be served consecutively with, and prior to, 9717
the prison term or term of life imprisonment without parole 9718
imposed upon the offender pursuant to division (A) of this 9719
section. 9720

(E) If the offender is convicted of or pleads guilty to 9721
two or more offenses for which a prison term or term of life 9722
imprisonment without parole is required to be imposed pursuant 9723
to division (A) of this section, divisions (A) to (D) of this 9724
section shall be applied for each offense. All minimum terms 9725

imposed upon the offender pursuant to division (A) (3) or (B) of 9726
this section for those offenses shall be aggregated and served 9727
consecutively, as if they were a single minimum term imposed 9728
under that division. 9729

(F) (1) If an offender is convicted of or pleads guilty to 9730
a violent sex offense and also is convicted of or pleads guilty 9731
to a sexually violent predator specification that was included 9732
in the indictment, count in the indictment, or information 9733
charging that offense, or is convicted of or pleads guilty to a 9734
designated homicide, assault, or kidnapping offense and also is 9735
convicted of or pleads guilty to both a sexual motivation 9736
specification and a sexually violent predator specification that 9737
were included in the indictment, count in the indictment, or 9738
information charging that offense, the conviction of or plea of 9739
guilty to the offense and the sexually violent predator 9740
specification automatically classifies the offender as a tier 9741
III sex offender/child-victim offender for purposes of Chapter 9742
2950. of the Revised Code. 9743

(2) If an offender is convicted of or pleads guilty to 9744
committing on or after January 2, 2007, a violation of division 9745
(A) (1) (b) of section 2907.02 of the Revised Code and either the 9746
offender is sentenced under section 2971.03 of the Revised Code 9747
or a sentence of life without parole is imposed under division 9748
(B) of section 2907.02 of the Revised Code, the conviction of or 9749
plea of guilty to the offense automatically classifies the 9750
offender as a tier III sex offender/child-victim offender for 9751
purposes of Chapter 2950. of the Revised Code. 9752

(3) If a person is convicted of or pleads guilty to 9753
committing on or after January 2, 2007, attempted rape and also 9754
is convicted of or pleads guilty to a specification of the type 9755

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 9785
parole pursuant to division (B) of section 2907.02 of the 9786
Revised Code or division (B) of that section prohibits the court 9787
from sentencing the offender pursuant to section 2971.03 of the 9788
Revised Code. 9789

(4) The offender is convicted of or pleads guilty to 9790
attempted rape committed on or after January 2, 2007, and also 9791
is convicted of or pleads guilty to a specification of the type 9792
described in section 2941.1418, 2941.1419, or 2941.1420 of the 9793
Revised Code. 9794

(5) The offender is convicted of or pleads guilty to a 9795
violation of section 2905.01 of the Revised Code and also is 9796
convicted of or pleads guilty to a sexual motivation 9797
specification that was included in the indictment, count in the 9798
indictment, or information charging that offense, and that 9799
section requires a court to sentence the offender pursuant to 9800
section 2971.03 of the Revised Code. 9801

(6) The offender is convicted of or pleads guilty to 9802
aggravated murder and also is convicted of or pleads guilty to a 9803
sexual motivation specification that was included in the 9804
indictment, count in the indictment, or information charging 9805
that offense, and ~~division (A) (2) (b) (ii) of section 2929.022,~~ 9806
~~division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D)~~ 9807
~~(3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or~~ 9808
~~(B) (C) of section 2929.06-2929.02~~ of the Revised Code requires 9809
a court to sentence the offender pursuant to division (B) (3) of 9810
section 2971.03 of the Revised Code. 9811

(7) The offender is convicted of or pleads guilty to 9812
murder and also is convicted of or pleads guilty to a sexual 9813
motivation specification that was included in the indictment, 9814

count in the indictment, or information charging that offense, 9815
and division ~~(B)(2)~~(C) of section 2929.02 of the Revised Code 9816
requires a court to sentence the offender pursuant to section 9817
2971.03 of the Revised Code. 9818

(B) This chapter does not limit or affect a court in 9819
imposing upon an offender described in divisions (A)(1) to (9) 9820
of this section any financial sanction under section 2929.18 or 9821
any other section of the Revised Code, or, except as 9822
specifically provided in this chapter, any other sanction that 9823
is authorized or required for the offense or violation by any 9824
other provision of law. 9825

(C) If an offender is sentenced to a prison term under 9826
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 9827
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 9828
Code and if, pursuant to section 2971.05 of the Revised Code, 9829
the court modifies the requirement that the offender serve the 9830
entire prison term in a state correctional institution or places 9831
the offender on conditional release that involves the placement 9832
of the offender under the supervision of the adult parole 9833
authority, authorized field officers of the authority who are 9834
engaged within the scope of their supervisory duties or 9835
responsibilities may search, with or without a warrant, the 9836
person of the offender, the place of residence of the offender, 9837
and a motor vehicle, another item of tangible or intangible 9838
personal property, or any other real property in which the 9839
offender has the express or implied permission of a person with 9840
a right, title, or interest to use, occupy, or possess if the 9841
field officer has reasonable grounds to believe that the 9842
offender is not abiding by the law or otherwise is not complying 9843
with the terms and conditions of the offender's modification or 9844
release. The authority shall provide each offender with a 9845

written notice that informs the offender that authorized field 9846
officers of the authority who are engaged within the scope of 9847
their supervisory duties or responsibilities may conduct those 9848
types of searches during the period of the modification or 9849
release if they have reasonable grounds to believe that the 9850
offender is not abiding by the law or otherwise is not complying 9851
with the terms and conditions of the offender's modification or 9852
release. 9853

Sec. 5120.113. (A) For each inmate committed to the 9854
department of rehabilitation and correction, except as provided 9855
in division (B) of this section, the department shall prepare a 9856
written reentry plan for the inmate to help guide the inmate's 9857
rehabilitation program during imprisonment, to assist in the 9858
inmate's reentry into the community, and to assess the inmate's 9859
needs upon release. 9860

(B) Division (A) of this section does not apply to an 9861
inmate who has been sentenced to life imprisonment without 9862
~~parole or who has been sentenced to death.~~ Division (A) of this 9863
section does not apply to any inmate who is expected to be 9864
imprisoned for thirty days or less, but the department may 9865
prepare a written reentry plan of the type described in that 9866
division if the department determines that the plan is needed. 9867

(C) The department may collect, if available, any social 9868
and other information that will aid in the preparation of 9869
reentry plans under this section. 9870

(D) In the event the department does not prepare a written 9871
reentry plan as specified in division (A) of this section, or 9872
makes a decision to not prepare a written reentry plan under 9873
division (B) of this section or to not collect information under 9874
division (C) of this section, that fact does not give rise to a 9875

claim for damages against the state, the department, the 9876
director of the department, or any employee of the department. 9877

Sec. 5120.53. (A) If a treaty between the United States 9878
and a foreign country provides for the transfer or exchange, 9879
from one of the signatory countries to the other signatory 9880
country, of convicted offenders who are citizens or nationals of 9881
the other signatory country, the governor, subject to and in 9882
accordance with the terms of the treaty, may authorize the 9883
director of rehabilitation and correction to allow the transfer 9884
or exchange of convicted offenders and to take any action 9885
necessary to initiate participation in the treaty. If the 9886
governor grants the director the authority described in this 9887
division, the director may take the necessary action to initiate 9888
participation in the treaty and, subject to and in accordance 9889
with division (B) of this section and the terms of the treaty, 9890
may allow the transfer or exchange to a foreign country that has 9891
signed the treaty of any convicted offender who is a citizen or 9892
national of that signatory country. 9893

(B) (1) No convicted offender who is serving a term of 9894
imprisonment in this state for aggravated murder, murder, or a 9895
felony of the first or second degree, who is serving a mandatory 9896
prison term imposed under section 2925.03 or 2925.11 of the 9897
Revised Code in circumstances in which the court was required to 9898
impose as the mandatory prison term the maximum prison term 9899
authorized for the degree of offense committed, or who is 9900
serving a term of imprisonment in this state imposed for an 9901
offense committed prior to ~~the effective date of this amendment~~ 9902
July 1, 1996, that was an aggravated felony of the first or 9903
second degree or that was aggravated trafficking in violation of 9904
division (A) (9) or (10) of section 2925.03 of the Revised Code, ~~—~~ 9905
~~or who has been sentenced to death in this state~~ shall be 9906

transferred or exchanged to another country pursuant to a treaty 9907
of the type described in division (A) of this section. 9908

(2) If a convicted offender is serving a term of 9909
imprisonment in this state and the offender is a citizen or 9910
national of a foreign country that has signed a treaty of the 9911
type described in division (A) of this section, if the governor 9912
has granted the director of rehabilitation and correction the 9913
authority described in that division, and if the transfer or 9914
exchange of the offender is not barred by division (B) (1) of 9915
this section, the director or the director's designee may 9916
approve the offender for transfer or exchange pursuant to the 9917
treaty if the director or the designee, after consideration of 9918
the factors set forth in the rules adopted by the department 9919
under division (D) of this section and all other relevant 9920
factors, determines that the transfer or exchange of the 9921
offender is appropriate. 9922

(C) Notwithstanding any provision of the Revised Code 9923
regarding the parole eligibility of, or the duration or 9924
calculation of a sentence of imprisonment imposed upon, an 9925
offender, if a convicted offender is serving a term of 9926
imprisonment in this state and the offender is a citizen or 9927
national of a foreign country that has signed a treaty of the 9928
type described in division (A) of this section, if the offender 9929
is serving an indefinite term of imprisonment, if the offender 9930
is barred from being transferred or exchanged pursuant to the 9931
treaty due to the indefinite nature of the offender's term of 9932
imprisonment, and if in accordance with division (B) (2) of this 9933
section the director of rehabilitation and correction or the 9934
director's designee approves the offender for transfer or 9935
exchange pursuant to the treaty, the parole board, pursuant to 9936
rules adopted by the director, shall set a date certain for the 9937

release of the offender. To the extent possible, the date 9938
certain that is set shall be reasonably proportionate to the 9939
indefinite term of imprisonment that the offender is serving. 9940
The date certain that is set for the release of the offender 9941
shall be considered only for purposes of facilitating the 9942
international transfer or exchange of the offender, shall not be 9943
viable or actionable for any other purpose, and shall not create 9944
any expectation or guarantee of release. If an offender for whom 9945
a date certain for release is set under this division is not 9946
transferred to or exchanged with the foreign country pursuant to 9947
the treaty, the date certain is null and void, and the 9948
offender's release shall be determined pursuant to the laws and 9949
rules of this state pertaining to parole eligibility and the 9950
duration and calculation of an indefinite sentence of 9951
imprisonment. 9952

(D) If the governor, pursuant to division (A) of this 9953
section, authorizes the director of rehabilitation and 9954
correction to allow any transfer or exchange of convicted 9955
offenders as described in that division, the director shall 9956
adopt rules under Chapter 119. of the Revised Code to implement 9957
the provisions of this section. The rules shall include a rule 9958
that requires the director or the director's designee, in 9959
determining whether to approve a convicted offender who is 9960
serving a term of imprisonment in this state for transfer or 9961
exchange pursuant to a treaty of the type described in division 9962
(A) of this section, to consider all of the following factors: 9963

(1) The nature of the offense for which the offender is 9964
serving the term of imprisonment in this state; 9965

(2) The likelihood that, if the offender is transferred or 9966
exchanged to a foreign country pursuant to the treaty, the 9967

offender will serve a shorter period of time in imprisonment in 9968
the foreign country than the offender would serve if the 9969
offender is not transferred or exchanged to the foreign country 9970
pursuant to the treaty; 9971

(3) The likelihood that, if the offender is transferred or 9972
exchanged to a foreign country pursuant to the treaty, the 9973
offender will return or attempt to return to this state after 9974
the offender has been released from imprisonment in the foreign 9975
country; 9976

(4) The degree of any shock to the conscience of justice 9977
and society that will be experienced in this state if the 9978
offender is transferred or exchanged to a foreign country 9979
pursuant to the treaty; 9980

(5) All other factors that the department determines are 9981
relevant to the determination. 9982

Sec. 5120.61. (A) (1) Not later than ninety days after 9983
January 1, 1997, the department of rehabilitation and correction 9984
shall adopt standards that it will use under this section to 9985
assess the following criminal offenders and may periodically 9986
revise the standards: 9987

(a) A criminal offender who is convicted of or pleads 9988
guilty to a violent sex offense or designated homicide, assault, 9989
or kidnapping offense and is adjudicated a sexually violent 9990
predator in relation to that offense; 9991

(b) A criminal offender who is convicted of or pleads 9992
guilty to a violation of division (A) (1) (b) of section 2907.02 9993
of the Revised Code committed on or after January 2, 2007, and 9994
either who is sentenced under section 2971.03 of the Revised 9995
Code or upon whom a sentence of life without parole is imposed 9996

under division (B) of section 2907.02 of the Revised Code; 9997

(c) A criminal offender who is convicted of or pleads 9998
guilty to attempted rape committed on or after January 2, 2007, 9999
and a specification of the type described in section 2941.1418, 10000
2941.1419, or 2941.1420 of the Revised Code; 10001

(d) A criminal offender who is convicted of or pleads 10002
guilty to a violation of section 2905.01 of the Revised Code and 10003
also is convicted of or pleads guilty to a sexual motivation 10004
specification that was included in the indictment, count in the 10005
indictment, or information charging that offense, and who is 10006
sentenced pursuant to section 2971.03 of the Revised Code; 10007

(e) A criminal offender who is convicted of or pleads 10008
guilty to aggravated murder and also is convicted of or pleads 10009
guilty to a sexual motivation specification that was included in 10010
the indictment, count in the indictment, or information charging 10011
that offense, and who pursuant to division ~~(A) (2) (b) (ii) of~~ 10012
~~section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a)~~ 10013
~~(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03,~~ 10014
~~or division (A) or (B) (C) of section 2929.06-2929.02~~ of the 10015
Revised Code is sentenced pursuant to division (B) (3) of section 10016
2971.03 of the Revised Code; 10017

(f) A criminal offender who is convicted of or pleads 10018
guilty to murder and also is convicted of or pleads guilty to a 10019
sexual motivation specification that was included in the 10020
indictment, count in the indictment, or information charging 10021
that offense, and who pursuant to division ~~(B) (2) (C) (1)~~ of 10022
section 2929.02 of the Revised Code is sentenced pursuant to 10023
section 2971.03 of the Revised Code. 10024

(2) When the department is requested by the parole board 10025

or the court to provide a risk assessment report of the offender 10026
under section 2971.04 or 2971.05 of the Revised Code, it shall 10027
assess the offender and complete the assessment as soon as 10028
possible after the offender has commenced serving the prison 10029
term or term of life imprisonment without parole imposed under 10030
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 10031
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10032
Code. Thereafter, the department shall update a risk assessment 10033
report pertaining to an offender as follows: 10034

(a) Periodically, in the discretion of the department, 10035
provided that each report shall be updated no later than two 10036
years after its initial preparation or most recent update; 10037

(b) Upon the request of the parole board for use in 10038
determining pursuant to section 2971.04 of the Revised Code 10039
whether it should terminate its control over an offender's 10040
service of a prison term imposed upon the offender under 10041
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 10042
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10043
Code; 10044

(c) Upon the request of the court. 10045

(3) After the department of rehabilitation and correction 10046
assesses an offender pursuant to division (A) (2) of this 10047
section, it shall prepare a report that contains its risk 10048
assessment for the offender or, if a risk assessment report 10049
previously has been prepared, it shall update the risk 10050
assessment report. 10051

(4) The department of rehabilitation and correction shall 10052
provide each risk assessment report that it prepares or updates 10053
pursuant to this section regarding an offender to all of the 10054

following: 10055

(a) The parole board for its use in determining pursuant 10056
to section 2971.04 of the Revised Code whether it should 10057
terminate its control over an offender's service of a prison 10058
term imposed upon the offender under division (A) (3), (B) (1) (a), 10059
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 10060
(d) of section 2971.03 of the Revised Code, if the parole board 10061
has not terminated its control over the offender; 10062

(b) The court for use in determining, pursuant to section 10063
2971.05 of the Revised Code, whether to modify the requirement 10064
that the offender serve the entire prison term imposed upon the 10065
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 10066
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 10067
2971.03 of the Revised Code in a state correctional institution, 10068
whether to revise any modification previously made, or whether 10069
to terminate the prison term; 10070

(c) The prosecuting attorney who prosecuted the case, or 10071
the successor in office to that prosecuting attorney; 10072

(d) The offender. 10073

(B) When the department of rehabilitation and correction 10074
provides a risk assessment report regarding an offender to the 10075
parole board or court pursuant to division (A) (4) (a) or (b) of 10076
this section, the department, prior to the parole board's or 10077
court's hearing, also shall provide to the offender or to the 10078
offender's attorney of record a copy of the report and a copy of 10079
any other relevant documents the department possesses regarding 10080
the offender that the department does not consider to be 10081
confidential. 10082

(C) As used in this section: 10083

(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.

(2) "Designated homicide, assault, or kidnapping offense" and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code.

Sec. 5139.04. The department of youth services shall do all of the following:

(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.

(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;

(C) Obtain personnel necessary for the performance of its duties;

(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 administration of other sections of this chapter;

(E) Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year;

(F) Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods;

(G) Develop a standard form for the disposition investigation report that a juvenile court is required pursuant to section 2152.18 of the Revised Code to complete and provide to the department when the court commits a child to the legal custody of the department;

(H) Provide the state public defender the reasonable access authorized under division ~~(F)~~ (H) of section 120.06 of the Revised Code in order to fulfill the department's constitutional obligation to provide juveniles who have been committed to the department's care access to the courts.

(I) Do all other acts necessary or desirable to carry out this chapter.

Sec. 5149.101. (A) (1) A board hearing officer, a board member, or the office of victims' services may petition the board for a full board hearing that relates to the proposed parole or re-parole of a prisoner. At a meeting of the board at which a majority of board members are present, the majority of those present shall determine whether a full board hearing shall be held.

(2) A victim of a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a

sentence of life imprisonment, the victim's representative, or 10142
any person described in division (B)(5) of this section may 10143
request the board to hold a full board hearing that relates to 10144
the proposed parole or re-parole of the person that committed 10145
the violation. If a victim, victim's representative, or other 10146
person requests a full board hearing pursuant to this division, 10147
the board shall hold a full board hearing. 10148

At least thirty days before the full hearing, except as 10149
otherwise provided in this division, the board shall give notice 10150
of the date, time, and place of the hearing to the victim 10151
regardless of whether the victim has requested the notification. 10152
The notice of the date, time, and place of the hearing shall not 10153
be given under this division to a victim if the victim has 10154
requested pursuant to division (B)(2) of section 2930.03 of the 10155
Revised Code that the notice not be provided to the victim. At 10156
least thirty days before the full board hearing and regardless 10157
of whether the victim has requested that the notice be provided 10158
or not be provided under this division to the victim, the board 10159
shall give similar notice to the prosecuting attorney in the 10160
case, the law enforcement agency that arrested the prisoner if 10161
any officer of that agency was a victim of the offense, and, if 10162
different than the victim, the person who requested the full 10163
hearing. If the prosecuting attorney has not previously been 10164
sent an institutional summary report with respect to the 10165
prisoner, upon the request of the prosecuting attorney, the 10166
board shall include with the notice sent to the prosecuting 10167
attorney an institutional summary report that covers the 10168
offender's participation while confined in a state correctional 10169
institution in training, work, and other rehabilitative 10170
activities and any disciplinary action taken against the 10171
offender while so confined. Upon the request of a law 10172

enforcement agency that has not previously been sent an 10173
institutional summary report with respect to the prisoner, the 10174
board also shall send a copy of the institutional summary report 10175
to the law enforcement agency. If notice is to be provided as 10176
described in this division, the board may give the notice by any 10177
reasonable means, including regular mail, telephone, and 10178
electronic mail, in accordance with division (D)(1) of section 10179
2930.16 of the Revised Code. If the notice is based on an 10180
offense committed prior to ~~the effective date of this amendment~~ 10181
March 22, 2013, the notice also shall include the opt-out 10182
information described in division (D)(1) of section 2930.16 of 10183
the Revised Code. The board, in accordance with division (D)(2) 10184
of section 2930.16 of the Revised Code, shall keep a record of 10185
all attempts to provide the notice, and of all notices provided, 10186
under this division. 10187

The preceding paragraph, and the notice-related provisions 10188
of divisions (E)(2) and (K) of section 2929.20, division (D)(1) 10189
of section 2930.16, division ~~(H)~~ (G) of section 2967.12, 10190
division (E)(1)(b) of section 2967.19, division (A)(3)(b) of 10191
section 2967.26, and division (D)(1) of section 2967.28 of the 10192
Revised Code enacted in the act in which this paragraph was 10193
enacted, shall be known as "Roberta's Law." 10194

(B) At a full board hearing that relates to the proposed 10195
parole or re-parole of a prisoner and that has been petitioned 10196
for or requested in accordance with division (A) of this 10197
section, the parole board shall permit the following persons to 10198
appear and to give testimony or to submit written statements: 10199

(1) The prosecuting attorney of the county in which the 10200
original indictment against the prisoner was found and members 10201
of any law enforcement agency that assisted in the prosecution 10202

of the original offense; 10203

(2) The judge of the court of common pleas who imposed the 10204
original sentence of incarceration upon the prisoner, or the 10205
judge's successor; 10206

(3) The victim of the original offense for which the 10207
prisoner is serving the sentence or the victim's representative 10208
designated pursuant to section 2930.02 of the Revised Code; 10209

(4) The victim of any behavior that resulted in parole 10210
being revoked; 10211

(5) With respect to a full board hearing held pursuant to 10212
division (A) (2) of this section, all of the following: 10213

(a) The spouse of the victim of the original offense; 10214

(b) The parent or parents of the victim of the original 10215
offense; 10216

(c) The sibling of the victim of the original offense; 10217

(d) The child or children of the victim of the original 10218
offense. 10219

(6) Counsel or some other person designated by the 10220
prisoner as a representative, as described in division (C) of 10221
this section. 10222

(C) Except as otherwise provided in this division, a full 10223
board hearing of the parole board is not subject to section 10224
121.22 of the Revised Code. The persons who may attend a full 10225
board hearing are the persons described in divisions (B) (1) to 10226
(6) of this section, and representatives of the press, radio and 10227
television stations, and broadcasting networks who are members 10228
of a generally recognized professional media organization. 10229

At the request of a person described in division (B) (3) of 10230
this section, representatives of the news media described in 10231
this division shall be excluded from the hearing while that 10232
person is giving testimony at the hearing. The prisoner being 10233
considered for parole has no right to be present at the hearing, 10234
but may be represented by counsel or some other person 10235
designated by the prisoner. 10236

If there is an objection at a full board hearing to a 10237
recommendation for the parole of a prisoner, the board may 10238
approve or disapprove the recommendation or defer its decision 10239
until a subsequent full board hearing. The board may permit 10240
interested persons other than those listed in this division and 10241
division (B) of this section to attend full board hearings 10242
pursuant to rules adopted by the adult parole authority. 10243

(D) If the victim of the original offense died as a result 10244
of the offense and the offense was aggravated murder, murder, an 10245
offense of violence that is a felony of the first, second, or 10246
third degree, or an offense punished by a sentence of life 10247
imprisonment, the family of the victim may show at a full board 10248
hearing a video recording not exceeding five minutes in length 10249
memorializing the victim. 10250

(E) The adult parole authority shall adopt rules for the 10251
implementation of this section. The rules shall specify 10252
reasonable restrictions on the number of media representatives 10253
that may attend a hearing, based on considerations of space, and 10254
other procedures designed to accomplish an effective, orderly 10255
process for full board hearings. 10256

Sec. 5919.16. (A) Commissioned and warrant officers in the 10257
Ohio national guard shall be discharged by the adjutant general 10258
upon either of the following: 10259

(1) The officer's resignation;	10260
(2) Approval of a board's recommendation for withdrawal of federal recognition by the chief of the national guard bureau.	10261 10262
(B) An officer also may be discharged under any of the following circumstances:	10263 10264
(1) Pursuant to other federal regulations;	10265
(2) If absent without leave for three months, upon recommendation of an efficiency board;	10266 10267
(3) Pursuant to sentence by court-martial;	10268
(4) If the officer has been convicted of a crime classified as a felony as described in division <u>(C) or (D)</u> or (E) of section 2901.02 of the Revised Code.	10269 10270 10271
Section 2. That existing sections 9.07, 120.03, 120.06, 120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 149.43, 1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 2929.61, 2930.03, 2930.06, 2930.16, 2930.19, 2937.222, 2941.021, 2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 2967.05, 2967.12, 2967.13, 2967.19, 2967.193, 2967.26, 2967.28, 2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 5139.04, 5149.101, and 5919.16 and sections 109.97, 120.35, 2725.19, 2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 2949.221, 2949.222, 2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 2949.31, and 2967.08 of the Revised Code are hereby repealed.	10272 10273 10274 10275 10276 10277 10278 10279 10280 10281 10282 10283 10284 10285 10286 10287

Section 3. (A) An offender whose sentence of death has 10288
been set aside, nullified, or vacated pursuant to section 10289
2929.06 of the Revised Code as it existed immediately before the 10290
effective date of this act but who has not been resentenced 10291
under that section as of the effective date of this act shall be 10292
resentenced in accordance with that section as it existed 10293
immediately before the effective date of this act. 10294

(B) An offender who was sentenced to death before the 10295
effective date of this act shall have the same right to 10296
postconviction DNA testing as the offender had under sections 10297
2953.71 to 2953.81 of the Revised Code as they existed 10298
immediately before the effective date of this act or as they may 10299
hereafter be amended. 10300

(C) All reports and payments relating to capital cases 10301
that were required to be made under any provision of Chapter 10302
120. or section 109.97 of the Revised Code as those provisions 10303
existed immediately before the effective date of this act shall 10304
be made for the current calendar or fiscal year, as applicable, 10305
in accordance with those provisions as they existed immediately 10306
before the effective date of this act. 10307

Section 4. The General Assembly, applying the principle 10308
stated in division (B) of section 1.52 of the Revised Code that 10309
amendments are to be harmonized if reasonably capable of 10310
simultaneous operation, finds that the following sections, 10311
presented in this act as composites of the sections as amended 10312
by the acts indicated, are the resulting versions of the 10313
sections in effect prior to the effective date of the sections 10314
as presented in this act: 10315

Section 2929.14 of the Revised Code as amended by both 10316
Sub. H.B. 470 and Sub. S.B. 319 of the 131st General Assembly. 10317

Section 2929.20 of the Revised Code as amended by both Am.	10318
Sub. H.B. 64 and Am. Sub. S.B. 97 of the 131st General Assembly.	10319
Section 2953.07 of the Revised Code as amended by both Am.	10320
Sub. S.B. 2 and Am. Sub. S.B. 4 of the 121st General Assembly.	10321
Section 2953.08 of the Revised Code as amended by Sub.	10322
H.B. 247, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the	10323
129th General Assembly.	10324
Section 2967.03 of the Revised Code as amended by Am. Sub.	10325
H.B. 487, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the	10326
129th General Assembly.	10327
Section 5. This act is hereby declared to be an emergency	10328
measure necessary for the immediate preservation of the public	10329
peace, health, and safety. The reason for such necessity is to	10330
preserve life by preventing the execution of death sentences	10331
imposed before the effective date of this act but not yet	10332
carried out. Therefore, this act shall go into immediate effect.	10333