

As Introduced

133rd General Assembly

Regular Session

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S. B. No. 296

Senators Antonio, Lehner

Cosponsors: Senators Craig, Fedor, Roegner, Sykes, Thomas, Williams

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, 149.436, 1901.183, 2152.13, 3
2152.67, 2301.20, 2307.60, 2317.02, 2701.07, 4
2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 5
2929.14, 2929.20, 2929.61, 2930.03, 2930.06, 6
2930.16, 2930.19, 2937.222, 2941.021, 2941.14, 7
2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 8
2945.10, 2945.13, 2945.21, 2945.25, 2945.33, 9
2945.38, 2949.02, 2949.03, 2953.02, 2953.07, 10
2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 11
2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 12
2967.05, 2967.12, 2967.13, 2967.19, 2967.193, 13
2967.26, 2967.28, 2971.03, 2971.07, 5120.113, 14
5120.53, 5120.61, 5139.04, 5149.101, and 5919.16 15
and to repeal sections 109.97, 120.35, 2725.19, 16
2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 17
2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 18
2949.21, 2949.22, 2949.221, 2949.222, 2949.24, 19
2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 20
2949.31, and 2967.08 of the Revised Code to 21
abolish the death penalty. 22

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

Section 1. That sections 9.07, 120.03, 120.06, 120.14, 23
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 149.43, 24
149.436, 1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 25
2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 26
2929.20, 2929.61, 2930.03, 2930.06, 2930.16, 2930.19, 2937.222, 27
2941.021, 2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 28
2945.06, 2945.10, 2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 29
2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 30
2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 31
2967.05, 2967.12, 2967.13, 2967.19, 2967.193, 2967.26, 2967.28, 32
2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 5139.04, 5149.101, 33
and 5919.16 of the Revised Code be amended to read as follows: 34

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

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

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

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

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

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

entity for purposes of this section. 49

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) A requirement that the correctional facility be 226

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

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

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

classification under this division;	258
(11) A requirement that the private contractor will not	259
accept for housing, and will not house, in the correctional	260
facility any out-of-state prisoner in relation to whom any of	261
the following applies:	262
(a) The private entity has not obtained from the out-of-	263
state jurisdiction that imposed the sentence or sanction under	264
which the prisoner will be confined in this state a copy of the	265
institutional record of the prisoner while previously confined	266
in that out-of-state jurisdiction or a statement that the	267
prisoner previously has not been confined in that out-of-state	268
jurisdiction and a copy of all medical records pertaining to	269
that prisoner that are in the possession of the out-of-state	270
jurisdiction.	271
(b) The prisoner, while confined in any out-of-state	272
jurisdiction, has a record of institutional violence involving	273
the use of a deadly weapon or a pattern of committing acts of an	274
assaultive nature against employees of, or visitors to, the	275
place of confinement or has a record of escape or attempted	276
escape from secure custody.	277
(c) Under the securityclassification system and schedule	278
adopted by the department of rehabilitation and correction under	279
section 5145.03 of the Revised Code and adopted by the private	280
contractor under division (B)(10) of this section, the out-of-	281
state prisoner would be classified as being at a security level	282
higher than medium security.	283
(12) A requirement that the private contractor, prior to	284
housing any out-of-state prisoner in the correctional facility	285
under the contract, enter into a written agreement with the	286

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Minimum caseload standards; 588

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

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

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

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

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

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

(1) The commission shall do the following: 616

(a) Approve an annual operating budget; 617

(b) Make an annual report to the governor, the general assembly, and the supreme court of Ohio on the operation of the state public defender's office, the county appointed counsel systems, and the county and joint county public defenders' offices. 618
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(2) The commission may do the following: 623

(a) Accept the services of volunteer workers and consultants at no compensation other than reimbursement of actual and necessary expenses; 624
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(b) Prepare and publish statistical and case studies and other data pertinent to the legal representation of indigent persons; 627
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629

(c) Conduct programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons. 630
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632

(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. 633
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(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. 640
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(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, ~~and~~ 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 include a financial 1415
disclosure form completed by the indigent person on a form 1416
prescribed by the state public defender. Compensation and 1417
expenses shall not exceed the amounts fixed by the board of 1418
county commissioners in the schedule adopted pursuant to 1419
division (A) (3) of this section. No court shall approve 1420
compensation and expenses that exceed the amount fixed pursuant 1421
to division (A) (3) of this section. 1422

The fees and expenses approved by the court shall not be 1423
taxed as part of the costs and shall be paid by the county. 1424

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

The county auditor shall draw a warrant on the county 1437
treasurer for the payment of counsel in the amount fixed by the 1438
court, plus the expenses the court fixes and certifies to the 1439
auditor. The county auditor shall report periodically, but not 1440
less than annually, to the board of county commissioners and to 1441
the state public defender the amounts paid out pursuant to the 1442
approval of the court. The board of county commissioners, after 1443
review and approval of the auditor's report, or the county 1444
auditor, with permission from and notice to the board of county 1445
commissioners, may then certify it to the state public defender 1446
for reimbursement. The state public defender may pay a requested 1447
reimbursement only if the request for reimbursement includes a 1448
financial disclosure form completed by the indigent person on a 1449
form prescribed by the state public defender or if the court 1450
certifies by electronic signature as prescribed by the state 1451
public defender that a financial disclosure form has been 1452
completed by the indigent person and is available for 1453
inspection. If a request for the reimbursement of the cost of 1454
counsel in any case is not received by the state public defender 1455

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

(5) If any county appointed counsel system fails to 1476
maintain the standards for the conduct of the system established 1477
by the rules of the Ohio public defender commission pursuant to 1478
divisions (B) and (C) of section 120.03 or the standards 1479
established by the state public defender pursuant to division 1480
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1481
defender commission shall notify the board of county 1482
commissioners of the county that the county appointed counsel 1483
system has failed to comply with its rules or the standards of 1484
the state public defender. Unless the board of county 1485
commissioners corrects the conduct of its appointed counsel 1486

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

(B) In lieu of using a county public defender or joint 1491
county public defender to represent indigent persons in the 1492
proceedings set forth in division (A) of section 120.16 of the 1493
Revised Code, and in lieu of adopting the resolution and 1494
following the procedure described in division (A) of this 1495
section, the board of county commissioners of any county may 1496
contract with the state public defender for the state public 1497
defender's legal representation of indigent persons. A contract 1498
entered into pursuant to this division may provide for payment 1499
for the services provided on a per case, hourly, or fixed 1500
contract basis. 1501

~~(C) If a court appoints an attorney pursuant to this 1502
section to represent a petitioner in a postconviction relief 1503
proceeding under section 2953.21 of the Revised Code, the 1504
petitioner has received a sentence of death, and the proceeding 1505
relates to that sentence, the attorney who represents the 1506
petitioner in the proceeding pursuant to the appointment shall 1507
be certified under Rule 20 of the Rules of Superintendence for 1508
the Courts of Ohio to represent indigent defendants charged with 1509
or convicted of an offense for which the death penalty can be or 1510
has been imposed. 1511~~

~~(D) (1) There is hereby created the capital case attorney 1512
fee council, appointed as described in division (D) (2) of this 1513
section. The council shall set an amount by case, or a rate on 1514
an hourly basis, to be paid under this section to counsel in a 1515
capital case. 1516~~

~~(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 September 28, 2016. 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 September 28, 2016. 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.~~

~~(3) The capital case attorney fee council initially shall meet not later than one hundred twenty days after September 28, 2016. Thereafter, the council shall meet not less than annually.~~

~~(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 the date on which the chairperson provides that written notice to the state public defender. The council shall specify that effective date in the written notice provided to the state public defender. All amounts or rates set by the council shall~~

~~be final, subject to modification as described in division (D)
(5) of this section, and not subject to appeal.~~ 1548
1549

~~(5) The capital case attorney fee council may modify an
amount or rate set as described in division (D) (4) of this
section. The provisions of that division apply with respect to
any such modification of an amount or rate.~~ 1550
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1553

Sec. 120.34. The total amount of money paid to all 1554
counties in any fiscal year pursuant to sections 120.18, 120.28, 1555
and 120.33 of the Revised Code for the reimbursement of a 1556
percentage of the counties' cost of operating county public 1557
defender offices, joint county public defender offices, and 1558
county appointed counsel systems shall not exceed the total 1559
amount appropriated for that fiscal year by the general assembly 1560
for the reimbursement of the counties for the operation of the 1561
offices and systems. If the amount appropriated by the general 1562
assembly in any fiscal year is insufficient to pay fifty per 1563
cent of the total cost in the fiscal year of all county public 1564
defender offices, all joint county public defender offices, and 1565
all county appointed counsel systems, the amount of money paid 1566
in that fiscal year pursuant to sections 120.18, 120.28, and 1567
120.33 of the Revised Code to each county for the fiscal year 1568
shall be reduced proportionately so that each county is paid an 1569
equal percentage of its total cost in the fiscal year for 1570
operating its county public defender system, its joint county 1571
public defender system, and its county appointed counsel system. 1572

~~The total amount of money paid to all counties in any
fiscal year pursuant to section 120.35 of the Revised Code for
the reimbursement of a percentage of the counties' costs and
expenses of conducting the defense in capital cases shall not
exceed the total amount appropriated for that fiscal year by the~~ 1573
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~~general assembly for the reimbursement of the counties for~~ 1578
~~conducting the defense in capital cases. If the amount~~ 1579
~~appropriated by the general assembly in any fiscal year is~~ 1580
~~insufficient to pay fifty per cent of the counties' total costs~~ 1581
~~and expenses of conducting the defense in capital cases in the~~ 1582
~~fiscal year, the amount of money paid in that fiscal year~~ 1583
~~pursuant to section 120.35 of the Revised Code to each county~~ 1584
~~for the fiscal year shall be reduced proportionately so that~~ 1585
~~each county is paid an equal percentage of its costs and~~ 1586
~~expenses of conducting the defense in capital cases in the~~ 1587
~~fiscal year.~~ All payments relating to capital cases that were 1588
required to be made under the provisions of this chapter or 1589
section 2941.51 of the Revised Code as those provisions existed 1590
immediately before the effective date of this amendment shall be 1591
made for each calendar or fiscal year, as applicable, in 1592
accordance with those provisions as they existed immediately 1593
before the effective date of this amendment until each case in 1594
which a defendant was sentenced to death before the effective 1595
date of this amendment is finally resolved. 1596

If any county receives an amount of money pursuant to 1597
section 120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code 1598
that is in excess of the amount of reimbursement it is entitled 1599
to receive pursuant to this section, the state public defender 1600
shall request the board of county commissioners to return the 1601
excess payment and the board of county commissioners, upon 1602
receipt of the request, shall direct the appropriate county 1603
officer to return the excess payment to the state. 1604

Within thirty days of the end of each fiscal quarter, the 1605
state public defender shall provide to the office of budget and 1606
management and the ~~legislative budget office of the legislative~~ 1607
service commission an estimate of the amount of money that will 1608

be required for the balance of the fiscal year to make the 1609
payments required by sections 120.18, 120.28, and 120.33, ~~and~~ 1610
~~120.35~~ of the Revised Code. 1611

Sec. 149.43. (A) As used in this section: 1612

(1) "Public record" means records kept by any public 1613
office, including, but not limited to, state, county, city, 1614
village, township, and school district units, and records 1615
pertaining to the delivery of educational services by an 1616
alternative school in this state kept by the nonprofit or for- 1617
profit entity operating the alternative school pursuant to 1618
section 3313.533 of the Revised Code. "Public record" does not 1619
mean any of the following: 1620

(a) Medical records; 1621

(b) Records pertaining to probation and parole 1622
proceedings, to proceedings related to the imposition of 1623
community control sanctions and post-release control sanctions, 1624
or to proceedings related to determinations under section 1625
2967.271 of the Revised Code regarding the release or maintained 1626
incarceration of an offender to whom that section applies; 1627

(c) Records pertaining to actions under section 2151.85 1628
and division (C) of section 2919.121 of the Revised Code and to 1629
appeals of actions arising under those sections; 1630

(d) Records pertaining to adoption proceedings, including 1631
the contents of an adoption file maintained by the department of 1632
health under sections 3705.12 to 3705.124 of the Revised Code; 1633

(e) Information in a record contained in the putative 1634
father registry established by section 3107.062 of the Revised 1635
Code, regardless of whether the information is held by the 1636
department of job and family services or, pursuant to section 1637

3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	1638 1639
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	1640 1641
(g) Trial preparation records;	1642
(h) Confidential law enforcement investigatory records;	1643
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	1644 1645
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	1646 1647
(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;	1648 1649 1650 1651
(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;	1652 1653 1654 1655
(m) Intellectual property records;	1656
(n) Donor profile records;	1657
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	1658 1659
(p) Designated public service worker residential and familial information;	1660 1661
(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,	1662 1663 1664

information that constitutes a trade secret, as defined in 1665
section 1333.61 of the Revised Code; 1666

(r) Information pertaining to the recreational activities 1667
of a person under the age of eighteen; 1668

(s) In the case of a child fatality review board acting 1669
under sections 307.621 to 307.629 of the Revised Code or a 1670
review conducted pursuant to guidelines established by the 1671
director of health under section 3701.70 of the Revised Code, 1672
records provided to the board or director, statements made by 1673
board members during meetings of the board or by persons 1674
participating in the director's review, and all work products of 1675
the board or director, and in the case of a child fatality 1676
review board, child fatality review data submitted by the board 1677
to the department of health or a national child death review 1678
database, other than the report prepared pursuant to division 1679
(A) of section 307.626 of the Revised Code; 1680

(t) Records provided to and statements made by the 1681
executive director of a public children services agency or a 1682
prosecuting attorney acting pursuant to section 5153.171 of the 1683
Revised Code other than the information released under that 1684
section; 1685

(u) Test materials, examinations, or evaluation tools used 1686
in an examination for licensure as a nursing home administrator 1687
that the board of executives of long-term services and supports 1688
administers under section 4751.04 of the Revised Code or 1689
contracts under that section with a private or government entity 1690
to administer; 1691

(v) Records the release of which is prohibited by state or 1692
federal law; 1693

(w) Proprietary information of or relating to any person	1694
that is submitted to or compiled by the Ohio venture capital	1695
authority created under section 150.01 of the Revised Code;	1696
(x) Financial statements and data any person submits for	1697
any purpose to the Ohio housing finance agency or the	1698
controlling board in connection with applying for, receiving, or	1699
accounting for financial assistance from the agency, and	1700
information that identifies any individual who benefits directly	1701
or indirectly from financial assistance from the agency;	1702
(y) Records listed in section 5101.29 of the Revised Code;	1703
(z) Discharges recorded with a county recorder under	1704
section 317.24 of the Revised Code, as specified in division (B)	1705
(2) of that section;	1706
(aa) Usage information including names and addresses of	1707
specific residential and commercial customers of a municipally	1708
owned or operated public utility;	1709
(bb) Records described in division (C) of section 187.04	1710
of the Revised Code that are not designated to be made available	1711
to the public as provided in that division;	1712
(cc) Information and records that are made confidential,	1713
privileged, and not subject to disclosure under divisions (B)	1714
and (C) of section 2949.221 of the Revised Code;	1715
(dd) Personal information, as defined in section 149.45 of	1716
the Revised Code;	1717
(ee) <u>(dd)</u> The confidential name, address, and other	1718
personally identifiable information of a program participant in	1719
the address confidentiality program established under sections	1720
111.41 to 111.47 of the Revised Code, including the contents of	1721

any application for absent voter's ballots, absent voter's 1722
ballot identification envelope statement of voter, or 1723
provisional ballot affirmation completed by a program 1724
participant who has a confidential voter registration record, 1725
and records or portions of records pertaining to that program 1726
that identify the number of program participants that reside 1727
within a precinct, ward, township, municipal corporation, 1728
county, or any other geographic area smaller than the state. As 1729
used in this division, "confidential address" and "program 1730
participant" have the meaning defined in section 111.41 of the 1731
Revised Code. 1732

~~(ff)~~ (ee) Orders for active military service of an 1733
individual serving or with previous service in the armed forces 1734
of the United States, including a reserve component, or the Ohio 1735
organized militia, except that, such order becomes a public 1736
record on the day that is fifteen years after the published date 1737
or effective date of the call to order; 1738

~~(gg)~~ (ff) The name, address, contact information, or other 1739
personal information of an individual who is less than eighteen 1740
years of age that is included in any record related to a traffic 1741
accident involving a school vehicle in which the individual was 1742
an occupant at the time of the accident; 1743

~~(hh)~~ (gg) Protected health information, as defined in 45 1744
C.F.R. 160.103, that is in a claim for payment for a health care 1745
product, service, or procedure, as well as any other health 1746
claims data in another document that reveals the identity of an 1747
individual who is the subject of the data or could be used to 1748
reveal that individual's identity; 1749

~~(ii)~~ (hh) Any depiction by photograph, film, videotape, or 1750
printed or digital image under either of the following 1751

circumstances: 1752

(i) The depiction is that of a victim of an offense the 1753
release of which would be, to a reasonable person of ordinary 1754
sensibilities, an offensive and objectionable intrusion into the 1755
victim's expectation of bodily privacy and integrity. 1756

(ii) The depiction captures or depicts the victim of a 1757
sexually oriented offense, as defined in section 2950.01 of the 1758
Revised Code, at the actual occurrence of that offense. 1759

~~(jj)~~ (ii) Restricted portions of a body-worn camera or 1760
dashboard camera recording. 1761

A record that is not a public record under division (A) (1) 1762
of this section and that, under law, is permanently retained 1763
becomes a public record on the day that is seventy-five years 1764
after the day on which the record was created, except for any 1765
record protected by the attorney-client privilege, a trial 1766
preparation record as defined in this section, a statement 1767
prohibiting the release of identifying information signed under 1768
section 3107.083 of the Revised Code, a denial of release form 1769
filed pursuant to section 3107.46 of the Revised Code, or any 1770
record that is exempt from release or disclosure under section 1771
149.433 of the Revised Code. If the record is a birth 1772
certificate and a biological parent's name redaction request 1773
form has been accepted under section 3107.391 of the Revised 1774
Code, the name of that parent shall be redacted from the birth 1775
certificate before it is released under this paragraph. If any 1776
other section of the Revised Code establishes a time period for 1777
disclosure of a record that conflicts with the time period 1778
specified in this section, the time period in the other section 1779
prevails. 1780

(2) "Confidential law enforcement investigatory record" 1781
means any record that pertains to a law enforcement matter of a 1782
criminal, quasi-criminal, civil, or administrative nature, but 1783
only to the extent that the release of the record would create a 1784
high probability of disclosure of any of the following: 1785

(a) The identity of a suspect who has not been charged 1786
with the offense to which the record pertains, or of an 1787
information source or witness to whom confidentiality has been 1788
reasonably promised; 1789

(b) Information provided by an information source or 1790
witness to whom confidentiality has been reasonably promised, 1791
which information would reasonably tend to disclose the source's 1792
or witness's identity; 1793

(c) Specific confidential investigatory techniques or 1794
procedures or specific investigatory work product; 1795

(d) Information that would endanger the life or physical 1796
safety of law enforcement personnel, a crime victim, a witness, 1797
or a confidential information source. 1798

(3) "Medical record" means any document or combination of 1799
documents, except births, deaths, and the fact of admission to 1800
or discharge from a hospital, that pertains to the medical 1801
history, diagnosis, prognosis, or medical condition of a patient 1802
and that is generated and maintained in the process of medical 1803
treatment. 1804

(4) "Trial preparation record" means any record that 1805
contains information that is specifically compiled in reasonable 1806
anticipation of, or in defense of, a civil or criminal action or 1807
proceeding, including the independent thought processes and 1808
personal trial preparation of an attorney. 1809

(5) "Intellectual property record" means a record, other 1810
than a financial or administrative record, that is produced or 1811
collected by or for faculty or staff of a state institution of 1812
higher learning in the conduct of or as a result of study or 1813
research on an educational, commercial, scientific, artistic, 1814
technical, or scholarly issue, regardless of whether the study 1815
or research was sponsored by the institution alone or in 1816
conjunction with a governmental body or private concern, and 1817
that has not been publicly released, published, or patented. 1818

(6) "Donor profile record" means all records about donors 1819
or potential donors to a public institution of higher education 1820
except the names and reported addresses of the actual donors and 1821
the date, amount, and conditions of the actual donation. 1822

(7) "Designated public service worker" means a peace 1823
officer, parole officer, probation officer, bailiff, prosecuting 1824
attorney, assistant prosecuting attorney, correctional employee, 1825
county or multicounty corrections officer, community-based 1826
correctional facility employee, youth services employee, 1827
firefighter, EMT, medical director or member of a cooperating 1828
physician advisory board of an emergency medical service 1829
organization, state board of pharmacy employee, investigator of 1830
the bureau of criminal identification and investigation, judge, 1831
magistrate, or federal law enforcement officer. 1832

(8) "Designated public service worker residential and 1833
familial information" means any information that discloses any 1834
of the following about a designated public service worker: 1835

(a) The address of the actual personal residence of a 1836
designated public service worker, except for the following 1837
information: 1838

(i) The address of the actual personal residence of a prosecuting attorney or judge; and	1839 1840
(ii) The state or political subdivision in which a designated public service worker resides.	1841 1842
(b) Information compiled from referral to or participation in an employee assistance program;	1843 1844
(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a designated public service worker;	1845 1846 1847 1848 1849
(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker's employer;	1850 1851 1852 1853
(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker's compensation, unless the amount of the deduction is required by state or federal law;	1854 1855 1856 1857 1858
(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a designated public service worker;	1859 1860 1861 1862 1863 1864
(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace	1865 1866 1867

officer's appointing authority. 1868

(9) As used in divisions (A) (7) and (15) to (17) of this 1869
section: 1870

"Peace officer" has the meaning defined in section 109.71 1871
of the Revised Code and also includes the superintendent and 1872
troopers of the state highway patrol; it does not include the 1873
sheriff of a county or a supervisory employee who, in the 1874
absence of the sheriff, is authorized to stand in for, exercise 1875
the authority of, and perform the duties of the sheriff. 1876

"Correctional employee" means any employee of the 1877
department of rehabilitation and correction who in the course of 1878
performing the employee's job duties has or has had contact with 1879
inmates and persons under supervision. 1880

"County or multicounty corrections officer" means any 1881
corrections officer employed by any county or multicounty 1882
correctional facility. 1883

"Youth services employee" means any employee of the 1884
department of youth services who in the course of performing the 1885
employee's job duties has or has had contact with children 1886
committed to the custody of the department of youth services. 1887

"Firefighter" means any regular, paid or volunteer, member 1888
of a lawfully constituted fire department of a municipal 1889
corporation, township, fire district, or village. 1890

"EMT" means EMTs-basic, EMTs-I, and paramedics that 1891
provide emergency medical services for a public emergency 1892
medical service organization. "Emergency medical service 1893
organization," "EMT-basic," "EMT-I," and "paramedic" have the 1894
meanings defined in section 4765.01 of the Revised Code. 1895

"Investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code. 1896
1897
1898

"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code. 1899
1900

(10) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following: 1901
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1903
1904
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1906

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person; 1907
1908
1909
1910

(b) The social security number, birth date, or photographic image of a person under the age of eighteen; 1911
1912

(c) Any medical record, history, or information pertaining to a person under the age of eighteen; 1913
1914

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office. 1915
1916
1917
1918
1919
1920

(11) "Community control sanction" has the meaning defined in section 2929.01 of the Revised Code. 1921
1922

(12) "Post-release control sanction" has the meaning 1923

defined in section 2967.01 of the Revised Code. 1924

(13) "Redaction" means obscuring or deleting any 1925
information that is exempt from the duty to permit public 1926
inspection or copying from an item that otherwise meets the 1927
definition of a "record" in section 149.011 of the Revised Code. 1928

(14) "Designee," "elected official," and "future official" 1929
have the meanings defined in section 109.43 of the Revised Code. 1930

(15) "Body-worn camera" means a visual and audio recording 1931
device worn on the person of a peace officer while the peace 1932
officer is engaged in the performance of the peace officer's 1933
duties. 1934

(16) "Dashboard camera" means a visual and audio recording 1935
device mounted on a peace officer's vehicle or vessel that is 1936
used while the peace officer is engaged in the performance of 1937
the peace officer's duties. 1938

(17) "Restricted portions of a body-worn camera or 1939
dashboard camera recording" means any visual or audio portion of 1940
a body-worn camera or dashboard camera recording that shows, 1941
communicates, or discloses any of the following: 1942

(a) The image or identity of a child or information that 1943
could lead to the identification of a child who is a primary 1944
subject of the recording when the law enforcement agency knows 1945
or has reason to know the person is a child based on the law 1946
enforcement agency's records or the content of the recording; 1947

(b) The death of a person or a deceased person's body, 1948
unless the death was caused by a peace officer or, subject to 1949
division (H)(1) of this section, the consent of the decedent's 1950
executor or administrator has been obtained; 1951

(c) The death of a peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless, subject to division (H) (1) of this section, the consent of the decedent's executor or administrator has been obtained;	1952 1953 1954 1955 1956
(d) Grievous bodily harm, unless the injury was effected by a peace officer or, subject to division (H) (1) of this section, the consent of the injured person or the injured person's guardian has been obtained;	1957 1958 1959 1960
(e) An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a peace officer or, subject to division (H) (1) of this section, the consent of the injured person or the injured person's guardian has been obtained;	1961 1962 1963 1964 1965
(f) Grievous bodily harm to a peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H) (1) of this section, the consent of the injured person or the injured person's guardian has been obtained;	1966 1967 1968 1969 1970 1971
(g) An act of severe violence resulting in serious physical harm against a peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H) (1) of this section, the consent of the injured person or the injured person's guardian has been obtained;	1972 1973 1974 1975 1976 1977
(h) A person's nude body, unless, subject to division (H) (1) of this section, the person's consent has been obtained;	1978 1979
(i) Protected health information, the identity of a person	1980

in a health care facility who is not the subject of a law	1981
enforcement encounter, or any other information in a health care	1982
facility that could identify a person who is not the subject of	1983
a law enforcement encounter;	1984
(j) Information that could identify the alleged victim of	1985
a sex offense, menacing by stalking, or domestic violence;	1986
(k) Information, that does not constitute a confidential	1987
law enforcement investigatory record, that could identify a	1988
person who provides sensitive or confidential information to a	1989
law enforcement agency when the disclosure of the person's	1990
identity or the information provided could reasonably be	1991
expected to threaten or endanger the safety or property of the	1992
person or another person;	1993
(l) Personal information of a person who is not arrested,	1994
cited, charged, or issued a written warning by a peace officer;	1995
(m) Proprietary police contingency plans or tactics that	1996
are intended to prevent crime and maintain public order and	1997
safety;	1998
(n) A personal conversation unrelated to work between	1999
peace officers or between a peace officer and an employee of a	2000
law enforcement agency;	2001
(o) A conversation between a peace officer and a member of	2002
the public that does not concern law enforcement activities;	2003
(p) The interior of a residence, unless the interior of a	2004
residence is the location of an adversarial encounter with, or a	2005
use of force by, a peace officer;	2006
(q) Any portion of the interior of a private business that	2007
is not open to the public, unless an adversarial encounter with,	2008

or a use of force by, a peace officer occurs in that location. 2009

As used in division (A) (17) of this section: 2010

"Grievous bodily harm" has the same meaning as in section 2011
5924.120 of the Revised Code. 2012

"Health care facility" has the same meaning as in section 2013
1337.11 of the Revised Code. 2014

"Protected health information" has the same meaning as in 2015
45 C.F.R. 160.103. 2016

"Law enforcement agency" has the same meaning as in 2017
section 2925.61 of the Revised Code. 2018

"Personal information" means any government-issued 2019
identification number, date of birth, address, financial 2020
information, or criminal justice information from the law 2021
enforcement automated data system or similar databases. 2022

"Sex offense" has the same meaning as in section 2907.10 2023
of the Revised Code. 2024

"Firefighter," "paramedic," and "first responder" have the 2025
same meanings as in section 4765.01 of the Revised Code. 2026

(B) (1) Upon request and subject to division (B) (8) of this 2027
section, all public records responsive to the request shall be 2028
promptly prepared and made available for inspection to any 2029
person at all reasonable times during regular business hours. 2030
Subject to division (B) (8) of this section, upon request by any 2031
person, a public office or person responsible for public records 2032
shall make copies of the requested public record available to 2033
the requester at cost and within a reasonable period of time. If 2034
a public record contains information that is exempt from the 2035
duty to permit public inspection or to copy the public record, 2036

the public office or the person responsible for the public 2037
record shall make available all of the information within the 2038
public record that is not exempt. When making that public record 2039
available for public inspection or copying that public record, 2040
the public office or the person responsible for the public 2041
record shall notify the requester of any redaction or make the 2042
redaction plainly visible. A redaction shall be deemed a denial 2043
of a request to inspect or copy the redacted information, except 2044
if federal or state law authorizes or requires a public office 2045
to make the redaction. 2046

(2) To facilitate broader access to public records, a 2047
public office or the person responsible for public records shall 2048
organize and maintain public records in a manner that they can 2049
be made available for inspection or copying in accordance with 2050
division (B) of this section. A public office also shall have 2051
available a copy of its current records retention schedule at a 2052
location readily available to the public. If a requester makes 2053
an ambiguous or overly broad request or has difficulty in making 2054
a request for copies or inspection of public records under this 2055
section such that the public office or the person responsible 2056
for the requested public record cannot reasonably identify what 2057
public records are being requested, the public office or the 2058
person responsible for the requested public record may deny the 2059
request but shall provide the requester with an opportunity to 2060
revise the request by informing the requester of the manner in 2061
which records are maintained by the public office and accessed 2062
in the ordinary course of the public office's or person's 2063
duties. 2064

(3) If a request is ultimately denied, in part or in 2065
whole, the public office or the person responsible for the 2066
requested public record shall provide the requester with an 2067

explanation, including legal authority, setting forth why the 2068
request was denied. If the initial request was provided in 2069
writing, the explanation also shall be provided to the requester 2070
in writing. The explanation shall not preclude the public office 2071
or the person responsible for the requested public record from 2072
relying upon additional reasons or legal authority in defending 2073
an action commenced under division (C) of this section. 2074

(4) Unless specifically required or authorized by state or 2075
federal law or in accordance with division (B) of this section, 2076
no public office or person responsible for public records may 2077
limit or condition the availability of public records by 2078
requiring disclosure of the requester's identity or the intended 2079
use of the requested public record. Any requirement that the 2080
requester disclose the requester's identity or the intended use 2081
of the requested public record constitutes a denial of the 2082
request. 2083

(5) A public office or person responsible for public 2084
records may ask a requester to make the request in writing, may 2085
ask for the requester's identity, and may inquire about the 2086
intended use of the information requested, but may do so only 2087
after disclosing to the requester that a written request is not 2088
mandatory, that the requester may decline to reveal the 2089
requester's identity or the intended use, and when a written 2090
request or disclosure of the identity or intended use would 2091
benefit the requester by enhancing the ability of the public 2092
office or person responsible for public records to identify, 2093
locate, or deliver the public records sought by the requester. 2094

(6) If any person requests a copy of a public record in 2095
accordance with division (B) of this section, the public office 2096
or person responsible for the public record may require that 2097

person to pay in advance the cost involved in providing the copy 2098
of the public record in accordance with the choice made by the 2099
person requesting the copy under this division. The public 2100
office or the person responsible for the public record shall 2101
permit that person to choose to have the public record 2102
duplicated upon paper, upon the same medium upon which the 2103
public office or person responsible for the public record keeps 2104
it, or upon any other medium upon which the public office or 2105
person responsible for the public record determines that it 2106
reasonably can be duplicated as an integral part of the normal 2107
operations of the public office or person responsible for the 2108
public record. When the person requesting the copy makes a 2109
choice under this division, the public office or person 2110
responsible for the public record shall provide a copy of it in 2111
accordance with the choice made by that person. Nothing in this 2112
section requires a public office or person responsible for the 2113
public record to allow the person requesting a copy of the 2114
public record to make the copies of the public record. 2115

(7) (a) Upon a request made in accordance with division (B) 2116
of this section and subject to division (B) (6) of this section, 2117
a public office or person responsible for public records shall 2118
transmit a copy of a public record to any person by United 2119
States mail or by any other means of delivery or transmission 2120
within a reasonable period of time after receiving the request 2121
for the copy. The public office or person responsible for the 2122
public record may require the person making the request to pay 2123
in advance the cost of postage if the copy is transmitted by 2124
United States mail or the cost of delivery if the copy is 2125
transmitted other than by United States mail, and to pay in 2126
advance the costs incurred for other supplies used in the 2127
mailing, delivery, or transmission. 2128

(b) Any public office may adopt a policy and procedures 2129
that it will follow in transmitting, within a reasonable period 2130
of time after receiving a request, copies of public records by 2131
United States mail or by any other means of delivery or 2132
transmission pursuant to division (B) (7) of this section. A 2133
public office that adopts a policy and procedures under division 2134
(B) (7) of this section shall comply with them in performing its 2135
duties under that division. 2136

(c) In any policy and procedures adopted under division 2137
(B) (7) of this section: 2138

(i) A public office may limit the number of records 2139
requested by a person that the office will physically deliver by 2140
United States mail or by another delivery service to ten per 2141
month, unless the person certifies to the office in writing that 2142
the person does not intend to use or forward the requested 2143
records, or the information contained in them, for commercial 2144
purposes; 2145

(ii) A public office that chooses to provide some or all 2146
of its public records on a web site that is fully accessible to 2147
and searchable by members of the public at all times, other than 2148
during acts of God outside the public office's control or 2149
maintenance, and that charges no fee to search, access, 2150
download, or otherwise receive records provided on the web site, 2151
may limit to ten per month the number of records requested by a 2152
person that the office will deliver in a digital format, unless 2153
the requested records are not provided on the web site and 2154
unless the person certifies to the office in writing that the 2155
person does not intend to use or forward the requested records, 2156
or the information contained in them, for commercial purposes. 2157

(iii) For purposes of division (B) (7) of this section, 2158

"commercial" shall be narrowly construed and does not include 2159
reporting or gathering news, reporting or gathering information 2160
to assist citizen oversight or understanding of the operation or 2161
activities of government, or nonprofit educational research. 2162

(8) A public office or person responsible for public 2163
records is not required to permit a person who is incarcerated 2164
pursuant to a criminal conviction or a juvenile adjudication to 2165
inspect or to obtain a copy of any public record concerning a 2166
criminal investigation or prosecution or concerning what would 2167
be a criminal investigation or prosecution if the subject of the 2168
investigation or prosecution were an adult, unless the request 2169
to inspect or to obtain a copy of the record is for the purpose 2170
of acquiring information that is subject to release as a public 2171
record under this section and the judge who imposed the sentence 2172
or made the adjudication with respect to the person, or the 2173
judge's successor in office, finds that the information sought 2174
in the public record is necessary to support what appears to be 2175
a justiciable claim of the person. 2176

(9) (a) Upon written request made and signed by a 2177
journalist, a public office, or person responsible for public 2178
records, having custody of the records of the agency employing a 2179
specified designated public service worker shall disclose to the 2180
journalist the address of the actual personal residence of the 2181
designated public service worker and, if the designated public 2182
service worker's spouse, former spouse, or child is employed by 2183
a public office, the name and address of the employer of the 2184
designated public service worker's spouse, former spouse, or 2185
child. The request shall include the journalist's name and title 2186
and the name and address of the journalist's employer and shall 2187
state that disclosure of the information sought would be in the 2188
public interest. 2189

(b) Division (B) (9) (a) of this section also applies to 2190
journalist requests for: 2191

(i) Customer information maintained by a municipally owned 2192
or operated public utility, other than social security numbers 2193
and any private financial information such as credit reports, 2194
payment methods, credit card numbers, and bank account 2195
information; 2196

(ii) Information about minors involved in a school vehicle 2197
accident as provided in division (A) (1) ~~(gg)~~ (ff) of this 2198
section, other than personal information as defined in section 2199
149.45 of the Revised Code. 2200

(c) As used in division (B) (9) of this section, 2201
"journalist" means a person engaged in, connected with, or 2202
employed by any news medium, including a newspaper, magazine, 2203
press association, news agency, or wire service, a radio or 2204
television station, or a similar medium, for the purpose of 2205
gathering, processing, transmitting, compiling, editing, or 2206
disseminating information for the general public. 2207

(10) Upon a request made by a victim, victim's attorney, 2208
or victim's representative, as that term is used in section 2209
2930.02 of the Revised Code, a public office or person 2210
responsible for public records shall transmit a copy of a 2211
depiction of the victim as described in division (A) (1) ~~(gg)~~ (ff) 2212
of this section to the victim, victim's attorney, or victim's 2213
representative. 2214

(C) (1) If a person allegedly is aggrieved by the failure 2215
of a public office or the person responsible for public records 2216
to promptly prepare a public record and to make it available to 2217
the person for inspection in accordance with division (B) of 2218

this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may do only one of the following, and not both:

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

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

(2) If a requester transmits a written request by hand delivery, electronic submission, or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requester shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that

the public office or the person responsible for public records 2249
failed to comply with an obligation in accordance with division 2250
(B) of this section. 2251

The amount of statutory damages shall be fixed at one 2252
hundred dollars for each business day during which the public 2253
office or person responsible for the requested public records 2254
failed to comply with an obligation in accordance with division 2255
(B) of this section, beginning with the day on which the 2256
requester files a mandamus action to recover statutory damages, 2257
up to a maximum of one thousand dollars. The award of statutory 2258
damages shall not be construed as a penalty, but as compensation 2259
for injury arising from lost use of the requested information. 2260
The existence of this injury shall be conclusively presumed. The 2261
award of statutory damages shall be in addition to all other 2262
remedies authorized by this section. 2263

The court may reduce an award of statutory damages or not 2264
award statutory damages if the court determines both of the 2265
following: 2266

(a) That, based on the ordinary application of statutory 2267
law and case law as it existed at the time of the conduct or 2268
threatened conduct of the public office or person responsible 2269
for the requested public records that allegedly constitutes a 2270
failure to comply with an obligation in accordance with division 2271
(B) of this section and that was the basis of the mandamus 2272
action, a well-informed public office or person responsible for 2273
the requested public records reasonably would believe that the 2274
conduct or threatened conduct of the public office or person 2275
responsible for the requested public records did not constitute 2276
a failure to comply with an obligation in accordance with 2277
division (B) of this section; 2278

(b) That a well-informed public office or person 2279
responsible for the requested public records reasonably would 2280
believe that the conduct or threatened conduct of the public 2281
office or person responsible for the requested public records 2282
would serve the public policy that underlies the authority that 2283
is asserted as permitting that conduct or threatened conduct. 2284

(3) In a mandamus action filed under division (C) (1) of 2285
this section, the following apply: 2286

(a) (i) If the court orders the public office or the person 2287
responsible for the public record to comply with division (B) of 2288
this section, the court shall determine and award to the relator 2289
all court costs, which shall be construed as remedial and not 2290
punitive. 2291

(ii) If the court makes a determination described in 2292
division (C) (3) (b) (iii) of this section, the court shall 2293
determine and award to the relator all court costs, which shall 2294
be construed as remedial and not punitive. 2295

(b) If the court renders a judgment that orders the public 2296
office or the person responsible for the public record to comply 2297
with division (B) of this section or if the court determines any 2298
of the following, the court may award reasonable attorney's fees 2299
to the relator, subject to division (C) (4) of this section: 2300

(i) The public office or the person responsible for the 2301
public records failed to respond affirmatively or negatively to 2302
the public records request in accordance with the time allowed 2303
under division (B) of this section. 2304

(ii) The public office or the person responsible for the 2305
public records promised to permit the relator to inspect or 2306
receive copies of the public records requested within a 2307

specified period of time but failed to fulfill that promise 2308
within that specified period of time. 2309

(iii) The public office or the person responsible for the 2310
public records acted in bad faith when the office or person 2311
voluntarily made the public records available to the relator for 2312
the first time after the relator commenced the mandamus action, 2313
but before the court issued any order concluding whether or not 2314
the public office or person was required to comply with division 2315
(B) of this section. No discovery may be conducted on the issue 2316
of the alleged bad faith of the public office or person 2317
responsible for the public records. This division shall not be 2318
construed as creating a presumption that the public office or 2319
the person responsible for the public records acted in bad faith 2320
when the office or person voluntarily made the public records 2321
available to the relator for the first time after the relator 2322
commenced the mandamus action, but before the court issued any 2323
order described in this division. 2324

(c) The court shall not award attorney's fees to the 2325
relator if the court determines both of the following: 2326

(i) That, based on the ordinary application of statutory 2327
law and case law as it existed at the time of the conduct or 2328
threatened conduct of the public office or person responsible 2329
for the requested public records that allegedly constitutes a 2330
failure to comply with an obligation in accordance with division 2331
(B) of this section and that was the basis of the mandamus 2332
action, a well-informed public office or person responsible for 2333
the requested public records reasonably would believe that the 2334
conduct or threatened conduct of the public office or person 2335
responsible for the requested public records did not constitute 2336
a failure to comply with an obligation in accordance with 2337

division (B) of this section; 2338

(ii) That a well-informed public office or person 2339
responsible for the requested public records reasonably would 2340
believe that the conduct or threatened conduct of the public 2341
office or person responsible for the requested public records 2342
would serve the public policy that underlies the authority that 2343
is asserted as permitting that conduct or threatened conduct. 2344

(4) All of the following apply to any award of reasonable 2345
attorney's fees awarded under division (C) (3) (b) of this 2346
section: 2347

(a) The fees shall be construed as remedial and not 2348
punitive. 2349

(b) The fees awarded shall not exceed the total of the 2350
reasonable attorney's fees incurred before the public record was 2351
made available to the relator and the fees described in division 2352
(C) (4) (c) of this section. 2353

(c) Reasonable attorney's fees shall include reasonable 2354
fees incurred to produce proof of the reasonableness and amount 2355
of the fees and to otherwise litigate entitlement to the fees. 2356

(d) The court may reduce the amount of fees awarded if the 2357
court determines that, given the factual circumstances involved 2358
with the specific public records request, an alternative means 2359
should have been pursued to more effectively and efficiently 2360
resolve the dispute that was subject to the mandamus action 2361
filed under division (C) (1) of this section. 2362

(5) If the court does not issue a writ of mandamus under 2363
division (C) of this section and the court determines at that 2364
time that the bringing of the mandamus action was frivolous 2365
conduct as defined in division (A) of section 2323.51 of the 2366

Revised Code, the court may award to the public office all court 2367
costs, expenses, and reasonable attorney's fees, as determined 2368
by the court. 2369

(D) Chapter 1347. of the Revised Code does not limit the 2370
provisions of this section. 2371

(E) (1) To ensure that all employees of public offices are 2372
appropriately educated about a public office's obligations under 2373
division (B) of this section, all elected officials or their 2374
appropriate designees shall attend training approved by the 2375
attorney general as provided in section 109.43 of the Revised 2376
Code. A future official may satisfy the requirements of this 2377
division by attending the training before taking office, 2378
provided that the future official may not send a designee in the 2379
future official's place. 2380

(2) All public offices shall adopt a public records policy 2381
in compliance with this section for responding to public records 2382
requests. In adopting a public records policy under this 2383
division, a public office may obtain guidance from the model 2384
public records policy developed and provided to the public 2385
office by the attorney general under section 109.43 of the 2386
Revised Code. Except as otherwise provided in this section, the 2387
policy may not limit the number of public records that the 2388
public office will make available to a single person, may not 2389
limit the number of public records that it will make available 2390
during a fixed period of time, and may not establish a fixed 2391
period of time before it will respond to a request for 2392
inspection or copying of public records, unless that period is 2393
less than eight hours. 2394

The public office shall distribute the public records 2395
policy adopted by the public office under this division to the 2396

employee of the public office who is the records custodian or 2397
records manager or otherwise has custody of the records of that 2398
office. The public office shall require that employee to 2399
acknowledge receipt of the copy of the public records policy. 2400
The public office shall create a poster that describes its 2401
public records policy and shall post the poster in a conspicuous 2402
place in the public office and in all locations where the public 2403
office has branch offices. The public office may post its public 2404
records policy on the internet web site of the public office if 2405
the public office maintains an internet web site. A public 2406
office that has established a manual or handbook of its general 2407
policies and procedures for all employees of the public office 2408
shall include the public records policy of the public office in 2409
the manual or handbook. 2410

(F) (1) The bureau of motor vehicles may adopt rules 2411
pursuant to Chapter 119. of the Revised Code to reasonably limit 2412
the number of bulk commercial special extraction requests made 2413
by a person for the same records or for updated records during a 2414
calendar year. The rules may include provisions for charges to 2415
be made for bulk commercial special extraction requests for the 2416
actual cost of the bureau, plus special extraction costs, plus 2417
ten per cent. The bureau may charge for expenses for redacting 2418
information, the release of which is prohibited by law. 2419

(2) As used in division (F) (1) of this section: 2420

(a) "Actual cost" means the cost of depleted supplies, 2421
records storage media costs, actual mailing and alternative 2422
delivery costs, or other transmitting costs, and any direct 2423
equipment operating and maintenance costs, including actual 2424
costs paid to private contractors for copying services. 2425

(b) "Bulk commercial special extraction request" means a 2426

request for copies of a record for information in a format other 2427
than the format already available, or information that cannot be 2428
extracted without examination of all items in a records series, 2429
class of records, or database by a person who intends to use or 2430
forward the copies for surveys, marketing, solicitation, or 2431
resale for commercial purposes. "Bulk commercial special 2432
extraction request" does not include a request by a person who 2433
gives assurance to the bureau that the person making the request 2434
does not intend to use or forward the requested copies for 2435
surveys, marketing, solicitation, or resale for commercial 2436
purposes. 2437

(c) "Commercial" means profit-seeking production, buying, 2438
or selling of any good, service, or other product. 2439

(d) "Special extraction costs" means the cost of the time 2440
spent by the lowest paid employee competent to perform the task, 2441
the actual amount paid to outside private contractors employed 2442
by the bureau, or the actual cost incurred to create computer 2443
programs to make the special extraction. "Special extraction 2444
costs" include any charges paid to a public agency for computer 2445
or records services. 2446

(3) For purposes of divisions (F) (1) and (2) of this 2447
section, "surveys, marketing, solicitation, or resale for 2448
commercial purposes" shall be narrowly construed and does not 2449
include reporting or gathering news, reporting or gathering 2450
information to assist citizen oversight or understanding of the 2451
operation or activities of government, or nonprofit educational 2452
research. 2453

(G) A request by a defendant, counsel of a defendant, or 2454
any agent of a defendant in a criminal action that public 2455
records related to that action be made available under this 2456

section shall be considered a demand for discovery pursuant to 2457
the Criminal Rules, except to the extent that the Criminal Rules 2458
plainly indicate a contrary intent. The defendant, counsel of 2459
the defendant, or agent of the defendant making a request under 2460
this division shall serve a copy of the request on the 2461
prosecuting attorney, director of law, or other chief legal 2462
officer responsible for prosecuting the action. 2463

(H) (1) Any portion of a body-worn camera or dashboard 2464
camera recording described in divisions (A) (17) (b) to (h) of 2465
this section may be released by consent of the subject of the 2466
recording or a representative of that person, as specified in 2467
those divisions, only if either of the following applies: 2468

(a) The recording will not be used in connection with any 2469
probable or pending criminal proceedings; 2470

(b) The recording has been used in connection with a 2471
criminal proceeding that was dismissed or for which a judgment 2472
has been entered pursuant to Rule 32 of the Rules of Criminal 2473
Procedure, and will not be used again in connection with any 2474
probable or pending criminal proceedings. 2475

(2) If a public office denies a request to release a 2476
restricted portion of a body-worn camera or dashboard camera 2477
recording, as defined in division (A) (17) of this section, any 2478
person may file a mandamus action pursuant to this section or a 2479
complaint with the clerk of the court of claims pursuant to 2480
section 2743.75 of the Revised Code, requesting the court to 2481
order the release of all or portions of the recording. If the 2482
court considering the request determines that the filing 2483
articulates by clear and convincing evidence that the public 2484
interest in the recording substantially outweighs privacy 2485
interests and other interests asserted to deny release, the 2486

court shall order the public office to release the recording. 2487

Sec. 149.436. Notwithstanding division (A) (1) ~~(gg)~~ (ff) of 2488
section 149.43 of the Revised Code, upon written request made 2489
and signed by the parent or guardian of an individual who is 2490
less than eighteen years of age and was an occupant of a school 2491
vehicle involved in a traffic accident, a public office or 2492
person responsible for public records, having custody of any 2493
record related to the traffic accident containing the personal 2494
information of the individual, shall transmit a copy of that 2495
record to the recipient identified in the request. 2496

The written request shall identify the individual on whose 2497
behalf the record is requested and the person to whom the record 2498
shall be transmitted. The record shall be transmitted only to 2499
the person identified in the written request as the recipient of 2500
the record. 2501

A public office or person responsible for records 2502
responding to a request under this section shall redact any 2503
personal information contained in the record of any individual 2504
less than eighteen years of age who is not the subject of the 2505
request, before providing the record to the recipient. 2506

Sec. 1901.183. In addition to jurisdiction otherwise 2507
granted in this chapter, the environmental division of a 2508
municipal court shall have jurisdiction within its territory in 2509
all of the following actions or proceedings and to perform all 2510
of the following functions: 2511

(A) Notwithstanding any monetary limitations in section 2512
1901.17 of the Revised Code, in all actions and proceedings for 2513
the sale of real or personal property under lien of a judgment 2514
of the environmental division of the municipal court, or a lien 2515

for machinery, material, fuel furnished, or labor performed, 2516
irrespective of amount, and, in those cases, the environmental 2517
division may proceed to foreclose and marshal all liens and all 2518
vested or contingent rights, to appoint a receiver, and to 2519
render personal judgment irrespective of amount in favor of any 2520
party; 2521

(B) When in aid of execution of a judgment of the 2522
environmental division of the municipal court, in all actions 2523
for the foreclosure of a mortgage on real property given to 2524
secure the payment of money, or the enforcement of a specific 2525
lien for money or other encumbrance or charge on real property, 2526
when the real property is situated within the territory, and, in 2527
those cases, the environmental division may proceed to foreclose 2528
all liens and all vested and contingent rights and proceed to 2529
render judgments, and make findings and orders, between the 2530
parties, in the same manner and to the same extent as in similar 2531
cases in the court of common pleas; 2532

(C) When in aid of execution of a judgment of the 2533
environmental division of the municipal court, in all actions 2534
for the recovery of real property situated within the territory 2535
to the same extent as courts of common pleas have jurisdiction; 2536

(D) In all actions for injunction to prevent or terminate 2537
violations of the ordinances and regulations of any municipal 2538
corporation within its territory enacted or promulgated under 2539
the police power of that municipal corporation pursuant to 2540
Section 3 of Article XVIII, Ohio Constitution, over which the 2541
court of common pleas has or may have jurisdiction, and, in 2542
those cases, the environmental division of the municipal court 2543
may proceed to render judgments, and make findings and orders, 2544
in the same manner and to the same extent as in similar cases in 2545

the court of common pleas; 2546

(E) In all actions for injunction to prevent or terminate 2547
violations of the resolutions and regulations of any political 2548
subdivision within its territory enacted or promulgated under 2549
the power of that political subdivision pursuant to Article X of 2550
the Ohio Constitution, over which the court of common pleas has 2551
or may have jurisdiction, and, in those cases, the environmental 2552
division of the municipal court may proceed to render judgments, 2553
and make findings and orders, in the same manner and to the same 2554
extent as in similar cases in the court of common pleas; 2555

(F) In any civil action to enforce any provision of 2556
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 2557
Revised Code over which the court of common pleas has or may 2558
have jurisdiction, and, in those actions, the environmental 2559
division of the municipal court may proceed to render judgments, 2560
and make findings and orders, in the same manner and to the same 2561
extent as in similar actions in the court of common pleas; 2562

(G) In all actions and proceedings in the nature of 2563
creditors' bills, and in aid of execution to subject the 2564
interests of a judgment debtor in real or personal property to 2565
the payment of a judgment of the division, and, in those actions 2566
and proceedings, the environmental division may proceed to 2567
marshal and foreclose all liens on the property irrespective of 2568
the amount of the lien, and all vested or contingent rights in 2569
the property; 2570

(H) Concurrent jurisdiction with the court of common pleas 2571
of all criminal actions or proceedings related to the pollution 2572
of the air, ground, or water within the territory of the 2573
environmental division of the municipal court, ~~for which a~~ 2574
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 2575

Revised Code;	2576
(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;	2577 2578 2579 2580 2581 2582 2583
(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.	2584 2585 2586 2587
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.	2588 2589 2590 2591 2592 2593 2594
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:	2595 2596 2597 2598 2599 2600 2601 2602
(1) Obtaining an indictment of the child as a serious youthful offender;	2603 2604

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

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

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

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

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

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

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

probable cause that the child committed the act charged and is 2634
by age eligible for, or required to receive, a serious youthful 2635
offender dispositional sentence. 2636

(C) (1) A child for whom a serious youthful offender 2637
dispositional sentence is sought by a prosecuting attorney has 2638
the right to a grand jury determination of probable cause that 2639
the child committed the act charged and that the child is 2640
eligible by age for a serious youthful offender dispositional 2641
sentence. The grand jury may be impaneled by the court of common 2642
pleas or the juvenile court. 2643

Once a child is indicted, or charged by information or the 2644
juvenile court determines that the child is eligible for a 2645
serious youthful offender dispositional sentence, the child is 2646
entitled to an open and speedy trial by jury in juvenile court 2647
and to be provided with a transcript of the proceedings. The 2648
time within which the trial is to be held under Title XXIX of 2649
the Revised Code commences on whichever of the following dates 2650
is applicable: 2651

(a) If the child is indicted or charged by information, on 2652
the date of the filing of the indictment or information. 2653

(b) If the child is charged by an original complaint that 2654
requests a serious youthful offender dispositional sentence, on 2655
the date of the filing of the complaint. 2656

(c) If the child is not charged by an original complaint 2657
that requests a serious youthful offender dispositional 2658
sentence, on the date that the prosecuting attorney files the 2659
written notice of intent to seek a serious youthful offender 2660
dispositional sentence. 2661

(2) If the child is detained awaiting adjudication, upon 2662

indictment or being charged by information, the child has the 2663
same right to bail as an adult charged with the offense the 2664
alleged delinquent act would be if committed by an adult. Except 2665
as provided in division (D) of section 2152.14 of the Revised 2666
Code, all provisions of Title XXIX of the Revised Code and the 2667
Criminal Rules shall apply in the case and to the child. The 2668
juvenile court shall afford the child all rights afforded a 2669
person who is prosecuted for committing a crime including the 2670
right to counsel and the right to raise the issue of competency. 2671
The child may not waive the right to counsel. 2672

(D) (1) If a child is adjudicated a delinquent child for 2673
committing an act under circumstances that require the juvenile 2674
court to impose upon the child a serious youthful offender 2675
dispositional sentence under section 2152.11 of the Revised 2676
Code, all of the following apply: 2677

(a) The juvenile court shall impose upon the child a 2678
sentence available for the violation, as if the child were an 2679
adult, under Chapter 2929. of the Revised Code, except that the 2680
juvenile court shall not impose on the child a sentence of ~~death-~~ 2681
~~or~~-life imprisonment without parole. 2682

(b) The juvenile court also shall impose upon the child 2683
one or more traditional juvenile dispositions under sections 2684
2152.16, 2152.19, and 2152.20, and, if applicable, section 2685
2152.17 of the Revised Code. 2686

(c) The juvenile court shall stay the adult portion of the 2687
serious youthful offender dispositional sentence pending the 2688
successful completion of the traditional juvenile dispositions 2689
imposed. 2690

(2) (a) If a child is adjudicated a delinquent child for 2691

committing an act under circumstances that allow, but do not 2692
require, the juvenile court to impose on the child a serious 2693
youthful offender dispositional sentence under section 2152.11 2694
of the Revised Code, all of the following apply: 2695

(i) If the juvenile court on the record makes a finding 2696
that, given the nature and circumstances of the violation and 2697
the history of the child, the length of time, level of security, 2698
and types of programming and resources available in the juvenile 2699
system alone are not adequate to provide the juvenile court with 2700
a reasonable expectation that the purposes set forth in section 2701
2152.01 of the Revised Code will be met, the juvenile court may 2702
impose upon the child a sentence available for the violation, as 2703
if the child were an adult, under Chapter 2929. of the Revised 2704
Code, except that the juvenile court shall not impose on the 2705
child a sentence of ~~death or~~ life imprisonment without parole. 2706

(ii) If a sentence is imposed under division (D) (2) (a) (i) 2707
of this section, the juvenile court also shall impose upon the 2708
child one or more traditional juvenile dispositions under 2709
sections 2152.16, 2152.19, and 2152.20 and, if applicable, 2710
section 2152.17 of the Revised Code. 2711

(iii) The juvenile court shall stay the adult portion of 2712
the serious youthful offender dispositional sentence pending the 2713
successful completion of the traditional juvenile dispositions 2714
imposed. 2715

(b) If the juvenile court does not find that a sentence 2716
should be imposed under division (D) (2) (a) (i) of this section, 2717
the juvenile court may impose one or more traditional juvenile 2718
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 2719
applicable, section 2152.17 of the Revised Code. 2720

(3) A child upon whom a serious youthful offender 2721
dispositional sentence is imposed under division (D) (1) or (2) 2722
of this section has a right to appeal under division (A) (1), 2723
(3), (4), or (5) of section 2953.08 of the Revised Code the 2724
adult portion of the serious youthful offender dispositional 2725
sentence when any of those divisions apply. The child may appeal 2726
the adult portion, and the court shall consider the appeal as if 2727
the adult portion were not stayed. 2728

Sec. 2152.67. Any adult who is arrested or charged under 2729
any provision in this chapter and who is charged with a crime 2730
may demand a trial by jury, or the juvenile judge upon the 2731
judge's own motion may call a jury. A demand for a jury trial 2732
shall be made in writing in not less than three days before the 2733
date set for trial, or within three days after counsel has been 2734
retained, whichever is later. Sections 2945.17 and 2945.23 to 2735
2945.36 of the Revised Code, relating to the drawing and 2736
impaneling of jurors in criminal cases in the court of common 2737
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 2738
under this section. The compensation of jurors and costs of the 2739
clerk and sheriff shall be taxed and paid in the same manner as 2740
in criminal cases in the court of common pleas. 2741

Sec. 2301.20. All civil and criminal actions in the court 2742
of common pleas shall be recorded. The reporter shall take 2743
accurate notes of or electronically record the oral testimony. 2744
The notes and electronic records shall be filed in the office of 2745
the official reporter and carefully preserved for ~~either of the~~ 2746
~~following periods of time:~~ 2747

~~(A) If the action is not a capital case, the notes and~~ 2748
~~electronic records shall be preserved for the period of time~~ 2749
specified by the court of common pleas, which period of time 2750

shall not be longer than the period of time that the other 2751
records of the particular action are required to be kept. 2752

~~(B) If the action is a capital case, the notes and 2753
electronic records shall be preserved for the longer of ten 2754
years or until the final disposition of the action and 2755
exhaustion of all appeals. 2756~~

Sec. 2307.60. (A) (1) Anyone injured in person or property 2757
by a criminal act has, and may recover full damages in, a civil 2758
action unless specifically excepted by law, may recover the 2759
costs of maintaining the civil action and attorney's fees if 2760
authorized by any provision of the Rules of Civil Procedure or 2761
another section of the Revised Code or under the common law of 2762
this state, and may recover punitive or exemplary damages if 2763
authorized by section 2315.21 or another section of the Revised 2764
Code. 2765

(2) A final judgment of a trial court that has not been 2766
reversed on appeal or otherwise set aside, nullified, or 2767
vacated, entered after a trial or upon a plea of guilty, but not 2768
upon a plea of no contest or the equivalent plea from another 2769
jurisdiction, that adjudges an offender guilty of an offense of 2770
violence punishable by ~~death or~~ imprisonment in excess of one 2771
year, when entered as evidence in any subsequent civil 2772
proceeding based on the criminal act, shall preclude the 2773
offender from denying in the subsequent civil proceeding any 2774
fact essential to sustaining that judgment, unless the offender 2775
can demonstrate that extraordinary circumstances prevented the 2776
offender from having a full and fair opportunity to litigate the 2777
issue in the criminal proceeding or other extraordinary 2778
circumstances justify affording the offender an opportunity to 2779
relitigate the issue. The offender may introduce evidence of the 2780

offender's pending appeal of the final judgment of the trial 2781
court, if applicable, and the court may consider that evidence 2782
in determining the liability of the offender. 2783

(B) (1) As used in division (B) of this section: 2784

(a) "Tort action" means a civil action for damages for 2785
injury, death, or loss to person or property other than a civil 2786
action for damages for a breach of contract or another agreement 2787
between persons. "Tort action" includes, but is not limited to, 2788
a product liability claim, as defined in section 2307.71 of the 2789
Revised Code, and an asbestos claim, as defined in section 2790
2307.91 of the Revised Code, an action for wrongful death under 2791
Chapter 2125. of the Revised Code, and an action based on 2792
derivative claims for relief. 2793

(b) "Residence" has the same meaning as in section 2901.05 2794
of the Revised Code. 2795

(2) Recovery on a claim for relief in a tort action is 2796
barred to any person or the person's legal representative if any 2797
of the following apply: 2798

(a) The person has been convicted of or has pleaded guilty 2799
to a felony, or to a misdemeanor that is an offense of violence, 2800
arising out of criminal conduct that was a proximate cause of 2801
the injury or loss for which relief is claimed in the tort 2802
action. 2803

(b) The person engaged in conduct that, if prosecuted, 2804
would constitute a felony, a misdemeanor that is an offense of 2805
violence, an attempt to commit a felony, or an attempt to commit 2806
a misdemeanor that is an offense of violence and that conduct 2807
was a proximate cause of the injury or loss for which relief is 2808
claimed in the tort action, regardless of whether the person has 2809

been convicted of or pleaded guilty to or has been charged with 2810
committing the felony, the misdemeanor, or the attempt to commit 2811
the felony or misdemeanor. 2812

(c) The person suffered the injury or loss for which 2813
relief is claimed in the tort action as a proximate result of 2814
the victim of conduct that, if prosecuted, would constitute a 2815
felony, a misdemeanor that is an offense of violence, an attempt 2816
to commit a felony, or an attempt to commit a misdemeanor that 2817
is an offense of violence acting against the person in self- 2818
defense, defense of another, or defense of the victim's 2819
residence, regardless of whether the person has been convicted 2820
of or pleaded guilty to or has been charged with committing the 2821
felony, the misdemeanor, or the attempt to commit the felony or 2822
misdemeanor. Division (B) (2) (c) of this section does not apply 2823
if the person who suffered the injury or loss, at the time of 2824
the victim's act of self-defense, defense of another, or defense 2825
of residence, was an innocent bystander who had no connection 2826
with the underlying conduct that prompted the victim's exercise 2827
of self-defense, defense of another, or defense of residence. 2828

(3) Recovery against a victim of conduct that, if 2829
prosecuted, would constitute a felony, a misdemeanor that is an 2830
offense of violence, an attempt to commit a felony, or an 2831
attempt to commit a misdemeanor that is an offense of violence, 2832
on a claim for relief in a tort action is barred to any person 2833
or the person's legal representative if conduct the person 2834
engaged in against that victim was a proximate cause of the 2835
injury or loss for which relief is claimed in the tort action 2836
and that conduct, if prosecuted, would constitute a felony, a 2837
misdemeanor that is an offense of violence, an attempt to commit 2838
a felony, or an attempt to commit a misdemeanor that is an 2839
offense of violence, regardless of whether the person has been 2840

convicted of or pleaded guilty to or has been charged with 2841
committing the felony, the misdemeanor, or the attempt to commit 2842
the felony or misdemeanor. 2843

(4) Divisions (B)(1) to (3) of this section do not apply 2844
to civil claims based upon alleged intentionally tortious 2845
conduct, alleged violations of the United States Constitution, 2846
or alleged violations of statutes of the United States 2847
pertaining to civil rights. For purposes of division (B)(4) of 2848
this section, a person's act of self-defense, defense of 2849
another, or defense of the person's residence does not 2850
constitute intentionally tortious conduct. 2851

Sec. 2317.02. The following persons shall not testify in 2852
certain respects: 2853

(A)(1) An attorney, concerning a communication made to the 2854
attorney by a client in that relation or concerning the 2855
attorney's advice to a client, except that the attorney may 2856
testify by express consent of the client or, if the client is 2857
deceased, by the express consent of the surviving spouse or the 2858
executor or administrator of the estate of the deceased client. 2859
However, if the client voluntarily reveals the substance of 2860
attorney-client communications in a nonprivileged context or is 2861
deemed by section 2151.421 of the Revised Code to have waived 2862
any testimonial privilege under this division, the attorney may 2863
be compelled to testify on the same subject. 2864

The testimonial privilege established under this division 2865
does not apply concerning ~~either of the following:~~ 2866

~~(a) A communication between a client in a capital case, as 2867
defined in section 2901.02 of the Revised Code, and the client's 2868
attorney if the communication is relevant to a subsequent 2869~~

~~ineffective assistance of counsel claim by the client alleging~~ 2870
~~that the attorney did not effectively represent the client in~~ 2871
~~the case;~~ 2872

~~(b) A~~ a communication between a client who has since died 2873
and the deceased client's attorney if the communication is 2874
relevant to a dispute between parties who claim through that 2875
deceased client, regardless of whether the claims are by testate 2876
or intestate succession or by inter vivos transaction, and the 2877
dispute addresses the competency of the deceased client when the 2878
deceased client executed a document that is the basis of the 2879
dispute or whether the deceased client was a victim of fraud, 2880
undue influence, or duress when the deceased client executed a 2881
document that is the basis of the dispute. 2882

(2) An attorney, concerning a communication made to the 2883
attorney by a client in that relationship or the attorney's 2884
advice to a client, except that if the client is an insurance 2885
company, the attorney may be compelled to testify, subject to an 2886
in camera inspection by a court, about communications made by 2887
the client to the attorney or by the attorney to the client that 2888
are related to the attorney's aiding or furthering an ongoing or 2889
future commission of bad faith by the client, if the party 2890
seeking disclosure of the communications has made a prima-facie 2891
showing of bad faith, fraud, or criminal misconduct by the 2892
client. 2893

(B) (1) A physician, advanced practice registered nurse, or 2894
dentist concerning a communication made to the physician, 2895
advanced practice registered nurse, or dentist by a patient in 2896
that relation or the advice of a physician, advanced practice 2897
registered nurse, or dentist given to a patient, except as 2898
otherwise provided in this division, division (B) (2), and 2899

division (B) (3) of this section, and except that, if the patient 2900
is deemed by section 2151.421 of the Revised Code to have waived 2901
any testimonial privilege under this division, the physician or 2902
advanced practice registered nurse may be compelled to testify 2903
on the same subject. 2904

The testimonial privilege established under this division 2905
does not apply, and a physician, advanced practice registered 2906
nurse, or dentist may testify or may be compelled to testify, in 2907
any of the following circumstances: 2908

(a) In any civil action, in accordance with the discovery 2909
provisions of the Rules of Civil Procedure in connection with a 2910
civil action, or in connection with a claim under Chapter 4123. 2911
of the Revised Code, under any of the following circumstances: 2912

(i) If the patient or the guardian or other legal 2913
representative of the patient gives express consent; 2914

(ii) If the patient is deceased, the spouse of the patient 2915
or the executor or administrator of the patient's estate gives 2916
express consent; 2917

(iii) If a medical claim, dental claim, chiropractic 2918
claim, or optometric claim, as defined in section 2305.113 of 2919
the Revised Code, an action for wrongful death, any other type 2920
of civil action, or a claim under Chapter 4123. of the Revised 2921
Code is filed by the patient, the personal representative of the 2922
estate of the patient if deceased, or the patient's guardian or 2923
other legal representative. 2924

(b) In any civil action concerning court-ordered treatment 2925
or services received by a patient, if the court-ordered 2926
treatment or services were ordered as part of a case plan 2927
journalized under section 2151.412 of the Revised Code or the 2928

court-ordered treatment or services are necessary or relevant to 2929
dependency, neglect, or abuse or temporary or permanent custody 2930
proceedings under Chapter 2151. of the Revised Code. 2931

(c) In any criminal action concerning any test or the 2932
results of any test that determines the presence or 2933
concentration of alcohol, a drug of abuse, a combination of 2934
them, a controlled substance, or a metabolite of a controlled 2935
substance in the patient's whole blood, blood serum or plasma, 2936
breath, urine, or other bodily substance at any time relevant to 2937
the criminal offense in question. 2938

(d) In any criminal action against a physician, advanced 2939
practice registered nurse, or dentist. In such an action, the 2940
testimonial privilege established under this division does not 2941
prohibit the admission into evidence, in accordance with the 2942
Rules of Evidence, of a patient's medical or dental records or 2943
other communications between a patient and the physician, 2944
advanced practice registered nurse, or dentist that are related 2945
to the action and obtained by subpoena, search warrant, or other 2946
lawful means. A court that permits or compels a physician, 2947
advanced practice registered nurse, or dentist to testify in 2948
such an action or permits the introduction into evidence of 2949
patient records or other communications in such an action shall 2950
require that appropriate measures be taken to ensure that the 2951
confidentiality of any patient named or otherwise identified in 2952
the records is maintained. Measures to ensure confidentiality 2953
that may be taken by the court include sealing its records or 2954
deleting specific information from its records. 2955

(e) (i) If the communication was between a patient who has 2956
since died and the deceased patient's physician, advanced 2957
practice registered nurse, or dentist, the communication is 2958

relevant to a dispute between parties who claim through that 2959
deceased patient, regardless of whether the claims are by 2960
testate or intestate succession or by inter vivos transaction, 2961
and the dispute addresses the competency of the deceased patient 2962
when the deceased patient executed a document that is the basis 2963
of the dispute or whether the deceased patient was a victim of 2964
fraud, undue influence, or duress when the deceased patient 2965
executed a document that is the basis of the dispute. 2966

(ii) If neither the spouse of a patient nor the executor 2967
or administrator of that patient's estate gives consent under 2968
division (B) (1) (a) (ii) of this section, testimony or the 2969
disclosure of the patient's medical records by a physician, 2970
advanced practice registered nurse, dentist, or other health 2971
care provider under division (B) (1) (e) (i) of this section is a 2972
permitted use or disclosure of protected health information, as 2973
defined in 45 C.F.R. 160.103, and an authorization or 2974
opportunity to be heard shall not be required. 2975

(iii) Division (B) (1) (e) (i) of this section does not 2976
require a mental health professional to disclose psychotherapy 2977
notes, as defined in 45 C.F.R. 164.501. 2978

(iv) An interested person who objects to testimony or 2979
disclosure under division (B) (1) (e) (i) of this section may seek 2980
a protective order pursuant to Civil Rule 26. 2981

(v) A person to whom protected health information is 2982
disclosed under division (B) (1) (e) (i) of this section shall not 2983
use or disclose the protected health information for any purpose 2984
other than the litigation or proceeding for which the 2985
information was requested and shall return the protected health 2986
information to the covered entity or destroy the protected 2987
health information, including all copies made, at the conclusion 2988

of the litigation or proceeding. 2989

(2) (a) If any law enforcement officer submits a written 2990
statement to a health care provider that states that an official 2991
criminal investigation has begun regarding a specified person or 2992
that a criminal action or proceeding has been commenced against 2993
a specified person, that requests the provider to supply to the 2994
officer copies of any records the provider possesses that 2995
pertain to any test or the results of any test administered to 2996
the specified person to determine the presence or concentration 2997
of alcohol, a drug of abuse, a combination of them, a controlled 2998
substance, or a metabolite of a controlled substance in the 2999
person's whole blood, blood serum or plasma, breath, or urine at 3000
any time relevant to the criminal offense in question, and that 3001
conforms to section 2317.022 of the Revised Code, the provider, 3002
except to the extent specifically prohibited by any law of this 3003
state or of the United States, shall supply to the officer a 3004
copy of any of the requested records the provider possesses. If 3005
the health care provider does not possess any of the requested 3006
records, the provider shall give the officer a written statement 3007
that indicates that the provider does not possess any of the 3008
requested records. 3009

(b) If a health care provider possesses any records of the 3010
type described in division (B) (2) (a) of this section regarding 3011
the person in question at any time relevant to the criminal 3012
offense in question, in lieu of personally testifying as to the 3013
results of the test in question, the custodian of the records 3014
may submit a certified copy of the records, and, upon its 3015
submission, the certified copy is qualified as authentic 3016
evidence and may be admitted as evidence in accordance with the 3017
Rules of Evidence. Division (A) of section 2317.422 of the 3018
Revised Code does not apply to any certified copy of records 3019

submitted in accordance with this division. Nothing in this 3020
division shall be construed to limit the right of any party to 3021
call as a witness the person who administered the test to which 3022
the records pertain, the person under whose supervision the test 3023
was administered, the custodian of the records, the person who 3024
made the records, or the person under whose supervision the 3025
records were made. 3026

(3) (a) If the testimonial privilege described in division 3027
(B) (1) of this section does not apply as provided in division 3028
(B) (1) (a) (iii) of this section, a physician, advanced practice 3029
registered nurse, or dentist may be compelled to testify or to 3030
submit to discovery under the Rules of Civil Procedure only as 3031
to a communication made to the physician, advanced practice 3032
registered nurse, or dentist by the patient in question in that 3033
relation, or the advice of the physician, advanced practice 3034
registered nurse, or dentist given to the patient in question, 3035
that related causally or historically to physical or mental 3036
injuries that are relevant to issues in the medical claim, 3037
dental claim, chiropractic claim, or optometric claim, action 3038
for wrongful death, other civil action, or claim under Chapter 3039
4123. of the Revised Code. 3040

(b) If the testimonial privilege described in division (B) 3041
(1) of this section does not apply to a physician, advanced 3042
practice registered nurse, or dentist as provided in division 3043
(B) (1) (c) of this section, the physician, advanced practice 3044
registered nurse, or dentist, in lieu of personally testifying 3045
as to the results of the test in question, may submit a 3046
certified copy of those results, and, upon its submission, the 3047
certified copy is qualified as authentic evidence and may be 3048
admitted as evidence in accordance with the Rules of Evidence. 3049
Division (A) of section 2317.422 of the Revised Code does not 3050

apply to any certified copy of results submitted in accordance 3051
with this division. Nothing in this division shall be construed 3052
to limit the right of any party to call as a witness the person 3053
who administered the test in question, the person under whose 3054
supervision the test was administered, the custodian of the 3055
results of the test, the person who compiled the results, or the 3056
person under whose supervision the results were compiled. 3057

(4) The testimonial privilege described in division (B) (1) 3058
of this section is not waived when a communication is made by a 3059
physician or advanced practice registered nurse to a pharmacist 3060
or when there is communication between a patient and a 3061
pharmacist in furtherance of the physician-patient or advanced 3062
practice registered nurse-patient relation. 3063

(5) (a) As used in divisions (B) (1) to (4) of this section, 3064
"communication" means acquiring, recording, or transmitting any 3065
information, in any manner, concerning any facts, opinions, or 3066
statements necessary to enable a physician, advanced practice 3067
registered nurse, or dentist to diagnose, treat, prescribe, or 3068
act for a patient. A "communication" may include, but is not 3069
limited to, any medical or dental, office, or hospital 3070
communication such as a record, chart, letter, memorandum, 3071
laboratory test and results, x-ray, photograph, financial 3072
statement, diagnosis, or prognosis. 3073

(b) As used in division (B) (2) of this section, "health 3074
care provider" means a hospital, ambulatory care facility, long- 3075
term care facility, pharmacy, emergency facility, or health care 3076
practitioner. 3077

(c) As used in division (B) (5) (b) of this section: 3078

(i) "Ambulatory care facility" means a facility that 3079

provides medical, diagnostic, or surgical treatment to patients 3080
who do not require hospitalization, including a dialysis center, 3081
ambulatory surgical facility, cardiac catheterization facility, 3082
diagnostic imaging center, extracorporeal shock wave lithotripsy 3083
center, home health agency, inpatient hospice, birthing center, 3084
radiation therapy center, emergency facility, and an urgent care 3085
center. "Ambulatory health care facility" does not include the 3086
private office of a physician, advanced practice registered 3087
nurse, or dentist, whether the office is for an individual or 3088
group practice. 3089

(ii) "Emergency facility" means a hospital emergency 3090
department or any other facility that provides emergency medical 3091
services. 3092

(iii) "Health care practitioner" has the same meaning as 3093
in section 4769.01 of the Revised Code. 3094

(iv) "Hospital" has the same meaning as in section 3727.01 3095
of the Revised Code. 3096

(v) "Long-term care facility" means a nursing home, 3097
residential care facility, or home for the aging, as those terms 3098
are defined in section 3721.01 of the Revised Code; a 3099
residential facility licensed under section 5119.34 of the 3100
Revised Code that provides accommodations, supervision, and 3101
personal care services for three to sixteen unrelated adults; a 3102
nursing facility, as defined in section 5165.01 of the Revised 3103
Code; a skilled nursing facility, as defined in section 5165.01 3104
of the Revised Code; and an intermediate care facility for 3105
individuals with intellectual disabilities, as defined in 3106
section 5124.01 of the Revised Code. 3107

(vi) "Pharmacy" has the same meaning as in section 4729.01 3108

of the Revised Code. 3109

(d) As used in divisions (B) (1) and (2) of this section, 3110
"drug of abuse" has the same meaning as in section 4506.01 of 3111
the Revised Code. 3112

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 3113
section apply to doctors of medicine, doctors of osteopathic 3114
medicine, doctors of podiatry, advanced practice registered 3115
nurses, and dentists. 3116

(7) Nothing in divisions (B) (1) to (6) of this section 3117
affects, or shall be construed as affecting, the immunity from 3118
civil liability conferred by section 307.628 of the Revised Code 3119
or the immunity from civil liability conferred by section 3120
2305.33 of the Revised Code upon physicians or advanced practice 3121
registered nurses who report an employee's use of a drug of 3122
abuse, or a condition of an employee other than one involving 3123
the use of a drug of abuse, to the employer of the employee in 3124
accordance with division (B) of that section. As used in 3125
division (B) (7) of this section, "employee," "employer," and 3126
"physician" have the same meanings as in section 2305.33 of the 3127
Revised Code and "advanced practice registered nurse" has the 3128
same meaning as in section 4723.01 of the Revised Code. 3129

(C) (1) A cleric, when the cleric remains accountable to 3130
the authority of that cleric's church, denomination, or sect, 3131
concerning a confession made, or any information confidentially 3132
communicated, to the cleric for a religious counseling purpose 3133
in the cleric's professional character. The cleric may testify 3134
by express consent of the person making the communication, 3135
except when the disclosure of the information is in violation of 3136
a sacred trust and except that, if the person voluntarily 3137
testifies or is deemed by division (A) (4) (c) of section 2151.421 3138

of the Revised Code to have waived any testimonial privilege 3139
under this division, the cleric may be compelled to testify on 3140
the same subject except when disclosure of the information is in 3141
violation of a sacred trust. 3142

(2) As used in division (C) of this section: 3143

(a) "Cleric" means a member of the clergy, rabbi, priest, 3144
Christian Science practitioner, or regularly ordained, 3145
accredited, or licensed minister of an established and legally 3146
cognizable church, denomination, or sect. 3147

(b) "Sacred trust" means a confession or confidential 3148
communication made to a cleric in the cleric's ecclesiastical 3149
capacity in the course of discipline enjoined by the church to 3150
which the cleric belongs, including, but not limited to, the 3151
Catholic Church, if both of the following apply: 3152

(i) The confession or confidential communication was made 3153
directly to the cleric. 3154

(ii) The confession or confidential communication was made 3155
in the manner and context that places the cleric specifically 3156
and strictly under a level of confidentiality that is considered 3157
inviolable by canon law or church doctrine. 3158

(D) Husband or wife, concerning any communication made by 3159
one to the other, or an act done by either in the presence of 3160
the other, during coverture, unless the communication was made, 3161
or act done, in the known presence or hearing of a third person 3162
competent to be a witness; and such rule is the same if the 3163
marital relation has ceased to exist; 3164

(E) A person who assigns a claim or interest, concerning 3165
any matter in respect to which the person would not, if a party, 3166
be permitted to testify; 3167

(F) A person who, if a party, would be restricted under 3168
section 2317.03 of the Revised Code, when the property or thing 3169
is sold or transferred by an executor, administrator, guardian, 3170
trustee, heir, devisee, or legatee, shall be restricted in the 3171
same manner in any action or proceeding concerning the property 3172
or thing. 3173

(G) (1) A school guidance counselor who holds a valid 3174
educator license from the state board of education as provided 3175
for in section 3319.22 of the Revised Code, a person licensed 3176
under Chapter 4757. of the Revised Code as a licensed 3177
professional clinical counselor, licensed professional 3178
counselor, social worker, independent social worker, marriage 3179
and family therapist or independent marriage and family 3180
therapist, or registered under Chapter 4757. of the Revised Code 3181
as a social work assistant concerning a confidential 3182
communication received from a client in that relation or the 3183
person's advice to a client unless any of the following applies: 3184

(a) The communication or advice indicates clear and 3185
present danger to the client or other persons. For the purposes 3186
of this division, cases in which there are indications of 3187
present or past child abuse or neglect of the client constitute 3188
a clear and present danger. 3189

(b) The client gives express consent to the testimony. 3190

(c) If the client is deceased, the surviving spouse or the 3191
executor or administrator of the estate of the deceased client 3192
gives express consent. 3193

(d) The client voluntarily testifies, in which case the 3194
school guidance counselor or person licensed or registered under 3195
Chapter 4757. of the Revised Code may be compelled to testify on 3196

the same subject. 3197

(e) The court in camera determines that the information 3198
communicated by the client is not germane to the counselor- 3199
client, marriage and family therapist-client, or social worker- 3200
client relationship. 3201

(f) A court, in an action brought against a school, its 3202
administration, or any of its personnel by the client, rules 3203
after an in-camera inspection that the testimony of the school 3204
guidance counselor is relevant to that action. 3205

(g) The testimony is sought in a civil action and concerns 3206
court-ordered treatment or services received by a patient as 3207
part of a case plan journalized under section 2151.412 of the 3208
Revised Code or the court-ordered treatment or services are 3209
necessary or relevant to dependency, neglect, or abuse or 3210
temporary or permanent custody proceedings under Chapter 2151. 3211
of the Revised Code. 3212

(2) Nothing in division (G) (1) of this section shall 3213
relieve a school guidance counselor or a person licensed or 3214
registered under Chapter 4757. of the Revised Code from the 3215
requirement to report information concerning child abuse or 3216
neglect under section 2151.421 of the Revised Code. 3217

(H) A mediator acting under a mediation order issued under 3218
division (A) of section 3109.052 of the Revised Code or 3219
otherwise issued in any proceeding for divorce, dissolution, 3220
legal separation, annulment, or the allocation of parental 3221
rights and responsibilities for the care of children, in any 3222
action or proceeding, other than a criminal, delinquency, child 3223
abuse, child neglect, or dependent child action or proceeding, 3224
that is brought by or against either parent who takes part in 3225

mediation in accordance with the order and that pertains to the 3226
mediation process, to any information discussed or presented in 3227
the mediation process, to the allocation of parental rights and 3228
responsibilities for the care of the parents' children, or to 3229
the awarding of parenting time rights in relation to their 3230
children; 3231

(I) A communications assistant, acting within the scope of 3232
the communication assistant's authority, when providing 3233
telecommunications relay service pursuant to section 4931.06 of 3234
the Revised Code or Title II of the "Communications Act of 3235
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 3236
communication made through a telecommunications relay service. 3237
Nothing in this section shall limit the obligation of a 3238
communications assistant to divulge information or testify when 3239
mandated by federal law or regulation or pursuant to subpoena in 3240
a criminal proceeding. 3241

Nothing in this section shall limit any immunity or 3242
privilege granted under federal law or regulation. 3243

(J) (1) A chiropractor in a civil proceeding concerning a 3244
communication made to the chiropractor by a patient in that 3245
relation or the chiropractor's advice to a patient, except as 3246
otherwise provided in this division. The testimonial privilege 3247
established under this division does not apply, and a 3248
chiropractor may testify or may be compelled to testify, in any 3249
civil action, in accordance with the discovery provisions of the 3250
Rules of Civil Procedure in connection with a civil action, or 3251
in connection with a claim under Chapter 4123. of the Revised 3252
Code, under any of the following circumstances: 3253

(a) If the patient or the guardian or other legal 3254
representative of the patient gives express consent. 3255

(b) If the patient is deceased, the spouse of the patient 3256
or the executor or administrator of the patient's estate gives 3257
express consent. 3258

(c) If a medical claim, dental claim, chiropractic claim, 3259
or optometric claim, as defined in section 2305.113 of the 3260
Revised Code, an action for wrongful death, any other type of 3261
civil action, or a claim under Chapter 4123. of the Revised Code 3262
is filed by the patient, the personal representative of the 3263
estate of the patient if deceased, or the patient's guardian or 3264
other legal representative. 3265

(2) If the testimonial privilege described in division (J) 3266
(1) of this section does not apply as provided in division (J) 3267
(1)(c) of this section, a chiropractor may be compelled to 3268
testify or to submit to discovery under the Rules of Civil 3269
Procedure only as to a communication made to the chiropractor by 3270
the patient in question in that relation, or the chiropractor's 3271
advice to the patient in question, that related causally or 3272
historically to physical or mental injuries that are relevant to 3273
issues in the medical claim, dental claim, chiropractic claim, 3274
or optometric claim, action for wrongful death, other civil 3275
action, or claim under Chapter 4123. of the Revised Code. 3276

(3) The testimonial privilege established under this 3277
division does not apply, and a chiropractor may testify or be 3278
compelled to testify, in any criminal action or administrative 3279
proceeding. 3280

(4) As used in this division, "communication" means 3281
acquiring, recording, or transmitting any information, in any 3282
manner, concerning any facts, opinions, or statements necessary 3283
to enable a chiropractor to diagnose, treat, or act for a 3284
patient. A communication may include, but is not limited to, any 3285

chiropractic, office, or hospital communication such as a 3286
record, chart, letter, memorandum, laboratory test and results, 3287
x-ray, photograph, financial statement, diagnosis, or prognosis. 3288

(K) (1) Except as provided under division (K) (2) of this 3289
section, a critical incident stress management team member 3290
concerning a communication received from an individual who 3291
receives crisis response services from the team member, or the 3292
team member's advice to the individual, during a debriefing 3293
session. 3294

(2) The testimonial privilege established under division 3295
(K) (1) of this section does not apply if any of the following 3296
are true: 3297

(a) The communication or advice indicates clear and 3298
present danger to the individual who receives crisis response 3299
services or to other persons. For purposes of this division, 3300
cases in which there are indications of present or past child 3301
abuse or neglect of the individual constitute a clear and 3302
present danger. 3303

(b) The individual who received crisis response services 3304
gives express consent to the testimony. 3305

(c) If the individual who received crisis response 3306
services is deceased, the surviving spouse or the executor or 3307
administrator of the estate of the deceased individual gives 3308
express consent. 3309

(d) The individual who received crisis response services 3310
voluntarily testifies, in which case the team member may be 3311
compelled to testify on the same subject. 3312

(e) The court in camera determines that the information 3313
communicated by the individual who received crisis response 3314

services is not germane to the relationship between the 3315
individual and the team member. 3316

(f) The communication or advice pertains or is related to 3317
any criminal act. 3318

(3) As used in division (K) of this section: 3319

(a) "Crisis response services" means consultation, risk 3320
assessment, referral, and on-site crisis intervention services 3321
provided by a critical incident stress management team to 3322
individuals affected by crisis or disaster. 3323

(b) "Critical incident stress management team member" or 3324
"team member" means an individual specially trained to provide 3325
crisis response services as a member of an organized community 3326
or local crisis response team that holds membership in the Ohio 3327
critical incident stress management network. 3328

(c) "Debriefing session" means a session at which crisis 3329
response services are rendered by a critical incident stress 3330
management team member during or after a crisis or disaster. 3331

(L) (1) Subject to division (L) (2) of this section and 3332
except as provided in division (L) (3) of this section, an 3333
employee assistance professional, concerning a communication 3334
made to the employee assistance professional by a client in the 3335
employee assistance professional's official capacity as an 3336
employee assistance professional. 3337

(2) Division (L) (1) of this section applies to an employee 3338
assistance professional who meets either or both of the 3339
following requirements: 3340

(a) Is certified by the employee assistance certification 3341
commission to engage in the employee assistance profession; 3342

(b) Has education, training, and experience in all of the following:	3343 3344
(i) Providing workplace-based services designed to address employer and employee productivity issues;	3345 3346
(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;	3347 3348 3349 3350
(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;	3351 3352 3353 3354
(iv) Selecting and evaluating available community resources;	3355 3356
(v) Making appropriate referrals;	3357
(vi) Local and national employee assistance agreements;	3358
(vii) Client confidentiality.	3359
(3) Division (L) (1) of this section does not apply to any of the following:	3360 3361
(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;	3362 3363 3364 3365 3366
(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;	3367 3368 3369

(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 3399
reparations under sections 2743.51 to 2743.72 of the Revised 3400
Code: 3401

(a) A victim who was one of the following at the time of 3402
the criminally injurious conduct: 3403

(i) A resident of the United States; 3404

(ii) A resident of a foreign country the laws of which 3405
permit residents of this state to recover compensation as 3406
victims of offenses committed in that country. 3407

(b) A dependent of a deceased victim who is described in 3408
division (A) (1) (a) of this section; 3409

(c) A third person, other than a collateral source, who 3410
legally assumes or voluntarily pays the obligations of a victim, 3411
or of a dependent of a victim, who is described in division (A) 3412
(1) (a) of this section, which obligations are incurred as a 3413
result of the criminally injurious conduct that is the subject 3414
of the claim and may include, but are not limited to, medical or 3415
burial expenses; 3416

(d) A person who is authorized to act on behalf of any 3417
person who is described in division (A) (1) (a), (b), or (c) of 3418
this section; 3419

(e) The estate of a deceased victim who is described in 3420
division (A) (1) (a) of this section. 3421

(2) Any of the following persons who claim an award of 3422
reparations under sections 2743.51 to 2743.72 of the Revised 3423
Code: 3424

(a) A victim who had a permanent place of residence within 3425
this state at the time of the criminally injurious conduct and 3426

who, at the time of the criminally injurious conduct, complied 3427
with any one of the following: 3428

(i) Had a permanent place of employment in this state; 3429

(ii) Was a member of the regular armed forces of the 3430
United States or of the United States coast guard or was a full- 3431
time member of the Ohio organized militia or of the United 3432
States army reserve, naval reserve, or air force reserve; 3433

(iii) Was retired and receiving social security or any 3434
other retirement income; 3435

(iv) Was sixty years of age or older; 3436

(v) Was temporarily in another state for the purpose of 3437
receiving medical treatment; 3438

(vi) Was temporarily in another state for the purpose of 3439
performing employment-related duties required by an employer 3440
located within this state as an express condition of employment 3441
or employee benefits; 3442

(vii) Was temporarily in another state for the purpose of 3443
receiving occupational, vocational, or other job-related 3444
training or instruction required by an employer located within 3445
this state as an express condition of employment or employee 3446
benefits; 3447

(viii) Was a full-time student at an academic institution, 3448
college, or university located in another state; 3449

(ix) Had not departed the geographical boundaries of this 3450
state for a period exceeding thirty days or with the intention 3451
of becoming a citizen of another state or establishing a 3452
permanent place of residence in another state. 3453

(b) A dependent of a deceased victim who is described in 3454
division (A) (2) (a) of this section; 3455

(c) A third person, other than a collateral source, who 3456
legally assumes or voluntarily pays the obligations of a victim, 3457
or of a dependent of a victim, who is described in division (A) 3458
(2) (a) of this section, which obligations are incurred as a 3459
result of the criminally injurious conduct that is the subject 3460
of the claim and may include, but are not limited to, medical or 3461
burial expenses; 3462

(d) A person who is authorized to act on behalf of any 3463
person who is described in division (A) (2) (a), (b), or (c) of 3464
this section; 3465

(e) The estate of a deceased victim who is described in 3466
division (A) (2) (a) of this section. 3467

(B) "Collateral source" means a source of benefits or 3468
advantages for economic loss otherwise reparable that the victim 3469
or claimant has received, or that is readily available to the 3470
victim or claimant, from any of the following sources: 3471

(1) The offender; 3472

(2) The government of the United States or any of its 3473
agencies, a state or any of its political subdivisions, or an 3474
instrumentality of two or more states, unless the law providing 3475
for the benefits or advantages makes them excess or secondary to 3476
benefits under sections 2743.51 to 2743.72 of the Revised Code; 3477

(3) Social security, medicare, and medicaid; 3478

(4) State-required, temporary, nonoccupational disability 3479
insurance; 3480

(5) Workers' compensation; 3481

(6) Wage continuation programs of any employer;	3482
(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;	3483 3484 3485
(8) A contract providing prepaid hospital and other health care services, or benefits for disability;	3486 3487
(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;	3488 3489 3490
(10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.	3491 3492 3493 3494
"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.	3495 3496 3497 3498 3499
(C) "Criminally injurious conduct" means one of the following:	3500 3501
(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, <u>or</u> imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following	3502 3503 3504 3505 3506 3507 3508 3509 3510

applies: 3511

(a) The person engaging in the conduct intended to cause 3512
personal injury or death; 3513

(b) The person engaging in the conduct was using the 3514
vehicle to flee immediately after committing a felony or an act 3515
that would constitute a felony but for the fact that the person 3516
engaging in the conduct lacked the capacity to commit the felony 3517
under the laws of this state; 3518

(c) The person engaging in the conduct was using the 3519
vehicle in a manner that constitutes an OVI violation; 3520

(d) The conduct occurred on or after July 25, 1990, and 3521
the person engaging in the conduct was using the vehicle in a 3522
manner that constitutes a violation of section 2903.08 of the 3523
Revised Code; 3524

(e) The person engaging in the conduct acted in a manner 3525
that caused serious physical harm to a person and that 3526
constituted a violation of section 4549.02 or 4549.021 of the 3527
Revised Code. 3528

(2) For the purposes of any person described in division 3529
(A) (2) of this section, any conduct that occurs or is attempted 3530
in another state, district, territory, or foreign country; poses 3531
a substantial threat of personal injury or death; and is 3532
punishable by fine, imprisonment, or death, or would be so 3533
punishable but for the fact that the person engaging in the 3534
conduct lacked capacity to commit the crime under the laws of 3535
the state, district, territory, or foreign country in which the 3536
conduct occurred or was attempted. Criminally injurious conduct 3537
does not include conduct arising out of the ownership, 3538
maintenance, or use of a motor vehicle, except when any of the 3539

following applies: 3540

(a) The person engaging in the conduct intended to cause 3541
personal injury or death; 3542

(b) The person engaging in the conduct was using the 3543
vehicle to flee immediately after committing a felony or an act 3544
that would constitute a felony but for the fact that the person 3545
engaging in the conduct lacked the capacity to commit the felony 3546
under the laws of the state, district, territory, or foreign 3547
country in which the conduct occurred or was attempted; 3548

(c) The person engaging in the conduct was using the 3549
vehicle in a manner that constitutes an OVI violation; 3550

(d) The conduct occurred on or after July 25, 1990, the 3551
person engaging in the conduct was using the vehicle in a manner 3552
that constitutes a violation of any law of the state, district, 3553
territory, or foreign country in which the conduct occurred, and 3554
that law is substantially similar to a violation of section 3555
2903.08 of the Revised Code; 3556

(e) The person engaging in the conduct acted in a manner 3557
that caused serious physical harm to a person and that 3558
constituted a violation of any law of the state, district, 3559
territory, or foreign country in which the conduct occurred, and 3560
that law is substantially similar to section 4549.02 or 4549.021 3561
of the Revised Code. 3562

(3) For the purposes of any person described in division 3563
(A) (1) or (2) of this section, terrorism that occurs within or 3564
outside the territorial jurisdiction of the United States. 3565

(D) "Dependent" means an individual wholly or partially 3566
dependent upon the victim for care and support, and includes a 3567
child of the victim born after the victim's death. 3568

(E) "Economic loss" means economic detriment consisting 3569
only of allowable expense, work loss, funeral expense, 3570
unemployment benefits loss, replacement services loss, cost of 3571
crime scene cleanup, and cost of evidence replacement. If 3572
criminally injurious conduct causes death, economic loss 3573
includes a dependent's economic loss and a dependent's 3574
replacement services loss. Noneconomic detriment is not economic 3575
loss; however, economic loss may be caused by pain and suffering 3576
or physical impairment. 3577

(F) (1) "Allowable expense" means reasonable charges 3578
incurred for reasonably needed products, services, and 3579
accommodations, including those for medical care, 3580
rehabilitation, rehabilitative occupational training, and other 3581
remedial treatment and care and including replacement costs for 3582
hearing aids; dentures, retainers, and other dental appliances; 3583
canes, walkers, and other mobility tools; and eyeglasses and 3584
other corrective lenses. It does not include that portion of a 3585
charge for a room in a hospital, clinic, convalescent home, 3586
nursing home, or any other institution engaged in providing 3587
nursing care and related services in excess of a reasonable and 3588
customary charge for semiprivate accommodations, unless 3589
accommodations other than semiprivate accommodations are 3590
medically required. 3591

(2) An immediate family member of a victim of criminally 3592
injurious conduct that consists of a homicide, a sexual assault, 3593
domestic violence, or a severe and permanent incapacitating 3594
injury resulting in paraplegia or a similar life-altering 3595
condition, who requires psychiatric care or counseling as a 3596
result of the criminally injurious conduct, may be reimbursed 3597
for that care or counseling as an allowable expense through the 3598
victim's application. The cumulative allowable expense for care 3599

or counseling of that nature shall not exceed two thousand five 3600
hundred dollars for each immediate family member of a victim of 3601
that type and seven thousand five hundred dollars in the 3602
aggregate for all immediate family members of a victim of that 3603
type. 3604

(3) A family member of a victim who died as a proximate 3605
result of criminally injurious conduct may be reimbursed as an 3606
allowable expense through the victim's application for wages 3607
lost and travel expenses incurred in order to attend criminal 3608
justice proceedings arising from the criminally injurious 3609
conduct. The cumulative allowable expense for wages lost and 3610
travel expenses incurred by a family member to attend criminal 3611
justice proceedings shall not exceed five hundred dollars for 3612
each family member of the victim and two thousand dollars in the 3613
aggregate for all family members of the victim. 3614

(4) (a) "Allowable expense" includes reasonable expenses 3615
and fees necessary to obtain a guardian's bond pursuant to 3616
section 2109.04 of the Revised Code when the bond is required to 3617
pay an award to a fiduciary on behalf of a minor or other 3618
incompetent. 3619

(b) "Allowable expense" includes attorney's fees not 3620
exceeding one thousand dollars, at a rate not exceeding one 3621
hundred dollars per hour, incurred to successfully obtain a 3622
restraining order, custody order, or other order to physically 3623
separate a victim from an offender. Attorney's fees for the 3624
services described in this division may include an amount for 3625
reasonable travel time incurred to attend court hearings, not 3626
exceeding three hours' round-trip for each court hearing, 3627
assessed at a rate not exceeding thirty dollars per hour. 3628

(G) "Work loss" means loss of income from work that the 3629

injured person would have performed if the person had not been 3630
injured and expenses reasonably incurred by the person to obtain 3631
services in lieu of those the person would have performed for 3632
income, reduced by any income from substitute work actually 3633
performed by the person, or by income the person would have 3634
earned in available appropriate substitute work that the person 3635
was capable of performing but unreasonably failed to undertake. 3636

(H) "Replacement services loss" means expenses reasonably 3637
incurred in obtaining ordinary and necessary services in lieu of 3638
those the injured person would have performed, not for income, 3639
but for the benefit of the person's self or family, if the 3640
person had not been injured. 3641

(I) "Dependent's economic loss" means loss after a 3642
victim's death of contributions of things of economic value to 3643
the victim's dependents, not including services they would have 3644
received from the victim if the victim had not suffered the 3645
fatal injury, less expenses of the dependents avoided by reason 3646
of the victim's death. If a minor child of a victim is adopted 3647
after the victim's death, the minor child continues after the 3648
adoption to incur a dependent's economic loss as a result of the 3649
victim's death. If the surviving spouse of a victim remarries, 3650
the surviving spouse continues after the remarriage to incur a 3651
dependent's economic loss as a result of the victim's death. 3652

(J) "Dependent's replacement services loss" means loss 3653
reasonably incurred by dependents after a victim's death in 3654
obtaining ordinary and necessary services in lieu of those the 3655
victim would have performed for their benefit if the victim had 3656
not suffered the fatal injury, less expenses of the dependents 3657
avoided by reason of the victim's death and not subtracted in 3658
calculating the dependent's economic loss. If a minor child of a 3659

victim is adopted after the victim's death, the minor child 3660
continues after the adoption to incur a dependent's replacement 3661
services loss as a result of the victim's death. If the 3662
surviving spouse of a victim remarries, the surviving spouse 3663
continues after the remarriage to incur a dependent's 3664
replacement services loss as a result of the victim's death. 3665

(K) "Noneconomic detriment" means pain, suffering, 3666
inconvenience, physical impairment, or other nonpecuniary 3667
damage. 3668

(L) "Victim" means a person who suffers personal injury or 3669
death as a result of any of the following: 3670

(1) Criminally injurious conduct; 3671

(2) The good faith effort of any person to prevent 3672
criminally injurious conduct; 3673

(3) The good faith effort of any person to apprehend a 3674
person suspected of engaging in criminally injurious conduct. 3675

(M) "Contributory misconduct" means any conduct of the 3676
claimant or of the victim through whom the claimant claims an 3677
award of reparations that is unlawful or intentionally tortious 3678
and that, without regard to the conduct's proximity in time or 3679
space to the criminally injurious conduct, has a causal 3680
relationship to the criminally injurious conduct that is the 3681
basis of the claim. 3682

(N) (1) "Funeral expense" means any reasonable charges that 3683
are not in excess of seven thousand five hundred dollars per 3684
funeral and that are incurred for expenses directly related to a 3685
victim's funeral, cremation, or burial and any wages lost or 3686
travel expenses incurred by a family member of a victim in order 3687
to attend the victim's funeral, cremation, or burial. 3688

(2) An award for funeral expenses shall be applied first 3689
to expenses directly related to the victim's funeral, cremation, 3690
or burial. An award for wages lost or travel expenses incurred 3691
by a family member of the victim shall not exceed five hundred 3692
dollars for each family member and shall not exceed in the 3693
aggregate the difference between seven thousand five hundred 3694
dollars and expenses that are reimbursed by the program and that 3695
are directly related to the victim's funeral, cremation, or 3696
burial. 3697

(O) "Unemployment benefits loss" means a loss of 3698
unemployment benefits pursuant to Chapter 4141. of the Revised 3699
Code when the loss arises solely from the inability of a victim 3700
to meet the able to work, available for suitable work, or the 3701
actively seeking suitable work requirements of division (A) (4) 3702
(a) of section 4141.29 of the Revised Code. 3703

(P) "OVI violation" means any of the following: 3704

(1) A violation of section 4511.19 of the Revised Code, of 3705
any municipal ordinance prohibiting the operation of a vehicle 3706
while under the influence of alcohol, a drug of abuse, or a 3707
combination of them, or of any municipal ordinance prohibiting 3708
the operation of a vehicle with a prohibited concentration of 3709
alcohol, a controlled substance, or a metabolite of a controlled 3710
substance in the whole blood, blood serum or plasma, breath, or 3711
urine; 3712

(2) A violation of division (A) (1) of section 2903.06 of 3713
the Revised Code; 3714

(3) A violation of division (A) (2), (3), or (4) of section 3715
2903.06 of the Revised Code or of a municipal ordinance 3716
substantially similar to any of those divisions, if the offender 3717

was under the influence of alcohol, a drug of abuse, or a 3718
combination of them, at the time of the commission of the 3719
offense; 3720

(4) For purposes of any person described in division (A) 3721
(2) of this section, a violation of any law of the state, 3722
district, territory, or foreign country in which the criminally 3723
injurious conduct occurred, if that law is substantially similar 3724
to a violation described in division (P) (1) or (2) of this 3725
section or if that law is substantially similar to a violation 3726
described in division (P) (3) of this section and the offender 3727
was under the influence of alcohol, a drug of abuse, or a 3728
combination of them, at the time of the commission of the 3729
offense. 3730

(Q) "Pendency of the claim" for an original reparations 3731
application or supplemental reparations application means the 3732
period of time from the date the criminally injurious conduct 3733
upon which the application is based occurred until the date a 3734
final decision, order, or judgment concerning that original 3735
reparations application or supplemental reparations application 3736
is issued. 3737

(R) "Terrorism" means any activity to which all of the 3738
following apply: 3739

(1) The activity involves a violent act or an act that is 3740
dangerous to human life. 3741

(2) The act described in division (R) (1) of this section 3742
is committed within the territorial jurisdiction of the United 3743
States and is a violation of the criminal laws of the United 3744
States, this state, or any other state or the act described in 3745
division (R) (1) of this section is committed outside the 3746

territorial jurisdiction of the United States and would be a 3747
violation of the criminal laws of the United States, this state, 3748
or any other state if committed within the territorial 3749
jurisdiction of the United States. 3750

(3) The activity appears to be intended to do any of the 3751
following: 3752

(a) Intimidate or coerce a civilian population; 3753

(b) Influence the policy of any government by intimidation 3754
or coercion; 3755

(c) Affect the conduct of any government by assassination 3756
or kidnapping. 3757

(4) The activity occurs primarily outside the territorial 3758
jurisdiction of the United States or transcends the national 3759
boundaries of the United States in terms of the means by which 3760
the activity is accomplished, the person or persons that the 3761
activity appears intended to intimidate or coerce, or the area 3762
or locale in which the perpetrator or perpetrators of the 3763
activity operate or seek asylum. 3764

(S) "Transcends the national boundaries of the United 3765
States" means occurring outside the territorial jurisdiction of 3766
the United States in addition to occurring within the 3767
territorial jurisdiction of the United States. 3768

(T) "Cost of crime scene cleanup" means any of the 3769
following: 3770

(1) The replacement cost for items of clothing removed 3771
from a victim in order to make an assessment of possible 3772
physical harm or to treat physical harm; 3773

(2) Reasonable and necessary costs of cleaning the scene 3774

and repairing, for the purpose of personal security, property 3775
damaged at the scene where the criminally injurious conduct 3776
occurred, not to exceed seven hundred fifty dollars in the 3777
aggregate per claim. 3778

(U) "Cost of evidence replacement" means costs for 3779
replacement of property confiscated for evidentiary purposes 3780
related to the criminally injurious conduct, not to exceed seven 3781
hundred fifty dollars in the aggregate per claim. 3782

(V) "Provider" means any person who provides a victim or 3783
claimant with a product, service, or accommodations that are an 3784
allowable expense or a funeral expense. 3785

(W) "Immediate family member" means an individual who 3786
resided in the same permanent household as a victim at the time 3787
of the criminally injurious conduct and who is related to the 3788
victim by affinity or consanguinity. 3789

(X) "Family member" means an individual who is related to 3790
a victim by affinity or consanguinity. 3791

Sec. 2901.02. As used in the Revised Code: 3792

(A) Offenses include aggravated murder, murder, felonies 3793
of the first, second, third, fourth, and fifth degree, 3794
misdemeanors of the first, second, third, and fourth degree, 3795
minor misdemeanors, and offenses not specifically classified. 3796

~~(B) Aggravated murder when the indictment or the count in~~ 3797
~~the indictment charging aggravated murder contains one or more~~ 3798
~~specifications of aggravating circumstances listed in division~~ 3799
~~(A) of section 2929.04 of Revised Code, and any other offense~~ 3800
~~for which death may be imposed as a penalty, is a capital~~ 3801
~~offense.~~ 3802

(C) —Aggravated murder and murder are felonies.	3803
(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.	3804 3805 3806 3807
(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.	3808 3809 3810
(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.	3811 3812 3813
(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:	3814 3815 3816
(1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars;	3817 3818
(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.	3819 3820 3821 3822 3823
Sec. 2909.24. (A) No person shall commit a specified offense with purpose to do any of the following:	3824 3825
(1) Intimidate or coerce a civilian population;	3826
(2) Influence the policy of any government by intimidation or coercion;	3827 3828
(3) Affect the conduct of any government by the specified	3829

offense. 3830

(B) (1) Whoever violates this section is guilty of 3831
terrorism. 3832

(2) Except as otherwise provided in divisions (B) (3) and 3833
(4) of this section, terrorism is an offense one degree higher 3834
than the most serious underlying specified offense the defendant 3835
committed. 3836

(3) If the most serious underlying specified offense the 3837
defendant committed is a felony of the first degree or murder, 3838
the person shall be sentenced to life imprisonment without 3839
parole. 3840

(4) If the most serious underlying specified offense the 3841
defendant committed is aggravated murder, the offender shall be 3842
sentenced to life imprisonment without parole ~~or death pursuant to~~ 3843
~~to sections 2929.02 to 2929.06 of the Revised Code.~~ 3844

(5) Section 2909.25 of the Revised Code applies regarding 3845
an offender who is convicted of or pleads guilty to a violation 3846
of this section. 3847

Sec. 2929.02. (A) ~~Whoever~~ Except as provided in division 3848
(C) of this section, whoever is convicted of or pleads guilty to 3849
aggravated murder in violation of section 2903.01 of the Revised 3850
Code shall ~~suffer death or be imprisoned for life, as determined~~ 3851
~~pursuant to sections 2929.022, 2929.03, and 2929.04 of the~~ 3852
~~Revised Code, except that no person who raises the matter of age~~ 3853
~~pursuant to section 2929.023 of the Revised Code and who is not~~ 3854
~~found to have been eighteen years of age or older at the time of~~ 3855
~~the commission of the offense shall suffer death. In addition,~~ 3856
~~the offender may be fined an amount fixed by the court, but not~~ 3857
~~more than twenty five thousand dollars~~ sentenced to life 3858

imprisonment with parole eligibility after serving twenty full 3859
years of imprisonment, life imprisonment with parole eligibility 3860
after serving thirty full years of imprisonment, or life 3861
imprisonment without parole. 3862

(B) ~~(1)~~ Except as otherwise provided in division ~~(B) (2) or~~ 3863
~~(3)~~ (C) of this section, whoever is convicted of or pleads 3864
guilty to murder in violation of section 2903.02 of the Revised 3865
Code shall be imprisoned for an indefinite term of fifteen years 3866
to life. 3867

~~(2)~~ (C) (1) Except as otherwise provided in division ~~(B) (3)~~ 3868
~~(C) (2)~~ of this section, if a person is convicted of or pleads 3869
guilty to aggravated murder in violation of section 2903.01 of 3870
the Revised Code or to murder in violation of section 2903.02 of 3871
the Revised Code, the victim of the offense was less than 3872
thirteen years of age, and the offender also is convicted of or 3873
pleads guilty to a sexual motivation specification that was 3874
included in the indictment, count in the indictment, or 3875
information charging the offense, the court shall impose an 3876
indefinite prison term of thirty years to life pursuant to 3877
division (B) (3) of section 2971.03 of the Revised Code. 3878

~~(3)~~ (2) If a person is convicted of or pleads guilty to 3879
aggravated murder in violation of section 2903.01 of the Revised 3880
Code or to murder in violation of section 2903.02 of the Revised 3881
Code and also is convicted of or pleads guilty to a sexual 3882
motivation specification and a sexually violent predator 3883
specification that were included in the indictment, count in the 3884
indictment, or information that charged the murder, the court 3885
shall impose upon the offender a term of life imprisonment 3886
without parole that shall be served pursuant to section 2971.03 3887
of the Revised Code. 3888

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

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

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

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

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

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

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

(1) For a fourth degree felony OVI offense for which sentence is imposed under division (G) (1) of this section, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code. If the court imposes upon the offender a community control sanction and the offender violates any condition of the community control sanction, the court may take any action prescribed in division (B) of section 2929.15 of the Revised Code relative to the offender, including imposing a prison term on the offender pursuant to that division.

(2) For a third or fourth degree felony OVI offense for 3949
which sentence is imposed under division (G) (2) of this section, 3950
an additional prison term as described in division (B) (4) of 3951
section 2929.14 of the Revised Code or a community control 3952
sanction as described in division (G) (2) of this section. 3953

(B) (1) (a) Except as provided in division (B) (1) (b) of this 3954
section, if an offender is convicted of or pleads guilty to a 3955
felony of the fourth or fifth degree that is not an offense of 3956
violence or that is a qualifying assault offense, the court 3957
shall sentence the offender to a community control sanction or 3958
combination of community control sanctions if all of the 3959
following apply: 3960

(i) The offender previously has not been convicted of or 3961
pleaded guilty to a felony offense. 3962

(ii) The most serious charge against the offender at the 3963
time of sentencing is a felony of the fourth or fifth degree. 3964

(iii) If the court made a request of the department of 3965
rehabilitation and correction pursuant to division (B) (1) (c) of 3966
this section, the department, within the forty-five-day period 3967
specified in that division, provided the court with the names 3968
of, contact information for, and program details of one or more 3969
community control sanctions that are available for persons 3970
sentenced by the court. 3971

(iv) The offender previously has not been convicted of or 3972
pleaded guilty to a misdemeanor offense of violence that the 3973
offender committed within two years prior to the offense for 3974
which sentence is being imposed. 3975

(b) The court has discretion to impose a prison term upon 3976
an offender who is convicted of or pleads guilty to a felony of 3977

the fourth or fifth degree that is not an offense of violence or 3978
that is a qualifying assault offense if any of the following 3979
apply: 3980

(i) The offender committed the offense while having a 3981
firearm on or about the offender's person or under the 3982
offender's control. 3983

(ii) If the offense is a qualifying assault offense, the 3984
offender caused serious physical harm to another person while 3985
committing the offense, and, if the offense is not a qualifying 3986
assault offense, the offender caused physical harm to another 3987
person while committing the offense. 3988

(iii) The offender violated a term of the conditions of 3989
bond as set by the court. 3990

(iv) The court made a request of the department of 3991
rehabilitation and correction pursuant to division (B)(1)(c) of 3992
this section, and the department, within the forty-five-day 3993
period specified in that division, did not provide the court 3994
with the name of, contact information for, and program details 3995
of any community control sanction that is available for persons 3996
sentenced by the court. 3997

(v) The offense is a sex offense that is a fourth or fifth 3998
degree felony violation of any provision of Chapter 2907. of the 3999
Revised Code. 4000

(vi) In committing the offense, the offender attempted to 4001
cause or made an actual threat of physical harm to a person with 4002
a deadly weapon. 4003

(vii) In committing the offense, the offender attempted to 4004
cause or made an actual threat of physical harm to a person, and 4005
the offender previously was convicted of an offense that caused 4006

physical harm to a person. 4007

(viii) The offender held a public office or position of 4008
trust, and the offense related to that office or position; the 4009
offender's position obliged the offender to prevent the offense 4010
or to bring those committing it to justice; or the offender's 4011
professional reputation or position facilitated the offense or 4012
was likely to influence the future conduct of others. 4013

(ix) The offender committed the offense for hire or as 4014
part of an organized criminal activity. 4015

(x) The offender at the time of the offense was serving, 4016
or the offender previously had served, a prison term. 4017

(xi) The offender committed the offense while under a 4018
community control sanction, while on probation, or while 4019
released from custody on a bond or personal recognizance. 4020

(c) If a court that is sentencing an offender who is 4021
convicted of or pleads guilty to a felony of the fourth or fifth 4022
degree that is not an offense of violence or that is a 4023
qualifying assault offense believes that no community control 4024
sanctions are available for its use that, if imposed on the 4025
offender, will adequately fulfill the overriding principles and 4026
purposes of sentencing, the court shall contact the department 4027
of rehabilitation and correction and ask the department to 4028
provide the court with the names of, contact information for, 4029
and program details of one or more community control sanctions 4030
that are available for persons sentenced by the court. Not later 4031
than forty-five days after receipt of a request from a court 4032
under this division, the department shall provide the court with 4033
the names of, contact information for, and program details of 4034
one or more community control sanctions that are available for 4035

persons sentenced by the court, if any. Upon making a request 4036
under this division that relates to a particular offender, a 4037
court shall defer sentencing of that offender until it receives 4038
from the department the names of, contact information for, and 4039
program details of one or more community control sanctions that 4040
are available for persons sentenced by the court or for forty- 4041
five days, whichever is the earlier. 4042

If the department provides the court with the names of, 4043
contact information for, and program details of one or more 4044
community control sanctions that are available for persons 4045
sentenced by the court within the forty-five-day period 4046
specified in this division, the court shall impose upon the 4047
offender a community control sanction under division (B) (1) (a) 4048
of this section, except that the court may impose a prison term 4049
under division (B) (1) (b) of this section if a factor described 4050
in division (B) (1) (b) (i) or (ii) of this section applies. If the 4051
department does not provide the court with the names of, contact 4052
information for, and program details of one or more community 4053
control sanctions that are available for persons sentenced by 4054
the court within the forty-five-day period specified in this 4055
division, the court may impose upon the offender a prison term 4056
under division (B) (1) (b) (iv) of this section. 4057

(d) A sentencing court may impose an additional penalty 4058
under division (B) of section 2929.15 of the Revised Code upon 4059
an offender sentenced to a community control sanction under 4060
division (B) (1) (a) of this section if the offender violates the 4061
conditions of the community control sanction, violates a law, or 4062
leaves the state without the permission of the court or the 4063
offender's probation officer. 4064

(2) If division (B) (1) of this section does not apply, 4065

except as provided in division (E), (F), or (G) of this section, 4066
in determining whether to impose a prison term as a sanction for 4067
a felony of the fourth or fifth degree, the sentencing court 4068
shall comply with the purposes and principles of sentencing 4069
under section 2929.11 of the Revised Code and with section 4070
2929.12 of the Revised Code. 4071

(C) Except as provided in division (D), (E), (F), or (G) 4072
of this section, in determining whether to impose a prison term 4073
as a sanction for a felony of the third degree or a felony drug 4074
offense that is a violation of a provision of Chapter 2925. of 4075
the Revised Code and that is specified as being subject to this 4076
division for purposes of sentencing, the sentencing court shall 4077
comply with the purposes and principles of sentencing under 4078
section 2929.11 of the Revised Code and with section 2929.12 of 4079
the Revised Code. 4080

(D) (1) Except as provided in division (E) or (F) of this 4081
section, for a felony of the first or second degree, for a 4082
felony drug offense that is a violation of any provision of 4083
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4084
presumption in favor of a prison term is specified as being 4085
applicable, and for a violation of division (A) (4) or (B) of 4086
section 2907.05 of the Revised Code for which a presumption in 4087
favor of a prison term is specified as being applicable, it is 4088
presumed that a prison term is necessary in order to comply with 4089
the purposes and principles of sentencing under section 2929.11 4090
of the Revised Code. Division (D) (2) of this section does not 4091
apply to a presumption established under this division for a 4092
violation of division (A) (4) of section 2907.05 of the Revised 4093
Code. 4094

(2) Notwithstanding the presumption established under 4095

division (D) (1) of this section for the offenses listed in that 4096
division other than a violation of division (A) (4) or (B) of 4097
section 2907.05 of the Revised Code, the sentencing court may 4098
impose a community control sanction or a combination of 4099
community control sanctions instead of a prison term on an 4100
offender for a felony of the first or second degree or for a 4101
felony drug offense that is a violation of any provision of 4102
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4103
presumption in favor of a prison term is specified as being 4104
applicable if it makes both of the following findings: 4105

(a) A community control sanction or a combination of 4106
community control sanctions would adequately punish the offender 4107
and protect the public from future crime, because the applicable 4108
factors under section 2929.12 of the Revised Code indicating a 4109
lesser likelihood of recidivism outweigh the applicable factors 4110
under that section indicating a greater likelihood of 4111
recidivism. 4112

(b) A community control sanction or a combination of 4113
community control sanctions would not demean the seriousness of 4114
the offense, because one or more factors under section 2929.12 4115
of the Revised Code that indicate that the offender's conduct 4116
was less serious than conduct normally constituting the offense 4117
are applicable, and they outweigh the applicable factors under 4118
that section that indicate that the offender's conduct was more 4119
serious than conduct normally constituting the offense. 4120

(E) (1) Except as provided in division (F) of this section, 4121
for any drug offense that is a violation of any provision of 4122
Chapter 2925. of the Revised Code and that is a felony of the 4123
third, fourth, or fifth degree, the applicability of a 4124
presumption under division (D) of this section in favor of a 4125

prison term or of division (B) or (C) of this section in 4126
determining whether to impose a prison term for the offense 4127
shall be determined as specified in section 2925.02, 2925.03, 4128
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 4129
2925.36, or 2925.37 of the Revised Code, whichever is applicable 4130
regarding the violation. 4131

(2) If an offender who was convicted of or pleaded guilty 4132
to a felony violates the conditions of a community control 4133
sanction imposed for the offense solely by reason of producing 4134
positive results on a drug test or by acting pursuant to 4135
division (B) (2) (b) of section 2925.11 of the Revised Code with 4136
respect to a minor drug possession offense, the court, as 4137
punishment for the violation of the sanction, shall not order 4138
that the offender be imprisoned unless the court determines on 4139
the record either of the following: 4140

(a) The offender had been ordered as a sanction for the 4141
felony to participate in a drug treatment program, in a drug 4142
education program, or in narcotics anonymous or a similar 4143
program, and the offender continued to use illegal drugs after a 4144
reasonable period of participation in the program. 4145

(b) The imprisonment of the offender for the violation is 4146
consistent with the purposes and principles of sentencing set 4147
forth in section 2929.11 of the Revised Code. 4148

(3) A court that sentences an offender for a drug abuse 4149
offense that is a felony of the third, fourth, or fifth degree 4150
may require that the offender be assessed by a properly 4151
credentialed professional within a specified period of time. The 4152
court shall require the professional to file a written 4153
assessment of the offender with the court. If the offender is 4154
eligible for a community control sanction and after considering 4155

the written assessment, the court may impose a community control 4156
sanction that includes addiction services and recovery supports 4157
included in a community-based continuum of care established 4158
under section 340.032 of the Revised Code. If the court imposes 4159
addiction services and recovery supports as a community control 4160
sanction, the court shall direct the level and type of addiction 4161
services and recovery supports after considering the assessment 4162
and recommendation of community addiction services providers. 4163

(F) Notwithstanding divisions (A) to (E) of this section, 4164
the court shall impose a prison term or terms under ~~sections~~ 4165
section 2929.02 to 2929.06, section 2929.14, section 2929.142, 4166
or ~~section~~ 2971.03 of the Revised Code and except as 4167
specifically provided in section 2929.20, divisions (C) to (I) 4168
of section 2967.19, or section 2967.191 of the Revised Code or 4169
when parole is authorized for the offense under section 2967.13 4170
of the Revised Code shall not reduce the term or terms pursuant 4171
to section 2929.20, section 2967.19, section 2967.193, or any 4172
other provision of Chapter 2967. or Chapter 5120. of the Revised 4173
Code for any of the following offenses: 4174

(1) Aggravated murder ~~when death is not imposed~~ or murder; 4175

(2) Any rape, regardless of whether force was involved and 4176
regardless of the age of the victim, or an attempt to commit 4177
rape if, had the offender completed the rape that was attempted, 4178
the offender would have been guilty of a violation of division 4179
(A) (1) (b) of section 2907.02 of the Revised Code and would be 4180
sentenced under section 2971.03 of the Revised Code; 4181

(3) Gross sexual imposition or sexual battery, if the 4182
victim is less than thirteen years of age and if any of the 4183
following applies: 4184

(a) Regarding gross sexual imposition, the offender 4185
previously was convicted of or pleaded guilty to rape, the 4186
former offense of felonious sexual penetration, gross sexual 4187
imposition, or sexual battery, and the victim of the previous 4188
offense was less than thirteen years of age; 4189

(b) Regarding gross sexual imposition, the offense was 4190
committed on or after August 3, 2006, and evidence other than 4191
the testimony of the victim was admitted in the case 4192
corroborating the violation. 4193

(c) Regarding sexual battery, either of the following 4194
applies: 4195

(i) The offense was committed prior to August 3, 2006, the 4196
offender previously was convicted of or pleaded guilty to rape, 4197
the former offense of felonious sexual penetration, or sexual 4198
battery, and the victim of the previous offense was less than 4199
thirteen years of age. 4200

(ii) The offense was committed on or after August 3, 2006. 4201

(4) A felony violation of section 2903.04, 2903.06, 4202
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 4203
or 2923.132 of the Revised Code if the section requires the 4204
imposition of a prison term; 4205

(5) A first, second, or third degree felony drug offense 4206
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 4207
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 4208
or 4729.99 of the Revised Code, whichever is applicable 4209
regarding the violation, requires the imposition of a mandatory 4210
prison term; 4211

(6) Any offense that is a first or second degree felony 4212
and that is not set forth in division (F) (1), (2), (3), or (4) 4213

of this section, if the offender previously was convicted of or 4214
pleaded guilty to aggravated murder, murder, any first or second 4215
degree felony, or an offense under an existing or former law of 4216
this state, another state, or the United States that is or was 4217
substantially equivalent to one of those offenses; 4218

(7) Any offense that is a third degree felony and either 4219
is a violation of section 2903.04 of the Revised Code or an 4220
attempt to commit a felony of the second degree that is an 4221
offense of violence and involved an attempt to cause serious 4222
physical harm to a person or that resulted in serious physical 4223
harm to a person if the offender previously was convicted of or 4224
pleaded guilty to any of the following offenses: 4225

(a) Aggravated murder, murder, involuntary manslaughter, 4226
rape, felonious sexual penetration as it existed under section 4227
2907.12 of the Revised Code prior to September 3, 1996, a felony 4228
of the first or second degree that resulted in the death of a 4229
person or in physical harm to a person, or complicity in or an 4230
attempt to commit any of those offenses; 4231

(b) An offense under an existing or former law of this 4232
state, another state, or the United States that is or was 4233
substantially equivalent to an offense listed in division (F) (7) 4234
(a) of this section that resulted in the death of a person or in 4235
physical harm to a person. 4236

(8) Any offense, other than a violation of section 2923.12 4237
of the Revised Code, that is a felony, if the offender had a 4238
firearm on or about the offender's person or under the 4239
offender's control while committing the felony, with respect to 4240
a portion of the sentence imposed pursuant to division (B) (1) (a) 4241
of section 2929.14 of the Revised Code for having the firearm; 4242

(9) Any offense of violence that is a felony, if the 4243
offender wore or carried body armor while committing the felony 4244
offense of violence, with respect to the portion of the sentence 4245
imposed pursuant to division (B) (1) (d) of section 2929.14 of the 4246
Revised Code for wearing or carrying the body armor; 4247

(10) Corrupt activity in violation of section 2923.32 of 4248
the Revised Code when the most serious offense in the pattern of 4249
corrupt activity that is the basis of the offense is a felony of 4250
the first degree; 4251

(11) Any violent sex offense or designated homicide, 4252
assault, or kidnapping offense if, in relation to that offense, 4253
the offender is adjudicated a sexually violent predator; 4254

(12) A violation of division (A) (1) or (2) of section 4255
2921.36 of the Revised Code, or a violation of division (C) of 4256
that section involving an item listed in division (A) (1) or (2) 4257
of that section, if the offender is an officer or employee of 4258
the department of rehabilitation and correction; 4259

(13) A violation of division (A) (1) or (2) of section 4260
2903.06 of the Revised Code if the victim of the offense is a 4261
peace officer, as defined in section 2935.01 of the Revised 4262
Code, or an investigator of the bureau of criminal 4263
identification and investigation, as defined in section 2903.11 4264
of the Revised Code, with respect to the portion of the sentence 4265
imposed pursuant to division (B) (5) of section 2929.14 of the 4266
Revised Code; 4267

(14) A violation of division (A) (1) or (2) of section 4268
2903.06 of the Revised Code if the offender has been convicted 4269
of or pleaded guilty to three or more violations of division (A) 4270
or (B) of section 4511.19 of the Revised Code or an equivalent 4271

offense, as defined in section 2941.1415 of the Revised Code, or 4272
three or more violations of any combination of those divisions 4273
and offenses, with respect to the portion of the sentence 4274
imposed pursuant to division (B) (6) of section 2929.14 of the 4275
Revised Code; 4276

(15) Kidnapping, in the circumstances specified in section 4277
2971.03 of the Revised Code and when no other provision of 4278
division (F) of this section applies; 4279

(16) Kidnapping, abduction, compelling prostitution, 4280
promoting prostitution, engaging in a pattern of corrupt 4281
activity, a violation of division (A) (1) or (2) of section 4282
2907.323 of the Revised Code that involves a minor, or 4283
endangering children in violation of division (B) (1), (2), (3), 4284
(4), or (5) of section 2919.22 of the Revised Code, if the 4285
offender is convicted of or pleads guilty to a specification as 4286
described in section 2941.1422 of the Revised Code that was 4287
included in the indictment, count in the indictment, or 4288
information charging the offense; 4289

(17) A felony violation of division (A) or (B) of section 4290
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 4291
that section, and division (D) (6) of that section, require the 4292
imposition of a prison term; 4293

(18) A felony violation of section 2903.11, 2903.12, or 4294
2903.13 of the Revised Code, if the victim of the offense was a 4295
woman that the offender knew was pregnant at the time of the 4296
violation, with respect to a portion of the sentence imposed 4297
pursuant to division (B) (8) of section 2929.14 of the Revised 4298
Code; 4299

(19) (a) Any violent felony offense if the offender is a 4300

violent career criminal and had a firearm on or about the 4301
offender's person or under the offender's control during the 4302
commission of the violent felony offense and displayed or 4303
brandished the firearm, indicated that the offender possessed a 4304
firearm, or used the firearm to facilitate the offense, with 4305
respect to the portion of the sentence imposed under division 4306
(K) of section 2929.14 of the Revised Code. 4307

(b) As used in division (F) (19) (a) of this section, 4308
"violent career criminal" and "violent felony offense" have the 4309
same meanings as in section 2923.132 of the Revised Code; 4310

(20) Any violation of division (A) (1) of section 2903.11 4311
of the Revised Code if the offender used an accelerant in 4312
committing the violation and the serious physical harm to 4313
another or another's unborn caused by the violation resulted in 4314
a permanent, serious disfigurement or permanent, substantial 4315
incapacity or any violation of division (A) (2) of that section 4316
if the offender used an accelerant in committing the violation, 4317
the violation caused physical harm to another or another's 4318
unborn, and the physical harm resulted in a permanent, serious 4319
disfigurement or permanent, substantial incapacity, with respect 4320
to a portion of the sentence imposed pursuant to division (B) (9) 4321
of section 2929.14 of the Revised Code. The provisions of this 4322
division and of division (D) (2) of section 2903.11, divisions 4323
(B) (9) and (C) (6) of section 2929.14, and section 2941.1425 of 4324
the Revised Code shall be known as "Judy's Law." 4325

(21) Any violation of division (A) of section 2903.11 of 4326
the Revised Code if the victim of the offense suffered permanent 4327
disabling harm as a result of the offense and the victim was 4328
under ten years of age at the time of the offense, with respect 4329
to a portion of the sentence imposed pursuant to division (B) 4330

(10) of section 2929.14 of the Revised Code. 4331

(22) A felony violation of section 2925.03, 2925.05, or 4332
2925.11 of the Revised Code, if the drug involved in the 4333
violation is a fentanyl-related compound or a compound, mixture, 4334
preparation, or substance containing a fentanyl-related compound 4335
and the offender is convicted of or pleads guilty to a 4336
specification of the type described in division (B) of section 4337
2941.1410 of the Revised Code that was included in the 4338
indictment, count in the indictment, or information charging the 4339
offense, with respect to the portion of the sentence imposed 4340
under division (B) (11) of section 2929.14 of the Revised Code. 4341

(G) Notwithstanding divisions (A) to (E) of this section, 4342
if an offender is being sentenced for a fourth degree felony OVI 4343
offense or for a third degree felony OVI offense, the court 4344
shall impose upon the offender a mandatory term of local 4345
incarceration or a mandatory prison term in accordance with the 4346
following: 4347

(1) If the offender is being sentenced for a fourth degree 4348
felony OVI offense and if the offender has not been convicted of 4349
and has not pleaded guilty to a specification of the type 4350
described in section 2941.1413 of the Revised Code, the court 4351
may impose upon the offender a mandatory term of local 4352
incarceration of sixty days or one hundred twenty days as 4353
specified in division (G) (1) (d) of section 4511.19 of the 4354
Revised Code. The court shall not reduce the term pursuant to 4355
section 2929.20, 2967.193, or any other provision of the Revised 4356
Code. The court that imposes a mandatory term of local 4357
incarceration under this division shall specify whether the term 4358
is to be served in a jail, a community-based correctional 4359
facility, a halfway house, or an alternative residential 4360

facility, and the offender shall serve the term in the type of 4361
facility specified by the court. A mandatory term of local 4362
incarceration imposed under division (G) (1) of this section is 4363
not subject to any other Revised Code provision that pertains to 4364
a prison term except as provided in division (A) (1) of this 4365
section. 4366

(2) If the offender is being sentenced for a third degree 4367
felony OVI offense, or if the offender is being sentenced for a 4368
fourth degree felony OVI offense and the court does not impose a 4369
mandatory term of local incarceration under division (G) (1) of 4370
this section, the court shall impose upon the offender a 4371
mandatory prison term of one, two, three, four, or five years if 4372
the offender also is convicted of or also pleads guilty to a 4373
specification of the type described in section 2941.1413 of the 4374
Revised Code or shall impose upon the offender a mandatory 4375
prison term of sixty days or one hundred twenty days as 4376
specified in division (G) (1) (d) or (e) of section 4511.19 of the 4377
Revised Code if the offender has not been convicted of and has 4378
not pleaded guilty to a specification of that type. Subject to 4379
divisions (C) to (I) of section 2967.19 of the Revised Code, the 4380
court shall not reduce the term pursuant to section 2929.20, 4381
2967.19, 2967.193, or any other provision of the Revised Code. 4382
The offender shall serve the one-, two-, three-, four-, or five- 4383
year mandatory prison term consecutively to and prior to the 4384
prison term imposed for the underlying offense and consecutively 4385
to any other mandatory prison term imposed in relation to the 4386
offense. In no case shall an offender who once has been 4387
sentenced to a mandatory term of local incarceration pursuant to 4388
division (G) (1) of this section for a fourth degree felony OVI 4389
offense be sentenced to another mandatory term of local 4390
incarceration under that division for any violation of division 4391

(A) of section 4511.19 of the Revised Code. In addition to the 4392
mandatory prison term described in division (G)(2) of this 4393
section, the court may sentence the offender to a community 4394
control sanction under section 2929.16 or 2929.17 of the Revised 4395
Code, but the offender shall serve the prison term prior to 4396
serving the community control sanction. The department of 4397
rehabilitation and correction may place an offender sentenced to 4398
a mandatory prison term under this division in an intensive 4399
program prison established pursuant to section 5120.033 of the 4400
Revised Code if the department gave the sentencing judge prior 4401
notice of its intent to place the offender in an intensive 4402
program prison established under that section and if the judge 4403
did not notify the department that the judge disapproved the 4404
placement. Upon the establishment of the initial intensive 4405
program prison pursuant to section 5120.033 of the Revised Code 4406
that is privately operated and managed by a contractor pursuant 4407
to a contract entered into under section 9.06 of the Revised 4408
Code, both of the following apply: 4409

(a) The department of rehabilitation and correction shall 4410
make a reasonable effort to ensure that a sufficient number of 4411
offenders sentenced to a mandatory prison term under this 4412
division are placed in the privately operated and managed prison 4413
so that the privately operated and managed prison has full 4414
occupancy. 4415

(b) Unless the privately operated and managed prison has 4416
full occupancy, the department of rehabilitation and correction 4417
shall not place any offender sentenced to a mandatory prison 4418
term under this division in any intensive program prison 4419
established pursuant to section 5120.033 of the Revised Code 4420
other than the privately operated and managed prison. 4421

(H) If an offender is being sentenced for a sexually 4422
oriented offense or child-victim oriented offense that is a 4423
felony committed on or after January 1, 1997, the judge shall 4424
require the offender to submit to a DNA specimen collection 4425
procedure pursuant to section 2901.07 of the Revised Code. 4426

(I) If an offender is being sentenced for a sexually 4427
oriented offense or a child-victim oriented offense committed on 4428
or after January 1, 1997, the judge shall include in the 4429
sentence a summary of the offender's duties imposed under 4430
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 4431
Code and the duration of the duties. The judge shall inform the 4432
offender, at the time of sentencing, of those duties and of 4433
their duration. If required under division (A)(2) of section 4434
2950.03 of the Revised Code, the judge shall perform the duties 4435
specified in that section, or, if required under division (A)(6) 4436
of section 2950.03 of the Revised Code, the judge shall perform 4437
the duties specified in that division. 4438

(J)(1) Except as provided in division (J)(2) of this 4439
section, when considering sentencing factors under this section 4440
in relation to an offender who is convicted of or pleads guilty 4441
to an attempt to commit an offense in violation of section 4442
2923.02 of the Revised Code, the sentencing court shall consider 4443
the factors applicable to the felony category of the violation 4444
of section 2923.02 of the Revised Code instead of the factors 4445
applicable to the felony category of the offense attempted. 4446

(2) When considering sentencing factors under this section 4447
in relation to an offender who is convicted of or pleads guilty 4448
to an attempt to commit a drug abuse offense for which the 4449
penalty is determined by the amount or number of unit doses of 4450
the controlled substance involved in the drug abuse offense, the 4451

sentencing court shall consider the factors applicable to the 4452
felony category that the drug abuse offense attempted would be 4453
if that drug abuse offense had been committed and had involved 4454
an amount or number of unit doses of the controlled substance 4455
that is within the next lower range of controlled substance 4456
amounts than was involved in the attempt. 4457

(K) As used in this section: 4458

(1) "Community addiction services provider" has the same 4459
meaning as in section 5119.01 of the Revised Code. 4460

(2) "Drug abuse offense" has the same meaning as in 4461
section 2925.01 of the Revised Code. 4462

(3) "Minor drug possession offense" has the same meaning 4463
as in section 2925.11 of the Revised Code. 4464

(4) "Qualifying assault offense" means a violation of 4465
section 2903.13 of the Revised Code for which the penalty 4466
provision in division (C) (8) (b) or (C) (9) (b) of that section 4467
applies. 4468

(L) At the time of sentencing an offender for any sexually 4469
oriented offense, if the offender is a tier III sex 4470
offender/child-victim offender relative to that offense and the 4471
offender does not serve a prison term or jail term, the court 4472
may require that the offender be monitored by means of a global 4473
positioning device. If the court requires such monitoring, the 4474
cost of monitoring shall be borne by the offender. If the 4475
offender is indigent, the cost of compliance shall be paid by 4476
the crime victims reparations fund. 4477

Sec. 2929.14. (A) Except as provided in division (B) (1), 4478
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (B) (9), 4479
(B) (10), (B) (11), (E), (G), (H), (J), or (K) of this section or 4480

in division (D) (6) of section 2919.25 of the Revised Code and 4481
except in relation to an offense for which a sentence of ~~death-~~ 4482
~~or~~-life imprisonment is to be imposed, if the court imposing a 4483
sentence upon an offender for a felony elects or is required to 4484
impose a prison term on the offender pursuant to this chapter, 4485
the court shall impose a prison term that shall be one of the 4486
following: 4487

(1) (a) For a felony of the first degree committed on or 4488
after the effective date of this amendment, the prison term 4489
shall be an indefinite prison term with a stated minimum term 4490
selected by the court of three, four, five, six, seven, eight, 4491
nine, ten, or eleven years and a maximum term that is determined 4492
pursuant to section 2929.144 of the Revised Code, except that if 4493
the section that criminalizes the conduct constituting the 4494
felony specifies a different minimum term or penalty for the 4495
offense, the specific language of that section shall control in 4496
determining the minimum term or otherwise sentencing the 4497
offender but the minimum term or sentence imposed under that 4498
specific language shall be considered for purposes of the 4499
Revised Code as if it had been imposed under this division. 4500

(b) For a felony of the first degree committed prior to 4501
the effective date of this amendment, the prison term shall be a 4502
definite prison term of three, four, five, six, seven, eight, 4503
nine, ten, or eleven years. 4504

(2) (a) For a felony of the second degree committed on or 4505
after the effective date of this amendment, the prison term 4506
shall be an indefinite prison term with a stated minimum term 4507
selected by the court of two, three, four, five, six, seven, or 4508
eight years and a maximum term that is determined pursuant to 4509
section 2929.144 of the Revised Code, except that if the section 4510

that criminalizes the conduct constituting the felony specifies 4511
a different minimum term or penalty for the offense, the 4512
specific language of that section shall control in determining 4513
the minimum term or otherwise sentencing the offender but the 4514
minimum term or sentence imposed under that specific language 4515
shall be considered for purposes of the Revised Code as if it 4516
had been imposed under this division. 4517

(b) For a felony of the second degree committed prior to 4518
the effective date of this amendment, the prison term shall be a 4519
definite term of two, three, four, five, six, seven, or eight 4520
years. 4521

(3) (a) For a felony of the third degree that is a 4522
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 4523
2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised 4524
Code or that is a violation of section 2911.02 or 2911.12 of the 4525
Revised Code if the offender previously has been convicted of or 4526
pleaded guilty in two or more separate proceedings to two or 4527
more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 4528
of the Revised Code, the prison term shall be a definite term of 4529
twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, 4530
forty-eight, fifty-four, or sixty months. 4531

(b) For a felony of the third degree that is not an 4532
offense for which division (A) (3) (a) of this section applies, 4533
the prison term shall be a definite term of nine, twelve, 4534
eighteen, twenty-four, thirty, or thirty-six months. 4535

(4) For a felony of the fourth degree, the prison term 4536
shall be a definite term of six, seven, eight, nine, ten, 4537
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 4538
or eighteen months. 4539

(5) For a felony of the fifth degree, the prison term 4540
shall be a definite term of six, seven, eight, nine, ten, 4541
eleven, or twelve months. 4542

(B) (1) (a) Except as provided in division (B) (1) (e) of this 4543
section, if an offender who is convicted of or pleads guilty to 4544
a felony also is convicted of or pleads guilty to a 4545
specification of the type described in section 2941.141, 4546
2941.144, or 2941.145 of the Revised Code, the court shall 4547
impose on the offender one of the following prison terms: 4548

(i) A prison term of six years if the specification is of 4549
the type described in division (A) of section 2941.144 of the 4550
Revised Code that charges the offender with having a firearm 4551
that is an automatic firearm or that was equipped with a firearm 4552
muffler or suppressor on or about the offender's person or under 4553
the offender's control while committing the offense; 4554

(ii) A prison term of three years if the specification is 4555
of the type described in division (A) of section 2941.145 of the 4556
Revised Code that charges the offender with having a firearm on 4557
or about the offender's person or under the offender's control 4558
while committing the offense and displaying the firearm, 4559
brandishing the firearm, indicating that the offender possessed 4560
the firearm, or using it to facilitate the offense; 4561

(iii) A prison term of one year if the specification is of 4562
the type described in division (A) of section 2941.141 of the 4563
Revised Code that charges the offender with having a firearm on 4564
or about the offender's person or under the offender's control 4565
while committing the offense; 4566

(iv) A prison term of nine years if the specification is 4567
of the type described in division (D) of section 2941.144 of the 4568

Revised Code that charges the offender with having a firearm 4569
that is an automatic firearm or that was equipped with a firearm 4570
muffler or suppressor on or about the offender's person or under 4571
the offender's control while committing the offense and 4572
specifies that the offender previously has been convicted of or 4573
pleaded guilty to a specification of the type described in 4574
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4575
the Revised Code; 4576

(v) A prison term of fifty-four months if the 4577
specification is of the type described in division (D) of 4578
section 2941.145 of the Revised Code that charges the offender 4579
with having a firearm on or about the offender's person or under 4580
the offender's control while committing the offense and 4581
displaying the firearm, brandishing the firearm, indicating that 4582
the offender possessed the firearm, or using the firearm to 4583
facilitate the offense and that the offender previously has been 4584
convicted of or pleaded guilty to a specification of the type 4585
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 4586
2941.1412 of the Revised Code; 4587

(vi) A prison term of eighteen months if the specification 4588
is of the type described in division (D) of section 2941.141 of 4589
the Revised Code that charges the offender with having a firearm 4590
on or about the offender's person or under the offender's 4591
control while committing the offense and that the offender 4592
previously has been convicted of or pleaded guilty to a 4593
specification of the type described in section 2941.141, 4594
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 4595

(b) If a court imposes a prison term on an offender under 4596
division (B) (1) (a) of this section, the prison term shall not be 4597
reduced pursuant to section 2967.19, section 2929.20, section 4598

2967.193, or any other provision of Chapter 2967. or Chapter 4599
5120. of the Revised Code. Except as provided in division (B) (1) 4600
(g) of this section, a court shall not impose more than one 4601
prison term on an offender under division (B) (1) (a) of this 4602
section for felonies committed as part of the same act or 4603
transaction. 4604

(c) (i) Except as provided in division (B) (1) (e) of this 4605
section, if an offender who is convicted of or pleads guilty to 4606
a violation of section 2923.161 of the Revised Code or to a 4607
felony that includes, as an essential element, purposely or 4608
knowingly causing or attempting to cause the death of or 4609
physical harm to another, also is convicted of or pleads guilty 4610
to a specification of the type described in division (A) of 4611
section 2941.146 of the Revised Code that charges the offender 4612
with committing the offense by discharging a firearm from a 4613
motor vehicle other than a manufactured home, the court, after 4614
imposing a prison term on the offender for the violation of 4615
section 2923.161 of the Revised Code or for the other felony 4616
offense under division (A), (B) (2), or (B) (3) of this section, 4617
shall impose an additional prison term of five years upon the 4618
offender that shall not be reduced pursuant to section 2929.20, 4619
section 2967.19, section 2967.193, or any other provision of 4620
Chapter 2967. or Chapter 5120. of the Revised Code. 4621

(ii) Except as provided in division (B) (1) (e) of this 4622
section, if an offender who is convicted of or pleads guilty to 4623
a violation of section 2923.161 of the Revised Code or to a 4624
felony that includes, as an essential element, purposely or 4625
knowingly causing or attempting to cause the death of or 4626
physical harm to another, also is convicted of or pleads guilty 4627
to a specification of the type described in division (C) of 4628
section 2941.146 of the Revised Code that charges the offender 4629

with committing the offense by discharging a firearm from a 4630
motor vehicle other than a manufactured home and that the 4631
offender previously has been convicted of or pleaded guilty to a 4632
specification of the type described in section 2941.141, 4633
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 4634
the court, after imposing a prison term on the offender for the 4635
violation of section 2923.161 of the Revised Code or for the 4636
other felony offense under division (A), (B) (2), or (3) of this 4637
section, shall impose an additional prison term of ninety months 4638
upon the offender that shall not be reduced pursuant to section 4639
2929.20, 2967.19, 2967.193, or any other provision of Chapter 4640
2967. or Chapter 5120. of the Revised Code. 4641

(iii) A court shall not impose more than one additional 4642
prison term on an offender under division (B) (1) (c) of this 4643
section for felonies committed as part of the same act or 4644
transaction. If a court imposes an additional prison term on an 4645
offender under division (B) (1) (c) of this section relative to an 4646
offense, the court also shall impose a prison term under 4647
division (B) (1) (a) of this section relative to the same offense, 4648
provided the criteria specified in that division for imposing an 4649
additional prison term are satisfied relative to the offender 4650
and the offense. 4651

(d) If an offender who is convicted of or pleads guilty to 4652
an offense of violence that is a felony also is convicted of or 4653
pleads guilty to a specification of the type described in 4654
section 2941.1411 of the Revised Code that charges the offender 4655
with wearing or carrying body armor while committing the felony 4656
offense of violence, the court shall impose on the offender an 4657
additional prison term of two years. The prison term so imposed, 4658
subject to divisions (C) to (I) of section 2967.19 of the 4659
Revised Code, shall not be reduced pursuant to section 2929.20, 4660

section 2967.19, section 2967.193, or any other provision of 4661
Chapter 2967. or Chapter 5120. of the Revised Code. A court 4662
shall not impose more than one prison term on an offender under 4663
division (B) (1) (d) of this section for felonies committed as 4664
part of the same act or transaction. If a court imposes an 4665
additional prison term under division (B) (1) (a) or (c) of this 4666
section, the court is not precluded from imposing an additional 4667
prison term under division (B) (1) (d) of this section. 4668

(e) The court shall not impose any of the prison terms 4669
described in division (B) (1) (a) of this section or any of the 4670
additional prison terms described in division (B) (1) (c) of this 4671
section upon an offender for a violation of section 2923.12 or 4672
2923.123 of the Revised Code. The court shall not impose any of 4673
the prison terms described in division (B) (1) (a) or (b) of this 4674
section upon an offender for a violation of section 2923.122 4675
that involves a deadly weapon that is a firearm other than a 4676
dangerous ordnance, section 2923.16, or section 2923.121 of the 4677
Revised Code. The court shall not impose any of the prison terms 4678
described in division (B) (1) (a) of this section or any of the 4679
additional prison terms described in division (B) (1) (c) of this 4680
section upon an offender for a violation of section 2923.13 of 4681
the Revised Code unless all of the following apply: 4682

(i) The offender previously has been convicted of 4683
aggravated murder, murder, or any felony of the first or second 4684
degree. 4685

(ii) Less than five years have passed since the offender 4686
was released from prison or post-release control, whichever is 4687
later, for the prior offense. 4688

(f) (i) If an offender is convicted of or pleads guilty to 4689
a felony that includes, as an essential element, causing or 4690

attempting to cause the death of or physical harm to another and 4691
also is convicted of or pleads guilty to a specification of the 4692
type described in division (A) of section 2941.1412 of the 4693
Revised Code that charges the offender with committing the 4694
offense by discharging a firearm at a peace officer as defined 4695
in section 2935.01 of the Revised Code or a corrections officer, 4696
as defined in section 2941.1412 of the Revised Code, the court, 4697
after imposing a prison term on the offender for the felony 4698
offense under division (A), (B) (2), or (B) (3) of this section, 4699
shall impose an additional prison term of seven years upon the 4700
offender that shall not be reduced pursuant to section 2929.20, 4701
section 2967.19, section 2967.193, or any other provision of 4702
Chapter 2967. or Chapter 5120. of the Revised Code. 4703

(ii) If an offender is convicted of or pleads guilty to a 4704
felony that includes, as an essential element, causing or 4705
attempting to cause the death of or physical harm to another and 4706
also is convicted of or pleads guilty to a specification of the 4707
type described in division (B) of section 2941.1412 of the 4708
Revised Code that charges the offender with committing the 4709
offense by discharging a firearm at a peace officer, as defined 4710
in section 2935.01 of the Revised Code, or a corrections 4711
officer, as defined in section 2941.1412 of the Revised Code, 4712
and that the offender previously has been convicted of or 4713
pleaded guilty to a specification of the type described in 4714
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4715
the Revised Code, the court, after imposing a prison term on the 4716
offender for the felony offense under division (A), (B) (2), or 4717
(3) of this section, shall impose an additional prison term of 4718
one hundred twenty-six months upon the offender that shall not 4719
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 4720
any other provision of Chapter 2967. or 5120. of the Revised 4721

Code. 4722

(iii) If an offender is convicted of or pleads guilty to 4723
two or more felonies that include, as an essential element, 4724
causing or attempting to cause the death or physical harm to 4725
another and also is convicted of or pleads guilty to a 4726
specification of the type described under division (B)(1)(f) of 4727
this section in connection with two or more of the felonies of 4728
which the offender is convicted or to which the offender pleads 4729
guilty, the sentencing court shall impose on the offender the 4730
prison term specified under division (B)(1)(f) of this section 4731
for each of two of the specifications of which the offender is 4732
convicted or to which the offender pleads guilty and, in its 4733
discretion, also may impose on the offender the prison term 4734
specified under that division for any or all of the remaining 4735
specifications. If a court imposes an additional prison term on 4736
an offender under division (B)(1)(f) of this section relative to 4737
an offense, the court shall not impose a prison term under 4738
division (B)(1)(a) or (c) of this section relative to the same 4739
offense. 4740

(g) If an offender is convicted of or pleads guilty to two 4741
or more felonies, if one or more of those felonies are 4742
aggravated murder, murder, attempted aggravated murder, 4743
attempted murder, aggravated robbery, felonious assault, or 4744
rape, and if the offender is convicted of or pleads guilty to a 4745
specification of the type described under division (B)(1)(a) of 4746
this section in connection with two or more of the felonies, the 4747
sentencing court shall impose on the offender the prison term 4748
specified under division (B)(1)(a) of this section for each of 4749
the two most serious specifications of which the offender is 4750
convicted or to which the offender pleads guilty and, in its 4751
discretion, also may impose on the offender the prison term 4752

specified under that division for any or all of the remaining 4753
specifications. 4754

(2) (a) If division (B) (2) (b) of this section does not 4755
apply, the court may impose on an offender, in addition to the 4756
longest prison term authorized or required for the offense or, 4757
for offenses for which division (A) (1) (a) or (2) (a) of this 4758
section applies, in addition to the longest minimum prison term 4759
authorized or required for the offense, an additional definite 4760
prison term of one, two, three, four, five, six, seven, eight, 4761
nine, or ten years if all of the following criteria are met: 4762

(i) The offender is convicted of or pleads guilty to a 4763
specification of the type described in section 2941.149 of the 4764
Revised Code that the offender is a repeat violent offender. 4765

(ii) The offense of which the offender currently is 4766
convicted or to which the offender currently pleads guilty is 4767
aggravated murder and the court does not impose a sentence of 4768
~~death or~~ life imprisonment without parole, murder, terrorism and 4769
the court does not impose a sentence of life imprisonment 4770
without parole, any felony of the first degree that is an 4771
offense of violence and the court does not impose a sentence of 4772
life imprisonment without parole, or any felony of the second 4773
degree that is an offense of violence and the trier of fact 4774
finds that the offense involved an attempt to cause or a threat 4775
to cause serious physical harm to a person or resulted in 4776
serious physical harm to a person. 4777

(iii) The court imposes the longest prison term for the 4778
offense or the longest minimum prison term for the offense, 4779
whichever is applicable, that is not life imprisonment without 4780
parole. 4781

(iv) The court finds that the prison terms imposed 4782
pursuant to division (B) (2) (a) (iii) of this section and, if 4783
applicable, division (B) (1) or (3) of this section are 4784
inadequate to punish the offender and protect the public from 4785
future crime, because the applicable factors under section 4786
2929.12 of the Revised Code indicating a greater likelihood of 4787
recidivism outweigh the applicable factors under that section 4788
indicating a lesser likelihood of recidivism. 4789

(v) The court finds that the prison terms imposed pursuant 4790
to division (B) (2) (a) (iii) of this section and, if applicable, 4791
division (B) (1) or (3) of this section are demeaning to the 4792
seriousness of the offense, because one or more of the factors 4793
under section 2929.12 of the Revised Code indicating that the 4794
offender's conduct is more serious than conduct normally 4795
constituting the offense are present, and they outweigh the 4796
applicable factors under that section indicating that the 4797
offender's conduct is less serious than conduct normally 4798
constituting the offense. 4799

(b) The court shall impose on an offender the longest 4800
prison term authorized or required for the offense or, for 4801
offenses for which division (A) (1) (a) or (2) (a) of this section 4802
applies, the longest minimum prison term authorized or required 4803
for the offense, and shall impose on the offender an additional 4804
definite prison term of one, two, three, four, five, six, seven, 4805
eight, nine, or ten years if all of the following criteria are 4806
met: 4807

(i) The offender is convicted of or pleads guilty to a 4808
specification of the type described in section 2941.149 of the 4809
Revised Code that the offender is a repeat violent offender. 4810

(ii) The offender within the preceding twenty years has 4811

been convicted of or pleaded guilty to three or more offenses 4812
described in division (CC) (1) of section 2929.01 of the Revised 4813
Code, including all offenses described in that division of which 4814
the offender is convicted or to which the offender pleads guilty 4815
in the current prosecution and all offenses described in that 4816
division of which the offender previously has been convicted or 4817
to which the offender previously pleaded guilty, whether 4818
prosecuted together or separately. 4819

(iii) The offense or offenses of which the offender 4820
currently is convicted or to which the offender currently pleads 4821
guilty is aggravated murder and the court does not impose a 4822
sentence of ~~death or~~ life imprisonment without parole, murder, 4823
terrorism and the court does not impose a sentence of life 4824
imprisonment without parole, any felony of the first degree that 4825
is an offense of violence and the court does not impose a 4826
sentence of life imprisonment without parole, or any felony of 4827
the second degree that is an offense of violence and the trier 4828
of fact finds that the offense involved an attempt to cause or a 4829
threat to cause serious physical harm to a person or resulted in 4830
serious physical harm to a person. 4831

(c) For purposes of division (B) (2) (b) of this section, 4832
two or more offenses committed at the same time or as part of 4833
the same act or event shall be considered one offense, and that 4834
one offense shall be the offense with the greatest penalty. 4835

(d) A sentence imposed under division (B) (2) (a) or (b) of 4836
this section shall not be reduced pursuant to section 2929.20, 4837
section 2967.19, or section 2967.193, or any other provision of 4838
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 4839
shall serve an additional prison term imposed under division (B) 4840
(2) (a) or (b) of this section consecutively to and prior to the 4841

prison term imposed for the underlying offense. 4842

(e) When imposing a sentence pursuant to division (B)(2) 4843
(a) or (b) of this section, the court shall state its findings 4844
explaining the imposed sentence. 4845

(3) Except when an offender commits a violation of section 4846
2903.01 or 2907.02 of the Revised Code and the penalty imposed 4847
for the violation is life imprisonment or commits a violation of 4848
section 2903.02 of the Revised Code, if the offender commits a 4849
violation of section 2925.03 or 2925.11 of the Revised Code and 4850
that section classifies the offender as a major drug offender, 4851
if the offender commits a violation of section 2925.05 of the 4852
Revised Code and division (E)(1) of that section classifies the 4853
offender as a major drug offender, if the offender commits a 4854
felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 4855
3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, 4856
division (C) or (D) of section 3719.172, division (E) of section 4857
4729.51, or division (J) of section 4729.54 of the Revised Code 4858
that includes the sale, offer to sell, or possession of a 4859
schedule I or II controlled substance, with the exception of 4860
marihuana, and the court imposing sentence upon the offender 4861
finds that the offender is guilty of a specification of the type 4862
described in division (A) of section 2941.1410 of the Revised 4863
Code charging that the offender is a major drug offender, if the 4864
court imposing sentence upon an offender for a felony finds that 4865
the offender is guilty of corrupt activity with the most serious 4866
offense in the pattern of corrupt activity being a felony of the 4867
first degree, or if the offender is guilty of an attempted 4868
violation of section 2907.02 of the Revised Code and, had the 4869
offender completed the violation of section 2907.02 of the 4870
Revised Code that was attempted, the offender would have been 4871
subject to a sentence of life imprisonment or life imprisonment 4872

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 determined as described in this division 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. The mandatory prison term shall be the maximum definite prison term prescribed in division (A) (1) (b) of this section for a felony of the first degree, except that for offenses for which division (A) (1) (a) of this section applies, the mandatory prison term shall be the longest minimum prison term prescribed in that division for the offense.

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G) (2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A) (4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A) (3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (B) (4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term

in the range of six months to thirty months for a fourth degree 4904
felony OVI offense and shall equal one of the authorized prison 4905
terms specified in division (A) (3) of this section for a third 4906
degree felony OVI offense. If the court imposes an additional 4907
prison term under division (B) (4) of this section, the offender 4908
shall serve the additional prison term after the offender has 4909
served the mandatory prison term required for the offense. In 4910
addition to the mandatory prison term or mandatory and 4911
additional prison term imposed as described in division (B) (4) 4912
of this section, the court also may sentence the offender to a 4913
community control sanction under section 2929.16 or 2929.17 of 4914
the Revised Code, but the offender shall serve all of the prison 4915
terms so imposed prior to serving the community control 4916
sanction. 4917

If the offender is being sentenced for a fourth degree 4918
felony OVI offense under division (G) (1) of section 2929.13 of 4919
the Revised Code and the court imposes a mandatory term of local 4920
incarceration, the court may impose a prison term as described 4921
in division (A) (1) of that section. 4922

(5) If an offender is convicted of or pleads guilty to a 4923
violation of division (A) (1) or (2) of section 2903.06 of the 4924
Revised Code and also is convicted of or pleads guilty to a 4925
specification of the type described in section 2941.1414 of the 4926
Revised Code that charges that the victim of the offense is a 4927
peace officer, as defined in section 2935.01 of the Revised 4928
Code, or an investigator of the bureau of criminal 4929
identification and investigation, as defined in section 2903.11 4930
of the Revised Code, the court shall impose on the offender a 4931
prison term of five years. If a court imposes a prison term on 4932
an offender under division (B) (5) of this section, the prison 4933
term, subject to divisions (C) to (I) of section 2967.19 of the 4934

Revised Code, shall not be reduced pursuant to section 2929.20, 4935
section 2967.19, section 2967.193, or any other provision of 4936
Chapter 2967. or Chapter 5120. of the Revised Code. A court 4937
shall not impose more than one prison term on an offender under 4938
division (B) (5) of this section for felonies committed as part 4939
of the same act. 4940

(6) If an offender is convicted of or pleads guilty to a 4941
violation of division (A) (1) or (2) of section 2903.06 of the 4942
Revised Code and also is convicted of or pleads guilty to a 4943
specification of the type described in section 2941.1415 of the 4944
Revised Code that charges that the offender previously has been 4945
convicted of or pleaded guilty to three or more violations of 4946
division (A) or (B) of section 4511.19 of the Revised Code or an 4947
equivalent offense, as defined in section 2941.1415 of the 4948
Revised Code, or three or more violations of any combination of 4949
those divisions and offenses, the court shall impose on the 4950
offender a prison term of three years. If a court imposes a 4951
prison term on an offender under division (B) (6) of this 4952
section, the prison term, subject to divisions (C) to (I) of 4953
section 2967.19 of the Revised Code, shall not be reduced 4954
pursuant to section 2929.20, section 2967.19, section 2967.193, 4955
or any other provision of Chapter 2967. or Chapter 5120. of the 4956
Revised Code. A court shall not impose more than one prison term 4957
on an offender under division (B) (6) of this section for 4958
felonies committed as part of the same act. 4959

(7) (a) If an offender is convicted of or pleads guilty to 4960
a felony violation of section 2905.01, 2905.02, 2907.21, 4961
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323 4962
involving a minor, or division (B) (1), (2), (3), (4), or (5) of 4963
section 2919.22 of the Revised Code and also is convicted of or 4964
pleads guilty to a specification of the type described in 4965

section 2941.1422 of the Revised Code that charges that the 4966
offender knowingly committed the offense in furtherance of human 4967
trafficking, the court shall impose on the offender a mandatory 4968
prison term that is one of the following: 4969

(i) If the offense is a felony of the first degree, a 4970
definite prison term of not less than five years and not greater 4971
than eleven years, except that if the offense is a felony of the 4972
first degree committed on or after the effective date of this 4973
amendment, the court shall impose as the minimum prison term a 4974
mandatory term of not less than five years and not greater than 4975
eleven years; 4976

(ii) If the offense is a felony of the second or third 4977
degree, a definite prison term of not less than three years and 4978
not greater than the maximum prison term allowed for the offense 4979
by division (A) (2) (b) or (3) of this section, except that if the 4980
offense is a felony of the second degree committed on or after 4981
the effective date of this amendment, the court shall impose as 4982
the minimum prison term a mandatory term of not less than three 4983
years and not greater than eight years; 4984

(iii) If the offense is a felony of the fourth or fifth 4985
degree, a definite prison term that is the maximum prison term 4986
allowed for the offense by division (A) of section 2929.14 of 4987
the Revised Code. 4988

(b) Subject to divisions (C) to (I) of section 2967.19 of 4989
the Revised Code, the prison term imposed under division (B) (7) 4990
(a) of this section shall not be reduced pursuant to section 4991
2929.20, section 2967.19, section 2967.193, or any other 4992
provision of Chapter 2967. of the Revised Code. A court shall 4993
not impose more than one prison term on an offender under 4994
division (B) (7) (a) of this section for felonies committed as 4995

part of the same act, scheme, or plan. 4996

(8) If an offender is convicted of or pleads guilty to a 4997
felony violation of section 2903.11, 2903.12, or 2903.13 of the 4998
Revised Code and also is convicted of or pleads guilty to a 4999
specification of the type described in section 2941.1423 of the 5000
Revised Code that charges that the victim of the violation was a 5001
woman whom the offender knew was pregnant at the time of the 5002
violation, notwithstanding the range prescribed in division (A) 5003
of this section as the definite prison term or minimum prison 5004
term for felonies of the same degree as the violation, the court 5005
shall impose on the offender a mandatory prison term that is 5006
either a definite prison term of six months or one of the prison 5007
terms prescribed in division (A) of this section for felonies of 5008
the same degree as the violation, except that if the violation 5009
is a felony of the first or second degree committed on or after 5010
the effective date of this amendment, the court shall impose as 5011
the minimum prison term under division (A) (1) (a) or (2) (a) of 5012
this section a mandatory term that is one of the terms 5013
prescribed in that division, whichever is applicable, for the 5014
offense. 5015

(9) (a) If an offender is convicted of or pleads guilty to 5016
a violation of division (A) (1) or (2) of section 2903.11 of the 5017
Revised Code and also is convicted of or pleads guilty to a 5018
specification of the type described in section 2941.1425 of the 5019
Revised Code, the court shall impose on the offender a mandatory 5020
prison term of six years if either of the following applies: 5021

(i) The violation is a violation of division (A) (1) of 5022
section 2903.11 of the Revised Code and the specification 5023
charges that the offender used an accelerant in committing the 5024
violation and the serious physical harm to another or to 5025

another's unborn caused by the violation resulted in a 5026
permanent, serious disfigurement or permanent, substantial 5027
incapacity; 5028

(ii) The violation is a violation of division (A)(2) of 5029
section 2903.11 of the Revised Code and the specification 5030
charges that the offender used an accelerant in committing the 5031
violation, that the violation caused physical harm to another or 5032
to another's unborn, and that the physical harm resulted in a 5033
permanent, serious disfigurement or permanent, substantial 5034
incapacity. 5035

(b) If a court imposes a prison term on an offender under 5036
division (B)(9)(a) of this section, the prison term shall not be 5037
reduced pursuant to section 2929.20, section 2967.19, section 5038
2967.193, or any other provision of Chapter 2967. or Chapter 5039
5120. of the Revised Code. A court shall not impose more than 5040
one prison term on an offender under division (B)(9) of this 5041
section for felonies committed as part of the same act. 5042

(c) The provisions of divisions (B)(9) and (C)(6) of this 5043
section and of division (D)(2) of section 2903.11, division (F) 5044
(20) of section 2929.13, and section 2941.1425 of the Revised 5045
Code shall be known as "Judy's Law." 5046

(10) If an offender is convicted of or pleads guilty to a 5047
violation of division (A) of section 2903.11 of the Revised Code 5048
and also is convicted of or pleads guilty to a specification of 5049
the type described in section 2941.1426 of the Revised Code that 5050
charges that the victim of the offense suffered permanent 5051
disabling harm as a result of the offense and that the victim 5052
was under ten years of age at the time of the offense, 5053
regardless of whether the offender knew the age of the victim, 5054
the court shall impose upon the offender an additional definite 5055

prison term of six years. A prison term imposed on an offender 5056
under division (B) (10) of this section shall not be reduced 5057
pursuant to section 2929.20, section 2967.193, or any other 5058
provision of Chapter 2967. or Chapter 5120. of the Revised Code. 5059
If a court imposes an additional prison term on an offender 5060
under this division relative to a violation of division (A) of 5061
section 2903.11 of the Revised Code, the court shall not impose 5062
any other additional prison term on the offender relative to the 5063
same offense. 5064

(11) If an offender is convicted of or pleads guilty to a 5065
felony violation of section 2925.03 or 2925.05 of the Revised 5066
Code or a felony violation of section 2925.11 of the Revised 5067
Code for which division (C) (11) of that section applies in 5068
determining the sentence for the violation, if the drug involved 5069
in the violation is a fentanyl-related compound or a compound, 5070
mixture, preparation, or substance containing a fentanyl-related 5071
compound, and if the offender also is convicted of or pleads 5072
guilty to a specification of the type described in division (B) 5073
of section 2941.1410 of the Revised Code that charges that the 5074
offender is a major drug offender, in addition to any other 5075
penalty imposed for the violation, the court shall impose on the 5076
offender a mandatory prison term of three, four, five, six, 5077
seven, or eight years. If a court imposes a prison term on an 5078
offender under division (B) (11) of this section, the prison 5079
term, subject to divisions (C) to (I) of section 2967.19 of the 5080
Revised Code, shall not be reduced pursuant to section 2929.20, 5081
2967.19, or 2967.193, or any other provision of Chapter 2967. or 5082
5120. of the Revised Code. A court shall not impose more than 5083
one prison term on an offender under division (B) (11) of this 5084
section for felonies committed as part of the same act. 5085

(C) (1) (a) Subject to division (C) (1) (b) of this section, 5086

if a mandatory prison term is imposed upon an offender pursuant 5087
to division (B) (1) (a) of this section for having a firearm on or 5088
about the offender's person or under the offender's control 5089
while committing a felony, if a mandatory prison term is imposed 5090
upon an offender pursuant to division (B) (1) (c) of this section 5091
for committing a felony specified in that division by 5092
discharging a firearm from a motor vehicle, or if both types of 5093
mandatory prison terms are imposed, the offender shall serve any 5094
mandatory prison term imposed under either division 5095
consecutively to any other mandatory prison term imposed under 5096
either division or under division (B) (1) (d) of this section, 5097
consecutively to and prior to any prison term imposed for the 5098
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 5099
this section or any other section of the Revised Code, and 5100
consecutively to any other prison term or mandatory prison term 5101
previously or subsequently imposed upon the offender. 5102

(b) If a mandatory prison term is imposed upon an offender 5103
pursuant to division (B) (1) (d) of this section for wearing or 5104
carrying body armor while committing an offense of violence that 5105
is a felony, the offender shall serve the mandatory term so 5106
imposed consecutively to any other mandatory prison term imposed 5107
under that division or under division (B) (1) (a) or (c) of this 5108
section, consecutively to and prior to any prison term imposed 5109
for the underlying felony under division (A), (B) (2), or (B) (3) 5110
of this section or any other section of the Revised Code, and 5111
consecutively to any other prison term or mandatory prison term 5112
previously or subsequently imposed upon the offender. 5113

(c) If a mandatory prison term is imposed upon an offender 5114
pursuant to division (B) (1) (f) of this section, the offender 5115
shall serve the mandatory prison term so imposed consecutively 5116
to and prior to any prison term imposed for the underlying 5117

felony under division (A), (B) (2), or (B) (3) of this section or 5118
any other section of the Revised Code, and consecutively to any 5119
other prison term or mandatory prison term previously or 5120
subsequently imposed upon the offender. 5121

(d) If a mandatory prison term is imposed upon an offender 5122
pursuant to division (B) (7) or (8) of this section, the offender 5123
shall serve the mandatory prison term so imposed consecutively 5124
to any other mandatory prison term imposed under that division 5125
or under any other provision of law and consecutively to any 5126
other prison term or mandatory prison term previously or 5127
subsequently imposed upon the offender. 5128

(e) If a mandatory prison term is imposed upon an offender 5129
pursuant to division (B) (11) of this section, the offender shall 5130
serve the mandatory prison term consecutively to any other 5131
mandatory prison term imposed under that division, consecutively 5132
to and prior to any prison term imposed for the underlying 5133
felony, and consecutively to any other prison term or mandatory 5134
prison term previously or subsequently imposed upon the 5135
offender. 5136

(2) If an offender who is an inmate in a jail, prison, or 5137
other residential detention facility violates section 2917.02, 5138
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 5139
(2) of section 2921.34 of the Revised Code, if an offender who 5140
is under detention at a detention facility commits a felony 5141
violation of section 2923.131 of the Revised Code, or if an 5142
offender who is an inmate in a jail, prison, or other 5143
residential detention facility or is under detention at a 5144
detention facility commits another felony while the offender is 5145
an escapee in violation of division (A) (1) or (2) of section 5146
2921.34 of the Revised Code, any prison term imposed upon the 5147

offender for one of those violations shall be served by the 5148
offender consecutively to the prison term or term of 5149
imprisonment the offender was serving when the offender 5150
committed that offense and to any other prison term previously 5151
or subsequently imposed upon the offender. 5152

(3) If a prison term is imposed for a violation of 5153
division (B) of section 2911.01 of the Revised Code, a violation 5154
of division (A) of section 2913.02 of the Revised Code in which 5155
the stolen property is a firearm or dangerous ordnance, or a 5156
felony violation of division (B) of section 2921.331 of the 5157
Revised Code, the offender shall serve that prison term 5158
consecutively to any other prison term or mandatory prison term 5159
previously or subsequently imposed upon the offender. 5160

(4) If multiple prison terms are imposed on an offender 5161
for convictions of multiple offenses, the court may require the 5162
offender to serve the prison terms consecutively if the court 5163
finds that the consecutive service is necessary to protect the 5164
public from future crime or to punish the offender and that 5165
consecutive sentences are not disproportionate to the 5166
seriousness of the offender's conduct and to the danger the 5167
offender poses to the public, and if the court also finds any of 5168
the following: 5169

(a) The offender committed one or more of the multiple 5170
offenses while the offender was awaiting trial or sentencing, 5171
was under a sanction imposed pursuant to section 2929.16, 5172
2929.17, or 2929.18 of the Revised Code, or was under post- 5173
release control for a prior offense. 5174

(b) At least two of the multiple offenses were committed 5175
as part of one or more courses of conduct, and the harm caused 5176
by two or more of the multiple offenses so committed was so 5177

great or unusual that no single prison term for any of the 5178
offenses committed as part of any of the courses of conduct 5179
adequately reflects the seriousness of the offender's conduct. 5180

(c) The offender's history of criminal conduct 5181
demonstrates that consecutive sentences are necessary to protect 5182
the public from future crime by the offender. 5183

(5) If a mandatory prison term is imposed upon an offender 5184
pursuant to division (B) (5) or (6) of this section, the offender 5185
shall serve the mandatory prison term consecutively to and prior 5186
to any prison term imposed for the underlying violation of 5187
division (A) (1) or (2) of section 2903.06 of the Revised Code 5188
pursuant to division (A) of this section or section 2929.142 of 5189
the Revised Code. If a mandatory prison term is imposed upon an 5190
offender pursuant to division (B) (5) of this section, and if a 5191
mandatory prison term also is imposed upon the offender pursuant 5192
to division (B) (6) of this section in relation to the same 5193
violation, the offender shall serve the mandatory prison term 5194
imposed pursuant to division (B) (5) of this section 5195
consecutively to and prior to the mandatory prison term imposed 5196
pursuant to division (B) (6) of this section and consecutively to 5197
and prior to any prison term imposed for the underlying 5198
violation of division (A) (1) or (2) of section 2903.06 of the 5199
Revised Code pursuant to division (A) of this section or section 5200
2929.142 of the Revised Code. 5201

(6) If a mandatory prison term is imposed on an offender 5202
pursuant to division (B) (9) of this section, the offender shall 5203
serve the mandatory prison term consecutively to and prior to 5204
any prison term imposed for the underlying violation of division 5205
(A) (1) or (2) of section 2903.11 of the Revised Code and 5206
consecutively to and prior to any other prison term or mandatory 5207

prison term previously or subsequently imposed on the offender. 5208

(7) If a mandatory prison term is imposed on an offender 5209
pursuant to division (B)(10) of this section, the offender shall 5210
serve that mandatory prison term consecutively to and prior to 5211
any prison term imposed for the underlying felonious assault. 5212
Except as otherwise provided in division (C) of this section, 5213
any other prison term or mandatory prison term previously or 5214
subsequently imposed upon the offender may be served 5215
concurrently with, or consecutively to, the prison term imposed 5216
pursuant to division (B)(10) of this section. 5217

(8) Any prison term imposed for a violation of section 5218
2903.04 of the Revised Code that is based on a violation of 5219
section 2925.03 or 2925.11 of the Revised Code or on a violation 5220
of section 2925.05 of the Revised Code that is not funding of 5221
marihuana trafficking shall run consecutively to any prison term 5222
imposed for the violation of section 2925.03 or 2925.11 of the 5223
Revised Code or for the violation of section 2925.05 of the 5224
Revised Code that is not funding of marihuana trafficking. 5225

(9) When consecutive prison terms are imposed pursuant to 5226
division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or 5227
division (H)(1) or (2) of this section, subject to division (C) 5228
(10) of this section, the term to be served is the aggregate of 5229
all of the terms so imposed. 5230

(10) When a court sentences an offender to a non-life 5231
felony indefinite prison term, any definite prison term or 5232
mandatory definite prison term previously or subsequently 5233
imposed on the offender in addition to that indefinite sentence 5234
that is required to be served consecutively to that indefinite 5235
sentence shall be served prior to the indefinite sentence. 5236

(11) If a court is sentencing an offender for a felony of the first or second degree, if division (A) (1) (a) or (2) (a) of this section applies with respect to the sentencing for the offense, and if the court is required under the Revised Code section that sets forth the offense or any other Revised Code provision to impose a mandatory prison term for the offense, the court shall impose the required mandatory prison term as the minimum term imposed under division (A) (1) (a) or (2) (a) of this section, whichever is applicable.

(D) (1) If a court imposes a prison term, other than a term of life imprisonment, 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 an offense of violence and that is not a felony sex offense, 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 section 2967.28 of the Revised Code. 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 in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(2) If a court imposes a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (D) (1) of this section, it shall include in the sentence a

requirement that the offender be subject to a period of post- 5268
release control after the offender's release from imprisonment, 5269
in accordance with that division, if the parole board determines 5270
that a period of post-release control is necessary. Section 5271
2929.191 of the Revised Code applies if, prior to July 11, 2006, 5272
a court imposed a sentence including a prison term of a type 5273
described in this division and failed to include in the sentence 5274
pursuant to this division a statement regarding post-release 5275
control. 5276

(E) The court shall impose sentence upon the offender in 5277
accordance with section 2971.03 of the Revised Code, and Chapter 5278
2971. of the Revised Code applies regarding the prison term or 5279
term of life imprisonment without parole imposed upon the 5280
offender and the service of that term of imprisonment if any of 5281
the following apply: 5282

(1) A person is convicted of or pleads guilty to a violent 5283
sex offense or a designated homicide, assault, or kidnapping 5284
offense, and, in relation to that offense, the offender is 5285
adjudicated a sexually violent predator. 5286

(2) A person is convicted of or pleads guilty to a 5287
violation of division (A) (1) (b) of section 2907.02 of the 5288
Revised Code committed on or after January 2, 2007, and either 5289
the court does not impose a sentence of life without parole when 5290
authorized pursuant to division (B) of section 2907.02 of the 5291
Revised Code, or division (B) of section 2907.02 of the Revised 5292
Code provides that the court shall not sentence the offender 5293
pursuant to section 2971.03 of the Revised Code. 5294

(3) A person is convicted of or pleads guilty to attempted 5295
rape committed on or after January 2, 2007, and a specification 5296
of the type described in section 2941.1418, 2941.1419, or 5297

2941.1420 of the Revised Code. 5298

(4) A person is convicted of or pleads guilty to a 5299
violation of section 2905.01 of the Revised Code committed on or 5300
after January 1, 2008, and that section requires the court to 5301
sentence the offender pursuant to section 2971.03 of the Revised 5302
Code. 5303

(5) A person is convicted of or pleads guilty to 5304
aggravated murder committed on or after January 1, 2008, and 5305
division ~~(A) (2) (b) (ii) of section 2929.022, division (A) (1) (e),~~ 5306
~~(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1)~~ 5307
~~(d) of section 2929.03, or division (A) or (B) (C) of section~~ 5308
~~2929.06-2929.02~~ of the Revised Code requires the court to 5309
sentence the offender pursuant to division (B) (3) of section 5310
2971.03 of the Revised Code. 5311

(6) A person is convicted of or pleads guilty to murder 5312
committed on or after January 1, 2008, and division ~~(B) (2) (C)~~ 5313
(1) of section 2929.02 of the Revised Code requires the court to 5314
sentence the offender pursuant to section 2971.03 of the Revised 5315
Code. 5316

(F) If a person who has been convicted of or pleaded 5317
guilty to a felony is sentenced to a prison term or term of 5318
imprisonment under this section, ~~sections-section~~ section 2929.02 to 5319
~~2929.06 of the Revised Code, section 2929.142 of the Revised~~ 5320
~~Code, section or~~ 2971.03 of the Revised Code, or any other 5321
provision of law, section 5120.163 of the Revised Code applies 5322
regarding the person while the person is confined in a state 5323
correctional institution. 5324

(G) If an offender who is convicted of or pleads guilty to 5325
a felony that is an offense of violence also is convicted of or 5326

pleads guilty to a specification of the type described in 5327
section 2941.142 of the Revised Code that charges the offender 5328
with having committed the felony while participating in a 5329
criminal gang, the court shall impose upon the offender an 5330
additional prison term of one, two, or three years. 5331

(H) (1) If an offender who is convicted of or pleads guilty 5332
to aggravated murder, murder, or a felony of the first, second, 5333
or third degree that is an offense of violence also is convicted 5334
of or pleads guilty to a specification of the type described in 5335
section 2941.143 of the Revised Code that charges the offender 5336
with having committed the offense in a school safety zone or 5337
towards a person in a school safety zone, the court shall impose 5338
upon the offender an additional prison term of two years. The 5339
offender shall serve the additional two years consecutively to 5340
and prior to the prison term imposed for the underlying offense. 5341

(2) (a) If an offender is convicted of or pleads guilty to 5342
a felony violation of section 2907.22, 2907.24, 2907.241, or 5343
2907.25 of the Revised Code and to a specification of the type 5344
described in section 2941.1421 of the Revised Code and if the 5345
court imposes a prison term on the offender for the felony 5346
violation, the court may impose upon the offender an additional 5347
prison term as follows: 5348

(i) Subject to division (H) (2) (a) (ii) of this section, an 5349
additional prison term of one, two, three, four, five, or six 5350
months; 5351

(ii) If the offender previously has been convicted of or 5352
pleaded guilty to one or more felony or misdemeanor violations 5353
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 5354
the Revised Code and also was convicted of or pleaded guilty to 5355
a specification of the type described in section 2941.1421 of 5356

the Revised Code regarding one or more of those violations, an 5357
additional prison term of one, two, three, four, five, six, 5358
seven, eight, nine, ten, eleven, or twelve months. 5359

(b) In lieu of imposing an additional prison term under 5360
division (H)(2)(a) of this section, the court may directly 5361
impose on the offender a sanction that requires the offender to 5362
wear a real-time processing, continual tracking electronic 5363
monitoring device during the period of time specified by the 5364
court. The period of time specified by the court shall equal the 5365
duration of an additional prison term that the court could have 5366
imposed upon the offender under division (H)(2)(a) of this 5367
section. A sanction imposed under this division shall commence 5368
on the date specified by the court, provided that the sanction 5369
shall not commence until after the offender has served the 5370
prison term imposed for the felony violation of section 2907.22, 5371
2907.24, 2907.241, or 2907.25 of the Revised Code and any 5372
residential sanction imposed for the violation under section 5373
2929.16 of the Revised Code. A sanction imposed under this 5374
division shall be considered to be a community control sanction 5375
for purposes of section 2929.15 of the Revised Code, and all 5376
provisions of the Revised Code that pertain to community control 5377
sanctions shall apply to a sanction imposed under this division, 5378
except to the extent that they would by their nature be clearly 5379
inapplicable. The offender shall pay all costs associated with a 5380
sanction imposed under this division, including the cost of the 5381
use of the monitoring device. 5382

(I) At the time of sentencing, the court may recommend the 5383
offender for placement in a program of shock incarceration under 5384
section 5120.031 of the Revised Code or for placement in an 5385
intensive program prison under section 5120.032 of the Revised 5386
Code, disapprove placement of the offender in a program of shock 5387

incarceration or an intensive program prison of that nature, or 5388
make no recommendation on placement of the offender. In no case 5389
shall the department of rehabilitation and correction place the 5390
offender in a program or prison of that nature unless the 5391
department determines as specified in section 5120.031 or 5392
5120.032 of the Revised Code, whichever is applicable, that the 5393
offender is eligible for the placement. 5394

If the court disapproves placement of the offender in a 5395
program or prison of that nature, the department of 5396
rehabilitation and correction shall not place the offender in 5397
any program of shock incarceration or intensive program prison. 5398

If the court recommends placement of the offender in a 5399
program of shock incarceration or in an intensive program 5400
prison, and if the offender is subsequently placed in the 5401
recommended program or prison, the department shall notify the 5402
court of the placement and shall include with the notice a brief 5403
description of the placement. 5404

If the court recommends placement of the offender in a 5405
program of shock incarceration or in an intensive program prison 5406
and the department does not subsequently place the offender in 5407
the recommended program or prison, the department shall send a 5408
notice to the court indicating why the offender was not placed 5409
in the recommended program or prison. 5410

If the court does not make a recommendation under this 5411
division with respect to an offender and if the department 5412
determines as specified in section 5120.031 or 5120.032 of the 5413
Revised Code, whichever is applicable, that the offender is 5414
eligible for placement in a program or prison of that nature, 5415
the department shall screen the offender and determine if there 5416
is an available program of shock incarceration or an intensive 5417

program prison for which the offender is suited. If there is an 5418
available program of shock incarceration or an intensive program 5419
prison for which the offender is suited, the department shall 5420
notify the court of the proposed placement of the offender as 5421
specified in section 5120.031 or 5120.032 of the Revised Code 5422
and shall include with the notice a brief description of the 5423
placement. The court shall have ten days from receipt of the 5424
notice to disapprove the placement. 5425

(J) If a person is convicted of or pleads guilty to 5426
aggravated vehicular homicide in violation of division (A) (1) of 5427
section 2903.06 of the Revised Code and division (B) (2) (c) of 5428
that section applies, the person shall be sentenced pursuant to 5429
section 2929.142 of the Revised Code. 5430

(K) (1) The court shall impose an additional mandatory 5431
prison term of two, three, four, five, six, seven, eight, nine, 5432
ten, or eleven years on an offender who is convicted of or 5433
pleads guilty to a violent felony offense if the offender also 5434
is convicted of or pleads guilty to a specification of the type 5435
described in section 2941.1424 of the Revised Code that charges 5436
that the offender is a violent career criminal and had a firearm 5437
on or about the offender's person or under the offender's 5438
control while committing the presently charged violent felony 5439
offense and displayed or brandished the firearm, indicated that 5440
the offender possessed a firearm, or used the firearm to 5441
facilitate the offense. The offender shall serve the prison term 5442
imposed under this division consecutively to and prior to the 5443
prison term imposed for the underlying offense. The prison term 5444
shall not be reduced pursuant to section 2929.20 or 2967.19 or 5445
any other provision of Chapter 2967. or 5120. of the Revised 5446
Code. A court may not impose more than one sentence under 5447
division (B) (2) (a) of this section and this division for acts 5448

committed as part of the same act or transaction. 5449

(2) As used in division (K) (1) of this section, "violent 5450
career criminal" and "violent felony offense" have the same 5451
meanings as in section 2923.132 of the Revised Code. 5452

Sec. 2929.20. (A) As used in this section: 5453

(1) (a) Except as provided in division (A) (1) (b) of this 5454
section, "eligible offender" means any person who, on or after 5455
April 7, 2009, is serving a stated prison term that includes one 5456
or more nonmandatory prison terms. 5457

(b) "Eligible offender" does not include any person who, 5458
on or after April 7, 2009, is serving a stated prison term for 5459
any of the following criminal offenses that was a felony and was 5460
committed while the person held a public office in this state: 5461

(i) A violation of section 2921.02, 2921.03, 2921.05, 5462
2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised 5463
Code; 5464

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 5465
2921.12 of the Revised Code, when the conduct constituting the 5466
violation was related to the duties of the offender's public 5467
office or to the offender's actions as a public official holding 5468
that public office; 5469

(iii) A violation of an existing or former municipal 5470
ordinance or law of this or any other state or the United States 5471
that is substantially equivalent to any violation listed in 5472
division (A) (1) (b) (i) of this section; 5473

(iv) A violation of an existing or former municipal 5474
ordinance or law of this or any other state or the United States 5475
that is substantially equivalent to any violation listed in 5476

division (A) (1) (b) (ii) of this section, when the conduct 5477
constituting the violation was related to the duties of the 5478
offender's public office or to the offender's actions as a 5479
public official holding that public office; 5480

(v) A conspiracy to commit, attempt to commit, or 5481
complicity in committing any offense listed in division (A) (1) 5482
(b) (i) or described in division (A) (1) (b) (iii) of this section; 5483

(vi) A conspiracy to commit, attempt to commit, or 5484
complicity in committing any offense listed in division (A) (1) 5485
(b) (ii) or described in division (A) (1) (b) (iv) of this section, 5486
if the conduct constituting the offense that was the subject of 5487
the conspiracy, that would have constituted the offense 5488
attempted, or constituting the offense in which the offender was 5489
complicit was or would have been related to the duties of the 5490
offender's public office or to the offender's actions as a 5491
public official holding that public office. 5492

(2) "Nonmandatory prison term" means a prison term that is 5493
not a mandatory prison term. 5494

(3) "Public office" means any elected federal, state, or 5495
local government office in this state. 5496

(4) "Victim's representative" has the same meaning as in 5497
section 2930.01 of the Revised Code. 5498

(5) "Imminent danger of death," "medically incapacitated," 5499
and "terminal illness" have the same meanings as in section 5500
2967.05 of the Revised Code. 5501

(6) "Aggregated nonmandatory prison term or terms" means 5502
the aggregate of the following: 5503

(a) All nonmandatory definite prison terms; 5504

(b) With respect to any non-life felony indefinite prison term, all nonmandatory minimum prison terms imposed as part of the non-life felony indefinite prison term or terms.

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

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

(1) If the aggregated nonmandatory prison term or terms is less than two years, the eligible offender may file the motion at any time after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, at any time after the expiration of all mandatory prison terms.

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

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

prison terms. 5534

(4) If the aggregated nonmandatory prison term or terms is 5535
more than five years but not more than ten years, the eligible 5536
offender may file the motion not earlier than the date on which 5537
the eligible offender has served five years of the offender's 5538
stated prison term or, if the prison term includes a mandatory 5539
prison term or terms, not earlier than five years after the 5540
expiration of all mandatory prison terms. 5541

(5) If the aggregated nonmandatory prison term or terms is 5542
more than ten years, the eligible offender may file the motion 5543
not earlier than the later of the date on which the offender has 5544
served one-half of the offender's stated prison term or the date 5545
specified in division (C) (4) of this section. 5546

(D) Upon receipt of a timely motion for judicial release 5547
filed by an eligible offender under division (C) of this section 5548
or upon the sentencing court's own motion made within the 5549
appropriate time specified in that division, the court may deny 5550
the motion without a hearing or schedule a hearing on the 5551
motion. The court shall not grant the motion without a hearing. 5552
If a court denies a motion without a hearing, the court later 5553
may consider judicial release for that eligible offender on a 5554
subsequent motion filed by that eligible offender unless the 5555
court denies the motion with prejudice. If a court denies a 5556
motion with prejudice, the court may later consider judicial 5557
release on its own motion. If a court denies a motion after a 5558
hearing, the court shall not consider a subsequent motion for 5559
that eligible offender. The court shall hold only one hearing 5560
for any eligible offender. 5561

A hearing under this section shall be conducted in open 5562
court not less than thirty or more than sixty days after the 5563

motion is filed, provided that the court may delay the hearing 5564
for one hundred eighty additional days. If the court holds a 5565
hearing, the court shall enter a ruling on the motion within ten 5566
days after the hearing. If the court denies the motion without a 5567
hearing, the court shall enter its ruling on the motion within 5568
sixty days after the motion is filed. 5569

(E) If a court schedules a hearing under division (D) of 5570
this section, the court shall notify the eligible offender and 5571
the head of the state correctional institution in which the 5572
eligible offender is confined prior to the hearing. The head of 5573
the state correctional institution immediately shall notify the 5574
appropriate person at the department of rehabilitation and 5575
correction of the hearing, and the department within twenty-four 5576
hours after receipt of the notice, shall post on the database it 5577
maintains pursuant to section 5120.66 of the Revised Code the 5578
offender's name and all of the information specified in division 5579
(A) (1) (c) (i) of that section. If the court schedules a hearing 5580
for judicial release, the court promptly shall give notice of 5581
the hearing to the prosecuting attorney of the county in which 5582
the eligible offender was indicted. Upon receipt of the notice 5583
from the court, the prosecuting attorney shall do whichever of 5584
the following is applicable: 5585

(1) Subject to division (E) (2) of this section, notify the 5586
victim of the offense or the victim's representative pursuant to 5587
division (B) of section 2930.16 of the Revised Code; 5588

(2) If the offense was an offense of violence that is a 5589
felony of the first, second, or third degree, except as 5590
otherwise provided in this division, notify the victim or the 5591
victim's representative of the hearing regardless of whether the 5592
victim or victim's representative has requested the 5593

notification. The notice of the hearing shall not be given under 5594
this division to a victim or victim's representative if the 5595
victim or victim's representative has requested pursuant to 5596
division (B) (2) of section 2930.03 of the Revised Code that the 5597
victim or the victim's representative not be provided the 5598
notice. If notice is to be provided to a victim or victim's 5599
representative under this division, the prosecuting attorney may 5600
give the notice by any reasonable means, including regular mail, 5601
telephone, and electronic mail, in accordance with division (D) 5602
(1) of section 2930.16 of the Revised Code. If the notice is 5603
based on an offense committed prior to March 22, 2013, the 5604
notice also shall include the opt-out information described in 5605
division (D) (1) of section 2930.16 of the Revised Code. The 5606
prosecuting attorney, in accordance with division (D) (2) of 5607
section 2930.16 of the Revised Code, shall keep a record of all 5608
attempts to provide the notice, and of all notices provided, 5609
under this division. Division (E) (2) of this section, and the 5610
notice-related provisions of division (K) of this section, 5611
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 5612
2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) 5613
(b) of section 2967.26, division (D) (1) of section 2967.28, and 5614
division (A) (2) of section 5149.101 of the Revised Code enacted 5615
in the act in which division (E) (2) of this section was enacted, 5616
shall be known as "Roberta's Law." 5617

(F) Upon an offender's successful completion of 5618
rehabilitative activities, the head of the state correctional 5619
institution may notify the sentencing court of the successful 5620
completion of the activities. 5621

(G) Prior to the date of the hearing on a motion for 5622
judicial release under this section, the head of the state 5623
correctional institution in which the eligible offender is 5624

confined shall send to the court an institutional summary report 5625
on the eligible offender's conduct in the institution and in any 5626
institution from which the eligible offender may have been 5627
transferred. Upon the request of the prosecuting attorney of the 5628
county in which the eligible offender was indicted or of any law 5629
enforcement agency, the head of the state correctional 5630
institution, at the same time the person sends the institutional 5631
summary report to the court, also shall send a copy of the 5632
report to the requesting prosecuting attorney and law 5633
enforcement agencies. The institutional summary report shall 5634
cover the eligible offender's participation in school, 5635
vocational training, work, treatment, and other rehabilitative 5636
activities and any disciplinary action taken against the 5637
eligible offender. The report shall be made part of the record 5638
of the hearing. A presentence investigation report is not 5639
required for judicial release. 5640

(H) If the court grants a hearing on a motion for judicial 5641
release under this section, the eligible offender shall attend 5642
the hearing if ordered to do so by the court. Upon receipt of a 5643
copy of the journal entry containing the order, the head of the 5644
state correctional institution in which the eligible offender is 5645
incarcerated shall deliver the eligible offender to the sheriff 5646
of the county in which the hearing is to be held. The sheriff 5647
shall convey the eligible offender to and from the hearing. 5648

(I) At the hearing on a motion for judicial release under 5649
this section, the court shall afford the eligible offender and 5650
the eligible offender's attorney an opportunity to present 5651
written and, if present, oral information relevant to the 5652
motion. The court shall afford a similar opportunity to the 5653
prosecuting attorney, the victim or the victim's representative, 5654
and any other person the court determines is likely to present 5655

additional relevant information. The court shall consider any 5656
statement of a victim made pursuant to section 2930.14 or 5657
2930.17 of the Revised Code, any victim impact statement 5658
prepared pursuant to section 2947.051 of the Revised Code, and 5659
any report made under division (G) of this section. The court 5660
may consider any written statement of any person submitted to 5661
the court pursuant to division (L) of this section. After ruling 5662
on the motion, the court shall notify the victim of the ruling 5663
in accordance with sections 2930.03 and 2930.16 of the Revised 5664
Code. 5665

(J) (1) A court shall not grant a judicial release under 5666
this section to an eligible offender who is imprisoned for a 5667
felony of the first or second degree, or to an eligible offender 5668
who committed an offense under Chapter 2925. or 3719. of the 5669
Revised Code and for whom there was a presumption under section 5670
2929.13 of the Revised Code in favor of a prison term, unless 5671
the court, with reference to factors under section 2929.12 of 5672
the Revised Code, finds both of the following: 5673

(a) That a sanction other than a prison term would 5674
adequately punish the offender and protect the public from 5675
future criminal violations by the eligible offender because the 5676
applicable factors indicating a lesser likelihood of recidivism 5677
outweigh the applicable factors indicating a greater likelihood 5678
of recidivism; 5679

(b) That a sanction other than a prison term would not 5680
demean the seriousness of the offense because factors indicating 5681
that the eligible offender's conduct in committing the offense 5682
was less serious than conduct normally constituting the offense 5683
outweigh factors indicating that the eligible offender's conduct 5684
was more serious than conduct normally constituting the offense. 5685

(2) A court that grants a judicial release to an eligible offender under division (J) (1) of this section shall specify on the record both findings required in that division and also shall list all the factors described in that division that were presented at the hearing.

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

If the court grants a motion for judicial release, the court shall notify the appropriate person at the department of rehabilitation and correction, and the department shall post notice of the release on the database it maintains pursuant to section 5120.66 of the Revised Code. The court also shall notify the prosecuting attorney of the county in which the eligible

offender was indicted that the motion has been granted. Unless 5717
the victim or the victim's representative has requested pursuant 5718
to division (B) (2) of section 2930.03 of the Revised Code that 5719
the victim or victim's representative not be provided the 5720
notice, the prosecuting attorney shall notify the victim or the 5721
victim's representative of the judicial release in any manner, 5722
and in accordance with the same procedures, pursuant to which 5723
the prosecuting attorney is authorized to provide notice of the 5724
hearing pursuant to division (E) (2) of this section. If the 5725
notice is based on an offense committed prior to March 22, 2013, 5726
the notice to the victim or victim's representative also shall 5727
include the opt-out information described in division (D) (1) of 5728
section 2930.16 of the Revised Code. 5729

(L) In addition to and independent of the right of a 5730
victim to make a statement pursuant to section 2930.14, 2930.17, 5731
or 2946.051 of the Revised Code and any right of a person to 5732
present written information or make a statement pursuant to 5733
division (I) of this section, any person may submit to the 5734
court, at any time prior to the hearing on the offender's motion 5735
for judicial release, a written statement concerning the effects 5736
of the offender's crime or crimes, the circumstances surrounding 5737
the crime or crimes, the manner in which the crime or crimes 5738
were perpetrated, and the person's opinion as to whether the 5739
offender should be released. 5740

(M) The changes to this section that are made on September 5741
30, 2011, apply to any judicial release decision made on or 5742
after September 30, 2011, for any eligible offender. 5743

(N) Notwithstanding the eligibility requirements specified 5744
in division (A) of this section and the filing time frames 5745
specified in division (C) of this section and notwithstanding 5746

the findings required under division (J) of this section, the 5747
sentencing court, upon the court's own motion and after 5748
considering whether the release of the offender into society 5749
would create undue risk to public safety, may grant a judicial 5750
release to an offender who is not serving a life sentence at any 5751
time during the offender's imposed sentence when the director of 5752
rehabilitation and correction certifies to the sentencing court 5753
through the chief medical officer for the department of 5754
rehabilitation and correction that the offender is in imminent 5755
danger of death, is medically incapacitated, or is suffering 5756
from a terminal illness. 5757

(O) The director of rehabilitation and correction shall 5758
not certify any offender under division (N) of this section who 5759
is serving a death sentence. 5760

(P) A motion made by the court under division (N) of this 5761
section is subject to the notice, hearing, and other procedural 5762
requirements specified in divisions (D), (E), (G), (H), (I), 5763
(K), and (L) of this section, except for the following: 5764

(1) The court may waive the offender's appearance at any 5765
hearing scheduled by the court if the offender's condition makes 5766
it impossible for the offender to participate meaningfully in 5767
the proceeding. 5768

(2) The court may grant the motion without a hearing, 5769
provided that the prosecuting attorney and victim or victim's 5770
representative to whom notice of the hearing was provided under 5771
division (E) of this section indicate that they do not wish to 5772
participate in the hearing or present information relevant to 5773
the motion. 5774

(Q) The court may request health care records from the 5775

department of rehabilitation and correction to verify the 5776
certification made under division (N) of this section. 5777

(R) (1) If the court grants judicial release under division 5778
(N) of this section, the court shall do all of the following: 5779

(a) Order the release of the offender; 5780

(b) Place the offender under an appropriate community 5781
control sanction, under appropriate conditions; 5782

(c) Place the offender under the supervision of the 5783
department of probation serving the court or under the 5784
supervision of the adult parole authority. 5785

(2) The court, in its discretion, may revoke the judicial 5786
release if the offender violates the community control sanction 5787
described in division (R) (1) of this section. The period of that 5788
community control is not subject to the five-year limitation 5789
described in division (K) of this section and shall not expire 5790
earlier than the date on which all of the offender's mandatory 5791
prison terms expire. 5792

(S) If the health of an offender who is released under 5793
division (N) of this section improves so that the offender is no 5794
longer terminally ill, medically incapacitated, or in imminent 5795
danger of death, the court shall, upon the court's own motion, 5796
revoke the judicial release. The court shall not grant the 5797
motion without a hearing unless the offender waives a hearing. 5798
If a hearing is held, the court shall afford the offender and 5799
the offender's attorney an opportunity to present written and, 5800
if the offender or the offender's attorney is present, oral 5801
information relevant to the motion. The court shall afford a 5802
similar opportunity to the prosecuting attorney, the victim or 5803
the victim's representative, and any other person the court 5804

determines is likely to present additional relevant information. 5805
A court that grants a motion under this division shall specify 5806
its findings on the record. 5807

Sec. 2929.61. (A) Persons charged with an offense that was 5808
formerly a capital offense and that was committed prior to 5809
January 1, 1974, shall be prosecuted under the law as it existed 5810
at the time the offense was committed, and, if convicted, shall 5811
be imprisoned for life, except that whenever the statute under 5812
which any such person is prosecuted provides for a lesser 5813
penalty under the circumstances of the particular case, such 5814
lesser penalty shall be imposed. 5815

(B) Persons charged with an offense, other than an offense 5816
that was formerly a capital offense, that was committed prior to 5817
January 1, 1974, shall be prosecuted under the law as it existed 5818
at the time the offense was committed. Persons convicted or 5819
sentenced on or after January 1, 1974, for an offense committed 5820
prior to January 1, 1974, shall be sentenced according to the 5821
penalty for commission of the substantially equivalent offense 5822
under Amended Substitute House Bill 511 of the 109th General 5823
Assembly. If the offense for which sentence is being imposed 5824
does not have a substantial equivalent under that act, or if 5825
that act provides a more severe penalty than that originally 5826
prescribed for the offense of which the person is convicted, 5827
then sentence shall be imposed under the law as it existed prior 5828
to January 1, 1974. 5829

(C) Persons charged with an offense that is a felony of 5830
the third or fourth degree and that was committed on or after 5831
January 1, 1974, and before July 1, 1983, shall be prosecuted 5832
under the law as it existed at the time the offense was 5833
committed. Persons convicted or sentenced on or after July 1, 5834

1983, for an offense that is a felony of the third or fourth 5835
degree and that was committed on or after January 1, 1974, and 5836
before July 1, 1983, shall be notified by the court sufficiently 5837
in advance of sentencing that they may choose to be sentenced 5838
pursuant to either the law in effect at the time of the 5839
commission of the offense or the law in effect at the time of 5840
sentencing. This notice shall be written and shall include the 5841
differences between and possible effects of the alternative 5842
sentence forms and the effect of the person's refusal to choose. 5843
The person to be sentenced shall then inform the court in 5844
writing of the person's choice, and shall be sentenced 5845
accordingly. Any person choosing to be sentenced pursuant to the 5846
law in effect at the time of the commission of an offense that 5847
is a felony of the third or fourth degree shall then be eligible 5848
for parole, and this person cannot at a later date have the 5849
person's sentence converted to a definite sentence. If the 5850
person refuses to choose between the two possible sentences, the 5851
person shall be sentenced pursuant to the law in effect at the 5852
time of the commission of the offense. 5853

(D) Persons charged with an offense that was a felony of 5854
the first or second degree at the time it was committed, that 5855
was committed on or after January 1, 1974, and that was 5856
committed prior to July 1, 1983, shall be prosecuted for that 5857
offense and, if convicted, shall be sentenced under the law as 5858
it existed at the time the offense was committed. 5859

(E) Persons charged with an offense that is a felony of 5860
the first or second degree that was committed prior to ~~the~~ 5861
~~effective date~~ March 22, 2019, of this amendment shall be 5862
prosecuted for that offense and, if convicted, shall be 5863
sentenced under the law as it existed at the time the offense 5864
was committed. 5865

Sec. 2930.03. (A) A person or entity required or 5866
authorized under this chapter to give notice to a victim shall 5867
give the notice to the victim by any means reasonably calculated 5868
to provide prompt actual notice. Except when a provision 5869
requires that notice is to be given in a specific manner, a 5870
notice may be oral or written. 5871

(B) (1) Except for receipt of the initial information and 5872
notice required to be given to a victim under divisions (A) and 5873
(B) of section 2930.04, section 2930.05, and divisions (A) and 5874
(B) of section 2930.06 of the Revised Code and the notice 5875
required to be given to a victim under division (D) of section 5876
2930.16 of the Revised Code, a victim who wishes to receive any 5877
notice authorized by this chapter shall make a request for the 5878
notice to the prosecutor or the custodial agency that is to 5879
provide the notice, as specified in this chapter. If the victim 5880
does not make a request as described in this division, the 5881
prosecutor or custodial agency is not required to provide any 5882
notice described in this chapter other than the initial 5883
information and notice required to be given to a victim under 5884
divisions (A) and (B) of section 2930.04, section 2930.05, and 5885
divisions (A) and (B) of section 2930.06 of the Revised Code and 5886
the notice required to be given to a victim under division (D) 5887
of section 2930.16 of the Revised Code. 5888

(2) A victim who does not wish to receive any of the 5889
notices required to be given to a victim under division (E) (2) 5890
or (K) of section 2929.20, division (D) of section 2930.16, 5891
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 5892
section 2967.19, division (A) (3) (b) of section 2967.26, division 5893
(D) (1) of section 2967.28, or division (A) (2) of section 5894
5149.101 of the Revised Code shall make a request to the 5895
prosecutor or custodial agency that is to provide the particular 5896

notice that the notice not be provided to the victim. Unless the 5897
victim makes a request as described in this division, the 5898
prosecutor or custodial agency shall provide the notices 5899
required to be given to a victim under division (E) (2) or (K) of 5900
section 2929.20, division (D) of section 2930.16, division ~~(H)~~ 5901
(G) of section 2967.12, division (E) (1) (b) of section 2967.19, 5902
division (A) (3) (b) of section 2967.26, division (D) (1) of 5903
section 2967.28, or division (A) (2) of section 5149.101 of the 5904
Revised Code in any manner, and in accordance with the 5905
procedures, specified in the particular division. This division 5906
also applies to a victim's representative or a member of a 5907
victim's immediate family that is authorized to receive any of 5908
the notices specified in this division. 5909

(C) A person or agency that is required to furnish notice 5910
under this chapter shall give the notice to the victim at the 5911
address or telephone number provided to the person or agency by 5912
the victim. A victim who requests to receive notice under this 5913
chapter as described in division (B) of this section shall 5914
inform the person or agency of the name, address, or telephone 5915
number of the victim and of any change to that information. 5916

(D) A person or agency that has furnished information to a 5917
victim in accordance with any requirement or authorization under 5918
this chapter shall notify the victim promptly of any significant 5919
changes to that information. 5920

(E) Divisions (A) to (D) of this section do not apply 5921
regarding a notice that a prosecutor is required to provide 5922
under section 2930.061 of the Revised Code. A prosecutor 5923
required to provide notice under that section shall provide the 5924
notice as specified in that section. 5925

Sec. 2930.06. (A) The prosecutor in a case, to the extent 5926

practicable, shall confer with the victim in the case before 5927
pretrial diversion is granted to the defendant or alleged 5928
juvenile offender in the case, before amending or dismissing an 5929
indictment, information, or complaint against that defendant or 5930
alleged juvenile offender, before agreeing to a negotiated plea 5931
for that defendant or alleged juvenile offender, before a trial 5932
of that defendant by judge or jury, or before the juvenile court 5933
conducts an adjudicatory hearing for that alleged juvenile 5934
offender. If the juvenile court disposes of a case prior to the 5935
prosecutor's involvement in the case, the court or a court 5936
employee shall notify the victim in the case that the alleged 5937
juvenile offender will be granted pretrial diversion, the 5938
complaint against that alleged juvenile offender will be amended 5939
or dismissed, or the court will conduct an adjudicatory hearing 5940
for that alleged juvenile offender. If the prosecutor fails to 5941
confer with the victim at any of those times, the court, if 5942
informed of the failure, shall note on the record the failure 5943
and the prosecutor's reasons for the failure. A prosecutor's 5944
failure to confer with a victim as required by this division and 5945
a court's failure to provide the notice as required by this 5946
division do not affect the validity of an agreement between the 5947
prosecutor and the defendant or alleged juvenile offender in the 5948
case, a pretrial diversion of the defendant or alleged juvenile 5949
offender, an amendment or dismissal of an indictment, 5950
information, or complaint filed against the defendant or alleged 5951
juvenile offender, a plea entered by the defendant or alleged 5952
juvenile defender, an admission entered by the defendant or 5953
alleged juvenile offender, or any other disposition in the case. 5954
A court shall not dismiss a criminal complaint, charge, 5955
information, or indictment or a delinquent child complaint 5956
solely at the request of the victim and over the objection of 5957
the prosecuting attorney, village solicitor, city director of 5958

law, or other chief legal officer responsible for the 5959
prosecution of the case. 5960

(B) After a prosecution in a case has been commenced, the 5961
prosecutor or a designee of the prosecutor other than a court or 5962
court employee, to the extent practicable, promptly shall give 5963
the victim all of the following information, except that, if the 5964
juvenile court disposes of a case prior to the prosecutor's 5965
involvement in the case, the court or a court employee, to the 5966
extent practicable, promptly shall give the victim all of the 5967
following information: 5968

(1) The name of the crime or specified delinquent act with 5969
which the defendant or alleged juvenile offender in the case has 5970
been charged and the name of the defendant or alleged juvenile 5971
offender; 5972

(2) The file number of the case; 5973

(3) A brief statement regarding the procedural steps in a 5974
criminal prosecution or delinquency proceeding involving a crime 5975
or specified delinquent act similar to the crime or specified 5976
delinquent act with which the defendant or alleged juvenile 5977
offender has been charged and the right of the victim to be 5978
present during all proceedings held throughout the prosecution 5979
of the case; 5980

(4) A summary of the rights of a victim under this 5981
chapter; 5982

(5) Procedures the victim or the prosecutor may follow if 5983
the victim becomes subject to threats or intimidation by the 5984
defendant, alleged juvenile offender, or any other person; 5985

(6) The name and business telephone number of a person to 5986
contact for further information with respect to the case; 5987

(7) The right of the victim to have a victim's 5988
representative exercise the victim's rights under this chapter 5989
in accordance with section 2930.02 of the Revised Code and the 5990
procedure by which a victim's representative may be designated; 5991

(8) Notice that any notification under division (C) of 5992
this section, sections 2930.07 to 2930.15, division (A), (B), or 5993
(C) of section 2930.16, sections 2930.17 to 2930.19, and section 5994
5139.56 of the Revised Code will be given to the victim only if 5995
the victim asks to receive the notification and that notice 5996
under division (E) (2) or (K) of section 2929.20, division (D) of 5997
section 2930.16, division ~~(H)~~ (G) of section 2967.12, division 5998
(E) (1) (b) of section 2967.19, division (A) (3) (b) of section 5999
2967.26, division (D) (1) of section 2967.28, or division (A) (2) 6000
of section 5149.101 of the Revised Code will be given unless the 6001
victim asks that the notification not be provided. 6002

(C) Upon the request of the victim, the prosecutor or, if 6003
it is a delinquency proceeding and a prosecutor is not involved 6004
in the case, the court shall give the victim notice of the date, 6005
time, and place of any scheduled criminal or juvenile 6006
proceedings in the case and notice of any changes in those 6007
proceedings or in the schedule in the case. 6008

(D) A victim who requests notice under division (C) of 6009
this section and who elects pursuant to division (B) of section 6010
2930.03 of the Revised Code to receive any further notice from 6011
the prosecutor or, if it is a delinquency proceeding and a 6012
prosecutor is not involved in the case, the court under this 6013
chapter shall keep the prosecutor or the court informed of the 6014
victim's current address and telephone number until the case is 6015
dismissed or terminated, the defendant is acquitted or 6016
sentenced, the delinquent child complaint is dismissed, the 6017

defendant is adjudicated a delinquent child, or the appellate 6018
process is completed, whichever is the final disposition in the 6019
case. 6020

(E) If a defendant is charged with the commission of a 6021
misdemeanor offense that is not identified in division (A) (2) of 6022
section 2930.01 of the Revised Code and if a police report or a 6023
complaint, indictment, or information that charges the 6024
commission of that offense and provides the basis for a criminal 6025
prosecution of that defendant identifies one or more individuals 6026
as individuals against whom that offense was committed, after a 6027
prosecution in the case has been commenced, the prosecutor or a 6028
designee of the prosecutor other than a court or court employee, 6029
to the extent practicable, promptly shall notify each of the 6030
individuals so identified in the report, complaint, indictment, 6031
or information that, if the defendant is convicted of or pleads 6032
guilty to the offense, the individual may make an oral or 6033
written statement to the court hearing the case regarding the 6034
sentence to be imposed upon the defendant and that the court 6035
must consider any statement so made that is relevant. Before 6036
imposing sentence in the case, the court shall permit the 6037
individuals so identified in the report, complaint, indictment, 6038
or information to make an oral or written statement. Division 6039
(A) of section 2930.14 of the Revised Code applies regarding any 6040
statement so made. The court shall consider a statement so made, 6041
in accordance with division (B) of that section and division (D) 6042
of section 2929.22 of the Revised Code. 6043

Sec. 2930.16. (A) If a defendant is incarcerated, a victim 6044
in a case who has requested to receive notice under this section 6045
shall be given notice of the incarceration of the defendant. If 6046
an alleged juvenile offender is committed to the temporary 6047
custody of a school, camp, institution, or other facility 6048

operated for the care of delinquent children or to the legal 6049
custody of the department of youth services, a victim in a case 6050
who has requested to receive notice under this section shall be 6051
given notice of the commitment. Promptly after sentence is 6052
imposed upon the defendant or the commitment of the alleged 6053
juvenile offender is ordered, the prosecutor in the case shall 6054
notify the victim of the date on which the defendant will be 6055
released, or initially will be eligible for release, from 6056
confinement or the prosecutor's reasonable estimate of that date 6057
or the date on which the alleged juvenile offender will have 6058
served the minimum period of commitment or the prosecutor's 6059
reasonable estimate of that date. The prosecutor also shall 6060
notify the victim of the name of the custodial agency of the 6061
defendant or alleged juvenile offender and tell the victim how 6062
to contact that custodial agency. If the custodial agency is the 6063
department of rehabilitation and correction, the prosecutor 6064
shall notify the victim of the services offered by the office of 6065
victims' services pursuant to section 5120.60 of the Revised 6066
Code. If the custodial agency is the department of youth 6067
services, the prosecutor shall notify the victim of the services 6068
provided by the office of victims' services within the release 6069
authority of the department pursuant to section 5139.55 of the 6070
Revised Code and the victim's right pursuant to section 5139.56 6071
of the Revised Code to submit a written request to the release 6072
authority to be notified of actions the release authority takes 6073
with respect to the alleged juvenile offender. The victim shall 6074
keep the custodial agency informed of the victim's current 6075
address and telephone number. 6076

(B) (1) Upon the victim's request or in accordance with 6077
division (D) of this section, the prosecutor promptly shall 6078
notify the victim of any hearing for judicial release of the 6079

defendant pursuant to section 2929.20 of the Revised Code, of 6080
any hearing for release of the defendant pursuant to section 6081
2967.19 of the Revised Code, or of any hearing for judicial 6082
release or early release of the alleged juvenile offender 6083
pursuant to section 2151.38 of the Revised Code and of the 6084
victim's right to make a statement under those sections. The 6085
court shall notify the victim of its ruling in each of those 6086
hearings and on each of those applications. 6087

(2) If an offender is sentenced to a prison term pursuant 6088
to division (A) (3) or (B) of section 2971.03 of the Revised 6089
Code, upon the request of the victim of the crime or in 6090
accordance with division (D) of this section, the prosecutor 6091
promptly shall notify the victim of any hearing to be conducted 6092
pursuant to section 2971.05 of the Revised Code to determine 6093
whether to modify the requirement that the offender serve the 6094
entire prison term in a state correctional facility in 6095
accordance with division (C) of that section, whether to 6096
continue, revise, or revoke any existing modification of that 6097
requirement, or whether to terminate the prison term in 6098
accordance with division (D) of that section. The court shall 6099
notify the victim of any order issued at the conclusion of the 6100
hearing. 6101

(C) Upon the victim's request made at any time before the 6102
particular notice would be due or in accordance with division 6103
(D) of this section, the custodial agency of a defendant or 6104
alleged juvenile offender shall give the victim any of the 6105
following notices that is applicable: 6106

(1) At least sixty days before the adult parole authority 6107
recommends a pardon or commutation of sentence for the defendant 6108
or at least sixty days prior to a hearing before the adult 6109

parole authority regarding a grant of parole to the defendant, 6110
notice of the victim's right to submit a statement regarding the 6111
impact of the defendant's release in accordance with section 6112
2967.12 of the Revised Code and, if applicable, of the victim's 6113
right to appear at a full board hearing of the parole board to 6114
give testimony as authorized by section 5149.101 of the Revised 6115
Code; and at least sixty days prior to a hearing before the 6116
department regarding a determination of whether the inmate must 6117
be released under division (C) or (D) (2) of section 2967.271 of 6118
the Revised Code if the inmate is serving a non-life felony 6119
indefinite prison term, notice of the fact that the inmate will 6120
be having a hearing regarding a possible grant of release, the 6121
date of any hearing regarding a possible grant of release, and 6122
the right of any person to submit a written statement regarding 6123
the pending action; 6124

(2) At least sixty days before the defendant is 6125
transferred to transitional control under section 2967.26 of the 6126
Revised Code, notice of the pendency of the transfer and of the 6127
victim's right under that section to submit a statement 6128
regarding the impact of the transfer; 6129

(3) At least sixty days before the release authority of 6130
the department of youth services holds a release review, release 6131
hearing, or discharge review for the alleged juvenile offender, 6132
notice of the pendency of the review or hearing, of the victim's 6133
right to make an oral or written statement regarding the impact 6134
of the crime upon the victim or regarding the possible release 6135
or discharge, and, if the notice pertains to a hearing, of the 6136
victim's right to attend and make statements or comments at the 6137
hearing as authorized by section 5139.56 of the Revised Code; 6138

(4) Prompt notice of the defendant's or alleged juvenile 6139

offender's escape from a facility of the custodial agency in 6140
which the defendant was incarcerated or in which the alleged 6141
juvenile offender was placed after commitment, of the 6142
defendant's or alleged juvenile offender's absence without leave 6143
from a mental health or developmental disabilities facility or 6144
from other custody, and of the capture of the defendant or 6145
alleged juvenile offender after an escape or absence; 6146

(5) Notice of the defendant's or alleged juvenile 6147
offender's death while in confinement or custody; 6148

(6) Notice of the filing of a petition by the director of 6149
rehabilitation and correction pursuant to section 2967.19 of the 6150
Revised Code requesting the early release under that section of 6151
the defendant; 6152

(7) Notice of the defendant's or alleged juvenile 6153
offender's release from confinement or custody and the terms and 6154
conditions of the release. 6155

(D) (1) If a defendant is incarcerated for the commission 6156
of aggravated murder, murder, or an offense of violence that is 6157
a felony of the first, second, or third degree or is under a 6158
sentence of life imprisonment or if an alleged juvenile offender 6159
has been charged with the commission of an act that would be 6160
aggravated murder, murder, or an offense of violence that is a 6161
felony of the first, second, or third degree or be subject to a 6162
sentence of life imprisonment if committed by an adult, except 6163
as otherwise provided in this division, the notices described in 6164
divisions (B) and (C) of this section shall be given regardless 6165
of whether the victim has requested the notification. The 6166
notices described in divisions (B) and (C) of this section shall 6167
not be given under this division to a victim if the victim has 6168
requested pursuant to division (B) (2) of section 2930.03 of the 6169

Revised Code that the victim not be provided the notice. 6170
Regardless of whether the victim has requested that the notices 6171
described in division (C) of this section be provided or not be 6172
provided, the custodial agency shall give notice similar to 6173
those notices to the prosecutor in the case, to the sentencing 6174
court, to the law enforcement agency that arrested the defendant 6175
or alleged juvenile offender if any officer of that agency was a 6176
victim of the offense, and to any member of the victim's 6177
immediate family who requests notification. If the notice given 6178
under this division to the victim is based on an offense 6179
committed prior to March 22, 2013, and if the prosecutor or 6180
custodial agency has not previously successfully provided any 6181
notice to the victim under this division or division (B) or (C) 6182
of this section with respect to that offense and the offender 6183
who committed it, the notice also shall inform the victim that 6184
the victim may request that the victim not be provided any 6185
further notices with respect to that offense and the offender 6186
who committed it and shall describe the procedure for making 6187
that request. If the notice given under this division to the 6188
victim pertains to a hearing regarding a grant of a parole to 6189
the defendant, the notice also shall inform the victim that the 6190
victim, a member of the victim's immediate family, or the 6191
victim's representative may request a victim conference, as 6192
described in division (E) of this section, and shall provide an 6193
explanation of a victim conference. 6194

The prosecutor or custodial agency may give the notices to 6195
which this division applies by any reasonable means, including 6196
regular mail, telephone, and electronic mail. If the prosecutor 6197
or custodial agency attempts to provide notice to a victim under 6198
this division but the attempt is unsuccessful because the 6199
prosecutor or custodial agency is unable to locate the victim, 6200

is unable to provide the notice by its chosen method because it 6201
cannot determine the mailing address, telephone number, or 6202
electronic mail address at which to provide the notice, or, if 6203
the notice is sent by mail, the notice is returned, the 6204
prosecutor or custodial agency shall make another attempt to 6205
provide the notice to the victim. If the second attempt is 6206
unsuccessful, the prosecutor or custodial agency shall make at 6207
least one more attempt to provide the notice. If the notice is 6208
based on an offense committed prior to March 22, 2013, in each 6209
attempt to provide the notice to the victim, the notice shall 6210
include the opt-out information described in the preceding 6211
paragraph. The prosecutor or custodial agency, in accordance 6212
with division (D) (2) of this section, shall keep a record of all 6213
attempts to provide the notice, and of all notices provided, 6214
under this division. 6215

Division (D) (1) of this section, and the notice-related 6216
provisions of divisions (E) (2) and (K) of section 2929.20, 6217
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 6218
section 2967.19, division (A) (3) (b) of section 2967.26, division 6219
(D) (1) of section 2967.28, and division (A) (2) of section 6220
5149.101 of the Revised Code enacted in the act in which 6221
division (D) (1) of this section was enacted, shall be known as 6222
"Roberta's Law." 6223

(2) Each prosecutor and custodial agency that attempts to 6224
give any notice to which division (D) (1) of this section applies 6225
shall keep a record of all attempts to give the notice. The 6226
record shall indicate the person who was to be the recipient of 6227
the notice, the date on which the attempt was made, the manner 6228
in which the attempt was made, and the person who made the 6229
attempt. If the attempt is successful and the notice is given, 6230
the record shall indicate that fact. The record shall be kept in 6231

a manner that allows public inspection of attempts and notices 6232
given to persons other than victims without revealing the names, 6233
addresses, or other identifying information relating to victims. 6234
The record of attempts and notices given to victims is not a 6235
public record, but the prosecutor or custodial agency shall 6236
provide upon request a copy of that record to a prosecuting 6237
attorney, judge, law enforcement agency, or member of the 6238
general assembly. The record of attempts and notices given to 6239
persons other than victims is a public record. A record kept 6240
under this division may be indexed by offender name, or in any 6241
other manner determined by the prosecutor or the custodial 6242
agency. Each prosecutor or custodial agency that is required to 6243
keep a record under this division shall determine the procedures 6244
for keeping the record and the manner in which it is to be kept, 6245
subject to the requirements of this division. 6246

(E) The adult parole authority shall adopt rules under 6247
Chapter 119. of the Revised Code providing for a victim 6248
conference, upon request of the victim, a member of the victim's 6249
immediate family, or the victim's representative, prior to a 6250
parole hearing in the case of a prisoner who is incarcerated for 6251
the commission of aggravated murder, murder, or an offense of 6252
violence that is a felony of the first, second, or third degree 6253
or is under a sentence of life imprisonment. The rules shall 6254
provide for, but not be limited to, all of the following: 6255

(1) Subject to division (E) (3) of this section, attendance 6256
by the victim, members of the victim's immediate family, the 6257
victim's representative, and, if practicable, other individuals; 6258

(2) Allotment of up to one hour for the conference; 6259

(3) A specification of the number of persons specified in 6260
division (E) (1) of this section who may be present at any single 6261

victim conference, if limited by the department pursuant to 6262
division (F) of this section. 6263

(F) The department may limit the number of persons 6264
specified in division (E)(1) of this section who may be present 6265
at any single victim conference, provided that the department 6266
shall not limit the number of persons who may be present at any 6267
single conference to fewer than three. If the department limits 6268
the number of persons who may be present at any single victim 6269
conference, the department shall permit and schedule, upon 6270
request of the victim, a member of the victim's immediate 6271
family, or the victim's representative, multiple victim 6272
conferences for the persons specified in division (E)(1) of this 6273
section. 6274

(G) As used in this section, "victim's immediate family" 6275
has the same meaning as in section 2967.12 of the Revised Code. 6276

Sec. 2930.19. (A) In a manner consistent with the duty of 6277
a prosecutor to represent the interests of the public as a 6278
whole, a prosecutor shall seek compliance with this chapter on 6279
behalf of a victim, a member of the victim's family, or the 6280
victim's representative. 6281

(B) The failure of a public official or public agency to 6282
comply with the requirements of this chapter does not give rise 6283
to a claim for damages against that public official or public 6284
agency, except that a public agency as an employer may be held 6285
responsible for a violation of section 2930.18 of the Revised 6286
Code. 6287

(C) The failure of any person or entity to provide a 6288
right, privilege, or notice to a victim under this chapter does 6289
not constitute grounds for declaring a mistrial or new trial, 6290

for setting aside a conviction, sentence, adjudication, or 6291
disposition, or for granting postconviction release to a 6292
defendant or alleged juvenile offender. 6293

~~(D) If there is a conflict between a provision in this 6294
chapter and a specific statute governing the procedure in a case 6295
involving a capital offense, the specific statute supersedes the 6296
provision in this chapter. 6297~~

~~(E) If the victim of a crime is incarcerated in a state or 6298
local correctional facility or is in the legal custody of the 6299
department of youth services, the victim's rights under this 6300
chapter may be modified by court order to prevent any security 6301
risk, hardship, or undue burden upon a public official or public 6302
agency with a duty under this chapter. 6303~~

Sec. 2937.222. (A) On the motion of the prosecuting 6304
attorney or on the judge's own motion, the judge shall hold a 6305
hearing to determine whether an accused person charged with 6306
aggravated murder ~~when it is not a capital offense~~, murder, a 6307
felony of the first or second degree, a violation of section 6308
2903.06 of the Revised Code, a violation of section 2903.211 of 6309
the Revised Code that is a felony, or a felony OVI offense shall 6310
be denied bail. The judge shall order that the accused be 6311
detained until the conclusion of the hearing. Except for good 6312
cause, a continuance on the motion of the state shall not exceed 6313
three court days. Except for good cause, a continuance on the 6314
motion of the accused shall not exceed five court days unless 6315
the motion of the accused waives in writing the five-day limit 6316
and states in writing a specific period for which the accused 6317
requests a continuance. A continuance granted upon a motion of 6318
the accused that waives in writing the five-day limit shall not 6319
exceed five court days after the period of continuance requested 6320

in the motion. 6321

At the hearing, the accused has the right to be 6322
represented by counsel and, if the accused is indigent, to have 6323
counsel appointed. The judge shall afford the accused an 6324
opportunity to testify, to present witnesses and other 6325
information, and to cross-examine witnesses who appear at the 6326
hearing. The rules concerning admissibility of evidence in 6327
criminal trials do not apply to the presentation and 6328
consideration of information at the hearing. Regardless of 6329
whether the hearing is being held on the motion of the 6330
prosecuting attorney or on the court's own motion, the state has 6331
the burden of proving that the proof is evident or the 6332
presumption great that the accused committed the offense with 6333
which the accused is charged, of proving that the accused poses 6334
a substantial risk of serious physical harm to any person or to 6335
the community, and of proving that no release conditions will 6336
reasonably assure the safety of that person and the community. 6337

The judge may reopen the hearing at any time before trial 6338
if the judge finds that information exists that was not known to 6339
the movant at the time of the hearing and that that information 6340
has a material bearing on whether bail should be denied. If a 6341
municipal court or county court enters an order denying bail, a 6342
judge of the court of common pleas having jurisdiction over the 6343
case may continue that order or may hold a hearing pursuant to 6344
this section to determine whether to continue that order. 6345

(B) No accused person shall be denied bail pursuant to 6346
this section unless the judge finds by clear and convincing 6347
evidence that the proof is evident or the presumption great that 6348
the accused committed the offense described in division (A) of 6349
this section with which the accused is charged, finds by clear 6350

and convincing evidence that the accused poses a substantial 6351
risk of serious physical harm to any person or to the community, 6352
and finds by clear and convincing evidence that no release 6353
conditions will reasonably assure the safety of that person and 6354
the community. 6355

(C) The judge, in determining whether the accused person 6356
described in division (A) of this section poses a substantial 6357
risk of serious physical harm to any person or to the community 6358
and whether there are conditions of release that will reasonably 6359
assure the safety of that person and the community, shall 6360
consider all available information regarding all of the 6361
following: 6362

(1) The nature and circumstances of the offense charged, 6363
including whether the offense is an offense of violence or 6364
involves alcohol or a drug of abuse; 6365

(2) The weight of the evidence against the accused; 6366

(3) The history and characteristics of the accused, 6367
including, but not limited to, both of the following: 6368

(a) The character, physical and mental condition, family 6369
ties, employment, financial resources, length of residence in 6370
the community, community ties, past conduct, history relating to 6371
drug or alcohol abuse, and criminal history of the accused; 6372

(b) Whether, at the time of the current alleged offense or 6373
at the time of the arrest of the accused, the accused was on 6374
probation, parole, post-release control, or other release 6375
pending trial, sentencing, appeal, or completion of sentence for 6376
the commission of an offense under the laws of this state, 6377
another state, or the United States or under a municipal 6378
ordinance. 6379

(4) The nature and seriousness of the danger to any person 6380
or the community that would be posed by the person's release. 6381

(D) (1) An order of the court of common pleas denying bail 6382
pursuant to this section is a final appealable order. In an 6383
appeal pursuant to division (D) of this section, the court of 6384
appeals shall do all of the following: 6385

(a) Give the appeal priority on its calendar; 6386

(b) Liberally modify or dispense with formal requirements 6387
in the interest of a speedy and just resolution of the appeal; 6388

(c) Decide the appeal expeditiously; 6389

(d) Promptly enter its judgment affirming or reversing the 6390
order denying bail. 6391

(2) The pendency of an appeal under this section does not 6392
deprive the court of common pleas of jurisdiction to conduct 6393
further proceedings in the case or to further consider the order 6394
denying bail in accordance with this section. If, during the 6395
pendency of an appeal under division (D) of this section, the 6396
court of common pleas sets aside or terminates the order denying 6397
bail, the court of appeals shall dismiss the appeal. 6398

(E) As used in this section: 6399

(1) "Court day" has the same meaning as in section 5122.01 6400
of the Revised Code. 6401

(2) "Felony OVI offense" means a third degree felony OVI 6402
offense and a fourth degree felony OVI offense. 6403

(3) "Fourth degree felony OVI offense" and "third degree 6404
felony OVI offense" have the same meanings as in section 2929.01 6405
of the Revised Code. 6406

Sec. 2941.021. Any criminal offense which is not 6407
punishable by ~~death or~~ life imprisonment may be prosecuted by 6408
information filed in the common pleas court by the prosecuting 6409
attorney if the defendant, after ~~he has~~ having been advised by 6410
the court of the nature of the charge against ~~him~~ the defendant 6411
and of ~~his~~ the defendant's rights under the constitution, is 6412
represented by counsel or has affirmatively waived counsel by 6413
waiver in writing and in open court, waives in writing and in 6414
open court prosecution by indictment. 6415

Sec. 2941.14. ~~(A)~~ In an indictment for aggravated murder, 6416
murder, or voluntary or involuntary manslaughter, the manner in 6417
which, or the means by which the death was caused need not be 6418
set forth. 6419

~~(B) Imposition of the death penalty for aggravated murder~~ 6420
~~is precluded unless the indictment or count in the indictment~~ 6421
~~charging the offense specifies one or more of the aggravating~~ 6422
~~circumstances listed in division (A) of section 2929.04 of the~~ 6423
~~Revised Code. If more than one aggravating circumstance is~~ 6424
~~specified to an indictment or count, each shall be in a~~ 6425
~~separately numbered specification, and if an aggravating~~ 6426
~~circumstance is specified to a count in an indictment containing~~ 6427
~~more than one count, such specification shall be identified as~~ 6428
~~to the count to which it applies.~~ 6429

~~(C) A specification to an indictment or count in an~~ 6430
~~indictment charging aggravated murder shall be stated at the end~~ 6431
~~of the body of the indictment or count, and may be in~~ 6432
~~substantially the following form:~~ 6433

~~"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE~~ 6434
~~FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand~~ 6435
~~Jurors further find and specify that (set forth the applicable~~ 6436

~~aggravating circumstance listed in divisions (A) (1) to (10) of
section 2929.04 of the Revised Code. The aggravating
circumstance may be stated in the words of the subdivision in
which it appears, or in words sufficient to give the accused
notice of the same)."~~

Sec. 2941.148. (A) (1) The application of Chapter 2971. of
the Revised Code to an offender is precluded unless one of the
following applies:

(a) The offender is charged with a violent sex offense,
and the indictment, count in the indictment, or information
charging the violent sex offense also includes a specification
that the offender is a sexually violent predator, or the
offender is charged with a designated homicide, assault, or
kidnapping offense, and the indictment, count in the indictment,
or information charging the designated homicide, assault, or
kidnapping offense also includes both a specification of the
type described in section 2941.147 of the Revised Code and a
specification that the offender is a sexually violent predator.

(b) 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 division
(B) of section 2907.02 of the Revised Code does not prohibit the
court from sentencing the offender pursuant to section 2971.03
of the Revised Code.

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

(d) The offender is convicted of or pleads guilty to a

violation of section 2905.01 of the Revised Code and to a 6466
specification of the type described in section 2941.147 of the 6467
Revised Code, and section 2905.01 of the Revised Code requires a 6468
court to sentence the offender pursuant to section 2971.03 of 6469
the Revised Code. 6470

(e) The offender is convicted of or pleads guilty to 6471
aggravated murder and to a specification of the type described 6472
in section 2941.147 of the Revised Code, and division ~~(A) (2) (b)~~ 6473
~~(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C)~~ 6474
~~(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section~~ 6475
~~2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ 6476
of the Revised Code requires a court to sentence the offender 6477
pursuant to division (B) (3) of section 2971.03 of the Revised 6478
Code. 6479

(f) The offender is convicted of or pleads guilty to 6480
murder and to a specification of the type described in section 6481
2941.147 of the Revised Code, and division ~~(B) (2)~~ (C) (1) of 6482
section 2929.02 of the Revised Code requires a court to sentence 6483
the offender pursuant to section 2971.03 of the Revised Code. 6484

(2) A specification required under division (A) (1) (a) of 6485
this section that an offender is a sexually violent predator 6486
shall be stated at the end of the body of the indictment, count, 6487
or information and shall be stated in substantially the 6488
following form: 6489

"Specification (or, specification to the first count). The 6490
grand jury (or insert the person's or prosecuting attorney's 6491
name when appropriate) further find and specify that the 6492
offender is a sexually violent predator." 6493

(B) In determining for purposes of this section whether a 6494

person is a sexually violent predator, all of the factors set 6495
forth in divisions (H) (1) to (6) of section 2971.01 of the 6496
Revised Code that apply regarding the person may be considered 6497
as evidence tending to indicate that it is likely that the 6498
person will engage in the future in one or more sexually violent 6499
offenses. 6500

(C) As used in this section, "designated homicide, 6501
assault, or kidnapping offense," "violent sex offense," and 6502
"sexually violent predator" have the same meanings as in section 6503
2971.01 of the Revised Code. 6504

Sec. 2941.401. When a person has entered upon a term of 6505
imprisonment in a correctional institution of this state, and 6506
when during the continuance of the term of imprisonment there is 6507
pending in this state any untried indictment, information, or 6508
complaint against the prisoner, ~~he~~ the prisoner shall be brought 6509
to trial within one hundred eighty days after ~~he~~ the prisoner 6510
causes to be delivered to the prosecuting attorney and the 6511
appropriate court in which the matter is pending, written notice 6512
of the place of ~~his~~ the prisoner's imprisonment and a request 6513
for a final disposition to be made of the matter, except that 6514
for good cause shown in open court, with the prisoner or ~~his~~ the 6515
prisoner's counsel present, the court may grant any necessary or 6516
reasonable continuance. The request of the prisoner shall be 6517
accompanied by a certificate of the warden or superintendent 6518
having custody of the prisoner, stating the term of commitment 6519
under which the prisoner is being held, the time served and 6520
remaining to be served on the sentence, the amount of good time 6521
earned, the time of parole eligibility of the prisoner, and any 6522
decisions of the adult parole authority relating to the 6523
prisoner. 6524

The written notice and request for final disposition shall 6525
be given or sent by the prisoner to the warden or superintendent 6526
having custody of ~~him~~ the prisoner, who shall promptly forward 6527
it with the certificate to the appropriate prosecuting attorney 6528
and court by registered or certified mail, return receipt 6529
requested. 6530

The warden or superintendent having custody of the 6531
prisoner shall promptly inform ~~him~~ the prisoner in writing of 6532
the source and contents of any untried indictment, information, 6533
or complaint against ~~him~~ the prisoner, concerning which the 6534
warden or superintendent has knowledge, and of ~~his~~ the 6535
prisoner's right to make a request for final disposition 6536
thereof. 6537

Escape from custody by the prisoner, subsequent to ~~his~~ the 6538
prisoner's execution of the request for final disposition, voids 6539
the request. 6540

If the action is not brought to trial within the time 6541
provided, subject to continuance allowed pursuant to this 6542
section, no court any longer has jurisdiction thereof, the 6543
indictment, information, or complaint is void, and the court 6544
shall enter an order dismissing the action with prejudice. 6545

This section does not apply to any person adjudged to be 6546
mentally ill or who is under sentence of life imprisonment ~~or~~ 6547
~~death, or to any prisoner under sentence of death.~~ 6548

Sec. 2941.43. If the convict referred to in section 6549
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 6550
be forthwith returned by the sheriff to the state correctional 6551
institution to serve out the remainder of ~~his~~ the convict's 6552
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 6553

state correctional institution, ~~he~~ the convict shall be returned 6554
to the state correctional institution by the sheriff to serve 6555
~~his new~~ the convict's term. If ~~he is sentenced to death, the~~ 6556
~~death sentence shall be executed as if he were not under~~ 6557
~~sentence of imprisonment in a state correctional institution.~~ 6558

Sec. 2941.51. (A) Counsel appointed to a case or selected 6559
by an indigent person under division (E) of section 120.16 or 6560
division (E) of section 120.26 of the Revised Code, or otherwise 6561
appointed by the court, except for counsel appointed by the 6562
court to provide legal representation for a person charged with 6563
a violation of an ordinance of a municipal corporation, shall be 6564
paid for their services by the county the compensation and 6565
expenses that the trial court approves. Each request for payment 6566
shall include a financial disclosure form completed by the 6567
indigent person on a form prescribed by the state public 6568
defender. Compensation and expenses shall not exceed the amounts 6569
fixed by the board of county commissioners pursuant to division 6570
(B) of this section. 6571

(B) The board of county commissioners shall establish a 6572
schedule of fees by case or on an hourly basis to be paid by the 6573
county for legal services provided by appointed counsel. Prior 6574
to establishing such schedule, the board shall request the bar 6575
association or associations of the county to submit a proposed 6576
~~schedule for cases other than capital cases.~~ The schedule 6577
submitted shall be subject to the review, amendment, and 6578
approval of the board of county commissioners, ~~except with~~ 6579
~~respect to capital cases. With respect to capital cases, the~~ 6580
~~schedule shall provide for fees by case or on an hourly basis to~~ 6581
~~be paid to counsel in the amount or at the rate set by the~~ 6582
~~capital case attorney fee council pursuant to division (D) of~~ 6583
~~section 120.33 of the Revised Code, and the board of county~~ 6584

~~commissioners shall approve that amount or rate.~~ 6585

~~With respect to capital cases, counsel shall be paid
compensation and expenses in accordance with the amount or at
the rate set by the capital case attorney fee council pursuant
to division (D) of section 120.33 of the Revised Code.~~ 6586
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(C) In a case where counsel have been appointed to conduct 6590
an appeal under Chapter 120. of the Revised Code, such 6591
compensation shall be fixed by the court of appeals or the 6592
supreme court, as provided in divisions (A) and (B) of this 6593
section. 6594

(D) The fees and expenses approved by the court under this 6595
section shall not be taxed as part of the costs and shall be 6596
paid by the county. However, if the person represented has, or 6597
reasonably may be expected to have, the means to meet some part 6598
of the cost of the services rendered to the person, the person 6599
shall pay the county an amount that the person reasonably can be 6600
expected to pay. Pursuant to section 120.04 of the Revised Code, 6601
the county shall pay to the state public defender a percentage 6602
of the payment received from the person in an amount 6603
proportionate to the percentage of the costs of the person's 6604
case that were paid to the county by the state public defender 6605
pursuant to this section. The money paid to the state public 6606
defender shall be credited to the client payment fund created 6607
pursuant to division (B) (5) of section 120.04 of the Revised 6608
Code. 6609

(E) The county auditor shall draw a warrant on the county 6610
treasurer for the payment of such counsel in the amount fixed by 6611
the court, plus the expenses that the court fixes and certifies 6612
to the auditor. The county auditor shall report periodically, 6613
but not less than annually, to the board of county commissioners 6614

and to the Ohio public defender commission the amounts paid out 6615
pursuant to the approval of the court under this section,~~—~~ 6616
~~separately stating costs and expenses that are reimbursable—~~ 6617
~~under section 120.35 of the Revised Code.~~ The board, after 6618
review and approval of the auditor's report, may then certify it 6619
to the state public defender for reimbursement. The request for 6620
reimbursement shall be accompanied by a financial disclosure 6621
form completed by each indigent person for whom counsel was 6622
provided on a form prescribed by the state public defender. The 6623
state public defender shall review the report and, in accordance 6624
with the standards, guidelines, and maximums established 6625
pursuant to divisions (B) (7) and (8) of section 120.04 of the 6626
Revised Code, pay fifty per cent of the total cost,~~other than—~~ 6627
~~costs and expenses that are reimbursable under section 120.35 of~~ 6628
~~the Revised Code, if any,~~ of paying appointed counsel in each 6629
county and ~~pay fifty per cent of costs and expenses that are—~~ 6630
~~reimbursable under section 120.35 of the Revised Code, if any,—~~ 6631
to the board. 6632

(F) If any county system for paying appointed counsel 6633
fails to maintain the standards for the conduct of the system 6634
established by the rules of the Ohio public defender commission 6635
pursuant to divisions (B) and (C) of section 120.03 of the 6636
Revised Code or the standards established by the state public 6637
defender pursuant to division (B) (7) of section 120.04 of the 6638
Revised Code, the commission shall notify the board of county 6639
commissioners of the county that the county system for paying 6640
appointed counsel has failed to comply with its rules. Unless 6641
the board corrects the conduct of its appointed counsel system 6642
to comply with the rules within ninety days after the date of 6643
the notice, the state public defender may deny all or part of 6644
the county's reimbursement from the state provided for in this 6645

section.

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

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Sec. 2945.10. The trial of an issue upon an indictment or
information shall proceed before the trial court or jury as

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follows: 6677

(A) Counsel for the state must first state the case for 6678
the prosecution, and may briefly state the evidence by which the 6679
counsel for the state expects to sustain it. 6680

(B) The defendant or the defendant's counsel must then 6681
state the defense, and may briefly state the evidence which the 6682
defendant or the defendant's counsel expects to offer in support 6683
of it. 6684

(C) The state must first produce its evidence and the 6685
defendant shall then produce the defendant's evidence. 6686

(D) The state will then be confined to rebutting evidence, 6687
but the court, for good reason, in furtherance of justice, may 6688
permit evidence to be offered by either side out of its order. 6689

(E) When the evidence is concluded, ~~one of the following~~ 6690
~~applies regarding jury instructions:~~ 6691

~~(1) In a capital case that is being heard by a jury, the~~ 6692
~~court shall prepare written instructions to the jury on the~~ 6693
~~points of law, shall provide copies of the written instructions~~ 6694
~~to the jury before orally instructing the jury, and shall permit~~ 6695
~~the jury to retain and consult the instructions during the~~ 6696
~~court's presentation of the oral instructions and during the~~ 6697
~~jury's deliberations.~~ 6698

~~(2) In a case that is not a capital case, either party may~~ 6699
request instructions to the jury on the points of law, which 6700
instructions shall be reduced to writing if either party 6701
requests it. 6702

(F) When the evidence is concluded, unless the case is 6703
submitted without argument, the counsel for the state shall 6704

commence, the defendant or the defendant's counsel follow, and 6705
the counsel for the state conclude the argument to the jury. 6706

(G) The court, after the argument is concluded and before 6707
proceeding with other business, shall forthwith charge the jury. 6708
Such charge shall be reduced to writing by the court if either 6709
party requests it before the argument to the jury is commenced. 6710
Such charge, or other charge or instruction provided for in this 6711
section, when so written and given, shall not be orally 6712
qualified, modified, or explained to the jury by the court. 6713
Written charges and instructions shall be taken by the jury in 6714
their retirement and returned with their verdict into court and 6715
remain on file with the papers of the case. 6716

The court may deviate from the order of proceedings listed 6717
in this section. 6718

Sec. 2945.13. When two or more persons are jointly 6719
indicted for a felony, ~~except a capital offense,~~ they shall be 6720
tried jointly unless the court, for good cause shown on 6721
application therefor by the prosecuting attorney or one or more 6722
of said defendants, orders one or more of said defendants to be 6723
tried separately. 6724

Sec. 2945.21. (A) (1) In criminal cases in which there is 6725
only one defendant, each party, in addition to the challenges 6726
for cause authorized by law, may peremptorily challenge three of 6727
the jurors in misdemeanor cases and four of the jurors in felony 6728
cases ~~other than capital cases~~. If there is more than one 6729
defendant, each defendant may peremptorily challenge the same 6730
number of jurors as if ~~he~~ the defendant were the sole defendant. 6731

(2) ~~Notwithstanding Criminal Rule 24, in capital cases in~~ 6732
~~which there is only one defendant, each party, in addition to~~ 6733

~~the challenges for cause authorized by law, may peremptorily
challenge twelve of the jurors. If there is more than one
defendant, each defendant may peremptorily challenge the same
number of jurors as if he were the sole defendant.~~ 6734
6735
6736
6737

~~(3)~~ In any case in which there are multiple defendants, 6738
the prosecuting attorney may peremptorily challenge a number of 6739
jurors equal to the total number of peremptory challenges 6740
allowed to all of the defendants. 6741

(B) If any indictments, informations, or complaints are 6742
consolidated for trial, the consolidated cases shall be 6743
considered, for purposes of exercising peremptory challenges, as 6744
though the defendants or offenses had been joined in the same 6745
indictment, information, or complaint. 6746

(C) The exercise of peremptory challenges authorized by 6747
this section shall be in accordance with the procedures of 6748
Criminal Rule 24. 6749

Sec. 2945.25. A person called as a juror in a criminal 6750
case may be challenged for the following causes: 6751

(A) That ~~he~~ the person was a member of the grand jury that 6752
found the indictment in the case; 6753

(B) That ~~he~~ the person is possessed of a state of mind 6754
evincing enmity or bias toward the defendant or the state; but 6755
no person summoned as a juror shall be disqualified by reason of 6756
a previously formed or expressed opinion with reference to the 6757
guilt or innocence of the accused, if the court is satisfied, 6758
from examination of the juror or from other evidence, that ~~he~~ 6759
the juror will render an impartial verdict according to the law 6760
and the evidence submitted to the jury at the trial; 6761

~~(C) In the trial of a capital offense, that he~~ 6762

~~unequivocally states that under no circumstances will he follow~~ 6763
~~the instructions of a trial judge and consider fairly the~~ 6764
~~imposition of a sentence of death in a particular case. A~~ 6765
~~prospective juror's conscientious or religious opposition to the~~ 6766
~~death penalty in and of itself is not grounds for a challenge~~ 6767
~~for cause. All parties shall be given wide latitude in voir dire~~ 6768
~~questioning in this regard.~~ 6769

~~(D)~~ That he the person is related by consanguinity or 6770
affinity within the fifth degree to the person alleged to be 6771
injured or attempted to be injured by the offense charged, or to 6772
the person on whose complaint the prosecution was instituted, or 6773
to the defendant; 6774

~~(E)~~ ~~(D)~~ That he the person served on a petit jury drawn in 6775
the same cause against the same defendant, and that jury was 6776
discharged after hearing the evidence or rendering a verdict on 6777
the evidence that was set aside; 6778

~~(F)~~ ~~(E)~~ That he the person served as a juror in a civil 6779
case brought against the defendant for the same act; 6780

~~(G)~~ ~~(F)~~ That he the person has been subpoenaed in good 6781
faith as a witness in the case; 6782

~~(H)~~ ~~(G)~~ That he the person is a chronic alcoholic, or drug 6783
dependent person; 6784

~~(I)~~ ~~(H)~~ That he the person has been convicted of a crime 6785
that by law disqualifies ~~him~~ the person from serving on a jury; 6786

~~(J)~~ ~~(I)~~ That he the person has an action pending between 6787
~~him~~ the person and the state or the defendant; 6788

~~(K)~~ ~~(J)~~ That he the person or ~~his~~ the person's spouse is a 6789
party to another action then pending in any court in which an 6790

attorney in the cause then on trial is an attorney, either for 6791
or against ~~him~~ the person; 6792

~~(L)~~ ~~(K)~~ That ~~he~~ the person is the person alleged to be 6793
injured or attempted to be injured by the offense charged, or is 6794
the person on whose complaint the prosecution was instituted, or 6795
the defendant; 6796

~~(M)~~ ~~(L)~~ That ~~he~~ the person is the employer or employee, or 6797
the spouse, parent, son, or daughter of the employer or 6798
employee, or the counselor, agent, or attorney of any person 6799
included in division ~~(L)~~ ~~(K)~~ of this section; 6800

~~(N)~~ ~~(M)~~ That English is not ~~his~~ the person's native 6801
language, and ~~his~~ the person's knowledge of English is 6802
insufficient to permit ~~him~~ the person to understand the facts 6803
and law in the case; 6804

~~(O)~~ ~~(N)~~ That ~~he~~ the person otherwise is unsuitable for any 6805
other cause to serve as a juror. 6806

The validity of each challenge listed in this section 6807
shall be determined by the court. 6808

Sec. 2945.33. When a cause is finally submitted the jurors 6809
must be kept together in a convenient place under the charge of 6810
an officer until they agree upon a verdict, or are discharged by 6811
the court. The court, ~~except in cases where the offense charged~~ 6812
~~may be punishable by death,~~ may permit the jurors to separate 6813
during the adjournment of court overnight, under proper 6814
cautions, or under supervision of an officer. Such officer shall 6815
not permit a communication to be made to them, nor make any 6816
~~himself~~ communication to them except to ask if they have agreed 6817
upon a verdict, unless ~~he~~ the officer does so by order of the 6818
court. Such officer shall not communicate to any person, before 6819

the verdict is delivered, any matter in relation to their 6820
deliberation. Upon the trial of any prosecution for misdemeanor, 6821
the court may permit the jury to separate during their 6822
deliberation, or upon adjournment of the court overnight. 6823

~~In cases where the offense charged may be punished by 6824
death, after the case is finally submitted to the jury, the 6825
jurors shall be kept in charge of the proper officer and proper 6826
arrangements for their care and maintenance shall be made as 6827
under section 2945.31 of the Revised Code. 6828~~

Sec. 2945.38. (A) If the issue of a defendant's competence 6829
to stand trial is raised and if the court, upon conducting the 6830
hearing provided for in section 2945.37 of the Revised Code, 6831
finds that the defendant is competent to stand trial, the 6832
defendant shall be proceeded against as provided by law. If the 6833
court finds the defendant competent to stand trial and the 6834
defendant is receiving psychotropic drugs or other medication, 6835
the court may authorize the continued administration of the 6836
drugs or medication or other appropriate treatment in order to 6837
maintain the defendant's competence to stand trial, unless the 6838
defendant's attending physician advises the court against 6839
continuation of the drugs, other medication, or treatment. 6840

(B) (1) (a) If, after taking into consideration all relevant 6841
reports, information, and other evidence, the court finds that 6842
the defendant is incompetent to stand trial and that there is a 6843
substantial probability that the defendant will become competent 6844
to stand trial within one year if the defendant is provided with 6845
a course of treatment, the court shall order the defendant to 6846
undergo treatment. If the defendant has been charged with a 6847
felony offense and if, after taking into consideration all 6848
relevant reports, information, and other evidence, the court 6849

finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(b) The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B) (1) (a) of this section shall specify that the defendant, if determined to require mental health treatment or continuing evaluation and treatment, either shall be committed to the department of mental health and addiction services for treatment or continuing evaluation and treatment at a hospital, facility, or agency, as determined to be clinically appropriate by the department of mental health and addiction services or shall be committed to a facility certified by the department of mental health and addiction services as being qualified to treat mental illness, to a public or community mental health facility, or to a psychiatrist or another mental health professional for treatment or continuing evaluation and treatment. Prior to placing the defendant, the department of mental health and addiction services shall obtain court approval for that placement following a hearing. The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B) (1) (a) of this section shall specify that the defendant, if determined to require treatment or continuing evaluation and treatment for an intellectual disability, shall

receive treatment or continuing evaluation and treatment at an 6881
institution or facility operated by the department of 6882
developmental disabilities, at a facility certified by the 6883
department of developmental disabilities as being qualified to 6884
treat intellectual disabilities, at a public or private 6885
intellectual disabilities facility, or by a psychiatrist or 6886
another intellectual disabilities professional. In any case, the 6887
order may restrict the defendant's freedom of movement as the 6888
court considers necessary. The prosecutor in the defendant's 6889
case shall send to the chief clinical officer of the hospital, 6890
facility, or agency where the defendant is placed by the 6891
department of mental health and addiction services, or to the 6892
managing officer of the institution, the director of the program 6893
or facility, or the person to which the defendant is committed, 6894
copies of relevant police reports and other background 6895
information that pertains to the defendant and is available to 6896
the prosecutor unless the prosecutor determines that the release 6897
of any of the information in the police reports or any of the 6898
other background information to unauthorized persons would 6899
interfere with the effective prosecution of any person or would 6900
create a substantial risk of harm to any person. 6901

In determining the place of commitment, the court shall 6902
consider the extent to which the person is a danger to the 6903
person and to others, the need for security, and the type of 6904
crime involved and shall order the least restrictive alternative 6905
available that is consistent with public safety and treatment 6906
goals. In weighing these factors, the court shall give 6907
preference to protecting public safety. 6908

(c) If the defendant is found incompetent to stand trial, 6909
if the chief clinical officer of the hospital, facility, or 6910
agency where the defendant is placed, or the managing officer of 6911

the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment under division (B) (1) (b) of this section determines that medication is necessary to restore the defendant's competency to stand trial, and if the defendant lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition if the petition was filed in a municipal court or a county court regarding an incompetent defendant charged with a misdemeanor or within ten days of the filing of the petition if the petition was filed in a court of common pleas regarding an incompetent defendant charged with a felony offense. Following the hearing, the court may authorize the involuntary administration of medication or may dismiss the petition.

(2) If the court finds that the defendant is incompetent to stand trial and that, even if the defendant is provided with a course of treatment, there is not a substantial probability that the defendant will become competent to stand trial within one year, the court shall order the discharge of the defendant, unless upon motion of the prosecutor or on its own motion, the court either seeks to retain jurisdiction over the defendant pursuant to section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code

alleging that the defendant is a mentally ill person subject to 6943
court order or a person with an intellectual disability subject 6944
to institutionalization by court order. If an affidavit is filed 6945
in the probate court, the trial court shall send to the probate 6946
court copies of all written reports of the defendant's mental 6947
condition that were prepared pursuant to section 2945.371 of the 6948
Revised Code. 6949

The trial court may issue the temporary order of detention 6950
that a probate court may issue under section 5122.11 or 5123.71 6951
of the Revised Code, to remain in effect until the probable 6952
cause or initial hearing in the probate court. Further 6953
proceedings in the probate court are civil proceedings governed 6954
by Chapter 5122. or 5123. of the Revised Code. 6955

(C) No defendant shall be required to undergo treatment, 6956
including any continuing evaluation and treatment, under 6957
division (B) (1) of this section for longer than whichever of the 6958
following periods is applicable: 6959

(1) One year, if the most serious offense with which the 6960
defendant is charged is one of the following offenses: 6961

(a) Aggravated murder, murder, or an offense of violence 6962
for which a sentence of ~~death or~~ life imprisonment may be 6963
imposed; 6964

(b) An offense of violence that is a felony of the first 6965
or second degree; 6966

(c) A conspiracy to commit, an attempt to commit, or 6967
complicity in the commission of an offense described in division 6968
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 6969
complicity is a felony of the first or second degree. 6970

(2) Six months, if the most serious offense with which the 6971

defendant is charged is a felony other than a felony described 6972
in division (C) (1) of this section; 6973

(3) Sixty days, if the most serious offense with which the 6974
defendant is charged is a misdemeanor of the first or second 6975
degree; 6976

(4) Thirty days, if the most serious offense with which 6977
the defendant is charged is a misdemeanor of the third or fourth 6978
degree, a minor misdemeanor, or an unclassified misdemeanor. 6979

(D) Any defendant who is committed pursuant to this 6980
section shall not voluntarily admit the defendant or be 6981
voluntarily admitted to a hospital or institution pursuant to 6982
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 6983
Code. 6984

(E) Except as otherwise provided in this division, a 6985
defendant who is charged with an offense and is committed by the 6986
court under this section to the department of mental health and 6987
addiction services or is committed to an institution or facility 6988
for the treatment of intellectual disabilities shall not be 6989
granted unsupervised on-grounds movement, supervised off-grounds 6990
movement, or nonsecured status except in accordance with the 6991
court order. The court may grant a defendant supervised off- 6992
grounds movement to obtain medical treatment or specialized 6993
habilitation treatment services if the person who supervises the 6994
treatment or the continuing evaluation and treatment of the 6995
defendant ordered under division (B) (1) (a) of this section 6996
informs the court that the treatment or continuing evaluation 6997
and treatment cannot be provided at the hospital or facility 6998
where the defendant is placed by the department of mental health 6999
and addiction services or the institution or facility to which 7000
the defendant is committed. The chief clinical officer of the 7001

hospital or facility where the defendant is placed by the 7002
department of mental health and addiction services or the 7003
managing officer of the institution or director of the facility 7004
to which the defendant is committed, or a designee of any of 7005
those persons, may grant a defendant movement to a medical 7006
facility for an emergency medical situation with appropriate 7007
supervision to ensure the safety of the defendant, staff, and 7008
community during that emergency medical situation. The chief 7009
clinical officer of the hospital or facility where the defendant 7010
is placed by the department of mental health and addiction 7011
services or the managing officer of the institution or director 7012
of the facility to which the defendant is committed shall notify 7013
the court within twenty-four hours of the defendant's movement 7014
to the medical facility for an emergency medical situation under 7015
this division. 7016

(F) The person who supervises the treatment or continuing 7017
evaluation and treatment of a defendant ordered to undergo 7018
treatment or continuing evaluation and treatment under division 7019
(B) (1) (a) of this section shall file a written report with the 7020
court at the following times: 7021

(1) Whenever the person believes the defendant is capable 7022
of understanding the nature and objective of the proceedings 7023
against the defendant and of assisting in the defendant's 7024
defense; 7025

(2) For a felony offense, fourteen days before expiration 7026
of the maximum time for treatment as specified in division (C) 7027
of this section and fourteen days before the expiration of the 7028
maximum time for continuing evaluation and treatment as 7029
specified in division (B) (1) (a) of this section, and, for a 7030
misdemeanor offense, ten days before the expiration of the 7031

maximum time for treatment, as specified in division (C) of this section; 7032
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(3) At a minimum, after each six months of treatment; 7034

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment. 7035
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(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense if the defendant is provided with a course of treatment, if in the examiner's opinion the defendant remains mentally ill or continues to have an intellectual disability, and if the maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least restrictive placement or commitment alternative that is consistent with the defendant's treatment needs for restoration to competency and 7042
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with the safety of the community. The court shall provide copies 7062
of the report to the prosecutor and defense counsel. 7063

(H) If a defendant is committed pursuant to division (B) 7064
(1) of this section, within ten days after the treating 7065
physician of the defendant or the examiner of the defendant who 7066
is employed or retained by the treating facility advises that 7067
there is not a substantial probability that the defendant will 7068
become capable of understanding the nature and objective of the 7069
proceedings against the defendant or of assisting in the 7070
defendant's defense even if the defendant is provided with a 7071
course of treatment, within ten days after the expiration of the 7072
maximum time for treatment as specified in division (C) of this 7073
section, within ten days after the expiration of the maximum 7074
time for continuing evaluation and treatment as specified in 7075
division (B)(1)(a) of this section, within thirty days after a 7076
defendant's request for a hearing that is made after six months 7077
of treatment, or within thirty days after being advised by the 7078
treating physician or examiner that the defendant is competent 7079
to stand trial, whichever is the earliest, the court shall 7080
conduct another hearing to determine if the defendant is 7081
competent to stand trial and shall do whichever of the following 7082
is applicable: 7083

(1) If the court finds that the defendant is competent to 7084
stand trial, the defendant shall be proceeded against as 7085
provided by law. 7086

(2) If the court finds that the defendant is incompetent 7087
to stand trial, but that there is a substantial probability that 7088
the defendant will become competent to stand trial if the 7089
defendant is provided with a course of treatment, and the 7090
maximum time for treatment as specified in division (C) of this 7091

section has not expired, the court, after consideration of the 7092
examiner's recommendation, shall order that treatment be 7093
continued, may change the facility or program at which the 7094
treatment is to be continued, and shall specify whether the 7095
treatment is to be continued at the same or a different facility 7096
or program. 7097

(3) If the court finds that the defendant is incompetent 7098
to stand trial, if the defendant is charged with an offense 7099
listed in division (C)(1) of this section, and if the court 7100
finds that there is not a substantial probability that the 7101
defendant will become competent to stand trial even if the 7102
defendant is provided with a course of treatment, or if the 7103
maximum time for treatment relative to that offense as specified 7104
in division (C) of this section has expired, further proceedings 7105
shall be as provided in sections 2945.39, 2945.401, and 2945.402 7106
of the Revised Code. 7107

(4) If the court finds that the defendant is incompetent 7108
to stand trial, if the most serious offense with which the 7109
defendant is charged is a misdemeanor or a felony other than a 7110
felony listed in division (C)(1) of this section, and if the 7111
court finds that there is not a substantial probability that the 7112
defendant will become competent to stand trial even if the 7113
defendant is provided with a course of treatment, or if the 7114
maximum time for treatment relative to that offense as specified 7115
in division (C) of this section has expired, the court shall 7116
dismiss the indictment, information, or complaint against the 7117
defendant. A dismissal under this division is not a bar to 7118
further prosecution based on the same conduct. The court shall 7119
discharge the defendant unless the court or prosecutor files an 7120
affidavit in probate court for civil commitment pursuant to 7121
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 7122

civil commitment is filed, the court may detain the defendant 7123
for ten days pending civil commitment. All of the following 7124
provisions apply to persons charged with a misdemeanor or a 7125
felony other than a felony listed in division (C)(1) of this 7126
section who are committed by the probate court subsequent to the 7127
court's or prosecutor's filing of an affidavit for civil 7128
commitment under authority of this division: 7129

(a) The chief clinical officer of the entity, hospital, or 7130
facility, the managing officer of the institution, the director 7131
of the program, or the person to which the defendant is 7132
committed or admitted shall do all of the following: 7133

(i) Notify the prosecutor, in writing, of the discharge of 7134
the defendant, send the notice at least ten days prior to the 7135
discharge unless the discharge is by the probate court, and 7136
state in the notice the date on which the defendant will be 7137
discharged; 7138

(ii) Notify the prosecutor, in writing, when the defendant 7139
is absent without leave or is granted unsupervised, off-grounds 7140
movement, and send this notice promptly after the discovery of 7141
the absence without leave or prior to the granting of the 7142
unsupervised, off-grounds movement, whichever is applicable; 7143

(iii) Notify the prosecutor, in writing, of the change of 7144
the defendant's commitment or admission to voluntary status, 7145
send the notice promptly upon learning of the change to 7146
voluntary status, and state in the notice the date on which the 7147
defendant was committed or admitted on a voluntary status. 7148

(b) Upon receiving notice that the defendant will be 7149
granted unsupervised, off-grounds movement, the prosecutor 7150
either shall re-indict the defendant or promptly notify the 7151

court that the prosecutor does not intend to prosecute the 7152
charges against the defendant. 7153

(I) If a defendant is convicted of a crime and sentenced 7154
to a jail or workhouse, the defendant's sentence shall be 7155
reduced by the total number of days the defendant is confined 7156
for evaluation to determine the defendant's competence to stand 7157
trial or treatment under this section and sections 2945.37 and 7158
2945.371 of the Revised Code or by the total number of days the 7159
defendant is confined for evaluation to determine the 7160
defendant's mental condition at the time of the offense charged. 7161

Sec. 2949.02. (A) If a person is convicted of any bailable 7162
offense, including, but not limited to, a violation of an 7163
ordinance of a municipal corporation, in a municipal or county 7164
court or in a court of common pleas and if the person gives to 7165
the trial judge or magistrate a written notice of the person's 7166
intention to file or apply for leave to file an appeal to the 7167
court of appeals, the trial judge or magistrate may suspend, ~~7168~~
~~subject to division (A)(2)(b) of section 2953.09 of the Revised~~ 7169
~~Code,~~ execution of the sentence or judgment imposed for any 7170
fixed time that will give the person time either to prepare and 7171
file, or to apply for leave to file, the appeal. In all bailable 7172
cases, except as provided in division (B) of this section, the 7173
trial judge or magistrate may release the person on bail in 7174
accordance with Criminal Rule 46, and the bail shall at least be 7175
conditioned that the person will appeal without delay and abide 7176
by the judgment and sentence of the court. 7177

(B) Notwithstanding any provision of Criminal Rule 46 to 7178
the contrary, a trial judge of a court of common pleas shall not 7179
release on bail pursuant to division (A) of this section a 7180
person who is convicted of a bailable offense if the person is 7181

sentenced to imprisonment for life or if that offense is a 7182
violation of section 2903.01, 2903.02, 2903.03, 2903.04, 7183
2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 7184
2911.02, or 2911.11 of the Revised Code or is felonious sexual 7185
penetration in violation of former section 2907.12 of the 7186
Revised Code. 7187

(C) If a trial judge of a court of common pleas is 7188
prohibited by division (B) of this section from releasing on 7189
bail pursuant to division (A) of this section a person who is 7190
convicted of a bailable offense and not sentenced to 7191
imprisonment for life, the appropriate court of appeals or two 7192
judges of it, upon motion of such a person and for good cause 7193
shown, may release the person on bail in accordance with 7194
Appellate Rule 8 and Criminal Rule 46, and the bail shall at 7195
least be conditioned as described in division (A) of this 7196
section. 7197

Sec. 2949.03. If a judgment of conviction by a court of 7198
common pleas, municipal court, or county court is affirmed by a 7199
court of appeals and remanded to the trial court for execution 7200
of the sentence or judgment imposed, and the person so convicted 7201
gives notice of ~~his~~ the person's intention to file a notice of 7202
appeal to the supreme court, the trial court, on the filing of a 7203
motion by such person within three days after the rendition by 7204
the court of appeals of the judgment of affirmation, may further 7205
suspend, ~~subject to division (A) (2) (b) of section 2953.09 of the~~ 7206
~~Revised Code,~~ the execution of the sentence or judgment imposed 7207
for a time sufficient to give such person an opportunity to file 7208
a notice of appeal to the supreme court, but the sentence or 7209
judgment imposed shall not be suspended more than thirty days 7210
for that purpose. 7211

Sec. 2953.02. In a ~~capital case in which a sentence of~~ 7212
~~death is imposed for an offense committed before January 1,~~ 7213
~~1995, and in any other~~ criminal case, including a conviction for 7214
the violation of an ordinance of a municipal corporation, the 7215
judgment or final order of a court of record inferior to the 7216
court of appeals may be reviewed in the court of appeals. A 7217
final order of an administrative officer or agency may be 7218
reviewed in the court of common pleas. A judgment or final order 7219
of the court of appeals involving a question arising under the 7220
Constitution of the United States or of this state may be 7221
appealed to the supreme court as a matter of right. This right 7222
of appeal from judgments and final orders of the court of 7223
appeals shall extend to ~~cases in which a sentence of death is~~ 7224
~~imposed for an offense committed before January 1, 1995, and in~~ 7225
~~which the death penalty has been affirmed,~~ felony cases in which 7226
the supreme court has directed the court of appeals to certify 7227
its record, and in all other criminal cases of public or general 7228
interest wherein the supreme court has granted a motion to 7229
certify the record of the court of appeals. ~~In a capital case in~~ 7230
~~which a sentence of death is imposed for an offense committed on~~ 7231
~~or after January 1, 1995, the judgment or final order may be~~ 7232
~~appealed from the trial court directly to the supreme court as a~~ 7233
~~matter of right.~~ The supreme court in criminal cases shall not 7234
be required to determine as to the weight of the evidence, 7235
except that, in cases in which a sentence of death is imposed 7236
for an offense committed on or after January 1, 1995, and in 7237
which the question of the weight of the evidence to support the 7238
judgment has been raised on appeal, the supreme court shall 7239
determine as to the weight of the evidence to support the 7240
judgment and shall determine as to the weight of the evidence to 7241
support the sentence of death as provided in section 2929.05 of 7242
the Revised Code. 7243

Sec. 2953.07. ~~(A) Upon the hearing of an appeal other than~~ 7244
~~an appeal from a mayor's court, the appellate court may affirm~~ 7245
~~the judgment or reverse it, in whole or in part, or modify it,~~ 7246
~~and order the accused to be discharged or grant a new trial. The~~ 7247
~~appellate court may remand the accused for the sole purpose of~~ 7248
~~correcting a sentence imposed contrary to law, provided that, on~~ 7249
~~an appeal of a sentence imposed upon a person who is convicted~~ 7250
~~of or pleads guilty to a felony that is brought under section~~ 7251
~~2953.08 of the Revised Code, division (G) of that section~~ 7252
~~applies to the court. If the judgment is reversed, the appellant~~ 7253
~~shall recover from the appellee all court costs incurred to~~ 7254
~~secure the reversal, including the cost of transcripts. In~~ 7255
~~capital cases, when the judgment is affirmed and the day fixed~~ 7256
~~for the execution is passed, the appellate court shall appoint a~~ 7257
~~day for it, and the clerk of the appellate court shall issue a~~ 7258
~~warrant under the seal of the appellate court, to the sheriff of~~ 7259
~~the proper county, or the warden of the appropriate state~~ 7260
~~correctional institution, commanding the sheriff or warden to~~ 7261
~~carry the sentence into execution on the day so appointed. The~~ 7262
~~sheriff or warden shall execute and return the warrant as in~~ 7263
~~other cases, and the clerk shall record the warrant and return.~~ 7264

~~(B) As used in this section, "appellate court" means, for~~ 7265
~~a case in which a sentence of death is imposed for an offense~~ 7266
~~committed before January 1, 1995, both the court of appeals and~~ 7267
~~the supreme court, and for a case in which a sentence of death~~ 7268
~~is imposed for an offense committed on or after January 1, 1995,~~ 7269
~~the supreme court.~~ 7270

Sec. 2953.08. (A) In addition to any other right to appeal 7271
and except as provided in division (D) of this section, a 7272
defendant who is convicted of or pleads guilty to a felony may 7273
appeal as a matter of right the sentence imposed upon the 7274

defendant on one of the following grounds: 7275

(1) The sentence consisted of or included the maximum 7276
definite prison term allowed for the offense by division (A) of 7277
section 2929.14 or section 2929.142 of the Revised Code or, with 7278
respect to a non-life felony indefinite prison term, the longest 7279
minimum prison term allowed for the offense by division (A) (1) 7280
(a) or (2) (a) of section 2929.14 of the Revised Code, the 7281
maximum definite prison term or longest minimum prison term was 7282
not required for the offense pursuant to Chapter 2925. or any 7283
other provision of the Revised Code, and the court imposed the 7284
sentence under one of the following circumstances: 7285

(a) The sentence was imposed for only one offense. 7286

(b) The sentence was imposed for two or more offenses 7287
arising out of a single incident, and the court imposed the 7288
maximum definite prison term or longest minimum prison term for 7289
the offense of the highest degree. 7290

(2) The sentence consisted of or included a prison term 7291
and the offense for which it was imposed is a felony of the 7292
fourth or fifth degree or is a felony drug offense that is a 7293
violation of a provision of Chapter 2925. of the Revised Code 7294
and that is specified as being subject to division (B) of 7295
section 2929.13 of the Revised Code for purposes of sentencing. 7296
If the court specifies that it found one or more of the factors 7297
in division (B) (1) (b) of section 2929.13 of the Revised Code to 7298
apply relative to the defendant, the defendant is not entitled 7299
under this division to appeal as a matter of right the sentence 7300
imposed upon the offender. 7301

(3) The person was convicted of or pleaded guilty to a 7302
violent sex offense or a designated homicide, assault, or 7303

kidnapping offense, was adjudicated a sexually violent predator 7304
in relation to that offense, and was sentenced pursuant to 7305
division (A) (3) of section 2971.03 of the Revised Code, if the 7306
minimum term of the indefinite term imposed pursuant to division 7307
(A) (3) of section 2971.03 of the Revised Code is the longest 7308
term available for the offense from among the range of definite 7309
terms listed in section 2929.14 of the Revised Code or, with 7310
respect to a non-life felony indefinite prison term, the longest 7311
minimum prison term allowed for the offense by division (A) (1) 7312
(a) or (2) (a) of section 2929.14 of the Revised Code. As used in 7313
this division, "designated homicide, assault, or kidnapping 7314
offense" and "violent sex offense" have the same meanings as in 7315
section 2971.01 of the Revised Code. As used in this division, 7316
"adjudicated a sexually violent predator" has the same meaning 7317
as in section 2929.01 of the Revised Code, and a person is 7318
"adjudicated a sexually violent predator" in the same manner and 7319
the same circumstances as are described in that section. 7320

(4) The sentence is contrary to law. 7321

(5) The sentence consisted of an additional prison term of 7322
ten years imposed pursuant to division (B) (2) (a) of section 7323
2929.14 of the Revised Code. 7324

(B) In addition to any other right to appeal and except as 7325
provided in division (D) of this section, a prosecuting 7326
attorney, a city director of law, village solicitor, or similar 7327
chief legal officer of a municipal corporation, or the attorney 7328
general, if one of those persons prosecuted the case, may appeal 7329
as a matter of right a sentence imposed upon a defendant who is 7330
convicted of or pleads guilty to a felony or, in the 7331
circumstances described in division (B) (3) of this section the 7332
modification of a sentence imposed upon such a defendant, on any 7333

of the following grounds: 7334

(1) The sentence did not include a prison term despite a 7335
presumption favoring a prison term for the offense for which it 7336
was imposed, as set forth in section 2929.13 or Chapter 2925. of 7337
the Revised Code. 7338

(2) The sentence is contrary to law. 7339

(3) The sentence is a modification under section 2929.20 7340
of the Revised Code of a sentence that was imposed for a felony 7341
of the first or second degree. 7342

(C)(1) In addition to the right to appeal a sentence 7343
granted under division (A) or (B) of this section, a defendant 7344
who is convicted of or pleads guilty to a felony may seek leave 7345
to appeal a sentence imposed upon the defendant on the basis 7346
that the sentencing judge has imposed consecutive sentences 7347
under division (C)(3) of section 2929.14 of the Revised Code and 7348
that the consecutive sentences exceed the maximum definite 7349
prison term allowed by division (A) of that section for the most 7350
serious offense of which the defendant was convicted or, with 7351
respect to a non-life felony indefinite prison term, exceed the 7352
longest minimum prison term allowed by division (A)(1)(a) or (2) 7353
(a) of that section for the most serious such offense. Upon the 7354
filing of a motion under this division, the court of appeals may 7355
grant leave to appeal the sentence if the court determines that 7356
the allegation included as the basis of the motion is true. 7357

(2) A defendant may seek leave to appeal an additional 7358
sentence imposed upon the defendant pursuant to division (B)(2) 7359
(a) or (b) of section 2929.14 of the Revised Code if the 7360
additional sentence is for a definite prison term that is longer 7361
than five years. 7362

(D) (1) A sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by a sentencing judge.

(2) Except as provided in division (C) (2) of this section, a sentence imposed upon a defendant is not subject to review under this section if the sentence is imposed pursuant to division (B) (2) (b) of section 2929.14 of the Revised Code. Except as otherwise provided in this division, a defendant retains all rights to appeal as provided under this chapter or any other provision of the Revised Code. A defendant has the right to appeal under this chapter or any other provision of the Revised Code the court's application of division (B) (2) (c) of section 2929.14 of the Revised Code.

(3) A sentence imposed for aggravated murder or murder pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised Code is not subject to review under this section.

(E) A defendant, prosecuting attorney, city director of law, village solicitor, or chief municipal legal officer shall file an appeal of a sentence under this section to a court of appeals within the time limits specified in Rule 4(B) of the Rules of Appellate Procedure, provided that if the appeal is pursuant to division (B) (3) of this section, the time limits specified in that rule shall not commence running until the court grants the motion that makes the sentence modification in question. A sentence appeal under this section shall be consolidated with any other appeal in the case. If no other appeal is filed, the court of appeals may review only the portions of the trial record that pertain to sentencing.

(F) On the appeal of a sentence under this section, the

record to be reviewed shall include all of the following, as 7393
applicable: 7394

(1) Any presentence, psychiatric, or other investigative 7395
report that was submitted to the court in writing before the 7396
sentence was imposed. An appellate court that reviews a 7397
presentence investigation report prepared pursuant to section 7398
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 7399
connection with the appeal of a sentence under this section 7400
shall comply with division (D) (3) of section 2951.03 of the 7401
Revised Code when the appellate court is not using the 7402
presentence investigation report, and the appellate court's use 7403
of a presentence investigation report of that nature in 7404
connection with the appeal of a sentence under this section does 7405
not affect the otherwise confidential character of the contents 7406
of that report as described in division (D) (1) of section 7407
2951.03 of the Revised Code and does not cause that report to 7408
become a public record, as defined in section 149.43 of the 7409
Revised Code, following the appellate court's use of the report. 7410

(2) The trial record in the case in which the sentence was 7411
imposed; 7412

(3) Any oral or written statements made to or by the court 7413
at the sentencing hearing at which the sentence was imposed; 7414

(4) Any written findings that the court was required to 7415
make in connection with the modification of the sentence 7416
pursuant to a judicial release under division (I) of section 7417
2929.20 of the Revised Code. 7418

(G) (1) If the sentencing court was required to make the 7419
findings required by division (B) or (D) of section 2929.13 or 7420
division (I) of section 2929.20 of the Revised Code, or to state 7421

the findings of the trier of fact required by division (B) (2) (e) 7422
of section 2929.14 of the Revised Code, relative to the 7423
imposition or modification of the sentence, and if the 7424
sentencing court failed to state the required findings on the 7425
record, the court hearing an appeal under division (A), (B), or 7426
(C) of this section shall remand the case to the sentencing 7427
court and instruct the sentencing court to state, on the record, 7428
the required findings. 7429

(2) The court hearing an appeal under division (A), (B), 7430
or (C) of this section shall review the record, including the 7431
findings underlying the sentence or modification given by the 7432
sentencing court. 7433

The appellate court may increase, reduce, or otherwise 7434
modify a sentence that is appealed under this section or may 7435
vacate the sentence and remand the matter to the sentencing 7436
court for resentencing. The appellate court's standard for 7437
review is not whether the sentencing court abused its 7438
discretion. The appellate court may take any action authorized 7439
by this division if it clearly and convincingly finds either of 7440
the following: 7441

(a) That the record does not support the sentencing 7442
court's findings under division (B) or (D) of section 2929.13, 7443
division (B) (2) (e) or (C) (4) of section 2929.14, or division (I) 7444
of section 2929.20 of the Revised Code, whichever, if any, is 7445
relevant; 7446

(b) That the sentence is otherwise contrary to law. 7447

(H) A judgment or final order of a court of appeals under 7448
this section may be appealed, by leave of court, to the supreme 7449
court. 7450

(I) As used in this section, "non-life felony indefinite
prison term" has the same meaning as in section 2929.01 of the
Revised Code.

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.

(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.

~~(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.~~

~~(ii) A court of common pleas may suspend the execution of
a sentence of death imposed for an offense committed on or after~~

~~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 7511
appeals to the supreme court, the supreme court has the same 7512
power and authority to suspend the execution of sentence during 7513
the pendency of the appeal and admit the defendant to bail as 7514
does the court of appeals unless another section of the Revised 7515
Code or the Rules of Practice of the Supreme Court specify a 7516
distinct bail or suspension of sentence authority. 7517

~~When an appeal in a case in which a sentence of death is 7518
imposed for an offense committed on or after January 1, 1995, is 7519
taken directly from the trial court to the supreme court, the 7520
supreme court has the same power and authority to suspend the 7521
execution of the sentence during the pendency of the appeal and 7522
admit the defendant to bail as does the court of appeals for 7523
cases in which a sentence of death is imposed for an offense 7524
committed before January 1, 1995, unless another section of the 7525
Revised Code or the Rules of Practice of the Supreme Court 7526
specify a distinct bail or suspension of sentence authority. 7527~~

Sec. 2953.21. (A) (1) (a) Any person who has been convicted 7528
of a criminal offense or adjudicated a delinquent child and who 7529
claims that there was such a denial or infringement of the 7530
person's rights as to render the judgment void or voidable under 7531
the Ohio Constitution or the Constitution of the United States, 7532
~~any person who has been convicted of a criminal offense and 7533
sentenced to death and who claims that there was a denial or 7534
infringement of the person's rights under either of those 7535
Constitutions that creates a reasonable probability of an 7536
altered verdict,~~ and any person who has been convicted of a 7537
criminal offense that is a felony and who is an offender for 7538
whom DNA testing that was performed under sections 2953.71 to 7539
2953.81 of the Revised Code or under former section 2953.82 of 7540
the Revised Code and analyzed in the context of and upon 7541

consideration of all available admissible evidence related to 7542
the person's case as described in division (D) of section 7543
2953.74 of the Revised Code provided results that establish, by 7544
clear and convincing evidence, actual innocence of that felony 7545
offense ~~or, if the person was sentenced to death, establish, by~~ 7546
~~clear and convincing evidence, actual innocence of the~~ 7547
~~aggravating circumstance or circumstances the person was found~~ 7548
~~guilty of committing and that is or are the basis of that~~ 7549
~~sentence of death,~~ may file a petition in the court that imposed 7550
sentence, stating the grounds for relief relied upon, and asking 7551
the court to vacate or set aside the judgment or sentence or to 7552
grant other appropriate relief. The petitioner may file a 7553
supporting affidavit and other documentary evidence in support 7554
of the claim for relief. 7555

(b) As used in division (A) (1) (a) of this section, "actual 7556
innocence" means that, had the results of the DNA testing 7557
conducted under sections 2953.71 to 2953.81 of the Revised Code 7558
or under former section 2953.82 of the Revised Code been 7559
presented at trial, and had those results been analyzed in the 7560
context of and upon consideration of all available admissible 7561
evidence related to the person's case as described in division 7562
(D) of section 2953.74 of the Revised Code, no reasonable 7563
factfinder would have found the petitioner guilty of the offense 7564
of which the petitioner was convicted, ~~or, if the person was~~ 7565
~~sentenced to death, no reasonable factfinder would have found~~ 7566
~~the petitioner guilty of the aggravating circumstance or~~ 7567
~~circumstances the petitioner was found guilty of committing and~~ 7568
~~that is or are the basis of that sentence of death.~~ 7569

(c) As used in divisions (A) (1) (a) and (b) of this 7570
section, "former section 2953.82 of the Revised Code" means 7571
section 2953.82 of the Revised Code as it existed prior to July 7572

6, 2010.

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~~(d) At any time in conjunction with the filing of a
petition for postconviction relief under division (A) of this
section by a person who has been sentenced to death, or with the
litigation of a petition so filed, the court, for good cause
shown, may authorize the petitioner in seeking the
postconviction relief and the prosecuting attorney of the county
served by the court in defending the proceeding, to take
depositions and to issue subpoenas and subpoenas duces tecum in
accordance with divisions (A) (1) (d), (A) (1) (e), and (C) of this
section, and to any other form of discovery as in a civil action
that the court in its discretion permits. The court may limit
the extent of discovery under this division. In addition to
discovery that is relevant to the claim and was available under
Criminal Rule 16 through conclusion of the original criminal
trial, the court, for good cause shown, may authorize the
petitioner or prosecuting attorney to take depositions and issue
subpoenas and subpoenas duces tecum in either of the following
circumstances:~~

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~~(i) For any witness who testified at trial or who was
disclosed by the state prior to trial, except as otherwise
provided in this division, the petitioner or prosecuting
attorney shows clear and convincing evidence that the witness is
material and that a deposition of the witness or the issuing of
a subpoena or subpoena duces tecum is of assistance in order to
substantiate or refute the petitioner's claim that there is a
reasonable probability of an altered verdict. This division does
not apply if the witness was unavailable for trial or would not
voluntarily be interviewed by the defendant or prosecuting
attorney.~~

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~~(ii) For any witness with respect to whom division (A) (1) (d) (i) of this section does not apply, the petitioner or prosecuting attorney shows good cause that the witness is material and that a deposition of the witness or the issuing of a subpoena or subpoena duces tecum is of assistance in order to substantiate or refute the petitioner's claim that there is a reasonable probability of an altered verdict.~~

~~(e) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests postconviction discovery as described in division (A) (1) (d) of this section or if the prosecuting attorney of the county served by the court requests postconviction discovery as described in that division, within ten days after the docketing of the request, or within any other time that the court sets for good cause shown, the prosecuting attorney shall respond by answer or motion to the petitioner's request or the petitioner shall respond by answer or motion to the prosecuting attorney's request, whichever is applicable.~~

~~(f) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests postconviction discovery as described in division (A) (1) (d) of this section or if the prosecuting attorney of the county served by the court requests postconviction discovery as described in that division, upon motion by the petitioner, the prosecuting attorney, or the person from whom discovery is sought, and for good cause shown, the court in which the action is pending may make any order that justice requires to protect a party or person from oppression or undue burden or expense, including but not limited to the orders described in divisions (A) (1) (g) (i) to (viii) of this section. The court also may make any such order if, in its discretion, it~~

~~determines that the discovery sought would be irrelevant to the
claims made in the petition; and if the court makes any such
order on that basis, it shall explain in the order the reasons
why the discovery would be irrelevant.~~ 7634
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~~(g) If a petitioner, prosecuting attorney, or person from
whom discovery is sought makes a motion for an order under
division (A) (1) (f) of this section and the order is denied in
whole or in part, the court, on terms and conditions as are
just, may order that any party or person provide or permit
discovery as described in division (A) (1) (d) of this section.
The provisions of Civil Rule 37(A) (4) apply to the award of
expenses incurred in relation to the motion, except that in no
case shall a court require a petitioner who is indigent to pay
expenses under those provisions.~~ 7638
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~~Before any person moves for an order under division (A) (1)
(f) of this section, that person shall make a reasonable effort
to resolve the matter through discussion with the petitioner or
prosecuting attorney seeking discovery. A motion for an order
under division (A) (1) (f) of this section shall be accompanied by
a statement reciting the effort made to resolve the matter in
accordance with this paragraph.~~ 7648
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~~The orders that may be made under division (A) (1) (f) of
this section include, but are not limited to, any of the
following:~~ 7655
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~~(i) That the discovery not be had;~~ 7658

~~(ii) That the discovery may be had only on specified terms
and conditions, including a designation of the time or place;~~ 7659
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~~(iii) That the discovery may be had only by a method of
discovery other than that selected by the party seeking~~ 7661
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~~discovery;~~ 7663

~~(iv) That certain matters not be inquired into or that the scope of the discovery be limited to certain matters;~~ 7664
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~~(v) That discovery be conducted with no one present except persons designated by the court;~~ 7666
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~~(vi) That a deposition after being sealed be opened only by order of the court;~~ 7668
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~~(vii) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;~~ 7670
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~~(viii) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.~~ 7673
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~~(h) Any postconviction discovery authorized under division (A) (1) (d) of this section shall be completed not later than eighteen months after the start of the discovery proceedings unless, for good cause shown, the court extends that period for completing the discovery.~~ 7676
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~~(i) Nothing in division (A) (1) (d) of this section authorizes, or shall be construed as authorizing, the relitigation, or discovery in support of relitigation, of any matter barred by the doctrine of res judicata.~~ 7681
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~~(j) Division (A) (1) of this section does not apply to any person who has been convicted of a criminal offense and sentenced to death and who has unsuccessfully raised the same claims in a petition for postconviction relief.~~ 7685
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(2) Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division (A) (1) of this section 7689
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shall be filed no later than three hundred sixty-five days after 7691
the date on which the trial transcript is filed in the court of 7692
appeals in the direct appeal of the judgment of conviction or 7693
adjudication ~~or, if the direct appeal involves a sentence of~~ 7694
~~death, the date on which the trial transcript is filed in the~~ 7695
~~supreme court.~~ If no appeal is taken, except as otherwise 7696
provided in section 2953.23 of the Revised Code, the petition 7697
shall be filed no later than three hundred sixty-five days after 7698
the expiration of the time for filing the appeal. 7699

~~(3) In a petition filed under division (A) of this~~ 7700
~~section, a person who has been sentenced to death may ask the~~ 7701
~~court to render void or voidable the judgment with respect to~~ 7702
~~the conviction of aggravated murder or the specification of an~~ 7703
~~aggravating circumstance or the sentence of death.~~ 7704

~~(4)~~ A petitioner shall state in the original or amended 7705
petition filed under division (A) of this section all grounds 7706
for relief claimed by the petitioner. Except as provided in 7707
section 2953.23 of the Revised Code, any ground for relief that 7708
is not so stated in the petition is waived. 7709

~~(5)~~ (4) If the petitioner in a petition filed under 7710
division (A) of this section was convicted of or pleaded guilty 7711
to a felony, the petition may include a claim that the 7712
petitioner was denied the equal protection of the laws in 7713
violation of the Ohio Constitution or the United States 7714
Constitution because the sentence imposed upon the petitioner 7715
for the felony was part of a consistent pattern of disparity in 7716
sentencing by the judge who imposed the sentence, with regard to 7717
the petitioner's race, gender, ethnic background, or religion. 7718
If the supreme court adopts a rule requiring a court of common 7719
pleas to maintain information with regard to an offender's race, 7720

gender, ethnic background, or religion, the supporting evidence 7721
for the petition shall include, but shall not be limited to, a 7722
copy of that type of information relative to the petitioner's 7723
sentence and copies of that type of information relative to 7724
sentences that the same judge imposed upon other persons. 7725

~~(6) Notwithstanding any law or court rule to the contrary, 7726
there is no limit on the number of pages in, or on the length 7727
of, a petition filed under division (A) of this section by a 7728
person who has been sentenced to death. If any court rule 7729
specifies a limit on the number of pages in, or on the length 7730
of, a petition filed under division (A) of this section or on a 7731
prosecuting attorney's response to such a petition by answer or 7732
motion and a person who has been sentenced to death files a 7733
petition that exceeds the limit specified for the petition, the 7734
prosecuting attorney may respond by an answer or motion that 7735
exceeds the limit specified for the response. 7736~~

(B) The clerk of the court in which the petition for 7737
postconviction relief and, ~~if applicable, a request for 7738
postconviction discovery described in division (A) (1) (d) of this 7739
section is filed shall docket the petition and the request and 7740
bring ~~them~~ it promptly to the attention of the court. The clerk 7741
of the court in which the petition for postconviction relief 7742
and, ~~if applicable, a request for postconviction discovery 7743
described in division (A) (1) (d) of this section is filed 7744
immediately shall forward a copy of the petition and a copy of 7745
the request if filed by the petitioner to the prosecuting 7746
attorney of the county served by the court. If the request for 7747
postconviction discovery is filed by the prosecuting attorney, 7748
the clerk of the court immediately shall forward a copy of the 7749
request to the petitioner or the petitioner's counsel. 7750~~~~

~~(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 7782
petition, or within any further time that the court may fix for 7783
good cause shown, the prosecuting attorney shall respond by 7784
answer or motion. ~~Division (A) (6) of this section applies with~~ 7785
~~respect to the prosecuting attorney's response.~~ Within twenty 7786
days from the date the issues are raised, either party may move 7787
for summary judgment. The right to summary judgment shall appear 7788
on the face of the record. 7789

~~(F)~~ (E) Unless the petition and the files and records of 7790
the case show the petitioner is not entitled to relief, the 7791
court shall proceed to a prompt hearing on the issues even if a 7792
direct appeal of the case is pending. If the court notifies the 7793
parties that it has found grounds for granting relief, either 7794
party may request an appellate court in which a direct appeal of 7795
the judgment is pending to remand the pending case to the court. 7796

~~(G) A petitioner who files a petition under division (A)~~ 7797
~~of this section may amend the petition as follows:~~ 7798

~~(1) If the petition was filed by a person who has been~~ 7799
~~sentenced to death, at any time that is not later than one~~ 7800
~~hundred eighty days after the petition is filed, the petitioner~~ 7801
~~may amend the petition with or without leave or prejudice to the~~ 7802
~~proceedings.~~ 7803

~~(2) If division (G) (1) of this section does not apply, at~~ 7804
(F) At any time before the answer or motion is filed, the 7805
petitioner may amend the petition with or without leave or 7806
prejudice to the proceedings. 7807

~~(3) The petitioner may amend the petition with leave of~~ 7808
court at any time ~~after the expiration of the applicable period~~ 7809
~~specified in division (G) (1) or (2) of this section thereafter.~~ 7810

~~(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.~~ 7843
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~~(J) (1) If a person sentenced to death intends to file a petition under this section, the court shall appoint counsel to represent the person upon a finding that the person is indigent and that the person either accepts the appointment of counsel or is unable to make a competent decision whether to accept or reject the appointment of counsel. The court may decline to appoint counsel for the person only upon a finding, after a hearing if necessary, that the person rejects the appointment of counsel and understands the legal consequences of that decision or upon a finding that the person is not indigent.~~ 7846
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~~(2) The court shall not appoint as counsel under division (J) (1) of this section an attorney who represented the petitioner at trial in the case to which the petition relates unless the person and the attorney expressly request the appointment. The court shall appoint as counsel under division (J) (1) of this section only an attorney who is certified under Rule 20 of the Rules of Superintendence for the Courts of Ohio to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed. The ineffectiveness or incompetence of counsel during proceedings under this section does not constitute grounds for relief in a proceeding under this section, in an appeal of any action under this section, or in an application to reopen a direct appeal.~~ 7856
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~~(3) Division (J) of this section does not preclude attorneys who represent the state of Ohio from invoking the provisions of 28 U.S.C. 154 with respect to capital cases that~~ 7870
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~~were pending in federal habeas corpus proceedings prior to July 1, 1996, insofar as the petitioners in those cases were represented in proceedings under this section by one or more counsel appointed by the court under this section or section 120.06, 120.16, 120.26, or 120.33 of the Revised Code and those appointed counsel meet the requirements of division (J) (2) of this section.~~

~~(K)~~ (H) Subject to the appeal of a sentence for a felony that is authorized by section 2953.08 of the Revised Code, the remedy set forth in this section is the exclusive remedy by which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case or to the validity of an adjudication of a child as a delinquent child for the commission of an act that would be a criminal offense if committed by an adult or the validity of a related order of disposition.

Sec. 2953.23. (A) Whether a hearing is or is not held on a petition filed pursuant to section 2953.21 of the Revised Code, a court may not entertain a petition filed after the expiration of the period prescribed in division (A) of that section or a second petition or successive petitions for similar relief on behalf of a petitioner unless division (A) (1) or (2) of this section applies:

(1) Both of the following apply:

(a) Either the petitioner shows that the petitioner was unavoidably prevented from discovery of the facts upon which the petitioner must rely to present the claim for relief, or, subsequent to the period prescribed in division (A) (2) of section 2953.21 of the Revised Code or to the filing of an earlier petition, the United States Supreme Court recognized a

new federal or state right that applies retroactively to persons 7903
in the petitioner's situation, and the petition asserts a claim 7904
based on that right. 7905

(b) The petitioner shows by clear and convincing evidence 7906
that, but for constitutional error at trial, no reasonable 7907
factfinder would have found the petitioner guilty of the offense 7908
of which the petitioner was convicted ~~or, if the claim~~ 7909
~~challenges a sentence of death that, but for constitutional~~ 7910
~~error at the sentencing hearing, no reasonable factfinder would~~ 7911
~~have found the petitioner eligible for the death sentence.~~ 7912

(2) The petitioner was convicted of a felony, the 7913
petitioner is an offender for whom DNA testing was performed 7914
under sections 2953.71 to 2953.81 of the Revised Code or under 7915
former section 2953.82 of the Revised Code and analyzed in the 7916
context of and upon consideration of all available admissible 7917
evidence related to the inmate's case as described in division 7918
(D) of section 2953.74 of the Revised Code, and the results of 7919
the DNA testing establish, by clear and convincing evidence, 7920
actual innocence of that felony offense ~~or, if the person was~~ 7921
~~sentenced to death, establish, by clear and convincing evidence,~~ 7922
~~actual innocence of the aggravating circumstance or~~ 7923
~~circumstances the person was found guilty of committing and that~~ 7924
~~is or are the basis of that sentence of death.~~ 7925

As used in this division, "actual innocence" has the same 7926
meaning as in division (A) (1) (b) of section 2953.21 of the 7927
Revised Code, and "former section 2953.82 of the Revised Code" 7928
has the same meaning as in division (A) (1) (c) of section 2953.21 7929
of the Revised Code. 7930

(B) An order awarding or denying relief sought in a 7931
petition filed pursuant to section 2953.21 of the Revised Code 7932

is a final judgment and may be appealed pursuant to Chapter 7933
2953. of the Revised Code. 7934

~~If a petition filed pursuant to section 2953.21 of the 7935
Revised Code by a person who has been sentenced to death is 7936
denied and the person appeals the judgment, notwithstanding any 7937
law or court rule to the contrary, there is no limit on the 7938
number of pages in, or on the length of, a notice of appeal or 7939
briefs related to an appeal filed by the person. If any court 7940
rule specifies a limit on the number of pages in, or on the 7941
length of, a notice of appeal or briefs described in this 7942
division or on a prosecuting attorney's response or briefs with 7943
respect to such an appeal and a person who has been sentenced to 7944
death files a notice of appeal or briefs that exceed the limit 7945
specified for the petition, the prosecuting attorney may file a 7946
response or briefs that exceed the limit specified for the 7947
answer or briefs. 7948~~

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of 7949
the Revised Code: 7950

(A) "Application" or "application for DNA testing" means a 7951
request through postconviction relief for the state to do DNA 7952
testing on biological material from the case in which the 7953
offender was convicted of the offense for which the offender is 7954
an eligible offender and is requesting the DNA testing under 7955
sections 2953.71 to 2953.81 of the Revised Code. 7956

(B) "Biological material" means any product of a human 7957
body containing DNA. 7958

(C) "Chain of custody" means a record or other evidence 7959
that tracks a subject sample of biological material from the 7960
time the biological material was first obtained until the time 7961

it currently exists in its place of storage and, in relation to 7962
a DNA sample, a record or other evidence that tracks the DNA 7963
sample from the time it was first obtained until it currently 7964
exists in its place of storage. For purposes of this division, 7965
examples of when biological material or a DNA sample is first 7966
obtained include, but are not limited to, obtaining the material 7967
or sample at the scene of a crime, from a victim, from an 7968
offender, or in any other manner or time as is appropriate in 7969
the facts and circumstances present. 7970

(D) "Custodial agency" means the group or entity that has 7971
the responsibility to maintain biological material in question. 7972

(E) "Custodian" means the person who is the primary 7973
representative of a custodial agency. 7974

(F) "Eligible offender" means an offender who is eligible 7975
under division (C) of section 2953.72 of the Revised Code to 7976
request DNA testing to be conducted under sections 2953.71 to 7977
2953.81 of the Revised Code. 7978

(G) "Exclusion" or "exclusion result" means a result of 7979
DNA testing that scientifically precludes or forecloses the 7980
subject offender as a contributor of biological material 7981
recovered from the crime scene or victim in question, in 7982
relation to the offense for which the offender is an eligible 7983
offender and for which the ~~sentence of death or prison~~ term was 7984
imposed upon the offender. 7985

(H) "Extracting personnel" means medically approved 7986
personnel who are employed to physically obtain an offender's 7987
DNA specimen for purposes of DNA testing under sections 2953.71 7988
to 2953.81 of the Revised Code. 7989

(I) "Inclusion" or "inclusion result" means a result of 7990

DNA testing that scientifically cannot exclude, or that holds 7991
accountable, the subject offender as a contributor of biological 7992
material recovered from the crime scene or victim in question, 7993
in relation to the offense for which the offender is an eligible 7994
offender and for which the ~~sentence of death or prison~~ term was 7995
imposed upon the offender. 7996

(J) "Inconclusive" or "inconclusive result" means a result 7997
of DNA testing that is rendered when a scientifically 7998
appropriate and definitive DNA analysis or result, or both, 7999
cannot be determined. 8000

(K) "Offender" means a criminal offender who was sentenced 8001
by a court, or by a jury and a court, of this state. 8002

(L) "Outcome determinative" means that had the results of 8003
DNA testing of the subject offender been presented at the trial 8004
of the subject offender requesting DNA testing and been found 8005
relevant and admissible with respect to the felony offense for 8006
which the offender is an eligible offender and is requesting the 8007
DNA testing, and had those results been analyzed in the context 8008
of and upon consideration of all available admissible evidence 8009
related to the offender's case as described in division (D) of 8010
section 2953.74 of the Revised Code, there is a strong 8011
probability that no reasonable factfinder would have found the 8012
offender guilty of that offense ~~or, if the offender was~~ 8013
~~sentenced to death relative to that offense, would have found~~ 8014
~~the offender guilty of the aggravating circumstance or~~ 8015
~~circumstances the offender was found guilty of committing and~~ 8016
~~that is or are the basis of that sentence of death.~~ 8017

(M) "Parent sample" means the biological material first 8018
obtained from a crime scene or a victim of an offense for which 8019
an offender is an eligible offender, and from which a sample 8020

will be presently taken to do a DNA comparison to the DNA of the 8021
subject offender under sections 2953.71 to 2953.81 of the 8022
Revised Code. 8023

(N) "Prison" and "community control sanction" have the 8024
same meanings as in section 2929.01 of the Revised Code. 8025

(O) "Prosecuting attorney" means the prosecuting attorney 8026
who, or whose office, prosecuted the case in which the subject 8027
offender was convicted of the offense for which the offender is 8028
an eligible offender and is requesting the DNA testing. 8029

(P) "Prosecuting authority" means the prosecuting attorney 8030
or the attorney general. 8031

(Q) "Reasonable diligence" means a degree of diligence 8032
that is comparable to the diligence a reasonable person would 8033
employ in searching for information regarding an important 8034
matter in the person's own life. 8035

(R) "Testing authority" means a laboratory at which DNA 8036
testing will be conducted under sections 2953.71 to 2953.81 of 8037
the Revised Code. 8038

(S) "Parole" and "post-release control" have the same 8039
meanings as in section 2967.01 of the Revised Code. 8040

(T) "Sexually oriented offense" and "child-victim oriented 8041
offense" have the same meanings as in section 2950.01 of the 8042
Revised Code. 8043

(U) "Definitive DNA test" means a DNA test that clearly 8044
establishes that biological material from the perpetrator of the 8045
crime was recovered from the crime scene and also clearly 8046
establishes whether or not the biological material is that of 8047
the eligible offender. A prior DNA test is not definitive if the 8048

eligible offender proves by a preponderance of the evidence that 8049
because of advances in DNA technology there is a possibility of 8050
discovering new biological material from the perpetrator that 8051
the prior DNA test may have failed to discover. Prior testing 8052
may have been a prior "definitive DNA test" as to some 8053
biological evidence but may not have been a prior "definitive 8054
DNA test" as to other biological evidence. 8055

Sec. 2953.72. (A) Any eligible offender who wishes to 8056
request DNA testing under sections 2953.71 to 2953.81 of the 8057
Revised Code shall submit an application for the testing to the 8058
court of common pleas specified in section 2953.73 of the 8059
Revised Code, on a form prescribed by the attorney general for 8060
this purpose. The eligible offender shall submit the application 8061
in accordance with the procedures set forth in section 2953.73 8062
of the Revised Code. The eligible offender shall specify on the 8063
application the offense or offenses for which the offender is an 8064
eligible offender and is requesting the DNA testing. Along with 8065
the application, the eligible offender shall submit an 8066
acknowledgment that is on a form prescribed by the attorney 8067
general for this purpose and that is signed by the offender. The 8068
acknowledgment shall set forth all of the following: 8069

(1) That sections 2953.71 to 2953.81 of the Revised Code 8070
contemplate applications for DNA testing of an eligible offender 8071
at a stage of a prosecution or case after the offender has been 8072
sentenced, that any exclusion or inclusion result of DNA testing 8073
rendered pursuant to those sections may be used by a party in 8074
any proceeding as described in section 2953.81 of the Revised 8075
Code, and that all requests for any DNA testing made at trial 8076
will continue to be handled by the prosecuting attorney in the 8077
case; 8078

(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 8140
confer any constitutional right upon any offender, that the 8141
state has established guidelines and procedures relative to 8142
those provisions to ensure that they are carried out with both 8143
justice and efficiency in mind, and that an offender who 8144
participates in any phase of the mechanism contained in those 8145
provisions, including, but not limited to, applying for DNA 8146
testing and being rejected, having an application for DNA 8147
testing accepted and not receiving the test, or having DNA 8148
testing conducted and receiving unfavorable results, does not 8149
gain as a result of the participation any constitutional right 8150
to challenge, or, except as provided in division (A) (8) of this 8151
section, any right to any review or appeal of, the manner in 8152
which those provisions are carried out; 8153

(10) That the most basic aspect of sections 2953.71 to 8154
2953.81 of the Revised Code is that, in order for DNA testing to 8155
occur, there must be an offender sample against which other 8156
evidence may be compared, that, if an eligible offender's 8157
application is accepted but the offender subsequently refuses to 8158
submit to the collection of the sample of biological material 8159
from the offender or hinders the state from obtaining a sample 8160
of biological material from the offender, the goal of those 8161
provisions will be frustrated, and that an offender's refusal or 8162
hindrance shall cause the court to rescind its prior acceptance 8163
of the application for DNA testing for the offender and deny the 8164
application. 8165

(B) The attorney general shall prescribe a form to be used 8166
to make an application for DNA testing under division (A) of 8167
this section and section 2953.73 of the Revised Code and a form 8168
to be used to provide the acknowledgment described in division 8169
(A) of this section. The forms shall include all information 8170

described in division (A) of this section, spaces for an 8171
offender to insert all information necessary to complete the 8172
forms, including, but not limited to, specifying the offense or 8173
offenses for which the offender is an eligible offender and is 8174
requesting the DNA testing, and any other information or 8175
material the attorney general determines is necessary or 8176
relevant. The attorney general shall distribute copies of the 8177
prescribed forms to the department of rehabilitation and 8178
correction, the department shall ensure that each prison in 8179
which offenders are housed has a supply of copies of the forms, 8180
and the department shall ensure that copies of the forms are 8181
provided free of charge to any offender who requests them. 8182

(C) (1) An offender is eligible to request DNA testing to 8183
be conducted under sections 2953.71 to 2953.81 of the Revised 8184
Code only if all of the following apply: 8185

(a) The offense for which the offender claims to be an 8186
eligible offender is a felony, and the offender was convicted by 8187
a judge or jury of that offense. 8188

(b) One of the following applies: 8189

(i) The offender was sentenced to a prison term ~~or~~ 8190
~~sentence of death~~ for the felony described in division (C) (1) (a) 8191
of this section, and the offender is in prison serving that 8192
prison term ~~or under that sentence of death~~, has been paroled or 8193
is on probation regarding that felony, is under post-release 8194
control regarding that felony, or has been released from that 8195
prison term and is under a community control sanction regarding 8196
that felony. 8197

(ii) The offender was not sentenced to a prison term ~~or~~ 8198
~~sentence of death~~ for the felony described in division (C) (1) (a) 8199

of this section, but was sentenced to a community control 8200
sanction for that felony and is under that community control 8201
sanction. 8202

(iii) The felony described in division (C)(1)(a) of this 8203
section was a sexually oriented offense or child-victim oriented 8204
offense, and the offender has a duty to comply with sections 8205
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 8206
relative to that felony. 8207

(2) An offender is not an eligible offender under division 8208
(C)(1) of this section regarding any offense to which the 8209
offender pleaded guilty or no contest. 8210

(3) An offender is not an eligible offender under division 8211
(C)(1) of this section regarding any offense if the offender 8212
dies prior to submitting an application for DNA testing related 8213
to that offense under section 2953.73 of the Revised Code. 8214

Sec. 2953.73. (A) An eligible offender who wishes to 8215
request DNA testing to be conducted under sections 2953.71 to 8216
2953.81 of the Revised Code shall submit an application for DNA 8217
testing on a form prescribed by the attorney general for this 8218
purpose and shall submit the form to the court of common pleas 8219
that sentenced the offender for the offense for which the 8220
offender is an eligible offender and is requesting DNA testing. 8221

(B) If an eligible offender submits an application for DNA 8222
testing under division (A) of this section, upon the submission 8223
of the application, all of the following apply: 8224

(1) The eligible offender shall serve a copy of the 8225
application on the prosecuting attorney and the attorney 8226
general. 8227

(2) The application shall be assigned to the judge of that 8228

court of common pleas who was the trial judge in the case in 8229
which the eligible offender was convicted of the offense for 8230
which the offender is requesting DNA testing, or, if that judge 8231
no longer is a judge of that court, it shall be assigned 8232
according to court rules. The judge to whom the application is 8233
assigned shall decide the application. The application shall 8234
become part of the file in the case. 8235

(C) If an eligible offender submits an application for DNA 8236
testing under division (A) of this section, regardless of 8237
whether the offender has commenced any federal habeas corpus 8238
proceeding relative to the case in which the offender was 8239
convicted of the offense for which the offender is an eligible 8240
offender and is requesting DNA testing, any response to the 8241
application by the prosecuting attorney or the attorney general 8242
shall be filed not later than forty-five days after the date on 8243
which the eligible offender submits the application. The 8244
prosecuting attorney or the attorney general, or both, may, but 8245
are not required to, file a response to the application. If the 8246
prosecuting attorney or the attorney general files a response 8247
under this division, the prosecuting attorney or attorney 8248
general, whoever filed the response, shall serve a copy of the 8249
response on the eligible offender. 8250

(D) If an eligible offender submits an application for DNA 8251
testing under division (A) of this section, the court shall make 8252
the determination as to whether the application should be 8253
accepted or rejected. The court shall expedite its review of the 8254
application. The court shall make the determination in 8255
accordance with the criteria and procedures set forth in 8256
sections 2953.74 to 2953.81 of the Revised Code and, in making 8257
the determination, shall consider the application, the 8258
supporting affidavits, and the documentary evidence and, in 8259

addition to those materials, shall consider all the files and 8260
records pertaining to the proceedings against the applicant, 8261
including, but not limited to, the indictment, the court's 8262
journal entries, the journalized records of the clerk of the 8263
court, and the court reporter's transcript and all responses to 8264
the application filed under division (C) of this section by a 8265
prosecuting attorney or the attorney general, unless the 8266
application and the files and records show the applicant is not 8267
entitled to DNA testing, in which case the application may be 8268
denied. The court is not required to conduct an evidentiary 8269
hearing in conducting its review of, and in making its 8270
determination as to whether to accept or reject, the 8271
application. Upon making its determination, the court shall 8272
enter a judgment and order that either accepts or rejects the 8273
application and that includes within the judgment and order the 8274
reasons for the acceptance or rejection as applied to the 8275
criteria and procedures set forth in sections 2953.71 to 2953.81 8276
of the Revised Code. The court shall send a copy of the judgment 8277
and order to the eligible offender who filed it, the prosecuting 8278
attorney, and the attorney general. 8279

(E) A judgment and order of a court entered under division 8280
(D) of this section is appealable only as provided in this 8281
division. If an eligible offender submits an application for DNA 8282
testing under section 2953.73 of the Revised Code and the court 8283
of common pleas rejects the application under division (D) of 8284
this section, ~~one of the following applies:~~ 8285

~~(1) If the offender was sentenced to death for the offense~~ 8286
~~for which the offender claims to be an eligible offender and is~~ 8287
~~requesting DNA testing, the offender may seek leave of the~~ 8288
~~supreme court to appeal the rejection to the supreme court.~~ 8289
~~Courts of appeals do not have jurisdiction to review any~~ 8290

~~rejection if the offender was sentenced to death for the offense~~ 8291
~~for which the offender claims to be an eligible offender and is~~ 8292
~~requesting DNA testing.~~ 8293

~~(2) If the offender was not sentenced to death for the~~ 8294
~~offense for which the offender claims to be an eligible offender~~ 8295
~~and is requesting DNA testing,~~ the rejection is a final 8296
appealable order, and the offender may appeal it to the court of 8297
appeals of the district in which is located that court of common 8298
pleas. 8299

(F) Notwithstanding any provision of law regarding fees 8300
and costs, no filing fee shall be required of, and no court 8301
costs shall be assessed against, an eligible offender who is 8302
indigent and who submits an application under this section. 8303

(G) If a court rejects an eligible offender's application 8304
for DNA testing under division (D) of this section, unless the 8305
rejection is overturned on appeal, no court shall require the 8306
state to administer a DNA test under sections 2953.71 to 2953.81 8307
of the Revised Code on the eligible offender. 8308

Sec. 2953.81. If an eligible offender submits an 8309
application for DNA testing under section 2953.73 of the Revised 8310
Code and if DNA testing is performed based on that application, 8311
upon completion of the testing, all of the following apply: 8312

(A) The court or a designee of the court shall require the 8313
state to maintain the results of the testing and to maintain and 8314
preserve both the parent sample of the biological material used 8315
and the offender sample of the biological material used. The 8316
testing authority may be designated as the person to maintain 8317
the results of the testing or to maintain and preserve some or 8318
all of the samples, or both. The results of the testing remain 8319

state's evidence. The samples shall be preserved during the 8320
entire period of time for which the offender is imprisoned or 8321
confined relative to the sentence in question, is on parole or 8322
probation relative to that sentence, is under post-release 8323
control or a community control sanction relative to that 8324
sentence, or has a duty to comply with sections 2950.04, 8325
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 8326
that sentence. Additionally, if the prison term or confinement 8327
under the sentence in question expires, ~~if the sentence in~~ 8328
~~question is a sentence of death and the offender is executed,~~ or 8329
if the parole or probation period, the period of post-release 8330
control, the community control sanction, or the duty to comply 8331
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 8332
Revised Code under the sentence in question ends, the samples 8333
shall be preserved for a reasonable period of time of not less 8334
than twenty-four months after the term or confinement expires, ~~the~~ 8335
~~offender is executed,~~ or the parole or probation period, the 8336
period of post-release control, the community control sanction, 8337
or the duty to comply with sections 2950.04, 2950.041, 2950.05, 8338
and 2950.06 of the Revised Code ends, whichever is applicable. 8339
The court shall determine the period of time that is reasonable 8340
for purposes of this division, provided that the period shall 8341
not be less than twenty-four months after the term or 8342
confinement expires, ~~the offender is executed,~~ or the parole or 8343
probation period, the period of post-release control, the 8344
community control sanction, or the duty to comply with sections 8345
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 8346
ends, whichever is applicable. 8347

(B) The results of the testing are a public record. 8348

(C) The court or the testing authority shall provide a 8349
copy of the results of the testing to the prosecuting attorney, 8350

the attorney general, and the subject offender. 8351

(D) If the postconviction proceeding in question is 8352
pending at that time in a court of this state, the court of 8353
common pleas that decided the DNA application or the testing 8354
authority shall provide a copy of the results of the testing to 8355
any court of this state, and, if it is pending in a federal 8356
court, the court of common pleas that decided the DNA 8357
application or the testing authority shall provide a copy of the 8358
results of the testing to that federal court. 8359

(E) The testing authority shall provide a copy of the 8360
results of the testing to the court of common pleas that decided 8361
the DNA application. 8362

(F) The offender or the state may enter the results of the 8363
testing into any proceeding. 8364

Sec. 2967.03. The adult parole authority may exercise its 8365
functions and duties in relation to the pardon, commutation of 8366
sentence, or reprieve of a convict upon direction of the 8367
governor or upon its own initiative. It may exercise its 8368
functions and duties in relation to the parole of a prisoner who 8369
is eligible for parole upon the initiative of the head of the 8370
institution in which the prisoner is confined or upon its own 8371
initiative. When a prisoner becomes eligible for parole, the 8372
head of the institution in which the prisoner is confined shall 8373
notify the authority in the manner prescribed by the authority. 8374
The authority may investigate and examine, or cause the 8375
investigation and examination of, prisoners confined in state 8376
correctional institutions concerning their conduct in the 8377
institutions, their mental and moral qualities and 8378
characteristics, their knowledge of a trade or profession, their 8379
former means of livelihood, their family relationships, and any 8380

other matters affecting their fitness to be at liberty without 8381
being a threat to society. 8382

The authority may recommend to the governor the pardon, 8383
commutation of sentence, or reprieve of any convict or prisoner 8384
or grant a parole to any prisoner for whom parole is authorized, 8385
if in its judgment there is reasonable ground to believe that 8386
granting a pardon, commutation, or reprieve to the convict or 8387
paroling the prisoner would further the interests of justice and 8388
be consistent with the welfare and security of society. However, 8389
the authority shall not recommend a pardon or commutation of 8390
sentence, or grant a parole to, any convict or prisoner until 8391
the authority has complied with the applicable notice 8392
requirements of sections 2930.16 and 2967.12 of the Revised Code 8393
and until it has considered any statement made by a victim or a 8394
victim's representative that is relevant to the convict's or 8395
prisoner's case and that was sent to the authority pursuant to 8396
section 2930.17 of the Revised Code, any other statement made by 8397
a victim or a victim's representative that is relevant to the 8398
convict's or prisoner's case and that was received by the 8399
authority after it provided notice of the pendency of the action 8400
under sections 2930.16 and 2967.12 of the Revised Code, and any 8401
written statement of any person submitted to the court pursuant 8402
to division ~~(I)~~(H) of section 2967.12 of the Revised Code. If a 8403
victim, victim's representative, or the victim's spouse, parent, 8404
sibling, or child appears at a full board hearing of the parole 8405
board and gives testimony as authorized by section 5149.101 of 8406
the Revised Code, the authority shall consider the testimony in 8407
determining whether to grant a parole. The trial judge and 8408
prosecuting attorney of the trial court in which a person was 8409
convicted shall furnish to the authority, at the request of the 8410
authority, a summarized statement of the facts proved at the 8411

trial and of all other facts having reference to the propriety 8412
of recommending a pardon or commutation or granting a parole, 8413
together with a recommendation for or against a pardon, 8414
commutation, or parole, and the reasons for the recommendation. 8415
The trial judge, the prosecuting attorney, specified law 8416
enforcement agency members, and a representative of the prisoner 8417
may appear at a full board hearing of the parole board and give 8418
testimony in regard to the grant of a parole to the prisoner as 8419
authorized by section 5149.101 of the Revised Code. All state 8420
and local officials shall furnish information to the authority, 8421
when so requested by it in the performance of its duties. 8422

The adult parole authority shall exercise its functions 8423
and duties in relation to the release of prisoners who are 8424
serving a definite prison term as a stated prison term in 8425
accordance with section 2967.28 of the Revised Code, and the 8426
authority and the department of rehabilitation and correction 8427
shall exercise their functions and duties in relation to the 8428
release of prisoners who are serving a non-life felony 8429
indefinite prison term as a stated prison term in accordance 8430
with sections 2967.271 and 2967.28 of the Revised Code. 8431

Sec. 2967.05. (A) As used in this section: 8432

(1) "Imminent danger of death" means that the inmate has a 8433
medically diagnosable condition that will cause death to occur 8434
within a short period of time. 8435

As used in division (A) (1) of this section, "within a 8436
short period of time" means generally within six months. 8437

(2) (a) "Medically incapacitated" means any diagnosable 8438
medical condition, including mental dementia and severe, 8439
permanent medical or cognitive disability, that prevents the 8440

inmate from completing activities of daily living without 8441
significant assistance, that incapacitates the inmate to the 8442
extent that institutional confinement does not offer additional 8443
restrictions, that is likely to continue throughout the entire 8444
period of parole, and that is unlikely to improve noticeably. 8445

(b) "Medically incapacitated" does not include conditions 8446
related solely to mental illness unless the mental illness is 8447
accompanied by injury, disease, or organic defect. 8448

(3) (a) "Terminal illness" means a condition that satisfies 8449
all of the following criteria: 8450

(i) The condition is irreversible and incurable and is 8451
caused by disease, illness, or injury from which the inmate is 8452
unlikely to recover. 8453

(ii) In accordance with reasonable medical standards and a 8454
reasonable degree of medical certainty, the condition is likely 8455
to cause death to the inmate within twelve months. 8456

(iii) Institutional confinement of the inmate does not 8457
offer additional protections for public safety or against the 8458
inmate's risk to reoffend. 8459

(b) The department of rehabilitation and correction shall 8460
adopt rules pursuant to Chapter 119. of the Revised Code to 8461
implement the definition of "terminal illness" in division (A) 8462
(3) (a) of this section. 8463

(B) Upon the recommendation of the director of 8464
rehabilitation and correction, accompanied by a certificate of 8465
the attending physician that an inmate is terminally ill, 8466
medically incapacitated, or in imminent danger of death, the 8467
governor may order the inmate's release as if on parole, 8468
reserving the right to return the inmate to the institution 8469

pursuant to this section. If, subsequent to the inmate's 8470
release, the inmate's health improves so that the inmate is no 8471
longer terminally ill, medically incapacitated, or in imminent 8472
danger of death, the inmate shall be returned, by order of the 8473
governor, to the institution from which the inmate was released. 8474
If the inmate violates any rules or conditions applicable to the 8475
inmate, the inmate may be returned to an institution under the 8476
control of the department of rehabilitation and correction. The 8477
governor may direct the adult parole authority to investigate or 8478
cause to be investigated the inmate and make a recommendation. 8479
An inmate released under this section shall be subject to 8480
supervision by the adult parole authority in accordance with any 8481
recommendation of the adult parole authority that is approved by 8482
the governor. The adult parole authority shall adopt rules 8483
pursuant to section 119.03 of the Revised Code to establish the 8484
procedure for medical release of an inmate when an inmate is 8485
terminally ill, medically incapacitated, or in imminent danger 8486
of death. 8487

(C) No inmate is eligible for release under this section 8488
if the inmate is serving a ~~death sentence~~, a sentence of life 8489
without parole, a sentence under Chapter 2971. of the Revised 8490
Code for a felony of the first or second degree, a sentence for 8491
aggravated murder or murder, or a mandatory prison term for an 8492
offense of violence or any specification described in Chapter 8493
2941. of the Revised Code. 8494

Sec. 2967.12. (A) Except as provided in division ~~(G)~~(F) 8495
of this section, at least sixty days before the adult parole 8496
authority recommends any pardon or commutation of sentence, or 8497
grants any parole, the authority shall provide a notice of the 8498
pendency of the pardon, commutation, or parole, setting forth 8499
the name of the person on whose behalf it is made, the offense 8500

of which the person was convicted or to which the person pleaded 8501
guilty, the time of conviction or the guilty plea, and the term 8502
of the person's sentence, to the prosecuting attorney and the 8503
judge of the court of common pleas of the county in which the 8504
indictment against the person was found. If there is more than 8505
one judge of that court of common pleas, the authority shall 8506
provide the notice to the presiding judge. Upon the request of 8507
the prosecuting attorney or of any law enforcement agency, the 8508
authority shall provide to the requesting prosecuting attorney 8509
and law enforcement agencies an institutional summary report 8510
that covers the subject person's participation while confined in 8511
a state correctional institution in training, work, and other 8512
rehabilitative activities and any disciplinary action taken 8513
against the person while so confined. The department of 8514
rehabilitation and correction may utilize electronic means to 8515
provide this notice. The department of rehabilitation and 8516
correction, at the same time that it provides the notice to the 8517
prosecuting attorney and judge under this division, also shall 8518
post on the database it maintains pursuant to section 5120.66 of 8519
the Revised Code the offender's name and all of the information 8520
specified in division (A) (1) (c) (iii) of that section. 8521

(B) If a request for notification has been made pursuant 8522
to section 2930.16 of the Revised Code or if division ~~(H)~~(G) of 8523
this section applies, the office of victim services or the adult 8524
parole authority also shall provide notice to the victim or the 8525
victim's representative at least sixty days prior to 8526
recommending any pardon or commutation of sentence for, or 8527
granting any parole to, the person. The notice shall include the 8528
information required by division (A) of this section and may be 8529
provided by telephone or through electronic means. The notice 8530
also shall inform the victim or the victim's representative that 8531

the victim or representative may send a written statement 8532
relative to the victimization and the pending action to the 8533
adult parole authority and that, if the authority receives any 8534
written statement prior to recommending a pardon or commutation 8535
or granting a parole for a person, the authority will consider 8536
the statement before it recommends a pardon or commutation or 8537
grants a parole. If the person is being considered for parole, 8538
the notice shall inform the victim or the victim's 8539
representative that a full board hearing of the parole board may 8540
be held and that the victim or victim's representative may 8541
contact the office of victims' services for further information. 8542
If the person being considered for parole was convicted of or 8543
pleaded guilty to a violation of section 2903.01 or 2903.02 of 8544
the Revised Code, an offense of violence that is a felony of the 8545
first, second, or third degree, or an offense punished by a 8546
sentence of life imprisonment, the notice shall inform the 8547
victim of that offense, the victim's representative, or a member 8548
of the victim's immediate family that the victim, the victim's 8549
representative, and the victim's immediate family have the right 8550
to give testimony at a full board hearing of the parole board 8551
and that the victim or victim's representative may contact the 8552
office of victims' services for further information. 8553

(C) When notice of the pendency of any pardon, commutation 8554
of sentence, or parole has been provided to a judge or 8555
prosecutor or posted on the database as required in division (A) 8556
of this section and a hearing on the pardon, commutation, or 8557
parole is continued to a date certain, the authority shall 8558
provide notice of the further consideration of the pardon, 8559
commutation, or parole at least sixty days before the further 8560
consideration. The notice of the further consideration shall be 8561
provided to the proper judge and prosecuting attorney at least 8562

sixty days before the further consideration, and may be provided 8563
using electronic means, and, if the initial notice was posted on 8564
the database as provided in division (A) of this section, the 8565
notice of the further consideration shall be posted on the 8566
database at least sixty days before the further consideration. 8567
If the prosecuting attorney or a law enforcement agency was 8568
provided a copy of the institutional summary report relative to 8569
the subject person under division (A) of this section, the 8570
authority shall include with the notice of the further 8571
consideration sent to the prosecuting attorney any new 8572
information with respect to the person that relates to 8573
activities and actions of the person that are of a type covered 8574
by the report and shall send to the law enforcement agency a 8575
report that provides notice of the further consideration and 8576
includes any such new information with respect to the person. 8577
When notice of the pendency of any pardon, commutation, or 8578
parole has been given as provided in division (B) of this 8579
section and the hearing on it is continued to a date certain, 8580
the authority shall give notice of the further consideration to 8581
the victim or the victim's representative in accordance with 8582
section 2930.03 of the Revised Code. 8583

~~(D) In case of an application for the pardon or 8584
commutation of sentence of a person sentenced to capital 8585
punishment, the governor may modify the requirements of 8586
notification and publication if there is not sufficient time for 8587
compliance with the requirements before the date fixed for the 8588
execution of sentence. 8589~~

~~(E) If an offender is serving a prison term imposed under 8590
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8591
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8592
Code and if the parole board terminates its control over the 8593~~

offender's service of that term pursuant to section 2971.04 of 8594
the Revised Code, the parole board immediately shall provide 8595
written notice of its termination of control or the transfer of 8596
control to the entities and persons specified in section 2971.04 8597
of the Revised Code. 8598

~~(F)~~(E) The failure of the adult parole authority to 8599
comply with the notice or posting provisions of division (A), 8600
(B), or (C) of this section or the failure of the parole board 8601
to comply with the notice provisions of division ~~(E)~~(D) of this 8602
section do not give any rights or any grounds for appeal or 8603
post-conviction relief to the person serving the sentence. 8604

~~(G)~~(F) Divisions (A), (B), and (C) of this section do not 8605
apply to any release of a person that is of the type described 8606
in division (B) (2) (b) of section 5120.031 of the Revised Code. 8607

~~(H)~~(G) If a defendant is incarcerated for the commission 8608
of aggravated murder, murder, or an offense of violence that is 8609
a felony of the first, second, or third degree or is under a 8610
sentence of life imprisonment, except as otherwise provided in 8611
this division, the notice described in division (B) of this 8612
section shall be given to the victim or victim's representative 8613
regardless of whether the victim or victim's representative has 8614
made a request for notification. The notice described in 8615
division (B) of this section shall not be given under this 8616
division to a victim or victim's representative if the victim or 8617
victim's representative has requested pursuant to division (B) 8618
(2) of section 2930.03 of the Revised Code that the victim or 8619
the victim's representative not be provided the notice. The 8620
notice described in division (B) of this section does not have 8621
to be given under this division to a victim or victim's 8622
representative if notice was given to the victim or victim's 8623

representative with respect to at least two prior considerations 8624
of pardon, commutation, or parole of a person and the victim or 8625
victim's representative did not provide any written statement 8626
relative to the victimization and the pending action, did not 8627
attend any hearing conducted relative to the pending action, and 8628
did not otherwise respond to the office with respect to the 8629
pending action. Regardless of whether the victim or victim's 8630
representative has requested that the notice described in 8631
division (B) of this section be provided or not be provided, the 8632
office of victim services or adult parole authority shall give 8633
similar notice to the law enforcement agency that arrested the 8634
defendant if any officer of that agency was a victim of the 8635
offense and to any member of the victim's immediate family who 8636
requests notification. If notice is to be given under this 8637
division, the office or authority may give the notice by any 8638
reasonable means, including regular mail, telephone, and 8639
electronic mail, in accordance with division (D) (1) of section 8640
2930.16 of the Revised Code. If the notice is based on an 8641
offense committed prior to ~~the effective date of this amendment~~ 8642
March 22, 2013, the notice to the victim or victim's 8643
representative also shall include the opt-out information 8644
described in division (D) (1) of section 2930.16 of the Revised 8645
Code. The office or authority, in accordance with division (D) 8646
(2) of section 2930.16 of the Revised Code, shall keep a record 8647
of all attempts to provide the notice, and of all notices 8648
provided, under this division. 8649

Division ~~(H)~~ (G) of this section, and the notice-related 8650
provisions of divisions (E) (2) and (K) of section 2929.20, 8651
division (D) (1) of section 2930.16, division (E) (1) (b) of 8652
section 2967.19, division (A) (3) (b) of section 2967.26, division 8653
(D) (1) of section 2967.28, and division (A) (2) of section 8654

5149.101 of the Revised Code enacted in the act in which 8655
division ~~(H)~~(G) of this section was enacted, shall be known as 8656
"Roberta's Law." 8657

~~(I)~~(H) In addition to and independent of the right of a 8658
victim to make a statement as described in division (A) of this 8659
section or pursuant to section 2930.17 of the Revised Code or to 8660
otherwise make a statement, the authority for a judge or 8661
prosecuting attorney to furnish statements and information, make 8662
recommendations, and give testimony as described in division (A) 8663
of this section, the right of a prosecuting attorney, judge, or 8664
victim to give testimony or submit a statement at a full parole 8665
board hearing pursuant to section 5149.101 of the Revised Code, 8666
and any other right or duty of a person to present information 8667
or make a statement, any person may send to the adult parole 8668
authority at any time prior to the authority's recommending a 8669
pardon or commutation or granting a parole for the offender a 8670
written statement relative to the offense and the pending 8671
action. 8672

~~(J)~~(I) As used in this section, "victim's immediate 8673
family" means the mother, father, spouse, sibling, or child of 8674
the victim, provided that in no case does "victim's immediate 8675
family" include the offender with respect to whom the notice in 8676
question applies. 8677

Sec. 2967.13. (A) Except as provided in division (G) of 8678
this section, a prisoner serving a sentence of imprisonment for 8679
life for an offense committed on or after July 1, 1996, is not 8680
entitled to any earned credit under section 2967.193 of the 8681
Revised Code and becomes eligible for parole as follows: 8682

(1) If a sentence of imprisonment for life was imposed for 8683
the offense of murder, at the expiration of the prisoner's 8684

minimum term; 8685

(2) If a sentence of imprisonment for life with parole 8686
eligibility after serving twenty years of imprisonment was 8687
imposed pursuant to section 2929.02 or former section 2929.022 8688
or 2929.03 of the Revised Code, after serving a term of twenty 8689
years; 8690

(3) If a sentence of imprisonment for life with parole 8691
eligibility after serving twenty-five full years of imprisonment 8692
was imposed pursuant to section 2929.02 or former section 8693
2929.022 or 2929.03 of the Revised Code, after serving a term of 8694
twenty-five full years; 8695

(4) If a sentence of imprisonment for life with parole 8696
eligibility after serving thirty full years of imprisonment was 8697
imposed pursuant to section 2929.02 or former section 2929.022 8698
or 2929.03 of the Revised Code, after serving a term of thirty 8699
full years; 8700

(5) If a sentence of imprisonment for life was imposed for 8701
rape, after serving a term of ten full years' imprisonment; 8702

(6) If a sentence of imprisonment for life with parole 8703
eligibility after serving fifteen years of imprisonment was 8704
imposed for a violation of section 2927.24 of the Revised Code, 8705
after serving a term of fifteen years. 8706

(B) Except as provided in division (G) of this section, a 8707
prisoner serving a sentence of imprisonment for life with parole 8708
eligibility after serving twenty years of imprisonment or a 8709
sentence of imprisonment for life with parole eligibility after 8710
serving twenty-five full years or thirty full years of 8711
imprisonment imposed pursuant to section 2929.02 or former 8712
section 2929.022 or 2929.03 of the Revised Code for an offense 8713

committed on or after July 1, 1996, consecutively to any other 8714
term of imprisonment, becomes eligible for parole after serving 8715
twenty years, twenty full years, or thirty full years, as 8716
applicable, as to each such sentence of life imprisonment, which 8717
shall not be reduced for earned credits under section 2967.193 8718
of the Revised Code, plus the term or terms of the other 8719
sentences consecutively imposed or, if one of the other 8720
sentences is another type of life sentence with parole 8721
eligibility, the number of years before parole eligibility for 8722
that sentence. 8723

(C) Except as provided in division (G) of this section, a 8724
prisoner serving consecutively two or more sentences in which an 8725
indefinite term of imprisonment is imposed becomes eligible for 8726
parole upon the expiration of the aggregate of the minimum terms 8727
of the sentences. 8728

(D) Except as provided in division (G) of this section, a 8729
prisoner serving a term of imprisonment who is described in 8730
division (A) of section 2967.021 of the Revised Code becomes 8731
eligible for parole as described in that division or, if the 8732
prisoner is serving a definite term of imprisonment, shall be 8733
released as described in that division. 8734

(E) A prisoner serving a sentence of life imprisonment 8735
without parole imposed pursuant to section 2907.02 or 2929.02 or 8736
former section 2929.03 or 2929.06 of the Revised Code is not 8737
eligible for parole and shall be imprisoned until death. 8738

(F) A prisoner serving a stated prison term that is a non- 8739
life felony indefinite prison term shall be released in 8740
accordance with sections 2967.271 and 2967.28 of the Revised 8741
Code. A prisoner serving a stated prison term of any other 8742
nature shall be released in accordance with section 2967.28 of 8743

the Revised Code. 8744

(G) A prisoner serving a prison term or term of life 8745
imprisonment without parole imposed pursuant to section 2971.03 8746
of the Revised Code never becomes eligible for parole during 8747
that term of imprisonment. 8748

Sec. 2967.19. (A) As used in this section: 8749

(1) "Deadly weapon" and "dangerous ordnance" have the same 8750
meanings as in section 2923.11 of the Revised Code. 8751

(2) "Disqualifying prison term" means any of the 8752
following: 8753

(a) A prison term imposed for aggravated murder, murder, 8754
voluntary manslaughter, involuntary manslaughter, felonious 8755
assault, kidnapping, rape, aggravated arson, aggravated 8756
burglary, or aggravated robbery; 8757

(b) A prison term imposed for complicity in, an attempt to 8758
commit, or conspiracy to commit any offense listed in division 8759
(A) (2) (a) of this section; 8760

(c) A prison term of life imprisonment, including any term 8761
of life imprisonment that has parole eligibility; 8762

(d) A prison term imposed for any felony other than 8763
carrying a concealed weapon an essential element of which is any 8764
conduct or failure to act expressly involving any deadly weapon 8765
or dangerous ordnance; 8766

(e) A prison term imposed for any violation of section 8767
2925.03 of the Revised Code that is a felony of the first or 8768
second degree; 8769

(f) A prison term imposed for engaging in a pattern of 8770

corrupt activity in violation of section 2923.32 of the Revised Code; 8771
8772

(g) A prison term imposed pursuant to section 2971.03 of the Revised Code; 8773
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(h) A prison term imposed for any sexually oriented offense. 8775
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(3) "Eligible prison term" means any prison term that is not a disqualifying prison term and is not a restricting prison term. 8777
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(4) "Restricting prison term" means any of the following: 8780

(a) A mandatory prison term imposed under division (B) (1) (a), (B) (1) (c), (B) (1) (f), (B) (1) (g), (B) (2), or (B) (7) of section 2929.14 of the Revised Code for a specification of the type described in that division; 8781
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(b) In the case of an offender who has been sentenced to a mandatory prison term for a specification of the type described in division (A) (4) (a) of this section, the prison term imposed for the felony offense for which the specification was stated at the end of the body of the indictment, count in the indictment, or information charging the offense; 8785
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(c) A prison term imposed for trafficking in persons; 8791

(d) A prison term imposed for any offense that is described in division (A) (4) (d) (i) of this section if division (A) (4) (d) (ii) of this section applies to the offender: 8792
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(i) The offense is a felony of the first or second degree that is an offense of violence and that is not described in division (A) (2) (a) or (b) of this section, an attempt to commit a felony of the first or second degree that is an offense of 8795
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violence and that is not described in division (A) (2) (a) or (b) 8799
of this section if the attempt is a felony of the first or 8800
second degree, or an offense under an existing or former law of 8801
this state, another state, or the United States that is or was 8802
substantially equivalent to any other offense described in this 8803
division. 8804

(ii) The offender previously was convicted of or pleaded 8805
guilty to any offense listed in division (A) (2) or (A) (4) (d) (i) 8806
of this section. 8807

(5) "Sexually oriented offense" has the same meaning as in 8808
section 2950.01 of the Revised Code. 8809

(6) "Stated prison term of one year or more" means a 8810
definite prison term of one year or more imposed as a stated 8811
prison term, or a minimum prison term of one year or more 8812
imposed as part of a stated prison term that is a non-life 8813
felony indefinite prison term. 8814

(B) The director of the department of rehabilitation and 8815
correction may recommend in writing to the sentencing court that 8816
the court consider releasing from prison any offender who, on or 8817
after September 30, 2011, is confined in a state correctional 8818
institution, who is serving a stated prison term of one year or 8819
more, and who is eligible under division (C) of this section for 8820
a release under this section. If the director wishes to 8821
recommend that the sentencing court consider releasing an 8822
offender under this section, the director shall notify the 8823
sentencing court in writing of the offender's eligibility not 8824
earlier than ninety days prior to the date on which the offender 8825
becomes eligible as described in division (C) of this section. 8826
The director's submission of the written notice constitutes a 8827
recommendation by the director that the court strongly consider 8828

release of the offender consistent with the purposes and 8829
principles of sentencing set forth in sections 2929.11 and 8830
2929.13 of the Revised Code. Only an offender recommended by the 8831
director under division (B) of this section may be considered 8832
for early release under this section. 8833

(C) (1) An offender serving a stated prison term of one 8834
year or more and who has commenced service of that stated prison 8835
term becomes eligible for release from prison under this section 8836
only as described in this division. An offender serving a stated 8837
prison term that includes a disqualifying prison term is not 8838
eligible for release from prison under this section. An offender 8839
serving a stated prison term that consists solely of one or more 8840
restricting prison terms is not eligible for release under this 8841
section. An offender serving a stated prison term of one year or 8842
more that includes one or more restricting prison terms and one 8843
or more eligible prison terms becomes eligible for release under 8844
this section after having fully served all restricting prison 8845
terms and having served eighty per cent of that stated prison 8846
term that remains to be served after all restricting prison 8847
terms have been fully served. An offender serving a stated 8848
prison term of one year or more that consists solely of one or 8849
more eligible prison terms becomes eligible for release under 8850
this section after having served eighty per cent of that stated 8851
prison term. For purposes of determining an offender's 8852
eligibility for release under this section, if the offender's 8853
stated prison term includes consecutive prison terms, any 8854
restricting prison terms shall be deemed served prior to any 8855
eligible prison terms that run consecutively to the restricting 8856
prison terms, and the eligible prison terms are deemed to 8857
commence after all of the restricting prison terms have been 8858
fully served. 8859

An offender serving a stated prison term of one year or more that includes a mandatory prison term that is not a disqualifying prison term and is not a restricting prison term is not automatically ineligible as a result of the offender's service of that mandatory term for release from prison under this section, and the offender's eligibility for release from prison under this section is determined in accordance with this division. 8860-8867

(2) If an offender confined in a state correctional institution under a stated prison term is eligible for release under this section as described in division (C)(1) of this section, the director of the department of rehabilitation and correction may recommend in writing that the sentencing court consider releasing the offender from prison under this section by submitting to the sentencing court the written notice described in division (B) of this section. 8868-8875

(D) The director shall include with any notice submitted to the sentencing court under division (B) of this section an institutional summary report that covers the offender's participation while confined in a state correctional institution in school, training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the offender while so confined. The director shall include with the notice any other documentation requested by the court, if available. 8876-8884

(E)(1) When the director submits a written notice to a sentencing court that an offender is eligible to be considered for early release under this section, the department promptly shall provide to the prosecuting attorney of the county in which the offender was indicted a copy of the written notice, a copy 8885-8889

of the institutional summary report, and any other information 8890
provided to the court and shall provide a copy of the 8891
institutional summary report to any law enforcement agency that 8892
requests the report. The department also promptly shall do 8893
whichever of the following is applicable: 8894

(a) Subject to division (E) (1) (b) of this section, give 8895
written notice of the submission to any victim of the offender 8896
or victim's representative of any victim of the offender who is 8897
registered with the office of victim's services. 8898

(b) If the offense was aggravated murder, murder, an 8899
offense of violence that is a felony of the first, second, or 8900
third degree, or an offense punished by a sentence of life 8901
imprisonment, except as otherwise provided in this division, 8902
notify the victim or the victim's representative of the filing 8903
of the petition regardless of whether the victim or victim's 8904
representative has registered with the office of victim's 8905
services. The notice of the filing of the petition shall not be 8906
given under this division to a victim or victim's representative 8907
if the victim or victim's representative has requested pursuant 8908
to division (B) (2) of section 2930.03 of the Revised Code that 8909
the victim or the victim's representative not be provided the 8910
notice. If notice is to be provided to a victim or victim's 8911
representative under this division, the department may give the 8912
notice by any reasonable means, including regular mail, 8913
telephone, and electronic mail, in accordance with division (D) 8914
(1) of section 2930.16 of the Revised Code. If the notice is 8915
based on an offense committed prior to March 22, 2013, the 8916
notice also shall include the opt-out information described in 8917
division (D) (1) of section 2930.16 of the Revised Code. The 8918
department, in accordance with division (D) (2) of section 8919
2930.16 of the Revised Code, shall keep a record of all attempts 8920

to provide the notice, and of all notices provided, under this 8921
division. 8922

Division (E) (1) (b) of this section, and the notice-related 8923
provisions of divisions (E) (2) and (K) of section 2929.20, 8924
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 8925
2967.12, division (A) (3) (b) of section 2967.26, division (D) (1) 8926
of section 2967.28, and division (A) (2) of section 5149.101 of 8927
the Revised Code enacted in the act in which division (E) (2) of 8928
this section was enacted, shall be known as "Roberta's Law." 8929

(2) When the director submits a petition under this 8930
section, the department also promptly shall post a copy of the 8931
written notice on the database it maintains under section 8932
5120.66 of the Revised Code and include information on where a 8933
person may send comments regarding the recommendation of early 8934
release. 8935

The information provided to the court, the prosecutor, and 8936
the victim or victim's representative under divisions (D) and 8937
(E) of this section shall include the name and contact 8938
information of a specific department of rehabilitation and 8939
correction employee who is available to answer questions about 8940
the offender who is the subject of the written notice submitted 8941
by the director, including, but not limited to, the offender's 8942
institutional conduct and rehabilitative activities while 8943
incarcerated. 8944

(F) Upon receipt of a written notice submitted by the 8945
director under division (B) of this section, the court either 8946
shall, on its own motion, schedule a hearing to consider 8947
releasing the offender who is the subject of the notice or shall 8948
inform the department that it will not be conducting a hearing 8949
relative to the offender. The court shall not grant an early 8950

release to an offender without holding a hearing. If a court 8951
declines to hold a hearing relative to an offender with respect 8952
to a written notice submitted by the director, the court may 8953
later consider release of that offender under this section on 8954
its own motion by scheduling a hearing for that purpose. Within 8955
thirty days after the written notice is submitted, the court 8956
shall inform the department whether or not the court is 8957
scheduling a hearing on the offender who is the subject of the 8958
notice. 8959

(G) If the court schedules a hearing upon receiving a 8960
written notice submitted under division (B) of this section or 8961
upon its own motion under division (F) of this section, the 8962
court shall notify the head of the state correctional 8963
institution in which the offender is confined of the hearing 8964
prior to the hearing. If the court makes a journal entry 8965
ordering the offender to be conveyed to the hearing, except as 8966
otherwise provided in this division, the head of the 8967
correctional institution shall deliver the offender to the 8968
sheriff of the county in which the hearing is to be held, and 8969
the sheriff shall convey the offender to and from the hearing. 8970
Upon the court's own motion or the motion of the offender or the 8971
prosecuting attorney of the county in which the offender was 8972
indicted, the court may permit the offender to appear at the 8973
hearing by video conferencing equipment if equipment of that 8974
nature is available and compatible. 8975

Upon receipt of notice from a court of a hearing on the 8976
release of an offender under this division, the head of the 8977
state correctional institution in which the offender is confined 8978
immediately shall notify the appropriate person at the 8979
department of rehabilitation and correction of the hearing, and 8980
the department within twenty-four hours after receipt of the 8981

notice shall post on the database it maintains pursuant to 8982
section 5120.66 of the Revised Code the offender's name and all 8983
of the information specified in division (A) (1) (c) (i) of that 8984
section. If the court schedules a hearing under this section, 8985
the court promptly shall give notice of the hearing to the 8986
prosecuting attorney of the county in which the offender was 8987
indicted. Upon receipt of the notice from the court, the 8988
prosecuting attorney shall notify pursuant to section 2930.16 of 8989
the Revised Code any victim of the offender or the victim's 8990
representative of the hearing. 8991

(H) If the court schedules a hearing under this section, 8992
at the hearing, the court shall afford the offender and the 8993
offender's attorney an opportunity to present written 8994
information and, if present, oral information relevant to the 8995
offender's early release. The court shall afford a similar 8996
opportunity to the prosecuting attorney, victim or victim's 8997
representative, as defined in section 2930.01 of the Revised 8998
Code, and any other person the court determines is likely to 8999
present additional relevant information. If the court pursuant 9000
to division (G) of this section permits the offender to appear 9001
at the hearing by video conferencing equipment, the offender's 9002
opportunity to present oral information shall be as a part of 9003
the video conferencing. The court shall consider any statement 9004
of a victim made under section 2930.14 or 2930.17 of the Revised 9005
Code, any victim impact statement prepared under section 9006
2947.051 of the Revised Code, and any report and other 9007
documentation submitted by the director under division (D) of 9008
this section. After ruling on whether to grant the offender 9009
early release, the court shall notify the victim in accordance 9010
with sections 2930.03 and 2930.16 of the Revised Code. 9011

(I) If the court grants an offender early release under 9012

this section, it shall order the release of the offender, shall 9013
place the offender under one or more appropriate community 9014
control sanctions, under appropriate conditions, and under the 9015
supervision of the department of probation that serves the 9016
court, and shall reserve the right to reimpose the sentence that 9017
it reduced and from which the offender was released if the 9018
offender violates the sanction. The court shall not make a 9019
release under this section effective prior to the date on which 9020
the offender becomes eligible as described in division (C) of 9021
this section. If the sentence under which the offender is 9022
confined in a state correctional institution and from which the 9023
offender is being released was imposed for a felony of the first 9024
or second degree, the court shall consider ordering that the 9025
offender be monitored by means of a global positioning device. 9026
If the court reimposes the sentence that it reduced and from 9027
which the offender was released and if the violation of the 9028
sanction is a new offense, the court may order that the 9029
reimposed sentence be served either concurrently with, or 9030
consecutive to, any new sentence imposed upon the offender as a 9031
result of the violation that is a new offense. The period of all 9032
community control sanctions imposed under this division shall 9033
not exceed five years. The court, in its discretion, may reduce 9034
the period of community control sanctions by the amount of time 9035
the offender spent in jail or prison for the offense. 9036

If the court grants an offender early release under this 9037
section, it shall notify the appropriate person at the 9038
department of rehabilitation and correction of the release, and 9039
the department shall post notice of the release on the database 9040
it maintains pursuant to section 5120.66 of the Revised Code. 9041

(J) The department shall adopt under Chapter 119. of the 9042
Revised Code any rules necessary to implement this section. 9043

Sec. 2967.193. (A) (1) Except as provided in division (C) 9044
of this section and subject to the maximum aggregate total 9045
specified in division (A) (3) of this section, a person confined 9046
in a state correctional institution or placed in the substance 9047
use disorder treatment program may provisionally earn one day or 9048
five days of credit, based on the category set forth in division 9049
(D) (1), (2), (3), (4), or (5) of this section in which the 9050
person is included, toward satisfaction of the person's stated 9051
prison term, as described in division (F) of this section, for 9052
each completed month during which the person, if confined in a 9053
state correctional institution, productively participates in an 9054
education program, vocational training, employment in prison 9055
industries, treatment for substance abuse, or any other 9056
constructive program developed by the department with specific 9057
standards for performance by prisoners or during which the 9058
person, if placed in the substance use disorder treatment 9059
program, productively participates in the program. Except as 9060
provided in division (C) of this section and subject to the 9061
maximum aggregate total specified in division (A) (3) of this 9062
section, a person so confined in a state correctional 9063
institution who successfully completes two programs or 9064
activities of that type may, in addition, provisionally earn up 9065
to five days of credit toward satisfaction of the person's 9066
stated prison term, as described in division (F) of this 9067
section, for the successful completion of the second program or 9068
activity. The person shall not be awarded any provisional days 9069
of credit for the successful completion of the first program or 9070
activity or for the successful completion of any program or 9071
activity that is completed after the second program or activity. 9072
At the end of each calendar month in which a person productively 9073
participates in a program or activity listed in this division or 9074
successfully completes a program or activity listed in this 9075

division, the department of rehabilitation and correction shall 9076
determine and record the total number of days credit that the 9077
person provisionally earned in that calendar month. If the 9078
person in a state correctional institution violates prison rules 9079
or the person in the substance use disorder treatment program 9080
violates program or department rules, the department may deny 9081
the person a credit that otherwise could have been provisionally 9082
awarded to the person or may withdraw one or more credits 9083
previously provisionally earned by the person. Days of credit 9084
provisionally earned by a person shall be finalized and awarded 9085
by the department subject to administrative review by the 9086
department of the person's conduct. 9087

(2) Unless a person is serving a mandatory prison term or 9088
a prison term for an offense of violence or a sexually oriented 9089
offense, and notwithstanding the maximum aggregate total 9090
specified in division (A) (3) of this section, a person who 9091
successfully completes any of the following shall earn ninety 9092
days of credit toward satisfaction of the person's stated prison 9093
term or a ten per cent reduction of the person's stated prison 9094
term, whichever is less: 9095

(a) An Ohio high school diploma or Ohio certificate of 9096
high school equivalence certified by the Ohio central school 9097
system; 9098

(b) A therapeutic drug community program; 9099

(c) All three phases of the department of rehabilitation 9100
and correction's intensive outpatient drug treatment program; 9101

(d) A career technical vocational school program; 9102

(e) A college certification program; 9103

(f) The criteria for a certificate of achievement and 9104

employability as specified in division (A) (1) of section 2961.22 9105
of the Revised Code. 9106

(3) Except for persons described in division (A) (2) of 9107
this section, the aggregate days of credit provisionally earned 9108
by a person for program or activity participation and program 9109
and activity completion under this section and the aggregate 9110
days of credit finally credited to a person under this section 9111
shall not exceed eight per cent of the total number of days in 9112
the person's stated prison term. 9113

(B) The department of rehabilitation and correction shall 9114
adopt rules that specify the programs or activities for which 9115
credit may be earned under this section, the criteria for 9116
determining productive participation in, or completion of, the 9117
programs or activities and the criteria for awarding credit, 9118
including criteria for awarding additional credit for successful 9119
program or activity completion, and the criteria for denying or 9120
withdrawing previously provisionally earned credit as a result 9121
of a violation of prison rules, or program or department rules, 9122
whichever is applicable. 9123

(C) No person confined in a state correctional institution 9124
or placed in a substance use disorder treatment program to whom 9125
any of the following applies shall be awarded any days of credit 9126
under division (A) of this section: 9127

(1) The person is serving a prison term that section 9128
2929.13 or section 2929.14 of the Revised Code specifies cannot 9129
be reduced pursuant to this section or this chapter or is 9130
serving a sentence for which section 2967.13 or division (B) of 9131
section 2929.143 of the Revised Code specifies that the person 9132
is not entitled to any earned credit under this section. 9133

(2) The person is ~~sentenced to death or is~~ serving a 9134
prison term or a term of life imprisonment for aggravated 9135
murder, murder, or a conspiracy or attempt to commit, or 9136
complicity in committing, aggravated murder or murder. 9137

(3) The person is serving a sentence of life imprisonment 9138
without parole imposed pursuant to section 2929.02 or former 9139
section 2929.03 or 2929.06 of the Revised Code, a prison term or 9140
a term of life imprisonment without parole imposed pursuant to 9141
section 2971.03 of the Revised Code, or a sentence for a 9142
sexually oriented offense that was committed on or after 9143
September 30, 2011. 9144

(D) This division does not apply to a determination of 9145
whether a person confined in a state correctional institution or 9146
placed in a substance use disorder treatment program may earn 9147
any days of credit under division (A) of this section for 9148
successful completion of a second program or activity. The 9149
determination of whether a person confined in a state 9150
correctional institution may earn one day of credit or five days 9151
of credit under division (A) of this section for each completed 9152
month during which the person productively participates in a 9153
program or activity specified under that division shall be made 9154
in accordance with the following: 9155

(1) The offender may earn one day of credit under division 9156
(A) of this section, except as provided in division (C) of this 9157
section, if the most serious offense for which the offender is 9158
confined is any of the following that is a felony of the first 9159
or second degree: 9160

(a) A violation of division (A) of section 2903.04 or of 9161
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 9162
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 9163

2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.15, 2919.151, 9164
2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, 9165
or 2927.24 of the Revised Code; 9166

(b) A conspiracy or attempt to commit, or complicity in 9167
committing, any other offense for which the maximum penalty is 9168
imprisonment for life or any offense listed in division (D) (1) 9169
(a) of this section. 9170

(2) The offender may earn one day of credit under division 9171
(A) of this section, except as provided in division (C) of this 9172
section, if the offender is serving a stated prison term that 9173
includes a prison term imposed for a sexually oriented offense 9174
that the offender committed prior to September 30, 2011. 9175

(3) The offender may earn one day of credit under division 9176
(A) of this section, except as provided in division (C) of this 9177
section, if the offender is serving a stated prison term that 9178
includes a prison term imposed for a felony other than carrying 9179
a concealed weapon an essential element of which is any conduct 9180
or failure to act expressly involving any deadly weapon or 9181
dangerous ordnance. 9182

(4) Except as provided in division (C) of this section, if 9183
the most serious offense for which the offender is confined is a 9184
felony of the first or second degree and divisions (D) (1), (2), 9185
and (3) of this section do not apply to the offender, the 9186
offender may earn one day of credit under division (A) of this 9187
section if the offender committed that offense prior to 9188
September 30, 2011, and the offender may earn five days of 9189
credit under division (A) of this section if the offender 9190
committed that offense on or after September 30, 2011. 9191

(5) Except as provided in division (C) of this section, if 9192

the most serious offense for which the offender is confined is a 9193
felony of the third, fourth, or fifth degree or an unclassified 9194
felony and neither division (D) (2) nor (3) of this section 9195
applies to the offender, the offender may earn one day of credit 9196
under division (A) of this section if the offender committed 9197
that offense prior to September 30, 2011, and the offender may 9198
earn five days of credit under division (A) of this section if 9199
the offender committed that offense on or after September 30, 9200
2011. 9201

(E) The department annually shall seek and consider the 9202
written feedback of the Ohio prosecuting attorneys association, 9203
the Ohio judicial conference, the Ohio public defender, the Ohio 9204
association of criminal defense lawyers, and other organizations 9205
and associations that have an interest in the operation of the 9206
corrections system and the earned credits program under this 9207
section as part of its evaluation of the program and in 9208
determining whether to modify the program. 9209

(F) Days of credit awarded under this section shall be 9210
applied toward satisfaction of a person's stated prison term as 9211
follows: 9212

(1) Toward the definite prison term of a prisoner serving 9213
a definite prison term as a stated prison term; 9214

(2) Toward the minimum and maximum terms of a prisoner 9215
serving an indefinite prison term imposed under division (A) (1) 9216
(a) or (2) (a) of section 2929.14 of the Revised Code for a 9217
felony of the first or second degree committed on or after ~~the~~ 9218
~~effective date of this amendment~~ March 22, 2019. 9219

(G) As used in this section: 9220

(1) "Sexually oriented offense" has the same meaning as in 9221

section 2950.01 of the Revised Code. 9222

(2) "Substance use disorder treatment program" means the 9223
substance use disorder treatment program established by the 9224
department of rehabilitation and correction under section 9225
5120.035 of the Revised Code. 9226

Sec. 2967.26. (A) (1) The department of rehabilitation and 9227
correction, by rule, may establish a transitional control 9228
program for the purpose of closely monitoring a prisoner's 9229
adjustment to community supervision during the final one hundred 9230
eighty days of the prisoner's confinement. If the department 9231
establishes a transitional control program under this division, 9232
the division of parole and community services of the department 9233
of rehabilitation and correction may transfer eligible prisoners 9234
to transitional control status under the program during the 9235
final one hundred eighty days of their confinement and under the 9236
terms and conditions established by the department, shall 9237
provide for the confinement as provided in this division of each 9238
eligible prisoner so transferred, and shall supervise each 9239
eligible prisoner so transferred in one or more community 9240
control sanctions. Each eligible prisoner who is transferred to 9241
transitional control status under the program shall be confined 9242
in a suitable facility that is licensed pursuant to division (C) 9243
of section 2967.14 of the Revised Code, or shall be confined in 9244
a residence the department has approved for this purpose and be 9245
monitored pursuant to an electronic monitoring device, as 9246
defined in section 2929.01 of the Revised Code. If the 9247
department establishes a transitional control program under this 9248
division, the rules establishing the program shall include 9249
criteria that define which prisoners are eligible for the 9250
program, criteria that must be satisfied to be approved as a 9251
residence that may be used for confinement under the program of 9252

a prisoner that is transferred to it and procedures for the 9253
department to approve residences that satisfy those criteria, 9254
and provisions of the type described in division (C) of this 9255
section. At a minimum, the criteria that define which prisoners 9256
are eligible for the program shall provide all of the following: 9257

(a) That a prisoner is eligible for the program if the 9258
prisoner is serving a prison term or term of imprisonment for an 9259
offense committed prior to March 17, 1998, and if, at the time 9260
at which eligibility is being determined, the prisoner would 9261
have been eligible for a furlough under this section as it 9262
existed immediately prior to March 17, 1998, or would have been 9263
eligible for conditional release under former section 2967.23 of 9264
the Revised Code as that section existed immediately prior to 9265
March 17, 1998; 9266

(b) That no prisoner who is serving a mandatory prison 9267
term is eligible for the program until after expiration of the 9268
mandatory term; 9269

(c) That no prisoner who is serving a prison term or term 9270
of life imprisonment without parole imposed pursuant to section 9271
2971.03 of the Revised Code is eligible for the program. 9272

(2) At least sixty days prior to transferring to 9273
transitional control under this section a prisoner who is 9274
serving a definite term of imprisonment or definite prison term 9275
of two years or less for an offense committed on or after July 9276
1, 1996, or who is serving a minimum term of two years or less 9277
under a non-life felony indefinite prison term, the division of 9278
parole and community services of the department of 9279
rehabilitation and correction shall give notice of the pendency 9280
of the transfer to transitional control to the court of common 9281
pleas of the county in which the indictment against the prisoner 9282

was found and of the fact that the court may disapprove the 9283
transfer of the prisoner to transitional control and shall 9284
include the institutional summary report prepared by the head of 9285
the state correctional institution in which the prisoner is 9286
confined. The head of the state correctional institution in 9287
which the prisoner is confined, upon the request of the division 9288
of parole and community services, shall provide to the division 9289
for inclusion in the notice sent to the court under this 9290
division an institutional summary report on the prisoner's 9291
conduct in the institution and in any institution from which the 9292
prisoner may have been transferred. The institutional summary 9293
report shall cover the prisoner's participation in school, 9294
vocational training, work, treatment, and other rehabilitative 9295
activities and any disciplinary action taken against the 9296
prisoner. If the court disapproves of the transfer of the 9297
prisoner to transitional control, the court shall notify the 9298
division of the disapproval within thirty days after receipt of 9299
the notice. If the court timely disapproves the transfer of the 9300
prisoner to transitional control, the division shall not proceed 9301
with the transfer. If the court does not timely disapprove the 9302
transfer of the prisoner to transitional control, the division 9303
may transfer the prisoner to transitional control. 9304

(3) (a) If the victim of an offense for which a prisoner 9305
was sentenced to a prison term or term of imprisonment has 9306
requested notification under section 2930.16 of the Revised Code 9307
and has provided the department of rehabilitation and correction 9308
with the victim's name and address or if division (A) (3) (b) of 9309
this section applies, the division of parole and community 9310
services, at least sixty days prior to transferring the prisoner 9311
to transitional control pursuant to this section, shall notify 9312
the victim of the pendency of the transfer and of the victim's 9313

right to submit a statement to the division regarding the impact 9314
of the transfer of the prisoner to transitional control. If the 9315
victim subsequently submits a statement of that nature to the 9316
division, the division shall consider the statement in deciding 9317
whether to transfer the prisoner to transitional control. 9318

(b) If a prisoner is incarcerated for the commission of 9319
aggravated murder, murder, or an offense of violence that is a 9320
felony of the first, second, or third degree or under a sentence 9321
of life imprisonment, except as otherwise provided in this 9322
division, the notice described in division (A) (3) (a) of this 9323
section shall be given regardless of whether the victim has 9324
requested the notification. The notice described in division (A) 9325
(3) (a) of this section shall not be given under this division to 9326
a victim if the victim has requested pursuant to division (B) (2) 9327
of section 2930.03 of the Revised Code that the victim not be 9328
provided the notice. If notice is to be provided to a victim 9329
under this division, the authority may give the notice by any 9330
reasonable means, including regular mail, telephone, and 9331
electronic mail, in accordance with division (D) (1) of section 9332
2930.16 of the Revised Code. If the notice is based on an 9333
offense committed prior to March 22, 2013, the notice also shall 9334
include the opt-out information described in division (D) (1) of 9335
section 2930.16 of the Revised Code. The authority, in 9336
accordance with division (D) (2) of section 2930.16 of the 9337
Revised Code, shall keep a record of all attempts to provide the 9338
notice, and of all notices provided, under this division. 9339

Division (A) (3) (b) of this section, and the notice-related 9340
provisions of divisions (E) (2) and (K) of section 2929.20, 9341
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 9342
2967.12, division (E) (1) (b) of section 2967.19, division (D) (1) 9343
of section 2967.28, and division (A) (2) of section 5149.101 of 9344

the Revised Code enacted in the act in which division (A) (3) (b) 9345
of this section was enacted, shall be known as "Roberta's Law." 9346

(4) The department of rehabilitation and correction, at 9347
least sixty days prior to transferring a prisoner to 9348
transitional control pursuant to this section, shall post on the 9349
database it maintains pursuant to section 5120.66 of the Revised 9350
Code the prisoner's name and all of the information specified in 9351
division (A) (1) (c) (iv) of that section. In addition to and 9352
independent of the right of a victim to submit a statement as 9353
described in division (A) (3) of this section or to otherwise 9354
make a statement and in addition to and independent of any other 9355
right or duty of a person to present information or make a 9356
statement, any person may send to the division of parole and 9357
community services at any time prior to the division's transfer 9358
of the prisoner to transitional control a written statement 9359
regarding the transfer of the prisoner to transitional control. 9360
In addition to the information, reports, and statements it 9361
considers under divisions (A) (2) and (3) of this section or that 9362
it otherwise considers, the division shall consider each 9363
statement submitted in accordance with this division in deciding 9364
whether to transfer the prisoner to transitional control. 9365

(B) Each prisoner transferred to transitional control 9366
under this section shall be confined in the manner described in 9367
division (A) of this section during any period of time that the 9368
prisoner is not actually working at the prisoner's approved 9369
employment, engaged in a vocational training or another 9370
educational program, engaged in another program designated by 9371
the director, or engaged in other activities approved by the 9372
department. 9373

(C) The department of rehabilitation and correction shall 9374

adopt rules for transferring eligible prisoners to transitional control, supervising and confining prisoners so transferred, administering the transitional control program in accordance with this section, and using the moneys deposited into the transitional control fund established under division (E) of this section.

(D) The department of rehabilitation and correction may adopt rules for the issuance of passes for the limited purposes described in this division to prisoners who are transferred to transitional control under this section. If the department adopts rules of that nature, the rules shall govern the granting of the passes and shall provide for the supervision of prisoners who are temporarily released pursuant to one of those passes. Upon the adoption of rules under this division, the department may issue passes to prisoners who are transferred to transitional control status under this section in accordance with the rules and the provisions of this division. All passes issued under this division shall be for a maximum of forty-eight hours and may be issued only for the following purposes:

- (1) To visit a relative in imminent danger of death;
- (2) To have a private viewing of the body of a deceased relative;
- (3) To visit with family;
- (4) To otherwise aid in the rehabilitation of the prisoner.

(E) The division of parole and community services may require a prisoner who is transferred to transitional control to pay to the division the reasonable expenses incurred by the division in supervising or confining the prisoner while under

transitional control. Inability to pay those reasonable expenses 9404
shall not be grounds for refusing to transfer an otherwise 9405
eligible prisoner to transitional control. Amounts received by 9406
the division of parole and community services under this 9407
division shall be deposited into the transitional control fund, 9408
which is hereby created in the state treasury and which hereby 9409
replaces and succeeds the furlough services fund that formerly 9410
existed in the state treasury. All moneys that remain in the 9411
furlough services fund on March 17, 1998, shall be transferred 9412
on that date to the transitional control fund. The transitional 9413
control fund shall be used solely to pay costs related to the 9414
operation of the transitional control program established under 9415
this section. The director of rehabilitation and correction 9416
shall adopt rules in accordance with section 111.15 of the 9417
Revised Code for the use of the fund. 9418

(F) A prisoner who violates any rule established by the 9419
department of rehabilitation and correction under division (A), 9420
(C), or (D) of this section may be transferred to a state 9421
correctional institution pursuant to rules adopted under 9422
division (A), (C), or (D) of this section, but the prisoner 9423
shall receive credit towards completing the prisoner's sentence 9424
for the time spent under transitional control. 9425

If a prisoner is transferred to transitional control under 9426
this section, upon successful completion of the period of 9427
transitional control, the prisoner may be released on parole or 9428
under post-release control pursuant to section 2967.13 or 9429
2967.28 of the Revised Code and rules adopted by the department 9430
of rehabilitation and correction. If the prisoner is released 9431
under post-release control, the duration of the post-release 9432
control, the type of post-release control sanctions that may be 9433
imposed, the enforcement of the sanctions, and the treatment of 9434

prisoners who violate any sanction applicable to the prisoner 9435
are governed by section 2967.28 of the Revised Code. 9436

Sec. 2967.28. (A) As used in this section: 9437

(1) "Monitored time" means the monitored time sanction 9438
specified in section 2929.17 of the Revised Code. 9439

(2) "Deadly weapon" and "dangerous ordnance" have the same 9440
meanings as in section 2923.11 of the Revised Code. 9441

(3) "Felony sex offense" means a violation of a section 9442
contained in Chapter 2907. of the Revised Code that is a felony. 9443

(4) "Risk reduction sentence" means a prison term imposed 9444
by a court, when the court recommends pursuant to section 9445
2929.143 of the Revised Code that the offender serve the 9446
sentence under section 5120.036 of the Revised Code, and the 9447
offender may potentially be released from imprisonment prior to 9448
the expiration of the prison term if the offender successfully 9449
completes all assessment and treatment or programming required 9450
by the department of rehabilitation and correction under section 9451
5120.036 of the Revised Code. 9452

(5) "Victim's immediate family" has the same meaning as in 9453
section 2967.12 of the Revised Code. 9454

(6) "Minor drug possession offense" has the same meaning 9455
as in section 2925.11 of the Revised Code. 9456

(B) Each sentence to a prison term, other than a term of 9457
life imprisonment, for a felony of the first degree, for a 9458
felony of the second degree, for a felony sex offense, or for a 9459
felony of the third degree that is an offense of violence and is 9460
not a felony sex offense shall include a requirement that the 9461
offender be subject to a period of post-release control imposed 9462

by the parole board after the offender's release from 9463
imprisonment. This division applies with respect to all prison 9464
terms of a type described in this division, including a term of 9465
any such type that is a risk reduction sentence. If a court 9466
imposes a sentence including a prison term of a type described 9467
in this division on or after July 11, 2006, the failure of a 9468
sentencing court to notify the offender pursuant to division (B) 9469
(2) (d) of section 2929.19 of the Revised Code of this 9470
requirement or to include in the judgment of conviction entered 9471
on the journal a statement that the offender's sentence includes 9472
this requirement does not negate, limit, or otherwise affect the 9473
mandatory period of supervision that is required for the 9474
offender under this division. This division applies with respect 9475
to all prison terms of a type described in this division, 9476
including a non-life felony indefinite prison term. Section 9477
2929.191 of the Revised Code applies if, prior to July 11, 2006, 9478
a court imposed a sentence including a prison term of a type 9479
described in this division and failed to notify the offender 9480
pursuant to division (B) (2) (d) of section 2929.19 of the Revised 9481
Code regarding post-release control or to include in the 9482
judgment of conviction entered on the journal or in the sentence 9483
pursuant to division (D) (1) of section 2929.14 of the Revised 9484
Code a statement regarding post-release control. Unless reduced 9485
by the parole board pursuant to division (D) of this section 9486
when authorized under that division, a period of post-release 9487
control required by this division for an offender shall be of 9488
one of the following periods: 9489

(1) For a felony of the first degree or for a felony sex 9490
offense, five years; 9491

(2) For a felony of the second degree that is not a felony 9492
sex offense, three years; 9493

(3) For a felony of the third degree that is an offense of violence and is not a felony sex offense, three years.

(C) Any sentence to a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (B) (1) or (3) of this section shall include a requirement that the offender be subject to a period of post-release control of up to three years after the offender's release from imprisonment, if the parole board, in accordance with division (D) of this section, determines that a period of post-release control is necessary for that offender. This division applies with respect to all prison terms of a type described in this division, including a term of any such type that is a risk reduction sentence. 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 in this division and failed to notify the offender pursuant to division (B) (2) (e) of section 2929.19 of the Revised Code regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence pursuant to division (D) (2) of section 2929.14 of the Revised Code a statement regarding post-release control. Pursuant to an agreement entered into under section 2967.29 of the Revised Code, a court of common pleas or parole board may impose sanctions or conditions on an offender who is placed on post-release control under this division.

(D) (1) Before the prisoner is released from imprisonment, the parole board or, pursuant to an agreement under section 2967.29 of the Revised Code, the court shall impose upon a prisoner described in division (B) of this section, shall impose upon a prisoner described in division (C) of this section who is to be released before the expiration of the prisoner's stated prison term under a risk reduction sentence, may impose upon a

prisoner described in division (C) of this section who is not to 9525
be released before the expiration of the prisoner's stated 9526
prison term under a risk reduction sentence, and shall impose 9527
upon a prisoner described in division (B) (2) (b) of section 9528
5120.031 or in division (B) (1) of section 5120.032 of the 9529
Revised Code, one or more post-release control sanctions to 9530
apply during the prisoner's period of post-release control. 9531
Whenever the board or court imposes one or more post-release 9532
control sanctions upon a prisoner, the board or court, in 9533
addition to imposing the sanctions, also shall include as a 9534
condition of the post-release control that the offender not 9535
leave the state without permission of the court or the 9536
offender's parole or probation officer and that the offender 9537
abide by the law. The board or court may impose any other 9538
conditions of release under a post-release control sanction that 9539
the board or court considers appropriate, and the conditions of 9540
release may include any community residential sanction, 9541
community nonresidential sanction, or financial sanction that 9542
the sentencing court was authorized to impose pursuant to 9543
sections 2929.16, 2929.17, and 2929.18 of the Revised Code. 9544
Prior to the release of a prisoner for whom it will impose one 9545
or more post-release control sanctions under this division, the 9546
parole board or court shall review the prisoner's criminal 9547
history, results from the single validated risk assessment tool 9548
selected by the department of rehabilitation and correction 9549
under section 5120.114 of the Revised Code, all juvenile court 9550
adjudications finding the prisoner, while a juvenile, to be a 9551
delinquent child, and the record of the prisoner's conduct while 9552
imprisoned. The parole board or court shall consider any 9553
recommendation regarding post-release control sanctions for the 9554
prisoner made by the office of victims' services. After 9555
considering those materials, the board or court shall determine, 9556

for a prisoner described in division (B) of this section, 9557
division (B) (2) (b) of section 5120.031, or division (B) (1) of 9558
section 5120.032 of the Revised Code and for a prisoner 9559
described in division (C) of this section who is to be released 9560
before the expiration of the prisoner's stated prison term under 9561
a risk reduction sentence, which post-release control sanction 9562
or combination of post-release control sanctions is reasonable 9563
under the circumstances or, for a prisoner described in division 9564
(C) of this section who is not to be released before the 9565
expiration of the prisoner's stated prison term under a risk 9566
reduction sentence, whether a post-release control sanction is 9567
necessary and, if so, which post-release control sanction or 9568
combination of post-release control sanctions is reasonable 9569
under the circumstances. In the case of a prisoner convicted of 9570
a felony of the fourth or fifth degree other than a felony sex 9571
offense, the board or court shall presume that monitored time is 9572
the appropriate post-release control sanction unless the board 9573
or court determines that a more restrictive sanction is 9574
warranted. A post-release control sanction imposed under this 9575
division takes effect upon the prisoner's release from 9576
imprisonment. 9577

Regardless of whether the prisoner was sentenced to the 9578
prison term prior to, on, or after July 11, 2006, prior to the 9579
release of a prisoner for whom it will impose one or more post- 9580
release control sanctions under this division, the parole board 9581
shall notify the prisoner that, if the prisoner violates any 9582
sanction so imposed or any condition of post-release control 9583
described in division (B) of section 2967.131 of the Revised 9584
Code that is imposed on the prisoner, the parole board may 9585
impose a prison term of up to one-half of the stated prison term 9586
originally imposed upon the prisoner. 9587

At least thirty days before the prisoner is released from 9588
imprisonment under post-release control, except as otherwise 9589
provided in this paragraph, the department of rehabilitation and 9590
correction shall notify the victim and the victim's immediate 9591
family of the date on which the prisoner will be released, the 9592
period for which the prisoner will be under post-release control 9593
supervision, and the terms and conditions of the prisoner's 9594
post-release control regardless of whether the victim or 9595
victim's immediate family has requested the notification. The 9596
notice described in this paragraph shall not be given to a 9597
victim or victim's immediate family if the victim or the 9598
victim's immediate family has requested pursuant to division (B) 9599
(2) of section 2930.03 of the Revised Code that the notice not 9600
be provided to the victim or the victim's immediate family. At 9601
least thirty days before the prisoner is released from 9602
imprisonment and regardless of whether the victim or victim's 9603
immediate family has requested that the notice described in this 9604
paragraph be provided or not be provided to the victim or the 9605
victim's immediate family, the department also shall provide 9606
notice of that nature to the prosecuting attorney in the case 9607
and the law enforcement agency that arrested the prisoner if any 9608
officer of that agency was a victim of the offense. 9609

If the notice given under the preceding paragraph to the 9610
victim or the victim's immediate family is based on an offense 9611
committed prior to March 22, 2013, and if the department of 9612
rehabilitation and correction has not previously successfully 9613
provided any notice to the victim or the victim's immediate 9614
family under division (B), (C), or (D) of section 2930.16 of the 9615
Revised Code with respect to that offense and the offender who 9616
committed it, the notice also shall inform the victim or the 9617
victim's immediate family that the victim or the victim's 9618

immediate family may request that the victim or the victim's 9619
immediate family not be provided any further notices with 9620
respect to that offense and the offender who committed it and 9621
shall describe the procedure for making that request. The 9622
department may give the notices to which the preceding paragraph 9623
applies by any reasonable means, including regular mail, 9624
telephone, and electronic mail. If the department attempts to 9625
provide notice to any specified person under the preceding 9626
paragraph but the attempt is unsuccessful because the department 9627
is unable to locate the specified person, is unable to provide 9628
the notice by its chosen method because it cannot determine the 9629
mailing address, electronic mail address, or telephone number at 9630
which to provide the notice, or, if the notice is sent by mail, 9631
the notice is returned, the department shall make another 9632
attempt to provide the notice to the specified person. If the 9633
second attempt is unsuccessful, the department shall make at 9634
least one more attempt to provide the notice. If the notice is 9635
based on an offense committed prior to March 22, 2013, in each 9636
attempt to provide the notice to the victim or victim's 9637
immediate family, the notice shall include the opt-out 9638
information described in this paragraph. The department, in the 9639
manner described in division (D) (2) of section 2930.16 of the 9640
Revised Code, shall keep a record of all attempts to provide the 9641
notice, and of all notices provided, under this paragraph and 9642
the preceding paragraph. The record shall be considered as if it 9643
was kept under division (D) (2) of section 2930.16 of the Revised 9644
Code. This paragraph, the preceding paragraph, and the notice- 9645
related provisions of divisions (E) (2) and (K) of section 9646
2929.20, division (D) (1) of section 2930.16, division ~~(H)~~ (G) of 9647
section 2967.12, division (E) (1) (b) of section 2967.19, division 9648
(A) (3) (b) of section 2967.26, and division (A) (2) of section 9649
5149.101 of the Revised Code enacted in the act in which this 9650

paragraph and the preceding paragraph were enacted, shall be 9651
known as "Roberta's Law." 9652

(2) If a prisoner who is placed on post-release control 9653
under this section is released before the expiration of the 9654
definite term that is the prisoner's stated prison term or the 9655
expiration of the minimum term that is part of the prisoner's 9656
indefinite prison term imposed under a non-life felony 9657
indefinite prison term by reason of credit earned under section 9658
2967.193 or a reduction under division (F) of section 2967.271 9659
of the Revised Code and if the prisoner earned sixty or more 9660
days of credit, the adult parole authority shall supervise the 9661
offender with an active global positioning system device for the 9662
first fourteen days after the offender's release from 9663
imprisonment. This division does not prohibit or limit the 9664
imposition of any post-release control sanction otherwise 9665
authorized by this section. 9666

(3) At any time after a prisoner is released from 9667
imprisonment and during the period of post-release control 9668
applicable to the releasee, the adult parole authority or, 9669
pursuant to an agreement under section 2967.29 of the Revised 9670
Code, the court may review the releasee's behavior under the 9671
post-release control sanctions imposed upon the releasee under 9672
this section. The authority or court may determine, based upon 9673
the review and in accordance with the standards established 9674
under division (E) of this section, that a more restrictive or a 9675
less restrictive sanction is appropriate and may impose a 9676
different sanction. The authority also may recommend that the 9677
parole board or court increase or reduce the duration of the 9678
period of post-release control imposed by the court. If the 9679
authority recommends that the board or court increase the 9680
duration of post-release control, the board or court shall 9681

review the releasee's behavior and may increase the duration of 9682
the period of post-release control imposed by the court up to 9683
eight years. If the authority recommends that the board or court 9684
reduce the duration of control for an offense described in 9685
division (B) or (C) of this section, the board or court shall 9686
review the releasee's behavior and, subject to divisions (D) (3) 9687
(a) to (c) of this section, may reduce the duration of the 9688
period of control imposed by the court or, if the period of 9689
control was imposed for a non-life felony indefinite prison 9690
term, reduce the duration of or terminate the period of control 9691
imposed by the court. In no case shall the board or court do any 9692
of the following: 9693

(a) Reduce the duration of the period of control imposed 9694
for an offense described in division (B) (1) of this section to a 9695
period less than the length of the definite prison term included 9696
in the stated prison term originally imposed on the offender as 9697
part of the sentence or, with respect to a stated non-life 9698
felony indefinite prison term, to a period less than the length 9699
of the minimum prison term imposed as part of that stated prison 9700
term; 9701

(b) Consider any reduction or termination of the duration 9702
of the period of control imposed on a releasee prior to the 9703
expiration of one year after the commencement of the period of 9704
control, if the period of control was imposed for a non-life 9705
felony indefinite prison term and the releasee's minimum prison 9706
term or presumptive earned early release date under that term 9707
was extended for any length of time under division (C) or (D) of 9708
section 2967.271 of the Revised Code. 9709

(c) Permit the releasee to leave the state without 9710
permission of the court or the releasee's parole or probation 9711

officer. 9712

(4) The department of rehabilitation and correction shall 9713
develop factors that the parole board or court shall consider in 9714
determining under division (D) (3) of this section whether to 9715
terminate the period of control imposed on a releasee for a non- 9716
life felony indefinite prison term. 9717

(E) The department of rehabilitation and correction, in 9718
accordance with Chapter 119. of the Revised Code, shall adopt 9719
rules that do all of the following: 9720

(1) Establish standards for the imposition by the parole 9721
board of post-release control sanctions under this section that 9722
are consistent with the overriding purposes and sentencing 9723
principles set forth in section 2929.11 of the Revised Code and 9724
that are appropriate to the needs of releasees; 9725

(2) Establish standards that provide for a period of post- 9726
release control of up to three years for all prisoners described 9727
in division (C) of this section who are to be released before 9728
the expiration of their stated prison term under a risk 9729
reduction sentence and standards by which the parole board can 9730
determine which prisoners described in division (C) of this 9731
section who are not to be released before the expiration of 9732
their stated prison term under a risk reduction sentence should 9733
be placed under a period of post-release control; 9734

(3) Establish standards to be used by the parole board in 9735
reducing the duration of the period of post-release control 9736
imposed by the court when authorized under division (D) of this 9737
section, in imposing a more restrictive post-release control 9738
sanction than monitored time upon a prisoner convicted of a 9739
felony of the fourth or fifth degree other than a felony sex 9740

offense, or in imposing a less restrictive control sanction upon 9741
a releasee based on the releasee's activities including, but not 9742
limited to, remaining free from criminal activity and from the 9743
abuse of alcohol or other drugs, successfully participating in 9744
approved rehabilitation programs, maintaining employment, and 9745
paying restitution to the victim or meeting the terms of other 9746
financial sanctions; 9747

(4) Establish standards to be used by the adult parole 9748
authority in modifying a releasee's post-release control 9749
sanctions pursuant to division (D) (2) of this section; 9750

(5) Establish standards to be used by the adult parole 9751
authority or parole board in imposing further sanctions under 9752
division (F) of this section on releasees who violate post- 9753
release control sanctions, including standards that do the 9754
following: 9755

(a) Classify violations according to the degree of 9756
seriousness; 9757

(b) Define the circumstances under which formal action by 9758
the parole board is warranted; 9759

(c) Govern the use of evidence at violation hearings; 9760

(d) Ensure procedural due process to an alleged violator; 9761

(e) Prescribe nonresidential community control sanctions 9762
for most misdemeanor and technical violations; 9763

(f) Provide procedures for the return of a releasee to 9764
imprisonment for violations of post-release control. 9765

(F) (1) Whenever the parole board imposes one or more post- 9766
release control sanctions upon an offender under this section, 9767
the offender upon release from imprisonment shall be under the 9768

general jurisdiction of the adult parole authority and generally 9769
shall be supervised by the field services section through its 9770
staff of parole and field officers as described in section 9771
5149.04 of the Revised Code, as if the offender had been placed 9772
on parole. If the offender upon release from imprisonment 9773
violates the post-release control sanction or any conditions 9774
described in division (A) of section 2967.131 of the Revised 9775
Code that are imposed on the offender, the public or private 9776
person or entity that operates or administers the sanction or 9777
the program or activity that comprises the sanction shall report 9778
the violation directly to the adult parole authority or to the 9779
officer of the authority who supervises the offender. The 9780
authority's officers may treat the offender as if the offender 9781
were on parole and in violation of the parole, and otherwise 9782
shall comply with this section. 9783

(2) If the adult parole authority or, pursuant to an 9784
agreement under section 2967.29 of the Revised Code, the court 9785
determines that a releasee has violated a post-release control 9786
sanction or any conditions described in division (A) of section 9787
2967.131 of the Revised Code imposed upon the releasee and that 9788
a more restrictive sanction is appropriate, the authority or 9789
court may impose a more restrictive sanction upon the releasee, 9790
in accordance with the standards established under division (E) 9791
of this section or in accordance with the agreement made under 9792
section 2967.29 of the Revised Code, or may report the violation 9793
to the parole board for a hearing pursuant to division (F) (3) of 9794
this section. The authority or court may not, pursuant to this 9795
division, increase the duration of the releasee's post-release 9796
control or impose as a post-release control sanction a 9797
residential sanction that includes a prison term, but the 9798
authority or court may impose on the releasee any other 9799

residential sanction, nonresidential sanction, or financial 9800
sanction that the sentencing court was authorized to impose 9801
pursuant to sections 2929.16, 2929.17, and 2929.18 of the 9802
Revised Code. 9803

(3) The parole board or, pursuant to an agreement under 9804
section 2967.29 of the Revised Code, the court may hold a 9805
hearing on any alleged violation by a releasee of a post-release 9806
control sanction or any conditions described in division (A) of 9807
section 2967.131 of the Revised Code that are imposed upon the 9808
releasee. If after the hearing the board or court finds that the 9809
releasee violated the sanction or condition, the board or court 9810
may increase the duration of the releasee's post-release control 9811
up to the maximum duration authorized by division (B) or (C) of 9812
this section or impose a more restrictive post-release control 9813
sanction. If a releasee was acting pursuant to division (B)(2) 9814
(b) of section 2925.11 of the Revised Code and in so doing 9815
violated the conditions of a post-release control sanction based 9816
on a minor drug possession offense as defined in that section, 9817
the board or the court may consider the releasee's conduct in 9818
seeking or obtaining medical assistance for another in good 9819
faith or for self or may consider the releasee being the subject 9820
of another person seeking or obtaining medical assistance in 9821
accordance with that division as a mitigating factor before 9822
imposing any of the penalties described in this division. When 9823
appropriate, the board or court may impose as a post-release 9824
control sanction a residential sanction that includes a prison 9825
term. The board or court shall consider a prison term as a post- 9826
release control sanction imposed for a violation of post-release 9827
control when the violation involves a deadly weapon or dangerous 9828
ordnance, physical harm or attempted serious physical harm to a 9829
person, or sexual misconduct. Unless a releasee's stated prison 9830

term was reduced pursuant to section 5120.032 of the Revised Code, the period of a prison term that is imposed as a post-release control sanction under this division shall not exceed nine months, and the maximum cumulative prison term for all violations under this division shall not exceed one-half of the definite prison term that was the stated prison term originally imposed upon the offender as part of this sentence or, with respect to a stated non-life felony indefinite prison term, one-half of the minimum prison term that was imposed as part of that stated prison term originally imposed upon the offender. If a releasee's stated prison term was reduced pursuant to section 5120.032 of the Revised Code, the period of a prison term that is imposed as a post-release control sanction under this division and the maximum cumulative prison term for all violations under this division shall not exceed the period of time not served in prison under the sentence imposed by the court. The period of a prison term that is imposed as a post-release control sanction under this division shall not count as, or be credited toward, the remaining period of post-release control.

If an offender is imprisoned for a felony committed while under post-release control supervision and is again released on post-release control for a period of time determined by division (F) (4) (d) of this section, the maximum cumulative prison term for all violations under this division shall not exceed one-half of the total stated prison terms of the earlier felony, reduced by any prison term administratively imposed by the parole board or court, plus one-half of the total stated prison term of the new felony.

(4) Any period of post-release control shall commence upon an offender's actual release from prison. If an offender is

9862 serving an indefinite prison term or a life sentence in addition
9863 to a stated prison term, the offender shall serve the period of
9864 post-release control in the following manner:

9865 (a) If a period of post-release control is imposed upon
9866 the offender and if the offender also is subject to a period of
9867 parole under a life sentence or an indefinite sentence, and if
9868 the period of post-release control ends prior to the period of
9869 parole, the offender shall be supervised on parole. The offender
9870 shall receive credit for post-release control supervision during
9871 the period of parole. The offender is not eligible for final
9872 release under section 2967.16 of the Revised Code until the
9873 post-release control period otherwise would have ended.

9874 (b) If a period of post-release control is imposed upon
9875 the offender and if the offender also is subject to a period of
9876 parole under an indefinite sentence, and if the period of parole
9877 ends prior to the period of post-release control, the offender
9878 shall be supervised on post-release control. The requirements of
9879 parole supervision shall be satisfied during the post-release
9880 control period.

9881 (c) If an offender is subject to more than one period of
9882 post-release control, the period of post-release control for all
9883 of the sentences shall be the period of post-release control
9884 that expires last, as determined by the parole board or court.
9885 Periods of post-release control shall be served concurrently and
9886 shall not be imposed consecutively to each other.

9887 (d) The period of post-release control for a releasee who
9888 commits a felony while under post-release control for an earlier
9889 felony shall be the longer of the period of post-release control
9890 specified for the new felony under division (B) or (C) of this
9891 section or the time remaining under the period of post-release

control imposed for the earlier felony as determined by the 9892
parole board or court. 9893

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 9894
section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 9895
another section of the Revised Code, other than divisions (B) 9896
and (C) of section 2929.14 of the Revised Code, that authorizes 9897
or requires a specified prison term or a mandatory prison term 9898
for a person who is convicted of or pleads guilty to a felony or 9899
that specifies the manner and place of service of a prison term 9900
or term of imprisonment, the court shall impose a sentence upon 9901
a person who is convicted of or pleads guilty to a violent sex 9902
offense and who also is convicted of or pleads guilty to a 9903
sexually violent predator specification that was included in the 9904
indictment, count in the indictment, or information charging 9905
that offense, and upon a person who is convicted of or pleads 9906
guilty to a designated homicide, assault, or kidnapping offense 9907
and also is convicted of or pleads guilty to both a sexual 9908
motivation specification and a sexually violent predator 9909
specification that were included in the indictment, count in the 9910
indictment, or information charging that offense, as follows: 9911

(1) If the offense for which the sentence is being imposed 9912
is aggravated murder ~~and if the court does not impose upon the~~ 9913
~~offender a sentence of death,~~ it shall impose upon the offender 9914
a term of life imprisonment without parole. ~~If the court~~ 9915
~~sentences the offender to death and the sentence of death is~~ 9916
~~vacated, overturned, or otherwise set aside, the court shall~~ 9917
~~impose upon the offender a term of life imprisonment without~~ 9918
~~parole.~~ 9919

(2) If the offense for which the sentence is being imposed 9920
is murder; or if the offense is rape committed in violation of 9921

division (A) (1) (b) of section 2907.02 of the Revised Code when 9922
the offender purposely compelled the victim to submit by force 9923
or threat of force, when the victim was less than ten years of 9924
age, when the offender previously has been convicted of or 9925
pleaded guilty to either rape committed in violation of that 9926
division or a violation of an existing or former law of this 9927
state, another state, or the United States that is substantially 9928
similar to division (A) (1) (b) of section 2907.02 of the Revised 9929
Code, or when the offender during or immediately after the 9930
commission of the rape caused serious physical harm to the 9931
victim; or if the offense is an offense other than aggravated 9932
murder or murder for which a term of life imprisonment may be 9933
imposed, it shall impose upon the offender a term of life 9934
imprisonment without parole. 9935

(3) (a) Except as otherwise provided in division (A) (3) (b), 9936
(c), (d), or (e) or (A) (4) of this section, if the offense for 9937
which the sentence is being imposed is an offense other than 9938
aggravated murder, murder, or rape and other than an offense for 9939
which a term of life imprisonment may be imposed, it shall 9940
impose an indefinite prison term consisting of a minimum term 9941
fixed by the court as described in this division, but not less 9942
than two years, and a maximum term of life imprisonment. Except 9943
as otherwise specified in this division, the minimum term shall 9944
be fixed by the court from among the range of terms available as 9945
a definite term for the offense. If the offense is a felony of 9946
the first or second degree committed on or after ~~the effective~~ 9947
~~date of this amendment~~ March 22, 2019, the minimum term shall be 9948
fixed by the court from among the range of terms available as a 9949
minimum term for the offense under division (A) (1) (a) or (2) (a) 9950
of that section. 9951

(b) Except as otherwise provided in division (A) (4) of 9952

this section, if the offense for which the sentence is being 9953
imposed is kidnapping that is a felony of the first degree, it 9954
shall impose an indefinite prison term as follows: 9955

(i) If the kidnapping is committed on or after January 1, 9956
2008, and the victim of the offense is less than thirteen years 9957
of age, except as otherwise provided in this division, it shall 9958
impose an indefinite prison term consisting of a minimum term of 9959
fifteen years and a maximum term of life imprisonment. If the 9960
kidnapping is committed on or after January 1, 2008, the victim 9961
of the offense is less than thirteen years of age, and the 9962
offender released the victim in a safe place unharmed, it shall 9963
impose an indefinite prison term consisting of a minimum term of 9964
ten years and a maximum term of life imprisonment. 9965

(ii) If the kidnapping is committed prior to January 1, 9966
2008, or division (A) (3) (b) (i) of this section does not apply, 9967
it shall impose an indefinite term consisting of a minimum term 9968
fixed by the court that is not less than ten years and a maximum 9969
term of life imprisonment. 9970

(c) Except as otherwise provided in division (A) (4) of 9971
this section, if the offense for which the sentence is being 9972
imposed is kidnapping that is a felony of the second degree, it 9973
shall impose an indefinite prison term consisting of a minimum 9974
term fixed by the court that is not less than eight years, and a 9975
maximum term of life imprisonment. 9976

(d) Except as otherwise provided in division (A) (4) of 9977
this section, if the offense for which the sentence is being 9978
imposed is rape for which a term of life imprisonment is not 9979
imposed under division (A) (2) of this section or division (B) of 9980
section 2907.02 of the Revised Code, it shall impose an 9981
indefinite prison term as follows: 9982

(i) If the rape is committed on or after January 2, 2007, 9983
in violation of division (A) (1) (b) of section 2907.02 of the 9984
Revised Code, it shall impose an indefinite prison term 9985
consisting of a minimum term of twenty-five years and a maximum 9986
term of life imprisonment. 9987

(ii) If the rape is committed prior to January 2, 2007, or 9988
the rape is committed on or after January 2, 2007, other than in 9989
violation of division (A) (1) (b) of section 2907.02 of the 9990
Revised Code, it shall impose an indefinite prison term 9991
consisting of a minimum term fixed by the court that is not less 9992
than ten years, and a maximum term of life imprisonment. 9993

(e) Except as otherwise provided in division (A) (4) of 9994
this section, if the offense for which sentence is being imposed 9995
is attempted rape, it shall impose an indefinite prison term as 9996
follows: 9997

(i) Except as otherwise provided in division (A) (3) (e) 9998
(ii), (iii), or (iv) of this section, it shall impose an 9999
indefinite prison term pursuant to division (A) (3) (a) of this 10000
section. 10001

(ii) If the attempted rape for which sentence is being 10002
imposed was committed on or after January 2, 2007, and if the 10003
offender also is convicted of or pleads guilty to a 10004
specification of the type described in section 2941.1418 of the 10005
Revised Code, it shall impose an indefinite prison term 10006
consisting of a minimum term of five years and a maximum term of 10007
twenty-five years. 10008

(iii) If the attempted rape for which sentence is being 10009
imposed was committed on or after January 2, 2007, and if the 10010
offender also is convicted of or pleads guilty to a 10011

specification of the type described in section 2941.1419 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of ten years and a maximum of life imprisonment.

(iv) If the attempted rape for which sentence is being imposed was committed on or after January 2, 2007, and if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1420 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of fifteen years and a maximum of life imprisonment.

(4) For any offense for which the sentence is being imposed, if the offender previously has been convicted of or pleaded guilty to a violent sex offense and also to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, or previously has been convicted of or pleaded guilty to a designated homicide, assault, or kidnapping offense and also 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, it shall impose upon the offender a term of life imprisonment without parole.

(B) (1) Notwithstanding section 2929.13, division (A) or (D) of section 2929.14, or another section of the Revised Code other than division (B) of section 2907.02 or divisions (B) and (C) of section 2929.14 of the Revised Code that authorizes or requires a specified prison term or a mandatory prison term for a person who is convicted of or pleads guilty to a felony or that specifies the manner and place of service of a prison term

or term of imprisonment, if a person is convicted of or pleads 10042
guilty to a violation of division (A) (1) (b) of section 2907.02 10043
of the Revised Code committed on or after January 2, 2007, if 10044
division (A) of this section does not apply regarding the 10045
person, and if the court does not impose a sentence of life 10046
without parole when authorized pursuant to division (B) of 10047
section 2907.02 of the Revised Code, the court shall impose upon 10048
the person an indefinite prison term consisting of one of the 10049
following: 10050

(a) Except as otherwise required in division (B) (1) (b) or 10051
(c) of this section, a minimum term of ten years and a maximum 10052
term of life imprisonment. 10053

(b) If the victim was less than ten years of age, a 10054
minimum term of fifteen years and a maximum of life 10055
imprisonment. 10056

(c) If the offender purposely compels the victim to submit 10057
by force or threat of force, or if the offender previously has 10058
been convicted of or pleaded guilty to violating division (A) (1) 10059
(b) of section 2907.02 of the Revised Code or to violating an 10060
existing or former law of this state, another state, or the 10061
United States that is substantially similar to division (A) (1) 10062
(b) of that section, or if the offender during or immediately 10063
after the commission of the offense caused serious physical harm 10064
to the victim, a minimum term of twenty-five years and a maximum 10065
of life imprisonment. 10066

(2) Notwithstanding section 2929.13, division (A) or (D) 10067
of section 2929.14, or another section of the Revised Code other 10068
than divisions (B) and (C) of section 2929.14 of the Revised 10069
Code that authorizes or requires a specified prison term or a 10070
mandatory prison term for a person who is convicted of or pleads 10071

guilty to a felony or that specifies the manner and place of 10072
service of a prison term or term of imprisonment and except as 10073
otherwise provided in division (B) of section 2907.02 of the 10074
Revised Code, if a person is convicted of or pleads guilty to 10075
attempted rape committed on or after January 2, 2007, and if 10076
division (A) of this section does not apply regarding the 10077
person, the court shall impose upon the person an indefinite 10078
prison term consisting of one of the following: 10079

(a) If the person also is convicted of or pleads guilty to 10080
a specification of the type described in section 2941.1418 of 10081
the Revised Code, the court shall impose upon the person an 10082
indefinite prison term consisting of a minimum term of five 10083
years and a maximum term of twenty-five years. 10084

(b) If the person also is convicted of or pleads guilty to 10085
a specification of the type described in section 2941.1419 of 10086
the Revised Code, the court shall impose upon the person an 10087
indefinite prison term consisting of a minimum term of ten years 10088
and a maximum term of life imprisonment. 10089

(c) If the person also is convicted of or pleads guilty to 10090
a specification of the type described in section 2941.1420 of 10091
the Revised Code, the court shall impose upon the person an 10092
indefinite prison term consisting of a minimum term of fifteen 10093
years and a maximum term of life imprisonment. 10094

(3) Notwithstanding section 2929.13, division (A) or (D) 10095
of section 2929.14, or another section of the Revised Code other 10096
than divisions (B) and (C) of section 2929.14 of the Revised 10097
Code that authorizes or requires a specified prison term or a 10098
mandatory prison term for a person who is convicted of or pleads 10099
guilty to a felony or that specifies the manner and place of 10100
service of a prison term or term of imprisonment, if a person is 10101

convicted of or pleads guilty to an offense described in 10102
division (B) (3) (a), (b), (c), or (d) of this section committed 10103
on or after January 1, 2008, if the person also is convicted of 10104
or pleads guilty to a sexual motivation specification that was 10105
included in the indictment, count in the indictment, or 10106
information charging that offense, and if division (A) of this 10107
section does not apply regarding the person, the court shall 10108
impose upon the person an indefinite prison term consisting of 10109
one of the following: 10110

(a) An indefinite prison term consisting of a minimum of 10111
ten years and a maximum term of life imprisonment if the offense 10112
for which the sentence is being imposed is kidnapping, the 10113
victim of the offense is less than thirteen years of age, and 10114
the offender released the victim in a safe place unharmed; 10115

(b) An indefinite prison term consisting of a minimum of 10116
fifteen years and a maximum term of life imprisonment if the 10117
offense for which the sentence is being imposed is kidnapping 10118
when the victim of the offense is less than thirteen years of 10119
age and division (B) (3) (a) of this section does not apply; 10120

(c) An indefinite term consisting of a minimum of thirty 10121
years and a maximum term of life imprisonment if the offense for 10122
which the sentence is being imposed is aggravated murder, when 10123
the victim of the offense is less than thirteen years of age, a 10124
sentence of ~~death or~~ life imprisonment without parole is not 10125
imposed for the offense, and division ~~(A) (2) (b) (ii) of section~~ 10126
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 10127
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or~~ 10128
~~division (A) or (B) (C) of section 2929.06-2929.02~~ of the 10129
Revised Code requires that the sentence for the offense be 10130
imposed pursuant to this division; 10131

(d) An indefinite prison term consisting of a minimum of 10132
thirty years and a maximum term of life imprisonment if the 10133
offense for which the sentence is being imposed is murder when 10134
the victim of the offense is less than thirteen years of age. 10135

(C) (1) If the offender is sentenced to a prison term 10136
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 10137
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 10138
parole board shall have control over the offender's service of 10139
the term during the entire term unless the parole board 10140
terminates its control in accordance with section 2971.04 of the 10141
Revised Code. 10142

(2) Except as provided in division (C) (3) of this section, 10143
an offender sentenced to a prison term or term of life 10144
imprisonment without parole pursuant to division (A) of this 10145
section shall serve the entire prison term or term of life 10146
imprisonment in a state correctional institution. The offender 10147
is not eligible for judicial release under section 2929.20 of 10148
the Revised Code. 10149

(3) For a prison term imposed pursuant to division (A) (3), 10150
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 10151
(b), (c), or (d) of this section, the court, in accordance with 10152
section 2971.05 of the Revised Code, may terminate the prison 10153
term or modify the requirement that the offender serve the 10154
entire term in a state correctional institution if all of the 10155
following apply: 10156

(a) The offender has served at least the minimum term 10157
imposed as part of that prison term. 10158

(b) The parole board, pursuant to section 2971.04 of the 10159
Revised Code, has terminated its control over the offender's 10160

service of that prison term. 10161

(c) The court has held a hearing and found, by clear and 10162
convincing evidence, one of the following: 10163

(i) In the case of termination of the prison term, that 10164
the offender is unlikely to commit a sexually violent offense in 10165
the future; 10166

(ii) In the case of modification of the requirement, that 10167
the offender does not represent a substantial risk of physical 10168
harm to others. 10169

(4) An offender who has been sentenced to a term of life 10170
imprisonment without parole pursuant to division (A)(1), (2), or 10171
(4) of this section shall not be released from the term of life 10172
imprisonment or be permitted to serve a portion of it in a place 10173
other than a state correctional institution. 10174

(D) If a court sentences an offender to a prison term or 10175
term of life imprisonment without parole pursuant to division 10176
(A) of this section and the court also imposes on the offender 10177
one or more additional prison terms pursuant to division (B) of 10178
section 2929.14 of the Revised Code, all of the additional 10179
prison terms shall be served consecutively with, and prior to, 10180
the prison term or term of life imprisonment without parole 10181
imposed upon the offender pursuant to division (A) of this 10182
section. 10183

(E) If the offender is convicted of or pleads guilty to 10184
two or more offenses for which a prison term or term of life 10185
imprisonment without parole is required to be imposed pursuant 10186
to division (A) of this section, divisions (A) to (D) of this 10187
section shall be applied for each offense. All minimum terms 10188
imposed upon the offender pursuant to division (A)(3) or (B) of 10189

this section for those offenses shall be aggregated and served 10190
consecutively, as if they were a single minimum term imposed 10191
under that division. 10192

(F)(1) If an offender is convicted of or pleads guilty to 10193
a violent sex offense and also is convicted of or pleads guilty 10194
to a sexually violent predator specification that was included 10195
in the indictment, count in the indictment, or information 10196
charging that offense, or is convicted of or pleads guilty to a 10197
designated homicide, assault, or kidnapping offense and also is 10198
convicted of or pleads guilty to both a sexual motivation 10199
specification and a sexually violent predator specification that 10200
were included in the indictment, count in the indictment, or 10201
information charging that offense, the conviction of or plea of 10202
guilty to the offense and the sexually violent predator 10203
specification automatically classifies the offender as a tier 10204
III sex offender/child-victim offender for purposes of Chapter 10205
2950. of the Revised Code. 10206

(2) If an offender is convicted of or pleads guilty to 10207
committing on or after January 2, 2007, a violation of division 10208
(A)(1)(b) of section 2907.02 of the Revised Code and either the 10209
offender is sentenced under section 2971.03 of the Revised Code 10210
or a sentence of life without parole is imposed under division 10211
(B) of section 2907.02 of the Revised Code, the conviction of or 10212
plea of guilty to the offense automatically classifies the 10213
offender as a tier III sex offender/child-victim offender for 10214
purposes of Chapter 2950. of the Revised Code. 10215

(3) If a person is convicted of or pleads guilty to 10216
committing on or after January 2, 2007, attempted rape and also 10217
is convicted of or pleads guilty to a specification of the type 10218
described in section 2941.1418, 2941.1419, or 2941.1420 of the 10219

Revised Code, the conviction of or plea of guilty to the offense 10220
and the specification automatically classify the offender as a 10221
tier III sex offender/child-victim offender for purposes of 10222
Chapter 2950. of the Revised Code. 10223

(4) If a person is convicted of or pleads guilty to one of 10224
the offenses described in division (B) (3) (a), (b), (c), or (d) 10225
of this section and a sexual motivation specification related to 10226
the offense and the victim of the offense is less than thirteen 10227
years of age, the conviction of or plea of guilty to the offense 10228
automatically classifies the offender as a tier III sex 10229
offender/child-victim offender for purposes of Chapter 2950. of 10230
the Revised Code. 10231

Sec. 2971.07. (A) This chapter does not apply to any 10232
offender unless the offender is one of the following: 10233

(1) The offender is convicted of or pleads guilty to a 10234
violent sex offense and also is convicted of or pleads guilty to 10235
a sexually violent predator specification that was included in 10236
the indictment, count in the indictment, or information charging 10237
that offense. 10238

(2) The offender is convicted of or pleads guilty to a 10239
designated homicide, assault, or kidnapping offense and also is 10240
convicted of or pleads guilty to both a sexual motivation 10241
specification and a sexually violent predator specification that 10242
were included in the indictment, count in the indictment, or 10243
information charging that offense. 10244

(3) The offender is convicted of or pleads guilty to a 10245
violation of division (A) (1) (b) of section 2907.02 of the 10246
Revised Code committed on or after January 2, 2007, and the 10247
court does not sentence the offender to a term of life without 10248

parole pursuant to division (B) of section 2907.02 of the Revised Code or division (B) of that section prohibits the court from sentencing the offender pursuant to section 2971.03 of the Revised Code.

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

(5) The offender is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code and also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense, and that section requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(6) The offender is convicted of or pleads guilty to aggravated murder and also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense, 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 a court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(7) The offender is convicted of or pleads guilty to murder and also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense,

and division ~~(B) (2)~~ (C) (1) of section 2929.02 of the Revised 10279
Code requires a court to sentence the offender pursuant to 10280
section 2971.03 of the Revised Code. 10281

(B) This chapter does not limit or affect a court in 10282
imposing upon an offender described in divisions (A) (1) to (9) 10283
of this section any financial sanction under section 2929.18 or 10284
any other section of the Revised Code, or, except as 10285
specifically provided in this chapter, any other sanction that 10286
is authorized or required for the offense or violation by any 10287
other provision of law. 10288

(C) If an offender is sentenced to a prison term under 10289
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 10290
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10291
Code and if, pursuant to section 2971.05 of the Revised Code, 10292
the court modifies the requirement that the offender serve the 10293
entire prison term in a state correctional institution or places 10294
the offender on conditional release that involves the placement 10295
of the offender under the supervision of the adult parole 10296
authority, authorized field officers of the authority who are 10297
engaged within the scope of their supervisory duties or 10298
responsibilities may search, with or without a warrant, the 10299
person of the offender, the place of residence of the offender, 10300
and a motor vehicle, another item of tangible or intangible 10301
personal property, or any other real property in which the 10302
offender has the express or implied permission of a person with 10303
a right, title, or interest to use, occupy, or possess if the 10304
field officer has reasonable grounds to believe that the 10305
offender is not abiding by the law or otherwise is not complying 10306
with the terms and conditions of the offender's modification or 10307
release. The authority shall provide each offender with a 10308
written notice that informs the offender that authorized field 10309

officers of the authority who are engaged within the scope of 10310
their supervisory duties or responsibilities may conduct those 10311
types of searches during the period of the modification or 10312
release if they have reasonable grounds to believe that the 10313
offender is not abiding by the law or otherwise is not complying 10314
with the terms and conditions of the offender's modification or 10315
release. 10316

Sec. 5120.113. (A) For each inmate committed to the 10317
department of rehabilitation and correction, except as provided 10318
in division (B) of this section, the department shall prepare a 10319
written reentry plan for the inmate to help guide the inmate's 10320
rehabilitation program during imprisonment, to assist in the 10321
inmate's reentry into the community, and to assess the inmate's 10322
needs upon release. 10323

(B) Division (A) of this section does not apply to an 10324
inmate who has been sentenced to life imprisonment without 10325
parole or ~~who has been~~ sentenced to death before the effective 10326
date of this amendment. Division (A) of this section does not 10327
apply to any inmate who is expected to be imprisoned for thirty 10328
days or less, but the department may prepare a written reentry 10329
plan of the type described in that division if the department 10330
determines that the plan is needed. 10331

(C) The department may collect, if available, any social 10332
and other information that will aid in the preparation of 10333
reentry plans under this section. 10334

(D) In the event the department does not prepare a written 10335
reentry plan as specified in division (A) of this section, or 10336
makes a decision to not prepare a written reentry plan under 10337
division (B) of this section or to not collect information under 10338
division (C) of this section, that fact does not give rise to a 10339

claim for damages against the state, the department, the 10340
director of the department, or any employee of the department. 10341

Sec. 5120.53. (A) If a treaty between the United States 10342
and a foreign country provides for the transfer or exchange, 10343
from one of the signatory countries to the other signatory 10344
country, of convicted offenders who are citizens or nationals of 10345
the other signatory country, the governor, subject to and in 10346
accordance with the terms of the treaty, may authorize the 10347
director of rehabilitation and correction to allow the transfer 10348
or exchange of convicted offenders and to take any action 10349
necessary to initiate participation in the treaty. If the 10350
governor grants the director the authority described in this 10351
division, the director may take the necessary action to initiate 10352
participation in the treaty and, subject to and in accordance 10353
with division (B) of this section and the terms of the treaty, 10354
may allow the transfer or exchange to a foreign country that has 10355
signed the treaty of any convicted offender who is a citizen or 10356
national of that signatory country. 10357

(B) (1) No convicted offender who is serving a term of 10358
imprisonment in this state for aggravated murder, murder, or a 10359
felony of the first or second degree, who is serving a mandatory 10360
prison term imposed under section 2925.03 or 2925.11 of the 10361
Revised Code in circumstances in which the court was required to 10362
impose as the mandatory prison term the maximum definite prison 10363
term or longest minimum prison term authorized for the degree of 10364
offense committed, or who is serving a term of imprisonment in 10365
this state imposed for an offense committed prior to July 1, 10366
1996, that was an aggravated felony of the first or second 10367
degree or that was aggravated trafficking in violation of 10368
division (A) (9) or (10) of section 2925.03 of the Revised Code, ~~—~~ 10369
~~or who has been sentenced to death in this state~~ shall be 10370

transferred or exchanged to another country pursuant to a treaty 10371
of the type described in division (A) of this section. 10372

(2) If a convicted offender is serving a term of 10373
imprisonment in this state and the offender is a citizen or 10374
national of a foreign country that has signed a treaty of the 10375
type described in division (A) of this section, if the governor 10376
has granted the director of rehabilitation and correction the 10377
authority described in that division, and if the transfer or 10378
exchange of the offender is not barred by division (B) (1) of 10379
this section, the director or the director's designee may 10380
approve the offender for transfer or exchange pursuant to the 10381
treaty if the director or the designee, after consideration of 10382
the factors set forth in the rules adopted by the department 10383
under division (D) of this section and all other relevant 10384
factors, determines that the transfer or exchange of the 10385
offender is appropriate. 10386

(C) Notwithstanding any provision of the Revised Code 10387
regarding the parole eligibility of, or the duration or 10388
calculation of a sentence of imprisonment imposed upon, an 10389
offender, if a convicted offender is serving a term of 10390
imprisonment in this state and the offender is a citizen or 10391
national of a foreign country that has signed a treaty of the 10392
type described in division (A) of this section, if the offender 10393
is serving an indefinite term of imprisonment, if the offender 10394
is barred from being transferred or exchanged pursuant to the 10395
treaty due to the indefinite nature of the offender's term of 10396
imprisonment, and if in accordance with division (B) (2) of this 10397
section the director of rehabilitation and correction or the 10398
director's designee approves the offender for transfer or 10399
exchange pursuant to the treaty, the parole board, pursuant to 10400
rules adopted by the director, shall set a date certain for the 10401

release of the offender. To the extent possible, the date 10402
certain that is set shall be reasonably proportionate to the 10403
indefinite term of imprisonment that the offender is serving. 10404
The date certain that is set for the release of the offender 10405
shall be considered only for purposes of facilitating the 10406
international transfer or exchange of the offender, shall not be 10407
viable or actionable for any other purpose, and shall not create 10408
any expectation or guarantee of release. If an offender for whom 10409
a date certain for release is set under this division is not 10410
transferred to or exchanged with the foreign country pursuant to 10411
the treaty, the date certain is null and void, and the 10412
offender's release shall be determined pursuant to the laws and 10413
rules of this state pertaining to parole eligibility and the 10414
duration and calculation of an indefinite sentence of 10415
imprisonment. 10416

(D) If the governor, pursuant to division (A) of this 10417
section, authorizes the director of rehabilitation and 10418
correction to allow any transfer or exchange of convicted 10419
offenders as described in that division, the director shall 10420
adopt rules under Chapter 119. of the Revised Code to implement 10421
the provisions of this section. The rules shall include a rule 10422
that requires the director or the director's designee, in 10423
determining whether to approve a convicted offender who is 10424
serving a term of imprisonment in this state for transfer or 10425
exchange pursuant to a treaty of the type described in division 10426
(A) of this section, to consider all of the following factors: 10427

(1) The nature of the offense for which the offender is 10428
serving the term of imprisonment in this state; 10429

(2) The likelihood that, if the offender is transferred or 10430
exchanged to a foreign country pursuant to the treaty, the 10431

offender will serve a shorter period of time in imprisonment in 10432
the foreign country than the offender would serve if the 10433
offender is not transferred or exchanged to the foreign country 10434
pursuant to the treaty; 10435

(3) The likelihood that, if the offender is transferred or 10436
exchanged to a foreign country pursuant to the treaty, the 10437
offender will return or attempt to return to this state after 10438
the offender has been released from imprisonment in the foreign 10439
country; 10440

(4) The degree of any shock to the conscience of justice 10441
and society that will be experienced in this state if the 10442
offender is transferred or exchanged to a foreign country 10443
pursuant to the treaty; 10444

(5) All other factors that the department determines are 10445
relevant to the determination. 10446

Sec. 5120.61. (A) (1) Not later than ninety days after 10447
January 1, 1997, the department of rehabilitation and correction 10448
shall adopt standards that it will use under this section to 10449
assess the following criminal offenders and may periodically 10450
revise the standards: 10451

(a) A criminal offender who is convicted of or pleads 10452
guilty to a violent sex offense or designated homicide, assault, 10453
or kidnapping offense and is adjudicated a sexually violent 10454
predator in relation to that offense; 10455

(b) A criminal offender who is convicted of or pleads 10456
guilty to a violation of division (A) (1) (b) of section 2907.02 10457
of the Revised Code committed on or after January 2, 2007, and 10458
either who is sentenced under section 2971.03 of the Revised 10459
Code or upon whom a sentence of life without parole is imposed 10460

under division (B) of section 2907.02 of the Revised Code; 10461

(c) A criminal offender who is convicted of or pleads 10462
guilty to attempted rape committed on or after January 2, 2007, 10463
and a specification of the type described in section 2941.1418, 10464
2941.1419, or 2941.1420 of the Revised Code; 10465

(d) A criminal offender who is convicted of or pleads 10466
guilty to a violation of section 2905.01 of the Revised Code and 10467
also is convicted of or pleads guilty to a sexual motivation 10468
specification that was included in the indictment, count in the 10469
indictment, or information charging that offense, and who is 10470
sentenced pursuant to section 2971.03 of the Revised Code; 10471

(e) A criminal offender who is convicted of or pleads 10472
guilty to aggravated murder and also is convicted of or pleads 10473
guilty to a sexual motivation specification that was included in 10474
the indictment, count in the indictment, or information charging 10475
that offense, and who pursuant to division ~~(A) (2) (b) (ii) of~~ 10476
~~section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a)~~ 10477
~~(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03,~~ 10478
~~or division (A) or (B) (C) of section 2929.06-2929.02~~ of the 10479
Revised Code is sentenced pursuant to division (B) (3) of section 10480
2971.03 of the Revised Code; 10481

(f) A criminal offender who is convicted of or pleads 10482
guilty to murder and also is convicted of or pleads guilty to a 10483
sexual motivation specification that was included in the 10484
indictment, count in the indictment, or information charging 10485
that offense, and who pursuant to division ~~(B) (2) (C) (1)~~ of 10486
section 2929.02 of the Revised Code is sentenced pursuant to 10487
section 2971.03 of the Revised Code. 10488

(2) When the department is requested by the parole board 10489

or the court to provide a risk assessment report of the offender 10490
under section 2971.04 or 2971.05 of the Revised Code, it shall 10491
assess the offender and complete the assessment as soon as 10492
possible after the offender has commenced serving the prison 10493
term or term of life imprisonment without parole imposed under 10494
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 10495
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10496
Code. Thereafter, the department shall update a risk assessment 10497
report pertaining to an offender as follows: 10498

(a) Periodically, in the discretion of the department, 10499
provided that each report shall be updated no later than two 10500
years after its initial preparation or most recent update; 10501

(b) Upon the request of the parole board for use in 10502
determining pursuant to section 2971.04 of the Revised Code 10503
whether it should terminate its control over an offender's 10504
service of a prison term imposed upon the offender under 10505
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 10506
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 10507
Code; 10508

(c) Upon the request of the court. 10509

(3) After the department of rehabilitation and correction 10510
assesses an offender pursuant to division (A) (2) of this 10511
section, it shall prepare a report that contains its risk 10512
assessment for the offender or, if a risk assessment report 10513
previously has been prepared, it shall update the risk 10514
assessment report. 10515

(4) The department of rehabilitation and correction shall 10516
provide each risk assessment report that it prepares or updates 10517
pursuant to this section regarding an offender to all of the 10518

following: 10519

(a) The parole board for its use in determining pursuant 10520
to section 2971.04 of the Revised Code whether it should 10521
terminate its control over an offender's service of a prison 10522
term imposed upon the offender under division (A) (3), (B) (1) (a), 10523
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 10524
(d) of section 2971.03 of the Revised Code, if the parole board 10525
has not terminated its control over the offender; 10526

(b) The court for use in determining, pursuant to section 10527
2971.05 of the Revised Code, whether to modify the requirement 10528
that the offender serve the entire prison term imposed upon the 10529
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 10530
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 10531
2971.03 of the Revised Code in a state correctional institution, 10532
whether to revise any modification previously made, or whether 10533
to terminate the prison term; 10534

(c) The prosecuting attorney who prosecuted the case, or 10535
the successor in office to that prosecuting attorney; 10536

(d) The offender. 10537

(B) When the department of rehabilitation and correction 10538
provides a risk assessment report regarding an offender to the 10539
parole board or court pursuant to division (A) (4) (a) or (b) of 10540
this section, the department, prior to the parole board's or 10541
court's hearing, also shall provide to the offender or to the 10542
offender's attorney of record a copy of the report and a copy of 10543
any other relevant documents the department possesses regarding 10544
the offender that the department does not consider to be 10545
confidential. 10546

(C) As used in this section: 10547

(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 10606
any person described in division (B)(5) of this section may 10607
request the board to hold a full board hearing that relates to 10608
the proposed parole or re-parole of the person that committed 10609
the violation. If a victim, victim's representative, or other 10610
person requests a full board hearing pursuant to this division, 10611
the board shall hold a full board hearing. 10612

At least thirty days before the full hearing, except as 10613
otherwise provided in this division, the board shall give notice 10614
of the date, time, and place of the hearing to the victim 10615
regardless of whether the victim has requested the notification. 10616
The notice of the date, time, and place of the hearing shall not 10617
be given under this division to a victim if the victim has 10618
requested pursuant to division (B)(2) of section 2930.03 of the 10619
Revised Code that the notice not be provided to the victim. At 10620
least thirty days before the full board hearing and regardless 10621
of whether the victim has requested that the notice be provided 10622
or not be provided under this division to the victim, the board 10623
shall give similar notice to the prosecuting attorney in the 10624
case, the law enforcement agency that arrested the prisoner if 10625
any officer of that agency was a victim of the offense, and, if 10626
different than the victim, the person who requested the full 10627
hearing. If the prosecuting attorney has not previously been 10628
sent an institutional summary report with respect to the 10629
prisoner, upon the request of the prosecuting attorney, the 10630
board shall include with the notice sent to the prosecuting 10631
attorney an institutional summary report that covers the 10632
offender's participation while confined in a state correctional 10633
institution in training, work, and other rehabilitative 10634
activities and any disciplinary action taken against the 10635
offender while so confined. Upon the request of a law 10636

enforcement agency that has not previously been sent an 10637
institutional summary report with respect to the prisoner, the 10638
board also shall send a copy of the institutional summary report 10639
to the law enforcement agency. If notice is to be provided as 10640
described in this division, the board may give the notice by any 10641
reasonable means, including regular mail, telephone, and 10642
electronic mail, in accordance with division (D)(1) of section 10643
2930.16 of the Revised Code. If the notice is based on an 10644
offense committed prior to ~~the effective date of this amendment~~ 10645
March 22, 2013, the notice also shall include the opt-out 10646
information described in division (D)(1) of section 2930.16 of 10647
the Revised Code. The board, in accordance with division (D)(2) 10648
of section 2930.16 of the Revised Code, shall keep a record of 10649
all attempts to provide the notice, and of all notices provided, 10650
under this division. 10651

The preceding paragraph, and the notice-related provisions 10652
of divisions (E)(2) and (K) of section 2929.20, division (D)(1) 10653
of section 2930.16, division ~~(H)~~ (G) of section 2967.12, 10654
division (E)(1)(b) of section 2967.19, division (A)(3)(b) of 10655
section 2967.26, and division (D)(1) of section 2967.28 of the 10656
Revised Code enacted in the act in which this paragraph was 10657
enacted, shall be known as "Roberta's Law." 10658

(B) At a full board hearing that relates to the proposed 10659
parole or re-parole of a prisoner and that has been petitioned 10660
for or requested in accordance with division (A) of this 10661
section, the parole board shall permit the following persons to 10662
appear and to give testimony or to submit written statements: 10663

(1) The prosecuting attorney of the county in which the 10664
original indictment against the prisoner was found and members 10665
of any law enforcement agency that assisted in the prosecution 10666

of the original offense; 10667

(2) The judge of the court of common pleas who imposed the 10668
original sentence of incarceration upon the prisoner, or the 10669
judge's successor; 10670

(3) The victim of the original offense for which the 10671
prisoner is serving the sentence or the victim's representative 10672
designated pursuant to section 2930.02 of the Revised Code; 10673

(4) The victim of any behavior that resulted in parole 10674
being revoked; 10675

(5) With respect to a full board hearing held pursuant to 10676
division (A)(2) of this section, all of the following: 10677

(a) The spouse of the victim of the original offense; 10678

(b) The parent or parents of the victim of the original 10679
offense; 10680

(c) The sibling of the victim of the original offense; 10681

(d) The child or children of the victim of the original 10682
offense. 10683

(6) Counsel or some other person designated by the 10684
prisoner as a representative, as described in division (C) of 10685
this section. 10686

(C) Except as otherwise provided in this division, a full 10687
board hearing of the parole board is not subject to section 10688
121.22 of the Revised Code. The persons who may attend a full 10689
board hearing are the persons described in divisions (B)(1) to 10690
(6) of this section, and representatives of the press, radio and 10691
television stations, and broadcasting networks who are members 10692
of a generally recognized professional media organization. 10693

At the request of a person described in division (B) (3) of 10694
this section, representatives of the news media described in 10695
this division shall be excluded from the hearing while that 10696
person is giving testimony at the hearing. The prisoner being 10697
considered for parole has no right to be present at the hearing, 10698
but may be represented by counsel or some other person 10699
designated by the prisoner. 10700

If there is an objection at a full board hearing to a 10701
recommendation for the parole of a prisoner, the board may 10702
approve or disapprove the recommendation or defer its decision 10703
until a subsequent full board hearing. The board may permit 10704
interested persons other than those listed in this division and 10705
division (B) of this section to attend full board hearings 10706
pursuant to rules adopted by the adult parole authority. 10707

(D) If the victim of the original offense died as a result 10708
of the offense and the offense was aggravated murder, murder, an 10709
offense of violence that is a felony of the first, second, or 10710
third degree, or an offense punished by a sentence of life 10711
imprisonment, the family of the victim may show at a full board 10712
hearing a video recording not exceeding five minutes in length 10713
memorializing the victim. 10714

(E) The adult parole authority shall adopt rules for the 10715
implementation of this section. The rules shall specify 10716
reasonable restrictions on the number of media representatives 10717
that may attend a hearing, based on considerations of space, and 10718
other procedures designed to accomplish an effective, orderly 10719
process for full board hearings. 10720

Sec. 5919.16. (A) Commissioned and warrant officers in the 10721
Ohio national guard shall be discharged by the adjutant general 10722
upon either of the following: 10723

(1) The officer's resignation;	10724
(2) Approval of a board's recommendation for withdrawal of federal recognition by the chief of the national guard bureau.	10725 10726
(B) An officer also may be discharged under any of the following circumstances:	10727 10728
(1) Pursuant to other federal regulations;	10729
(2) If absent without leave for three months, upon recommendation of an efficiency board;	10730 10731
(3) Pursuant to sentence by court-martial;	10732
(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.	10733 10734 10735
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, 149.436, 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.	10736 10737 10738 10739 10740 10741 10742 10743 10744 10745 10746 10747 10748 10749 10750 10751

Section 3. (A) An offender whose sentence of death has 10752
been set aside, nullified, or vacated pursuant to section 10753
2929.06 of the Revised Code as it existed immediately before the 10754
effective date of this act but who has not been resentenced 10755
under that section as of the effective date of this act shall be 10756
resentenced in accordance with that section as it existed 10757
immediately before the effective date of this act. 10758

(B) Nothing in this act is intended to nullify or mitigate 10759
the sentence of an offender who was sentenced to death before 10760
the effective date of this act. An offender who was sentenced to 10761
death before the effective date of this act shall have the same 10762
rights to appeal and to postconviction remedies as the offender 10763
had under the provisions of Chapter 2953. of the Revised Code as 10764
those provisions existed immediately before the effective date 10765
of this act or as those provisions may hereafter be amended, and 10766
courts shall have the same powers and duties with respect to 10767
those offenders under those provisions as courts had before the 10768
effective date of this act. 10769

(C) All reports and payments relating to capital cases 10770
that were required to be made under any provision of Chapter 10771
120. or section 109.97 of the Revised Code as those provisions 10772
existed immediately before the effective date of this act shall 10773
be made for the current calendar or fiscal year, as applicable, 10774
in accordance with those provisions as they existed immediately 10775
before the effective date of this act until each case in which a 10776
defendant was sentenced to death before the effective date of 10777
this act is finally resolved. 10778

(D) In an action in which an offender was sentenced to 10779
death before the effective date of this act, a court of common 10780
pleas shall preserve the records of the action as required by 10781

section 2301.20 of the Revised Code as it existed immediately 10782
before the effective date of this act. 10783

Section 4. Attorneys appointed to represent indigent 10784
defendants in postconviction relief proceedings in cases in 10785
which the defendant was sentenced to death before the effective 10786
date of this act shall be certified under Rule 20 of the Rules 10787
of Superintendence for the Courts of Ohio as required by 10788
sections 120.06, 120.14, 120.26, and 120.33 of the Revised Code 10789
as those sections existed immediately before the effective date 10790
of this act. 10791

Section 5. The General Assembly, applying the principle 10792
stated in division (B) of section 1.52 of the Revised Code that 10793
amendments are to be harmonized if reasonably capable of 10794
simultaneous operation, finds that the following sections, 10795
presented in this act as composites of the sections as amended 10796
by the acts indicated, are the resulting versions of the 10797
sections in effect prior to the effective date of the sections 10798
as presented in this act: 10799

Section 149.43 of the Revised Code as amended by Am. Sub. 10800
H.B. 8, Sub. H.B. 34, Sub. H.B. 139, Sub. H.B. 312, Sub. H.B. 10801
341, Sub. H.B. 425, Am. Sub. S.B. 201, Am. S.B. 214, and Sub. 10802
S.B. 229, all of the 132nd General Assembly. 10803

Section 2929.13 of the Revised Code as amended by Sub. 10804
H.B. 63, Am. Sub. S.B. 1, Sub. S.B. 20, Am. Sub. S.B. 66, and 10805
Am. Sub. S.B. 201, all of the 132nd General Assembly. 10806

Section 2929.14 of the Revised Code as amended by Sub. 10807
H.B. 63, Am. Sub. S.B. 1, Sub. S.B. 20, and Am. Sub. S.B. 201, 10808
all of the 132nd General Assembly. 10809

Section 2953.07 of the Revised Code as amended by both Am. 10810

Sub. S.B. 2 and Am. Sub. S.B. 4 of the 121st General Assembly.	10811
Section 2967.193 of the Revised Code as amended by both	10812
Sub. S.B. 145 and Am. Sub. S.B. 201 of the 132nd General	10813
Assembly.	10814
Section 2967.28 of the Revised Code as amended by both Am.	10815
Sub. S.B. 66 and Am. Sub. S.B. 201 of the 132nd General	10816
Assembly.	10817