

As Recommitted to the Senate Judiciary Committee

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Sub. H. B. No. 247

Representative Butler

**Cosponsors: Representatives Adams, R., Beck, Grossman, Henne, Huffman,
Letson, Murray, Stebelton, Slaby, Bubp, Amstutz, Anielski, Antonio, Blair,
Blessing, Boose, Carey, Clyde, Combs, Conditt, Damschroder, Duffey, Foley,
Garland, Hackett, Hagan, C., Hall, Hayes, Hill, Lundy, Martin, Milkovich,
Newbold, O'Brien, Pelanda, Peterson, Phillips, Rosenberger, Ruhl, Schuring,
Sears, Sprague, Szollosi, Thompson, Weddington, Winburn**

Speaker Batchelder

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A B I L L

To amend sections 181.25, 1337.28, 1705.081,	1
2111.121, 2151.85, 2947.23, 2949.091, 2953.08,	2
5322.01, 5322.02, 5322.03, and 5809.031 and to	3
enact sections 1901.263, 1905.38, 1907.25,	4
1925.151, 2101.165, 2151.542, 2303.23, 2501.161,	5
and 2503.18 of the Revised Code to authorize a	6
court to cancel claims for uncollectible amounts	7
due the court, to authorize a sentencing court to	8
waive, suspend, or modify payment of the costs of	9
prosecution, to define "case" in connection with	10
the imposition of costs in a criminal case, to	11
abolish the Felony Sentence Appeal Cost Oversight	12
Committee, to make changes to the law in relation	13
to the sale of personal property on which there	14
has been placed a lien by an owner of a	15
self-service storage facility, to provide that a	16
principal in a power of attorney may nominate a	17

guardian of the principal's incompetent adult 18
children, remove the requirement that the 19
operating agreement of a limited liability company 20
may identify types or categories of activities 21
that do not violate the duty of loyalty only if 22
not manifestly unreasonable, specify that the 23
operating agreement of a limited liability company 24
may not eliminate the duty of care but may 25
prescribe the standards by which the duty is to be 26
measured, modify the restrictions on the operating 27
agreement of a limited liability company with 28
respect to the obligation of good faith and the 29
duties of a manager, make other clarifying changes 30
to provisions contained in Sub. H.B. 48 and Sub. 31
S.B. 117 of the 129th General Assembly, to make a 32
conforming change related to Am. H.B. 63 of the 33
129th General Assembly, and to clarify the entity 34
that prescribes forms under R.C. 2151.85. 35

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

Section 1. That sections 181.25, 1337.28, 1705.081, 2111.121, 36
2151.85, 2947.23, 2949.091, 2953.08, 5322.01, 5322.02, 5322.03, 37
and 5809.031 be amended and sections 1901.263, 1905.38, 1907.25, 38
1925.151, 2101.165, 2151.542, 2303.23, 2501.161, and 2503.18 of 39
the Revised Code be enacted to read as follows: 40

Sec. 181.25. (A) If the comprehensive criminal sentencing 41
structure that it recommends to the general assembly pursuant to 42
section 181.24 of the Revised Code or any aspects of that 43
sentencing structure are enacted into law, the state criminal 44
sentencing commission shall do all of the following: 45

(1) Assist the general assembly in the implementation of 46

those aspects of the sentencing structure that are enacted into 47
law; 48

(2) Monitor the operation of the aspects of the sentencing 49
structure that are enacted into law and report to the general 50
assembly no later than January 1, 1997, and biennially thereafter, 51
on all of the following matters: 52

(a) The impact of the sentencing structure in effect on and 53
after July 1, 1996, on political subdivisions and other relevant 54
aspects of local government in this state, including all of the 55
following information: 56

(i) The number and type of offenders who were being 57
imprisoned in a state correctional institution under the law in 58
effect prior to July 1, 1996, but who are being punished under a 59
community control sanction, as defined in section 2929.01 of the 60
Revised Code, under the law in effect on and after July 1, 1996; 61

(ii) The fiscal and other impact of the law in effect on and 62
after July 1, 1996, on political subdivisions and other relevant 63
aspects of local government in this state, including law 64
enforcement agencies, the court system, prosecutors, as defined in 65
section 2935.01 of the Revised Code, the public defender and 66
assigned counsel system, jails and workhouses, probation 67
departments, the drug and alcohol abuse intervention and treatment 68
system, and the mental health intervention and treatment system. 69

(b) The impact of the sentencing structure in effect on and 70
after July 1, 1996, on the population of state correctional 71
institutions, including information regarding the number and types 72
of offenders who are being imprisoned under the law in effect on 73
and after July 1, 1996, and the amount of space in state 74
correctional institutions that is necessary to house those 75
offenders; 76

(c) The impact of the sentencing structure and the sentence 77

appeal provisions in effect on and after July 1, 1996, on the 78
appellate courts of this state, including information regarding 79
the number of sentence-based appeals, the cost of reviewing 80
appeals of that nature, whether a special court should be created 81
to review sentences, and whether changes should be made to ensure 82
that sentence-based appeals are conducted expeditiously. 83

(3) Review all bills that are introduced in the general 84
assembly that provide for new criminal offenses or that change the 85
penalty for any criminal offense, determine if those bills are 86
consistent with the sentencing policy adopted under division (B) 87
of section 181.23 of the Revised Code, determine the impact of 88
those bills upon the correctional resources of the state, and 89
recommend to the general assembly any necessary amendments to 90
those bills. When the commission recommends any amendment for a 91
bill before the general assembly, it shall do so in a manner that 92
is consistent with the requirements of section 181.24 of the 93
Revised Code. 94

(4) Study criminal sentencing structures in this state, other 95
states, and the federal government, recommend necessary changes to 96
the sentencing structure of the state, and determine the costs and 97
effects of any proposed changes in the sentencing structure of the 98
state; 99

(5) Collect and maintain data that pertains to the cost to 100
counties of the felony sentence appeal provisions set forth in 101
section 2953.08 of the Revised Code, of the postconviction relief 102
proceeding provisions set forth in division (A)(2) of section 103
2953.21 of the Revised Code, and of appeals from judgments entered 104
in such postconviction relief proceedings. The data so collected 105
and maintained shall include, but shall not be limited to, the 106
increase in expenses that counties experience as a result of those 107
provisions and those appeals and the number of felony sentence 108
appeals made, postconviction relief proceedings filed, and appeals 109

of postconviction relief proceeding judgments made in each county 110
under those provisions. ~~The commission periodically shall provide~~ 111
~~to the felony sentence appeal cost oversight committee, in~~ 112
~~accordance with division (I) of section 2953.08 of the Revised~~ 113
~~Code, all data the commission collects pursuant to this division.~~ 114

(B) In addition to its duties set forth in section 181.24 of 115
the Revised Code and division (A) of this section, the state 116
criminal sentencing commission shall review all forfeiture 117
statutes in Titles XXIX and XLV of the Revised Code and, not later 118
than July 1, 2002, recommend to the general assembly any necessary 119
changes to those statutes. 120

Sec. 1337.28. (A) In a power of attorney, a principal may 121
nominate a guardian of the principal's person, estate, or both and 122
may nominate a guardian of the person, the estate, or both of one 123
or more of the principal's minor children or incompetent adult 124
children, whether born at the time of the execution of the power 125
of attorney or afterward. The nomination is for consideration by a 126
court if proceedings for the appointment of a guardian for the 127
principal's person, estate, or both or if proceedings for the 128
appointment of a guardian of the person, the estate, or both of 129
one or more of the principal's minor children or incompetent adult 130
children are commenced at a later time. The principal may 131
authorize the person nominated as guardian or the agent to 132
nominate a successor guardian for consideration by a court. Except 133
for good cause shown or disqualification, the court shall make its 134
appointment in accordance with the principal's most recent 135
nomination. Nomination of a person as a guardian or successor 136
guardian of the person, the estate, or both of one or more of the 137
principal's minor children or incompetent adult children under 138
this division, and any subsequent appointment of the guardian or 139
successor guardian as guardian under section 2111.02 of the 140
Revised Code, does not vacate the jurisdiction of any other court 141

that previously may have exercised jurisdiction over the person of 142
the minor or incompetent adult child. 143

(B) The principal may direct that bond be waived for a person 144
nominated as guardian or as a successor guardian. 145

(C) If, after a principal executes a power of attorney, a 146
court appoints a guardian of the principal's estate or other 147
fiduciary charged with the management of some or all of the 148
principal's property, the agent is accountable to the fiduciary as 149
well as to the principal. The power of attorney is not terminated 150
and the agent's authority continues unless limited, suspended, or 151
terminated by the court after notice to the agent and upon a 152
finding that the limitation, suspension, or termination would be 153
in the best interest of the principal. 154

(D) A power of attorney that contains the nomination of a 155
person to be the guardian of the person, the estate, or both of 156
one or more of the principal's minor children or incompetent adult 157
children under this division may be filed with the probate court 158
for safekeeping, and the probate court shall designate the 159
nomination as the nomination of a standby guardian. 160

(E) As used in this section, "incompetent" has the same 161
meaning as in section 2111.01 of the Revised Code. 162

Sec. 1705.081. (A) Except as otherwise provided in division 163
(B) of this section, an operating agreement governs relations 164
among members and between members, any managers, and the limited 165
liability company. A limited liability company is bound by the 166
operating agreement of its member or members whether or not the 167
limited liability company executes the operating agreement. To the 168
extent the operating agreement does not otherwise provide, this 169
chapter governs relations among the members and between the 170
members, any managers, and the limited liability company. 171

(B) The operating agreement may not do any of the following:	172
(1) Vary the rights and duties under section 1705.04 of the Revised Code;	173 174
(2) Unreasonably restrict the right of access to books and records under section 1705.22 of the Revised Code;	175 176
(3) Eliminate the duty of loyalty under division (C) of section 1705.161 of the Revised Code or division (B) of section 1705.281 of the Revised Code, but the operating agreement may identify specific types or categories of activities that do not violate the duty of loyalty if not manifestly unreasonable , and all of the members or a number or percentage of members specified in the operating agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;	177 178 179 180 181 182 183 184 185
(4) Unreasonably reduce <u>Eliminate</u> the duty of care under division (C) of section 1705.161 of the Revised Code or division (C) of section 1705.281 of the Revised Code, <u>but the operating agreement may prescribe the standards by which the duty is to be measured</u> ;	186 187 188 189 190
(5) Eliminate the obligation of good faith and fair dealing under division (D) of section 1705.281 of the Revised Code, but the operating agreement may prescribe the standards by which the performance of the obligation is to be measured if the standards are not manifestly unreasonable ;	191 192 193 194 195
(6) Eliminate the duties of a manager under division (B) of section 1705.29 of the Revised Code, but the operating agreement may prescribe in writing the standards by which performance is to be measured or specify types or categories of <u>identify</u> activities that do not violate the <u>manager's</u> duties in each case if not manifestly unreasonable ;	196 197 198 199 200 201
(7) Vary the requirement to wind up the limited liability	202

company's business in cases specified in division (A) or (B) of 203
section 1705.47 of the Revised Code; 204

(8) Restrict the rights of third parties under this chapter. 205

Sec. 1901.263. If at any time the court finds that an amount 206
owing to the court is due and uncollectible, in whole or in part, 207
the court may direct the clerk of the court to cancel all or part 208
of the claim. The clerk shall then effect the cancellation. 209

Sec. 1905.38. If at any time the court finds that an amount 210
owing to the court is due and uncollectible, in whole or in part, 211
the court may direct the clerk of the court to cancel all or part 212
of the claim. The clerk shall then effect the cancellation. 213

Sec. 1907.25. If at any time the court finds that an amount 214
owing to the court is due and uncollectible, in whole or in part, 215
the court may direct the clerk of the court to cancel all or part 216
of the claim. The clerk shall then effect the cancellation. 217

Sec. 1925.151. If at any time the court finds that an amount 218
owing to the court is due and uncollectible, in whole or in part, 219
the court may direct the clerk of the court to cancel all or part 220
of the claim. The clerk shall then effect the cancellation. 221

Sec. 2101.165. If at any time the court finds that an amount 222
owing to the court is due and uncollectible, in whole or in part, 223
the court may direct the clerk of the court to cancel all or part 224
of the claim. The clerk shall then effect the cancellation. 225

Sec. 2111.121. (A) A person may nominate in a writing, as 226
described in this division, another person to be the guardian of 227
the nominator's person, estate, or both or the guardian of the 228
person, the estate, or both, of one or more of the nominator's 229

minor or incompetent adult children, whether born at the time of 230
the execution of the writing or afterward, subject to notice and a 231
hearing pursuant to section 2111.02 of the Revised Code. The 232
nomination is for consideration by a court if proceedings for the 233
appointment of a guardian of the person, the estate, or both, for 234
the person making the nomination or if proceedings for the 235
appointment of a guardian as the guardian of the person, the 236
estate, or both of one or more of the nominator's minor or 237
incompetent adult children are commenced at a later time. The 238
person may authorize, in a writing of that nature, the person 239
nominated as guardian to nominate a successor guardian for 240
consideration by a court. The person also may direct, in a writing 241
of that nature, that bond be waived for a person nominated as 242
guardian in it or nominated as a successor guardian in accordance 243
with an authorization in it. 244

To be effective as a nomination, the writing shall be signed 245
by the person making the nomination in the presence of two 246
witnesses; signed by the witnesses; and contain, immediately prior 247
to their signatures, an attestation of the witnesses that the 248
person making the nomination signed the writing in their presence; 249
~~and~~ or be acknowledged by the person making the nomination before 250
a notary public. 251

(B) If a person has nominated, in a writing as described in 252
division (A) of this section ~~or in a durable power of attorney~~ 253
~~under section 1337.24 of the Revised Code~~, another person to be 254
the guardian of the nominator's person, estate, or both, and 255
proceedings for the appointment of a guardian for the person are 256
commenced at a later time, the court involved shall appoint the 257
person nominated as guardian in the writing ~~or durable power of~~ 258
~~attorney~~ most recently executed if the person nominated is 259
competent, suitable, and willing to accept the appointment. If the 260
writing ~~or durable power of attorney~~ contains a waiver of bond, 261

the court shall waive bond of the person nominated as guardian 262
unless it is of the opinion that the interest of the trust demands 263
it. 264

(C) Nomination of a person as a guardian or successor 265
guardian of the person, the estate, or both of one or more of the 266
nominator's minor or incompetent adult children under division (A) 267
of this section, and any subsequent appointment of the guardian or 268
successor guardian as guardian under section 2111.02 of the 269
Revised Code, does not vacate the jurisdiction of any other court 270
that previously may have exercised jurisdiction over the person of 271
the minor or incompetent adult child. 272

(D) The writing containing the nomination of a person to be 273
the guardian of the person, the estate, or both of one or more of 274
the nominator's minor or incompetent adult children under division 275
(A) of this section may be filed with the probate court for 276
safekeeping, and the probate court shall designate the nomination 277
as the nomination of a standby guardian. 278

Sec. 2151.542. If at any time the court finds that an amount 279
owing to the court is due and uncollectible, in whole or in part, 280
the court may direct the clerk of the court to cancel all or part 281
of the claim. The clerk shall then effect the cancellation. 282

Sec. 2151.85. (A) A woman who is pregnant, unmarried, under 283
eighteen years of age, and unemancipated and who wishes to have an 284
abortion without the notification of her parents, guardian, or 285
custodian may file a complaint in the juvenile court of the county 286
in which she has a residence or legal settlement, or in the 287
juvenile court of any county that borders to any extent the county 288
in which she has a residence or legal settlement, ~~or in the~~ 289
~~juvenile court of the county in which the hospital, clinic, or~~ 290
~~other facility in which the abortion would be performed or induced~~ 291

~~is located,~~ requesting the issuance of an order authorizing her to 292
consent to the performance or inducement of an abortion without 293
the notification of her parents, guardian, or custodian. 294

The complaint shall be made under oath and shall include all 295
of the following: 296

(1) A statement that the complainant is pregnant; 297

(2) A statement that the complainant is unmarried, under 298
eighteen years of age, and unemancipated; 299

(3) A statement that the complainant wishes to have an 300
abortion without the notification of her parents, guardian, or 301
custodian; 302

(4) An allegation of either or both of the following: 303

(a) That the complainant is sufficiently mature and well 304
enough informed to intelligently decide whether to have an 305
abortion without the notification of her parents, guardian, or 306
custodian; 307

(b) That one or both of her parents, her guardian, or her 308
custodian was engaged in a pattern of physical, sexual, or 309
emotional abuse against her, or that the notification of her 310
parents, guardian, or custodian otherwise is not in her best 311
interest. 312

(5) A statement as to whether the complainant has retained an 313
attorney and, if she has retained an attorney, the name, address, 314
and telephone number of her attorney. 315

(B)(1) The court shall fix a time for a hearing on any 316
complaint filed pursuant to division (A) of this section and shall 317
keep a record of all testimony and other oral proceedings in the 318
action. The court shall hear and determine the action and shall 319
not refer any portion of it to a referee. The hearing shall be 320
held at the earliest possible time, but not later than the fifth 321

business day after the day that the complaint is filed. The court 322
shall enter judgment on the complaint immediately after the 323
hearing is concluded. If the hearing required by this division is 324
not held by the fifth business day after the complaint is filed, 325
the failure to hold the hearing shall be considered to be a 326
constructive order of the court authorizing the complainant to 327
consent to the performance or inducement of an abortion without 328
the notification of her parent, guardian, or custodian, and the 329
complainant and any other person may rely on the constructive 330
order to the same extent as if the court actually had issued an 331
order under this section authorizing the complainant to consent to 332
the performance or inducement of an abortion without such 333
notification. 334

(2) The court shall appoint a guardian ad litem to protect 335
the interests of the complainant at the hearing that is held 336
pursuant to this section. If the complainant has not retained an 337
attorney, the court shall appoint an attorney to represent her. If 338
the guardian ad litem is an attorney admitted to the practice of 339
law in this state, the court also may appoint ~~him~~ the guardian ad 340
litem to serve as the complainant's attorney. 341

(C)(1) If the complainant makes only the allegation set forth 342
in division (A)(4)(a) of this section and if the court finds, by 343
clear and convincing evidence, that the complainant is 344
sufficiently mature and well enough informed to decide 345
intelligently whether to have an abortion, the court shall issue 346
an order authorizing the complainant to consent to the performance 347
or inducement of an abortion without the notification of her 348
parents, guardian, or custodian. If the court does not make the 349
finding specified in this division, it shall dismiss the 350
complaint. 351

(2) If the complainant makes only the allegation set forth in 352
division (A)(4)(b) of this section and if the court finds, by 353

clear and convincing evidence, that there is evidence of a pattern
of physical, sexual, or emotional abuse of the complainant by one
or both of her parents, her guardian, or her custodian, or that
the notification of the parents, guardian, or custodian of the
complainant otherwise is not in the best interest of the
complainant, the court shall issue an order authorizing the
complainant to consent to the performance or inducement of an
abortion without the notification of her parents, guardian, or
custodian. If the court does not make the finding specified in
this division, it shall dismiss the complaint.

(3) If the complainant makes both of the allegations set
forth in divisions (A)(4)(a) and (b) of this section, the court
shall proceed as follows:

(a) The court first shall determine whether it can make the
finding specified in division (C)(1) of this section and, if so,
shall issue an order pursuant to that division. If the court
issues such an order, it shall not proceed pursuant to division
(C)(3)(b) of this section. If the court does not make the finding
specified in division (C)(1) of this section, it shall proceed
pursuant to division (C)(3)(b) of this section.

(b) If the court pursuant to division (C)(3)(a) of this
section does not make the finding specified in division (C)(1) of
this section, it shall proceed to determine whether it can make
the finding specified in division (C)(2) of this section and, if
so, shall issue an order pursuant to that division. If the court
does not make the finding specified in division (C)(2) of this
section, it shall dismiss the complaint.

(D) The court shall not notify the parents, guardian, or
custodian of the complainant that she is pregnant or that she
wants to have an abortion.

(E) If the court dismisses the complaint, it immediately

shall notify the complainant that she has a right to appeal under 385
section 2505.073 of the Revised Code. 386

(F) Each hearing under this section shall be conducted in a 387
manner that will preserve the anonymity of the complainant. The 388
complaint and all other papers and records that pertain to an 389
action commenced under this section shall be kept confidential and 390
are not public records under section 149.43 of the Revised Code. 391

(G) The ~~clerk of the~~ supreme court shall prescribe complaint 392
and notice of appeal forms that shall be used by a complainant 393
filing a complaint under this section and by an appellant filing 394
an appeal under section 2505.073 of the Revised Code. The clerk of 395
each juvenile court shall furnish blank copies of the forms, 396
without charge, to any person who requests them. 397

(H) No filing fee shall be required of, and no court costs 398
shall be assessed against, a complainant filing a complaint under 399
this section or an appellant filing an appeal under section 400
2505.073 of the Revised Code. 401

(I) As used in this section, "unemancipated" means that a 402
woman who is unmarried and under eighteen years of age has not 403
entered the armed services of the United States, has not become 404
employed and self-subsisting, or has not otherwise become 405
independent from the care and control of her parent, guardian, or 406
custodian. 407

Sec. 2303.23. If at any time the court finds that an amount 408
owing to the court is due and uncollectible, in whole or in part, 409
the court may direct the clerk of the court to cancel all or part 410
of the claim. The clerk shall then effect the cancellation. 411

Sec. 2501.161. If at any time the court finds that an amount 412
owing to the court is due and uncollectible, in whole or in part, 413
the court may direct the clerk of the court to cancel all or part 414

of the claim. The clerk shall then effect the cancellation. 415

Sec. 2503.18. If at any time the court finds that an amount 416
owing to the court is due and uncollectible, in whole or in part, 417
the court may direct the clerk of the court to cancel all or part 418
of the claim. The clerk shall then effect the cancellation. 419

Sec. 2947.23. (A)(1) In all criminal cases, including 420
violations of ordinances, the judge or magistrate shall include in 421
the sentence the costs of prosecution, including any costs under 422
section 2947.231 of the Revised Code, and render a judgment 423
against the defendant for such costs. ~~At the time~~ If the judge or 424
magistrate imposes ~~sentence~~ a community control sanction or other 425
nonresidential sanction, the judge or magistrate, when imposing 426
the sanction, shall notify the defendant of both of the following: 427

(a) If the defendant fails to pay that judgment or fails to 428
timely make payments towards that judgment under a payment 429
schedule approved by the court, the court may order the defendant 430
to perform community service in an amount of not more than forty 431
hours per month until the judgment is paid or until the court is 432
satisfied that the defendant is in compliance with the approved 433
payment schedule. 434

(b) If the court orders the defendant to perform the 435
community service, the defendant will receive credit upon the 436
judgment at the specified hourly credit rate per hour of community 437
service performed, and each hour of community service performed 438
will reduce the judgment by that amount. 439

(2) The following shall apply in all criminal cases: 440

(a) If a jury has been sworn at the trial of a case, the fees 441
of the jurors shall be included in the costs, which shall be paid 442
to the public treasury from which the jurors were paid. 443

(b) If a jury has not been sworn at the trial of a case 444

because of a defendant's failure to appear without good cause, the 445
costs incurred in summoning jurors for that particular trial may 446
be included in the costs of prosecution. If the costs incurred in 447
summoning jurors are assessed against the defendant, those costs 448
shall be paid to the public treasury from which the jurors were 449
paid. 450

(B) If a judge or magistrate has reason to believe that a 451
defendant has failed to pay the judgment described in division (A) 452
of this section or has failed to timely make payments towards that 453
judgment under a payment schedule approved by the judge or 454
magistrate, the judge or magistrate shall hold a hearing to 455
determine whether to order the offender to perform community 456
service for that failure. The judge or magistrate shall notify 457
both the defendant and the prosecuting attorney of the place, 458
time, and date of the hearing and shall give each an opportunity 459
to present evidence. If, after the hearing, the judge or 460
magistrate determines that the defendant has failed to pay the 461
judgment or to timely make payments under the payment schedule and 462
that imposition of community service for the failure is 463
appropriate, the judge or magistrate may order the offender to 464
perform community service in an amount of not more than forty 465
hours per month until the judgment is paid or until the judge or 466
magistrate is satisfied that the offender is in compliance with 467
the approved payment schedule. If the judge or magistrate orders 468
the defendant to perform community service under this division, 469
the defendant shall receive credit upon the judgment at the 470
specified hourly credit rate per hour of community service 471
performed, and each hour of community service performed shall 472
reduce the judgment by that amount. Except for the credit and 473
reduction provided in this division, ordering an offender to 474
perform community service under this division does not lessen the 475
amount of the judgment and does not preclude the state from taking 476
any other action to execute the judgment. 477

(C) The court retains jurisdiction to waive, suspend, or 478
modify the payment of the costs of prosecution, including any 479
costs under section 2947.231 of the Revised Code, at the time of 480
sentencing or at any time thereafter. 481

(D) As used in this section, ~~"specified:~~ 482

(1) "Case" means a prosecution of all the charges that result 483
from the same act, transaction, or series of acts or transactions 484
and that are given the same case type designator and case number 485
under Rule 43 of the Rules of Superintendence for the Courts of 486
Ohio or any successor to that rule. 487

(2) "Specified hourly credit rate" means the wage rate that 488
is specified in 26 U.S.C.A. 206(a)(1) under the federal Fair Labor 489
Standards Act of 1938, that then is in effect, and that an 490
employer subject to that provision must pay per hour to each of 491
the employer's employees who is subject to that provision. 492

Sec. 2949.091. (A)(1)(a) The court in which any person is 493
convicted of or pleads guilty to any offense shall impose one of 494
the following sums as costs in the case in addition to any other 495
court costs that the court is required by law to impose upon the 496
offender: 497

(i) Thirty dollars if the offense is a felony; 498

(ii) Twenty dollars if the offense is a misdemeanor other 499
than a traffic offense that is not a moving violation; 500

(iii) Ten dollars if the offense is a traffic offense that is 501
not a moving violation, excluding parking violations. 502

(b) All moneys collected pursuant to division (A)(1)(a) of 503
this section during a month shall be transmitted on or before the 504
twentieth day of the following month by the clerk of the court to 505
the treasurer of state and deposited by the treasurer of state to 506
the credit of the indigent defense support fund established under 507

section 120.08 of the Revised Code. The court shall not waive the
payment of the additional thirty-, twenty-, or ten-dollar court
costs, unless the court determines that the offender is indigent
and waives the payment of all court costs imposed upon the
indigent offender.

(2)(a) The juvenile court in which a child is found to be a
delinquent child or a juvenile traffic offender for an act that,
if committed by an adult, would be an offense, shall impose one of
the following sums as costs in the case in addition to any other
court costs that the court is required or permitted by law to
impose upon the delinquent child or juvenile traffic offender:

(i) Thirty dollars if the offense is a felony;

(ii) Twenty dollars if the offense is a misdemeanor other
than a traffic offense that is not a moving violation;

(iii) Ten dollars if the offense is a traffic offense that is
not a moving violation, excluding parking violations.

(b) All moneys collected pursuant to division (A)(2)(a) of
this section during a month shall be transmitted on or before the
twentieth day of the following month by the clerk of the court to
the treasurer of state and deposited by the treasurer of state to
the credit of the indigent defense support fund established under
section 120.08 of the Revised Code. The thirty-, twenty-, or
ten-dollar court costs shall be collected in all cases unless the
court determines the juvenile is indigent and waives the payment
of all court costs, or enters an order on its journal stating that
it has determined that the juvenile is indigent, that no other
court costs are to be taxed in the case, and that the payment of
the thirty-, twenty-, or ten-dollar court costs is waived.

(B) Whenever a person is charged with any offense described
in division (A)(1) of this section, the court shall add to the
amount of the bail the thirty, twenty, or ten dollars required to

be paid by division (A)(1) of this section. The thirty, twenty, or 539
ten dollars shall be retained by the clerk of the court until the 540
person is convicted, pleads guilty, forfeits bail, is found not 541
guilty, or has the charges dismissed. If the person is convicted, 542
pleads guilty, or forfeits bail, the clerk shall transmit the 543
thirty, twenty, or ten dollars on or before the twentieth day of 544
the month following the month in which the person was convicted, 545
pleaded guilty, or forfeited bail to the treasurer of state, who 546
shall deposit it to the credit of the indigent defense support 547
fund established under section 120.08 of the Revised Code. If the 548
person is found not guilty or the charges are dismissed, the clerk 549
shall return the thirty, twenty, or ten dollars to the person. 550

(C) No person shall be placed or held in a detention facility 551
for failing to pay the additional thirty-, twenty-, or ten-dollar 552
court costs or bail that are required to be paid by this section. 553

(D) As used in this section: 554

(1) "Moving violation" and "bail" have the same meanings as 555
in section 2743.70 of the Revised Code. 556

(2) "Detention facility" has the same meaning as in section 557
2921.01 of the Revised Code. 558

(3) "Case" has the same meaning as in section 2947.23 of the 559
Revised Code. 560

Sec. 2953.08. (A) In addition to any other right to appeal 561
and except as provided in division (D) of this section, a 562
defendant who is convicted of or pleads guilty to a felony may 563
appeal as a matter of right the sentence imposed upon the 564
defendant on one of the following grounds: 565

(1) The sentence consisted of or included the maximum prison 566
term allowed for the offense by division (A) of section 2929.14 or 567
section 2929.142 of the Revised Code, the maximum prison term was 568

not required for the offense pursuant to Chapter 2925. or any 569
other provision of the Revised Code, and the court imposed the 570
sentence under one of the following circumstances: 571

(a) The sentence was imposed for only one offense. 572

(b) The sentence was imposed for two or more offenses arising 573
out of a single incident, and the court imposed the maximum prison 574
term for the offense of the highest degree. 575

(2) The sentence consisted of or included a prison term, the 576
offense for which it was imposed is a felony of the fourth or 577
fifth degree or is a felony drug offense that is a violation of a 578
provision of Chapter 2925. of the Revised Code and that is 579
specified as being subject to division (B) of section 2929.13 of 580
the Revised Code for purposes of sentencing, and the court did not 581
specify at sentencing that it found one or more factors specified 582
in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised 583
Code to apply relative to the defendant. If the court specifies 584
that it found one or more of those factors to apply relative to 585
the defendant, the defendant is not entitled under this division 586
to appeal as a matter of right the sentence imposed upon the 587
offender. 588

(3) The person was convicted of or pleaded guilty to a 589
violent sex offense or a designated homicide, assault, or 590
kidnapping offense, was adjudicated a sexually violent predator in 591
relation to that offense, and was sentenced pursuant to division 592
(A)(3) of section 2971.03 of the Revised Code, if the minimum term 593
of the indefinite term imposed pursuant to division (A)(3) of 594
section 2971.03 of the Revised Code is the longest term available 595
for the offense from among the range of terms listed in section 596
2929.14 of the Revised Code. As used in this division, "designated 597
homicide, assault, or kidnapping offense" and "violent sex 598
offense" have the same meanings as in section 2971.01 of the 599
Revised Code. As used in this division, "adjudicated a sexually 600

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.

(4) The sentence is contrary to law.

(5) The sentence consisted of an additional prison term of
ten years imposed pursuant to division (B)(2)(a) of section
2929.14 of the Revised Code.

(B) In addition to any other right to appeal and except as
provided in division (D) of this section, a prosecuting attorney,
a city director of law, village solicitor, or similar chief legal
officer of a municipal corporation, or the attorney general, if
one of those persons prosecuted the case, may appeal as a matter
of right a sentence imposed upon a defendant who is convicted of
or pleads guilty to a felony or, in the circumstances described in
division (B)(3) of this section the modification of a sentence
imposed upon such a defendant, on any of the following grounds:

(1) The sentence did not include a prison term despite a
presumption favoring a prison term for the offense for which it
was imposed, as set forth in section 2929.13 or Chapter 2925. of
the Revised Code.

(2) The sentence is contrary to law.

(3) The sentence is a modification under section 2929.20 of
the Revised Code of a sentence that was imposed for a felony of
the first or second degree.

(C)(1) In addition to the right to appeal a sentence granted
under division (A) or (B) of this section, a defendant who is
convicted of or pleads guilty to a felony may seek leave to appeal
a sentence imposed upon the defendant on the basis that the
sentencing judge has imposed consecutive sentences under division
(C)(3) of section 2929.14 of the Revised Code and that the

consecutive sentences exceed the maximum prison term allowed by 632
division (A) of that section for the most serious offense of which 633
the defendant was convicted. Upon the filing of a motion under 634
this division, the court of appeals may grant leave to appeal the 635
sentence if the court determines that the allegation included as 636
the basis of the motion is true. 637

(2) A defendant may seek leave to appeal an additional 638
sentence imposed upon the defendant pursuant to division (B)(2)(a) 639
or (b) of section 2929.14 of the Revised Code if the additional 640
sentence is for a definite prison term that is longer than five 641
years. 642

(D)(1) A sentence imposed upon a defendant is not subject to 643
review under this section if the sentence is authorized by law, 644
has been recommended jointly by the defendant and the prosecution 645
in the case, and is imposed by a sentencing judge. 646

(2) Except as provided in division (C)(2) of this section, a 647
sentence imposed upon a defendant is not subject to review under 648
this section if the sentence is imposed pursuant to division 649
(B)(2)(b) of section 2929.14 of the Revised Code. Except as 650
otherwise provided in this division, a defendant retains all 651
rights to appeal as provided under this chapter or any other 652
provision of the Revised Code. A defendant has the right to appeal 653
under this chapter or any other provision of the Revised Code the 654
court's application of division (B)(2)(c) of section 2929.14 of 655
the Revised Code. 656

(3) A sentence imposed for aggravated murder or murder 657
pursuant to sections 2929.02 to 2929.06 of the Revised Code is not 658
subject to review under this section. 659

(E) A defendant, prosecuting attorney, city director of law, 660
village solicitor, or chief municipal legal officer shall file an 661
appeal of a sentence under this section to a court of appeals 662

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 applicable:

(1) Any presentence, psychiatric, or other investigative report that was submitted to the court in writing before the sentence was imposed. An appellate court that reviews a presentence investigation report prepared pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in connection with the appeal of a sentence under this section shall comply with division (D)(3) of section 2951.03 of the Revised Code when the appellate court is not using the presentence investigation report, and the appellate court's use of a presentence investigation report of that nature in connection with the appeal of a sentence under this section does not affect the otherwise confidential character of the contents of that report as described in division (D)(1) of section 2951.03 of the Revised Code and does not cause that report to become a public record, as defined in section 149.43 of the Revised Code, following the appellate court's use of the report.

(2) The trial record in the case in which the sentence was imposed;

(3) Any oral or written statements made to or by the court at the sentencing hearing at which the sentence was imposed;

(4) Any written findings that the court was required to make 695
in connection with the modification of the sentence pursuant to a 696
judicial release under division (I) of section 2929.20 of the 697
Revised Code. 698

(G)(1) If the sentencing court was required to make the 699
findings required by division (B) or (D) of section 2929.13 or 700
division (I) of section 2929.20 of the Revised Code, or to state 701
the findings of the trier of fact required by division (B)(2)(e) 702
of section 2929.14 of the Revised Code, relative to the imposition 703
or modification of the sentence, and if the sentencing court 704
failed to state the required findings on the record, the court 705
hearing an appeal under division (A), (B), or (C) of this section 706
shall remand the case to the sentencing court and instruct the 707
sentencing court to state, on the record, the required findings. 708

(2) The court hearing an appeal under division (A), (B), or 709
(C) of this section shall review the record, including the 710
findings underlying the sentence or modification given by the 711
sentencing court. 712

The appellate court may increase, reduce, or otherwise modify 713
a sentence that is appealed under this section or may vacate the 714
sentence and remand the matter to the sentencing court for 715
resentencing. The appellate court's standard for review is not 716
whether the sentencing court abused its discretion. The appellate 717
court may take any action authorized by this division if it 718
clearly and convincingly finds either of the following: 719

(a) That the record does not support the sentencing court's 720
findings under division (B) or (D) of section 2929.13, division 721
(B)(2)(e) or (C)(4) of section 2929.14, or division (I) of section 722
2929.20 of the Revised Code, whichever, if any, is relevant; 723

(b) That the sentence is otherwise contrary to law. 724

(H) A judgment or final order of a court of appeals under 725

this section may be appealed, by leave of court, to the supreme 726
court. 727

~~(I)(1) There is hereby established the felony sentence appeal 728
cost oversight committee, consisting of eight members. One member 729
shall be the chief justice of the supreme court or a 730
representative of the court designated by the chief justice, one 731
member shall be a member of the senate appointed by the president 732
of the senate, one member shall be a member of the house of 733
representatives appointed by the speaker of the house of 734
representatives, one member shall be the director of budget and 735
management or a representative of the office of budget and 736
management designated by the director, one member shall be a judge 737
of a court of appeals, court of common pleas, municipal court, or 738
county court appointed by the chief justice of the supreme court, 739
one member shall be the state public defender or a representative 740
of the office of the state public defender designated by the state 741
public defender, one member shall be a prosecuting attorney 742
appointed by the Ohio prosecuting attorneys association, and one 743
member shall be a county commissioner appointed by the county 744
commissioners association of Ohio. No more than three of the 745
appointed members of the committee may be members of the same 746
political party. 747~~

~~The president of the senate, the speaker of the house of 748
representatives, the chief justice of the supreme court, the Ohio 749
prosecuting attorneys association, and the county commissioners 750
association of Ohio shall make the initial appointments to the 751
committee of the appointed members no later than ninety days after 752
July 1, 1996. Of those initial appointments to the committee, the 753
members appointed by the speaker of the house of representatives 754
and the Ohio prosecuting attorneys association shall serve a term 755
ending two years after July 1, 1996, the member appointed by the 756
chief justice of the supreme court shall serve a term ending three 757~~

~~years after July 1, 1996, and the members appointed by the~~ 758
~~president of the senate and the county commissioners association~~ 759
~~of Ohio shall serve terms ending four years after July 1, 1996.~~ 760
~~Thereafter, terms of office of the appointed members shall be for~~ 761
~~four years, with each term ending on the same day of the same~~ 762
~~month as did the term that it succeeds. Members may be~~ 763
~~reappointed. Vacancies shall be filled in the same manner provided~~ 764
~~for original appointments. A member appointed to fill a vacancy~~ 765
~~occurring prior to the expiration of the term for which that~~ 766
~~member's predecessor was appointed shall hold office as a member~~ 767
~~for the remainder of the predecessor's term. An appointed member~~ 768
~~shall continue in office subsequent to the expiration date of that~~ 769
~~member's term until that member's successor takes office or until~~ 770
~~a period of sixty days has elapsed, whichever occurs first.~~ 771

~~If the chief justice of the supreme court, the director of~~ 772
~~the office of budget and management, or the state public defender~~ 773
~~serves as a member of the committee, that person's term of office~~ 774
~~as a member shall continue for as long as that person holds office~~ 775
~~as chief justice, director of the office of budget and management,~~ 776
~~or state public defender. If the chief justice of the supreme~~ 777
~~court designates a representative of the court to serve as a~~ 778
~~member, the director of budget and management designates a~~ 779
~~representative of the office of budget and management to serve as~~ 780
~~a member, or the state public defender designates a representative~~ 781
~~of the office of the state public defender to serve as a member,~~ 782
~~the person so designated shall serve as a member of the commission~~ 783
~~for as long as the official who made the designation holds office~~ 784
~~as chief justice, director of the office of budget and management,~~ 785
~~or state public defender or until that official revokes the~~ 786
~~designation.~~ 787

~~The chief justice of the supreme court or the representative~~ 788
~~of the supreme court appointed by the chief justice shall serve as~~ 789

~~chairperson of the committee. The committee shall meet within two 790
weeks after all appointed members have been appointed and shall 791
organize as necessary. Thereafter, the committee shall meet at 792
least once every six months or more often upon the call of the 793
chairperson or the written request of three or more members, 794
provided that the committee shall not meet unless moneys have been 795
appropriated to the judiciary budget administered by the supreme 796
court specifically for the purpose of providing financial 797
assistance to counties under division (I)(2) of this section and 798
the moneys so appropriated then are available for that purpose. 799~~

~~The members of the committee shall serve without 800
compensation, but, if moneys have been appropriated to the 801
judiciary budget administered by the supreme court specifically 802
for the purpose of providing financial assistance to counties 803
under division (I)(2) of this section, each member shall be 804
reimbursed out of the moneys so appropriated that then are 805
available for actual and necessary expenses incurred in the 806
performance of official duties as a committee member. 807~~

~~(2) The state criminal sentencing commission periodically 808
shall provide to the felony sentence appeal cost oversight 809
committee all data the commission collects pursuant to division 810
(A)(5) of section 181.25 of the Revised Code. Upon receipt of the 811
data from the state criminal sentencing commission, the felony 812
sentence appeal cost oversight committee periodically shall review 813
the data; determine whether any money has been appropriated to the 814
judiciary budget administered by the supreme court specifically 815
for the purpose of providing state financial assistance to 816
counties in accordance with this division for the increase in 817
expenses the counties experience as a result of the felony 818
sentence appeal provisions set forth in this section or as a 819
result of a postconviction relief proceeding brought under 820
division (A)(2) of section 2953.21 of the Revised Code or an 821~~

~~appeal of a judgment in that proceeding; if it determines that any 822~~
~~money has been so appropriated, determine the total amount of 823~~
~~moneys that have been so appropriated specifically for that 824~~
~~purpose and that then are available for that purpose; and develop 825~~
~~a recommended method of distributing those moneys to the counties. 826~~
~~The committee shall send a copy of its recommendation to the 827~~
~~supreme court. Upon receipt of the committee's recommendation, the 828~~
~~supreme court shall distribute to the counties, based upon that 829~~
~~recommendation, the moneys that have been so appropriated 830~~
~~specifically for the purpose of providing state financial 831~~
~~assistance to counties under this division and that then are 832~~
~~available for that purpose. 833~~

Sec. 5322.01. As used in sections 5322.01 to 5322.05 of the 834
Revised Code: 835

(A) "Self-service storage facility" means any real property 836
that is designed and used only for the purpose of renting or 837
leasing individual storage space in the facility under the 838
following conditions: 839

(1) The occupants have access to the storage space only for 840
the purpose of storing and removing personal property~~+~~. 841

(2) The owner does not issue a warehouse receipt, bill of 842
lading, or other document of title, as defined in section 1301.201 843
of the Revised Code, for the personal property stored in the 844
storage space~~+~~. 845

~~(3) The property has fifty or more individual storage spaces. 846~~

"Self-service storage facility" does not include any garage 847
used principally for parking motor vehicles, any garage or storage 848
area in a private residence, an establishment licensed pursuant to 849
sections 915.14 to 915.24 of the Revised Code, or any property of 850
a bank or savings and loan association that contains vaults, safe 851

deposit boxes, or other receptacles for the uses, purposes, and 852
benefits of the bank's or savings and loan association's 853
customers. 854

(B) "Owner" means a person that is either the owner of a 855
self-service storage facility or the lessor of an entire 856
self-service storage facility and that receives rent from an 857
occupant pursuant to a rental agreement that the person enters 858
into with the occupant. 859

(C) "Occupant" means a person that rents storage space at a 860
self-service storage facility pursuant to a rental agreement that 861
the person enters into with the owner. 862

(D) "Rental agreement" means any written agreement that is 863
entered into by the owner and the occupant and that establishes 864
the terms and conditions of the occupant's use of storage space at 865
a self-service storage facility. 866

(E) "Personal property" means money and every animate or 867
inanimate tangible thing that is the subject of ownership, except 868
anything forming part of a parcel of real estate, as defined in 869
section 5701.02 of the Revised Code, and except anything that is 870
an agricultural commodity, as defined in division (A) of section 871
926.01 of the Revised Code. 872

(F) "Late fee" means any fee or charge assessed for an 873
occupant's failure to pay rent when due. "Late fee" does not 874
include interest on a debt, reasonable expenses incurred in the 875
collection of unpaid rent, or costs associated with the 876
enforcement of any other remedy provided by statute or contract. 877

(G) "Electronic mail" means an electronic message, or an 878
executable program or computer file that contains an image of a 879
message, that is transmitted between two or more computers or 880
electronic terminals. "Electronic mail" includes electronic 881
messages that are transmitted within or between computer networks 882

from which a confirmation of receipt is received. 883

(H) "Last known address" means either of the following: 884

(1) The mailing address or the electronic mail address 885
provided by the occupant in the most recent rental agreement or 886
the mailing address or the electronic mail address provided by the 887
occupant in a subsequent written notice of a change of address; 888

(2) The mailing address or the electronic mail address of any 889
of the persons described in division (A) of section 5322.03 of the 890
Revised Code that is provided by any of those persons to the owner 891
of a self-service storage facility or that is discovered by the 892
owner of a self-service storage facility. 893

Sec. 5322.02. (A) The owner of a self-service storage 894
facility has a lien against the occupant on the personal property 895
stored pursuant to a rental agreement in any storage space at the 896
self-service storage facility, or on the proceeds of the personal 897
property subject to the defaulting occupant's rental agreement in 898
the owner's possession, for rent, labor, or other charges in 899
relation to the personal property that are specified in the rental 900
agreement and that have become due and for expenses necessary for 901
the preservation of the personal property or expenses reasonably 902
incurred in the sale or other disposition of the personal property 903
pursuant to law. If the rental agreement contains a limit on the 904
value of property stored in an occupant's storage space, that 905
limit shall be presumed to be the maximum value of the property 906
stored in that space for the purposes of such a lien. The owner's 907
lien provided for in this section is also effective against the 908
following persons: 909

(1) A person who has an unfiled security interest in the 910
personal property, except that the owner's lien is not effective 911
against a person who has a valid security interest in a motor 912
vehicle or a valid security interest in a watercraft, whether or 913

not the security interest in the motor vehicle or watercraft is 914
filed; 915

(2) A person who meets both of the following requirements: 916

(a) ~~Who~~ The person has a legal interest in the personal 917
property, a filed security interest in the personal property, or a 918
valid security interest in the personal property that is a motor 919
vehicle; ~~and.~~ 920

(b) ~~Who~~ The person consents in writing to the storage of the 921
personal property. 922

(B) The owner's lien created by division (A) of this section 923
attaches as of the date the personal property is brought to the 924
self-service storage facility. An owner loses ~~his~~ the owner's lien 925
on any personal property that ~~he~~ the owner voluntarily permits to 926
be removed from the self-service storage facility or unjustifiably 927
refuses to permit to be removed from the self-service storage 928
facility. 929

Sec. 5322.03. An owner's lien created by division (A) of 930
section 5322.02 of the Revised Code for a claim that has become 931
due may be enforced only as follows: 932

(A) ~~All~~ The following persons ~~whom the owner has actual~~ 933
~~knowledge claim an interest in the personal property, and all~~ 934
~~persons who have filed security agreements in the name of the~~ 935
~~occupant evidencing a security interest in the personal property~~ 936
~~with either the secretary of state or the county recorder of the~~ 937
~~county in which the facility is located or the Ohio county of the~~ 938
~~last known address of the occupant,~~ shall be notified in 939
accordance with ~~divisions~~ divisions (B) and (C) of this section; 940

(1) All persons whom the owner has actual knowledge of and 941
who claim an interest in the personal property; 942

(2) All persons holding liens on any motor vehicle or 943

watercraft amongst the property; 944

(3) All persons who have filed security agreements in the 945
name of the occupant evidencing a security interest in the 946
personal property with either the secretary of state or the county 947
recorder of the county in which the self-service storage facility 948
is located or the Ohio county of the last known address of the 949
occupant. 950

(B) The notice shall be delivered in person ~~or~~, sent by 951
certified mail, or sent by first-class mail with a certificate of 952
mailing, and shall also be sent by electronic mail, to the last 953
known address and electronic mail address of each person who is 954
required to be notified by division (A) of this section; 955

(C) The notice shall include all of the following: 956

(1) The name and last known address of the occupant who 957
rented the storage space in which the personal property was 958
stored; 959

(2) An itemized statement of the owner's claim showing the 960
sum due at the time of the notice and the date when the sum became 961
due; 962

(3) A brief and general description of the personal property 963
subject to the lien. The description shall be reasonably adequate 964
to permit the person notified to identify it except that any 965
container including, but not limited to, a trunk, valise, or box 966
that is locked, fastened, sealed, or tied in a manner that deters 967
immediate access to its contents and that has not been opened by 968
the owner prior to the date on which the notice is given may be 969
described as such without describing its contents. 970

(4) A notice of denial of access to the personal property, if 971
a denial of access is permitted under the terms of the rental 972
agreement, which notice provides the name, street address, and 973
telephone number of the person whom the person notified may 974

contact to pay the claim and to either obtain the personal 975
property or enter into a rental agreement for the storage of the 976
personal property; 977

(5) A demand for payment within a specified time not less 978
than ten days after delivery of the notice; 979

(6) A conspicuous statement that unless the claim is paid 980
within that time the personal property will be advertised for sale 981
and will be sold by auction at a specified time and place and 982
that, if no person purchases the personal property at the auction, 983
the personal property may be sold at a private sale or destroyed; 984

(7) The address of the place at which the sale will be held, 985
if the sale will be held at a place other than the self-service 986
storage facility in which the personal property was stored. 987

(D) Any notice given pursuant to this section shall be 988
presumed delivered, if the notice is sent by first-class mail with 989
a certificate of mailing, when it is deposited with the United 990
States postal service and properly addressed with proper postage 991
prepaid. 992

(E) The sale of the personal property shall conform to the 993
terms of the notice as provided for in this section~~+~~. 994

~~(E)~~(F) The sale of the personal property shall be held at the 995
self-service storage facility or, if the address of the place was 996
included in the notice as required by division (C)(7) of this 997
section, at the nearest suitable place to the self-service storage 998
facility at which the personal property is stored~~+~~. 999

~~(F)~~(G) After the expiration of the time given in the notice, 1000
an advertisement of the sale shall be published once a week for 1001
two consecutive weeks in a newspaper of general circulation in the 1002
county in which the self-service storage facility is located or 1003
any other commercially reasonable manner. The manner of 1004
advertisement shall be deemed commercially reasonable if at least 1005

three independent bidders attend the sale at the time and place 1006
advertised. The advertisement shall include all of the following: 1007

(1) A brief and general description of the personal property 1008
as required by division (C)(3) of this section, except that the 1009
description shall describe the contents of any trunk, valise, or 1010
box that is locked, fastened, sealed, or tied in a manner that 1011
deters immediate access to its contents, if the trunk, valise, or 1012
box is opened by the owner prior to the date on which the 1013
advertisement of sale is published; 1014

(2) The name and last known address of the occupant who 1015
rented the storage space in which the personal property was 1016
stored; 1017

(3) The address of the self-service storage facility; 1018

(4) The time, place, and manner of the sale. 1019

The sale shall take place at least fifteen days after the 1020
first publication. ~~If there is no newspaper of general circulation~~ 1021
~~in the county in which the self-service storage facility is~~ 1022
~~located, the advertisement shall be posted at least ten days~~ 1023
~~before the date of the sale in not less than six conspicuous~~ 1024
~~places in the neighborhood where the self-service storage facility~~ 1025
~~is located.~~ 1026

~~(G)(H)~~(1) ~~Before any sale of personal property pursuant to~~ 1027
~~this section, any~~ Any person who has a legal interest or a 1028
security interest in ~~the personal property, or who holds a lien~~ 1029
against, a motor vehicle or watercraft may pay the amount 1030
necessary to satisfy the lien created by division (A) of section 1031
5322.02 of the Revised Code and the reasonable expenses incurred 1032
under this section. ~~Any~~ That person ~~except the occupant may,~~ upon 1033
payment of the amount necessary to satisfy the lien plus expenses, 1034
may enter into a new rental agreement for the storage of ~~the~~ 1035
~~personal property or, if he~~ the motor vehicle or watercraft. ~~Any~~ 1036

person who presents proof of a legal security interest in the 1037
personal property or of a right to take possession of the personal 1038
property or lien on a motor vehicle or watercraft or a court order 1039
authorizing him the person to take possession of the personal 1040
property, shall a motor vehicle or watercraft may immediately 1041
remove the personal property motor vehicle or watercraft from the 1042
self-service storage facility without satisfying the lien or 1043
expenses of the owner. 1044

(2) Before any sale of personal property other than a motor 1045
vehicle or watercraft pursuant to this section, any person who has 1046
a legal interest or a security interest in, or who holds a lien 1047
against, any personal property other than a motor vehicle or 1048
watercraft may pay the amount necessary to satisfy the lien 1049
created by division (A) of section 5322.02 of the Revised Code and 1050
the reasonable expenses incurred under this section and remove the 1051
personal property in which the person has the interest or against 1052
which the person holds the lien. After removal of all the personal 1053
property, including any motor vehicle or watercraft, from the 1054
storage space of the self-service storage facility by any means 1055
under this section, any person can enter into a rental agreement 1056
for the storage of personal property with the owner, and the owner 1057
has no obligation to the prior occupant of that storage space in 1058
the self-service storage facility. Before entering into a new 1059
rental agreement, the owner must have any motor vehicle or 1060
watercraft towed from that storage space. 1061

(3) Upon receipt of the payment from a person other than the 1062
occupant, the owner shall enter into a new rental agreement for 1063
the storage of the personal property or, if the person meets the 1064
conditions set forth in division (G)(1)(H)(2) of this section, 1065
shall permit the person to remove the personal property from the 1066
self-service storage facility. 1067

(3)(4) If the occupant pays the amount necessary to satisfy 1068

the lien created by division (A) of section 5322.02 of the Revised 1069
Code and the reasonable expenses incurred under this section, he 1070
the occupant shall immediately remove all of ~~his~~ the occupant's 1071
personal property from the self-service storage facility, unless 1072
the owner of the self-service storage facility agrees to enter 1073
into a new rental agreement for the storage of the property. 1074

~~(H)~~(I)(1) If property on which there is a lien under division 1075
(A) of section 5322.02 of the Revised Code is not sold at auction, 1076
but is claimed under division (H) of this section and the owner's 1077
lien is satisfied, then all legal or security interest in, or any 1078
other liens held against, the property shall remain intact. 1079

(2) A purchaser at auction in good faith, except an owner or 1080
~~his~~ an owner's agent, of the personal property sold to satisfy an 1081
owner's lien created by division (A) of section 5322.02 of the 1082
Revised Code takes the property free and clear of any rights of 1083
persons against whom the lien was valid, or any persons who had an 1084
interest in, or who held, any other lien against the property, 1085
despite noncompliance by the owner with the requirements of this 1086
section~~+~~. 1087

~~(I)~~(J) The owner may examine any personal property to be sold 1088
pursuant to this section. The examination may include, but is not 1089
limited to, the opening of any trunk, valise, box, or other 1090
container that is locked, fastened, sealed, tied, or otherwise 1091
closed in a manner that deters immediate access to its contents. 1092

~~(J)~~(K)(1) If the property upon which the lien created under 1093
division (A) of this section is claimed is a motor vehicle or a 1094
watercraft, the owner shall have the motor vehicle or watercraft 1095
towed from the premises if any of the following circumstances 1096
applies: 1097

(a) The notice was delivered or sent pursuant to division (B) 1098
of this section to all persons holding a lien on the motor vehicle 1099

or watercraft, and thirty days have elapsed since the notice was 1100
delivered or sent without a response from any of those persons. 1101

(b) Rent and other charges related to the property remain 1102
unpaid or unsatisfied by the occupant for sixty days, and no lien 1103
holders have been identified. 1104

(c) The owner is planning to hold a sale at auction of the 1105
personal property that was stored in the self-service storage unit 1106
with that motor vehicle or watercraft, in which case the motor 1107
vehicle or watercraft shall be towed prior to the auction. 1108

(2) The owner shall not be liable for the motor vehicle or 1109
watercraft or any damages to the motor vehicle or watercraft once 1110
the tower takes possession of the property. The notice delivered 1111
or sent pursuant to division (B) of this section to all persons 1112
holding a lien on the motor vehicle or watercraft shall include 1113
the name of the towing company. The name and the address of the 1114
towing company shall also be made available to the occupant or any 1115
lien holder upon the presentation of a document of title or 1116
another document that confirms an interest in the motor vehicle or 1117
watercraft. 1118

(L) The owner may satisfy ~~his~~ the owner's lien from the 1119
proceeds of any sale held pursuant to this section, but shall mail 1120
the balance, if any, by certified mail to the occupant at ~~his~~ the 1121
occupant's last known address. If the balance is returned to the 1122
owner after the owner mailed the balance by certified mail to the 1123
occupant or if the address of the occupant is not known, the owner 1124
shall hold the balance for two years after the date of the sale 1125
for delivery on demand to the occupant or to any other person who 1126
would have been entitled to possession of the personal property. 1127
After the expiration of the two-year period, the balance shall 1128
become unclaimed funds, as defined in division (B) of section 1129
169.01 of the Revised Code, and shall be disposed of pursuant to 1130
Chapter 169. of the Revised Code. 1131

~~(K)~~(M) An owner may buy at any public sale held pursuant to 1132
this section. 1133

~~(L)~~(N) The rights provided by this section shall be in 1134
addition to all other rights allowed by law to a creditor against 1135
~~his~~ a debtor. 1136

~~(M)~~(O)(1) If the owner complies with the requirements for 1137
sale under this section, the owner's liability to persons who have 1138
an interest in the personal property sold is limited to the 1139
balance of the proceeds of the sale after the owner has satisfied 1140
~~his~~ the owner's lien. 1141

(2) The owner is liable for damages caused by the failure to 1142
comply with the requirements for sale under this section and is 1143
liable for conversion for willful violation of the requirements 1144
for sale under this section. 1145

~~(N)~~(P) If no person purchases the personal property at the 1146
auction and if the owner has complied with this section, the owner 1147
may do any of the following: 1148

(1) Advertise and sell the personal property pursuant to 1149
divisions ~~(E)~~(F) to ~~(M)~~(O) of this section; 1150

(2) Sell the personal property at a private sale; 1151

(3) Dispose of the personal property in any manner considered 1152
appropriate by the owner including, but not limited to, destroying 1153
the personal property. 1154

Sec. 5809.031. (A) Notwithstanding any other provision of the 1155
Ohio Uniform Prudent Investor Act, unless otherwise provided by 1156
the terms of the trust, the duties of a trustee with respect to 1157
the acquisition, retention, or ownership of a life insurance 1158
policy as a trust asset do not include any of the following 1159
duties: 1160

(1) To determine whether the policy is or remains a proper 1161

investment; 1162

(2) To diversify the investment in the policy relative to any 1163
other life insurance policies or to any other trust assets; 1164

(3) To exercise or not to exercise any option, right, or 1165
privilege available under the policy, including the payment of 1166
premiums, unless there is sufficient cash or there are other 1167
readily marketable trust assets from which to pay the premiums or 1168
there are other trust assets that were designated by the settlor 1169
or any other person transferring those assets to the trust to be 1170
used for that purpose, regardless of whether that exercise or 1171
nonexercise results in the lapse or termination of the policy; 1172

(4) To investigate the financial strength or changes in the 1173
financial strength of the life insurance company maintaining the 1174
policy; 1175

(5) To inquire about changes in the health or financial 1176
condition of the insured or insureds under the policy. 1177

(B) The trustee, the attorney who drafted a trust, or any 1178
person who was consulted with regard to the creation of a trust, 1179
in the absence of fraud, is not liable to the beneficiaries of the 1180
trust or to any other person for any loss arising from the absence 1181
of the duties specified in divisions (A)(1) to (5) of this 1182
section. 1183

(C) Unless otherwise provided by the terms of the trust, this 1184
section applies to a trust established before, on, or after ~~the~~ 1185
~~effective date of this section~~ March 22, 2012, and to a life 1186
insurance policy acquired, retained, or owned by a trustee before, 1187
on, or after ~~the effective date of this section~~ March 22, 2012. 1188

Section 2. That existing sections 181.25, 1337.28, 1705.081, 1189
2111.121, 2151.85, 2947.23, 2949.091, 2953.08, 5322.01, 5322.02, 1190
5322.03, and 5809.031 of the Revised Code are hereby repealed. 1191