

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 568

Representative Butler

Cosponsors: Representatives DeVitis, Merrin, Riedel

A BILL

To amend sections 2152.02, 2152.10, 2152.12, 1
2935.26, and 4511.181 and to enact section 2
4511.199 of the Revised Code to authorize a law 3
enforcement officer to arrest a driver of a 4
motor vehicle if the officer has probable cause 5
to believe that the driver committed a moving 6
violation and that the moving violation was a 7
contributing factor in a motor vehicle accident 8
that caused serious physical harm to or the 9
death of another person, to authorize the 10
officer to request a warrant to conduct a 11
chemical test to determine whether the driver 12
was under the influence of drugs or alcohol if 13
there is probable cause to do so, to authorize 14
the officer to order the administration of a 15
chemical test under specified circumstances, to 16
require the mandatory bindover (for trial as an 17
adult rather than a juvenile) of a 16- or 17- 18
year-old who is alleged to have committed 19
aggravated vehicular homicide, and to designate 20
this act as "Sophie's Law." 21

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

Section 1. That sections 2152.02, 2152.10, 2152.12, 22
2935.26, and 4511.181 be amended and section 4511.199 of the 23
Revised Code be enacted to read as follows: 24

Sec. 2152.02. As used in this chapter: 25

(A) "Act charged" means the act that is identified in a 26
complaint, indictment, or information alleging that a child is a 27
delinquent child. 28

(B) "Admitted to a department of youth services facility" 29
includes admission to a facility operated, or contracted for, by 30
the department and admission to a comparable facility outside 31
this state by another state or the United States. 32

(C) (1) "Child" means a person who is under eighteen years 33
of age, except as otherwise provided in divisions (C) (2) to (8) 34
of this section. 35

(2) Subject to division (C) (3) of this section, any person 36
who violates a federal or state law or a municipal ordinance 37
prior to attaining eighteen years of age shall be deemed a 38
"child" irrespective of that person's age at the time the 39
complaint with respect to that violation is filed or the hearing 40
on the complaint is held. 41

(3) Any person who, while under eighteen years of age, 42
commits an act that would be a felony if committed by an adult 43
and who is not taken into custody or apprehended for that act 44
until after the person attains twenty-one years of age is not a 45
child in relation to that act. 46

(4) Except as otherwise provided in divisions (C) (5) and 47
(7) of this section, any person whose case is transferred for 48
criminal prosecution pursuant to section 2152.12 of the Revised 49
Code shall be deemed after the transfer not to be a child in the 50

transferred case. 51

(5) Any person whose case is transferred for criminal 52
prosecution pursuant to section 2152.12 of the Revised Code and 53
who subsequently is convicted of or pleads guilty to a felony in 54
that case, unless a serious youthful offender dispositional 55
sentence is imposed on the child for that offense under division 56
(B) (2) or (3) of section 2152.121 of the Revised Code and the 57
adult portion of that sentence is not invoked pursuant to 58
section 2152.14 of the Revised Code, and any person who is 59
adjudicated a delinquent child for the commission of an act, who 60
has a serious youthful offender dispositional sentence imposed 61
for the act pursuant to section 2152.13 of the Revised Code, and 62
whose adult portion of the dispositional sentence is invoked 63
pursuant to section 2152.14 of the Revised Code, shall be deemed 64
after the conviction, plea, or invocation not to be a child in 65
any case in which a complaint is filed against the person. 66

(6) The juvenile court has jurisdiction over a person who 67
is adjudicated a delinquent child or juvenile traffic offender 68
prior to attaining eighteen years of age until the person 69
attains twenty-one years of age, and, for purposes of that 70
jurisdiction related to that adjudication, except as otherwise 71
provided in this division, a person who is so adjudicated a 72
delinquent child or juvenile traffic offender shall be deemed a 73
"child" until the person attains twenty-one years of age. If a 74
person is so adjudicated a delinquent child or juvenile traffic 75
offender and the court makes a disposition of the person under 76
this chapter, at any time after the person attains twenty-one 77
years of age, the places at which the person may be held under 78
that disposition are not limited to places authorized under this 79
chapter solely for confinement of children, and the person may 80
be confined under that disposition, in accordance with division 81

(F) (2) of section 2152.26 of the Revised Code, in places other 82
than those authorized under this chapter solely for confinement 83
of children. 84

(7) The juvenile court has jurisdiction over any person 85
whose case is transferred for criminal prosecution solely for 86
the purpose of detaining the person as authorized in division 87
(F) (1) or (4) of section 2152.26 of the Revised Code unless the 88
person is convicted of or pleads guilty to a felony in the adult 89
court. 90

(8) Any person who, while eighteen years of age, violates 91
division (A) (1) or (2) of section 2919.27 of the Revised Code by 92
violating a protection order issued or consent agreement 93
approved under section 2151.34 or 3113.31 of the Revised Code 94
shall be considered a child for the purposes of that violation 95
of section 2919.27 of the Revised Code. 96

(D) "Community corrections facility," "public safety 97
beds," "release authority," and "supervised release" have the 98
same meanings as in section 5139.01 of the Revised Code. 99

(E) "Delinquent child" includes any of the following: 100

(1) Any child, except a juvenile traffic offender, who 101
violates any law of this state or the United States, or any 102
ordinance of a political subdivision of the state, that would be 103
an offense if committed by an adult; 104

(2) Any child who violates any lawful order of the court 105
made under this chapter, including a child who violates a court 106
order regarding the child's prior adjudication as an unruly 107
child for being an habitual truant; 108

(3) Any child who violates any lawful order of the court 109
made under Chapter 2151. of the Revised Code other than an order 110

issued under section 2151.87 of the Revised Code; 111

(4) Any child who violates division (C) of section 112
2907.39, division (A) of section 2923.211, or division (C) (1) or 113
(D) of section 2925.55 of the Revised Code. 114

(F) "Discretionary serious youthful offender" means a 115
person who is eligible for a discretionary SYO and who is not 116
transferred to adult court under a mandatory or discretionary 117
transfer. 118

(G) "Discretionary SYO" means a case in which the juvenile 119
court, in the juvenile court's discretion, may impose a serious 120
youthful offender disposition under section 2152.13 of the 121
Revised Code. 122

(H) "Discretionary transfer" means that the juvenile court 123
has discretion to transfer a case for criminal prosecution under 124
division (B) of section 2152.12 of the Revised Code. 125

(I) "Drug abuse offense," "felony drug abuse offense," and 126
"minor drug possession offense" have the same meanings as in 127
section 2925.01 of the Revised Code. 128

(J) "Electronic monitoring" and "electronic monitoring 129
device" have the same meanings as in section 2929.01 of the 130
Revised Code. 131

(K) "Economic loss" means any economic detriment suffered 132
by a victim of a delinquent act or juvenile traffic offense as a 133
direct and proximate result of the delinquent act or juvenile 134
traffic offense and includes any loss of income due to lost time 135
at work because of any injury caused to the victim and any 136
property loss, medical cost, or funeral expense incurred as a 137
result of the delinquent act or juvenile traffic offense. 138
"Economic loss" does not include non-economic loss or any 139

punitive or exemplary damages.	140
(L) "Firearm" has the same meaning as in section 2923.11	141
of the Revised Code.	142
(M) "Intellectual disability" has the same meaning as in	143
section 5123.01 of the Revised Code.	144
(N) "Juvenile traffic offender" means any child who	145
violates any traffic law, traffic ordinance, or traffic	146
regulation of this state, the United States, or any political	147
subdivision of this state, other than a resolution, ordinance,	148
or regulation of a political subdivision of this state the	149
violation of which is required to be handled by a parking	150
violations bureau or a joint parking violations bureau pursuant	151
to Chapter 4521. of the Revised Code.	152
(O) A "legitimate excuse for absence from the public	153
school the child is supposed to attend" has the same meaning as	154
in section 2151.011 of the Revised Code.	155
(P) "Mandatory serious youthful offender" means a person	156
who is eligible for a mandatory SYO and who is not transferred	157
to adult court under a mandatory or discretionary transfer and	158
also includes, for purposes of imposition of a mandatory serious	159
youthful dispositional sentence under section 2152.13 of the	160
Revised Code, a person upon whom a juvenile court is required to	161
impose such a sentence under division (B) (3) of section 2152.121	162
of the Revised Code.	163
(Q) "Mandatory SYO" means a case in which the juvenile	164
court is required to impose a mandatory serious youthful	165
offender disposition under section 2152.13 of the Revised Code.	166
(R) "Mandatory transfer" means that a case is required to	167
be transferred for criminal prosecution under division (A) of	168

section 2152.12 of the Revised Code.	169
(S) "Mental illness" has the same meaning as in section 5122.01 of the Revised Code.	170 171
(T) "Monitored time" and "repeat violent offender" have the same meanings as in section 2929.01 of the Revised Code.	172 173
(U) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.	174 175
(V) "Public record" has the same meaning as in section 149.43 of the Revised Code.	176 177
(W) "Serious youthful offender" means a person who is eligible for a mandatory SYO or discretionary SYO but who is not transferred to adult court under a mandatory or discretionary transfer and also includes, for purposes of imposition of a mandatory serious youthful dispositional sentence under section 2152.13 of the Revised Code, a person upon whom a juvenile court is required to impose such a sentence under division (B) (3) of section 2152.121 of the Revised Code.	178 179 180 181 182 183 184 185
(X) "Sexually oriented offense," "juvenile offender registrant," "child-victim oriented offense," "tier I sex offender/child-victim offender," "tier II sex offender/child-victim offender," "tier III sex offender/child-victim offender," and "public registry-qualified juvenile offender registrant" have the same meanings as in section 2950.01 of the Revised Code.	186 187 188 189 190 191 192
(Y) "Traditional juvenile" means a case that is not transferred to adult court under a mandatory or discretionary transfer, that is eligible for a disposition under sections 2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and that is not eligible for a disposition under section 2152.13 of	193 194 195 196 197

the Revised Code.	198
(Z) "Transfer" means the transfer for criminal prosecution of a case involving the alleged commission by a child of an act that would be an offense if committed by an adult from the juvenile court to the appropriate court that has jurisdiction of the offense.	199 200 201 202 203
(AA) "Category one offense" means any of the following:	204
(1) A violation of section 2903.01 or 2903.02 of the Revised Code;	205 206
(2) A violation of section 2923.02 of the Revised Code involving an attempt to commit aggravated murder or murder;	207 208
<u>(3) A violation of division (A)(1) of section 2903.06 of the Revised Code if the person who committed the violation was sixteen or seventeen years of age at the time of the violation.</u>	209 210 211
(BB) "Category two offense" means any of the following:	212
(1) A violation of section 2903.03, 2905.01, 2907.02, 2909.02, 2911.01, or 2911.11 of the Revised Code;	213 214
(2) A violation of section 2903.04 of the Revised Code that is a felony of the first degree;	215 216
(3) A violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.	217 218
(CC) "Non-economic loss" means nonpecuniary harm suffered by a victim of a delinquent act or juvenile traffic offense as a result of or related to the delinquent act or juvenile traffic offense, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction,	219 220 221 222 223 224

training, or education; mental anguish; and any other intangible 225
loss. 226

Sec. 2152.10. (A) A child who is alleged to be a 227
delinquent child is eligible for mandatory transfer and shall be 228
transferred as provided in section 2152.12 of the Revised Code 229
in any of the following circumstances: 230

(1) The child is charged with a category one offense and 231
either of the following apply: 232

(a) The child was sixteen years of age or older at the 233
time of the act charged. 234

(b) The child was fourteen or fifteen years of age at the 235
time of the act charged and previously was adjudicated a 236
delinquent child for committing an act that is a category one or 237
category two offense and was committed to the legal custody of 238
the department of youth services upon the basis of that 239
adjudication. 240

Division (A)(1)(b) of this section does not apply if the 241
offense charged was, or the prior adjudication of the child as a 242
delinquent child was for, a violation of division (A)(1) of 243
section 2903.06 of the Revised Code. 244

(2) The child is charged with a category two offense, 245
other than a violation of section 2905.01 of the Revised Code, 246
the child was sixteen years of age or older at the time of the 247
commission of the act charged, and either or both of the 248
following apply: 249

(a) The child previously was adjudicated a delinquent 250
child for committing an act that is a category one or a category 251
two offense, other than a violation of division (A)(1) of 252
section 2903.06 of the Revised Code, and was committed to the 253

legal custody of the department of youth services on the basis 254
of that adjudication. 255

(b) The child is alleged to have had a firearm on or about 256
the child's person or under the child's control while committing 257
the act charged and to have displayed the firearm, brandished 258
the firearm, indicated possession of the firearm, or used the 259
firearm to facilitate the commission of the act charged. 260

(3) Division (A) (2) of section 2152.12 of the Revised Code 261
applies. 262

(B) Unless the child is subject to mandatory transfer, if 263
a child is fourteen years of age or older at the time of the act 264
charged and if the child is charged with an act that would be a 265
felony if committed by an adult, the child is eligible for 266
discretionary transfer to the appropriate court for criminal 267
prosecution. In determining whether to transfer the child for 268
criminal prosecution, the juvenile court shall follow the 269
procedures in section 2152.12 of the Revised Code. If the court 270
does not transfer the child and if the court adjudicates the 271
child to be a delinquent child for the act charged, the court 272
shall issue an order of disposition in accordance with section 273
2152.11 of the Revised Code. 274

Sec. 2152.12. (A) (1) (a) After a complaint has been filed 275
alleging that a child is a delinquent child for committing ~~an~~ 276
~~act that would be aggravated murder, murder, attempted~~ 277
~~aggravated murder, or attempted murder if committed by an adult~~ 278
a category one offense, the juvenile court at a hearing shall 279
transfer the case if either of the following applies: 280

(i) The child was sixteen or seventeen years of age at the 281
time of the act charged and there is probable cause to believe 282

that the child committed the act charged. 283

(ii) The child was fourteen or fifteen years of age at the 284
time of the act charged, section 2152.10 of the Revised Code 285
provides that the child is eligible for mandatory transfer, and 286
there is probable cause to believe that the child committed the 287
act charged. 288

(b) After a complaint has been filed alleging that a child 289
is a delinquent child by reason of committing a category two 290
offense, the juvenile court at a hearing shall transfer the case 291
if the child was sixteen or seventeen years of age at the time 292
of the act charged and either of the following applies: 293

(i) Division (A) (2) (a) of section 2152.10 of the Revised 294
Code requires the mandatory transfer of the case, and there is 295
probable cause to believe that the child committed the act 296
charged. 297

(ii) Division (A) (2) (b) of section 2152.10 of the Revised 298
Code requires the mandatory transfer of the case, and there is 299
probable cause to believe that the child committed the act 300
charged. 301

(2) The juvenile court also shall transfer a case in the 302
circumstances described in division (C) (5) of section 2152.02 of 303
the Revised Code or if either of the following applies: 304

(a) A complaint is filed against a child who is eligible 305
for a discretionary transfer under section 2152.10 of the 306
Revised Code and who previously was convicted of or pleaded 307
guilty to a felony in a case that was transferred to a criminal 308
court. 309

(b) A complaint is filed against a child who is domiciled 310
in another state alleging that the child is a delinquent child 311

for committing an act that would be a felony if committed by an 312
adult, and, if the act charged had been committed in that other 313
state, the child would be subject to criminal prosecution as an 314
adult under the law of that other state without the need for a 315
transfer of jurisdiction from a juvenile, family, or similar 316
noncriminal court to a criminal court. 317

(3) If a complaint is filed against a child alleging that 318
the child is a delinquent child and the case is transferred 319
pursuant to division (A) (1) (a) (i) or (A) (1) (b) (ii) of this 320
section and if the child subsequently is convicted of or pleads 321
guilty to an offense in that case, the sentence to be imposed or 322
disposition to be made of the child shall be determined in 323
accordance with section 2152.121 of the Revised Code. 324

(B) Except as provided in division (A) of this section, 325
after a complaint has been filed alleging that a child is a 326
delinquent child for committing an act that would be a felony if 327
committed by an adult, the juvenile court at a hearing may 328
transfer the case if the court finds all of the following: 329

(1) The child was fourteen years of age or older at the 330
time of the act charged. 331

(2) There is probable cause to believe that the child 332
committed the act charged. 333

(3) The child is not amenable to care or rehabilitation 334
within the juvenile system, and the safety of the community may 335
require that the child be subject to adult sanctions. In making 336
its decision under this division, the court shall consider 337
whether the applicable factors under division (D) of this 338
section indicating that the case should be transferred outweigh 339
the applicable factors under division (E) of this section 340

indicating that the case should not be transferred. The record 341
shall indicate the specific factors that were applicable and 342
that the court weighed. 343

(C) Before considering a transfer under division (B) of 344
this section, the juvenile court shall order an investigation 345
into the child's social history, education, family situation, 346
and any other factor bearing on whether the child is amenable to 347
juvenile rehabilitation, including a mental examination of the 348
child by a public or private agency or a person qualified to 349
make the examination. The investigation shall be completed and a 350
report on the investigation shall be submitted to the court as 351
soon as possible but not more than forty-five calendar days 352
after the court orders the investigation. The court may grant 353
one or more extensions for a reasonable length of time. The 354
child may waive the examination required by this division if the 355
court finds that the waiver is competently and intelligently 356
made. Refusal to submit to a mental examination by the child 357
constitutes a waiver of the examination. 358

(D) In considering whether to transfer a child under 359
division (B) of this section, the juvenile court shall consider 360
the following relevant factors, and any other relevant factors, 361
in favor of a transfer under that division: 362

(1) The victim of the act charged suffered physical or 363
psychological harm, or serious economic harm, as a result of the 364
alleged act. 365

(2) The physical or psychological harm suffered by the 366
victim due to the alleged act of the child was exacerbated 367
because of the physical or psychological vulnerability or the 368
age of the victim. 369

(3) The child's relationship with the victim facilitated the act charged.	370 371
(4) The child allegedly committed the act charged for hire or as a part of a gang or other organized criminal activity.	372 373
(5) The child had a firearm on or about the child's person or under the child's control at the time of the act charged, the act charged is not a violation of section 2923.12 of the Revised Code, and the child, during the commission of the act charged, allegedly used or displayed the firearm, brandished the firearm, or indicated that the child possessed a firearm.	374 375 376 377 378 379
(6) At the time of the act charged, the child was awaiting adjudication or disposition as a delinquent child, was under a community control sanction, or was on parole for a prior delinquent child adjudication or conviction.	380 381 382 383
(7) The results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system.	384 385 386
(8) The child is emotionally, physically, or psychologically mature enough for the transfer.	387 388
(9) There is not sufficient time to rehabilitate the child within the juvenile system.	389 390
(E) In considering whether to transfer a child under division (B) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, against a transfer under that division:	391 392 393 394
(1) The victim induced or facilitated the act charged.	395
(2) The child acted under provocation in allegedly committing the act charged.	396 397

(3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person.

(4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged.

(5) The child previously has not been adjudicated a delinquent child.

(6) The child is not emotionally, physically, or psychologically mature enough for the transfer.

(7) The child has a mental illness or intellectual disability.

(8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety.

(F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner:

(1) Initially, the court shall decide the motion alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be

transferred. 427

(2) If the court determines that division (A) of this 428
section applies and requires that the case or cases involving 429
one or more of the acts charged be transferred, the court shall 430
transfer the case or cases in accordance with that division. 431
After the transfer pursuant to division (A) of this section, the 432
court shall decide, in accordance with division (B) of this 433
section, whether to grant the motion requesting that the case or 434
cases involving one or more of the acts charged be transferred 435
pursuant to that division. Notwithstanding division (B) of this 436
section, prior to transferring a case pursuant to division (A) 437
of this section, the court is not required to consider any 438
factor specified in division (D) or (E) of this section or to 439
conduct an investigation under division (C) of this section. 440

(3) If the court determines that division (A) of this 441
section does not require that the case or cases involving one or 442
more of the acts charged be transferred, the court shall decide 443
in accordance with division (B) of this section whether to grant 444
the motion requesting that the case or cases involving one or 445
more of the acts charged be transferred pursuant to that 446
division. 447

(4) No report on an investigation conducted pursuant to 448
division (C) of this section shall include details of the 449
alleged offense as reported by the child. 450

(G) The court shall give notice in writing of the time, 451
place, and purpose of any hearing held pursuant to division (A) 452
or (B) of this section to the child's parents, guardian, or 453
other custodian and to the child's counsel at least three days 454
prior to the hearing. 455

(H) No person, either before or after reaching eighteen 456
years of age, shall be prosecuted as an adult for an offense 457
committed prior to becoming eighteen years of age, unless the 458
person has been transferred as provided in division (A) or (B) 459
of this section or unless division (J) of this section applies. 460
Any prosecution that is had in a criminal court on the mistaken 461
belief that the person who is the subject of the case was 462
eighteen years of age or older at the time of the commission of 463
the offense shall be deemed a nullity, and the person shall not 464
be considered to have been in jeopardy on the offense. 465

(I) Upon the transfer of a case under division (A) or (B) 466
of this section, the juvenile court shall state the reasons for 467
the transfer on the record, and shall order the child to enter 468
into a recognizance with good and sufficient surety for the 469
child's appearance before the appropriate court for any 470
disposition that the court is authorized to make for a similar 471
act committed by an adult. The transfer abates the jurisdiction 472
of the juvenile court with respect to the delinquent acts 473
alleged in the complaint, and, upon the transfer, all further 474
proceedings pertaining to the act charged shall be discontinued 475
in the juvenile court, and the case then shall be within the 476
jurisdiction of the court to which it is transferred as 477
described in division (H) of section 2151.23 of the Revised 478
Code. 479

(J) If a person under eighteen years of age allegedly 480
commits an act that would be a felony if committed by an adult 481
and if the person is not taken into custody or apprehended for 482
that act until after the person attains twenty-one years of age, 483
the juvenile court does not have jurisdiction to hear or 484
determine any portion of the case charging the person with 485
committing that act. In those circumstances, divisions (A) and 486

(B) of this section do not apply regarding the act, and the case charging the person with committing the act shall be a criminal prosecution commenced and heard in the appropriate court having jurisdiction of the offense as if the person had been eighteen years of age or older when the person committed the act. All proceedings pertaining to the act shall be within the jurisdiction of the court having jurisdiction of the offense, and that court has all the authority and duties in the case as it has in other criminal cases in that court.

Sec. 2935.26. (A) Notwithstanding any other provision of the Revised Code, when a law enforcement officer is otherwise authorized to arrest a person for the commission of a minor misdemeanor, the officer shall not arrest the person, but shall issue a citation, unless one of the following applies:

(1) The offender requires medical care or is unable to provide for ~~his~~ the offender's own safety.

(2) The offender cannot or will not offer satisfactory evidence of ~~his~~ the offender's identity.

(3) The offender refuses to sign the citation.

(4) The offender has previously been issued a citation for the commission of that misdemeanor and has failed to do one of the following:

(a) Appear at the time and place stated in the citation;

(b) Comply with division (C) of this section.

(5) The arrest is authorized under division (A) of section 4511.199 of the Revised Code.

(B) The citation shall contain all of the following:

(1) The name and address of the offender;	514
(2) A description of the offense and the numerical designation of the applicable statute or ordinance;	515 516
(3) The name of the person issuing the citation;	517
(4) An order for the offender to appear at a stated time and place;	518 519
(5) A notice that the offender may comply with division (C) of this section in lieu of appearing at the stated time and place;	520 521 522
(6) A notice that the offender is required to do one of the following and that he <u>the offender</u> may be arrested if he <u>the offender</u> fails to do one of them:	523 524 525
(a) Appear at the time and place stated in the citation;	526
(b) Comply with division (C) of this section.	527
(C) In lieu of appearing at the time and place stated in the citation, the offender may, within seven days after the date of issuance of the citation, do either of the following:	528 529 530
(1) Appear in person at the office of the clerk of the court stated in the citation, sign a plea of guilty and a waiver of trial provision that is on the citation, and pay the total amount of the fine and costs;	531 532 533 534
(2) Sign the guilty plea and waiver of trial provision of the citation, and mail the citation and a check or money order for the total amount of the fine and costs to the office of the clerk of the court stated in the citation.	535 536 537 538
Remittance by mail of the fine and costs to the office of the clerk of the court stated in the citation constitutes a	539 540

guilty plea and waiver of trial whether or not the guilty plea 541
and waiver of trial provision of the citation are signed by the 542
defendant. 543

(D) A law enforcement officer who issues a citation shall 544
complete and sign the citation form, serve a copy of the 545
completed form upon the offender and, without unnecessary delay, 546
file the original citation with the court having jurisdiction 547
over the offense. 548

(E) Each court shall establish a fine schedule that shall 549
list the fine for each minor misdemeanor, and state the court 550
costs. The fine schedule shall be prominently posted in the 551
place where minor misdemeanor fines are paid. 552

(F) If an offender fails to appear and does not comply 553
with division (C) of this section, the court may issue a 554
supplemental citation, or a summons or warrant for the arrest of 555
the offender pursuant to the Criminal Rules. Supplemental 556
citations shall be in the form prescribed by division (B) of 557
this section, but shall be issued and signed by the clerk of the 558
court at which the citation directed the offender to appear and 559
shall be served in the same manner as a summons. 560

Sec. 4511.181. As used in sections 4511.181 to ~~4511.198~~ 561
4511.199 of the Revised Code: 562

(A) "Equivalent offense" means any of the following: 563

(1) A violation of division (A) or (B) of section 4511.19 564
of the Revised Code; 565

(2) A violation of a municipal OVI ordinance; 566

(3) A violation of section 2903.04 of the Revised Code in 567
a case in which the offender was subject to the sanctions 568

described in division (D) of that section; 569

(4) A violation of division (A) (1) of section 2903.06 or 570
2903.08 of the Revised Code or a municipal ordinance that is 571
substantially equivalent to either of those divisions; 572

(5) A violation of division (A) (2), (3), or (4) of section 573
2903.06, division (A) (2) of section 2903.08, or former section 574
2903.07 of the Revised Code, or a municipal ordinance that is 575
substantially equivalent to any of those divisions or that 576
former section, in a case in which a judge or jury as the trier 577
of fact found that the offender was under the influence of 578
alcohol, a drug of abuse, or a combination of them; 579

(6) A violation of division (A) or (B) of section 1547.11 580
of the Revised Code; 581

(7) A violation of a municipal ordinance prohibiting a 582
person from operating or being in physical control of any vessel 583
underway or from manipulating any water skis, aquaplane, or 584
similar device on the waters of this state while under the 585
influence of alcohol, a drug of abuse, or a combination of them 586
or prohibiting a person from operating or being in physical 587
control of any vessel underway or from manipulating any water 588
skis, aquaplane, or similar device on the waters of this state 589
with a prohibited concentration of alcohol, a controlled 590
substance, or a metabolite of a controlled substance in the 591
whole blood, blood serum or plasma, breath, or urine; 592

(8) A violation of an existing or former municipal 593
ordinance, law of another state, or law of the United States 594
that is substantially equivalent to division (A) or (B) of 595
section 4511.19 or division (A) or (B) of section 1547.11 of the 596
Revised Code; 597

(9) A violation of a former law of this state that was 598
substantially equivalent to division (A) or (B) of section 599
4511.19 or division (A) or (B) of section 1547.11 of the Revised 600
Code. 601

(B) "Mandatory jail term" means the mandatory term in jail 602
of three, six, ten, twenty, thirty, or sixty days that must be 603
imposed under division (G) (1) (a), (b), or (c) of section 4511.19 604
of the Revised Code upon an offender convicted of a violation of 605
division (A) of that section and in relation to which all of the 606
following apply: 607

(1) Except as specifically authorized under section 608
4511.19 of the Revised Code, the term must be served in a jail. 609

(2) Except as specifically authorized under section 610
4511.19 of the Revised Code, the term cannot be suspended, 611
reduced, or otherwise modified pursuant to sections 2929.21 to 612
2929.28 or any other provision of the Revised Code. 613

(C) "Municipal OVI ordinance" and "municipal OVI offense" 614
mean any municipal ordinance prohibiting a person from operating 615
a vehicle while under the influence of alcohol, a drug of abuse, 616
or a combination of them or prohibiting a person from operating 617
a vehicle with a prohibited concentration of alcohol, a 618
controlled substance, or a metabolite of a controlled substance 619
in the whole blood, blood serum or plasma, breath, or urine. 620

(D) "Community residential sanction," "continuous alcohol 621
monitoring," "jail," "mandatory prison term," "mandatory term of 622
local incarceration," "sanction," and "prison term" have the 623
same meanings as in section 2929.01 of the Revised Code. 624

(E) "Drug of abuse" has the same meaning as in section 625
4506.01 of the Revised Code. 626

(F) "Equivalent offense that is vehicle-related" means an 627
equivalent offense that is any of the following: 628

(1) A violation described in division (A) (1), (2), (3), 629
(4), or (5) of this section; 630

(2) A violation of an existing or former municipal 631
ordinance, law of another state, or law of the United States 632
that is substantially equivalent to division (A) or (B) of 633
section 4511.19 of the Revised Code; 634

(3) A violation of a former law of this state that was 635
substantially equivalent to division (A) or (B) of section 636
4511.19 of the Revised Code. 637

Sec. 4511.199. (A) A law enforcement officer may arrest 638
the driver of a motor vehicle if the law enforcement officer has 639
probable cause to believe that both of the following apply: 640

(1) The driver committed a moving violation. 641

(2) The moving violation was a contributing factor in a 642
motor vehicle accident that caused serious physical harm to or 643
the death of another person. 644

(B) At the time of an arrest under division (A) of this 645
section, the law enforcement officer shall make a determination 646
as to whether the driver and each passenger who was in the 647
driver's vehicle at the time of the accident appears to be under 648
the influence of alcohol, a drug of abuse, or a controlled 649
substance. The law enforcement officer also shall ascertain 650
whether alcohol, a drug of abuse, or a controlled substance is 651
present in the vehicle within the plain sight of the officer. 652

(C) If the law enforcement officer determines that there 653
is not probable cause to believe that the driver was under the 654

influence of alcohol, a drug of abuse, or a controlled substance 655
at the time of the accident, the officer shall file a report 656
detailing the circumstances supporting that determination with 657
the law enforcement agency to which the officer reports. The 658
officer shall include in the report a statement as to whether or 659
not alcohol, a controlled substance, or a drug of abuse was 660
present in the vehicle and whether or not the driver or any 661
passenger appeared to be under the influence of alcohol, a drug 662
of abuse, or a controlled substance. 663

On an annual basis, a law enforcement officer who is 664
employed by a law enforcement agency and who has supervisory 665
authority over law enforcement officers who filed reports with 666
the law enforcement agency under this division shall review the 667
reports filed with the agency during the previous year. The law 668
enforcement officer with supervisory authority shall document 669
the fact that the reports have been reviewed and any subsequent 670
actions taken. 671

(D) If the law enforcement officer determines that there 672
is probable cause to believe that the driver was under the 673
influence of alcohol, a drug of abuse, or a controlled substance 674
at the time of the accident, and if it is feasible to do so, the 675
law enforcement officer may request a court of competent 676
jurisdiction to issue a search warrant authorizing a chemical 677
test or tests of the driver's whole blood, blood serum, plasma, 678
or urine to determine the concentration of alcohol, a drug of 679
abuse, controlled substance, metabolite of a controlled 680
substance, or combination in the tested substance and shall file 681
an affidavit as required under section 2933.23 of the Revised 682
Code. The request for a warrant shall state that the officer has 683
probable cause to believe that the driver committed a moving 684
violation, that the moving violation was a contributing factor 685

in a motor vehicle accident that caused serious physical harm to 686
or the death of another person, and that the driver was under 687
the influence of alcohol, a drug of abuse, or a controlled 688
substance at the time of the accident. The request for the 689
warrant also shall state the circumstances supporting those 690
determinations. 691

(E) (1) A law enforcement officer may transport the driver 692
to a hospital and order the administration of a chemical test or 693
tests of the driver's whole blood, blood serum, plasma, or urine 694
to determine the concentration of alcohol, a drug of abuse, 695
controlled substance, metabolite of a controlled substance, or 696
combination in the tested substance if either of the following 697
applies: 698

(a) The law enforcement officer has probable cause to 699
believe that the driver was under the influence of alcohol, a 700
drug of abuse, or a controlled substance at the time of the 701
accident and either it is not feasible to request a search 702
warrant or no response has been received with regard to the 703
request for a search warrant within one hour of the time the 704
search warrant was requested. 705

(b) A search warrant is issued by a court of competent 706
jurisdiction. 707

(2) A law enforcement officer shall not order the 708
administration of a chemical test if the request for a search 709
warrant is denied. 710

(F) Nothing in this section shall be construed to limit 711
the authority of a law enforcement officer to conduct an 712
investigation of a motor vehicle accident or to search any motor 713
vehicle or driver involved in an accident. 714

(G) If a law enforcement officer orders a chemical test 715
prior to receiving a response with regard to the request for a 716
search warrant and the search warrant is subsequently denied, 717
the results of the chemical test are not admissible as evidence 718
in any legal proceeding. 719

(H) As used in this section: 720

(1) "Law enforcement officer" means a sheriff, deputy 721
sheriff, constable, police officer of a township or joint police 722
district, marshal, deputy marshal, municipal police officer, 723
state highway patrol trooper, or any other person specified in 724
division (A) (11) of section 2901.01 of the Revised Code who has 725
the authority to enforce traffic laws. 726

(2) "Medical professional" means a physician, a registered 727
nurse, an emergency medical technician-intermediate, an 728
emergency medical technician-paramedic, or a qualified 729
technician, chemist, or phlebotomist. 730

(3) "Moving violation" means any violation of any statute 731
or ordinance that regulates the operation of vehicles, 732
streetcars, or trackless trolleys on the highways or streets. 733
"Moving violation" does not include a violation of section 734
4513.263 of the Revised Code or a substantially equivalent 735
municipal ordinance, or a violation of any statute or ordinance 736
regulating pedestrians or the parking of vehicles, vehicle size 737
or load limitations, vehicle fitness requirements, or vehicle 738
registration. 739

(4) "Serious physical harm" means any of the following: 740

(a) Any physical harm that carries a substantial risk of 741
death; 742

(b) Any physical harm that involves some permanent 743

incapacity, whether partial or total, or that involves some 744
temporary, substantial incapacity; 745

(c) Any physical harm that involves some permanent 746
disfigurement or that involves some temporary, serious 747
disfigurement; 748

(d) Any physical harm that involves acute pain of such 749
duration as to result in substantial suffering or that involves 750
any degree of prolonged or intractable pain. 751

Section 2. That existing sections 2152.02, 2152.10, 752
2152.12, 2935.26, and 4511.181 of the Revised Code are hereby 753
repealed. 754

Section 3. This act shall be known as "Sophie's Law." 755