

**As Reported by the House Criminal Justice Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. H. B. No. 136**

**Representative Hillyer**

**Cosponsors: Representatives Seitz, Weinstein, Crawley, Plummer, Leland,  
Crossman, Galonski, Rogers, West**

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**A BILL**

To amend sections 2929.02, 2929.022, 2929.024, 1  
2929.03, 2929.04, 2929.06, 2941.148, 2953.21, 2  
2953.23, 2971.03, and 2971.07 and to enact 3  
section 2929.025 of the Revised Code to prohibit 4  
imposing the death penalty for aggravated murder 5  
when the offender had a serious mental illness 6  
at the time of the offense. 7

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

**Section 1.** That sections 2929.02, 2929.022, 2929.024, 8  
2929.03, 2929.04, 2929.06, 2941.148, 2953.21, 2953.23, 2971.03, 9  
and 2971.07 be amended and section 2929.025 of the Revised Code 10  
be enacted to read as follows: 11

**Sec. 2929.02.** (A) Whoever is convicted of or pleads guilty 12  
to aggravated murder in violation of section 2903.01 of the 13  
Revised Code shall suffer death or be imprisoned for life, as 14  
determined pursuant to sections 2929.022, 2929.03, and 2929.04 15  
of the Revised Code, except that no person who raises the matter 16  
of age pursuant to section 2929.023 of the Revised Code and who 17  
is not found to have been eighteen years of age or older at the 18

time of the commission of the offense and no person who raises 19  
the matter of the person's serious mental illness at the time of 20  
the alleged commission of the offense pursuant to section 21  
2929.025 of the Revised Code and is found under that section to 22  
be ineligible for a sentence of death due to serious mental 23  
illness shall suffer death. In addition, the offender may be 24  
fined an amount fixed by the court, but not more than twenty- 25  
five thousand dollars. 26

(B) (1) Except as otherwise provided in division (B) (2) or 27  
(3) of this section, whoever is convicted of or pleads guilty to 28  
murder in violation of section 2903.02 of the Revised Code shall 29  
be imprisoned for an indefinite term of fifteen years to life. 30

(2) Except as otherwise provided in division (B) (3) of 31  
this section, if a person is convicted of or pleads guilty to 32  
murder in violation of section 2903.02 of the Revised Code, the 33  
victim of the offense was less than thirteen years of age, and 34  
the offender also is convicted of or pleads guilty to a sexual 35  
motivation specification that was included in the indictment, 36  
count in the indictment, or information charging the offense, 37  
the court shall impose an indefinite prison term of thirty years 38  
to life pursuant to division (B) (3) of section 2971.03 of the 39  
Revised Code. 40

(3) If a person is convicted of or pleads guilty to murder 41  
in violation of section 2903.02 of the Revised Code and also is 42  
convicted of or pleads guilty to a sexual motivation 43  
specification and a sexually violent predator specification that 44  
were included in the indictment, count in the indictment, or 45  
information that charged the murder, the court shall impose upon 46  
the offender a term of life imprisonment without parole that 47  
shall be served pursuant to section 2971.03 of the Revised Code. 48

(4) In addition, the offender may be fined an amount fixed 49  
by the court, but not more than fifteen thousand dollars. 50

(C) The court shall not impose a fine or fines for 51  
aggravated murder or murder which, in the aggregate and to the 52  
extent not suspended by the court, exceeds the amount which the 53  
offender is or will be able to pay by the method and within the 54  
time allowed without undue hardship to the offender or to the 55  
dependents of the offender, or will prevent the offender from 56  
making reparation for the victim's wrongful death. 57

(D) (1) In addition to any other sanctions imposed for a 58  
violation of section 2903.01 or 2903.02 of the Revised Code, if 59  
the offender used a motor vehicle as the means to commit the 60  
violation, the court shall impose upon the offender a class two 61  
suspension of the offender's driver's license, commercial 62  
driver's license, temporary instruction permit, probationary 63  
license, or nonresident operating privilege as specified in 64  
division (A) (2) of section 4510.02 of the Revised Code. 65

(2) As used in division (D) of this section, "motor 66  
vehicle" has the same meaning as in section 4501.01 of the 67  
Revised Code. 68

**Sec. 2929.022.** (A) If an indictment or count in an 69  
indictment charging a defendant with aggravated murder contains 70  
a specification of the aggravating circumstance of a prior 71  
conviction listed in division (A) (5) of section 2929.04 of the 72  
Revised Code, the defendant may elect to have the panel of three 73  
judges, if the defendant waives trial by jury, or the trial 74  
judge, if the defendant is tried by jury, determine the 75  
existence of that aggravating circumstance at the sentencing 76  
hearing held pursuant to divisions (C) and (D) of section 77  
2929.03 of the Revised Code. 78

(1) If the defendant does not elect to have the existence of the aggravating circumstance determined at the sentencing hearing, the defendant shall be tried on the charge of aggravated murder, on the specification of the aggravating circumstance of a prior conviction listed in division (A) (5) of section 2929.04 of the Revised Code, and on any other specifications of an aggravating circumstance listed in division (A) of section 2929.04 of the Revised Code in a single trial as in any other criminal case in which a person is charged with aggravated murder and specifications.

(2) If the defendant does elect to have the existence of the aggravating circumstance of a prior conviction listed in division (A) (5) of section 2929.04 of the Revised Code determined at the sentencing hearing, then, following a verdict of guilty of the charge of aggravated murder, the panel of three judges or the trial judge shall:

(a) Hold a sentencing hearing pursuant to division (B) of this section, unless required to do otherwise under division (A) (2) (b) of this section;

(b) If the offender raises the matter of age at trial pursuant to section 2929.023 of the Revised Code and is not found at trial to have been eighteen years of age or older at the time of the commission of the offense or raises the matter of the offender's serious mental illness at the time of the alleged commission of the offense pursuant to section 2929.025 of the Revised Code and is found under that section to be ineligible for a sentence of death due to serious mental illness, conduct a hearing to determine if the specification of the aggravating circumstance of a prior conviction listed in division (A) (5) of section 2929.04 of the Revised Code is proven

beyond a reasonable doubt. After conducting the hearing, the 109  
panel or judge shall proceed as follows: 110

(i) If that aggravating circumstance is proven beyond a 111  
reasonable doubt or if the defendant at trial was convicted of 112  
any other specification of an aggravating circumstance, the 113  
panel or judge shall impose sentence according to division (E) 114  
of section 2929.03 of the Revised Code. 115

(ii) If that aggravating circumstance is not proven beyond 116  
a reasonable doubt and the defendant at trial was not convicted 117  
of any other specification of an aggravating circumstance, 118  
except as otherwise provided in this division, the panel or 119  
judge shall impose sentence of life imprisonment with parole 120  
eligibility after serving twenty years of imprisonment on the 121  
offender. If that aggravating circumstance is not proven beyond 122  
a reasonable doubt, the defendant at trial was not convicted of 123  
any other specification of an aggravating circumstance, the 124  
victim of the aggravated murder was less than thirteen years of 125  
age, and the offender also is convicted of or pleads guilty to a 126  
sexual motivation specification that was included in the 127  
indictment, count in the indictment, or information charging the 128  
offense, the panel or judge shall sentence the offender pursuant 129  
to division (B) (3) of section 2971.03 of the Revised Code to an 130  
indefinite term consisting of a minimum term of thirty years and 131  
a maximum term of life imprisonment. 132

(B) At the sentencing hearing, the panel of judges, if the 133  
defendant was tried by a panel of three judges, or the trial 134  
judge, if the defendant was tried by jury, shall, when required 135  
pursuant to division (A) (2) of this section, first determine if 136  
the specification of the aggravating circumstance of a prior 137  
conviction listed in division (A) (5) of section 2929.04 of the 138

Revised Code is proven beyond a reasonable doubt. If the panel 139  
of judges or the trial judge determines that the specification 140  
of the aggravating circumstance of a prior conviction listed in 141  
division (A) (5) of section 2929.04 of the Revised Code is proven 142  
beyond a reasonable doubt or if they do not determine that the 143  
specification is proven beyond a reasonable doubt but the 144  
defendant at trial was convicted of a specification of any other 145  
aggravating circumstance listed in division (A) of section 146  
2929.04 of the Revised Code, the panel of judges or the trial 147  
judge and trial jury shall impose sentence on the offender 148  
pursuant to division (D) of section 2929.03 and section 2929.04 149  
of the Revised Code. If the panel of judges or the trial judge 150  
does not determine that the specification of the aggravating 151  
circumstance of a prior conviction listed in division (A) (5) of 152  
section 2929.04 of the Revised Code is proven beyond a 153  
reasonable doubt and the defendant at trial was not convicted of 154  
any other specification of an aggravating circumstance listed in 155  
division (A) of section 2929.04 of the Revised Code, the panel 156  
of judges or the trial judge shall terminate the sentencing 157  
hearing and impose sentence on the offender as follows: 158

(1) Subject to division (B) (2) of this section, the panel 159  
or judge shall impose a sentence of life imprisonment with 160  
parole eligibility after serving twenty years of imprisonment on 161  
the offender. 162

(2) If the victim of the aggravated murder was less than 163  
thirteen years of age and the offender also is convicted of or 164  
pleads guilty to a sexual motivation specification that was 165  
included in the indictment, count in the indictment, or 166  
information charging the offense, the panel or judge shall 167  
sentence the offender pursuant to division (B) (3) of section 168  
2971.03 of the Revised Code to an indefinite term consisting of 169

a minimum term of thirty years and a maximum term of life 170  
imprisonment. 171

**Sec. 2929.024.** ~~If (A) In a case described in division (B)~~ 172  
~~of this section, if~~ the court determines that ~~the defendant is~~ 173  
~~indigent and that~~ investigation services, experts, or other 174  
services are reasonably necessary for the proper representation 175  
of a defendant charged with aggravated murder at trial or at the 176  
sentencing hearing, the court shall authorize the defendant's 177  
counsel to obtain the necessary services for the defendant, and 178  
shall order that payment of the fees and expenses for the 179  
necessary services be made in the same manner that payment for 180  
appointed counsel is made pursuant to Chapter 120. of the 181  
Revised Code. If the court determines that the necessary 182  
services had to be obtained prior to court authorization for 183  
payment of the fees and expenses for the necessary services, the 184  
court may, after the services have been obtained, authorize the 185  
defendant's counsel to obtain the necessary services and order 186  
that payment of the fees and expenses for the necessary services 187  
be made as provided in this section. 188

(B) Division (A) of this section applies in a case in 189  
which either of the following apply: 190

(1) The court determines that the defendant is indigent. 191

(2) The defendant is described in division (C) of section 192  
2929.025 of the Revised Code and raises the matter of the 193  
defendant's serious mental illness at the time of the alleged 194  
commission of the aggravated murder as described in that 195  
division. 196

**Sec. 2929.025.** (A) As used in this section: 197

(1) A person has a "serious mental illness" if both of the 198

<u>following apply with respect to the person, subject to division</u>	199
<u>(A) (2) of this section:</u>	200
<u>(a) The person has been diagnosed as described in division</u>	201
<u>(B) of this section with one or more of the following</u>	202
<u>conditions:</u>	203
<u>(i) Schizophrenia;</u>	204
<u>(ii) Schizoaffective disorder;</u>	205
<u>(iii) Bipolar disorder;</u>	206
<u>(iv) Delusional disorder.</u>	207
<u>(b) At the time of the alleged aggravated murder with</u>	208
<u>which the person is charged, the condition or conditions</u>	209
<u>described in division (A) (1) (a) of this section with which the</u>	210
<u>person has been diagnosed, while not meeting the standard to be</u>	211
<u>found not guilty by reason of insanity as defined in section</u>	212
<u>2901.01 of the Revised Code or the standard to be found</u>	213
<u>incompetent to stand trial as described in division (G) of</u>	214
<u>section 2945.37 of the Revised Code, nevertheless significantly</u>	215
<u>impaired the person's capacity to exercise rational judgment in</u>	216
<u>relation to the person's conduct with respect to either of the</u>	217
<u>following:</u>	218
<u>(i) Conforming the person's conduct to the requirements of</u>	219
<u>law;</u>	220
<u>(ii) Appreciating the nature, consequences, or</u>	221
<u>wrongfulness of the person's conduct.</u>	222
<u>(2) A disorder manifested primarily by repeated criminal</u>	223
<u>conduct or attributable solely to the acute effects of voluntary</u>	224
<u>use of alcohol or any other drug of abuse does not, standing</u>	225
<u>alone, constitute a "serious mental illness" for purposes of</u>	226



<u>division (A) (1) of this section.</u>	227
<u>(3) "Examiner" means a person who makes an evaluation</u>	228
<u>ordered under division (F) (1) of this section.</u>	229
<u>(4) "Prosecutor" means a prosecuting attorney who has</u>	230
<u>authority to prosecute a charge of aggravated murder that is</u>	231
<u>before the court.</u>	232
<u>(B) The diagnosis of a person with a condition or</u>	233
<u>conditions described in division (A) (1) (a) of this section may</u>	234
<u>be made at any time prior to, on, or after the day of the</u>	235
<u>alleged aggravated murder with which the person is charged or</u>	236
<u>the day on which the person pursuant to division (C) of this</u>	237
<u>section raises the matter of the person's serious mental illness</u>	238
<u>at the time of the alleged commission of that aggravated murder.</u>	239
<u>Diagnosis of the condition or conditions after the date of the</u>	240
<u>alleged aggravated murder with which the person is charged does</u>	241
<u>not preclude the person from presenting evidence that the person</u>	242
<u>had a serious mental illness at the time of the alleged</u>	243
<u>commission of that offense.</u>	244
<u>(C) A person charged with aggravated murder and one or</u>	245
<u>more specifications of an aggravating circumstance listed in</u>	246
<u>division (A) of section 2929.04 of the Revised Code may, before</u>	247
<u>trial, raise the matter of the person's serious mental illness</u>	248
<u>at the time of the alleged commission of the offense. If a</u>	249
<u>person raises the matter of the person's serious mental illness</u>	250
<u>at the time of the alleged commission of the offense, the court</u>	251
<u>shall order an evaluation of the person in accordance with</u>	252
<u>division (F) of this section and shall hold a pretrial hearing</u>	253
<u>on the matter. The person who raises the matter may present</u>	254
<u>evidence that the person had a serious mental illness at the</u>	255
<u>time of the alleged commission of the offense, and the person</u>	256

has the burden of raising that matter and of going forward with 257  
the evidence relating to the diagnosis described in division (A) 258  
(1) (a) of this section and the impairment described in division 259  
(A) (1) (b) of this section. 260

(D) If a person described in division (C) of this section 261  
raises the matter of the person's serious mental illness at the 262  
time of the alleged commission of the aggravated murder and 263  
submits evidence that the person has been diagnosed with one or 264  
more of the conditions set forth in division (A) (1) (a) of this 265  
section and that the condition or conditions diagnosed 266  
significantly impaired the person's capacity at the time of the 267  
alleged offense in a manner described in division (A) (1) (b) of 268  
this section, the prosecution shall have an opportunity to 269  
present evidence to contest the diagnosis. The defendant has the 270  
burden of proving, by a preponderance of the evidence, that the 271  
person has been diagnosed with one or more of the conditions set 272  
forth in division (A) (1) (a) of this section and that the 273  
condition or conditions diagnosed significantly impaired the 274  
person's capacity at the time of the alleged offense in a manner 275  
described in division (A) (1) (b) of this section. 276

(E) (1) Unless the court at the pretrial hearing finds that 277  
the defendant has proved, by a preponderance of the evidence, 278  
that the person has been diagnosed with one or more of the 279  
conditions set forth in division (A) (1) (a) of this section and 280  
that the condition or conditions diagnosed significantly 281  
impaired the person's capacity at the time of the alleged 282  
offense in a manner described in division (A) (1) (b) of this 283  
section, the court shall issue a finding that the person is not 284  
ineligible for a sentence of death due to serious mental 285  
illness. 286

(2) If the court at the pretrial hearing finds that the 287  
defendant has proved, by a preponderance of the evidence, that 288  
the person has been diagnosed with one or more of the conditions 289  
set forth in division (A)(1)(a) of this section and that the 290  
condition or conditions diagnosed significantly impaired the 291  
person's capacity at the time of the alleged offense in a manner 292  
described in division (A)(1)(b) of this section, the court shall 293  
issue a finding that the person is ineligible for a sentence of 294  
death due to serious mental illness. 295

(F)(1) If a person described in division (C) of this 296  
section raises the matter of the person's serious mental illness 297  
at the time of the alleged commission of the aggravated murder 298  
as described in that division, the court shall order an 299  
evaluation of the person. Section 2929.024 of the Revised Code 300  
applies with respect to an evaluation ordered under this 301  
division. 302

(2) No statement that a person makes in an evaluation 303  
ordered under division (F)(1) of this section or in a pretrial 304  
hearing under divisions (C) to (E) of this section relating to 305  
the person's serious mental illness at the time of the alleged 306  
commission of the aggravated murder with which the person is 307  
charged shall be used against the person on the issue of guilt 308  
in any criminal action or proceeding, but, in a criminal action 309  
or proceeding, the prosecutor or defense counsel may call as a 310  
witness any examiner who evaluated the person or prepared a 311  
report pursuant to a referral under this section. Neither the 312  
appointment nor the testimony of an examiner in an evaluation 313  
ordered under division (F)(1) of this section precludes the 314  
prosecutor or defense counsel from calling other witnesses or 315  
presenting other evidence on the issue of the person's serious 316  
mental illness at the time of the alleged commission of the 317

aggravated murder or on competency or insanity issues. 318

(G) A person's pleading of not guilty by reason of 319  
insanity or incompetence to stand trial, or a finding after such 320  
a plea that the person is not insane or that the person is 321  
competent to stand trial, does not preclude the person from 322  
raising the matter of the person's serious mental illness at the 323  
time of the alleged commission of the offense pursuant to 324  
division (C) of this section and, if a person so raises that 325  
matter, does not limit or affect any of the procedures described 326  
in this section or the authority of a court to make any finding 327  
described in this section. 328

**Sec. 2929.03.** (A) If the indictment or count in the 329  
indictment charging aggravated murder does not contain one or 330  
more specifications of aggravating circumstances listed in 331  
division (A) of section 2929.04 of the Revised Code, then, 332  
following a verdict of guilty of the charge of aggravated 333  
murder, the trial court shall impose sentence on the offender as 334  
follows: 335

(1) Except as provided in division (A) (2) of this section, 336  
the trial court shall impose one of the following sentences on 337  
the offender: 338

(a) Life imprisonment without parole; 339

(b) Subject to division (A) (1) (e) of this section, life 340  
imprisonment with parole eligibility after serving twenty years 341  
of imprisonment; 342

(c) Subject to division (A) (1) (e) of this section, life 343  
imprisonment with parole eligibility after serving twenty-five 344  
full years of imprisonment; 345

(d) Subject to division (A) (1) (e) of this section, life 346

imprisonment with parole eligibility after serving thirty full 347  
years of imprisonment; 348

(e) If the victim of the aggravated murder was less than 349  
thirteen years of age, the offender also is convicted of or 350  
pleads guilty to a sexual motivation specification that was 351  
included in the indictment, count in the indictment, or 352  
information charging the offense, and the trial court does not 353  
impose a sentence of life imprisonment without parole on the 354  
offender pursuant to division (A)(1)(a) of this section, the 355  
trial court shall sentence the offender pursuant to division (B) 356  
(3) of section 2971.03 of the Revised Code to an indefinite term 357  
consisting of a minimum term of thirty years and a maximum term 358  
of life imprisonment that shall be served pursuant to that 359  
section. 360

(2) If the offender also is convicted of or pleads guilty 361  
to a sexual motivation specification and a sexually violent 362  
predator specification that are included in the indictment, 363  
count in the indictment, or information that charged the 364  
aggravated murder, the trial court shall impose upon the 365  
offender a sentence of life imprisonment without parole that 366  
shall be served pursuant to section 2971.03 of the Revised Code. 367

(B) If the indictment or count in the indictment charging 368  
aggravated murder contains one or more specifications of 369  
aggravating circumstances listed in division (A) of section 370  
2929.04 of the Revised Code, the verdict shall separately state 371  
~~whether~~ all of the following: 372

(1) Whether the accused is found guilty or not guilty of 373  
the principal charge ~~and, if;~~ 374

(2) If guilty of the principal charge, whether the 375

offender was eighteen years of age or older at the time of the 376  
commission of the offense, if the matter of age was raised by 377  
the offender pursuant to section 2929.023 of the Revised Code, 378  
~~and whether;~~ 379

(3) If guilty of the principal charge, whether the 380  
offender was found under section 2929.025 of the Revised Code to 381  
be ineligible for a sentence of death due to serious mental 382  
illness if the matter of serious mental illness at the time of 383  
the commission of the offense was raised by the offender 384  
pursuant to that section; 385

(4) If guilty of the principal charge, whether the 386  
offender is guilty or not guilty of each specification. ~~The~~ 387

The jury shall be instructed on its duties in this regard. 388  
The instruction to the jury shall include an instruction that a 389  
specification shall be proved beyond a reasonable doubt in order 390  
to support a guilty verdict on the specification, but the 391  
instruction shall not mention the penalty that may be the 392  
consequence of a guilty or not guilty verdict on any charge or 393  
specification. 394

(C) (1) If the indictment or count in the indictment 395  
charging aggravated murder contains one or more specifications 396  
of aggravating circumstances listed in division (A) of section 397  
2929.04 of the Revised Code, then, following a verdict of guilty 398  
of the charge but not guilty of each of the specifications, and 399  
regardless of whether the offender raised the matter of age 400  
pursuant to section 2929.023 of the Revised Code or the matter 401  
of serious mental illness at the time of the commission of the 402  
offense pursuant to section 2929.025 of the Revised Code, the 403  
trial court shall impose sentence on the offender as follows: 404

(a) Except as provided in division (C) (1) (b) of this section, the trial court shall impose one of the following sentences on the offender:

(i) Life imprisonment without parole;

(ii) Subject to division (C) (1) (a) (v) of this section, life imprisonment with parole eligibility after serving twenty years of imprisonment;

(iii) Subject to division (C) (1) (a) (v) of this section, life imprisonment with parole eligibility after serving twenty-five full years of imprisonment;

(iv) Subject to division (C) (1) (a) (v) of this section, life imprisonment with parole eligibility after serving thirty full years of imprisonment;

(v) If the victim of the aggravated murder was less than thirteen years of age, the offender also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging the offense, and the trial court does not impose a sentence of life imprisonment without parole on the offender pursuant to division (C) (1) (a) (i) of this section, the trial court shall sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code to an indefinite term consisting of a minimum term of thirty years and a maximum term of life imprisonment.

(b) If the offender also is convicted of or pleads guilty to a sexual motivation specification and a sexually violent predator specification that are included in the indictment, count in the indictment, or information that charged the aggravated murder, the trial court shall impose upon the

offender a sentence of life imprisonment without parole that 434  
shall be served pursuant to section 2971.03 of the Revised Code. 435

(2) (a) If the indictment or count in the indictment 436  
contains one or more specifications of aggravating circumstances 437  
listed in division (A) of section 2929.04 of the Revised Code 438  
and if the offender is found guilty of both the charge and one 439  
or more of the specifications, the penalty to be imposed on the 440  
offender shall be one of the following: 441

(i) Except as provided in division (C) (2) (a) (ii) or (iii), and 442  
subject to divisions (D) (1) and (E) of this section, the 443  
penalty to be imposed on the offender shall be death, life 444  
imprisonment without parole, life imprisonment with parole 445  
eligibility after serving twenty-five full years of 446  
imprisonment, or life imprisonment with parole eligibility after 447  
serving thirty full years of imprisonment. 448

(ii) Except as provided in division (C) (2) (a) (iii) of this 449  
section, if the victim of the aggravated murder was less than 450  
thirteen years of age, the offender also is convicted of or 451  
pleads guilty to a sexual motivation specification that was 452  
included in the indictment, count in the indictment, or 453  
information charging the offense, and the trial court does not 454  
impose a sentence of death or life imprisonment without parole 455  
on the offender pursuant to division (C) (2) (a) (i) of this 456  
section, the penalty to be imposed on the offender shall be an 457  
indefinite term consisting of a minimum term of thirty years and 458  
a maximum term of life imprisonment that shall be imposed 459  
pursuant to division (B) (3) of section 2971.03 of the Revised 460  
Code and served pursuant to that section. 461

(iii) If the offender also is convicted of or pleads 462  
guilty to a sexual motivation specification and a sexually 463



violent predator specification that are included in the 464  
indictment, count in the indictment, or information that charged 465  
the aggravated murder, the penalty to be imposed on the offender 466  
shall be death or life imprisonment without parole that shall be 467  
served pursuant to section 2971.03 of the Revised Code. 468

(b) A penalty imposed pursuant to division (C) (2) (a) (i), 469  
(ii), or (iii) of this section shall be determined pursuant to 470  
divisions (D) and (E) of this section and shall be determined by 471  
one of the following: 472

(i) By the panel of three judges that tried the offender 473  
upon the offender's waiver of the right to trial by jury; 474

(ii) By the trial jury and the trial judge, if the 475  
offender was tried by jury. 476

(D) (1) Death may not be imposed as a penalty for 477  
aggravated murder if the offender raised the matter of age at 478  
trial pursuant to section 2929.023 of the Revised Code and was 479  
not found at trial to have been eighteen years of age or older 480  
at the time of the commission of the offense or raised the 481  
matter of the offender's serious mental illness at the time of 482  
the commission of the offense pursuant to section 2929.025 of 483  
the Revised Code and was found under that section to be 484  
ineligible for a sentence of death due to serious mental 485  
illness. When death may be imposed as a penalty for aggravated 486  
murder, the court shall proceed under this division. When death 487  
may be imposed as a penalty, the court, upon the request of the 488  
defendant, shall require a pre-sentence investigation to be made 489  
and, upon the request of the defendant, shall require a mental 490  
examination to be made, and shall require reports of the 491  
investigation and of any mental examination submitted to the 492  
court, pursuant to section 2947.06 of the Revised Code. No 493

statement made or information provided by a defendant in a 494  
mental examination or proceeding conducted pursuant to this 495  
division shall be disclosed to any person, except as provided in 496  
this division, or be used in evidence against the defendant on 497  
the issue of guilt in any retrial. A pre-sentence investigation 498  
or mental examination shall not be made except upon request of 499  
the defendant. Copies of any reports prepared under this 500  
division shall be furnished to the court, to the trial jury if 501  
the offender was tried by a jury, to the prosecutor, and to the 502  
offender or the offender's counsel for use under this division. 503  
The court, and the trial jury if the offender was tried by a 504  
jury, shall consider any report prepared pursuant to this 505  
division and furnished to it and any evidence raised at trial 506  
that is relevant to the aggravating circumstances the offender 507  
was found guilty of committing or to any factors in mitigation 508  
of the imposition of the sentence of death, shall hear testimony 509  
and other evidence that is relevant to the nature and 510  
circumstances of the aggravating circumstances the offender was 511  
found guilty of committing, the mitigating factors set forth in 512  
division (B) of section 2929.04 of the Revised Code, and any 513  
other factors in mitigation of the imposition of the sentence of 514  
death, and shall hear the statement, if any, of the offender, 515  
and the arguments, if any, of counsel for the defense and 516  
prosecution, that are relevant to the penalty that should be 517  
imposed on the offender. The defendant shall be given great 518  
latitude in the presentation of evidence of the mitigating 519  
factors set forth in division (B) of section 2929.04 of the 520  
Revised Code and of any other factors in mitigation of the 521  
imposition of the sentence of death. If the offender chooses to 522  
make a statement, the offender is subject to cross-examination 523  
only if the offender consents to make the statement under oath 524  
or affirmation. 525

The defendant shall have the burden of going forward with the evidence of any factors in mitigation of the imposition of the sentence of death. The prosecution shall have the burden of proving, by proof beyond a reasonable doubt, that the aggravating circumstances the defendant was found guilty of committing are sufficient to outweigh the factors in mitigation of the imposition of the sentence of death.

(2) Upon consideration of the relevant evidence raised at trial, the testimony, other evidence, statement of the offender, arguments of counsel, and, if applicable, the reports submitted pursuant to division (D)(1) of this section, the trial jury, if the offender was tried by a jury, shall determine whether the aggravating circumstances the offender was found guilty of committing are sufficient to outweigh the mitigating factors present in the case. If the trial jury unanimously finds, by proof beyond a reasonable doubt, that the aggravating circumstances the offender was found guilty of committing outweigh the mitigating factors, the trial jury shall recommend to the court that the sentence of death be imposed on the offender. Absent such a finding, the jury shall recommend that the offender be sentenced to one of the following:

(a) Except as provided in division (D)(2)(b) or (c) of this section, to life imprisonment without parole, life imprisonment with parole eligibility after serving twenty-five full years of imprisonment, or life imprisonment with parole eligibility after serving thirty full years of imprisonment;

(b) Except as provided in division (D)(2)(c) of this section, if the victim of the aggravated murder was less than thirteen years of age, the offender also is convicted of or pleads guilty to a sexual motivation specification that was

included in the indictment, count in the indictment, or 556  
information charging the offense, and the jury does not 557  
recommend a sentence of life imprisonment without parole 558  
pursuant to division (D) (2) (a) of this section, to an indefinite 559  
term consisting of a minimum term of thirty years and a maximum 560  
term of life imprisonment to be imposed pursuant to division (B) 561  
(3) of section 2971.03 of the Revised Code and served pursuant 562  
to that section. 563

(c) If the offender also is convicted of or pleads guilty 564  
to a sexual motivation specification and a sexually violent 565  
predator specification that are included in the indictment, 566  
count in the indictment, or information that charged the 567  
aggravated murder, to life imprisonment without parole. 568

If the trial jury recommends that the offender be 569  
sentenced to life imprisonment without parole, life imprisonment 570  
with parole eligibility after serving twenty-five full years of 571  
imprisonment, life imprisonment with parole eligibility after 572  
serving thirty full years of imprisonment, or an indefinite term 573  
consisting of a minimum term of thirty years and a maximum term 574  
of life imprisonment to be imposed pursuant to division (B) (3) 575  
of section 2971.03 of the Revised Code, the court shall impose 576  
the sentence recommended by the jury upon the offender. If the 577  
sentence is an indefinite term consisting of a minimum term of 578  
thirty years and a maximum term of life imprisonment imposed as 579  
described in division (D) (2) (b) of this section or a sentence of 580  
life imprisonment without parole imposed under division (D) (2) 581  
(c) of this section, the sentence shall be served pursuant to 582  
section 2971.03 of the Revised Code. If the trial jury 583  
recommends that the sentence of death be imposed upon the 584  
offender, the court shall proceed to impose sentence pursuant to 585  
division (D) (3) of this section. 586

(3) Upon consideration of the relevant evidence raised at 587  
trial, the testimony, other evidence, statement of the offender, 588  
arguments of counsel, and, if applicable, the reports submitted 589  
to the court pursuant to division (D) (1) of this section, if, 590  
after receiving pursuant to division (D) (2) of this section the 591  
trial jury's recommendation that the sentence of death be 592  
imposed, the court finds, by proof beyond a reasonable doubt, or 593  
if the panel of three judges unanimously finds, by proof beyond 594  
a reasonable doubt, that the aggravating circumstances the 595  
offender was found guilty of committing outweigh the mitigating 596  
factors, it shall impose sentence of death on the offender. 597  
Absent such a finding by the court or panel, the court or the 598  
panel shall impose one of the following sentences on the 599  
offender: 600

(a) Except as provided in division (D) (3) (b) of this 601  
section, one of the following: 602

(i) Life imprisonment without parole; 603

(ii) Subject to division (D) (3) (a) (iv) of this section, 604  
life imprisonment with parole eligibility after serving twenty- 605  
five full years of imprisonment; 606

(iii) Subject to division (D) (3) (a) (iv) of this section, 607  
life imprisonment with parole eligibility after serving thirty 608  
full years of imprisonment; 609

(iv) If the victim of the aggravated murder was less than 610  
thirteen years of age, the offender also is convicted of or 611  
pleads guilty to a sexual motivation specification that was 612  
included in the indictment, count in the indictment, or 613  
information charging the offense, and the trial court does not 614  
impose a sentence of life imprisonment without parole on the 615

offender pursuant to division (D) (3) (a) (i) of this section, the 616  
court or panel shall sentence the offender pursuant to division 617  
(B) (3) of section 2971.03 of the Revised Code to an indefinite 618  
term consisting of a minimum term of thirty years and a maximum 619  
term of life imprisonment. 620

(b) If the offender also is convicted of or pleads guilty 621  
to a sexual motivation specification and a sexually violent 622  
predator specification that are included in the indictment, 623  
count in the indictment, or information that charged the 624  
aggravated murder, life imprisonment without parole that shall 625  
be served pursuant to section 2971.03 of the Revised Code. 626

(E) (1) If the offender raised the matter of age at trial 627  
pursuant to section 2929.023 of the Revised Code, was convicted 628  
of aggravated murder and one or more specifications of an 629  
aggravating circumstance listed in division (A) of section 630  
2929.04 of the Revised Code, and was not found at trial to have 631  
been eighteen years of age or older at the time of the 632  
commission of the offense, the court or the panel of three 633  
judges shall not impose a sentence of death on the offender. 634  
Instead, the court or panel shall impose one of the following 635  
sentences on the offender: 636

~~(1)~~ (a) Except as provided in division (E) ~~(2)~~ (1) ~~(b)~~ of 637  
this section, one of the following: 638

~~(a)~~ (i) Life imprisonment without parole; 639

~~(b)~~ (ii) Subject to division (E) ~~(2)~~ ~~(d)~~ (1) ~~(a)~~ (iv) of this 640  
section, life imprisonment with parole eligibility after serving 641  
twenty-five full years of imprisonment; 642

~~(c)~~ (iii) Subject to division (E) ~~(2)~~ ~~(d)~~ (1) ~~(a)~~ (iv) of this 643  
section, life imprisonment with parole eligibility after serving 644

thirty full years of imprisonment; 645

~~(d)~~ (iv) If the victim of the aggravated murder was less 646  
than thirteen years of age, the offender also is convicted of or 647  
pleads guilty to a sexual motivation specification that was 648  
included in the indictment, count in the indictment, or 649  
information charging the offense, and the trial court does not 650  
impose a sentence of life imprisonment without parole on the 651  
offender pursuant to division (E) ~~(2)~~ (1) (a) (i) of this section, 652  
the court or panel shall sentence the offender pursuant to 653  
division (B) (3) of section 2971.03 of the Revised Code to an 654  
indefinite term consisting of a minimum term of thirty years and 655  
a maximum term of life imprisonment. 656

~~(2)~~ (b) If the offender also is convicted of or pleads 657  
guilty to a sexual motivation specification and a sexually 658  
violent predator specification that are included in the 659  
indictment, count in the indictment, or information that charged 660  
the aggravated murder, life imprisonment without parole that 661  
shall be served pursuant to section 2971.03 of the Revised Code. 662

(2) If the offender raised the matter of the offender's 663  
serious mental illness at the time of the commission of the 664  
offense pursuant to section 2929.025 of the Revised Code, was 665  
found under that section to be ineligible for a sentence of 666  
death due to serious mental illness, and was convicted of 667  
aggravated murder and one or more specifications of an 668  
aggravating circumstance listed in division (A) of section 669  
2929.04 of the Revised Code, the court or panel of three judges 670  
shall not impose a sentence of death on the offender. Instead, 671  
the court or panel shall sentence the offender to life 672  
imprisonment without parole. 673

(F) The court or the panel of three judges, when it 674

imposes sentence of death, shall state in a separate opinion its 675  
specific findings as to the existence of any of the mitigating 676  
factors set forth in division (B) of section 2929.04 of the 677  
Revised Code, the existence of any other mitigating factors, the 678  
aggravating circumstances the offender was found guilty of 679  
committing, and the reasons why the aggravating circumstances 680  
the offender was found guilty of committing were sufficient to 681  
outweigh the mitigating factors. The court or panel, when it 682  
imposes life imprisonment or an indefinite term consisting of a 683  
minimum term of thirty years and a maximum term of life 684  
imprisonment under division (D) of this section, shall state in 685  
a separate opinion its specific findings of which of the 686  
mitigating factors set forth in division (B) of section 2929.04 687  
of the Revised Code it found to exist, what other mitigating 688  
factors it found to exist, what aggravating circumstances the 689  
offender was found guilty of committing, and why it could not 690  
find that these aggravating circumstances were sufficient to 691  
outweigh the mitigating factors. For cases in which a sentence 692  
of death is imposed for an offense committed before January 1, 693  
1995, the court or panel shall file the opinion required to be 694  
prepared by this division with the clerk of the appropriate 695  
court of appeals and with the clerk of the supreme court within 696  
fifteen days after the court or panel imposes sentence. For 697  
cases in which a sentence of death is imposed for an offense 698  
committed on or after January 1, 1995, the court or panel shall 699  
file the opinion required to be prepared by this division with 700  
the clerk of the supreme court within fifteen days after the 701  
court or panel imposes sentence. The judgment in a case in which 702  
a sentencing hearing is held pursuant to this section is not 703  
final until the opinion is filed. 704

(G) (1) Whenever the court or a panel of three judges 705



imposes a sentence of death for an offense committed before 706  
January 1, 1995, the clerk of the court in which the judgment is 707  
rendered shall make and retain a copy of the entire record in 708  
the case, and shall deliver the original of the entire record in 709  
the case to the appellate court. 710

(2) Whenever the court or a panel of three judges imposes 711  
a sentence of death for an offense committed on or after January 712  
1, 1995, the clerk of the court in which the judgment is 713  
rendered shall make and retain a copy of the entire record in 714  
the case, and shall deliver the original of the entire record in 715  
the case to the supreme court. 716

**Sec. 2929.04.** (A) Imposition of the death penalty for 717  
aggravated murder is precluded unless one or more of the 718  
following is specified in the indictment or count in the 719  
indictment pursuant to section 2941.14 of the Revised Code and 720  
proved beyond a reasonable doubt: 721

(1) The offense was the assassination of the president of 722  
the United States or a person in line of succession to the 723  
presidency, the governor or lieutenant governor of this state, 724  
the president-elect or vice president-elect of the United 725  
States, the governor-elect or lieutenant governor-elect of this 726  
state, or a candidate for any of the offices described in this 727  
division. For purposes of this division, a person is a candidate 728  
if the person has been nominated for election according to law, 729  
if the person has filed a petition or petitions according to law 730  
to have the person's name placed on the ballot in a primary or 731  
general election, or if the person campaigns as a write-in 732  
candidate in a primary or general election. 733

(2) The offense was committed for hire. 734

(3) The offense was committed for the purpose of escaping 735  
detection, apprehension, trial, or punishment for another 736  
offense committed by the offender. 737

(4) The offense was committed while the offender was under 738  
detention or while the offender was at large after having broken 739  
detention. As used in division (A)(4) of this section, 740  
"detention" has the same meaning as in section 2921.01 of the 741  
Revised Code, except that detention does not include 742  
hospitalization, institutionalization, or confinement in a 743  
mental health facility or intellectual disabilities facility 744  
unless at the time of the commission of the offense either of 745  
the following circumstances apply: 746

(a) The offender was in the facility as a result of being 747  
charged with a violation of a section of the Revised Code. 748

(b) The offender was under detention as a result of being 749  
convicted of or pleading guilty to a violation of a section of 750  
the Revised Code. 751

(5) Prior to the offense at bar, the offender was 752  
convicted of an offense an essential element of which was the 753  
purposeful killing of or attempt to kill another, or the offense 754  
at bar was part of a course of conduct involving the purposeful 755  
killing of or attempt to kill two or more persons by the 756  
offender. 757

(6) The victim of the offense was a law enforcement 758  
officer, as defined in section 2911.01 of the Revised Code, whom 759  
the offender had reasonable cause to know or knew to be a law 760  
enforcement officer as so defined, and either the victim, at the 761  
time of the commission of the offense, was engaged in the 762  
victim's duties, or it was the offender's specific purpose to 763

kill a law enforcement officer as so defined. 764

(7) The offense was committed while the offender was 765  
committing, attempting to commit, or fleeing immediately after 766  
committing or attempting to commit kidnapping, rape, aggravated 767  
arson, aggravated robbery, or aggravated burglary, and either 768  
the offender was the principal offender in the commission of the 769  
aggravated murder or, if not the principal offender, committed 770  
the aggravated murder with prior calculation and design. 771

(8) The victim of the aggravated murder was a witness to 772  
an offense who was purposely killed to prevent the victim's 773  
testimony in any criminal proceeding and the aggravated murder 774  
was not committed during the commission, attempted commission, 775  
or flight immediately after the commission or attempted 776  
commission of the offense to which the victim was a witness, or 777  
the victim of the aggravated murder was a witness to an offense 778  
and was purposely killed in retaliation for the victim's 779  
testimony in any criminal proceeding. 780

(9) The offender, in the commission of the offense, 781  
purposefully caused the death of another who was under thirteen 782  
years of age at the time of the commission of the offense, and 783  
either the offender was the principal offender in the commission 784  
of the offense or, if not the principal offender, committed the 785  
offense with prior calculation and design. 786

(10) The offense was committed while the offender was 787  
committing, attempting to commit, or fleeing immediately after 788  
committing or attempting to commit terrorism. 789

(B) If one or more of the aggravating circumstances listed 790  
in division (A) of this section is specified in the indictment 791  
or count in the indictment and proved beyond a reasonable doubt, 792

~~and~~ if the offender did not raise the matter of age pursuant to 793  
section 2929.023 of the Revised Code or ~~if~~ the offender, after 794  
raising ~~the~~ that matter of age, was found at trial to have been 795  
eighteen years of age or older at the time of the commission of 796  
the offense, and if the offender did not raise the matter of the 797  
offender's serious mental illness at the time of the commission 798  
of the offense pursuant to section 2929.025 of the Revised Code 799  
or the offender after raising that matter was found by the court 800  
to not be ineligible for a sentence of death, the court, trial 801  
jury, or panel of three judges shall consider, and weigh against 802  
the aggravating circumstances proved beyond a reasonable doubt, 803  
the nature and circumstances of the offense, the history, 804  
character, and background of the offender, and all of the 805  
following factors: 806

(1) Whether the victim of the offense induced or 807  
facilitated it; 808

(2) Whether it is unlikely that the offense would have 809  
been committed, but for the fact that the offender was under 810  
duress, coercion, or strong provocation; 811

(3) Whether, at the time of committing the offense, the 812  
offender, because of a mental disease or defect, lacked 813  
substantial capacity to appreciate the criminality of the 814  
offender's conduct or to conform the offender's conduct to the 815  
requirements of the law; 816

(4) The youth of the offender; 817

(5) The offender's lack of a significant history of prior 818  
criminal convictions and delinquency adjudications; 819

(6) If the offender was a participant in the offense but 820  
not the principal offender, the degree of the offender's 821

participation in the offense and the degree of the offender's 822  
participation in the acts that led to the death of the victim; 823

(7) Any other factors that are relevant to the issue of 824  
whether the offender should be sentenced to death. 825

(C) The defendant shall be given great latitude in the 826  
presentation of evidence of the factors listed in division (B) 827  
of this section and of any other factors in mitigation of the 828  
imposition of the sentence of death. 829

The existence of any of the mitigating factors listed in 830  
division (B) of this section does not preclude the imposition of 831  
a sentence of death on the offender but shall be weighed 832  
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 833  
Revised Code by the trial court, trial jury, or the panel of 834  
three judges against the aggravating circumstances the offender 835  
was found guilty of committing. 836

**Sec. 2929.06.** (A) (1) If a sentence of death imposed upon 837  
an offender is set aside, nullified, ~~or vacated because the, or~~ 838  
voided for any of the following reasons, the trial court that 839  
sentenced the offender shall conduct a hearing to resentence the 840  
offender in accordance with division (A) (2) of this section: 841

(a) The court of appeals, in a case in which a sentence of 842  
death was imposed for an offense committed before January 1, 843  
1995, or the supreme court, in ~~cases a case~~ in which the supreme 844  
court reviews the sentence upon appeal, could not affirm the 845  
sentence of death under the standards imposed by section 2929.05 846  
of the Revised Code, ~~is set aside, nullified, or vacated for~~ 847  
~~the.~~ 848

(b) The sole reason that the statutory procedure for 849  
imposing the sentence of death that is set forth in sections 850

2929.03 and 2929.04 of the Revised Code is unconstitutional. 851

(c) The sentence of death is set aside, nullified, or 852  
vacated pursuant to division (C) of section 2929.05 of the 853  
Revised Code, ~~or is set aside, nullified, or vacated because a.~~ 854

(d) A court has determined that the offender is a person 855  
with an intellectual disability under standards set forth in 856  
decisions of the supreme court of this state or the United 857  
States supreme court, ~~the trial court that sentenced the~~ 858  
~~offender shall conduct a hearing to resentence the offender.~~ 859

(e) The sentence of death is voided by a court pursuant to 860  
division (H) of section 2953.21 of the Revised Code. 861

(2) At the a resentencing hearing conducted under division 862  
(A)(1) of this section, the court shall impose upon the offender 863  
a sentence of life imprisonment or an indefinite term consisting 864  
of a minimum term of thirty years and a maximum term of life 865  
imprisonment that is determined as specified in this division. 866  
If division (D) of section 2929.03 of the Revised Code, at the 867  
time the offender committed the aggravated murder for which the 868  
sentence of death was imposed, required the imposition when a 869  
sentence of death was not imposed of a sentence of life 870  
imprisonment without parole or a sentence of an indefinite term 871  
consisting of a minimum term of thirty years and a maximum term 872  
of life imprisonment to be imposed pursuant to division (A) or 873  
(B) (3) of section 2971.03 of the Revised Code and served 874  
pursuant to that section, the court shall impose the sentence so 875  
required. In all other cases, the sentences of life imprisonment 876  
that are available at the hearing, and from which the court 877  
shall impose sentence, shall be the same sentences of life 878  
imprisonment that were available under division (D) of section 879  
2929.03 or under section 2909.24 of the Revised Code at the time 880

the offender committed the offense for which the sentence of 881  
death was imposed. Nothing in this division regarding the 882  
resentencing of an offender shall affect the operation of 883  
section 2971.03 of the Revised Code. 884

(B) Whenever any court of this state or any federal court 885  
sets aside, nullifies, or vacates a sentence of death imposed 886  
upon an offender because of error that occurred in the 887  
sentencing phase of the trial and if division (A) of this 888  
section does not apply, the trial court that sentenced the 889  
offender shall conduct a new hearing to resentence the offender. 890  
If the offender was tried by a jury, the trial court shall 891  
impanel a new jury for the hearing. If the offender was tried by 892  
a panel of three judges, that panel or, if necessary, a new 893  
panel of three judges shall conduct the hearing. At the hearing, 894  
the court or panel shall follow the procedure set forth in 895  
division (D) of section 2929.03 of the Revised Code in 896  
determining whether to impose upon the offender a sentence of 897  
death, a sentence of life imprisonment, or an indefinite term 898  
consisting of a minimum term of thirty years and a maximum term 899  
of life imprisonment. If, pursuant to that procedure, the court 900  
or panel determines that it will impose a sentence other than a 901  
sentence of death, the court or panel shall impose upon the 902  
offender one of the sentences of life imprisonment that could 903  
have been imposed at the time the offender committed the offense 904  
for which the sentence of death was imposed, determined as 905  
specified in this division, or an indefinite term consisting of 906  
a minimum term of thirty years and a maximum term of life 907  
imprisonment that is determined as specified in this division. 908  
If division (D) of section 2929.03 of the Revised Code, at the 909  
time the offender committed the aggravated murder for which the 910  
sentence of death was imposed, required the imposition when a 911

sentence of death was not imposed of a sentence of life 912  
imprisonment without parole or a sentence of an indefinite term 913  
consisting of a minimum term of thirty years and a maximum term 914  
of life imprisonment to be imposed pursuant to division (A) or 915  
(B) (3) of section 2971.03 of the Revised Code and served 916  
pursuant to that section, the court or panel shall impose the 917  
sentence so required. In all other cases, the sentences of life 918  
imprisonment that are available at the hearing, and from which 919  
the court or panel shall impose sentence, shall be the same 920  
sentences of life imprisonment that were available under 921  
division (D) of section 2929.03 or under section 2909.24 of the 922  
Revised Code at the time the offender committed the offense for 923  
which the sentence of death was imposed. 924

(C) If a sentence of life imprisonment without parole 925  
imposed upon an offender pursuant to section 2929.021 or 2929.03 926  
of the Revised Code is set aside, nullified, or vacated for the 927  
sole reason that the statutory procedure for imposing the 928  
sentence of life imprisonment without parole that is set forth 929  
in sections 2929.03 and 2929.04 of the Revised Code is 930  
unconstitutional, the trial court that sentenced the offender 931  
shall conduct a hearing to resentence the offender to life 932  
imprisonment with parole eligibility after serving twenty-five 933  
full years of imprisonment or to life imprisonment with parole 934  
eligibility after serving thirty full years of imprisonment. 935

(D) Nothing in this section limits or restricts the rights 936  
of the state to appeal any order setting aside, nullifying, or 937  
vacating a conviction or sentence of death, when an appeal of 938  
that nature otherwise would be available. 939

(E) This section, as amended by H.B. 184 of the 125th 940  
general assembly, shall apply to all offenders who have been 941



sentenced to death for an aggravated murder that was committed 942  
on or after October 19, 1981, or for terrorism that was 943  
committed on or after May 15, 2002. This section, as amended by 944  
H.B. 184 of the 125th general assembly, shall apply equally to 945  
all such offenders sentenced to death prior to, on, or after 946  
March 23, 2005, including offenders who, on March 23, 2005, are 947  
challenging their sentence of death and offenders whose sentence 948  
of death has been set aside, nullified, or vacated by any court 949  
of this state or any federal court but who, as of March 23, 950  
2005, have not yet been resentenced. 951

**Sec. 2941.148.** (A) (1) The application of Chapter 2971. of 952  
the Revised Code to an offender is precluded unless one of the 953  
following applies: 954

(a) The offender is charged with a violent sex offense, 955  
and the indictment, count in the indictment, or information 956  
charging the violent sex offense also includes a specification 957  
that the offender is a sexually violent predator, or the 958  
offender is charged with a designated homicide, assault, or 959  
kidnapping offense, and the indictment, count in the indictment, 960  
or information charging the designated homicide, assault, or 961  
kidnapping offense also includes both a specification of the 962  
type described in section 2941.147 of the Revised Code and a 963  
specification that the offender is a sexually violent predator. 964

(b) The offender is convicted of or pleads guilty to a 965  
violation of division (A) (1) (b) of section 2907.02 of the 966  
Revised Code committed on or after January 2, 2007, and division 967  
(B) of section 2907.02 of the Revised Code does not prohibit the 968  
court from sentencing the offender pursuant to section 2971.03 969  
of the Revised Code. 970

(c) The offender is convicted of or pleads guilty to 971

attempted rape committed on or after January 2, 2007, and to a 972  
specification of the type described in section 2941.1418, 973  
2941.1419, or 2941.1420 of the Revised Code. 974

(d) The offender is convicted of or pleads guilty to a 975  
violation of section 2905.01 of the Revised Code and to a 976  
specification of the type described in section 2941.147 of the 977  
Revised Code, and section 2905.01 of the Revised Code requires a 978  
court to sentence the offender pursuant to section 2971.03 of 979  
the Revised Code. 980

(e) The offender is convicted of or pleads guilty to 981  
aggravated murder and to a specification of the type described 982  
in section 2941.147 of the Revised Code, and division (A) (2) (b) 983  
(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) 984  
(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of 985  
section 2929.03, or division (A) or (B) of section 2929.06 of 986  
the Revised Code requires a court to sentence the offender 987  
pursuant to division (B) (3) of section 2971.03 of the Revised 988  
Code. 989

(f) The offender is convicted of or pleads guilty to 990  
murder and to a specification of the type described in section 991  
2941.147 of the Revised Code, and division (B) (2) of section 992  
2929.02 of the Revised Code requires a court to sentence the 993  
offender pursuant to section 2971.03 of the Revised Code. 994

(2) A specification required under division (A) (1) (a) of 995  
this section that an offender is a sexually violent predator 996  
shall be stated at the end of the body of the indictment, count, 997  
or information and shall be stated in substantially the 998  
following form: 999

"Specification (or, specification to the first count). The 1000

grand jury (or insert the person's or prosecuting attorney's name when appropriate) further find and specify that the offender is a sexually violent predator." 1001  
1002  
1003

(B) In determining for purposes of this section whether a person is a sexually violent predator, all of the factors set forth in divisions (H) (1) to (6) of section 2971.01 of the Revised Code that apply regarding the person may be considered as evidence tending to indicate that it is likely that the person will engage in the future in one or more sexually violent offenses. 1004  
1005  
1006  
1007  
1008  
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(C) As used in this section, "designated homicide, assault, or kidnapping offense," "violent sex offense," and "sexually violent predator" have the same meanings as in section 2971.01 of the Revised Code. 1011  
1012  
1013  
1014

**Sec. 2953.21.** (A) (1) (a) A person in any of the following categories may file a petition in the court that imposed sentence, stating the grounds for relief relied upon, and asking the court to vacate or set aside the judgment or sentence or to grant other appropriate relief: 1015  
1016  
1017  
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1019

(i) Any person who has been convicted of a criminal offense or adjudicated a delinquent child and who claims that there was such a denial or infringement of the person's rights as to render the judgment void or voidable under the Ohio Constitution or the Constitution of the United States, ~~and any;~~ 1020  
1021  
1022  
1023  
1024

(ii) Any person who has been convicted of a criminal offense and sentenced to death and who claims that there was a denial or infringement of the person's rights under either of those Constitutions that creates a reasonable probability of an altered verdict, ~~and any;~~ 1025  
1026  
1027  
1028  
1029

(iii) Any person who has been convicted of a criminal 1030  
offense that is a felony and who is an offender for whom DNA 1031  
testing that was performed under sections 2953.71 to 2953.81 of 1032  
the Revised Code or under former section 2953.82 of the Revised 1033  
Code and analyzed in the context of and upon consideration of 1034  
all available admissible evidence related to the person's case 1035  
as described in division (D) of section 2953.74 of the Revised 1036  
Code provided results that establish, by clear and convincing 1037  
evidence, actual innocence of that felony offense or, if the 1038  
person was sentenced to death, establish, by clear and 1039  
convincing evidence, actual innocence of the aggravating 1040  
circumstance or circumstances the person was found guilty of 1041  
committing and that is or are the basis of that sentence of 1042  
death, ~~may file a petition in the court that imposed sentence,~~ 1043  
~~stating the grounds for relief relied upon, and asking the court~~ 1044  
~~to vacate or set aside the judgment or sentence or to grant~~ 1045  
~~other appropriate relief;~~ 1046

(iv) Any person who has been convicted of aggravated 1047  
murder and sentenced to death for the offense and who claims 1048  
that the person had a serious mental illness at the time of the 1049  
commission of the offense and that as a result the court should 1050  
render void the sentence of death. 1051

~~The~~ (b) A petitioner under division (A) (1) (a) of this 1052  
section may file a supporting affidavit and other documentary 1053  
evidence in support of the claim for relief. 1054

~~(b)~~ (c) As used in division (A) (1) (a) of this section, ~~7-~~ 1055  
"actual": 1056

(i) "Actual innocence" means that, had the results of the 1057  
DNA testing conducted under sections 2953.71 to 2953.81 of the 1058  
Revised Code or under former section 2953.82 of the Revised Code 1059

been presented at trial, and had those results been analyzed in 1060  
the context of and upon consideration of all available 1061  
admissible evidence related to the person's case as described in 1062  
division (D) of section 2953.74 of the Revised Code, no 1063  
reasonable factfinder would have found the petitioner guilty of 1064  
the offense of which the petitioner was convicted, or, if the 1065  
person was sentenced to death, no reasonable factfinder would 1066  
have found the petitioner guilty of the aggravating circumstance 1067  
or circumstances the petitioner was found guilty of committing 1068  
and that is or are the basis of that sentence of death. 1069

(ii) "Serious mental illness" has the same meaning as in 1070  
section 2929.025 of the Revised Code. 1071

~~(e)~~(d) As used in divisions (A) (1) (a) and ~~(b)~~(c) of this 1072  
section, "former section 2953.82 of the Revised Code" means 1073  
section 2953.82 of the Revised Code as it existed prior to July 1074  
6, 2010. 1075

~~(d)~~(e) At any time in conjunction with the filing of a 1076  
petition for postconviction relief under division (A) of this 1077  
section by a person who has been sentenced to death, or with the 1078  
litigation of a petition so filed, the court, for good cause 1079  
shown, may authorize the petitioner in seeking the 1080  
postconviction relief and the prosecuting attorney of the county 1081  
served by the court in defending the proceeding, to take 1082  
depositions and to issue subpoenas and subpoenas duces tecum in 1083  
accordance with divisions (A) (1) ~~(d)~~(e), (A) (1) ~~(e)~~(f), and (C) of 1084  
this section, and to any other form of discovery as in a civil 1085  
action that the court in its discretion permits. The court may 1086  
limit the extent of discovery under this division. In addition 1087  
to discovery that is relevant to the claim and was available 1088  
under Criminal Rule 16 through conclusion of the original 1089

criminal trial, the court, for good cause shown, may authorize 1090  
the petitioner or prosecuting attorney to take depositions and 1091  
issue subpoenas and subpoenas duces tecum in either of the 1092  
following circumstances: 1093

(i) For any witness who testified at trial or who was 1094  
disclosed by the state prior to trial, except as otherwise 1095  
provided in this division, the petitioner or prosecuting 1096  
attorney shows clear and convincing evidence that the witness is 1097  
material and that a deposition of the witness or the issuing of 1098  
a subpoena or subpoena duces tecum is of assistance in order to 1099  
substantiate or refute the petitioner's claim that there is a 1100  
reasonable probability of an altered verdict. This division does 1101  
not apply if the witness was unavailable for trial or would not 1102  
voluntarily be interviewed by the defendant or prosecuting 1103  
attorney. 1104

(ii) For any witness with respect to whom division (A) (1) 1105  
~~(d)~~ (e) (i) of this section does not apply, the petitioner or 1106  
prosecuting attorney shows good cause that the witness is 1107  
material and that a deposition of the witness or the issuing of 1108  
a subpoena or subpoena duces tecum is of assistance in order to 1109  
substantiate or refute the petitioner's claim that there is a 1110  
reasonable probability of an altered verdict. 1111

~~(e)~~ (f) If a person who has been sentenced to death and who 1112  
files a petition for postconviction relief under division (A) of 1113  
this section requests postconviction discovery as described in 1114  
division (A) (1) ~~(d)~~ (e) of this section or if the prosecuting 1115  
attorney of the county served by the court requests 1116  
postconviction discovery as described in that division, within 1117  
ten days after the docketing of the request, or within any other 1118  
time that the court sets for good cause shown, the prosecuting 1119

attorney shall respond by answer or motion to the petitioner's 1120  
request or the petitioner shall respond by answer or motion to 1121  
the prosecuting attorney's request, whichever is applicable. 1122

~~(f)~~(g) If a person who has been sentenced to death and who 1123  
files a petition for postconviction relief under division (A) of 1124  
this section requests postconviction discovery as described in 1125  
division (A) (1) ~~(d)~~(e) of this section or if the prosecuting 1126  
attorney of the county served by the court requests 1127  
postconviction discovery as described in that division, upon 1128  
motion by the petitioner, the prosecuting attorney, or the 1129  
person from whom discovery is sought, and for good cause shown, 1130  
the court in which the action is pending may make any order that 1131  
justice requires to protect a party or person from oppression or 1132  
undue burden or expense, including but not limited to the orders 1133  
described in divisions (A) (1) ~~(g)~~(h) (i) to (viii) of this 1134  
section. The court also may make any such order if, in its 1135  
discretion, it determines that the discovery sought would be 1136  
irrelevant to the claims made in the petition; and if the court 1137  
makes any such order on that basis, it shall explain in the 1138  
order the reasons why the discovery would be irrelevant. 1139

~~(g)~~(h) If a petitioner, prosecuting attorney, or person 1140  
from whom discovery is sought makes a motion for an order under 1141  
division (A) (1) ~~(f)~~(g) of this section and the order is denied in 1142  
whole or in part, the court, on terms and conditions as are 1143  
just, may order that any party or person provide or permit 1144  
discovery as described in division (A) (1) ~~(d)~~(e) of this section. 1145  
The provisions of Civil Rule 37(A) (4) apply to the award of 1146  
expenses incurred in relation to the motion, except that in no 1147  
case shall a court require a petitioner who is indigent to pay 1148  
expenses under those provisions. 1149

Before any person moves for an order under division (A) (1) 1150  
~~(f)~~(g) of this section, that person shall make a reasonable 1151  
effort to resolve the matter through discussion with the 1152  
petitioner or prosecuting attorney seeking discovery. A motion 1153  
for an order under division (A) (1) ~~(f)~~(g) of this section shall 1154  
be accompanied by a statement reciting the effort made to 1155  
resolve the matter in accordance with this paragraph. 1156

The orders that may be made under division (A) (1) ~~(f)~~(g) of 1157  
this section include, but are not limited to, any of the 1158  
following: 1159

(i) That the discovery not be had; 1160

(ii) That the discovery may be had only on specified terms 1161  
and conditions, including a designation of the time or place; 1162

(iii) That the discovery may be had only by a method of 1163  
discovery other than that selected by the party seeking 1164  
discovery; 1165

(iv) That certain matters not be inquired into or that the 1166  
scope of the discovery be limited to certain matters; 1167

(v) That discovery be conducted with no one present except 1168  
persons designated by the court; 1169

(vi) That a deposition after being sealed be opened only 1170  
by order of the court; 1171

(vii) That a trade secret or other confidential research, 1172  
development, or commercial information not be disclosed or be 1173  
disclosed only in a designated way; 1174

(viii) That the parties simultaneously file specified 1175  
documents or information enclosed in sealed envelopes to be 1176  
opened as directed by the court. 1177



~~(h)~~(i) Any postconviction discovery authorized under 1178  
division (A) (1) ~~(d)~~(e) of this section shall be completed not 1179  
later than eighteen months after the start of the discovery 1180  
proceedings unless, for good cause shown, the court extends that 1181  
period for completing the discovery. 1182

~~(i)~~(j) Nothing in division (A) (1) ~~(d)~~(e) of this section 1183  
authorizes, or shall be construed as authorizing, the 1184  
relitigation, or discovery in support of relitigation, of any 1185  
matter barred by the doctrine of res judicata. 1186

~~(j)~~(k) Division (A) (1) of this section does not apply to 1187  
any person who has been convicted of a criminal offense and 1188  
sentenced to death and who has unsuccessfully raised the same 1189  
claims in a petition for postconviction relief. 1190

(2) (a) Except as otherwise provided in section 2953.23 of 1191  
the Revised Code, a petition under division (A) (1) (a) (i), (ii), 1192  
or (iii) of this section shall be filed no later than three 1193  
hundred sixty-five days after the date on which the trial 1194  
transcript is filed in the court of appeals in the direct appeal 1195  
of the judgment of conviction or adjudication or, if the direct 1196  
appeal involves a sentence of death, the date on which the trial 1197  
transcript is filed in the supreme court. If no appeal is taken, 1198  
except as otherwise provided in section 2953.23 of the Revised 1199  
Code, the petition shall be filed no later than three hundred 1200  
sixty-five days after the expiration of the time for filing the 1201  
appeal. 1202

(b) Except as otherwise provided in section 2953.23 of the 1203  
Revised Code, a petition under division (A) (1) (a) (iv) of this 1204  
section shall be filed not later than three hundred sixty-five 1205  
days after the effective date of this amendment. 1206

(3) In a petition filed under division (A) (1) (a) (i), (ii), 1207  
or (iii) of this section, a person who has been sentenced to 1208  
death may ask the court to render void or voidable the judgment 1209  
with respect to the conviction of aggravated murder or the 1210  
specification of an aggravating circumstance or the sentence of 1211  
death. A person sentenced to death who files a petition under 1212  
division (A) (1) (a) (iv) of this section may ask the court to 1213  
render void the sentence of death and to order the resentencing 1214  
of the person under division (A) of section 2929.06 of the 1215  
Revised Code. 1216

(4) A petitioner shall state in the original or amended 1217  
petition filed under division (A) of this section all grounds 1218  
for relief claimed by the petitioner. Except as provided in 1219  
section 2953.23 of the Revised Code, any ground for relief that 1220  
is not so stated in the petition is waived. 1221

(5) If the petitioner in a petition filed under division 1222  
(A) (1) (a) (i), (ii), or (iii) of this section was convicted of or 1223  
pleaded guilty to a felony, the petition may include a claim 1224  
that the petitioner was denied the equal protection of the laws 1225  
in violation of the Ohio Constitution or the United States 1226  
Constitution because the sentence imposed upon the petitioner 1227  
for the felony was part of a consistent pattern of disparity in 1228  
sentencing by the judge who imposed the sentence, with regard to 1229  
the petitioner's race, gender, ethnic background, or religion. 1230  
If the supreme court adopts a rule requiring a court of common 1231  
pleas to maintain information with regard to an offender's race, 1232  
gender, ethnic background, or religion, the supporting evidence 1233  
for the petition shall include, but shall not be limited to, a 1234  
copy of that type of information relative to the petitioner's 1235  
sentence and copies of that type of information relative to 1236  
sentences that the same judge imposed upon other persons. 1237

(6) Notwithstanding any law or court rule to the contrary, 1238  
there is no limit on the number of pages in, or on the length 1239  
of, a petition filed under division (A) (1) (a) (i), (ii), (iii), 1240  
or (iv) of this section by a person who has been sentenced to 1241  
death. If any court rule specifies a limit on the number of 1242  
pages in, or on the length of, a petition filed under division 1243  
(A) (1) (a) (i), (ii), (iii), or (iv) of this section or on a 1244  
prosecuting attorney's response to such a petition by answer or 1245  
motion and a person who has been sentenced to death files a 1246  
petition that exceeds the limit specified for the petition, the 1247  
prosecuting attorney may respond by an answer or motion that 1248  
exceeds the limit specified for the response. 1249

(B) The clerk of the court in which the petition for 1250  
postconviction relief and, if applicable, a request for 1251  
postconviction discovery described in division (A) (1) ~~(d)~~ (e) of 1252  
this section is filed shall docket the petition and the request 1253  
and bring them promptly to the attention of the court. The clerk 1254  
of the court in which the petition for postconviction relief 1255  
and, if applicable, a request for postconviction discovery 1256  
described in division (A) (1) ~~(d)~~ (e) of this section is filed 1257  
immediately shall forward a copy of the petition and a copy of 1258  
the request if filed by the petitioner to the prosecuting 1259  
attorney of the county served by the court. If the request for 1260  
postconviction discovery is filed by the prosecuting attorney, 1261  
the clerk of the court immediately shall forward a copy of the 1262  
request to the petitioner or the petitioner's counsel. 1263

(C) If a person who has been sentenced to death and who 1264  
files a petition for postconviction relief under division (A) (1) 1265  
(a) (i), (ii), (iii), or (iv) of this section requests a 1266  
deposition or the prosecuting attorney in the case requests a 1267  
deposition, and if the court grants the request under division 1268

(A) (1) ~~(d)~~ (e) of this section, the court shall notify the  
petitioner or the petitioner's counsel and the prosecuting  
attorney. The deposition shall be conducted pursuant to  
divisions (B), (D), and (E) of Criminal Rule 15. Notwithstanding  
division (C) of Criminal Rule 15, the petitioner is not entitled  
to attend the deposition. The prosecuting attorney shall be  
permitted to attend and participate in any deposition.

(D) The court shall consider a petition that is timely  
filed ~~under~~ within the period specified in division (A) (2) of  
this section even if a direct appeal of the judgment is pending.  
Before granting a hearing on a petition filed under division (A)  
(1) (a) (i), (ii), (iii), or (iv) of this section, the court shall  
determine whether there are substantive grounds for relief. In  
making such a determination, the court shall consider, in  
addition to the petition, the supporting affidavits, and the  
documentary evidence, all the files and records pertaining to  
the proceedings against the petitioner, including, but not  
limited to, the indictment, the court's journal entries, the  
journalized records of the clerk of the court, and the court  
reporter's transcript. The court reporter's transcript, if  
ordered and certified by the court, shall be taxed as court  
costs. If the court dismisses the petition, it shall make and  
file findings of fact and conclusions of law with respect to  
such dismissal. If the petition was filed by a person who has  
been sentenced to death, the findings of fact and conclusions of  
law shall state specifically the reasons for the dismissal of  
the petition and of each claim it contains.

(E) Within ten days after the docketing of the petition,  
or within any further time that the court may fix for good cause  
shown, the prosecuting attorney shall respond by answer or  
motion. Division (A) (6) of this section applies with respect to

the prosecuting attorney's response. Within twenty days from the 1300  
date the issues are raised, either party may move for summary 1301  
judgment. The right to summary judgment shall appear on the face 1302  
of the record. 1303

(F) Unless the petition and the files and records of the 1304  
case show the petitioner is not entitled to relief, the court 1305  
shall proceed to a prompt hearing on the issues even if a direct 1306  
appeal of the case is pending. If the court notifies the parties 1307  
that it has found grounds for granting relief, either party may 1308  
request an appellate court in which a direct appeal of the 1309  
judgment is pending to remand the pending case to the court. 1310

With respect to a petition filed under division (A) (1) (a) 1311  
(iv) of this section, the procedures and rules regarding 1312  
introduction of evidence and burden of proof at the pretrial 1313  
hearing that are set forth in divisions (C), (D), and (F) of 1314  
section 2929.025 of the Revised Code apply in considering the 1315  
petition. With respect to such a petition, the grounds for 1316  
granting relief are that the person has been diagnosed with one 1317  
or more of the conditions set forth in division (A) (1) (a) of 1318  
section 2929.025 of the Revised Code and that, at the time of 1319  
the aggravated murder that was the basis of the sentence of 1320  
death, the condition or conditions significantly impaired the 1321  
person's capacity in a manner described in division (A) (1) (b) of 1322  
that section. 1323

(G) A petitioner who files a petition under division (A) 1324  
(1) (a) (i), (ii), (iii), or (iv) of this section may amend the 1325  
petition as follows: 1326

(1) If the petition was filed by a person who has been 1327  
sentenced to death, at any time that is not later than one 1328  
hundred eighty days after the petition is filed, the petitioner 1329

may amend the petition with or without leave or prejudice to the 1330  
proceedings. 1331

(2) If division (G)(1) of this section does not apply, at 1332  
any time before the answer or motion is filed, the petitioner 1333  
may amend the petition with or without leave or prejudice to the 1334  
proceedings. 1335

(3) The petitioner may amend the petition with leave of 1336  
court at any time after the expiration of the applicable period 1337  
specified in division (G)(1) or (2) of this section. 1338

(H) If the court does not find grounds for granting 1339  
relief, it shall make and file findings of fact and conclusions 1340  
of law and shall enter judgment denying relief on the petition. 1341  
If the petition was filed by a person who has been sentenced to 1342  
death, the findings of fact and conclusions of law shall state 1343  
specifically the reasons for the denial of relief on the 1344  
petition and of each claim it contains. If no direct appeal of 1345  
the case is pending and the court finds grounds for relief or if 1346  
a pending direct appeal of the case has been remanded to the 1347  
court pursuant to a request made pursuant to division (F) of 1348  
this section and the court finds grounds for granting relief, it 1349  
shall make and file findings of fact and conclusions of law and 1350  
shall enter a judgment that vacates and sets aside the judgment 1351  
in question, and, in the case of a petitioner who is a prisoner 1352  
in custody, except as otherwise described in this division, 1353  
shall discharge or resentence the petitioner or grant a new 1354  
trial as the court determines appropriate. If the court finds 1355  
grounds for relief in the case of a petitioner who filed a 1356  
petition under division (A)(1)(a)(iv) of this section, the court 1357  
shall render void the sentence of death and order the 1358  
resentencing of the offender under division (A) of section 1359

2929.06 of the Revised Code. If the petitioner has been 1360  
sentenced to death, the findings of fact and conclusions of law 1361  
shall state specifically the reasons for the finding of grounds 1362  
for granting the relief, with respect to each claim contained in 1363  
the petition. The court also may make supplementary orders to 1364  
the relief granted, concerning such matters as rearraignment, 1365  
retrial, custody, and bail. If the trial court's order granting 1366  
the petition is reversed on appeal and if the direct appeal of 1367  
the case has been remanded from an appellate court pursuant to a 1368  
request under division (F) of this section, the appellate court 1369  
reversing the order granting the petition shall notify the 1370  
appellate court in which the direct appeal of the case was 1371  
pending at the time of the remand of the reversal and remand of 1372  
the trial court's order. Upon the reversal and remand of the 1373  
trial court's order granting the petition, regardless of whether 1374  
notice is sent or received, the direct appeal of the case that 1375  
was remanded is reinstated. 1376

(I) Upon the filing of a petition pursuant to division (A) 1377  
(1)(a)(i), (ii), (iii), or (iv) of this section by a person 1378  
sentenced to death, only the supreme court may stay execution of 1379  
the sentence of death. 1380

(J) (1) If a person sentenced to death intends to file a 1381  
petition under this section, the court shall appoint counsel to 1382  
represent the person upon a finding that the person is indigent 1383  
and that the person either accepts the appointment of counsel or 1384  
is unable to make a competent decision whether to accept or 1385  
reject the appointment of counsel. The court may decline to 1386  
appoint counsel for the person only upon a finding, after a 1387  
hearing if necessary, that the person rejects the appointment of 1388  
counsel and understands the legal consequences of that decision 1389  
or upon a finding that the person is not indigent. 1390

(2) The court shall not appoint as counsel under division (J) (1) of this section an attorney who represented the petitioner at trial in the case to which the petition relates unless the person and the attorney expressly request the appointment. The court shall appoint as counsel under division (J) (1) of this section only an attorney who is certified under Rule 20 of the Rules of Superintendence for the Courts of Ohio to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed. The ineffectiveness or incompetence of counsel during proceedings under this section does not constitute grounds for relief in a proceeding under this section, in an appeal of any action under this section, or in an application to reopen a direct appeal.

(3) Division (J) of this section does not preclude attorneys who represent the state of Ohio from invoking the provisions of 28 U.S.C. 154 with respect to capital cases that were pending in federal habeas corpus proceedings prior to July 1, 1996, insofar as the petitioners in those cases were represented in proceedings under this section by one or more counsel appointed by the court under this section or section 120.06, 120.16, 120.26, or 120.33 of the Revised Code and those appointed counsel meet the requirements of division (J) (2) of this section.

(K) Subject to the appeal of a sentence for a felony that is authorized by section 2953.08 of the Revised Code, the remedy set forth in this section is the exclusive remedy by which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case or to the validity of an adjudication of a child as a delinquent child for the commission of an act that would be a criminal offense if



committed by an adult or the validity of a related order of 1422  
disposition. 1423

**Sec. 2953.23.** (A) Whether a hearing is or is not held on a 1424  
petition filed pursuant to section 2953.21 of the Revised Code, 1425  
a court may not entertain a petition filed after the expiration 1426  
of the period prescribed in division (A) of that section or a 1427  
second petition or successive petitions for similar relief on 1428  
behalf of a petitioner unless division (A) (1) or (2) of this 1429  
section applies: 1430

(1) Both of the following apply: 1431

(a) Either the petitioner shows that the petitioner was 1432  
unavoidably prevented from discovery of the facts upon which the 1433  
petitioner must rely to present the claim for relief, or, 1434  
subsequent to the period prescribed in division (A) (2) of 1435  
section 2953.21 of the Revised Code or to the filing of an 1436  
earlier petition, the United States Supreme Court recognized a 1437  
new federal or state right that applies retroactively to persons 1438  
in the petitioner's situation, and the petition asserts a claim 1439  
based on that right. 1440

(b) The petitioner shows by clear and convincing evidence 1441  
that, but for constitutional error at trial, no reasonable 1442  
factfinder would have found the petitioner guilty of the offense 1443  
of which the petitioner was convicted or, if the claim 1444  
challenges a sentence of death that, but for constitutional 1445  
error at the sentencing hearing, no reasonable factfinder would 1446  
have found the petitioner eligible for the death sentence. 1447

(2) The petitioner was convicted of a felony, the 1448  
petitioner is an offender for whom DNA testing was performed 1449  
under sections 2953.71 to 2953.81 of the Revised Code or under 1450

former section 2953.82 of the Revised Code and analyzed in the 1451  
context of and upon consideration of all available admissible 1452  
evidence related to the inmate's case as described in division 1453  
(D) of section 2953.74 of the Revised Code, and the results of 1454  
the DNA testing establish, by clear and convincing evidence, 1455  
actual innocence of that felony offense or, if the person was 1456  
sentenced to death, establish, by clear and convincing evidence, 1457  
actual innocence of the aggravating circumstance or 1458  
circumstances the person was found guilty of committing and that 1459  
is or are the basis of that sentence of death. 1460

As used in this division, "actual innocence" has the same 1461  
meaning as in division (A) (1) ~~(b)~~ (c) of section 2953.21 of the 1462  
Revised Code, and "former section 2953.82 of the Revised Code" 1463  
has the same meaning as in division (A) (1) ~~(e)~~ (d) of section 1464  
2953.21 of the Revised Code. 1465

(B) An order awarding or denying relief sought in a 1466  
petition filed pursuant to section 2953.21 of the Revised Code 1467  
is a final judgment and may be appealed pursuant to Chapter 1468  
2953. of the Revised Code. 1469

If a petition filed pursuant to section 2953.21 of the 1470  
Revised Code by a person who has been sentenced to death is 1471  
denied and the person appeals the judgment, notwithstanding any 1472  
law or court rule to the contrary, there is no limit on the 1473  
number of pages in, or on the length of, a notice of appeal or 1474  
briefs related to an appeal filed by the person. If any court 1475  
rule specifies a limit on the number of pages in, or on the 1476  
length of, a notice of appeal or briefs described in this 1477  
division or on a prosecuting attorney's response or briefs with 1478  
respect to such an appeal and a person who has been sentenced to 1479  
death files a notice of appeal or briefs that exceed the limit 1480

specified for the petition, the prosecuting attorney may file a 1481  
response or briefs that exceed the limit specified for the 1482  
answer or briefs. 1483

**Sec. 2971.03.** (A) Notwithstanding divisions (A) and (D) of 1484  
section 2929.14, section 2929.02, 2929.03, 2929.06, 2929.13, or 1485  
another section of the Revised Code, other than divisions (B) 1486  
and (C) of section 2929.14 of the Revised Code, that authorizes 1487  
or requires a specified prison term or a mandatory prison term 1488  
for a person who is convicted of or pleads guilty to a felony or 1489  
that specifies the manner and place of service of a prison term 1490  
or term of imprisonment, the court shall impose a sentence upon 1491  
a person who is convicted of or pleads guilty to a violent sex 1492  
offense and who also is convicted of or pleads guilty to a 1493  
sexually violent predator specification that was included in the 1494  
indictment, count in the indictment, or information charging 1495  
that offense, and upon a person who is convicted of or pleads 1496  
guilty to a designated homicide, assault, or kidnapping offense 1497  
and also is convicted of or pleads guilty to both a sexual 1498  
motivation specification and a sexually violent predator 1499  
specification that were included in the indictment, count in the 1500  
indictment, or information charging that offense, as follows: 1501

(1) If the offense for which the sentence is being imposed 1502  
is aggravated murder and if the court does not impose upon the 1503  
offender a sentence of death, it shall impose upon the offender 1504  
a term of life imprisonment without parole. If the court 1505  
sentences the offender to death and the sentence of death is 1506  
vacated, overturned, or otherwise set aside, the court shall 1507  
impose upon the offender a term of life imprisonment without 1508  
parole. 1509

(2) If the offense for which the sentence is being imposed 1510

is murder; or if the offense is rape committed in violation of 1511  
division (A) (1) (b) of section 2907.02 of the Revised Code when 1512  
the offender purposely compelled the victim to submit by force 1513  
or threat of force, when the victim was less than ten years of 1514  
age, when the offender previously has been convicted of or 1515  
pleaded guilty to either rape committed in violation of that 1516  
division or a violation of an existing or former law of this 1517  
state, another state, or the United States that is substantially 1518  
similar to division (A) (1) (b) of section 2907.02 of the Revised 1519  
Code, or when the offender during or immediately after the 1520  
commission of the rape caused serious physical harm to the 1521  
victim; or if the offense is an offense other than aggravated 1522  
murder or murder for which a term of life imprisonment may be 1523  
imposed, it shall impose upon the offender a term of life 1524  
imprisonment without parole. 1525

(3) (a) Except as otherwise provided in division (A) (3) (b), 1526  
(c), (d), or (e) or (A) (4) of this section, if the offense for 1527  
which the sentence is being imposed is an offense other than 1528  
aggravated murder, murder, or rape and other than an offense for 1529  
which a term of life imprisonment may be imposed, it shall 1530  
impose an indefinite prison term consisting of a minimum term 1531  
fixed by the court as described in this division, but not less 1532  
than two years, and a maximum term of life imprisonment. Except 1533  
as otherwise specified in this division, the minimum term shall 1534  
be fixed by the court from among the range of terms available as 1535  
a definite term for the offense. If the offense is a felony of 1536  
the first or second degree committed on or after ~~the effective~~ 1537  
~~date of this amendment~~ March 22, 2019, the minimum term shall be 1538  
fixed by the court from among the range of terms available as a 1539  
minimum term for the offense under division (A) (1) (a) or (2) (a) 1540  
of that section. 1541

(b) Except as otherwise provided in division (A)(4) of 1542  
this section, if the offense for which the sentence is being 1543  
imposed is kidnapping that is a felony of the first degree, it 1544  
shall impose an indefinite prison term as follows: 1545

(i) If the kidnapping is committed on or after January 1, 1546  
2008, and the victim of the offense is less than thirteen years 1547  
of age, except as otherwise provided in this division, it shall 1548  
impose an indefinite prison term consisting of a minimum term of 1549  
fifteen years and a maximum term of life imprisonment. If the 1550  
kidnapping is committed on or after January 1, 2008, the victim 1551  
of the offense is less than thirteen years of age, and the 1552  
offender released the victim in a safe place unharmed, it shall 1553  
impose an indefinite prison term consisting of a minimum term of 1554  
ten years and a maximum term of life imprisonment. 1555

(ii) If the kidnapping is committed prior to January 1, 1556  
2008, or division (A)(3)(b)(i) of this section does not apply, 1557  
it shall impose an indefinite term consisting of a minimum term 1558  
fixed by the court that is not less than ten years and a maximum 1559  
term of life imprisonment. 1560

(c) Except as otherwise provided in division (A)(4) of 1561  
this section, if the offense for which the sentence is being 1562  
imposed is kidnapping that is a felony of the second degree, it 1563  
shall impose an indefinite prison term consisting of a minimum 1564  
term fixed by the court that is not less than eight years, and a 1565  
maximum term of life imprisonment. 1566

(d) Except as otherwise provided in division (A)(4) of 1567  
this section, if the offense for which the sentence is being 1568  
imposed is rape for which a term of life imprisonment is not 1569  
imposed under division (A)(2) of this section or division (B) of 1570  
section 2907.02 of the Revised Code, it shall impose an 1571

indefinite prison term as follows: 1572

(i) If the rape is committed on or after January 2, 2007, 1573  
in violation of division (A) (1) (b) of section 2907.02 of the 1574  
Revised Code, it shall impose an indefinite prison term 1575  
consisting of a minimum term of twenty-five years and a maximum 1576  
term of life imprisonment. 1577

(ii) If the rape is committed prior to January 2, 2007, or 1578  
the rape is committed on or after January 2, 2007, other than in 1579  
violation of division (A) (1) (b) of section 2907.02 of the 1580  
Revised Code, it shall impose an indefinite prison term 1581  
consisting of a minimum term fixed by the court that is not less 1582  
than ten years, and a maximum term of life imprisonment. 1583

(e) Except as otherwise provided in division (A) (4) of 1584  
this section, if the offense for which sentence is being imposed 1585  
is attempted rape, it shall impose an indefinite prison term as 1586  
follows: 1587

(i) Except as otherwise provided in division (A) (3) (e) 1588  
(ii), (iii), or (iv) of this section, it shall impose an 1589  
indefinite prison term pursuant to division (A) (3) (a) of this 1590  
section. 1591

(ii) If the attempted rape for which sentence is being 1592  
imposed was committed on or after January 2, 2007, and if the 1593  
offender also is convicted of or pleads guilty to a 1594  
specification of the type described in section 2941.1418 of the 1595  
Revised Code, it shall impose an indefinite prison term 1596  
consisting of a minimum term of five years and a maximum term of 1597  
twenty-five years. 1598

(iii) If the attempted rape for which sentence is being 1599  
imposed was committed on or after January 2, 2007, and if the 1600

offender also is convicted of or pleads guilty to a 1601  
specification of the type described in section 2941.1419 of the 1602  
Revised Code, it shall impose an indefinite prison term 1603  
consisting of a minimum term of ten years and a maximum of life 1604  
imprisonment. 1605

(iv) If the attempted rape for which sentence is being 1606  
imposed was committed on or after January 2, 2007, and if the 1607  
offender also is convicted of or pleads guilty to a 1608  
specification of the type described in section 2941.1420 of the 1609  
Revised Code, it shall impose an indefinite prison term 1610  
consisting of a minimum term of fifteen years and a maximum of 1611  
life imprisonment. 1612

(4) For any offense for which the sentence is being 1613  
imposed, if the offender previously has been convicted of or 1614  
pleaded guilty to a violent sex offense and also to a sexually 1615  
violent predator specification that was included in the 1616  
indictment, count in the indictment, or information charging 1617  
that offense, or previously has been convicted of or pleaded 1618  
guilty to a designated homicide, assault, or kidnapping offense 1619  
and also to both a sexual motivation specification and a 1620  
sexually violent predator specification that were included in 1621  
the indictment, count in the indictment, or information charging 1622  
that offense, it shall impose upon the offender a term of life 1623  
imprisonment without parole. 1624

(B) (1) Notwithstanding section 2929.13, division (A) or 1625  
(D) of section 2929.14, or another section of the Revised Code 1626  
other than division (B) of section 2907.02 or divisions (B) and 1627  
(C) of section 2929.14 of the Revised Code that authorizes or 1628  
requires a specified prison term or a mandatory prison term for 1629  
a person who is convicted of or pleads guilty to a felony or 1630

that specifies the manner and place of service of a prison term 1631  
or term of imprisonment, if a person is convicted of or pleads 1632  
guilty to a violation of division (A) (1) (b) of section 2907.02 1633  
of the Revised Code committed on or after January 2, 2007, if 1634  
division (A) of this section does not apply regarding the 1635  
person, and if the court does not impose a sentence of life 1636  
without parole when authorized pursuant to division (B) of 1637  
section 2907.02 of the Revised Code, the court shall impose upon 1638  
the person an indefinite prison term consisting of one of the 1639  
following: 1640

(a) Except as otherwise required in division (B) (1) (b) or 1641  
(c) of this section, a minimum term of ten years and a maximum 1642  
term of life imprisonment. 1643

(b) If the victim was less than ten years of age, a 1644  
minimum term of fifteen years and a maximum of life 1645  
imprisonment. 1646

(c) If the offender purposely compels the victim to submit 1647  
by force or threat of force, or if the offender previously has 1648  
been convicted of or pleaded guilty to violating division (A) (1) 1649  
(b) of section 2907.02 of the Revised Code or to violating an 1650  
existing or former law of this state, another state, or the 1651  
United States that is substantially similar to division (A) (1) 1652  
(b) of that section, or if the offender during or immediately 1653  
after the commission of the offense caused serious physical harm 1654  
to the victim, a minimum term of twenty-five years and a maximum 1655  
of life imprisonment. 1656

(2) Notwithstanding section 2929.13, division (A) or (D) 1657  
of section 2929.14, or another section of the Revised Code other 1658  
than divisions (B) and (C) of section 2929.14 of the Revised 1659  
Code that authorizes or requires a specified prison term or a 1660



mandatory prison term for a person who is convicted of or pleads 1661  
guilty to a felony or that specifies the manner and place of 1662  
service of a prison term or term of imprisonment and except as 1663  
otherwise provided in division (B) of section 2907.02 of the 1664  
Revised Code, if a person is convicted of or pleads guilty to 1665  
attempted rape committed on or after January 2, 2007, and if 1666  
division (A) of this section does not apply regarding the 1667  
person, the court shall impose upon the person an indefinite 1668  
prison term consisting of one of the following: 1669

(a) If the person also is convicted of or pleads guilty to 1670  
a specification of the type described in section 2941.1418 of 1671  
the Revised Code, the court shall impose upon the person an 1672  
indefinite prison term consisting of a minimum term of five 1673  
years and a maximum term of twenty-five years. 1674

(b) If the person also is convicted of or pleads guilty to 1675  
a specification of the type described in section 2941.1419 of 1676  
the Revised Code, the court shall impose upon the person an 1677  
indefinite prison term consisting of a minimum term of ten years 1678  
and a maximum term of life imprisonment. 1679

(c) If the person also is convicted of or pleads guilty to 1680  
a specification of the type described in section 2941.1420 of 1681  
the Revised Code, the court shall impose upon the person an 1682  
indefinite prison term consisting of a minimum term of fifteen 1683  
years and a maximum term of life imprisonment. 1684

(3) Notwithstanding section 2929.13, division (A) or (D) 1685  
of section 2929.14, or another section of the Revised Code other 1686  
than divisions (B) and (C) of section 2929.14 of the Revised 1687  
Code that authorizes or requires a specified prison term or a 1688  
mandatory prison term for a person who is convicted of or pleads 1689  
guilty to a felony or that specifies the manner and place of 1690

service of a prison term or term of imprisonment, if a person is 1691  
convicted of or pleads guilty to an offense described in 1692  
division (B) (3) (a), (b), (c), or (d) of this section committed 1693  
on or after January 1, 2008, if the person also is convicted of 1694  
or pleads guilty to a sexual motivation specification that was 1695  
included in the indictment, count in the indictment, or 1696  
information charging that offense, and if division (A) of this 1697  
section does not apply regarding the person, the court shall 1698  
impose upon the person an indefinite prison term consisting of 1699  
one of the following: 1700

(a) An indefinite prison term consisting of a minimum of 1701  
ten years and a maximum term of life imprisonment if the offense 1702  
for which the sentence is being imposed is kidnapping, the 1703  
victim of the offense is less than thirteen years of age, and 1704  
the offender released the victim in a safe place unharmed; 1705

(b) An indefinite prison term consisting of a minimum of 1706  
fifteen years and a maximum term of life imprisonment if the 1707  
offense for which the sentence is being imposed is kidnapping 1708  
when the victim of the offense is less than thirteen years of 1709  
age and division (B) (3) (a) of this section does not apply; 1710

(c) An indefinite term consisting of a minimum of thirty 1711  
years and a maximum term of life imprisonment if the offense for 1712  
which the sentence is being imposed is aggravated murder, when 1713  
the victim of the offense is less than thirteen years of age, a 1714  
sentence of death or life imprisonment without parole is not 1715  
imposed for the offense, and division (A) (2) (b) (ii) of section 1716  
2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) 1717  
(2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, 1718  
or division (A) or (B) of section 2929.06 of the Revised Code 1719  
requires that the sentence for the offense be imposed pursuant 1720

to this division; 1721

(d) An indefinite prison term consisting of a minimum of 1722  
thirty years and a maximum term of life imprisonment if the 1723  
offense for which the sentence is being imposed is murder when 1724  
the victim of the offense is less than thirteen years of age. 1725

(C) (1) If the offender is sentenced to a prison term 1726  
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 1727  
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 1728  
parole board shall have control over the offender's service of 1729  
the term during the entire term unless the parole board 1730  
terminates its control in accordance with section 2971.04 of the 1731  
Revised Code. 1732

(2) Except as provided in division (C) (3) of this section, 1733  
an offender sentenced to a prison term or term of life 1734  
imprisonment without parole pursuant to division (A) of this 1735  
section shall serve the entire prison term or term of life 1736  
imprisonment in a state correctional institution. The offender 1737  
is not eligible for judicial release under section 2929.20 of 1738  
the Revised Code. 1739

(3) For a prison term imposed pursuant to division (A) (3), 1740  
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 1741  
(b), (c), or (d) of this section, the court, in accordance with 1742  
section 2971.05 of the Revised Code, may terminate the prison 1743  
term or modify the requirement that the offender serve the 1744  
entire term in a state correctional institution if all of the 1745  
following apply: 1746

(a) The offender has served at least the minimum term 1747  
imposed as part of that prison term. 1748

(b) The parole board, pursuant to section 2971.04 of the 1749

Revised Code, has terminated its control over the offender's 1750  
service of that prison term. 1751

(c) The court has held a hearing and found, by clear and 1752  
convincing evidence, one of the following: 1753

(i) In the case of termination of the prison term, that 1754  
the offender is unlikely to commit a sexually violent offense in 1755  
the future; 1756

(ii) In the case of modification of the requirement, that 1757  
the offender does not represent a substantial risk of physical 1758  
harm to others. 1759

(4) An offender who has been sentenced to a term of life 1760  
imprisonment without parole pursuant to division (A)(1), (2), or 1761  
(4) of this section shall not be released from the term of life 1762  
imprisonment or be permitted to serve a portion of it in a place 1763  
other than a state correctional institution. 1764

(D) If a court sentences an offender to a prison term or 1765  
term of life imprisonment without parole pursuant to division 1766  
(A) of this section and the court also imposes on the offender 1767  
one or more additional prison terms pursuant to division (B) of 1768  
section 2929.14 of the Revised Code, all of the additional 1769  
prison terms shall be served consecutively with, and prior to, 1770  
the prison term or term of life imprisonment without parole 1771  
imposed upon the offender pursuant to division (A) of this 1772  
section. 1773

(E) If the offender is convicted of or pleads guilty to 1774  
two or more offenses for which a prison term or term of life 1775  
imprisonment without parole is required to be imposed pursuant 1776  
to division (A) of this section, divisions (A) to (D) of this 1777  
section shall be applied for each offense. All minimum terms 1778

imposed upon the offender pursuant to division (A) (3) or (B) of 1779  
this section for those offenses shall be aggregated and served 1780  
consecutively, as if they were a single minimum term imposed 1781  
under that division. 1782

(F) (1) If an offender is convicted of or pleads guilty to 1783  
a violent sex offense and also is convicted of or pleads guilty 1784  
to a sexually violent predator specification that was included 1785  
in the indictment, count in the indictment, or information 1786  
charging that offense, or is convicted of or pleads guilty to a 1787  
designated homicide, assault, or kidnapping offense and also is 1788  
convicted of or pleads guilty to both a sexual motivation 1789  
specification and a sexually violent predator specification that 1790  
were included in the indictment, count in the indictment, or 1791  
information charging that offense, the conviction of or plea of 1792  
guilty to the offense and the sexually violent predator 1793  
specification automatically classifies the offender as a tier 1794  
III sex offender/child-victim offender for purposes of Chapter 1795  
2950. of the Revised Code. 1796

(2) If an offender is convicted of or pleads guilty to 1797  
committing on or after January 2, 2007, a violation of division 1798  
(A) (1) (b) of section 2907.02 of the Revised Code and either the 1799  
offender is sentenced under section 2971.03 of the Revised Code 1800  
or a sentence of life without parole is imposed under division 1801  
(B) of section 2907.02 of the Revised Code, the conviction of or 1802  
plea of guilty to the offense automatically classifies the 1803  
offender as a tier III sex offender/child-victim offender for 1804  
purposes of Chapter 2950. of the Revised Code. 1805

(3) If a person is convicted of or pleads guilty to 1806  
committing on or after January 2, 2007, attempted rape and also 1807  
is convicted of or pleads guilty to a specification of the type 1808

described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code, the conviction of or plea of guilty to the offense and the specification automatically classify the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

(4) If a person is convicted of or pleads guilty to one of the offenses described in division (B) (3) (a), (b), (c), or (d) of this section and a sexual motivation specification related to the offense and the victim of the offense is less than thirteen years of age, the conviction of or plea of guilty to the offense automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

**Sec. 2971.07.** (A) This chapter does not apply to any offender unless the offender is one of the following:

(1) The offender is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense.

(2) The offender is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information charging that offense.

(3) The offender is convicted of or pleads guilty to a violation of division (A) (1) (b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and the

court does not sentence the offender to a term of life without 1838  
parole pursuant to division (B) of section 2907.02 of the 1839  
Revised Code or division (B) of that section prohibits the court 1840  
from sentencing the offender pursuant to section 2971.03 of the 1841  
Revised Code. 1842

(4) The offender is convicted of or pleads guilty to 1843  
attempted rape committed on or after January 2, 2007, and also 1844  
is convicted of or pleads guilty to a specification of the type 1845  
described in section 2941.1418, 2941.1419, or 2941.1420 of the 1846  
Revised Code. 1847

(5) The offender is convicted of or pleads guilty to a 1848  
violation of section 2905.01 of the Revised Code and also is 1849  
convicted of or pleads guilty to a sexual motivation 1850  
specification that was included in the indictment, count in the 1851  
indictment, or information charging that offense, and that 1852  
section requires a court to sentence the offender pursuant to 1853  
section 2971.03 of the Revised Code. 1854

(6) The offender is convicted of or pleads guilty to 1855  
aggravated murder and also is convicted of or pleads guilty to a 1856  
sexual motivation specification that was included in the 1857  
indictment, count in the indictment, or information charging 1858  
that offense, and division (A) (2) (b) (ii) of section 2929.022, 1859  
division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) 1860  
(3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, or division 1861  
(A) or (B) of section 2929.06 of the Revised Code requires a 1862  
court to sentence the offender pursuant to division (B) (3) of 1863  
section 2971.03 of the Revised Code. 1864

(7) The offender is convicted of or pleads guilty to 1865  
murder and also is convicted of or pleads guilty to a sexual 1866  
motivation specification that was included in the indictment, 1867

count in the indictment, or information charging that offense, 1868  
and division (B) (2) of section 2929.02 of the Revised Code 1869  
requires a court to sentence the offender pursuant to section 1870  
2971.03 of the Revised Code. 1871

(B) This chapter does not limit or affect a court in 1872  
imposing upon an offender described in divisions (A) (1) to (9) 1873  
of this section any financial sanction under section 2929.18 or 1874  
any other section of the Revised Code, or, except as 1875  
specifically provided in this chapter, any other sanction that 1876  
is authorized or required for the offense or violation by any 1877  
other provision of law. 1878

(C) If an offender is sentenced to a prison term under 1879  
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 1880  
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 1881  
Code and if, pursuant to section 2971.05 of the Revised Code, 1882  
the court modifies the requirement that the offender serve the 1883  
entire prison term in a state correctional institution or places 1884  
the offender on conditional release that involves the placement 1885  
of the offender under the supervision of the adult parole 1886  
authority, authorized field officers of the authority who are 1887  
engaged within the scope of their supervisory duties or 1888  
responsibilities may search, with or without a warrant, the 1889  
person of the offender, the place of residence of the offender, 1890  
and a motor vehicle, another item of tangible or intangible 1891  
personal property, or any other real property in which the 1892  
offender has the express or implied permission of a person with 1893  
a right, title, or interest to use, occupy, or possess if the 1894  
field officer has reasonable grounds to believe that the 1895  
offender is not abiding by the law or otherwise is not complying 1896  
with the terms and conditions of the offender's modification or 1897  
release. The authority shall provide each offender with a 1898



written notice that informs the offender that authorized field 1899  
officers of the authority who are engaged within the scope of 1900  
their supervisory duties or responsibilities may conduct those 1901  
types of searches during the period of the modification or 1902  
release if they have reasonable grounds to believe that the 1903  
offender is not abiding by the law or otherwise is not complying 1904  
with the terms and conditions of the offender's modification or 1905  
release. 1906

**Section 2.** That existing sections 2929.02, 2929.022, 1907  
2929.024, 2929.03, 2929.04, 2929.06, 2941.148, 2953.21, 2953.23, 1908  
2971.03, and 2971.07 of the Revised Code are hereby repealed. 1909

**Section 3.** Notwithstanding section 1.50 of the Revised 1910  
Code, if any provision of a section as amended or enacted by 1911  
this act is determined to be unconstitutional or otherwise 1912  
invalid in a final judgment by a court of last resort, the 1913  
remainder of the enactments and amendments made in Section 1 of 1914  
this act are void. 1915