

As Introduced

134th General Assembly

Regular Session

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S. B. No. 103

Senators Antonio, Huffman, S.

**Cosponsors: Senators Antani, Craig, Maharath, Roegner, Rulli, Sykes, Thomas,
Williams, Yuko**

A BILL

To amend sections 9.07, 120.03, 120.041, 120.06, 1
120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 2
120.33, 120.34, 149.43, 149.436, 1901.183, 3
2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 4
2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 5
2929.13, 2929.14, 2929.61, 2930.19, 2937.222, 6
2941.021, 2941.14, 2941.148, 2941.401, 2941.43, 7
2941.51, 2945.06, 2945.10, 2945.13, 2945.21, 8
2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 9
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 10
2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 11
2953.81, 2967.05, 2967.12, 2967.13, 2967.193, 12
2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 13
5139.04, and 5919.16 and to repeal sections 14
109.97, 120.35, 2725.19, 2929.021, 2929.022, 15
2929.023, 2929.024, 2929.03, 2929.04, 2929.05, 16
2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 17
2949.221, 2949.222, 2949.24, 2949.25, 2949.26, 18
2949.27, 2949.28, 2949.29, 2949.31, and 2967.08 19
of the Revised Code to abolish the death penalty 20
and to modify the number of jurors that may be 21

challenged in cases where a defendant may be 22
sentenced to life imprisonment. 23

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

Section 1. That sections 9.07, 120.03, 120.041, 120.06, 24
120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 25
149.43, 149.436, 1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 26
2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 27
2929.14, 2929.61, 2930.19, 2937.222, 2941.021, 2941.14, 28
2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 2945.13, 29
2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 30
2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 31
2953.72, 2953.73, 2953.81, 2967.05, 2967.12, 2967.13, 2967.193, 32
2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 5139.04, and 33
5919.16 of the Revised Code be amended to read as follows: 34

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

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

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

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

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

(c) For a combination of counties, a combination of 44
municipal corporations, or a combination of one or more counties 45
and one or more municipal corporations, all boards of county 46

commissioners and legislative authorities of all of the counties 47
and municipal corporations that combined to form a local public 48
entity for purposes of this section. 49

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

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

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

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

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

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

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

(7) " <u>Private contractor</u> " means either of the following:	76
(a) A person who, on or after March 17, 1998, enters into a contract under this section with a local public entity to operate and manage a correctional facility in this state for out-of-state prisoners.	77 78 79 80
(b) A person who, pursuant to a contract with a local public entity entered into prior to March 17, 1998, operates and manages on March 17, 1998, a correctional facility in this state for housing out-of-state prisoners.	81 82 83 84
(B) Subject to division (I) of this section, the only entities other than this state that are authorized to operate a correctional facility to house out-of-state prisoners in this state are a local public entity that operates a correctional facility pursuant to this section or a private contractor that operates a correctional facility pursuant to this section under a contract with a local public entity.	85 86 87 88 89 90 91
Subject to division (I) of this section, a private entity may operate a correctional facility in this state for the housing of out-of-state prisoners only if the private entity is a private contractor that enters into a contract that comports with division (D) of this section with a local public entity for the management and operation of the correctional facility.	92 93 94 95 96 97
(C) (1) Except as provided in this division, on and after March 17, 1998, a local public entity shall not enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state. On and after March 17, 1998, a local public entity may enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state only if the	98 99 100 101 102 103 104

local public entity and the out-of-state jurisdiction with which 105
the local public entity intends to contract jointly submit to 106
the department of rehabilitation and correction a statement that 107
certifies the correctional facility's intended use, intended 108
prisoner population, and custody level, and the department 109
reviews and comments upon the plans for the design or renovation 110
of the correctional facility regarding their suitability for the 111
intended prisoner population specified in the submitted 112
statement. 113

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

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

(b) If a private contractor will not operate the facility 130
in question pursuant to a contract entered into in accordance 131
with division (D) of this section, a conversion plan that will 132
be followed if, for any reason, the facility is closed or ceases 133
to operate. The conversion plan shall include, but is not 134

limited to, provisions that specify whether the local public 135
entity or the out-of-state jurisdiction will be responsible for 136
housing and transporting the prisoners who are in the facility 137
at the time it is closed or ceases to operate and for the cost 138
of so housing and transporting those prisoners. 139

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

contractor that, pursuant to the requirement set forth in 166
division (I) of this section, is required to enter into a 167
contract under division (D) of this section. 168

(D) Subject to division (I) of this section, on and after 169
March 17, 1998, if a local public entity enters into a contract 170
with a private contractor for the management and operation of a 171
correctional facility in this state to house out-of-state 172
prisoners, the contract, at a minimum, shall include all of the 173
following provisions: 174

(1) A requirement that the private contractor seek and 175
obtain accreditation from the American correctional association 176
for the correctional facility within two years after accepting 177
the first out-of-state prisoner at the correctional facility 178
under the contract and that it maintain that accreditation for 179
the term of the contract; 180

(2) A requirement that the private contractor comply with 181
all applicable laws, rules, or regulations of the government of 182
this state, political subdivisions of this state, and the United 183
States, including, but not limited to, all sanitation, food 184
service, safety, and health regulations; 185

(3) A requirement that the private contractor send copies 186
of reports of inspections completed by appropriate authorities 187
regarding compliance with laws, rules, and regulations of the 188
type described in division (D) (2) of this section to the 189
director of rehabilitation and correction or the director's 190
designee and to the governing authority of the local public 191
entity in which the correctional facility is located; 192

(4) A requirement that the private contractor report to 193
the local law enforcement agencies with jurisdiction over the 194

place at which the correctional facility is located, for 195
investigation, all criminal offenses or delinquent acts that are 196
committed in or on the grounds of, or otherwise in connection 197
with, the correctional facility and report to the department of 198
rehabilitation and correction all disturbances at the facility; 199

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

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

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

correctional facility;	225
(8) A requirement that the correctional facility be	226
staffed at all times with a staffing pattern that is adequate to	227
ensure supervision of inmates and maintenance of security within	228
the correctional facility and to provide for appropriate	229
programs, transportation, security, and other operational needs.	230
In determining security needs for the correctional facility, the	231
private contractor and the contract requirements shall fully	232
take into account all relevant factors, including, but not	233
limited to, the proximity of the facility to neighborhoods and	234
schools.	235
(9) A requirement that the private contractor provide an	236
adequate policy of insurance that satisfies the requirements set	237
forth in division (D) of section 9.06 of the Revised Code	238
regarding contractors who operate and manage a facility under	239
that section, and that the private contractor indemnify and hold	240
harmless the state, its officers, agents, and employees, and any	241
local public entity in the state with jurisdiction over the	242
place at which the correctional facility is located or that owns	243
the correctional facility, reimburse the state for its costs in	244
defending the state or any of its officers, agents, or	245
employees, and reimburse any local government entity of that	246
nature for its costs in defending the local government entity,	247
in the manner described in division (D) of that section	248
regarding contractors who operate and manage a facility under	249
that section;	250
(10) A requirement that the private contractor adopt for	251
prisoners housed in the correctional facility the security	252
classification system and schedule adopted by the department of	253
rehabilitation and correction under section 5145.03 of the	254

Revised Code, classify in accordance with the system and 255
schedule each prisoner housed in the facility, and house all 256
prisoners in the facility in accordance with their 257
classification under this division; 258

(11) A requirement that the private contractor will not 259
accept for housing, and will not house, in the correctional 260
facility any out-of-state prisoner in relation to whom any of 261
the following applies: 262

(a) The private entity has not obtained from the out-of- 263
state jurisdiction that imposed the sentence or sanction under 264
which the prisoner will be confined in this state a copy of the 265
institutional record of the prisoner while previously confined 266
in that out-of-state jurisdiction or a statement that the 267
prisoner previously has not been confined in that out-of-state 268
jurisdiction and a copy of all medical records pertaining to 269
that prisoner that are in the possession of the out-of-state 270
jurisdiction. 271

(b) The prisoner, while confined in any out-of-state 272
jurisdiction, has a record of institutional violence involving 273
the use of a deadly weapon or a pattern of committing acts of an 274
assaultive nature against employees of, or visitors to, the 275
place of confinement or has a record of escape or attempted 276
escape from secure custody. 277

(c) Under the security classification system and schedule 278
adopted by the department of rehabilitation and correction under 279
section 5145.03 of the Revised Code and adopted by the private 280
contractor under division (B)(10) of this section, the out-of- 281
state prisoner would be classified as being at a security level 282
higher than medium security. 283

(12) A requirement that the private contractor, prior to 284
housing any out-of-state prisoner in the correctional facility 285
under the contract, enter into a written agreement with the 286
department of rehabilitation and correction that sets forth a 287
plan and procedure that will be used to coordinate law 288
enforcement activities of state law enforcement agencies and of 289
local law enforcement agencies with jurisdiction over the place 290
at which the facility is located in response to any riot, 291
rebellion, escape, insurrection, or other emergency occurring 292
inside or outside the facility; 293

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

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

(15) A requirement that the private contractor will not 307
employ any person at the correctional facility until after the 308
private contractor has submitted to the bureau of criminal 309
identification and investigation, on a form prescribed by the 310
superintendent of the bureau, a request that the bureau conduct 311
a criminal records check of the person and a requirement that 312
the private contractor will not employ any person at the 313

facility if the records check or other information possessed by 314
the contractor indicates that the person previously has engaged 315
in malfeasance; 316

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

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

(b) If section 5120.50 of the Revised Code does not apply 340
in relation to the offense the prisoner committed while confined 341
in this state and the term of confinement imposed for that 342
offense, the prisoner shall be returned to the out-of-state 343

jurisdiction or its private contractor for completion of the 344
period of time remaining under the out-of-state sentence for 345
which the prisoner was confined in the facility in this state 346
before starting service of the term of confinement imposed for 347
the offense committed while confined in this state, the out-of- 348
state jurisdiction or its private contractor will confine the 349
prisoner for that remaining period of time and will transport 350
the prisoner outside of this state for service of that remaining 351
period of time, and, if the prisoner is confined in this state 352
in a facility operated by the department of rehabilitation and 353
correction, the private contractor will be financially 354
responsible for reimbursing the department at the per diem cost 355
of confinement for the duration of that incarceration, with the 356
amount of the reimbursement so paid to be deposited in the 357
department's prisoner programs fund. 358

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

(18) A schedule of fines that the local public entity 372
shall impose upon the private contractor if the private 373
contractor fails to perform its contractual duties, and a 374

requirement that, if the private contractor fails to perform its 375
contractual duties, the local public entity shall impose a fine 376
on the private contractor from the schedule of fines and, in 377
addition to the fine, may exercise any other rights it has under 378
the contract. Division (F)(2) of this section applies regarding 379
a fine described in this division. 380

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

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

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

adequate proof that it continues to be in compliance with the 405
requirement described in division (D) (9) of this section. 406

(E) A private correctional officer or other designated 407
employee of a private contractor that operates a correctional 408
facility that houses out-of-state prisoners in this state under 409
a contract entered into prior to, on, or after March 17, 1998, 410
may carry and use firearms in the course of the officer's or 411
employee's employment only if the officer or employee is 412
certified as having satisfactorily completed an approved 413
training program designed to qualify persons for positions as 414
special police officers, security guards, or persons otherwise 415
privately employed in a police capacity, as described in 416
division (A) of section 109.78 of the Revised Code. 417

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

any offense relating to the escape or disturbance shall be 436
chargeable to and borne by the private contractor. The 437
contractor also shall reimburse the state or its political 438
subdivisions for all reasonable costs incurred relating to the 439
temporary detention of a person who escaped from the facility, 440
following the person's recapture. 441

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

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

(G) (1) Any act or omission that would be a criminal 463
offense or a delinquent act if committed at a state correctional 464
institution or at a jail, workhouse, prison, or other 465

correctional facility operated by this state or by any political 466
subdivision or group of political subdivisions of this state 467
shall be a criminal offense or delinquent act if committed by or 468
with regard to any out-of-state prisoner who is housed at any 469
correctional facility operated by a private contractor in this 470
state pursuant to a contract entered into prior to, on, or after 471
March 17, 1998. 472

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

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

or of an officer or employee, as so defined, of the state that 497
is undertaken with malicious purpose, in bad faith, or in a 498
wanton or reckless manner. 499

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

(c) Divisions (G) (3) (a) and (b) of this section do not 524
affect any immunity or defense that the state and its officers 525
and employees or a non-contracting political subdivision and its 526
employees may be entitled to under another section of the 527

Revised Code or the common law of this state, including, but not 528
limited to, section 9.86 or Chapter 2744. of the Revised Code. 529

(H) (1) Upon the completion of an out-of-state prisoner's 530
term of detention at a correctional facility operated by a 531
private contractor in this state pursuant to a contract entered 532
into prior to, on, or after March 17, 1998, the operator of the 533
correctional facility shall transport the prisoner to the out- 534
of-state jurisdiction that imposed the sentence for which the 535
prisoner was confined before it releases the prisoner from its 536
custody. 537

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

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

(I) Except as otherwise provided in this division, the 545
provisions of divisions (A) to (H) of this section apply in 546
relation to any correctional facility operated by a private 547
contractor in this state to house out-of-state prisoners, 548
regardless of whether the facility is operated pursuant to a 549
contract entered into prior to, on, or after March 17, 1998. 550
Division (C) (1) of this section shall not apply in relation to 551
any correctional facility for housing out-of-state prisoners in 552
this state that is operated by a private contractor under a 553
contract entered into with a local public entity prior to March 554
17, 1998. If a private contractor operates a correctional 555
facility in this state for the housing of out-of-state prisoners 556
under a contract entered into with a local public entity prior 557

to March 17, 1998, no later than thirty days after the effective 558
date of this amendment, the private contractor shall enter into 559
a contract with the local public entity that comports to the 560
requirements and criteria of division (D) of this section. 561

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

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

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

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

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

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

operate an office of a public defender;	587
(5) Minimum caseload standards;	588
(6) Procedures for the assessment and collection of the costs of legal representation that is provided by public defenders or appointed counsel;	589 590 591
(7) Standards and guidelines for determining whether a client is able to make an up-front contribution toward the cost of his <u>the client's</u> legal representation;	592 593 594
(8) Procedures for the collection of up-front contributions from clients who are able to contribute toward the cost of their legal representation, as determined pursuant to the standards and guidelines developed under division (B) (7) of this section. All of such up-front contributions shall be paid into the appropriate county fund.	595 596 597 598 599 600
(9) Standards for contracts between a board of county commissioners, a county public defender commission, or a joint county public defender commission and a municipal corporation for the legal representation of indigent persons charged with violations of the ordinances of the municipal corporation.	601 602 603 604 605
(C) The Ohio public defender commission shall adopt rules prescribing minimum qualifications of counsel appointed pursuant to this chapter or appointed by the courts. Without limiting its general authority to prescribe different qualifications for different categories of appointed counsel, the commission shall prescribe, by rule, special qualifications for counsel and co-counsel appointed in capital cases <u>in which the defendant was sentenced to death before the effective date of this amendment.</u>	606 607 608 609 610 611 612 613
(D) In administering the office of the Ohio public defender commission:	614 615

- (1) The commission shall do the following: 616
- (a) Approve an annual operating budget; 617
 - (b) Make an annual report to the governor, the general assembly, and the supreme court of Ohio on the operation of the state public defender's office, the county appointed counsel systems, and the county and joint county public defenders' offices. 618
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- (2) The commission may do the following: 623
- (a) Accept the services of volunteer workers and consultants at no compensation other than reimbursement of actual and necessary expenses; 624
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 - (b) Prepare and publish statistical and case studies and other data pertinent to the legal representation of indigent persons; 627
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 - (c) Conduct programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons. 630
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- (E) There is hereby established in the state treasury the public defender training fund for the deposit of fees received by the Ohio public defender commission from educational seminars, and the sale of publications, on topics concerning criminal law and procedure. Expenditures from this fund shall be made only for the operation of activities authorized by division (D) (2) (c) of this section. 633
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- (F) (1) In accordance with sections 109.02, 109.07, and 109.361 to 109.366 of the Revised Code, but subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of the Ohio 640
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public defender commission, the state public defender, assistant 644
state public defenders, and other employees of the commission or 645
the state public defender. 646

(2) Subject to division (E) of section 120.06 of the 647
Revised Code, the attorney general shall represent or provide 648
for the representation of attorneys described in division (C) of 649
section 120.41 of the Revised Code in malpractice or other civil 650
actions or proceedings that arise from alleged actions or 651
omissions related to responsibilities derived pursuant to this 652
chapter, or in civil actions that are based upon alleged 653
violations of the constitution or statutes of the United States, 654
including section 1983 of Title 42 of the United States Code, 93 655
Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise 656
from alleged actions or omissions related to responsibilities 657
derived pursuant to this chapter. For purposes of the 658
representation, sections 109.361 to 109.366 of the Revised Code 659
shall apply to an attorney described in division (C) of section 660
120.41 of the Revised Code as if ~~he~~ the attorney were an officer 661
or employee, as defined in section 109.36 of the Revised Code, 662
and the Ohio public defender commission or the state public 663
defender, whichever contracted with the attorney, shall be 664
considered ~~his~~ the attorney's employer. 665

Sec. 120.041. (A) In addition to the state public 666
defender's other duties under this chapter and other Revised 667
Code provisions, the state public defender shall do all of the 668
following for each state fiscal year: 669

(1) Determine the total dollar amount of all requests for 670
reimbursements that were submitted for that fiscal year by 671
counties under sections 120.18, 120.28, 120.33, ~~120.35~~, and 672
2941.51 of the Revised Code; 673

(2) Determine the total dollar amount paid to all counties	674
as reimbursements under the requests described in division (A)	675
(1) of this section that were submitted for that fiscal year;	676
(3) Determine the percentage of total costs submitted by	677
counties under the requests described in division (A) (1) of this	678
section that was paid to all counties as reimbursements for that	679
fiscal year;	680
(4) Commencing in state fiscal year 2021, determine the	681
increase or decrease in the total dollar amount found under	682
division (A) (2) of this section for that fiscal year from the	683
total dollar amount found under that division for the previous	684
fiscal year;	685
(5) Determine, out of the total dollar amount found under	686
division (A) (2) of this section that was paid to all counties as	687
a reimbursement, the total amount of that money used by all of	688
the counties for each of the following categories of costs in	689
that fiscal year:	690
(a) Costs for appointed counsel;	691
(b) Costs for personnel;	692
(c) Costs for expert witnesses;	693
(d) Costs for investigations;	694
(e) Costs for transcripts;	695
(f) Costs for rent or lease, utilities, furnishings,	696
maintenance, and equipment;	697
(g) Costs for travel;	698
(h) Any other category of costs set by the state public	699
defender.	700

(6) Commencing in state fiscal year 2021, determine the increase or decrease in the amount of money found under division (A) (5) of this section to have been used for each category of costs described in divisions (A) (5) (a) to (h) of this section for that fiscal year from the amount of money found under that division to have been used for each such category of costs for the previous fiscal year;

(7) Analyze the cost per each felony, misdemeanor, traffic, or juvenile delinquency case assigned to a public defender or counsel pursuant to section 120.06, 120.16, 120.26, or 120.33 of the Revised Code.

(B) For each state fiscal year, the state public defender shall prepare a report that includes all of its findings and determinations for that fiscal year and, not later than the first day of October in the state fiscal year following the fiscal year covered by the report, shall submit copies of the report to the president of the senate, the speaker of the house of representatives, the minority leader of the senate, the minority leader of the house of representatives, and the governor.

Sec. 120.06. (A) (1) The state public defender, when designated by the court or requested by a county public defender or joint county public defender, may provide legal representation in all courts throughout the state to indigent adults and juveniles who are charged with the commission of an offense or act for which the penalty or any possible adjudication includes the potential loss of liberty.

(2) The state public defender may provide legal representation to any indigent person who, while incarcerated in any state correctional institution, is charged with a felony

offense, for which the penalty or any possible adjudication that 731
may be imposed by a court upon conviction includes the potential 732
loss of liberty. 733

(3) The state public defender may provide legal 734
representation to any person incarcerated in any correctional 735
institution of the state, in any matter in which the person 736
asserts the person is unlawfully imprisoned or detained. 737

(4) The state public defender, in any case in which the 738
state public defender has provided legal representation or is 739
requested to do so by a county public defender or joint county 740
public defender, may provide legal representation on appeal. 741

(5) The state public defender, when designated by the 742
court or requested by a county public defender, joint county 743
public defender, or the director of rehabilitation and 744
correction, shall provide legal representation in parole and 745
probation revocation matters or matters relating to the 746
revocation of community control or post-release control under a 747
community control sanction or post-release control sanction, 748
unless the state public defender finds that the alleged parole 749
or probation violator or alleged violator of a community control 750
sanction or post-release control sanction has the financial 751
capacity to retain the alleged violator's own counsel. 752

(6) If the state public defender contracts with a county 753
public defender commission, a joint county public defender 754
commission, or a board of county commissioners for the provision 755
of services, under authority of division (C)(7) of section 756
120.04 of the Revised Code, the state public defender shall 757
provide legal representation in accordance with the contract. 758

(B) The state public defender shall not be required to 759

prosecute any appeal, postconviction remedy, or other proceeding 760
pursuant to division (A) (3), (4), or (5) of this section, unless 761
the state public defender first is satisfied that there is 762
arguable merit to the proceeding. 763

(C) A court may appoint counsel or allow an indigent 764
person to select the indigent's own personal counsel to assist 765
the state public defender as co-counsel when the interests of 766
justice so require. When co-counsel is appointed to assist the 767
state public defender, the co-counsel shall receive any 768
compensation that the court may approve, not to exceed the 769
amounts provided for in section 2941.51 of the Revised Code. 770

(D) (1) When the state public defender is designated by the 771
court or requested by a county public defender or joint county 772
public defender to provide legal representation for an indigent 773
person in any case, other than pursuant to a contract entered 774
into under authority of division (C) (7) of section 120.04 of the 775
Revised Code, the state public defender shall send to the county 776
in which the case is filed a bill detailing the actual cost of 777
the representation that separately itemizes legal fees and 778
expenses. The county, upon receipt of an itemized bill from the 779
state public defender pursuant to this division, shall pay the 780
state public defender one hundred per cent of the amount 781
identified as legal fees and expenses in the itemized bill. 782

(2) Upon payment of the itemized bill under division (D) 783
(1) of this section, the county may submit the cost of the legal 784
fees and expenses to the state public defender for reimbursement 785
pursuant to section 120.33 of the Revised Code. 786

(3) When the state public defender provides investigation 787
or mitigation services to private appointed counsel or to a 788
county or joint county public defender as approved by the 789

appointing court, other than pursuant to a contract entered into 790
under authority of division (C) (7) of section 120.04 of the 791
Revised Code, the state public defender shall send to the county 792
in which the case is filed a bill itemizing the actual cost of 793
the services provided. The county, upon receipt of an itemized 794
bill from the state public defender pursuant to this division, 795
shall pay one hundred per cent of the amount as set forth in the 796
itemized bill. Upon payment of the itemized bill received 797
pursuant to this division, the county may submit the cost of the 798
investigation and mitigation services to the state public 799
defender for reimbursement pursuant to section 120.33 of the 800
Revised Code. 801

(4) There is hereby created in the state treasury the 802
county representation fund for the deposit of moneys received 803
from counties under this division. All moneys credited to the 804
fund shall be used by the state public defender to provide legal 805
representation for indigent persons when designated by the court 806
or requested by a county or joint county public defender or to 807
provide investigation or mitigation services, including 808
investigation or mitigation services to private appointed 809
counsel or a county or joint county public defender, as approved 810
by the court. 811

(E) (1) Notwithstanding any contrary provision of sections 812
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised 813
Code that pertains to representation by the attorney general, an 814
assistant attorney general, or special counsel of an officer or 815
employee, as defined in section 109.36 of the Revised Code, or 816
of an entity of state government, the state public defender may 817
elect to contract with, and to have the state pay pursuant to 818
division (E) (2) of this section for the services of, private 819
legal counsel to represent the Ohio public defender commission, 820

the state public defender, assistant state public defenders, 821
other employees of the commission or the state public defender, 822
and attorneys described in division (C) of section 120.41 of the 823
Revised Code in a malpractice or other civil action or 824
proceeding that arises from alleged actions or omissions related 825
to responsibilities derived pursuant to this chapter, or in a 826
civil action that is based upon alleged violations of the 827
constitution or statutes of the United States, including section 828
1983 of Title 42 of the United States Code, 93 Stat. 1284 829
(1979), 42 U.S.C.A. 1983, as amended, and that arises from 830
alleged actions or omissions related to responsibilities derived 831
pursuant to this chapter, if the state public defender 832
determines, in good faith, that the defendant in the civil 833
action or proceeding did not act manifestly outside the scope of 834
the defendant's employment or official responsibilities, with 835
malicious purpose, in bad faith, or in a wanton or reckless 836
manner. If the state public defender elects not to contract 837
pursuant to this division for private legal counsel in a civil 838
action or proceeding, then, in accordance with sections 109.02, 839
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 840
attorney general shall represent or provide for the 841
representation of the Ohio public defender commission, the state 842
public defender, assistant state public defenders, other 843
employees of the commission or the state public defender, or 844
attorneys described in division (C) of section 120.41 of the 845
Revised Code in the civil action or proceeding. 846

(2) (a) Subject to division (E) (2) (b) of this section, 847
payment from the state treasury for the services of private 848
legal counsel with whom the state public defender has contracted 849
pursuant to division (E) (1) of this section shall be 850
accomplished only through the following procedure: 851

(i) The private legal counsel shall file with the attorney 852
general a copy of the contract; a request for an award of legal 853
fees, court costs, and expenses earned or incurred in connection 854
with the defense of the Ohio public defender commission, the 855
state public defender, an assistant state public defender, an 856
employee, or an attorney in a specified civil action or 857
proceeding; a written itemization of those fees, costs, and 858
expenses, including the signature of the state public defender 859
and the state public defender's attestation that the fees, 860
costs, and expenses were earned or incurred pursuant to division 861
(E) (1) of this section to the best of the state public 862
defender's knowledge and information; a written statement 863
whether the fees, costs, and expenses are for all legal services 864
to be rendered in connection with that defense, are only for 865
legal services rendered to the date of the request and 866
additional legal services likely will have to be provided in 867
connection with that defense, or are for the final legal 868
services rendered in connection with that defense; a written 869
statement indicating whether the private legal counsel 870
previously submitted a request for an award under division (E) 871
(2) of this section in connection with that defense and, if so, 872
the date and the amount of each award granted; and, if the fees, 873
costs, and expenses are for all legal services to be rendered in 874
connection with that defense or are for the final legal services 875
rendered in connection with that defense, a certified copy of 876
any judgment entry in the civil action or proceeding or a signed 877
copy of any settlement agreement entered into between the 878
parties to the civil action or proceeding. 879

(ii) Upon receipt of a request for an award of legal fees, 880
court costs, and expenses and the requisite supportive 881
documentation described in division (E) (2) (a) (i) of this 882

section, the attorney general shall review the request and 883
documentation; determine whether any of the limitations 884
specified in division (E) (2) (b) of this section apply to the 885
request; and, if an award of legal fees, court costs, or 886
expenses is permissible after applying the limitations, prepare 887
a document awarding legal fees, court costs, or expenses to the 888
private legal counsel. The document shall name the private legal 889
counsel as the recipient of the award; specify the total amount 890
of the award as determined by the attorney general; itemize the 891
portions of the award that represent legal fees, court costs, 892
and expenses; specify any limitation applied pursuant to 893
division (E) (2) (b) of this section to reduce the amount of the 894
award sought by the private legal counsel; state that the award 895
is payable from the state treasury pursuant to division (E) (2) 896
(a) (iii) of this section; and be approved by the inclusion of 897
the signatures of the attorney general, the state public 898
defender, and the private legal counsel. 899

(iii) The attorney general shall forward a copy of the 900
document prepared pursuant to division (E) (2) (a) (ii) of this 901
section to the director of budget and management. The award of 902
legal fees, court costs, or expenses shall be paid out of the 903
state public defender's appropriations, to the extent there is a 904
sufficient available balance in those appropriations. If the 905
state public defender does not have a sufficient available 906
balance in the state public defender's appropriations to pay the 907
entire award of legal fees, court costs, or expenses, the 908
director shall make application for a transfer of appropriations 909
out of the emergency purposes account or any other appropriation 910
for emergencies or contingencies in an amount equal to the 911
portion of the award that exceeds the sufficient available 912
balance in the state public defender's appropriations. A 913

transfer of appropriations out of the emergency purposes account 914
or any other appropriation for emergencies or contingencies 915
shall be authorized if there are sufficient moneys greater than 916
the sum total of then pending emergency purposes account 917
requests, or requests for releases from the other appropriation. 918
If a transfer of appropriations out of the emergency purposes 919
account or other appropriation for emergencies or contingencies 920
is made to pay an amount equal to the portion of the award that 921
exceeds the sufficient available balance in the state public 922
defender's appropriations, the director shall cause the payment 923
to be made to the private legal counsel. If sufficient moneys do 924
not exist in the emergency purposes account or other 925
appropriation for emergencies or contingencies to pay an amount 926
equal to the portion of the award that exceeds the sufficient 927
available balance in the state public defender's appropriations, 928
the private legal counsel shall request the general assembly to 929
make an appropriation sufficient to pay an amount equal to the 930
portion of the award that exceeds the sufficient available 931
balance in the state public defender's appropriations, and no 932
payment in that amount shall be made until the appropriation has 933
been made. The private legal counsel shall make the request 934
during the current biennium and during each succeeding biennium 935
until a sufficient appropriation is made. 936

(b) An award of legal fees, court costs, and expenses 937
pursuant to division (E) of this section is subject to the 938
following limitations: 939

(i) The maximum award or maximum aggregate of a series of 940
awards of legal fees, court costs, and expenses to the private 941
legal counsel in connection with the defense of the Ohio public 942
defender commission, the state public defender, an assistant 943
state public defender, an employee, or an attorney in a 944

specified civil action or proceeding shall not exceed fifty 945
thousand dollars. 946

(ii) The private legal counsel shall not be awarded legal 947
fees, court costs, or expenses to the extent the fees, costs, or 948
expenses are covered by a policy of malpractice or other 949
insurance. 950

(iii) The private legal counsel shall be awarded legal 951
fees and expenses only to the extent that the fees and expenses 952
are reasonable in light of the legal services rendered by the 953
private legal counsel in connection with the defense of the Ohio 954
public defender commission, the state public defender, an 955
assistant state public defender, an employee, or an attorney in 956
a specified civil action or proceeding. 957

(c) If, pursuant to division (E) (2) (a) of this section, 958
the attorney general denies a request for an award of legal 959
fees, court costs, or expenses to private legal counsel because 960
of the application of a limitation specified in division (E) (2) 961
(b) of this section, the attorney general shall notify the 962
private legal counsel in writing of the denial and of the 963
limitation applied. 964

(d) If, pursuant to division (E) (2) (c) of this section, a 965
private legal counsel receives a denial of an award notification 966
or if a private legal counsel refuses to approve a document 967
under division (E) (2) (a) (ii) of this section because of the 968
proposed application of a limitation specified in division (E) 969
(2) (b) of this section, the private legal counsel may commence a 970
civil action against the attorney general in the court of claims 971
to prove the private legal counsel's entitlement to the award 972
sought, to prove that division (E) (2) (b) of this section does 973
not prohibit or otherwise limit the award sought, and to recover 974

a judgment for the amount of the award sought. A civil action 975
under division (E) (2) (d) of this section shall be commenced no 976
later than two years after receipt of a denial of award 977
notification or, if the private legal counsel refused to approve 978
a document under division (E) (2) (a) (ii) of this section because 979
of the proposed application of a limitation specified in 980
division (E) (2) (b) of this section, no later than two years 981
after the refusal. Any judgment of the court of claims in favor 982
of the private legal counsel shall be paid from the state 983
treasury in accordance with division (E) (2) (a) of this section. 984

~~(F) If a court appoints the office of the state public 985
defender to represent a petitioner in a postconviction relief 986
proceeding under section 2953.21 of the Revised Code, the 987
petitioner has received a sentence of death, and the proceeding 988
relates to that sentence, all of the attorneys who represent the 989
petitioner in the proceeding pursuant to the appointment, 990
whether an assistant state public defender, the state public 991
defender, or another attorney, shall be certified under Rule 20 992
of the Rules of Superintendence for the Courts of Ohio to 993
represent indigent defendants charged with or convicted of an 994
offense for which the death penalty can be or has been imposed. 995~~

~~(G)~~ (1) The state public defender may conduct a legal 996
assistance referral service for children committed to the 997
department of youth services relative to conditions of 998
confinement claims. If the legal assistance referral service 999
receives a request for assistance from a child confined in a 1000
facility operated, or contracted for, by the department of youth 1001
services and the state public defender determines that the child 1002
has a conditions of confinement claim that has merit, the state 1003
public defender may refer the child to a private attorney. If no 1004
private attorney who the child has been referred to by the state 1005

public defender accepts the case within a reasonable time, the 1006
state public defender may prepare, as appropriate, pro se 1007
pleadings in the form of a complaint regarding the conditions of 1008
confinement at the facility where the child is confined with a 1009
motion for appointment of counsel and other applicable pleadings 1010
necessary for sufficient pro se representation. 1011

(2) Division ~~(G)(1)~~ (F)(1) of this section does not 1012
authorize the state public defender to represent a child 1013
committed to the department of youth services in general civil 1014
matters arising solely out of state law. 1015

(3) The state public defender shall not undertake the 1016
representation of a child in court based on a conditions of 1017
confinement claim arising under this division. 1018

~~(H)~~ (G) A child's right to representation or services 1019
under this section is not affected by the child, or another 1020
person on behalf of the child, previously having paid for 1021
similar representation or services or having waived legal 1022
representation. 1023

~~(I)~~ (H) The state public defender shall have reasonable 1024
access to any child committed to the department of youth 1025
services, department of youth services institution, and 1026
department of youth services record as needed to implement this 1027
section. 1028

~~(J)~~ (I) As used in this section: 1029

(1) "Community control sanction" has the same meaning as 1030
in section 2929.01 of the Revised Code. 1031

(2) "Conditions of confinement" means any issue involving 1032
a constitutional right or other civil right related to a child's 1033
incarceration, including, but not limited to, actions cognizable 1034

under 42 U.S.C. 1983. 1035

(3) "Post-release control sanction" has the same meaning 1036
as in section 2967.01 of the Revised Code. 1037

Sec. 120.14. (A) (1) Except as provided in division (A) (2) 1038
of this section, the county public defender commission shall 1039
appoint the county public defender and may remove ~~him~~ the county 1040
public defender from office only for good cause. 1041

(2) If a county public defender commission contracts with 1042
the state public defender or with one or more nonprofit 1043
organizations for the state public defender or the organizations 1044
to provide all of the services that the county public defender 1045
is required or permitted to provide by this chapter, the 1046
commission shall not appoint a county public defender. 1047

(B) The commission shall determine the qualifications and 1048
size of the supporting staff and facilities and other 1049
requirements needed to maintain and operate the office of the 1050
county public defender. 1051

(C) In administering the office of county public defender, 1052
the commission shall: 1053

(1) Recommend to the county commissioners an annual 1054
operating budget which is subject to the review, amendment, and 1055
approval of the board of county commissioners; 1056

(2) (a) Make an annual report to the county commissioners 1057
and the Ohio public defender commission on the operation of the 1058
county public defender's office, ~~including complete and detailed~~ 1059
~~information on finances and costs that separately states costs~~ 1060
~~and expenses that are reimbursable under section 120.35 of the~~ 1061
~~Revised Code,~~ and any other data and information requested by 1062
the state public defender; 1063

(b) Make monthly reports relating to reimbursement and 1064
associated case data pursuant to the rules of the Ohio public 1065
defender commission to the board of county commissioners and the 1066
Ohio public defender commission on the total costs of the public 1067
defender's office. 1068

(3) Cooperate with the Ohio public defender commission in 1069
maintaining the standards established by rules of the Ohio 1070
public defender commission pursuant to divisions (B) and (C) of 1071
section 120.03 of the Revised Code, and cooperate with the state 1072
public defender in ~~his~~ the state public defender's programs 1073
providing technical aid and assistance to county systems. 1074

(D) The commission may accept the services of volunteer 1075
workers and consultants at no compensation except reimbursement 1076
for actual and necessary expenses. 1077

(E) The commission may contract with any municipal 1078
corporation, within the county served by the county public 1079
defender, for the county public defender to provide legal 1080
representation for indigent persons who are charged with a 1081
violation of the ordinances of the municipal corporation. 1082

(F) A county public defender commission, with the approval 1083
of the board of county commissioners regarding all provisions 1084
that pertain to the financing of defense counsel for indigent 1085
persons, may contract with the state public defender or with any 1086
nonprofit organization, the primary purpose of which is to 1087
provide legal representation to indigent persons, for the state 1088
public defender or the organization to provide all or any part 1089
of the services that a county public defender is required or 1090
permitted to provide by this chapter. A contract entered into 1091
pursuant to this division may provide for payment for the 1092
services provided on a per case, hourly, or fixed contract 1093

basis. The state public defender and any nonprofit organization 1094
that contracts with a county public defender commission pursuant 1095
to this division shall do all of the following: 1096

(1) Comply with all standards established by the rules of 1097
the Ohio public defender commission; 1098

(2) Comply with all standards established by the state 1099
public defender; 1100

(3) Comply with all statutory duties and other laws 1101
applicable to county public defenders. 1102

Sec. 120.16. (A) (1) The county public defender shall 1103
provide legal representation to indigent adults and juveniles 1104
who are charged with the commission of an offense or act that is 1105
a violation of a state statute and for which the penalty or any 1106
possible adjudication includes the potential loss of liberty and 1107
in postconviction proceedings as defined in this section. 1108

(2) The county public defender may provide legal 1109
representation to indigent adults and juveniles charged with the 1110
violation of an ordinance of a municipal corporation for which 1111
the penalty or any possible adjudication includes the potential 1112
loss of liberty, if the county public defender commission has 1113
contracted with the municipal corporation to provide legal 1114
representation for indigent persons charged with a violation of 1115
an ordinance of the municipal corporation. 1116

(B) The county public defender shall provide the legal 1117
representation authorized by division (A) of this section at 1118
every stage of the proceedings following arrest, detention, 1119
service of summons, or indictment. 1120

(C) The county public defender may request the state 1121
public defender to prosecute any appeal or other remedy before 1122

or after conviction that the county public defender decides is 1123
in the interests of justice, and may provide legal 1124
representation in parole and probation revocation matters and 1125
matters relating to the revocation of community control or post- 1126
release control under a community control sanction or post- 1127
release control sanction. 1128

(D) The county public defender shall not be required to 1129
prosecute any appeal, postconviction remedy, or other 1130
proceeding, unless the county public defender is first satisfied 1131
there is arguable merit to the proceeding. 1132

(E) Nothing in this section shall prevent a court from 1133
appointing counsel other than the county public defender or from 1134
allowing an indigent person to select the indigent person's own 1135
personal counsel to represent the indigent person. A court may 1136
also appoint counsel or allow an indigent person to select the 1137
indigent person's own personal counsel to assist the county 1138
public defender as co-counsel when the interests of justice so 1139
require. 1140

(F) Information as to the right to legal representation by 1141
the county public defender or assigned counsel shall be afforded 1142
to an accused person immediately upon arrest, when brought 1143
before a magistrate, or when formally charged, whichever occurs 1144
first. 1145

~~(G) If a court appoints the office of the county public 1146
defender to represent a petitioner in a postconviction relief 1147
proceeding under section 2953.21 of the Revised Code, the 1148
petitioner has received a sentence of death, and the proceeding 1149
relates to that sentence, all of the attorneys who represent the 1150
petitioner in the proceeding pursuant to the appointment, 1151
whether an assistant county public defender or the county public 1152~~

~~defender, shall be certified under Rule 20 of the Rules of~~ 1153
~~Superintendence for the Courts of Ohio to represent indigent~~ 1154
~~defendants charged with or convicted of an offense for which the~~ 1155
~~death penalty can be or has been imposed.~~ 1156

~~(H)~~As used in this section: 1157

(1) "Community control sanction" has the same meaning as 1158
in section 2929.01 of the Revised Code. 1159

(2) "Post-release control sanction" has the same meaning 1160
as in section 2967.01 of the Revised Code. 1161

Sec. 120.18. (A) The county public defender commission's 1162
report to the board of county commissioners shall be audited by 1163
the county auditor. The board of county commissioners, after 1164
review and approval of the audited report, may then certify it 1165
to the state public defender for reimbursement. If a request for 1166
the reimbursement of any operating expenditure incurred by a 1167
county public defender office is not received by the state 1168
public defender within sixty days after the end of the calendar 1169
month in which the expenditure is incurred, the state public 1170
defender shall not pay the requested reimbursement, unless the 1171
county has requested, and the state public defender has granted, 1172
an extension of the sixty-day time limit. Each request for 1173
reimbursement shall include a certification by the county public 1174
defender that the persons provided representation by the county 1175
public defender's office during the period covered by the report 1176
were indigent and, for each person provided representation 1177
during that period, a financial disclosure form completed by the 1178
person on a form prescribed by the state public defender. The 1179
state public defender shall also review the report and, in 1180
accordance with the standards, guidelines, and maximums 1181
established pursuant to divisions (B) (7) and (8) of section 1182

120.04 of the Revised Code and the payment determination 1183
provisions of section 120.34 of the Revised Code, prepare a 1184
voucher for the cost of each county public defender's office for 1185
the period of time covered by the certified report ~~and a voucher~~ 1186
~~for the costs and expenses that are reimbursable under section~~ 1187
~~120.35 of the Revised Code, if any.~~ The amount of payments to be 1188
included in and made under the voucher shall be determined as 1189
specified in section 120.34 of the Revised Code. For the 1190
purposes of this section, "cost" means total expenses minus 1191
~~costs and expenses reimbursable under section 120.35 of the~~ 1192
~~Revised Code and~~ any funds received by the county public 1193
defender commission pursuant to a contract, except a contract 1194
entered into with a municipal corporation pursuant to division 1195
(E) of section 120.14 of the Revised Code, gift, or grant. 1196

(B) If the county public defender fails to maintain the 1197
standards for the conduct of the office established by rules of 1198
the Ohio public defender commission pursuant to divisions (B) 1199
and (C) of section 120.03 or the standards established by the 1200
state public defender pursuant to division (B)(7) of section 1201
120.04 of the Revised Code, the Ohio public defender commission 1202
shall notify the county public defender commission and the board 1203
of county commissioners of the county that the county public 1204
defender has failed to comply with its rules or the standards of 1205
the state public defender. Unless the county public defender 1206
commission or the county public defender corrects the conduct of 1207
the county public defender's office to comply with the rules and 1208
standards within ninety days after the date of the notice, the 1209
state public defender may deny payment of all or part of the 1210
county's reimbursement from the state provided for in division 1211
(A) of this section. 1212

Sec. 120.24. (A) (1) Except as provided in division (A) (2) 1213

of this section, the joint county public defender commission 1214
shall appoint the joint county public defender and may remove 1215
~~him the joint county public defender~~ from office only for good 1216
cause. 1217

(2) If a joint county public defender commission contracts 1218
with the state public defender or with one or more nonprofit 1219
organizations for the state public defender or the organizations 1220
to provide all of the services that the joint county public 1221
defender is required or permitted to provide by this chapter, 1222
the commission shall not appoint a joint county public defender. 1223

(B) The commission shall determine the qualifications and 1224
size of the supporting staff and facilities and other 1225
requirements needed to maintain and operate the office. 1226

(C) In administering the office of joint county public 1227
defender, the commission shall: 1228

(1) Recommend to the boards of county commissioners in the 1229
district an annual operating budget which is subject to the 1230
review, amendment, and approval of the boards of county 1231
commissioners in the district; 1232

(2) (a) Make an annual report to the boards of county 1233
commissioners in the district and the Ohio public defender 1234
commission on the operation of the public defender's office, ~~—~~ 1235
~~including complete and detailed information on finances and~~ 1236
~~costs that separately states costs and expenses that are~~ 1237
~~reimbursable under section 120.35 of the Revised Code,~~ and such 1238
other data and information requested by the state public 1239
defender; 1240

(b) Make monthly reports relating to reimbursement and 1241
associated case data pursuant to the rules of the Ohio public 1242

defender commission to the boards of county commissioners in the 1243
district and the Ohio public defender commission on the total 1244
costs of the public defender's office. 1245

(3) Cooperate with the Ohio public defender commission in 1246
maintaining the standards established by rules of the Ohio 1247
public defender commission pursuant to divisions (B) and (C) of 1248
section 120.03 of the Revised Code, and cooperate with the state 1249
public defender in ~~his~~ the state public defender's programs 1250
providing technical aid and assistance to county systems. 1251

(D) The commission may accept the services of volunteer 1252
workers and consultants at no compensation except reimbursement 1253
for actual and necessary expenses. 1254

(E) The commission may contract with any municipal 1255
corporation, within the counties served by the joint county 1256
public defender, for the joint county public defender to provide 1257
legal representation for indigent persons who are charged with a 1258
violation of the ordinances of the municipal corporation. 1259

(F) A joint county public defender commission, with the 1260
approval of each participating board of county commissioners 1261
regarding all provisions that pertain to the financing of 1262
defense counsel for indigent persons, may contract with the 1263
state public defender or with any nonprofit organization, the 1264
primary purpose of which is to provide legal representation to 1265
indigent persons, for the state public defender or the 1266
organization to provide all or any part of the services that a 1267
joint county public defender is required or permitted to provide 1268
by this chapter. A contract entered into pursuant to this 1269
division may provide for payment for the services provided on a 1270
per case, hourly, or fixed contract basis. The state public 1271
defender and any nonprofit organization that contracts with a 1272

joint county public defender commission pursuant to this	1273
division shall do all of the following:	1274
(1) Comply with all standards established by the rules of	1275
the Ohio public defender commission;	1276
(2) Comply with all standards established by the Ohio	1277
public defender;	1278
(3) Comply with all statutory duties and other laws	1279
applicable to joint county public defenders.	1280
Sec. 120.26. (A) (1) The joint county public defender shall	1281
provide legal representation to indigent adults and juveniles	1282
who are charged with the commission of an offense or act that is	1283
a violation of a state statute and for which the penalty or any	1284
possible adjudication includes the potential loss of liberty and	1285
in postconviction proceedings as defined in this section.	1286
(2) The joint county public defender may provide legal	1287
representation to indigent adults and juveniles charged with the	1288
violation of an ordinance of a municipal corporation for which	1289
the penalty or any possible adjudication includes the potential	1290
loss of liberty, if the joint county public defender commission	1291
has contracted with the municipal corporation to provide legal	1292
representation for indigent persons charged with a violation of	1293
an ordinance of the municipal corporation.	1294
(B) The joint county public defender shall provide the	1295
legal representation authorized by division (A) of this section	1296
at every stage of the proceedings following arrest, detention,	1297
service of summons, or indictment.	1298
(C) The joint county public defender may request the Ohio	1299
public defender to prosecute any appeal or other remedy before	1300
or after conviction that the joint county public defender	1301

decides is in the interests of justice and may provide legal 1302
representation in parole and probation revocation matters and 1303
matters relating to the revocation of community control or post- 1304
release control under a community control sanction or post- 1305
release control sanction. 1306

(D) The joint county public defender shall not be required 1307
to prosecute any appeal, postconviction remedy, or other 1308
proceeding, unless the joint county public defender is first 1309
satisfied that there is arguable merit to the proceeding. 1310

(E) Nothing in this section shall prevent a court from 1311
appointing counsel other than the joint county public defender 1312
or from allowing an indigent person to select the indigent 1313
person's own personal counsel to represent the indigent person. 1314
A court may also appoint counsel or allow an indigent person to 1315
select the indigent person's own personal counsel to assist the 1316
joint county public defender as co-counsel when the interests of 1317
justice so require. 1318

(F) Information as to the right to legal representation by 1319
the joint county public defender or assigned counsel shall be 1320
afforded to an accused person immediately upon arrest, when 1321
brought before a magistrate, or when formally charged, whichever 1322
occurs first. 1323

~~(G) If a court appoints the office of the joint county-~~ 1324
~~public defender to represent a petitioner in a postconviction-~~ 1325
~~relief proceeding under section 2953.21 of the Revised Code, the~~ 1326
~~petitioner has received a sentence of death, and the proceeding-~~ 1327
~~relates to that sentence, all of the attorneys who represent the~~ 1328
~~petitioner in the proceeding pursuant to the appointment,~~ 1329
~~whether an assistant joint county defender or the joint county-~~ 1330
~~public defender, shall be certified under Rule 20 of the Rules-~~ 1331

~~of Superintendence for the Courts of Ohio to represent indigent- 1332
defendants charged with or convicted of an offense for which the 1333
death penalty can be or has been imposed. 1334~~

~~(H) As used in this section: 1335~~

(1) "Community control sanction" has the same meaning as 1336
in section 2929.01 of the Revised Code. 1337

(2) "Post-release control sanction" has the same meaning 1338
as in section 2967.01 of the Revised Code. 1339

Sec. 120.28. (A) The joint county public defender 1340
commission's report to the joint board of county commissioners 1341
shall be audited by the fiscal officer of the district. The 1342
joint board of county commissioners, after review and approval 1343
of the audited report, may then certify it to the state public 1344
defender for reimbursement. If a request for the reimbursement 1345
of any operating expenditure incurred by a joint county public 1346
defender office is not received by the state public defender 1347
within sixty days after the end of the calendar month in which 1348
the expenditure is incurred, the state public defender shall not 1349
pay the requested reimbursement, unless the joint board of 1350
county commissioners has requested, and the state public 1351
defender has granted, an extension of the sixty-day time limit. 1352
Each request for reimbursement shall include a certification by 1353
the joint county public defender that all persons provided 1354
representation by the joint county public defender's office 1355
during the period covered by the request were indigent and, for 1356
each person provided representation during that period, a 1357
financial disclosure form completed by the person on a form 1358
prescribed by the state public defender. The state public 1359
defender shall also review the report and, in accordance with 1360
the standards, guidelines, and maximums established pursuant to 1361

divisions (B) (7) and (8) of section 120.04 of the Revised Code 1362
and the payment determination provisions of section 120.34 of 1363
the Revised Code, prepare a voucher for the cost of each joint 1364
county public defender's office for the period of time covered 1365
by the certified report ~~and a voucher for the costs and expenses~~ 1366
~~that are reimbursable under section 120.35 of the Revised Code,~~ 1367
~~if any.~~ The amount of payments to be included in and made under 1368
the voucher shall be determined as specified in section 120.34 1369
of the Revised Code. For purposes of this section, "cost" means 1370
total expenses minus ~~costs and expenses reimbursable under~~ 1371
~~section 120.35 of the Revised Code and any funds received by the~~ 1372
joint county public defender commission pursuant to a contract, 1373
except a contract entered into with a municipal corporation 1374
pursuant to division (E) of section 120.24 of the Revised Code, 1375
gift, or grant. Each county in the district shall be entitled to 1376
a share of such state reimbursement in proportion to the 1377
percentage of the cost it has agreed to pay. 1378

(B) If the joint county public defender fails to maintain 1379
the standards for the conduct of the office established by the 1380
rules of the Ohio public defender commission pursuant to 1381
divisions (B) and (C) of section 120.03 or the standards 1382
established by the state public defender pursuant to division 1383
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1384
defender commission shall notify the joint county public 1385
defender commission and the board of county commissioners of 1386
each county in the district that the joint county public 1387
defender has failed to comply with its rules or the standards of 1388
the state public defender. Unless the joint public defender 1389
commission or the joint county public defender corrects the 1390
conduct of the joint county public defender's office to comply 1391
with the rules and standards within ninety days after the date 1392

of the notice, the state public defender may deny all or part of 1393
the counties' reimbursement from the state provided for in 1394
division (A) of this section. 1395

Sec. 120.33. (A) In lieu of using a county public defender 1396
or joint county public defender to represent indigent persons in 1397
the proceedings set forth in division (A) of section 120.16 of 1398
the Revised Code, the board of county commissioners of any 1399
county may adopt a resolution to pay counsel who are either 1400
personally selected by the indigent person or appointed by the 1401
court. The resolution shall include those provisions the board 1402
of county commissioners considers necessary to provide effective 1403
representation of indigent persons in any proceeding for which 1404
counsel is provided under this section. The resolution shall 1405
include provisions for contracts with any municipal corporation 1406
under which the municipal corporation shall reimburse the county 1407
for counsel appointed to represent indigent persons charged with 1408
violations of the ordinances of the municipal corporation. 1409

(1) In a county that adopts a resolution to pay counsel, 1410
an indigent person shall have the right to do either of the 1411
following: 1412

(a) To select the person's own personal counsel to 1413
represent the person in any proceeding included within the 1414
provisions of the resolution; 1415

(b) To request the court to appoint counsel to represent 1416
the person in such a proceeding. 1417

(2) The court having jurisdiction over the proceeding in a 1418
county that adopts a resolution to pay counsel shall, after 1419
determining that the person is indigent and entitled to legal 1420
representation under this section, do either of the following: 1421

(a) By signed journal entry recorded on its docket, enter 1422
the name of the lawyer selected by the indigent person as 1423
counsel of record; 1424

(b) Appoint counsel for the indigent person if the person 1425
has requested the court to appoint counsel and, by signed 1426
journal entry recorded on its dockets, enter the name of the 1427
lawyer appointed for the indigent person as counsel of record. 1428

(3) The board of county commissioners shall establish a 1429
schedule of fees by case or on an hourly basis to be paid to 1430
counsel for legal services provided pursuant to a resolution 1431
adopted under this section. Prior to establishing the schedule, 1432
the board of county commissioners shall request the bar 1433
association or associations of the county to submit a proposed 1434
~~schedule for cases other than capital cases.~~ The schedule 1435
submitted shall be subject to the review, amendment, and 1436
approval of the board of county commissioners, ~~except with~~ 1437
~~respect to capital cases. With respect to capital cases, the~~ 1438
~~schedule shall provide for fees by case or on an hourly basis to~~ 1439
~~be paid to counsel in the amount or at the rate set by the~~ 1440
~~capital case attorney fee council pursuant to division (D) of~~ 1441
~~this section, and the board of county commissioners shall~~ 1442
~~approve that amount or rate.~~ 1443

(4) Counsel selected by the indigent person or appointed 1444
by the court at the request of an indigent person in a county 1445
that adopts a resolution to pay counsel, except for counsel 1446
appointed to represent a person charged with any violation of an 1447
ordinance of a municipal corporation that has not contracted 1448
with the county commissioners for the payment of appointed 1449
counsel, shall be paid by the county and shall receive the 1450
compensation and expenses the court approves. ~~With respect to~~ 1451

~~capital cases, the court shall approve compensation and expenses—~~ 1452
~~in accordance with the amount or at the rate set by the capital—~~ 1453
~~case attorney fee council pursuant to division (D) of this—~~ 1454
~~section.~~ Each request for payment shall include a financial 1455
disclosure form completed by the indigent person on a form 1456
prescribed by the state public defender. Compensation and 1457
expenses shall not exceed the amounts fixed by the board of 1458
county commissioners in the schedule adopted pursuant to 1459
division (A) (3) of this section. No court shall approve 1460
compensation and expenses that exceed the amount fixed pursuant 1461
to division (A) (3) of this section. 1462

The fees and expenses approved by the court shall not be 1463
taxed as part of the costs and shall be paid by the county. 1464
However, if the person represented has, or may reasonably be 1465
expected to have, the means to meet some part of the cost of the 1466
services rendered to the person, the person shall pay the county 1467
an amount that the person reasonably can be expected to pay. 1468
Pursuant to section 120.04 of the Revised Code, the county shall 1469
pay to the state public defender a percentage of the payment 1470
received from the person in an amount proportionate to the 1471
percentage of the costs of the person's case that were paid to 1472
the county by the state public defender pursuant to this 1473
section. The money paid to the state public defender shall be 1474
credited to the client payment fund created pursuant to division 1475
(B) (5) of section 120.04 of the Revised Code. 1476

The county auditor shall draw a warrant on the county 1477
treasurer for the payment of counsel in the amount fixed by the 1478
court, plus the expenses the court fixes and certifies to the 1479
auditor. The county auditor shall report periodically, but not 1480
less than annually, to the board of county commissioners and to 1481
the state public defender the amounts paid out pursuant to the 1482

approval of the court. The board of county commissioners, after 1483
review and approval of the auditor's report, or the county 1484
auditor, with permission from and notice to the board of county 1485
commissioners, may then certify it to the state public defender 1486
for reimbursement. The state public defender may pay a requested 1487
reimbursement only if the request for reimbursement includes a 1488
financial disclosure form completed by the indigent person on a 1489
form prescribed by the state public defender or if the court 1490
certifies by electronic signature as prescribed by the state 1491
public defender that a financial disclosure form has been 1492
completed by the indigent person and is available for 1493
inspection. If a request for the reimbursement of the cost of 1494
counsel in any case is not received by the state public defender 1495
within ninety days after the end of the calendar month in which 1496
the case is finally disposed of by the court, unless the county 1497
has requested and the state public defender has granted an 1498
extension of the ninety-day limit, the state public defender 1499
shall not pay the requested reimbursement. The state public 1500
defender shall also review the report and, in accordance with 1501
the standards, guidelines, and maximums established pursuant to 1502
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1503
prepare a voucher for fifty per cent of the total cost of each 1504
county appointed counsel system in the period of time covered by 1505
the certified report ~~and a voucher for fifty per cent of the~~ 1506
~~costs and expenses that are reimbursable under section 120.35 of~~ 1507
~~the Revised Code, if any, or, if the amount of money~~ 1508
appropriated by the general assembly to reimburse counties for 1509
the operation of county public defender offices, joint county 1510
public defender offices, and county appointed counsel systems is 1511
not sufficient to pay fifty per cent of the total cost of all of 1512
the offices and systems ~~other than costs and expenses that are~~ 1513
~~reimbursable under section 120.35 of the Revised Code, for the~~ 1514

lesser amount required by section 120.34 of the Revised Code. 1515

(5) If any county appointed counsel system fails to 1516
maintain the standards for the conduct of the system established 1517
by the rules of the Ohio public defender commission pursuant to 1518
divisions (B) and (C) of section 120.03 or the standards 1519
established by the state public defender pursuant to division 1520
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1521
defender commission shall notify the board of county 1522
commissioners of the county that the county appointed counsel 1523
system has failed to comply with its rules or the standards of 1524
the state public defender. Unless the board of county 1525
commissioners corrects the conduct of its appointed counsel 1526
system to comply with the rules and standards within ninety days 1527
after the date of the notice, the state public defender may deny 1528
all or part of the county's reimbursement from the state 1529
provided for in division (A) (4) of this section. 1530

(B) In lieu of using a county public defender or joint 1531
county public defender to represent indigent persons in the 1532
proceedings set forth in division (A) of section 120.16 of the 1533
Revised Code, and in lieu of adopting the resolution and 1534
following the procedure described in division (A) of this 1535
section, the board of county commissioners of any county may 1536
contract with the state public defender for the state public 1537
defender's legal representation of indigent persons. A contract 1538
entered into pursuant to this division may provide for payment 1539
for the services provided on a per case, hourly, or fixed 1540
contract basis. 1541

~~(C) If a court appoints an attorney pursuant to this 1542
section to represent a petitioner in a postconviction relief 1543
proceeding under section 2953.21 of the Revised Code, the 1544~~

~~petitioner has received a sentence of death, and the proceeding- 1545
relates to that sentence, the attorney who represents the- 1546
petitioner in the proceeding pursuant to the appointment shall- 1547
be certified under Rule 20 of the Rules of Superintendence for- 1548
the Courts of Ohio to represent indigent defendants charged with- 1549
or convicted of an offense for which the death penalty can be or- 1550
has been imposed. 1551~~

~~(D) (1) There is hereby created the capital case attorney- 1552
fee council, appointed as described in division (D) (2) of this- 1553
section. The council shall set an amount by case, or a rate on- 1554
an hourly basis, to be paid under this section to counsel in a- 1555
capital case. 1556~~

~~(2) The capital case attorney fee council shall consist of- 1557
five members, all of whom shall be active judges serving on one- 1558
of the district courts of appeals in this state. Terms for- 1559
council members shall be the lesser of three years or until the- 1560
member ceases to be an active judge of a district court of- 1561
appeals. The initial terms shall commence ninety days after- 1562
September 28, 2016. The chief justice of the supreme court shall- 1563
appoint the members of the council, and shall make all of the- 1564
appointments not later than sixty days after September 28, 2016.- 1565
When any vacancy occurs, the chief justice shall appoint an- 1566
active judge of a district court of appeals in this state to- 1567
fill the vacancy for the unexpired term, in the same manner as- 1568
prescribed in this division. The chief justice shall designate a- 1569
chairperson from the appointed members of the council. Members- 1570
of the council shall receive no additional compensation for- 1571
their service as a member, but may be reimbursed for expenses- 1572
reasonably incurred in service to the council, to be paid by the- 1573
supreme court. The supreme court may provide administrative- 1574
support to the council.- 1575~~

~~(3) The capital case attorney fee council initially shall meet not later than one hundred twenty days after September 28, 2016. Thereafter, the council shall meet not less than annually.~~ 1576
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~~(4) Upon setting the amount or rate described in division (D)(1) of this section, the chairperson of the capital case attorney fee council promptly shall provide written notice to the state public defender of the amount or rate so set. The amount or rate so set shall become effective ninety days after the date on which the chairperson provides that written notice to the state public defender. The council shall specify that effective date in the written notice provided to the state public defender. All amounts or rates set by the council shall be final, subject to modification as described in division (D)(5) of this section, and not subject to appeal.~~ 1579
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~~(5) The capital case attorney fee council may modify an amount or rate set as described in division (D)(4) of this section. The provisions of that division apply with respect to any such modification of an amount or rate.~~ 1590
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Sec. 120.34. The total amount of money paid to all 1594
counties in any fiscal year pursuant to sections 120.18, 120.28, 1595
and 120.33 of the Revised Code for the reimbursement of a 1596
percentage of the counties' cost of operating county public 1597
defender offices, joint county public defender offices, and 1598
county appointed counsel systems shall not exceed the total 1599
amount appropriated for that fiscal year by the general assembly 1600
for the reimbursement of the counties for the operation of the 1601
offices and systems. If the amount appropriated by the general 1602
assembly in any fiscal year is insufficient to pay fifty per 1603
cent of the total cost in the fiscal year of all county public 1604
defender offices, all joint county public defender offices, and 1605

all county appointed counsel systems, the amount of money paid 1606
in that fiscal year pursuant to sections 120.18, 120.28, and 1607
120.33 of the Revised Code to each county for the fiscal year 1608
shall be reduced proportionately so that each county is paid an 1609
equal percentage of its total cost in the fiscal year for 1610
operating its county public defender system, its joint county 1611
public defender system, and its county appointed counsel system. 1612

~~The total amount of money paid to all counties in any 1613
fiscal year pursuant to section 120.35 of the Revised Code for 1614
the reimbursement of a percentage of the counties' costs and 1615
expenses of conducting the defense in capital cases shall not 1616
exceed the total amount appropriated for that fiscal year by the 1617
general assembly for the reimbursement of the counties for 1618
conducting the defense in capital cases. If the amount 1619
appropriated by the general assembly in any fiscal year is 1620
insufficient to pay fifty per cent of the counties' total costs 1621
and expenses of conducting the defense in capital cases in the 1622
fiscal year, the amount of money paid in that fiscal year 1623
pursuant to section 120.35 of the Revised Code to each county 1624
for the fiscal year shall be reduced proportionately so that 1625
each county is paid an equal percentage of its costs and 1626
expenses of conducting the defense in capital cases in the 1627
fiscal year.~~All payments relating to capital cases that were 1628
required to be made under the provisions of this chapter or 1629
section 2941.51 of the Revised Code as those provisions existed 1630
immediately before the effective date of this amendment shall be 1631
made for each calendar or fiscal year, as applicable, in 1632
accordance with those provisions as they existed immediately 1633
before the effective date of this amendment until each case in 1634
which a defendant was sentenced to death before the effective 1635
date of this amendment is finally resolved. 1636

If any county receives an amount of money pursuant to 1637
section 120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code 1638
that is in excess of the amount of reimbursement it is entitled 1639
to receive pursuant to this section, the state public defender 1640
shall request the board of county commissioners to return the 1641
excess payment and the board of county commissioners, upon 1642
receipt of the request, shall direct the appropriate county 1643
officer to return the excess payment to the state. 1644

Within thirty days of the end of each fiscal quarter, the 1645
state public defender shall provide to the office of budget and 1646
management and the ~~legislative budget office of the legislative~~ 1647
service commission an estimate of the amount of money that will 1648
be required for the balance of the fiscal year to make the 1649
payments required by sections 120.18, 120.28, and 120.33, ~~and~~ 1650
~~120.35~~ of the Revised Code. 1651

Sec. 149.43. (A) As used in this section: 1652

(1) "Public record" means records kept by any public 1653
office, including, but not limited to, state, county, city, 1654
village, township, and school district units, and records 1655
pertaining to the delivery of educational services by an 1656
alternative school in this state kept by the nonprofit or for- 1657
profit entity operating the alternative school pursuant to 1658
section 3313.533 of the Revised Code. "Public record" does not 1659
mean any of the following: 1660

(a) Medical records; 1661

(b) Records pertaining to probation and parole 1662
proceedings, to proceedings related to the imposition of 1663
community control sanctions and post-release control sanctions, 1664
or to proceedings related to determinations under section 1665

2967.271 of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;	1666 1667
(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;	1668 1669 1670
(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	1671 1672 1673
(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	1674 1675 1676 1677 1678 1679
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	1680 1681
(g) Trial preparation records;	1682
(h) Confidential law enforcement investigatory records;	1683
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	1684 1685
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	1686 1687
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	1688 1689 1690 1691
(l) Records maintained by the department of youth services	1692

pertaining to children in its custody released by the department	1693
of youth services to the department of rehabilitation and	1694
correction pursuant to section 5139.05 of the Revised Code;	1695
(m) Intellectual property records;	1696
(n) Donor profile records;	1697
(o) Records maintained by the department of job and family	1698
services pursuant to section 3121.894 of the Revised Code;	1699
(p) Designated public service worker residential and	1700
familial information;	1701
(q) In the case of a county hospital operated pursuant to	1702
Chapter 339. of the Revised Code or a municipal hospital	1703
operated pursuant to Chapter 749. of the Revised Code,	1704
information that constitutes a trade secret, as defined in	1705
section 1333.61 of the Revised Code;	1706
(r) Information pertaining to the recreational activities	1707
of a person under the age of eighteen;	1708
(s) In the case of a child fatality review board acting	1709
under sections 307.621 to 307.629 of the Revised Code or a	1710
review conducted pursuant to guidelines established by the	1711
director of health under section 3701.70 of the Revised Code,	1712
records provided to the board or director, statements made by	1713
board members during meetings of the board or by persons	1714
participating in the director's review, and all work products of	1715
the board or director, and in the case of a child fatality	1716
review board, child fatality review data submitted by the board	1717
to the department of health or a national child death review	1718
database, other than the report prepared pursuant to division	1719
(A) of section 307.626 of the Revised Code;	1720

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

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.15 of the Revised Code or contracts under that section with a private or government entity to administer;

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

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(y) Records listed in section 5101.29 of the Revised Code;

(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B) (2) of that section;

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(bb) Records described in division (C) of section 187.04 1750
of the Revised Code that are not designated to be made available 1751
to the public as provided in that division; 1752

~~(cc) Information and records that are made confidential,~~ 1753
~~privileged, and not subject to disclosure under divisions (B)~~ 1754
~~and (C) of section 2949.221 of the Revised Code;~~ 1755

~~(dd)~~ Personal information, as defined in section 149.45 of 1756
the Revised Code; 1757

~~(ee)~~ (dd) The confidential name, address, and other 1758
personally identifiable information of a program participant in 1759
the address confidentiality program established under sections 1760
111.41 to 111.47 of the Revised Code, including the contents of 1761
any application for absent voter's ballots, absent voter's 1762
ballot identification envelope statement of voter, or 1763
provisional ballot affirmation completed by a program 1764
participant who has a confidential voter registration record, 1765
and records or portions of records pertaining to that program 1766
that identify the number of program participants that reside 1767
within a precinct, ward, township, municipal corporation, 1768
county, or any other geographic area smaller than the state. As 1769
used in this division, "confidential address" and "program 1770
participant" have the meaning defined in section 111.41 of the 1771
Revised Code. 1772

~~(ff)~~ (ee) Orders for active military service of an 1773
individual serving or with previous service in the armed forces 1774
of the United States, including a reserve component, or the Ohio 1775
organized militia, except that, such order becomes a public 1776
record on the day that is fifteen years after the published date 1777
or effective date of the call to order; 1778

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

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

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

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

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

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

~~(kk)~~ (jj) In the case of a fetal-infant mortality review board acting under sections 3707.70 to 3707.77 of the Revised Code, records, documents, reports, or other information presented to the board or a person abstracting such materials on the board's behalf, statements made by review board members during board meetings, all work products of the board, and data

submitted by the board to the department of health or a national 1808
infant death review database, other than the report prepared 1809
pursuant to section 3707.77 of the Revised Code. 1810

~~(ll)~~ (kk) Records, documents, reports, or other 1811
information presented to the pregnancy-associated mortality 1812
review board established under section 3738.01 of the Revised 1813
Code, statements made by board members during board meetings, 1814
all work products of the board, and data submitted by the board 1815
to the department of health, other than the biennial reports 1816
prepared under section 3738.08 of the Revised Code; 1817

~~(mm)~~ (ll) Telephone numbers for a victim, as defined in 1818
section 2930.01 of the Revised Code, a witness to a crime, or a 1819
party to a motor vehicle accident subject to the requirements of 1820
section 5502.11 of the Revised Code that are listed on any law 1821
enforcement record or report, other than when requested by an 1822
insurer or insurance agent investigating an insurance claim 1823
resulting from a motor vehicle accident. 1824

A record that is not a public record under division (A) (1) 1825
of this section and that, under law, is permanently retained 1826
becomes a public record on the day that is seventy-five years 1827
after the day on which the record was created, except for any 1828
record protected by the attorney-client privilege, a trial 1829
preparation record as defined in this section, a statement 1830
prohibiting the release of identifying information signed under 1831
section 3107.083 of the Revised Code, a denial of release form 1832
filed pursuant to section 3107.46 of the Revised Code, or any 1833
record that is exempt from release or disclosure under section 1834
149.433 of the Revised Code. If the record is a birth 1835
certificate and a biological parent's name redaction request 1836
form has been accepted under section 3107.391 of the Revised 1837

Code, the name of that parent shall be redacted from the birth certificate before it is released under this paragraph. If any other section of the Revised Code establishes a time period for disclosure of a record that conflicts with the time period specified in this section, the time period in the other section prevails.

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

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

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

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

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

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

treatment. 1867

(4) "Trial preparation record" means any record that 1868
contains information that is specifically compiled in reasonable 1869
anticipation of, or in defense of, a civil or criminal action or 1870
proceeding, including the independent thought processes and 1871
personal trial preparation of an attorney. 1872

(5) "Intellectual property record" means a record, other 1873
than a financial or administrative record, that is produced or 1874
collected by or for faculty or staff of a state institution of 1875
higher learning in the conduct of or as a result of study or 1876
research on an educational, commercial, scientific, artistic, 1877
technical, or scholarly issue, regardless of whether the study 1878
or research was sponsored by the institution alone or in 1879
conjunction with a governmental body or private concern, and 1880
that has not been publicly released, published, or patented. 1881

(6) "Donor profile record" means all records about donors 1882
or potential donors to a public institution of higher education 1883
except the names and reported addresses of the actual donors and 1884
the date, amount, and conditions of the actual donation. 1885

(7) "Designated public service worker" means a peace 1886
officer, parole officer, probation officer, bailiff, prosecuting 1887
attorney, assistant prosecuting attorney, correctional employee, 1888
county or multicounty corrections officer, community-based 1889
correctional facility employee, youth services employee, 1890
firefighter, EMT, medical director or member of a cooperating 1891
physician advisory board of an emergency medical service 1892
organization, state board of pharmacy employee, investigator of 1893
the bureau of criminal identification and investigation, judge, 1894
magistrate, or federal law enforcement officer. 1895

(8) "Designated public service worker residential and familial information" means any information that discloses any of the following about a designated public service worker:	1896 1897 1898
(a) The address of the actual personal residence of a designated public service worker, except for the following information:	1899 1900 1901
(i) The address of the actual personal residence of a prosecuting attorney or judge; and	1902 1903
(ii) The state or political subdivision in which a designated public service worker resides.	1904 1905
(b) Information compiled from referral to or participation in an employee assistance program;	1906 1907
(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a designated public service worker;	1908 1909 1910 1911 1912
(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker's employer;	1913 1914 1915 1916
(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker's compensation, unless the amount of the deduction is required by state or federal law;	1917 1918 1919 1920 1921
(f) The name, the residential address, the name of the employer, the address of the employer, the social security	1922 1923

number, the residential telephone number, any bank account, 1924
debit card, charge card, or credit card number, or the emergency 1925
telephone number of the spouse, a former spouse, or any child of 1926
a designated public service worker; 1927

(g) A photograph of a peace officer who holds a position 1928
or has an assignment that may include undercover or plain 1929
clothes positions or assignments as determined by the peace 1930
officer's appointing authority. 1931

(9) As used in divisions (A) (7) and (15) to (17) of this 1932
section: 1933

"Peace officer" has the meaning defined in section 109.71 1934
of the Revised Code and also includes the superintendent and 1935
troopers of the state highway patrol; it does not include the 1936
sheriff of a county or a supervisory employee who, in the 1937
absence of the sheriff, is authorized to stand in for, exercise 1938
the authority of, and perform the duties of the sheriff. 1939

"Correctional employee" means any employee of the 1940
department of rehabilitation and correction who in the course of 1941
performing the employee's job duties has or has had contact with 1942
inmates and persons under supervision. 1943

"County or multicounty corrections officer" means any 1944
corrections officer employed by any county or multicounty 1945
correctional facility. 1946

"Youth services employee" means any employee of the 1947
department of youth services who in the course of performing the 1948
employee's job duties has or has had contact with children 1949
committed to the custody of the department of youth services. 1950

"Firefighter" means any regular, paid or volunteer, member 1951
of a lawfully constituted fire department of a municipal 1952

corporation, township, fire district, or village.	1953
"EMT" means EMTs-basic, EMTs-I, and paramedics that	1954
provide emergency medical services for a public emergency	1955
medical service organization. "Emergency medical service	1956
organization," "EMT-basic," "EMT-I," and "paramedic" have the	1957
meanings defined in section 4765.01 of the Revised Code.	1958
"Investigator of the bureau of criminal identification and	1959
investigation" has the meaning defined in section 2903.11 of the	1960
Revised Code.	1961
"Federal law enforcement officer" has the meaning defined	1962
in section 9.88 of the Revised Code.	1963
(10) "Information pertaining to the recreational	1964
activities of a person under the age of eighteen" means	1965
information that is kept in the ordinary course of business by a	1966
public office, that pertains to the recreational activities of a	1967
person under the age of eighteen years, and that discloses any	1968
of the following:	1969
(a) The address or telephone number of a person under the	1970
age of eighteen or the address or telephone number of that	1971
person's parent, guardian, custodian, or emergency contact	1972
person;	1973
(b) The social security number, birth date, or	1974
photographic image of a person under the age of eighteen;	1975
(c) Any medical record, history, or information pertaining	1976
to a person under the age of eighteen;	1977
(d) Any additional information sought or required about a	1978
person under the age of eighteen for the purpose of allowing	1979
that person to participate in any recreational activity	1980

conducted or sponsored by a public office or to use or obtain 1981
admission privileges to any recreational facility owned or 1982
operated by a public office. 1983

(11) "Community control sanction" has the meaning defined 1984
in section 2929.01 of the Revised Code. 1985

(12) "Post-release control sanction" has the meaning 1986
defined in section 2967.01 of the Revised Code. 1987

(13) "Redaction" means obscuring or deleting any 1988
information that is exempt from the duty to permit public 1989
inspection or copying from an item that otherwise meets the 1990
definition of a "record" in section 149.011 of the Revised Code. 1991

(14) "Designee," "elected official," and "future official" 1992
have the meanings defined in section 109.43 of the Revised Code. 1993

(15) "Body-worn camera" means a visual and audio recording 1994
device worn on the person of a peace officer while the peace 1995
officer is engaged in the performance of the peace officer's 1996
duties. 1997

(16) "Dashboard camera" means a visual and audio recording 1998
device mounted on a peace officer's vehicle or vessel that is 1999
used while the peace officer is engaged in the performance of 2000
the peace officer's duties. 2001

(17) "Restricted portions of a body-worn camera or 2002
dashboard camera recording" means any visual or audio portion of 2003
a body-worn camera or dashboard camera recording that shows, 2004
communicates, or discloses any of the following: 2005

(a) The image or identity of a child or information that 2006
could lead to the identification of a child who is a primary 2007
subject of the recording when the law enforcement agency knows 2008

or has reason to know the person is a child based on the law 2009
enforcement agency's records or the content of the recording; 2010

(b) The death of a person or a deceased person's body, 2011
unless the death was caused by a peace officer or, subject to 2012
division (H) (1) of this section, the consent of the decedent's 2013
executor or administrator has been obtained; 2014

(c) The death of a peace officer, firefighter, paramedic, 2015
or other first responder, occurring while the decedent was 2016
engaged in the performance of official duties, unless, subject 2017
to division (H) (1) of this section, the consent of the 2018
decedent's executor or administrator has been obtained; 2019

(d) Grievous bodily harm, unless the injury was effected 2020
by a peace officer or, subject to division (H) (1) of this 2021
section, the consent of the injured person or the injured 2022
person's guardian has been obtained; 2023

(e) An act of severe violence against a person that 2024
results in serious physical harm to the person, unless the act 2025
and injury was effected by a peace officer or, subject to 2026
division (H) (1) of this section, the consent of the injured 2027
person or the injured person's guardian has been obtained; 2028

(f) Grievous bodily harm to a peace officer, firefighter, 2029
paramedic, or other first responder, occurring while the injured 2030
person was engaged in the performance of official duties, 2031
unless, subject to division (H) (1) of this section, the consent 2032
of the injured person or the injured person's guardian has been 2033
obtained; 2034

(g) An act of severe violence resulting in serious 2035
physical harm against a peace officer, firefighter, paramedic, 2036
or other first responder, occurring while the injured person was 2037

engaged in the performance of official duties, unless, subject 2038
to division (H) (1) of this section, the consent of the injured 2039
person or the injured person's guardian has been obtained; 2040

(h) A person's nude body, unless, subject to division (H) 2041
(1) of this section, the person's consent has been obtained; 2042

(i) Protected health information, the identity of a person 2043
in a health care facility who is not the subject of a law 2044
enforcement encounter, or any other information in a health care 2045
facility that could identify a person who is not the subject of 2046
a law enforcement encounter; 2047

(j) Information that could identify the alleged victim of 2048
a sex offense, menacing by stalking, or domestic violence; 2049

(k) Information, that does not constitute a confidential 2050
law enforcement investigatory record, that could identify a 2051
person who provides sensitive or confidential information to a 2052
law enforcement agency when the disclosure of the person's 2053
identity or the information provided could reasonably be 2054
expected to threaten or endanger the safety or property of the 2055
person or another person; 2056

(l) Personal information of a person who is not arrested, 2057
cited, charged, or issued a written warning by a peace officer; 2058

(m) Proprietary police contingency plans or tactics that 2059
are intended to prevent crime and maintain public order and 2060
safety; 2061

(n) A personal conversation unrelated to work between 2062
peace officers or between a peace officer and an employee of a 2063
law enforcement agency; 2064

(o) A conversation between a peace officer and a member of 2065

the public that does not concern law enforcement activities; 2066

(p) The interior of a residence, unless the interior of a 2067
residence is the location of an adversarial encounter with, or a 2068
use of force by, a peace officer; 2069

(q) Any portion of the interior of a private business that 2070
is not open to the public, unless an adversarial encounter with, 2071
or a use of force by, a peace officer occurs in that location. 2072

As used in division (A) (17) of this section: 2073

"Grievous bodily harm" has the same meaning as in section 2074
5924.120 of the Revised Code. 2075

"Health care facility" has the same meaning as in section 2076
1337.11 of the Revised Code. 2077

"Protected health information" has the same meaning as in 2078
45 C.F.R. 160.103. 2079

"Law enforcement agency" has the same meaning as in 2080
section 2925.61 of the Revised Code. 2081

"Personal information" means any government-issued 2082
identification number, date of birth, address, financial 2083
information, or criminal justice information from the law 2084
enforcement automated data system or similar databases. 2085

"Sex offense" has the same meaning as in section 2907.10 2086
of the Revised Code. 2087

"Firefighter," "paramedic," and "first responder" have the 2088
same meanings as in section 4765.01 of the Revised Code. 2089

(18) "Insurer" and "insurance agent" have the same 2090
meanings as in section 3905.01 of the Revised Code. 2091

(B) (1) Upon request and subject to division (B) (8) of this 2092

section, all public records responsive to the request shall be 2093
promptly prepared and made available for inspection to any 2094
person at all reasonable times during regular business hours. 2095
Subject to division (B) (8) of this section, upon request by any 2096
person, a public office or person responsible for public records 2097
shall make copies of the requested public record available to 2098
the requester at cost and within a reasonable period of time. If 2099
a public record contains information that is exempt from the 2100
duty to permit public inspection or to copy the public record, 2101
the public office or the person responsible for the public 2102
record shall make available all of the information within the 2103
public record that is not exempt. When making that public record 2104
available for public inspection or copying that public record, 2105
the public office or the person responsible for the public 2106
record shall notify the requester of any redaction or make the 2107
redaction plainly visible. A redaction shall be deemed a denial 2108
of a request to inspect or copy the redacted information, except 2109
if federal or state law authorizes or requires a public office 2110
to make the redaction. 2111

(2) To facilitate broader access to public records, a 2112
public office or the person responsible for public records shall 2113
organize and maintain public records in a manner that they can 2114
be made available for inspection or copying in accordance with 2115
division (B) of this section. A public office also shall have 2116
available a copy of its current records retention schedule at a 2117
location readily available to the public. If a requester makes 2118
an ambiguous or overly broad request or has difficulty in making 2119
a request for copies or inspection of public records under this 2120
section such that the public office or the person responsible 2121
for the requested public record cannot reasonably identify what 2122
public records are being requested, the public office or the 2123

person responsible for the requested public record may deny the 2124
request but shall provide the requester with an opportunity to 2125
revise the request by informing the requester of the manner in 2126
which records are maintained by the public office and accessed 2127
in the ordinary course of the public office's or person's 2128
duties. 2129

(3) If a request is ultimately denied, in part or in 2130
whole, the public office or the person responsible for the 2131
requested public record shall provide the requester with an 2132
explanation, including legal authority, setting forth why the 2133
request was denied. If the initial request was provided in 2134
writing, the explanation also shall be provided to the requester 2135
in writing. The explanation shall not preclude the public office 2136
or the person responsible for the requested public record from 2137
relying upon additional reasons or legal authority in defending 2138
an action commenced under division (C) of this section. 2139

(4) Unless specifically required or authorized by state or 2140
federal law or in accordance with division (B) of this section, 2141
no public office or person responsible for public records may 2142
limit or condition the availability of public records by 2143
requiring disclosure of the requester's identity or the intended 2144
use of the requested public record. Any requirement that the 2145
requester disclose the requester's identity or the intended use 2146
of the requested public record constitutes a denial of the 2147
request. 2148

(5) A public office or person responsible for public 2149
records may ask a requester to make the request in writing, may 2150
ask for the requester's identity, and may inquire about the 2151
intended use of the information requested, but may do so only 2152
after disclosing to the requester that a written request is not 2153

mandatory, that the requester may decline to reveal the 2154
requester's identity or the intended use, and when a written 2155
request or disclosure of the identity or intended use would 2156
benefit the requester by enhancing the ability of the public 2157
office or person responsible for public records to identify, 2158
locate, or deliver the public records sought by the requester. 2159

(6) If any person requests a copy of a public record in 2160
accordance with division (B) of this section, the public office 2161
or person responsible for the public record may require that 2162
person to pay in advance the cost involved in providing the copy 2163
of the public record in accordance with the choice made by the 2164
person requesting the copy under this division. The public 2165
office or the person responsible for the public record shall 2166
permit that person to choose to have the public record 2167
duplicated upon paper, upon the same medium upon which the 2168
public office or person responsible for the public record keeps 2169
it, or upon any other medium upon which the public office or 2170
person responsible for the public record determines that it 2171
reasonably can be duplicated as an integral part of the normal 2172
operations of the public office or person responsible for the 2173
public record. When the person requesting the copy makes a 2174
choice under this division, the public office or person 2175
responsible for the public record shall provide a copy of it in 2176
accordance with the choice made by that person. Nothing in this 2177
section requires a public office or person responsible for the 2178
public record to allow the person requesting a copy of the 2179
public record to make the copies of the public record. 2180

(7) (a) Upon a request made in accordance with division (B) 2181
of this section and subject to division (B) (6) of this section, 2182
a public office or person responsible for public records shall 2183
transmit a copy of a public record to any person by United 2184

States mail or by any other means of delivery or transmission 2185
within a reasonable period of time after receiving the request 2186
for the copy. The public office or person responsible for the 2187
public record may require the person making the request to pay 2188
in advance the cost of postage if the copy is transmitted by 2189
United States mail or the cost of delivery if the copy is 2190
transmitted other than by United States mail, and to pay in 2191
advance the costs incurred for other supplies used in the 2192
mailing, delivery, or transmission. 2193

(b) Any public office may adopt a policy and procedures 2194
that it will follow in transmitting, within a reasonable period 2195
of time after receiving a request, copies of public records by 2196
United States mail or by any other means of delivery or 2197
transmission pursuant to division (B) (7) of this section. A 2198
public office that adopts a policy and procedures under division 2199
(B) (7) of this section shall comply with them in performing its 2200
duties under that division. 2201

(c) In any policy and procedures adopted under division 2202
(B) (7) of this section: 2203

(i) A public office may limit the number of records 2204
requested by a person that the office will physically deliver by 2205
United States mail or by another delivery service to ten per 2206
month, unless the person certifies to the office in writing that 2207
the person does not intend to use or forward the requested 2208
records, or the information contained in them, for commercial 2209
purposes; 2210

(ii) A public office that chooses to provide some or all 2211
of its public records on a web site that is fully accessible to 2212
and searchable by members of the public at all times, other than 2213
during acts of God outside the public office's control or 2214

maintenance, and that charges no fee to search, access, 2215
download, or otherwise receive records provided on the web site, 2216
may limit to ten per month the number of records requested by a 2217
person that the office will deliver in a digital format, unless 2218
the requested records are not provided on the web site and 2219
unless the person certifies to the office in writing that the 2220
person does not intend to use or forward the requested records, 2221
or the information contained in them, for commercial purposes. 2222

(iii) For purposes of division (B) (7) of this section, 2223
"commercial" shall be narrowly construed and does not include 2224
reporting or gathering news, reporting or gathering information 2225
to assist citizen oversight or understanding of the operation or 2226
activities of government, or nonprofit educational research. 2227

(8) A public office or person responsible for public 2228
records is not required to permit a person who is incarcerated 2229
pursuant to a criminal conviction or a juvenile adjudication to 2230
inspect or to obtain a copy of any public record concerning a 2231
criminal investigation or prosecution or concerning what would 2232
be a criminal investigation or prosecution if the subject of the 2233
investigation or prosecution were an adult, unless the request 2234
to inspect or to obtain a copy of the record is for the purpose 2235
of acquiring information that is subject to release as a public 2236
record under this section and the judge who imposed the sentence 2237
or made the adjudication with respect to the person, or the 2238
judge's successor in office, finds that the information sought 2239
in the public record is necessary to support what appears to be 2240
a justiciable claim of the person. 2241

(9) (a) Upon written request made and signed by a 2242
journalist, a public office, or person responsible for public 2243
records, having custody of the records of the agency employing a 2244

specified designated public service worker shall disclose to the 2245
journalist the address of the actual personal residence of the 2246
designated public service worker and, if the designated public 2247
service worker's spouse, former spouse, or child is employed by 2248
a public office, the name and address of the employer of the 2249
designated public service worker's spouse, former spouse, or 2250
child. The request shall include the journalist's name and title 2251
and the name and address of the journalist's employer and shall 2252
state that disclosure of the information sought would be in the 2253
public interest. 2254

(b) Division (B) (9) (a) of this section also applies to 2255
journalist requests for: 2256

(i) Customer information maintained by a municipally owned 2257
or operated public utility, other than social security numbers 2258
and any private financial information such as credit reports, 2259
payment methods, credit card numbers, and bank account 2260
information; 2261

(ii) Information about minors involved in a school vehicle 2262
accident as provided in division ~~(A) (1) (gg)~~ (A) (1) (ff) of this 2263
section, other than personal information as defined in section 2264
149.45 of the Revised Code. 2265

(c) As used in division (B) (9) of this section, 2266
"journalist" means a person engaged in, connected with, or 2267
employed by any news medium, including a newspaper, magazine, 2268
press association, news agency, or wire service, a radio or 2269
television station, or a similar medium, for the purpose of 2270
gathering, processing, transmitting, compiling, editing, or 2271
disseminating information for the general public. 2272

(10) Upon a request made by a victim, victim's attorney, 2273

or victim's representative, as that term is used in section 2274
2930.02 of the Revised Code, a public office or person 2275
responsible for public records shall transmit a copy of a 2276
depiction of the victim as described in division ~~(A) (1) (ii)~~ (A)
(1) (hh) of this section to the victim, victim's attorney, or 2277
victim's representative. 2278
2279

(C) (1) If a person allegedly is aggrieved by the failure 2280
of a public office or the person responsible for public records 2281
to promptly prepare a public record and to make it available to 2282
the person for inspection in accordance with division (B) of 2283
this section or by any other failure of a public office or the 2284
person responsible for public records to comply with an 2285
obligation in accordance with division (B) of this section, the 2286
person allegedly aggrieved may do only one of the following, and 2287
not both: 2288

(a) File a complaint with the clerk of the court of claims 2289
or the clerk of the court of common pleas under section 2743.75 2290
of the Revised Code; 2291

(b) Commence a mandamus action to obtain a judgment that 2292
orders the public office or the person responsible for the 2293
public record to comply with division (B) of this section, that 2294
awards court costs and reasonable attorney's fees to the person 2295
that instituted the mandamus action, and, if applicable, that 2296
includes an order fixing statutory damages under division (C) (2) 2297
of this section. The mandamus action may be commenced in the 2298
court of common pleas of the county in which division (B) of 2299
this section allegedly was not complied with, in the supreme 2300
court pursuant to its original jurisdiction under Section 2 of 2301
Article IV, Ohio Constitution, or in the court of appeals for 2302
the appellate district in which division (B) of this section 2303

allegedly was not complied with pursuant to its original 2304
jurisdiction under Section 3 of Article IV, Ohio Constitution. 2305

(2) If a requester transmits a written request by hand 2306
delivery, electronic submission, or certified mail to inspect or 2307
receive copies of any public record in a manner that fairly 2308
describes the public record or class of public records to the 2309
public office or person responsible for the requested public 2310
records, except as otherwise provided in this section, the 2311
requester shall be entitled to recover the amount of statutory 2312
damages set forth in this division if a court determines that 2313
the public office or the person responsible for public records 2314
failed to comply with an obligation in accordance with division 2315
(B) of this section. 2316

The amount of statutory damages shall be fixed at one 2317
hundred dollars for each business day during which the public 2318
office or person responsible for the requested public records 2319
failed to comply with an obligation in accordance with division 2320
(B) of this section, beginning with the day on which the 2321
requester files a mandamus action to recover statutory damages, 2322
up to a maximum of one thousand dollars. The award of statutory 2323
damages shall not be construed as a penalty, but as compensation 2324
for injury arising from lost use of the requested information. 2325
The existence of this injury shall be conclusively presumed. The 2326
award of statutory damages shall be in addition to all other 2327
remedies authorized by this section. 2328

The court may reduce an award of statutory damages or not 2329
award statutory damages if the court determines both of the 2330
following: 2331

(a) That, based on the ordinary application of statutory 2332
law and case law as it existed at the time of the conduct or 2333

threatened conduct of the public office or person responsible 2334
for the requested public records that allegedly constitutes a 2335
failure to comply with an obligation in accordance with division 2336
(B) of this section and that was the basis of the mandamus 2337
action, a well-informed public office or person responsible for 2338
the requested public records reasonably would believe that the 2339
conduct or threatened conduct of the public office or person 2340
responsible for the requested public records did not constitute 2341
a failure to comply with an obligation in accordance with 2342
division (B) of this section; 2343

(b) That a well-informed public office or person 2344
responsible for the requested public records reasonably would 2345
believe that the conduct or threatened conduct of the public 2346
office or person responsible for the requested public records 2347
would serve the public policy that underlies the authority that 2348
is asserted as permitting that conduct or threatened conduct. 2349

(3) In a mandamus action filed under division (C) (1) of 2350
this section, the following apply: 2351

(a) (i) If the court orders the public office or the person 2352
responsible for the public record to comply with division (B) of 2353
this section, the court shall determine and award to the relator 2354
all court costs, which shall be construed as remedial and not 2355
punitive. 2356

(ii) If the court makes a determination described in 2357
division (C) (3) (b) (iii) of this section, the court shall 2358
determine and award to the relator all court costs, which shall 2359
be construed as remedial and not punitive. 2360

(b) If the court renders a judgment that orders the public 2361
office or the person responsible for the public record to comply 2362

with division (B) of this section or if the court determines any 2363
of the following, the court may award reasonable attorney's fees 2364
to the relator, subject to division (C) (4) of this section: 2365

(i) The public office or the person responsible for the 2366
public records failed to respond affirmatively or negatively to 2367
the public records request in accordance with the time allowed 2368
under division (B) of this section. 2369

(ii) The public office or the person responsible for the 2370
public records promised to permit the relator to inspect or 2371
receive copies of the public records requested within a 2372
specified period of time but failed to fulfill that promise 2373
within that specified period of time. 2374

(iii) The public office or the person responsible for the 2375
public records acted in bad faith when the office or person 2376
voluntarily made the public records available to the relator for 2377
the first time after the relator commenced the mandamus action, 2378
but before the court issued any order concluding whether or not 2379
the public office or person was required to comply with division 2380
(B) of this section. No discovery may be conducted on the issue 2381
of the alleged bad faith of the public office or person 2382
responsible for the public records. This division shall not be 2383
construed as creating a presumption that the public office or 2384
the person responsible for the public records acted in bad faith 2385
when the office or person voluntarily made the public records 2386
available to the relator for the first time after the relator 2387
commenced the mandamus action, but before the court issued any 2388
order described in this division. 2389

(c) The court shall not award attorney's fees to the 2390
relator if the court determines both of the following: 2391

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

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

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

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

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

(c) Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount

of the fees and to otherwise litigate entitlement to the fees. 2421

(d) The court may reduce the amount of fees awarded if the 2422
court determines that, given the factual circumstances involved 2423
with the specific public records request, an alternative means 2424
should have been pursued to more effectively and efficiently 2425
resolve the dispute that was subject to the mandamus action 2426
filed under division (C) (1) of this section. 2427

(5) If the court does not issue a writ of mandamus under 2428
division (C) of this section and the court determines at that 2429
time that the bringing of the mandamus action was frivolous 2430
conduct as defined in division (A) of section 2323.51 of the 2431
Revised Code, the court may award to the public office all court 2432
costs, expenses, and reasonable attorney's fees, as determined 2433
by the court. 2434

(D) Chapter 1347. of the Revised Code does not limit the 2435
provisions of this section. 2436

(E) (1) To ensure that all employees of public offices are 2437
appropriately educated about a public office's obligations under 2438
division (B) of this section, all elected officials or their 2439
appropriate designees shall attend training approved by the 2440
attorney general as provided in section 109.43 of the Revised 2441
Code. A future official may satisfy the requirements of this 2442
division by attending the training before taking office, 2443
provided that the future official may not send a designee in the 2444
future official's place. 2445

(2) All public offices shall adopt a public records policy 2446
in compliance with this section for responding to public records 2447
requests. In adopting a public records policy under this 2448
division, a public office may obtain guidance from the model 2449

public records policy developed and provided to the public 2450
office by the attorney general under section 109.43 of the 2451
Revised Code. Except as otherwise provided in this section, the 2452
policy may not limit the number of public records that the 2453
public office will make available to a single person, may not 2454
limit the number of public records that it will make available 2455
during a fixed period of time, and may not establish a fixed 2456
period of time before it will respond to a request for 2457
inspection or copying of public records, unless that period is 2458
less than eight hours. 2459

The public office shall distribute the public records 2460
policy adopted by the public office under this division to the 2461
employee of the public office who is the records custodian or 2462
records manager or otherwise has custody of the records of that 2463
office. The public office shall require that employee to 2464
acknowledge receipt of the copy of the public records policy. 2465
The public office shall create a poster that describes its 2466
public records policy and shall post the poster in a conspicuous 2467
place in the public office and in all locations where the public 2468
office has branch offices. The public office may post its public 2469
records policy on the internet web site of the public office if 2470
the public office maintains an internet web site. A public 2471
office that has established a manual or handbook of its general 2472
policies and procedures for all employees of the public office 2473
shall include the public records policy of the public office in 2474
the manual or handbook. 2475

(F) (1) The bureau of motor vehicles may adopt rules 2476
pursuant to Chapter 119. of the Revised Code to reasonably limit 2477
the number of bulk commercial special extraction requests made 2478
by a person for the same records or for updated records during a 2479
calendar year. The rules may include provisions for charges to 2480

be made for bulk commercial special extraction requests for the 2481
actual cost of the bureau, plus special extraction costs, plus 2482
ten per cent. The bureau may charge for expenses for redacting 2483
information, the release of which is prohibited by law. 2484

(2) As used in division (F)(1) of this section: 2485

(a) "Actual cost" means the cost of depleted supplies, 2486
records storage media costs, actual mailing and alternative 2487
delivery costs, or other transmitting costs, and any direct 2488
equipment operating and maintenance costs, including actual 2489
costs paid to private contractors for copying services. 2490

(b) "Bulk commercial special extraction request" means a 2491
request for copies of a record for information in a format other 2492
than the format already available, or information that cannot be 2493
extracted without examination of all items in a records series, 2494
class of records, or database by a person who intends to use or 2495
forward the copies for surveys, marketing, solicitation, or 2496
resale for commercial purposes. "Bulk commercial special 2497
extraction request" does not include a request by a person who 2498
gives assurance to the bureau that the person making the request 2499
does not intend to use or forward the requested copies for 2500
surveys, marketing, solicitation, or resale for commercial 2501
purposes. 2502

(c) "Commercial" means profit-seeking production, buying, 2503
or selling of any good, service, or other product. 2504

(d) "Special extraction costs" means the cost of the time 2505
spent by the lowest paid employee competent to perform the task, 2506
the actual amount paid to outside private contractors employed 2507
by the bureau, or the actual cost incurred to create computer 2508
programs to make the special extraction. "Special extraction 2509

costs" include any charges paid to a public agency for computer 2510
or records services. 2511

(3) For purposes of divisions (F) (1) and (2) of this 2512
section, "surveys, marketing, solicitation, or resale for 2513
commercial purposes" shall be narrowly construed and does not 2514
include reporting or gathering news, reporting or gathering 2515
information to assist citizen oversight or understanding of the 2516
operation or activities of government, or nonprofit educational 2517
research. 2518

(G) A request by a defendant, counsel of a defendant, or 2519
any agent of a defendant in a criminal action that public 2520
records related to that action be made available under this 2521
section shall be considered a demand for discovery pursuant to 2522
the Criminal Rules, except to the extent that the Criminal Rules 2523
plainly indicate a contrary intent. The defendant, counsel of 2524
the defendant, or agent of the defendant making a request under 2525
this division shall serve a copy of the request on the 2526
prosecuting attorney, director of law, or other chief legal 2527
officer responsible for prosecuting the action. 2528

(H) (1) Any portion of a body-worn camera or dashboard 2529
camera recording described in divisions (A) (17) (b) to (h) of 2530
this section may be released by consent of the subject of the 2531
recording or a representative of that person, as specified in 2532
those divisions, only if either of the following applies: 2533

(a) The recording will not be used in connection with any 2534
probable or pending criminal proceedings; 2535

(b) The recording has been used in connection with a 2536
criminal proceeding that was dismissed or for which a judgment 2537
has been entered pursuant to Rule 32 of the Rules of Criminal 2538

Procedure, and will not be used again in connection with any 2539
probable or pending criminal proceedings. 2540

(2) If a public office denies a request to release a 2541
restricted portion of a body-worn camera or dashboard camera 2542
recording, as defined in division (A)(17) of this section, any 2543
person may file a mandamus action pursuant to this section or a 2544
complaint with the clerk of the court of claims pursuant to 2545
section 2743.75 of the Revised Code, requesting the court to 2546
order the release of all or portions of the recording. If the 2547
court considering the request determines that the filing 2548
articulates by clear and convincing evidence that the public 2549
interest in the recording substantially outweighs privacy 2550
interests and other interests asserted to deny release, the 2551
court shall order the public office to release the recording. 2552

Sec. 149.436. Notwithstanding division ~~(A)(1)(gg)~~ (A)(1) 2553
(ff) of section 149.43 of the Revised Code, upon written request 2554
made and signed by the parent or guardian of an individual who 2555
is less than eighteen years of age and was an occupant of a 2556
school vehicle involved in a traffic accident, a public office 2557
or person responsible for public records, having custody of any 2558
record related to the traffic accident containing the personal 2559
information of the individual, shall transmit a copy of that 2560
record to the recipient identified in the request. 2561

The written request shall identify the individual on whose 2562
behalf the record is requested and the person to whom the record 2563
shall be transmitted. The record shall be transmitted only to 2564
the person identified in the written request as the recipient of 2565
the record. 2566

A public office or person responsible for records 2567
responding to a request under this section shall redact any 2568

personal information contained in the record of any individual 2569
less than eighteen years of age who is not the subject of the 2570
request, before providing the record to the recipient. 2571

Sec. 1901.183. In addition to jurisdiction otherwise 2572
granted in this chapter, the environmental division of a 2573
municipal court shall have jurisdiction within its territory in 2574
all of the following actions or proceedings and to perform all 2575
of the following functions: 2576

(A) Notwithstanding any monetary limitations in section 2577
1901.17 of the Revised Code, in all actions and proceedings for 2578
the sale of real or personal property under lien of a judgment 2579
of the environmental division of the municipal court, or a lien 2580
for machinery, material, fuel furnished, or labor performed, 2581
irrespective of amount, and, in those cases, the environmental 2582
division may proceed to foreclose and marshal all liens and all 2583
vested or contingent rights, to appoint a receiver, and to 2584
render personal judgment irrespective of amount in favor of any 2585
party; 2586

(B) When in aid of execution of a judgment of the 2587
environmental division of the municipal court, in all actions 2588
for the foreclosure of a mortgage on real property given to 2589
secure the payment of money, or the enforcement of a specific 2590
lien for money or other encumbrance or charge on real property, 2591
when the real property is situated within the territory, and, in 2592
those cases, the environmental division may proceed to foreclose 2593
all liens and all vested and contingent rights and proceed to 2594
render judgments, and make findings and orders, between the 2595
parties, in the same manner and to the same extent as in similar 2596
cases in the court of common pleas; 2597

(C) When in aid of execution of a judgment of the 2598

environmental division of the municipal court, in all actions 2599
for the recovery of real property situated within the territory 2600
to the same extent as courts of common pleas have jurisdiction; 2601

(D) In all actions for injunction to prevent or terminate 2602
violations of the ordinances and regulations of any municipal 2603
corporation within its territory enacted or promulgated under 2604
the police power of that municipal corporation pursuant to 2605
Section 3 of Article XVIII, Ohio Constitution, over which the 2606
court of common pleas has or may have jurisdiction, and, in 2607
those cases, the environmental division of the municipal court 2608
may proceed to render judgments, and make findings and orders, 2609
in the same manner and to the same extent as in similar cases in 2610
the court of common pleas; 2611

(E) In all actions for injunction to prevent or terminate 2612
violations of the resolutions and regulations of any political 2613
subdivision within its territory enacted or promulgated under 2614
the power of that political subdivision pursuant to Article X of 2615
the Ohio Constitution, over which the court of common pleas has 2616
or may have jurisdiction, and, in those cases, the environmental 2617
division of the municipal court may proceed to render judgments, 2618
and make findings and orders, in the same manner and to the same 2619
extent as in similar cases in the court of common pleas; 2620

(F) In any civil action to enforce any provision of 2621
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 2622
Revised Code over which the court of common pleas has or may 2623
have jurisdiction, and, in those actions, the environmental 2624
division of the municipal court may proceed to render judgments, 2625
and make findings and orders, in the same manner and to the same 2626
extent as in similar actions in the court of common pleas; 2627

(G) In all actions and proceedings in the nature of 2628

creditors' bills, and in aid of execution to subject the 2629
interests of a judgment debtor in real or personal property to 2630
the payment of a judgment of the division, and, in those actions 2631
and proceedings, the environmental division may proceed to 2632
marshal and foreclose all liens on the property irrespective of 2633
the amount of the lien, and all vested or contingent rights in 2634
the property; 2635

(H) Concurrent jurisdiction with the court of common pleas 2636
of all criminal actions or proceedings related to the pollution 2637
of the air, ground, or water within the territory of the 2638
environmental division of the municipal court, ~~for which a~~ 2639
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 2640
~~Revised Code;~~ 2641

(I) In any review or appeal of any final order of any 2642
administrative officer, agency, board, department, tribunal, 2643
commission, or other instrumentality that relates to a local 2644
building, housing, air pollution, sanitation, health, fire, 2645
zoning, or safety code, ordinance, or regulation, in the same 2646
manner and to the same extent as in similar appeals in the court 2647
of common pleas; 2648

(J) With respect to the environmental division of the 2649
Franklin county municipal court, to hear appeals from 2650
adjudication hearings conducted under Chapter 956. of the 2651
Revised Code. 2652

Sec. 2152.13. (A) A juvenile court shall impose a serious 2653
youthful dispositional sentence on a child when required under 2654
division (B) (3) of section 2152.121 of the Revised Code. In such 2655
a case, the remaining provisions of this division and divisions 2656
(B) and (C) do not apply to the child, and the court shall 2657
impose the mandatory serious youthful dispositional sentence 2658

under division (D)(1) of this section. 2659

In all other cases, a juvenile court may impose a serious 2660
youthful offender dispositional sentence on a child only if the 2661
prosecuting attorney of the county in which the delinquent act 2662
allegedly occurred initiates the process against the child in 2663
accordance with this division, and the child is an alleged 2664
delinquent child who is eligible for the dispositional sentence. 2665
The prosecuting attorney may initiate the process in any of the 2666
following ways: 2667

(1) Obtaining an indictment of the child as a serious 2668
youthful offender; 2669

(2) The child waives the right to indictment, charging the 2670
child in a bill of information as a serious youthful offender; 2671

(3) Until an indictment or information is obtained, 2672
requesting a serious youthful offender dispositional sentence in 2673
the original complaint alleging that the child is a delinquent 2674
child; 2675

(4) Until an indictment or information is obtained, if the 2676
original complaint does not request a serious youthful offender 2677
dispositional sentence, filing with the juvenile court a written 2678
notice of intent to seek a serious youthful offender 2679
dispositional sentence within twenty days after the later of the 2680
following, unless the time is extended by the juvenile court for 2681
good cause shown: 2682

(a) The date of the child's first juvenile court hearing 2683
regarding the complaint; 2684

(b) The date the juvenile court determines not to transfer 2685
the case under section 2152.12 of the Revised Code. 2686

After a written notice is filed under division (A) (4) of 2687
this section, the juvenile court shall serve a copy of the 2688
notice on the child and advise the child of the prosecuting 2689
attorney's intent to seek a serious youthful offender 2690
dispositional sentence in the case. 2691

(B) If an alleged delinquent child is not indicted or 2692
charged by information as described in division (A) (1) or (2) of 2693
this section and if a notice or complaint as described in 2694
division (A) (3) or (4) of this section indicates that the 2695
prosecuting attorney intends to pursue a serious youthful 2696
offender dispositional sentence in the case, the juvenile court 2697
shall hold a preliminary hearing to determine if there is 2698
probable cause that the child committed the act charged and is 2699
by age eligible for, or required to receive, a serious youthful 2700
offender dispositional sentence. 2701

(C) (1) A child for whom a serious youthful offender 2702
dispositional sentence is sought by a prosecuting attorney has 2703
the right to a grand jury determination of probable cause that 2704
the child committed the act charged and that the child is 2705
eligible by age for a serious youthful offender dispositional 2706
sentence. The grand jury may be impaneled by the court of common 2707
pleas or the juvenile court. 2708

Once a child is indicted, or charged by information or the 2709
juvenile court determines that the child is eligible for a 2710
serious youthful offender dispositional sentence, the child is 2711
entitled to an open and speedy trial by jury in juvenile court 2712
and to be provided with a transcript of the proceedings. The 2713
time within which the trial is to be held under Title XXIX of 2714
the Revised Code commences on whichever of the following dates 2715
is applicable: 2716

(a) If the child is indicted or charged by information, on the date of the filing of the indictment or information.	2717 2718
(b) If the child is charged by an original complaint that requests a serious youthful offender dispositional sentence, on the date of the filing of the complaint.	2719 2720 2721
(c) If the child is not charged by an original complaint that requests a serious youthful offender dispositional sentence, on the date that the prosecuting attorney files the written notice of intent to seek a serious youthful offender dispositional sentence.	2722 2723 2724 2725 2726
(2) If the child is detained awaiting adjudication, upon indictment or being charged by information, the child has the same right to bail as an adult charged with the offense the alleged delinquent act would be if committed by an adult. Except as provided in division (D) of section 2152.14 of the Revised Code, all provisions of Title XXIX of the Revised Code and the Criminal Rules shall apply in the case and to the child. The juvenile court shall afford the child all rights afforded a person who is prosecuted for committing a crime including the right to counsel and the right to raise the issue of competency. The child may not waive the right to counsel.	2727 2728 2729 2730 2731 2732 2733 2734 2735 2736 2737
(D) (1) If a child is adjudicated a delinquent child for committing an act under circumstances that require the juvenile court to impose upon the child a serious youthful offender dispositional sentence under section 2152.11 of the Revised Code, all of the following apply:	2738 2739 2740 2741 2742
(a) The juvenile court shall impose upon the child a sentence available for the violation, as if the child were an adult, under Chapter 2929. of the Revised Code, except that the	2743 2744 2745

juvenile court shall not impose on the child a sentence of ~~death-~~ 2746
~~or~~-life imprisonment without parole. 2747

(b) The juvenile court also shall impose upon the child 2748
one or more traditional juvenile dispositions under sections 2749
2152.16, 2152.19, and 2152.20, and, if applicable, section 2750
2152.17 of the Revised Code. 2751

(c) The juvenile court shall stay the adult portion of the 2752
serious youthful offender dispositional sentence pending the 2753
successful completion of the traditional juvenile dispositions 2754
imposed. 2755

(2) (a) If a child is adjudicated a delinquent child for 2756
committing an act under circumstances that allow, but do not 2757
require, the juvenile court to impose on the child a serious 2758
youthful offender dispositional sentence under section 2152.11 2759
of the Revised Code, all of the following apply: 2760

(i) If the juvenile court on the record makes a finding 2761
that, given the nature and circumstances of the violation and 2762
the history of the child, the length of time, level of security, 2763
and types of programming and resources available in the juvenile 2764
system alone are not adequate to provide the juvenile court with 2765
a reasonable expectation that the purposes set forth in section 2766
2152.01 of the Revised Code will be met, the juvenile court may 2767
impose upon the child a sentence available for the violation, as 2768
if the child were an adult, under Chapter 2929. of the Revised 2769
Code, except that the juvenile court shall not impose on the 2770
child a sentence of ~~death or~~-life imprisonment without parole. 2771

(ii) If a sentence is imposed under division (D) (2) (a) (i) 2772
of this section, the juvenile court also shall impose upon the 2773
child one or more traditional juvenile dispositions under 2774

sections 2152.16, 2152.19, and 2152.20 and, if applicable, 2775
section 2152.17 of the Revised Code. 2776

(iii) The juvenile court shall stay the adult portion of 2777
the serious youthful offender dispositional sentence pending the 2778
successful completion of the traditional juvenile dispositions 2779
imposed. 2780

(b) If the juvenile court does not find that a sentence 2781
should be imposed under division (D) (2) (a) (i) of this section, 2782
the juvenile court may impose one or more traditional juvenile 2783
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 2784
applicable, section 2152.17 of the Revised Code. 2785

(3) A child upon whom a serious youthful offender 2786
dispositional sentence is imposed under division (D) (1) or (2) 2787
of this section has a right to appeal under division (A) (1), 2788
(3), (4), or (5) of section 2953.08 of the Revised Code the 2789
adult portion of the serious youthful offender dispositional 2790
sentence when any of those divisions apply. The child may appeal 2791
the adult portion, and the court shall consider the appeal as if 2792
the adult portion were not stayed. 2793

Sec. 2152.67. Any adult who is arrested or charged under 2794
any provision in this chapter and who is charged with a crime 2795
may demand a trial by jury, or the juvenile judge upon the 2796
judge's own motion may call a jury. A demand for a jury trial 2797
shall be made in writing in not less than three days before the 2798
date set for trial, or within three days after counsel has been 2799
retained, whichever is later. Sections 2945.17 and 2945.23 to 2800
2945.36 of the Revised Code, relating to the drawing and 2801
impaneling of jurors in criminal cases in the court of common 2802
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 2803
under this section. The compensation of jurors and costs of the 2804

clerk and sheriff shall be taxed and paid in the same manner as 2805
in criminal cases in the court of common pleas. 2806

Sec. 2301.20. All civil and criminal actions in the court 2807
of common pleas shall be recorded. The reporter shall take 2808
accurate notes of or electronically record the oral testimony. 2809
The notes and electronic records shall be filed in the office of 2810
the official reporter and carefully preserved for either of the 2811
following periods of time: 2812

(A) If the action is not a ~~capital case~~ in which a 2813
sentence of life imprisonment has been imposed or a case in 2814
which, prior to the effective date of this amendment, a sentence 2815
of death was imposed, the notes and electronic records shall be 2816
preserved for the period of time specified by the court of 2817
common pleas, which period of time shall not be longer than the 2818
period of time that the other records of the particular action 2819
are required to be kept. 2820

(B) If the action is a ~~capital case~~, in which a sentence 2821
of life imprisonment has been imposed or a case in which, prior 2822
to the effective date of this amendment, a sentence of death has 2823
been imposed the notes and electronic records shall be preserved 2824
for the longer of ten years or until the final disposition of 2825
the action and exhaustion of all appeals. 2826

Sec. 2307.60. (A) (1) Anyone injured in person or property 2827
by a criminal act has, and may recover full damages in, a civil 2828
action unless specifically excepted by law, may recover the 2829
costs of maintaining the civil action and attorney's fees if 2830
authorized by any provision of the Rules of Civil Procedure or 2831
another section of the Revised Code or under the common law of 2832
this state, and may recover punitive or exemplary damages if 2833
authorized by section 2315.21 or another section of the Revised 2834

Code. 2835

(2) A final judgment of a trial court that has not been 2836
reversed on appeal or otherwise set aside, nullified, or 2837
vacated, entered after a trial or upon a plea of guilty, but not 2838
upon a plea of no contest or the equivalent plea from another 2839
jurisdiction, that adjudges an offender guilty of an offense of 2840
violence punishable by ~~death or~~ imprisonment in excess of one 2841
year, when entered as evidence in any subsequent civil 2842
proceeding based on the criminal act, shall preclude the 2843
offender from denying in the subsequent civil proceeding any 2844
fact essential to sustaining that judgment, unless the offender 2845
can demonstrate that extraordinary circumstances prevented the 2846
offender from having a full and fair opportunity to litigate the 2847
issue in the criminal proceeding or other extraordinary 2848
circumstances justify affording the offender an opportunity to 2849
relitigate the issue. The offender may introduce evidence of the 2850
offender's pending appeal of the final judgment of the trial 2851
court, if applicable, and the court may consider that evidence 2852
in determining the liability of the offender. 2853

(B) (1) As used in division (B) of this section: 2854

(a) "Tort action" means a civil action for damages for 2855
injury, death, or loss to person or property other than a civil 2856
action for damages for a breach of contract or another agreement 2857
between persons. "Tort action" includes, but is not limited to, 2858
a product liability claim, as defined in section 2307.71 of the 2859
Revised Code, and an asbestos claim, as defined in section 2860
2307.91 of the Revised Code, an action for wrongful death under 2861
Chapter 2125. of the Revised Code, and an action based on 2862
derivative claims for relief. 2863

(b) "Residence" has the same meaning as in section 2901.05 2864

of the Revised Code. 2865

(2) Recovery on a claim for relief in a tort action is 2866
barred to any person or the person's legal representative if any 2867
of the following apply: 2868

(a) The person has been convicted of or has pleaded guilty 2869
to a felony, or to a misdemeanor that is an offense of violence, 2870
arising out of criminal conduct that was a proximate cause of 2871
the injury or loss for which relief is claimed in the tort 2872
action. 2873

(b) The person engaged in conduct that, if prosecuted, 2874
would constitute a felony, a misdemeanor that is an offense of 2875
violence, an attempt to commit a felony, or an attempt to commit 2876
a misdemeanor that is an offense of violence and that conduct 2877
was a proximate cause of the injury or loss for which relief is 2878
claimed in the tort action, regardless of whether the person has 2879
been convicted of or pleaded guilty to or has been charged with 2880
committing the felony, the misdemeanor, or the attempt to commit 2881
the felony or misdemeanor. 2882

(c) The person suffered the injury or loss for which 2883
relief is claimed in the tort action as a proximate result of 2884
the victim of conduct that, if prosecuted, would constitute a 2885
felony, a misdemeanor that is an offense of violence, an attempt 2886
to commit a felony, or an attempt to commit a misdemeanor that 2887
is an offense of violence acting against the person in self- 2888
defense, defense of another, or defense of the victim's 2889
residence, regardless of whether the person has been convicted 2890
of or pleaded guilty to or has been charged with committing the 2891
felony, the misdemeanor, or the attempt to commit the felony or 2892
misdemeanor. Division (B) (2) (c) of this section does not apply 2893
if the person who suffered the injury or loss, at the time of 2894

the victim's act of self-defense, defense of another, or defense 2895
of residence, was an innocent bystander who had no connection 2896
with the underlying conduct that prompted the victim's exercise 2897
of self-defense, defense of another, or defense of residence. 2898

(3) Recovery against a victim of conduct that, if 2899
prosecuted, would constitute a felony, a misdemeanor that is an 2900
offense of violence, an attempt to commit a felony, or an 2901
attempt to commit a misdemeanor that is an offense of violence, 2902
on a claim for relief in a tort action is barred to any person 2903
or the person's legal representative if conduct the person 2904
engaged in against that victim was a proximate cause of the 2905
injury or loss for which relief is claimed in the tort action 2906
and that conduct, if prosecuted, would constitute a felony, a 2907
misdemeanor that is an offense of violence, an attempt to commit 2908
a felony, or an attempt to commit a misdemeanor that is an 2909
offense of violence, regardless of whether the person has been 2910
convicted of or pleaded guilty to or has been charged with 2911
committing the felony, the misdemeanor, or the attempt to commit 2912
the felony or misdemeanor. 2913

(4) Divisions (B) (1) to (3) of this section do not apply 2914
to civil claims based upon alleged intentionally tortious 2915
conduct, alleged violations of the United States Constitution, 2916
or alleged violations of statutes of the United States 2917
pertaining to civil rights. For purposes of division (B) (4) of 2918
this section, a person's act of self-defense, defense of 2919
another, or defense of the person's residence does not 2920
constitute intentionally tortious conduct. 2921

Sec. 2317.02. The following persons shall not testify in 2922
certain respects: 2923

(A) (1) An attorney, concerning a communication made to the 2924

attorney by a client in that relation or concerning the 2925
attorney's advice to a client, except that the attorney may 2926
testify by express consent of the client or, if the client is 2927
deceased, by the express consent of the surviving spouse or the 2928
executor or administrator of the estate of the deceased client. 2929
However, if the client voluntarily reveals the substance of 2930
attorney-client communications in a nonprivileged context or is 2931
deemed by section 2151.421 of the Revised Code to have waived 2932
any testimonial privilege under this division, the attorney may 2933
be compelled to testify on the same subject. 2934

The testimonial privilege established under this division 2935
does not apply concerning ~~either of the following:~~ 2936

~~(a) A communication between a client in a capital case, as 2937
defined in section 2901.02 of the Revised Code, and the client's 2938
attorney if the communication is relevant to a subsequent 2939
ineffective assistance of counsel claim by the client alleging 2940
that the attorney did not effectively represent the client in 2941
the case;~~ 2942

~~(b) A a communication between a client who has since died 2943
and the deceased client's attorney if the communication is 2944
relevant to a dispute between parties who claim through that 2945
deceased client, regardless of whether the claims are by testate 2946
or intestate succession or by inter vivos transaction, and the 2947
dispute addresses the competency of the deceased client when the 2948
deceased client executed a document that is the basis of the 2949
dispute or whether the deceased client was a victim of fraud, 2950
undue influence, or duress when the deceased client executed a 2951
document that is the basis of the dispute. 2952~~

(2) An attorney, concerning a communication made to the 2953
attorney by a client in that relationship or the attorney's 2954

advice to a client, except that if the client is an insurance 2955
company, the attorney may be compelled to testify, subject to an 2956
in camera inspection by a court, about communications made by 2957
the client to the attorney or by the attorney to the client that 2958
are related to the attorney's aiding or furthering an ongoing or 2959
future commission of bad faith by the client, if the party 2960
seeking disclosure of the communications has made a prima-facie 2961
showing of bad faith, fraud, or criminal misconduct by the 2962
client. 2963

(B) (1) A physician, advanced practice registered nurse, or 2964
dentist concerning a communication made to the physician, 2965
advanced practice registered nurse, or dentist by a patient in 2966
that relation or the advice of a physician, advanced practice 2967
registered nurse, or dentist given to a patient, except as 2968
otherwise provided in this division, division (B) (2), and 2969
division (B) (3) of this section, and except that, if the patient 2970
is deemed by section 2151.421 of the Revised Code to have waived 2971
any testimonial privilege under this division, the physician or 2972
advanced practice registered nurse may be compelled to testify 2973
on the same subject. 2974

The testimonial privilege established under this division 2975
does not apply, and a physician, advanced practice registered 2976
nurse, or dentist may testify or may be compelled to testify, in 2977
any of the following circumstances: 2978

(a) In any civil action, in accordance with the discovery 2979
provisions of the Rules of Civil Procedure in connection with a 2980
civil action, or in connection with a claim under Chapter 4123. 2981
of the Revised Code, under any of the following circumstances: 2982

(i) If the patient or the guardian or other legal 2983
representative of the patient gives express consent; 2984

(ii) If the patient is deceased, the spouse of the patient 2985
or the executor or administrator of the patient's estate gives 2986
express consent; 2987

(iii) If a medical claim, dental claim, chiropractic 2988
claim, or optometric claim, as defined in section 2305.113 of 2989
the Revised Code, an action for wrongful death, any other type 2990
of civil action, or a claim under Chapter 4123. of the Revised 2991
Code is filed by the patient, the personal representative of the 2992
estate of the patient if deceased, or the patient's guardian or 2993
other legal representative. 2994

(b) In any civil action concerning court-ordered treatment 2995
or services received by a patient, if the court-ordered 2996
treatment or services were ordered as part of a case plan 2997
journalized under section 2151.412 of the Revised Code or the 2998
court-ordered treatment or services are necessary or relevant to 2999
dependency, neglect, or abuse or temporary or permanent custody 3000
proceedings under Chapter 2151. of the Revised Code. 3001

(c) In any criminal action concerning any test or the 3002
results of any test that determines the presence or 3003
concentration of alcohol, a drug of abuse, a combination of 3004
them, a controlled substance, or a metabolite of a controlled 3005
substance in the patient's whole blood, blood serum or plasma, 3006
breath, urine, or other bodily substance at any time relevant to 3007
the criminal offense in question. 3008

(d) In any criminal action against a physician, advanced 3009
practice registered nurse, or dentist. In such an action, the 3010
testimonial privilege established under this division does not 3011
prohibit the admission into evidence, in accordance with the 3012
Rules of Evidence, of a patient's medical or dental records or 3013
other communications between a patient and the physician, 3014

advanced practice registered nurse, or dentist that are related 3015
to the action and obtained by subpoena, search warrant, or other 3016
lawful means. A court that permits or compels a physician, 3017
advanced practice registered nurse, or dentist to testify in 3018
such an action or permits the introduction into evidence of 3019
patient records or other communications in such an action shall 3020
require that appropriate measures be taken to ensure that the 3021
confidentiality of any patient named or otherwise identified in 3022
the records is maintained. Measures to ensure confidentiality 3023
that may be taken by the court include sealing its records or 3024
deleting specific information from its records. 3025

(e) (i) If the communication was between a patient who has 3026
since died and the deceased patient's physician, advanced 3027
practice registered nurse, or dentist, the communication is 3028
relevant to a dispute between parties who claim through that 3029
deceased patient, regardless of whether the claims are by 3030
testate or intestate succession or by inter vivos transaction, 3031
and the dispute addresses the competency of the deceased patient 3032
when the deceased patient executed a document that is the basis 3033
of the dispute or whether the deceased patient was a victim of 3034
fraud, undue influence, or duress when the deceased patient 3035
executed a document that is the basis of the dispute. 3036

(ii) If neither the spouse of a patient nor the executor 3037
or administrator of that patient's estate gives consent under 3038
division (B) (1) (a) (ii) of this section, testimony or the 3039
disclosure of the patient's medical records by a physician, 3040
advanced practice registered nurse, dentist, or other health 3041
care provider under division (B) (1) (e) (i) of this section is a 3042
permitted use or disclosure of protected health information, as 3043
defined in 45 C.F.R. 160.103, and an authorization or 3044
opportunity to be heard shall not be required. 3045

(iii) Division (B) (1) (e) (i) of this section does not 3046
require a mental health professional to disclose psychotherapy 3047
notes, as defined in 45 C.F.R. 164.501. 3048

(iv) An interested person who objects to testimony or 3049
disclosure under division (B) (1) (e) (i) of this section may seek 3050
a protective order pursuant to Civil Rule 26. 3051

(v) A person to whom protected health information is 3052
disclosed under division (B) (1) (e) (i) of this section shall not 3053
use or disclose the protected health information for any purpose 3054
other than the litigation or proceeding for which the 3055
information was requested and shall return the protected health 3056
information to the covered entity or destroy the protected 3057
health information, including all copies made, at the conclusion 3058
of the litigation or proceeding. 3059

(2) (a) If any law enforcement officer submits a written 3060
statement to a health care provider that states that an official 3061
criminal investigation has begun regarding a specified person or 3062
that a criminal action or proceeding has been commenced against 3063
a specified person, that requests the provider to supply to the 3064
officer copies of any records the provider possesses that 3065
pertain to any test or the results of any test administered to 3066
the specified person to determine the presence or concentration 3067
of alcohol, a drug of abuse, a combination of them, a controlled 3068
substance, or a metabolite of a controlled substance in the 3069
person's whole blood, blood serum or plasma, breath, or urine at 3070
any time relevant to the criminal offense in question, and that 3071
conforms to section 2317.022 of the Revised Code, the provider, 3072
except to the extent specifically prohibited by any law of this 3073
state or of the United States, shall supply to the officer a 3074
copy of any of the requested records the provider possesses. If 3075

the health care provider does not possess any of the requested 3076
records, the provider shall give the officer a written statement 3077
that indicates that the provider does not possess any of the 3078
requested records. 3079

(b) If a health care provider possesses any records of the 3080
type described in division (B) (2) (a) of this section regarding 3081
the person in question at any time relevant to the criminal 3082
offense in question, in lieu of personally testifying as to the 3083
results of the test in question, the custodian of the records 3084
may submit a certified copy of the records, and, upon its 3085
submission, the certified copy is qualified as authentic 3086
evidence and may be admitted as evidence in accordance with the 3087
Rules of Evidence. Division (A) of section 2317.422 of the 3088
Revised Code does not apply to any certified copy of records 3089
submitted in accordance with this division. Nothing in this 3090
division shall be construed to limit the right of any party to 3091
call as a witness the person who administered the test to which 3092
the records pertain, the person under whose supervision the test 3093
was administered, the custodian of the records, the person who 3094
made the records, or the person under whose supervision the 3095
records were made. 3096

(3) (a) If the testimonial privilege described in division 3097
(B) (1) of this section does not apply as provided in division 3098
(B) (1) (a) (iii) of this section, a physician, advanced practice 3099
registered nurse, or dentist may be compelled to testify or to 3100
submit to discovery under the Rules of Civil Procedure only as 3101
to a communication made to the physician, advanced practice 3102
registered nurse, or dentist by the patient in question in that 3103
relation, or the advice of the physician, advanced practice 3104
registered nurse, or dentist given to the patient in question, 3105
that related causally or historically to physical or mental 3106

injuries that are relevant to issues in the medical claim, 3107
dental claim, chiropractic claim, or optometric claim, action 3108
for wrongful death, other civil action, or claim under Chapter 3109
4123. of the Revised Code. 3110

(b) If the testimonial privilege described in division (B) 3111
(1) of this section does not apply to a physician, advanced 3112
practice registered nurse, or dentist as provided in division 3113
(B) (1) (c) of this section, the physician, advanced practice 3114
registered nurse, or dentist, in lieu of personally testifying 3115
as to the results of the test in question, may submit a 3116
certified copy of those results, and, upon its submission, the 3117
certified copy is qualified as authentic evidence and may be 3118
admitted as evidence in accordance with the Rules of Evidence. 3119
Division (A) of section 2317.422 of the Revised Code does not 3120
apply to any certified copy of results submitted in accordance 3121
with this division. Nothing in this division shall be construed 3122
to limit the right of any party to call as a witness the person 3123
who administered the test in question, the person under whose 3124
supervision the test was administered, the custodian of the 3125
results of the test, the person who compiled the results, or the 3126
person under whose supervision the results were compiled. 3127

(4) The testimonial privilege described in division (B) (1) 3128
of this section is not waived when a communication is made by a 3129
physician or advanced practice registered nurse to a pharmacist 3130
or when there is communication between a patient and a 3131
pharmacist in furtherance of the physician-patient or advanced 3132
practice registered nurse-patient relation. 3133

(5) (a) As used in divisions (B) (1) to (4) of this section, 3134
"communication" means acquiring, recording, or transmitting any 3135
information, in any manner, concerning any facts, opinions, or 3136

statements necessary to enable a physician, advanced practice 3137
registered nurse, or dentist to diagnose, treat, prescribe, or 3138
act for a patient. A "communication" may include, but is not 3139
limited to, any medical or dental, office, or hospital 3140
communication such as a record, chart, letter, memorandum, 3141
laboratory test and results, x-ray, photograph, financial 3142
statement, diagnosis, or prognosis. 3143

(b) As used in division (B) (2) of this section, "health 3144
care provider" means a hospital, ambulatory care facility, long- 3145
term care facility, pharmacy, emergency facility, or health care 3146
practitioner. 3147

(c) As used in division (B) (5) (b) of this section: 3148

(i) "Ambulatory care facility" means a facility that 3149
provides medical, diagnostic, or surgical treatment to patients 3150
who do not require hospitalization, including a dialysis center, 3151
ambulatory surgical facility, cardiac catheterization facility, 3152
diagnostic imaging center, extracorporeal shock wave lithotripsy 3153
center, home health agency, inpatient hospice, birthing center, 3154
radiation therapy center, emergency facility, and an urgent care 3155
center. "Ambulatory health care facility" does not include the 3156
private office of a physician, advanced practice registered 3157
nurse, or dentist, whether the office is for an individual or 3158
group practice. 3159

(ii) "Emergency facility" means a hospital emergency 3160
department or any other facility that provides emergency medical 3161
services. 3162

(iii) "Health care practitioner" has the same meaning as 3163
in section 4769.01 of the Revised Code. 3164

(iv) "Hospital" has the same meaning as in section 3727.01 3165

of the Revised Code. 3166

(v) "Long-term care facility" means a nursing home, 3167
residential care facility, or home for the aging, as those terms 3168
are defined in section 3721.01 of the Revised Code; a 3169
residential facility licensed under section 5119.34 of the 3170
Revised Code that provides accommodations, supervision, and 3171
personal care services for three to sixteen unrelated adults; a 3172
nursing facility, as defined in section 5165.01 of the Revised 3173
Code; a skilled nursing facility, as defined in section 5165.01 3174
of the Revised Code; and an intermediate care facility for 3175
individuals with intellectual disabilities, as defined in 3176
section 5124.01 of the Revised Code. 3177

(vi) "Pharmacy" has the same meaning as in section 4729.01 3178
of the Revised Code. 3179

(d) As used in divisions (B) (1) and (2) of this section, 3180
"drug of abuse" has the same meaning as in section 4506.01 of 3181
the Revised Code. 3182

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 3183
section apply to doctors of medicine, doctors of osteopathic 3184
medicine, doctors of podiatry, advanced practice registered 3185
nurses, and dentists. 3186

(7) Nothing in divisions (B) (1) to (6) of this section 3187
affects, or shall be construed as affecting, the immunity from 3188
civil liability conferred by section 307.628 of the Revised Code 3189
or the immunity from civil liability conferred by section 3190
2305.33 of the Revised Code upon physicians or advanced practice 3191
registered nurses who report an employee's use of a drug of 3192
abuse, or a condition of an employee other than one involving 3193
the use of a drug of abuse, to the employer of the employee in 3194

accordance with division (B) of that section. As used in 3195
division (B) (7) of this section, "employee," "employer," and 3196
"physician" have the same meanings as in section 2305.33 of the 3197
Revised Code and "advanced practice registered nurse" has the 3198
same meaning as in section 4723.01 of the Revised Code. 3199

(C) (1) A cleric, when the cleric remains accountable to 3200
the authority of that cleric's church, denomination, or sect, 3201
concerning a confession made, or any information confidentially 3202
communicated, to the cleric for a religious counseling purpose 3203
in the cleric's professional character. The cleric may testify 3204
by express consent of the person making the communication, 3205
except when the disclosure of the information is in violation of 3206
a sacred trust and except that, if the person voluntarily 3207
testifies or is deemed by division (A) (4) (c) of section 2151.421 3208
of the Revised Code to have waived any testimonial privilege 3209
under this division, the cleric may be compelled to testify on 3210
the same subject except when disclosure of the information is in 3211
violation of a sacred trust. 3212

(2) As used in division (C) of this section: 3213

(a) "Cleric" means a member of the clergy, rabbi, priest, 3214
Christian Science practitioner, or regularly ordained, 3215
accredited, or licensed minister of an established and legally 3216
cognizable church, denomination, or sect. 3217

(b) "Sacred trust" means a confession or confidential 3218
communication made to a cleric in the cleric's ecclesiastical 3219
capacity in the course of discipline enjoined by the church to 3220
which the cleric belongs, including, but not limited to, the 3221
Catholic Church, if both of the following apply: 3222

(i) The confession or confidential communication was made 3223

directly to the cleric. 3224

(ii) The confession or confidential communication was made 3225
in the manner and context that places the cleric specifically 3226
and strictly under a level of confidentiality that is considered 3227
inviolable by canon law or church doctrine. 3228

(D) Husband or wife, concerning any communication made by 3229
one to the other, or an act done by either in the presence of 3230
the other, during coverture, unless the communication was made, 3231
or act done, in the known presence or hearing of a third person 3232
competent to be a witness; and such rule is the same if the 3233
marital relation has ceased to exist; 3234

(E) A person who assigns a claim or interest, concerning 3235
any matter in respect to which the person would not, if a party, 3236
be permitted to testify; 3237

(F) A person who, if a party, would be restricted under 3238
section 2317.03 of the Revised Code, when the property or thing 3239
is sold or transferred by an executor, administrator, guardian, 3240
trustee, heir, devisee, or legatee, shall be restricted in the 3241
same manner in any action or proceeding concerning the property 3242
or thing. 3243

(G) (1) A school guidance counselor who holds a valid 3244
educator license from the state board of education as provided 3245
for in section 3319.22 of the Revised Code, a person licensed 3246
under Chapter 4757. of the Revised Code as a licensed 3247
professional clinical counselor, licensed professional 3248
counselor, social worker, independent social worker, marriage 3249
and family therapist or independent marriage and family 3250
therapist, or registered under Chapter 4757. of the Revised Code 3251
as a social work assistant concerning a confidential 3252

communication received from a client in that relation or the 3253
person's advice to a client unless any of the following applies: 3254

(a) The communication or advice indicates clear and 3255
present danger to the client or other persons. For the purposes 3256
of this division, cases in which there are indications of 3257
present or past child abuse or neglect of the client constitute 3258
a clear and present danger. 3259

(b) The client gives express consent to the testimony. 3260

(c) If the client is deceased, the surviving spouse or the 3261
executor or administrator of the estate of the deceased client 3262
gives express consent. 3263

(d) The client voluntarily testifies, in which case the 3264
school guidance counselor or person licensed or registered under 3265
Chapter 4757. of the Revised Code may be compelled to testify on 3266
the same subject. 3267

(e) The court in camera determines that the information 3268
communicated by the client is not germane to the counselor- 3269
client, marriage and family therapist-client, or social worker- 3270
client relationship. 3271

(f) A court, in an action brought against a school, its 3272
administration, or any of its personnel by the client, rules 3273
after an in-camera inspection that the testimony of the school 3274
guidance counselor is relevant to that action. 3275

(g) The testimony is sought in a civil action and concerns 3276
court-ordered treatment or services received by a patient as 3277
part of a case plan journalized under section 2151.412 of the 3278
Revised Code or the court-ordered treatment or services are 3279
necessary or relevant to dependency, neglect, or abuse or 3280
temporary or permanent custody proceedings under Chapter 2151. 3281

of the Revised Code. 3282

(2) Nothing in division (G)(1) of this section shall 3283
relieve a school guidance counselor or a person licensed or 3284
registered under Chapter 4757. of the Revised Code from the 3285
requirement to report information concerning child abuse or 3286
neglect under section 2151.421 of the Revised Code. 3287

(H) A mediator acting under a mediation order issued under 3288
division (A) of section 3109.052 of the Revised Code or 3289
otherwise issued in any proceeding for divorce, dissolution, 3290
legal separation, annulment, or the allocation of parental 3291
rights and responsibilities for the care of children, in any 3292
action or proceeding, other than a criminal, delinquency, child 3293
abuse, child neglect, or dependent child action or proceeding, 3294
that is brought by or against either parent who takes part in 3295
mediation in accordance with the order and that pertains to the 3296
mediation process, to any information discussed or presented in 3297
the mediation process, to the allocation of parental rights and 3298
responsibilities for the care of the parents' children, or to 3299
the awarding of parenting time rights in relation to their 3300
children; 3301

(I) A communications assistant, acting within the scope of 3302
the communication assistant's authority, when providing 3303
telecommunications relay service pursuant to section 4931.06 of 3304
the Revised Code or Title II of the "Communications Act of 3305
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 3306
communication made through a telecommunications relay service. 3307
Nothing in this section shall limit the obligation of a 3308
communications assistant to divulge information or testify when 3309
mandated by federal law or regulation or pursuant to subpoena in 3310
a criminal proceeding. 3311

Nothing in this section shall limit any immunity or 3312
privilege granted under federal law or regulation. 3313

(J) (1) A chiropractor in a civil proceeding concerning a 3314
communication made to the chiropractor by a patient in that 3315
relation or the chiropractor's advice to a patient, except as 3316
otherwise provided in this division. The testimonial privilege 3317
established under this division does not apply, and a 3318
chiropractor may testify or may be compelled to testify, in any 3319
civil action, in accordance with the discovery provisions of the 3320
Rules of Civil Procedure in connection with a civil action, or 3321
in connection with a claim under Chapter 4123. of the Revised 3322
Code, under any of the following circumstances: 3323

(a) If the patient or the guardian or other legal 3324
representative of the patient gives express consent. 3325

(b) If the patient is deceased, the spouse of the patient 3326
or the executor or administrator of the patient's estate gives 3327
express consent. 3328

(c) If a medical claim, dental claim, chiropractic claim, 3329
or optometric claim, as defined in section 2305.113 of the 3330
Revised Code, an action for wrongful death, any other type of 3331
civil action, or a claim under Chapter 4123. of the Revised Code 3332
is filed by the patient, the personal representative of the 3333
estate of the patient if deceased, or the patient's guardian or 3334
other legal representative. 3335

(2) If the testimonial privilege described in division (J) 3336
(1) of this section does not apply as provided in division (J) 3337
(1)(c) of this section, a chiropractor may be compelled to 3338
testify or to submit to discovery under the Rules of Civil 3339
Procedure only as to a communication made to the chiropractor by 3340

the patient in question in that relation, or the chiropractor's 3341
advice to the patient in question, that related causally or 3342
historically to physical or mental injuries that are relevant to 3343
issues in the medical claim, dental claim, chiropractic claim, 3344
or optometric claim, action for wrongful death, other civil 3345
action, or claim under Chapter 4123. of the Revised Code. 3346

(3) The testimonial privilege established under this 3347
division does not apply, and a chiropractor may testify or be 3348
compelled to testify, in any criminal action or administrative 3349
proceeding. 3350

(4) As used in this division, "communication" means 3351
acquiring, recording, or transmitting any information, in any 3352
manner, concerning any facts, opinions, or statements necessary 3353
to enable a chiropractor to diagnose, treat, or act for a 3354
patient. A communication may include, but is not limited to, any 3355
chiropractic, office, or hospital communication such as a 3356
record, chart, letter, memorandum, laboratory test and results, 3357
x-ray, photograph, financial statement, diagnosis, or prognosis. 3358

(K) (1) Except as provided under division (K) (2) of this 3359
section, a critical incident stress management team member 3360
concerning a communication received from an individual who 3361
receives crisis response services from the team member, or the 3362
team member's advice to the individual, during a debriefing 3363
session. 3364

(2) The testimonial privilege established under division 3365
(K) (1) of this section does not apply if any of the following 3366
are true: 3367

(a) The communication or advice indicates clear and 3368
present danger to the individual who receives crisis response 3369

services or to other persons. For purposes of this division, 3370
cases in which there are indications of present or past child 3371
abuse or neglect of the individual constitute a clear and 3372
present danger. 3373

(b) The individual who received crisis response services 3374
gives express consent to the testimony. 3375

(c) If the individual who received crisis response 3376
services is deceased, the surviving spouse or the executor or 3377
administrator of the estate of the deceased individual gives 3378
express consent. 3379

(d) The individual who received crisis response services 3380
voluntarily testifies, in which case the team member may be 3381
compelled to testify on the same subject. 3382

(e) The court in camera determines that the information 3383
communicated by the individual who received crisis response 3384
services is not germane to the relationship between the 3385
individual and the team member. 3386

(f) The communication or advice pertains or is related to 3387
any criminal act. 3388

(3) As used in division (K) of this section: 3389

(a) "Crisis response services" means consultation, risk 3390
assessment, referral, and on-site crisis intervention services 3391
provided by a critical incident stress management team to 3392
individuals affected by crisis or disaster. 3393

(b) "Critical incident stress management team member" or 3394
"team member" means an individual specially trained to provide 3395
crisis response services as a member of an organized community 3396
or local crisis response team that holds membership in the Ohio 3397

critical incident stress management network. 3398

(c) "Debriefing session" means a session at which crisis 3399
response services are rendered by a critical incident stress 3400
management team member during or after a crisis or disaster. 3401

(L) (1) Subject to division (L) (2) of this section and 3402
except as provided in division (L) (3) of this section, an 3403
employee assistance professional, concerning a communication 3404
made to the employee assistance professional by a client in the 3405
employee assistance professional's official capacity as an 3406
employee assistance professional. 3407

(2) Division (L) (1) of this section applies to an employee 3408
assistance professional who meets either or both of the 3409
following requirements: 3410

(a) Is certified by the employee assistance certification 3411
commission to engage in the employee assistance profession; 3412

(b) Has education, training, and experience in all of the 3413
following: 3414

(i) Providing workplace-based services designed to address 3415
employer and employee productivity issues; 3416

(ii) Providing assistance to employees and employees' 3417
dependents in identifying and finding the means to resolve 3418
personal problems that affect the employees or the employees' 3419
performance; 3420

(iii) Identifying and resolving productivity problems 3421
associated with an employee's concerns about any of the 3422
following matters: health, marriage, family, finances, substance 3423
abuse or other addiction, workplace, law, and emotional issues; 3424

(iv) Selecting and evaluating available community 3425

resources;	3426
(v) Making appropriate referrals;	3427
(vi) Local and national employee assistance agreements;	3428
(vii) Client confidentiality.	3429
(3) Division (L) (1) of this section does not apply to any of the following:	3430 3431
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	3432 3433 3434 3435 3436
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;	3437 3438 3439
(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;	3440 3441 3442 3443
(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;	3444 3445 3446
(e) A civil or criminal malpractice action brought against the employee assistance professional;	3447 3448
(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;	3449 3450 3451
(g) When the testimonial privilege otherwise provided by	3452

division (L) (1) of this section is abrogated under law. 3453

Sec. 2701.07. When, in the opinion of the court, the 3454
business thereof so requires, each court of common pleas, court 3455
of appeals, and, in counties having at the last or any future 3456
federal census more than seventy thousand inhabitants, the 3457
probate court, may appoint one or more constables to preserve 3458
order, attend the assignment of cases in counties where more 3459
than two judges of the court of common pleas regularly hold 3460
court at the same time, and discharge such other duties as the 3461
court requires. When so directed by the court, each constable 3462
has the same powers as sheriffs to call and impanel jurors, ~~—~~ 3463
~~except in capital cases.~~ 3464

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of 3465
the Revised Code: 3466

(A) "Claimant" means both of the following categories of 3467
persons: 3468

(1) Any of the following persons who claim an award of 3469
reparations under sections 2743.51 to 2743.72 of the Revised 3470
Code: 3471

(a) A victim who was one of the following at the time of 3472
the criminally injurious conduct: 3473

(i) A resident of the United States; 3474

(ii) A resident of a foreign country the laws of which 3475
permit residents of this state to recover compensation as 3476
victims of offenses committed in that country. 3477

(b) A dependent of a deceased victim who is described in 3478
division (A) (1) (a) of this section; 3479

(c) A third person, other than a collateral source, who 3480

legally assumes or voluntarily pays the obligations of a victim, 3481
or of a dependent of a victim, who is described in division (A) 3482
(1) (a) of this section, which obligations are incurred as a 3483
result of the criminally injurious conduct that is the subject 3484
of the claim and may include, but are not limited to, medical or 3485
burial expenses; 3486

(d) A person who is authorized to act on behalf of any 3487
person who is described in division (A) (1) (a), (b), or (c) of 3488
this section; 3489

(e) The estate of a deceased victim who is described in 3490
division (A) (1) (a) of this section. 3491

(2) Any of the following persons who claim an award of 3492
reparations under sections 2743.51 to 2743.72 of the Revised 3493
Code: 3494

(a) A victim who had a permanent place of residence within 3495
this state at the time of the criminally injurious conduct and 3496
who, at the time of the criminally injurious conduct, complied 3497
with any one of the following: 3498

(i) Had a permanent place of employment in this state; 3499

(ii) Was a member of the regular armed forces of the 3500
United States or of the United States coast guard or was a full- 3501
time member of the Ohio organized militia or of the United 3502
States army reserve, naval reserve, or air force reserve; 3503

(iii) Was retired and receiving social security or any 3504
other retirement income; 3505

(iv) Was sixty years of age or older; 3506

(v) Was temporarily in another state for the purpose of 3507
receiving medical treatment; 3508

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

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

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

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

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

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

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

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

(B) "Collateral source" means a source of benefits or 3538
advantages for economic loss otherwise reparable that the victim 3539
or claimant has received, or that is readily available to the 3540
victim or claimant, from any of the following sources: 3541

(1) The offender; 3542

(2) The government of the United States or any of its 3543
agencies, a state or any of its political subdivisions, or an 3544
instrumentality of two or more states, unless the law providing 3545
for the benefits or advantages makes them excess or secondary to 3546
benefits under sections 2743.51 to 2743.72 of the Revised Code; 3547

(3) Social security, medicare, and medicaid; 3548

(4) State-required, temporary, nonoccupational disability 3549
insurance; 3550

(5) Workers' compensation; 3551

(6) Wage continuation programs of any employer; 3552

(7) Proceeds of a contract of insurance payable to the 3553
victim for loss that the victim sustained because of the 3554
criminally injurious conduct; 3555

(8) A contract providing prepaid hospital and other health 3556
care services, or benefits for disability; 3557

(9) That portion of the proceeds of all contracts of 3558
insurance payable to the claimant on account of the death of the 3559
victim that exceeds fifty thousand dollars; 3560

(10) Any compensation recovered or recoverable under the 3561
laws of another state, district, territory, or foreign country 3562
because the victim was the victim of an offense committed in 3563
that state, district, territory, or country. 3564

"Collateral source" does not include any money, or the 3565
monetary value of any property, that is subject to sections 3566
2969.01 to 2969.06 of the Revised Code or that is received as a 3567
benefit from the Ohio public safety officers death benefit fund 3568
created by section 742.62 of the Revised Code. 3569

(C) "Criminally injurious conduct" means one of the 3570
following: 3571

(1) For the purposes of any person described in division 3572
(A)(1) of this section, any conduct that occurs or is attempted 3573
in this state; poses a substantial threat of personal injury or 3574
death; and is punishable by fine, or imprisonment, ~~or death~~, or 3575
would be so punishable but for the fact that the person engaging 3576
in the conduct lacked capacity to commit the crime under the 3577
laws of this state. Criminally injurious conduct does not 3578
include conduct arising out of the ownership, maintenance, or 3579
use of a motor vehicle, except when any of the following 3580
applies: 3581

(a) The person engaging in the conduct intended to cause 3582
personal injury or death; 3583

(b) The person engaging in the conduct was using the 3584
vehicle to flee immediately after committing a felony or an act 3585
that would constitute a felony but for the fact that the person 3586
engaging in the conduct lacked the capacity to commit the felony 3587
under the laws of this state; 3588

(c) The person engaging in the conduct was using the 3589
vehicle in a manner that constitutes an OVI violation; 3590

(d) The conduct occurred on or after July 25, 1990, and 3591
the person engaging in the conduct was using the vehicle in a 3592
manner that constitutes a violation of section 2903.08 of the 3593

Revised Code; 3594

(e) The person engaging in the conduct acted in a manner 3595
that caused serious physical harm to a person and that 3596
constituted a violation of section 4549.02 or 4549.021 of the 3597
Revised Code. 3598

(2) For the purposes of any person described in division 3599
(A) (2) of this section, any conduct that occurs or is attempted 3600
in another state, district, territory, or foreign country; poses 3601
a substantial threat of personal injury or death; and is 3602
punishable by fine, imprisonment, or death, or would be so 3603
punishable but for the fact that the person engaging in the 3604
conduct lacked capacity to commit the crime under the laws of 3605
the state, district, territory, or foreign country in which the 3606
conduct occurred or was attempted. Criminally injurious conduct 3607
does not include conduct arising out of the ownership, 3608
maintenance, or use of a motor vehicle, except when any of the 3609
following applies: 3610

(a) The person engaging in the conduct intended to cause 3611
personal injury or death; 3612

(b) The person engaging in the conduct was using the 3613
vehicle to flee immediately after committing a felony or an act 3614
that would constitute a felony but for the fact that the person 3615
engaging in the conduct lacked the capacity to commit the felony 3616
under the laws of the state, district, territory, or foreign 3617
country in which the conduct occurred or was attempted; 3618

(c) The person engaging in the conduct was using the 3619
vehicle in a manner that constitutes an OVI violation; 3620

(d) The conduct occurred on or after July 25, 1990, the 3621
person engaging in the conduct was using the vehicle in a manner 3622

that constitutes a violation of any law of the state, district, 3623
territory, or foreign country in which the conduct occurred, and 3624
that law is substantially similar to a violation of section 3625
2903.08 of the Revised Code; 3626

(e) The person engaging in the conduct acted in a manner 3627
that caused serious physical harm to a person and that 3628
constituted a violation of any law of the state, district, 3629
territory, or foreign country in which the conduct occurred, and 3630
that law is substantially similar to section 4549.02 or 4549.021 3631
of the Revised Code. 3632

(3) For the purposes of any person described in division 3633
(A) (1) or (2) of this section, terrorism that occurs within or 3634
outside the territorial jurisdiction of the United States. 3635

(D) "Dependent" means an individual wholly or partially 3636
dependent upon the victim for care and support, and includes a 3637
child of the victim born after the victim's death. 3638

(E) "Economic loss" means economic detriment consisting 3639
only of allowable expense, work loss, funeral expense, 3640
unemployment benefits loss, replacement services loss, cost of 3641
crime scene cleanup, and cost of evidence replacement. If 3642
criminally injurious conduct causes death, economic loss 3643
includes a dependent's economic loss and a dependent's 3644
replacement services loss. Noneconomic detriment is not economic 3645
loss; however, economic loss may be caused by pain and suffering 3646
or physical impairment. 3647

(F) (1) "Allowable expense" means reasonable charges 3648
incurred for reasonably needed products, services, and 3649
accommodations, including those for medical care, 3650
rehabilitation, rehabilitative occupational training, and other 3651

remedial treatment and care and including replacement costs for 3652
hearing aids; dentures, retainers, and other dental appliances; 3653
canes, walkers, and other mobility tools; and eyeglasses and 3654
other corrective lenses. It does not include that portion of a 3655
charge for a room in a hospital, clinic, convalescent home, 3656
nursing home, or any other institution engaged in providing 3657
nursing care and related services in excess of a reasonable and 3658
customary charge for semiprivate accommodations, unless 3659
accommodations other than semiprivate accommodations are 3660
medically required. 3661

(2) An immediate family member of a victim of criminally 3662
injurious conduct that consists of a homicide, a sexual assault, 3663
domestic violence, or a severe and permanent incapacitating 3664
injury resulting in paraplegia or a similar life-altering 3665
condition, who requires psychiatric care or counseling as a 3666
result of the criminally injurious conduct, may be reimbursed 3667
for that care or counseling as an allowable expense through the 3668
victim's application. The cumulative allowable expense for care 3669
or counseling of that nature shall not exceed two thousand five 3670
hundred dollars for each immediate family member of a victim of 3671
that type and seven thousand five hundred dollars in the 3672
aggregate for all immediate family members of a victim of that 3673
type. 3674

(3) A family member of a victim who died as a proximate 3675
result of criminally injurious conduct may be reimbursed as an 3676
allowable expense through the victim's application for wages 3677
lost and travel expenses incurred in order to attend criminal 3678
justice proceedings arising from the criminally injurious 3679
conduct. The cumulative allowable expense for wages lost and 3680
travel expenses incurred by a family member to attend criminal 3681
justice proceedings shall not exceed five hundred dollars for 3682

each family member of the victim and two thousand dollars in the 3683
aggregate for all family members of the victim. 3684

(4) (a) "Allowable expense" includes reasonable expenses 3685
and fees necessary to obtain a guardian's bond pursuant to 3686
section 2109.04 of the Revised Code when the bond is required to 3687
pay an award to a fiduciary on behalf of a minor or other 3688
incompetent. 3689

(b) "Allowable expense" includes attorney's fees not 3690
exceeding one thousand dollars, at a rate not exceeding one 3691
hundred dollars per hour, incurred to successfully obtain a 3692
restraining order, custody order, or other order to physically 3693
separate a victim from an offender. Attorney's fees for the 3694
services described in this division may include an amount for 3695
reasonable travel time incurred to attend court hearings, not 3696
exceeding three hours' round-trip for each court hearing, 3697
assessed at a rate not exceeding thirty dollars per hour. 3698

(G) "Work loss" means loss of income from work that the 3699
injured person would have performed if the person had not been 3700
injured and expenses reasonably incurred by the person to obtain 3701
services in lieu of those the person would have performed for 3702
income, reduced by any income from substitute work actually 3703
performed by the person, or by income the person would have 3704
earned in available appropriate substitute work that the person 3705
was capable of performing but unreasonably failed to undertake. 3706

(H) "Replacement services loss" means expenses reasonably 3707
incurred in obtaining ordinary and necessary services in lieu of 3708
those the injured person would have performed, not for income, 3709
but for the benefit of the person's self or family, if the 3710
person had not been injured. 3711

(I) "Dependent's economic loss" means loss after a 3712
victim's death of contributions of things of economic value to 3713
the victim's dependents, not including services they would have 3714
received from the victim if the victim had not suffered the 3715
fatal injury, less expenses of the dependents avoided by reason 3716
of the victim's death. If a minor child of a victim is adopted 3717
after the victim's death, the minor child continues after the 3718
adoption to incur a dependent's economic loss as a result of the 3719
victim's death. If the surviving spouse of a victim remarries, 3720
the surviving spouse continues after the remarriage to incur a 3721
dependent's economic loss as a result of the victim's death. 3722

(J) "Dependent's replacement services loss" means loss 3723
reasonably incurred by dependents after a victim's death in 3724
obtaining ordinary and necessary services in lieu of those the 3725
victim would have performed for their benefit if the victim had 3726
not suffered the fatal injury, less expenses of the dependents 3727
avoided by reason of the victim's death and not subtracted in 3728
calculating the dependent's economic loss. If a minor child of a 3729
victim is adopted after the victim's death, the minor child 3730
continues after the adoption to incur a dependent's replacement 3731
services loss as a result of the victim's death. If the 3732
surviving spouse of a victim remarries, the surviving spouse 3733
continues after the remarriage to incur a dependent's 3734
replacement services loss as a result of the victim's death. 3735

(K) "Noneconomic detriment" means pain, suffering, 3736
inconvenience, physical impairment, or other nonpecuniary 3737
damage. 3738

(L) "Victim" means a person who suffers personal injury or 3739
death as a result of any of the following: 3740

(1) Criminally injurious conduct; 3741

(2) The good faith effort of any person to prevent 3742
criminally injurious conduct; 3743

(3) The good faith effort of any person to apprehend a 3744
person suspected of engaging in criminally injurious conduct. 3745

(M) "Contributory misconduct" means any conduct of the 3746
claimant or of the victim through whom the claimant claims an 3747
award of reparations that is unlawful or intentionally tortious 3748
and that, without regard to the conduct's proximity in time or 3749
space to the criminally injurious conduct, has a causal 3750
relationship to the criminally injurious conduct that is the 3751
basis of the claim. 3752

(N) (1) "Funeral expense" means any reasonable charges that 3753
are not in excess of seven thousand five hundred dollars per 3754
funeral and that are incurred for expenses directly related to a 3755
victim's funeral, cremation, or burial and any wages lost or 3756
travel expenses incurred by a family member of a victim in order 3757
to attend the victim's funeral, cremation, or burial. 3758

(2) An award for funeral expenses shall be applied first 3759
to expenses directly related to the victim's funeral, cremation, 3760
or burial. An award for wages lost or travel expenses incurred 3761
by a family member of the victim shall not exceed five hundred 3762
dollars for each family member and shall not exceed in the 3763
aggregate the difference between seven thousand five hundred 3764
dollars and expenses that are reimbursed by the program and that 3765
are directly related to the victim's funeral, cremation, or 3766
burial. 3767

(O) "Unemployment benefits loss" means a loss of 3768
unemployment benefits pursuant to Chapter 4141. of the Revised 3769
Code when the loss arises solely from the inability of a victim 3770

to meet the able to work, available for suitable work, or the 3771
actively seeking suitable work requirements of division (A) (4) 3772
(a) of section 4141.29 of the Revised Code. 3773

(P) "OVI violation" means any of the following: 3774

(1) A violation of section 4511.19 of the Revised Code, of 3775
any municipal ordinance prohibiting the operation of a vehicle 3776
while under the influence of alcohol, a drug of abuse, or a 3777
combination of them, or of any municipal ordinance prohibiting 3778
the operation of a vehicle with a prohibited concentration of 3779
alcohol, a controlled substance, or a metabolite of a controlled 3780
substance in the whole blood, blood serum or plasma, breath, or 3781
urine; 3782

(2) A violation of division (A) (1) of section 2903.06 of 3783
the Revised Code; 3784

(3) A violation of division (A) (2), (3), or (4) of section 3785
2903.06 of the Revised Code or of a municipal ordinance 3786
substantially similar to any of those divisions, if the offender 3787
was under the influence of alcohol, a drug of abuse, or a 3788
combination of them, at the time of the commission of the 3789
offense; 3790

(4) For purposes of any person described in division (A) 3791
(2) of this section, a violation of any law of the state, 3792
district, territory, or foreign country in which the criminally 3793
injurious conduct occurred, if that law is substantially similar 3794
to a violation described in division (P) (1) or (2) of this 3795
section or if that law is substantially similar to a violation 3796
described in division (P) (3) of this section and the offender 3797
was under the influence of alcohol, a drug of abuse, or a 3798
combination of them, at the time of the commission of the 3799

offense. 3800

(Q) "Pendency of the claim" for an original reparations 3801
application or supplemental reparations application means the 3802
period of time from the date the criminally injurious conduct 3803
upon which the application is based occurred until the date a 3804
final decision, order, or judgment concerning that original 3805
reparations application or supplemental reparations application 3806
is issued. 3807

(R) "Terrorism" means any activity to which all of the 3808
following apply: 3809

(1) The activity involves a violent act or an act that is 3810
dangerous to human life. 3811

(2) The act described in division (R)(1) of this section 3812
is committed within the territorial jurisdiction of the United 3813
States and is a violation of the criminal laws of the United 3814
States, this state, or any other state or the act described in 3815
division (R)(1) of this section is committed outside the 3816
territorial jurisdiction of the United States and would be a 3817
violation of the criminal laws of the United States, this state, 3818
or any other state if committed within the territorial 3819
jurisdiction of the United States. 3820

(3) The activity appears to be intended to do any of the 3821
following: 3822

(a) Intimidate or coerce a civilian population; 3823

(b) Influence the policy of any government by intimidation 3824
or coercion; 3825

(c) Affect the conduct of any government by assassination 3826
or kidnapping. 3827

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

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

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

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

(2) Reasonable and necessary costs of cleaning the scene and repairing, for the purpose of personal security, property damaged at the scene where the criminally injurious conduct occurred, not to exceed seven hundred fifty dollars in the aggregate per claim.

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

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

(W) "Immediate family member" means an individual who

resided in the same permanent household as a victim at the time 3857
of the criminally injurious conduct and who is related to the 3858
victim by affinity or consanguinity. 3859

(X) "Family member" means an individual who is related to 3860
a victim by affinity or consanguinity. 3861

Sec. 2901.02. As used in the Revised Code: 3862

(A) Offenses include aggravated murder, murder, felonies 3863
of the first, second, third, fourth, and fifth degree, 3864
misdemeanors of the first, second, third, and fourth degree, 3865
minor misdemeanors, and offenses not specifically classified. 3866

~~(B) Aggravated murder when the indictment or the count in 3867
the indictment charging aggravated murder contains one or more 3868
specifications of aggravating circumstances listed in division 3869
(A) of section 2929.04 of Revised Code, and any other offense 3870
for which death may be imposed as a penalty, is a capital 3871
offense. 3872~~

~~(C) Aggravated murder and murder are felonies. 3873~~

~~(D) (C) Regardless of the penalty that may be imposed, any 3874
offense specifically classified as a felony is a felony, and any 3875
offense specifically classified as a misdemeanor is a 3876
misdemeanor. 3877~~

~~(E) (D) Any offense not specifically classified is a 3878
felony if imprisonment for more than one year may be imposed as 3879
a penalty. 3880~~

~~(F) (E) Any offense not specifically classified is a 3881
misdemeanor if imprisonment for not more than one year may be 3882
imposed as a penalty. 3883~~

~~(G) (F) Any offense not specifically classified is a minor 3884~~

misdemeanor if the only penalty that may be imposed is one of 3885
the following: 3886

(1) For an offense committed prior to January 1, 2004, a 3887
fine not exceeding one hundred dollars; 3888

(2) For an offense committed on or after January 1, 2004, 3889
a fine not exceeding one hundred fifty dollars, community 3890
service under division (D) of section 2929.27 of the Revised 3891
Code, or a financial sanction other than a fine under section 3892
2929.28 of the Revised Code. 3893

Sec. 2909.24. (A) No person shall commit a specified 3894
offense with purpose to do any of the following: 3895

(1) Intimidate or coerce a civilian population; 3896

(2) Influence the policy of any government by intimidation 3897
or coercion; 3898

(3) Affect the conduct of any government by the specified 3899
offense. 3900

(B) (1) Whoever violates this section is guilty of 3901
terrorism. 3902

(2) Except as otherwise provided in divisions (B) (3) and 3903
(4) of this section, terrorism is an offense one degree higher 3904
than the most serious underlying specified offense the defendant 3905
committed. 3906

(3) If the most serious underlying specified offense the 3907
defendant committed is a felony of the first degree or murder, 3908
the person shall be sentenced to life imprisonment without 3909
parole. 3910

(4) If the most serious underlying specified offense the 3911

defendant committed is aggravated murder, the offender shall be 3912
sentenced to life imprisonment without parole ~~or death pursuant to~~ 3913
~~to sections 2929.02 to 2929.06 of the Revised Code.~~ 3914

(5) Section 2909.25 of the Revised Code applies regarding 3915
an offender who is convicted of or pleads guilty to a violation 3916
of this section. 3917

Sec. 2929.02. (A) ~~Whoever~~ Except as provided in division 3918
(C) of this section, whoever is convicted of or pleads guilty to 3919
aggravated murder in violation of section 2903.01 of the Revised 3920
Code shall ~~suffer death or be imprisoned for life, as determined~~ 3921
~~pursuant to sections 2929.022, 2929.03, and 2929.04 of the~~ 3922
~~Revised Code, except that no person who raises the matter of age~~ 3923
~~pursuant to section 2929.023 of the Revised Code and who is not~~ 3924
~~found to have been eighteen years of age or older at the time of~~ 3925
~~the commission of the offense shall suffer death. In addition,~~ 3926
~~the offender may be fined an amount fixed by the court, but not~~ 3927
~~more than twenty five thousand dollars~~ sentenced to life 3928
imprisonment with parole eligibility after serving twenty full 3929
years of imprisonment, life imprisonment with parole eligibility 3930
after serving thirty full years of imprisonment, or life 3931
imprisonment without parole. 3932

(B) ~~(1)~~ Except as otherwise provided in division (B) (2) or 3933
~~(3)~~ (C) of this section, whoever is convicted of or pleads 3934
guilty to murder in violation of section 2903.02 of the Revised 3935
Code shall be imprisoned for an indefinite term of fifteen years 3936
to life. 3937

~~(2)~~ (C) (1) Except as otherwise provided in division (B) (3) 3938
(C) (2) of this section, if a person is convicted of or pleads 3939
guilty to aggravated murder in violation of section 2903.01 of 3940
the Revised Code or to murder in violation of section 2903.02 of 3941

the Revised Code, the victim of the offense was less than 3942
thirteen years of age, and the offender also is convicted of or 3943
pleads guilty to a sexual motivation specification that was 3944
included in the indictment, count in the indictment, or 3945
information charging the offense, the court shall impose an 3946
indefinite prison term of thirty years to life pursuant to 3947
division (B) (3) of section 2971.03 of the Revised Code. 3948

~~(3)~~ (2) If a person is convicted of or pleads guilty to 3949
aggravated murder in violation of section 2903.01 of the Revised 3950
Code or to murder in violation of section 2903.02 of the Revised 3951
Code and also is convicted of or pleads guilty to a sexual 3952
motivation specification and a sexually violent predator 3953
specification that were included in the indictment, count in the 3954
indictment, or information that charged the murder, the court 3955
shall impose upon the offender a term of life imprisonment 3956
without parole that shall be served pursuant to section 2971.03 3957
of the Revised Code. 3958

~~(4)~~ (D) In addition to the prison term imposed under this 3959
section, the offender may be fined an amount fixed by the court, 3960
but not more than twenty-five thousand dollars for aggravated 3961
murder or fifteen thousand dollars for murder. 3962

~~(C)~~ (E) The court shall not impose a fine or fines for 3963
aggravated murder or murder ~~which~~ that, in the aggregate and to 3964
the extent not suspended by the court, exceeds the amount ~~which~~ 3965
that the offender is or will be able to pay by the method and 3966
within the time allowed without undue hardship to the offender 3967
or to the dependents of the offender, or will prevent the 3968
offender from making reparation for the victim's wrongful death. 3969

~~(D)~~ ~~(1)~~ (F) (1) In addition to any other sanctions imposed 3970
for a violation of section 2903.01 or 2903.02 of the Revised 3971

Code, if the offender used a motor vehicle as the means to 3972
commit the violation, the court shall impose upon the offender a 3973
class two suspension of the offender's driver's license, 3974
commercial driver's license, temporary instruction permit, 3975
probationary license, or nonresident operating privilege as 3976
specified in division (A)(2) of section 4510.02 of the Revised 3977
Code. 3978

(2) As used in division ~~(D)~~(F) of this section, "motor 3979
vehicle" has the same meaning as in section 4501.01 of the 3980
Revised Code. 3981

Sec. 2929.13. (A) Except as provided in division (E), (F), 3982
or (G) of this section and unless a specific sanction is 3983
required to be imposed or is precluded from being imposed 3984
pursuant to law, a court that imposes a sentence upon an 3985
offender for a felony may impose any sanction or combination of 3986
sanctions on the offender that are provided in sections 2929.14 3987
to 2929.18 of the Revised Code. 3988

If the offender is eligible to be sentenced to community 3989
control sanctions, the court shall consider the appropriateness 3990
of imposing a financial sanction pursuant to section 2929.18 of 3991
the Revised Code or a sanction of community service pursuant to 3992
section 2929.17 of the Revised Code as the sole sanction for the 3993
offense. Except as otherwise provided in this division, if the 3994
court is required to impose a mandatory prison term for the 3995
offense for which sentence is being imposed, the court also 3996
shall impose any financial sanction pursuant to section 2929.18 3997
of the Revised Code that is required for the offense and may 3998
impose any other financial sanction pursuant to that section but 3999
may not impose any additional sanction or combination of 4000
sanctions under section 2929.16 or 2929.17 of the Revised Code. 4001

If the offender is being sentenced for a fourth degree 4002
felony OVI offense or for a third degree felony OVI offense, in 4003
addition to the mandatory term of local incarceration or the 4004
mandatory prison term required for the offense by division (G) 4005
(1) or (2) of this section, the court shall impose upon the 4006
offender a mandatory fine in accordance with division (B) (3) of 4007
section 2929.18 of the Revised Code and may impose whichever of 4008
the following is applicable: 4009

(1) For a fourth degree felony OVI offense for which 4010
sentence is imposed under division (G) (1) of this section, an 4011
additional community control sanction or combination of 4012
community control sanctions under section 2929.16 or 2929.17 of 4013
the Revised Code. If the court imposes upon the offender a 4014
community control sanction and the offender violates any 4015
condition of the community control sanction, the court may take 4016
any action prescribed in division (B) of section 2929.15 of the 4017
Revised Code relative to the offender, including imposing a 4018
prison term on the offender pursuant to that division. 4019

(2) For a third or fourth degree felony OVI offense for 4020
which sentence is imposed under division (G) (2) of this section, 4021
an additional prison term as described in division (B) (4) of 4022
section 2929.14 of the Revised Code or a community control 4023
sanction as described in division (G) (2) of this section. 4024

(B) (1) (a) Except as provided in division (B) (1) (b) of this 4025
section, if an offender is convicted of or pleads guilty to a 4026
felony of the fourth or fifth degree that is not an offense of 4027
violence or that is a qualifying assault offense, the court 4028
shall sentence the offender to a community control sanction or 4029
combination of community control sanctions if all of the 4030
following apply: 4031

- (i) The offender previously has not been convicted of or
pleaded guilty to a felony offense. 4032
4033
- (ii) The most serious charge against the offender at the
time of sentencing is a felony of the fourth or fifth degree. 4034
4035
- (iii) The offender previously has not been convicted of or
pleaded guilty to a misdemeanor offense of violence that the
offender committed within two years prior to the offense for
which sentence is being imposed. 4036
4037
4038
4039
- (b) The court has discretion to impose a prison term upon
an offender who is convicted of or pleads guilty to a felony of
the fourth or fifth degree that is not an offense of violence or
that is a qualifying assault offense if any of the following
apply: 4040
4041
4042
4043
4044
- (i) The offender committed the offense while having a
firearm on or about the offender's person or under the
offender's control. 4045
4046
4047
- (ii) If the offense is a qualifying assault offense, the
offender caused serious physical harm to another person while
committing the offense, and, if the offense is not a qualifying
assault offense, the offender caused physical harm to another
person while committing the offense. 4048
4049
4050
4051
4052
- (iii) The offender violated a term of the conditions of
bond as set by the court. 4053
4054
- (iv) The offense is a sex offense that is a fourth or
fifth degree felony violation of any provision of Chapter 2907.
of the Revised Code. 4055
4056
4057
- (v) In committing the offense, the offender attempted to
cause or made an actual threat of physical harm to a person with
4058
4059

a deadly weapon. 4060

(vi) In committing the offense, the offender attempted to 4061
cause or made an actual threat of physical harm to a person, and 4062
the offender previously was convicted of an offense that caused 4063
physical harm to a person. 4064

(vii) The offender held a public office or position of 4065
trust, and the offense related to that office or position; the 4066
offender's position obliged the offender to prevent the offense 4067
or to bring those committing it to justice; or the offender's 4068
professional reputation or position facilitated the offense or 4069
was likely to influence the future conduct of others. 4070

(viii) The offender committed the offense for hire or as 4071
part of an organized criminal activity. 4072

(ix) The offender at the time of the offense was serving, 4073
or the offender previously had served, a prison term. 4074

(x) The offender committed the offense while under a 4075
community control sanction, while on probation, or while 4076
released from custody on a bond or personal recognizance. 4077

(c) A sentencing court may impose an additional penalty 4078
under division (B) of section 2929.15 of the Revised Code upon 4079
an offender sentenced to a community control sanction under 4080
division (B)(1)(a) of this section if the offender violates the 4081
conditions of the community control sanction, violates a law, or 4082
leaves the state without the permission of the court or the 4083
offender's probation officer. 4084

(2) If division (B)(1) of this section does not apply, 4085
except as provided in division (E), (F), or (G) of this section, 4086
in determining whether to impose a prison term as a sanction for 4087
a felony of the fourth or fifth degree, the sentencing court 4088

shall comply with the purposes and principles of sentencing 4089
under section 2929.11 of the Revised Code and with section 4090
2929.12 of the Revised Code. 4091

(C) Except as provided in division (D), (E), (F), or (G) 4092
of this section, in determining whether to impose a prison term 4093
as a sanction for a felony of the third degree or a felony drug 4094
offense that is a violation of a provision of Chapter 2925. of 4095
the Revised Code and that is specified as being subject to this 4096
division for purposes of sentencing, the sentencing court shall 4097
comply with the purposes and principles of sentencing under 4098
section 2929.11 of the Revised Code and with section 2929.12 of 4099
the Revised Code. 4100

(D) (1) Except as provided in division (E) or (F) of this 4101
section, for a felony of the first or second degree, for a 4102
felony drug offense that is a violation of any provision of 4103
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4104
presumption in favor of a prison term is specified as being 4105
applicable, and for a violation of division (A) (4) or (B) of 4106
section 2907.05 of the Revised Code for which a presumption in 4107
favor of a prison term is specified as being applicable, it is 4108
presumed that a prison term is necessary in order to comply with 4109
the purposes and principles of sentencing under section 2929.11 4110
of the Revised Code. Division (D) (2) of this section does not 4111
apply to a presumption established under this division for a 4112
violation of division (A) (4) of section 2907.05 of the Revised 4113
Code. 4114

(2) Notwithstanding the presumption established under 4115
division (D) (1) of this section for the offenses listed in that 4116
division other than a violation of division (A) (4) or (B) of 4117
section 2907.05 of the Revised Code, the sentencing court may 4118

impose a community control sanction or a combination of 4119
community control sanctions instead of a prison term on an 4120
offender for a felony of the first or second degree or for a 4121
felony drug offense that is a violation of any provision of 4122
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4123
presumption in favor of a prison term is specified as being 4124
applicable if it makes both of the following findings: 4125

(a) A community control sanction or a combination of 4126
community control sanctions would adequately punish the offender 4127
and protect the public from future crime, because the applicable 4128
factors under section 2929.12 of the Revised Code indicating a 4129
lesser likelihood of recidivism outweigh the applicable factors 4130
under that section indicating a greater likelihood of 4131
recidivism. 4132

(b) A community control sanction or a combination of 4133
community control sanctions would not demean the seriousness of 4134
the offense, because one or more factors under section 2929.12 4135
of the Revised Code that indicate that the offender's conduct 4136
was less serious than conduct normally constituting the offense 4137
are applicable, and they outweigh the applicable factors under 4138
that section that indicate that the offender's conduct was more 4139
serious than conduct normally constituting the offense. 4140

(E) (1) Except as provided in division (F) of this section, 4141
for any drug offense that is a violation of any provision of 4142
Chapter 2925. of the Revised Code and that is a felony of the 4143
third, fourth, or fifth degree, the applicability of a 4144
presumption under division (D) of this section in favor of a 4145
prison term or of division (B) or (C) of this section in 4146
determining whether to impose a prison term for the offense 4147
shall be determined as specified in section 2925.02, 2925.03, 4148

2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 4149
2925.36, or 2925.37 of the Revised Code, whichever is applicable 4150
regarding the violation. 4151

(2) If an offender who was convicted of or pleaded guilty 4152
to a felony violates the conditions of a community control 4153
sanction imposed for the offense solely by reason of producing 4154
positive results on a drug test or by acting pursuant to 4155
division (B) (2) (b) of section 2925.11 of the Revised Code with 4156
respect to a minor drug possession offense, the court, as 4157
punishment for the violation of the sanction, shall not order 4158
that the offender be imprisoned unless the court determines on 4159
the record either of the following: 4160

(a) The offender had been ordered as a sanction for the 4161
felony to participate in a drug treatment program, in a drug 4162
education program, or in narcotics anonymous or a similar 4163
program, and the offender continued to use illegal drugs after a 4164
reasonable period of participation in the program. 4165

(b) The imprisonment of the offender for the violation is 4166
consistent with the purposes and principles of sentencing set 4167
forth in section 2929.11 of the Revised Code. 4168

(3) A court that sentences an offender for a drug abuse 4169
offense that is a felony of the third, fourth, or fifth degree 4170
may require that the offender be assessed by a properly 4171
credentialed professional within a specified period of time. The 4172
court shall require the professional to file a written 4173
assessment of the offender with the court. If the offender is 4174
eligible for a community control sanction and after considering 4175
the written assessment, the court may impose a community control 4176
sanction that includes addiction services and recovery supports 4177
included in a community-based continuum of care established 4178

under section 340.032 of the Revised Code. If the court imposes 4179
addiction services and recovery supports as a community control 4180
sanction, the court shall direct the level and type of addiction 4181
services and recovery supports after considering the assessment 4182
and recommendation of community addiction services providers. 4183

(F) Notwithstanding divisions (A) to (E) of this section, 4184
the court shall impose a prison term or terms under ~~sections~~ 4185
section 2929.02 to 2929.06, section 2929.14, section 2929.142, 4186
or ~~section~~ 2971.03 of the Revised Code and except as 4187
specifically provided in section 2929.20, divisions (C) to (I) 4188
of section 2967.19, or section 2967.191 of the Revised Code or 4189
when parole is authorized for the offense under section 2967.13 4190
of the Revised Code shall not reduce the term or terms pursuant 4191
to section 2929.20, section 2967.19, section 2967.193, or any 4192
other provision of Chapter 2967. or Chapter 5120. of the Revised 4193
Code for any of the following offenses: 4194

(1) Aggravated murder ~~when death is not imposed~~ or murder; 4195

(2) Any rape, regardless of whether force was involved and 4196
regardless of the age of the victim, or an attempt to commit 4197
rape if, had the offender completed the rape that was attempted, 4198
the offender would have been guilty of a violation of division 4199
(A) (1) (b) of section 2907.02 of the Revised Code and would be 4200
sentenced under section 2971.03 of the Revised Code; 4201

(3) Gross sexual imposition or sexual battery, if the 4202
victim is less than thirteen years of age and if any of the 4203
following applies: 4204

(a) Regarding gross sexual imposition, the offender 4205
previously was convicted of or pleaded guilty to rape, the 4206
former offense of felonious sexual penetration, gross sexual 4207

imposition, or sexual battery, and the victim of the previous 4208
offense was less than thirteen years of age; 4209

(b) Regarding gross sexual imposition, the offense was 4210
committed on or after August 3, 2006, and evidence other than 4211
the testimony of the victim was admitted in the case 4212
corroborating the violation. 4213

(c) Regarding sexual battery, either of the following 4214
applies: 4215

(i) The offense was committed prior to August 3, 2006, the 4216
offender previously was convicted of or pleaded guilty to rape, 4217
the former offense of felonious sexual penetration, or sexual 4218
battery, and the victim of the previous offense was less than 4219
thirteen years of age. 4220

(ii) The offense was committed on or after August 3, 2006. 4221

(4) A felony violation of section 2903.04, 2903.06, 4222
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 4223
or 2923.132 of the Revised Code if the section requires the 4224
imposition of a prison term; 4225

(5) A first, second, or third degree felony drug offense 4226
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 4227
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 4228
or 4729.99 of the Revised Code, whichever is applicable 4229
regarding the violation, requires the imposition of a mandatory 4230
prison term; 4231

(6) Any offense that is a first or second degree felony 4232
and that is not set forth in division (F) (1), (2), (3), or (4) 4233
of this section, if the offender previously was convicted of or 4234
pleaded guilty to aggravated murder, murder, any first or second 4235
degree felony, or an offense under an existing or former law of 4236

this state, another state, or the United States that is or was 4237
substantially equivalent to one of those offenses; 4238

(7) Any offense that is a third degree felony and either 4239
is a violation of section 2903.04 of the Revised Code or an 4240
attempt to commit a felony of the second degree that is an 4241
offense of violence and involved an attempt to cause serious 4242
physical harm to a person or that resulted in serious physical 4243
harm to a person if the offender previously was convicted of or 4244
pleaded guilty to any of the following offenses: 4245

(a) Aggravated murder, murder, involuntary manslaughter, 4246
rape, felonious sexual penetration as it existed under section 4247
2907.12 of the Revised Code prior to September 3, 1996, a felony 4248
of the first or second degree that resulted in the death of a 4249
person or in physical harm to a person, or complicity in or an 4250
attempt to commit any of those offenses; 4251

(b) An offense under an existing or former law of this 4252
state, another state, or the United States that is or was 4253
substantially equivalent to an offense listed in division (F) (7) 4254
(a) of this section that resulted in the death of a person or in 4255
physical harm to a person. 4256

(8) Any offense, other than a violation of section 2923.12 4257
of the Revised Code, that is a felony, if the offender had a 4258
firearm on or about the offender's person or under the 4259
offender's control while committing the felony, with respect to 4260
a portion of the sentence imposed pursuant to division (B) (1) (a) 4261
of section 2929.14 of the Revised Code for having the firearm; 4262

(9) Any offense of violence that is a felony, if the 4263
offender wore or carried body armor while committing the felony 4264
offense of violence, with respect to the portion of the sentence 4265

imposed pursuant to division (B) (1) (d) of section 2929.14 of the Revised Code for wearing or carrying the body armor;

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

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

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

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

(14) A violation of division (A) (1) or (2) of section 2903.06 of the Revised Code if the offender has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, with respect to the portion of the sentence

imposed pursuant to division (B) (6) of section 2929.14 of the Revised Code;

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

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

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

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

(19) (a) Any violent felony offense if the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control during the commission of the violent felony offense and displayed or

brandished the firearm, indicated that the offender possessed a 4324
firearm, or used the firearm to facilitate the offense, with 4325
respect to the portion of the sentence imposed under division 4326
(K) of section 2929.14 of the Revised Code. 4327

(b) As used in division (F)(19)(a) of this section, 4328
"violent career criminal" and "violent felony offense" have the 4329
same meanings as in section 2923.132 of the Revised Code. 4330

(20) Any violation of division (A)(1) of section 2903.11 4331
of the Revised Code if the offender used an accelerant in 4332
committing the violation and the serious physical harm to 4333
another or another's unborn caused by the violation resulted in 4334
a permanent, serious disfigurement or permanent, substantial 4335
incapacity or any violation of division (A)(2) of that section 4336
if the offender used an accelerant in committing the violation, 4337
the violation caused physical harm to another or another's 4338
unborn, and the physical harm resulted in a permanent, serious 4339
disfigurement or permanent, substantial incapacity, with respect 4340
to a portion of the sentence imposed pursuant to division (B)(9) 4341
of section 2929.14 of the Revised Code. The provisions of this 4342
division and of division (D)(2) of section 2903.11, divisions 4343
(B)(9) and (C)(6) of section 2929.14, and section 2941.1425 of 4344
the Revised Code shall be known as "Judy's Law." 4345

(21) Any violation of division (A) of section 2903.11 of 4346
the Revised Code if the victim of the offense suffered permanent 4347
disabling harm as a result of the offense and the victim was 4348
under ten years of age at the time of the offense, with respect 4349
to a portion of the sentence imposed pursuant to division (B) 4350
(10) of section 2929.14 of the Revised Code. 4351

(22) A felony violation of section 2925.03, 2925.05, or 4352
2925.11 of the Revised Code, if the drug involved in the 4353

violation is a fentanyl-related compound or a compound, mixture, 4354
preparation, or substance containing a fentanyl-related compound 4355
and the offender is convicted of or pleads guilty to a 4356
specification of the type described in division (B) of section 4357
2941.1410 of the Revised Code that was included in the 4358
indictment, count in the indictment, or information charging the 4359
offense, with respect to the portion of the sentence imposed 4360
under division (B) (11) of section 2929.14 of the Revised Code. 4361

(G) Notwithstanding divisions (A) to (E) of this section, 4362
if an offender is being sentenced for a fourth degree felony OVI 4363
offense or for a third degree felony OVI offense, the court 4364
shall impose upon the offender a mandatory term of local 4365
incarceration or a mandatory prison term in accordance with the 4366
following: 4367

(1) If the offender is being sentenced for a fourth degree 4368
felony OVI offense and if the offender has not been convicted of 4369
and has not pleaded guilty to a specification of the type 4370
described in section 2941.1413 of the Revised Code, the court 4371
may impose upon the offender a mandatory term of local 4372
incarceration of sixty days or one hundred twenty days as 4373
specified in division (G) (1) (d) of section 4511.19 of the 4374
Revised Code. The court shall not reduce the term pursuant to 4375
section 2929.20, 2967.193, or any other provision of the Revised 4376
Code. The court that imposes a mandatory term of local 4377
incarceration under this division shall specify whether the term 4378
is to be served in a jail, a community-based correctional 4379
facility, a halfway house, or an alternative residential 4380
facility, and the offender shall serve the term in the type of 4381
facility specified by the court. A mandatory term of local 4382
incarceration imposed under division (G) (1) of this section is 4383
not subject to any other Revised Code provision that pertains to 4384

a prison term except as provided in division (A) (1) of this section. 4385
4386

(2) If the offender is being sentenced for a third degree 4387
felony OVI offense, or if the offender is being sentenced for a 4388
fourth degree felony OVI offense and the court does not impose a 4389
mandatory term of local incarceration under division (G) (1) of 4390
this section, the court shall impose upon the offender a 4391
mandatory prison term of one, two, three, four, or five years if 4392
the offender also is convicted of or also pleads guilty to a 4393
specification of the type described in section 2941.1413 of the 4394
Revised Code or shall impose upon the offender a mandatory 4395
prison term of sixty days or one hundred twenty days as 4396
specified in division (G) (1) (d) or (e) of section 4511.19 of the 4397
Revised Code if the offender has not been convicted of and has 4398
not pleaded guilty to a specification of that type. Subject to 4399
divisions (C) to (I) of section 2967.19 of the Revised Code, the 4400
court shall not reduce the term pursuant to section 2929.20, 4401
2967.19, 2967.193, or any other provision of the Revised Code. 4402
The offender shall serve the one-, two-, three-, four-, or five- 4403
year mandatory prison term consecutively to and prior to the 4404
prison term imposed for the underlying offense and consecutively 4405
to any other mandatory prison term imposed in relation to the 4406
offense. In no case shall an offender who once has been 4407
sentenced to a mandatory term of local incarceration pursuant to 4408
division (G) (1) of this section for a fourth degree felony OVI 4409
offense be sentenced to another mandatory term of local 4410
incarceration under that division for any violation of division 4411
(A) of section 4511.19 of the Revised Code. In addition to the 4412
mandatory prison term described in division (G) (2) of this 4413
section, the court may sentence the offender to a community 4414
control sanction under section 2929.16 or 2929.17 of the Revised 4415

Code, but the offender shall serve the prison term prior to 4416
serving the community control sanction. The department of 4417
rehabilitation and correction may place an offender sentenced to 4418
a mandatory prison term under this division in an intensive 4419
program prison established pursuant to section 5120.033 of the 4420
Revised Code if the department gave the sentencing judge prior 4421
notice of its intent to place the offender in an intensive 4422
program prison established under that section and if the judge 4423
did not notify the department that the judge disapproved the 4424
placement. Upon the establishment of the initial intensive 4425
program prison pursuant to section 5120.033 of the Revised Code 4426
that is privately operated and managed by a contractor pursuant 4427
to a contract entered into under section 9.06 of the Revised 4428
Code, both of the following apply: 4429

(a) The department of rehabilitation and correction shall 4430
make a reasonable effort to ensure that a sufficient number of 4431
offenders sentenced to a mandatory prison term under this 4432
division are placed in the privately operated and managed prison 4433
so that the privately operated and managed prison has full 4434
occupancy. 4435

(b) Unless the privately operated and managed prison has 4436
full occupancy, the department of rehabilitation and correction 4437
shall not place any offender sentenced to a mandatory prison 4438
term under this division in any intensive program prison 4439
established pursuant to section 5120.033 of the Revised Code 4440
other than the privately operated and managed prison. 4441

(H) If an offender is being sentenced for a sexually 4442
oriented offense or child-victim oriented offense that is a 4443
felony committed on or after January 1, 1997, the judge shall 4444
require the offender to submit to a DNA specimen collection 4445

procedure pursuant to section 2901.07 of the Revised Code. 4446

(I) If an offender is being sentenced for a sexually 4447
oriented offense or a child-victim oriented offense committed on 4448
or after January 1, 1997, the judge shall include in the 4449
sentence a summary of the offender's duties imposed under 4450
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 4451
Code and the duration of the duties. The judge shall inform the 4452
offender, at the time of sentencing, of those duties and of 4453
their duration. If required under division (A) (2) of section 4454
2950.03 of the Revised Code, the judge shall perform the duties 4455
specified in that section, or, if required under division (A) (6) 4456
of section 2950.03 of the Revised Code, the judge shall perform 4457
the duties specified in that division. 4458

(J) (1) Except as provided in division (J) (2) of this 4459
section, when considering sentencing factors under this section 4460
in relation to an offender who is convicted of or pleads guilty 4461
to an attempt to commit an offense in violation of section 4462
2923.02 of the Revised Code, the sentencing court shall consider 4463
the factors applicable to the felony category of the violation 4464
of section 2923.02 of the Revised Code instead of the factors 4465
applicable to the felony category of the offense attempted. 4466

(2) When considering sentencing factors under this section 4467
in relation to an offender who is convicted of or pleads guilty 4468
to an attempt to commit a drug abuse offense for which the 4469
penalty is determined by the amount or number of unit doses of 4470
the controlled substance involved in the drug abuse offense, the 4471
sentencing court shall consider the factors applicable to the 4472
felony category that the drug abuse offense attempted would be 4473
if that drug abuse offense had been committed and had involved 4474
an amount or number of unit doses of the controlled substance 4475

that is within the next lower range of controlled substance 4476
amounts than was involved in the attempt. 4477

(K) As used in this section: 4478

(1) "Community addiction services provider" has the same 4479
meaning as in section 5119.01 of the Revised Code. 4480

(2) "Drug abuse offense" has the same meaning as in 4481
section 2925.01 of the Revised Code. 4482

(3) "Minor drug possession offense" has the same meaning 4483
as in section 2925.11 of the Revised Code. 4484

(4) "Qualifying assault offense" means a violation of 4485
section 2903.13 of the Revised Code for which the penalty 4486
provision in division (C) (8) (b) or (C) (9) (b) of that section 4487
applies. 4488

(L) At the time of sentencing an offender for any sexually 4489
oriented offense, if the offender is a tier III sex 4490
offender/child-victim offender relative to that offense and the 4491
offender does not serve a prison term or jail term, the court 4492
may require that the offender be monitored by means of a global 4493
positioning device. If the court requires such monitoring, the 4494
cost of monitoring shall be borne by the offender. If the 4495
offender is indigent, the cost of compliance shall be paid by 4496
the crime victims reparations fund. 4497

Sec. 2929.14. (A) Except as provided in division (B) (1), 4498
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (B) (9), 4499
(B) (10), (B) (11), (E), (G), (H), (J), or (K) of this section or 4500
in division (D) (6) of section 2919.25 of the Revised Code and 4501
except in relation to an offense for which a sentence of ~~death~~ 4502
~~or~~-life imprisonment is to be imposed, if the court imposing a 4503
sentence upon an offender for a felony elects or is required to 4504

impose a prison term on the offender pursuant to this chapter, 4505
the court shall impose a prison term that shall be one of the 4506
following: 4507

(1) (a) For a felony of the first degree committed on or 4508
~~after the effective date of this amendment~~ March 22, 2019, the 4509
prison term shall be an indefinite prison term with a stated 4510
minimum term selected by the court of three, four, five, six, 4511
seven, eight, nine, ten, or eleven years and a maximum term that 4512
is determined pursuant to section 2929.144 of the Revised Code, 4513
except that if the section that criminalizes the conduct 4514
constituting the felony specifies a different minimum term or 4515
penalty for the offense, the specific language of that section 4516
shall control in determining the minimum term or otherwise 4517
sentencing the offender but the minimum term or sentence imposed 4518
under that specific language shall be considered for purposes of 4519
the Revised Code as if it had been imposed under this division. 4520

(b) For a felony of the first degree committed prior to 4521
~~the effective date of this amendment~~ March 22, 2019, the prison 4522
term shall be a definite prison term of three, four, five, six, 4523
seven, eight, nine, ten, or eleven years. 4524

(2) (a) For a felony of the second degree committed on or 4525
~~after the effective date of this amendment~~ March 22, 2019, the 4526
prison term shall be an indefinite prison term with a stated 4527
minimum term selected by the court of two, three, four, five, 4528
six, seven, or eight years and a maximum term that is determined 4529
pursuant to section 2929.144 of the Revised Code, except that if 4530
the section that criminalizes the conduct constituting the 4531
felony specifies a different minimum term or penalty for the 4532
offense, the specific language of that section shall control in 4533
determining the minimum term or otherwise sentencing the 4534

offender but the minimum term or sentence imposed under that 4535
specific language shall be considered for purposes of the 4536
Revised Code as if it had been imposed under this division. 4537

(b) For a felony of the second degree committed prior to 4538
~~the effective date of this amendment~~ March 22, 2019, the prison 4539
term shall be a definite term of two, three, four, five, six, 4540
seven, or eight years. 4541

(3) (a) For a felony of the third degree that is a 4542
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 4543
2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised 4544
Code or that is a violation of section 2911.02 or 2911.12 of the 4545
Revised Code if the offender previously has been convicted of or 4546
pleaded guilty in two or more separate proceedings to two or 4547
more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 4548
of the Revised Code, the prison term shall be a definite term of 4549
twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, 4550
forty-eight, fifty-four, or sixty months. 4551

(b) For a felony of the third degree that is not an 4552
offense for which division (A) (3) (a) of this section applies, 4553
the prison term shall be a definite term of nine, twelve, 4554
eighteen, twenty-four, thirty, or thirty-six months. 4555

(4) For a felony of the fourth degree, the prison term 4556
shall be a definite term of six, seven, eight, nine, ten, 4557
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 4558
or eighteen months. 4559

(5) For a felony of the fifth degree, the prison term 4560
shall be a definite term of six, seven, eight, nine, ten, 4561
eleven, or twelve months. 4562

(B) (1) (a) Except as provided in division (B) (1) (e) of this 4563

section, if an offender who is convicted of or pleads guilty to 4564
a felony also is convicted of or pleads guilty to a 4565
specification of the type described in section 2941.141, 4566
2941.144, or 2941.145 of the Revised Code, the court shall 4567
impose on the offender one of the following prison terms: 4568

(i) A prison term of six years if the specification is of 4569
the type described in division (A) of section 2941.144 of the 4570
Revised Code that charges the offender with having a firearm 4571
that is an automatic firearm or that was equipped with a firearm 4572
muffler or suppressor on or about the offender's person or under 4573
the offender's control while committing the offense; 4574

(ii) A prison term of three years if the specification is 4575
of the type described in division (A) of section 2941.145 of the 4576
Revised Code that charges the offender with having a firearm on 4577
or about the offender's person or under the offender's control 4578
while committing the offense and displaying the firearm, 4579
brandishing the firearm, indicating that the offender possessed 4580
the firearm, or using it to facilitate the offense; 4581

(iii) A prison term of one year if the specification is of 4582
the type described in division (A) of section 2941.141 of the 4583
Revised Code that charges the offender with having a firearm on 4584
or about the offender's person or under the offender's control 4585
while committing the offense; 4586

(iv) A prison term of nine years if the specification is 4587
of the type described in division (D) of section 2941.144 of the 4588
Revised Code that charges the offender with having a firearm 4589
that is an automatic firearm or that was equipped with a firearm 4590
muffler or suppressor on or about the offender's person or under 4591
the offender's control while committing the offense and 4592
specifies that the offender previously has been convicted of or 4593

pleaded guilty to a specification of the type described in 4594
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4595
the Revised Code; 4596

(v) A prison term of fifty-four months if the 4597
specification is of the type described in division (D) of 4598
section 2941.145 of the Revised Code that charges the offender 4599
with having a firearm on or about the offender's person or under 4600
the offender's control while committing the offense and 4601
displaying the firearm, brandishing the firearm, indicating that 4602
the offender possessed the firearm, or using the firearm to 4603
facilitate the offense and that the offender previously has been 4604
convicted of or pleaded guilty to a specification of the type 4605
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 4606
2941.1412 of the Revised Code; 4607

(vi) A prison term of eighteen months if the specification 4608
is of the type described in division (D) of section 2941.141 of 4609
the Revised Code that charges the offender with having a firearm 4610
on or about the offender's person or under the offender's 4611
control while committing the offense and that the offender 4612
previously has been convicted of or pleaded guilty to a 4613
specification of the type described in section 2941.141, 4614
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 4615

(b) If a court imposes a prison term on an offender under 4616
division (B)(1)(a) of this section, the prison term shall not be 4617
reduced pursuant to section 2967.19, section 2929.20, section 4618
2967.193, or any other provision of Chapter 2967. or Chapter 4619
5120. of the Revised Code. Except as provided in division (B)(1) 4620
(g) of this section, a court shall not impose more than one 4621
prison term on an offender under division (B)(1)(a) of this 4622
section for felonies committed as part of the same act or 4623

transaction. 4624

(c) (i) Except as provided in division (B) (1) (e) of this 4625
section, if an offender who is convicted of or pleads guilty to 4626
a violation of section 2923.161 of the Revised Code or to a 4627
felony that includes, as an essential element, purposely or 4628
knowingly causing or attempting to cause the death of or 4629
physical harm to another, also is convicted of or pleads guilty 4630
to a specification of the type described in division (A) of 4631
section 2941.146 of the Revised Code that charges the offender 4632
with committing the offense by discharging a firearm from a 4633
motor vehicle other than a manufactured home, the court, after 4634
imposing a prison term on the offender for the violation of 4635
section 2923.161 of the Revised Code or for the other felony 4636
offense under division (A), (B) (2), or (B) (3) of this section, 4637
shall impose an additional prison term of five years upon the 4638
offender that shall not be reduced pursuant to section 2929.20, 4639
section 2967.19, section 2967.193, or any other provision of 4640
Chapter 2967. or Chapter 5120. of the Revised Code. 4641

(ii) Except as provided in division (B) (1) (e) of this 4642
section, if an offender who is convicted of or pleads guilty to 4643
a violation of section 2923.161 of the Revised Code or to a 4644
felony that includes, as an essential element, purposely or 4645
knowingly causing or attempting to cause the death of or 4646
physical harm to another, also is convicted of or pleads guilty 4647
to a specification of the type described in division (C) of 4648
section 2941.146 of the Revised Code that charges the offender 4649
with committing the offense by discharging a firearm from a 4650
motor vehicle other than a manufactured home and that the 4651
offender previously has been convicted of or pleaded guilty to a 4652
specification of the type described in section 2941.141, 4653
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 4654

the court, after imposing a prison term on the offender for the 4655
violation of section 2923.161 of the Revised Code or for the 4656
other felony offense under division (A), (B) (2), or (3) of this 4657
section, shall impose an additional prison term of ninety months 4658
upon the offender that shall not be reduced pursuant to section 4659
2929.20, 2967.19, 2967.193, or any other provision of Chapter 4660
2967. or Chapter 5120. of the Revised Code. 4661

(iii) A court shall not impose more than one additional 4662
prison term on an offender under division (B) (1) (c) of this 4663
section for felonies committed as part of the same act or 4664
transaction. If a court imposes an additional prison term on an 4665
offender under division (B) (1) (c) of this section relative to an 4666
offense, the court also shall impose a prison term under 4667
division (B) (1) (a) of this section relative to the same offense, 4668
provided the criteria specified in that division for imposing an 4669
additional prison term are satisfied relative to the offender 4670
and the offense. 4671

(d) If an offender who is convicted of or pleads guilty to 4672
an offense of violence that is a felony also is convicted of or 4673
pleads guilty to a specification of the type described in 4674
section 2941.1411 of the Revised Code that charges the offender 4675
with wearing or carrying body armor while committing the felony 4676
offense of violence, the court shall impose on the offender an 4677
additional prison term of two years. The prison term so imposed, 4678
subject to divisions (C) to (I) of section 2967.19 of the 4679
Revised Code, shall not be reduced pursuant to section 2929.20, 4680
section 2967.19, section 2967.193, or any other provision of 4681
Chapter 2967. or Chapter 5120. of the Revised Code. A court 4682
shall not impose more than one prison term on an offender under 4683
division (B) (1) (d) of this section for felonies committed as 4684
part of the same act or transaction. If a court imposes an 4685

additional prison term under division (B) (1) (a) or (c) of this 4686
section, the court is not precluded from imposing an additional 4687
prison term under division (B) (1) (d) of this section. 4688

(e) The court shall not impose any of the prison terms 4689
described in division (B) (1) (a) of this section or any of the 4690
additional prison terms described in division (B) (1) (c) of this 4691
section upon an offender for a violation of section 2923.12 or 4692
2923.123 of the Revised Code. The court shall not impose any of 4693
the prison terms described in division (B) (1) (a) or (b) of this 4694
section upon an offender for a violation of section 2923.122 4695
that involves a deadly weapon that is a firearm other than a 4696
dangerous ordnance, section 2923.16, or section 2923.121 of the 4697
Revised Code. The court shall not impose any of the prison terms 4698
described in division (B) (1) (a) of this section or any of the 4699
additional prison terms described in division (B) (1) (c) of this 4700
section upon an offender for a violation of section 2923.13 of 4701
the Revised Code unless all of the following apply: 4702

(i) The offender previously has been convicted of 4703
aggravated murder, murder, or any felony of the first or second 4704
degree. 4705

(ii) Less than five years have passed since the offender 4706
was released from prison or post-release control, whichever is 4707
later, for the prior offense. 4708

(f) (i) If an offender is convicted of or pleads guilty to 4709
a felony that includes, as an essential element, causing or 4710
attempting to cause the death of or physical harm to another and 4711
also is convicted of or pleads guilty to a specification of the 4712
type described in division (A) of section 2941.1412 of the 4713
Revised Code that charges the offender with committing the 4714
offense by discharging a firearm at a peace officer as defined 4715

in section 2935.01 of the Revised Code or a corrections officer, 4716
as defined in section 2941.1412 of the Revised Code, the court, 4717
after imposing a prison term on the offender for the felony 4718
offense under division (A), (B) (2), or (B) (3) of this section, 4719
shall impose an additional prison term of seven years upon the 4720
offender that shall not be reduced pursuant to section 2929.20, 4721
section 2967.19, section 2967.193, or any other provision of 4722
Chapter 2967. or Chapter 5120. of the Revised Code. 4723

(ii) If an offender is convicted of or pleads guilty to a 4724
felony that includes, as an essential element, causing or 4725
attempting to cause the death of or physical harm to another and 4726
also is convicted of or pleads guilty to a specification of the 4727
type described in division (B) of section 2941.1412 of the 4728
Revised Code that charges the offender with committing the 4729
offense by discharging a firearm at a peace officer, as defined 4730
in section 2935.01 of the Revised Code, or a corrections 4731
officer, as defined in section 2941.1412 of the Revised Code, 4732
and that the offender previously has been convicted of or 4733
pleaded guilty to a specification of the type described in 4734
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4735
the Revised Code, the court, after imposing a prison term on the 4736
offender for the felony offense under division (A), (B) (2), or 4737
(3) of this section, shall impose an additional prison term of 4738
one hundred twenty-six months upon the offender that shall not 4739
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 4740
any other provision of Chapter 2967. or 5120. of the Revised 4741
Code. 4742

(iii) If an offender is convicted of or pleads guilty to 4743
two or more felonies that include, as an essential element, 4744
causing or attempting to cause the death or physical harm to 4745
another and also is convicted of or pleads guilty to a 4746

specification of the type described under division (B) (1) (f) of 4747
this section in connection with two or more of the felonies of 4748
which the offender is convicted or to which the offender pleads 4749
guilty, the sentencing court shall impose on the offender the 4750
prison term specified under division (B) (1) (f) of this section 4751
for each of two of the specifications of which the offender is 4752
convicted or to which the offender pleads guilty and, in its 4753
discretion, also may impose on the offender the prison term 4754
specified under that division for any or all of the remaining 4755
specifications. If a court imposes an additional prison term on 4756
an offender under division (B) (1) (f) of this section relative to 4757
an offense, the court shall not impose a prison term under 4758
division (B) (1) (a) or (c) of this section relative to the same 4759
offense. 4760

(g) If an offender is convicted of or pleads guilty to two 4761
or more felonies, if one or more of those felonies are 4762
aggravated murder, murder, attempted aggravated murder, 4763
attempted murder, aggravated robbery, felonious assault, or 4764
rape, and if the offender is convicted of or pleads guilty to a 4765
specification of the type described under division (B) (1) (a) of 4766
this section in connection with two or more of the felonies, the 4767
sentencing court shall impose on the offender the prison term 4768
specified under division (B) (1) (a) of this section for each of 4769
the two most serious specifications of which the offender is 4770
convicted or to which the offender pleads guilty and, in its 4771
discretion, also may impose on the offender the prison term 4772
specified under that division for any or all of the remaining 4773
specifications. 4774

(2) (a) If division (B) (2) (b) of this section does not 4775
apply, the court may impose on an offender, in addition to the 4776
longest prison term authorized or required for the offense or, 4777

for offenses for which division (A) (1) (a) or (2) (a) of this 4778
section applies, in addition to the longest minimum prison term 4779
authorized or required for the offense, an additional definite 4780
prison term of one, two, three, four, five, six, seven, eight, 4781
nine, or ten years if all of the following criteria are met: 4782

(i) The offender is convicted of or pleads guilty to a 4783
specification of the type described in section 2941.149 of the 4784
Revised Code that the offender is a repeat violent offender. 4785

(ii) The offense of which the offender currently is 4786
convicted or to which the offender currently pleads guilty is 4787
aggravated murder and the court does not impose a sentence of 4788
~~death or~~ life imprisonment without parole, murder, terrorism and 4789
the court does not impose a sentence of life imprisonment 4790
without parole, any felony of the first degree that is an 4791
offense of violence and the court does not impose a sentence of 4792
life imprisonment without parole, or any felony of the second 4793
degree that is an offense of violence and the trier of fact 4794
finds that the offense involved an attempt to cause or a threat 4795
to cause serious physical harm to a person or resulted in 4796
serious physical harm to a person. 4797

(iii) The court imposes the longest prison term for the 4798
offense or the longest minimum prison term for the offense, 4799
whichever is applicable, that is not life imprisonment without 4800
parole. 4801

(iv) The court finds that the prison terms imposed 4802
pursuant to division (B) (2) (a) (iii) of this section and, if 4803
applicable, division (B) (1) or (3) of this section are 4804
inadequate to punish the offender and protect the public from 4805
future crime, because the applicable factors under section 4806
2929.12 of the Revised Code indicating a greater likelihood of 4807

recidivism outweigh the applicable factors under that section 4808
indicating a lesser likelihood of recidivism. 4809

(v) The court finds that the prison terms imposed pursuant 4810
to division (B) (2) (a) (iii) of this section and, if applicable, 4811
division (B) (1) or (3) of this section are demeaning to the 4812
seriousness of the offense, because one or more of the factors 4813
under section 2929.12 of the Revised Code indicating that the 4814
offender's conduct is more serious than conduct normally 4815
constituting the offense are present, and they outweigh the 4816
applicable factors under that section indicating that the 4817
offender's conduct is less serious than conduct normally 4818
constituting the offense. 4819

(b) The court shall impose on an offender the longest 4820
prison term authorized or required for the offense or, for 4821
offenses for which division (A) (1) (a) or (2) (a) of this section 4822
applies, the longest minimum prison term authorized or required 4823
for the offense, and shall impose on the offender an additional 4824
definite prison term of one, two, three, four, five, six, seven, 4825
eight, nine, or ten years if all of the following criteria are 4826
met: 4827

(i) The offender is convicted of or pleads guilty to a 4828
specification of the type described in section 2941.149 of the 4829
Revised Code that the offender is a repeat violent offender. 4830

(ii) The offender within the preceding twenty years has 4831
been convicted of or pleaded guilty to three or more offenses 4832
described in division (CC) (1) of section 2929.01 of the Revised 4833
Code, including all offenses described in that division of which 4834
the offender is convicted or to which the offender pleads guilty 4835
in the current prosecution and all offenses described in that 4836
division of which the offender previously has been convicted or 4837

to which the offender previously pleaded guilty, whether 4838
prosecuted together or separately. 4839

(iii) The offense or offenses of which the offender 4840
currently is convicted or to which the offender currently pleads 4841
guilty is aggravated murder and the court does not impose a 4842
sentence of ~~death or~~ life imprisonment without parole, murder, 4843
terrorism and the court does not impose a sentence of life 4844
imprisonment without parole, any felony of the first degree that 4845
is an offense of violence and the court does not impose a 4846
sentence of life imprisonment without parole, or any felony of 4847
the second degree that is an offense of violence and the trier 4848
of fact finds that the offense involved an attempt to cause or a 4849
threat to cause serious physical harm to a person or resulted in 4850
serious physical harm to a person. 4851

(c) For purposes of division (B) (2) (b) of this section, 4852
two or more offenses committed at the same time or as part of 4853
the same act or event shall be considered one offense, and that 4854
one offense shall be the offense with the greatest penalty. 4855

(d) A sentence imposed under division (B) (2) (a) or (b) of 4856
this section shall not be reduced pursuant to section 2929.20, 4857
section 2967.19, or section 2967.193, or any other provision of 4858
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 4859
shall serve an additional prison term imposed under division (B) 4860
(2) (a) or (b) of this section consecutively to and prior to the 4861
prison term imposed for the underlying offense. 4862

(e) When imposing a sentence pursuant to division (B) (2) 4863
(a) or (b) of this section, the court shall state its findings 4864
explaining the imposed sentence. 4865

(3) Except when an offender commits a violation of section 4866

2903.01 or 2907.02 of the Revised Code and the penalty imposed 4867
for the violation is life imprisonment or commits a violation of 4868
section 2903.02 of the Revised Code, if the offender commits a 4869
violation of section 2925.03 or 2925.11 of the Revised Code and 4870
that section classifies the offender as a major drug offender, 4871
if the offender commits a violation of section 2925.05 of the 4872
Revised Code and division (E)(1) of that section classifies the 4873
offender as a major drug offender, if the offender commits a 4874
felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 4875
3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, 4876
division (C) or (D) of section 3719.172, division (E) of section 4877
4729.51, or division (J) of section 4729.54 of the Revised Code 4878
that includes the sale, offer to sell, or possession of a 4879
schedule I or II controlled substance, with the exception of 4880
marihuana, and the court imposing sentence upon the offender 4881
finds that the offender is guilty of a specification of the type 4882
described in division (A) of section 2941.1410 of the Revised 4883
Code charging that the offender is a major drug offender, if the 4884
court imposing sentence upon an offender for a felony finds that 4885
the offender is guilty of corrupt activity with the most serious 4886
offense in the pattern of corrupt activity being a felony of the 4887
first degree, or if the offender is guilty of an attempted 4888
violation of section 2907.02 of the Revised Code and, had the 4889
offender completed the violation of section 2907.02 of the 4890
Revised Code that was attempted, the offender would have been 4891
subject to a sentence of life imprisonment or life imprisonment 4892
without parole for the violation of section 2907.02 of the 4893
Revised Code, the court shall impose upon the offender for the 4894
felony violation a mandatory prison term determined as described 4895
in this division that, subject to divisions (C) to (I) of 4896
section 2967.19 of the Revised Code, cannot be reduced pursuant 4897
to section 2929.20, section 2967.19, or any other provision of 4898

Chapter 2967. or 5120. of the Revised Code. The mandatory prison 4899
term shall be the maximum definite prison term prescribed in 4900
division (A) (1) (b) of this section for a felony of the first 4901
degree, except that for offenses for which division (A) (1) (a) of 4902
this section applies, the mandatory prison term shall be the 4903
longest minimum prison term prescribed in that division for the 4904
offense. 4905

(4) If the offender is being sentenced for a third or 4906
fourth degree felony OVI offense under division (G) (2) of 4907
section 2929.13 of the Revised Code, the sentencing court shall 4908
impose upon the offender a mandatory prison term in accordance 4909
with that division. In addition to the mandatory prison term, if 4910
the offender is being sentenced for a fourth degree felony OVI 4911
offense, the court, notwithstanding division (A) (4) of this 4912
section, may sentence the offender to a definite prison term of 4913
not less than six months and not more than thirty months, and if 4914
the offender is being sentenced for a third degree felony OVI 4915
offense, the sentencing court may sentence the offender to an 4916
additional prison term of any duration specified in division (A) 4917
(3) of this section. In either case, the additional prison term 4918
imposed shall be reduced by the sixty or one hundred twenty days 4919
imposed upon the offender as the mandatory prison term. The 4920
total of the additional prison term imposed under division (B) 4921
(4) of this section plus the sixty or one hundred twenty days 4922
imposed as the mandatory prison term shall equal a definite term 4923
in the range of six months to thirty months for a fourth degree 4924
felony OVI offense and shall equal one of the authorized prison 4925
terms specified in division (A) (3) of this section for a third 4926
degree felony OVI offense. If the court imposes an additional 4927
prison term under division (B) (4) of this section, the offender 4928
shall serve the additional prison term after the offender has 4929

served the mandatory prison term required for the offense. In 4930
addition to the mandatory prison term or mandatory and 4931
additional prison term imposed as described in division (B) (4) 4932
of this section, the court also may sentence the offender to a 4933
community control sanction under section 2929.16 or 2929.17 of 4934
the Revised Code, but the offender shall serve all of the prison 4935
terms so imposed prior to serving the community control 4936
sanction. 4937

If the offender is being sentenced for a fourth degree 4938
felony OVI offense under division (G) (1) of section 2929.13 of 4939
the Revised Code and the court imposes a mandatory term of local 4940
incarceration, the court may impose a prison term as described 4941
in division (A) (1) of that section. 4942

(5) If an offender is convicted of or pleads guilty to a 4943
violation of division (A) (1) or (2) of section 2903.06 of the 4944
Revised Code and also is convicted of or pleads guilty to a 4945
specification of the type described in section 2941.1414 of the 4946
Revised Code that charges that the victim of the offense is a 4947
peace officer, as defined in section 2935.01 of the Revised 4948
Code, or an investigator of the bureau of criminal 4949
identification and investigation, as defined in section 2903.11 4950
of the Revised Code, the court shall impose on the offender a 4951
prison term of five years. If a court imposes a prison term on 4952
an offender under division (B) (5) of this section, the prison 4953
term, subject to divisions (C) to (I) of section 2967.19 of the 4954
Revised Code, shall not be reduced pursuant to section 2929.20, 4955
section 2967.19, section 2967.193, or any other provision of 4956
Chapter 2967. or Chapter 5120. of the Revised Code. A court 4957
shall not impose more than one prison term on an offender under 4958
division (B) (5) of this section for felonies committed as part 4959
of the same act. 4960

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

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

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

than eleven years, except that if the offense is a felony of the 4992
first degree committed on or after ~~the effective date of this~~ 4993
~~amendment~~ March 22, 2019, the court shall impose as the minimum 4994
prison term a mandatory term of not less than five years and not 4995
greater than eleven years; 4996

(ii) If the offense is a felony of the second or third 4997
degree, a definite prison term of not less than three years and 4998
not greater than the maximum prison term allowed for the offense 4999
by division (A) (2) (b) or (3) of this section, except that if the 5000
offense is a felony of the second degree committed on or after 5001
~~the effective date of this amendment~~ March 22, 2019, the court 5002
shall impose as the minimum prison term a mandatory term of not 5003
less than three years and not greater than eight years; 5004

(iii) If the offense is a felony of the fourth or fifth 5005
degree, a definite prison term that is the maximum prison term 5006
allowed for the offense by division (A) of section 2929.14 of 5007
the Revised Code. 5008

(b) Subject to divisions (C) to (I) of section 2967.19 of 5009
the Revised Code, the prison term imposed under division (B) (7) 5010
(a) of this section shall not be reduced pursuant to section 5011
2929.20, section 2967.19, section 2967.193, or any other 5012
provision of Chapter 2967. of the Revised Code. A court shall 5013
not impose more than one prison term on an offender under 5014
division (B) (7) (a) of this section for felonies committed as 5015
part of the same act, scheme, or plan. 5016

(8) If an offender is convicted of or pleads guilty to a 5017
felony violation of section 2903.11, 2903.12, or 2903.13 of the 5018
Revised Code and also is convicted of or pleads guilty to a 5019
specification of the type described in section 2941.1423 of the 5020
Revised Code that charges that the victim of the violation was a 5021

woman whom the offender knew was pregnant at the time of the 5022
violation, notwithstanding the range prescribed in division (A) 5023
of this section as the definite prison term or minimum prison 5024
term for felonies of the same degree as the violation, the court 5025
shall impose on the offender a mandatory prison term that is 5026
either a definite prison term of six months or one of the prison 5027
terms prescribed in division (A) of this section for felonies of 5028
the same degree as the violation, except that if the violation 5029
is a felony of the first or second degree committed on or after 5030
~~the effective date of this amendment~~ March 22, 2019, the court 5031
shall impose as the minimum prison term under division (A) (1) (a) 5032
or (2) (a) of this section a mandatory term that is one of the 5033
terms prescribed in that division, whichever is applicable, for 5034
the offense. 5035

(9) (a) If an offender is convicted of or pleads guilty to 5036
a violation of division (A) (1) or (2) of section 2903.11 of the 5037
Revised Code and also is convicted of or pleads guilty to a 5038
specification of the type described in section 2941.1425 of the 5039
Revised Code, the court shall impose on the offender a mandatory 5040
prison term of six years if either of the following applies: 5041

(i) The violation is a violation of division (A) (1) of 5042
section 2903.11 of the Revised Code and the specification 5043
charges that the offender used an accelerant in committing the 5044
violation and the serious physical harm to another or to 5045
another's unborn caused by the violation resulted in a 5046
permanent, serious disfigurement or permanent, substantial 5047
incapacity; 5048

(ii) The violation is a violation of division (A) (2) of 5049
section 2903.11 of the Revised Code and the specification 5050
charges that the offender used an accelerant in committing the 5051

violation, that the violation caused physical harm to another or 5052
to another's unborn, and that the physical harm resulted in a 5053
permanent, serious disfigurement or permanent, substantial 5054
incapacity. 5055

(b) If a court imposes a prison term on an offender under 5056
division (B) (9) (a) of this section, the prison term shall not be 5057
reduced pursuant to section 2929.20, section 2967.19, section 5058
2967.193, or any other provision of Chapter 2967. or Chapter 5059
5120. of the Revised Code. A court shall not impose more than 5060
one prison term on an offender under division (B) (9) of this 5061
section for felonies committed as part of the same act. 5062

(c) The provisions of divisions (B) (9) and (C) (6) of this 5063
section and of division (D) (2) of section 2903.11, division (F) 5064
(20) of section 2929.13, and section 2941.1425 of the Revised 5065
Code shall be known as "Judy's Law." 5066

(10) If an offender is convicted of or pleads guilty to a 5067
violation of division (A) of section 2903.11 of the Revised Code 5068
and also is convicted of or pleads guilty to a specification of 5069
the type described in section 2941.1426 of the Revised Code that 5070
charges that the victim of the offense suffered permanent 5071
disabling harm as a result of the offense and that the victim 5072
was under ten years of age at the time of the offense, 5073
regardless of whether the offender knew the age of the victim, 5074
the court shall impose upon the offender an additional definite 5075
prison term of six years. A prison term imposed on an offender 5076
under division (B) (10) of this section shall not be reduced 5077
pursuant to section 2929.20, section 2967.193, or any other 5078
provision of Chapter 2967. or Chapter 5120. of the Revised Code. 5079
If a court imposes an additional prison term on an offender 5080
under this division relative to a violation of division (A) of 5081

section 2903.11 of the Revised Code, the court shall not impose 5082
any other additional prison term on the offender relative to the 5083
same offense. 5084

(11) If an offender is convicted of or pleads guilty to a 5085
felony violation of section 2925.03 or 2925.05 of the Revised 5086
Code or a felony violation of section 2925.11 of the Revised 5087
Code for which division (C)(11) of that section applies in 5088
determining the sentence for the violation, if the drug involved 5089
in the violation is a fentanyl-related compound or a compound, 5090
mixture, preparation, or substance containing a fentanyl-related 5091
compound, and if the offender also is convicted of or pleads 5092
guilty to a specification of the type described in division (B) 5093
of section 2941.1410 of the Revised Code that charges that the 5094
offender is a major drug offender, in addition to any other 5095
penalty imposed for the violation, the court shall impose on the 5096
offender a mandatory prison term of three, four, five, six, 5097
seven, or eight years. If a court imposes a prison term on an 5098
offender under division (B)(11) of this section, the prison 5099
term, subject to divisions (C) to (I) of section 2967.19 of the 5100
Revised Code, shall not be reduced pursuant to section 2929.20, 5101
2967.19, or 2967.193, or any other provision of Chapter 2967. or 5102
5120. of the Revised Code. A court shall not impose more than 5103
one prison term on an offender under division (B)(11) of this 5104
section for felonies committed as part of the same act. 5105

(C)(1)(a) Subject to division (C)(1)(b) of this section, 5106
if a mandatory prison term is imposed upon an offender pursuant 5107
to division (B)(1)(a) of this section for having a firearm on or 5108
about the offender's person or under the offender's control 5109
while committing a felony, if a mandatory prison term is imposed 5110
upon an offender pursuant to division (B)(1)(c) of this section 5111
for committing a felony specified in that division by 5112

discharging a firearm from a motor vehicle, or if both types of 5113
mandatory prison terms are imposed, the offender shall serve any 5114
mandatory prison term imposed under either division 5115
consecutively to any other mandatory prison term imposed under 5116
either division or under division (B) (1) (d) of this section, 5117
consecutively to and prior to any prison term imposed for the 5118
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 5119
this section or any other section of the Revised Code, and 5120
consecutively to any other prison term or mandatory prison term 5121
previously or subsequently imposed upon the offender. 5122

(b) If a mandatory prison term is imposed upon an offender 5123
pursuant to division (B) (1) (d) of this section for wearing or 5124
carrying body armor while committing an offense of violence that 5125
is a felony, the offender shall serve the mandatory term so 5126
imposed consecutively to any other mandatory prison term imposed 5127
under that division or under division (B) (1) (a) or (c) of this 5128
section, consecutively to and prior to any prison term imposed 5129
for the underlying felony under division (A), (B) (2), or (B) (3) 5130
of this section or any other section of the Revised Code, and 5131
consecutively to any other prison term or mandatory prison term 5132
previously or subsequently imposed upon the offender. 5133

(c) If a mandatory prison term is imposed upon an offender 5134
pursuant to division (B) (1) (f) of this section, the offender 5135
shall serve the mandatory prison term so imposed consecutively 5136
to and prior to any prison term imposed for the underlying 5137
felony under division (A), (B) (2), or (B) (3) of this section or 5138
any other section of the Revised Code, and consecutively to any 5139
other prison term or mandatory prison term previously or 5140
subsequently imposed upon the offender. 5141

(d) If a mandatory prison term is imposed upon an offender 5142

pursuant to division (B) (7) or (8) of this section, the offender 5143
shall serve the mandatory prison term so imposed consecutively 5144
to any other mandatory prison term imposed under that division 5145
or under any other provision of law and consecutively to any 5146
other prison term or mandatory prison term previously or 5147
subsequently imposed upon the offender. 5148

(e) If a mandatory prison term is imposed upon an offender 5149
pursuant to division (B) (11) of this section, the offender shall 5150
serve the mandatory prison term consecutively to any other 5151
mandatory prison term imposed under that division, consecutively 5152
to and prior to any prison term imposed for the underlying 5153
felony, and consecutively to any other prison term or mandatory 5154
prison term previously or subsequently imposed upon the 5155
offender. 5156

(2) If an offender who is an inmate in a jail, prison, or 5157
other residential detention facility violates section 2917.02, 5158
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 5159
(2) of section 2921.34 of the Revised Code, if an offender who 5160
is under detention at a detention facility commits a felony 5161
violation of section 2923.131 of the Revised Code, or if an 5162
offender who is an inmate in a jail, prison, or other 5163
residential detention facility or is under detention at a 5164
detention facility commits another felony while the offender is 5165
an escapee in violation of division (A) (1) or (2) of section 5166
2921.34 of the Revised Code, any prison term imposed upon the 5167
offender for one of those violations shall be served by the 5168
offender consecutively to the prison term or term of 5169
imprisonment the offender was serving when the offender 5170
committed that offense and to any other prison term previously 5171
or subsequently imposed upon the offender. 5172

(3) If a prison term is imposed for a violation of 5173
division (B) of section 2911.01 of the Revised Code, a violation 5174
of division (A) of section 2913.02 of the Revised Code in which 5175
the stolen property is a firearm or dangerous ordnance, or a 5176
felony violation of division (B) of section 2921.331 of the 5177
Revised Code, the offender shall serve that prison term 5178
consecutively to any other prison term or mandatory prison term 5179
previously or subsequently imposed upon the offender. 5180

(4) If multiple prison terms are imposed on an offender 5181
for convictions of multiple offenses, the court may require the 5182
offender to serve the prison terms consecutively if the court 5183
finds that the consecutive service is necessary to protect the 5184
public from future crime or to punish the offender and that 5185
consecutive sentences are not disproportionate to the 5186
seriousness of the offender's conduct and to the danger the 5187
offender poses to the public, and if the court also finds any of 5188
the following: 5189

(a) The offender committed one or more of the multiple 5190
offenses while the offender was awaiting trial or sentencing, 5191
was under a sanction imposed pursuant to section 2929.16, 5192
2929.17, or 2929.18 of the Revised Code, or was under post- 5193
release control for a prior offense. 5194

(b) At least two of the multiple offenses were committed 5195
as part of one or more courses of conduct, and the harm caused 5196
by two or more of the multiple offenses so committed was so 5197
great or unusual that no single prison term for any of the 5198
offenses committed as part of any of the courses of conduct 5199
adequately reflects the seriousness of the offender's conduct. 5200

(c) The offender's history of criminal conduct 5201
demonstrates that consecutive sentences are necessary to protect 5202

the public from future crime by the offender. 5203

(5) If a mandatory prison term is imposed upon an offender 5204
pursuant to division (B) (5) or (6) of this section, the offender 5205
shall serve the mandatory prison term consecutively to and prior 5206
to any prison term imposed for the underlying violation of 5207
division (A) (1) or (2) of section 2903.06 of the Revised Code 5208
pursuant to division (A) of this section or section 2929.142 of 5209
the Revised Code. If a mandatory prison term is imposed upon an 5210
offender pursuant to division (B) (5) of this section, and if a 5211
mandatory prison term also is imposed upon the offender pursuant 5212
to division (B) (6) of this section in relation to the same 5213
violation, the offender shall serve the mandatory prison term 5214
imposed pursuant to division (B) (5) of this section 5215
consecutively to and prior to the mandatory prison term imposed 5216
pursuant to division (B) (6) of this section and consecutively to 5217
and prior to any prison term imposed for the underlying 5218
violation of division (A) (1) or (2) of section 2903.06 of the 5219
Revised Code pursuant to division (A) of this section or section 5220
2929.142 of the Revised Code. 5221

(6) If a mandatory prison term is imposed on an offender 5222
pursuant to division (B) (9) of this section, the offender shall 5223
serve the mandatory prison term consecutively to and prior to 5224
any prison term imposed for the underlying violation of division 5225
(A) (1) or (2) of section 2903.11 of the Revised Code and 5226
consecutively to and prior to any other prison term or mandatory 5227
prison term previously or subsequently imposed on the offender. 5228

(7) If a mandatory prison term is imposed on an offender 5229
pursuant to division (B) (10) of this section, the offender shall 5230
serve that mandatory prison term consecutively to and prior to 5231
any prison term imposed for the underlying felonious assault. 5232

Except as otherwise provided in division (C) of this section, 5233
any other prison term or mandatory prison term previously or 5234
subsequently imposed upon the offender may be served 5235
concurrently with, or consecutively to, the prison term imposed 5236
pursuant to division (B)(10) of this section. 5237

(8) Any prison term imposed for a violation of section 5238
2903.04 of the Revised Code that is based on a violation of 5239
section 2925.03 or 2925.11 of the Revised Code or on a violation 5240
of section 2925.05 of the Revised Code that is not funding of 5241
marihuana trafficking shall run consecutively to any prison term 5242
imposed for the violation of section 2925.03 or 2925.11 of the 5243
Revised Code or for the violation of section 2925.05 of the 5244
Revised Code that is not funding of marihuana trafficking. 5245

(9) When consecutive prison terms are imposed pursuant to 5246
division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or 5247
division (H)(1) or (2) of this section, subject to division (C) 5248
(10) of this section, the term to be served is the aggregate of 5249
all of the terms so imposed. 5250

(10) When a court sentences an offender to a non-life 5251
felony indefinite prison term, any definite prison term or 5252
mandatory definite prison term previously or subsequently 5253
imposed on the offender in addition to that indefinite sentence 5254
that is required to be served consecutively to that indefinite 5255
sentence shall be served prior to the indefinite sentence. 5256

(11) If a court is sentencing an offender for a felony of 5257
the first or second degree, if division (A)(1)(a) or (2)(a) of 5258
this section applies with respect to the sentencing for the 5259
offense, and if the court is required under the Revised Code 5260
section that sets forth the offense or any other Revised Code 5261
provision to impose a mandatory prison term for the offense, the 5262

court shall impose the required mandatory prison term as the 5263
minimum term imposed under division (A) (1) (a) or (2) (a) of this 5264
section, whichever is applicable. 5265

(D) (1) If a court imposes a prison term, other than a term 5266
of life imprisonment, for a felony of the first degree, for a 5267
felony of the second degree, for a felony sex offense, or for a 5268
felony of the third degree that is an offense of violence and 5269
that is not a felony sex offense, it shall include in the 5270
sentence a requirement that the offender be subject to a period 5271
of post-release control after the offender's release from 5272
imprisonment, in accordance with section 2967.28 of the Revised 5273
Code. If a court imposes a sentence including a prison term of a 5274
type described in this division on or after July 11, 2006, the 5275
failure of a court to include a post-release control requirement 5276
in the sentence pursuant to this division does not negate, 5277
limit, or otherwise affect the mandatory period of post-release 5278
control that is required for the offender under division (B) of 5279
section 2967.28 of the Revised Code. Section 2929.191 of the 5280
Revised Code applies if, prior to July 11, 2006, a court imposed 5281
a sentence including a prison term of a type described in this 5282
division and failed to include in the sentence pursuant to this 5283
division a statement regarding post-release control. 5284

(2) If a court imposes a prison term for a felony of the 5285
third, fourth, or fifth degree that is not subject to division 5286
(D) (1) of this section, it shall include in the sentence a 5287
requirement that the offender be subject to a period of post- 5288
release control after the offender's release from imprisonment, 5289
in accordance with that division, if the parole board determines 5290
that a period of post-release control is necessary. Section 5291
2929.191 of the Revised Code applies if, prior to July 11, 2006, 5292
a court imposed a sentence including a prison term of a type 5293

described in this division and failed to include in the sentence 5294
pursuant to this division a statement regarding post-release 5295
control. 5296

(E) The court shall impose sentence upon the offender in 5297
accordance with section 2971.03 of the Revised Code, and Chapter 5298
2971. of the Revised Code applies regarding the prison term or 5299
term of life imprisonment without parole imposed upon the 5300
offender and the service of that term of imprisonment if any of 5301
the following apply: 5302

(1) A person is convicted of or pleads guilty to a violent 5303
sex offense or a designated homicide, assault, or kidnapping 5304
offense, and, in relation to that offense, the offender is 5305
adjudicated a sexually violent predator. 5306

(2) A person is convicted of or pleads guilty to a 5307
violation of division (A) (1) (b) of section 2907.02 of the 5308
Revised Code committed on or after January 2, 2007, and either 5309
the court does not impose a sentence of life without parole when 5310
authorized pursuant to division (B) of section 2907.02 of the 5311
Revised Code, or division (B) of section 2907.02 of the Revised 5312
Code provides that the court shall not sentence the offender 5313
pursuant to section 2971.03 of the Revised Code. 5314

(3) A person is convicted of or pleads guilty to attempted 5315
rape committed on or after January 2, 2007, and a specification 5316
of the type described in section 2941.1418, 2941.1419, or 5317
2941.1420 of the Revised Code. 5318

(4) A person is convicted of or pleads guilty to a 5319
violation of section 2905.01 of the Revised Code committed on or 5320
after January 1, 2008, and that section requires the court to 5321
sentence the offender pursuant to section 2971.03 of the Revised 5322

Code. 5323

(5) A person is convicted of or pleads guilty to 5324
aggravated murder committed on or after January 1, 2008, and 5325
division ~~(A) (2) (b) (ii) of section 2929.022, division (A) (1) (e),~~ 5326
~~(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1)~~ 5327
~~(a) (iv) of section 2929.03, or division (A) or (B) (C) of~~ 5328
section ~~2929.06~~ 2929.02 of the Revised Code requires the court 5329
to sentence the offender pursuant to division (B) (3) of section 5330
2971.03 of the Revised Code. 5331

(6) A person is convicted of or pleads guilty to murder 5332
committed on or after January 1, 2008, and division ~~(B) (2)~~ (C) 5333
(1) of section 2929.02 of the Revised Code requires the court to 5334
sentence the offender pursuant to section 2971.03 of the Revised 5335
Code. 5336

(F) If a person who has been convicted of or pleaded 5337
guilty to a felony is sentenced to a prison term or term of 5338
imprisonment under this section, ~~sections~~ section 2929.02 to 5339
~~2929.06 of the Revised Code, section 2929.142 of the Revised~~ 5340
~~Code, section or~~ 2971.03 of the Revised Code, or any other 5341
provision of law, section 5120.163 of the Revised Code applies 5342
regarding the person while the person is confined in a state 5343
correctional institution. 5344

(G) If an offender who is convicted of or pleads guilty to 5345
a felony that is an offense of violence also is convicted of or 5346
pleads guilty to a specification of the type described in 5347
section 2941.142 of the Revised Code that charges the offender 5348
with having committed the felony while participating in a 5349
criminal gang, the court shall impose upon the offender an 5350
additional prison term of one, two, or three years. 5351

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

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

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

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

(b) In lieu of imposing an additional prison term under division (H) (2) (a) of this section, the court may directly

impose on the offender a sanction that requires the offender to 5382
wear a real-time processing, continual tracking electronic 5383
monitoring device during the period of time specified by the 5384
court. The period of time specified by the court shall equal the 5385
duration of an additional prison term that the court could have 5386
imposed upon the offender under division (H) (2) (a) of this 5387
section. A sanction imposed under this division shall commence 5388
on the date specified by the court, provided that the sanction 5389
shall not commence until after the offender has served the 5390
prison term imposed for the felony violation of section 2907.22, 5391
2907.24, 2907.241, or 2907.25 of the Revised Code and any 5392
residential sanction imposed for the violation under section 5393
2929.16 of the Revised Code. A sanction imposed under this 5394
division shall be considered to be a community control sanction 5395
for purposes of section 2929.15 of the Revised Code, and all 5396
provisions of the Revised Code that pertain to community control 5397
sanctions shall apply to a sanction imposed under this division, 5398
except to the extent that they would by their nature be clearly 5399
inapplicable. The offender shall pay all costs associated with a 5400
sanction imposed under this division, including the cost of the 5401
use of the monitoring device. 5402

(I) At the time of sentencing, the court may recommend the 5403
offender for placement in a program of shock incarceration under 5404
section 5120.031 of the Revised Code or for placement in an 5405
intensive program prison under section 5120.032 of the Revised 5406
Code, disapprove placement of the offender in a program of shock 5407
incarceration or an intensive program prison of that nature, or 5408
make no recommendation on placement of the offender. In no case 5409
shall the department of rehabilitation and correction place the 5410
offender in a program or prison of that nature unless the 5411
department determines as specified in section 5120.031 or 5412

5120.032 of the Revised Code, whichever is applicable, that the 5413
offender is eligible for the placement. 5414

If the court disapproves placement of the offender in a 5415
program or prison of that nature, the department of 5416
rehabilitation and correction shall not place the offender in 5417
any program of shock incarceration or intensive program prison. 5418

If the court recommends placement of the offender in a 5419
program of shock incarceration or in an intensive program 5420
prison, and if the offender is subsequently placed in the 5421
recommended program or prison, the department shall notify the 5422
court of the placement and shall include with the notice a brief 5423
description of the placement. 5424

If the court recommends placement of the offender in a 5425
program of shock incarceration or in an intensive program prison 5426
and the department does not subsequently place the offender in 5427
the recommended program or prison, the department shall send a 5428
notice to the court indicating why the offender was not placed 5429
in the recommended program or prison. 5430

If the court does not make a recommendation under this 5431
division with respect to an offender and if the department 5432
determines as specified in section 5120.031 or 5120.032 of the 5433
Revised Code, whichever is applicable, that the offender is 5434
eligible for placement in a program or prison of that nature, 5435
the department shall screen the offender and determine if there 5436
is an available program of shock incarceration or an intensive 5437
program prison for which the offender is suited. If there is an 5438
available program of shock incarceration or an intensive program 5439
prison for which the offender is suited, the department shall 5440
notify the court of the proposed placement of the offender as 5441
specified in section 5120.031 or 5120.032 of the Revised Code 5442

and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

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

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

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

(L) If an offender receives or received a sentence of life imprisonment without parole, a sentence of life imprisonment, a definite sentence, or a sentence to an indefinite prison term under this chapter for a felony offense that was committed when the offender was under eighteen years of age, the offender's parole eligibility shall be determined under section 2967.132 of the Revised Code.

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

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

(C) Persons charged with an offense that is a felony of

the third or fourth degree and that was committed on or after 5503
January 1, 1974, and before July 1, 1983, shall be prosecuted 5504
under the law as it existed at the time the offense was 5505
committed. Persons convicted or sentenced on or after July 1, 5506
1983, for an offense that is a felony of the third or fourth 5507
degree and that was committed on or after January 1, 1974, and 5508
before July 1, 1983, shall be notified by the court sufficiently 5509
in advance of sentencing that they may choose to be sentenced 5510
pursuant to either the law in effect at the time of the 5511
commission of the offense or the law in effect at the time of 5512
sentencing. This notice shall be written and shall include the 5513
differences between and possible effects of the alternative 5514
sentence forms and the effect of the person's refusal to choose. 5515
The person to be sentenced shall then inform the court in 5516
writing of the person's choice, and shall be sentenced 5517
accordingly. Any person choosing to be sentenced pursuant to the 5518
law in effect at the time of the commission of an offense that 5519
is a felony of the third or fourth degree shall then be eligible 5520
for parole, and this person cannot at a later date have the 5521
person's sentence converted to a definite sentence. If the 5522
person refuses to choose between the two possible sentences, the 5523
person shall be sentenced pursuant to the law in effect at the 5524
time of the commission of the offense. 5525

(D) Persons charged with an offense that was a felony of 5526
the first or second degree at the time it was committed, that 5527
was committed on or after January 1, 1974, and that was 5528
committed prior to July 1, 1983, shall be prosecuted for that 5529
offense and, if convicted, shall be sentenced under the law as 5530
it existed at the time the offense was committed. 5531

(E) Persons charged with an offense that is a felony of 5532
the first or second degree that was committed prior to ~~the~~ 5533

~~effective date March 22, 2019, of this amendment shall be~~ 5534
~~prosecuted for that offense and, if convicted, shall be~~ 5535
~~sentenced under the law as it existed at the time the offense~~ 5536
~~was committed.~~ 5537

Sec. 2930.19. (A) In a manner consistent with the duty of 5538
a prosecutor to represent the interests of the public as a 5539
whole, a prosecutor shall seek compliance with this chapter on 5540
behalf of a victim, a member of the victim's family, or the 5541
victim's representative. 5542

(B) The failure of a public official or public agency to 5543
comply with the requirements of this chapter does not give rise 5544
to a claim for damages against that public official or public 5545
agency, except that a public agency as an employer may be held 5546
responsible for a violation of section 2930.18 of the Revised 5547
Code. 5548

(C) The failure of any person or entity to provide a 5549
right, privilege, or notice to a victim under this chapter does 5550
not constitute grounds for declaring a mistrial or new trial, 5551
for setting aside a conviction, sentence, adjudication, or 5552
disposition, or for granting postconviction release to a 5553
defendant or alleged juvenile offender. 5554

~~(D) If there is a conflict between a provision in this~~ 5555
~~chapter and a specific statute governing the procedure in a case~~ 5556
~~involving a capital offense, the specific statute supersedes the~~ 5557
~~provision in this chapter.~~ 5558

~~(E)~~ If the victim of a crime is incarcerated in a state or 5559
local correctional facility or is in the legal custody of the 5560
department of youth services, the victim's rights under this 5561
chapter may be modified by court order to prevent any security 5562

risk, hardship, or undue burden upon a public official or public agency with a duty under this chapter. 5563
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Sec. 2937.222. (A) On the motion of the prosecuting attorney or on the judge's own motion, the judge shall hold a hearing to determine whether an accused person charged with aggravated murder ~~when it is not a capital offense~~, murder, a felony of the first or second degree, a violation of section 2903.06 of the Revised Code, a violation of section 2903.211 of the Revised Code that is a felony, or a felony OVI offense shall be denied bail. The judge shall order that the accused be detained until the conclusion of the hearing. Except for good cause, a continuance on the motion of the state shall not exceed three court days. Except for good cause, a continuance on the motion of the accused shall not exceed five court days unless the motion of the accused waives in writing the five-day limit and states in writing a specific period for which the accused requests a continuance. A continuance granted upon a motion of the accused that waives in writing the five-day limit shall not exceed five court days after the period of continuance requested in the motion. 5565
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At the hearing, the accused has the right to be represented by counsel and, if the accused is indigent, to have counsel appointed. The judge shall afford the accused an opportunity to testify, to present witnesses and other information, and to cross-examine witnesses who appear at the hearing. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. Regardless of whether the hearing is being held on the motion of the prosecuting attorney or on the court's own motion, the state has the burden of proving that the proof is evident or the 5583
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presumption great that the accused committed the offense with 5594
which the accused is charged, of proving that the accused poses 5595
a substantial risk of serious physical harm to any person or to 5596
the community, and of proving that no release conditions will 5597
reasonably assure the safety of that person and the community. 5598

The judge may reopen the hearing at any time before trial 5599
if the judge finds that information exists that was not known to 5600
the movant at the time of the hearing and that that information 5601
has a material bearing on whether bail should be denied. If a 5602
municipal court or county court enters an order denying bail, a 5603
judge of the court of common pleas having jurisdiction over the 5604
case may continue that order or may hold a hearing pursuant to 5605
this section to determine whether to continue that order. 5606

(B) No accused person shall be denied bail pursuant to 5607
this section unless the judge finds by clear and convincing 5608
evidence that the proof is evident or the presumption great that 5609
the accused committed the offense described in division (A) of 5610
this section with which the accused is charged, finds by clear 5611
and convincing evidence that the accused poses a substantial 5612
risk of serious physical harm to any person or to the community, 5613
and finds by clear and convincing evidence that no release 5614
conditions will reasonably assure the safety of that person and 5615
the community. 5616

(C) The judge, in determining whether the accused person 5617
described in division (A) of this section poses a substantial 5618
risk of serious physical harm to any person or to the community 5619
and whether there are conditions of release that will reasonably 5620
assure the safety of that person and the community, shall 5621
consider all available information regarding all of the 5622
following: 5623

- (1) The nature and circumstances of the offense charged, 5624
including whether the offense is an offense of violence or 5625
involves alcohol or a drug of abuse; 5626
- (2) The weight of the evidence against the accused; 5627
- (3) The history and characteristics of the accused, 5628
including, but not limited to, both of the following: 5629
- (a) The character, physical and mental condition, family 5630
ties, employment, financial resources, length of residence in 5631
the community, community ties, past conduct, history relating to 5632
drug or alcohol abuse, and criminal history of the accused; 5633
- (b) Whether, at the time of the current alleged offense or 5634
at the time of the arrest of the accused, the accused was on 5635
probation, parole, post-release control, or other release 5636
pending trial, sentencing, appeal, or completion of sentence for 5637
the commission of an offense under the laws of this state, 5638
another state, or the United States or under a municipal 5639
ordinance. 5640
- (4) The nature and seriousness of the danger to any person 5641
or the community that would be posed by the person's release. 5642
- (D) (1) An order of the court of common pleas denying bail 5643
pursuant to this section is a final appealable order. In an 5644
appeal pursuant to division (D) of this section, the court of 5645
appeals shall do all of the following: 5646
- (a) Give the appeal priority on its calendar; 5647
- (b) Liberally modify or dispense with formal requirements 5648
in the interest of a speedy and just resolution of the appeal; 5649
- (c) Decide the appeal expeditiously; 5650

(d) Promptly enter its judgment affirming or reversing the order denying bail. 5651
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(2) The pendency of an appeal under this section does not deprive the court of common pleas of jurisdiction to conduct further proceedings in the case or to further consider the order denying bail in accordance with this section. If, during the pendency of an appeal under division (D) of this section, the court of common pleas sets aside or terminates the order denying bail, the court of appeals shall dismiss the appeal. 5653
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(E) As used in this section: 5660

(1) "Court day" has the same meaning as in section 5122.01 of the Revised Code. 5661
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(2) "Felony OVI offense" means a third degree felony OVI offense and a fourth degree felony OVI offense. 5663
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(3) "Fourth degree felony OVI offense" and "third degree felony OVI offense" have the same meanings as in section 2929.01 of the Revised Code. 5665
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Sec. 2941.021. Any criminal offense which is not punishable by ~~death or~~ life imprisonment may be prosecuted by information filed in the common pleas court by the prosecuting attorney if the defendant, after ~~he has~~ having been advised by the court of the nature of the charge against ~~him~~ the defendant and of ~~his~~ the defendant's rights under the constitution, is represented by counsel or has affirmatively waived counsel by waiver in writing and in open court, waives in writing and in open court prosecution by indictment. 5668
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Sec. 2941.14. ~~(A)~~ In an indictment for aggravated murder, murder, or voluntary or involuntary manslaughter, the manner in which, or the means by which the death was caused need not be 5677
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set forth. 5680

~~(B) Imposition of the death penalty for aggravated murder is precluded unless the indictment or count in the indictment charging the offense specifies one or more of the aggravating circumstances listed in division (A) of section 2929.04 of the Revised Code. If more than one aggravating circumstance is specified to an indictment or count, each shall be in a separately numbered specification, and if an aggravating circumstance is specified to a count in an indictment containing more than one count, such specification shall be identified as to the count to which it applies.~~ 5681
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~~(C) A specification to an indictment or count in an indictment charging aggravated murder shall be stated at the end of the body of the indictment or count, and may be in substantially the following form:~~ 5691
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~~"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand Jurors further find and specify that (set forth the applicable aggravating circumstance listed in divisions (A) (1) to (10) of section 2929.04 of the Revised Code. The aggravating circumstance may be stated in the words of the subdivision in which it appears, or in words sufficient to give the accused notice of the same)."~~ 5695
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Sec. 2941.148. (A) (1) The application of Chapter 2971. of the Revised Code to an offender is precluded unless one of the following applies: 5703
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(a) The offender is charged with a violent sex offense, and the indictment, count in the indictment, or information charging the violent sex offense also includes a specification 5706
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that the offender is a sexually violent predator, or the 5709
offender is charged with a designated homicide, assault, or 5710
kidnapping offense, and the indictment, count in the indictment, 5711
or information charging the designated homicide, assault, or 5712
kidnapping offense also includes both a specification of the 5713
type described in section 2941.147 of the Revised Code and a 5714
specification that the offender is a sexually violent predator. 5715

(b) The offender is convicted of or pleads guilty to a 5716
violation of division (A) (1) (b) of section 2907.02 of the 5717
Revised Code committed on or after January 2, 2007, and division 5718
(B) of section 2907.02 of the Revised Code does not prohibit the 5719
court from sentencing the offender pursuant to section 2971.03 5720
of the Revised Code. 5721

(c) The offender is convicted of or pleads guilty to 5722
attempted rape committed on or after January 2, 2007, and to a 5723
specification of the type described in section 2941.1418, 5724
2941.1419, or 2941.1420 of the Revised Code. 5725

(d) The offender is convicted of or pleads guilty to a 5726
violation of section 2905.01 of the Revised Code and to a 5727
specification of the type described in section 2941.147 of the 5728
Revised Code, and section 2905.01 of the Revised Code requires a 5729
court to sentence the offender pursuant to section 2971.03 of 5730
the Revised Code. 5731

(e) The offender is convicted of or pleads guilty to 5732
aggravated murder and to a specification of the type described 5733
in section 2941.147 of the Revised Code, and division ~~(A) (2) (b)~~ 5734
~~(ii) of section 2929.022, division (A) (1) (c), (C) (1) (a) (v), (C)~~ 5735
~~(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of~~ 5736
~~section 2929.03, or division (A) or (B) (C) of section 2929.06-~~ 5737
2929.02 of the Revised Code requires a court to sentence the 5738

offender pursuant to division (B) (3) of section 2971.03 of the Revised Code. 5739
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(f) The offender is convicted of or pleads guilty to murder and to a specification of the type described in section 2941.147 of the Revised Code, and division ~~(B) (2)~~ (C) (1) of section 2929.02 of the Revised Code requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code. 5741
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(2) A specification required under division (A) (1) (a) of this section that an offender is a sexually violent predator shall be stated at the end of the body of the indictment, count, or information and shall be stated in substantially the following form: 5746
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"Specification (or, specification to the first count). The 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." 5751
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(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. 5755
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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. 5762
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Sec. 2941.401. When a person has entered upon a term of imprisonment in a correctional institution of this state, and 5766
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when during the continuance of the term of imprisonment there is 5768
pending in this state any untried indictment, information, or 5769
complaint against the prisoner, ~~he~~ the prisoner shall be brought 5770
to trial within one hundred eighty days after ~~he~~ the prisoner 5771
causes to be delivered to the prosecuting attorney and the 5772
appropriate court in which the matter is pending, written notice 5773
of the place of ~~his~~ the prisoner's imprisonment and a request 5774
for a final disposition to be made of the matter, except that 5775
for good cause shown in open court, with the prisoner or ~~his~~ the 5776
prisoner's counsel present, the court may grant any necessary or 5777
reasonable continuance. The request of the prisoner shall be 5778
accompanied by a certificate of the warden or superintendent 5779
having custody of the prisoner, stating the term of commitment 5780
under which the prisoner is being held, the time served and 5781
remaining to be served on the sentence, the amount of good time 5782
earned, the time of parole eligibility of the prisoner, and any 5783
decisions of the adult parole authority relating to the 5784
prisoner. 5785

The written notice and request for final disposition shall 5786
be given or sent by the prisoner to the warden or superintendent 5787
having custody of ~~him~~ the prisoner, who shall promptly forward 5788
it with the certificate to the appropriate prosecuting attorney 5789
and court by registered or certified mail, return receipt 5790
requested. 5791

The warden or superintendent having custody of the 5792
prisoner shall promptly inform ~~him~~ the prisoner in writing of 5793
the source and contents of any untried indictment, information, 5794
or complaint against ~~him~~ the prisoner, concerning which the 5795
warden or superintendent has knowledge, and of ~~his~~ the 5796
prisoner's right to make a request for final disposition 5797
thereof. 5798

Escape from custody by the prisoner, subsequent to ~~his~~ the 5799
prisoner's execution of the request for final disposition, voids 5800
the request. 5801

If the action is not brought to trial within the time 5802
provided, subject to continuance allowed pursuant to this 5803
section, no court any longer has jurisdiction thereof, the 5804
indictment, information, or complaint is void, and the court 5805
shall enter an order dismissing the action with prejudice. 5806

This section does not apply to any person adjudged to be 5807
mentally ill or who is under sentence of life imprisonment ~~or~~ 5808
~~death, or to any prisoner under sentence of death.~~ 5809

Sec. 2941.43. If the convict referred to in section 5810
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 5811
be forthwith returned by the sheriff to the state correctional 5812
institution to serve out the remainder of ~~his~~ the convict's 5813
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 5814
state correctional institution, ~~he~~ the convict shall be returned 5815
to the state correctional institution by the sheriff to serve 5816
~~his new~~ the convict's term. If ~~he is sentenced to death, the~~ 5817
~~death sentence shall be executed as if he were not under~~ 5818
~~sentence of imprisonment in a state correctional institution.~~ 5819

Sec. 2941.51. (A) Counsel appointed to a case or selected 5820
by an indigent person under division (E) of section 120.16 or 5821
division (E) of section 120.26 of the Revised Code, or otherwise 5822
appointed by the court, except for counsel appointed by the 5823
court to provide legal representation for a person charged with 5824
a violation of an ordinance of a municipal corporation, shall be 5825
paid for their services by the county the compensation and 5826
expenses that the trial court approves. Each request for payment 5827
shall include a financial disclosure form completed by the 5828

indigent person on a form prescribed by the state public 5829
defender. Compensation and expenses shall not exceed the amounts 5830
fixed by the board of county commissioners pursuant to division 5831
(B) of this section. 5832

(B) The board of county commissioners shall establish a 5833
schedule of fees by case or on an hourly basis to be paid by the 5834
county for legal services provided by appointed counsel. Prior 5835
to establishing such schedule, the board shall request the bar 5836
association or associations of the county to submit a proposed 5837
~~schedule for cases other than capital cases.~~ The schedule 5838
submitted shall be subject to the review, amendment, and 5839
approval of the board of county commissioners, ~~except with~~ 5840
~~respect to capital cases. With respect to capital cases, the~~ 5841
~~schedule shall provide for fees by case or on an hourly basis to~~ 5842
~~be paid to counsel in the amount or at the rate set by the~~ 5843
~~capital case attorney fee council pursuant to division (D) of~~ 5844
~~section 120.33 of the Revised Code, and the board of county~~ 5845
~~commissioners shall approve that amount or rate.~~ 5846

~~With respect to capital cases, counsel shall be paid~~ 5847
~~compensation and expenses in accordance with the amount or at~~ 5848
~~the rate set by the capital case attorney fee council pursuant~~ 5849
~~to division (D) of section 120.33 of the Revised Code.~~ 5850

(C) In a case where counsel have been appointed to conduct 5851
an appeal under Chapter 120. of the Revised Code, such 5852
compensation shall be fixed by the court of appeals or the 5853
supreme court, as provided in divisions (A) and (B) of this 5854
section. 5855

(D) The fees and expenses approved by the court under this 5856
section shall not be taxed as part of the costs and shall be 5857
paid by the county. However, if the person represented has, or 5858

reasonably may be expected to have, the means to meet some part 5859
of the cost of the services rendered to the person, the person 5860
shall pay the county an amount that the person reasonably can be 5861
expected to pay. Pursuant to section 120.04 of the Revised Code, 5862
the county shall pay to the state public defender a percentage 5863
of the payment received from the person in an amount 5864
proportionate to the percentage of the costs of the person's 5865
case that were paid to the county by the state public defender 5866
pursuant to this section. The money paid to the state public 5867
defender shall be credited to the client payment fund created 5868
pursuant to division (B) (5) of section 120.04 of the Revised 5869
Code. 5870

(E) The county auditor shall draw a warrant on the county 5871
treasurer for the payment of such counsel in the amount fixed by 5872
the court, plus the expenses that the court fixes and certifies 5873
to the auditor. The county auditor shall report periodically, 5874
but not less than annually, to the board of county commissioners 5875
and to the Ohio public defender commission the amounts paid out 5876
pursuant to the approval of the court under this section,~~—~~ 5877
~~separately stating costs and expenses that are reimbursable—~~ 5878
~~under section 120.35 of the Revised Code.~~ The board, after 5879
review and approval of the auditor's report, may then certify it 5880
to the state public defender for reimbursement. The request for 5881
reimbursement shall be accompanied by a financial disclosure 5882
form completed by each indigent person for whom counsel was 5883
provided on a form prescribed by the state public defender. The 5884
state public defender shall review the report and, in accordance 5885
with the standards, guidelines, and maximums established 5886
pursuant to divisions (B) (7) and (8) of section 120.04 of the 5887
Revised Code and the payment determination provisions of section 5888
120.34 of the Revised Code, pay the cost,~~—other than costs and—~~ 5889

~~expenses that are reimbursable under section 120.35 of the~~ 5890
~~Revised Code, if any,~~ of paying appointed counsel in each county 5891
~~and pay costs and expenses that are reimbursable under section~~ 5892
~~120.35 of the Revised Code, if any,~~ to the board. The amount of 5893
payments the state public defender is to make shall be 5894
determined as specified in section 120.34 of the Revised Code. 5895

(F) If any county system for paying appointed counsel 5896
fails to maintain the standards for the conduct of the system 5897
established by the rules of the Ohio public defender commission 5898
pursuant to divisions (B) and (C) of section 120.03 of the 5899
Revised Code or the standards established by the state public 5900
defender pursuant to division (B) (7) of section 120.04 of the 5901
Revised Code, the commission shall notify the board of county 5902
commissioners of the county that the county system for paying 5903
appointed counsel has failed to comply with its rules. Unless 5904
the board corrects the conduct of its appointed counsel system 5905
to comply with the rules within ninety days after the date of 5906
the notice, the state public defender may deny all or part of 5907
the county's reimbursement from the state provided for in this 5908
section. 5909

Sec. 2945.06. In any case in which a defendant waives ~~his~~ 5910
the defendant's right to trial by jury and elects to be tried by 5911
the court under section 2945.05 of the Revised Code, any judge 5912
of the court in which the cause is pending shall proceed to 5913
hear, try, and determine the cause in accordance with the rules 5914
and in like manner as if the cause were being tried before a 5915
jury. ~~If the accused is charged with an offense punishable with~~ 5916
~~death, he shall be tried by a court to be composed of three~~ 5917
~~judges, consisting of the judge presiding at the time in the~~ 5918
~~trial of criminal cases and two other judges to be designated by~~ 5919
~~the presiding judge or chief justice of that court, and in case~~ 5920

~~there is neither a presiding judge nor a chief justice, by the~~ 5921
~~chief justice of the supreme court. The judges or a majority of~~ 5922
~~them may decide all questions of fact and law arising upon the~~ 5923
~~trial; however the accused shall not be found guilty or not~~ 5924
~~guilty of any offense unless the judges unanimously find the~~ 5925
~~accused guilty or not guilty. If the accused pleads guilty of~~ 5926
~~aggravated murder, a court composed of three judges shall~~ 5927
~~examine the witnesses, determine whether the accused is guilty~~ 5928
~~of aggravated murder or any other offense, and pronounce~~ 5929
~~sentence accordingly. The court shall follow the procedures~~ 5930
~~contained in sections 2929.03 and 2929.04 of the Revised Code in~~ 5931
~~all cases in which the accused is charged with an offense~~ 5932
~~punishable by death. If in the composition of the court it is~~ 5933
~~necessary that a judge from another county be assigned by the~~ 5934
~~chief justice, the judge from another county shall be~~ 5935
~~compensated for his services as provided by section 141.07 of~~ 5936
~~the Revised Code.~~ 5937

Sec. 2945.10. The trial of an issue upon an indictment or 5938
information shall proceed before the trial court or jury as 5939
follows: 5940

(A) Counsel for the state must first state the case for 5941
the prosecution, and may briefly state the evidence by which the 5942
counsel for the state expects to sustain it. 5943

(B) The defendant or the defendant's counsel must then 5944
state the defense, and may briefly state the evidence which the 5945
defendant or the defendant's counsel expects to offer in support 5946
of it. 5947

(C) The state must first produce its evidence and the 5948
defendant shall then produce the defendant's evidence. 5949

(D) The state will then be confined to rebutting evidence, 5950
but the court, for good reason, in furtherance of justice, may 5951
permit evidence to be offered by either side out of its order. 5952

(E) When the evidence is concluded, ~~one of the following~~ 5953
~~applies regarding jury instructions:~~ 5954

~~(1) In a capital case that is being heard by a jury, the~~ 5955
~~court shall prepare written instructions to the jury on the~~ 5956
~~points of law, shall provide copies of the written instructions~~ 5957
~~to the jury before orally instructing the jury, and shall permit~~ 5958
~~the jury to retain and consult the instructions during the~~ 5959
~~court's presentation of the oral instructions and during the~~ 5960
~~jury's deliberations.~~ 5961

~~(2) In a case that is not a capital case, either party may~~ 5962
request instructions to the jury on the points of law, which 5963
instructions shall be reduced to writing if either party 5964
requests it. 5965

(F) When the evidence is concluded, unless the case is 5966
submitted without argument, the counsel for the state shall 5967
commence, the defendant or the defendant's counsel follow, and 5968
the counsel for the state conclude the argument to the jury. 5969

(G) The court, after the argument is concluded and before 5970
proceeding with other business, shall forthwith charge the jury. 5971
Such charge shall be reduced to writing by the court if either 5972
party requests it before the argument to the jury is commenced. 5973
Such charge, or other charge or instruction provided for in this 5974
section, when so written and given, shall not be orally 5975
qualified, modified, or explained to the jury by the court. 5976
Written charges and instructions shall be taken by the jury in 5977
their retirement and returned with their verdict into court and 5978

remain on file with the papers of the case. 5979

The court may deviate from the order of proceedings listed 5980
in this section. 5981

Sec. 2945.13. When two or more persons are jointly 5982
indicted for a felony, ~~except a capital offense,~~ they shall be 5983
tried jointly unless the court, for good cause shown on 5984
application therefor by the prosecuting attorney or one or more 5985
of said defendants, orders one or more of said defendants to be 5986
tried separately. 5987

Sec. 2945.21. (A) (1) In criminal cases in which there is 5988
only one defendant, each party, in addition to the challenges 5989
for cause authorized by law, may peremptorily challenge three of 5990
the jurors in misdemeanor cases ~~and,~~ four of the jurors in 5991
felony cases other than ~~capital~~ cases that may subject the 5992
defendant to a sentence of life imprisonment, and six of the 5993
jurors in cases that may subject the defendant to a sentence of 5994
life imprisonment. If there is more than one defendant, each 5995
defendant may peremptorily challenge the same number of jurors 5996
as if ~~he~~ the defendant were the sole defendant. 5997

~~(2) Notwithstanding Criminal Rule 24, in capital cases in~~ 5998
~~which there is only one defendant, each party, in addition to~~ 5999
~~the challenges for cause authorized by law, may peremptorily~~ 6000
~~challenge twelve of the jurors. If there is more than one~~ 6001
~~defendant, each defendant may peremptorily challenge the same~~ 6002
~~number of jurors as if he were the sole defendant.~~ 6003

~~(3)~~ In any case in which there are multiple defendants, 6004
the prosecuting attorney may peremptorily challenge a number of 6005
jurors equal to the total number of peremptory challenges 6006
allowed to all of the defendants. 6007

(B) If any indictments, informations, or complaints are 6008
consolidated for trial, the consolidated cases shall be 6009
considered, for purposes of exercising peremptory challenges, as 6010
though the defendants or offenses had been joined in the same 6011
indictment, information, or complaint. 6012

(C) The exercise of peremptory challenges authorized by 6013
this section shall be in accordance with the procedures of 6014
Criminal Rule 24. 6015

Sec. 2945.25. A person called as a juror in a criminal 6016
case may be challenged for the following causes: 6017

(A) That ~~he~~ the person was a member of the grand jury that 6018
found the indictment in the case; 6019

(B) That ~~he~~ the person is possessed of a state of mind 6020
evincing enmity or bias toward the defendant or the state; but 6021
no person summoned as a juror shall be disqualified by reason of 6022
a previously formed or expressed opinion with reference to the 6023
guilt or innocence of the accused, if the court is satisfied, 6024
from examination of the juror or from other evidence, that ~~he~~ 6025
the juror will render an impartial verdict according to the law 6026
and the evidence submitted to the jury at the trial; 6027

(C) ~~In the trial of a capital offense, that he~~ 6028
~~unequivocally states that under no circumstances will he follow~~ 6029
~~the instructions of a trial judge and consider fairly the~~ 6030
~~imposition of a sentence of death in a particular case. A~~ 6031
~~prospective juror's conscientious or religious opposition to the~~ 6032
~~death penalty in and of itself is not grounds for a challenge~~ 6033
~~for cause. All parties shall be given wide latitude in voir dire~~ 6034
~~questioning in this regard.~~ 6035

~~(D) That~~ the person is related by consanguinity or 6036

affinity within the fifth degree to the person alleged to be 6037
injured or attempted to be injured by the offense charged, or to 6038
the person on whose complaint the prosecution was instituted, or 6039
to the defendant; 6040

~~(E)~~ (D) That ~~he~~ the person served on a petit jury drawn in 6041
the same cause against the same defendant, and that jury was 6042
discharged after hearing the evidence or rendering a verdict on 6043
the evidence that was set aside; 6044

~~(F)~~ (E) That ~~he~~ the person served as a juror in a civil 6045
case brought against the defendant for the same act; 6046

~~(G)~~ (F) That ~~he~~ the person has been subpoenaed in good 6047
faith as a witness in the case; 6048

~~(H)~~ (G) That ~~he~~ the person is a chronic alcoholic, or drug 6049
dependent person; 6050

~~(I)~~ (H) That ~~he~~ the person has been convicted of a crime 6051
that by law disqualifies ~~him~~ the person from serving on a jury; 6052

~~(J)~~ (I) That ~~he~~ the person has an action pending between 6053
~~him~~ the person and the state or the defendant; 6054

~~(K)~~ (J) That ~~he~~ the person or ~~his~~ the person's spouse is a 6055
party to another action then pending in any court in which an 6056
attorney in the cause then on trial is an attorney, either for 6057
or against ~~him~~ the person; 6058

~~(L)~~ (K) That ~~he~~ the person is the person alleged to be 6059
injured or attempted to be injured by the offense charged, or is 6060
the person on whose complaint the prosecution was instituted, or 6061
the defendant; 6062

~~(M)~~ (L) That ~~he~~ the person is the employer or employee, or 6063
the spouse, parent, son, or daughter of the employer or 6064

employee, or the counselor, agent, or attorney of any person 6065
included in division ~~(L)~~(K) of this section; 6066

~~(N)~~(M) That English is not ~~his~~ the person's native 6067
language, and ~~his~~ the person's knowledge of English is 6068
insufficient to permit ~~him~~ the person to understand the facts 6069
and law in the case; 6070

~~(O)~~(N) That ~~he~~ the person otherwise is unsuitable for any 6071
other cause to serve as a juror. 6072

The validity of each challenge listed in this section 6073
shall be determined by the court. 6074

Sec. 2945.33. When a cause is finally submitted the jurors 6075
must be kept together in a convenient place under the charge of 6076
an officer until they agree upon a verdict, or are discharged by 6077
the court. The court, ~~except in cases where the offense charged~~ 6078
~~may be punishable by death,~~ may permit the jurors to separate 6079
during the adjournment of court overnight, under proper 6080
cautions, or under supervision of an officer. Such officer shall 6081
not permit a communication to be made to them, nor make any 6082
~~himself~~ communication to them except to ask if they have agreed 6083
upon a verdict, unless ~~he~~ the officer does so by order of the 6084
court. Such officer shall not communicate to any person, before 6085
the verdict is delivered, any matter in relation to their 6086
deliberation. Upon the trial of any prosecution for misdemeanor, 6087
the court may permit the jury to separate during their 6088
deliberation, or upon adjournment of the court overnight. 6089

~~In cases where the offense charged may be punished by~~ 6090
~~death, after the case is finally submitted to the jury, the~~ 6091
~~jurors shall be kept in charge of the proper officer and proper~~ 6092
~~arrangements for their care and maintenance shall be made as~~ 6093

~~under section 2945.31 of the Revised Code.~~

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Sec. 2945.38. (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. If the court finds the defendant competent to stand trial and the defendant is receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the defendant's competence to stand trial, unless the defendant's attending physician advises the court against continuation of the drugs, other medication, or treatment.

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(B) (1) (a) If, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial and that there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order the defendant to undergo treatment. If the defendant has been charged with a felony offense and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course

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of treatment. 6125

(b) The court order for the defendant to undergo treatment 6126
or continuing evaluation and treatment under division (B) (1) (a) 6127
of this section shall specify that the defendant, if determined 6128
to require mental health treatment or continuing evaluation and 6129
treatment, either shall be committed to the department of mental 6130
health and addiction services for treatment or continuing 6131
evaluation and treatment at a hospital, facility, or agency, as 6132
determined to be clinically appropriate by the department of 6133
mental health and addiction services or shall be committed to a 6134
facility certified by the department of mental health and 6135
addiction services as being qualified to treat mental illness, 6136
to a public or community mental health facility, or to a 6137
psychiatrist or another mental health professional for treatment 6138
or continuing evaluation and treatment. Prior to placing the 6139
defendant, the department of mental health and addiction 6140
services shall obtain court approval for that placement 6141
following a hearing. The court order for the defendant to 6142
undergo treatment or continuing evaluation and treatment under 6143
division (B) (1) (a) of this section shall specify that the 6144
defendant, if determined to require treatment or continuing 6145
evaluation and treatment for an intellectual disability, shall 6146
receive treatment or continuing evaluation and treatment at an 6147
institution or facility operated by the department of 6148
developmental disabilities, at a facility certified by the 6149
department of developmental disabilities as being qualified to 6150
treat intellectual disabilities, at a public or private 6151
intellectual disabilities facility, or by a psychiatrist or 6152
another intellectual disabilities professional. In any case, the 6153
order may restrict the defendant's freedom of movement as the 6154
court considers necessary. The prosecutor in the defendant's 6155

case shall send to the chief clinical officer of the hospital, 6156
facility, or agency where the defendant is placed by the 6157
department of mental health and addiction services, or to the 6158
managing officer of the institution, the director of the program 6159
or facility, or the person to which the defendant is committed, 6160
copies of relevant police reports and other background 6161
information that pertains to the defendant and is available to 6162
the prosecutor unless the prosecutor determines that the release 6163
of any of the information in the police reports or any of the 6164
other background information to unauthorized persons would 6165
interfere with the effective prosecution of any person or would 6166
create a substantial risk of harm to any person. 6167

In determining the place of commitment, the court shall 6168
consider the extent to which the person is a danger to the 6169
person and to others, the need for security, and the type of 6170
crime involved and shall order the least restrictive alternative 6171
available that is consistent with public safety and treatment 6172
goals. In weighing these factors, the court shall give 6173
preference to protecting public safety. 6174

(c) If the defendant is found incompetent to stand trial, 6175
if the chief clinical officer of the hospital, facility, or 6176
agency where the defendant is placed, or the managing officer of 6177
the institution, the director of the program or facility, or the 6178
person to which the defendant is committed for treatment or 6179
continuing evaluation and treatment under division (B) (1) (b) of 6180
this section determines that medication is necessary to restore 6181
the defendant's competency to stand trial, and if the defendant 6182
lacks the capacity to give informed consent or refuses 6183
medication, the chief clinical officer of the hospital, 6184
facility, or agency where the defendant is placed, or the 6185
managing officer of the institution, the director of the program 6186

or facility, or the person to which the defendant is committed 6187
for treatment or continuing evaluation and treatment may 6188
petition the court for authorization for the involuntary 6189
administration of medication. The court shall hold a hearing on 6190
the petition within five days of the filing of the petition if 6191
the petition was filed in a municipal court or a county court 6192
regarding an incompetent defendant charged with a misdemeanor or 6193
within ten days of the filing of the petition if the petition 6194
was filed in a court of common pleas regarding an incompetent 6195
defendant charged with a felony offense. Following the hearing, 6196
the court may authorize the involuntary administration of 6197
medication or may dismiss the petition. 6198

(2) If the court finds that the defendant is incompetent 6199
to stand trial and that, even if the defendant is provided with 6200
a course of treatment, there is not a substantial probability 6201
that the defendant will become competent to stand trial within 6202
one year, the court shall order the discharge of the defendant, 6203
unless upon motion of the prosecutor or on its own motion, the 6204
court either seeks to retain jurisdiction over the defendant 6205
pursuant to section 2945.39 of the Revised Code or files an 6206
affidavit in the probate court for the civil commitment of the 6207
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 6208
alleging that the defendant is a mentally ill person subject to 6209
court order or a person with an intellectual disability subject 6210
to institutionalization by court order. If an affidavit is filed 6211
in the probate court, the trial court shall send to the probate 6212
court copies of all written reports of the defendant's mental 6213
condition that were prepared pursuant to section 2945.371 of the 6214
Revised Code. 6215

The trial court may issue the temporary order of detention 6216
that a probate court may issue under section 5122.11 or 5123.71 6217

of the Revised Code, to remain in effect until the probable 6218
cause or initial hearing in the probate court. Further 6219
proceedings in the probate court are civil proceedings governed 6220
by Chapter 5122. or 5123. of the Revised Code. 6221

(C) No defendant shall be required to undergo treatment, 6222
including any continuing evaluation and treatment, under 6223
division (B) (1) of this section for longer than whichever of the 6224
following periods is applicable: 6225

(1) One year, if the most serious offense with which the 6226
defendant is charged is one of the following offenses: 6227

(a) Aggravated murder, murder, or an offense of violence 6228
for which a sentence of ~~death or~~ life imprisonment may be 6229
imposed; 6230

(b) An offense of violence that is a felony of the first 6231
or second degree; 6232

(c) A conspiracy to commit, an attempt to commit, or 6233
complicity in the commission of an offense described in division 6234
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 6235
complicity is a felony of the first or second degree. 6236

(2) Six months, if the most serious offense with which the 6237
defendant is charged is a felony other than a felony described 6238
in division (C) (1) of this section; 6239

(3) Sixty days, if the most serious offense with which the 6240
defendant is charged is a misdemeanor of the first or second 6241
degree; 6242

(4) Thirty days, if the most serious offense with which 6243
the defendant is charged is a misdemeanor of the third or fourth 6244
degree, a minor misdemeanor, or an unclassified misdemeanor. 6245

(D) Any defendant who is committed pursuant to this 6246
section shall not voluntarily admit the defendant or be 6247
voluntarily admitted to a hospital or institution pursuant to 6248
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 6249
Code. 6250

(E) Except as otherwise provided in this division, a 6251
defendant who is charged with an offense and is committed by the 6252
court under this section to the department of mental health and 6253
addiction services or is committed to an institution or facility 6254
for the treatment of intellectual disabilities shall not be 6255
granted unsupervised on-grounds movement, supervised off-grounds 6256
movement, or nonsecured status except in accordance with the 6257
court order. The court may grant a defendant supervised off- 6258
grounds movement to obtain medical treatment or specialized 6259
habilitation treatment services if the person who supervises the 6260
treatment or the continuing evaluation and treatment of the 6261
defendant ordered under division (B)(1)(a) of this section 6262
informs the court that the treatment or continuing evaluation 6263
and treatment cannot be provided at the hospital or facility 6264
where the defendant is placed by the department of mental health 6265
and addiction services or the institution or facility to which 6266
the defendant is committed. The chief clinical officer of the 6267
hospital or facility where the defendant is placed by the 6268
department of mental health and addiction services or the 6269
managing officer of the institution or director of the facility 6270
to which the defendant is committed, or a designee of any of 6271
those persons, may grant a defendant movement to a medical 6272
facility for an emergency medical situation with appropriate 6273
supervision to ensure the safety of the defendant, staff, and 6274
community during that emergency medical situation. The chief 6275
clinical officer of the hospital or facility where the defendant 6276

is placed by the department of mental health and addiction 6277
services or the managing officer of the institution or director 6278
of the facility to which the defendant is committed shall notify 6279
the court within twenty-four hours of the defendant's movement 6280
to the medical facility for an emergency medical situation under 6281
this division. 6282

(F) The person who supervises the treatment or continuing 6283
evaluation and treatment of a defendant ordered to undergo 6284
treatment or continuing evaluation and treatment under division 6285
(B) (1) (a) of this section shall file a written report with the 6286
court at the following times: 6287

(1) Whenever the person believes the defendant is capable 6288
of understanding the nature and objective of the proceedings 6289
against the defendant and of assisting in the defendant's 6290
defense; 6291

(2) For a felony offense, fourteen days before expiration 6292
of the maximum time for treatment as specified in division (C) 6293
of this section and fourteen days before the expiration of the 6294
maximum time for continuing evaluation and treatment as 6295
specified in division (B) (1) (a) of this section, and, for a 6296
misdemeanor offense, ten days before the expiration of the 6297
maximum time for treatment, as specified in division (C) of this 6298
section; 6299

(3) At a minimum, after each six months of treatment; 6300

(4) Whenever the person who supervises the treatment or 6301
continuing evaluation and treatment of a defendant ordered under 6302
division (B) (1) (a) of this section believes that there is not a 6303
substantial probability that the defendant will become capable 6304
of understanding the nature and objective of the proceedings 6305

against the defendant or of assisting in the defendant's defense 6306
even if the defendant is provided with a course of treatment. 6307

(G) A report under division (F) of this section shall 6308
contain the examiner's findings, the facts in reasonable detail 6309
on which the findings are based, and the examiner's opinion as 6310
to the defendant's capability of understanding the nature and 6311
objective of the proceedings against the defendant and of 6312
assisting in the defendant's defense. If, in the examiner's 6313
opinion, the defendant remains incapable of understanding the 6314
nature and objective of the proceedings against the defendant 6315
and of assisting in the defendant's defense and there is a 6316
substantial probability that the defendant will become capable 6317
of understanding the nature and objective of the proceedings 6318
against the defendant and of assisting in the defendant's 6319
defense if the defendant is provided with a course of treatment, 6320
if in the examiner's opinion the defendant remains mentally ill 6321
or continues to have an intellectual disability, and if the 6322
maximum time for treatment as specified in division (C) of this 6323
section has not expired, the report also shall contain the 6324
examiner's recommendation as to the least restrictive placement 6325
or commitment alternative that is consistent with the 6326
defendant's treatment needs for restoration to competency and 6327
with the safety of the community. The court shall provide copies 6328
of the report to the prosecutor and defense counsel. 6329

(H) If a defendant is committed pursuant to division (B) 6330
(1) of this section, within ten days after the treating 6331
physician of the defendant or the examiner of the defendant who 6332
is employed or retained by the treating facility advises that 6333
there is not a substantial probability that the defendant will 6334
become capable of understanding the nature and objective of the 6335
proceedings against the defendant or of assisting in the 6336

defendant's defense even if the defendant is provided with a 6337
course of treatment, within ten days after the expiration of the 6338
maximum time for treatment as specified in division (C) of this 6339
section, within ten days after the expiration of the maximum 6340
time for continuing evaluation and treatment as specified in 6341
division (B) (1) (a) of this section, within thirty days after a 6342
defendant's request for a hearing that is made after six months 6343
of treatment, or within thirty days after being advised by the 6344
treating physician or examiner that the defendant is competent 6345
to stand trial, whichever is the earliest, the court shall 6346
conduct another hearing to determine if the defendant is 6347
competent to stand trial and shall do whichever of the following 6348
is applicable: 6349

(1) If the court finds that the defendant is competent to 6350
stand trial, the defendant shall be proceeded against as 6351
provided by law. 6352

(2) If the court finds that the defendant is incompetent 6353
to stand trial, but that there is a substantial probability that 6354
the defendant will become competent to stand trial if the 6355
defendant is provided with a course of treatment, and the 6356
maximum time for treatment as specified in division (C) of this 6357
section has not expired, the court, after consideration of the 6358
examiner's recommendation, shall order that treatment be 6359
continued, may change the facility or program at which the 6360
treatment is to be continued, and shall specify whether the 6361
treatment is to be continued at the same or a different facility 6362
or program. 6363

(3) If the court finds that the defendant is incompetent 6364
to stand trial, if the defendant is charged with an offense 6365
listed in division (C) (1) of this section, and if the court 6366

finds that there is not a substantial probability that the
defendant will become competent to stand trial even if the
defendant is provided with a course of treatment, or if the
maximum time for treatment relative to that offense as specified
in division (C) of this section has expired, further proceedings
shall be as provided in sections 2945.39, 2945.401, and 2945.402
of the Revised Code.

(4) If the court finds that the defendant is incompetent
to stand trial, if the most serious offense with which the
defendant is charged is a misdemeanor or a felony other than a
felony listed in division (C)(1) of this section, and if the
court finds that there is not a substantial probability that the
defendant will become competent to stand trial even if the
defendant is provided with a course of treatment, or if the
maximum time for treatment relative to that offense as specified
in division (C) of this section has expired, the court shall
dismiss the indictment, information, or complaint against the
defendant. A dismissal under this division is not a bar to
further prosecution based on the same conduct. The court shall
discharge the defendant unless the court or prosecutor files an
affidavit in probate court for civil commitment pursuant to
Chapter 5122. or 5123. of the Revised Code. If an affidavit for
civil commitment is filed, the court may detain the defendant
for ten days pending civil commitment. All of the following
provisions apply to persons charged with a misdemeanor or a
felony other than a felony listed in division (C)(1) of this
section who are committed by the probate court subsequent to the
court's or prosecutor's filing of an affidavit for civil
commitment under authority of this division:

(a) The chief clinical officer of the entity, hospital, or
facility, the managing officer of the institution, the director

of the program, or the person to which the defendant is 6398
committed or admitted shall do all of the following: 6399

(i) Notify the prosecutor, in writing, of the discharge of 6400
the defendant, send the notice at least ten days prior to the 6401
discharge unless the discharge is by the probate court, and 6402
state in the notice the date on which the defendant will be 6403
discharged; 6404

(ii) Notify the prosecutor, in writing, when the defendant 6405
is absent without leave or is granted unsupervised, off-grounds 6406
movement, and send this notice promptly after the discovery of 6407
the absence without leave or prior to the granting of the 6408
unsupervised, off-grounds movement, whichever is applicable; 6409

(iii) Notify the prosecutor, in writing, of the change of 6410
the defendant's commitment or admission to voluntary status, 6411
send the notice promptly upon learning of the change to 6412
voluntary status, and state in the notice the date on which the 6413
defendant was committed or admitted on a voluntary status. 6414

(b) Upon receiving notice that the defendant will be 6415
granted unsupervised, off-grounds movement, the prosecutor 6416
either shall re-indict the defendant or promptly notify the 6417
court that the prosecutor does not intend to prosecute the 6418
charges against the defendant. 6419

(I) If a defendant is convicted of a crime and sentenced 6420
to a jail or workhouse, the defendant's sentence shall be 6421
reduced by the total number of days the defendant is confined 6422
for evaluation to determine the defendant's competence to stand 6423
trial or treatment under this section and sections 2945.37 and 6424
2945.371 of the Revised Code or by the total number of days the 6425
defendant is confined for evaluation to determine the 6426

defendant's mental condition at the time of the offense charged. 6427

Sec. 2949.02. (A) If a person is convicted of any bailable 6428
offense, including, but not limited to, a violation of an 6429
ordinance of a municipal corporation, in a municipal or county 6430
court or in a court of common pleas and if the person gives to 6431
the trial judge or magistrate a written notice of the person's 6432
intention to file or apply for leave to file an appeal to the 6433
court of appeals, the trial judge or magistrate may suspend, ~~—~~ 6434
~~subject to division (A) (2) (b) of section 2953.09 of the Revised~~ 6435
~~Code,~~ execution of the sentence or judgment imposed for any 6436
fixed time that will give the person time either to prepare and 6437
file, or to apply for leave to file, the appeal. In all bailable 6438
cases, except as provided in division (B) of this section, the 6439
trial judge or magistrate may release the person on bail in 6440
accordance with Criminal Rule 46, and the bail shall at least be 6441
conditioned that the person will appeal without delay and abide 6442
by the judgment and sentence of the court. 6443

(B) Notwithstanding any provision of Criminal Rule 46 to 6444
the contrary, a trial judge of a court of common pleas shall not 6445
release on bail pursuant to division (A) of this section a 6446
person who is convicted of a bailable offense if the person is 6447
sentenced to imprisonment for life or if that offense is a 6448
violation of section 2903.01, 2903.02, 2903.03, 2903.04, 6449
2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 6450
2911.02, or 2911.11 of the Revised Code or is felonious sexual 6451
penetration in violation of former section 2907.12 of the 6452
Revised Code. 6453

(C) If a trial judge of a court of common pleas is 6454
prohibited by division (B) of this section from releasing on 6455
bail pursuant to division (A) of this section a person who is 6456

convicted of a bailable offense and not sentenced to 6457
imprisonment for life, the appropriate court of appeals or two 6458
judges of it, upon motion of such a person and for good cause 6459
shown, may release the person on bail in accordance with 6460
Appellate Rule 8 and Criminal Rule 46, and the bail shall at 6461
least be conditioned as described in division (A) of this 6462
section. 6463

Sec. 2949.03. If a judgment of conviction by a court of 6464
common pleas, municipal court, or county court is affirmed by a 6465
court of appeals and remanded to the trial court for execution 6466
of the sentence or judgment imposed, and the person so convicted 6467
gives notice of ~~his~~ the person's intention to file a notice of 6468
appeal to the supreme court, the trial court, on the filing of a 6469
motion by such person within three days after the rendition by 6470
the court of appeals of the judgment of affirmation, may further 6471
suspend, ~~subject to division (A) (2) (b) of section 2953.09 of the~~ 6472
~~Revised Code,~~ the execution of the sentence or judgment imposed 6473
for a time sufficient to give such person an opportunity to file 6474
a notice of appeal to the supreme court, but the sentence or 6475
judgment imposed shall not be suspended more than thirty days 6476
for that purpose. 6477

Sec. 2953.02. In a ~~capital case in which a sentence of~~ 6478
~~death is imposed for an offense committed before January 1,~~ 6479
~~1995, and in any other~~ criminal case, including a conviction for 6480
the violation of an ordinance of a municipal corporation, the 6481
judgment or final order of a court of record inferior to the 6482
court of appeals may be reviewed in the court of appeals. A 6483
final order of an administrative officer or agency may be 6484
reviewed in the court of common pleas. A judgment or final order 6485
of the court of appeals involving a question arising under the 6486
Constitution of the United States or of this state may be 6487

appealed to the supreme court as a matter of right. This right 6488
of appeal from judgments and final orders of the court of 6489
appeals shall extend to ~~cases in which a sentence of death is~~ 6490
~~imposed for an offense committed before January 1, 1995, and in~~ 6491
~~which the death penalty has been affirmed,~~ felony cases in which 6492
the supreme court has directed the court of appeals to certify 6493
its record, and in all other criminal cases of public or general 6494
interest wherein the supreme court has granted a motion to 6495
certify the record of the court of appeals. ~~In a capital case in~~ 6496
~~which a sentence of death is imposed for an offense committed on~~ 6497
~~or after January 1, 1995, the judgment or final order may be~~ 6498
~~appealed from the trial court directly to the supreme court as a~~ 6499
~~matter of right.~~ The supreme court in criminal cases shall not 6500
be required to determine as to the weight of the evidence, 6501
~~except that, in cases in which a sentence of death is imposed~~ 6502
~~for an offense committed on or after January 1, 1995, and in~~ 6503
~~which the question of the weight of the evidence to support the~~ 6504
~~judgment has been raised on appeal, the supreme court shall~~ 6505
~~determine as to the weight of the evidence to support the~~ 6506
~~judgment and shall determine as to the weight of the evidence to~~ 6507
~~support the sentence of death as provided in section 2929.05 of~~ 6508
~~the Revised Code.~~ 6509

Sec. 2953.07. ~~(A)~~ Upon the hearing of an appeal other than 6510
an appeal from a mayor's court, the appellate court may affirm 6511
the judgment or reverse it, in whole or in part, or modify it, 6512
and order the accused to be discharged or grant a new trial. The 6513
appellate court may remand the accused for the sole purpose of 6514
correcting a sentence imposed contrary to law, provided that, on 6515
an appeal of a sentence imposed upon a person who is convicted 6516
of or pleads guilty to a felony that is brought under section 6517
2953.08 of the Revised Code, division (G) of that section 6518

applies to the court. If the judgment is reversed, the appellant 6519
shall recover from the appellee all court costs incurred to 6520
secure the reversal, including the cost of transcripts. ~~In~~ 6521
~~capital cases, when the judgment is affirmed and the day fixed~~ 6522
~~for the execution is passed, the appellate court shall appoint a~~ 6523
~~day for it, and the clerk of the appellate court shall issue a~~ 6524
~~warrant under the seal of the appellate court, to the sheriff of~~ 6525
~~the proper county, or the warden of the appropriate state~~ 6526
~~correctional institution, commanding the sheriff or warden to~~ 6527
~~carry the sentence into execution on the day so appointed. The~~ 6528
~~sheriff or warden shall execute and return the warrant as in~~ 6529
~~other cases, and the clerk shall record the warrant and return.~~ 6530

~~(B) As used in this section, "appellate court" means, for~~ 6531
~~a case in which a sentence of death is imposed for an offense~~ 6532
~~committed before January 1, 1995, both the court of appeals and~~ 6533
~~the supreme court, and for a case in which a sentence of death~~ 6534
~~is imposed for an offense committed on or after January 1, 1995,~~ 6535
~~the supreme court.~~ 6536

Sec. 2953.08. (A) In addition to any other right to appeal 6537
and except as provided in division (D) of this section, a 6538
defendant who is convicted of or pleads guilty to a felony may 6539
appeal as a matter of right the sentence imposed upon the 6540
defendant on one of the following grounds: 6541

(1) The sentence consisted of or included the maximum 6542
definite prison term allowed for the offense by division (A) of 6543
section 2929.14 or section 2929.142 of the Revised Code or, with 6544
respect to a non-life felony indefinite prison term, the longest 6545
minimum prison term allowed for the offense by division (A) (1) 6546
(a) or (2) (a) of section 2929.14 of the Revised Code, the 6547
maximum definite prison term or longest minimum prison term was 6548

not required for the offense pursuant to Chapter 2925. or any 6549
other provision of the Revised Code, and the court imposed the 6550
sentence under one of the following circumstances: 6551

(a) The sentence was imposed for only one offense. 6552

(b) The sentence was imposed for two or more offenses 6553
arising out of a single incident, and the court imposed the 6554
maximum definite prison term or longest minimum prison term for 6555
the offense of the highest degree. 6556

(2) The sentence consisted of or included a prison term 6557
and the offense for which it was imposed is a felony of the 6558
fourth or fifth degree or is a felony drug offense that is a 6559
violation of a provision of Chapter 2925. of the Revised Code 6560
and that is specified as being subject to division (B) of 6561
section 2929.13 of the Revised Code for purposes of sentencing. 6562
If the court specifies that it found one or more of the factors 6563
in division (B) (1) (b) of section 2929.13 of the Revised Code to 6564
apply relative to the defendant, the defendant is not entitled 6565
under this division to appeal as a matter of right the sentence 6566
imposed upon the offender. 6567

(3) The person was convicted of or pleaded guilty to a 6568
violent sex offense or a designated homicide, assault, or 6569
kidnapping offense, was adjudicated a sexually violent predator 6570
in relation to that offense, and was sentenced pursuant to 6571
division (A) (3) of section 2971.03 of the Revised Code, if the 6572
minimum term of the indefinite term imposed pursuant to division 6573
(A) (3) of section 2971.03 of the Revised Code is the longest 6574
term available for the offense from among the range of definite 6575
terms listed in section 2929.14 of the Revised Code or, with 6576
respect to a non-life felony indefinite prison term, the longest 6577
minimum prison term allowed for the offense by division (A) (1) 6578

(a) or (2)(a) of section 2929.14 of the Revised Code. As used in 6579
this division, "designated homicide, assault, or kidnapping 6580
offense" and "violent sex offense" have the same meanings as in 6581
section 2971.01 of the Revised Code. As used in this division, 6582
"adjudicated a sexually violent predator" has the same meaning 6583
as in section 2929.01 of the Revised Code, and a person is 6584
"adjudicated a sexually violent predator" in the same manner and 6585
the same circumstances as are described in that section. 6586

(4) The sentence is contrary to law. 6587

(5) The sentence consisted of an additional prison term of 6588
ten years imposed pursuant to division (B)(2)(a) of section 6589
2929.14 of the Revised Code. 6590

(B) In addition to any other right to appeal and except as 6591
provided in division (D) of this section, a prosecuting 6592
attorney, a city director of law, village solicitor, or similar 6593
chief legal officer of a municipal corporation, or the attorney 6594
general, if one of those persons prosecuted the case, may appeal 6595
as a matter of right a sentence imposed upon a defendant who is 6596
convicted of or pleads guilty to a felony or, in the 6597
circumstances described in division (B)(3) of this section the 6598
modification of a sentence imposed upon such a defendant, on any 6599
of the following grounds: 6600

(1) The sentence did not include a prison term despite a 6601
presumption favoring a prison term for the offense for which it 6602
was imposed, as set forth in section 2929.13 or Chapter 2925. of 6603
the Revised Code. 6604

(2) The sentence is contrary to law. 6605

(3) The sentence is a modification under section 2929.20 6606
of the Revised Code of a sentence that was imposed for a felony 6607

of the first or second degree. 6608

(C) (1) In addition to the right to appeal a sentence 6609
granted under division (A) or (B) of this section, a defendant 6610
who is convicted of or pleads guilty to a felony may seek leave 6611
to appeal a sentence imposed upon the defendant on the basis 6612
that the sentencing judge has imposed consecutive sentences 6613
under division (C) (3) of section 2929.14 of the Revised Code and 6614
that the consecutive sentences exceed the maximum definite 6615
prison term allowed by division (A) of that section for the most 6616
serious offense of which the defendant was convicted or, with 6617
respect to a non-life felony indefinite prison term, exceed the 6618
longest minimum prison term allowed by division (A) (1) (a) or (2) 6619
(a) of that section for the most serious such offense. Upon the 6620
filing of a motion under this division, the court of appeals may 6621
grant leave to appeal the sentence if the court determines that 6622
the allegation included as the basis of the motion is true. 6623

(2) A defendant may seek leave to appeal an additional 6624
sentence imposed upon the defendant pursuant to division (B) (2) 6625
(a) or (b) of section 2929.14 of the Revised Code if the 6626
additional sentence is for a definite prison term that is longer 6627
than five years. 6628

(D) (1) A sentence imposed upon a defendant is not subject 6629
to review under this section if the sentence is authorized by 6630
law, has been recommended jointly by the defendant and the 6631
prosecution in the case, and is imposed by a sentencing judge. 6632

(2) Except as provided in division (C) (2) of this section, 6633
a sentence imposed upon a defendant is not subject to review 6634
under this section if the sentence is imposed pursuant to 6635
division (B) (2) (b) of section 2929.14 of the Revised Code. 6636
Except as otherwise provided in this division, a defendant 6637

retains all rights to appeal as provided under this chapter or 6638
any other provision of the Revised Code. A defendant has the 6639
right to appeal under this chapter or any other provision of the 6640
Revised Code the court's application of division (B) (2) (c) of 6641
section 2929.14 of the Revised Code. 6642

(3) A sentence imposed for aggravated murder or murder 6643
pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised 6644
Code is not subject to review under this section. 6645

(E) A defendant, prosecuting attorney, city director of 6646
law, village solicitor, or chief municipal legal officer shall 6647
file an appeal of a sentence under this section to a court of 6648
appeals within the time limits specified in Rule 4(B) of the 6649
Rules of Appellate Procedure, provided that if the appeal is 6650
pursuant to division (B) (3) of this section, the time limits 6651
specified in that rule shall not commence running until the 6652
court grants the motion that makes the sentence modification in 6653
question. A sentence appeal under this section shall be 6654
consolidated with any other appeal in the case. If no other 6655
appeal is filed, the court of appeals may review only the 6656
portions of the trial record that pertain to sentencing. 6657

(F) On the appeal of a sentence under this section, the 6658
record to be reviewed shall include all of the following, as 6659
applicable: 6660

(1) Any presentence, psychiatric, or other investigative 6661
report that was submitted to the court in writing before the 6662
sentence was imposed. An appellate court that reviews a 6663
presentence investigation report prepared pursuant to section 6664
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 6665
connection with the appeal of a sentence under this section 6666
shall comply with division (D) (3) of section 2951.03 of the 6667

Revised Code when the appellate court is not using the 6668
presentence investigation report, and the appellate court's use 6669
of a presentence investigation report of that nature in 6670
connection with the appeal of a sentence under this section does 6671
not affect the otherwise confidential character of the contents 6672
of that report as described in division (D)(1) of section 6673
2951.03 of the Revised Code and does not cause that report to 6674
become a public record, as defined in section 149.43 of the 6675
Revised Code, following the appellate court's use of the report. 6676

(2) The trial record in the case in which the sentence was 6677
imposed; 6678

(3) Any oral or written statements made to or by the court 6679
at the sentencing hearing at which the sentence was imposed; 6680

(4) Any written findings that the court was required to 6681
make in connection with the modification of the sentence 6682
pursuant to a judicial release under division (I) of section 6683
2929.20 of the Revised Code. 6684

(G)(1) If the sentencing court was required to make the 6685
findings required by division (B) or (D) of section 2929.13 or 6686
division (I) of section 2929.20 of the Revised Code, or to state 6687
the findings of the trier of fact required by division (B)(2)(e) 6688
of section 2929.14 of the Revised Code, relative to the 6689
imposition or modification of the sentence, and if the 6690
sentencing court failed to state the required findings on the 6691
record, the court hearing an appeal under division (A), (B), or 6692
(C) of this section shall remand the case to the sentencing 6693
court and instruct the sentencing court to state, on the record, 6694
the required findings. 6695

(2) The court hearing an appeal under division (A), (B), 6696

or (C) of this section shall review the record, including the 6697
findings underlying the sentence or modification given by the 6698
sentencing court. 6699

The appellate court may increase, reduce, or otherwise 6700
modify a sentence that is appealed under this section or may 6701
vacate the sentence and remand the matter to the sentencing 6702
court for resentencing. The appellate court's standard for 6703
review is not whether the sentencing court abused its 6704
discretion. The appellate court may take any action authorized 6705
by this division if it clearly and convincingly finds either of 6706
the following: 6707

(a) That the record does not support the sentencing 6708
court's findings under division (B) or (D) of section 2929.13, 6709
division (B) (2) (e) or (C) (4) of section 2929.14, or division (I) 6710
of section 2929.20 of the Revised Code, whichever, if any, is 6711
relevant; 6712

(b) That the sentence is otherwise contrary to law. 6713

(H) A judgment or final order of a court of appeals under 6714
this section may be appealed, by leave of court, to the supreme 6715
court. 6716

(I) As used in this section, "non-life felony indefinite 6717
prison term" has the same meaning as in section 2929.01 of the 6718
Revised Code. 6719

Sec. 2953.09. (A) (1) Upon filing an appeal in the supreme 6720
court, the execution of the sentence or judgment imposed in 6721
cases of felony is suspended. 6722

(2) ~~(a)~~ If a notice of appeal is filed pursuant to the 6723
Rules of Appellate Procedure by a defendant who is convicted in 6724
a municipal or county court or a court of common pleas of a 6725

felony or misdemeanor under the Revised Code or an ordinance of 6726
a municipal corporation, the filing of the notice of appeal does 6727
not suspend execution of the sentence or judgment imposed. 6728
However, consistent with divisions ~~(A) (2) (b)~~, (B), and (C) of 6729
this section, Appellate Rule 8, and Criminal Rule 46, the 6730
municipal or county court, court of common pleas, or court of 6731
appeals may suspend execution of the sentence or judgment 6732
imposed during the pendency of the appeal and shall determine 6733
whether that defendant is entitled to bail and the amount and 6734
nature of any bail that is required. The bail shall at least be 6735
conditioned that the defendant will prosecute the appeal without 6736
delay and abide by the judgment and sentence of the court. 6737

~~(b) (i) A court of common pleas or court of appeals may 6738
suspend the execution of a sentence of death imposed for an 6739
offense committed before January 1, 1995, only if no date for 6740
execution has been set by the supreme court, good cause is shown 6741
for the suspension, the defendant files a motion requesting the 6742
suspension, and notice has been given to the prosecuting 6743
attorney of the appropriate county. 6744~~

~~(ii) A court of common pleas may suspend the execution of 6745
a sentence of death imposed for an offense committed on or after 6746
January 1, 1995, only if no date for execution has been set by 6747
the supreme court, good cause is shown, the defendant files a 6748
motion requesting the suspension, and notice has been given to 6749
the prosecuting attorney of the appropriate county. 6750~~

~~(iii) A court of common pleas or court of appeals may 6751
suspend the execution of the sentence or judgment imposed for a 6752
felony in a capital case in which a sentence of death is not 6753
imposed only if no date for execution of the sentence has been 6754
set by the supreme court, good cause is shown for the 6755~~

~~suspension, the defendant files a motion requesting the~~ 6756
~~suspension, and only after notice has been given to the~~ 6757
~~prosecuting attorney of the appropriate county.~~ 6758

(B) Notwithstanding any provision of Criminal Rule 46 to 6759
the contrary, a trial judge of a court of common pleas shall not 6760
release on bail pursuant to division (A) (2) ~~(a)~~ of this section a 6761
defendant who is convicted of a bailable offense if the 6762
defendant is sentenced to imprisonment for life or if that 6763
offense is a violation of section 2903.01, 2903.02, 2903.03, 6764
2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 6765
2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious 6766
sexual penetration in violation of former section 2907.12 of the 6767
Revised Code. 6768

(C) If a trial judge of a court of common pleas is 6769
prohibited by division (B) of this section from releasing on 6770
bail pursuant to division (A) (2) ~~(a)~~ of this section a defendant 6771
who is convicted of a bailable offense and not sentenced to 6772
imprisonment for life, the appropriate court of appeals or two 6773
judges of it, upon motion of the defendant and for good cause 6774
shown, may release the defendant on bail in accordance with 6775
division (A) (2) of this section. 6776

Sec. 2953.10. When an appeal is taken from a court of 6777
appeals to the supreme court, the supreme court has the same 6778
power and authority to suspend the execution of sentence during 6779
the pendency of the appeal and admit the defendant to bail as 6780
does the court of appeals unless another section of the Revised 6781
Code or the Rules of Practice of the Supreme Court specify a 6782
distinct bail or suspension of sentence authority. 6783

~~When an appeal in a case in which a sentence of death is~~ 6784
~~imposed for an offense committed on or after January 1, 1995, is~~ 6785

~~taken directly from the trial court to the supreme court, the~~ 6786
~~supreme court has the same power and authority to suspend the~~ 6787
~~execution of the sentence during the pendency of the appeal and~~ 6788
~~admit the defendant to bail as does the court of appeals for~~ 6789
~~cases in which a sentence of death is imposed for an offense~~ 6790
~~committed before January 1, 1995, unless another section of the~~ 6791
~~Revised Code or the Rules of Practice of the Supreme Court~~ 6792
~~specify a distinct bail or suspension of sentence authority.~~ 6793

Sec. 2953.21. (A) (1) (a) A person in ~~any either~~ of the 6794
following categories may file a petition in the court that 6795
imposed sentence, stating the grounds for relief relied upon, 6796
and asking the court to vacate or set aside the judgment or 6797
sentence or to grant other appropriate relief: 6798

(i) Any person who has been convicted of a criminal 6799
offense or adjudicated a delinquent child and who claims that 6800
there was such a denial or infringement of the person's rights 6801
as to render the judgment void or voidable under the Ohio 6802
Constitution or the Constitution of the United States; 6803

~~(ii) Any person who has been convicted of a criminal~~ 6804
~~offense and sentenced to death and who claims that there was a~~ 6805
~~denial or infringement of the person's rights under either of~~ 6806
~~those Constitutions that creates a reasonable probability of an~~ 6807
~~altered verdict;~~ 6808

~~(iii)~~ Any person who has been convicted of a criminal 6809
offense that is a felony and who is an offender for whom DNA 6810
testing that was performed under sections 2953.71 to 2953.81 of 6811
the Revised Code or under former section 2953.82 of the Revised 6812
Code and analyzed in the context of and upon consideration of 6813
all available admissible evidence related to the person's case 6814
as described in division (D) of section 2953.74 of the Revised 6815

Code provided results that establish, by clear and convincing 6816
evidence, actual innocence of that felony offense ~~or, if the~~ 6817
~~person was sentenced to death, establish, by clear and~~ 6818
~~convincing evidence, actual innocence of the aggravating~~ 6819
~~circumstance or circumstances the person was found guilty of~~ 6820
~~committing and that is or are the basis of that sentence of~~ 6821
~~death;~~ 6822

~~(iv) Any person who has been convicted of aggravated~~ 6823
~~murder and sentenced to death for the offense and who claims~~ 6824
~~that the person had a serious mental illness at the time of the~~ 6825
~~commission of the offense and that as a result the court should~~ 6826
~~render void the sentence of death, with the filing of the~~ 6827
~~petition constituting the waiver described in division (A) (3) (b)~~ 6828
~~of this section.~~ 6829

(b) A petitioner under division (A) (1) (a) of this section 6830
may file a supporting affidavit and other documentary evidence 6831
in support of the claim for relief. 6832

(c) As used in division (A) (1) (a) of this section: 6833

(i) "Actual innocence" means that, had the results of the 6834
DNA testing conducted under sections 2953.71 to 2953.81 of the 6835
Revised Code or under former section 2953.82 of the Revised Code 6836
been presented at trial, and had those results been analyzed in 6837
the context of and upon consideration of all available 6838
admissible evidence related to the person's case as described in 6839
division (D) of section 2953.74 of the Revised Code, no 6840
reasonable factfinder would have found the petitioner guilty of 6841
the offense of which the petitioner was convicted, ~~or, if the~~ 6842
~~person was sentenced to death, no reasonable factfinder would~~ 6843
~~have found the petitioner guilty of the aggravating circumstance~~ 6844
~~or circumstances the petitioner was found guilty of committing~~ 6845

~~and that is or are the basis of that sentence of death.~~ 6846

(ii) "Serious mental illness" has the same meaning as in 6847
section 2929.025 of the Revised Code. 6848

(d) As used in divisions (A) (1) (a) and (c) of this 6849
section, "former section 2953.82 of the Revised Code" means 6850
section 2953.82 of the Revised Code as it existed prior to July 6851
6, 2010. 6852

~~(e) At any time in conjunction with the filing of a 6853
petition for postconviction relief under division (A) of this 6854
section by a person who has been sentenced to death, or with the 6855
litigation of a petition so filed, the court, for good cause 6856
shown, may authorize the petitioner in seeking the 6857
postconviction relief and the prosecuting attorney of the county 6858
served by the court in defending the proceeding, to take 6859
depositions and to issue subpoenas and subpoenas duces tecum in 6860
accordance with divisions (A) (1) (e), (A) (1) (f), and (C) of this 6861
section, and to any other form of discovery as in a civil action 6862
that the court in its discretion permits. The court may limit 6863
the extent of discovery under this division. In addition to 6864
discovery that is relevant to the claim and was available under 6865
Criminal Rule 16 through conclusion of the original criminal 6866
trial, the court, for good cause shown, may authorize the 6867
petitioner or prosecuting attorney to take depositions and issue 6868
subpoenas and subpoenas duces tecum in either of the following 6869
circumstances: 6870~~

~~(i) For any witness who testified at trial or who was 6871
disclosed by the state prior to trial, except as otherwise 6872
provided in this division, the petitioner or prosecuting 6873
attorney shows clear and convincing evidence that the witness is 6874
material and that a deposition of the witness or the issuing of 6875~~

~~a subpoena or subpoena duces tecum is of assistance in order to~~ 6876
~~substantiate or refute the petitioner's claim that there is a~~ 6877
~~reasonable probability of an altered verdict. This division does~~ 6878
~~not apply if the witness was unavailable for trial or would not~~ 6879
~~voluntarily be interviewed by the defendant or prosecuting~~ 6880
~~attorney.~~ 6881

~~(ii) For any witness with respect to whom division (A) (1)~~ 6882
~~(e) (i) of this section does not apply, the petitioner or~~ 6883
~~prosecuting attorney shows good cause that the witness is~~ 6884
~~material and that a deposition of the witness or the issuing of~~ 6885
~~a subpoena or subpoena duces tecum is of assistance in order to~~ 6886
~~substantiate or refute the petitioner's claim that there is a~~ 6887
~~reasonable probability of an altered verdict.~~ 6888

~~(f) If a person who has been sentenced to death and who~~ 6889
~~files a petition for postconviction relief under division (A) of~~ 6890
~~this section requests postconviction discovery as described in~~ 6891
~~division (A) (1) (e) of this section or if the prosecuting~~ 6892
~~attorney of the county served by the court requests~~ 6893
~~postconviction discovery as described in that division, within~~ 6894
~~ten days after the docketing of the request, or within any other~~ 6895
~~time that the court sets for good cause shown, the prosecuting~~ 6896
~~attorney shall respond by answer or motion to the petitioner's~~ 6897
~~request or the petitioner shall respond by answer or motion to~~ 6898
~~the prosecuting attorney's request, whichever is applicable.~~ 6899

~~(g) If a person who has been sentenced to death and who~~ 6900
~~files a petition for postconviction relief under division (A) of~~ 6901
~~this section requests postconviction discovery as described in~~ 6902
~~division (A) (1) (e) of this section or if the prosecuting~~ 6903
~~attorney of the county served by the court requests~~ 6904
~~postconviction discovery as described in that division, upon~~ 6905

~~motion by the petitioner, the prosecuting attorney, or the~~ 6906
~~person from whom discovery is sought, and for good cause shown,~~ 6907
~~the court in which the action is pending may make any order that~~ 6908
~~justice requires to protect a party or person from oppression or~~ 6909
~~undue burden or expense, including but not limited to the orders~~ 6910
~~described in divisions (A) (1) (h) (i) to (viii) of this section.~~ 6911
~~The court also may make any such order if, in its discretion, it~~ 6912
~~determines that the discovery sought would be irrelevant to the~~ 6913
~~claims made in the petition; and if the court makes any such~~ 6914
~~order on that basis, it shall explain in the order the reasons~~ 6915
~~why the discovery would be irrelevant.~~ 6916

~~(h) If a petitioner, prosecuting attorney, or person from~~ 6917
~~whom discovery is sought makes a motion for an order under~~ 6918
~~division (A) (1) (g) of this section and the order is denied in~~ 6919
~~whole or in part, the court, on terms and conditions as are~~ 6920
~~just, may order that any party or person provide or permit~~ 6921
~~discovery as described in division (A) (1) (e) of this section.~~ 6922
~~The provisions of Civil Rule 37(A) (4) apply to the award of~~ 6923
~~expenses incurred in relation to the motion, except that in no~~ 6924
~~case shall a court require a petitioner who is indigent to pay~~ 6925
~~expenses under those provisions.~~ 6926

~~Before any person moves for an order under division (A) (1)~~ 6927
~~(g) of this section, that person shall make a reasonable effort~~ 6928
~~to resolve the matter through discussion with the petitioner or~~ 6929
~~prosecuting attorney seeking discovery. A motion for an order~~ 6930
~~under division (A) (1) (g) of this section shall be accompanied by~~ 6931
~~a statement reciting the effort made to resolve the matter in~~ 6932
~~accordance with this paragraph.~~ 6933

~~The orders that may be made under division (A) (1) (g) of~~ 6934
~~this section include, but are not limited to, any of the~~ 6935

- following: 6936
- ~~(i) That the discovery not be had;~~ 6937
 - ~~(ii) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;~~ 6938
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 - ~~(iii) That the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;~~ 6940
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 - ~~(iv) That certain matters not be inquired into or that the scope of the discovery be limited to certain matters;~~ 6943
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 - ~~(v) That discovery be conducted with no one present except persons designated by the court;~~ 6945
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 - ~~(vi) That a deposition after being sealed be opened only by order of the court;~~ 6947
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 - ~~(vii) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;~~ 6949
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 - ~~(viii) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.~~ 6952
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 - ~~(i) Any postconviction discovery authorized under division (A) (1) (c) of this section shall be completed not later than eighteen months after the start of the discovery proceedings unless, for good cause shown, the court extends that period for completing the discovery.~~ 6955
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 - ~~(j) Nothing in division (A) (1) (c) of this section authorizes, or shall be construed as authorizing, the relitigation, or discovery in support of relitigation, of any~~ 6960
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~~matter barred by the doctrine of res judicata.~~ 6963

~~(k) Division (A) (1) of this section does not apply to any person who has been convicted of a criminal offense and sentenced to death and who has unsuccessfully raised the same claims in a petition for postconviction relief.~~ 6964
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(2) (a) Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division ~~(A) (1) (a) (i), (ii), or (iii)~~ (A) (1) (a) of this section shall be filed no later than three hundred sixty-five days after the date on which the trial transcript is filed in the court of appeals in the direct appeal of the judgment of conviction or adjudication ~~or, if the direct appeal involves a sentence of death, the date on which the trial transcript is filed in the supreme court.~~ If no appeal is taken, except as otherwise provided in section 2953.23 of the Revised Code, the petition shall be filed no later than three hundred sixty-five days after the expiration of the time for filing the appeal. 6968
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(b) Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division (A) (1) (a) (iv) of this section shall be filed not later than three hundred sixty-five days after ~~the effective date of this amendment~~ April 12, 2021. 6980
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~~(3) (a) In a petition filed under division (A) (1) (a) (i), (ii), or (iii) of this section, a person who has been sentenced to death may ask the court to render void or voidable the judgment with respect to the conviction of aggravated murder or the specification of an aggravating circumstance or the sentence of death.~~ 6984
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~~(b) A person sentenced to death who files a petition under division (A) (1) (a) (iv) of this section may ask the court to~~ 6990
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~~render void the sentence of death and to order the resentencing
of the person under division (A) of section 2929.06 of the
Revised Code. If a person sentenced to death files such a
petition and asks the court to render void the sentence of death
and to order the resentencing of the person under division (A)
of section 2929.06 of the Revised Code, the act of filing the
petition constitutes a waiver of any right to be sentenced under
the law that existed at the time the offense was committed and
constitutes consent to be sentenced to life imprisonment without
parole under division (A) of section 2929.06 of the Revised
Code.~~

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

~~(5)~~ (4) If the petitioner in a petition filed under
division ~~(A)(1)(a)(i), (ii), or (iii)~~ (A)(1)(a) of this section
was convicted of or pleaded guilty to a felony, the petition may
include a claim that the petitioner was denied the equal
protection of the laws in violation of the Ohio Constitution or
the United States Constitution because the sentence imposed upon
the petitioner for the felony was part of a consistent pattern
of disparity in sentencing by the judge who imposed the
sentence, with regard to the petitioner's race, gender, ethnic
background, or religion. If the supreme court adopts a rule
requiring a court of common pleas to maintain information with
regard to an offender's race, gender, ethnic background, or
religion, the supporting evidence for the petition shall
include, but shall not be limited to, a copy of that type of
information relative to the petitioner's sentence and copies of

that type of information relative to sentences that the same 7023
judge imposed upon other persons. 7024

~~(6) Notwithstanding any law or court rule to the contrary, 7025
there is no limit on the number of pages in, or on the length 7026
of, a petition filed under division (A)(1)(a)(i), (ii), (iii), 7027
or (iv) of this section by a person who has been sentenced to 7028
death. If any court rule specifies a limit on the number of 7029
pages in, or on the length of, a petition filed under division 7030
(A)(1)(a)(i), (ii), (iii), or (iv) of this section or on a 7031
prosecuting attorney's response to such a petition by answer or 7032
motion and a person who has been sentenced to death files a 7033
petition that exceeds the limit specified for the petition, the 7034
prosecuting attorney may respond by an answer or motion that 7035
exceeds the limit specified for the response. 7036~~

(B) The clerk of the court in which the petition for 7037
postconviction relief and, if applicable, a request for 7038
postconviction discovery described in division (A)(1)(e) of this 7039
section is filed shall docket the petition and the request and 7040
bring ~~them~~ it promptly to the attention of the court. The clerk 7041
of the court in which the petition for postconviction relief 7042
and, if applicable, a request for postconviction discovery 7043
described in division (A)(1)(e) of this section is filed 7044
immediately shall forward a copy of the petition and a copy of 7045
the request if filed by the petitioner to the prosecuting 7046
attorney of the county served by the court. ~~If the request for 7047
postconviction discovery is filed by the prosecuting attorney, 7048
the clerk of the court immediately shall forward a copy of the 7049
request to the petitioner or the petitioner's counsel. 7050~~

(C) ~~If a person who has been sentenced to death and who 7051
files a petition for postconviction relief under division (A)(1) 7052~~

~~(a) (i), (ii), (iii), or (iv) of this section requests a
deposition or the prosecuting attorney in the case requests a
deposition, and if the court grants the request under division
(A) (1) (c) 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 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)~~ (D) Within ten days after the docketing of the

petition, or within any further time that the court may fix for 7084
good cause shown, the prosecuting attorney shall respond by 7085
answer or motion. ~~Division (A) (6) of this section applies with~~ 7086
~~respect to the prosecuting attorney's response.~~ Within twenty 7087
days from the date the issues are raised, either party may move 7088
for summary judgment. The right to summary judgment shall appear 7089
on the face of the record. 7090

~~(F)~~ (E) Unless the petition and the files and records of 7091
the case show the petitioner is not entitled to relief, the 7092
court shall proceed to a prompt hearing on the issues even if a 7093
direct appeal of the case is pending. If the court notifies the 7094
parties that it has found grounds for granting relief, either 7095
party may request an appellate court in which a direct appeal of 7096
the judgment is pending to remand the pending case to the court. 7097

~~With respect to a petition filed under division (A) (1) (a)~~ 7098
~~(iv) of this section, the procedures and rules regarding~~ 7099
~~introduction of evidence and burden of proof at the pretrial~~ 7100
~~hearing that are set forth in divisions (C), (D), and (F) of~~ 7101
~~section 2929.025 of the Revised Code apply in considering the~~ 7102
~~petition. With respect to such a petition, the grounds for~~ 7103
~~granting relief are that the person has been diagnosed with one~~ 7104
~~or more of the conditions set forth in division (A) (1) (a) of~~ 7105
~~section 2929.025 of the Revised Code and that, at the time of~~ 7106
~~the aggravated murder that was the basis of the sentence of~~ 7107
~~death, the condition or conditions significantly impaired the~~ 7108
~~person's capacity in a manner described in division (A) (1) (b) of~~ 7109
~~that section.~~ 7110

~~(G) A petitioner who files a petition under division (A)~~ 7111
~~(1) (a) (i), (ii), (iii), or (iv) of this section may amend the~~ 7112
~~petition as follows:~~ 7113

~~(1) If the petition was filed by a person who has been sentenced to death, at any time that is not later than one hundred eighty days after the petition is filed, the petitioner may amend the petition with or without leave or prejudice to the proceedings.~~ 7114
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~~(2) If division (G)(1) of this section does not apply, at~~ 7119
(F) At any time before the answer or motion is filed, the 7120
petitioner may amend the petition with or without leave or 7121
prejudice to the proceedings. 7122

~~(3) The petitioner may amend the petition with leave of court at any time after the expiration of the applicable period specified in division (G)(1) or (2) of this section thereafter.~~ 7123
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~~(H)~~ (G) If the court does not find grounds for granting relief, it shall make and file findings of fact and conclusions of law and shall enter judgment denying relief on the petition. 7126
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~~If the petition was filed by a person who has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the denial of relief on the petition and of each claim it contains.~~ 7129
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If no direct appeal of 7132
the case is pending and the court finds grounds for relief or if 7133
a pending direct appeal of the case has been remanded to the 7134
court pursuant to a request made pursuant to division ~~(F)~~ (E) of 7135
this section and the court finds grounds for granting relief, it 7136
shall make and file findings of fact and conclusions of law and 7137
shall enter a judgment that vacates and sets aside the judgment 7138
in question, and, in the case of a petitioner who is a prisoner 7139
in custody, except as otherwise described in this division, 7140
shall discharge or resentence the petitioner or grant a new 7141
trial as the court determines appropriate. ~~If the court finds~~ 7142
~~grounds for relief in the case of a petitioner who filed a~~ 7143

~~petition under division (A) (1) (a) (iv) of this section, the court shall render void the sentence of death and order the resentencing of the offender under division (A) of section 2929.06 of the Revised Code. If the petitioner has been sentenced to death, the findings of fact and conclusions of law shall state specifically the reasons for the finding of grounds for granting the relief, with respect to each claim contained in the petition. The court also may make supplementary orders to the relief granted, concerning such matters as arraignment, retrial, custody, and bail. If the trial court's order granting the petition is reversed on appeal and if the direct appeal of the case has been remanded from an appellate court pursuant to a request under division (F) (E) of this section, the appellate court reversing the order granting the petition shall notify the appellate court in which the direct appeal of the case was pending at the time of the remand of the reversal and remand of the trial court's order. Upon the reversal and remand of the trial court's order granting the petition, regardless of whether notice is sent or received, the direct appeal of the case that was remanded is reinstated.~~

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

~~(J) (1) If a person sentenced to death intends to file a petition under this section, the court shall appoint counsel to represent the person upon a finding that the person is indigent and that the person either accepts the appointment of counsel or is unable to make a competent decision whether to accept or reject the appointment of counsel. The court may decline to appoint counsel for the person only upon a finding, after a~~

~~hearing if necessary, that the person rejects the appointment of
counsel and understands the legal consequences of that decision
or upon a finding that the person is not indigent.~~ 7175
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~~(2) The court shall not appoint as counsel under division
(J)(1) of this section an attorney who represented the
petitioner at trial in the case to which the petition relates
unless the person and the attorney expressly request the
appointment. The court shall appoint as counsel under division
(J)(1) of this section only an attorney who is certified under
Rule 20 of the Rules of Superintendence for the Courts of Ohio
to represent indigent defendants charged with or convicted of an
offense for which the death penalty can be or has been imposed.
The ineffectiveness or incompetence of counsel during
proceedings under this section does not constitute grounds for
relief in a proceeding under this section, in an appeal of any
action under this section, or in an application to reopen a
direct appeal.~~ 7178
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~~(3) Division (J) of this section does not preclude
attorneys who represent the state of Ohio from invoking the
provisions of 28 U.S.C. 154 with respect to capital cases that
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.~~ 7192
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~~(K)~~ (H) Subject to the appeal of a sentence for a felony
that is authorized by section 2953.08 of the Revised Code, the
remedy set forth in this section is the exclusive remedy by 7202
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which a person may bring a collateral challenge to the validity 7205
of a conviction or sentence in a criminal case or to the 7206
validity of an adjudication of a child as a delinquent child for 7207
the commission of an act that would be a criminal offense if 7208
committed by an adult or the validity of a related order of 7209
disposition. 7210

Sec. 2953.23. (A) Whether a hearing is or is not held on a 7211
petition filed pursuant to section 2953.21 of the Revised Code, 7212
a court may not entertain a petition filed after the expiration 7213
of the period prescribed in division (A) of that section or a 7214
second petition or successive petitions for similar relief on 7215
behalf of a petitioner unless division (A)(1) or (2) of this 7216
section applies: 7217

(1) Both of the following apply: 7218

(a) Either the petitioner shows that the petitioner was 7219
unavoidably prevented from discovery of the facts upon which the 7220
petitioner must rely to present the claim for relief, or, 7221
subsequent to the period prescribed in division (A)(2) of 7222
section 2953.21 of the Revised Code or to the filing of an 7223
earlier petition, the United States Supreme Court recognized a 7224
new federal or state right that applies retroactively to persons 7225
in the petitioner's situation, and the petition asserts a claim 7226
based on that right. 7227

(b) The petitioner shows by clear and convincing evidence 7228
that, but for constitutional error at trial, no reasonable 7229
factfinder would have found the petitioner guilty of the offense 7230
of which the petitioner was convicted ~~or, if the claim~~ 7231
~~challenges a sentence of death that, but for constitutional~~ 7232
~~error at the sentencing hearing, no reasonable factfinder would~~ 7233
~~have found the petitioner eligible for the death sentence.~~ 7234

(2) The petitioner was convicted of a felony, the 7235
petitioner is an offender for whom DNA testing was performed 7236
under sections 2953.71 to 2953.81 of the Revised Code or under 7237
former section 2953.82 of the Revised Code and analyzed in the 7238
context of and upon consideration of all available admissible 7239
evidence related to the inmate's case as described in division 7240
(D) of section 2953.74 of the Revised Code, and the results of 7241
the DNA testing establish, by clear and convincing evidence, 7242
actual innocence of that felony offense ~~or, if the person was~~ 7243
~~sentenced to death, establish, by clear and convincing evidence,~~ 7244
~~actual innocence of the aggravating circumstance or~~ 7245
~~circumstances the person was found guilty of committing and that~~ 7246
~~is or are the basis of that sentence of death.~~ 7247

As used in this division, "actual innocence" has the same 7248
meaning as in division (A) (1) (c) of section 2953.21 of the 7249
Revised Code, and "former section 2953.82 of the Revised Code" 7250
has the same meaning as in division (A) (1) (d) of section 2953.21 7251
of the Revised Code. 7252

(B) An order awarding or denying relief sought in a 7253
petition filed pursuant to section 2953.21 of the Revised Code 7254
is a final judgment and may be appealed pursuant to Chapter 7255
2953. of the Revised Code. 7256

~~If a petition filed pursuant to section 2953.21 of the~~ 7257
~~Revised Code by a person who has been sentenced to death is~~ 7258
~~denied and the person appeals the judgment, notwithstanding any~~ 7259
~~law or court rule to the contrary, there is no limit on the~~ 7260
~~number of pages in, or on the length of, a notice of appeal or~~ 7261
~~briefs related to an appeal filed by the person. If any court~~ 7262
~~rule specifies a limit on the number of pages in, or on the~~ 7263
~~length of, a notice of appeal or briefs described in this~~ 7264

~~division or on a prosecuting attorney's response or briefs with- 7265~~
~~respect to such an appeal and a person who has been sentenced to 7266~~
~~death files a notice of appeal or briefs that exceed the limit- 7267~~
~~specified for the petition, the prosecuting attorney may file a- 7268~~
~~response or briefs that exceed the limit specified for the- 7269~~
~~answer or briefs. 7270~~

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of 7271
the Revised Code: 7272

(A) "Application" or "application for DNA testing" means a 7273
request through postconviction relief for the state to do DNA 7274
testing on biological material from the case in which the 7275
offender was convicted of the offense for which the offender is 7276
an eligible offender and is requesting the DNA testing under 7277
sections 2953.71 to 2953.81 of the Revised Code. 7278

(B) "Biological material" means any product of a human 7279
body containing DNA. 7280

(C) "Chain of custody" means a record or other evidence 7281
that tracks a subject sample of biological material from the 7282
time the biological material was first obtained until the time 7283
it currently exists in its place of storage and, in relation to 7284
a DNA sample, a record or other evidence that tracks the DNA 7285
sample from the time it was first obtained until it currently 7286
exists in its place of storage. For purposes of this division, 7287
examples of when biological material or a DNA sample is first 7288
obtained include, but are not limited to, obtaining the material 7289
or sample at the scene of a crime, from a victim, from an 7290
offender, or in any other manner or time as is appropriate in 7291
the facts and circumstances present. 7292

(D) "Custodial agency" means the group or entity that has 7293

the responsibility to maintain biological material in question. 7294

(E) "Custodian" means the person who is the primary 7295
representative of a custodial agency. 7296

(F) "Eligible offender" means an offender who is eligible 7297
under division (C) of section 2953.72 of the Revised Code to 7298
request DNA testing to be conducted under sections 2953.71 to 7299
2953.81 of the Revised Code. 7300

(G) "Exclusion" or "exclusion result" means a result of 7301
DNA testing that scientifically precludes or forecloses the 7302
subject offender as a contributor of biological material 7303
recovered from the crime scene or victim in question, in 7304
relation to the offense for which the offender is an eligible 7305
offender and for which the ~~sentence of death or prison~~ term was 7306
imposed upon the offender. 7307

(H) "Extracting personnel" means medically approved 7308
personnel who are employed to physically obtain an offender's 7309
DNA specimen for purposes of DNA testing under sections 2953.71 7310
to 2953.81 of the Revised Code. 7311

(I) "Inclusion" or "inclusion result" means a result of 7312
DNA testing that scientifically cannot exclude, or that holds 7313
accountable, the subject offender as a contributor of biological 7314
material recovered from the crime scene or victim in question, 7315
in relation to the offense for which the offender is an eligible 7316
offender and for which the ~~sentence of death or prison~~ term was 7317
imposed upon the offender. 7318

(J) "Inconclusive" or "inconclusive result" means a result 7319
of DNA testing that is rendered when a scientifically 7320
appropriate and definitive DNA analysis or result, or both, 7321
cannot be determined. 7322

(K) "Offender" means a criminal offender who was sentenced 7323
by a court, or by a jury and a court, of this state. 7324

(L) "Outcome determinative" means that had the results of 7325
DNA testing of the subject offender been presented at the trial 7326
of the subject offender requesting DNA testing and been found 7327
relevant and admissible with respect to the felony offense for 7328
which the offender is an eligible offender and is requesting the 7329
DNA testing, and had those results been analyzed in the context 7330
of and upon consideration of all available admissible evidence 7331
related to the offender's case as described in division (D) of 7332
section 2953.74 of the Revised Code, there is a strong 7333
probability that no reasonable factfinder would have found the 7334
offender guilty of that offense ~~or, if the offender was~~ 7335
~~sentenced to death relative to that offense, would have found~~ 7336
~~the offender guilty of the aggravating circumstance or~~ 7337
~~circumstances the offender was found guilty of committing and~~ 7338
~~that is or are the basis of that sentence of death.~~ 7339

(M) "Parent sample" means the biological material first 7340
obtained from a crime scene or a victim of an offense for which 7341
an offender is an eligible offender, and from which a sample 7342
will be presently taken to do a DNA comparison to the DNA of the 7343
subject offender under sections 2953.71 to 2953.81 of the 7344
Revised Code. 7345

(N) "Prison" and "community control sanction" have the 7346
same meanings as in section 2929.01 of the Revised Code. 7347

(O) "Prosecuting attorney" means the prosecuting attorney 7348
who, or whose office, prosecuted the case in which the subject 7349
offender was convicted of the offense for which the offender is 7350
an eligible offender and is requesting the DNA testing. 7351

(P) "Prosecuting authority" means the prosecuting attorney 7352
or the attorney general. 7353

(Q) "Reasonable diligence" means a degree of diligence 7354
that is comparable to the diligence a reasonable person would 7355
employ in searching for information regarding an important 7356
matter in the person's own life. 7357

(R) "Testing authority" means a laboratory at which DNA 7358
testing will be conducted under sections 2953.71 to 2953.81 of 7359
the Revised Code. 7360

(S) "Parole" and "post-release control" have the same 7361
meanings as in section 2967.01 of the Revised Code. 7362

(T) "Sexually oriented offense" and "child-victim oriented 7363
offense" have the same meanings as in section 2950.01 of the 7364
Revised Code. 7365

(U) "Definitive DNA test" means a DNA test that clearly 7366
establishes that biological material from the perpetrator of the 7367
crime was recovered from the crime scene and also clearly 7368
establishes whether or not the biological material is that of 7369
the eligible offender. A prior DNA test is not definitive if the 7370
eligible offender proves by a preponderance of the evidence that 7371
because of advances in DNA technology there is a possibility of 7372
discovering new biological material from the perpetrator that 7373
the prior DNA test may have failed to discover. Prior testing 7374
may have been a prior "definitive DNA test" as to some 7375
biological evidence but may not have been a prior "definitive 7376
DNA test" as to other biological evidence. 7377

Sec. 2953.72. (A) Any eligible offender who wishes to 7378
request DNA testing under sections 2953.71 to 2953.81 of the 7379
Revised Code shall submit an application for the testing to the 7380

court of common pleas specified in section 2953.73 of the Revised Code, on a form prescribed by the attorney general for this purpose. The eligible offender shall submit the application in accordance with the procedures set forth in section 2953.73 of the Revised Code. The eligible offender shall specify on the application the offense or offenses for which the offender is an eligible offender and is requesting the DNA testing. Along with the application, the eligible offender shall submit an acknowledgment that is on a form prescribed by the attorney general for this purpose and that is signed by the offender. The acknowledgment shall set forth all of the following:

(1) That sections 2953.71 to 2953.81 of the Revised Code contemplate applications for DNA testing of an eligible offender at a stage of a prosecution or case after the offender has been sentenced, that any exclusion or inclusion result of DNA testing rendered pursuant to those sections may be used by a party in any proceeding as described in section 2953.81 of the Revised Code, and that all requests for any DNA testing made at trial will continue to be handled by the prosecuting attorney in the case;

(2) That the process of conducting postconviction DNA testing for an eligible offender under sections 2953.71 to 2953.81 of the Revised Code begins when the offender submits an application under section 2953.73 of the Revised Code and the acknowledgment described in this section;

(3) That the eligible offender must submit the application and acknowledgment to the court of common pleas that heard the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing;

(4) That the state has established a set of criteria set forth in section 2953.74 of the Revised Code by which eligible offender applications for DNA testing will be screened and that a judge of a court of common pleas upon receipt of a properly filed application and accompanying acknowledgment will apply those criteria to determine whether to accept or reject the application;

(5) That the results of DNA testing conducted under sections 2953.71 to 2953.81 of the Revised Code will be provided as described in section 2953.81 of the Revised Code to all parties in the postconviction proceedings and will be reported to various courts;

(6) That, if DNA testing is conducted with respect to an offender under sections 2953.71 to 2953.81 of the Revised Code, the state will not offer the offender a retest if an inclusion result is achieved relative to the testing and that, if the state were to offer a retest after an inclusion result, the policy would create an atmosphere in which endless testing could occur and in which postconviction proceedings could be stalled for many years;

(7) That, if the court rejects an eligible offender's application for DNA testing because the offender does not satisfy the acceptance criteria described in division (A) (4) of this section, the court will not accept or consider subsequent applications;

(8) That the acknowledgment memorializes the provisions of sections 2953.71 to 2953.81 of the Revised Code with respect to the application of postconviction DNA testing to offenders, that those provisions do not give any offender any additional constitutional right that the offender did not already have,

that the court has no duty or obligation to provide 7441
postconviction DNA testing to offenders, that the court of 7442
common pleas has the sole discretion subject to an appeal as 7443
described in this division to determine whether an offender is 7444
an eligible offender and whether an eligible offender's 7445
application for DNA testing satisfies the acceptance criteria 7446
described in division (A) (4) of this section and whether the 7447
application should be accepted or rejected, that if the court of 7448
common pleas rejects an eligible offender's application, the 7449
offender may ~~seek leave of the supreme court to appeal the~~ 7450
~~rejection to that court if the offender was sentenced to death~~ 7451
~~for the offense for which the offender is requesting the DNA~~ 7452
~~testing and, if the offender was not sentenced to death for that~~ 7453
~~offense, may appeal the rejection to the court of appeals, and~~ 7454
that no determination otherwise made by the court of common 7455
pleas in the exercise of its discretion regarding the 7456
eligibility of an offender or regarding postconviction DNA 7457
testing under those provisions is reviewable by or appealable to 7458
any court; 7459

(9) That the manner in which sections 2953.71 to 2953.81 7460
of the Revised Code with respect to the offering of 7461
postconviction DNA testing to offenders are carried out does not 7462
confer any constitutional right upon any offender, that the 7463
state has established guidelines and procedures relative to 7464
those provisions to ensure that they are carried out with both 7465
justice and efficiency in mind, and that an offender who 7466
participates in any phase of the mechanism contained in those 7467
provisions, including, but not limited to, applying for DNA 7468
testing and being rejected, having an application for DNA 7469
testing accepted and not receiving the test, or having DNA 7470
testing conducted and receiving unfavorable results, does not 7471

gain as a result of the participation any constitutional right 7472
to challenge, or, except as provided in division (A) (8) of this 7473
section, any right to any review or appeal of, the manner in 7474
which those provisions are carried out; 7475

(10) That the most basic aspect of sections 2953.71 to 7476
2953.81 of the Revised Code is that, in order for DNA testing to 7477
occur, there must be an offender sample against which other 7478
evidence may be compared, that, if an eligible offender's 7479
application is accepted but the offender subsequently refuses to 7480
submit to the collection of the sample of biological material 7481
from the offender or hinders the state from obtaining a sample 7482
of biological material from the offender, the goal of those 7483
provisions will be frustrated, and that an offender's refusal or 7484
hindrance shall cause the court to rescind its prior acceptance 7485
of the application for DNA testing for the offender and deny the 7486
application. 7487

(B) The attorney general shall prescribe a form to be used 7488
to make an application for DNA testing under division (A) of 7489
this section and section 2953.73 of the Revised Code and a form 7490
to be used to provide the acknowledgment described in division 7491
(A) of this section. The forms shall include all information 7492
described in division (A) of this section, spaces for an 7493
offender to insert all information necessary to complete the 7494
forms, including, but not limited to, specifying the offense or 7495
offenses for which the offender is an eligible offender and is 7496
requesting the DNA testing, and any other information or 7497
material the attorney general determines is necessary or 7498
relevant. The attorney general shall distribute copies of the 7499
prescribed forms to the department of rehabilitation and 7500
correction, the department shall ensure that each prison in 7501
which offenders are housed has a supply of copies of the forms, 7502

and the department shall ensure that copies of the forms are 7503
provided free of charge to any offender who requests them. 7504

(C) (1) An offender is eligible to request DNA testing to 7505
be conducted under sections 2953.71 to 2953.81 of the Revised 7506
Code only if all of the following apply: 7507

(a) The offense for which the offender claims to be an 7508
eligible offender is a felony, and the offender was convicted by 7509
a judge or jury of that offense. 7510

(b) One of the following applies: 7511

(i) The offender was sentenced to a prison term ~~or~~ 7512
~~sentence of death~~ for the felony described in division (C) (1) (a) 7513
of this section, and the offender is in prison serving that 7514
prison term ~~or under that sentence of death~~, has been paroled or 7515
is on probation regarding that felony, is under post-release 7516
control regarding that felony, or has been released from that 7517
prison term and is under a community control sanction regarding 7518
that felony. 7519

(ii) The offender was not sentenced to a prison term ~~or~~ 7520
~~sentence of death~~ for the felony described in division (C) (1) (a) 7521
of this section, but was sentenced to a community control 7522
sanction for that felony and is under that community control 7523
sanction. 7524

(iii) The felony described in division (C) (1) (a) of this 7525
section was a sexually oriented offense or child-victim oriented 7526
offense, and the offender has a duty to comply with sections 7527
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 7528
relative to that felony. 7529

(2) An offender is not an eligible offender under division 7530
(C) (1) of this section regarding any offense to which the 7531

offender pleaded guilty or no contest. 7532

(3) An offender is not an eligible offender under division 7533
(C) (1) of this section regarding any offense if the offender 7534
dies prior to submitting an application for DNA testing related 7535
to that offense under section 2953.73 of the Revised Code. 7536

Sec. 2953.73. (A) An eligible offender who wishes to 7537
request DNA testing to be conducted under sections 2953.71 to 7538
2953.81 of the Revised Code shall submit an application for DNA 7539
testing on a form prescribed by the attorney general for this 7540
purpose and shall submit the form to the court of common pleas 7541
that sentenced the offender for the offense for which the 7542
offender is an eligible offender and is requesting DNA testing. 7543

(B) If an eligible offender submits an application for DNA 7544
testing under division (A) of this section, upon the submission 7545
of the application, all of the following apply: 7546

(1) The eligible offender shall serve a copy of the 7547
application on the prosecuting attorney and the attorney 7548
general. 7549

(2) The application shall be assigned to the judge of that 7550
court of common pleas who was the trial judge in the case in 7551
which the eligible offender was convicted of the offense for 7552
which the offender is requesting DNA testing, or, if that judge 7553
no longer is a judge of that court, it shall be assigned 7554
according to court rules. The judge to whom the application is 7555
assigned shall decide the application. The application shall 7556
become part of the file in the case. 7557

(C) If an eligible offender submits an application for DNA 7558
testing under division (A) of this section, regardless of 7559
whether the offender has commenced any federal habeas corpus 7560

proceeding relative to the case in which the offender was 7561
convicted of the offense for which the offender is an eligible 7562
offender and is requesting DNA testing, any response to the 7563
application by the prosecuting attorney or the attorney general 7564
shall be filed not later than forty-five days after the date on 7565
which the eligible offender submits the application. The 7566
prosecuting attorney or the attorney general, or both, may, but 7567
are not required to, file a response to the application. If the 7568
prosecuting attorney or the attorney general files a response 7569
under this division, the prosecuting attorney or attorney 7570
general, whoever filed the response, shall serve a copy of the 7571
response on the eligible offender. 7572

(D) If an eligible offender submits an application for DNA 7573
testing under division (A) of this section, the court shall make 7574
the determination as to whether the application should be 7575
accepted or rejected. The court shall expedite its review of the 7576
application. The court shall make the determination in 7577
accordance with the criteria and procedures set forth in 7578
sections 2953.74 to 2953.81 of the Revised Code and, in making 7579
the determination, shall consider the application, the 7580
supporting affidavits, and the documentary evidence and, in 7581
addition to those materials, shall consider all the files and 7582
records pertaining to the proceedings against the applicant, 7583
including, but not limited to, the indictment, the court's 7584
journal entries, the journalized records of the clerk of the 7585
court, and the court reporter's transcript and all responses to 7586
the application filed under division (C) of this section by a 7587
prosecuting attorney or the attorney general, unless the 7588
application and the files and records show the applicant is not 7589
entitled to DNA testing, in which case the application may be 7590
denied. The court is not required to conduct an evidentiary 7591

hearing in conducting its review of, and in making its 7592
determination as to whether to accept or reject, the 7593
application. Upon making its determination, the court shall 7594
enter a judgment and order that either accepts or rejects the 7595
application and that includes within the judgment and order the 7596
reasons for the acceptance or rejection as applied to the 7597
criteria and procedures set forth in sections 2953.71 to 2953.81 7598
of the Revised Code. The court shall send a copy of the judgment 7599
and order to the eligible offender who filed it, the prosecuting 7600
attorney, and the attorney general. 7601

(E) A judgment and order of a court entered under division 7602
(D) of this section is appealable only as provided in this 7603
division. If an eligible offender submits an application for DNA 7604
testing under section 2953.73 of the Revised Code and the court 7605
of common pleas rejects the application under division (D) of 7606
this section, ~~one of the following applies:~~ 7607

~~(1) If the offender was sentenced to death for the offense 7608
for which the offender claims to be an eligible offender and is 7609
requesting DNA testing, the offender may seek leave of the 7610
supreme court to appeal the rejection to the supreme court. 7611
Courts of appeals do not have jurisdiction to review any 7612
rejection if the offender was sentenced to death for the offense 7613
for which the offender claims to be an eligible offender and is 7614
requesting DNA testing. 7615~~

~~(2) If the offender was not sentenced to death for the 7616
offense for which the offender claims to be an eligible offender 7617
and is requesting DNA testing, the rejection is a final 7618
appealable order, and the offender may appeal it to the court of 7619
appeals of the district in which is located that court of common 7620
pleas. 7621~~

(F) Notwithstanding any provision of law regarding fees 7622
and costs, no filing fee shall be required of, and no court 7623
costs shall be assessed against, an eligible offender who is 7624
indigent and who submits an application under this section. 7625

(G) If a court rejects an eligible offender's application 7626
for DNA testing under division (D) of this section, unless the 7627
rejection is overturned on appeal, no court shall require the 7628
state to administer a DNA test under sections 2953.71 to 2953.81 7629
of the Revised Code on the eligible offender. 7630

Sec. 2953.81. If an eligible offender submits an 7631
application for DNA testing under section 2953.73 of the Revised 7632
Code and if DNA testing is performed based on that application, 7633
upon completion of the testing, all of the following apply: 7634

(A) The court or a designee of the court shall require the 7635
state to maintain the results of the testing and to maintain and 7636
preserve both the parent sample of the biological material used 7637
and the offender sample of the biological material used. The 7638
testing authority may be designated as the person to maintain 7639
the results of the testing or to maintain and preserve some or 7640
all of the samples, or both. The results of the testing remain 7641
state's evidence. The samples shall be preserved during the 7642
entire period of time for which the offender is imprisoned or 7643
confined relative to the sentence in question, is on parole or 7644
probation relative to that sentence, is under post-release 7645
control or a community control sanction relative to that 7646
sentence, or has a duty to comply with sections 2950.04, 7647
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 7648
that sentence. Additionally, if the prison term or confinement 7649
under the sentence in question expires, ~~if the sentence in~~ 7650
~~question is a sentence of death and the offender is executed, or~~ 7651

if the parole or probation period, the period of post-release control, the community control sanction, or the duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code under the sentence in question ends, the samples shall be preserved for a reasonable period of time of not less than twenty-four months after the term or confinement expires,~~the offender is executed,~~ or the parole or probation period, the period of post-release control, the community control sanction, or the duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code ends, whichever is applicable. The court shall determine the period of time that is reasonable for purposes of this division, provided that the period shall not be less than twenty-four months after the term or confinement expires,~~the offender is executed,~~ or the parole or probation period, the period of post-release control, the community control sanction, or the duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code ends, whichever is applicable.

(B) The results of the testing are a public record.

(C) The court or the testing authority shall provide a copy of the results of the testing to the prosecuting attorney, the attorney general, and the subject offender.

(D) If the postconviction proceeding in question is pending at that time in a court of this state, the court of common pleas that decided the DNA application or the testing authority shall provide a copy of the results of the testing to any court of this state, and, if it is pending in a federal court, the court of common pleas that decided the DNA application or the testing authority shall provide a copy of the results of the testing to that federal court.

(E) The testing authority shall provide a copy of the results of the testing to the court of common pleas that decided the DNA application.

(F) The offender or the state may enter the results of the testing into any proceeding.

Sec. 2967.05. (A) As used in this section:

(1) "Imminent danger of death" means that the inmate has a medically diagnosable condition that will cause death to occur within a short period of time.

As used in division (A) (1) of this section, "within a short period of time" means generally within six months.

(2) (a) "Medically incapacitated" means any diagnosable medical condition, including mental dementia and severe, permanent medical or cognitive disability, that prevents the inmate from completing activities of daily living without significant assistance, that incapacitates the inmate to the extent that institutional confinement does not offer additional restrictions, that is likely to continue throughout the entire period of parole, and that is unlikely to improve noticeably.

(b) "Medically incapacitated" does not include conditions related solely to mental illness unless the mental illness is accompanied by injury, disease, or organic defect.

(3) (a) "Terminal illness" means a condition that satisfies all of the following criteria:

(i) The condition is irreversible and incurable and is caused by disease, illness, or injury from which the inmate is unlikely to recover.

(ii) In accordance with reasonable medical standards and a

reasonable degree of medical certainty, the condition is likely 7710
to cause death to the inmate within twelve months. 7711

(iii) Institutional confinement of the inmate does not 7712
offer additional protections for public safety or against the 7713
inmate's risk to reoffend. 7714

(b) The department of rehabilitation and correction shall 7715
adopt rules pursuant to Chapter 119. of the Revised Code to 7716
implement the definition of "terminal illness" in division (A) 7717
(3) (a) of this section. 7718

(B) Upon the recommendation of the director of 7719
rehabilitation and correction, accompanied by a certificate of 7720
the attending physician that an inmate is terminally ill, 7721
medically incapacitated, or in imminent danger of death, the 7722
governor may order the inmate's release as if on parole, 7723
reserving the right to return the inmate to the institution 7724
pursuant to this section. If, subsequent to the inmate's 7725
release, the inmate's health improves so that the inmate is no 7726
longer terminally ill, medically incapacitated, or in imminent 7727
danger of death, the inmate shall be returned, by order of the 7728
governor, to the institution from which the inmate was released. 7729
If the inmate violates any rules or conditions applicable to the 7730
inmate, the inmate may be returned to an institution under the 7731
control of the department of rehabilitation and correction. The 7732
governor may direct the adult parole authority to investigate or 7733
cause to be investigated the inmate and make a recommendation. 7734
An inmate released under this section shall be subject to 7735
supervision by the adult parole authority in accordance with any 7736
recommendation of the adult parole authority that is approved by 7737
the governor. The adult parole authority shall adopt rules 7738
pursuant to section 119.03 of the Revised Code to establish the 7739

procedure for medical release of an inmate when an inmate is 7740
terminally ill, medically incapacitated, or in imminent danger 7741
of death. 7742

(C) No inmate is eligible for release under this section 7743
if the inmate is serving ~~a death sentence~~, a sentence of life 7744
without parole, a sentence under Chapter 2971. of the Revised 7745
Code for a felony of the first or second degree, a sentence for 7746
aggravated murder or murder, or a mandatory prison term for an 7747
offense of violence or any specification described in Chapter 7748
2941. of the Revised Code. 7749

Sec. 2967.12. (A) Except as provided in division (G) of 7750
this section, at least sixty days before the adult parole 7751
authority recommends any pardon or commutation of sentence, or 7752
grants any parole, the authority shall provide a notice of the 7753
pendency of the pardon, commutation, or parole, setting forth 7754
the name of the person on whose behalf it is made, the offense 7755
of which the person was convicted or to which the person pleaded 7756
guilty, the time of conviction or the guilty plea, and the term 7757
of the person's sentence, to the prosecuting attorney and the 7758
judge of the court of common pleas of the county in which the 7759
indictment against the person was found. If there is more than 7760
one judge of that court of common pleas, the authority shall 7761
provide the notice to the presiding judge. Upon the request of 7762
the prosecuting attorney or of any law enforcement agency, the 7763
authority shall provide to the requesting prosecuting attorney 7764
and law enforcement agencies an institutional summary report 7765
that covers the subject person's participation while confined in 7766
a state correctional institution in training, work, and other 7767
rehabilitative activities and any disciplinary action taken 7768
against the person while so confined. The department of 7769
rehabilitation and correction may utilize electronic means to 7770

provide this notice. The department of rehabilitation and 7771
correction, at the same time that it provides the notice to the 7772
prosecuting attorney and judge under this division, also shall 7773
post on the database it maintains pursuant to section 5120.66 of 7774
the Revised Code the offender's name and all of the information 7775
specified in division (A) (1) (c) (iii) of that section. 7776

(B) If a request for notification has been made pursuant 7777
to section 2930.16 of the Revised Code or if division (H) of 7778
this section applies, the office of victim services or the adult 7779
parole authority also shall provide notice to the victim or the 7780
victim's representative at least sixty days prior to 7781
recommending any pardon or commutation of sentence for, or 7782
granting any parole to, the person. The notice shall include the 7783
information required by division (A) of this section and may be 7784
provided by telephone or through electronic means. The notice 7785
also shall inform the victim or the victim's representative that 7786
the victim or representative may send a written statement 7787
relative to the victimization and the pending action to the 7788
adult parole authority and that, if the authority receives any 7789
written statement prior to recommending a pardon or commutation 7790
or granting a parole for a person, the authority will consider 7791
the statement before it recommends a pardon or commutation or 7792
grants a parole. If the person is being considered for parole, 7793
the notice shall inform the victim or the victim's 7794
representative that a full board hearing of the parole board may 7795
be held and that the victim or victim's representative may 7796
contact the office of victims' services for further information. 7797
If the person being considered for parole was convicted of or 7798
pleaded guilty to a violation of section 2903.01 or 2903.02 of 7799
the Revised Code, an offense of violence that is a felony of the 7800
first, second, or third degree, or an offense punished by a 7801

sentence of life imprisonment, the notice shall inform the 7802
victim of that offense, the victim's representative, or a member 7803
of the victim's immediate family that the victim, the victim's 7804
representative, and the victim's immediate family have the right 7805
to give testimony at a full board hearing of the parole board 7806
and that the victim or victim's representative may contact the 7807
office of victims' services for further information. 7808

(C) When notice of the pendency of any pardon, commutation 7809
of sentence, or parole has been provided to a judge or 7810
prosecutor or posted on the database as required in division (A) 7811
of this section and a hearing on the pardon, commutation, or 7812
parole is continued to a date certain, the authority shall 7813
provide notice of the further consideration of the pardon, 7814
commutation, or parole at least sixty days before the further 7815
consideration. The notice of the further consideration shall be 7816
provided to the proper judge and prosecuting attorney at least 7817
sixty days before the further consideration, and may be provided 7818
using electronic means, and, if the initial notice was posted on 7819
the database as provided in division (A) of this section, the 7820
notice of the further consideration shall be posted on the 7821
database at least sixty days before the further consideration. 7822
If the prosecuting attorney or a law enforcement agency was 7823
provided a copy of the institutional summary report relative to 7824
the subject person under division (A) of this section, the 7825
authority shall include with the notice of the further 7826
consideration sent to the prosecuting attorney any new 7827
information with respect to the person that relates to 7828
activities and actions of the person that are of a type covered 7829
by the report and shall send to the law enforcement agency a 7830
report that provides notice of the further consideration and 7831
includes any such new information with respect to the person. 7832

When notice of the pendency of any pardon, commutation, or 7833
parole has been given as provided in division (B) of this 7834
section and the hearing on it is continued to a date certain, 7835
the authority shall give notice of the further consideration to 7836
the victim or the victim's representative in accordance with 7837
section 2930.03 of the Revised Code. 7838

(D) In case of an application for the pardon or 7839
commutation of sentence of a person sentenced to capital 7840
punishment prior to the effective date of this amendment, the 7841
governor may modify the requirements of notification and 7842
publication if there is not sufficient time for compliance with 7843
the requirements before the date fixed for the execution of 7844
sentence. 7845

(E) If an offender is serving a prison term imposed under 7846
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 7847
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 7848
Code and if the parole board terminates its control over the 7849
offender's service of that term pursuant to section 2971.04 of 7850
the Revised Code, the parole board immediately shall provide 7851
written notice of its termination of control or the transfer of 7852
control to the entities and persons specified in section 2971.04 7853
of the Revised Code. 7854

(F) The failure of the adult parole authority to comply 7855
with the notice or posting provisions of division (A), (B), or 7856
(C) of this section or the failure of the parole board to comply 7857
with the notice provisions of division (E) of this section do 7858
not give any rights or any grounds for appeal or post-conviction 7859
relief to the person serving the sentence. 7860

(G) Divisions (A), (B), and (C) of this section do not 7861
apply to any release of a person that is of the type described 7862

in division (B) (2) (b) of section 5120.031 of the Revised Code. 7863

(H) If a defendant is incarcerated for the commission of 7864
aggravated murder, murder, or an offense of violence that is a 7865
felony of the first, second, or third degree or is under a 7866
sentence of life imprisonment, except as otherwise provided in 7867
this division, the notice described in division (B) of this 7868
section shall be given to the victim or victim's representative 7869
regardless of whether the victim or victim's representative has 7870
made a request for notification. The notice described in 7871
division (B) of this section shall not be given under this 7872
division to a victim or victim's representative if the victim or 7873
victim's representative has requested pursuant to division (B) 7874
(2) of section 2930.03 of the Revised Code that the victim or 7875
the victim's representative not be provided the notice. The 7876
notice described in division (B) of this section does not have 7877
to be given under this division to a victim or victim's 7878
representative if notice was given to the victim or victim's 7879
representative with respect to at least two prior considerations 7880
of pardon, commutation, or parole of a person and the victim or 7881
victim's representative did not provide any written statement 7882
relative to the victimization and the pending action, did not 7883
attend any hearing conducted relative to the pending action, and 7884
did not otherwise respond to the office with respect to the 7885
pending action. Regardless of whether the victim or victim's 7886
representative has requested that the notice described in 7887
division (B) of this section be provided or not be provided, the 7888
office of victim services or adult parole authority shall give 7889
similar notice to the law enforcement agency that arrested the 7890
defendant if any officer of that agency was a victim of the 7891
offense and to any member of the victim's immediate family who 7892
requests notification. If notice is to be given under this 7893

division, the office or authority may give the notice by any 7894
reasonable means, including regular mail, telephone, and 7895
electronic mail, in accordance with division (D) (1) of section 7896
2930.16 of the Revised Code. If the notice is based on an 7897
offense committed prior to ~~the effective date of this amendment~~ 7898
March 22, 2013, the notice to the victim or victim's 7899
representative also shall include the opt-out information 7900
described in division (D) (1) of section 2930.16 of the Revised 7901
Code. The office or authority, in accordance with division (D) 7902
(2) of section 2930.16 of the Revised Code, shall keep a record 7903
of all attempts to provide the notice, and of all notices 7904
provided, under this division. 7905

Division (H) of this section, and the notice-related 7906
provisions of divisions (E) (2) and (K) of section 2929.20, 7907
division (D) (1) of section 2930.16, division (E) (1) (b) of 7908
section 2967.19, division (A) (3) (b) of section 2967.26, division 7909
(D) (1) of section 2967.28, and division (A) (2) of section 7910
5149.101 of the Revised Code enacted in the act in which 7911
division (H) of this section was enacted, shall be known as 7912
"Roberta's Law." 7913

(I) In addition to and independent of the right of a 7914
victim to make a statement as described in division (A) of this 7915
section or pursuant to section 2930.17 of the Revised Code or to 7916
otherwise make a statement, the authority for a judge or 7917
prosecuting attorney to furnish statements and information, make 7918
recommendations, and give testimony as described in division (A) 7919
of this section, the right of a prosecuting attorney, judge, or 7920
victim to give testimony or submit a statement at a full parole 7921
board hearing pursuant to section 5149.101 of the Revised Code, 7922
and any other right or duty of a person to present information 7923
or make a statement, any person may send to the adult parole 7924

authority at any time prior to the authority's recommending a 7925
pardon or commutation or granting a parole for the offender a 7926
written statement relative to the offense and the pending 7927
action. 7928

(J) As used in this section, "victim's immediate family" 7929
means the mother, father, spouse, sibling, or child of the 7930
victim, provided that in no case does "victim's immediate 7931
family" include the offender with respect to whom the notice in 7932
question applies. 7933

Sec. 2967.13. (A) Except as provided in division (G) of 7934
this section, a prisoner serving a sentence of imprisonment for 7935
life for an offense committed on or after July 1, 1996, is not 7936
entitled to any earned credit under section 2967.193 of the 7937
Revised Code and becomes eligible for parole as follows: 7938

(1) If a sentence of imprisonment for life was imposed for 7939
the offense of murder, at the expiration of the prisoner's 7940
minimum term; 7941

(2) If a sentence of imprisonment for life with parole 7942
eligibility after serving twenty years of imprisonment was 7943
imposed pursuant to section 2929.02 or former section 2929.022 7944
or 2929.03 of the Revised Code, after serving a term of twenty 7945
years; 7946

(3) If a sentence of imprisonment for life with parole 7947
eligibility after serving twenty-five full years of imprisonment 7948
was imposed pursuant to section 2929.02 or former section 7949
2929.022 or 2929.03 of the Revised Code, after serving a term of 7950
twenty-five full years; 7951

(4) If a sentence of imprisonment for life with parole 7952
eligibility after serving thirty full years of imprisonment was 7953

imposed pursuant to section 2929.02 or former section 2929.022 7954
or 2929.03 of the Revised Code, after serving a term of thirty 7955
full years; 7956

(5) If a sentence of imprisonment for life was imposed for 7957
rape, after serving a term of ten full years' imprisonment; 7958

(6) If a sentence of imprisonment for life with parole 7959
eligibility after serving fifteen years of imprisonment was 7960
imposed for a violation of section 2927.24 of the Revised Code, 7961
after serving a term of fifteen years. 7962

(B) Except as provided in division (G) of this section, a 7963
prisoner serving a sentence of imprisonment for life with parole 7964
eligibility after serving twenty years of imprisonment or a 7965
sentence of imprisonment for life with parole eligibility after 7966
serving twenty-five full years or thirty full years of 7967
imprisonment imposed pursuant to section 2929.02 or former 7968
section 2929.022 or 2929.03 of the Revised Code for an offense 7969
committed on or after July 1, 1996, consecutively to any other 7970
term of imprisonment, becomes eligible for parole after serving 7971
twenty years, twenty full years, or thirty full years, as 7972
applicable, as to each such sentence of life imprisonment, which 7973
shall not be reduced for earned credits under section 2967.193 7974
of the Revised Code, plus the term or terms of the other 7975
sentences consecutively imposed or, if one of the other 7976
sentences is another type of life sentence with parole 7977
eligibility, the number of years before parole eligibility for 7978
that sentence. 7979

(C) Except as provided in division (G) of this section, a 7980
prisoner serving consecutively two or more sentences in which an 7981
indefinite term of imprisonment is imposed becomes eligible for 7982
parole upon the expiration of the aggregate of the minimum terms 7983

of the sentences. 7984

(D) Except as provided in division (G) of this section, a 7985
prisoner serving a term of imprisonment who is described in 7986
division (A) of section 2967.021 of the Revised Code becomes 7987
eligible for parole as described in that division or, if the 7988
prisoner is serving a definite term of imprisonment, shall be 7989
released as described in that division. 7990

(E) A prisoner serving a sentence of life imprisonment 7991
without parole imposed pursuant to section 2907.02 or 2929.02 or 7992
former section 2929.03 or 2929.06 of the Revised Code is not 7993
eligible for parole and shall be imprisoned until death. 7994

(F) A prisoner serving a stated prison term that is a non- 7995
life felony indefinite prison term shall be released in 7996
accordance with sections 2967.271 and 2967.28 of the Revised 7997
Code. A prisoner serving a stated prison term of any other 7998
nature shall be released in accordance with section 2967.28 of 7999
the Revised Code. 8000

(G) A prisoner serving a prison term or term of life 8001
imprisonment without parole imposed pursuant to section 2971.03 8002
of the Revised Code never becomes eligible for parole during 8003
that term of imprisonment. 8004

Sec. 2967.193. (A) (1) Except as provided in division (C) 8005
of this section and subject to the maximum aggregate total 8006
specified in division (A) (3) of this section, a person confined 8007
in a state correctional institution or placed in the substance 8008
use disorder treatment program may provisionally earn one day or 8009
five days of credit, based on the category set forth in division 8010
(D) (1), (2), (3), (4), or (5) of this section in which the 8011
person is included, toward satisfaction of the person's stated 8012

prison term, as described in division (F) of this section, for 8013
each completed month during which the person, if confined in a 8014
state correctional institution, productively participates in an 8015
education program, vocational training, employment in prison 8016
industries, treatment for substance abuse, or any other 8017
constructive program developed by the department with specific 8018
standards for performance by prisoners or during which the 8019
person, if placed in the substance use disorder treatment 8020
program, productively participates in the program. Except as 8021
provided in division (C) of this section and subject to the 8022
maximum aggregate total specified in division (A) (3) of this 8023
section, a person so confined in a state correctional 8024
institution who successfully completes two programs or 8025
activities of that type may, in addition, provisionally earn up 8026
to five days of credit toward satisfaction of the person's 8027
stated prison term, as described in division (F) of this 8028
section, for the successful completion of the second program or 8029
activity. The person shall not be awarded any provisional days 8030
of credit for the successful completion of the first program or 8031
activity or for the successful completion of any program or 8032
activity that is completed after the second program or activity. 8033
At the end of each calendar month in which a person productively 8034
participates in a program or activity listed in this division or 8035
successfully completes a program or activity listed in this 8036
division, the department of rehabilitation and correction shall 8037
determine and record the total number of days credit that the 8038
person provisionally earned in that calendar month. If the 8039
person in a state correctional institution violates prison rules 8040
or the person in the substance use disorder treatment program 8041
violates program or department rules, the department may deny 8042
the person a credit that otherwise could have been provisionally 8043
awarded to the person or may withdraw one or more credits 8044

previously provisionally earned by the person. Days of credit 8045
provisionally earned by a person shall be finalized and awarded 8046
by the department subject to administrative review by the 8047
department of the person's conduct. 8048

(2) Unless a person is serving a mandatory prison term or 8049
a prison term for an offense of violence or a sexually oriented 8050
offense, and notwithstanding the maximum aggregate total 8051
specified in division (A) (3) of this section, a person who 8052
successfully completes any of the following shall earn ninety 8053
days of credit toward satisfaction of the person's stated prison 8054
term or a ten per cent reduction of the person's stated prison 8055
term, whichever is less: 8056

(a) An Ohio high school diploma or Ohio certificate of 8057
high school equivalence certified by the Ohio central school 8058
system; 8059

(b) A therapeutic drug community program; 8060

(c) All three phases of the department of rehabilitation 8061
and correction's intensive outpatient drug treatment program; 8062

(d) A career technical vocational school program; 8063

(e) A college certification program; 8064

(f) The criteria for a certificate of achievement and 8065
employability as specified in division (A) (1) of section 2961.22 8066
of the Revised Code. 8067

(3) Except for persons described in division (A) (2) of 8068
this section, the aggregate days of credit provisionally earned 8069
by a person for program or activity participation and program 8070
and activity completion under this section and the aggregate 8071
days of credit finally credited to a person under this section 8072

shall not exceed eight per cent of the total number of days in 8073
the person's stated prison term. 8074

(B) The department of rehabilitation and correction shall 8075
adopt rules that specify the programs or activities for which 8076
credit may be earned under this section, the criteria for 8077
determining productive participation in, or completion of, the 8078
programs or activities and the criteria for awarding credit, 8079
including criteria for awarding additional credit for successful 8080
program or activity completion, and the criteria for denying or 8081
withdrawing previously provisionally earned credit as a result 8082
of a violation of prison rules, or program or department rules, 8083
whichever is applicable. 8084

(C) No person confined in a state correctional institution 8085
or placed in a substance use disorder treatment program to whom 8086
any of the following applies shall be awarded any days of credit 8087
under division (A) of this section: 8088

(1) The person is serving a prison term that section 8089
2929.13 or section 2929.14 of the Revised Code specifies cannot 8090
be reduced pursuant to this section or this chapter or is 8091
serving a sentence for which section 2967.13 or division (B) of 8092
section 2929.143 of the Revised Code specifies that the person 8093
is not entitled to any earned credit under this section. 8094

(2) The person is ~~sentenced to death or is serving a~~ 8095
prison term or a term of life imprisonment for aggravated 8096
murder, murder, or a conspiracy or attempt to commit, or 8097
complicity in committing, aggravated murder or murder. 8098

(3) The person is serving a sentence of life imprisonment 8099
without parole imposed pursuant to section 2929.02 or former 8100
section 2929.03 or 2929.06 of the Revised Code, a prison term or 8101

a term of life imprisonment without parole imposed pursuant to 8102
section 2971.03 of the Revised Code, or a sentence for a 8103
sexually oriented offense that was committed on or after 8104
September 30, 2011. 8105

(D) This division does not apply to a determination of 8106
whether a person confined in a state correctional institution or 8107
placed in a substance use disorder treatment program may earn 8108
any days of credit under division (A) of this section for 8109
successful completion of a second program or activity. The 8110
determination of whether a person confined in a state 8111
correctional institution may earn one day of credit or five days 8112
of credit under division (A) of this section for each completed 8113
month during which the person productively participates in a 8114
program or activity specified under that division shall be made 8115
in accordance with the following: 8116

(1) The offender may earn one day of credit under division 8117
(A) of this section, except as provided in division (C) of this 8118
section, if the most serious offense for which the offender is 8119
confined is any of the following that is a felony of the first 8120
or second degree: 8121

(a) A violation of division (A) of section 2903.04 or of 8122
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 8123
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 8124
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.15, 2919.151, 8125
2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, 8126
or 2927.24 of the Revised Code; 8127

(b) A conspiracy or attempt to commit, or complicity in 8128
committing, any other offense for which the maximum penalty is 8129
imprisonment for life or any offense listed in division (D) (1) 8130
(a) of this section. 8131

(2) The offender may earn one day of credit under division 8132
(A) of this section, except as provided in division (C) of this 8133
section, if the offender is serving a stated prison term that 8134
includes a prison term imposed for a sexually oriented offense 8135
that the offender committed prior to September 30, 2011. 8136

(3) The offender may earn one day of credit under division 8137
(A) of this section, except as provided in division (C) of this 8138
section, if the offender is serving a stated prison term that 8139
includes a prison term imposed for a felony other than carrying 8140
a concealed weapon an essential element of which is any conduct 8141
or failure to act expressly involving any deadly weapon or 8142
dangerous ordnance. 8143

(4) Except as provided in division (C) of this section, if 8144
the most serious offense for which the offender is confined is a 8145
felony of the first or second degree and divisions (D) (1), (2), 8146
and (3) of this section do not apply to the offender, the 8147
offender may earn one day of credit under division (A) of this 8148
section if the offender committed that offense prior to 8149
September 30, 2011, and the offender may earn five days of 8150
credit under division (A) of this section if the offender 8151
committed that offense on or after September 30, 2011. 8152

(5) Except as provided in division (C) of this section, if 8153
the most serious offense for which the offender is confined is a 8154
felony of the third, fourth, or fifth degree or an unclassified 8155
felony and neither division (D) (2) nor (3) of this section 8156
applies to the offender, the offender may earn one day of credit 8157
under division (A) of this section if the offender committed 8158
that offense prior to September 30, 2011, and the offender may 8159
earn five days of credit under division (A) of this section if 8160
the offender committed that offense on or after September 30, 8161

2011. 8162

(E) The department annually shall seek and consider the 8163
written feedback of the Ohio prosecuting attorneys association, 8164
the Ohio judicial conference, the Ohio public defender, the Ohio 8165
association of criminal defense lawyers, and other organizations 8166
and associations that have an interest in the operation of the 8167
corrections system and the earned credits program under this 8168
section as part of its evaluation of the program and in 8169
determining whether to modify the program. 8170

(F) Days of credit awarded under this section shall be 8171
applied toward satisfaction of a person's stated prison term as 8172
follows: 8173

(1) Toward the definite prison term of a prisoner serving 8174
a definite prison term as a stated prison term; 8175

(2) Toward the minimum and maximum terms of a prisoner 8176
serving an indefinite prison term imposed under division (A) (1) 8177
(a) or (2) (a) of section 2929.14 of the Revised Code for a 8178
felony of the first or second degree committed on or after ~~the~~ 8179
~~effective date of this amendment~~ March 22, 2019. 8180

(G) As used in this section: 8181

(1) "Sexually oriented offense" has the same meaning as in 8182
section 2950.01 of the Revised Code. 8183

(2) "Substance use disorder treatment program" means the 8184
substance use disorder treatment program established by the 8185
department of rehabilitation and correction under section 8186
5120.035 of the Revised Code. 8187

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 8188
section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 8189

another section of the Revised Code, other than divisions (B) 8190
and (C) of section 2929.14 of the Revised Code, that authorizes 8191
or requires a specified prison term or a mandatory prison term 8192
for a person who is convicted of or pleads guilty to a felony or 8193
that specifies the manner and place of service of a prison term 8194
or term of imprisonment, the court shall impose a sentence upon 8195
a person who is convicted of or pleads guilty to a violent sex 8196
offense and who also is convicted of or pleads guilty to a 8197
sexually violent predator specification that was included in the 8198
indictment, count in the indictment, or information charging 8199
that offense, and upon a person who is convicted of or pleads 8200
guilty to a designated homicide, assault, or kidnapping offense 8201
and also is convicted of or pleads guilty to both a sexual 8202
motivation specification and a sexually violent predator 8203
specification that were included in the indictment, count in the 8204
indictment, or information charging that offense, as follows: 8205

(1) Except as provided in division (A) (5) of this section, 8206
if the offense for which the sentence is being imposed is 8207
~~aggravated murder and if the court does not impose upon the~~ 8208
~~offender a sentence of death,~~ it shall impose upon the offender 8209
a term of life imprisonment without parole. ~~If the court~~ 8210
~~sentences the offender to death and the sentence of death is~~ 8211
~~vacated, overturned, or otherwise set aside, the court shall~~ 8212
~~impose upon the offender a term of life imprisonment without~~ 8213
~~parole.~~ 8214

(2) Except as provided in division (A) (5) of this section, 8215
if the offense for which the sentence is being imposed is 8216
murder; or if the offense is rape committed in violation of 8217
division (A) (1) (b) of section 2907.02 of the Revised Code when 8218
the offender purposely compelled the victim to submit by force 8219
or threat of force, when the victim was less than ten years of 8220

age, when the offender previously has been convicted of or 8221
pleaded guilty to either rape committed in violation of that 8222
division or a violation of an existing or former law of this 8223
state, another state, or the United States that is substantially 8224
similar to division (A)(1)(b) of section 2907.02 of the Revised 8225
Code, or when the offender during or immediately after the 8226
commission of the rape caused serious physical harm to the 8227
victim; or if the offense is an offense other than aggravated 8228
murder or murder for which a term of life imprisonment may be 8229
imposed, it shall impose upon the offender a term of life 8230
imprisonment without parole. 8231

(3)(a) Except as otherwise provided in division (A)(3)(b), 8232
(c), (d), or (e) or (A)(4) of this section, if the offense for 8233
which the sentence is being imposed is an offense other than 8234
aggravated murder, murder, or rape and other than an offense for 8235
which a term of life imprisonment may be imposed, it shall 8236
impose an indefinite prison term consisting of a minimum term 8237
fixed by the court as described in this division, but not less 8238
than two years, and a maximum term of life imprisonment. Except 8239
as otherwise specified in this division, the minimum term shall 8240
be fixed by the court from among the range of terms available as 8241
a definite term for the offense. If the offense is a felony of 8242
the first or second degree committed on or after March 22, 2019, 8243
the minimum term shall be fixed by the court from among the 8244
range of terms available as a minimum term for the offense under 8245
division (A)(1)(a) or (2)(a) of that section. 8246

(b) Except as otherwise provided in division (A)(4) of 8247
this section, if the offense for which the sentence is being 8248
imposed is kidnapping that is a felony of the first degree, it 8249
shall impose an indefinite prison term as follows: 8250

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

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

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

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

(i) If the rape is committed on or after January 2, 2007, in violation of division (A) (1) (b) of section 2907.02 of the Revised Code, it shall impose an indefinite prison term

consisting of a minimum term of twenty-five years and a maximum term of life imprisonment. 8281
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(ii) If the rape is committed prior to January 2, 2007, or the rape is committed on or after January 2, 2007, other than in violation of division (A) (1) (b) of section 2907.02 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term fixed by the court that is not less than ten years, and a maximum term of life imprisonment. 8283
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(e) Except as otherwise provided in division (A) (4) of this section, if the offense for which sentence is being imposed is attempted rape, it shall impose an indefinite prison term as follows: 8289
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(i) Except as otherwise provided in division (A) (3) (e) (ii), (iii), or (iv) of this section, it shall impose an indefinite prison term pursuant to division (A) (3) (a) of this section. 8293
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(ii) If the attempted rape for which sentence is being imposed was committed on or after January 2, 2007, and if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1418 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of five years and a maximum term of twenty-five years. 8297
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(iii) If the attempted rape for which sentence is being imposed was committed on or after January 2, 2007, and if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1419 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of ten years and a maximum of life 8304
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imprisonment. 8310

(iv) If the attempted rape for which sentence is being 8311
imposed was committed on or after January 2, 2007, and if the 8312
offender also is convicted of or pleads guilty to a 8313
specification of the type described in section 2941.1420 of the 8314
Revised Code, it shall impose an indefinite prison term 8315
consisting of a minimum term of fifteen years and a maximum of 8316
life imprisonment. 8317

(4) Except as provided in division (A) (5) of this section, 8318
for any offense for which the sentence is being imposed, if the 8319
offender previously has been convicted of or pleaded guilty to a 8320
violent sex offense and also to a sexually violent predator 8321
specification that was included in the indictment, count in the 8322
indictment, or information charging that offense, or previously 8323
has been convicted of or pleaded guilty to a designated 8324
homicide, assault, or kidnapping offense and also to both a 8325
sexual motivation specification and a sexually violent predator 8326
specification that were included in the indictment, count in the 8327
indictment, or information charging that offense, it shall 8328
impose upon the offender a term of life imprisonment without 8329
parole. 8330

(5) Notwithstanding divisions (A) (1), (2), and (4) of this 8331
section, the court shall not impose a sentence of life 8332
imprisonment without parole upon any person for an offense that 8333
was committed when the person was under eighteen years of age. 8334
In any case described in division (A) (1), (2), or (4) of this 8335
section, if the offense was committed when the person was under 8336
eighteen years of age, the court shall impose an indefinite 8337
prison term consisting of a minimum term of thirty years and a 8338
maximum term of life imprisonment. 8339

(B) (1) Notwithstanding section 2929.13, division (A) or 8340
(D) of section 2929.14, or another section of the Revised Code 8341
other than division (B) of section 2907.02 or divisions (B) and 8342
(C) of section 2929.14 of the Revised Code that authorizes or 8343
requires a specified prison term or a mandatory prison term for 8344
a person who is convicted of or pleads guilty to a felony or 8345
that specifies the manner and place of service of a prison term 8346
or term of imprisonment, if a person is convicted of or pleads 8347
guilty to a violation of division (A) (1) (b) of section 2907.02 8348
of the Revised Code committed on or after January 2, 2007, if 8349
division (A) of this section does not apply regarding the 8350
person, and if the court does not impose a sentence of life 8351
without parole when authorized pursuant to division (B) of 8352
section 2907.02 of the Revised Code, the court shall impose upon 8353
the person an indefinite prison term consisting of one of the 8354
following: 8355

(a) Except as otherwise required in division (B) (1) (b) or 8356
(c) of this section, a minimum term of ten years and a maximum 8357
term of life imprisonment. 8358

(b) If the victim was less than ten years of age, a 8359
minimum term of fifteen years and a maximum of life 8360
imprisonment. 8361

(c) If the offender purposely compels the victim to submit 8362
by force or threat of force, or if the offender previously has 8363
been convicted of or pleaded guilty to violating division (A) (1) 8364
(b) of section 2907.02 of the Revised Code or to violating an 8365
existing or former law of this state, another state, or the 8366
United States that is substantially similar to division (A) (1) 8367
(b) of that section, or if the offender during or immediately 8368
after the commission of the offense caused serious physical harm 8369

to the victim, a minimum term of twenty-five years and a maximum
of life imprisonment. 8370
8371

(2) Notwithstanding section 2929.13, division (A) or (D) 8372
of section 2929.14, or another section of the Revised Code other 8373
than divisions (B) and (C) of section 2929.14 of the Revised 8374
Code that authorizes or requires a specified prison term or a 8375
mandatory prison term for a person who is convicted of or pleads 8376
guilty to a felony or that specifies the manner and place of 8377
service of a prison term or term of imprisonment and except as 8378
otherwise provided in division (B) of section 2907.02 of the 8379
Revised Code, if a person is convicted of or pleads guilty to 8380
attempted rape committed on or after January 2, 2007, and if 8381
division (A) of this section does not apply regarding the 8382
person, the court shall impose upon the person an indefinite 8383
prison term consisting of one of the following: 8384

(a) If the person also is convicted of or pleads guilty to 8385
a specification of the type described in section 2941.1418 of 8386
the Revised Code, the court shall impose upon the person an 8387
indefinite prison term consisting of a minimum term of five 8388
years and a maximum term of twenty-five years. 8389

(b) If the person also is convicted of or pleads guilty to 8390
a specification of the type described in section 2941.1419 of 8391
the Revised Code, the court shall impose upon the person an 8392
indefinite prison term consisting of a minimum term of ten years 8393
and a maximum term of life imprisonment. 8394

(c) If the person also is convicted of or pleads guilty to 8395
a specification of the type described in section 2941.1420 of 8396
the Revised Code, the court shall impose upon the person an 8397
indefinite prison term consisting of a minimum term of fifteen 8398
years and a maximum term of life imprisonment. 8399

(3) Notwithstanding section 2929.13, division (A) or (D) 8400
of section 2929.14, or another section of the Revised Code other 8401
than divisions (B) and (C) of section 2929.14 of the Revised 8402
Code that authorizes or requires a specified prison term or a 8403
mandatory prison term for a person who is convicted of or pleads 8404
guilty to a felony or that specifies the manner and place of 8405
service of a prison term or term of imprisonment, if a person is 8406
convicted of or pleads guilty to an offense described in 8407
division (B) (3) (a), (b), (c), or (d) of this section committed 8408
on or after January 1, 2008, if the person also is convicted of 8409
or pleads guilty to a sexual motivation specification that was 8410
included in the indictment, count in the indictment, or 8411
information charging that offense, and if division (A) of this 8412
section does not apply regarding the person, the court shall 8413
impose upon the person an indefinite prison term consisting of 8414
one of the following: 8415

(a) An indefinite prison term consisting of a minimum of 8416
ten years and a maximum term of life imprisonment if the offense 8417
for which the sentence is being imposed is kidnapping, the 8418
victim of the offense is less than thirteen years of age, and 8419
the offender released the victim in a safe place unharmed; 8420

(b) An indefinite prison term consisting of a minimum of 8421
fifteen years and a maximum term of life imprisonment if the 8422
offense for which the sentence is being imposed is kidnapping 8423
when the victim of the offense is less than thirteen years of 8424
age and division (B) (3) (a) of this section does not apply; 8425

(c) An indefinite term consisting of a minimum of thirty 8426
years and a maximum term of life imprisonment if the offense for 8427
which the sentence is being imposed is aggravated murder, when 8428
the victim of the offense is less than thirteen years of age, a 8429

sentence of ~~death or~~ life imprisonment without parole is not 8430
imposed for the offense, and division ~~(A) (2) (b) (ii) of section~~ 8431
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 8432
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section 2929.03, or~~ 8433
~~division (A) or (B) (C) of section 2929.06 2929.02~~ of the 8434
Revised Code requires that the sentence for the offense be 8435
imposed pursuant to this division; 8436

(d) An indefinite prison term consisting of a minimum of 8437
thirty years and a maximum term of life imprisonment if the 8438
offense for which the sentence is being imposed is murder when 8439
the victim of the offense is less than thirteen years of age. 8440

(C) (1) If the offender is sentenced to a prison term 8441
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 8442
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 8443
parole board shall have control over the offender's service of 8444
the term during the entire term unless the parole board 8445
terminates its control in accordance with section 2971.04 of the 8446
Revised Code. 8447

(2) Except as provided in division (C) (3) or (G) of this 8448
section, an offender sentenced to a prison term or term of life 8449
imprisonment without parole pursuant to division (A) of this 8450
section shall serve the entire prison term or term of life 8451
imprisonment in a state correctional institution. The offender 8452
is not eligible for judicial release under section 2929.20 of 8453
the Revised Code. 8454

(3) For a prison term imposed pursuant to division (A) (3), 8455
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 8456
(b), (c), or (d) of this section, subject to the application of 8457
division (G) of this section, the court, in accordance with 8458
section 2971.05 of the Revised Code, may terminate the prison 8459

term or modify the requirement that the offender serve the 8460
entire term in a state correctional institution if all of the 8461
following apply: 8462

(a) The offender has served at least the minimum term 8463
imposed as part of that prison term. 8464

(b) The parole board, pursuant to section 2971.04 of the 8465
Revised Code, has terminated its control over the offender's 8466
service of that prison term. 8467

(c) The court has held a hearing and found, by clear and 8468
convincing evidence, one of the following: 8469

(i) In the case of termination of the prison term, that 8470
the offender is unlikely to commit a sexually violent offense in 8471
the future; 8472

(ii) In the case of modification of the requirement, that 8473
the offender does not represent a substantial risk of physical 8474
harm to others. 8475

(4) Except as provided in division (G) of this section, an 8476
offender who has been sentenced to a term of life imprisonment 8477
without parole pursuant to division (A) (1), (2), or (4) of this 8478
section shall not be released from the term of life imprisonment 8479
or be permitted to serve a portion of it in a place other than a 8480
state correctional institution. 8481

(D) If a court sentences an offender to a prison term or 8482
term of life imprisonment without parole pursuant to division 8483
(A) of this section and the court also imposes on the offender 8484
one or more additional prison terms pursuant to division (B) of 8485
section 2929.14 of the Revised Code, all of the additional 8486
prison terms shall be served consecutively with, and prior to, 8487
the prison term or term of life imprisonment without parole 8488

imposed upon the offender pursuant to division (A) of this 8489
section. 8490

(E) If the offender is convicted of or pleads guilty to 8491
two or more offenses for which a prison term or term of life 8492
imprisonment without parole is required to be imposed pursuant 8493
to division (A) of this section, divisions (A) to (D) of this 8494
section shall be applied for each offense. All minimum terms 8495
imposed upon the offender pursuant to division (A) (3) or (B) of 8496
this section for those offenses shall be aggregated and served 8497
consecutively, as if they were a single minimum term imposed 8498
under that division. 8499

(F) (1) If an offender is convicted of or pleads guilty to 8500
a violent sex offense and also is convicted of or pleads guilty 8501
to a sexually violent predator specification that was included 8502
in the indictment, count in the indictment, or information 8503
charging that offense, or is convicted of or pleads guilty to a 8504
designated homicide, assault, or kidnapping offense and also is 8505
convicted of or pleads guilty to both a sexual motivation 8506
specification and a sexually violent predator specification that 8507
were included in the indictment, count in the indictment, or 8508
information charging that offense, the conviction of or plea of 8509
guilty to the offense and the sexually violent predator 8510
specification automatically classifies the offender as a tier 8511
III sex offender/child-victim offender for purposes of Chapter 8512
2950. of the Revised Code. 8513

(2) If an offender is convicted of or pleads guilty to 8514
committing on or after January 2, 2007, a violation of division 8515
(A) (1) (b) of section 2907.02 of the Revised Code and either the 8516
offender is sentenced under section 2971.03 of the Revised Code 8517
or a sentence of life without parole is imposed under division 8518

(B) of section 2907.02 of the Revised Code, the conviction of or 8519
plea of guilty to the offense automatically classifies the 8520
offender as a tier III sex offender/child-victim offender for 8521
purposes of Chapter 2950. of the Revised Code. 8522

(3) If a person is convicted of or pleads guilty to 8523
committing on or after January 2, 2007, attempted rape and also 8524
is convicted of or pleads guilty to a specification of the type 8525
described in section 2941.1418, 2941.1419, or 2941.1420 of the 8526
Revised Code, the conviction of or plea of guilty to the offense 8527
and the specification automatically classify the offender as a 8528
tier III sex offender/child-victim offender for purposes of 8529
Chapter 2950. of the Revised Code. 8530

(4) If a person is convicted of or pleads guilty to one of 8531
the offenses described in division (B) (3) (a), (b), (c), or (d) 8532
of this section and a sexual motivation specification related to 8533
the offense and the victim of the offense is less than thirteen 8534
years of age, the conviction of or plea of guilty to the offense 8535
automatically classifies the offender as a tier III sex 8536
offender/child-victim offender for purposes of Chapter 2950. of 8537
the Revised Code. 8538

(G) Notwithstanding divisions (A) to (E) of this section, 8539
if an offender receives or received a sentence of life 8540
imprisonment without parole, a definite sentence, or a sentence 8541
to an indefinite prison term under this chapter for an offense 8542
committed when the offender was under eighteen years of age, the 8543
offender is eligible for parole and the offender's parole 8544
eligibility shall be determined under section 2967.132 of the 8545
Revised Code. 8546

Sec. 2971.07. (A) This chapter does not apply to any 8547
offender unless the offender is one of the following: 8548

(1) The offender is convicted of or pleads guilty to a 8549
violent sex offense and also is convicted of or pleads guilty to 8550
a sexually violent predator specification that was included in 8551
the indictment, count in the indictment, or information charging 8552
that offense. 8553

(2) The offender is convicted of or pleads guilty to a 8554
designated homicide, assault, or kidnapping offense and also is 8555
convicted of or pleads guilty to both a sexual motivation 8556
specification and a sexually violent predator specification that 8557
were included in the indictment, count in the indictment, or 8558
information charging that offense. 8559

(3) The offender is convicted of or pleads guilty to a 8560
violation of division (A) (1) (b) of section 2907.02 of the 8561
Revised Code committed on or after January 2, 2007, and the 8562
court does not sentence the offender to a term of life without 8563
parole pursuant to division (B) of section 2907.02 of the 8564
Revised Code or division (B) of that section prohibits the court 8565
from sentencing the offender pursuant to section 2971.03 of the 8566
Revised Code. 8567

(4) The offender is convicted of or pleads guilty to 8568
attempted rape committed on or after January 2, 2007, and also 8569
is convicted of or pleads guilty to a specification of the type 8570
described in section 2941.1418, 2941.1419, or 2941.1420 of the 8571
Revised Code. 8572

(5) The offender is convicted of or pleads guilty to a 8573
violation of section 2905.01 of the Revised Code and also is 8574
convicted of or pleads guilty to a sexual motivation 8575
specification that was included in the indictment, count in the 8576
indictment, or information charging that offense, and that 8577
section requires a court to sentence the offender pursuant to 8578

section 2971.03 of the Revised Code. 8579

(6) The offender is convicted of or pleads guilty to 8580
aggravated murder and also is convicted of or pleads guilty to a 8581
sexual motivation specification that was included in the 8582
indictment, count in the indictment, or information charging 8583
that offense, and division ~~(A) (2) (b) (ii) of section 2929.022,~~ 8584
~~division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D)~~ 8585
~~(3) (a) (iv), or (E) (1) (a) (iv) of section 2929.03, or division (A)~~ 8586
~~or (B) (C) of section 2929.06-2929.02~~ of the Revised Code 8587
requires a court to sentence the offender pursuant to division 8588
(B) (3) of section 2971.03 of the Revised Code. 8589

(7) The offender is convicted of or pleads guilty to 8590
murder and also is convicted of or pleads guilty to a sexual 8591
motivation specification that was included in the indictment, 8592
count in the indictment, or information charging that offense, 8593
and division ~~(B) (2)~~ (C) (1) of section 2929.02 of the Revised 8594
Code requires a court to sentence the offender pursuant to 8595
section 2971.03 of the Revised Code. 8596

(B) This chapter does not limit or affect a court in 8597
imposing upon an offender described in divisions (A) (1) to (9) 8598
of this section any financial sanction under section 2929.18 or 8599
any other section of the Revised Code, or, except as 8600
specifically provided in this chapter, any other sanction that 8601
is authorized or required for the offense or violation by any 8602
other provision of law. 8603

(C) If an offender is sentenced to a prison term under 8604
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8605
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8606
Code and if, pursuant to section 2971.05 of the Revised Code, 8607
the court modifies the requirement that the offender serve the 8608

entire prison term in a state correctional institution or places 8609
the offender on conditional release that involves the placement 8610
of the offender under the supervision of the adult parole 8611
authority, authorized field officers of the authority who are 8612
engaged within the scope of their supervisory duties or 8613
responsibilities may search, with or without a warrant, the 8614
person of the offender, the place of residence of the offender, 8615
and a motor vehicle, another item of tangible or intangible 8616
personal property, or any other real property in which the 8617
offender has the express or implied permission of a person with 8618
a right, title, or interest to use, occupy, or possess if the 8619
field officer has reasonable grounds to believe that the 8620
offender is not abiding by the law or otherwise is not complying 8621
with the terms and conditions of the offender's modification or 8622
release. The authority shall provide each offender with a 8623
written notice that informs the offender that authorized field 8624
officers of the authority who are engaged within the scope of 8625
their supervisory duties or responsibilities may conduct those 8626
types of searches during the period of the modification or 8627
release if they have reasonable grounds to believe that the 8628
offender is not abiding by the law or otherwise is not complying 8629
with the terms and conditions of the offender's modification or 8630
release. 8631

Sec. 5120.113. (A) For each inmate committed to the 8632
department of rehabilitation and correction, except as provided 8633
in division (B) of this section, the department shall prepare a 8634
written reentry plan for the inmate to help guide the inmate's 8635
rehabilitation program during imprisonment, to assist in the 8636
inmate's reentry into the community, and to assess the inmate's 8637
needs upon release. 8638

(B) Division (A) of this section does not apply to an 8639

inmate who has been sentenced to life imprisonment without 8640
parole or ~~who has been~~ sentenced to death before the effective 8641
date of this amendment. Division (A) of this section does not 8642
apply to any inmate who is expected to be imprisoned for thirty 8643
days or less, but the department may prepare a written reentry 8644
plan of the type described in that division if the department 8645
determines that the plan is needed. 8646

(C) The department may collect, if available, any social 8647
and other information that will aid in the preparation of 8648
reentry plans under this section. 8649

(D) In the event the department does not prepare a written 8650
reentry plan as specified in division (A) of this section, or 8651
makes a decision to not prepare a written reentry plan under 8652
division (B) of this section or to not collect information under 8653
division (C) of this section, that fact does not give rise to a 8654
claim for damages against the state, the department, the 8655
director of the department, or any employee of the department. 8656

Sec. 5120.53. (A) If a treaty between the United States 8657
and a foreign country provides for the transfer or exchange, 8658
from one of the signatory countries to the other signatory 8659
country, of convicted offenders who are citizens or nationals of 8660
the other signatory country, the governor, subject to and in 8661
accordance with the terms of the treaty, may authorize the 8662
director of rehabilitation and correction to allow the transfer 8663
or exchange of convicted offenders and to take any action 8664
necessary to initiate participation in the treaty. If the 8665
governor grants the director the authority described in this 8666
division, the director may take the necessary action to initiate 8667
participation in the treaty and, subject to and in accordance 8668
with division (B) of this section and the terms of the treaty, 8669

may allow the transfer or exchange to a foreign country that has 8670
signed the treaty of any convicted offender who is a citizen or 8671
national of that signatory country. 8672

(B) (1) No convicted offender who is serving a term of 8673
imprisonment in this state for aggravated murder, murder, or a 8674
felony of the first or second degree, who is serving a mandatory 8675
prison term imposed under section 2925.03 or 2925.11 of the 8676
Revised Code in circumstances in which the court was required to 8677
impose as the mandatory prison term the maximum definite prison 8678
term or longest minimum prison term authorized for the degree of 8679
offense committed, or who is serving a term of imprisonment in 8680
this state imposed for an offense committed prior to July 1, 8681
1996, that was an aggravated felony of the first or second 8682
degree or that was aggravated trafficking in violation of 8683
division (A) (9) or (10) of section 2925.03 of the Revised Code, ~~—~~ 8684
~~or who has been sentenced to death in this state~~ shall be 8685
transferred or exchanged to another country pursuant to a treaty 8686
of the type described in division (A) of this section. 8687

(2) If a convicted offender is serving a term of 8688
imprisonment in this state and the offender is a citizen or 8689
national of a foreign country that has signed a treaty of the 8690
type described in division (A) of this section, if the governor 8691
has granted the director of rehabilitation and correction the 8692
authority described in that division, and if the transfer or 8693
exchange of the offender is not barred by division (B) (1) of 8694
this section, the director or the director's designee may 8695
approve the offender for transfer or exchange pursuant to the 8696
treaty if the director or the designee, after consideration of 8697
the factors set forth in the rules adopted by the department 8698
under division (D) of this section and all other relevant 8699
factors, determines that the transfer or exchange of the 8700

offender is appropriate. 8701

(C) Notwithstanding any provision of the Revised Code 8702
regarding the parole eligibility of, or the duration or 8703
calculation of a sentence of imprisonment imposed upon, an 8704
offender, if a convicted offender is serving a term of 8705
imprisonment in this state and the offender is a citizen or 8706
national of a foreign country that has signed a treaty of the 8707
type described in division (A) of this section, if the offender 8708
is serving an indefinite term of imprisonment, if the offender 8709
is barred from being transferred or exchanged pursuant to the 8710
treaty due to the indefinite nature of the offender's term of 8711
imprisonment, and if in accordance with division (B) (2) of this 8712
section the director of rehabilitation and correction or the 8713
director's designee approves the offender for transfer or 8714
exchange pursuant to the treaty, the parole board, pursuant to 8715
rules adopted by the director, shall set a date certain for the 8716
release of the offender. To the extent possible, the date 8717
certain that is set shall be reasonably proportionate to the 8718
indefinite term of imprisonment that the offender is serving. 8719
The date certain that is set for the release of the offender 8720
shall be considered only for purposes of facilitating the 8721
international transfer or exchange of the offender, shall not be 8722
viable or actionable for any other purpose, and shall not create 8723
any expectation or guarantee of release. If an offender for whom 8724
a date certain for release is set under this division is not 8725
transferred to or exchanged with the foreign country pursuant to 8726
the treaty, the date certain is null and void, and the 8727
offender's release shall be determined pursuant to the laws and 8728
rules of this state pertaining to parole eligibility and the 8729
duration and calculation of an indefinite sentence of 8730
imprisonment. 8731

(D) If the governor, pursuant to division (A) of this section, authorizes the director of rehabilitation and correction to allow any transfer or exchange of convicted offenders as described in that division, the director shall adopt rules under Chapter 119. of the Revised Code to implement the provisions of this section. The rules shall include a rule that requires the director or the director's designee, in determining whether to approve a convicted offender who is serving a term of imprisonment in this state for transfer or exchange pursuant to a treaty of the type described in division (A) of this section, to consider all of the following factors:

(1) The nature of the offense for which the offender is serving the term of imprisonment in this state;

(2) The likelihood that, if the offender is transferred or exchanged to a foreign country pursuant to the treaty, the offender will serve a shorter period of time in imprisonment in the foreign country than the offender would serve if the offender is not transferred or exchanged to the foreign country pursuant to the treaty;

(3) The likelihood that, if the offender is transferred or exchanged to a foreign country pursuant to the treaty, the offender will return or attempt to return to this state after the offender has been released from imprisonment in the foreign country;

(4) The degree of any shock to the conscience of justice and society that will be experienced in this state if the offender is transferred or exchanged to a foreign country pursuant to the treaty;

(5) All other factors that the department determines are

relevant to the determination. 8761

Sec. 5120.61. (A) (1) Not later than ninety days after 8762
January 1, 1997, the department of rehabilitation and correction 8763
shall adopt standards that it will use under this section to 8764
assess the following criminal offenders and may periodically 8765
revise the standards: 8766

(a) A criminal offender who is convicted of or pleads 8767
guilty to a violent sex offense or designated homicide, assault, 8768
or kidnapping offense and is adjudicated a sexually violent 8769
predator in relation to that offense; 8770

(b) A criminal offender who is convicted of or pleads 8771
guilty to a violation of division (A) (1) (b) of section 2907.02 8772
of the Revised Code committed on or after January 2, 2007, and 8773
either who is sentenced under section 2971.03 of the Revised 8774
Code or upon whom a sentence of life without parole is imposed 8775
under division (B) of section 2907.02 of the Revised Code; 8776

(c) A criminal offender who is convicted of or pleads 8777
guilty to attempted rape committed on or after January 2, 2007, 8778
and a specification of the type described in section 2941.1418, 8779
2941.1419, or 2941.1420 of the Revised Code; 8780

(d) A criminal offender who is convicted of or pleads 8781
guilty to a violation of section 2905.01 of the Revised Code and 8782
also is convicted of or pleads guilty to a sexual motivation 8783
specification that was included in the indictment, count in the 8784
indictment, or information charging that offense, and who is 8785
sentenced pursuant to section 2971.03 of the Revised Code; 8786

(e) A criminal offender who is convicted of or pleads 8787
guilty to aggravated murder and also is convicted of or pleads 8788
guilty to a sexual motivation specification that was included in 8789

the indictment, count in the indictment, or information charging 8790
that offense, and who pursuant to division ~~(A) (2) (b) (ii) of~~ 8791
~~section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a)~~ 8792
~~(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section~~ 8793
~~2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ 8794
of the Revised Code is sentenced pursuant to division (B) (3) of 8795
section 2971.03 of the Revised Code; 8796

(f) A criminal offender who is convicted of or pleads 8797
guilty to murder and also is convicted of or pleads guilty to a 8798
sexual motivation specification that was included in the 8799
indictment, count in the indictment, or information charging 8800
that offense, and who pursuant to division ~~(B) (2) (C) (1)~~ of 8801
section 2929.02 of the Revised Code is sentenced pursuant to 8802
section 2971.03 of the Revised Code. 8803

(2) When the department is requested by the parole board 8804
or the court to provide a risk assessment report of the offender 8805
under section 2971.04 or 2971.05 of the Revised Code, it shall 8806
assess the offender and complete the assessment as soon as 8807
possible after the offender has commenced serving the prison 8808
term or term of life imprisonment without parole imposed under 8809
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 8810
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8811
Code. Thereafter, the department shall update a risk assessment 8812
report pertaining to an offender as follows: 8813

(a) Periodically, in the discretion of the department, 8814
provided that each report shall be updated no later than two 8815
years after its initial preparation or most recent update; 8816

(b) Upon the request of the parole board for use in 8817
determining pursuant to section 2971.04 of the Revised Code 8818
whether it should terminate its control over an offender's 8819

service of a prison term imposed upon the offender under 8820
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8821
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8822
Code; 8823

(c) Upon the request of the court. 8824

(3) After the department of rehabilitation and correction 8825
assesses an offender pursuant to division (A) (2) of this 8826
section, it shall prepare a report that contains its risk 8827
assessment for the offender or, if a risk assessment report 8828
previously has been prepared, it shall update the risk 8829
assessment report. 8830

(4) The department of rehabilitation and correction shall 8831
provide each risk assessment report that it prepares or updates 8832
pursuant to this section regarding an offender to all of the 8833
following: 8834

(a) The parole board for its use in determining pursuant 8835
to section 2971.04 of the Revised Code whether it should 8836
terminate its control over an offender's service of a prison 8837
term imposed upon the offender under division (A) (3), (B) (1) (a), 8838
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 8839
(d) of section 2971.03 of the Revised Code, if the parole board 8840
has not terminated its control over the offender; 8841

(b) The court for use in determining, pursuant to section 8842
2971.05 of the Revised Code, whether to modify the requirement 8843
that the offender serve the entire prison term imposed upon the 8844
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 8845
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 8846
2971.03 of the Revised Code in a state correctional institution, 8847
whether to revise any modification previously made, or whether 8848

to terminate the prison term; 8849

(c) The prosecuting attorney who prosecuted the case, or 8850
the successor in office to that prosecuting attorney; 8851

(d) The offender. 8852

(B) When the department of rehabilitation and correction 8853
provides a risk assessment report regarding an offender to the 8854
parole board or court pursuant to division (A)(4)(a) or (b) of 8855
this section, the department, prior to the parole board's or 8856
court's hearing, also shall provide to the offender or to the 8857
offender's attorney of record a copy of the report and a copy of 8858
any other relevant documents the department possesses regarding 8859
the offender that the department does not consider to be 8860
confidential. 8861

(C) As used in this section: 8862

(1) "Adjudicated a sexually violent predator" has the same 8863
meaning as in section 2929.01 of the Revised Code, and a person 8864
is "adjudicated a sexually violent predator" in the same manner 8865
and the same circumstances as are described in that section. 8866

(2) "Designated homicide, assault, or kidnapping offense" 8867
and "violent sex offense" have the same meanings as in section 8868
2971.01 of the Revised Code. 8869

Sec. 5139.04. The department of youth services shall do 8870
all of the following: 8871

(A) Support service districts through a central 8872
administrative office that shall have as its administrative head 8873
a deputy director who shall be appointed by the director of the 8874
department. When a vacancy occurs in the office of that deputy 8875
director, an assistant deputy director shall act as that deputy 8876

director until the vacancy is filled. The position of deputy 8877
director and assistant deputy director described in this 8878
division shall be in the unclassified civil service of the 8879
state. 8880

(B) Receive custody of all children committed to it under 8881
Chapter 2152. of the Revised Code, cause a study to be made of 8882
those children, and issue any orders, as it considers best 8883
suited to the needs of any of those children and the interest of 8884
the public, for the treatment of each of those children; 8885

(C) Obtain personnel necessary for the performance of its 8886
duties; 8887

(D) Adopt rules that regulate its organization and 8888
operation, that implement sections 5139.34 and 5139.41 to 8889
5139.43 of the Revised Code, and that pertain to the 8890
administration of other sections of this chapter; 8891

(E) Submit reports of its operations to the governor and 8892
the general assembly by the thirty-first day of January of each 8893
odd-numbered year; 8894

(F) Conduct a program of research in diagnosis, training, 8895
and treatment of delinquent children to evaluate the 8896
effectiveness of the department's services and to develop more 8897
adequate methods; 8898

(G) Develop a standard form for the disposition 8899
investigation report that a juvenile court is required pursuant 8900
to section 2152.18 of the Revised Code to complete and provide 8901
to the department when the court commits a child to the legal 8902
custody of the department; 8903

(H) Provide the state public defender the reasonable 8904
access authorized under division ~~(F)~~ (H) of section 120.06 of 8905

the Revised Code in order to fulfill the department's 8906
constitutional obligation to provide juveniles who have been 8907
committed to the department's care access to the courts. 8908

(I) Do all other acts necessary or desirable to carry out 8909
this chapter. 8910

Sec. 5919.16. (A) Commissioned and warrant officers in the 8911
Ohio national guard shall be discharged by the adjutant general 8912
upon either of the following: 8913

(1) The officer's resignation; 8914

(2) Approval of a board's recommendation for withdrawal of 8915
federal recognition by the chief of the national guard bureau. 8916

(B) An officer also may be discharged under any of the 8917
following circumstances: 8918

(1) Pursuant to other federal regulations; 8919

(2) If absent without leave for three months, upon 8920
recommendation of an efficiency board; 8921

(3) Pursuant to sentence by court-martial; 8922

(4) If the officer has been convicted of a crime 8923
classified as a felony as described in division (C) or (D) ~~or~~ 8924
~~(E)~~ of section 2901.02 of the Revised Code. 8925

Section 2. That existing sections 9.07, 120.03, 120.041, 8926
120.06, 120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 8927
120.34, 149.43, 149.436, 1901.183, 2152.13, 2152.67, 2301.20, 8928
2307.60, 2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 8929
2929.13, 2929.14, 2929.61, 2930.19, 2937.222, 2941.021, 2941.14, 8930
2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 2945.13, 8931
2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 8932

2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 8933
2953.72, 2953.73, 2953.81, 2967.05, 2967.12, 2967.13, 2967.193, 8934
2971.03, 2971.07, 5120.113, 5120.53, 5120.61, 5139.04, and 8935
5919.16 of the Revised Code are hereby repealed. 8936

Section 3. That sections 109.97, 120.35, 2725.19, 8937
2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 2929.04, 8938
2929.05, 2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 2949.221, 8939
2949.222, 2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 8940
2949.31, and 2967.08 of the Revised Code are hereby repealed. 8941

Section 4. (A) An offender whose sentence of death has 8942
been set aside, nullified, or vacated pursuant to section 8943
2929.06 of the Revised Code as it existed immediately before the 8944
effective date of this section but who has not been resentenced 8945
under that section as of the effective date of this section 8946
shall be resentenced in accordance with that section as it 8947
existed immediately before the effective date of this section. 8948

(B) Nothing in this act is intended to nullify or mitigate 8949
the sentence of an offender who was sentenced to death before 8950
the effective date of this section. An offender who was 8951
sentenced to death before the effective date of this section has 8952
the same rights to appeal and to postconviction remedies as the 8953
offender had under the provisions of Chapter 2953. of the 8954
Revised Code as those provisions existed immediately before the 8955
effective date of this section or as those provisions may 8956
hereafter be amended, and courts have the same powers and duties 8957
with respect to those offenders under those provisions as courts 8958
had before the effective date of this section. 8959

(C) All reports and payments relating to capital cases 8960
that were required to be made under any provision of Chapter 8961
120. or section 109.97 of the Revised Code as those provisions 8962

existed immediately before the effective date of this section 8963
shall be made each calendar or fiscal year, as applicable, in 8964
accordance with those provisions as they existed immediately 8965
before the effective date of this section, and the Capital Case 8966
Attorney Fee Council created under section 120.33 of the Revised 8967
Code shall continue under the provisions of that section as it 8968
existed immediately before the effective date of this section, 8969
until each case in which a defendant was sentenced to death 8970
before the effective date of this section is finally resolved. 8971

(D) In an action in which an offender was sentenced to 8972
death before the effective date of this section, a court of 8973
common pleas shall preserve the records of the action as 8974
required by section 2301.20 of the Revised Code as it existed 8975
immediately before the effective date of this section. 8976

Section 5. Attorneys appointed to represent indigent 8977
defendants in postconviction relief proceedings in cases in 8978
which the defendant was sentenced to death before the effective 8979
date of this section shall be certified under the Rules for 8980
Appointment of Counsel in Capital Cases in the same manner as 8981
those certifications were required under Rule 20 of the Rules of 8982
Superintendence for the Courts of Ohio by sections 120.06, 8983
120.14, 120.26, and 120.33 of the Revised Code as those sections 8984
existed immediately before the effective date of this section. 8985

Section 6. The General Assembly, applying the principle 8986
stated in division (B) of section 1.52 of the Revised Code that 8987
amendments are to be harmonized if reasonably capable of 8988
simultaneous operation, finds that the following sections, 8989
presented in this act as composites of the sections as amended 8990
by the acts indicated, are the resulting versions of the 8991
sections in effect prior to the effective date of the sections 8992

as presented in this act:	8993
Section 149.43 of the Revised Code as amended by H.B. 8,	8994
H.B. 34, H.B. 139, H.B. 312, H.B. 341, H.B. 425, S.B. 201, 214,	8995
and S.B. 229, all of the 132nd General Assembly.	8996
Section 2929.13 of the Revised Code as amended by H.B. 63,	8997
S.B. 1, S.B. 20, S.B. 66, and S.B. 201, all of the 132nd General	8998
Assembly.	8999
Section 2929.14 of the Revised Code as amended by both	9000
H.B. 136 and S.B. 256 of the 133rd General Assembly.	9001
Section 2953.07 of the Revised Code as amended by both	9002
S.B. 2 and S.B. 4 of the 121st General Assembly.	9003
Section 2967.193 of the Revised Code as amended by both	9004
S.B. 145 and S.B. 201 of the 132nd General Assembly.	9005
Section 2967.28 of the Revised Code as amended by both	9006
S.B. 66 and S.B. 201 of the 132nd General Assembly.	9007
Section 2971.03 of the Revised Code as amended by both	9008
H.B. 136 and S.B. 256 of the 133rd General Assembly.	9009