

As Reported by the House Criminal Justice Committee

135th General Assembly

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S. B. No. 122

Senators Manning, Hicks-Hudson

**Cosponsors: Senators Antonio, Blessing, Cirino, DeMora, Gavarone, Hackett,
Landis, Reineke, Reynolds, Smith, Wilson**

Representatives Abrams, Williams, Hillyer, Schmidt

A BILL

To amend sections 2743.70, 2903.212, 2903.213, 1
2907.41, 2919.251, 2937.40, 2949.02, 2949.04, 2
2949.093, 2953.03, and 2953.09 and to enact 3
section 2937.011 of the Revised Code to make 4
changes regarding bail and to declare an 5
emergency. 6

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

Section 1. That sections 2743.70, 2903.212, 2903.213, 7
2907.41, 2919.251, 2937.40, 2949.02, 2949.04, 2949.093, 2953.03, 8
and 2953.09 be amended and section 2937.011 of the Revised Code 9
be enacted to read as follows: 10

Sec. 2743.70. (A) (1) The court, in which any person is 11
convicted of or pleads guilty to any offense other than a 12
traffic offense that is not a moving violation, shall impose the 13
following sum as costs in the case in addition to any other 14
court costs that the court is required by law to impose upon the 15
offender: 16

(a) Thirty dollars, if the offense is a felony; 17

(b) Nine dollars, if the offense is a misdemeanor. 18

The court shall not waive the payment of the thirty- or 19
nine-dollar court cost. All such moneys shall be transmitted on 20
the first business day of each month by the clerk of the court 21
to the treasurer of state and deposited by the treasurer in the 22
reparations fund. 23

(2) The juvenile court in which a child is found to be a 24
delinquent child or a juvenile traffic offender for an act 25
which, if committed by an adult, would be an offense other than 26
a traffic offense that is not a moving violation, shall impose 27
the following sum as costs in the case in addition to any other 28
court costs that the court is required or permitted by law to 29
impose upon the delinquent child or juvenile traffic offender: 30

(a) Thirty dollars, if the act, if committed by an adult, 31
would be a felony; 32

(b) Nine dollars, if the act, if committed by an adult, 33
would be a misdemeanor. 34

The thirty- or nine-dollar court cost shall be collected 35
in all cases. All such moneys collected during a month shall be 36
transmitted on or before the twentieth day of the following 37
month by the clerk of the court to the treasurer of state and 38
deposited by the treasurer in the reparations fund. 39

(B) Whenever a person is charged with any offense other 40
than a traffic offense that is not a moving violation and posts 41
bail pursuant to section 2937.011 or sections 2937.22 to 2937.46 42
of the Revised Code, ~~Criminal Rule 46,~~ or Traffic Rule 4, the 43
court shall add to the amount of the bail the thirty or nine 44
dollars required to be paid by division (A) (1) of this section. 45

The thirty or nine dollars shall be retained by the clerk of the court until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the thirty or nine dollars to the treasurer of state, who shall deposit it in the reparations fund. If the person is found not guilty or the charges are dismissed, the clerk shall return the thirty or nine dollars to the person.

(C) No person shall be placed or held in jail for failing to pay the additional thirty- or nine-dollar court cost or bail required to be paid by this section.

(D) As used in this section:

(1) "Moving violation" means any violation of any statute or ordinance, other than section 4513.263 of the Revised Code or an ordinance that is substantially equivalent to that section, that regulates the operation of vehicles, streetcars, or trackless trolleys on highways or streets or that regulates size or load limitations or fitness requirements of vehicles. "Moving violation" does not include the violation of any statute or ordinance that regulates pedestrians or the parking of vehicles.

(2) "Bail" means cash, a check, a money order, a credit card, or any other form of money that is posted by or for an offender pursuant to section 2937.011 or sections 2937.22 to 2937.46 of the Revised Code, ~~Criminal Rule 46~~, or Traffic Rule 4 to prevent the offender from being placed or held in a detention facility, as defined in section 2921.01 of the Revised Code.

Sec. 2903.212. (A) Except when the complaint involves a person who is a family or household member as defined in section 2919.25 of the Revised Code, if a person is charged with a

violation of section 2903.21, 2903.211, 2903.22, or 2911.211 of 75
the Revised Code, a violation of a municipal ordinance that is 76
substantially similar to one of those sections, or a sexually 77
oriented offense and if the person, at the time of the alleged 78
violation, was subject to the terms of any order issued pursuant 79
to section 2903.213, 2933.08, or 2945.04 of the Revised Code or 80
previously had been convicted of or pleaded guilty to a 81
violation of section 2903.21, 2903.211, 2903.22, or 2911.211 of 82
the Revised Code that involves the same complainant, a violation 83
of a municipal ordinance that is substantially similar to one of 84
those sections and that involves the same complainant, or a 85
sexually oriented offense that involves the same complainant, 86
the court shall consider all of the following, in addition to 87
any other circumstances considered by the court and 88
notwithstanding any provisions to the contrary contained in 89
~~Criminal Rule 46~~section 2937.011 of the Revised Code, before 90
setting the amount and conditions of the bail for the person: 91

(1) Whether the person has a history of violence toward 92
the complainant or a history of other violent acts; 93

(2) The mental health of the person; 94

(3) Whether the person has a history of violating the 95
orders of any court or governmental entity; 96

(4) Whether the person is potentially a threat to any 97
other person; 98

(5) Whether setting bail at a high level will interfere 99
with any treatment or counseling that the person is undergoing. 100

(B) Any court that has jurisdiction over violations of 101
section 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised 102
Code, violations of a municipal ordinance that is substantially 103

similar to one of those sections, or sexually oriented offenses 104
may set a schedule for bail to be used in cases involving those 105
violations. The schedule shall require that a judge consider all 106
of the factors listed in division (A) of this section and may 107
require judges to set bail at a certain level or impose other 108
reasonable conditions related to a release on bail or on 109
recognizance if the history of the alleged offender or the 110
circumstances of the alleged offense meet certain criteria in 111
the schedule. 112

(C) As used in this section, "sexually oriented offense" 113
has the same meaning as in section 2950.01 of the Revised Code. 114

Sec. 2903.213. (A) Except when the complaint involves a 115
person who is a family or household member as defined in section 116
2919.25 of the Revised Code, upon the filing of a complaint that 117
alleges a violation of section 2903.11, 2903.12, 2903.13, 118
2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, a 119
violation of a municipal ordinance substantially similar to 120
section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the 121
Revised Code, or the commission of a sexually oriented offense, 122
the complainant, the alleged victim, or a family or household 123
member of an alleged victim may file a motion that requests the 124
issuance of a protection order as a pretrial condition of 125
release of the alleged offender, in addition to any bail set 126
~~under Criminal Rule 46~~ by the court. The motion shall be filed 127
with the clerk of the court that has jurisdiction of the case at 128
any time after the filing of the complaint. If the complaint 129
involves a person who is a family or household member, the 130
complainant, the alleged victim, or the family or household 131
member may file a motion for a temporary protection order 132
pursuant to section 2919.26 of the Revised Code. 133

(B) A motion for a protection order under this section 134
shall be prepared on a form that is provided by the clerk of the 135
court, and the form shall be substantially as follows: 136

"Motion for Protection Order 137

_____ 138

Name and address of court 139

State of Ohio 140

v. No. _____ 141

_____ 142

Name of Defendant 143

(Name of person), moves the court to issue a protection order 144
containing terms designed to ensure the safety and protection of 145
the complainant or the alleged victim in the above-captioned 146
case, in relation to the named defendant, pursuant to its 147
authority to issue a protection order under section 2903.213 of 148
the Revised Code. 149

A complaint, a copy of which has been attached to this 150
motion, has been filed in this court charging the named 151
defendant with a violation of section 2903.11, 2903.12, 2903.13, 152
2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, a 153
violation of a municipal ordinance substantially similar to 154
section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the 155
Revised Code, or the commission of a sexually oriented offense. 156

I understand that I must appear before the court, at a 157
time set by the court not later than the next day that the court 158
is in session after the filing of this motion, for a hearing on 159
the motion, and that any protection order granted pursuant to 160

this motion is a pretrial condition of release and is effective 161
only until the disposition of the criminal proceeding arising 162
out of the attached complaint or until the issuance under 163
section 2903.214 of the Revised Code of a protection order 164
arising out of the same activities as those that were the basis 165
of the attached complaint. 166

_____ 167

Signature of person 168

_____ 169

Address of person" 170

(C) (1) As soon as possible after the filing of a motion 171
that requests the issuance of a protection order under this 172
section, but not later than the next day that the court is in 173
session after the filing of the motion, the court shall conduct 174
a hearing to determine whether to issue the order. The person 175
who requested the order shall appear before the court and 176
provide the court with the information that it requests 177
concerning the basis of the motion. If the court finds that the 178
safety and protection of the complainant or the alleged victim 179
may be impaired by the continued presence of the alleged 180
offender, the court may issue a protection order under this 181
section, as a pretrial condition of release, that contains terms 182
designed to ensure the safety and protection of the complainant 183
or the alleged victim, including a requirement that the alleged 184
offender refrain from entering the residence, school, business, 185
or place of employment of the complainant or the alleged victim. 186
The court may include within a protection order issued under 187
this section a term requiring that the alleged offender not 188
remove, damage, hide, harm, or dispose of any companion animal 189

owned or possessed by the complainant or the alleged victim, and 190
may include within the order a term authorizing the complainant 191
or the alleged victim to remove a companion animal owned by the 192
complainant or the alleged victim from the possession of the 193
alleged offender. 194

(2) (a) If the court issues a protection order under this 195
section that includes a requirement that the alleged offender 196
refrain from entering the residence, school, business, or place 197
of employment of the complainant or the alleged victim, the 198
order shall clearly state that the order cannot be waived or 199
nullified by an invitation to the alleged offender from the 200
complainant, the alleged victim, or a family or household member 201
to enter the residence, school, business, or place of employment 202
or by the alleged offender's entry into one of those places 203
otherwise upon the consent of the complainant, the alleged 204
victim, or a family or household member. 205

(b) Division (C) (2) (a) of this section does not limit any 206
discretion of a court to determine that an alleged offender 207
charged with a violation of section 2919.27 of the Revised Code, 208
with a violation of a municipal ordinance substantially 209
equivalent to that section, or with contempt of court, which 210
charge is based on an alleged violation of a protection order 211
issued under this section, did not commit the violation or was 212
not in contempt of court. 213

(D) (1) Except when the complaint involves a person who is 214
a family or household member as defined in section 2919.25 of 215
the Revised Code, upon the filing of a complaint that alleges a 216
violation specified in division (A) of this section, the court, 217
upon its own motion, may issue a protection order under this 218
section as a pretrial condition of release of the alleged 219

offender if it finds that the safety and protection of the 220
complainant or the alleged victim may be impaired by the 221
continued presence of the alleged offender. 222

(2) If the court issues a protection order under this 223
section as an ex parte order, it shall conduct, as soon as 224
possible after the issuance of the order but not later than the 225
next day that the court is in session after its issuance, a 226
hearing to determine whether the order should remain in effect, 227
be modified, or be revoked. The hearing shall be conducted under 228
the standards set forth in division (C) of this section. 229

(3) If a municipal court or a county court issues a 230
protection order under this section and if, subsequent to the 231
issuance of the order, the alleged offender who is the subject 232
of the order is bound over to the court of common pleas for 233
prosecution of a felony arising out of the same activities as 234
those that were the basis of the complaint upon which the order 235
is based, notwithstanding the fact that the order was issued by 236
a municipal court or county court, the order shall remain in 237
effect, as though it were an order of the court of common pleas, 238
while the charges against the alleged offender are pending in 239
the court of common pleas, for the period of time described in 240
division (E)(2) of this section, and the court of common pleas 241
has exclusive jurisdiction to modify the order issued by the 242
municipal court or county court. This division applies when the 243
alleged offender is bound over to the court of common pleas as a 244
result of the person waiving a preliminary hearing on the felony 245
charge, as a result of the municipal court or county court 246
having determined at a preliminary hearing that there is 247
probable cause to believe that the felony has been committed and 248
that the alleged offender committed it, as a result of the 249
alleged offender having been indicted for the felony, or in any 250

other manner.	251
(E) A protection order that is issued as a pretrial condition of release under this section:	252 253
(1) Is in addition to, but shall not be construed as a part of, any bail set under Criminal Rule 46 <u>by the court</u> ;	254 255
(2) Is effective only until the disposition, by the court that issued the order or, in the circumstances described in division (D)(3) of this section, by the court of common pleas to which the alleged offender is bound over for prosecution, of the criminal proceeding arising out of the complaint upon which the order is based or until the issuance under section 2903.214 of the Revised Code of a protection order arising out of the same activities as those that were the basis of the complaint filed under this section;	256 257 258 259 260 261 262 263 264
(3) Shall not be construed as a finding that the alleged offender committed the alleged offense and shall not be introduced as evidence of the commission of the offense at the trial of the alleged offender on the complaint upon which the order is based.	265 266 267 268 269
(F) A person who meets the criteria for bail under Criminal Rule 46 <u>section 2937.011 of the Revised Code</u> and who, if required to do so pursuant to that rule <u>section</u> , executes or posts bond or deposits cash or securities as bail, shall not be held in custody pending a hearing before the court on a motion requesting a protection order under this section.	270 271 272 273 274 275
(G) (1) A copy of a protection order that is issued under this section shall be issued by the court to the complainant, to the alleged victim, to the person who requested the order, to the defendant, and to all law enforcement agencies that have	276 277 278 279

jurisdiction to enforce the order. The court shall direct that a copy of the order be delivered to the defendant on the same day that the order is entered. If a municipal court or a county court issues a protection order under this section and if, subsequent to the issuance of the order, the defendant who is the subject of the order is bound over to the court of common pleas for prosecution as described in division (D) (3) of this section, the municipal court or county court shall direct that a copy of the order be delivered to the court of common pleas to which the defendant is bound over.

(2) All law enforcement agencies shall establish and maintain an index for the protection orders delivered to the agencies pursuant to division (G) (1) of this section. With respect to each order delivered, each agency shall note on the index the date and time of the agency's receipt of the order.

(3) Regardless of whether the petitioner has registered the protection order in the county in which the officer's agency has jurisdiction, any officer of a law enforcement agency shall enforce a protection order issued pursuant to this section in accordance with the provisions of the order.

(H) Upon a violation of a protection order issued pursuant to this section, the court may issue another protection order under this section, as a pretrial condition of release, that modifies the terms of the order that was violated.

(I) (1) Subject to division (I) (2) of this section and regardless of whether a protection order is issued or a consent agreement is approved by a court of another county or by a court of another state, no court or unit of state or local government shall charge the movant any fee, cost, deposit, or money in connection with the filing of a motion pursuant to this section,

in connection with the filing, issuance, registration, 310
modification, enforcement, dismissal, withdrawal, or service of 311
a protection order, consent agreement, or witness subpoena or 312
for obtaining certified copies of a protection order or consent 313
agreement. 314

(2) Regardless of whether a protection order is issued or 315
a consent agreement is approved pursuant to this section, if the 316
defendant is convicted the court may assess costs against the 317
defendant in connection with the filing, issuance, registration, 318
modification, enforcement, dismissal, withdrawal, or service of 319
a protection order, consent agreement, or witness subpoena or 320
for obtaining a certified copy of a protection order or consent 321
agreement. 322

(J) As used in this section: 323

(1) "Sexually oriented offense" has the same meaning as in 324
section 2950.01 of the Revised Code. 325

(2) "Companion animal" has the same meaning as in section 326
959.131 of the Revised Code. 327

Sec. 2907.41. (A) Subject to division (D) of this section, 328
a person who is charged with the commission of any sexually 329
oriented offense or with a violation of section 2907.09 of the 330
Revised Code shall appear before the court for the setting of 331
bail if the person charged previously was convicted of or 332
pleaded guilty to a sexually oriented offense, a violation of 333
section 2907.09 of the Revised Code, or a violation of an 334
existing or former municipal ordinance or law of this or any 335
other state or the United States that is substantially similar 336
to section 2907.09 of the Revised Code. 337

(B) To the extent that information about any of the 338

following is available to the court, the court, in addition to 339
any other circumstances considered by the court and 340
notwithstanding any provisions to the contrary contained in 341
~~Criminal Rule 46~~ section 2937.011 of the Revised Code, shall 342
consider all of the following before setting bail for a person 343
who appears before the court pursuant to division (A) of this 344
section: 345

(1) Whether the person previously has been adjudicated a 346
sexual predator or child-victim predator pursuant to Chapter 347
2950. of the Revised Code, previously has been determined to be 348
a habitual sex offender or habitual child-victim offender 349
pursuant to that ~~Chapter~~ chapter, has a history of committing 350
sexually oriented offenses or child-victim oriented offenses, or 351
has a history of committing violations of section 2907.09 of the 352
Revised Code or violations of an existing or former municipal 353
ordinance or law of this or any other state or the United States 354
that is substantially similar to that section; 355

(2) The mental health of the person; 356

(3) Whether the person has a history of violating the 357
orders of any court or governmental entity; 358

(4) Whether the person is potentially a threat to any 359
other person; 360

(5) Whether the person has access to deadly weapons or a 361
history of using deadly weapons; 362

(6) Whether the person has a history of abusing alcohol or 363
any controlled substance; 364

(7) The severity of the alleged conduct of the person that 365
is the basis of the offense, including but not limited to, the 366
duration of the alleged conduct, and whether the alleged conduct 367

involved physical injury, assault, violence, or forcible entry	368
to gain access to an alleged victim;	369
(8) Whether the person has exhibited obsessive or	370
controlling behaviors toward another person, including, but not	371
limited to, stalking, surveillance, or isolation of another	372
person;	373
(9) Whether the person has expressed suicidal or homicidal	374
ideations;	375
(10) Any information contained in the complaint and any	376
police reports, affidavits, or other documents accompanying the	377
complaint.	378
(C) Any court that has jurisdiction over charges alleging	379
the commission of a sexually oriented offense or a violation of	380
section 2907.09 of the Revised Code, in circumstances in which	381
the person charged previously was convicted of or pleaded guilty	382
to any of the offenses or violations described in division (A)	383
of this section, may set a schedule for bail to be used in cases	384
involving those offenses and violations. The schedule shall	385
require that a judge consider all of the factors listed in	386
division (B) of this section and may require judges to set bail	387
at a certain level if the history of the alleged offender or the	388
circumstances of the alleged offense meet certain criteria in	389
the schedule.	390
(D) (1) Upon the court's own motion or the motion of a	391
party and upon any terms that the court may direct, a court may	392
permit a person who is required to appear before it by division	393
(A) of this section to appear by video conferencing equipment.	394
(2) If, in the opinion of the court, the appearance in	395
person or by video conferencing equipment of a person who is	396

charged with a misdemeanor and who is required to appear before 397
the court by division (A) of this section is not practicable, 398
the court may waive the appearance and release the person on 399
bail in accordance with the court's schedule for bail set under 400
division (C) of this section or, if the court has not set a 401
schedule for bail under that division, on one or both of the 402
following types of bail in an amount set by the court: 403

(a) A bail bond secured by a deposit of ten per cent of 404
the amount of the bond in cash; 405

(b) A surety bond, a bond secured by real estate or 406
securities as allowed by law, or the deposit of cash, at the 407
option of the person. 408

(3) Division (A) of this section does not create a right 409
in a person to appear before the court for the setting of bail 410
or prohibit a court from requiring any person charged with a 411
sexually oriented offense or a violation of section 2907.09 of 412
the Revised Code who is not described in that division from 413
appearing before the court for the setting of bail. 414

(E) As used in this section, "child-victim oriented 415
offense," "child-victim predator," "habitual child-victim 416
offender," "habitual sex offender," "sexually oriented offense," 417
and "sexual predator" have the same meanings as in section 418
2950.01 of the Revised Code. 419

Sec. 2919.251. (A) Subject to division (D) of this 420
section, a person who is charged with the commission of any 421
offense of violence shall appear before the court for the 422
setting of bail if the alleged victim of the offense charged was 423
a family or household member at the time of the offense and if 424
any of the following applies: 425

(1) The person charged, at the time of the alleged 426
offense, was subject to the terms of a protection order issued 427
or consent agreement approved pursuant to section 2919.26 or 428
3113.31 of the Revised Code or previously was convicted of or 429
pleaded guilty to a violation of section 2919.25 of the Revised 430
Code or a violation of section 2919.27 of the Revised Code 431
involving a protection order or consent agreement of that type, 432
a violation of an existing or former municipal ordinance or law 433
of this or any other state or the United States that is 434
substantially similar to either section, a violation of section 435
2909.06, 2909.07, 2911.12, or 2911.211 of the Revised Code if 436
the victim of the violation was a family or household member at 437
the time of the violation, a violation of an existing or former 438
municipal ordinance or law of this or any other state or the 439
United States that is substantially similar to any of those 440
sections if the victim of the violation was a family or 441
household member at the time of the commission of the violation, 442
or any offense of violence if the victim of the offense was a 443
family or household member at the time of the offense; 444

(2) The arresting officer indicates in a police report or 445
other document accompanying the complaint any of the following: 446

(a) That the arresting officer observed on the alleged 447
victim objective manifestations of physical harm that the 448
arresting officer reasonably believes are a result of the 449
alleged offense; 450

(b) That the arresting officer reasonably believes that 451
the person had on the person's person at the time of the alleged 452
offense a deadly weapon or dangerous ordnance; 453

(c) That the arresting officer reasonably believes that 454
the person presents a credible threat of serious physical harm 455

to the alleged victim or to any other person if released on bail 456
before trial. 457

(B) To the extent that information about any of the 458
following is available to the court, the court shall consider 459
all of the following, in addition to any other circumstances 460
considered by the court and notwithstanding any provisions to 461
the contrary contained in ~~Criminal Rule 46~~section 2937.011 of 462
the Revised Code, before setting bail for a person who appears 463
before the court pursuant to division (A) of this section: 464

(1) Whether the person has a history of domestic violence 465
or a history of other violent acts; 466

(2) The mental health of the person; 467

(3) Whether the person has a history of violating the 468
orders of any court or governmental entity; 469

(4) Whether the person is potentially a threat to any 470
other person; 471

(5) Whether the person has access to deadly weapons or a 472
history of using deadly weapons; 473

(6) Whether the person has a history of abusing alcohol or 474
any controlled substance; 475

(7) The severity of the alleged violence that is the basis 476
of the offense, including but not limited to, the duration of 477
the alleged violent incident, and whether the alleged violent 478
incident involved serious physical injury, sexual assault, 479
strangulation, abuse during the alleged victim's pregnancy, 480
abuse of pets, or forcible entry to gain access to the alleged 481
victim; 482

(8) Whether a separation of the person from the alleged 483

victim or a termination of the relationship between the person 484
and the alleged victim has recently occurred or is pending; 485

(9) Whether the person has exhibited obsessive or 486
controlling behaviors toward the alleged victim, including but 487
not limited to, stalking, surveillance, or isolation of the 488
alleged victim; 489

(10) Whether the person has expressed suicidal or 490
homicidal ideations; 491

(11) Any information contained in the complaint and any 492
police reports, affidavits, or other documents accompanying the 493
complaint. 494

(C) Any court that has jurisdiction over charges alleging 495
the commission of an offense of violence in circumstances in 496
which the alleged victim of the offense was a family or 497
household member at the time of the offense may set a schedule 498
for bail to be used in cases involving those offenses. The 499
schedule shall require that a judge consider all of the factors 500
listed in division (B) of this section and may require judges to 501
set bail at a certain level if the history of the alleged 502
offender or the circumstances of the alleged offense meet 503
certain criteria in the schedule. 504

(D) (1) Upon the court's own motion or the motion of a 505
party and upon any terms that the court may direct, a court may 506
permit a person who is required to appear before it by division 507
(A) of this section to appear by video conferencing equipment. 508

(2) If in the opinion of the court the appearance in 509
person or by video conferencing equipment of a person who is 510
charged with a misdemeanor and who is required to appear before 511
the court by division (A) of this section is not practicable, 512

the court may waive the appearance and release the person on 513
bail in accordance with the court's schedule for bail set under 514
division (C) of this section or, if the court has not set a 515
schedule for bail under that division, on one or both of the 516
following types of bail in an amount set by the court: 517

(a) A bail bond secured by a deposit of ten per cent of 518
the amount of the bond in cash; 519

(b) A surety bond, a bond secured by real estate or 520
securities as allowed by law, or the deposit of cash, at the 521
option of the person. 522

(3) Division (A) of this section does not create a right 523
in a person to appear before the court for the setting of bail 524
or prohibit a court from requiring any person charged with an 525
offense of violence who is not described in that division from 526
appearing before the court for the setting of bail. 527

(E) As used in this section: 528

(1) "Controlled substance" has the same meaning as in 529
section 3719.01 of the Revised Code. 530

(2) "Dangerous ordnance" and "deadly weapon" have the same 531
meanings as in section 2923.11 of the Revised Code. 532

Sec. 2937.011. (A) Unless the court orders the defendant 533
detained pursuant to section 2937.222 of the Revised Code or 534
other applicable law, the court shall release the defendant on 535
the least restrictive conditions that, in the discretion of the 536
court, will reasonably assure the defendant's appearance in 537
court, the protection or safety of any person or the community, 538
and that the defendant will not obstruct the criminal justice 539
process. If the court orders financial conditions of release, 540
those financial conditions shall be related to public safety, 541

the defendant's risk of nonappearance in court, the seriousness 542
of the offense, and the previous criminal record of the 543
defendant. 544

(B) Any financial conditions shall be in an amount and 545
type that are least costly to the defendant while also 546
sufficient to reasonably assure the defendant's future 547
appearance in court. 548

(C) Any defendant who is entitled to release may be 549
released upon one or more of the following types of bail in the 550
amount set by the court: 551

(1) An unsecured bail bond; 552

(2) A bail bond secured by the deposit of ten per cent of 553
the amount of the bond in cash. The court shall return ninety 554
per cent of the deposit upon compliance with all conditions of 555
the bond. 556

(3) A surety bond, a bond secured by real estate or 557
securities as allowed by law, or the deposit of cash, at the 558
option of the defendant. 559

(D) The court may impose any of the following conditions 560
of release: 561

(1) The personal recognizance of the defendant; 562

(2) Placing the defendant in the custody of a designated 563
person or organization that agrees to supervise the defendant; 564

(3) Placing restrictions on the travel, association, or 565
place of abode of the defendant during the period of release; 566

(4) Placing the defendant under a house arrest, electronic 567
monitoring, or work release program; 568

<u>(5) Regulating or prohibiting the defendant's contact with the victim;</u>	569 570
<u>(6) Regulating the defendant's contact with witnesses or others associated with the case upon proof of the likelihood that the defendant will threaten, harass, cause injury, or seek to intimidate those persons;</u>	571 572 573 574
<u>(7) For any defendant charged with an offense that is alcohol or drug related, or where alcohol or drug influence or addiction appears to be a contributing factor in the offense, and who appears based upon an evaluation, prior treatment history, or recent alcohol or drug use, to be in need of treatment, requiring completion of a drug or alcohol assessment and compliance with treatment recommendations;</u>	575 576 577 578 579 580 581
<u>(8) Requiring compliance with alternatives to pretrial detention, including diversion programs, day reporting, or comparable alternatives, to ensure the defendant's appearance at future court proceedings;</u>	582 583 584 585
<u>(9) Any other constitutional condition considered reasonably necessary to reasonably assure the defendant's appearance or public safety.</u>	586 587 588
<u>(E) Subject to division (I) (2) of this section, in determining the types, amounts, and conditions of bail, the court shall consider all relevant information, including the following:</u>	589 590 591 592
<u>(1) The nature and circumstances of the crime charged, and specifically whether the defendant used or had access to a weapon;</u>	593 594 595
<u>(2) The weight of the evidence against the defendant;</u>	596

<u>(3) The confirmation of the defendant's identity;</u>	597
<u>(4) The defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, jurisdiction of residence, record of convictions, record of appearance at court proceedings or of flight to avoid prosecution;</u>	598 599 600 601 602
<u>(5) Whether the defendant is on probation, a community control sanction, parole, post-release control, bail, or under a court protection order;</u>	603 604 605
<u>(6) The considerations required under Section 9 of Article I, Ohio Constitution.</u>	606 607
<u>(F) Absent good cause, there is a presumption of release on personal recognizance when the defendant appears pursuant to a summons issued by the court.</u>	608 609 610
<u>(G) When a judicial officer, either on motion of a party or on the court's own motion, determines that the considerations set forth in divisions (D) and (E) of this section require a modification of the conditions of release, the judicial officer may order additional or different types, amounts, or conditions of bail, or may eliminate or lessen conditions of bail the court determines to be no longer necessary. Unless the parties agree to a modification, the court shall hold a hearing on the modification of bond as promptly as possible. Unless modified by the judicial officer, or if application is made by a surety for discharge from a bond pursuant to section 2937.40 of the Revised Code, conditions of release shall continue until the return of a verdict or the entry of a guilty plea or a no-contest plea and may continue thereafter pending sentence or disposition of the case on review.</u>	611 612 613 614 615 616 617 618 619 620 621 622 623 624 625

(H) Information stated in or offered in connection with 626
any order entered pursuant to this section does not need to 627
conform to the rules pertaining to the admissibility of evidence 628
in a court of law. The court shall not receive as substantive 629
evidence in the trial of the case statements or admissions of 630
the defendant made at a bail proceeding or in the course of 631
compliance with a condition of bail. 632

(I) (1) In order to expedite the prompt release of a 633
defendant prior to an initial appearance, each court shall 634
establish a bail bond schedule covering all misdemeanors 635
including traffic offenses, either specifically, by type, by 636
potential penalty, or by some other reasonable method of 637
classification. The court also may include requirements for 638
release in consideration of divisions (D) and (E) (5) of this 639
section. The sole purpose of a bail schedule is to allow for the 640
consideration of release prior to the defendant's initial 641
appearance. 642

(2) A bond schedule is not relevant information under 643
division (E) of this section. 644

(3) Each municipal or county court shall, by rule, 645
establish a method whereby a defendant may make bail by use of a 646
credit card. 647

(4) Each court shall review its bail bond schedule 648
biennially by the thirty-first day of January of each even- 649
numbered year beginning in 2024, to ensure an appropriate bail 650
bond schedule that does not result in the unnecessary detention 651
of a defendant due to the defendant's inability to pay. 652

(J) (1) A person who has been arrested, either pursuant to 653
a warrant or without a warrant, and who has not been released on 654

bail, shall be brought before a judicial officer for an initial 655
bail hearing not later than the second court day following the 656
person's arrest. That bail hearing may be combined with the 657
initial appearance provided for in the Rules of Criminal 658
Procedure. 659

(2) If, at the initial bail hearing before a judicial 660
officer, the defendant was not represented by counsel, and if 661
the defendant has not yet been released on bail, the court shall 662
hold a second bail hearing on the second court day following the 663
initial bail hearing. An indigent defendant shall be afforded 664
representation by appointed counsel at the state's expense at 665
this second bail hearing. 666

(K) Any person who fails to appear before any court as 667
required is subject to the punishment provided by the law, and 668
any bail given for the defendant's release may be forfeited. If 669
there is a breach of a condition of release, the court may amend 670
the bail. 671

(L) Every surety, except a corporate surety licensed as 672
provided by law, shall justify by affidavit, and may be required 673
to describe in the affidavit, the property that the surety 674
proposes as security and the encumbrances on it, the number and 675
amount of other bonds and undertakings for bail entered into by 676
the surety and remaining undischarged, and all of the surety's 677
other liabilities. The surety shall provide other evidence of 678
financial responsibility as the court or clerk may require. The 679
court shall not approve a bail bond unless the surety or 680
sureties appear, in the opinion of the court or clerk, to be 681
financially responsible in at least the amount of the bond. A 682
licensed attorney at law may not be a surety. 683

Sec. 2937.40. (A) Bail of any type that is deposited under 684

section 2937.011 or sections 2937.22 to 2937.45 of the Revised 685
Code ~~or Criminal Rule 46~~ by a person other than the accused 686
shall be discharged and released, and sureties on recognizances 687
shall be released, in any of the following ways: 688

(1) When a surety on a recognizance or the depositor of 689
cash or securities as bail for an accused desires to surrender 690
the accused before the appearance date, the surety is discharged 691
from further responsibility or the deposit is redeemed in either 692
of the following ways: 693

(a) By delivery of the accused into open court; 694

(b) When, on the written request of the surety or 695
depositor, the clerk of the court to which recognizance is 696
returnable or in which deposit is made issues to the sheriff a 697
warrant for the arrest of the accused and the sheriff indicates 698
on the return that ~~he~~the sheriff holds the accused in ~~his~~the 699
sheriff's jail. 700

(2) By appearance of the accused in accordance with the 701
terms of the recognizance or deposit and the entry of judgment 702
by the court or magistrate; 703

(3) By payment into court, after default, of the sum fixed 704
in the recognizance or the sum fixed in the order of forfeiture, 705
if it is less. 706

(B) When cash or securities have been deposited as bail by 707
a person other than the accused and the bail is discharged and 708
released pursuant to division (A) of this section, or when 709
property has been pledged by a surety on recognizance and the 710
surety on recognizance has been released pursuant to division 711
(A) of this section, the court shall not deduct any amount from 712
the cash or securities or declare forfeited and levy or execute 713

against pledged property. The court shall not apply any of the 714
deposited cash or securities toward, or declare forfeited and 715
levy or execute against property pledged for a recognizance for, 716
the satisfaction of any penalty or fine, and court costs, 717
assessed against the accused upon ~~his~~the accused's conviction or 718
guilty plea, except upon express approval of the person who 719
deposited the cash or securities or the surety. 720

(C) Bail of any type that is deposited under section 721
2937.011 or sections 2937.22 to 2937.45 of the Revised Code ~~or~~ 722
~~Criminal Rule 46~~ by an accused shall be discharged and released 723
to the accused, and property pledged by an accused for a 724
recognizance shall be discharged, upon the appearance of the 725
accused in accordance with the terms of the recognizance or 726
deposit and the entry of judgment by the court or magistrate, 727
except that, if the defendant is not indigent, the court may 728
apply deposited bail toward the satisfaction of a penalty or 729
fine, and court costs, assessed against the accused upon ~~his~~the 730
accused's conviction or guilty plea, and may declare forfeited 731
and levy or execute against pledged property for the 732
satisfaction of a penalty or fine, and court costs, assessed 733
against the accused upon ~~his~~the accused's conviction or guilty 734
plea. 735

(D) Notwithstanding any other provision of this section, 736
an Ohio driver's or commercial driver's license that is 737
deposited as bond may be forfeited and otherwise handled as 738
provided in section 2937.221 of the Revised Code. 739

Sec. 2949.02. (A) If a person is convicted of anyailable 740
offense, including, but not limited to, a violation of an 741
ordinance of a municipal corporation, in a municipal or county 742
court or in a court of common pleas and if the person gives to 743

the trial judge or magistrate a written notice of the person's 744
intention to file or apply for leave to file an appeal to the 745
court of appeals, the trial judge or magistrate may suspend, 746
subject to division (A) (2) (b) of section 2953.09 of the Revised 747
Code, execution of the sentence or judgment imposed for any 748
fixed time that will give the person time either to prepare and 749
file, or to apply for leave to file, the appeal. In allailable 750
cases, except as provided in division (B) of this section, the 751
trial judge or magistrate may release the person on bail in 752
accordance with ~~Criminal Rule 46~~section 2937.011 of the Revised 753
Code, and the bail shall at least be conditioned that the person 754
will appeal without delay and abide by the judgment and sentence 755
of the court. 756

(B) Notwithstanding any provision of ~~Criminal Rule 46~~ 757
~~section 2937.011 of the Revised Code~~ to the contrary, a trial 758
judge of a court of common pleas shall not release on bail 759
pursuant to division (A) of this section a person who is 760
convicted of aailable offense if the person is sentenced to 761
imprisonment for life or if that offense is a violation of 762
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2905.01, 763
2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 2911.02, or 2911.11 764
of the Revised Code or is felonious sexual penetration in 765
violation of former section 2907.12 of the Revised Code. 766

(C) If a trial judge of a court of common pleas is 767
prohibited by division (B) of this section from releasing on 768
bail pursuant to division (A) of this section a person who is 769
convicted of aailable offense and not sentenced to 770
imprisonment for life, the appropriate court of appeals or two 771
judges of it, upon motion of such a person and for good cause 772
shown, may release the person on bail in accordance with section 773
2937.011 of the Revised Code and Appellate Rule 8 ~~and Criminal~~ 774

~~Rule 46~~, and the bail shall at least be conditioned as described 775
in division (A) of this section. 776

Sec. 2949.04. When bail is fixed pursuant to division (B) 777
of section 2953.03 or section 2949.02 or 2953.09 of the Revised 778
Code in connection with an appeal, a reduction or increase in 779
the amount of that bail or other change in that bail shall not 780
be required of the accused during the pendency of the appeal 781
unless the trial judge or magistrate, or the court in which the 782
appeal is being prosecuted, finds that there is good cause to 783
reduce or increase the amount of that bail or good cause for any 784
other change in that bail. If the court in which the appeal is 785
being prosecuted finds there is good cause to reduce or increase 786
the amount of that bail or good cause for any other change in 787
that bail, it shall order the reduction, increase, or other 788
change in accordance with ~~Criminal Rule 46~~section 2937.011 of 789
the Revised Code, and the new bail shall be in the amount and 790
form so ordered and otherwise be to the approval of and filed 791
with the clerk of the court in which the appeal is being 792
prosecuted. 793

Sec. 2949.093. (A) A board of county commissioners of any 794
county containing fifty-five or more law enforcement agencies by 795
resolution may elect to participate in a criminal justice 796
regional information system, either by creating and maintaining 797
a new criminal justice regional information system or by 798
participating in an existing criminal justice regional 799
information system. 800

(B) A county is not eligible to participate in any 801
criminal justice regional information system unless it creates 802
in its county treasury, pursuant to section 305.28 of the 803
Revised Code, a criminal justice regional information fund. 804

(C) A county that elects to participate in a criminal justice regional information system shall obtain revenues to fund its participation by establishing an additional court cost not exceeding five dollars to be imposed for moving violations that occur in that county. The board of county commissioners of that county shall establish the amount of the additional court cost by resolution. The board shall give written notice to all courts located in that county that adjudicate or otherwise process moving violations that occur in that county of the county's election to participate in the system and of the amount of the additional court cost. Upon receipt of such notice, each recipient court shall impose that amount as an additional court cost for all moving violations the court adjudicates or otherwise processes, in accordance with divisions (D) and (E) of this section.

(D) (1) The court in which any person is convicted of or pleads guilty to any moving violation that occurs in a county that has elected to participate in a criminal justice regional information system shall impose the sum established by the board pursuant to division (C) of this section as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender. The court shall not waive the payment of the additional court cost established by the board pursuant to division (C) of this section unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.

All such money collected during a month shall be transmitted on the first business day of the following month by the clerk of the court to the county treasurer of the county in which the court is located and thereafter the county treasurer shall deposit the money in that county's criminal justice

regional information fund. 836

(2) The juvenile court in which a child is found to be a 837
juvenile traffic offender for an act that is a moving violation 838
occurring in a county participating in a criminal justice 839
regional information system shall impose the sum established by 840
the board pursuant to division (C) of this section as costs in 841
the case in addition to any other court costs that the court is 842
required by law to impose upon the juvenile traffic offender. 843
The juvenile court shall not waive the payment of the additional 844
court cost established by the board pursuant to division (C) of 845
this section unless the court determines that the juvenile is 846
indigent and waives the payment of all court costs imposed upon 847
the indigent offender. 848

All such money collected during a month shall be 849
transmitted on the first business day of the following month by 850
the clerk of the court to the county treasurer of the county in 851
which the juvenile court is located and thereafter the county 852
treasurer shall deposit the money in that county's criminal 853
justice regional information fund. 854

(E) Whenever a person is charged with any offense that is 855
a moving violation and posts bail, the court shall add to the 856
amount of the bail the set sum required to be paid by division 857
(D)(1) of this section. The clerk of the court shall retain that 858
set sum until the person is convicted, pleads guilty, forfeits 859
bail, is found not guilty, or has the charges dismissed. If the 860
person is convicted, pleads guilty, or forfeits bail, the clerk 861
shall transmit the set sum to the county treasurer, who shall 862
deposit it in the county criminal justice regional information 863
fund. If the person is found not guilty or the charges are 864
dismissed, the clerk shall return the set sum to the person. 865

(F) No person shall be placed or held in a detention facility as defined in section 2921.01 of the Revised Code for failing to pay the court cost or bail that is required to be paid by this section.

(G) (1) Except as provided in division (G) (2) of this section, all funds collected by a county under this section shall be used by that county only to pay the costs it incurs in creating and maintaining a new criminal justice regional information system or to pay the costs it incurs in participating in an existing criminal justice regional information system.

(2) If the board of county commissioners of a county determines that the funds in that county's criminal justice regional information fund are more than sufficient to satisfy the purpose for which the additional court cost described in division (C) of this section was imposed, the board may declare a surplus in the fund. The county may expend the surplus only to pay the costs it incurs in improving the law enforcement computer technology of local law enforcement agencies located in that county.

(H) As used in this section:

(1) "Moving violation" means any violation of any statute or ordinance, other than section 4513.263 of the Revised Code or an ordinance that is substantially equivalent to that section, that regulates the operation of vehicles, streetcars, or trackless trolleys on highways or streets or that regulates size or load limitations or fitness requirements of vehicles. "Moving violation" does not include the violation of any statute or ordinance that regulates pedestrians or the parking of vehicles.

(2) "Bail" means cash, a check, a money order, a credit card, or any other form of money that is posted by or for an offender pursuant to section 2937.011 or sections 2937.22 to 2937.46 of the Revised Code, ~~Criminal Rule 46,~~ or Traffic Rule 4 to prevent the offender from being placed or held in a detention facility, as defined in section 2921.01 of the Revised Code. 895
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(3) "Criminal justice regional information system" means a governmental computer system that serves as a cooperative between political subdivisions in a particular region for the purpose of providing a consolidated computerized information system for criminal justice agencies in that region. 902
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Sec. 2953.03. (A) If a motion for a new trial is filed pursuant to Criminal Rule 33 by a defendant who is convicted of a misdemeanor under the Revised Code or an ordinance of a municipal corporation, and if that defendant was on bail at the time of the conviction of that offense, the trial judge or magistrate shall suspend execution of the sentence or judgment imposed pending the determination on the motion for a new trial and shall determine the amount and nature of any bail that is required of the defendant in accordance with ~~Criminal Rule 46~~section 2937.011 of the Revised Code. 907
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(B) If a notice of appeal is filed pursuant to the Rules of Appellate Procedure or Chapter 1905. of the Revised Code by a defendant who is convicted in a municipal, county, or mayor's court or a court of common pleas of a misdemeanor under the Revised Code or an ordinance of a municipal corporation, if that defendant was on bail at the time of the conviction of that offense, and if execution of the sentence or judgment imposed is suspended, the trial court or magistrate or the court in which 917
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the appeal is being prosecuted shall determine the amount and 925
nature of any bail that is required of the defendant as follows: 926

(1) In the case of an appeal to a court of appeals by a 927
defendant who is convicted in a municipal or county court or a 928
court of common pleas, in accordance with section 2937.011 of 929
the Revised Code and Appellate Rule 8 ~~and Criminal Rule 46~~; 930

(2) In the case of an appeal to a municipal or county 931
court by a defendant who is convicted in a mayor's court, in 932
accordance with ~~Criminal Rule 46~~ section 2937.011 of the Revised 933
Code. 934

Sec. 2953.09. (A) (1) Upon filing an appeal in the supreme 935
court, the execution of the sentence or judgment imposed in 936
cases of felony is suspended. 937

(2) (a) If a notice of appeal is filed pursuant to the 938
Rules of Appellate Procedure by a defendant who is convicted in 939
a municipal or county court or a court of common pleas of a 940
felony or misdemeanor under the Revised Code or an ordinance of 941
a municipal corporation, the filing of the notice of appeal does 942
not suspend execution of the sentence or judgment imposed. 943
However, consistent with divisions (A) (2) (b), (B), and (C) of 944
this section, section 2937.011 of the Revised Code, and 945
Appellate Rule 8, and Criminal Rule 46, the municipal or county 946
court, court of common pleas, or court of appeals may suspend 947
execution of the sentence or judgment imposed during the 948
pendency of the appeal and shall determine whether that 949
defendant is entitled to bail and the amount and nature of any 950
bail that is required. The bail shall at least be conditioned 951
that the defendant will prosecute the appeal without delay and 952
abide by the judgment and sentence of the court. 953

(b) (i) A court of common pleas or court of appeals may 954
suspend the execution of a sentence of death imposed for an 955
offense committed before January 1, 1995, only if no date for 956
execution has been set by the supreme court, good cause is shown 957
for the suspension, the defendant files a motion requesting the 958
suspension, and notice has been given to the prosecuting 959
attorney of the appropriate county. 960

(ii) A court of common pleas may suspend the execution of 961
a sentence of death imposed for an offense committed on or after 962
January 1, 1995, only if no date for execution has been set by 963
the supreme court, good cause is shown, the defendant files a 964
motion requesting the suspension, and notice has been given to 965
the prosecuting attorney of the appropriate county. 966

(iii) A court of common pleas or court of appeals may 967
suspend the execution of the sentence or judgment imposed for a 968
felony in a capital case in which a sentence of death is not 969
imposed only if no date for execution of the sentence has been 970
set by the supreme court, good cause is shown for the 971
suspension, the defendant files a motion requesting the 972
suspension, and only after notice has been given to the 973
prosecuting attorney of the appropriate county. 974

(B) Notwithstanding any provision of ~~Criminal Rule 46~~ 975
section 2937.011 of the Revised Code to the contrary, a trial 976
judge of a court of common pleas shall not release on bail 977
pursuant to division (A) (2) (a) of this section a defendant who 978
is convicted of a bailable offense if the defendant is sentenced 979
to imprisonment for life or if that offense is a violation of 980
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2905.01, 981
2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 2911.02, or 2911.11 982
of the Revised Code or is felonious sexual penetration in 983

violation of former section 2907.12 of the Revised Code. 984

(C) If a trial judge of a court of common pleas is 985
prohibited by division (B) of this section from releasing on 986
bail pursuant to division (A)(2)(a) of this section a defendant 987
who is convicted of a bailable offense and not sentenced to 988
imprisonment for life, the appropriate court of appeals or two 989
judges of it, upon motion of the defendant and for good cause 990
shown, may release the defendant on bail in accordance with 991
division (A)(2) of this section. 992

Section 2. That existing sections 2743.70, 2903.212, 993
2903.213, 2907.41, 2919.251, 2937.40, 2949.02, 2949.04, 994
2949.093, 2953.03, and 2953.09 of the Revised Code are hereby 995
repealed. 996

Section 3. This act is hereby declared to be an emergency 997
measure necessary for the immediate preservation of the public 998
peace, health, and safety. The reason for such necessity is to 999
codify Criminal Rule 46 prior to the Rule's anticipated repeal, 1000
effective July 1, 2023. Therefore, this act shall go into 1001
immediate effect. 1002