

As Introduced

136th General Assembly

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H. B. No. 72

Representatives Schmidt, Mathews, A.

**Cosponsors: Representatives Barhorst, Deeter, Johnson, Lorenz, Robb Blasdel,
Salvo, Callender, Ritter, Thomas, D., Ferguson, Richardson**

A BILL

To amend sections 9.04, 9.07, 120.03, 120.041, 1
120.06, 120.14, 120.16, 120.18, 120.24, 120.26, 2
120.28, 120.33, 120.34, 149.43, 149.436, 3
1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 4
2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 5
2929.02, 2929.13, 2929.14, 2929.61, 2930.19, 6
2937.222, 2941.021, 2941.14, 2941.148, 2941.401, 7
2941.43, 2941.51, 2945.06, 2945.10, 2945.13, 8
2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 9
2949.03, 2953.02, 2953.07, 2953.08, 2953.09, 10
2953.10, 2953.21, 2953.23, 2953.71, 2953.72, 11
2953.73, 2953.81, 2967.05, 2967.12, 2967.13, 12
2967.193, 2967.194, 2971.03, 2971.07, 3901.87, 13
5101.56, 5120.113, 5120.53, 5120.61, 5139.04, 14
and 5919.16 and to repeal sections 109.97, 15
120.35, 2725.19, 2929.021, 2929.022, 2929.023, 16
2929.024, 2929.025, 2929.03, 2929.04, 2929.05, 17
2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 18
2949.221, 2949.222, 2949.24, 2949.25, 2949.26, 19
2949.27, 2949.28, 2949.29, 2949.31, and 2967.08 20
of the Revised Code to prohibit public funding 21
for and insurance coverage of the use of lethal 22

injection drugs in nontherapeutic abortions and 23
assisting suicide, to abolish the death penalty, 24
and to modify the number of jurors that may be 25
challenged in cases where a defendant may be 26
sentenced to life imprisonment. 27

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

Section 1. That sections 9.04, 9.07, 120.03, 120.041, 28
120.06, 120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 29
120.34, 149.43, 149.436, 1901.183, 2152.13, 2152.67, 2301.20, 30
2307.60, 2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 31
2929.13, 2929.14, 2929.61, 2930.19, 2937.222, 2941.021, 2941.14, 32
2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 2945.13, 33
2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 34
2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 35
2953.72, 2953.73, 2953.81, 2967.05, 2967.12, 2967.13, 2967.193, 36
2967.194, 2971.03, 2971.07, 3901.87, 5101.56, 5120.113, 5120.53, 37
5120.61, 5139.04, and 5919.16 of the Revised Code be amended to 38
read as follows: 39

Sec. 9.04. (A) As used in this section: 40

(1) "Assisting suicide" has the same meaning as in section 41
3795.01 of the Revised Code. 42

(2) "Lethal injection drug" means any drug or combination 43
of drugs, or a compounding component or active pharmaceutical 44
ingredient, used to quickly and painlessly cause death. 45

(3) "Nontherapeutic abortion" means an abortion that is 46
performed or induced when the life of the mother would not be 47

endangered if the fetus were carried to term or when the 48
pregnancy of the mother was not the result of rape or incest 49
reported to a law enforcement agency. 50

~~(2)~~ (4) "Policy, contract, or plan" means a policy, 51
contract, or plan of one or more insurance companies, medical 52
care corporations, health care corporations, health maintenance 53
organizations, preferred provider organizations, or other 54
entities that provides health, medical, hospital, or surgical 55
coverage, benefits, or services to elected or appointed officers 56
or employees of the state or any political subdivision thereof. 57
"Policy, contract, or plan" includes a plan that is associated 58
with a self-insurance program and a policy, contract, or plan 59
that implements a collective bargaining agreement. 60

~~(3)~~ (5) "Political subdivision" means any body corporate 61
and politic that is responsible for governmental activities in a 62
geographic area smaller than the state, except that "political 63
subdivision" does not include either of the following: 64

(a) A municipal corporation; 65

(b) A county that has adopted a charter under Section 3 of 66
Article X, Ohio Constitution, to the extent that it is 67
exercising the powers of local self-government as provided in 68
that charter and is subject to Section 3 of Article XVIII, Ohio 69
Constitution. 70

~~(4)~~ (6) "State" means the state of Ohio, including the 71
general assembly, the supreme court, the offices of all elected 72
state officers, and all departments, boards, offices, 73
commissions, agencies, colleges and universities, institutions, 74
and other instrumentalities of the state of Ohio. "State" does 75
not include political subdivisions. 76

(B) Subject to division (C) of this section and unless 77
required by the United States Constitution, Ohio Constitution, 78
or by federal statute, regulation, or decisions of federal 79
courts, but notwithstanding other provisions of the Revised Code 80
that conflict with the prohibition specified in this division, 81
funds of the state or any political subdivision thereof shall 82
not be expended directly or indirectly to pay the costs, 83
premiums, or charges associated with a policy, contract, or plan 84
if the policy, contract, or plan provides coverage, benefits, or 85
services related to ~~a~~ any of the following: 86

(1) A nontherapeutic abortion, including through the use 87
of lethal injection drugs; 88

(2) Assisting suicide through the use of lethal injection 89
drugs; 90

(3) Executing a death sentence through the use of lethal 91
injection drugs. 92

(C) Division (B) of this section does not preclude the 93
state or any political subdivision thereof from expending funds 94
to pay the costs, premiums, or charges associated with a policy, 95
contract, or plan that includes a rider or other provision 96
offered on an individual basis under which an elected or 97
appointed official or employee who accepts the offer of the 98
rider or provision may obtain coverage of a nontherapeutic 99
abortion through the policy, contract, or plan if the individual 100
pays for all of the costs, premiums, or charges associated with 101
the rider or provision, including all administrative expenses 102
related to the rider or provision and any claim made for a 103
nontherapeutic abortion. 104

(D) In addition to the laws specified in division (A) of 105

section 4117.10 of the Revised Code that prevail over 106
conflicting provisions of agreements between employee 107
organizations and public employers, divisions (B) and (C) of 108
this section shall prevail over conflicting provisions of that 109
nature. 110

(E) Notwithstanding section 1.50 of the Revised Code, if 111
any provision of this section, section 3901.87 of the Revised 112
Code, or section 5101.56 of the Revised Code is held invalid, or 113
if the application of any provision of these sections to any 114
person or circumstance is held invalid, then these sections 115
cease to operate. 116

Sec. 9.07. (A) As used in this section: 117

(1) "Deadly weapon" has the same meaning as in section 118
2923.11 of the Revised Code. 119

(2) "Governing authority of a local public entity" means 120
whichever of the following is applicable: 121

(a) For a county, the board of county commissioners of the 122
county; 123

(b) For a municipal corporation, the legislative authority 124
of the municipal corporation; 125

(c) For a combination of counties, a combination of 126
municipal corporations, or a combination of one or more counties 127
and one or more municipal corporations, all boards of county 128
commissioners and legislative authorities of all of the counties 129
and municipal corporations that combined to form a local public 130
entity for purposes of this section. 131

(3) "Local public entity" means a county, a municipal 132
corporation, a combination of counties, a combination of 133

municipal corporations, or a combination of one or more counties	134
and one or more municipal corporations.	135
(4) " <u>Non-contracting political subdivision</u> " means any	136
political subdivision to which all of the following apply:	137
(a) A correctional facility for the housing of out-of-	138
state prisoners in this state is or will be located in the	139
political subdivision.	140
(b) The correctional facility described in division (A) (4)	141
(a) of this section is being operated and managed, or will be	142
operated and managed, by a local public entity or a private	143
contractor pursuant to a contract entered into prior to March	144
17, 1998, or a contract entered into on or after March 17, 1998,	145
under this section.	146
(c) The political subdivision is not a party to the	147
contract described in division (A) (4) (b) of this section for the	148
management and operation of the correctional facility.	149
(5) " <u>Out-of-state jurisdiction</u> " means the United States,	150
any state other than this state, and any political subdivision	151
or other jurisdiction located in a state other than this state.	152
(6) " <u>Out-of-state prisoner</u> " means a person who is	153
convicted of a crime in another state or under the laws of the	154
United States or who is found under the laws of another state or	155
of the United States to be a delinquent child or the	156
substantially equivalent designation.	157
(7) " <u>Private contractor</u> " means either of the following:	158
(a) A person who, on or after March 17, 1998, enters into	159
a contract under this section with a local public entity to	160
operate and manage a correctional facility in this state for	161

out-of-state prisoners. 162

(b) A person who, pursuant to a contract with a local 163
public entity entered into prior to March 17, 1998, operates and 164
manages on March 17, 1998, a correctional facility in this state 165
for housing out-of-state prisoners. 166

(B) Subject to division (I) of this section, the only 167
entities other than this state that are authorized to operate a 168
correctional facility to house out-of-state prisoners in this 169
state are a local public entity that operates a correctional 170
facility pursuant to this section or a private contractor that 171
operates a correctional facility pursuant to this section under 172
a contract with a local public entity. 173

Subject to division (I) of this section, a private entity 174
may operate a correctional facility in this state for the 175
housing of out-of-state prisoners only if the private entity is 176
a private contractor that enters into a contract that comports 177
with division (D) of this section with a local public entity for 178
the management and operation of the correctional facility. 179

(C) (1) Except as provided in this division, on and after 180
March 17, 1998, a local public entity shall not enter into a 181
contract with an out-of-state jurisdiction to house out-of-state 182
prisoners in a correctional facility in this state. On and after 183
March 17, 1998, a local public entity may enter into a contract 184
with an out-of-state jurisdiction to house out-of-state 185
prisoners in a correctional facility in this state only if the 186
local public entity and the out-of-state jurisdiction with which 187
the local public entity intends to contract jointly submit to 188
the department of rehabilitation and correction a statement that 189
certifies the correctional facility's intended use, intended 190
prisoner population, and custody level, and the department 191

reviews and comments upon the plans for the design or renovation 192
of the correctional facility regarding their suitability for the 193
intended prisoner population specified in the submitted 194
statement. 195

(2) If a local public entity and an out-of-state 196
jurisdiction enter into a contract to house out-of-state 197
prisoners in a correctional facility in this state as authorized 198
under division (C) (1) of this section, in addition to any other 199
provisions it contains, the contract shall include whichever of 200
the following provisions is applicable: 201

(a) If a private contractor will operate the facility in 202
question pursuant to a contract entered into in accordance with 203
division (D) of this section, a requirement that, if the 204
facility is closed or ceases to operate for any reason and if 205
the conversion plan described in division (D) (16) of this 206
section is not complied with, the out-of-state jurisdiction will 207
be responsible for housing and transporting the prisoners who 208
are in the facility at the time it is closed or ceases to 209
operate and for the cost of so housing and transporting those 210
prisoners; 211

(b) If a private contractor will not operate the facility 212
in question pursuant to a contract entered into in accordance 213
with division (D) of this section, a conversion plan that will 214
be followed if, for any reason, the facility is closed or ceases 215
to operate. The conversion plan shall include, but is not 216
limited to, provisions that specify whether the local public 217
entity or the out-of-state jurisdiction will be responsible for 218
housing and transporting the prisoners who are in the facility 219
at the time it is closed or ceases to operate and for the cost 220
of so housing and transporting those prisoners. 221

(3) If a local public entity and an out-of-state 222
jurisdiction intend to enter into a contract to house out-of- 223
state prisoners in a correctional facility in this state as 224
authorized under division (C)(1) of this section, or if a local 225
public entity and a private contractor intend to enter into a 226
contract pursuant to division (D) of this section for the 227
private contractor's management and operation of a correctional 228
facility in this state to house out-of-state prisoners, prior to 229
entering into the contract the local public entity and the out- 230
of-state jurisdiction, or the local public entity and the 231
private contractor, whichever is applicable, shall conduct a 232
public hearing in accordance with this division, and, prior to 233
entering into the contract, the governing authority of the local 234
public entity in which the facility is or will be located shall 235
authorize the location and operation of the facility. The 236
hearing shall be conducted at a location within the municipal 237
corporation or township in which the facility is or will be 238
located. At least one week prior to conducting the hearing, the 239
local public entity and the out-of-state jurisdiction or private 240
contractor with the duty to conduct the hearing shall cause 241
notice of the date, time, and place of the hearing to be made by 242
publication in the newspaper with the largest general 243
circulation in the county in which the municipal corporation or 244
township is located. The notice shall be of a sufficient size 245
that it covers at least one-quarter of a page of the newspaper 246
in which it is published. This division applies to a private 247
contractor that, pursuant to the requirement set forth in 248
division (I) of this section, is required to enter into a 249
contract under division (D) of this section. 250

(D) Subject to division (I) of this section, on and after 251
March 17, 1998, if a local public entity enters into a contract 252

with a private contractor for the management and operation of a 253
correctional facility in this state to house out-of-state 254
prisoners, the contract, at a minimum, shall include all of the 255
following provisions: 256

(1) A requirement that the private contractor seek and 257
obtain accreditation from the American correctional association 258
for the correctional facility within two years after accepting 259
the first out-of-state prisoner at the correctional facility 260
under the contract and that it maintain that accreditation for 261
the term of the contract; 262

(2) A requirement that the private contractor comply with 263
all applicable laws, rules, or regulations of the government of 264
this state, political subdivisions of this state, and the United 265
States, including, but not limited to, all sanitation, food 266
service, safety, and health regulations; 267

(3) A requirement that the private contractor send copies 268
of reports of inspections completed by appropriate authorities 269
regarding compliance with laws, rules, and regulations of the 270
type described in division (D) (2) of this section to the 271
director of rehabilitation and correction or the director's 272
designee and to the governing authority of the local public 273
entity in which the correctional facility is located; 274

(4) A requirement that the private contractor report to 275
the local law enforcement agencies with jurisdiction over the 276
place at which the correctional facility is located, for 277
investigation, all criminal offenses or delinquent acts that are 278
committed in or on the grounds of, or otherwise in connection 279
with, the correctional facility and report to the department of 280
rehabilitation and correction all disturbances at the facility; 281

(5) A requirement that the private contractor immediately 282
report all escapes from the facility, and the apprehension of 283
all escapees, by telephone and in writing to the department of 284
rehabilitation and correction, to all local law enforcement 285
agencies with jurisdiction over the place at which the facility 286
is located, to the state highway patrol, to the prosecuting 287
attorney of the county in which the facility is located, and to 288
a daily newspaper having general circulation in the county in 289
which the facility is located. The written notice may be by 290
either facsimile transmission or mail. A failure to comply with 291
this requirement is a violation of section 2921.22 of the 292
Revised Code. 293

(6) A requirement that the private contractor provide a 294
written report to the director of rehabilitation and correction 295
or the director's designee and to the governing authority of the 296
local public entity in which the correctional facility is 297
located of all unusual incidents occurring at the correctional 298
facility. The private contractor shall report the incidents in 299
accordance with the incident reporting rules that, at the time 300
of the incident, are applicable to state correctional facilities 301
for similar incidents occurring at state correctional 302
facilities. 303

(7) A requirement that the private contractor provide 304
internal and perimeter security to protect the public, staff 305
members of the correctional facility, and prisoners in the 306
correctional facility; 307

(8) A requirement that the correctional facility be 308
staffed at all times with a staffing pattern that is adequate to 309
ensure supervision of inmates and maintenance of security within 310
the correctional facility and to provide for appropriate 311

programs, transportation, security, and other operational needs. 312
In determining security needs for the correctional facility, the 313
private contractor and the contract requirements shall fully 314
take into account all relevant factors, including, but not 315
limited to, the proximity of the facility to neighborhoods and 316
schools. 317

(9) A requirement that the private contractor provide an 318
adequate policy of insurance that satisfies the requirements set 319
forth in division (D) of section 9.06 of the Revised Code 320
regarding contractors who operate and manage a facility under 321
that section, and that the private contractor indemnify and hold 322
harmless the state, its officers, agents, and employees, and any 323
local public entity in the state with jurisdiction over the 324
place at which the correctional facility is located or that owns 325
the correctional facility, reimburse the state for its costs in 326
defending the state or any of its officers, agents, or 327
employees, and reimburse any local government entity of that 328
nature for its costs in defending the local government entity, 329
in the manner described in division (D) of that section 330
regarding contractors who operate and manage a facility under 331
that section; 332

(10) A requirement that the private contractor adopt for 333
prisoners housed in the correctional facility the security 334
classification system and schedule adopted by the department of 335
rehabilitation and correction under section 5145.03 of the 336
Revised Code, classify in accordance with the system and 337
schedule each prisoner housed in the facility, and house all 338
prisoners in the facility in accordance with their 339
classification under this division; 340

(11) A requirement that the private contractor will not 341

accept for housing, and will not house, in the correctional 342
facility any out-of-state prisoner in relation to whom any of 343
the following applies: 344

(a) The private entity has not obtained from the out-of- 345
state jurisdiction that imposed the sentence or sanction under 346
which the prisoner will be confined in this state a copy of the 347
institutional record of the prisoner while previously confined 348
in that out-of-state jurisdiction or a statement that the 349
prisoner previously has not been confined in that out-of-state 350
jurisdiction and a copy of all medical records pertaining to 351
that prisoner that are in the possession of the out-of-state 352
jurisdiction. 353

(b) The prisoner, while confined in any out-of-state 354
jurisdiction, has a record of institutional violence involving 355
the use of a deadly weapon or a pattern of committing acts of an 356
assaultive nature against employees of, or visitors to, the 357
place of confinement or has a record of escape or attempted 358
escape from secure custody. 359

(c) Under the security classification system and schedule 360
adopted by the department of rehabilitation and correction under 361
section 5145.03 of the Revised Code and adopted by the private 362
contractor under division (B)(10) of this section, the out-of- 363
state prisoner would be classified as being at a security level 364
higher than medium security. 365

(12) A requirement that the private contractor, prior to 366
housing any out-of-state prisoner in the correctional facility 367
under the contract, enter into a written agreement with the 368
department of rehabilitation and correction that sets forth a 369
plan and procedure that will be used to coordinate law 370
enforcement activities of state law enforcement agencies and of 371

local law enforcement agencies with jurisdiction over the place 372
at which the facility is located in response to any riot, 373
rebellion, escape, insurrection, or other emergency occurring 374
inside or outside the facility; 375

(13) A requirement that the private contractor cooperate 376
with the correctional institution inspection committee in the 377
committee's performance of its duties under section 103.73 of 378
the Revised Code and provide the committee, its subcommittees, 379
and its staff members, in performing those duties, with access 380
to the correctional facility as described in that section; 381

(14) A requirement that the private contractor permit any 382
peace officer who serves a law enforcement agency with 383
jurisdiction over the place at which the correctional facility 384
is located to enter into the facility to investigate any 385
criminal offense or delinquent act that allegedly has been 386
committed in or on the grounds of, or otherwise in connection 387
with, the facility; 388

(15) A requirement that the private contractor will not 389
employ any person at the correctional facility until after the 390
private contractor has submitted to the bureau of criminal 391
identification and investigation, on a form prescribed by the 392
superintendent of the bureau, a request that the bureau conduct 393
a criminal records check of the person and a requirement that 394
the private contractor will not employ any person at the 395
facility if the records check or other information possessed by 396
the contractor indicates that the person previously has engaged 397
in malfeasance; 398

(16) A requirement that the private contractor will not 399
accept for housing, and will not house, in the correctional 400
facility any out-of-state prisoner unless the private contractor 401

and the out-of-state jurisdiction that imposed the sentence for 402
which the prisoner is to be confined agree that, if the out-of- 403
state prisoner is confined in the facility in this state, 404
commits a criminal offense while confined in the facility, is 405
convicted of or pleads guilty to that offense, and is sentenced 406
to a term of confinement for that offense ~~but is not sentenced~~ 407
~~to death for that offense~~, the private contractor and the out- 408
of-state jurisdiction will do all of the following: 409

(a) Unless section 5120.50 of the Revised Code does not 410
apply in relation to the offense the prisoner committed while 411
confined in this state and the term of confinement imposed for 412
that offense, the out-of-state jurisdiction will accept the 413
prisoner pursuant to that section for service of that term of 414
confinement and for any period of time remaining under the 415
sentence for which the prisoner was confined in the facility in 416
this state, the out-of-state jurisdiction will confine the 417
prisoner pursuant to that section for that term and that 418
remaining period of time, and the private contractor will 419
transport the prisoner to the out-of-state jurisdiction for 420
service of that term and that remaining period of time. 421

(b) If section 5120.50 of the Revised Code does not apply 422
in relation to the offense the prisoner committed while confined 423
in this state and the term of confinement imposed for that 424
offense, the prisoner shall be returned to the out-of-state 425
jurisdiction or its private contractor for completion of the 426
period of time remaining under the out-of-state sentence for 427
which the prisoner was confined in the facility in this state 428
before starting service of the term of confinement imposed for 429
the offense committed while confined in this state, the out-of- 430
state jurisdiction or its private contractor will confine the 431
prisoner for that remaining period of time and will transport 432

the prisoner outside of this state for service of that remaining 433
period of time, and, if the prisoner is confined in this state 434
in a facility operated by the department of rehabilitation and 435
correction, the private contractor will be financially 436
responsible for reimbursing the department at the per diem cost 437
of confinement for the duration of that incarceration, with the 438
amount of the reimbursement so paid to be deposited in the 439
department's prisoner programs fund. 440

(17) A requirement that the private contractor, prior to 441
housing any out-of-state prisoner in the correctional facility 442
under the contract, enter into an agreement with the local 443
public entity that sets forth a conversion plan that will be 444
followed if, for any reason, the facility is closed or ceases to 445
operate. The conversion plan shall include, but is not limited 446
to, provisions that specify whether the private contractor, the 447
local public entity, or the out-of-state jurisdictions that 448
imposed the sentences for which the out-of-state prisoners are 449
confined in the facility will be responsible for housing and 450
transporting the prisoners who are in the facility at the time 451
it is closed or ceases to operate and for the cost of so housing 452
and transporting those prisoners. 453

(18) A schedule of fines that the local public entity 454
shall impose upon the private contractor if the private 455
contractor fails to perform its contractual duties, and a 456
requirement that, if the private contractor fails to perform its 457
contractual duties, the local public entity shall impose a fine 458
on the private contractor from the schedule of fines and, in 459
addition to the fine, may exercise any other rights it has under 460
the contract. Division (F) (2) of this section applies regarding 461
a fine described in this division. 462

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

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

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

(E) A private correctional officer or other designated employee of a private contractor that operates a correctional facility that houses out-of-state prisoners in this state under a contract entered into prior to, on, or after March 17, 1998,

may carry and use firearms in the course of the officer's or 493
employee's employment only if the officer or employee is 494
certified as having satisfactorily completed an approved 495
training program designed to qualify persons for positions as 496
special police officers, security guards, or persons otherwise 497
privately employed in a police capacity, as described in 498
division (A) of section 109.78 of the Revised Code. 499

(F) (1) Upon notification by the private contractor of an 500
escape from, or of a disturbance at, a correctional facility 501
that is operated by a private contractor under a contract 502
entered into prior to, on, or after March 17, 1998, and that 503
houses out-of-state prisoners in this state, the department of 504
rehabilitation and correction and state and local law 505
enforcement agencies shall use all reasonable means to recapture 506
persons who escaped from the facility or quell any disturbance 507
at the facility, in accordance with the plan and procedure 508
included in the written agreement entered into under division 509
(D) (12) of this section in relation to contracts entered into on 510
or after March 17, 1998, and in accordance with their normal 511
procedures in relation to contracts entered into prior to March 512
17, 1998. Any cost incurred by this state or a political 513
subdivision of this state relating to the apprehension of a 514
person who escaped from the facility, to the quelling of a 515
disturbance at the facility, or to the investigation or 516
prosecution as described in division (G) (2) of this section of 517
any offense relating to the escape or disturbance shall be 518
chargeable to and borne by the private contractor. The 519
contractor also shall reimburse the state or its political 520
subdivisions for all reasonable costs incurred relating to the 521
temporary detention of a person who escaped from the facility, 522
following the person's recapture. 523

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

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

(G) (1) Any act or omission that would be a criminal offense or a delinquent act if committed at a state correctional institution or at a jail, workhouse, prison, or other correctional facility operated by this state or by any political subdivision or group of political subdivisions of this state shall be a criminal offense or delinquent act if committed by or with regard to any out-of-state prisoner who is housed at any correctional facility operated by a private contractor in this state pursuant to a contract entered into prior to, on, or after March 17, 1998.

(2) If any political subdivision of this state experiences 555
any cost in the investigation or prosecution of an offense 556
committed by an out-of-state prisoner housed in a correctional 557
facility operated by a private contractor in this state pursuant 558
to a contract entered into prior to, on, or after March 17, 559
1998, the private contractor shall reimburse the political 560
subdivision for the costs so experienced. 561

(3) (a) Except as otherwise provided in this division, the 562
state, and any officer or employee, as defined in section 109.36 563
of the Revised Code, of the state is not liable in damages in a 564
civil action for any injury, death, or loss to person or 565
property that allegedly arises from, or is related to, the 566
establishment, management, or operation of a correctional 567
facility to house out-of-state prisoners in this state pursuant 568
to a contract between a local public entity and an out-of-state 569
jurisdiction, a local public entity and a private contractor, or 570
a private contractor and an out-of-state jurisdiction that was 571
entered into prior to March 17, 1998, or that is entered into on 572
or after March 17, 1998, in accordance with its provisions. The 573
immunity provided in this division does not apply regarding an 574
act or omission of an officer or employee, as defined in section 575
109.36 of the Revised Code, of the state that is manifestly 576
outside the scope of the officer's or employee's official 577
responsibilities or regarding an act or omission of the state, 578
or of an officer or employee, as so defined, of the state that 579
is undertaken with malicious purpose, in bad faith, or in a 580
wanton or reckless manner. 581

(b) Except as otherwise provided in this division, a non- 582
contracting political subdivision, and any employee, as defined 583
in section 2744.01 of the Revised Code, of a non-contracting 584
political subdivision is not liable in damages in a civil action 585

for any injury, death, or loss to person or property that 586
allegedly arises from, or is related to, the establishment, 587
management, or operation of a correctional facility to house 588
out-of-state prisoners in this state pursuant to a contract 589
between a local public entity other than the non-contracting 590
political subdivision and an out-of-state jurisdiction, a local 591
public entity other than the non-contracting political 592
subdivision and a private contractor, or a private contractor 593
and an out-of-state jurisdiction that was entered into prior to 594
March 17, 1998, or that is entered into on or after March 17, 595
1998, in accordance with its provisions. The immunity provided 596
in this division does not apply regarding an act or omission of 597
an employee, as defined in section 2744.01 of the Revised Code, 598
of a non-contracting political subdivision that is manifestly 599
outside the scope of the employee's employment or official 600
responsibilities or regarding an act or omission of a non- 601
contracting political subdivision or an employee, as so defined, 602
of a non-contracting political subdivision that is undertaken 603
with malicious purpose, in bad faith, or in a wanton or reckless 604
manner. 605

(c) Divisions (G) (3) (a) and (b) of this section do not 606
affect any immunity or defense that the state and its officers 607
and employees or a non-contracting political subdivision and its 608
employees may be entitled to under another section of the 609
Revised Code or the common law of this state, including, but not 610
limited to, section 9.86 or Chapter 2744. of the Revised Code. 611

(H) (1) Upon the completion of an out-of-state prisoner's 612
term of detention at a correctional facility operated by a 613
private contractor in this state pursuant to a contract entered 614
into prior to, on, or after March 17, 1998, the operator of the 615
correctional facility shall transport the prisoner to the out- 616

of-state jurisdiction that imposed the sentence for which the 617
prisoner was confined before it releases the prisoner from its 618
custody. 619

(2) No private contractor that operates and manages a 620
correctional facility housing out-of-state prisoners in this 621
state pursuant to a contract entered into prior to, on, or after 622
March 17, 1998, shall fail to comply with division (H) (1) of 623
this section. 624

(3) Whoever violates division (H) (2) of this section is 625
guilty of a misdemeanor of the first degree. 626

(I) Except as otherwise provided in this division, the 627
provisions of divisions (A) to (H) of this section apply in 628
relation to any correctional facility operated by a private 629
contractor in this state to house out-of-state prisoners, 630
regardless of whether the facility is operated pursuant to a 631
contract entered into prior to, on, or after March 17, 1998. 632
Division (C) (1) of this section shall not apply in relation to 633
any correctional facility for housing out-of-state prisoners in 634
this state that is operated by a private contractor under a 635
contract entered into with a local public entity prior to March 636
17, 1998. If a private contractor operates a correctional 637
facility in this state for the housing of out-of-state prisoners 638
under a contract entered into with a local public entity prior 639
to March 17, 1998, no later than thirty days after the effective 640
date of this amendment, the private contractor shall enter into 641
a contract with the local public entity that comports to the 642
requirements and criteria of division (D) of this section. 643

Sec. 120.03. (A) The Ohio public defender commission shall 644
appoint the state public defender, who shall serve at the 645
pleasure of the commission. 646

(B) The Ohio public defender commission shall establish 647
rules for the conduct of the offices of the county and joint 648
county public defenders and for the conduct of county appointed 649
counsel systems in the state. These rules shall include, but are 650
not limited to, the following: 651

(1) Standards of indigency and minimum qualifications for 652
legal representation by a public defender or appointed counsel. 653
In establishing standards of indigency and determining who is 654
eligible for legal representation by a public defender or 655
appointed counsel, the commission shall consider an indigent 656
person to be an individual who at the time ~~his~~ the person's need 657
is determined is unable to provide for the payment of an 658
attorney and all other necessary expenses of representation. 659
Release on bail shall not prevent a person from being determined 660
to be indigent. 661

(2) Standards for the hiring of outside counsel; 662

(3) Standards for contracts by a public defender with law 663
schools, legal aid societies, and nonprofit organizations for 664
providing counsel; 665

(4) Standards for the qualifications, training, and size 666
of the legal and supporting staff for a public defender, 667
facilities, and other requirements needed to maintain and 668
operate an office of a public defender; 669

(5) Minimum caseload standards; 670

(6) Procedures for the assessment and collection of the 671
costs of legal representation that is provided by public 672
defenders or appointed counsel; 673

(7) Standards and guidelines for determining whether a 674
client is able to make an up-front contribution toward the cost 675

of ~~his~~ the client's legal representation; 676

(8) Procedures for the collection of up-front 677
contributions from clients who are able to contribute toward the 678
cost of their legal representation, as determined pursuant to 679
the standards and guidelines developed under division (B)(7) of 680
this section. All of such up-front contributions shall be paid 681
into the appropriate county fund. 682

(9) Standards for contracts between a board of county 683
commissioners, a county public defender commission, or a joint 684
county public defender commission and a municipal corporation 685
for the legal representation of indigent persons charged with 686
violations of the ordinances of the municipal corporation. 687

(C) The Ohio public defender commission shall adopt rules 688
prescribing minimum qualifications of counsel appointed pursuant 689
to this chapter or appointed by the courts. Without limiting its 690
general authority to prescribe different qualifications for 691
different categories of appointed counsel, the commission shall 692
prescribe, by rule, special qualifications for counsel and co- 693
counsel appointed in capital cases in which the defendant was 694
sentenced to death before the effective date of this amendment. 695

(D) In administering the office of the Ohio public 696
defender commission: 697

(1) The commission shall do the following: 698

(a) Approve an annual operating budget; 699

(b) Make an annual report to the governor, the general 700
assembly, and the supreme court of Ohio on the operation of the 701
state public defender's office, the county appointed counsel 702
systems, and the county and joint county public defenders' 703
offices. 704

(2) The commission may do the following: 705

(a) Accept the services of volunteer workers and 706
consultants at no compensation other than reimbursement of 707
actual and necessary expenses; 708

(b) Prepare and publish statistical and case studies and 709
other data pertinent to the legal representation of indigent 710
persons; 711

(c) Conduct programs having a general objective of 712
training and educating attorneys and others in the legal 713
representation of indigent persons. 714

(E) There is hereby established in the state treasury the 715
public defender training fund for the deposit of fees received 716
by the Ohio public defender commission from educational 717
seminars, and the sale of publications, on topics concerning 718
criminal law and procedure. Expenditures from this fund shall be 719
made only for the operation of activities authorized by division 720
(D) (2) (c) of this section. 721

(F) (1) In accordance with sections 109.02, 109.07, and 722
109.361 to 109.366 of the Revised Code, but subject to division 723
(E) of section 120.06 of the Revised Code, the attorney general 724
shall represent or provide for the representation of the Ohio 725
public defender commission, the state public defender, assistant 726
state public defenders, and other employees of the commission or 727
the state public defender. 728

(2) Subject to division (E) of section 120.06 of the 729
Revised Code, the attorney general shall represent or provide 730
for the representation of attorneys described in division (C) of 731
section 120.41 of the Revised Code in malpractice or other civil 732
actions or proceedings that arise from alleged actions or 733

omissions related to responsibilities derived pursuant to this 734
chapter, or in civil actions that are based upon alleged 735
violations of the constitution or statutes of the United States, 736
including section 1983 of Title 42 of the United States Code, 93 737
Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise 738
from alleged actions or omissions related to responsibilities 739
derived pursuant to this chapter. For purposes of the 740
representation, sections 109.361 to 109.366 of the Revised Code 741
shall apply to an attorney described in division (C) of section 742
120.41 of the Revised Code as if ~~he~~ the attorney were an officer 743
or employee, as defined in section 109.36 of the Revised Code, 744
and the Ohio public defender commission or the state public 745
defender, whichever contracted with the attorney, shall be 746
considered ~~his~~ the attorney's employer. 747

Sec. 120.041. (A) In addition to the state public 748
defender's other duties under this chapter and other Revised 749
Code provisions, the state public defender shall do all of the 750
following for each state fiscal year: 751

(1) Determine the total dollar amount of all requests for 752
reimbursements that were submitted for that fiscal year by 753
counties under sections 120.18, 120.28, 120.33, ~~120.35~~, and 754
2941.51 of the Revised Code; 755

(2) Determine the total dollar amount paid to all counties 756
as reimbursements under the requests described in division (A) 757
(1) of this section that were submitted for that fiscal year; 758

(3) Determine the percentage of total costs submitted by 759
counties under the requests described in division (A) (1) of this 760
section that was paid to all counties as reimbursements for that 761
fiscal year; 762

(4) Commencing in state fiscal year 2021, determine the increase or decrease in the total dollar amount found under division (A) (2) of this section for that fiscal year from the total dollar amount found under that division for the previous fiscal year;	763 764 765 766 767
(5) Determine, out of the total dollar amount found under division (A) (2) of this section that was paid to all counties as a reimbursement, the total amount of that money used by all of the counties for each of the following categories of costs in that fiscal year:	768 769 770 771 772
(a) Costs for appointed counsel;	773
(b) Costs for personnel;	774
(c) Costs for expert witnesses;	775
(d) Costs for investigations;	776
(e) Costs for transcripts;	777
(f) Costs for rent or lease, utilities, furnishings, maintenance, and equipment;	778 779
(g) Costs for travel;	780
(h) Any other category of costs set by the state public defender.	781 782
(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;	783 784 785 786 787 788 789

(7) Analyze the cost per each felony, misdemeanor, 790
traffic, or juvenile delinquency case assigned to a public 791
defender or counsel pursuant to section 120.06, 120.16, 120.26, 792
or 120.33 of the Revised Code. 793

(B) For each state fiscal year, the state public defender 794
shall prepare a report that includes all of its findings and 795
determinations for that fiscal year and, not later than the 796
first day of October in the state fiscal year following the 797
fiscal year covered by the report, shall submit copies of the 798
report to the president of the senate, the speaker of the house 799
of representatives, the minority leader of the senate, the 800
minority leader of the house of representatives, and the 801
governor. 802

Sec. 120.06. (A) (1) The state public defender, when 803
designated by the court or requested by a county public defender 804
or joint county public defender, may provide legal 805
representation in all courts throughout the state to indigent 806
adults and juveniles who are charged with the commission of an 807
offense or act for which the penalty or any possible 808
adjudication includes the potential loss of liberty. 809

(2) The state public defender may provide legal 810
representation to any indigent person who, while incarcerated in 811
any state correctional institution, is charged with a felony 812
offense, for which the penalty or any possible adjudication that 813
may be imposed by a court upon conviction includes the potential 814
loss of liberty. 815

(3) The state public defender may provide legal 816
representation to any person incarcerated in any correctional 817
institution of the state, in any matter in which the person 818
asserts the person is unlawfully imprisoned or detained. 819

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

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

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

(B) The state public defender shall not be required to prosecute any appeal, postconviction remedy, or other proceeding pursuant to division (A)(3), (4), or (5) of this section, unless the state public defender first is satisfied that there is arguable merit to the proceeding.

(C) A court may appoint counsel or allow an indigent person to select the indigent's own personal counsel to assist the state public defender as co-counsel when the interests of justice so require. When co-counsel is appointed to assist the

state public defender, the co-counsel shall receive any 850
compensation that the court may approve, not to exceed the 851
amounts provided for in section 2941.51 of the Revised Code. 852

(D) (1) When the state public defender is designated by the 853
court or requested by a county public defender or joint county 854
public defender to provide legal representation for an indigent 855
person in any case, other than pursuant to a contract entered 856
into under authority of division (C) (7) of section 120.04 of the 857
Revised Code, the state public defender shall send to the county 858
in which the case is filed a bill detailing the actual cost of 859
the representation that separately itemizes legal fees and 860
expenses. The county, upon receipt of an itemized bill from the 861
state public defender pursuant to this division, shall pay the 862
state public defender one hundred per cent of the amount 863
identified as legal fees and expenses in the itemized bill. 864

(2) Upon payment of the itemized bill under division (D) 865
(1) of this section, the county may submit the cost of the legal 866
fees and expenses to the state public defender for reimbursement 867
pursuant to section 120.33 of the Revised Code. 868

(3) When the state public defender provides investigation 869
or mitigation services to private appointed counsel or to a 870
county or joint county public defender as approved by the 871
appointing court, other than pursuant to a contract entered into 872
under authority of division (C) (7) of section 120.04 of the 873
Revised Code, the state public defender shall send to the county 874
in which the case is filed a bill itemizing the actual cost of 875
the services provided. The county, upon receipt of an itemized 876
bill from the state public defender pursuant to this division, 877
shall pay one hundred per cent of the amount as set forth in the 878
itemized bill. Upon payment of the itemized bill received 879

pursuant to this division, the county may submit the cost of the 880
investigation and mitigation services to the state public 881
defender for reimbursement pursuant to section 120.33 of the 882
Revised Code. 883

(4) There is hereby created in the state treasury the 884
county representation fund for the deposit of moneys received 885
from counties under this division. All moneys credited to the 886
fund shall be used by the state public defender to provide legal 887
representation for indigent persons when designated by the court 888
or requested by a county or joint county public defender or to 889
provide investigation or mitigation services, including 890
investigation or mitigation services to private appointed 891
counsel or a county or joint county public defender, as approved 892
by the court. 893

(E) (1) Notwithstanding any contrary provision of sections 894
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised 895
Code that pertains to representation by the attorney general, an 896
assistant attorney general, or special counsel of an officer or 897
employee, as defined in section 109.36 of the Revised Code, or 898
of an entity of state government, the state public defender may 899
elect to contract with, and to have the state pay pursuant to 900
division (E) (2) of this section for the services of, private 901
legal counsel to represent the Ohio public defender commission, 902
the state public defender, assistant state public defenders, 903
other employees of the commission or the state public defender, 904
and attorneys described in division (C) of section 120.41 of the 905
Revised Code in a malpractice or other civil action or 906
proceeding that arises from alleged actions or omissions related 907
to responsibilities derived pursuant to this chapter, or in a 908
civil action that is based upon alleged violations of the 909
constitution or statutes of the United States, including section 910

1983 of Title 42 of the United States Code, 93 Stat. 1284 911
(1979), 42 U.S.C.A. 1983, as amended, and that arises from 912
alleged actions or omissions related to responsibilities derived 913
pursuant to this chapter, if the state public defender 914
determines, in good faith, that the defendant in the civil 915
action or proceeding did not act manifestly outside the scope of 916
the defendant's employment or official responsibilities, with 917
malicious purpose, in bad faith, or in a wanton or reckless 918
manner. If the state public defender elects not to contract 919
pursuant to this division for private legal counsel in a civil 920
action or proceeding, then, in accordance with sections 109.02, 921
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 922
attorney general shall represent or provide for the 923
representation of the Ohio public defender commission, the state 924
public defender, assistant state public defenders, other 925
employees of the commission or the state public defender, or 926
attorneys described in division (C) of section 120.41 of the 927
Revised Code in the civil action or proceeding. 928

(2) (a) Subject to division (E) (2) (b) of this section, 929
payment from the state treasury for the services of private 930
legal counsel with whom the state public defender has contracted 931
pursuant to division (E) (1) of this section shall be 932
accomplished only through the following procedure: 933

(i) The private legal counsel shall file with the attorney 934
general a copy of the contract; a request for an award of legal 935
fees, court costs, and expenses earned or incurred in connection 936
with the defense of the Ohio public defender commission, the 937
state public defender, an assistant state public defender, an 938
employee, or an attorney in a specified civil action or 939
proceeding; a written itemization of those fees, costs, and 940
expenses, including the signature of the state public defender 941

and the state public defender's attestation that the fees, 942
costs, and expenses were earned or incurred pursuant to division 943
(E) (1) of this section to the best of the state public 944
defender's knowledge and information; a written statement 945
whether the fees, costs, and expenses are for all legal services 946
to be rendered in connection with that defense, are only for 947
legal services rendered to the date of the request and 948
additional legal services likely will have to be provided in 949
connection with that defense, or are for the final legal 950
services rendered in connection with that defense; a written 951
statement indicating whether the private legal counsel 952
previously submitted a request for an award under division (E) 953
(2) of this section in connection with that defense and, if so, 954
the date and the amount of each award granted; and, if the fees, 955
costs, and expenses are for all legal services to be rendered in 956
connection with that defense or are for the final legal services 957
rendered in connection with that defense, a certified copy of 958
any judgment entry in the civil action or proceeding or a signed 959
copy of any settlement agreement entered into between the 960
parties to the civil action or proceeding. 961

(ii) Upon receipt of a request for an award of legal fees, 962
court costs, and expenses and the requisite supportive 963
documentation described in division (E) (2) (a) (i) of this 964
section, the attorney general shall review the request and 965
documentation; determine whether any of the limitations 966
specified in division (E) (2) (b) of this section apply to the 967
request; and, if an award of legal fees, court costs, or 968
expenses is permissible after applying the limitations, prepare 969
a document awarding legal fees, court costs, or expenses to the 970
private legal counsel. The document shall name the private legal 971
counsel as the recipient of the award; specify the total amount 972

of the award as determined by the attorney general; itemize the 973
portions of the award that represent legal fees, court costs, 974
and expenses; specify any limitation applied pursuant to 975
division (E) (2) (b) of this section to reduce the amount of the 976
award sought by the private legal counsel; state that the award 977
is payable from the state treasury pursuant to division (E) (2) 978
(a) (iii) of this section; and be approved by the inclusion of 979
the signatures of the attorney general, the state public 980
defender, and the private legal counsel. 981

(iii) The attorney general shall forward a copy of the 982
document prepared pursuant to division (E) (2) (a) (ii) of this 983
section to the director of budget and management. The award of 984
legal fees, court costs, or expenses shall be paid out of the 985
state public defender's appropriations, to the extent there is a 986
sufficient available balance in those appropriations. If the 987
state public defender does not have a sufficient available 988
balance in the state public defender's appropriations to pay the 989
entire award of legal fees, court costs, or expenses, the 990
director shall make application for a transfer of appropriations 991
out of the emergency purposes account or any other appropriation 992
for emergencies or contingencies in an amount equal to the 993
portion of the award that exceeds the sufficient available 994
balance in the state public defender's appropriations. A 995
transfer of appropriations out of the emergency purposes account 996
or any other appropriation for emergencies or contingencies 997
shall be authorized if there are sufficient moneys greater than 998
the sum total of then pending emergency purposes account 999
requests, or requests for releases from the other appropriation. 1000
If a transfer of appropriations out of the emergency purposes 1001
account or other appropriation for emergencies or contingencies 1002
is made to pay an amount equal to the portion of the award that 1003

exceeds the sufficient available balance in the state public 1004
defender's appropriations, the director shall cause the payment 1005
to be made to the private legal counsel. If sufficient moneys do 1006
not exist in the emergency purposes account or other 1007
appropriation for emergencies or contingencies to pay an amount 1008
equal to the portion of the award that exceeds the sufficient 1009
available balance in the state public defender's appropriations, 1010
the private legal counsel shall request the general assembly to 1011
make an appropriation sufficient to pay an amount equal to the 1012
portion of the award that exceeds the sufficient available 1013
balance in the state public defender's appropriations, and no 1014
payment in that amount shall be made until the appropriation has 1015
been made. The private legal counsel shall make the request 1016
during the current biennium and during each succeeding biennium 1017
until a sufficient appropriation is made. 1018

(b) An award of legal fees, court costs, and expenses 1019
pursuant to division (E) of this section is subject to the 1020
following limitations: 1021

(i) The maximum award or maximum aggregate of a series of 1022
awards of legal fees, court costs, and expenses to the private 1023
legal counsel in connection with the defense of the Ohio public 1024
defender commission, the state public defender, an assistant 1025
state public defender, an employee, or an attorney in a 1026
specified civil action or proceeding shall not exceed fifty 1027
thousand dollars. 1028

(ii) The private legal counsel shall not be awarded legal 1029
fees, court costs, or expenses to the extent the fees, costs, or 1030
expenses are covered by a policy of malpractice or other 1031
insurance. 1032

(iii) The private legal counsel shall be awarded legal 1033

fees and expenses only to the extent that the fees and expenses 1034
are reasonable in light of the legal services rendered by the 1035
private legal counsel in connection with the defense of the Ohio 1036
public defender commission, the state public defender, an 1037
assistant state public defender, an employee, or an attorney in 1038
a specified civil action or proceeding. 1039

(c) If, pursuant to division (E)(2)(a) of this section, 1040
the attorney general denies a request for an award of legal 1041
fees, court costs, or expenses to private legal counsel because 1042
of the application of a limitation specified in division (E)(2) 1043
(b) of this section, the attorney general shall notify the 1044
private legal counsel in writing of the denial and of the 1045
limitation applied. 1046

(d) If, pursuant to division (E)(2)(c) of this section, a 1047
private legal counsel receives a denial of an award notification 1048
or if a private legal counsel refuses to approve a document 1049
under division (E)(2)(a)(ii) of this section because of the 1050
proposed application of a limitation specified in division (E) 1051
(2)(b) of this section, the private legal counsel may commence a 1052
civil action against the attorney general in the court of claims 1053
to prove the private legal counsel's entitlement to the award 1054
sought, to prove that division (E)(2)(b) of this section does 1055
not prohibit or otherwise limit the award sought, and to recover 1056
a judgment for the amount of the award sought. A civil action 1057
under division (E)(2)(d) of this section shall be commenced no 1058
later than two years after receipt of a denial of award 1059
notification or, if the private legal counsel refused to approve 1060
a document under division (E)(2)(a)(ii) of this section because 1061
of the proposed application of a limitation specified in 1062
division (E)(2)(b) of this section, no later than two years 1063
after the refusal. Any judgment of the court of claims in favor 1064

of the private legal counsel shall be paid from the state 1065
treasury in accordance with division (E) (2) (a) of this section. 1066

~~(F) If a court appoints the office of the state public 1067
defender to represent a petitioner in a postconviction relief 1068
proceeding under section 2953.21 of the Revised Code, the 1069
petitioner has received a sentence of death, and the proceeding 1070
relates to that sentence, all of the attorneys who represent the 1071
petitioner in the proceeding pursuant to the appointment, 1072
whether an assistant state public defender, the state public 1073
defender, or another attorney, shall be certified under Rule 20 1074
of the Rules of Superintendence for the Courts of Ohio to 1075
represent indigent defendants charged with or convicted of an 1076
offense for which the death penalty can be or has been imposed. 1077~~

~~(G) (1)~~ (F) (1) The state public defender may conduct a 1078
legal assistance referral service for children committed to the 1079
department of youth services relative to conditions of 1080
confinement claims. If the legal assistance referral service 1081
receives a request for assistance from a child confined in a 1082
facility operated, or contracted for, by the department of youth 1083
services and the state public defender determines that the child 1084
has a conditions of confinement claim that has merit, the state 1085
public defender may refer the child to a private attorney. If no 1086
private attorney who the child has been referred to by the state 1087
public defender accepts the case within a reasonable time, the 1088
state public defender may prepare, as appropriate, pro se 1089
pleadings in the form of a complaint regarding the conditions of 1090
confinement at the facility where the child is confined with a 1091
motion for appointment of counsel and other applicable pleadings 1092
necessary for sufficient pro se representation. 1093

(2) Division ~~(G) (1)~~ (F) (1) of this section does not 1094

authorize the state public defender to represent a child 1095
committed to the department of youth services in general civil 1096
matters arising solely out of state law. 1097

(3) The state public defender shall not undertake the 1098
representation of a child in court based on a conditions of 1099
confinement claim arising under this division. 1100

~~(H)~~ (G) A child's right to representation or services 1101
under this section is not affected by the child, or another 1102
person on behalf of the child, previously having paid for 1103
similar representation or services or having waived legal 1104
representation. 1105

~~(I)~~ (H) The state public defender shall have reasonable 1106
access to any child committed to the department of youth 1107
services, department of youth services institution, and 1108
department of youth services record as needed to implement this 1109
section. 1110

~~(J)~~ (I) As used in this section: 1111

(1) "Community control sanction" has the same meaning as 1112
in section 2929.01 of the Revised Code. 1113

(2) "Conditions of confinement" means any issue involving 1114
a constitutional right or other civil right related to a child's 1115
incarceration, including, but not limited to, actions cognizable 1116
under 42 U.S.C. 1983. 1117

(3) "Post-release control sanction" has the same meaning 1118
as in section 2967.01 of the Revised Code. 1119

Sec. 120.14. (A) (1) Except as provided in division (A) (2) 1120
of this section, the county public defender commission shall 1121
appoint the county public defender and may remove ~~him~~ the county 1122

public defender from office only for good cause. 1123

(2) If a county public defender commission contracts with 1124
the state public defender or with one or more nonprofit 1125
organizations for the state public defender or the organizations 1126
to provide all of the services that the county public defender 1127
is required or permitted to provide by this chapter, the 1128
commission shall not appoint a county public defender. 1129

(B) The commission shall determine the qualifications and 1130
size of the supporting staff and facilities and other 1131
requirements needed to maintain and operate the office of the 1132
county public defender. 1133

(C) In administering the office of county public defender, 1134
the commission shall: 1135

(1) Recommend to the county commissioners an annual 1136
operating budget which is subject to the review, amendment, and 1137
approval of the board of county commissioners; 1138

(2) (a) Make an annual report to the county commissioners 1139
and the Ohio public defender commission on the operation of the 1140
county public defender's office, ~~including complete and detailed~~ 1141
~~information on finances and costs that separately states costs~~ 1142
~~and expenses that are reimbursable under section 120.35 of the~~ 1143
~~Revised Code,~~ and any other data and information requested by 1144
the state public defender; 1145

(b) Make monthly reports relating to reimbursement and 1146
associated case data pursuant to the rules of the Ohio public 1147
defender commission to the board of county commissioners and the 1148
Ohio public defender commission on the total costs of the public 1149
defender's office. 1150

(3) Cooperate with the Ohio public defender commission in 1151

maintaining the standards established by rules of the Ohio 1152
public defender commission pursuant to divisions (B) and (C) of 1153
section 120.03 of the Revised Code, and cooperate with the state 1154
public defender in ~~his~~ the state public defender's programs 1155
providing technical aid and assistance to county systems. 1156

(D) The commission may accept the services of volunteer 1157
workers and consultants at no compensation except reimbursement 1158
for actual and necessary expenses. 1159

(E) The commission may contract with any municipal 1160
corporation, within the county served by the county public 1161
defender, for the county public defender to provide legal 1162
representation for indigent persons who are charged with a 1163
violation of the ordinances of the municipal corporation. 1164

(F) A county public defender commission, with the approval 1165
of the board of county commissioners regarding all provisions 1166
that pertain to the financing of defense counsel for indigent 1167
persons, may contract with the state public defender or with any 1168
nonprofit organization, the primary purpose of which is to 1169
provide legal representation to indigent persons, for the state 1170
public defender or the organization to provide all or any part 1171
of the services that a county public defender is required or 1172
permitted to provide by this chapter. A contract entered into 1173
pursuant to this division may provide for payment for the 1174
services provided on a per case, hourly, or fixed contract 1175
basis. The state public defender and any nonprofit organization 1176
that contracts with a county public defender commission pursuant 1177
to this division shall do all of the following: 1178

(1) Comply with all standards established by the rules of 1179
the Ohio public defender commission; 1180

(2) Comply with all standards established by the state 1181
public defender; 1182

(3) Comply with all statutory duties and other laws 1183
applicable to county public defenders. 1184

Sec. 120.16. (A) (1) The county public defender shall 1185
provide legal representation to indigent adults and juveniles 1186
who are charged with the commission of an offense or act that is 1187
a violation of a state statute and for which the penalty or any 1188
possible adjudication includes the potential loss of liberty and 1189
in postconviction proceedings as defined in this section. 1190

(2) The county public defender may provide legal 1191
representation to indigent adults and juveniles charged with the 1192
violation of an ordinance of a municipal corporation for which 1193
the penalty or any possible adjudication includes the potential 1194
loss of liberty, if the county public defender commission has 1195
contracted with the municipal corporation to provide legal 1196
representation for indigent persons charged with a violation of 1197
an ordinance of the municipal corporation. 1198

(B) The county public defender shall provide the legal 1199
representation authorized by division (A) of this section at 1200
every stage of the proceedings following arrest, detention, 1201
service of summons, or indictment. 1202

(C) The county public defender may request the state 1203
public defender to prosecute any appeal or other remedy before 1204
or after conviction that the county public defender decides is 1205
in the interests of justice, and may provide legal 1206
representation in parole and probation revocation matters and 1207
matters relating to the revocation of community control or post- 1208
release control under a community control sanction or post- 1209

release control sanction. 1210

(D) The county public defender shall not be required to 1211
prosecute any appeal, postconviction remedy, or other 1212
proceeding, unless the county public defender is first satisfied 1213
there is arguable merit to the proceeding. 1214

(E) Nothing in this section shall prevent a court from 1215
appointing counsel other than the county public defender or from 1216
allowing an indigent person to select the indigent person's own 1217
personal counsel to represent the indigent person. A court may 1218
also appoint counsel or allow an indigent person to select the 1219
indigent person's own personal counsel to assist the county 1220
public defender as co-counsel when the interests of justice so 1221
require. 1222

(F) Information as to the right to legal representation by 1223
the county public defender or assigned counsel shall be afforded 1224
to an accused person immediately upon arrest, when brought 1225
before a magistrate, or when formally charged, whichever occurs 1226
first. 1227

~~(G) If a court appoints the office of the county public 1228
defender to represent a petitioner in a postconviction relief 1229
proceeding under section 2953.21 of the Revised Code, the 1230
petitioner has received a sentence of death, and the proceeding 1231
relates to that sentence, all of the attorneys who represent the 1232
petitioner in the proceeding pursuant to the appointment, 1233
whether an assistant county public defender or the county public 1234
defender, shall be certified under Rule 20 of the Rules of 1235
Superintendence for the Courts of Ohio to represent indigent 1236
defendants charged with or convicted of an offense for which the 1237
death penalty can be or has been imposed. 1238~~

(H) —As used in this section:	1239
(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	1240 1241
(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	1242 1243
Sec. 120.18. (A) The county public defender commission's report to the board of county commissioners shall be audited by the county auditor. The board of county commissioners, after review and approval of the audited report, may then certify it to the state public defender for reimbursement. If a request for the reimbursement of any operating expenditure incurred by a county public defender office is not received by the state public defender within sixty days after the end of the calendar month in which the expenditure is incurred, the state public defender shall not pay the requested reimbursement, unless the county has requested, and the state public defender has granted, an extension of the sixty-day time limit. Each request for reimbursement shall include a certification by the county public defender that the persons provided representation by the county public defender's office during the period covered by the report were indigent and, for each person provided representation during that period, a financial disclosure form completed by the person on a form prescribed by the state public defender. The state public defender shall also review the report and, in accordance with the standards, guidelines, and maximums established pursuant to divisions (B) (7) and (8) of section 120.04 of the Revised Code and the payment determination provisions of section 120.34 of the Revised Code, prepare a voucher for the cost of each county public defender's office for the period of time covered by the certified report and a voucher	1244 1245 1246 1247 1248 1249 1250 1251 1252 1253 1254 1255 1256 1257 1258 1259 1260 1261 1262 1263 1264 1265 1266 1267 1268

~~for the costs and expenses that are reimbursable under section~~ 1269
~~120.35 of the Revised Code, if any.~~ The amount of payments to be 1270
included in and made under the voucher shall be determined as 1271
specified in section 120.34 of the Revised Code. For the 1272
purposes of this section, "cost" means total expenses minus 1273
~~costs and expenses reimbursable under section 120.35 of the~~ 1274
~~Revised Code and~~ any funds received by the county public 1275
defender commission pursuant to a contract, except a contract 1276
entered into with a municipal corporation pursuant to division 1277
(E) of section 120.14 of the Revised Code, gift, or grant. 1278

(B) If the county public defender fails to maintain the 1279
standards for the conduct of the office established by rules of 1280
the Ohio public defender commission pursuant to divisions (B) 1281
and (C) of section 120.03 or the standards established by the 1282
state public defender pursuant to division (B)(7) of section 1283
120.04 of the Revised Code, the Ohio public defender commission 1284
shall notify the county public defender commission and the board 1285
of county commissioners of the county that the county public 1286
defender has failed to comply with its rules or the standards of 1287
the state public defender. Unless the county public defender 1288
commission or the county public defender corrects the conduct of 1289
the county public defender's office to comply with the rules and 1290
standards within ninety days after the date of the notice, the 1291
state public defender may deny payment of all or part of the 1292
county's reimbursement from the state provided for in division 1293
(A) of this section. 1294

Sec. 120.24. (A) (1) Except as provided in division (A) (2) 1295
of this section, the joint county public defender commission 1296
shall appoint the joint county public defender and may remove 1297
~~him~~ the joint county public defender from office only for good 1298
cause. 1299

(2) If a joint county public defender commission contracts 1300
with the state public defender or with one or more nonprofit 1301
organizations for the state public defender or the organizations 1302
to provide all of the services that the joint county public 1303
defender is required or permitted to provide by this chapter, 1304
the commission shall not appoint a joint county public defender. 1305

(B) The commission shall determine the qualifications and 1306
size of the supporting staff and facilities and other 1307
requirements needed to maintain and operate the office. 1308

(C) In administering the office of joint county public 1309
defender, the commission shall: 1310

(1) Recommend to the boards of county commissioners in the 1311
district an annual operating budget which is subject to the 1312
review, amendment, and approval of the boards of county 1313
commissioners in the district; 1314

(2) (a) Make an annual report to the boards of county 1315
commissioners in the district and the Ohio public defender 1316
commission on the operation of the public defender's office,~~—~~ 1317
~~including complete and detailed information on finances and~~ 1318
~~costs that separately states costs and expenses that are~~ 1319
~~reimbursable under section 120.35 of the Revised Code,~~ and such 1320
other data and information requested by the state public 1321
defender; 1322

(b) Make monthly reports relating to reimbursement and 1323
associated case data pursuant to the rules of the Ohio public 1324
defender commission to the boards of county commissioners in the 1325
district and the Ohio public defender commission on the total 1326
costs of the public defender's office. 1327

(3) Cooperate with the Ohio public defender commission in 1328

maintaining the standards established by rules of the Ohio 1329
public defender commission pursuant to divisions (B) and (C) of 1330
section 120.03 of the Revised Code, and cooperate with the state 1331
public defender in ~~his~~ the state public defender's programs 1332
providing technical aid and assistance to county systems. 1333

(D) The commission may accept the services of volunteer 1334
workers and consultants at no compensation except reimbursement 1335
for actual and necessary expenses. 1336

(E) The commission may contract with any municipal 1337
corporation, within the counties served by the joint county 1338
public defender, for the joint county public defender to provide 1339
legal representation for indigent persons who are charged with a 1340
violation of the ordinances of the municipal corporation. 1341

(F) A joint county public defender commission, with the 1342
approval of each participating board of county commissioners 1343
regarding all provisions that pertain to the financing of 1344
defense counsel for indigent persons, may contract with the 1345
state public defender or with any nonprofit organization, the 1346
primary purpose of which is to provide legal representation to 1347
indigent persons, for the state public defender or the 1348
organization to provide all or any part of the services that a 1349
joint county public defender is required or permitted to provide 1350
by this chapter. A contract entered into pursuant to this 1351
division may provide for payment for the services provided on a 1352
per case, hourly, or fixed contract basis. The state public 1353
defender and any nonprofit organization that contracts with a 1354
joint county public defender commission pursuant to this 1355
division shall do all of the following: 1356

(1) Comply with all standards established by the rules of 1357
the Ohio public defender commission; 1358

(2) Comply with all standards established by the Ohio public defender; 1359
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(3) Comply with all statutory duties and other laws applicable to joint county public defenders. 1361
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Sec. 120.26. (A) (1) The joint county public defender shall provide legal representation to indigent adults and juveniles who are charged with the commission of an offense or act that is a violation of a state statute and for which the penalty or any possible adjudication includes the potential loss of liberty and in postconviction proceedings as defined in this section. 1363
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(2) The joint county public defender may provide legal representation to indigent adults and juveniles charged with the violation of an ordinance of a municipal corporation for which the penalty or any possible adjudication includes the potential loss of liberty, if the joint county public defender commission has contracted with the municipal corporation to provide legal representation for indigent persons charged with a violation of an ordinance of the municipal corporation. 1369
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(B) The joint county public defender shall provide the legal representation authorized by division (A) of this section at every stage of the proceedings following arrest, detention, service of summons, or indictment. 1377
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(C) The joint county public defender may request the Ohio public defender to prosecute any appeal or other remedy before or after conviction that the joint county public defender decides is in the interests of justice and may provide legal representation in parole and probation revocation matters and matters relating to the revocation of community control or post-release control under a community control sanction or post- 1381
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release control sanction. 1388

(D) The joint county public defender shall not be required 1389
to prosecute any appeal, postconviction remedy, or other 1390
proceeding, unless the joint county public defender is first 1391
satisfied that there is arguable merit to the proceeding. 1392

(E) Nothing in this section shall prevent a court from 1393
appointing counsel other than the joint county public defender 1394
or from allowing an indigent person to select the indigent 1395
person's own personal counsel to represent the indigent person. 1396
A court may also appoint counsel or allow an indigent person to 1397
select the indigent person's own personal counsel to assist the 1398
joint county public defender as co-counsel when the interests of 1399
justice so require. 1400

(F) Information as to the right to legal representation by 1401
the joint county public defender or assigned counsel shall be 1402
afforded to an accused person immediately upon arrest, when 1403
brought before a magistrate, or when formally charged, whichever 1404
occurs first. 1405

~~(G) If a court appoints the office of the joint county 1406
public defender to represent a petitioner in a postconviction 1407
relief proceeding under section 2953.21 of the Revised Code, the 1408
petitioner has received a sentence of death, and the proceeding 1409
relates to that sentence, all of the attorneys who represent the 1410
petitioner in the proceeding pursuant to the appointment, 1411
whether an assistant joint county defender or the joint county 1412
public defender, shall be certified under Rule 20 of the Rules 1413
of Superintendence for the Courts of Ohio to represent indigent 1414
defendants charged with or convicted of an offense for which the 1415
death penalty can be or has been imposed. 1416~~

~~(H)~~—As used in this section: 1417

(1) "Community control sanction" has the same meaning as 1418
in section 2929.01 of the Revised Code. 1419

(2) "Post-release control sanction" has the same meaning 1420
as in section 2967.01 of the Revised Code. 1421

Sec. 120.28. (A) The joint county public defender 1422
commission's report to the joint board of county commissioners 1423
shall be audited by the fiscal officer of the district. The 1424
joint board of county commissioners, after review and approval 1425
of the audited report, may then certify it to the state public 1426
defender for reimbursement. If a request for the reimbursement 1427
of any operating expenditure incurred by a joint county public 1428
defender office is not received by the state public defender 1429
within sixty days after the end of the calendar month in which 1430
the expenditure is incurred, the state public defender shall not 1431
pay the requested reimbursement, unless the joint board of 1432
county commissioners has requested, and the state public 1433
defender has granted, an extension of the sixty-day time limit. 1434
Each request for reimbursement shall include a certification by 1435
the joint county public defender that all persons provided 1436
representation by the joint county public defender's office 1437
during the period covered by the request were indigent and, for 1438
each person provided representation during that period, a 1439
financial disclosure form completed by the person on a form 1440
prescribed by the state public defender. The state public 1441
defender shall also review the report and, in accordance with 1442
the standards, guidelines, and maximums established pursuant to 1443
divisions (B) (7) and (8) of section 120.04 of the Revised Code 1444
and the payment determination provisions of section 120.34 of 1445
the Revised Code, prepare a voucher for the cost of each joint 1446

county public defender's office for the period of time covered 1447
by the certified report ~~and a voucher for the costs and expenses~~ 1448
~~that are reimbursable under section 120.35 of the Revised Code,~~ 1449
~~if any.~~ The amount of payments to be included in and made under 1450
the voucher shall be determined as specified in section 120.34 1451
of the Revised Code. For purposes of this section, "cost" means 1452
total expenses minus ~~costs and expenses reimbursable under~~ 1453
~~section 120.35 of the Revised Code and~~ any funds received by the 1454
joint county public defender commission pursuant to a contract, 1455
except a contract entered into with a municipal corporation 1456
pursuant to division (E) of section 120.24 of the Revised Code, 1457
gift, or grant. Each county in the district shall be entitled to 1458
a share of such state reimbursement in proportion to the 1459
percentage of the cost it has agreed to pay. 1460

(B) If the joint county public defender fails to maintain 1461
the standards for the conduct of the office established by the 1462
rules of the Ohio public defender commission pursuant to 1463
divisions (B) and (C) of section 120.03 or the standards 1464
established by the state public defender pursuant to division 1465
(B)(7) of section 120.04 of the Revised Code, the Ohio public 1466
defender commission shall notify the joint county public 1467
defender commission and the board of county commissioners of 1468
each county in the district that the joint county public 1469
defender has failed to comply with its rules or the standards of 1470
the state public defender. Unless the joint public defender 1471
commission or the joint county public defender corrects the 1472
conduct of the joint county public defender's office to comply 1473
with the rules and standards within ninety days after the date 1474
of the notice, the state public defender may deny all or part of 1475
the counties' reimbursement from the state provided for in 1476
division (A) of this section. 1477

Sec. 120.33. (A) In lieu of using a county public defender 1478
or joint county public defender to represent indigent persons in 1479
the proceedings set forth in division (A) of section 120.16 of 1480
the Revised Code, the board of county commissioners of any 1481
county may adopt a resolution to pay counsel who are either 1482
personally selected by the indigent person or appointed by the 1483
court. The resolution shall include those provisions the board 1484
of county commissioners considers necessary to provide effective 1485
representation of indigent persons in any proceeding for which 1486
counsel is provided under this section. The resolution shall 1487
include provisions for contracts with any municipal corporation 1488
under which the municipal corporation shall reimburse the county 1489
for counsel appointed to represent indigent persons charged with 1490
violations of the ordinances of the municipal corporation. 1491

(1) In a county that adopts a resolution to pay counsel, 1492
an indigent person shall have the right to do either of the 1493
following: 1494

(a) To select the person's own personal counsel to 1495
represent the person in any proceeding included within the 1496
provisions of the resolution; 1497

(b) To request the court to appoint counsel to represent 1498
the person in such a proceeding. 1499

(2) The court having jurisdiction over the proceeding in a 1500
county that adopts a resolution to pay counsel shall, after 1501
determining that the person is indigent and entitled to legal 1502
representation under this section, do either of the following: 1503

(a) By signed journal entry recorded on its docket, enter 1504
the name of the lawyer selected by the indigent person as 1505
counsel of record; 1506

(b) Appoint counsel for the indigent person if the person 1507
has requested the court to appoint counsel and, by signed 1508
journal entry recorded on its dockets, enter the name of the 1509
lawyer appointed for the indigent person as counsel of record. 1510

(3) The board of county commissioners shall establish a 1511
schedule of fees by case or on an hourly basis to be paid to 1512
counsel for legal services provided pursuant to a resolution 1513
adopted under this section. Prior to establishing the schedule, 1514
the board of county commissioners shall request the bar 1515
association or associations of the county to submit a proposed 1516
~~schedule for cases other than capital cases.~~ The schedule 1517
submitted shall be subject to the review, amendment, and 1518
approval of the board of county commissioners, ~~except with~~ 1519
~~respect to capital cases. With respect to capital cases, the~~ 1520
~~schedule shall provide for fees by case or on an hourly basis to~~ 1521
~~be paid to counsel in the amount or at the rate set by the~~ 1522
~~capital case attorney fee council pursuant to division (D) of~~ 1523
~~this section, and the board of county commissioners shall~~ 1524
~~approve that amount or rate.~~ 1525

(4) Counsel selected by the indigent person or appointed 1526
by the court at the request of an indigent person in a county 1527
that adopts a resolution to pay counsel, except for counsel 1528
appointed to represent a person charged with any violation of an 1529
ordinance of a municipal corporation that has not contracted 1530
with the county commissioners for the payment of appointed 1531
counsel, shall be paid by the county and shall receive the 1532
compensation and expenses the court approves. ~~With respect to~~ 1533
~~capital cases, the court shall approve compensation and expenses~~ 1534
~~in accordance with the amount or at the rate set by the capital~~ 1535
~~case attorney fee council pursuant to division (D) of this~~ 1536
~~section.~~ Each request for payment shall include a financial 1537

disclosure form completed by the indigent person on a form 1538
prescribed by the state public defender. Compensation and 1539
expenses shall not exceed the amounts fixed by the board of 1540
county commissioners in the schedule adopted pursuant to 1541
division (A) (3) of this section. No court shall approve 1542
compensation and expenses that exceed the amount fixed pursuant 1543
to division (A) (3) of this section. 1544

The fees and expenses approved by the court shall not be 1545
taxed as part of the costs and shall be paid by the county. 1546
However, if the person represented has, or may reasonably be 1547
expected to have, the means to meet some part of the cost of the 1548
services rendered to the person, the person shall pay the county 1549
an amount that the person reasonably can be expected to pay. 1550
Pursuant to section 120.04 of the Revised Code, the county shall 1551
pay to the state public defender a percentage of the payment 1552
received from the person in an amount proportionate to the 1553
percentage of the costs of the person's case that were paid to 1554
the county by the state public defender pursuant to this 1555
section. The money paid to the state public defender shall be 1556
credited to the client payment fund created pursuant to division 1557
(B) (5) of section 120.04 of the Revised Code. 1558

The county auditor shall draw a warrant on the county 1559
treasurer for the payment of counsel in the amount fixed by the 1560
court, plus the expenses the court fixes and certifies to the 1561
auditor. The county auditor shall report periodically, but not 1562
less than annually, to the board of county commissioners and to 1563
the state public defender the amounts paid out pursuant to the 1564
approval of the court. The board of county commissioners, after 1565
review and approval of the auditor's report, or the county 1566
auditor, with permission from and notice to the board of county 1567
commissioners, may then certify it to the state public defender 1568

for reimbursement. The state public defender may pay a requested 1569
reimbursement only if the request for reimbursement includes a 1570
financial disclosure form completed by the indigent person on a 1571
form prescribed by the state public defender or if the court 1572
certifies by electronic signature as prescribed by the state 1573
public defender that a financial disclosure form has been 1574
completed by the indigent person and is available for 1575
inspection. If a request for the reimbursement of the cost of 1576
counsel in any case is not received by the state public defender 1577
within ninety days after the end of the calendar month in which 1578
the case is finally disposed of by the court, unless the county 1579
has requested and the state public defender has granted an 1580
extension of the ninety-day limit, the state public defender 1581
shall not pay the requested reimbursement. The state public 1582
defender shall also review the report and, in accordance with 1583
the standards, guidelines, and maximums established pursuant to 1584
divisions (B) (7) and (8) of section 120.04 of the Revised Code 1585
and the payment determination provisions of section 120.34 of 1586
the Revised Code, prepare a voucher for the cost of each county 1587
appointed counsel system in the period of time covered by the 1588
certified report ~~and a voucher for the costs and expenses that~~ 1589
~~are reimbursable under section 120.35 of the Revised Code, if~~ 1590
~~any.~~ The amount of payments to be included in and made under the 1591
voucher shall be determined as specified in section 120.34 of 1592
the Revised Code. 1593

(5) If any county appointed counsel system fails to 1594
maintain the standards for the conduct of the system established 1595
by the rules of the Ohio public defender commission pursuant to 1596
divisions (B) and (C) of section 120.03 or the standards 1597
established by the state public defender pursuant to division 1598
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1599

defender commission shall notify the board of county 1600
commissioners of the county that the county appointed counsel 1601
system has failed to comply with its rules or the standards of 1602
the state public defender. Unless the board of county 1603
commissioners corrects the conduct of its appointed counsel 1604
system to comply with the rules and standards within ninety days 1605
after the date of the notice, the state public defender may deny 1606
all or part of the county's reimbursement from the state 1607
provided for in division (A) (4) of this section. 1608

(B) In lieu of using a county public defender or joint 1609
county public defender to represent indigent persons in the 1610
proceedings set forth in division (A) of section 120.16 of the 1611
Revised Code, and in lieu of adopting the resolution and 1612
following the procedure described in division (A) of this 1613
section, the board of county commissioners of any county may 1614
contract with the state public defender for the state public 1615
defender's legal representation of indigent persons. A contract 1616
entered into pursuant to this division may provide for payment 1617
for the services provided on a per case, hourly, or fixed 1618
contract basis. 1619

~~(C) If a court appoints an attorney pursuant to this 1620
section to represent a petitioner in a postconviction relief 1621
proceeding under section 2953.21 of the Revised Code, the 1622
petitioner has received a sentence of death, and the proceeding 1623
relates to that sentence, the attorney who represents the 1624
petitioner in the proceeding pursuant to the appointment shall 1625
be certified under Rule 20 of the Rules of Superintendence for 1626
the Courts of Ohio to represent indigent defendants charged with 1627
or convicted of an offense for which the death penalty can be or 1628
has been imposed. 1629~~

~~(D) (1) There is hereby created the capital case attorney fee council, appointed as described in division (D) (2) of this section. The council shall set an amount by case, or a rate on an hourly basis, to be paid under this section to counsel in a capital case.~~ 1630
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~~(2) The capital case attorney fee council shall consist of five members, all of whom shall be active judges serving on one of the district courts of appeals in this state. Terms for council members shall be the lesser of three years or until the member ceases to be an active judge of a district court of appeals. The initial terms shall commence ninety days after September 28, 2016. The chief justice of the supreme court shall appoint the members of the council, and shall make all of the appointments not later than sixty days after September 28, 2016. When any vacancy occurs, the chief justice shall appoint an active judge of a district court of appeals in this state to fill the vacancy for the unexpired term, in the same manner as prescribed in this division. The chief justice shall designate a chairperson from the appointed members of the council. Members of the council shall receive no additional compensation for their service as a member, but may be reimbursed for expenses reasonably incurred in service to the council, to be paid by the supreme court. The supreme court may provide administrative support to the council.~~ 1635
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~~(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.~~ 1654
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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~~ 1657
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~~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.~~

~~(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.~~

Sec. 120.34. (A) Except as provided in division (D) of this section, the total amount of money paid to all counties in any fiscal year pursuant to sections 120.18, 120.28, 120.33, ~~120.35,~~ and 2941.51 of the Revised Code for the reimbursement of the counties' cost of operating county public defender offices, joint county public defender offices, and county appointed counsel systems, the counties' costs and expenses of conducting the defense in capital cases, and the counties' costs and expenses of appointed counsel covered by section 2941.51 of the Revised Code shall not exceed the total amount appropriated for that fiscal year by the general assembly for the reimbursement of the counties for the operation of the offices and systems and for those appointed counsel costs and expenses, and shall be determined as specified in this section. If the amount appropriated by the general assembly in any fiscal year is insufficient to pay the cost in the fiscal year of all county public defender offices, all joint county public defender offices, all county appointed counsel systems, and all costs and expenses of appointed counsel covered by section 2941.51 of the

Revised Code, the amount of money paid in that fiscal year 1691
pursuant to sections 120.18, 120.28, 120.33, ~~120.35~~, and 2941.51 1692
of the Revised Code to each county for the fiscal year shall be 1693
reduced proportionately so that each county is paid an equal 1694
percentage of its cost in the fiscal year for operating its 1695
county public defender system, its joint county public defender 1696
system, and its county appointed counsel system, an equal 1697
percentage of its costs and expenses of conducting the defense 1698
in capital cases in the fiscal year, and an equal percentage of 1699
its costs and expenses of appointed counsel covered by section 1700
2941.51 of the Revised Code. 1701

(B) If any county receives an amount of money pursuant to 1702
section 120.18, 120.28, 120.33, ~~120.35~~, or 2941.51 of the 1703
Revised Code that is in excess of the amount of reimbursement it 1704
is entitled to receive pursuant to this section, the state 1705
public defender shall request the board of county commissioners 1706
to return the excess payment and the board of county 1707
commissioners, upon receipt of the request, shall direct the 1708
appropriate county officer to return the excess payment to the 1709
state. 1710

(C) Within thirty days of the end of each fiscal quarter, 1711
the state public defender shall provide to the office of budget 1712
and management and the legislative service commission an 1713
estimate of the amount of money that will be required for the 1714
balance of the fiscal year to make the payments required by 1715
sections 120.18, 120.28, 120.33, ~~120.35~~, and 2941.51 of the 1716
Revised Code. 1717

(D) No reimbursement shall be made under this section for 1718
costs of indigent defense to the extent that those costs exceed 1719
the hourly rate, if any, established by the general assembly. 1720

(E) All payments relating to capital cases that were 1721
required to be made under the provisions of this chapter or 1722
section 2941.51 of the Revised Code as those provisions existed 1723
immediately before the effective date of this amendment shall be 1724
made for each calendar or fiscal year, as applicable, in 1725
accordance with those provisions as they existed immediately 1726
before the effective date of this amendment until each case in 1727
which a defendant was sentenced to death before the effective 1728
date of this amendment is finally resolved. 1729

Sec. 149.43. (A) As used in this section: 1730

(1) "Public record" means records kept by any public 1731
office, including, but not limited to, state, county, city, 1732
village, township, and school district units, and records 1733
pertaining to the delivery of educational services by an 1734
alternative school in this state kept by the nonprofit or for- 1735
profit entity operating the alternative school pursuant to 1736
section 3313.533 of the Revised Code. "Public record" does not 1737
mean any of the following: 1738

(a) Medical records; 1739

(b) Records pertaining to probation and parole 1740
proceedings, to proceedings related to the imposition of 1741
community control sanctions and post-release control sanctions, 1742
or to proceedings related to determinations under section 1743
2967.271 of the Revised Code regarding the release or maintained 1744
incarceration of an offender to whom that section applies; 1745

(c) Records pertaining to actions under section 2151.85 1746
and division (C) of section 2919.121 of the Revised Code and to 1747
appeals of actions arising under those sections; 1748

(d) Records pertaining to adoption proceedings, including 1749

the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	1750 1751
(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;	1752 1753 1754 1755 1756 1757
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	1758 1759
(g) Trial preparation records;	1760
(h) Confidential law enforcement investigatory records;	1761
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	1762 1763
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	1764 1765
(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;	1766 1767 1768 1769
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	1770 1771 1772 1773
(m) Intellectual property records;	1774
(n) Donor profile records;	1775
(o) Records maintained by the department of job and family	1776

services pursuant to section 3121.894 of the Revised Code;	1777
(p) Designated public service worker residential and familial information;	1778 1779
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	1780 1781 1782 1783 1784
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	1785 1786
(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	1787 1788 1789 1790 1791 1792 1793 1794 1795 1796 1797 1798
(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;	1799 1800 1801 1802 1803
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator	1804 1805

that the board of executives of long-term services and supports 1806
administers under section 4751.15 of the Revised Code or 1807
contracts under that section with a private or government entity 1808
to administer; 1809

(v) Records the release of which is prohibited by state or 1810
federal law; 1811

(w) Proprietary information of or relating to any person 1812
that is submitted to or compiled by the Ohio venture capital 1813
authority created under section 150.01 of the Revised Code; 1814

(x) Financial statements and data any person submits for 1815
any purpose to the Ohio housing finance agency or the 1816
controlling board in connection with applying for, receiving, or 1817
accounting for financial assistance from the agency, and 1818
information that identifies any individual who benefits directly 1819
or indirectly from financial assistance from the agency; 1820

(y) Records listed in section 5101.29 of the Revised Code; 1821

(z) Discharges recorded with a county recorder under 1822
section 317.24 of the Revised Code, as specified in division (B) 1823
(2) of that section; 1824

(aa) Usage information including names and addresses of 1825
specific residential and commercial customers of a municipally 1826
owned or operated public utility; 1827

(bb) Records described in division (C) of section 187.04 1828
of the Revised Code that are not designated to be made available 1829
to the public as provided in that division; 1830

~~(cc) Information and records that are made confidential,~~ 1831
~~privileged, and not subject to disclosure under divisions (B)~~ 1832
~~and (C) of section 2949.221 of the Revised Code;~~ 1833

~~(dd)~~ Personal information, as defined in section 149.45 of
the Revised Code; 1834
1835

~~(ee)~~ (dd) The confidential name, address, and other 1836
personally identifiable information of a program participant in 1837
the address confidentiality program established under sections 1838
111.41 to 111.47 of the Revised Code, including the contents of 1839
any application for absent voter's ballots, absent voter's 1840
ballot identification envelope statement of voter, or 1841
provisional ballot affirmation completed by a program 1842
participant who has a confidential voter registration record; 1843
records or portions of records pertaining to that program that 1844
identify the number of program participants that reside within a 1845
precinct, ward, township, municipal corporation, county, or any 1846
other geographic area smaller than the state; and any real 1847
property confidentiality notice filed under section 111.431 of 1848
the Revised Code and the information described in division (C) 1849
of that section. As used in this division, "confidential 1850
address" and "program participant" have the meaning defined in 1851
section 111.41 of the Revised Code. 1852

~~(ff)~~ (ee) Orders for active military service of an 1853
individual serving or with previous service in the armed forces 1854
of the United States, including a reserve component, or the Ohio 1855
organized militia, except that, such order becomes a public 1856
record on the day that is fifteen years after the published date 1857
or effective date of the call to order; 1858

~~(gg)~~ (ff) The name, address, contact information, or other 1859
personal information of an individual who is less than eighteen 1860
years of age that is included in any record related to a traffic 1861
accident involving a school vehicle in which the individual was 1862
an occupant at the time of the accident; 1863

~~(hh)~~(gg) Protected health information, as defined in 45 1864
C.F.R. 160.103, that is in a claim for payment for a health care 1865
product, service, or procedure, as well as any other health 1866
claims data in another document that reveals the identity of an 1867
individual who is the subject of the data or could be used to 1868
reveal that individual's identity; 1869

~~(ii)~~(hh) Any depiction by photograph, film, videotape, or 1870
printed or digital image under either of the following 1871
circumstances: 1872

(i) The depiction is that of a victim of an offense the 1873
release of which would be, to a reasonable person of ordinary 1874
sensibilities, an offensive and objectionable intrusion into the 1875
victim's expectation of bodily privacy and integrity. 1876

(ii) The depiction captures or depicts the victim of a 1877
sexually oriented offense, as defined in section 2950.01 of the 1878
Revised Code, at the actual occurrence of that offense. 1879

~~(jj)~~(ii) Restricted portions of a body-worn camera or 1880
dashboard camera recording; 1881

~~(kk)~~(jj) In the case of a fetal-infant mortality review 1882
board acting under sections 3707.70 to 3707.77 of the Revised 1883
Code, records, documents, reports, or other information 1884
presented to the board or a person abstracting such materials on 1885
the board's behalf, statements made by review board members 1886
during board meetings, all work products of the board, and data 1887
submitted by the board to the department of health or a national 1888
infant death review database, other than the report prepared 1889
pursuant to section 3707.77 of the Revised Code. 1890

~~(ll)~~(kk) Records, documents, reports, or other information 1891
presented to the pregnancy-associated mortality review board 1892

established under section 3738.01 of the Revised Code, 1893
statements made by board members during board meetings, all work 1894
products of the board, and data submitted by the board to the 1895
department of health, other than the biennial reports prepared 1896
under section 3738.08 of the Revised Code; 1897

~~(mm)~~ (ll) Except as otherwise provided in division ~~(A)(1)~~ 1898
~~(ee)~~ (A)(1)(nn) of this section, telephone numbers for a victim, 1899
as defined in section 2930.01 of the Revised Code or a witness 1900
to a crime that are listed on any law enforcement record or 1901
report. 1902

~~(nn)~~ (mm) A preneed funeral contract, as defined in section 1903
4717.01 of the Revised Code, and contract terms and personally 1904
identifying information of a preneed funeral contract, that is 1905
contained in a report submitted by or for a funeral home to the 1906
board of embalmers and funeral directors under division (C) of 1907
section 4717.13, division (J) of section 4717.31, or section 1908
4717.41 of the Revised Code. 1909

~~(ee)~~ (nn) Telephone numbers for a party to a motor vehicle 1910
accident subject to the requirements of section 5502.11 of the 1911
Revised Code that are listed on any law enforcement record or 1912
report, except that the telephone numbers described in this 1913
division are not excluded from the definition of "public record" 1914
under this division on and after the thirtieth day after the 1915
occurrence of the motor vehicle accident. 1916

~~(pp)~~ (oo) Records pertaining to individuals who complete 1917
training under section 5502.703 of the Revised Code to be 1918
permitted by a school district board of education or governing 1919
body of a community school established under Chapter 3314. of 1920
the Revised Code, a STEM school established under Chapter 3326. 1921
of the Revised Code, or a chartered nonpublic school to convey 1922

deadly weapons or dangerous ordnance into a school safety zone; 1923

~~(qq)~~ (pp) Records, documents, reports, or other information 1924
presented to a domestic violence fatality review board 1925
established under section 307.651 of the Revised Code, 1926
statements made by board members during board meetings, all work 1927
products of the board, and data submitted by the board to the 1928
department of health, other than a report prepared pursuant to 1929
section 307.656 of the Revised Code; 1930

~~(rr)~~ (qq) Records, documents, and information the release 1931
of which is prohibited under sections 2930.04 and 2930.07 of the 1932
Revised Code; 1933

~~(ss)~~ (rr) Records of an existing qualified nonprofit 1934
corporation that creates a special improvement district under 1935
Chapter 1710. of the Revised Code that do not pertain to a 1936
purpose for which the district is created; 1937

~~(tt)~~ (ss) Educational support services data, as defined in 1938
section 3319.325 of the Revised Code. 1939

A record that is not a public record under division (A) (1) 1940
of this section and that, under law, is permanently retained 1941
becomes a public record on the day that is seventy-five years 1942
after the day on which the record was created, except for any 1943
record protected by the attorney-client privilege, a trial 1944
preparation record as defined in this section, a statement 1945
prohibiting the release of identifying information signed under 1946
section 3107.083 of the Revised Code, a denial of release form 1947
filed pursuant to section 3107.46 of the Revised Code, or any 1948
record that is exempt from release or disclosure under section 1949
149.433 of the Revised Code. If the record is a birth 1950
certificate and a biological parent's name redaction request 1951

form has been accepted under section 3107.391 of the Revised 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 1981
treatment. 1982

(4) "Trial preparation record" means any record that 1983
contains information that is specifically compiled in reasonable 1984
anticipation of, or in defense of, a civil or criminal action or 1985
proceeding, including the independent thought processes and 1986
personal trial preparation of an attorney. 1987

(5) "Intellectual property record" means a record, other 1988
than a financial or administrative record, that is produced or 1989
collected by or for faculty or staff of a state institution of 1990
higher learning in the conduct of or as a result of study or 1991
research on an educational, commercial, scientific, artistic, 1992
technical, or scholarly issue, regardless of whether the study 1993
or research was sponsored by the institution alone or in 1994
conjunction with a governmental body or private concern, and 1995
that has not been publicly released, published, or patented. 1996

(6) "Donor profile record" means all records about donors 1997
or potential donors to a public institution of higher education 1998
except the names and reported addresses of the actual donors and 1999
the date, amount, and conditions of the actual donation. 2000

(7) "Designated public service worker" means a peace 2001
officer, parole officer, probation officer, bailiff, prosecuting 2002
attorney, assistant prosecuting attorney, correctional employee, 2003
county or multicounty corrections officer, community-based 2004
correctional facility employee, designated Ohio national guard 2005
member, protective services worker, youth services employee, 2006
firefighter, EMT, medical director or member of a cooperating 2007
physician advisory board of an emergency medical service 2008
organization, state board of pharmacy employee, investigator of 2009
the bureau of criminal identification and investigation, 2010

emergency service telecommunicator, forensic mental health 2011
provider, mental health evaluation provider, regional 2012
psychiatric hospital employee, judge, magistrate, or federal law 2013
enforcement officer. 2014

(8) "Designated public service worker residential and 2015
familial information" means any information that discloses any 2016
of the following about a designated public service worker: 2017

(a) The address of the actual personal residence of a 2018
designated public service worker, except for the following 2019
information: 2020

(i) The address of the actual personal residence of a 2021
prosecuting attorney or judge; and 2022

(ii) The state or political subdivision in which a 2023
designated public service worker resides. 2024

(b) Information compiled from referral to or participation 2025
in an employee assistance program; 2026

(c) The social security number, the residential telephone 2027
number, any bank account, debit card, charge card, or credit 2028
card number, or the emergency telephone number of, or any 2029
medical information pertaining to, a designated public service 2030
worker; 2031

(d) The name of any beneficiary of employment benefits, 2032
including, but not limited to, life insurance benefits, provided 2033
to a designated public service worker by the designated public 2034
service worker's employer; 2035

(e) The identity and amount of any charitable or 2036
employment benefit deduction made by the designated public 2037
service worker's employer from the designated public service 2038

worker's compensation, unless the amount of the deduction is 2039
required by state or federal law; 2040

(f) The name, the residential address, the name of the 2041
employer, the address of the employer, the social security 2042
number, the residential telephone number, any bank account, 2043
debit card, charge card, or credit card number, or the emergency 2044
telephone number of the spouse, a former spouse, or any child of 2045
a designated public service worker; 2046

(g) A photograph of a peace officer who holds a position 2047
or has an assignment that may include undercover or plain 2048
clothes positions or assignments as determined by the peace 2049
officer's appointing authority. 2050

(9) As used in divisions (A) (7) and (15) to (17) of this 2051
section: 2052

"Peace officer" has the meaning defined in section 109.71 2053
of the Revised Code and also includes the superintendent and 2054
troopers of the state highway patrol; it does not include the 2055
sheriff of a county or a supervisory employee who, in the 2056
absence of the sheriff, is authorized to stand in for, exercise 2057
the authority of, and perform the duties of the sheriff. 2058

"Correctional employee" means any employee of the 2059
department of rehabilitation and correction who in the course of 2060
performing the employee's job duties has or has had contact with 2061
inmates and persons under supervision. 2062

"County or multicounty corrections officer" means any 2063
corrections officer employed by any county or multicounty 2064
correctional facility. 2065

"Designated Ohio national guard member" means a member of 2066
the Ohio national guard who is participating in duties related 2067

to remotely piloted aircraft, including, but not limited to, 2068
pilots, sensor operators, and mission intelligence personnel, 2069
duties related to special forces operations, or duties related 2070
to cybersecurity, and is designated by the adjutant general as a 2071
designated public service worker for those purposes. 2072

"Protective services worker" means any employee of a 2073
county agency who is responsible for child protective services, 2074
child support services, or adult protective services. 2075

"Youth services employee" means any employee of the 2076
department of youth services who in the course of performing the 2077
employee's job duties has or has had contact with children 2078
committed to the custody of the department of youth services. 2079

"Firefighter" means any regular, paid or volunteer, member 2080
of a lawfully constituted fire department of a municipal 2081
corporation, township, fire district, or village. 2082

"EMT" means EMTs-basic, EMTs-I, and paramedics that 2083
provide emergency medical services for a public emergency 2084
medical service organization. "Emergency medical service 2085
organization," "EMT-basic," "EMT-I," and "paramedic" have the 2086
meanings defined in section 4765.01 of the Revised Code. 2087

"Investigator of the bureau of criminal identification and 2088
investigation" has the meaning defined in section 2903.11 of the 2089
Revised Code. 2090

"Emergency service telecommunicator" means an individual 2091
employed by an emergency service provider as defined under 2092
section 128.01 of the Revised Code, whose primary responsibility 2093
is to be an operator for the receipt or processing of calls for 2094
emergency services made by telephone, radio, or other electronic 2095
means. 2096

"Forensic mental health provider" means any employee of a community mental health service provider or local alcohol, drug addiction, and mental health services board who, in the course of the employee's duties, has contact with persons committed to a local alcohol, drug addiction, and mental health services board by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Mental health evaluation provider" means an individual who, under Chapter 5122. of the Revised Code, examines a respondent who is alleged to be a mentally ill person subject to court order, as defined in section 5122.01 of the Revised Code, and reports to the probate court the respondent's mental condition.

"Regional psychiatric hospital employee" means any employee of the department of mental health and addiction services who, in the course of performing the employee's duties, has contact with patients committed to the department of mental health and addiction services by a court order pursuant to section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised Code.

"Federal law enforcement officer" has the meaning defined in section 9.88 of the Revised Code.

(10) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the

age of eighteen or the address or telephone number of that 2126
person's parent, guardian, custodian, or emergency contact 2127
person; 2128

(b) The social security number, birth date, or 2129
photographic image of a person under the age of eighteen; 2130

(c) Any medical record, history, or information pertaining 2131
to a person under the age of eighteen; 2132

(d) Any additional information sought or required about a 2133
person under the age of eighteen for the purpose of allowing 2134
that person to participate in any recreational activity 2135
conducted or sponsored by a public office or to use or obtain 2136
admission privileges to any recreational facility owned or 2137
operated by a public office. 2138

(11) "Community control sanction" has the meaning defined 2139
in section 2929.01 of the Revised Code. 2140

(12) "Post-release control sanction" has the meaning 2141
defined in section 2967.01 of the Revised Code. 2142

(13) "Redaction" means obscuring or deleting any 2143
information that is exempt from the duty to permit public 2144
inspection or copying from an item that otherwise meets the 2145
definition of a "record" in section 149.011 of the Revised Code. 2146

(14) "Designee," "elected official," and "future official" 2147
have the meanings defined in section 109.43 of the Revised Code. 2148

(15) "Body-worn camera" means a visual and audio recording 2149
device worn on the person of a correctional employee, youth 2150
services employee, or peace officer while the correctional 2151
employee, youth services employee, or peace officer is engaged 2152
in the performance of official duties. 2153

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

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

(a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the department of rehabilitation and correction, department of youth services, or the law enforcement agency knows or has reason to know the person is a child based on the department's or law enforcement agency's records or the content of the recording;

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

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

(d) Grievous bodily harm, unless the injury was effected by a correctional employee, youth services employee, or peace officer or, subject to division (H) (1) of this section, the

consent of the injured person or the injured person's guardian	2183
has been obtained;	2184
(e) An act of severe violence against a person that	2185
results in serious physical harm to the person, unless the act	2186
and injury was effected by a correctional employee, youth	2187
services employee, or peace officer or, subject to division (H)	2188
(1) of this section, the consent of the injured person or the	2189
injured person's guardian has been obtained;	2190
(f) Grievous bodily harm to a correctional employee, youth	2191
services employee, peace officer, firefighter, paramedic, or	2192
other first responder, occurring while the injured person was	2193
engaged in the performance of official duties, unless, subject	2194
to division (H) (1) of this section, the consent of the injured	2195
person or the injured person's guardian has been obtained;	2196
(g) An act of severe violence resulting in serious	2197
physical harm against a correctional employee, youth services	2198
employee, peace officer, firefighter, paramedic, or other first	2199
responder, occurring while the injured person was engaged in the	2200
performance of official duties, unless, subject to division (H)	2201
(1) of this section, the consent of the injured person or the	2202
injured person's guardian has been obtained;	2203
(h) A person's nude body, unless, subject to division (H)	2204
(1) of this section, the person's consent has been obtained;	2205
(i) Protected health information, the identity of a person	2206
in a health care facility who is not the subject of a	2207
correctional, youth services, or law enforcement encounter, or	2208
any other information in a health care facility that could	2209
identify a person who is not the subject of a correctional,	2210
youth services, or law enforcement encounter;	2211

- (j) Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence; 2212
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- (k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to the department of rehabilitation and correction, the department of youth services, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person; 2214
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- (l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer; 2222
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- (m) Proprietary correctional, youth services, or police contingency plans or tactics that are intended to prevent crime and maintain public order and safety; 2224
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- (n) A personal conversation unrelated to work between correctional employees, youth services employees, or peace officers or between a correctional employee, youth services employee, or peace officer and an employee of a law enforcement agency; 2227
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- (o) A conversation between a correctional employee, youth services employee, or peace officer and a member of the public that does not concern correctional, youth services, or law enforcement activities; 2232
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- (p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer; 2236
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- (q) Any portion of the interior of a private business that 2240

is not open to the public, unless an adversarial encounter with, 2241
or a use of force by, a correctional employee, youth services 2242
employee, or peace officer occurs in that location. 2243

As used in division (A) (17) of this section: 2244

"Grievous bodily harm" has the same meaning as in section 2245
5924.120 of the Revised Code. 2246

"Health care facility" has the same meaning as in section 2247
1337.11 of the Revised Code. 2248

"Protected health information" has the same meaning as in 2249
45 C.F.R. 160.103. 2250

"Law enforcement agency" means a government entity that 2251
employs peace officers to perform law enforcement duties. 2252

"Personal information" means any government-issued 2253
identification number, date of birth, address, financial 2254
information, or criminal justice information from the law 2255
enforcement automated data system or similar databases. 2256

"Sex offense" has the same meaning as in section 2907.10 2257
of the Revised Code. 2258

"Firefighter," "paramedic," and "first responder" have the 2259
same meanings as in section 4765.01 of the Revised Code. 2260

(B) (1) Upon request by any person and subject to division 2261
(B) (8) of this section, all public records responsive to the 2262
request shall be promptly prepared and made available for 2263
inspection to the requester at all reasonable times during 2264
regular business hours. Subject to division (B) (8) of this 2265
section, upon request by any person, a public office or person 2266
responsible for public records shall make copies of the 2267
requested public record available to the requester at cost and 2268

within a reasonable period of time. If a public record contains 2269
information that is exempt from the duty to permit public 2270
inspection or to copy the public record, the public office or 2271
the person responsible for the public record shall make 2272
available all of the information within the public record that 2273
is not exempt. When making that public record available for 2274
public inspection or copying that public record, the public 2275
office or the person responsible for the public record shall 2276
notify the requester of any redaction or make the redaction 2277
plainly visible. A redaction shall be deemed a denial of a 2278
request to inspect or copy the redacted information, except if 2279
federal or state law authorizes or requires a public office to 2280
make the redaction. When the auditor of state receives a request 2281
to inspect or to make a copy of a record that was provided to 2282
the auditor of state for purposes of an audit, but the original 2283
public office has asserted to the auditor of state that the 2284
record is not a public record, the auditor of state may handle 2285
the requests by directing the requestor to the original public 2286
office that provided the record to the auditor of state. 2287

(2) To facilitate broader access to public records, a 2288
public office or the person responsible for public records shall 2289
organize and maintain public records in a manner that they can 2290
be made available for inspection or copying in accordance with 2291
division (B) of this section. A public office also shall have 2292
available a copy of its current records retention schedule at a 2293
location readily available to the public. If a requester makes 2294
an ambiguous or overly broad request or has difficulty in making 2295
a request for copies or inspection of public records under this 2296
section such that the public office or the person responsible 2297
for the requested public record cannot reasonably identify what 2298
public records are being requested, the public office or the 2299

person responsible for the requested public record may deny the 2300
request but shall provide the requester with an opportunity to 2301
revise the request by informing the requester of the manner in 2302
which records are maintained by the public office and accessed 2303
in the ordinary course of the public office's or person's 2304
duties. 2305

(3) If a request is ultimately denied, in part or in 2306
whole, the public office or the person responsible for the 2307
requested public record shall provide the requester with an 2308
explanation, including legal authority, setting forth why the 2309
request was denied. If the initial request was provided in 2310
writing, the explanation also shall be provided to the requester 2311
in writing. The explanation shall not preclude the public office 2312
or the person responsible for the requested public record from 2313
relying upon additional reasons or legal authority in defending 2314
an action commenced under division (C) of this section. 2315

(4) Unless specifically required or authorized by state or 2316
federal law or in accordance with division (B) of this section, 2317
no public office or person responsible for public records may 2318
limit or condition the availability of public records by 2319
requiring disclosure of the requester's identity or the intended 2320
use of the requested public record. Any requirement that the 2321
requester disclose the requester's identity or the intended use 2322
of the requested public record constitutes a denial of the 2323
request. 2324

(5) A public office or person responsible for public 2325
records may ask a requester to make the request in writing, may 2326
ask for the requester's identity, and may inquire about the 2327
intended use of the information requested, but may do so only 2328
after disclosing to the requester that a written request is not 2329

mandatory, that the requester may decline to reveal the 2330
requester's identity or the intended use, and when a written 2331
request or disclosure of the identity or intended use would 2332
benefit the requester by enhancing the ability of the public 2333
office or person responsible for public records to identify, 2334
locate, or deliver the public records sought by the requester. 2335

(6) If any person requests a copy of a public record in 2336
accordance with division (B) of this section, the public office 2337
or person responsible for the public record may require the 2338
requester to pay in advance the cost involved in providing the 2339
copy of the public record in accordance with the choice made by 2340
the requester under this division. The public office or the 2341
person responsible for the public record shall permit the 2342
requester to choose to have the public record duplicated upon 2343
paper, upon the same medium upon which the public office or 2344
person responsible for the public record keeps it, or upon any 2345
other medium upon which the public office or person responsible 2346
for the public record determines that it reasonably can be 2347
duplicated as an integral part of the normal operations of the 2348
public office or person responsible for the public record. When 2349
the requester makes a choice under this division, the public 2350
office or person responsible for the public record shall provide 2351
a copy of it in accordance with the choice made by the 2352
requester. Nothing in this section requires a public office or 2353
person responsible for the public record to allow the requester 2354
of a copy of the public record to make the copies of the public 2355
record. 2356

(7) (a) Upon a request made in accordance with division (B) 2357
of this section and subject to division (B) (6) of this section, 2358
a public office or person responsible for public records shall 2359
transmit a copy of a public record to any person by United 2360

States mail or by any other means of delivery or transmission 2361
within a reasonable period of time after receiving the request 2362
for the copy. The public office or person responsible for the 2363
public record may require the person making the request to pay 2364
in advance the cost of postage if the copy is transmitted by 2365
United States mail or the cost of delivery if the copy is 2366
transmitted other than by United States mail, and to pay in 2367
advance the costs incurred for other supplies used in the 2368
mailing, delivery, or transmission. 2369

(b) Any public office may adopt a policy and procedures 2370
that it will follow in transmitting, within a reasonable period 2371
of time after receiving a request, copies of public records by 2372
United States mail or by any other means of delivery or 2373
transmission pursuant to division (B) (7) of this section. A 2374
public office that adopts a policy and procedures under division 2375
(B) (7) of this section shall comply with them in performing its 2376
duties under that division. 2377

(c) In any policy and procedures adopted under division 2378
(B) (7) of this section: 2379

(i) A public office may limit the number of records 2380
requested by a person that the office will physically deliver by 2381
United States mail or by another delivery service to ten per 2382
month, unless the person certifies to the office in writing that 2383
the person does not intend to use or forward the requested 2384
records, or the information contained in them, for commercial 2385
purposes; 2386

(ii) A public office that chooses to provide some or all 2387
of its public records on a web site that is fully accessible to 2388
and searchable by members of the public at all times, other than 2389
during acts of God outside the public office's control or 2390

maintenance, and that charges no fee to search, access, 2391
download, or otherwise receive records provided on the web site, 2392
may limit to ten per month the number of records requested by a 2393
person that the office will deliver in a digital format, unless 2394
the requested records are not provided on the web site and 2395
unless the person certifies to the office in writing that the 2396
person does not intend to use or forward the requested records, 2397
or the information contained in them, for commercial purposes. 2398

(iii) For purposes of division (B) (7) of this section, 2399
"commercial" shall be narrowly construed and does not include 2400
reporting or gathering news, reporting or gathering information 2401
to assist citizen oversight or understanding of the operation or 2402
activities of government, or nonprofit educational research. 2403

(8) A public office or person responsible for public 2404
records is not required to permit a person who is incarcerated 2405
pursuant to a criminal conviction or a juvenile adjudication to 2406
inspect or to obtain a copy of any public record concerning a 2407
criminal investigation or prosecution or concerning what would 2408
be a criminal investigation or prosecution if the subject of the 2409
investigation or prosecution were an adult, unless the request 2410
to inspect or to obtain a copy of the record is for the purpose 2411
of acquiring information that is subject to release as a public 2412
record under this section and the judge who imposed the sentence 2413
or made the adjudication with respect to the person, or the 2414
judge's successor in office, finds that the information sought 2415
in the public record is necessary to support what appears to be 2416
a justiciable claim of the person. 2417

(9) (a) Upon written request made and signed by a 2418
journalist, a public office, or person responsible for public 2419
records, having custody of the records of the agency employing a 2420

specified designated public service worker shall disclose to the 2421
journalist the address of the actual personal residence of the 2422
designated public service worker and, if the designated public 2423
service worker's spouse, former spouse, or child is employed by 2424
a public office, the name and address of the employer of the 2425
designated public service worker's spouse, former spouse, or 2426
child. The request shall include the journalist's name and title 2427
and the name and address of the journalist's employer and shall 2428
state that disclosure of the information sought would be in the 2429
public interest. 2430

(b) Division (B) (9) (a) of this section also applies to 2431
journalist requests for: 2432

(i) Customer information maintained by a municipally owned 2433
or operated public utility, other than social security numbers 2434
and any private financial information such as credit reports, 2435
payment methods, credit card numbers, and bank account 2436
information; 2437

(ii) Information about minors involved in a school vehicle 2438
accident as provided in division ~~(A) (1) (gg)~~ (A) (1) (ff) of this 2439
section, other than personal information as defined in section 2440
149.45 of the Revised Code. 2441

(c) As used in division (B) (9) of this section, 2442
"journalist" means a person engaged in, connected with, or 2443
employed by any news medium, including a newspaper, magazine, 2444
press association, news agency, or wire service, a radio or 2445
television station, or a similar medium, for the purpose of 2446
gathering, processing, transmitting, compiling, editing, or 2447
disseminating information for the general public. 2448

(10) Upon a request made by a victim, victim's attorney, 2449

or victim's representative, as that term is used in section 2450
2930.02 of the Revised Code, a public office or person 2451
responsible for public records shall transmit a copy of a 2452
depiction of the victim as described in division ~~(A) (1) (ii)~~ (A)
(1) (hh) of this section to the victim, victim's attorney, or 2453
victim's representative. 2454
2455

(C) (1) If a person allegedly is aggrieved by the failure 2456
of a public office or the person responsible for public records 2457
to promptly prepare a public record and to make it available to 2458
the person for inspection in accordance with division (B) of 2459
this section or by any other failure of a public office or the 2460
person responsible for public records to comply with an 2461
obligation in accordance with division (B) of this section, the 2462
person allegedly aggrieved may do only one of the following, and 2463
not both: 2464

(a) File a complaint with the clerk of the court of claims 2465
or the clerk of the court of common pleas under section 2743.75 2466
of the Revised Code; 2467

(b) Commence a mandamus action to obtain a judgment that 2468
orders the public office or the person responsible for the 2469
public record to comply with division (B) of this section, that 2470
awards court costs and reasonable attorney's fees to the person 2471
that instituted the mandamus action, and, if applicable, that 2472
includes an order fixing statutory damages under division (C) (2) 2473
of this section. The mandamus action may be commenced in the 2474
court of common pleas of the county in which division (B) of 2475
this section allegedly was not complied with, in the supreme 2476
court pursuant to its original jurisdiction under Section 2 of 2477
Article IV, Ohio Constitution, or in the court of appeals for 2478
the appellate district in which division (B) of this section 2479

allegedly was not complied with pursuant to its original 2480
jurisdiction under Section 3 of Article IV, Ohio Constitution. 2481

(2) If a requester transmits a written request by hand 2482
delivery, electronic submission, or certified mail to inspect or 2483
receive copies of any public record in a manner that fairly 2484
describes the public record or class of public records to the 2485
public office or person responsible for the requested public 2486
records, except as otherwise provided in this section, the 2487
requester shall be entitled to recover the amount of statutory 2488
damages set forth in this division if a court determines that 2489
the public office or the person responsible for public records 2490
failed to comply with an obligation in accordance with division 2491
(B) of this section. 2492

The amount of statutory damages shall be fixed at one 2493
hundred dollars for each business day during which the public 2494
office or person responsible for the requested public records 2495
failed to comply with an obligation in accordance with division 2496
(B) of this section, beginning with the day on which the 2497
requester files a mandamus action to recover statutory damages, 2498
up to a maximum of one thousand dollars. The award of statutory 2499
damages shall not be construed as a penalty, but as compensation 2500
for injury arising from lost use of the requested information. 2501
The existence of this injury shall be conclusively presumed. The 2502
award of statutory damages shall be in addition to all other 2503
remedies authorized by this section. 2504

The court may reduce an award of statutory damages or not 2505
award statutory damages if the court determines both of the 2506
following: 2507

(a) That, based on the ordinary application of statutory 2508
law and case law as it existed at the time of the conduct or 2509

threatened conduct of the public office or person responsible 2510
for the requested public records that allegedly constitutes a 2511
failure to comply with an obligation in accordance with division 2512
(B) of this section and that was the basis of the mandamus 2513
action, a well-informed public office or person responsible for 2514
the requested public records reasonably would believe that the 2515
conduct or threatened conduct of the public office or person 2516
responsible for the requested public records did not constitute 2517
a failure to comply with an obligation in accordance with 2518
division (B) of this section; 2519

(b) That a well-informed public office or person 2520
responsible for the requested public records reasonably would 2521
believe that the conduct or threatened conduct of the public 2522
office or person responsible for the requested public records 2523
would serve the public policy that underlies the authority that 2524
is asserted as permitting that conduct or threatened conduct. 2525

(3) In a mandamus action filed under division (C) (1) of 2526
this section, the following apply: 2527

(a) (i) If the court orders the public office or the person 2528
responsible for the public record to comply with division (B) of 2529
this section, the court shall determine and award to the relator 2530
all court costs, which shall be construed as remedial and not 2531
punitive. 2532

(ii) If the court makes a determination described in 2533
division (C) (3) (b) (iii) of this section, the court shall 2534
determine and award to the relator all court costs, which shall 2535
be construed as remedial and not punitive. 2536

(b) If the court renders a judgment that orders the public 2537
office or the person responsible for the public record to comply 2538

with division (B) of this section or if the court determines any 2539
of the following, the court may award reasonable attorney's fees 2540
to the relator, subject to division (C) (4) of this section: 2541

(i) The public office or the person responsible for the 2542
public records failed to respond affirmatively or negatively to 2543
the public records request in accordance with the time allowed 2544
under division (B) of this section. 2545

(ii) The public office or the person responsible for the 2546
public records promised to permit the relator to inspect or 2547
receive copies of the public records requested within a 2548
specified period of time but failed to fulfill that promise 2549
within that specified period of time. 2550

(iii) The public office or the person responsible for the 2551
public records acted in bad faith when the office or person 2552
voluntarily made the public records available to the relator for 2553
the first time after the relator commenced the mandamus action, 2554
but before the court issued any order concluding whether or not 2555
the public office or person was required to comply with division 2556
(B) of this section. No discovery may be conducted on the issue 2557
of the alleged bad faith of the public office or person 2558
responsible for the public records. This division shall not be 2559
construed as creating a presumption that the public office or 2560
the person responsible for the public records acted in bad faith 2561
when the office or person voluntarily made the public records 2562
available to the relator for the first time after the relator 2563
commenced the mandamus action, but before the court issued any 2564
order described in this division. 2565

(c) The court shall not award attorney's fees to the 2566
relator if the court determines both of the following: 2567

(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. 2597

(d) The court may reduce the amount of fees awarded if the 2598
court determines that, given the factual circumstances involved 2599
with the specific public records request, an alternative means 2600
should have been pursued to more effectively and efficiently 2601
resolve the dispute that was subject to the mandamus action 2602
filed under division (C) (1) of this section. 2603

(5) If the court does not issue a writ of mandamus under 2604
division (C) of this section and the court determines at that 2605
time that the bringing of the mandamus action was frivolous 2606
conduct as defined in division (A) of section 2323.51 of the 2607
Revised Code, the court may award to the public office all court 2608
costs, expenses, and reasonable attorney's fees, as determined 2609
by the court. 2610

(D) Chapter 1347. of the Revised Code does not limit the 2611
provisions of this section. 2612

(E) (1) To ensure that all employees of public offices are 2613
appropriately educated about a public office's obligations under 2614
division (B) of this section, all elected officials or their 2615
appropriate designees shall attend training approved by the 2616
attorney general as provided in section 109.43 of the Revised 2617
Code. A future official may satisfy the requirements of this 2618
division by attending the training before taking office, 2619
provided that the future official may not send a designee in the 2620
future official's place. 2621

(2) All public offices shall adopt a public records policy 2622
in compliance with this section for responding to public records 2623
requests. In adopting a public records policy under this 2624
division, a public office may obtain guidance from the model 2625

public records policy developed and provided to the public 2626
office by the attorney general under section 109.43 of the 2627
Revised Code. Except as otherwise provided in this section, the 2628
policy may not limit the number of public records that the 2629
public office will make available to a single person, may not 2630
limit the number of public records that it will make available 2631
during a fixed period of time, and may not establish a fixed 2632
period of time before it will respond to a request for 2633
inspection or copying of public records, unless that period is 2634
less than eight hours. 2635

The public office shall distribute the public records 2636
policy adopted by the public office under this division to the 2637
employee of the public office who is the records custodian or 2638
records manager or otherwise has custody of the records of that 2639
office. The public office shall require that employee to 2640
acknowledge receipt of the copy of the public records policy. 2641
The public office shall create a poster that describes its 2642
public records policy and shall post the poster in a conspicuous 2643
place in the public office and in all locations where the public 2644
office has branch offices. The public office may post its public 2645
records policy on the internet web site of the public office if 2646
the public office maintains an internet web site. A public 2647
office that has established a manual or handbook of its general 2648
policies and procedures for all employees of the public office 2649
shall include the public records policy of the public office in 2650
the manual or handbook. 2651

(F) (1) The bureau of motor vehicles may adopt rules 2652
pursuant to Chapter 119. of the Revised Code to reasonably limit 2653
the number of bulk commercial special extraction requests made 2654
by a person for the same records or for updated records during a 2655
calendar year. The rules may include provisions for charges to 2656

be made for bulk commercial special extraction requests for the 2657
actual cost of the bureau, plus special extraction costs, plus 2658
ten per cent. The bureau may charge for expenses for redacting 2659
information, the release of which is prohibited by law. 2660

(2) As used in division (F)(1) of this section: 2661

(a) "Actual cost" means the cost of depleted supplies, 2662
records storage media costs, actual mailing and alternative 2663
delivery costs, or other transmitting costs, and any direct 2664
equipment operating and maintenance costs, including actual 2665
costs paid to private contractors for copying services. 2666

(b) "Bulk commercial special extraction request" means a 2667
request for copies of a record for information in a format other 2668
than the format already available, or information that cannot be 2669
extracted without examination of all items in a records series, 2670
class of records, or database by a person who intends to use or 2671
forward the copies for surveys, marketing, solicitation, or 2672
resale for commercial purposes. "Bulk commercial special 2673
extraction request" does not include a request by a person who 2674
gives assurance to the bureau that the person making the request 2675
does not intend to use or forward the requested copies for 2676
surveys, marketing, solicitation, or resale for commercial 2677
purposes. 2678

(c) "Commercial" means profit-seeking production, buying, 2679
or selling of any good, service, or other product. 2680

(d) "Special extraction costs" means the cost of the time 2681
spent by the lowest paid employee competent to perform the task, 2682
the actual amount paid to outside private contractors employed 2683
by the bureau, or the actual cost incurred to create computer 2684
programs to make the special extraction. "Special extraction 2685

costs" include any charges paid to a public agency for computer 2686
or records services. 2687

(3) For purposes of divisions (F) (1) and (2) of this 2688
section, "surveys, marketing, solicitation, or resale for 2689
commercial purposes" shall be narrowly construed and does not 2690
include reporting or gathering news, reporting or gathering 2691
information to assist citizen oversight or understanding of the 2692
operation or activities of government, or nonprofit educational 2693
research. 2694

(G) A request by a defendant, counsel of a defendant, or 2695
any agent of a defendant in a criminal action that public 2696
records related to that action be made available under this 2697
section shall be considered a demand for discovery pursuant to 2698
the Criminal Rules, except to the extent that the Criminal Rules 2699
plainly indicate a contrary intent. The defendant, counsel of 2700
the defendant, or agent of the defendant making a request under 2701
this division shall serve a copy of the request on the 2702
prosecuting attorney, director of law, or other chief legal 2703
officer responsible for prosecuting the action. 2704

(H) (1) Any portion of a body-worn camera or dashboard 2705
camera recording described in divisions (A) (17) (b) to (h) of 2706
this section may be released by consent of the subject of the 2707
recording or a representative of that person, as specified in 2708
those divisions, only if either of the following applies: 2709

(a) The recording will not be used in connection with any 2710
probable or pending criminal proceedings; 2711

(b) The recording has been used in connection with a 2712
criminal proceeding that was dismissed or for which a judgment 2713
has been entered pursuant to Rule 32 of the Rules of Criminal 2714

Procedure, and will not be used again in connection with any 2715
probable or pending criminal proceedings. 2716

(2) If a public office denies a request to release a 2717
restricted portion of a body-worn camera or dashboard camera 2718
recording, as defined in division (A)(17) of this section, any 2719
person may file a mandamus action pursuant to this section or a 2720
complaint with the clerk of the court of claims pursuant to 2721
section 2743.75 of the Revised Code, requesting the court to 2722
order the release of all or portions of the recording. If the 2723
court considering the request determines that the filing 2724
articulates by clear and convincing evidence that the public 2725
interest in the recording substantially outweighs privacy 2726
interests and other interests asserted to deny release, the 2727
court shall order the public office to release the recording. 2728

Sec. 149.436. Notwithstanding division ~~(A)(1)(gg)~~ (A)(1) 2729
(ff) of section 149.43 of the Revised Code, upon written request 2730
made and signed by the parent or guardian of an individual who 2731
is less than eighteen years of age and was an occupant of a 2732
school vehicle involved in a traffic accident, a public office 2733
or person responsible for public records, having custody of any 2734
record related to the traffic accident containing the personal 2735
information of the individual, shall transmit a copy of that 2736
record to the recipient identified in the request. 2737

The written request shall identify the individual on whose 2738
behalf the record is requested and the person to whom the record 2739
shall be transmitted. The record shall be transmitted only to 2740
the person identified in the written request as the recipient of 2741
the record. 2742

A public office or person responsible for records 2743
responding to a request under this section shall redact any 2744

personal information contained in the record of any individual 2745
less than eighteen years of age who is not the subject of the 2746
request, before providing the record to the recipient. 2747

Sec. 1901.183. In addition to jurisdiction otherwise 2748
granted in this chapter, the environmental division of a 2749
municipal court shall have jurisdiction within its territory in 2750
all of the following actions or proceedings and to perform all 2751
of the following functions: 2752

(A) Notwithstanding any monetary limitations in section 2753
1901.17 of the Revised Code, in all actions and proceedings for 2754
the sale of real or personal property under lien of a judgment 2755
of the environmental division of the municipal court, or a lien 2756
for machinery, material, fuel furnished, or labor performed, 2757
irrespective of amount, and, in those cases, the environmental 2758
division may proceed to foreclose and marshal all liens and all 2759
vested or contingent rights, to appoint a receiver, and to 2760
render personal judgment irrespective of amount in favor of any 2761
party; 2762

(B) When in aid of execution of a judgment of the 2763
environmental division of the municipal court, in all actions 2764
for the foreclosure of a mortgage on real property given to 2765
secure the payment of money, or the enforcement of a specific 2766
lien for money or other encumbrance or charge on real property, 2767
when the real property is situated within the territory, and, in 2768
those cases, the environmental division may proceed to foreclose 2769
all liens and all vested and contingent rights and proceed to 2770
render judgments, and make findings and orders, between the 2771
parties, in the same manner and to the same extent as in similar 2772
cases in the court of common pleas; 2773

(C) When in aid of execution of a judgment of the 2774

environmental division of the municipal court, in all actions 2775
for the recovery of real property situated within the territory 2776
to the same extent as courts of common pleas have jurisdiction; 2777

(D) In all actions for injunction to prevent or terminate 2778
violations of the ordinances and regulations of any municipal 2779
corporation within its territory enacted or promulgated under 2780
the police power of that municipal corporation pursuant to 2781
Section 3 of Article XVIII, Ohio Constitution, over which the 2782
court of common pleas has or may have jurisdiction, and, in 2783
those cases, the environmental division of the municipal court 2784
may proceed to render judgments, and make findings and orders, 2785
in the same manner and to the same extent as in similar cases in 2786
the court of common pleas; 2787

(E) In all actions for injunction to prevent or terminate 2788
violations of the resolutions and regulations of any political 2789
subdivision within its territory enacted or promulgated under 2790
the power of that political subdivision pursuant to Article X of 2791
the Ohio Constitution, over which the court of common pleas has 2792
or may have jurisdiction, and, in those cases, the environmental 2793
division of the municipal court may proceed to render judgments, 2794
and make findings and orders, in the same manner and to the same 2795
extent as in similar cases in the court of common pleas; 2796

(F) In any civil action to enforce any provision of 2797
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 2798
Revised Code over which the court of common pleas has or may 2799
have jurisdiction, and, in those actions, the environmental 2800
division of the municipal court may proceed to render judgments, 2801
and make findings and orders, in the same manner and to the same 2802
extent as in similar actions in the court of common pleas; 2803

(G) In all actions and proceedings in the nature of 2804

creditors' bills, and in aid of execution to subject the 2805
interests of a judgment debtor in real or personal property to 2806
the payment of a judgment of the division, and, in those actions 2807
and proceedings, the environmental division may proceed to 2808
marshal and foreclose all liens on the property irrespective of 2809
the amount of the lien, and all vested or contingent rights in 2810
the property; 2811

(H) Concurrent jurisdiction with the court of common pleas 2812
of all criminal actions or proceedings related to the pollution 2813
of the air, ground, or water within the territory of the 2814
environmental division of the municipal court, ~~for which a~~ 2815
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 2816
~~Revised Code;~~ 2817

(I) In any review or appeal of any final order of any 2818
administrative officer, agency, board, department, tribunal, 2819
commission, or other instrumentality that relates to a local 2820
building, housing, air pollution, sanitation, health, fire, 2821
zoning, or safety code, ordinance, or regulation, in the same 2822
manner and to the same extent as in similar appeals in the court 2823
of common pleas; 2824

(J) With respect to the environmental division of the 2825
Franklin county municipal court, to hear appeals from 2826
adjudication hearings conducted under Chapter 956. of the 2827
Revised Code. 2828

Sec. 2152.13. (A) A juvenile court shall impose a serious 2829
youthful dispositional sentence on a child when required under 2830
division (B) (3) of section 2152.121 of the Revised Code. In such 2831
a case, the remaining provisions of this division and divisions 2832
(B) and (C) do not apply to the child, and the court shall 2833
impose the mandatory serious youthful dispositional sentence 2834

under division (D) (1) of this section. 2835

In all other cases, a juvenile court may impose a serious 2836
youthful offender dispositional sentence on a child only if the 2837
prosecuting attorney of the county in which the delinquent act 2838
allegedly occurred initiates the process against the child in 2839
accordance with this division, and the child is an alleged 2840
delinquent child who is eligible for the dispositional sentence. 2841
The prosecuting attorney may initiate the process in any of the 2842
following ways: 2843

(1) Obtaining an indictment of the child as a serious 2844
youthful offender; 2845

(2) The child waives the right to indictment, charging the 2846
child in a bill of information as a serious youthful offender; 2847

(3) Until an indictment or information is obtained, 2848
requesting a serious youthful offender dispositional sentence in 2849
the original complaint alleging that the child is a delinquent 2850
child; 2851

(4) Until an indictment or information is obtained, if the 2852
original complaint does not request a serious youthful offender 2853
dispositional sentence, filing with the juvenile court a written 2854
notice of intent to seek a serious youthful offender 2855
dispositional sentence within twenty days after the later of the 2856
following, unless the time is extended by the juvenile court for 2857
good cause shown: 2858

(a) The date of the child's first juvenile court hearing 2859
regarding the complaint; 2860

(b) The date the juvenile court determines not to transfer 2861
the case under section 2152.12 of the Revised Code. 2862

After a written notice is filed under division (A) (4) of 2863
this section, the juvenile court shall serve a copy of the 2864
notice on the child and advise the child of the prosecuting 2865
attorney's intent to seek a serious youthful offender 2866
dispositional sentence in the case. 2867

(B) If an alleged delinquent child is not indicted or 2868
charged by information as described in division (A) (1) or (2) of 2869
this section and if a notice or complaint as described in 2870
division (A) (3) or (4) of this section indicates that the 2871
prosecuting attorney intends to pursue a serious youthful 2872
offender dispositional sentence in the case, the juvenile court 2873
shall hold a preliminary hearing to determine if there is 2874
probable cause that the child committed the act charged and is 2875
by age eligible for, or required to receive, a serious youthful 2876
offender dispositional sentence. 2877

(C) (1) A child for whom a serious youthful offender 2878
dispositional sentence is sought by a prosecuting attorney has 2879
the right to a grand jury determination of probable cause that 2880
the child committed the act charged and that the child is 2881
eligible by age for a serious youthful offender dispositional 2882
sentence. The grand jury may be impaneled by the court of common 2883
pleas or the juvenile court. 2884

Once a child is indicted, or charged by information or the 2885
juvenile court determines that the child is eligible for a 2886
serious youthful offender dispositional sentence, the child is 2887
entitled to an open and speedy trial by jury in juvenile court 2888
and to be provided with a transcript of the proceedings. The 2889
time within which the trial is to be held under Title XXIX of 2890
the Revised Code commences on whichever of the following dates 2891
is applicable: 2892

(a) If the child is indicted or charged by information, on the date of the filing of the indictment or information.	2893 2894
(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.	2895 2896 2897
(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.	2898 2899 2900 2901 2902
(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.	2903 2904 2905 2906 2907 2908 2909 2910 2911 2912 2913
(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:	2914 2915 2916 2917 2918
(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	2919 2920 2921

juvenile court shall not impose on the child a sentence of ~~death~~ 2922
~~or~~ life imprisonment without parole. 2923

(b) The juvenile court also shall impose upon the child 2924
one or more traditional juvenile dispositions under sections 2925
2152.16, 2152.19, and 2152.20, and, if applicable, section 2926
2152.17 of the Revised Code. 2927

(c) The juvenile court shall stay the adult portion of the 2928
serious youthful offender dispositional sentence pending the 2929
successful completion of the traditional juvenile dispositions 2930
imposed. 2931

(2) (a) If a child is adjudicated a delinquent child for 2932
committing an act under circumstances that allow, but do not 2933
require, the juvenile court to impose on the child a serious 2934
youthful offender dispositional sentence under section 2152.11 2935
of the Revised Code, all of the following apply: 2936

(i) If the juvenile court on the record makes a finding 2937
that, given the nature and circumstances of the violation and 2938
the history of the child, the length of time, level of security, 2939
and types of programming and resources available in the juvenile 2940
system alone are not adequate to provide the juvenile court with 2941
a reasonable expectation that the purposes set forth in section 2942
2152.01 of the Revised Code will be met, the juvenile court may 2943
impose upon the child a sentence available for the violation, as 2944
if the child were an adult, under Chapter 2929. of the Revised 2945
Code, except that the juvenile court shall not impose on the 2946
child a sentence of ~~death or~~ life imprisonment without parole. 2947

(ii) If a sentence is imposed under division (D) (2) (a) (i) 2948
of this section, the juvenile court also shall impose upon the 2949
child one or more traditional juvenile dispositions under 2950

sections 2152.16, 2152.19, and 2152.20 and, if applicable, 2951
section 2152.17 of the Revised Code. 2952

(iii) The juvenile court shall stay the adult portion of 2953
the serious youthful offender dispositional sentence pending the 2954
successful completion of the traditional juvenile dispositions 2955
imposed. 2956

(b) If the juvenile court does not find that a sentence 2957
should be imposed under division (D) (2) (a) (i) of this section, 2958
the juvenile court may impose one or more traditional juvenile 2959
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 2960
applicable, section 2152.17 of the Revised Code. 2961

(3) A child upon whom a serious youthful offender 2962
dispositional sentence is imposed under division (D) (1) or (2) 2963
of this section has a right to appeal under division (A) (1), 2964
(3), (4), or (5) of section 2953.08 of the Revised Code the 2965
adult portion of the serious youthful offender dispositional 2966
sentence when any of those divisions apply. The child may appeal 2967
the adult portion, and the court shall consider the appeal as if 2968
the adult portion were not stayed. 2969

Sec. 2152.67. Any adult who is arrested or charged under 2970
any provision in this chapter and who is charged with a crime 2971
may demand a trial by jury, or the juvenile judge upon the 2972
judge's own motion may call a jury. A demand for a jury trial 2973
shall be made in writing in not less than three days before the 2974
date set for trial, or within three days after counsel has been 2975
retained, whichever is later. Sections 2945.17 and 2945.23 to 2976
2945.36 of the Revised Code, relating to the drawing and 2977
impaneling of jurors in criminal cases in the court of common 2978
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 2979
under this section. The compensation of jurors and costs of the 2980

clerk and sheriff shall be taxed and paid in the same manner as 2981
in criminal cases in the court of common pleas. 2982

Sec. 2301.20. All civil and criminal actions in the court 2983
of common pleas shall be recorded. The reporter shall take 2984
accurate notes of or electronically record the oral testimony. 2985
The notes and electronic records shall be filed in the office of 2986
the official reporter and carefully preserved for either of the 2987
following periods of time: 2988

(A) If the action is not a ~~capital~~ case in which a 2989
sentence of life imprisonment has been imposed or a case in 2990
which, prior to the effective date of this amendment, a sentence 2991
of death was imposed, the notes and electronic records shall be 2992
preserved for the period of time specified by the court of 2993
common pleas, which period of time shall not be longer than the 2994
period of time that the other records of the particular action 2995
are required to be kept. 2996

(B) If the action is a ~~capital~~ case, in which a sentence 2997
of life imprisonment has been imposed or a case in which, prior 2998
to the effective date of this amendment, a sentence of death has 2999
been imposed the notes and electronic records shall be preserved 3000
for the longer of ten years or until the final disposition of 3001
the action and exhaustion of all appeals. 3002

Sec. 2307.60. (A) (1) Anyone injured in person or property 3003
by a criminal act has, and may recover full damages in, a civil 3004
action unless specifically excepted by law, may recover the 3005
costs of maintaining the civil action and attorney's fees if 3006
authorized by any provision of the Rules of Civil Procedure or 3007
another section of the Revised Code or under the common law of 3008
this state, and may recover punitive or exemplary damages if 3009
authorized by section 2315.21 or another section of the Revised 3010

Code. 3011

(2) A final judgment of a trial court that has not been 3012
reversed on appeal or otherwise set aside, nullified, or 3013
vacated, entered after a trial or upon a plea of guilty, but not 3014
upon a plea of no contest or the equivalent plea from another 3015
jurisdiction, that adjudges an offender guilty of an offense of 3016
violence punishable by ~~death or~~ imprisonment in excess of one 3017
year, when entered as evidence in any subsequent civil 3018
proceeding based on the criminal act, shall preclude the 3019
offender from denying in the subsequent civil proceeding any 3020
fact essential to sustaining that judgment, unless the offender 3021
can demonstrate that extraordinary circumstances prevented the 3022
offender from having a full and fair opportunity to litigate the 3023
issue in the criminal proceeding or other extraordinary 3024
circumstances justify affording the offender an opportunity to 3025
relitigate the issue. The offender may introduce evidence of the 3026
offender's pending appeal of the final judgment of the trial 3027
court, if applicable, and the court may consider that evidence 3028
in determining the liability of the offender. 3029

(B) (1) As used in division (B) of this section: 3030

(a) "Tort action" means a civil action for damages for 3031
injury, death, or loss to person or property other than a civil 3032
action for damages for a breach of contract or another agreement 3033
between persons. "Tort action" includes, but is not limited to, 3034
a product liability claim, as defined in section 2307.71 of the 3035
Revised Code, and an asbestos claim, as defined in section 3036
2307.91 of the Revised Code, an action for wrongful death under 3037
Chapter 2125. of the Revised Code, and an action based on 3038
derivative claims for relief. 3039

(b) "Residence" has the same meaning as in section 2901.05 3040

of the Revised Code. 3041

(2) Recovery on a claim for relief in a tort action is 3042
barred to any person or the person's legal representative if any 3043
of the following apply: 3044

(a) The person has been convicted of or has pleaded guilty 3045
to a felony, or to a misdemeanor that is an offense of violence, 3046
arising out of criminal conduct that was a proximate cause of 3047
the injury or loss for which relief is claimed in the tort 3048
action. 3049

(b) The person engaged in conduct that, if prosecuted, 3050
would constitute a felony, a misdemeanor that is an offense of 3051
violence, an attempt to commit a felony, or an attempt to commit 3052
a misdemeanor that is an offense of violence and that conduct 3053
was a proximate cause of the injury or loss for which relief is 3054
claimed in the tort action, regardless of whether the person has 3055
been convicted of or pleaded guilty to or has been charged with 3056
committing the felony, the misdemeanor, or the attempt to commit 3057
the felony or misdemeanor. 3058

(c) The person suffered the injury or loss for which 3059
relief is claimed in the tort action as a proximate result of 3060
the victim of conduct that, if prosecuted, would constitute a 3061
felony, a misdemeanor that is an offense of violence, an attempt 3062
to commit a felony, or an attempt to commit a misdemeanor that 3063
is an offense of violence acting against the person in self- 3064
defense, defense of another, or defense of the victim's 3065
residence, regardless of whether the person has been convicted 3066
of or pleaded guilty to or has been charged with committing the 3067
felony, the misdemeanor, or the attempt to commit the felony or 3068
misdemeanor. Division (B) (2) (c) of this section does not apply 3069
if the person who suffered the injury or loss, at the time of 3070

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

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

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

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

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

attorney by a client in that relation or concerning the 3101
attorney's advice to a client, except that the attorney may 3102
testify by express consent of the client or, if the client is 3103
deceased, by the express consent of the surviving spouse or the 3104
executor or administrator of the estate of the deceased client. 3105
However, if the client voluntarily reveals the substance of 3106
attorney-client communications in a nonprivileged context or is 3107
deemed by section 2151.421 of the Revised Code to have waived 3108
any testimonial privilege under this division, the attorney may 3109
be compelled to testify on the same subject. 3110

The testimonial privilege established under this division 3111
does not apply concerning ~~either of the following:~~ 3112

~~(a) A communication between a client in a capital case, as 3113
defined in section 2901.02 of the Revised Code, and the client's 3114
attorney if the communication is relevant to a subsequent 3115
ineffective assistance of counsel claim by the client alleging 3116
that the attorney did not effectively represent the client in 3117
the case;~~ 3118

~~(b) A a communication between a client who has since died 3119
and the deceased client's attorney if the communication is 3120
relevant to a dispute between parties who claim through that 3121
deceased client, regardless of whether the claims are by testate 3122
or intestate succession or by inter vivos transaction, and the 3123
dispute addresses the competency of the deceased client when the 3124
deceased client executed a document that is the basis of the 3125
dispute or whether the deceased client was a victim of fraud, 3126
undue influence, or duress when the deceased client executed a 3127
document that is the basis of the dispute. 3128~~

(2) An attorney, concerning a communication made to the 3129
attorney by a client in that relationship or the attorney's 3130

advice to a client, except that if the client is an insurance 3131
company, the attorney may be compelled to testify, subject to an 3132
in camera inspection by a court, about communications made by 3133
the client to the attorney or by the attorney to the client that 3134
are related to the attorney's aiding or furthering an ongoing or 3135
future commission of bad faith by the client, if the party 3136
seeking disclosure of the communications has made a prima-facie 3137
showing of bad faith, fraud, or criminal misconduct by the 3138
client. 3139

(B) (1) A physician, advanced practice registered nurse, or 3140
dentist concerning a communication made to the physician, 3141
advanced practice registered nurse, or dentist by a patient in 3142
that relation or the advice of a physician, advanced practice 3143
registered nurse, or dentist given to a patient, except as 3144
otherwise provided in this division, division (B) (2), and 3145
division (B) (3) of this section, and except that, if the patient 3146
is deemed by section 2151.421 of the Revised Code to have waived 3147
any testimonial privilege under this division, the physician or 3148
advanced practice registered nurse may be compelled to testify 3149
on the same subject. 3150

The testimonial privilege established under this division 3151
does not apply, and a physician, advanced practice registered 3152
nurse, or dentist may testify or may be compelled to testify, in 3153
any of the following circumstances: 3154

(a) In any civil action, in accordance with the discovery 3155
provisions of the Rules of Civil Procedure in connection with a 3156
civil action, or in connection with a claim under Chapter 4123. 3157
of the Revised Code, under any of the following circumstances: 3158

(i) If the patient or the guardian or other legal 3159
representative of the patient gives express consent; 3160

(ii) If the patient is deceased, the spouse of the patient 3161
or the executor or administrator of the patient's estate gives 3162
express consent; 3163

(iii) If a medical claim, dental claim, chiropractic 3164
claim, or optometric claim, as defined in section 2305.113 of 3165
the Revised Code, an action for wrongful death, any other type 3166
of civil action, or a claim under Chapter 4123. of the Revised 3167
Code is filed by the patient, the personal representative of the 3168
estate of the patient if deceased, or the patient's guardian or 3169
other legal representative. 3170

(b) In any civil action concerning court-ordered treatment 3171
or services received by a patient, if the court-ordered 3172
treatment or services were ordered as part of a case plan 3173
journalized under section 2151.412 of the Revised Code or the 3174
court-ordered treatment or services are necessary or relevant to 3175
dependency, neglect, or abuse or temporary or permanent custody 3176
proceedings under Chapter 2151. of the Revised Code. 3177

(c) In any criminal action concerning any test or the 3178
results of any test that determines the presence or 3179
concentration of alcohol, a drug of abuse, a combination of 3180
them, a controlled substance, or a metabolite of a controlled 3181
substance in the patient's whole blood, blood serum or plasma, 3182
breath, urine, or other bodily substance at any time relevant to 3183
the criminal offense in question. 3184

(d) In any criminal action against a physician, advanced 3185
practice registered nurse, or dentist. In such an action, the 3186
testimonial privilege established under this division does not 3187
prohibit the admission into evidence, in accordance with the 3188
Rules of Evidence, of a patient's medical or dental records or 3189
other communications between a patient and the physician, 3190

advanced practice registered nurse, or dentist that are related 3191
to the action and obtained by subpoena, search warrant, or other 3192
lawful means. A court that permits or compels a physician, 3193
advanced practice registered nurse, or dentist to testify in 3194
such an action or permits the introduction into evidence of 3195
patient records or other communications in such an action shall 3196
require that appropriate measures be taken to ensure that the 3197
confidentiality of any patient named or otherwise identified in 3198
the records is maintained. Measures to ensure confidentiality 3199
that may be taken by the court include sealing its records or 3200
deleting specific information from its records. 3201

(e) (i) If the communication was between a patient who has 3202
since died and the deceased patient's physician, advanced 3203
practice registered nurse, or dentist, the communication is 3204
relevant to a dispute between parties who claim through that 3205
deceased patient, regardless of whether the claims are by 3206
testate or intestate succession or by inter vivos transaction, 3207
and the dispute addresses the competency of the deceased patient 3208
when the deceased patient executed a document that is the basis 3209
of the dispute or whether the deceased patient was a victim of 3210
fraud, undue influence, or duress when the deceased patient 3211
executed a document that is the basis of the dispute. 3212

(ii) If neither the spouse of a patient nor the executor 3213
or administrator of that patient's estate gives consent under 3214
division (B) (1) (a) (ii) of this section, testimony or the 3215
disclosure of the patient's medical records by a physician, 3216
advanced practice registered nurse, dentist, or other health 3217
care provider under division (B) (1) (e) (i) of this section is a 3218
permitted use or disclosure of protected health information, as 3219
defined in 45 C.F.R. 160.103, and an authorization or 3220
opportunity to be heard shall not be required. 3221

(iii) Division (B) (1) (e) (i) of this section does not 3222
require a mental health professional to disclose psychotherapy 3223
notes, as defined in 45 C.F.R. 164.501. 3224

(iv) An interested person who objects to testimony or 3225
disclosure under division (B) (1) (e) (i) of this section may seek 3226
a protective order pursuant to Civil Rule 26. 3227

(v) A person to whom protected health information is 3228
disclosed under division (B) (1) (e) (i) of this section shall not 3229
use or disclose the protected health information for any purpose 3230
other than the litigation or proceeding for which the 3231
information was requested and shall return the protected health 3232
information to the covered entity or destroy the protected 3233
health information, including all copies made, at the conclusion 3234
of the litigation or proceeding. 3235

(2) (a) If any law enforcement officer submits a written 3236
statement to a health care provider that states that an official 3237
criminal investigation has begun regarding a specified person or 3238
that a criminal action or proceeding has been commenced against 3239
a specified person, that requests the provider to supply to the 3240
officer copies of any records the provider possesses that 3241
pertain to any test or the results of any test administered to 3242
the specified person to determine the presence or concentration 3243
of alcohol, a drug of abuse, a combination of them, a controlled 3244
substance, or a metabolite of a controlled substance in the 3245
person's whole blood, blood serum or plasma, breath, or urine at 3246
any time relevant to the criminal offense in question, and that 3247
conforms to section 2317.022 of the Revised Code, the provider, 3248
except to the extent specifically prohibited by any law of this 3249
state or of the United States, shall supply to the officer a 3250
copy of any of the requested records the provider possesses. If 3251

the health care provider does not possess any of the requested 3252
records, the provider shall give the officer a written statement 3253
that indicates that the provider does not possess any of the 3254
requested records. 3255

(b) If a health care provider possesses any records of the 3256
type described in division (B) (2) (a) of this section regarding 3257
the person in question at any time relevant to the criminal 3258
offense in question, in lieu of personally testifying as to the 3259
results of the test in question, the custodian of the records 3260
may submit a certified copy of the records, and, upon its 3261
submission, the certified copy is qualified as authentic 3262
evidence and may be admitted as evidence in accordance with the 3263
Rules of Evidence. Division (A) of section 2317.422 of the 3264
Revised Code does not apply to any certified copy of records 3265
submitted in accordance with this division. Nothing in this 3266
division shall be construed to limit the right of any party to 3267
call as a witness the person who administered the test to which 3268
the records pertain, the person under whose supervision the test 3269
was administered, the custodian of the records, the person who 3270
made the records, or the person under whose supervision the 3271
records were made. 3272

(3) (a) If the testimonial privilege described in division 3273
(B) (1) of this section does not apply as provided in division 3274
(B) (1) (a) (iii) of this section, a physician, advanced practice 3275
registered nurse, or dentist may be compelled to testify or to 3276
submit to discovery under the Rules of Civil Procedure only as 3277
to a communication made to the physician, advanced practice 3278
registered nurse, or dentist by the patient in question in that 3279
relation, or the advice of the physician, advanced practice 3280
registered nurse, or dentist given to the patient in question, 3281
that related causally or historically to physical or mental 3282

injuries that are relevant to issues in the medical claim, 3283
dental claim, chiropractic claim, or optometric claim, action 3284
for wrongful death, other civil action, or claim under Chapter 3285
4123. of the Revised Code. 3286

(b) If the testimonial privilege described in division (B) 3287
(1) of this section does not apply to a physician, advanced 3288
practice registered nurse, or dentist as provided in division 3289
(B) (1) (c) of this section, the physician, advanced practice 3290
registered nurse, or dentist, in lieu of personally testifying 3291
as to the results of the test in question, may submit a 3292
certified copy of those results, and, upon its submission, the 3293
certified copy is qualified as authentic evidence and may be 3294
admitted as evidence in accordance with the Rules of Evidence. 3295
Division (A) of section 2317.422 of the Revised Code does not 3296
apply to any certified copy of results submitted in accordance 3297
with this division. Nothing in this division shall be construed 3298
to limit the right of any party to call as a witness the person 3299
who administered the test in question, the person under whose 3300
supervision the test was administered, the custodian of the 3301
results of the test, the person who compiled the results, or the 3302
person under whose supervision the results were compiled. 3303

(4) The testimonial privilege described in division (B) (1) 3304
of this section is not waived when a communication is made by a 3305
physician or advanced practice registered nurse to a pharmacist 3306
or when there is communication between a patient and a 3307
pharmacist in furtherance of the physician-patient or advanced 3308
practice registered nurse-patient relation. 3309

(5) (a) As used in divisions (B) (1) to (4) of this section, 3310
"communication" means acquiring, recording, or transmitting any 3311
information, in any manner, concerning any facts, opinions, or 3312

statements necessary to enable a physician, advanced practice 3313
registered nurse, or dentist to diagnose, treat, prescribe, or 3314
act for a patient. A "communication" may include, but is not 3315
limited to, any medical or dental, office, or hospital 3316
communication such as a record, chart, letter, memorandum, 3317
laboratory test and results, x-ray, photograph, financial 3318
statement, diagnosis, or prognosis. 3319

(b) As used in division (B) (2) of this section, "health 3320
care provider" means a hospital, ambulatory care facility, long- 3321
term care facility, pharmacy, emergency facility, or health care 3322
practitioner. 3323

(c) As used in division (B) (5) (b) of this section: 3324

(i) "Ambulatory care facility" means a facility that 3325
provides medical, diagnostic, or surgical treatment to patients 3326
who do not require hospitalization, including a dialysis center, 3327
ambulatory surgical facility, cardiac catheterization facility, 3328
diagnostic imaging center, extracorporeal shock wave lithotripsy 3329
center, home health agency, inpatient hospice, birthing center, 3330
radiation therapy center, emergency facility, and an urgent care 3331
center. "Ambulatory health care facility" does not include the 3332
private office of a physician, advanced practice registered 3333
nurse, or dentist, whether the office is for an individual or 3334
group practice. 3335

(ii) "Emergency facility" means a hospital emergency 3336
department or any other facility that provides emergency medical 3337
services. 3338

(iii) "Health care practitioner" has the same meaning as 3339
in section 4769.01 of the Revised Code. 3340

(iv) "Hospital" has the same meaning as in section 3727.01 3341

of the Revised Code. 3342

(v) "Long-term care facility" means a nursing home, 3343
residential care facility, or home for the aging, as those terms 3344
are defined in section 3721.01 of the Revised Code; a 3345
residential facility licensed under section 5119.34 of the 3346
Revised Code that provides accommodations, supervision, and 3347
personal care services for three to sixteen unrelated adults; a 3348
nursing facility, as defined in section 5165.01 of the Revised 3349
Code; a skilled nursing facility, as defined in section 5165.01 3350
of the Revised Code; and an intermediate care facility for 3351
individuals with intellectual disabilities, as defined in 3352
section 5124.01 of the Revised Code. 3353

(vi) "Pharmacy" has the same meaning as in section 4729.01 3354
of the Revised Code. 3355

(d) As used in divisions (B) (1) and (2) of this section, 3356
"drug of abuse" has the same meaning as in section 4506.01 of 3357
the Revised Code. 3358

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 3359
section apply to doctors of medicine, doctors of osteopathic 3360
medicine, doctors of podiatry, advanced practice registered 3361
nurses, and dentists. 3362

(7) Nothing in divisions (B) (1) to (6) of this section 3363
affects, or shall be construed as affecting, the immunity from 3364
civil liability conferred by section 307.628 of the Revised Code 3365
or the immunity from civil liability conferred by section 3366
2305.33 of the Revised Code upon physicians or advanced practice 3367
registered nurses who report an employee's use of a drug of 3368
abuse, or a condition of an employee other than one involving 3369
the use of a drug of abuse, to the employer of the employee in 3370

accordance with division (B) of that section. As used in 3371
division (B) (7) of this section, "employee," "employer," and 3372
"physician" have the same meanings as in section 2305.33 of the 3373
Revised Code and "advanced practice registered nurse" has the 3374
same meaning as in section 4723.01 of the Revised Code. 3375

(C) (1) A cleric, when the cleric remains accountable to 3376
the authority of that cleric's church, denomination, or sect, 3377
concerning a confession made, or any information confidentially 3378
communicated, to the cleric for a religious counseling purpose 3379
in the cleric's professional character. The cleric may testify 3380
by express consent of the person making the communication, 3381
except when the disclosure of the information is in violation of 3382
a sacred trust and except that, if the person voluntarily 3383
testifies or is deemed by division (A) (4) (c) of section 2151.421 3384
of the Revised Code to have waived any testimonial privilege 3385
under this division, the cleric may be compelled to testify on 3386
the same subject except when disclosure of the information is in 3387
violation of a sacred trust. 3388

(2) As used in division (C) of this section: 3389

(a) "Cleric" means a member of the clergy, rabbi, priest, 3390
Christian Science practitioner, or regularly ordained, 3391
accredited, or licensed minister of an established and legally 3392
cognizable church, denomination, or sect. 3393

(b) "Sacred trust" means a confession or confidential 3394
communication made to a cleric in the cleric's ecclesiastical 3395
capacity in the course of discipline enjoined by the church to 3396
which the cleric belongs, including, but not limited to, the 3397
Catholic Church, if both of the following apply: 3398

(i) The confession or confidential communication was made 3399

directly to the cleric. 3400

(ii) The confession or confidential communication was made 3401
in the manner and context that places the cleric specifically 3402
and strictly under a level of confidentiality that is considered 3403
inviolable by canon law or church doctrine. 3404

(D) Husband or wife, concerning any communication made by 3405
one to the other, or an act done by either in the presence of 3406
the other, during coverture, unless the communication was made, 3407
or act done, in the known presence or hearing of a third person 3408
competent to be a witness; and such rule is the same if the 3409
marital relation has ceased to exist; 3410

(E) A person who assigns a claim or interest, concerning 3411
any matter in respect to which the person would not, if a party, 3412
be permitted to testify; 3413

(F) A person who, if a party, would be restricted under 3414
section 2317.03 of the Revised Code, when the property or thing 3415
is sold or transferred by an executor, administrator, guardian, 3416
trustee, heir, devisee, or legatee, shall be restricted in the 3417
same manner in any action or proceeding concerning the property 3418
or thing. 3419

(G) (1) A school guidance counselor who holds a valid 3420
educator license from the state board of education as provided 3421
for in section 3319.22 of the Revised Code, a person licensed 3422
under Chapter 4757. of the Revised Code as a licensed 3423
professional clinical counselor, licensed professional 3424
counselor, social worker, independent social worker, marriage 3425
and family therapist or independent marriage and family 3426
therapist, or registered under Chapter 4757. of the Revised Code 3427
as a social work assistant concerning a confidential 3428

communication received from a client in that relation or the 3429
person's advice to a client unless any of the following applies: 3430

(a) The communication or advice indicates clear and 3431
present danger to the client or other persons. For the purposes 3432
of this division, cases in which there are indications of 3433
present or past child abuse or neglect of the client constitute 3434
a clear and present danger. 3435

(b) The client gives express consent to the testimony. 3436

(c) If the client is deceased, the surviving spouse or the 3437
executor or administrator of the estate of the deceased client 3438
gives express consent. 3439

(d) The client voluntarily testifies, in which case the 3440
school guidance counselor or person licensed or registered under 3441
Chapter 4757. of the Revised Code may be compelled to testify on 3442
the same subject. 3443

(e) The court in camera determines that the information 3444
communicated by the client is not germane to the counselor- 3445
client, marriage and family therapist-client, or social worker- 3446
client relationship. 3447

(f) A court, in an action brought against a school, its 3448
administration, or any of its personnel by the client, rules 3449
after an in-camera inspection that the testimony of the school 3450
guidance counselor is relevant to that action. 3451

(g) The testimony is sought in a civil action and concerns 3452
court-ordered treatment or services received by a patient as 3453
part of a case plan journalized under section 2151.412 of the 3454
Revised Code or the court-ordered treatment or services are 3455
necessary or relevant to dependency, neglect, or abuse or 3456
temporary or permanent custody proceedings under Chapter 2151. 3457

of the Revised Code. 3458

(2) Nothing in division (G)(1) of this section shall 3459
relieve a school guidance counselor or a person licensed or 3460
registered under Chapter 4757. of the Revised Code from the 3461
requirement to report information concerning child abuse or 3462
neglect under section 2151.421 of the Revised Code. 3463

(H) A mediator acting under a mediation order issued under 3464
division (A) of section 3109.052 of the Revised Code or 3465
otherwise issued in any proceeding for divorce, dissolution, 3466
legal separation, annulment, or the allocation of parental 3467
rights and responsibilities for the care of children, in any 3468
action or proceeding, other than a criminal, delinquency, child 3469
abuse, child neglect, or dependent child action or proceeding, 3470
that is brought by or against either parent who takes part in 3471
mediation in accordance with the order and that pertains to the 3472
mediation process, to any information discussed or presented in 3473
the mediation process, to the allocation of parental rights and 3474
responsibilities for the care of the parents' children, or to 3475
the awarding of parenting time rights in relation to their 3476
children; 3477

(I) A communications assistant, acting within the scope of 3478
the communication assistant's authority, when providing 3479
telecommunications relay service pursuant to section 4931.06 of 3480
the Revised Code or Title II of the "Communications Act of 3481
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 3482
communication made through a telecommunications relay service. 3483
Nothing in this section shall limit the obligation of a 3484
communications assistant to divulge information or testify when 3485
mandated by federal law or regulation or pursuant to subpoena in 3486
a criminal proceeding. 3487

Nothing in this section shall limit any immunity or 3488
privilege granted under federal law or regulation. 3489

(J) (1) A chiropractor in a civil proceeding concerning a 3490
communication made to the chiropractor by a patient in that 3491
relation or the chiropractor's advice to a patient, except as 3492
otherwise provided in this division. The testimonial privilege 3493
established under this division does not apply, and a 3494
chiropractor may testify or may be compelled to testify, in any 3495
civil action, in accordance with the discovery provisions of the 3496
Rules of Civil Procedure in connection with a civil action, or 3497
in connection with a claim under Chapter 4123. of the Revised 3498
Code, under any of the following circumstances: 3499

(a) If the patient or the guardian or other legal 3500
representative of the patient gives express consent. 3501

(b) If the patient is deceased, the spouse of the patient 3502
or the executor or administrator of the patient's estate gives 3503
express consent. 3504

(c) If a medical claim, dental claim, chiropractic claim, 3505
or optometric claim, as defined in section 2305.113 of the 3506
Revised Code, an action for wrongful death, any other type of 3507
civil action, or a claim under Chapter 4123. of the Revised Code 3508
is filed by the patient, the personal representative of the 3509
estate of the patient if deceased, or the patient's guardian or 3510
other legal representative. 3511

(2) If the testimonial privilege described in division (J) 3512
(1) of this section does not apply as provided in division (J) 3513
(1)(c) of this section, a chiropractor may be compelled to 3514
testify or to submit to discovery under the Rules of Civil 3515
Procedure only as to a communication made to the chiropractor by 3516

the patient in question in that relation, or the chiropractor's 3517
advice to the patient in question, that related causally or 3518
historically to physical or mental injuries that are relevant to 3519
issues in the medical claim, dental claim, chiropractic claim, 3520
or optometric claim, action for wrongful death, other civil 3521
action, or claim under Chapter 4123. of the Revised Code. 3522

(3) The testimonial privilege established under this 3523
division does not apply, and a chiropractor may testify or be 3524
compelled to testify, in any criminal action or administrative 3525
proceeding. 3526

(4) As used in this division, "communication" means 3527
acquiring, recording, or transmitting any information, in any 3528
manner, concerning any facts, opinions, or statements necessary 3529
to enable a chiropractor to diagnose, treat, or act for a 3530
patient. A communication may include, but is not limited to, any 3531
chiropractic, office, or hospital communication such as a 3532
record, chart, letter, memorandum, laboratory test and results, 3533
x-ray, photograph, financial statement, diagnosis, or prognosis. 3534

(K) (1) Except as provided under division (K) (2) of this 3535
section, a critical incident stress management team member 3536
concerning a communication received from an individual who 3537
receives crisis response services from the team member, or the 3538
team member's advice to the individual, during a debriefing 3539
session. 3540

(2) The testimonial privilege established under division 3541
(K) (1) of this section does not apply if any of the following 3542
are true: 3543

(a) The communication or advice indicates clear and 3544
present danger to the individual who receives crisis response 3545

services or to other persons. For purposes of this division, 3546
cases in which there are indications of present or past child 3547
abuse or neglect of the individual constitute a clear and 3548
present danger. 3549

(b) The individual who received crisis response services 3550
gives express consent to the testimony. 3551

(c) If the individual who received crisis response 3552
services is deceased, the surviving spouse or the executor or 3553
administrator of the estate of the deceased individual gives 3554
express consent. 3555

(d) The individual who received crisis response services 3556
voluntarily testifies, in which case the team member may be 3557
compelled to testify on the same subject. 3558

(e) The court in camera determines that the information 3559
communicated by the individual who received crisis response 3560
services is not germane to the relationship between the 3561
individual and the team member. 3562

(f) The communication or advice pertains or is related to 3563
any criminal act. 3564

(3) As used in division (K) of this section: 3565

(a) "Crisis response services" means consultation, risk 3566
assessment, referral, and on-site crisis intervention services 3567
provided by a critical incident stress management team to 3568
individuals affected by crisis or disaster. 3569

(b) "Critical incident stress management team member" or 3570
"team member" means an individual specially trained to provide 3571
crisis response services as a member of an organized community 3572
or local crisis response team that holds membership in the Ohio 3573

critical incident stress management network. 3574

(c) "Debriefing session" means a session at which crisis 3575
response services are rendered by a critical incident stress 3576
management team member during or after a crisis or disaster. 3577

(L) (1) Subject to division (L) (2) of this section and 3578
except as provided in division (L) (3) of this section, an 3579
employee assistance professional, concerning a communication 3580
made to the employee assistance professional by a client in the 3581
employee assistance professional's official capacity as an 3582
employee assistance professional. 3583

(2) Division (L) (1) of this section applies to an employee 3584
assistance professional who meets either or both of the 3585
following requirements: 3586

(a) Is certified by the employee assistance certification 3587
commission to engage in the employee assistance profession; 3588

(b) Has education, training, and experience in all of the 3589
following: 3590

(i) Providing workplace-based services designed to address 3591
employer and employee productivity issues; 3592

(ii) Providing assistance to employees and employees' 3593
dependents in identifying and finding the means to resolve 3594
personal problems that affect the employees or the employees' 3595
performance; 3596

(iii) Identifying and resolving productivity problems 3597
associated with an employee's concerns about any of the 3598
following matters: health, marriage, family, finances, substance 3599
abuse or other addiction, workplace, law, and emotional issues; 3600

(iv) Selecting and evaluating available community 3601

resources;	3602
(v) Making appropriate referrals;	3603
(vi) Local and national employee assistance agreements;	3604
(vii) Client confidentiality.	3605
(3) Division (L) (1) of this section does not apply to any of the following:	3606 3607
(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;	3608 3609 3610 3611 3612
(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;	3613 3614 3615
(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;	3616 3617 3618 3619
(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;	3620 3621 3622
(e) A civil or criminal malpractice action brought against the employee assistance professional;	3623 3624
(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;	3625 3626 3627
(g) When the testimonial privilege otherwise provided by	3628

division (L) (1) of this section is abrogated under law. 3629

Sec. 2701.07. When, in the opinion of the court, the 3630
business thereof so requires, each court of common pleas, court 3631
of appeals, and, in counties having at the last or any future 3632
federal census more than seventy thousand inhabitants, the 3633
probate court, may appoint one or more constables to preserve 3634
order, attend the assignment of cases in counties where more 3635
than two judges of the court of common pleas regularly hold 3636
court at the same time, and discharge such other duties as the 3637
court requires. When so directed by the court, each constable 3638
has the same powers as sheriffs to call and impanel jurors, ~~—~~ 3639
~~except in capital cases.~~ 3640

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of 3641
the Revised Code: 3642

(A) "Claimant" means both of the following categories of 3643
persons: 3644

(1) Any of the following persons who claim an award of 3645
reparations under sections 2743.51 to 2743.72 of the Revised 3646
Code: 3647

(a) A victim who was one of the following at the time of 3648
the criminally injurious conduct: 3649

(i) A resident of the United States; 3650

(ii) A resident of a foreign country the laws of which 3651
permit residents of this state to recover compensation as 3652
victims of offenses committed in that country. 3653

(b) A dependent of a deceased victim who is described in 3654
division (A) (1) (a) of this section; 3655

(c) A third person, other than a collateral source, who 3656

legally assumes or voluntarily pays the obligations of a victim, 3657
or of a dependent of a victim, who is described in division (A) 3658
(1)(a) of this section, which obligations are incurred as a 3659
result of the criminally injurious conduct that is the subject 3660
of the claim and may include, but are not limited to, medical or 3661
burial expenses; 3662

(d) A person who is authorized to act on behalf of any 3663
person who is described in division (A)(1)(a), (b), or (c) of 3664
this section; 3665

(e) The estate of a deceased victim who is described in 3666
division (A)(1)(a) of this section. 3667

(2) Any of the following persons who claim an award of 3668
reparations under sections 2743.51 to 2743.72 of the Revised 3669
Code: 3670

(a) A victim who had a permanent place of residence within 3671
this state at the time of the criminally injurious conduct and 3672
who, at the time of the criminally injurious conduct, complied 3673
with any one of the following: 3674

(i) Had a permanent place of employment in this state; 3675

(ii) Was a member of the regular armed forces of the 3676
United States or of the United States coast guard or was a full- 3677
time member of the Ohio organized militia or of the United 3678
States army reserve, naval reserve, or air force reserve; 3679

(iii) Was retired and receiving social security or any 3680
other retirement income; 3681

(iv) Was sixty years of age or older; 3682

(v) Was temporarily in another state for the purpose of 3683
receiving medical treatment; 3684

(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 advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available to the victim or claimant, from any of the following sources:	3714
(1) The offender;	3715
(2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;	3716
(3) Social security, medicare, and medicaid;	3717
(4) State-required, temporary, nonoccupational disability insurance;	3718
(5) Workers' compensation;	3719
(6) Wage continuation programs of any employer;	3720
(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;	3721
(8) A contract providing prepaid hospital and other health care services, or benefits for disability;	3722
(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;	3723
(10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.	3724

"Collateral source" does not include any money, or the 3741
monetary value of any property, that is subject to sections 3742
2969.01 to 2969.06 of the Revised Code or that is received as a 3743
benefit from the Ohio public safety officers death benefit fund 3744
created by section 742.62 of the Revised Code. 3745

(C) "Criminally injurious conduct" means one of the 3746
following: 3747

(1) For the purposes of any person described in division 3748
(A)(1) of this section, any conduct that occurs or is attempted 3749
in this state; poses a substantial threat of personal injury or 3750
death; and is punishable by fine, or imprisonment, ~~or death,~~ or 3751
would be so punishable but for the fact that the person engaging 3752
in the conduct lacked capacity to commit the crime under the 3753
laws of this state. Criminally injurious conduct does not 3754
include conduct arising out of the ownership, maintenance, or 3755
use of a motor vehicle, except when any of the following 3756
applies: 3757

(a) The person engaging in the conduct intended to cause 3758
personal injury or death; 3759

(b) The person engaging in the conduct was using the 3760
vehicle to flee immediately after committing a felony or an act 3761
that would constitute a felony but for the fact that the person 3762
engaging in the conduct lacked the capacity to commit the felony 3763
under the laws of this state; 3764

(c) The person engaging in the conduct was using the 3765
vehicle in a manner that constitutes an OVI violation; 3766

(d) The conduct occurred on or after July 25, 1990, and 3767
the person engaging in the conduct was using the vehicle in a 3768
manner that constitutes a violation of section 2903.08 of the 3769

Revised Code; 3770

(e) The person engaging in the conduct acted in a manner 3771
that caused serious physical harm to a person and that 3772
constituted a violation of section 4549.02 or 4549.021 of the 3773
Revised Code. 3774

(2) For the purposes of any person described in division 3775
(A) (2) of this section, any conduct that occurs or is attempted 3776
in another state, district, territory, or foreign country; poses 3777
a substantial threat of personal injury or death; and is 3778
punishable by fine, imprisonment, or death, or would be so 3779
punishable but for the fact that the person engaging in the 3780
conduct lacked capacity to commit the crime under the laws of 3781
the state, district, territory, or foreign country in which the 3782
conduct occurred or was attempted. Criminally injurious conduct 3783
does not include conduct arising out of the ownership, 3784
maintenance, or use of a motor vehicle, except when any of the 3785
following applies: 3786

(a) The person engaging in the conduct intended to cause 3787
personal injury or death; 3788

(b) The person engaging in the conduct was using the 3789
vehicle to flee immediately after committing a felony or an act 3790
that would constitute a felony but for the fact that the person 3791
engaging in the conduct lacked the capacity to commit the felony 3792
under the laws of the state, district, territory, or foreign 3793
country in which the conduct occurred or was attempted; 3794

(c) The person engaging in the conduct was using the 3795
vehicle in a manner that constitutes an OVI violation; 3796

(d) The conduct occurred on or after July 25, 1990, the 3797
person engaging in the conduct was using the vehicle in a manner 3798

that constitutes a violation of any law of the state, district, 3799
territory, or foreign country in which the conduct occurred, and 3800
that law is substantially similar to a violation of section 3801
2903.08 of the Revised Code; 3802

(e) The person engaging in the conduct acted in a manner 3803
that caused serious physical harm to a person and that 3804
constituted a violation of any law of the state, district, 3805
territory, or foreign country in which the conduct occurred, and 3806
that law is substantially similar to section 4549.02 or 4549.021 3807
of the Revised Code. 3808

(3) For the purposes of any person described in division 3809
(A) (1) or (2) of this section, terrorism that occurs within or 3810
outside the territorial jurisdiction of the United States. 3811

(D) "Dependent" means an individual wholly or partially 3812
dependent upon the victim for care and support, and includes a 3813
child of the victim born after the victim's death. 3814

(E) "Economic loss" means economic detriment consisting 3815
only of allowable expense, work loss, funeral expense, 3816
unemployment benefits loss, replacement services loss, cost of 3817
crime scene cleanup, and cost of evidence replacement. If 3818
criminally injurious conduct causes death, economic loss 3819
includes a dependent's economic loss and a dependent's 3820
replacement services loss. Noneconomic detriment is not economic 3821
loss; however, economic loss may be caused by pain and suffering 3822
or physical impairment. 3823

(F) (1) For a victim described in division (L) (1) of this 3824
section, "allowable expense" means reasonable charges incurred 3825
for reasonably needed products, services, and accommodations, 3826
including those for medical care, rehabilitation, rehabilitative 3827

occupational training, and other remedial treatment and care and 3828
including replacement costs for hearing aids; dentures, 3829
retainers, and other dental appliances; canes, walkers, and 3830
other mobility tools; and eyeglasses and other corrective 3831
lenses. It does not include that portion of a charge for a room 3832
in a hospital, clinic, convalescent home, nursing home, or any 3833
other institution engaged in providing nursing care and related 3834
services in excess of a reasonable and customary charge for 3835
semiprivate accommodations, unless accommodations other than 3836
semiprivate accommodations are medically required. 3837

(2) For a victim described in division (L)(2) of this 3838
section, "allowable expense" means reasonable charges incurred 3839
for psychiatric care or counseling reasonably needed as a result 3840
of the criminally injurious conduct. No other type of expense is 3841
compensable under section 2743.51 to 2743.72 of the Revised Code 3842
for a victim of that type. 3843

(3) For a victim described in division (L)(3) of this 3844
section, "allowable expense" means work loss and reasonable 3845
charges incurred for psychiatric care or counseling reasonably 3846
needed as a result of the criminally injurious conduct. No other 3847
type of expense is compensable under sections 2743.51 to 2743.72 3848
of the Revised Code for a victim of that type. 3849

(4) A family member of a victim who died as a proximate 3850
result of criminally injurious conduct may be reimbursed as an 3851
allowable expense through the victim's application for wages 3852
lost and travel expenses incurred in order to attend criminal 3853
justice proceedings arising from the criminally injurious 3854
conduct. The cumulative allowable expense for wages lost and 3855
travel expenses incurred by a family member to attend criminal 3856
justice proceedings shall not exceed five hundred dollars for 3857

each family member of the victim and two thousand dollars in the 3858
aggregate for all family members of the victim. 3859

(5) For a victim described in division (L)(1) of this 3860
section, "allowable expense" includes both of the following: 3861

(a) Reasonable expenses and fees necessary to obtain a 3862
guardian's bond pursuant to section 2109.04 of the Revised Code 3863
when the bond is required to pay an award to a fiduciary on 3864
behalf of a minor or other incompetent; 3865

(b) Attorney's fees not exceeding one thousand dollars, at 3866
a rate not exceeding one hundred dollars per hour, incurred to 3867
successfully obtain a restraining order, custody order, or other 3868
order to physically separate a victim from an offender. 3869
Attorney's fees for the services described in this division may 3870
include an amount for reasonable travel time incurred to attend 3871
court hearings, not exceeding three hours' round-trip for each 3872
court hearing, assessed at a rate not exceeding thirty dollars 3873
per hour. 3874

(G) "Work loss" means loss of income from work that the 3875
injured person would have performed if the person had not been 3876
injured and expenses reasonably incurred by the person to obtain 3877
services in lieu of those the person would have performed for 3878
income, reduced by any income from substitute work actually 3879
performed by the person, or by income the person would have 3880
earned in available appropriate substitute work that the person 3881
was capable of performing but unreasonably failed to undertake. 3882

(H) "Replacement services loss" means expenses reasonably 3883
incurred in obtaining ordinary and necessary services in lieu of 3884
those the injured person would have performed, not for income, 3885
but for the benefit of the person's self or family, if the 3886

person had not been injured. 3887

(I) "Dependent's economic loss" means loss after a 3888
victim's death of contributions of things of economic value to 3889
the victim's dependents, not including services they would have 3890
received from the victim if the victim had not suffered the 3891
fatal injury, less expenses of the dependents avoided by reason 3892
of the victim's death. If a minor child of a victim is adopted 3893
after the victim's death, the minor child continues after the 3894
adoption to incur a dependent's economic loss as a result of the 3895
victim's death. If the surviving spouse of a victim remarries, 3896
the surviving spouse continues after the remarriage to incur a 3897
dependent's economic loss as a result of the victim's death. 3898

(J) "Dependent's replacement services loss" means loss 3899
reasonably incurred by dependents after a victim's death in 3900
obtaining ordinary and necessary services in lieu of those the 3901
victim would have performed for their benefit if the victim had 3902
not suffered the fatal injury, less expenses of the dependents 3903
avoided by reason of the victim's death and not subtracted in 3904
calculating the dependent's economic loss. If a minor child of a 3905
victim is adopted after the victim's death, the minor child 3906
continues after the adoption to incur a dependent's replacement 3907
services loss as a result of the victim's death. If the 3908
surviving spouse of a victim remarries, the surviving spouse 3909
continues after the remarriage to incur a dependent's 3910
replacement services loss as a result of the victim's death. 3911

(K) "Noneconomic detriment" means pain, suffering, 3912
inconvenience, physical impairment, or other nonpecuniary 3913
damage. 3914

(L) "Victim" means one of the following: 3915

(1) A person who suffers personal injury or death as a result of any of the following:	3916 3917
(a) Criminally injurious conduct;	3918
(b) The good faith effort of any person to prevent criminally injurious conduct;	3919 3920
(c) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.	3921 3922
(2) A person who is an immediate family member of a victim of criminally injurious conduct that consists of a homicide, a sexual assault, domestic violence, or a severe and permanently incapacitating injury resulting in paraplegia or a similar life-altering condition, who requires psychiatric care or counseling as a result of the criminally injurious conduct;	3923 3924 3925 3926 3927 3928
(3) A person who suffers trauma so severe that it impedes or prohibits a person from participating in normal daily activities and who is either of the following:	3929 3930 3931
(a) A family member of a victim of criminally injurious conduct that consists of a homicide, or a family member of a victim who, as a result of criminally injurious conduct, has sustained a severe and permanently incapacitating injury resulting in paraplegia or a similar life-altering condition, and who can demonstrate either of the following by a preponderance of the evidence:	3932 3933 3934 3935 3936 3937 3938
(i) The person witnessed the criminally injurious conduct.	3939
(ii) The person arrived at the crime scene in its immediate aftermath.	3940 3941
(b) An immediate family member who is a caretaker of a dependent victim of criminally injurious conduct that consists	3942 3943

of a sexual assault. 3944

(M) "Contributory misconduct" means any conduct of the 3945
claimant or of the victim through whom the claimant claims an 3946
award of reparations that is unlawful or intentionally tortious 3947
and to which all of the following apply: 3948

(1) The conduct occurred at the time of the criminally 3949
injurious conduct that is the basis of the claim. 3950

(2) The conduct itself caused or posed a substantial and 3951
imminent threat of causing serious physical harm or death to 3952
another. 3953

(3) The conduct instigated or proximately caused the 3954
criminally injurious conduct that is the basis of the claim. 3955

(N) (1) "Funeral expense" means any reasonable charges that 3956
are not in excess of seven thousand five hundred dollars per 3957
funeral and that are incurred for expenses directly related to a 3958
victim's funeral, cremation, or burial and any wages lost or 3959
travel expenses incurred by a family member of a victim in order 3960
to attend the victim's funeral, cremation, or burial. 3961

(2) An award for funeral expenses shall be applied first 3962
to expenses directly related to the victim's funeral, cremation, 3963
or burial. An award for wages lost or travel expenses incurred 3964
by a family member of the victim shall not exceed five hundred 3965
dollars for each family member and shall not exceed in the 3966
aggregate the difference between seven thousand five hundred 3967
dollars and expenses that are reimbursed by the program and that 3968
are directly related to the victim's funeral, cremation, or 3969
burial. 3970

(O) "Unemployment benefits loss" means a loss of 3971
unemployment benefits pursuant to Chapter 4141. of the Revised 3972

Code when the loss arises solely from the inability of a victim 3973
to meet the able to work, available for suitable work, or the 3974
actively seeking suitable work requirements of division (A) (4) 3975
(a) of section 4141.29 of the Revised Code. 3976

(P) "OVI violation" means any of the following: 3977

(1) A violation of section 4511.19 of the Revised Code, of 3978
any municipal ordinance prohibiting the operation of a vehicle 3979
while under the influence of alcohol, a drug of abuse, or a 3980
combination of them, or of any municipal ordinance prohibiting 3981
the operation of a vehicle with a prohibited concentration of 3982
alcohol, a controlled substance, or a metabolite of a controlled 3983
substance in the whole blood, blood serum or plasma, breath, or 3984
urine; 3985

(2) A violation of division (A) (1) of section 2903.06 of 3986
the Revised Code; 3987

(3) A violation of division (A) (2), (3), or (4) of section 3988
2903.06 of the Revised Code or of a municipal ordinance 3989
substantially similar to any of those divisions, if the offender 3990
was under the influence of alcohol, a drug of abuse, or a 3991
combination of them, at the time of the commission of the 3992
offense; 3993

(4) For purposes of any person described in division (A) 3994
(2) of this section, a violation of any law of the state, 3995
district, territory, or foreign country in which the criminally 3996
injurious conduct occurred, if that law is substantially similar 3997
to a violation described in division (P) (1) or (2) of this 3998
section or if that law is substantially similar to a violation 3999
described in division (P) (3) of this section and the offender 4000
was under the influence of alcohol, a drug of abuse, or a 4001

combination of them, at the time of the commission of the 4002
offense. 4003

(Q) "Pendency of the claim" for an original reparations 4004
application or supplemental reparations application means the 4005
period of time from the date the criminally injurious conduct 4006
upon which the application is based occurred until the date a 4007
final decision, order, or judgment concerning that original 4008
reparations application or supplemental reparations application 4009
is issued. 4010

(R) "Terrorism" means any activity to which all of the 4011
following apply: 4012

(1) The activity involves a violent act or an act that is 4013
dangerous to human life. 4014

(2) The act described in division (R)(1) of this section 4015
is committed within the territorial jurisdiction of the United 4016
States and is a violation of the criminal laws of the United 4017
States, this state, or any other state or the act described in 4018
division (R)(1) of this section is committed outside the 4019
territorial jurisdiction of the United States and would be a 4020
violation of the criminal laws of the United States, this state, 4021
or any other state if committed within the territorial 4022
jurisdiction of the United States. 4023

(3) The activity appears to be intended to do any of the 4024
following: 4025

(a) Intimidate or coerce a civilian population; 4026

(b) Influence the policy of any government by intimidation 4027
or coercion; 4028

(c) Affect the conduct of any government by assassination 4029

or kidnapping. 4030

(4) The activity occurs primarily outside the territorial 4031
jurisdiction of the United States or transcends the national 4032
boundaries of the United States in terms of the means by which 4033
the activity is accomplished, the person or persons that the 4034
activity appears intended to intimidate or coerce, or the area 4035
or locale in which the perpetrator or perpetrators of the 4036
activity operate or seek asylum. 4037

(S) "Transcends the national boundaries of the United 4038
States" means occurring outside the territorial jurisdiction of 4039
the United States in addition to occurring within the 4040
territorial jurisdiction of the United States. 4041

(T) "Cost of crime scene cleanup" means any of the 4042
following: 4043

(1) The replacement cost for items of clothing removed 4044
from a victim in order to make an assessment of possible 4045
physical harm or to treat physical harm; 4046

(2) Reasonable and necessary costs of cleaning the scene 4047
and repairing, for the purpose of personal security, property 4048
damaged at the scene where the criminally injurious conduct 4049
occurred, not to exceed seven hundred fifty dollars in the 4050
aggregate per claim. 4051

(U) "Cost of evidence replacement" means costs for 4052
replacement of property confiscated for evidentiary purposes 4053
related to the criminally injurious conduct, not to exceed seven 4054
hundred fifty dollars in the aggregate per claim. 4055

(V) "Provider" means any person who provides a victim or 4056
claimant with a product, service, or accommodations that are an 4057
allowable expense or a funeral expense. 4058

(W) "Immediate family member" means an individual who 4059
resided in the same permanent household as a victim at the time 4060
of the criminally injurious conduct and who is related to the 4061
victim by affinity or consanguinity. 4062

(X) "Family member" means an individual who is related to 4063
a victim by affinity or consanguinity. 4064

Sec. 2901.02. As used in the Revised Code: 4065

(A) Offenses include aggravated murder, murder, felonies 4066
of the first, second, third, fourth, and fifth degree, 4067
misdemeanors of the first, second, third, and fourth degree, 4068
minor misdemeanors, and offenses not specifically classified. 4069

~~(B) Aggravated murder when the indictment or the count in 4070
the indictment charging aggravated murder contains one or more 4071
specifications of aggravating circumstances listed in division 4072
(A) of section 2929.04 of Revised Code, and any other offense 4073
for which death may be imposed as a penalty, is a capital 4074
offense. 4075~~

~~(C) Aggravated murder and murder are felonies. 4076~~

~~(D) (C) Regardless of the penalty that may be imposed, any 4077
offense specifically classified as a felony is a felony, and any 4078
offense specifically classified as a misdemeanor is a 4079
misdemeanor. 4080~~

~~(E) (D) Any offense not specifically classified is a 4081
felony if imprisonment for more than one year may be imposed as 4082
a penalty. 4083~~

~~(F) (E) Any offense not specifically classified is a 4084
misdemeanor if imprisonment for not more than one year may be 4085
imposed as a penalty. 4086~~

~~(G)~~—(F) Any offense not specifically classified is a minor 4087
misdemeanor if the only penalty that may be imposed is one of 4088
the following: 4089

(1) For an offense committed prior to January 1, 2004, a 4090
fine not exceeding one hundred dollars; 4091

(2) For an offense committed on or after January 1, 2004, 4092
a fine not exceeding one hundred fifty dollars, community 4093
service under division (D) of section 2929.27 of the Revised 4094
Code, or a financial sanction other than a fine under section 4095
2929.28 of the Revised Code. 4096

Sec. 2909.24. (A) No person shall commit a specified 4097
offense with purpose to do any of the following: 4098

(1) Intimidate or coerce a civilian population; 4099

(2) Influence the policy of any government by intimidation 4100
or coercion; 4101

(3) Affect the conduct of any government by the specified 4102
offense. 4103

(B) (1) Whoever violates this section is guilty of 4104
terrorism. 4105

(2) Except as otherwise provided in divisions (B) (3) and 4106
(4) of this section, terrorism is an offense one degree higher 4107
than the most serious underlying specified offense the defendant 4108
committed. 4109

(3) Except as provided in division (B) (6) of this section, 4110
if the most serious underlying specified offense the defendant 4111
committed is a felony of the first degree or murder, the person 4112
shall be sentenced to life imprisonment without parole. 4113

(4) Except as provided in division (B)(6) of this section, 4114
if the most serious underlying specified offense the defendant 4115
committed is aggravated murder, the offender shall be sentenced 4116
to life imprisonment without parole ~~or death pursuant to~~ 4117
~~sections 2929.02 to 2929.06 of the Revised Code.~~ 4118

(5) Section 2909.25 of the Revised Code applies regarding 4119
an offender who is convicted of or pleads guilty to a violation 4120
of this section. 4121

(6) If a person commits a violation of this section, if 4122
the most serious underlying specified offense the offender 4123
committed is aggravated murder, murder, or a felony of the first 4124
degree, and if the offender was under eighteen years of age at 4125
the time of the violation, the offender shall not be sentenced 4126
to life imprisonment without parole, but instead the offender 4127
shall be sentenced to an indefinite prison term of thirty years 4128
to life. 4129

Sec. 2929.02. (A) ~~Whoever~~ Except as provided in division 4130
(C) of this section, whoever is convicted of or pleads guilty to 4131
aggravated murder in violation of section 2903.01 of the Revised 4132
Code shall ~~suffer death or be imprisoned for life, as determined~~ 4133
~~pursuant to sections 2929.022, 2929.03, and 2929.04 of the~~ 4134
~~Revised Codesentenced to life imprisonment with parole~~ 4135
eligibility after serving twenty full years of imprisonment, 4136
life imprisonment with parole eligibility after serving thirty 4137
full years of imprisonment, or life imprisonment without parole, 4138
except that no person who is not found to have been eighteen 4139
years of age or older at the time of the commission of the 4140
offense shall be imprisoned for life without parole, ~~and that no~~ 4141
~~person who raises the matter of age pursuant to section 2929.023~~ 4142
~~of the Revised Code and who is not found to have been eighteen~~ 4143

~~years of age or older at the time of the commission of the~~ 4144
~~offense and no person who raises the matter of the person's~~ 4145
~~serious mental illness at the time of the alleged commission of~~ 4146
~~the offense pursuant to section 2929.025 of the Revised Code and~~ 4147
~~is found under that section to be ineligible for a sentence of~~ 4148
~~death due to serious mental illness shall suffer death. In~~ 4149
~~addition, the offender may be fined an amount fixed by the~~ 4150
~~court, but not more than twenty five thousand dollars.~~ 4151

~~(B)(1)~~ (B) Except as otherwise provided in division ~~(B)(2)~~ 4152
~~or (3)~~ (C) of this section, whoever is convicted of or pleads 4153
guilty to murder in violation of section 2903.02 of the Revised 4154
Code shall be imprisoned for an indefinite term of fifteen years 4155
to life. 4156

~~(2)~~ (C)(1) Except as otherwise provided in division ~~(B)(3)~~ 4157
(C)(2) of this section, if a person is convicted of or pleads 4158
guilty to aggravated murder in violation of section 2903.01 of 4159
the Revised Code or to murder in violation of section 2903.02 of 4160
the Revised Code, the victim of the offense was less than 4161
thirteen years of age, and the offender also is convicted of or 4162
pleads guilty to a sexual motivation specification that was 4163
included in the indictment, count in the indictment, or 4164
information charging the offense, the court shall impose an 4165
indefinite prison term of thirty years to life pursuant to 4166
division (B)(3) of section 2971.03 of the Revised Code. 4167

~~(3)~~ (2) Except as otherwise provided in this division, if a 4168
person is convicted of or pleads guilty to aggravated murder in 4169
violation of section 2903.01 of the Revised Code or to murder in 4170
violation of section 2903.02 of the Revised Code and also is 4171
convicted of or pleads guilty to a sexual motivation 4172
specification and a sexually violent predator specification that 4173

were included in the indictment, count in the indictment, or 4174
information that charged the murder, the court shall impose upon 4175
the offender a term of life imprisonment without parole that 4176
shall be served pursuant to section 2971.03 of the Revised Code. 4177
If the offender was under eighteen years of age at the time of 4178
the offense, the court shall impose an indefinite prison term of 4179
thirty years to life. 4180

~~(4)~~ (D) In addition to the prison term imposed under this 4181
section, the offender may be fined an amount fixed by the court, 4182
but not more than twenty-five thousand dollars for aggravated 4183
murder or fifteen thousand dollars for murder. 4184

~~(C)~~ (E) If an offender receives or received a sentence of 4185
life imprisonment without parole, a sentence of life 4186
imprisonment, a definite sentence, or a sentence to an 4187
indefinite prison term under this chapter for an aggravated 4188
murder or murder that was committed when the offender was under 4189
eighteen years of age, the offender's parole eligibility shall 4190
be determined under section 2967.132 of the Revised Code. 4191

~~(D)~~ (F) The court shall not impose a fine or fines for 4192
aggravated murder or murder ~~which~~ that, in the aggregate and to 4193
the extent not suspended by the court, exceeds the amount ~~which~~ 4194
that the offender is or will be able to pay by the method and 4195
within the time allowed without undue hardship to the offender 4196
or to the dependents of the offender, or will prevent the 4197
offender from making reparation for the victim's wrongful death. 4198

~~(E)~~ ~~(1)~~ (G) (1) In addition to any other sanctions imposed 4199
for a violation of section 2903.01 or 2903.02 of the Revised 4200
Code, if the offender used a motor vehicle as the means to 4201
commit the violation, the court shall impose upon the offender a 4202
class two suspension of the offender's driver's license, 4203

commercial driver's license, temporary instruction permit, 4204
probationary license, or nonresident operating privilege as 4205
specified in division (A) (2) of section 4510.02 of the Revised 4206
Code. 4207

(2) As used in division ~~(E)~~ (G) of this section, "motor 4208
vehicle" has the same meaning as in section 4501.01 of the 4209
Revised Code. 4210

Sec. 2929.13. (A) Except as provided in division (E), (F), 4211
or (G) of this section and unless a specific sanction is 4212
required to be imposed or is precluded from being imposed 4213
pursuant to law, a court that imposes a sentence upon an 4214
offender for a felony may impose any sanction or combination of 4215
sanctions on the offender that are provided in sections 2929.14 4216
to 2929.18 of the Revised Code. 4217

If the offender is eligible to be sentenced to community 4218
control sanctions, the court shall consider the appropriateness 4219
of imposing a financial sanction pursuant to section 2929.18 of 4220
the Revised Code or a sanction of community service pursuant to 4221
section 2929.17 of the Revised Code as the sole sanction for the 4222
offense. Except as otherwise provided in this division, if the 4223
court is required to impose a mandatory prison term for the 4224
offense for which sentence is being imposed, the court also 4225
shall impose any financial sanction pursuant to section 2929.18 4226
of the Revised Code that is required for the offense and may 4227
impose any other financial sanction pursuant to that section but 4228
may not impose any additional sanction or combination of 4229
sanctions under section 2929.16 or 2929.17 of the Revised Code. 4230

If the offender is being sentenced for a fourth degree 4231
felony OVI offense or for a third degree felony OVI offense, in 4232
addition to the mandatory term of local incarceration or the 4233

mandatory prison term required for the offense by division (G) 4234
(1) or (2) of this section, the court shall impose upon the 4235
offender a mandatory fine in accordance with division (B) (3) of 4236
section 2929.18 of the Revised Code and may impose whichever of 4237
the following is applicable: 4238

(1) For a fourth degree felony OVI offense for which 4239
sentence is imposed under division (G) (1) of this section, an 4240
additional community control sanction or combination of 4241
community control sanctions under section 2929.16 or 2929.17 of 4242
the Revised Code. If the court imposes upon the offender a 4243
community control sanction and the offender violates any 4244
condition of the community control sanction, the court may take 4245
any action prescribed in division (B) of section 2929.15 of the 4246
Revised Code relative to the offender, including imposing a 4247
prison term on the offender pursuant to that division. 4248

(2) For a third or fourth degree felony OVI offense for 4249
which sentence is imposed under division (G) (2) of this section, 4250
an additional prison term as described in division (B) (4) of 4251
section 2929.14 of the Revised Code or a community control 4252
sanction as described in division (G) (2) of this section. 4253

(B) (1) (a) Except as provided in division (B) (1) (b) of this 4254
section, if an offender is convicted of or pleads guilty to a 4255
felony of the fourth or fifth degree that is not an offense of 4256
violence or that is a qualifying assault offense, the court 4257
shall sentence the offender to a community control sanction or 4258
combination of community control sanctions if all of the 4259
following apply: 4260

(i) The offender previously has not been convicted of or 4261
pleaded guilty to a felony offense. 4262

(ii) The most serious charge against the offender at the 4263
time of sentencing is a felony of the fourth or fifth degree. 4264

(iii) The offender previously has not been convicted of or 4265
pleaded guilty to a misdemeanor offense of violence that the 4266
offender committed within two years prior to the offense for 4267
which sentence is being imposed. 4268

(b) The court has discretion to impose a prison term upon 4269
an offender who is convicted of or pleads guilty to a felony of 4270
the fourth or fifth degree that is not an offense of violence or 4271
that is a qualifying assault offense if any of the following 4272
apply: 4273

(i) The offender committed the offense while having a 4274
firearm on or about the offender's person or under the 4275
offender's control. 4276

(ii) If the offense is a qualifying assault offense, the 4277
offender caused serious physical harm to another person while 4278
committing the offense, and, if the offense is not a qualifying 4279
assault offense, the offender caused physical harm to another 4280
person while committing the offense. 4281

(iii) The offender violated a term of the conditions of 4282
bond as set by the court. 4283

(iv) The offense is a sex offense that is a fourth or 4284
fifth degree felony violation of any provision of Chapter 2907. 4285
of the Revised Code. 4286

(v) In committing the offense, the offender attempted to 4287
cause or made an actual threat of physical harm to a person with 4288
a deadly weapon. 4289

(vi) In committing the offense, the offender attempted to 4290

cause or made an actual threat of physical harm to a person, and 4291
the offender previously was convicted of an offense that caused 4292
physical harm to a person. 4293

(vii) The offender held a public office or position of 4294
trust, and the offense related to that office or position; the 4295
offender's position obliged the offender to prevent the offense 4296
or to bring those committing it to justice; or the offender's 4297
professional reputation or position facilitated the offense or 4298
was likely to influence the future conduct of others. 4299

(viii) The offender committed the offense for hire or as 4300
part of an organized criminal activity. 4301

(ix) The offender at the time of the offense was serving, 4302
or the offender previously had served, a prison term. 4303

(x) The offender committed the offense while under a 4304
community control sanction, while on probation, or while 4305
released from custody on a bond or personal recognizance. 4306

(c) A sentencing court may impose an additional penalty 4307
under division (B) of section 2929.15 of the Revised Code upon 4308
an offender sentenced to a community control sanction under 4309
division (B)(1)(a) of this section if the offender violates the 4310
conditions of the community control sanction, violates a law, or 4311
leaves the state without the permission of the court or the 4312
offender's probation officer. 4313

(2) If division (B)(1) of this section does not apply, 4314
except as provided in division (E), (F), or (G) of this section, 4315
in determining whether to impose a prison term as a sanction for 4316
a felony of the fourth or fifth degree, the sentencing court 4317
shall comply with the purposes and principles of sentencing 4318
under section 2929.11 of the Revised Code and with section 4319

2929.12 of the Revised Code. 4320

(C) Except as provided in division (D), (E), (F), or (G) 4321
of this section, in determining whether to impose a prison term 4322
as a sanction for a felony of the third degree or a felony drug 4323
offense that is a violation of a provision of Chapter 2925. of 4324
the Revised Code and that is specified as being subject to this 4325
division for purposes of sentencing, the sentencing court shall 4326
comply with the purposes and principles of sentencing under 4327
section 2929.11 of the Revised Code and with section 2929.12 of 4328
the Revised Code. 4329

(D) (1) Except as provided in division (E) or (F) of this 4330
section, for a felony of the first or second degree, for a 4331
felony drug offense that is a violation of any provision of 4332
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4333
presumption in favor of a prison term is specified as being 4334
applicable, and for a violation of division (A) (4) or (B) of 4335
section 2907.05 of the Revised Code for which a presumption in 4336
favor of a prison term is specified as being applicable, it is 4337
presumed that a prison term is necessary in order to comply with 4338
the purposes and principles of sentencing under section 2929.11 4339
of the Revised Code. Division (D) (2) of this section does not 4340
apply to a presumption established under this division for a 4341
violation of division (A) (4) of section 2907.05 of the Revised 4342
Code. 4343

(2) Notwithstanding the presumption established under 4344
division (D) (1) of this section for the offenses listed in that 4345
division other than a violation of division (A) (4) or (B) of 4346
section 2907.05 of the Revised Code, the sentencing court may 4347
impose a community control sanction or a combination of 4348
community control sanctions instead of a prison term on an 4349

offender for a felony of the first or second degree or for a 4350
felony drug offense that is a violation of any provision of 4351
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4352
presumption in favor of a prison term is specified as being 4353
applicable if it makes both of the following findings: 4354

(a) A community control sanction or a combination of 4355
community control sanctions would adequately punish the offender 4356
and protect the public from future crime, because the applicable 4357
factors under section 2929.12 of the Revised Code indicating a 4358
lesser likelihood of recidivism outweigh the applicable factors 4359
under that section indicating a greater likelihood of 4360
recidivism. 4361

(b) A community control sanction or a combination of 4362
community control sanctions would not demean the seriousness of 4363
the offense, because one or more factors under section 2929.12 4364
of the Revised Code that indicate that the offender's conduct 4365
was less serious than conduct normally constituting the offense 4366
are applicable, and they outweigh the applicable factors under 4367
that section that indicate that the offender's conduct was more 4368
serious than conduct normally constituting the offense. 4369

(E) (1) Except as provided in division (F) of this section, 4370
for any drug offense that is a violation of any provision of 4371
Chapter 2925. of the Revised Code and that is a felony of the 4372
third, fourth, or fifth degree, the applicability of a 4373
presumption under division (D) of this section in favor of a 4374
prison term or of division (B) or (C) of this section in 4375
determining whether to impose a prison term for the offense 4376
shall be determined as specified in section 2925.02, 2925.03, 4377
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 4378
2925.36, or 2925.37 of the Revised Code, whichever is applicable 4379

regarding the violation. 4380

(2) If an offender who was convicted of or pleaded guilty 4381
to a felony violates the conditions of a community control 4382
sanction imposed for the offense solely by reason of producing 4383
positive results on a drug test, the court, as punishment for 4384
the violation of the sanction, shall not order that the offender 4385
be imprisoned unless the court determines on the record either 4386
of the following: 4387

(a) The offender had been ordered as a sanction for the 4388
felony to participate in a drug treatment program, in a drug 4389
education program, or in narcotics anonymous or a similar 4390
program, and the offender continued to use illegal drugs after a 4391
reasonable period of participation in the program. 4392

(b) The imprisonment of the offender for the violation is 4393
consistent with the purposes and principles of sentencing set 4394
forth in section 2929.11 of the Revised Code. 4395

(3) A court that sentences an offender for a drug abuse 4396
offense that is a felony of the third, fourth, or fifth degree 4397
may require that the offender be assessed by a properly 4398
credentialed professional within a specified period of time. The 4399
court shall require the professional to file a written 4400
assessment of the offender with the court. If the offender is 4401
eligible for a community control sanction and after considering 4402
the written assessment, the court may impose a community control 4403
sanction that includes addiction services and recovery supports 4404
included in a community-based continuum of care established 4405
under section 340.032 of the Revised Code. If the court imposes 4406
addiction services and recovery supports as a community control 4407
sanction, the court shall direct the level and type of addiction 4408
services and recovery supports after considering the assessment 4409

and recommendation of community addiction services providers. 4410

(F) Notwithstanding divisions (A) to (E) of this section, 4411
the court shall impose a prison term or terms under ~~sections~~ 4412
section 2929.02 to 2929.06, section 2929.14, section 2929.142, 4413
or ~~section~~ 2971.03 of the Revised Code and except as 4414
specifically provided in section 2929.20, or section 2967.191 of 4415
the Revised Code or when parole is authorized for the offense 4416
under section 2967.13 of the Revised Code shall not reduce the 4417
term or terms pursuant to section 2929.20, division (A) (2) or 4418
(3) of section 2967.193 or 2967.194, or any other provision of 4419
Chapter 2967. or Chapter 5120. of the Revised Code for any of 4420
the following offenses: 4421

(1) Aggravated murder ~~when death is not imposed~~ or murder; 4422

(2) Any rape, regardless of whether force was involved and 4423
regardless of the age of the victim, or an attempt to commit 4424
rape if, had the offender completed the rape that was attempted, 4425
the offender would have been guilty of a violation of division 4426
(A) (1) (b) of section 2907.02 of the Revised Code and would be 4427
sentenced under section 2971.03 of the Revised Code; 4428

(3) Gross sexual imposition or sexual battery, if the 4429
victim is less than thirteen years of age and if any of the 4430
following applies: 4431

(a) Regarding gross sexual imposition, the offender 4432
previously was convicted of or pleaded guilty to rape, the 4433
former offense of felonious sexual penetration, gross sexual 4434
imposition, or sexual battery, and the victim of the previous 4435
offense was less than thirteen years of age; 4436

(b) Regarding gross sexual imposition, the offense was 4437
committed on or after August 3, 2006, and evidence other than 4438

the testimony of the victim was admitted in the case 4439
corroborating the violation. 4440

(c) Regarding sexual battery, either of the following 4441
applies: 4442

(i) The offense was committed prior to August 3, 2006, the 4443
offender previously was convicted of or pleaded guilty to rape, 4444
the former offense of felonious sexual penetration, or sexual 4445
battery, and the victim of the previous offense was less than 4446
thirteen years of age. 4447

(ii) The offense was committed on or after August 3, 2006. 4448

(4) A felony violation of section 2903.04, 2903.06, 4449
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 4450
or 2923.132 of the Revised Code if the section requires the 4451
imposition of a prison term; 4452

(5) A first, second, or third degree felony drug offense 4453
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 4454
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 4455
or 4729.99 of the Revised Code, whichever is applicable 4456
regarding the violation, requires the imposition of a mandatory 4457
prison term; 4458

(6) Any offense that is a first or second degree felony 4459
and that is not set forth in division (F)(1), (2), (3), or (4) 4460
of this section, if the offender previously was convicted of or 4461
pleaded guilty to aggravated murder, murder, any first or second 4462
degree felony, or an offense under an existing or former law of 4463
this state, another state, or the United States that is or was 4464
substantially equivalent to one of those offenses; 4465

(7) Any offense that is a third degree felony and either 4466
is a violation of section 2903.04 of the Revised Code or an 4467

attempt to commit a felony of the second degree that is an 4468
offense of violence and involved an attempt to cause serious 4469
physical harm to a person or that resulted in serious physical 4470
harm to a person if the offender previously was convicted of or 4471
pleaded guilty to any of the following offenses: 4472

(a) Aggravated murder, murder, involuntary manslaughter, 4473
rape, felonious sexual penetration as it existed under section 4474
2907.12 of the Revised Code prior to September 3, 1996, a felony 4475
of the first or second degree that resulted in the death of a 4476
person or in physical harm to a person, or complicity in or an 4477
attempt to commit any of those offenses; 4478

(b) An offense under an existing or former law of this 4479
state, another state, or the United States that is or was 4480
substantially equivalent to an offense listed in division (F) (7) 4481
(a) of this section that resulted in the death of a person or in 4482
physical harm to a person. 4483

(8) Any offense, other than a violation of section 2923.12 4484
of the Revised Code, that is a felony, if the offender had a 4485
firearm on or about the offender's person or under the 4486
offender's control while committing the felony, with respect to 4487
a portion of the sentence imposed pursuant to division (B) (1) (a) 4488
of section 2929.14 of the Revised Code for having the firearm; 4489

(9) Any offense of violence that is a felony, if the 4490
offender wore or carried body armor while committing the felony 4491
offense of violence, with respect to the portion of the sentence 4492
imposed pursuant to division (B) (1) (d) of section 2929.14 of the 4493
Revised Code for wearing or carrying the body armor; 4494

(10) Corrupt activity in violation of section 2923.32 of 4495
the Revised Code when the most serious offense in the pattern of 4496

corrupt activity that is the basis of the offense is a felony of 4497
the first degree; 4498

(11) Any violent sex offense or designated homicide, 4499
assault, or kidnapping offense if, in relation to that offense, 4500
the offender is adjudicated a sexually violent predator; 4501

(12) A violation of division (A) (1) or (2) of section 4502
2921.36 of the Revised Code, or a violation of division (C) of 4503
that section involving an item listed in division (A) (1) or (2) 4504
of that section, if the offender is an officer or employee of 4505
the department of rehabilitation and correction; 4506

(13) A violation of division (A) (1) or (2) of section 4507
2903.06 of the Revised Code if the victim of the offense is a 4508
peace officer, as defined in section 2935.01 of the Revised 4509
Code, or an investigator of the bureau of criminal 4510
identification and investigation, as defined in section 2903.11 4511
of the Revised Code, with respect to the portion of the sentence 4512
imposed pursuant to division (B) (5) of section 2929.14 of the 4513
Revised Code; 4514

(14) A violation of division (A) (1) or (2) of section 4515
2903.06 of the Revised Code if the offender has been convicted 4516
of or pleaded guilty to three or more violations of division (A) 4517
of section 4511.19 of the Revised Code or an equivalent offense, 4518
as defined in section 2941.1415 of the Revised Code, or three or 4519
more violations of any combination of those offenses, with 4520
respect to the portion of the sentence imposed pursuant to 4521
division (B) (6) of section 2929.14 of the Revised Code; 4522

(15) Kidnapping, in the circumstances specified in section 4523
2971.03 of the Revised Code and when no other provision of 4524
division (F) of this section applies; 4525

(16) Kidnapping, abduction, compelling prostitution, 4526
promoting prostitution, engaging in a pattern of corrupt 4527
activity, a violation of division (A) (1) or (2) of section 4528
2907.323 of the Revised Code that involves a minor, or 4529
endangering children in violation of division (B) (1), (2), (3), 4530
(4), or (5) of section 2919.22 of the Revised Code, if the 4531
offender is convicted of or pleads guilty to a specification as 4532
described in section 2941.1422 of the Revised Code that was 4533
included in the indictment, count in the indictment, or 4534
information charging the offense; 4535

(17) A felony violation of division (A) or (B) of section 4536
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 4537
that section, and division (D) (6) of that section, require the 4538
imposition of a prison term; 4539

(18) A felony violation of section 2903.11, 2903.12, or 4540
2903.13 of the Revised Code, if the victim of the offense was a 4541
woman that the offender knew was pregnant at the time of the 4542
violation, with respect to a portion of the sentence imposed 4543
pursuant to division (B) (8) of section 2929.14 of the Revised 4544
Code; 4545

(19) (a) Any violent felony offense if the offender is a 4546
violent career criminal and had a firearm on or about the 4547
offender's person or under the offender's control during the 4548
commission of the violent felony offense and displayed or 4549
brandished the firearm, indicated that the offender possessed a 4550
firearm, or used the firearm to facilitate the offense, with 4551
respect to the portion of the sentence imposed under division 4552
(K) of section 2929.14 of the Revised Code. 4553

(b) As used in division (F) (19) (a) of this section, 4554
"violent career criminal" and "violent felony offense" have the 4555

same meanings as in section 2923.132 of the Revised Code. 4556

(20) Any violation of division (A) (1) of section 2903.11 4557
of the Revised Code if the offender used an accelerant in 4558
committing the violation and the serious physical harm to 4559
another or another's unborn caused by the violation resulted in 4560
a permanent, serious disfigurement or permanent, substantial 4561
incapacity or any violation of division (A) (2) of that section 4562
if the offender used an accelerant in committing the violation, 4563
the violation caused physical harm to another or another's 4564
unborn, and the physical harm resulted in a permanent, serious 4565
disfigurement or permanent, substantial incapacity, with respect 4566
to a portion of the sentence imposed pursuant to division (B) (9) 4567
of section 2929.14 of the Revised Code. The provisions of this 4568
division and of division (D) (2) of section 2903.11, divisions 4569
(B) (9) and (C) (6) of section 2929.14, and section 2941.1425 of 4570
the Revised Code shall be known as "Judy's Law." 4571

(21) Any violation of division (A) of section 2903.11 of 4572
the Revised Code if the victim of the offense suffered permanent 4573
disabling harm as a result of the offense and the victim was 4574
under ten years of age at the time of the offense, with respect 4575
to a portion of the sentence imposed pursuant to division (B) 4576
(10) of section 2929.14 of the Revised Code. 4577

(22) A felony violation of section 2925.03, 2925.05, or 4578
2925.11 of the Revised Code, if the drug involved in the 4579
violation is a fentanyl-related compound or a compound, mixture, 4580
preparation, or substance containing a fentanyl-related compound 4581
and the offender is convicted of or pleads guilty to a 4582
specification of the type described in division (B) of section 4583
2941.1410 of the Revised Code that was included in the 4584
indictment, count in the indictment, or information charging the 4585

offense, with respect to the portion of the sentence imposed 4586
under division (B) (11) of section 2929.14 of the Revised Code. 4587

(G) Notwithstanding divisions (A) to (E) of this section, 4588
if an offender is being sentenced for a fourth degree felony OVI 4589
offense or for a third degree felony OVI offense, the court 4590
shall impose upon the offender a mandatory term of local 4591
incarceration or a mandatory prison term in accordance with the 4592
following: 4593

(1) If the offender is being sentenced for a fourth degree 4594
felony OVI offense and if the offender has not been convicted of 4595
and has not pleaded guilty to a specification of the type 4596
described in section 2941.1413 of the Revised Code, the court 4597
may impose upon the offender a mandatory term of local 4598
incarceration of sixty days or one hundred twenty days as 4599
specified in division (G) (1) (d) of section 4511.19 of the 4600
Revised Code. The court shall not reduce the term pursuant to 4601
section 2929.20, division (A) (2) or (3) of section 2967.193 or 4602
2967.194, or any other provision of the Revised Code. The court 4603
that imposes a mandatory term of local incarceration under this 4604
division shall specify whether the term is to be served in a 4605
jail, a community-based correctional facility, a halfway house, 4606
or an alternative residential facility, and the offender shall 4607
serve the term in the type of facility specified by the court. A 4608
mandatory term of local incarceration imposed under division (G) 4609
(1) of this section is not subject to any other Revised Code 4610
provision that pertains to a prison term except as provided in 4611
division (A) (1) of this section. 4612

(2) If the offender is being sentenced for a third degree 4613
felony OVI offense, or if the offender is being sentenced for a 4614
fourth degree felony OVI offense and the court does not impose a 4615

mandatory term of local incarceration under division (G) (1) of 4616
this section, the court shall impose upon the offender a 4617
mandatory prison term of one, two, three, four, or five years if 4618
the offender also is convicted of or also pleads guilty to a 4619
specification of the type described in section 2941.1413 of the 4620
Revised Code or shall impose upon the offender a mandatory 4621
prison term of sixty days or one hundred twenty days as 4622
specified in division (G) (1) (d) or (e) of section 4511.19 of the 4623
Revised Code if the offender has not been convicted of and has 4624
not pleaded guilty to a specification of that type. The court 4625
shall not reduce the term pursuant to section 2929.20, division 4626
(A) (2) or (3) of section 2967.193 or 2967.194, or any other 4627
provision of the Revised Code. The offender shall serve the 4628
one-, two-, three-, four-, or five-year mandatory prison term 4629
consecutively to and prior to the prison term imposed for the 4630
underlying offense and consecutively to any other mandatory 4631
prison term imposed in relation to the offense. In no case shall 4632
an offender who once has been sentenced to a mandatory term of 4633
local incarceration pursuant to division (G) (1) of this section 4634
for a fourth degree felony OVI offense be sentenced to another 4635
mandatory term of local incarceration under that division for 4636
any violation of division (A) of section 4511.19 of the Revised 4637
Code. In addition to the mandatory prison term described in 4638
division (G) (2) of this section, the court may sentence the 4639
offender to a community control sanction under section 2929.16 4640
or 2929.17 of the Revised Code, but the offender shall serve the 4641
prison term prior to serving the community control sanction. The 4642
department of rehabilitation and correction may place an 4643
offender sentenced to a mandatory prison term under this 4644
division in an intensive program prison established pursuant to 4645
section 5120.033 of the Revised Code if the department gave the 4646
sentencing judge prior notice of its intent to place the 4647

offender in an intensive program prison established under that 4648
section and if the judge did not notify the department that the 4649
judge disapproved the placement. Upon the establishment of the 4650
initial intensive program prison pursuant to section 5120.033 of 4651
the Revised Code that is privately operated and managed by a 4652
contractor pursuant to a contract entered into under section 4653
9.06 of the Revised Code, both of the following apply: 4654

(a) The department of rehabilitation and correction shall 4655
make a reasonable effort to ensure that a sufficient number of 4656
offenders sentenced to a mandatory prison term under this 4657
division are placed in the privately operated and managed prison 4658
so that the privately operated and managed prison has full 4659
occupancy. 4660

(b) Unless the privately operated and managed prison has 4661
full occupancy, the department of rehabilitation and correction 4662
shall not place any offender sentenced to a mandatory prison 4663
term under this division in any intensive program prison 4664
established pursuant to section 5120.033 of the Revised Code 4665
other than the privately operated and managed prison. 4666

(H) If an offender is being sentenced for a sexually 4667
oriented offense or child-victim oriented offense that is a 4668
felony committed on or after January 1, 1997, the judge shall 4669
require the offender to submit to a DNA specimen collection 4670
procedure pursuant to section 2901.07 of the Revised Code. 4671

(I) If an offender is being sentenced for a sexually 4672
oriented offense or a child-victim oriented offense committed on 4673
or after January 1, 1997, the judge shall include in the 4674
sentence a summary of the offender's duties imposed under 4675
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 4676
Code and the duration of the duties. The judge shall inform the 4677

offender, at the time of sentencing, of those duties and of 4678
their duration. If required under division (A) (2) of section 4679
2950.03 of the Revised Code, the judge shall perform the duties 4680
specified in that section, or, if required under division (A) (6) 4681
of section 2950.03 of the Revised Code, the judge shall perform 4682
the duties specified in that division. 4683

(J) (1) Except as provided in division (J) (2) of this 4684
section, when considering sentencing factors under this section 4685
in relation to an offender who is convicted of or pleads guilty 4686
to an attempt to commit an offense in violation of section 4687
2923.02 of the Revised Code, the sentencing court shall consider 4688
the factors applicable to the felony category of the violation 4689
of section 2923.02 of the Revised Code instead of the factors 4690
applicable to the felony category of the offense attempted. 4691

(2) When considering sentencing factors under this section 4692
in relation to an offender who is convicted of or pleads guilty 4693
to an attempt to commit a drug abuse offense for which the 4694
penalty is determined by the amount or number of unit doses of 4695
the controlled substance involved in the drug abuse offense, the 4696
sentencing court shall consider the factors applicable to the 4697
felony category that the drug abuse offense attempted would be 4698
if that drug abuse offense had been committed and had involved 4699
an amount or number of unit doses of the controlled substance 4700
that is within the next lower range of controlled substance 4701
amounts than was involved in the attempt. 4702

(K) As used in this section: 4703

(1) "Community addiction services provider" has the same 4704
meaning as in section 5119.01 of the Revised Code. 4705

(2) "Drug abuse offense" has the same meaning as in 4706

section 2925.01 of the Revised Code. 4707

(3) "Minor drug possession offense" has the same meaning 4708
as in section 2925.11 of the Revised Code. 4709

(4) "Qualifying assault offense" means a violation of 4710
section 2903.13 of the Revised Code for which the penalty 4711
provision in division (C) (8) (b) or (C) (9) (b) of that section 4712
applies. 4713

(L) At the time of sentencing an offender for any sexually 4714
oriented offense, if the offender is a tier III sex 4715
offender/child-victim offender relative to that offense and the 4716
offender does not serve a prison term or jail term, the court 4717
may require that the offender be monitored by means of a global 4718
positioning device. If the court requires such monitoring, the 4719
cost of monitoring shall be borne by the offender. If the 4720
offender is indigent, the cost of compliance shall be paid by 4721
the crime victims reparations fund. 4722

Sec. 2929.14. (A) Except as provided in division (B) (1), 4723
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (B) (9), 4724
(B) (10), (B) (11), (E), (G), (H), (J), or (K) of this section or 4725
in division (D) (6) of section 2919.25 of the Revised Code and 4726
except in relation to an offense for which a sentence of ~~death-~~ 4727
~~or~~-life imprisonment is to be imposed, if the court imposing a 4728
sentence upon an offender for a felony elects or is required to 4729
impose a prison term on the offender pursuant to this chapter, 4730
the court shall impose a prison term that shall be one of the 4731
following: 4732

(1) (a) For a felony of the first degree committed on or 4733
after March 22, 2019, the prison term shall be an indefinite 4734
prison term with a stated minimum term selected by the court of 4735

three, four, five, six, seven, eight, nine, ten, or eleven years 4736
and a maximum term that is determined pursuant to section 4737
2929.144 of the Revised Code, except that if the section that 4738
criminalizes the conduct constituting the felony specifies a 4739
different minimum term or penalty for the offense, the specific 4740
language of that section shall control in determining the 4741
minimum term or otherwise sentencing the offender but the 4742
minimum term or sentence imposed under that specific language 4743
shall be considered for purposes of the Revised Code as if it 4744
had been imposed under this division. 4745

(b) For a felony of the first degree committed prior to 4746
March 22, 2019, the prison term shall be a definite prison term 4747
of three, four, five, six, seven, eight, nine, ten, or eleven 4748
years. 4749

(2) (a) For a felony of the second degree committed on or 4750
after March 22, 2019, the prison term shall be an indefinite 4751
prison term with a stated minimum term selected by the court of 4752
two, three, four, five, six, seven, or eight years and a maximum 4753
term that is determined pursuant to section 2929.144 of the 4754
Revised Code, except that if the section that criminalizes the 4755
conduct constituting the felony specifies a different minimum 4756
term or penalty for the offense, the specific language of that 4757
section shall control in determining the minimum term or 4758
otherwise sentencing the offender but the minimum term or 4759
sentence imposed under that specific language shall be 4760
considered for purposes of the Revised Code as if it had been 4761
imposed under this division. 4762

(b) For a felony of the second degree committed prior to 4763
March 22, 2019, the prison term shall be a definite term of two, 4764
three, four, five, six, seven, or eight years. 4765

(3) (a) For a felony of the third degree that is a 4766
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 4767
2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised 4768
Code, that is a violation of division (A) of section 4511.19 of 4769
the Revised Code if the offender previously has been convicted 4770
of or pleaded guilty to a violation of division (A) of that 4771
section that was a felony, that is a violation of section 4772
2911.02 or 2911.12 of the Revised Code if the offender 4773
previously has been convicted of or pleaded guilty in two or 4774
more separate proceedings to two or more violations of section 4775
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, or 4776
that is a violation of division (B) of section 2921.331 of the 4777
Revised Code if division (C) (5) of that section applies, the 4778
prison term shall be a definite term of twelve, eighteen, 4779
twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty- 4780
four, or sixty months. 4781

(b) For a felony of the third degree that is not an 4782
offense for which division (A) (3) (a) of this section applies, 4783
the prison term shall be a definite term of nine, twelve, 4784
eighteen, twenty-four, thirty, or thirty-six months. 4785

(4) For a felony of the fourth degree, the prison term 4786
shall be a definite term of six, seven, eight, nine, ten, 4787
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 4788
or eighteen months. 4789

(5) For a felony of the fifth degree, the prison term 4790
shall be a definite term of six, seven, eight, nine, ten, 4791
eleven, or twelve months. 4792

(B) (1) (a) Except as provided in division (B) (1) (e) of this 4793
section, if an offender who is convicted of or pleads guilty to 4794
a felony also is convicted of or pleads guilty to a 4795

specification of the type described in section 2941.141, 4796
2941.144, or 2941.145 of the Revised Code, the court shall 4797
impose on the offender one of the following prison terms: 4798

(i) A prison term of six years if the specification is of 4799
the type described in division (A) of section 2941.144 of the 4800
Revised Code that charges the offender with having a firearm 4801
that is an automatic firearm or that was equipped with a firearm 4802
muffler or suppressor on or about the offender's person or under 4803
the offender's control while committing the offense; 4804

(ii) A prison term of three years if the specification is 4805
of the type described in division (A) of section 2941.145 of the 4806
Revised Code that charges the offender with having a firearm on 4807
or about the offender's person or under the offender's control 4808
while committing the offense and displaying the firearm, 4809
brandishing the firearm, indicating that the offender possessed 4810
the firearm, or using it to facilitate the offense; 4811

(iii) A prison term of one year if the specification is of 4812
the type described in division (A) of section 2941.141 of the 4813
Revised Code that charges the offender with having a firearm on 4814
or about the offender's person or under the offender's control 4815
while committing the offense; 4816

(iv) A prison term of nine years if the specification is 4817
of the type described in division (D) of section 2941.144 of the 4818
Revised Code that charges the offender with having a firearm 4819
that is an automatic firearm or that was equipped with a firearm 4820
muffler or suppressor on or about the offender's person or under 4821
the offender's control while committing the offense and 4822
specifies that the offender previously has been convicted of or 4823
pleaded guilty to a specification of the type described in 4824
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4825

the Revised Code; 4826

(v) A prison term of fifty-four months if the 4827
specification is of the type described in division (D) of 4828
section 2941.145 of the Revised Code that charges the offender 4829
with having a firearm on or about the offender's person or under 4830
the offender's control while committing the offense and 4831
displaying the firearm, brandishing the firearm, indicating that 4832
the offender possessed the firearm, or using the firearm to 4833
facilitate the offense and that the offender previously has been 4834
convicted of or pleaded guilty to a specification of the type 4835
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 4836
2941.1412 of the Revised Code; 4837

(vi) A prison term of eighteen months if the specification 4838
is of the type described in division (D) of section 2941.141 of 4839
the Revised Code that charges the offender with having a firearm 4840
on or about the offender's person or under the offender's 4841
control while committing the offense and that the offender 4842
previously has been convicted of or pleaded guilty to a 4843
specification of the type described in section 2941.141, 4844
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 4845

(b) If a court imposes a prison term on an offender under 4846
division (B)(1)(a) of this section, the prison term shall not be 4847
reduced pursuant to section 2929.20, division (A)(2) or (3) of 4848
section 2967.193 or 2967.194, or any other provision of Chapter 4849
2967. or Chapter 5120. of the Revised Code. Except as provided 4850
in division (B)(1)(g) of this section, a court shall not impose 4851
more than one prison term on an offender under division (B)(1) 4852
(a) of this section for felonies committed as part of the same 4853
act or transaction. 4854

(c)(i) Except as provided in division (B)(1)(e) of this 4855

section, if an offender who is convicted of or pleads guilty to 4856
a violation of section 2923.161 of the Revised Code or to a 4857
felony that includes, as an essential element, purposely or 4858
knowingly causing or attempting to cause the death of or 4859
physical harm to another, also is convicted of or pleads guilty 4860
to a specification of the type described in division (A) of 4861
section 2941.146 of the Revised Code that charges the offender 4862
with committing the offense by discharging a firearm from a 4863
motor vehicle other than a manufactured home, the court, after 4864
imposing a prison term on the offender for the violation of 4865
section 2923.161 of the Revised Code or for the other felony 4866
offense under division (A), (B) (2), or (B) (3) of this section, 4867
shall impose an additional prison term of five years upon the 4868
offender that shall not be reduced pursuant to section 2929.20, 4869
division (A) (2) or (3) of section 2967.193 or 2967.194, or any 4870
other provision of Chapter 2967. or Chapter 5120. of the Revised 4871
Code. 4872

(ii) Except as provided in division (B) (1) (e) of this 4873
section, if an offender who is convicted of or pleads guilty to 4874
a violation of section 2923.161 of the Revised Code or to a 4875
felony that includes, as an essential element, purposely or 4876
knowingly causing or attempting to cause the death of or 4877
physical harm to another, also is convicted of or pleads guilty 4878
to a specification of the type described in division (C) of 4879
section 2941.146 of the Revised Code that charges the offender 4880
with committing the offense by discharging a firearm from a 4881
motor vehicle other than a manufactured home and that the 4882
offender previously has been convicted of or pleaded guilty to a 4883
specification of the type described in section 2941.141, 4884
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 4885
the court, after imposing a prison term on the offender for the 4886

violation of section 2923.161 of the Revised Code or for the 4887
other felony offense under division (A), (B) (2), or (3) of this 4888
section, shall impose an additional prison term of ninety months 4889
upon the offender that shall not be reduced pursuant to section 4890
2929.20, division (A) (2) or (3) of section 2967.193 or 2967.194, 4891
or any other provision of Chapter 2967. or Chapter 5120. of the 4892
Revised Code. 4893

(iii) A court shall not impose more than one additional 4894
prison term on an offender under division (B) (1) (c) of this 4895
section for felonies committed as part of the same act or 4896
transaction. If a court imposes an additional prison term on an 4897
offender under division (B) (1) (c) of this section relative to an 4898
offense, the court also shall impose a prison term under 4899
division (B) (1) (a) of this section relative to the same offense, 4900
provided the criteria specified in that division for imposing an 4901
additional prison term are satisfied relative to the offender 4902
and the offense. 4903

(d) If an offender who is convicted of or pleads guilty to 4904
an offense of violence that is a felony also is convicted of or 4905
pleads guilty to a specification of the type described in 4906
section 2941.1411 of the Revised Code that charges the offender 4907
with wearing or carrying body armor while committing the felony 4908
offense of violence, the court shall impose on the offender an 4909
additional prison term of two years. The prison term so imposed 4910
shall not be reduced pursuant to section 2929.20, division (A) 4911
(2) or (3) of section 2967.193 or 2967.194, or any other 4912
provision of Chapter 2967. or Chapter 5120. of the Revised Code. 4913
A court shall not impose more than one prison term on an 4914
offender under division (B) (1) (d) of this section for felonies 4915
committed as part of the same act or transaction. If a court 4916
imposes an additional prison term under division (B) (1) (a) or 4917

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

(e) The court shall not impose any of the prison terms described in division (B) (1) (a) of this section or any of the additional prison terms described in division (B) (1) (c) of this section upon an offender for a violation of section 2923.12 or 2923.123 of the Revised Code. The court shall not impose any of the prison terms described in division (B) (1) (a) or (b) of this section upon an offender for a violation of section 2923.122 that involves a deadly weapon that is a firearm other than a dangerous ordnance, section 2923.16, or section 2923.121 of the Revised Code. The court shall not impose any of the prison terms described in division (B) (1) (a) of this section or any of the additional prison terms described in division (B) (1) (c) of this section upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply:

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

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

(f) (i) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in division (A) of section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer,

as defined in section 2941.1412 of the Revised Code, the court, 4948
after imposing a prison term on the offender for the felony 4949
offense under division (A), (B) (2), or (B) (3) of this section, 4950
shall impose an additional prison term of seven years upon the 4951
offender that shall not be reduced pursuant to section 2929.20, 4952
division (A) (2) or (3) of section 2967.193 or 2967.194, or any 4953
other provision of Chapter 2967. or Chapter 5120. of the Revised 4954
Code. 4955

(ii) If an offender is convicted of or pleads guilty to a 4956
felony that includes, as an essential element, causing or 4957
attempting to cause the death of or physical harm to another and 4958
also is convicted of or pleads guilty to a specification of the 4959
type described in division (B) of section 2941.1412 of the 4960
Revised Code that charges the offender with committing the 4961
offense by discharging a firearm at a peace officer, as defined 4962
in section 2935.01 of the Revised Code, or a corrections 4963
officer, as defined in section 2941.1412 of the Revised Code, 4964
and that the offender previously has been convicted of or 4965
pleaded guilty to a specification of the type described in 4966
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 4967
the Revised Code, the court, after imposing a prison term on the 4968
offender for the felony offense under division (A), (B) (2), or 4969
(3) of this section, shall impose an additional prison term of 4970
one hundred twenty-six months upon the offender that shall not 4971
be reduced pursuant to section 2929.20, division (A) (2) or (3) 4972
of section 2967.193 or 2967.194, or any other provision of 4973
Chapter 2967. or 5120. of the Revised Code. 4974

(iii) If an offender is convicted of or pleads guilty to 4975
two or more felonies that include, as an essential element, 4976
causing or attempting to cause the death or physical harm to 4977
another and also is convicted of or pleads guilty to a 4978

specification of the type described under division (B) (1) (f) of 4979
this section in connection with two or more of the felonies of 4980
which the offender is convicted or to which the offender pleads 4981
guilty, the sentencing court shall impose on the offender the 4982
prison term specified under division (B) (1) (f) of this section 4983
for each of two of the specifications of which the offender is 4984
convicted or to which the offender pleads guilty and, in its 4985
discretion, also may impose on the offender the prison term 4986
specified under that division for any or all of the remaining 4987
specifications. If a court imposes an additional prison term on 4988
an offender under division (B) (1) (f) of this section relative to 4989
an offense, the court shall not impose a prison term under 4990
division (B) (1) (a) or (c) of this section relative to the same 4991
offense. 4992

(g) If an offender is convicted of or pleads guilty to two 4993
or more felonies, if one or more of those felonies are 4994
aggravated murder, murder, attempted aggravated murder, 4995
attempted murder, aggravated robbery, felonious assault, or 4996
rape, and if the offender is convicted of or pleads guilty to a 4997
specification of the type described under division (B) (1) (a) of 4998
this section in connection with two or more of the felonies, the 4999
sentencing court shall impose on the offender the prison term 5000
specified under division (B) (1) (a) of this section for each of 5001
the two most serious specifications of which the offender is 5002
convicted or to which the offender pleads guilty and, in its 5003
discretion, also may impose on the offender the prison term 5004
specified under that division for any or all of the remaining 5005
specifications. 5006

(2) (a) If division (B) (2) (b) of this section does not 5007
apply, the court may impose on an offender, in addition to the 5008
longest prison term authorized or required for the offense or, 5009

for offenses for which division (A) (1) (a) or (2) (a) of this 5010
section applies, in addition to the longest minimum prison term 5011
authorized or required for the offense, an additional definite 5012
prison term of one, two, three, four, five, six, seven, eight, 5013
nine, or ten years if all of the following criteria are met: 5014

(i) The offender is convicted of or pleads guilty to a 5015
specification of the type described in section 2941.149 of the 5016
Revised Code that the offender is a repeat violent offender. 5017

(ii) The offense of which the offender currently is 5018
convicted or to which the offender currently pleads guilty is 5019
aggravated murder and the court does not impose a sentence of 5020
~~death or~~ life imprisonment without parole, murder, terrorism and 5021
the court does not impose a sentence of life imprisonment 5022
without parole, any felony of the first degree that is an 5023
offense of violence and the court does not impose a sentence of 5024
life imprisonment without parole, or any felony of the second 5025
degree that is an offense of violence and the trier of fact 5026
finds that the offense involved an attempt to cause or a threat 5027
to cause serious physical harm to a person or resulted in 5028
serious physical harm to a person. 5029

(iii) The court imposes the longest prison term for the 5030
offense or the longest minimum prison term for the offense, 5031
whichever is applicable, that is not life imprisonment without 5032
parole. 5033

(iv) The court finds that the prison terms imposed 5034
pursuant to division (B) (2) (a) (iii) of this section and, if 5035
applicable, division (B) (1) or (3) of this section are 5036
inadequate to punish the offender and protect the public from 5037
future crime, because the applicable factors under section 5038
2929.12 of the Revised Code indicating a greater likelihood of 5039

recidivism outweigh the applicable factors under that section 5040
indicating a lesser likelihood of recidivism. 5041

(v) The court finds that the prison terms imposed pursuant 5042
to division (B) (2) (a) (iii) of this section and, if applicable, 5043
division (B) (1) or (3) of this section are demeaning to the 5044
seriousness of the offense, because one or more of the factors 5045
under section 2929.12 of the Revised Code indicating that the 5046
offender's conduct is more serious than conduct normally 5047
constituting the offense are present, and they outweigh the 5048
applicable factors under that section indicating that the 5049
offender's conduct is less serious than conduct normally 5050
constituting the offense. 5051

(b) The court shall impose on an offender the longest 5052
prison term authorized or required for the offense or, for 5053
offenses for which division (A) (1) (a) or (2) (a) of this section 5054
applies, the longest minimum prison term authorized or required 5055
for the offense, and shall impose on the offender an additional 5056
definite prison term of one, two, three, four, five, six, seven, 5057
eight, nine, or ten years if all of the following criteria are 5058
met: 5059

(i) The offender is convicted of or pleads guilty to a 5060
specification of the type described in section 2941.149 of the 5061
Revised Code that the offender is a repeat violent offender. 5062

(ii) The offender within the preceding twenty years has 5063
been convicted of or pleaded guilty to three or more offenses 5064
described in division (CC) (1) of section 2929.01 of the Revised 5065
Code, including all offenses described in that division of which 5066
the offender is convicted or to which the offender pleads guilty 5067
in the current prosecution and all offenses described in that 5068
division of which the offender previously has been convicted or 5069

to which the offender previously pleaded guilty, whether 5070
prosecuted together or separately. 5071

(iii) The offense or offenses of which the offender 5072
currently is convicted or to which the offender currently pleads 5073
guilty is aggravated murder and the court does not impose a 5074
sentence of ~~death or~~ life imprisonment without parole, murder, 5075
terrorism and the court does not impose a sentence of life 5076
imprisonment without parole, any felony of the first degree that 5077
is an offense of violence and the court does not impose a 5078
sentence of life imprisonment without parole, or any felony of 5079
the second degree that is an offense of violence and the trier 5080
of fact finds that the offense involved an attempt to cause or a 5081
threat to cause serious physical harm to a person or resulted in 5082
serious physical harm to a person. 5083

(c) For purposes of division (B) (2) (b) of this section, 5084
two or more offenses committed at the same time or as part of 5085
the same act or event shall be considered one offense, and that 5086
one offense shall be the offense with the greatest penalty. 5087

(d) A sentence imposed under division (B) (2) (a) or (b) of 5088
this section shall not be reduced pursuant to section 2929.20, 5089
division (A) (2) or (3) of section 2967.193 or 2967.194, or any 5090
other provision of Chapter 2967. or Chapter 5120. of the Revised 5091
Code. The offender shall serve an additional prison term imposed 5092
under division (B) (2) (a) or (b) of this section consecutively to 5093
and prior to the prison term imposed for the underlying offense. 5094

(e) When imposing a sentence pursuant to division (B) (2) 5095
(a) or (b) of this section, the court shall state its findings 5096
explaining the imposed sentence. 5097

(3) Except when an offender commits a violation of section 5098

2903.01 or 2907.02 of the Revised Code and the penalty imposed 5099
for the violation is life imprisonment or commits a violation of 5100
section 2903.02 of the Revised Code, if the offender commits a 5101
violation of section 2925.03 or 2925.11 of the Revised Code and 5102
that section classifies the offender as a major drug offender, 5103
if the offender commits a violation of section 2925.05 of the 5104
Revised Code and division (E)(1) of that section classifies the 5105
offender as a major drug offender, if the offender commits a 5106
felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 5107
3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, 5108
division (C) or (D) of section 3719.172, division (E) of section 5109
4729.51, or division (J) of section 4729.54 of the Revised Code 5110
that includes the sale, offer to sell, or possession of a 5111
schedule I or II controlled substance, with the exception of 5112
marihuana, and the court imposing sentence upon the offender 5113
finds that the offender is guilty of a specification of the type 5114
described in division (A) of section 2941.1410 of the Revised 5115
Code charging that the offender is a major drug offender, if the 5116
court imposing sentence upon an offender for a felony finds that 5117
the offender is guilty of corrupt activity with the most serious 5118
offense in the pattern of corrupt activity being a felony of the 5119
first degree, or if the offender is guilty of an attempted 5120
violation of section 2907.02 of the Revised Code and, had the 5121
offender completed the violation of section 2907.02 of the 5122
Revised Code that was attempted, the offender would have been 5123
subject to a sentence of life imprisonment or life imprisonment 5124
without parole for the violation of section 2907.02 of the 5125
Revised Code, the court shall impose upon the offender for the 5126
felony violation a mandatory prison term determined as described 5127
in this division that cannot be reduced pursuant to section 5128
2929.20, division (A)(2) or (3) of section 2967.193 or 2967.194, 5129
or any other provision of Chapter 2967. or 5120. of the Revised 5130

Code. The mandatory prison term shall be the maximum definite 5131
prison term prescribed in division (A) (1) (b) of this section for 5132
a felony of the first degree, except that for offenses for which 5133
division (A) (1) (a) of this section applies, the mandatory prison 5134
term shall be the longest minimum prison term prescribed in that 5135
division for the offense. 5136

(4) If the offender is being sentenced for a third or 5137
fourth degree felony OVI offense under division (G) (2) of 5138
section 2929.13 of the Revised Code, the sentencing court shall 5139
impose upon the offender a mandatory prison term in accordance 5140
with that division. In addition to the mandatory prison term, if 5141
the offender is being sentenced for a fourth degree felony OVI 5142
offense, the court, notwithstanding division (A) (4) of this 5143
section, may sentence the offender to a definite prison term of 5144
not less than six months and not more than thirty months, and if 5145
the offender is being sentenced for a third degree felony OVI 5146
offense, the sentencing court may sentence the offender to an 5147
additional prison term of any duration specified in division (A) 5148
(3) of this section. In either case, the additional prison term 5149
imposed shall be reduced by the sixty or one hundred twenty days 5150
imposed upon the offender as the mandatory prison term. The 5151
total of the additional prison term imposed under division (B) 5152
(4) of this section plus the sixty or one hundred twenty days 5153
imposed as the mandatory prison term shall equal a definite term 5154
in the range of six months to thirty months for a fourth degree 5155
felony OVI offense and shall equal one of the authorized prison 5156
terms specified in division (A) (3) of this section for a third 5157
degree felony OVI offense. If the court imposes an additional 5158
prison term under division (B) (4) of this section, the offender 5159
shall serve the additional prison term after the offender has 5160
served the mandatory prison term required for the offense. In 5161

addition to the mandatory prison term or mandatory and 5162
additional prison term imposed as described in division (B) (4) 5163
of this section, the court also may sentence the offender to a 5164
community control sanction under section 2929.16 or 2929.17 of 5165
the Revised Code, but the offender shall serve all of the prison 5166
terms so imposed prior to serving the community control 5167
sanction. 5168

If the offender is being sentenced for a fourth degree 5169
felony OVI offense under division (G) (1) of section 2929.13 of 5170
the Revised Code and the court imposes a mandatory term of local 5171
incarceration, the court may impose a prison term as described 5172
in division (A) (1) of that section. 5173

(5) If an offender is convicted of or pleads guilty to a 5174
violation of division (A) (1) or (2) of section 2903.06 of the 5175
Revised Code and also is convicted of or pleads guilty to a 5176
specification of the type described in section 2941.1414 of the 5177
Revised Code that charges that the victim of the offense is a 5178
peace officer, as defined in section 2935.01 of the Revised 5179
Code, an investigator of the bureau of criminal identification 5180
and investigation, as defined in section 2903.11 of the Revised 5181
Code, or a firefighter or emergency medical worker, both as 5182
defined in section 2941.1414 of the Revised Code, the court 5183
shall impose on the offender a prison term of five years. If a 5184
court imposes a prison term on an offender under division (B) (5) 5185
of this section, the prison term shall not be reduced pursuant 5186
to section 2929.20, division (A) (2) or (3) of section 2967.193 5187
or 2967.194, or any other provision of Chapter 2967. or Chapter 5188
5120. of the Revised Code. A court shall not impose more than 5189
one prison term on an offender under division (B) (5) of this 5190
section for felonies committed as part of the same act. 5191

(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) 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 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 shall not be reduced pursuant to section 2929.20, division (A) (2) or (3) of section 2967.193 or 2967.194, 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

first degree committed on or after March 22, 2019, the court 5223
shall impose as the minimum prison term a mandatory term of not 5224
less than five years and not greater than eleven years; 5225

(ii) If the offense is a felony of the second or third 5226
degree, a definite prison term of not less than three years and 5227
not greater than the maximum prison term allowed for the offense 5228
by division (A) (2) (b) or (3) of this section, except that if the 5229
offense is a felony of the second degree committed on or after 5230
March 22, 2019, the court shall impose as the minimum prison 5231
term a mandatory term of not less than three years and not 5232
greater than eight years; 5233

(iii) If the offense is a felony of the fourth or fifth 5234
degree, a definite prison term that is the maximum prison term 5235
allowed for the offense by division (A) of section 2929.14 of 5236
the Revised Code. 5237

(b) The prison term imposed under division (B) (7) (a) of 5238
this section shall not be reduced pursuant to section 2929.20, 5239
division (A) (2) or (3) of section 2967.193 or 2967.194, or any 5240
other provision of Chapter 2967. of the Revised Code. A court 5241
shall not impose more than one prison term on an offender under 5242
division (B) (7) (a) of this section for felonies committed as 5243
part of the same act, scheme, or plan. 5244

(8) If an offender is convicted of or pleads guilty to a 5245
felony violation of section 2903.11, 2903.12, or 2903.13 of the 5246
Revised Code and also is convicted of or pleads guilty to a 5247
specification of the type described in section 2941.1423 of the 5248
Revised Code that charges that the victim of the violation was a 5249
woman whom the offender knew was pregnant at the time of the 5250
violation, notwithstanding the range prescribed in division (A) 5251
of this section as the definite prison term or minimum prison 5252

term for felonies of the same degree as the violation, the court 5253
shall impose on the offender a mandatory prison term that is 5254
either a definite prison term of six months or one of the prison 5255
terms prescribed in division (A) of this section for felonies of 5256
the same degree as the violation, except that if the violation 5257
is a felony of the first or second degree committed on or after 5258
~~arch~~March 22, 2019, the court shall impose as the minimum 5259
prison term under division (A) (1) (a) or (2) (a) of this section a 5260
mandatory term that is one of the terms prescribed in that 5261
division, whichever is applicable, for the offense. 5262

(9) (a) If an offender is convicted of or pleads guilty to 5263
a violation of division (A) (1) or (2) of section 2903.11 of the 5264
Revised Code and also is convicted of or pleads guilty to a 5265
specification of the type described in section 2941.1425 of the 5266
Revised Code, the court shall impose on the offender a mandatory 5267
prison term of six years if either of the following applies: 5268

(i) The violation is a violation of division (A) (1) of 5269
section 2903.11 of the Revised Code and the specification 5270
charges that the offender used an accelerant in committing the 5271
violation and the serious physical harm to another or to 5272
another's unborn caused by the violation resulted in a 5273
permanent, serious disfigurement or permanent, substantial 5274
incapacity; 5275

(ii) The violation is a violation of division (A) (2) of 5276
section 2903.11 of the Revised Code and the specification 5277
charges that the offender used an accelerant in committing the 5278
violation, that the violation caused physical harm to another or 5279
to another's unborn, and that the physical harm resulted in a 5280
permanent, serious disfigurement or permanent, substantial 5281
incapacity. 5282

(b) If a court imposes a prison term on an offender under 5283
division (B) (9) (a) of this section, the prison term shall not be 5284
reduced pursuant to section 2929.20, division (A) (2) or (3) of 5285
section 2967.193 or 2967.194, or any other provision of Chapter 5286
2967. or Chapter 5120. of the Revised Code. A court shall not 5287
impose more than one prison term on an offender under division 5288
(B) (9) of this section for felonies committed as part of the 5289
same act. 5290

(c) The provisions of divisions (B) (9) and (C) (6) of this 5291
section and of division (D) (2) of section 2903.11, division (F) 5292
(20) of section 2929.13, and section 2941.1425 of the Revised 5293
Code shall be known as "Judy's Law." 5294

(10) If an offender is convicted of or pleads guilty to a 5295
violation of division (A) of section 2903.11 of the Revised Code 5296
and also is convicted of or pleads guilty to a specification of 5297
the type described in section 2941.1426 of the Revised Code that 5298
charges that the victim of the offense suffered permanent 5299
disabling harm as a result of the offense and that the victim 5300
was under ten years of age at the time of the offense, 5301
regardless of whether the offender knew the age of the victim, 5302
the court shall impose upon the offender an additional definite 5303
prison term of six years. A prison term imposed on an offender 5304
under division (B) (10) of this section shall not be reduced 5305
pursuant to section 2929.20, division (A) (2) or (3) of section 5306
2967.193 or 2967.194, or any other provision of Chapter 2967. or 5307
Chapter 5120. of the Revised Code. If a court imposes an 5308
additional prison term on an offender under this division 5309
relative to a violation of division (A) of section 2903.11 of 5310
the Revised Code, the court shall not impose any other 5311
additional prison term on the offender relative to the same 5312
offense. 5313

(11) If an offender is convicted of or pleads guilty to a felony violation of section 2925.03 or 2925.05 of the Revised Code or a felony violation of section 2925.11 of the Revised Code for which division (C) (11) of that section applies in determining the sentence for the violation, if the drug involved in the violation is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound, and if the offender also is convicted of or pleads guilty to a specification of the type described in division (B) of section 2941.1410 of the Revised Code that charges that the offender is a major drug offender, in addition to any other penalty imposed for the violation, the court shall impose on the offender a mandatory prison term of three, four, five, six, seven, or eight years. If a court imposes a prison term on an offender under division (B) (11) of this section, the prison term shall not be reduced pursuant to section 2929.20, division (A) (2) or (3) of section 2967.193 or 2967.194, or any other provision of Chapter 2967. or 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B) (11) of this section for felonies committed as part of the same act.

(C) (1) (a) Subject to division (C) (1) (b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (B) (1) (a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (B) (1) (c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division

consecutively to any other mandatory prison term imposed under 5345
either division or under division (B) (1) (d) of this section, 5346
consecutively to and prior to any prison term imposed for the 5347
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 5348
this section or any other section of the Revised Code, and 5349
consecutively to any other prison term or mandatory prison term 5350
previously or subsequently imposed upon the offender. 5351

(b) If a mandatory prison term is imposed upon an offender 5352
pursuant to division (B) (1) (d) of this section for wearing or 5353
carrying body armor while committing an offense of violence that 5354
is a felony, the offender shall serve the mandatory term so 5355
imposed consecutively to any other mandatory prison term imposed 5356
under that division or under division (B) (1) (a) or (c) of this 5357
section, consecutively to and prior to any prison term imposed 5358
for the underlying felony under division (A), (B) (2), or (B) (3) 5359
of this section or any other section of the Revised Code, and 5360
consecutively to any other prison term or mandatory prison term 5361
previously or subsequently imposed upon the offender. 5362

(c) If a mandatory prison term is imposed upon an offender 5363
pursuant to division (B) (1) (f) of this section, the offender 5364
shall serve the mandatory prison term so imposed consecutively 5365
to and prior to any prison term imposed for the underlying 5366
felony under division (A), (B) (2), or (B) (3) of this section or 5367
any other section of the Revised Code, and consecutively to any 5368
other prison term or mandatory prison term previously or 5369
subsequently imposed upon the offender. 5370

(d) If a mandatory prison term is imposed upon an offender 5371
pursuant to division (B) (7) or (8) of this section, the offender 5372
shall serve the mandatory prison term so imposed consecutively 5373
to any other mandatory prison term imposed under that division 5374

or under any other provision of law and consecutively to any 5375
other prison term or mandatory prison term previously or 5376
subsequently imposed upon the offender. 5377

(e) If a mandatory prison term is imposed upon an offender 5378
pursuant to division (B)(11) of this section, the offender shall 5379
serve the mandatory prison term consecutively to any other 5380
mandatory prison term imposed under that division, consecutively 5381
to and prior to any prison term imposed for the underlying 5382
felony, and consecutively to any other prison term or mandatory 5383
prison term previously or subsequently imposed upon the 5384
offender. 5385

(2) If an offender who is an inmate in a jail, prison, or 5386
other residential detention facility violates section 2917.02, 5387
2917.03, or 2921.35 of the Revised Code or division (A)(1) or 5388
(2) of section 2921.34 of the Revised Code, if an offender who 5389
is under detention at a detention facility commits a felony 5390
violation of section 2923.131 of the Revised Code, or if an 5391
offender who is an inmate in a jail, prison, or other 5392
residential detention facility or is under detention at a 5393
detention facility commits another felony while the offender is 5394
an escapee in violation of division (A)(1) or (2) of section 5395
2921.34 of the Revised Code, any prison term imposed upon the 5396
offender for one of those violations shall be served by the 5397
offender consecutively to the prison term or term of 5398
imprisonment the offender was serving when the offender 5399
committed that offense and to any other prison term previously 5400
or subsequently imposed upon the offender. 5401

(3) If a prison term is imposed for a violation of 5402
division (B) of section 2911.01 of the Revised Code, a violation 5403
of division (A) of section 2913.02 of the Revised Code in which 5404

the stolen property is a firearm or dangerous ordnance, or a 5405
felony violation of division (B) of section 2921.331 of the 5406
Revised Code, the offender shall serve that prison term 5407
consecutively to any other prison term or mandatory prison term 5408
previously or subsequently imposed upon the offender. 5409

(4) If multiple prison terms are imposed on an offender 5410
for convictions of multiple offenses, the court may require the 5411
offender to serve the prison terms consecutively if the court 5412
finds that the consecutive service is necessary to protect the 5413
public from future crime or to punish the offender and that 5414
consecutive sentences are not disproportionate to the 5415
seriousness of the offender's conduct and to the danger the 5416
offender poses to the public, and if the court also finds any of 5417
the following: 5418

(a) The offender committed one or more of the multiple 5419
offenses while the offender was awaiting trial or sentencing, 5420
was under a sanction imposed pursuant to section 2929.16, 5421
2929.17, or 2929.18 of the Revised Code, or was under post- 5422
release control for a prior offense. 5423

(b) At least two of the multiple offenses were committed 5424
as part of one or more courses of conduct, and the harm caused 5425
by two or more of the multiple offenses so committed was so 5426
great or unusual that no single prison term for any of the 5427
offenses committed as part of any of the courses of conduct 5428
adequately reflects the seriousness of the offender's conduct. 5429

(c) The offender's history of criminal conduct 5430
demonstrates that consecutive sentences are necessary to protect 5431
the public from future crime by the offender. 5432

(5) If a mandatory prison term is imposed upon an offender 5433

pursuant to division (B) (5) or (6) of this section, the offender 5434
shall serve the mandatory prison term consecutively to and prior 5435
to any prison term imposed for the underlying violation of 5436
division (A) (1) or (2) of section 2903.06 of the Revised Code 5437
pursuant to division (A) of this section or section 2929.142 of 5438
the Revised Code. If a mandatory prison term is imposed upon an 5439
offender pursuant to division (B) (5) of this section, and if a 5440
mandatory prison term also is imposed upon the offender pursuant 5441
to division (B) (6) of this section in relation to the same 5442
violation, the offender shall serve the mandatory prison term 5443
imposed pursuant to division (B) (5) of this section 5444
consecutively to and prior to the mandatory prison term imposed 5445
pursuant to division (B) (6) of this section and consecutively to 5446
and prior to any prison term imposed for the underlying 5447
violation of division (A) (1) or (2) of section 2903.06 of the 5448
Revised Code pursuant to division (A) of this section or section 5449
2929.142 of the Revised Code. 5450

(6) If a mandatory prison term is imposed on an offender 5451
pursuant to division (B) (9) of this section, the offender shall 5452
serve the mandatory prison term consecutively to and prior to 5453
any prison term imposed for the underlying violation of division 5454
(A) (1) or (2) of section 2903.11 of the Revised Code and 5455
consecutively to and prior to any other prison term or mandatory 5456
prison term previously or subsequently imposed on the offender. 5457

(7) If a mandatory prison term is imposed on an offender 5458
pursuant to division (B) (10) of this section, the offender shall 5459
serve that mandatory prison term consecutively to and prior to 5460
any prison term imposed for the underlying felonious assault. 5461
Except as otherwise provided in division (C) of this section, 5462
any other prison term or mandatory prison term previously or 5463
subsequently imposed upon the offender may be served 5464

concurrently with, or consecutively to, the prison term imposed 5465
pursuant to division (B)(10) of this section. 5466

(8) Any prison term imposed for a violation of section 5467
2903.04 of the Revised Code that is based on a violation of 5468
section 2925.03 or 2925.11 of the Revised Code or on a violation 5469
of section 2925.05 of the Revised Code that is not funding of 5470
marihuana trafficking shall run consecutively to any prison term 5471
imposed for the violation of section 2925.03 or 2925.11 of the 5472
Revised Code or for the violation of section 2925.05 of the 5473
Revised Code that is not funding of marihuana trafficking. 5474

(9) When consecutive prison terms are imposed pursuant to 5475
division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or 5476
division (H)(1) or (2) of this section, subject to division (C) 5477
(10) of this section, the term to be served is the aggregate of 5478
all of the terms so imposed. 5479

(10) When a court sentences an offender to a non-life 5480
felony indefinite prison term, any definite prison term or 5481
mandatory definite prison term previously or subsequently 5482
imposed on the offender in addition to that indefinite sentence 5483
that is required to be served consecutively to that indefinite 5484
sentence shall be served prior to the indefinite sentence. 5485

(11) If a court is sentencing an offender for a felony of 5486
the first or second degree, if division (A)(1)(a) or (2)(a) of 5487
this section applies with respect to the sentencing for the 5488
offense, and if the court is required under the Revised Code 5489
section that sets forth the offense or any other Revised Code 5490
provision to impose a mandatory prison term for the offense, the 5491
court shall impose the required mandatory prison term as the 5492
minimum term imposed under division (A)(1)(a) or (2)(a) of this 5493
section, whichever is applicable. 5494

(D) (1) If a court imposes a prison term, other than a term 5495
of life imprisonment, for a felony of the first degree, for a 5496
felony of the second degree, for a felony sex offense, or for a 5497
felony of the third degree that is an offense of violence and 5498
that is not a felony sex offense, it shall include in the 5499
sentence a requirement that the offender be subject to a period 5500
of post-release control after the offender's release from 5501
imprisonment, in accordance with section 2967.28 of the Revised 5502
Code. If a court imposes a sentence including a prison term of a 5503
type described in this division on or after July 11, 2006, the 5504
failure of a court to include a post-release control requirement 5505
in the sentence pursuant to this division does not negate, 5506
limit, or otherwise affect the mandatory period of post-release 5507
control that is required for the offender under division (B) of 5508
section 2967.28 of the Revised Code. Section 2929.191 of the 5509
Revised Code applies if, prior to July 11, 2006, a court imposed 5510
a sentence including a prison term of a type described in this 5511
division and failed to include in the sentence pursuant to this 5512
division a statement regarding post-release control. 5513

(2) If a court imposes a prison term for a felony of the 5514
third, fourth, or fifth degree that is not subject to division 5515
(D) (1) of this section, it shall include in the sentence a 5516
requirement that the offender be subject to a period of post- 5517
release control after the offender's release from imprisonment, 5518
in accordance with that division, if the parole board determines 5519
that a period of post-release control is necessary. Section 5520
2929.191 of the Revised Code applies if, prior to July 11, 2006, 5521
a court imposed a sentence including a prison term of a type 5522
described in this division and failed to include in the sentence 5523
pursuant to this division a statement regarding post-release 5524
control. 5525

(E) The court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment if any of the following apply:

(1) A person is convicted of or pleads guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense, and, in relation to that offense, the offender is adjudicated a sexually violent predator.

(2) A person is convicted of or pleads guilty to a violation of division (A) (1) (b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and either the court does not impose a sentence of life without parole when authorized pursuant to division (B) of section 2907.02 of the Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code.

(3) A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, and

division ~~(A) (2) (b) (ii) of section 2929.022, division (A) (1) (e),~~ 5555
~~(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1)~~ 5556
~~(a) (iv) of section 2929.03, or division (A) or (B) (C) of section~~ 5557
~~2929.06~~ 2929.02 of the Revised Code requires the court to 5558
sentence the offender pursuant to division (B) (3) of section 5559
2971.03 of the Revised Code. 5560

(6) A person is convicted of or pleads guilty to murder 5561
committed on or after January 1, 2008, and division ~~(B) (2)~~ (C) (1) 5562
of section 2929.02 of the Revised Code requires the court to 5563
sentence the offender pursuant to section 2971.03 of the Revised 5564
Code. 5565

(F) If a person who has been convicted of or pleaded 5566
guilty to a felony is sentenced to a prison term or term of 5567
imprisonment under this section, ~~sections~~ section 2929.02 to 5568
~~2929.06 of the Revised Code, section 2929.142 of the Revised~~ 5569
~~Code, section or~~ 2971.03 of the Revised Code, or any other 5570
provision of law, section 5120.163 of the Revised Code applies 5571
regarding the person while the person is confined in a state 5572
correctional institution. 5573

(G) If an offender who is convicted of or pleads guilty to 5574
a felony that is an offense of violence also is convicted of or 5575
pleads guilty to a specification of the type described in 5576
section 2941.142 of the Revised Code that charges the offender 5577
with having committed the felony while participating in a 5578
criminal gang, the court shall impose upon the offender an 5579
additional prison term of one, two, or three years. 5580

(H) (1) If an offender who is convicted of or pleads guilty 5581
to aggravated murder, murder, or a felony of the first, second, 5582
or third degree that is an offense of violence also is convicted 5583
of or pleads guilty to a specification of the type described in 5584

section 2941.143 of the Revised Code that charges the offender 5585
with having committed the offense in a school safety zone or 5586
towards a person in a school safety zone, the court shall impose 5587
upon the offender an additional prison term of two years. The 5588
offender shall serve the additional two years consecutively to 5589
and prior to the prison term imposed for the underlying offense. 5590

(2) (a) If an offender is convicted of or pleads guilty to 5591
a felony violation of section 2907.22, 2907.24, 2907.241, or 5592
2907.25 of the Revised Code and to a specification of the type 5593
described in section 2941.1421 of the Revised Code and if the 5594
court imposes a prison term on the offender for the felony 5595
violation, the court may impose upon the offender an additional 5596
prison term as follows: 5597

(i) Subject to division (H) (2) (a) (ii) of this section, an 5598
additional prison term of one, two, three, four, five, or six 5599
months; 5600

(ii) If the offender previously has been convicted of or 5601
pleaded guilty to one or more felony or misdemeanor violations 5602
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 5603
the Revised Code and also was convicted of or pleaded guilty to 5604
a specification of the type described in section 2941.1421 of 5605
the Revised Code regarding one or more of those violations, an 5606
additional prison term of one, two, three, four, five, six, 5607
seven, eight, nine, ten, eleven, or twelve months. 5608

(b) In lieu of imposing an additional prison term under 5609
division (H) (2) (a) of this section, the court may directly 5610
impose on the offender a sanction that requires the offender to 5611
wear a real-time processing, continual tracking electronic 5612
monitoring device during the period of time specified by the 5613
court. The period of time specified by the court shall equal the 5614

duration of an additional prison term that the court could have 5615
imposed upon the offender under division (H) (2) (a) of this 5616
section. A sanction imposed under this division shall commence 5617
on the date specified by the court, provided that the sanction 5618
shall not commence until after the offender has served the 5619
prison term imposed for the felony violation of section 2907.22, 5620
2907.24, 2907.241, or 2907.25 of the Revised Code and any 5621
residential sanction imposed for the violation under section 5622
2929.16 of the Revised Code. A sanction imposed under this 5623
division shall be considered to be a community control sanction 5624
for purposes of section 2929.15 of the Revised Code, and all 5625
provisions of the Revised Code that pertain to community control 5626
sanctions shall apply to a sanction imposed under this division, 5627
except to the extent that they would by their nature be clearly 5628
inapplicable. The offender shall pay all costs associated with a 5629
sanction imposed under this division, including the cost of the 5630
use of the monitoring device. 5631

(I) At the time of sentencing, the court may recommend the 5632
offender for placement in a program of shock incarceration under 5633
section 5120.031 of the Revised Code or for placement in an 5634
intensive program prison under section 5120.032 of the Revised 5635
Code, disapprove placement of the offender in a program of shock 5636
incarceration or an intensive program prison of that nature, or 5637
make no recommendation on placement of the offender. In no case 5638
shall the department of rehabilitation and correction place the 5639
offender in a program or prison of that nature unless the 5640
department determines as specified in section 5120.031 or 5641
5120.032 of the Revised Code, whichever is applicable, that the 5642
offender is eligible for the placement. 5643

If the court disapproves placement of the offender in a 5644
program or prison of that nature, the department of 5645

rehabilitation and correction shall not place the offender in 5646
any program of shock incarceration or intensive program prison. 5647

If the court recommends placement of the offender in a 5648
program of shock incarceration or in an intensive program 5649
prison, and if the offender is subsequently placed in the 5650
recommended program or prison, the department shall notify the 5651
court of the placement and shall include with the notice a brief 5652
description of the placement. 5653

If the court recommends placement of the offender in a 5654
program of shock incarceration or in an intensive program prison 5655
and the department does not subsequently place the offender in 5656
the recommended program or prison, the department shall send a 5657
notice to the court indicating why the offender was not placed 5658
in the recommended program or prison. 5659

If the court does not make a recommendation under this 5660
division with respect to an offender and if the department 5661
determines as specified in section 5120.031 or 5120.032 of the 5662
Revised Code, whichever is applicable, that the offender is 5663
eligible for placement in a program or prison of that nature, 5664
the department shall screen the offender and determine if there 5665
is an available program of shock incarceration or an intensive 5666
program prison for which the offender is suited. If there is an 5667
available program of shock incarceration or an intensive program 5668
prison for which the offender is suited, the department shall 5669
notify the court of the proposed placement of the offender as 5670
specified in section 5120.031 or 5120.032 of the Revised Code 5671
and shall include with the notice a brief description of the 5672
placement. The court shall have ten days from receipt of the 5673
notice to disapprove the placement. 5674

(J) If a person is convicted of or pleads guilty to 5675

aggravated vehicular homicide in violation of division (A) (1) of 5676
section 2903.06 of the Revised Code and division (B) (2) (c) of 5677
that section applies, the person shall be sentenced pursuant to 5678
section 2929.142 of the Revised Code. 5679

(K) (1) The court shall impose an additional mandatory 5680
prison term of two, three, four, five, six, seven, eight, nine, 5681
ten, or eleven years on an offender who is convicted of or 5682
pleads guilty to a violent felony offense if the offender also 5683
is convicted of or pleads guilty to a specification of the type 5684
described in section 2941.1424 of the Revised Code that charges 5685
that the offender is a violent career criminal and had a firearm 5686
on or about the offender's person or under the offender's 5687
control while committing the presently charged violent felony 5688
offense and displayed or brandished the firearm, indicated that 5689
the offender possessed a firearm, or used the firearm to 5690
facilitate the offense. The offender shall serve the prison term 5691
imposed under this division consecutively to and prior to the 5692
prison term imposed for the underlying offense. The prison term 5693
shall not be reduced pursuant to section 2929.20, division (A) 5694
(2) or (3) of section 2967.193 or 2967.194, or any other 5695
provision of Chapter 2967. or 5120. of the Revised Code. A court 5696
may not impose more than one sentence under division (B) (2) (a) 5697
of this section and this division for acts committed as part of 5698
the same act or transaction. 5699

(2) As used in division (K) (1) of this section, "violent 5700
career criminal" and "violent felony offense" have the same 5701
meanings as in section 2923.132 of the Revised Code. 5702

(L) If an offender receives or received a sentence of life 5703
imprisonment without parole, a sentence of life imprisonment, a 5704
definite sentence, or a sentence to an indefinite prison term 5705

under this chapter for a felony offense that was committed when 5706
the offender was under eighteen years of age, the offender's 5707
parole eligibility shall be determined under section 2967.132 of 5708
the Revised Code. 5709

Sec. 2929.61. (A) Persons charged with an offense that was 5710
formerly a capital offense and that was committed prior to 5711
January 1, 1974, shall be prosecuted under the law as it existed 5712
at the time the offense was committed, and, if convicted, shall 5713
be imprisoned for life, except that whenever the statute under 5714
which any such person is prosecuted provides for a lesser 5715
penalty under the circumstances of the particular case, such 5716
lesser penalty shall be imposed. 5717

(B) Persons charged with an offense, other than an offense 5718
that was formerly a capital offense, that was committed prior to 5719
January 1, 1974, shall be prosecuted under the law as it existed 5720
at the time the offense was committed. Persons convicted or 5721
sentenced on or after January 1, 1974, for an offense committed 5722
prior to January 1, 1974, shall be sentenced according to the 5723
penalty for commission of the substantially equivalent offense 5724
under Amended Substitute House Bill 511 of the 109th General 5725
Assembly. If the offense for which sentence is being imposed 5726
does not have a substantial equivalent under that act, or if 5727
that act provides a more severe penalty than that originally 5728
prescribed for the offense of which the person is convicted, 5729
then sentence shall be imposed under the law as it existed prior 5730
to January 1, 1974. 5731

(C) Persons charged with an offense that is a felony of 5732
the third or fourth degree and that was committed on or after 5733
January 1, 1974, and before July 1, 1983, shall be prosecuted 5734
under the law as it existed at the time the offense was 5735

committed. Persons convicted or sentenced on or after July 1, 5736
1983, for an offense that is a felony of the third or fourth 5737
degree and that was committed on or after January 1, 1974, and 5738
before July 1, 1983, shall be notified by the court sufficiently 5739
in advance of sentencing that they may choose to be sentenced 5740
pursuant to either the law in effect at the time of the 5741
commission of the offense or the law in effect at the time of 5742
sentencing. This notice shall be written and shall include the 5743
differences between and possible effects of the alternative 5744
sentence forms and the effect of the person's refusal to choose. 5745
The person to be sentenced shall then inform the court in 5746
writing of the person's choice, and shall be sentenced 5747
accordingly. Any person choosing to be sentenced pursuant to the 5748
law in effect at the time of the commission of an offense that 5749
is a felony of the third or fourth degree shall then be eligible 5750
for parole, and this person cannot at a later date have the 5751
person's sentence converted to a definite sentence. If the 5752
person refuses to choose between the two possible sentences, the 5753
person shall be sentenced pursuant to the law in effect at the 5754
time of the commission of the offense. 5755

(D) Persons charged with an offense that was a felony of 5756
the first or second degree at the time it was committed, that 5757
was committed on or after January 1, 1974, and that was 5758
committed prior to July 1, 1983, shall be prosecuted for that 5759
offense and, if convicted, shall be sentenced under the law as 5760
it existed at the time the offense was committed. 5761

(E) Persons charged with an offense that is a felony of 5762
the first or second degree that was committed prior to ~~the~~ 5763
~~effective date~~ March 22, 2019, of this amendment shall be 5764
prosecuted for that offense and, if convicted, shall be 5765
sentenced under the law as it existed at the time the offense 5766

was committed. 5767

Sec. 2930.19. (A) (1) A victim, victim's representative, or 5768
victim's attorney, if applicable, or the prosecutor, on request 5769
of the victim, has standing as a matter of right to assert, or 5770
to challenge an order denying, the rights of the victim provided 5771
by law in any judicial or administrative proceeding. The trial 5772
court shall act promptly on a request to enforce, or on a 5773
challenge of an order denying, the rights of the victim. In any 5774
case, the trial court shall hear the matter within ten days of 5775
the assertion of the victim's rights. The reasons for any 5776
decision denying relief under this section shall be clearly 5777
stated on the record or in a judgment entry. 5778

(2) (a) If the trial court denies the relief sought under 5779
division (A) (1) of this section, the trial court shall do all of 5780
the following: 5781

(i) Provide the victim, the victim's representative, if 5782
applicable, the victim's attorney, if applicable, and the 5783
parties with notice of the decision and a copy of the judgment 5784
entry; 5785

(ii) Provide the victim, the victim's representative, if 5786
applicable, and the victim's attorney, if applicable, with the 5787
following statement along with the judgment entry: 5788

"NOTICE 5789

The victim, the victim's attorney, if applicable, or the 5790
prosecutor on request of the victim, may appeal this decision or 5791
petition to the court of appeals for an extraordinary writ. If 5792
such an interlocutory appeal or extraordinary writ is sought 5793
while the case is still pending in the trial court, it shall be 5794
initiated no later than fourteen days after notice of the 5795

decision was provided to the victim by telephone or electronic 5796
mail to the latest telephone number or electronic mail address 5797
provided by the victim. The prosecutor or the prosecutor's 5798
designee shall provide the notice to the victim and the notice 5799
shall be memorialized in a manner sufficient to prove to the 5800
court the prosecutor or prosecutor's designee sent the notice. 5801
The court shall dismiss any such interlocutory appeal or 5802
petition as untimely if it does not comply with this fourteen- 5803
day limit." 5804

(b) (i) If the court denies the relief sought, the victim 5805
or the victim's attorney, if applicable, or the prosecutor on 5806
request of the victim, may appeal or, if the victim has no 5807
remedy on appeal, petition the court of appeals or supreme court 5808
for an extraordinary writ, and the victim has standing to assert 5809
a right of limited appeal as it pertains to the decisions 5810
impacting the rights of the victim. An interlocutory appeal 5811
filed under this section shall be filed not later than fourteen 5812
days after notice was provided to the victim as described in 5813
division (A) (1) of this section, and such an appeal divests the 5814
trial court of jurisdiction of the portion of the case 5815
implicating the victim's rights until the interlocutory appeal 5816
is resolved by the appellate court. 5817

(ii) Upon the filing of an interlocutory appeal, the trial 5818
court shall transmit those portions of the transcript necessary 5819
for consideration of the issues to be reviewed by the court of 5820
appeals within five business days. Once the transcript is 5821
received by the court of appeals, the party that initiated the 5822
appeal shall have eight days to file a merit brief. Once the 5823
merit brief is filed, the appellee shall have eight days to file 5824
a response brief. The court of appeals shall decide the entire 5825
appeal not later than thirty-five days after the appeal is 5826

filed. Notwithstanding these limits, the litigants, with the approval of the court, may stipulate to a different period of time for the briefing and issuance of the decision and judgment on the appeal. The victim, the victim's attorney, the prosecutor, or the defendant may notify the supreme court if a court of appeals has failed to issue a judgment in accordance with the stipulated period of time. Such notifications are public records.

(iii) Nothing in this section shall be interpreted as applying to a direct appeal that is filed after the court sentences the defendant. A victim who wishes to appeal from an order that is final on its entry after the court sentences the defendant shall file the notice of appeal within thirty days of that entry.

(c) If the victim or victim's attorney, if applicable, petitions for an extraordinary writ, the court of appeals or the supreme court shall enter an order establishing an expedited schedule for the filing of an answer, the submission of evidence, the filing of briefing by the litigants, and the entry of decision and judgment and shall place the petition on its accelerated calendar. The court of appeals or the supreme court shall immediately notify the trial court of the petition, and the trial court shall transmit to the court of appeals or the supreme court those portions of the transcript necessary for the consideration of the issues to be reviewed by the applicable appellate court within five business days of the filing of the appeal or petition. The court shall enter judgment within forty-five days after the petition for an extraordinary writ is filed. Notwithstanding these limits, the litigants, with the approval of the court, may stipulate to a different period of time for the briefing and issuance of the decision and judgment in the

action. The victim, the victim's attorney, the prosecutor, or 5858
the defendant may notify the supreme court if a court of appeals 5859
has failed to issue a judgment in accordance with the stipulated 5860
period of time. Such notifications are a public record. 5861

(d) If any interlocutory appeal is pursued to the supreme 5862
court, the supreme court shall enter an order establishing an 5863
expedited schedule for its proceedings, including, as 5864
applicable, the filing of jurisdictional memoranda and ruling 5865
thereon, the transmission of the record, the filing of briefing 5866
by the litigants, oral argument if permitted, and the entry of 5867
decision and judgment and shall place the appeal on its 5868
accelerated calendar. The court shall enter judgment within 5869
sixty days after the appeal is filed. The supreme court shall 5870
immediately notify the trial court of the appeal, and the trial 5871
court shall transmit to the court of appeals or the supreme 5872
court those portions of the transcript necessary for 5873
consideration of the issues to be reviewed by the applicable 5874
appellate court within five business days of the filing of the 5875
appeal. Notwithstanding these limits, the litigants, with the 5876
approval of the court, may stipulate to a different period of 5877
time for the supreme court's proceedings and for the issuance of 5878
the supreme court's decision and judgment in the case. 5879

(e) Nothing in this division applies to a direct appeal 5880
that is filed by the victim after the court sentences the 5881
defendant. A victim who wishes to appeal from an appellate entry 5882
shall file the appropriate notice of appeal to the supreme court 5883
within thirty days of the entry. 5884

(B) (1) A victim of a criminal offense or delinquent act 5885
has the right to be represented by an attorney. Nothing in this 5886
section creates a right to an attorney at public expense for a 5887

victim. If a victim is represented by an attorney, the court shall notify the victim's attorney in the same manner in which the parties are notified under applicable law or rule. The victim's attorney shall be included in all bench conferences, meetings in chambers, and sidebars with the trial court that directly involve a decision implicating that victim's rights as enumerated in Ohio Constitution, Article I, Section 10a. Nothing in this section shall be construed as making a victim a party to the case.

(2) A defendant has a right to respond and be represented by an attorney for appeals and writs the victim, the victim's attorney, if applicable, or the prosecutor may file pursuant to this section. An indigent defendant has the right to appointed counsel for appeals and writs filed pursuant to this section. If, as an indigent person, a defendant is unable to employ counsel, the defendant is entitled to have counsel provided pursuant to Chapter 120. of the Revised Code. The court shall notify the defendant and the defendant's attorney in the same manner that the parties are notified under applicable law or rule.

(C) The failure of a public official or public agency or the public official's or public agency's designee to comply with the requirements of this chapter does not give rise to a claim for damages against that public official or public agency or that public official's or public agency's designee, except that a public agency as an employer may be held responsible for a violation of section 2930.18 of the Revised Code.

(D) The failure of any person or entity to provide a right, privilege, or notice to a victim under this chapter does not constitute grounds for declaring a mistrial or new trial,

for setting aside a conviction, sentence, adjudication, or 5918
disposition, or for granting postconviction release to a 5919
defendant or alleged juvenile offender. 5920

~~(E) If there is a conflict between a provision in this 5921
chapter and a specific statute governing the procedure in a case 5922
involving a capital offense, the specific statute supersedes the 5923
provision in this chapter. 5924~~

~~(F)~~A defendant or juvenile offender may not raise the 5925
failure to afford a right to a victim as error in any legal 5926
argument to provide an advantage to that defendant or juvenile 5927
offender in any motion, including a dispositive motion, motion 5928
for a mistrial, motion for new trial, or motion to have a 5929
conviction, sentence, or disposition set aside, in any petition 5930
for post-conviction relief, or in any assignment of error on 5931
appeal. 5932

~~(G)~~(F) If the victim of a criminal offense or delinquent 5933
act is incarcerated in a state or local correctional facility or 5934
is in the legal custody of the department of youth services, the 5935
victim's rights under this chapter may be modified by court 5936
order to prevent any security risk, hardship, or undue burden 5937
upon a public official or public agency with a duty under this 5938
chapter. 5939

~~(H)~~(G) As used in this section, "post-conviction release" 5940
means judicial release, early release, and parole, but does not 5941
mean relief pursuant to a federal petition in habeas corpus. 5942

Sec. 2937.222. (A) On the motion of the prosecuting 5943
attorney or on the judge's own motion, the judge shall hold a 5944
hearing to determine whether an accused person charged with 5945
aggravated murder ~~when it is not a capital offense,~~ murder, a 5946

felony of the first or second degree, a violation of section 5947
2903.06 of the Revised Code, a violation of section 2903.211 of 5948
the Revised Code that is a felony, or a felony OVI offense shall 5949
be denied bail. The judge shall order that the accused be 5950
detained until the conclusion of the hearing. Except for good 5951
cause, a continuance on the motion of the state shall not exceed 5952
three court days. Except for good cause, a continuance on the 5953
motion of the accused shall not exceed five court days unless 5954
the motion of the accused waives in writing the five-day limit 5955
and states in writing a specific period for which the accused 5956
requests a continuance. A continuance granted upon a motion of 5957
the accused that waives in writing the five-day limit shall not 5958
exceed five court days after the period of continuance requested 5959
in the motion. 5960

At the hearing, the accused has the right to be 5961
represented by counsel and, if the accused is indigent, to have 5962
counsel appointed. The judge shall afford the accused an 5963
opportunity to testify, to present witnesses and other 5964
information, and to cross-examine witnesses who appear at the 5965
hearing. The rules concerning admissibility of evidence in 5966
criminal trials do not apply to the presentation and 5967
consideration of information at the hearing. Regardless of 5968
whether the hearing is being held on the motion of the 5969
prosecuting attorney or on the court's own motion, the state has 5970
the burden of proving that the proof is evident or the 5971
presumption great that the accused committed the offense with 5972
which the accused is charged, of proving that the accused poses 5973
a substantial risk of serious physical harm to any person or to 5974
the community, and of proving that no release conditions will 5975
reasonably assure the safety of that person and the community. 5976

The judge may reopen the hearing at any time before trial 5977

if the judge finds that information exists that was not known to 5978
the movant at the time of the hearing and that that information 5979
has a material bearing on whether bail should be denied. If a 5980
municipal court or county court enters an order denying bail, a 5981
judge of the court of common pleas having jurisdiction over the 5982
case may continue that order or may hold a hearing pursuant to 5983
this section to determine whether to continue that order. 5984

(B) No accused person shall be denied bail pursuant to 5985
this section unless the judge finds by clear and convincing 5986
evidence that the proof is evident or the presumption great that 5987
the accused committed the offense described in division (A) of 5988
this section with which the accused is charged, finds by clear 5989
and convincing evidence that the accused poses a substantial 5990
risk of serious physical harm to any person or to the community, 5991
and finds by clear and convincing evidence that no release 5992
conditions will reasonably assure the safety of that person and 5993
the community. 5994

(C) The judge, in determining whether the accused person 5995
described in division (A) of this section poses a substantial 5996
risk of serious physical harm to any person or to the community 5997
and whether there are conditions of release that will reasonably 5998
assure the safety of that person and the community, shall 5999
consider all available information regarding all of the 6000
following: 6001

(1) The nature and circumstances of the offense charged, 6002
including whether the offense is an offense of violence or 6003
involves alcohol or a drug of abuse; 6004

(2) The weight of the evidence against the accused; 6005

(3) The history and characteristics of the accused, 6006

including, but not limited to, both of the following: 6007

(a) The character, physical and mental condition, family 6008
ties, employment, financial resources, length of residence in 6009
the community, community ties, past conduct, history relating to 6010
drug or alcohol abuse, and criminal history of the accused; 6011

(b) Whether, at the time of the current alleged offense or 6012
at the time of the arrest of the accused, the accused was on 6013
probation, parole, post-release control, or other release 6014
pending trial, sentencing, appeal, or completion of sentence for 6015
the commission of an offense under the laws of this state, 6016
another state, or the United States or under a municipal 6017
ordinance. 6018

(4) The nature and seriousness of the danger to any person 6019
or the community that would be posed by the person's release. 6020

(D) (1) An order of the court of common pleas denying bail 6021
pursuant to this section is a final appealable order. In an 6022
appeal pursuant to division (D) of this section, the court of 6023
appeals shall do all of the following: 6024

(a) Give the appeal priority on its calendar; 6025

(b) Liberally modify or dispense with formal requirements 6026
in the interest of a speedy and just resolution of the appeal; 6027

(c) Decide the appeal expeditiously; 6028

(d) Promptly enter its judgment affirming or reversing the 6029
order denying bail. 6030

(2) The pendency of an appeal under this section does not 6031
deprive the court of common pleas of jurisdiction to conduct 6032
further proceedings in the case or to further consider the order 6033
denying bail in accordance with this section. If, during the 6034

pendency of an appeal under division (D) of this section, the 6035
court of common pleas sets aside or terminates the order denying 6036
bail, the court of appeals shall dismiss the appeal. 6037

(E) As used in this section: 6038

(1) "Court day" has the same meaning as in section 5122.01 6039
of the Revised Code. 6040

(2) "Felony OVI offense" means a third degree felony OVI 6041
offense and a fourth degree felony OVI offense. 6042

(3) "Fourth degree felony OVI offense" and "third degree 6043
felony OVI offense" have the same meanings as in section 2929.01 6044
of the Revised Code. 6045

Sec. 2941.021. Any criminal offense which is not 6046
punishable by ~~death or~~ life imprisonment may be prosecuted by 6047
information filed in the common pleas court by the prosecuting 6048
attorney if the defendant, ~~after he has~~ having been advised by 6049
the court of the nature of the charge against ~~him~~ the defendant 6050
and of ~~his~~ the defendant's rights under the constitution, is 6051
represented by counsel or has affirmatively waived counsel by 6052
waiver in writing and in open court, waives in writing and in 6053
open court prosecution by indictment. 6054

Sec. 2941.14. ~~(A)~~ In an indictment for aggravated murder, 6055
murder, or voluntary or involuntary manslaughter, the manner in 6056
which, or the means by which the death was caused need not be 6057
set forth. 6058

~~(B) Imposition of the death penalty for aggravated murder~~ 6059
~~is precluded unless the indictment or count in the indictment~~ 6060
~~charging the offense specifies one or more of the aggravating~~ 6061
~~circumstances listed in division (A) of section 2929.04 of the~~ 6062
~~Revised Code. If more than one aggravating circumstance is~~ 6063

~~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.~~

~~(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:~~

~~"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)."~~

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:

(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
that the offender is a sexually violent predator, or the
offender is charged with a designated homicide, assault, or
kidnapping offense, and the indictment, count in the indictment,
or information charging the designated homicide, assault, or
kidnapping offense also includes both a specification of the
type described in section 2941.147 of the Revised Code and a
specification that the offender is a sexually violent predator.

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

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

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

(e) The offender is convicted of or pleads guilty to aggravated murder and to a specification of the type described in section 2941.147 of the Revised Code, and division ~~(A) (2) (b) (ii) of section 2929.022, division (A) (1) (c), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section 2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ of the Revised Code requires a court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(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.

(2) A specification required under division (A) (1) (a) of 6124
this section that an offender is a sexually violent predator 6125
shall be stated at the end of the body of the indictment, count, 6126
or information and shall be stated in substantially the 6127
following form: 6128

"Specification (or, specification to the first count). The 6129
grand jury (or insert the person's or prosecuting attorney's 6130
name when appropriate) further find and specify that the 6131
offender is a sexually violent predator." 6132

(B) In determining for purposes of this section whether a 6133
person is a sexually violent predator, all of the factors set 6134
forth in divisions (H) (1) to (6) of section 2971.01 of the 6135
Revised Code that apply regarding the person may be considered 6136
as evidence tending to indicate that it is likely that the 6137
person will engage in the future in one or more sexually violent 6138
offenses. 6139

(C) As used in this section, "designated homicide, 6140
assault, or kidnapping offense," "violent sex offense," and 6141
"sexually violent predator" have the same meanings as in section 6142
2971.01 of the Revised Code. 6143

Sec. 2941.401. When a person has entered upon a term of 6144
imprisonment in a correctional institution of this state, and 6145
when during the continuance of the term of imprisonment there is 6146
pending in this state any untried indictment, information, or 6147
complaint against the prisoner, the prisoner shall be brought to 6148
trial within one hundred eighty days after the prisoner causes 6149
to be delivered to the prosecuting attorney and the appropriate 6150
court in which the matter is pending, written notice of the 6151
place of the prisoner's imprisonment and a request for a final 6152
disposition to be made of the matter, except that for good cause 6153

shown in open court, with the prisoner or the prisoner's counsel 6154
present, the court may grant any necessary or reasonable 6155
continuance. The request of the prisoner shall be accompanied by 6156
a certificate of the warden or superintendent having custody of 6157
the prisoner, stating the term of commitment under which the 6158
prisoner is being held, the time served and remaining to be 6159
served on the sentence, the amount of good time earned, the time 6160
of parole eligibility of the prisoner, and any decisions of the 6161
adult parole authority relating to the prisoner. 6162

The written notice and request for final disposition shall 6163
be given or sent by the prisoner to the warden or superintendent 6164
having custody of the prisoner, who shall promptly forward it 6165
with the certificate to the appropriate prosecuting attorney and 6166
court by registered or certified mail, return receipt requested. 6167
If the appropriate prosecuting attorney and agency having 6168
custody of the prisoner have previously agreed, then the written 6169
notice, request, and certificate may be sent by electronic mail 6170
or facsimile, in lieu of registered mail or certified mail. 6171

The warden or superintendent having custody of the 6172
prisoner shall promptly inform the prisoner in writing of the 6173
source and contents of any untried indictment, information, or 6174
complaint against the prisoner, concerning which the warden or 6175
superintendent has knowledge, and of the prisoner's right to 6176
make a request for final disposition thereof. 6177

Escape from custody by the prisoner, subsequent to the 6178
prisoner's execution of the request for final disposition, voids 6179
the request. 6180

If the action is not brought to trial within the time 6181
provided, subject to continuance allowed pursuant to this 6182
section, no court any longer has jurisdiction thereof, the 6183

indictment, information, or complaint is void, and the court 6184
shall enter an order dismissing the action with prejudice. 6185

This section does not apply to any person adjudged to be 6186
mentally ill or who is under sentence of life imprisonment ~~or~~ 6187
~~death, or to any prisoner under sentence of death.~~ 6188

Sec. 2941.43. If the convict referred to in section 6189
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 6190
be forthwith returned by the sheriff to the state correctional 6191
institution to serve out the remainder of ~~his~~ the convict's 6192
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 6193
state correctional institution, ~~he~~ the convict shall be returned 6194
to the state correctional institution by the sheriff to serve 6195
~~his new~~ the convict's term. If ~~he is sentenced to death, the~~ 6196
~~death sentence shall be executed as if he were not under~~ 6197
~~sentence of imprisonment in a state correctional institution.~~ 6198

Sec. 2941.51. (A) Counsel appointed to a case or selected 6199
by an indigent person under division (E) of section 120.16 or 6200
division (E) of section 120.26 of the Revised Code, or otherwise 6201
appointed by the court, except for counsel appointed by the 6202
court to provide legal representation for a person charged with 6203
a violation of an ordinance of a municipal corporation, shall be 6204
paid for their services by the county the compensation and 6205
expenses that the trial court approves. Each request for payment 6206
shall include a financial disclosure form completed by the 6207
indigent person on a form prescribed by the state public 6208
defender. Compensation and expenses shall not exceed the amounts 6209
fixed by the board of county commissioners pursuant to division 6210
(B) of this section. 6211

(B) The board of county commissioners shall establish a 6212
schedule of fees by case or on an hourly basis to be paid by the 6213

county for legal services provided by appointed counsel. Prior 6214
to establishing such schedule, the board shall request the bar 6215
association or associations of the county to submit a proposed 6216
~~schedule for cases other than capital cases.~~ The schedule 6217
submitted shall be subject to the review, amendment, and 6218
approval of the board of county commissioners, ~~except with~~ 6219
~~respect to capital cases. With respect to capital cases, the~~ 6220
~~schedule shall provide for fees by case or on an hourly basis to~~ 6221
~~be paid to counsel in the amount or at the rate set by the~~ 6222
~~capital case attorney fee council pursuant to division (D) of~~ 6223
~~section 120.33 of the Revised Code, and the board of county~~ 6224
~~commissioners shall approve that amount or rate.~~ 6225

~~With respect to capital cases, counsel shall be paid~~ 6226
~~compensation and expenses in accordance with the amount or at~~ 6227
~~the rate set by the capital case attorney fee council pursuant~~ 6228
~~to division (D) of section 120.33 of the Revised Code.~~ 6229

(C) In a case where counsel have been appointed to conduct 6230
an appeal under Chapter 120. of the Revised Code, such 6231
compensation shall be fixed by the court of appeals or the 6232
supreme court, as provided in divisions (A) and (B) of this 6233
section. 6234

(D) The fees and expenses approved by the court under this 6235
section shall not be taxed as part of the costs and shall be 6236
paid by the county. However, if the person represented has, or 6237
reasonably may be expected to have, the means to meet some part 6238
of the cost of the services rendered to the person, the person 6239
shall pay the county an amount that the person reasonably can be 6240
expected to pay. Pursuant to section 120.04 of the Revised Code, 6241
the county shall pay to the state public defender a percentage 6242
of the payment received from the person in an amount 6243

proportionate to the percentage of the costs of the person's 6244
case that were paid to the county by the state public defender 6245
pursuant to this section. The money paid to the state public 6246
defender shall be credited to the client payment fund created 6247
pursuant to division (B) (5) of section 120.04 of the Revised 6248
Code. 6249

(E) The county auditor shall draw a warrant on the county 6250
treasurer for the payment of such counsel in the amount fixed by 6251
the court, plus the expenses that the court fixes and certifies 6252
to the auditor. The county auditor shall report periodically, 6253
but not less than annually, to the board of county commissioners 6254
and to the Ohio public defender commission the amounts paid out 6255
pursuant to the approval of the court under this section, 6256
~~separately stating costs and expenses that are reimbursable~~ 6257
~~under section 120.35 of the Revised Code.~~ The board, after 6258
review and approval of the auditor's report, may then certify it 6259
to the state public defender for reimbursement. The request for 6260
reimbursement shall be accompanied by a financial disclosure 6261
form completed by each indigent person for whom counsel was 6262
provided on a form prescribed by the state public defender. The 6263
state public defender shall review the report and, in accordance 6264
with the standards, guidelines, and maximums established 6265
pursuant to divisions (B) (7) and (8) of section 120.04 of the 6266
Revised Code and the payment determination provisions of section 6267
120.34 of the Revised Code, pay the cost, ~~other than costs and~~ 6268
~~expenses that are reimbursable under section 120.35 of the~~ 6269
~~Revised Code, if any,~~ of paying appointed counsel in each county 6270
~~and pay costs and expenses that are reimbursable under section~~ 6271
~~120.35 of the Revised Code, if any,~~ to the board. The amount of 6272
payments the state public defender is to make shall be 6273
determined as specified in section 120.34 of the Revised Code. 6274

(F) If any county system for paying appointed counsel 6275
fails to maintain the standards for the conduct of the system 6276
established by the rules of the Ohio public defender commission 6277
pursuant to divisions (B) and (C) of section 120.03 of the 6278
Revised Code or the standards established by the state public 6279
defender pursuant to division (B) (7) of section 120.04 of the 6280
Revised Code, the commission shall notify the board of county 6281
commissioners of the county that the county system for paying 6282
appointed counsel has failed to comply with its rules. Unless 6283
the board corrects the conduct of its appointed counsel system 6284
to comply with the rules within ninety days after the date of 6285
the notice, the state public defender may deny all or part of 6286
the county's reimbursement from the state provided for in this 6287
section. 6288

Sec. 2945.06. In any case in which a defendant waives ~~his~~ 6289
the defendant's right to trial by jury and elects to be tried by 6290
the court under section 2945.05 of the Revised Code, any judge 6291
of the court in which the cause is pending shall proceed to 6292
hear, try, and determine the cause in accordance with the rules 6293
and in like manner as if the cause were being tried before a 6294
jury. ~~If the accused is charged with an offense punishable with~~ 6295
~~death, he shall be tried by a court to be composed of three~~ 6296
~~judges, consisting of the judge presiding at the time in the~~ 6297
~~trial of criminal cases and two other judges to be designated by~~ 6298
~~the presiding judge or chief justice of that court, and in case~~ 6299
~~there is neither a presiding judge nor a chief justice, by the~~ 6300
~~chief justice of the supreme court. The judges or a majority of~~ 6301
~~them may decide all questions of fact and law arising upon the~~ 6302
~~trial; however the accused shall not be found guilty or not~~ 6303
~~guilty of any offense unless the judges unanimously find the~~ 6304
~~accused guilty or not guilty. If the accused pleads guilty of~~ 6305

~~aggravated murder, a court composed of three judges shall
examine the witnesses, determine whether the accused is guilty
of aggravated murder or any other offense, and pronounce
sentence accordingly. The court shall follow the procedures
contained in sections 2929.03 and 2929.04 of the Revised Code in
all cases in which the accused is charged with an offense
punishable by death. If in the composition of the court it is
necessary that a judge from another county be assigned by the
chief justice, the judge from another county shall be
compensated for his services as provided by section 141.07 of
the Revised Code.~~

Sec. 2945.10. The trial of an issue upon an indictment or
information shall proceed before the trial court or jury as
follows:

(A) Counsel for the state must first state the case for
the prosecution, and may briefly state the evidence by which the
counsel for the state expects to sustain it.

(B) The defendant or the defendant's counsel must then
state the defense, and may briefly state the evidence which the
defendant or the defendant's counsel expects to offer in support
of it.

(C) The state must first produce its evidence and the
defendant shall then produce the defendant's evidence.

(D) The state will then be confined to rebutting evidence,
but the court, for good reason, in furtherance of justice, may
permit evidence to be offered by either side out of its order.

(E) When the evidence is concluded, ~~one of the following
applies regarding jury instructions:~~

~~(1) In a capital case that is being heard by a jury, the~~

~~court shall prepare written instructions to the jury on the
points of law, shall provide copies of the written instructions
to the jury before orally instructing the jury, and shall permit
the jury to retain and consult the instructions during the
court's presentation of the oral instructions and during the
jury's deliberations.~~

~~(2) In a case that is not a capital case, either party may
request instructions to the jury on the points of law, which
instructions shall be reduced to writing if either party
requests it.~~

(F) When the evidence is concluded, unless the case is
submitted without argument, the counsel for the state shall
commence, the defendant or the defendant's counsel follow, and
the counsel for the state conclude the argument to the jury.

(G) The court, after the argument is concluded and before
proceeding with other business, shall forthwith charge the jury.
Such charge shall be reduced to writing by the court if either
party requests it before the argument to the jury is commenced.
Such charge, or other charge or instruction provided for in this
section, when so written and given, shall not be orally
qualified, modified, or explained to the jury by the court.
Written charges and instructions shall be taken by the jury in
their retirement and returned with their verdict into court and
remain on file with the papers of the case.

The court may deviate from the order of proceedings listed
in this section.

Sec. 2945.13. When two or more persons are jointly
indicted for a felony, ~~except a capital offense,~~ they shall be
tried jointly unless the court, for good cause shown on

application therefor by the prosecuting attorney or one or more 6364
of said defendants, orders one or more of said defendants to be 6365
tried separately. 6366

Sec. 2945.21. (A) (1) In criminal cases in which there is 6367
only one defendant, each party, in addition to the challenges 6368
for cause authorized by law, may peremptorily challenge three of 6369
the jurors in misdemeanor cases ~~and,~~ four of the jurors in 6370
felony cases other than capital cases that may subject the 6371
defendant to a sentence of life imprisonment, and six of the 6372
jurors in cases that may subject the defendant to a sentence of 6373
life imprisonment. If there is more than one defendant, each 6374
defendant may peremptorily challenge the same number of jurors 6375
as if ~~he~~ the defendant were the sole defendant. 6376

~~(2) Notwithstanding Criminal Rule 24, in capital cases in~~ 6377
~~which there is only one defendant, each party, in addition to~~ 6378
~~the challenges for cause authorized by law, may peremptorily~~ 6379
~~challenge twelve of the jurors. If there is more than one~~ 6380
~~defendant, each defendant may peremptorily challenge the same~~ 6381
~~number of jurors as if he were the sole defendant.~~ 6382

~~(3)~~ In any case in which there are multiple defendants, 6383
the prosecuting attorney may peremptorily challenge a number of 6384
jurors equal to the total number of peremptory challenges 6385
allowed to all of the defendants. 6386

(B) If any indictments, informations, or complaints are 6387
consolidated for trial, the consolidated cases shall be 6388
considered, for purposes of exercising peremptory challenges, as 6389
though the defendants or offenses had been joined in the same 6390
indictment, information, or complaint. 6391

(C) The exercise of peremptory challenges authorized by 6392

this section shall be in accordance with the procedures of 6393
Criminal Rule 24. 6394

Sec. 2945.25. A person called as a juror in a criminal 6395
case may be challenged for the following causes: 6396

(A) That the person was a member of the grand jury that 6397
found the indictment in the case; 6398

(B) That the person is possessed of a state of mind 6399
evinced enmity or bias toward the defendant or the state; but 6400
no person summoned as a juror shall be disqualified by reason of 6401
a previously formed or expressed opinion with reference to the 6402
guilt or innocence of the accused, if the court is satisfied, 6403
from examination of the juror or from other evidence, that the 6404
juror will render an impartial verdict according to the law and 6405
the evidence submitted to the jury at the trial; 6406

~~(C) In the trial of a capital offense, that the person 6407
unequivocally states that under no circumstances will the person 6408
follow the instructions of a trial judge and consider fairly the 6409
imposition of a sentence of death in a particular case. A 6410
prospective juror's conscientious or religious opposition to the 6411
death penalty in and of itself is not grounds for a challenge 6412
for cause. All parties shall be given wide latitude in voir dire 6413
questioning in this regard. 6414~~

~~(D) That the person is related by consanguinity or 6415
affinity within the fifth degree to the person alleged to be 6416
injured or attempted to be injured by the offense charged, or to 6417
the person on whose complaint the prosecution was instituted, or 6418
to the defendant; 6419~~

~~(E) (D) That the person served on a petit jury drawn in 6420
the same cause against the same defendant, and that jury was 6421~~

discharged after hearing the evidence or rendering a verdict on 6422
the evidence that was set aside; 6423

~~(F)~~ (E) That the person served as a juror in a civil case 6424
brought against the defendant for the same act; 6425

~~(G)~~ (F) That the person has been subpoenaed in good faith 6426
as a witness in the case; 6427

~~(H)~~ (G) That the person has chronic alcoholism, or a drug 6428
dependency; 6429

~~(I)~~ (H) That the person has been convicted of a crime that 6430
by law disqualifies the person from serving on a jury; 6431

~~(J)~~ (I) That the person has an action pending between the 6432
person and the state or the defendant; 6433

~~(K)~~ (J) That the person or the person's spouse is a party 6434
to another action then pending in any court in which an attorney 6435
in the cause then on trial is an attorney, either for or against 6436
the person; 6437

~~(L)~~ (K) That the person is the person alleged to be 6438
injured or attempted to be injured by the offense charged, or is 6439
the person on whose complaint the prosecution was instituted, or 6440
the defendant; 6441

~~(M)~~ (L) That the person is the employer or employee, or 6442
the spouse, parent, son, or daughter of the employer or 6443
employee, or the counselor, agent, or attorney of any person 6444
included in division ~~(L)~~ (K) of this section; 6445

~~(N)~~ (M) That English is not the person's native language, 6446
and the person's knowledge of English is insufficient to permit 6447
the person to understand the facts and law in the case; 6448

~~(O)~~ (N) That the person otherwise is unsuitable for any 6449
other cause to serve as a juror. 6450

The validity of each challenge listed in this section 6451
shall be determined by the court. 6452

Sec. 2945.33. When a cause is finally submitted the jurors 6453
must be kept together in a convenient place under the charge of 6454
an officer until they agree upon a verdict, or are discharged by 6455
the court. The court, ~~except in cases where the offense charged~~ 6456
~~may be punishable by death,~~ may permit the jurors to separate 6457
during the adjournment of court overnight, under proper 6458
cautions, or under supervision of an officer. Such officer shall 6459
not permit a communication to be made to them, nor make any 6460
~~himself~~ communication to them except to ask if they have agreed 6461
upon a verdict, unless ~~he~~ the officer does so by order of the 6462
court. Such officer shall not communicate to any person, before 6463
the verdict is delivered, any matter in relation to their 6464
deliberation. Upon the trial of any prosecution for misdemeanor, 6465
the court may permit the jury to separate during their 6466
deliberation, or upon adjournment of the court overnight. 6467

~~In cases where the offense charged may be punished by~~ 6468
~~death, after the case is finally submitted to the jury, the~~ 6469
~~jurors shall be kept in charge of the proper officer and proper~~ 6470
~~arrangements for their care and maintenance shall be made as~~ 6471
~~under section 2945.31 of the Revised Code.~~ 6472

Sec. 2945.38. (A) If the issue of a defendant's competence 6473
to stand trial is raised and if the court, upon conducting the 6474
hearing provided for in section 2945.37 of the Revised Code, 6475
finds that the defendant is competent to stand trial, the 6476
defendant shall be proceeded against as provided by law. If the 6477
court finds the defendant competent to stand trial and the 6478

defendant is receiving psychotropic drugs or other medication, 6479
the court may authorize the continued administration of the 6480
drugs or medication or other appropriate treatment in order to 6481
maintain the defendant's competence to stand trial, unless the 6482
defendant's attending physician advises the court against 6483
continuation of the drugs, other medication, or treatment. 6484

(B) (1) (a) (i) If the defendant has been charged with a 6485
felony offense or a misdemeanor offense of violence for which 6486
the prosecutor has not recommended the procedures under division 6487
(B) (1) (a) (vi) of this section and if, after taking into 6488
consideration all relevant reports, information, and other 6489
evidence, the court finds that the defendant is incompetent to 6490
stand trial and that there is a substantial probability that the 6491
defendant will become competent to stand trial within one year 6492
if the defendant is provided with a course of treatment, the 6493
court shall order the defendant to undergo treatment. 6494

(ii) If the defendant has been charged with a felony 6495
offense and if, after taking into consideration all relevant 6496
reports, information, and other evidence, the court finds that 6497
the defendant is incompetent to stand trial, but the court is 6498
unable at that time to determine whether there is a substantial 6499
probability that the defendant will become competent to stand 6500
trial within one year if the defendant is provided with a course 6501
of treatment, the court shall order continuing evaluation and 6502
treatment of the defendant for a period not to exceed four 6503
months to determine whether there is a substantial probability 6504
that the defendant will become competent to stand trial within 6505
one year if the defendant is provided with a course of 6506
treatment. 6507

(iii) If the defendant has not been charged with a felony 6508

offense but has been charged with a misdemeanor offense of 6509
violence and if, after taking into consideration all relevant 6510
reports, information, and other evidence, the court finds that 6511
the defendant is incompetent to stand trial, but the court is 6512
unable at that time to determine whether there is a substantial 6513
probability that the defendant will become competent to stand 6514
trial within the time frame permitted under division (C)(1) of 6515
this section, the court may order continuing evaluation and 6516
treatment of the defendant for a period not to exceed the 6517
maximum period permitted under that division. 6518

(iv) If the defendant has not been charged with a felony 6519
offense or a misdemeanor offense of violence, but has been 6520
charged with a misdemeanor offense that is not a misdemeanor 6521
offense of violence and if, after taking into consideration all 6522
relevant reports, information, and other evidence, the court 6523
finds that the defendant is incompetent to stand trial, but the 6524
court is unable at that time to determine whether there is a 6525
substantial probability that the defendant will become competent 6526
to stand trial within the time frame permitted under division 6527
(C)(1) of this section, the court shall dismiss the charges and 6528
follow the process outlined in division (B)(1)(a)(v)(I) of this 6529
section. 6530

(v) If the defendant has not been charged with a felony 6531
offense or a misdemeanor offense of violence, or if the 6532
defendant has been charged with a misdemeanor offense of 6533
violence and the prosecutor has recommended the procedures under 6534
division (B)(1)(a)(vi) of this section, and if, after taking 6535
into consideration all relevant reports, information, and other 6536
evidence, the trial court finds that the defendant is 6537
incompetent to stand trial, the trial court shall do one of the 6538
following: 6539

(I) Dismiss the charges pending against the defendant. A 6540
dismissal under this division is not a bar to further 6541
prosecution based on the same conduct. Upon dismissal of the 6542
charges, the trial court shall discharge the defendant unless 6543
the court or prosecutor, after consideration of the requirements 6544
of section 5122.11 of the Revised Code, files an affidavit in 6545
probate court alleging that the defendant is a mentally ill 6546
person subject to court order or a person with an intellectual 6547
disability subject to institutionalization by court order. If an 6548
affidavit is filed in probate court, the trial court may detain 6549
the defendant for ten days pending a hearing in the probate 6550
court and shall send to the probate court copies of all written 6551
reports of the defendant's mental condition that were prepared 6552
pursuant to section 2945.371 of the Revised Code. The trial 6553
court or prosecutor shall specify in the appropriate space on 6554
the affidavit that the defendant is a person described in this 6555
subdivision. 6556

(II) Order the defendant to undergo outpatient competency 6557
restoration treatment at a facility operated or certified by the 6558
department of mental health and addiction services as being 6559
qualified to treat mental illness, at a public or community 6560
mental health facility, at a jail that employs or contracts with 6561
an individual or entity listed in division (B) (1) (b) (i) of this 6562
section to provide treatment or continuing evaluation and 6563
treatment at a jail, or in the care of a psychiatrist or other 6564
mental health professional. If a defendant who has been released 6565
on bail or recognizance refuses to comply with court-ordered 6566
outpatient treatment under this division, the court may dismiss 6567
the charges pending against the defendant and proceed under 6568
division (B) (1) (a) (v) (I) of this section or may amend the 6569
conditions of bail or recognizance and order the sheriff to take 6570

the defendant into custody and deliver the defendant to a center 6571
or facility operated or certified by the department of mental 6572
health and addiction services for treatment. 6573

(vi) If the defendant has not been charged with a felony 6574
offense but has been charged with a misdemeanor offense of 6575
violence and after taking into consideration all relevant 6576
reports, information, and other evidence, the court finds that 6577
the defendant is incompetent to stand trial, the prosecutor in 6578
the case may recommend that the court follow the procedures 6579
prescribed in division (B) (1) (a) (v) of this section. If the 6580
prosecutor does not make such a recommendation, the court shall 6581
follow the procedures in division (B) (1) (a) (i) of this section. 6582

(b) (i) The court order for the defendant to undergo 6583
treatment or continuing evaluation and treatment under division 6584
(B) (1) (a) of this section shall specify that the defendant, if 6585
determined to require mental health treatment or continuing 6586
evaluation and treatment, shall be committed to one of the 6587
following: 6588

(I) The department of mental health and addiction services 6589
for treatment or continuing evaluation and treatment at a 6590
hospital, facility, or agency, as determined to be clinically 6591
appropriate by the department; 6592

(II) A facility certified by the department of mental 6593
health and addiction services as being qualified to treat mental 6594
illness; 6595

(III) A public or community mental health facility; 6596

(IV) A jail that employs or contracts with an entity or 6597
individual listed in division (B) (1) (b) (i) of this section to 6598
provide treatment or continuing evaluation and treatment at a 6599

jail; 6600

(V) A psychiatrist or another mental health professional 6601
for treatment or continuing evaluation and treatment. 6602

(ii) Prior to placing the defendant, the department of 6603
mental health and addiction services shall obtain court approval 6604
for that placement following a hearing. The court order for the 6605
defendant to undergo treatment or continuing evaluation and 6606
treatment under division (B)(1)(a) of this section shall specify 6607
that the defendant, if determined to require treatment or 6608
continuing evaluation and treatment for an intellectual 6609
disability, shall receive treatment or continuing evaluation and 6610
treatment at an institution or facility operated by the 6611
department of developmental disabilities, at a facility 6612
certified by the department of developmental disabilities as 6613
being qualified to treat intellectual disabilities, at a public 6614
or private intellectual disabilities facility, or by a 6615
psychiatrist or another intellectual disabilities professional. 6616
In any case, the order may restrict the defendant's freedom of 6617
movement as the court considers necessary. The prosecutor in the 6618
defendant's case shall send to the chief clinical officer of the 6619
hospital, facility, or agency where the defendant is placed by 6620
the department of mental health and addiction services, or to 6621
the managing officer or director of the institution, facility, 6622
or jail, or the person to which the defendant is committed, 6623
copies of relevant police reports and other background 6624
information that pertains to the defendant and is available to 6625
the prosecutor unless the prosecutor determines that the release 6626
of any of the information in the police reports or any of the 6627
other background information to unauthorized persons would 6628
interfere with the effective prosecution of any person or would 6629
create a substantial risk of harm to any person. 6630

(iii) In determining the place of commitment, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, the availability of housing and supportive services, including outpatient mental health services in the community, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety and treatment goals. In weighing these factors, the court shall give preference to protecting public safety and the availability of housing and supportive services.

(c) If the defendant is found incompetent to stand trial, if the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer or director of the institution, facility, or jail, or the person to which the defendant is committed for treatment or continuing evaluation and treatment under division (B) (1) (b) of this section determines that medication is necessary to restore the defendant's competency to stand trial, and if the defendant lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer or director of the institution, facility, or jail, or the person to which the defendant is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition if the petition was filed in a municipal court or a county court regarding an incompetent defendant charged with a misdemeanor or within ten days of the filing of the petition if the petition was filed in a court of common pleas regarding an incompetent defendant

charged with a felony offense. Following the hearing, the court 6662
may authorize the involuntary administration of medication or 6663
may dismiss the petition. 6664

(2) If the court finds that the defendant is incompetent 6665
to stand trial and that, even if the defendant is provided with 6666
a course of treatment, there is not a substantial probability 6667
that the defendant will become competent to stand trial within 6668
one year, the court shall order the discharge of the defendant, 6669
unless upon motion of the prosecutor or on its own motion, the 6670
court either seeks to retain jurisdiction over the defendant 6671
pursuant to section 2945.39 of the Revised Code or files an 6672
affidavit in the probate court for the civil commitment of the 6673
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 6674
alleging that the defendant is a person with a mental illness 6675
subject to court order or a person with an intellectual 6676
disability subject to institutionalization by court order. If an 6677
affidavit is filed in the probate court, the trial court shall 6678
send to the probate court copies of all written reports of the 6679
defendant's mental condition that were prepared pursuant to 6680
section 2945.371 of the Revised Code. 6681

The trial court may issue the temporary order of detention 6682
that a probate court may issue under section 5122.11 or 5123.71 6683
of the Revised Code, to remain in effect until the probable 6684
cause or initial hearing in the probate court. Further 6685
proceedings in the probate court are civil proceedings governed 6686
by Chapter 5122. or 5123. of the Revised Code. 6687

(C) No defendant shall be required to undergo treatment, 6688
including any continuing evaluation and treatment, under 6689
division (B)(1) of this section for longer than whichever of the 6690
following periods is applicable: 6691

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses: 6692
6693

(a) Aggravated murder, murder, or an offense of violence for which a sentence of ~~death or~~ life imprisonment may be imposed; 6694
6695
6696

(b) An offense of violence that is a felony of the first or second degree; 6697
6698

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C) (1) (a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree. 6699
6700
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6702

(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C) (1) of this section; 6703
6704
6705

(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree; 6706
6707
6708

(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor. 6709
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6711

(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 6712
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(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to the department of mental health and 6717
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addiction services or is committed to an institution or facility 6720
for the treatment of intellectual disabilities shall not be 6721
granted unsupervised on-grounds movement, supervised off-grounds 6722
movement, or nonsecured status except in accordance with the 6723
court order. The court may grant a defendant supervised off- 6724
grounds movement to obtain medical treatment or specialized 6725
habilitation treatment services if the person who supervises the 6726
treatment or the continuing evaluation and treatment of the 6727
defendant ordered under division (B) (1) (a) of this section 6728
informs the court that the treatment or continuing evaluation 6729
and treatment cannot be provided at the hospital or facility 6730
where the defendant is placed by the department of mental health 6731
and addiction services or the institution, facility, or jail to 6732
which the defendant is committed. The chief clinical officer of 6733
the hospital or facility where the defendant is placed by the 6734
department of mental health and addiction services or the 6735
managing officer or director of the institution, facility, or 6736
jail to which the defendant is committed, or a designee of any 6737
of those persons, may grant a defendant movement to a medical 6738
facility for an emergency medical situation with appropriate 6739
supervision to ensure the safety of the defendant, staff, and 6740
community during that emergency medical situation. The chief 6741
clinical officer of the hospital or facility where the defendant 6742
is placed by the department of mental health and addiction 6743
services or the managing officer or director of the institution, 6744
facility, or jail to which the defendant is committed shall 6745
notify the court within twenty-four hours of the defendant's 6746
movement to the medical facility for an emergency medical 6747
situation under this division. 6748

(F) The person who supervises the treatment or continuing 6749
evaluation and treatment of a defendant ordered to undergo 6750

treatment or continuing evaluation and treatment under division 6751
(B) (1) (a) of this section shall file a written report with the 6752
court at the following times: 6753

(1) Whenever the person believes the defendant is capable 6754
of understanding the nature and objective of the proceedings 6755
against the defendant and of assisting in the defendant's 6756
defense; 6757

(2) For a felony offense, fourteen days before expiration 6758
of the maximum time for treatment as specified in division (C) 6759
of this section and fourteen days before the expiration of the 6760
maximum time for continuing evaluation and treatment as 6761
specified in division (B) (1) (a) of this section, and, for a 6762
misdemeanor offense, ten days before the expiration of the 6763
maximum time for treatment, as specified in division (C) of this 6764
section; 6765

(3) At a minimum, after each six months of treatment; 6766

(4) Whenever the person who supervises the treatment or 6767
continuing evaluation and treatment of a defendant ordered under 6768
division (B) (1) (a) of this section believes that there is not a 6769
substantial probability that the defendant will become capable 6770
of understanding the nature and objective of the proceedings 6771
against the defendant or of assisting in the defendant's defense 6772
even if the defendant is provided with a course of treatment. 6773

(G) A report under division (F) of this section shall 6774
contain the examiner's findings, the facts in reasonable detail 6775
on which the findings are based, and the examiner's opinion as 6776
to the defendant's capability of understanding the nature and 6777
objective of the proceedings against the defendant and of 6778
assisting in the defendant's defense. If, in the examiner's 6779

opinion, the defendant remains incapable of understanding the 6780
nature and objective of the proceedings against the defendant 6781
and of assisting in the defendant's defense and there is a 6782
substantial probability that the defendant will become capable 6783
of understanding the nature and objective of the proceedings 6784
against the defendant and of assisting in the defendant's 6785
defense if the defendant is provided with a course of treatment, 6786
if in the examiner's opinion the defendant continues to have a 6787
mental illness or an intellectual disability, and if the maximum 6788
time for treatment as specified in division (C) of this section 6789
has not expired, the report also shall contain the examiner's 6790
recommendation as to the least restrictive placement or 6791
commitment alternative that is consistent with the defendant's 6792
treatment needs for restoration to competency and with the 6793
safety of the community. The court shall provide copies of the 6794
report to the prosecutor and defense counsel. 6795

(H) If a defendant is committed pursuant to division (B) 6796
(1) of this section, within ten days after the treating 6797
physician of the defendant or the examiner of the defendant who 6798
is employed or retained by the treating facility advises that 6799
there is not a substantial probability that the defendant will 6800
become capable of understanding the nature and objective of the 6801
proceedings against the defendant or of assisting in the 6802
defendant's defense even if the defendant is provided with a 6803
course of treatment, within ten days after the expiration of the 6804
maximum time for treatment as specified in division (C) of this 6805
section, within ten days after the expiration of the maximum 6806
time for continuing evaluation and treatment as specified in 6807
division (B)(1)(a) of this section, within thirty days after a 6808
defendant's request for a hearing that is made after six months 6809
of treatment, or within thirty days after being advised by the 6810

treating physician or examiner that the defendant is competent 6811
to stand trial, whichever is the earliest, the court shall 6812
conduct another hearing to determine if the defendant is 6813
competent to stand trial and shall do whichever of the following 6814
is applicable: 6815

(1) If the court finds that the defendant is competent to 6816
stand trial, the defendant shall be proceeded against as 6817
provided by law. 6818

(2) If the court finds that the defendant is incompetent 6819
to stand trial, but that there is a substantial probability that 6820
the defendant will become competent to stand trial if the 6821
defendant is provided with a course of treatment, and the 6822
maximum time for treatment as specified in division (C) of this 6823
section has not expired, the court, after consideration of the 6824
examiner's recommendation, shall order that treatment be 6825
continued, may change the facility or location at which the 6826
treatment is to be continued, and shall specify whether the 6827
treatment is to be continued at the same or a different facility 6828
or location. 6829

(3) If the court finds that the defendant is incompetent 6830
to stand trial, if the defendant is charged with an offense 6831
listed in division (C)(1) of this section, and if the court 6832
finds that there is not a substantial probability that the 6833
defendant will become competent to stand trial even if the 6834
defendant is provided with a course of treatment, or if the 6835
maximum time for treatment relative to that offense as specified 6836
in division (C) of this section has expired, further proceedings 6837
shall be as provided in sections 2945.39, 2945.401, and 2945.402 6838
of the Revised Code. 6839

(4) If the court finds that the defendant is incompetent 6840

to stand trial, if the most serious offense with which the 6841
defendant is charged is a misdemeanor or a felony other than a 6842
felony listed in division (C)(1) of this section, and if the 6843
court finds that there is not a substantial probability that the 6844
defendant will become competent to stand trial even if the 6845
defendant is provided with a course of treatment, or if the 6846
maximum time for treatment relative to that offense as specified 6847
in division (C) of this section has expired, the court shall 6848
dismiss the indictment, information, or complaint against the 6849
defendant. A dismissal under this division is not a bar to 6850
further prosecution based on the same conduct. The court shall 6851
discharge the defendant unless the court or prosecutor files an 6852
affidavit in probate court for civil commitment pursuant to 6853
Chapter 5122. or 5123. of the Revised Code. If an affidavit for 6854
civil commitment is filed, the court may detain the defendant 6855
for ten days pending civil commitment and shall send to the 6856
probate court copies of all written reports of the defendant's 6857
mental condition prepared pursuant to section 2945.371 of the 6858
Revised Code. 6859

All of the following provisions apply to persons charged 6860
with a misdemeanor or a felony other than a felony listed in 6861
division (C)(1) of this section who are committed by the probate 6862
court subsequent to the court's or prosecutor's filing of an 6863
affidavit for civil commitment under authority of this division: 6864

(a) The chief clinical officer of the entity, hospital, or 6865
facility, the managing officer or director of the institution, 6866
facility, or jail, or the person to which the defendant is 6867
committed or admitted shall do all of the following: 6868

(i) Notify the prosecutor, in writing, of the discharge of 6869
the defendant, send the notice at least ten days prior to the 6870

discharge unless the discharge is by the probate court, and 6871
state in the notice the date on which the defendant will be 6872
discharged; 6873

(ii) Notify the prosecutor, in writing, when the defendant 6874
is absent without leave or is granted unsupervised, off-grounds 6875
movement, and send this notice promptly after the discovery of 6876
the absence without leave or prior to the granting of the 6877
unsupervised, off-grounds movement, whichever is applicable; 6878

(iii) Notify the prosecutor, in writing, of the change of 6879
the defendant's commitment or admission to voluntary status, 6880
send the notice promptly upon learning of the change to 6881
voluntary status, and state in the notice the date on which the 6882
defendant was committed or admitted on a voluntary status. 6883

(b) Upon receiving notice that the defendant will be 6884
granted unsupervised, off-grounds movement, the prosecutor 6885
either shall re-indict the defendant or promptly notify the 6886
court that the prosecutor does not intend to prosecute the 6887
charges against the defendant. 6888

(I) If a defendant is convicted of a crime and sentenced 6889
to a jail, the defendant's sentence shall be reduced by the 6890
total number of days the defendant is confined for evaluation to 6891
determine the defendant's competence to stand trial or treatment 6892
under this section and sections 2945.37 and 2945.371 of the 6893
Revised Code or by the total number of days the defendant is 6894
confined for evaluation to determine the defendant's mental 6895
condition at the time of the offense charged. 6896

Sec. 2949.02. (A) If a person is convicted of any bailable 6897
offense, including, but not limited to, a violation of an 6898
ordinance of a municipal corporation, in a municipal or county 6899

court or in a court of common pleas and if the person gives to 6900
the trial judge or magistrate a written notice of the person's 6901
intention to file or apply for leave to file an appeal to the 6902
court of appeals, the trial judge or magistrate may suspend, 6903
~~subject to division (A) (2) (b) of section 2953.09 of the Revised~~ 6904
~~Code,~~ execution of the sentence or judgment imposed for any 6905
fixed time that will give the person time either to prepare and 6906
file, or to apply for leave to file, the appeal. In all bailable 6907
cases, except as provided in division (B) of this section, the 6908
trial judge or magistrate may release the person on bail in 6909
accordance with section 2937.011 of the Revised Code, and the 6910
bail shall at least be conditioned that the person will appeal 6911
without delay and abide by the judgment and sentence of the 6912
court. 6913

(B) Notwithstanding any provision of section 2937.011 of 6914
the Revised Code to the contrary, a trial judge of a court of 6915
common pleas shall not release on bail pursuant to division (A) 6916
of this section a person who is convicted of a bailable offense 6917
if the person is sentenced to imprisonment for life or if that 6918
offense is a violation of section 2903.01, 2903.02, 2903.03, 6919
2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 6920
2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious 6921
sexual penetration in violation of former section 2907.12 of the 6922
Revised Code. 6923

(C) If a trial judge of a court of common pleas is 6924
prohibited by division (B) of this section from releasing on 6925
bail pursuant to division (A) of this section a person who is 6926
convicted of a bailable offense and not sentenced to 6927
imprisonment for life, the appropriate court of appeals or two 6928
judges of it, upon motion of such a person and for good cause 6929
shown, may release the person on bail in accordance with section 6930

2937.011 of the Revised Code and Appellate Rule 8, and the bail shall at least be conditioned as described in division (A) of this section.

Sec. 2949.03. If a judgment of conviction by a court of common pleas, municipal court, or county court is affirmed by a court of appeals and remanded to the trial court for execution of the sentence or judgment imposed, and the person so convicted gives notice of ~~his~~ the person's intention to file a notice of appeal to the supreme court, the trial court, on the filing of a motion by such person within three days after the rendition by the court of appeals of the judgment of affirmation, may further suspend, ~~subject to division (A) (2) (b) of section 2953.09 of the Revised Code,~~ the execution of the sentence or judgment imposed for a time sufficient to give such person an opportunity to file a notice of appeal to the supreme court, but the sentence or judgment imposed shall not be suspended more than thirty days for that purpose.

Sec. 2953.02. In a ~~capital case in which a sentence of death is imposed for an offense committed before January 1, 1995, and in any other~~ criminal case, including a conviction for the violation of an ordinance of a municipal corporation, the judgment or final order of a court of record inferior to the court of appeals may be reviewed in the court of appeals. A final order of an administrative officer or agency may be reviewed in the court of common pleas. A judgment or final order of the court of appeals involving a question arising under the Constitution of the United States or of this state may be appealed to the supreme court as a matter of right. This right of appeal from judgments and final orders of the court of appeals shall extend to ~~cases in which a sentence of death is imposed for an offense committed before January 1, 1995, and in~~

~~which the death penalty has been affirmed,~~ felony cases in which 6962
the supreme court has directed the court of appeals to certify 6963
its record, and in all other criminal cases of public or general 6964
interest wherein the supreme court has granted a motion to 6965
certify the record of the court of appeals. ~~In a capital case in~~ 6966
~~which a sentence of death is imposed for an offense committed on~~ 6967
~~or after January 1, 1995, the judgment or final order may be~~ 6968
~~appealed from the trial court directly to the supreme court as a~~ 6969
~~matter of right.~~ The supreme court in criminal cases shall not 6970
be required to determine as to the weight of the evidence, 6971
~~except that, in cases in which a sentence of death is imposed~~ 6972
~~for an offense committed on or after January 1, 1995, and in~~ 6973
~~which the question of the weight of the evidence to support the~~ 6974
~~judgment has been raised on appeal, the supreme court shall~~ 6975
~~determine as to the weight of the evidence to support the~~ 6976
~~judgment and shall determine as to the weight of the evidence to~~ 6977
~~support the sentence of death as provided in section 2929.05 of~~ 6978
~~the Revised Code.~~ 6979

Sec. 2953.07. ~~(A)~~ Upon the hearing of an appeal other than 6980
an appeal from a mayor's court, the appellate court may affirm 6981
the judgment or reverse it, in whole or in part, or modify it, 6982
and order the accused to be discharged or grant a new trial. The 6983
appellate court may remand the accused for the sole purpose of 6984
correcting a sentence imposed contrary to law, provided that, on 6985
an appeal of a sentence imposed upon a person who is convicted 6986
of or pleads guilty to a felony that is brought under section 6987
2953.08 of the Revised Code, division (G) of that section 6988
applies to the court. If the judgment is reversed, the appellant 6989
shall recover from the appellee all court costs incurred to 6990
secure the reversal, including the cost of transcripts. ~~In~~ 6991
~~capital cases, when the judgment is affirmed and the day fixed~~ 6992

~~for the execution is passed, the appellate court shall appoint a~~ 6993
~~day for it, and the clerk of the appellate court shall issue a~~ 6994
~~warrant under the seal of the appellate court, to the sheriff of~~ 6995
~~the proper county, or the warden of the appropriate state~~ 6996
~~correctional institution, commanding the sheriff or warden to~~ 6997
~~carry the sentence into execution on the day so appointed. The~~ 6998
~~sheriff or warden shall execute and return the warrant as in~~ 6999
~~other cases, and the clerk shall record the warrant and return.~~ 7000

~~(B) As used in this section, "appellate court" means, for~~ 7001
~~a case in which a sentence of death is imposed for an offense~~ 7002
~~committed before January 1, 1995, both the court of appeals and~~ 7003
~~the supreme court, and for a case in which a sentence of death~~ 7004
~~is imposed for an offense committed on or after January 1, 1995,~~ 7005
~~the supreme court.~~ 7006

Sec. 2953.08. (A) In addition to any other right to appeal 7007
and except as provided in division (D) of this section, a 7008
defendant who is convicted of or pleads guilty to a felony may 7009
appeal as a matter of right the sentence imposed upon the 7010
defendant on one of the following grounds: 7011

(1) The sentence consisted of or included the maximum 7012
definite prison term allowed for the offense by division (A) of 7013
section 2929.14 or section 2929.142 of the Revised Code or, with 7014
respect to a non-life felony indefinite prison term, the longest 7015
minimum prison term allowed for the offense by division (A) (1) 7016
(a) or (2) (a) of section 2929.14 of the Revised Code, the 7017
maximum definite prison term or longest minimum prison term was 7018
not required for the offense pursuant to Chapter 2925. or any 7019
other provision of the Revised Code, and the court imposed the 7020
sentence under one of the following circumstances: 7021

(a) The sentence was imposed for only one offense. 7022

(b) The sentence was imposed for two or more offenses 7023
arising out of a single incident, and the court imposed the 7024
maximum definite prison term or longest minimum prison term for 7025
the offense of the highest degree. 7026

(2) The sentence consisted of or included a prison term 7027
and the offense for which it was imposed is a felony of the 7028
fourth or fifth degree or is a felony drug offense that is a 7029
violation of a provision of Chapter 2925. of the Revised Code 7030
and that is specified as being subject to division (B) of 7031
section 2929.13 of the Revised Code for purposes of sentencing. 7032
If the court specifies that it found one or more of the factors 7033
in division (B) (1) (b) of section 2929.13 of the Revised Code to 7034
apply relative to the defendant, the defendant is not entitled 7035
under this division to appeal as a matter of right the sentence 7036
imposed upon the offender. 7037

(3) The person was convicted of or pleaded guilty to a 7038
violent sex offense or a designated homicide, assault, or 7039
kidnapping offense, was adjudicated a sexually violent predator 7040
in relation to that offense, and was sentenced pursuant to 7041
division (A) (3) of section 2971.03 of the Revised Code, if the 7042
minimum term of the indefinite term imposed pursuant to division 7043
(A) (3) of section 2971.03 of the Revised Code is the longest 7044
term available for the offense from among the range of definite 7045
terms listed in section 2929.14 of the Revised Code or, with 7046
respect to a non-life felony indefinite prison term, the longest 7047
minimum prison term allowed for the offense by division (A) (1) 7048
(a) or (2) (a) of section 2929.14 of the Revised Code. As used in 7049
this division, "designated homicide, assault, or kidnapping 7050
offense" and "violent sex offense" have the same meanings as in 7051
section 2971.01 of the Revised Code. As used in this division, 7052
"adjudicated a sexually violent predator" has the same meaning 7053

as in section 2929.01 of the Revised Code, and a person is 7054
"adjudicated a sexually violent predator" in the same manner and 7055
the same circumstances as are described in that section. 7056

(4) The sentence is contrary to law. 7057

(5) The sentence consisted of an additional prison term of 7058
ten years imposed pursuant to division (B)(2)(a) of section 7059
2929.14 of the Revised Code. 7060

(B) In addition to any other right to appeal and except as 7061
provided in division (D) of this section, a prosecuting 7062
attorney, a city director of law, village solicitor, or similar 7063
chief legal officer of a municipal corporation, or the attorney 7064
general, if one of those persons prosecuted the case, may appeal 7065
as a matter of right a sentence imposed upon a defendant who is 7066
convicted of or pleads guilty to a felony or, in the 7067
circumstances described in division (B)(3) of this section the 7068
modification of a sentence imposed upon such a defendant, on any 7069
of the following grounds: 7070

(1) The sentence did not include a prison term despite a 7071
presumption favoring a prison term for the offense for which it 7072
was imposed, as set forth in section 2929.13 or Chapter 2925. of 7073
the Revised Code. 7074

(2) The sentence is contrary to law. 7075

(3) The sentence is a modification under section 2929.20 7076
of the Revised Code of a sentence that was imposed for a felony 7077
of the first or second degree. 7078

(C)(1) In addition to the right to appeal a sentence 7079
granted under division (A) or (B) of this section, a defendant 7080
who is convicted of or pleads guilty to a felony may seek leave 7081
to appeal a sentence imposed upon the defendant on the basis 7082

that the sentencing judge has imposed consecutive sentences 7083
under division (C) (3) of section 2929.14 of the Revised Code and 7084
that the consecutive sentences exceed the maximum definite 7085
prison term allowed by division (A) of that section for the most 7086
serious offense of which the defendant was convicted or, with 7087
respect to a non-life felony indefinite prison term, exceed the 7088
longest minimum prison term allowed by division (A) (1) (a) or (2) 7089
(a) of that section for the most serious such offense. Upon the 7090
filing of a motion under this division, the court of appeals may 7091
grant leave to appeal the sentence if the court determines that 7092
the allegation included as the basis of the motion is true. 7093

(2) A defendant may seek leave to appeal an additional 7094
sentence imposed upon the defendant pursuant to division (B) (2) 7095
(a) or (b) of section 2929.14 of the Revised Code if the 7096
additional sentence is for a definite prison term that is longer 7097
than five years. 7098

(D) (1) A sentence imposed upon a defendant is not subject 7099
to review under this section if the sentence is authorized by 7100
law, has been recommended jointly by the defendant and the 7101
prosecution in the case, and is imposed by a sentencing judge. 7102

(2) Except as provided in division (C) (2) of this section, 7103
a sentence imposed upon a defendant is not subject to review 7104
under this section if the sentence is imposed pursuant to 7105
division (B) (2) (b) of section 2929.14 of the Revised Code. 7106
Except as otherwise provided in this division, a defendant 7107
retains all rights to appeal as provided under this chapter or 7108
any other provision of the Revised Code. A defendant has the 7109
right to appeal under this chapter or any other provision of the 7110
Revised Code the court's application of division (B) (2) (c) of 7111
section 2929.14 of the Revised Code. 7112

(3) A sentence imposed for aggravated murder or murder 7113
pursuant to ~~sections~~ section 2929.02 to 2929.06 of the Revised 7114
Code is not subject to review under this section. 7115

(E) A defendant, prosecuting attorney, city director of 7116
law, village solicitor, or chief municipal legal officer shall 7117
file an appeal of a sentence under this section to a court of 7118
appeals within the time limits specified in Rule 4(B) of the 7119
Rules of Appellate Procedure, provided that if the appeal is 7120
pursuant to division (B) (3) of this section, the time limits 7121
specified in that rule shall not commence running until the 7122
court grants the motion that makes the sentence modification in 7123
question. A sentence appeal under this section shall be 7124
consolidated with any other appeal in the case. If no other 7125
appeal is filed, the court of appeals may review only the 7126
portions of the trial record that pertain to sentencing. 7127

(F) On the appeal of a sentence under this section, the 7128
record to be reviewed shall include all of the following, as 7129
applicable: 7130

(1) Any presentence, psychiatric, or other investigative 7131
report that was submitted to the court in writing before the 7132
sentence was imposed. An appellate court that reviews a 7133
presentence investigation report prepared pursuant to section 7134
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 7135
connection with the appeal of a sentence under this section 7136
shall comply with division (D) (3) of section 2951.03 of the 7137
Revised Code when the appellate court is not using the 7138
presentence investigation report, and the appellate court's use 7139
of a presentence investigation report of that nature in 7140
connection with the appeal of a sentence under this section does 7141
not affect the otherwise confidential character of the contents 7142

of that report as described in division (D) (1) of section 7143
2951.03 of the Revised Code and does not cause that report to 7144
become a public record, as defined in section 149.43 of the 7145
Revised Code, following the appellate court's use of the report. 7146

(2) The trial record in the case in which the sentence was 7147
imposed; 7148

(3) Any oral or written statements made to or by the court 7149
at the sentencing hearing at which the sentence was imposed; 7150

(4) Any written findings that the court was required to 7151
make in connection with the modification of the sentence 7152
pursuant to a judicial release under division (I) of section 7153
2929.20 of the Revised Code. 7154

(G) (1) If the sentencing court was required to make the 7155
findings required by division (B) or (D) of section 2929.13 or 7156
division (I) of section 2929.20 of the Revised Code, or to state 7157
the findings of the trier of fact required by division (B) (2) (e) 7158
of section 2929.14 of the Revised Code, relative to the 7159
imposition or modification of the sentence, and if the 7160
sentencing court failed to state the required findings on the 7161
record, the court hearing an appeal under division (A), (B), or 7162
(C) of this section shall remand the case to the sentencing 7163
court and instruct the sentencing court to state, on the record, 7164
the required findings. 7165

(2) The court hearing an appeal under division (A), (B), 7166
or (C) of this section shall review the record, including the 7167
findings underlying the sentence or modification given by the 7168
sentencing court. 7169

The appellate court may increase, reduce, or otherwise 7170
modify a sentence that is appealed under this section or may 7171

vacate the sentence and remand the matter to the sentencing 7172
court for resentencing. The appellate court's standard for 7173
review is not whether the sentencing court abused its 7174
discretion. The appellate court may take any action authorized 7175
by this division if it clearly and convincingly finds either of 7176
the following: 7177

(a) That the record does not support the sentencing 7178
court's findings under division (B) or (D) of section 2929.13, 7179
division (B) (2) (e) or (C) (4) of section 2929.14, or division (I) 7180
of section 2929.20 of the Revised Code, whichever, if any, is 7181
relevant; 7182

(b) That the sentence is otherwise contrary to law. 7183

(H) A judgment or final order of a court of appeals under 7184
this section may be appealed, by leave of court, to the supreme 7185
court. 7186

(I) As used in this section, "non-life felony indefinite 7187
prison term" has the same meaning as in section 2929.01 of the 7188
Revised Code. 7189

Sec. 2953.09. (A) (1) Upon filing an appeal in the supreme 7190
court, the execution of the sentence or judgment imposed in 7191
cases of felony is suspended. 7192

~~(2) (a)~~ (2) If a notice of appeal is filed pursuant to the 7193
Rules of Appellate Procedure by a defendant who is convicted in 7194
a municipal or county court or a court of common pleas of a 7195
felony or misdemeanor under the Revised Code or an ordinance of 7196
a municipal corporation, the filing of the notice of appeal does 7197
not suspend execution of the sentence or judgment imposed. 7198
However, consistent with divisions ~~(A) (2) (b)~~, (B) ~~r~~, and (C) of 7199
this section, section 2937.011 of the Revised Code, and 7200

Appellate Rule 8, the municipal or county court, court of common
pleas, or court of appeals may suspend execution of the sentence
or judgment imposed during the pendency of the appeal and shall
determine whether that defendant is entitled to bail and the
amount and nature of any bail that is required. The bail shall
at least be conditioned that the defendant will prosecute the
appeal without delay and abide by the judgment and sentence of
the court.

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

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

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

(B) Notwithstanding any provision of section 2937.011 of

the Revised Code to the contrary, a trial judge of a court of 7231
common pleas shall not release on bail pursuant to division ~~(A)~~ 7232
~~(2)~~ (A) (2) of this section a defendant who is convicted of a 7233
bailable offense if the defendant is sentenced to imprisonment 7234
for life or if that offense is a violation of section 2903.01, 7235
2903.02, 2903.03, 2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 7236
2907.02, 2909.02, 2911.01, 2911.02, or 2911.11 of the Revised 7237
Code or is felonious sexual penetration in violation of former 7238
section 2907.12 of the Revised Code. 7239

(C) If a trial judge of a court of common pleas is 7240
prohibited by division (B) of this section from releasing on 7241
bail pursuant to division ~~(A) (2)~~ (A) (2) of this section a 7242
defendant who is convicted of a bailable offense and not 7243
sentenced to imprisonment for life, the appropriate court of 7244
appeals or two judges of it, upon motion of the defendant and 7245
for good cause shown, may release the defendant on bail in 7246
accordance with division (A) (2) of this section. 7247

Sec. 2953.10. When an appeal is taken from a court of 7248
appeals to the supreme court, the supreme court has the same 7249
power and authority to suspend the execution of sentence during 7250
the pendency of the appeal and admit the defendant to bail as 7251
does the court of appeals unless another section of the Revised 7252
Code or the Rules of Practice of the Supreme Court specify a 7253
distinct bail or suspension of sentence authority. 7254

~~When an appeal in a case in which a sentence of death is~~ 7255
~~imposed for an offense committed on or after January 1, 1995, is~~ 7256
~~taken directly from the trial court to the supreme court, the~~ 7257
~~supreme court has the same power and authority to suspend the~~ 7258
~~execution of the sentence during the pendency of the appeal and~~ 7259
~~admit the defendant to bail as does the court of appeals for~~ 7260

~~cases in which a sentence of death is imposed for an offense~~ 7261
~~committed before January 1, 1995, unless another section of the~~ 7262
~~Revised Code or the Rules of Practice of the Supreme Court~~ 7263
~~specify a distinct bail or suspension of sentence authority.~~ 7264

Sec. 2953.21. (A) (1) (a) A person in any either of the 7265
following categories may file a petition in the court that 7266
imposed sentence, stating the grounds for relief relied upon, 7267
and asking the court to vacate or set aside the judgment or 7268
sentence or to grant other appropriate relief: 7269

(i) Any person who has been convicted of a criminal 7270
offense or adjudicated a delinquent child and who claims that 7271
there was such a denial or infringement of the person's rights 7272
as to render the judgment void or voidable under the Ohio 7273
Constitution or the Constitution of the United States; 7274

~~(ii) Any person who has been convicted of a criminal~~ 7275
~~offense and sentenced to death and who claims that there was a~~ 7276
~~denial or infringement of the person's rights under either of~~ 7277
~~those Constitutions that creates a reasonable probability of an~~ 7278
~~altered verdict;~~ 7279

~~(iii) Any person who has been convicted of a criminal~~ 7280
offense that is a felony and who is an offender for whom DNA 7281
testing that was performed under sections 2953.71 to 2953.81 of 7282
the Revised Code or under former section 2953.82 of the Revised 7283
Code and analyzed in the context of and upon consideration of 7284
all available admissible evidence related to the person's case 7285
as described in division (D) of section 2953.74 of the Revised 7286
Code provided results that establish, by clear and convincing 7287
evidence, actual innocence of that felony offense ~~or, if the~~ 7288
~~person was sentenced to death, establish, by clear and~~ 7289
~~convincing evidence, actual innocence of the aggravating~~ 7290

~~circumstance or circumstances the person was found guilty of~~ 7291
~~committing and that is or are the basis of that sentence of~~ 7292
~~death;~~ 7293

~~(iv) Any person who has been convicted of aggravated~~ 7294
~~murder and sentenced to death for the offense and who claims~~ 7295
~~that the person had a serious mental illness at the time of the~~ 7296
~~commission of the offense and that as a result the court should~~ 7297
~~render void the sentence of death, with the filing of the~~ 7298
~~petition constituting the waiver described in division (A) (3) (b)~~ 7299
~~of this section.~~ 7300

(b) A petitioner under division (A) (1) (a) of this section 7301
may file a supporting affidavit and other documentary evidence 7302
in support of the claim for relief. 7303

(c) As used in division (A) (1) (a) of this section: 7304

~~(i) "Actual, "actual innocence" means that, had the~~ 7305
~~results of the DNA testing conducted under sections 2953.71 to~~ 7306
~~2953.81 of the Revised Code or under former section 2953.82 of~~ 7307
~~the Revised Code been presented at trial, and had those results~~ 7308
~~been analyzed in the context of and upon consideration of all~~ 7309
~~available admissible evidence related to the person's case as~~ 7310
~~described in division (D) of section 2953.74 of the Revised~~ 7311
~~Code, no reasonable factfinder would have found the petitioner~~ 7312
~~guilty of the offense of which the petitioner was convicted, or,~~ 7313
~~if the person was sentenced to death, no reasonable factfinder~~ 7314
~~would have found the petitioner guilty of the aggravating~~ 7315
~~circumstance or circumstances the petitioner was found guilty of~~ 7316
~~committing and that is or are the basis of that sentence of~~ 7317
~~death.~~ 7318

~~(ii) "Serious mental illness" has the same meaning as in~~ 7319

~~section 2929.025 of the Revised Code.~~ 7320

(d) As used in divisions (A) (1) (a) and (c) of this 7321
section, "former section 2953.82 of the Revised Code" means 7322
section 2953.82 of the Revised Code as it existed prior to July 7323
6, 2010. 7324

~~(e) At any time in conjunction with the filing of a 7325
petition for postconviction relief under division (A) of this 7326
section by a person who has been sentenced to death, or with the 7327
litigation of a petition so filed, the court, for good cause 7328
shown, may authorize the petitioner in seeking the 7329
postconviction relief and the prosecuting attorney of the county 7330
served by the court in defending the proceeding, to take 7331
depositions and to issue subpoenas and subpoenas duces tecum in 7332
accordance with divisions (A) (1) (e), (A) (1) (f), and (C) of this 7333
section, and to any other form of discovery as in a civil action 7334
that the court in its discretion permits. The court may limit 7335
the extent of discovery under this division. In addition to 7336
discovery that is relevant to the claim and was available under 7337
Criminal Rule 16 through conclusion of the original criminal 7338
trial, the court, for good cause shown, may authorize the 7339
petitioner or prosecuting attorney to take depositions and issue 7340
subpoenas and subpoenas duces tecum in either of the following 7341
circumstances:~~ 7342

~~(i) For any witness who testified at trial or who was 7343
disclosed by the state prior to trial, except as otherwise 7344
provided in this division, the petitioner or prosecuting 7345
attorney shows clear and convincing evidence that the witness is 7346
material and that a deposition of the witness or the issuing of 7347
a subpoena or subpoena duces tecum is of assistance in order to 7348
substantiate or refute the petitioner's claim that there is a 7349~~

~~reasonable probability of an altered verdict. This division does 7350
not apply if the witness was unavailable for trial or would not 7351
voluntarily be interviewed by the defendant or prosecuting 7352
attorney. 7353~~

~~(ii) For any witness with respect to whom division (A) (1) 7354
(e) (i) of this section does not apply, the petitioner or 7355
prosecuting attorney shows good cause that the witness is 7356
material and that a deposition of the witness or the issuing of 7357
a subpoena or subpoena duces tecum is of assistance in order to 7358
substantiate or refute the petitioner's claim that there is a 7359
reasonable probability of an altered verdict. 7360~~

~~(f) If a person who has been sentenced to death and who 7361
files a petition for postconviction relief under division (A) of 7362
this section requests postconviction discovery as described in 7363
division (A) (1) (e) of this section or if the prosecuting 7364
attorney of the county served by the court requests 7365
postconviction discovery as described in that division, within 7366
ten days after the docketing of the request, or within any other 7367
time that the court sets for good cause shown, the prosecuting 7368
attorney shall respond by answer or motion to the petitioner's 7369
request or the petitioner shall respond by answer or motion to 7370
the prosecuting attorney's request, whichever is applicable. 7371~~

~~(g) If a person who has been sentenced to death and who 7372
files a petition for postconviction relief under division (A) of 7373
this section requests postconviction discovery as described in 7374
division (A) (1) (e) of this section or if the prosecuting 7375
attorney of the county served by the court requests 7376
postconviction discovery as described in that division, upon 7377
motion by the petitioner, the prosecuting attorney, or the 7378
person from whom discovery is sought, and for good cause shown, 7379~~

~~the court in which the action is pending may make any order that justice requires to protect a party or person from oppression or undue burden or expense, including but not limited to the orders described in divisions (A) (1) (h) (i) to (viii) of this section. The court also may make any such order if, in its discretion, it determines that the discovery sought would be irrelevant to the claims made in the petition; and if the court makes any such order on that basis, it shall explain in the order the reasons why the discovery would be irrelevant.~~

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

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

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

~~(i) That the discovery not be had;~~

- ~~(ii) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;~~ 7410
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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;~~ 7412
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- ~~(iv) That certain matters not be inquired into or that the scope of the discovery be limited to certain matters;~~ 7415
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- ~~(v) That discovery be conducted with no one present except persons designated by the court;~~ 7417
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- ~~(vi) That a deposition after being sealed be opened only by order of the court;~~ 7419
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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;~~ 7421
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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.~~ 7424
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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.~~ 7427
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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 matter barred by the doctrine of res judicata.~~ 7432
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- ~~(k) Division (A) (1) of this section does not apply to any person who has been convicted of a criminal offense and~~ 7436
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~~sentenced to death and who has unsuccessfully raised the same
claims in a petition for postconviction relief.~~ 7438
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~~(2)(a)(2)~~ Except as otherwise provided in section 2953.23 7440
of the Revised Code, a petition under division ~~(A)(1)(a)(i),~~ 7441
~~(ii), or (iii)~~ (A)(1)(a) of this section shall be filed no later 7442
than three hundred sixty-five days after the date on which the 7443
trial transcript is filed in the court of appeals in the direct 7444
appeal of the judgment of conviction or adjudication ~~or, if the~~ 7445
~~direct appeal involves a sentence of death, the date on which~~ 7446
~~the trial transcript is filed in the supreme court.~~ If no appeal 7447
is taken, except as otherwise provided in section 2953.23 of the 7448
Revised Code, the petition shall be filed no later than three 7449
hundred sixty-five days after the expiration of the time for 7450
filing the appeal. 7451

~~(b) Except as otherwise provided in section 2953.23 of the~~ 7452
~~Revised Code, a petition under division (A)(1)(a)(iv) of this~~ 7453
~~section shall be filed not later than three hundred sixty-five~~ 7454
~~days after the effective date of this amendment~~ 7455

~~(3)(a) In a petition filed under division (A)(1)(a)(i),~~ 7456
~~(ii), or (iii) of this section, a person who has been sentenced~~ 7457
~~to death may ask the court to render void or voidable the~~ 7458
~~judgment with respect to the conviction of aggravated murder or~~ 7459
~~the specification of an aggravating circumstance or the sentence~~ 7460
~~of death.~~ 7461

~~(b) A person sentenced to death who files a petition under~~ 7462
~~division (A)(1)(a)(iv) of this section may ask the court to~~ 7463
~~render void the sentence of death and to order the resentencing~~ 7464
~~of the person under division (A) of section 2929.06 of the~~ 7465
~~Revised Code. If a person sentenced to death files such a~~ 7466
~~petition and asks the court to render void the sentence of death~~ 7467

~~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.~~ 7468
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~~(4)~~(3) 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. 7475
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~~(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 judge imposed upon other persons. 7480
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~~(6) Notwithstanding any law or court rule to the contrary,~~ 7497

~~there is no limit on the number of pages in, or on the length of, a petition filed under division (A) (1) (a) (i), (ii), (iii), or (iv) of this section by a person who has been sentenced to death. If any court rule specifies a limit on the number of pages in, or on the length of, a petition filed under division (A) (1) (a) (i), (ii), (iii), or (iv) of this section or on a prosecuting attorney's response to such a petition by answer or motion and a person who has been sentenced to death files a petition that exceeds the limit specified for the petition, the prosecuting attorney may respond by an answer or motion that exceeds the limit specified for the response.~~

(B) ~~The clerk of the court in which the petition for postconviction relief and, if applicable, a request for postconviction discovery described in division (A) (1) (c) of this section is filed shall docket the petition and the request and bring ~~them~~ it promptly to the attention of the court. The clerk of the court in which the petition for postconviction relief and, if applicable, a request for postconviction discovery described in division (A) (1) (c) of this section is filed immediately shall forward a copy of the petition and a copy of the request if filed by the petitioner to the prosecuting attorney of the county served by the court. ~~If the request for postconviction discovery is filed by the prosecuting attorney, the clerk of the court immediately shall forward a copy of the request to the petitioner or the petitioner's counsel.~~~~

(C) ~~If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) (1) (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) or (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 good cause shown, the prosecuting attorney shall respond by answer or motion. ~~Division (A) (6) of this section applies with respect to the prosecuting attorney's response.~~ Within twenty

days from the date the issues are raised, either party may move 7560
for summary judgment. The right to summary judgment shall appear 7561
on the face of the record. 7562

~~(F)~~ (E) Unless the petition and the files and records of 7563
the case show the petitioner is not entitled to relief, the 7564
court shall proceed to a prompt hearing on the issues even if a 7565
direct appeal of the case is pending. If the court notifies the 7566
parties that it has found grounds for granting relief, either 7567
party may request an appellate court in which a direct appeal of 7568
the judgment is pending to remand the pending case to the court. 7569

~~With respect to a petition filed under division (A) (1) (a)- 7570
(iv) of this section, the procedures and rules regarding- 7571
introduction of evidence and burden of proof at the pretrial- 7572
hearing that are set forth in divisions (C), (D), and (F) of- 7573
section 2929.025 of the Revised Code apply in considering the- 7574
petition. With respect to such a petition, the grounds for- 7575
granting relief are that the person has been diagnosed with one- 7576
or more of the conditions set forth in division (A) (1) (a) of- 7577
section 2929.025 of the Revised Code and that, at the time of- 7578
the aggravated murder that was the basis of the sentence of- 7579
death, the condition or conditions significantly impaired the- 7580
person's capacity in a manner described in division (A) (1) (b) of- 7581
that section. 7582~~

~~(G) A petitioner who files a petition under division (A)- 7583
(1) (a) (i), (ii), (iii), or (iv) of this section may amend the- 7584
petition as follows: 7585~~

~~(1) If the petition was filed by a person who has been- 7586
sentenced to death, at any time that is not later than one- 7587
hundred eighty days after the petition is filed, the petitioner- 7588
may amend the petition with or without leave or prejudice to the 7589~~

~~proceedings.~~ 7590

~~(2) If division (C) (1) of this section does not apply, at~~ 7591
(F) At any time before the answer or motion is filed, the 7592
petitioner may amend the petition with or without leave or 7593
prejudice to the proceedings. 7594

~~(3) The petitioner may amend the petition with leave of~~ 7595
court at any time after the expiration of the applicable period 7596
~~specified in division (C) (1) or (2) of this section~~ hereafter. 7597

~~(H) (G)~~ (G) If the court does not find grounds for granting 7598
relief, it shall make and file findings of fact and conclusions 7599
of law and shall enter judgment denying relief on the petition. 7600
~~If the petition was filed by a person who has been sentenced to~~ 7601
~~death, the findings of fact and conclusions of law shall state~~ 7602
~~specifically the reasons for the denial of relief on the~~ 7603
~~petition and of each claim it contains.~~ If no direct appeal of 7604
the case is pending and the court finds grounds for relief or if 7605
a pending direct appeal of the case has been remanded to the 7606
court pursuant to a request made pursuant to division ~~(F)~~ (E) of 7607
this section and the court finds grounds for granting relief, it 7608
shall make and file findings of fact and conclusions of law and 7609
shall enter a judgment that vacates and sets aside the judgment 7610
in question, and, in the case of a petitioner who is a prisoner 7611
in custody, except as otherwise described in this division, 7612
shall discharge or resentence the petitioner or grant a new 7613
trial as the court determines appropriate. ~~If the court finds~~ 7614
~~grounds for relief in the case of a petitioner who filed a~~ 7615
~~petition under division (A) (1) (a) (iv) of this section, the court~~ 7616
~~shall render void the sentence of death and order the~~ 7617
~~resentencing of the offender under division (A) of section~~ 7618
~~2929.06 of the Revised Code. If the petitioner has been~~ 7619

~~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 rearraignment, 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.~~

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

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

~~(K)~~ (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 which a person may bring a collateral challenge to the validity of a conviction or sentence in a criminal case or to the validity of an adjudication of a child as a delinquent child for the commission of an act that would be a criminal offense if

committed by an adult or the validity of a related order of 7681
disposition. 7682

Sec. 2953.23. (A) Whether a hearing is or is not held on a 7683
petition filed pursuant to section 2953.21 of the Revised Code, 7684
a court may not entertain a petition filed after the expiration 7685
of the period prescribed in division (A) of that section or a 7686
second petition or successive petitions for similar relief on 7687
behalf of a petitioner unless division (A) (1) or (2) of this 7688
section applies: 7689

(1) Both of the following apply: 7690

(a) Either the petitioner shows that the petitioner was 7691
unavoidably prevented from discovery of the facts upon which the 7692
petitioner must rely to present the claim for relief, or, 7693
subsequent to the period prescribed in division (A) (2) of 7694
section 2953.21 of the Revised Code or to the filing of an 7695
earlier petition, the United States Supreme Court recognized a 7696
new federal or state right that applies retroactively to persons 7697
in the petitioner's situation, and the petition asserts a claim 7698
based on that right. 7699

(b) The petitioner shows by clear and convincing evidence 7700
that, but for constitutional error at trial, no reasonable 7701
factfinder would have found the petitioner guilty of the offense 7702
of which the petitioner was convicted ~~or, if the claim~~ 7703
~~challenges a sentence of death that, but for constitutional~~ 7704
~~error at the sentencing hearing, no reasonable factfinder would~~ 7705
~~have found the petitioner eligible for the death sentence.~~ 7706

(2) The petitioner was convicted of a felony, the 7707
petitioner is an offender for whom DNA testing was performed 7708
under sections 2953.71 to 2953.81 of the Revised Code or under 7709

former section 2953.82 of the Revised Code and analyzed in the 7710
context of and upon consideration of all available admissible 7711
evidence related to the inmate's case as described in division 7712
(D) of section 2953.74 of the Revised Code, and the results of 7713
the DNA testing establish, by clear and convincing evidence, 7714
actual innocence of that felony offense ~~or, if the person was~~ 7715
~~sentenced to death, establish, by clear and convincing evidence,~~ 7716
~~actual innocence of the aggravating circumstance or~~ 7717
~~circumstances the person was found guilty of committing and that~~ 7718
~~is or are the basis of that sentence of death.~~ 7719

As used in this division, "actual innocence" has the same 7720
meaning as in division (A) (1) (c) of section 2953.21 of the 7721
Revised Code, and "former section 2953.82 of the Revised Code" 7722
has the same meaning as in division (A) (1) (d) of section 2953.21 7723
of the Revised Code. 7724

(B) An order awarding or denying relief sought in a 7725
petition filed pursuant to section 2953.21 of the Revised Code 7726
is a final judgment and may be appealed pursuant to Chapter 7727
2953. of the Revised Code. 7728

~~If a petition filed pursuant to section 2953.21 of the~~ 7729
~~Revised Code by a person who has been sentenced to death is~~ 7730
~~denied and the person appeals the judgment, notwithstanding any~~ 7731
~~law or court rule to the contrary, there is no limit on the~~ 7732
~~number of pages in, or on the length of, a notice of appeal or~~ 7733
~~briefs related to an appeal filed by the person. If any court~~ 7734
~~rule specifies a limit on the number of pages in, or on the~~ 7735
~~length of, a notice of appeal or briefs described in this~~ 7736
~~division or on a prosecuting attorney's response or briefs with~~ 7737
~~respect to such an appeal and a person who has been sentenced to~~ 7738
~~death files a notice of appeal or briefs that exceed the limit~~ 7739

~~specified for the petition, the prosecuting attorney may file a~~ 7740
~~response or briefs that exceed the limit specified for the~~ 7741
~~answer or briefs.~~ 7742

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of 7743
the Revised Code: 7744

(A) "Application" or "application for DNA testing" means a 7745
request through postconviction relief for the state to do DNA 7746
testing on biological material from the case in which the 7747
offender was convicted of the offense for which the offender is 7748
an eligible offender and is requesting the DNA testing under 7749
sections 2953.71 to 2953.81 of the Revised Code. 7750

(B) "Biological material" means any product of a human 7751
body containing DNA. 7752

(C) "Chain of custody" means a record or other evidence 7753
that tracks a subject sample of biological material from the 7754
time the biological material was first obtained until the time 7755
it currently exists in its place of storage and, in relation to 7756
a DNA sample, a record or other evidence that tracks the DNA 7757
sample from the time it was first obtained until it currently 7758
exists in its place of storage. For purposes of this division, 7759
examples of when biological material or a DNA sample is first 7760
obtained include, but are not limited to, obtaining the material 7761
or sample at the scene of a crime, from a victim, from an 7762
offender, or in any other manner or time as is appropriate in 7763
the facts and circumstances present. 7764

(D) "Custodial agency" means the group or entity that has 7765
the responsibility to maintain biological material in question. 7766

(E) "Custodian" means the person who is the primary 7767
representative of a custodial agency. 7768

(F) "Eligible offender" means an offender who is eligible 7769
under division (C) of section 2953.72 of the Revised Code to 7770
request DNA testing to be conducted under sections 2953.71 to 7771
2953.81 of the Revised Code. 7772

(G) "Exclusion" or "exclusion result" means a result of 7773
DNA testing that scientifically precludes or forecloses the 7774
subject offender as a contributor of biological material 7775
recovered from the crime scene or victim in question, in 7776
relation to the offense for which the offender is an eligible 7777
offender and for which the ~~sentence of death or prison~~ term was 7778
imposed upon the offender. 7779

(H) "Extracting personnel" means medically approved 7780
personnel who are employed to physically obtain an offender's 7781
DNA specimen for purposes of DNA testing under sections 2953.71 7782
to 2953.81 of the Revised Code. 7783

(I) "Inclusion" or "inclusion result" means a result of 7784
DNA testing that scientifically cannot exclude, or that holds 7785
accountable, the subject offender as a contributor of biological 7786
material recovered from the crime scene or victim in question, 7787
in relation to the offense for which the offender is an eligible 7788
offender and for which the ~~sentence of death or prison~~ term was 7789
imposed upon the offender. 7790

(J) "Inconclusive" or "inconclusive result" means a result 7791
of DNA testing that is rendered when a scientifically 7792
appropriate and definitive DNA analysis or result, or both, 7793
cannot be determined. 7794

(K) "Offender" means a criminal offender who was sentenced 7795
by a court, or by a jury and a court, of this state. 7796

(L) "Outcome determinative" means that had the results of 7797

DNA testing of the subject offender been presented at the trial 7798
of the subject offender requesting DNA testing and been found 7799
relevant and admissible with respect to the felony offense for 7800
which the offender is an eligible offender and is requesting the 7801
DNA testing, and had those results been analyzed in the context 7802
of and upon consideration of all available admissible evidence 7803
related to the offender's case as described in division (D) of 7804
section 2953.74 of the Revised Code, there is a strong 7805
probability that no reasonable factfinder would have found the 7806
offender guilty of that offense ~~or, if the offender was~~ 7807
~~sentenced to death relative to that offense, would have found~~ 7808
~~the offender guilty of the aggravating circumstance or~~ 7809
~~circumstances the offender was found guilty of committing and~~ 7810
~~that is or are the basis of that sentence of death.~~ 7811

(M) "Parent sample" means the biological material first 7812
obtained from a crime scene or a victim of an offense for which 7813
an offender is an eligible offender, and from which a sample 7814
will be presently taken to do a DNA comparison to the DNA of the 7815
subject offender under sections 2953.71 to 2953.81 of the 7816
Revised Code. 7817

(N) "Prison" and "community control sanction" have the 7818
same meanings as in section 2929.01 of the Revised Code. 7819

(O) "Prosecuting attorney" means the prosecuting attorney 7820
who, or whose office, prosecuted the case in which the subject 7821
offender was convicted of the offense for which the offender is 7822
an eligible offender and is requesting the DNA testing. 7823

(P) "Prosecuting authority" means the prosecuting attorney 7824
or the attorney general. 7825

(Q) "Reasonable diligence" means a degree of diligence 7826

that is comparable to the diligence a reasonable person would 7827
employ in searching for information regarding an important 7828
matter in the person's own life. 7829

(R) "Testing authority" means a laboratory at which DNA 7830
testing will be conducted under sections 2953.71 to 2953.81 of 7831
the Revised Code. 7832

(S) "Parole" and "post-release control" have the same 7833
meanings as in section 2967.01 of the Revised Code. 7834

(T) "Sexually oriented offense" and "child-victim oriented 7835
offense" have the same meanings as in section 2950.01 of the 7836
Revised Code. 7837

(U) "Definitive DNA test" means a DNA test that clearly 7838
establishes that biological material from the perpetrator of the 7839
crime was recovered from the crime scene and also clearly 7840
establishes whether or not the biological material is that of 7841
the eligible offender. A prior DNA test is not definitive if the 7842
eligible offender proves by a preponderance of the evidence that 7843
because of advances in DNA technology there is a possibility of 7844
discovering new biological material from the perpetrator that 7845
the prior DNA test may have failed to discover. Prior testing 7846
may have been a prior "definitive DNA test" as to some 7847
biological evidence but may not have been a prior "definitive 7848
DNA test" as to other biological evidence. 7849

Sec. 2953.72. (A) Any eligible offender who wishes to 7850
request DNA testing under sections 2953.71 to 2953.81 of the 7851
Revised Code shall submit an application for the testing to the 7852
court of common pleas specified in section 2953.73 of the 7853
Revised Code, on a form prescribed by the attorney general for 7854
this purpose. The eligible offender shall submit the application 7855

in accordance with the procedures set forth in section 2953.73 7856
of the Revised Code. The eligible offender shall specify on the 7857
application the offense or offenses for which the offender is an 7858
eligible offender and is requesting the DNA testing. Along with 7859
the application, the eligible offender shall submit an 7860
acknowledgment that is on a form prescribed by the attorney 7861
general for this purpose and that is signed by the offender. The 7862
acknowledgment shall set forth all of the following: 7863

(1) That sections 2953.71 to 2953.81 of the Revised Code 7864
contemplate applications for DNA testing of an eligible offender 7865
at a stage of a prosecution or case after the offender has been 7866
sentenced, that any exclusion or inclusion result of DNA testing 7867
rendered pursuant to those sections may be used by a party in 7868
any proceeding as described in section 2953.81 of the Revised 7869
Code, and that all requests for any DNA testing made at trial 7870
will continue to be handled by the prosecuting attorney in the 7871
case; 7872

(2) That the process of conducting postconviction DNA 7873
testing for an eligible offender under sections 2953.71 to 7874
2953.81 of the Revised Code begins when the offender submits an 7875
application under section 2953.73 of the Revised Code and the 7876
acknowledgment described in this section; 7877

(3) That the eligible offender must submit the application 7878
and acknowledgment to the court of common pleas that heard the 7879
case in which the offender was convicted of the offense for 7880
which the offender is an eligible offender and is requesting the 7881
DNA testing; 7882

(4) That the state has established a set of criteria set 7883
forth in section 2953.74 of the Revised Code by which eligible 7884
offender applications for DNA testing will be screened and that 7885

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
postconviction DNA testing to offenders, that the court of
common pleas has the sole discretion subject to an appeal as

described in this division to determine whether an offender is 7916
an eligible offender and whether an eligible offender's 7917
application for DNA testing satisfies the acceptance criteria 7918
described in division (A) (4) of this section and whether the 7919
application should be accepted or rejected, that if the court of 7920
common pleas rejects an eligible offender's application, the 7921
offender may ~~seek leave of the supreme court to appeal the~~ 7922
~~rejection to that court if the offender was sentenced to death~~ 7923
~~for the offense for which the offender is requesting the DNA~~ 7924
~~testing and, if the offender was not sentenced to death for that~~ 7925
~~offense, may appeal the rejection to the court of appeals, and~~ 7926
that no determination otherwise made by the court of common 7927
pleas in the exercise of its discretion regarding the 7928
eligibility of an offender or regarding postconviction DNA 7929
testing under those provisions is reviewable by or appealable to 7930
any court; 7931

(9) That the manner in which sections 2953.71 to 2953.81 7932
of the Revised Code with respect to the offering of 7933
postconviction DNA testing to offenders are carried out does not 7934
confer any constitutional right upon any offender, that the 7935
state has established guidelines and procedures relative to 7936
those provisions to ensure that they are carried out with both 7937
justice and efficiency in mind, and that an offender who 7938
participates in any phase of the mechanism contained in those 7939
provisions, including, but not limited to, applying for DNA 7940
testing and being rejected, having an application for DNA 7941
testing accepted and not receiving the test, or having DNA 7942
testing conducted and receiving unfavorable results, does not 7943
gain as a result of the participation any constitutional right 7944
to challenge, or, except as provided in division (A) (8) of this 7945
section, any right to any review or appeal of, the manner in 7946

which those provisions are carried out; 7947

(10) That the most basic aspect of sections 2953.71 to 7948
2953.81 of the Revised Code is that, in order for DNA testing to 7949
occur, there must be an offender sample against which other 7950
evidence may be compared, that, if an eligible offender's 7951
application is accepted but the offender subsequently refuses to 7952
submit to the collection of the sample of biological material 7953
from the offender or hinders the state from obtaining a sample 7954
of biological material from the offender, the goal of those 7955
provisions will be frustrated, and that an offender's refusal or 7956
hindrance shall cause the court to rescind its prior acceptance 7957
of the application for DNA testing for the offender and deny the 7958
application. 7959

(B) The attorney general shall prescribe a form to be used 7960
to make an application for DNA testing under division (A) of 7961
this section and section 2953.73 of the Revised Code and a form 7962
to be used to provide the acknowledgment described in division 7963
(A) of this section. The forms shall include all information 7964
described in division (A) of this section, spaces for an 7965
offender to insert all information necessary to complete the 7966
forms, including, but not limited to, specifying the offense or 7967
offenses for which the offender is an eligible offender and is 7968
requesting the DNA testing, and any other information or 7969
material the attorney general determines is necessary or 7970
relevant. The attorney general shall distribute copies of the 7971
prescribed forms to the department of rehabilitation and 7972
correction, the department shall ensure that each prison in 7973
which offenders are housed has a supply of copies of the forms, 7974
and the department shall ensure that copies of the forms are 7975
provided free of charge to any offender who requests them. 7976

(C) (1) An offender is eligible to request DNA testing to be conducted under sections 2953.71 to 2953.81 of the Revised Code only if all of the following apply:

(a) The offense for which the offender claims to be an eligible offender is a felony, and the offender was convicted by a judge or jury of that offense.

(b) One of the following applies:

(i) The offender was sentenced to a prison term ~~or sentence of death~~ for the felony described in division (C) (1) (a) of this section, and the offender is in prison serving that prison term ~~or under that sentence of death~~, has been paroled or is on probation regarding that felony, is under post-release control regarding that felony, or has been released from that prison term and is under a community control sanction regarding that felony.

(ii) The offender was not sentenced to a prison term ~~or sentence of death~~ for the felony described in division (C) (1) (a) of this section, but was sentenced to a community control sanction for that felony and is under that community control sanction.

(iii) The felony described in division (C) (1) (a) of this section was a sexually oriented offense or child-victim oriented offense, and the offender has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code relative to that felony.

(2) An offender is not an eligible offender under division (C) (1) of this section regarding any offense to which the offender pleaded guilty or no contest.

(3) An offender is not an eligible offender under division

(C) (1) of this section regarding any offense if the offender 8006
dies prior to submitting an application for DNA testing related 8007
to that offense under section 2953.73 of the Revised Code. 8008

Sec. 2953.73. (A) An eligible offender who wishes to 8009
request DNA testing to be conducted under sections 2953.71 to 8010
2953.81 of the Revised Code shall submit an application for DNA 8011
testing on a form prescribed by the attorney general for this 8012
purpose and shall submit the form to the court of common pleas 8013
that sentenced the offender for the offense for which the 8014
offender is an eligible offender and is requesting DNA testing. 8015

(B) If an eligible offender submits an application for DNA 8016
testing under division (A) of this section, upon the submission 8017
of the application, all of the following apply: 8018

(1) The eligible offender shall serve a copy of the 8019
application on the prosecuting attorney and the attorney 8020
general. 8021

(2) The application shall be assigned to the judge of that 8022
court of common pleas who was the trial judge in the case in 8023
which the eligible offender was convicted of the offense for 8024
which the offender is requesting DNA testing, or, if that judge 8025
no longer is a judge of that court, it shall be assigned 8026
according to court rules. The judge to whom the application is 8027
assigned shall decide the application. The application shall 8028
become part of the file in the case. 8029

(C) If an eligible offender submits an application for DNA 8030
testing under division (A) of this section, regardless of 8031
whether the offender has commenced any federal habeas corpus 8032
proceeding relative to the case in which the offender was 8033
convicted of the offense for which the offender is an eligible 8034

offender and is requesting DNA testing, any response to the 8035
application by the prosecuting attorney or the attorney general 8036
shall be filed not later than forty-five days after the date on 8037
which the eligible offender submits the application. The 8038
prosecuting attorney or the attorney general, or both, may, but 8039
are not required to, file a response to the application. If the 8040
prosecuting attorney or the attorney general files a response 8041
under this division, the prosecuting attorney or attorney 8042
general, whoever filed the response, shall serve a copy of the 8043
response on the eligible offender. 8044

(D) If an eligible offender submits an application for DNA 8045
testing under division (A) of this section, the court shall make 8046
the determination as to whether the application should be 8047
accepted or rejected. The court shall expedite its review of the 8048
application. The court shall make the determination in 8049
accordance with the criteria and procedures set forth in 8050
sections 2953.74 to 2953.81 of the Revised Code and, in making 8051
the determination, shall consider the application, the 8052
supporting affidavits, and the documentary evidence and, in 8053
addition to those materials, shall consider all the files and 8054
records pertaining to the proceedings against the applicant, 8055
including, but not limited to, the indictment, the court's 8056
journal entries, the journalized records of the clerk of the 8057
court, and the court reporter's transcript and all responses to 8058
the application filed under division (C) of this section by a 8059
prosecuting attorney or the attorney general, unless the 8060
application and the files and records show the applicant is not 8061
entitled to DNA testing, in which case the application may be 8062
denied. The court is not required to conduct an evidentiary 8063
hearing in conducting its review of, and in making its 8064
determination as to whether to accept or reject, the 8065

application. Upon making its determination, the court shall 8066
enter a judgment and order that either accepts or rejects the 8067
application and that includes within the judgment and order the 8068
reasons for the acceptance or rejection as applied to the 8069
criteria and procedures set forth in sections 2953.71 to 2953.81 8070
of the Revised Code. The court shall send a copy of the judgment 8071
and order to the eligible offender who filed it, the prosecuting 8072
attorney, and the attorney general. 8073

(E) A judgment and order of a court entered under division 8074
(D) of this section is appealable only as provided in this 8075
division. If an eligible offender submits an application for DNA 8076
testing under section 2953.73 of the Revised Code and the court 8077
of common pleas rejects the application under division (D) of 8078
this section, ~~one of the following applies:~~ 8079

~~(1) If the offender was sentenced to death for the offense 8080
for which the offender claims to be an eligible offender and is 8081
requesting DNA testing, the offender may seek leave of the 8082
supreme court to appeal the rejection to the supreme court. 8083
Courts of appeals do not have jurisdiction to review any 8084
rejection if the offender was sentenced to death for the offense 8085
for which the offender claims to be an eligible offender and is 8086
requesting DNA testing. 8087~~

~~(2) If the offender was not sentenced to death for the 8088
offense for which the offender claims to be an eligible offender 8089
and is requesting DNA testing, the rejection is a final 8090
appealable order, and the offender may appeal it to the court of 8091
appeals of the district in which is located that court of common 8092
pleas. 8093~~

(F) Notwithstanding any provision of law regarding fees 8094
and costs, no filing fee shall be required of, and no court 8095

costs shall be assessed against, an eligible offender who is 8096
indigent and who submits an application under this section. 8097

(G) If a court rejects an eligible offender's application 8098
for DNA testing under division (D) of this section, unless the 8099
rejection is overturned on appeal, no court shall require the 8100
state to administer a DNA test under sections 2953.71 to 2953.81 8101
of the Revised Code on the eligible offender. 8102

Sec. 2953.81. If an eligible offender submits an 8103
application for DNA testing under section 2953.73 of the Revised 8104
Code and if DNA testing is performed based on that application, 8105
upon completion of the testing, all of the following apply: 8106

(A) The court or a designee of the court shall require the 8107
state to maintain the results of the testing and to maintain and 8108
preserve both the parent sample of the biological material used 8109
and the offender sample of the biological material used. The 8110
testing authority may be designated as the person to maintain 8111
the results of the testing or to maintain and preserve some or 8112
all of the samples, or both. The results of the testing remain 8113
state's evidence. The samples shall be preserved during the 8114
entire period of time for which the offender is imprisoned or 8115
confined relative to the sentence in question, is on parole or 8116
probation relative to that sentence, is under post-release 8117
control or a community control sanction relative to that 8118
sentence, or has a duty to comply with sections 2950.04, 8119
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 8120
that sentence. Additionally, if the prison term or confinement 8121
under the sentence in question expires, ~~if the sentence in~~ 8122
~~question is a sentence of death and the offender is executed,~~ or 8123
if the parole or probation period, the period of post-release 8124
control, the community control sanction, or the duty to comply 8125

with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 8126
Revised Code under the sentence in question ends, the samples 8127
shall be preserved for a reasonable period of time of not less 8128
than twenty-four months after the term or confinement expires, ~~8129
the offender is executed,~~ or the parole or probation period, the 8130
period of post-release control, the community control sanction, 8131
or the duty to comply with sections 2950.04, 2950.041, 2950.05, 8132
and 2950.06 of the Revised Code ends, whichever is applicable. 8133
The court shall determine the period of time that is reasonable 8134
for purposes of this division, provided that the period shall 8135
not be less than twenty-four months after the term or 8136
confinement expires, ~~the offender is executed,~~ or the parole or 8137
probation period, the period of post-release control, the 8138
community control sanction, or the duty to comply with sections 8139
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 8140
ends, whichever is applicable. 8141

(B) The results of the testing are a public record. 8142

(C) The court or the testing authority shall provide a 8143
copy of the results of the testing to the prosecuting attorney, 8144
the attorney general, and the subject offender. 8145

(D) If the postconviction proceeding in question is 8146
pending at that time in a court of this state, the court of 8147
common pleas that decided the DNA application or the testing 8148
authority shall provide a copy of the results of the testing to 8149
any court of this state, and, if it is pending in a federal 8150
court, the court of common pleas that decided the DNA 8151
application or the testing authority shall provide a copy of the 8152
results of the testing to that federal court. 8153

(E) The testing authority shall provide a copy of the 8154
results of the testing to the court of common pleas that decided 8155

the DNA application. 8156

(F) The offender or the state may enter the results of the 8157
testing into any proceeding. 8158

Sec. 2967.05. (A) As used in this section: 8159

(1) "Imminent danger of death" means that the inmate has a 8160
medically diagnosable condition that will cause death to occur 8161
within a short period of time. 8162

As used in division (A) (1) of this section, "within a 8163
short period of time" means generally within six months. 8164

(2) (a) "Medically incapacitated" means any diagnosable 8165
medical condition, including mental dementia and severe, 8166
permanent medical or cognitive disability, that prevents the 8167
inmate from completing activities of daily living without 8168
significant assistance, that incapacitates the inmate to the 8169
extent that institutional confinement does not offer additional 8170
restrictions, that is likely to continue throughout the entire 8171
period of parole, and that is unlikely to improve noticeably. 8172

(b) "Medically incapacitated" does not include conditions 8173
related solely to mental illness unless the mental illness is 8174
accompanied by injury, disease, or organic defect. 8175

(3) (a) "Terminal illness" means a condition that satisfies 8176
all of the following criteria: 8177

(i) The condition is irreversible and incurable and is 8178
caused by disease, illness, or injury from which the inmate is 8179
unlikely to recover. 8180

(ii) In accordance with reasonable medical standards and a 8181
reasonable degree of medical certainty, the condition is likely 8182
to cause death to the inmate within twelve months. 8183

(iii) Institutional confinement of the inmate does not 8184
offer additional protections for public safety or against the 8185
inmate's risk to reoffend. 8186

(b) The department of rehabilitation and correction shall 8187
adopt rules pursuant to Chapter 119. of the Revised Code to 8188
implement the definition of "terminal illness" in division (A) 8189
(3) (a) of this section. 8190

(B) Upon the recommendation of the director of 8191
rehabilitation and correction, accompanied by a certificate of 8192
the attending physician that an inmate is terminally ill, 8193
medically incapacitated, or in imminent danger of death, the 8194
governor may order the inmate's release as if on parole, 8195
reserving the right to return the inmate to the institution 8196
pursuant to this section. If, subsequent to the inmate's 8197
release, the inmate's health improves so that the inmate is no 8198
longer terminally ill, medically incapacitated, or in imminent 8199
danger of death, the inmate shall be returned, by order of the 8200
governor, to the institution from which the inmate was released. 8201
If the inmate violates any rules or conditions applicable to the 8202
inmate, the inmate may be returned to an institution under the 8203
control of the department of rehabilitation and correction. The 8204
governor may direct the adult parole authority to investigate or 8205
cause to be investigated the inmate and make a recommendation. 8206
An inmate released under this section shall be subject to 8207
supervision by the adult parole authority in accordance with any 8208
recommendation of the adult parole authority that is approved by 8209
the governor. The adult parole authority shall adopt rules 8210
pursuant to section 119.03 of the Revised Code to establish the 8211
procedure for medical release of an inmate when an inmate is 8212
terminally ill, medically incapacitated, or in imminent danger 8213
of death. 8214

(C) No inmate is eligible for release under this section 8215
if the inmate is serving a ~~death sentence~~, a sentence of life 8216
without parole, a sentence under Chapter 2971. of the Revised 8217
Code for a felony of the first or second degree, a sentence for 8218
aggravated murder or murder, or a mandatory prison term for an 8219
offense of violence or any specification described in Chapter 8220
2941. of the Revised Code. 8221

Sec. 2967.12. (A) Except as provided in division (G) of 8222
this section, at least sixty days before the adult parole 8223
authority recommends any pardon or commutation of sentence, or 8224
grants any parole, the authority shall provide a notice of the 8225
pendency of the pardon, commutation, or parole, setting forth 8226
the name of the person on whose behalf it is made, the offense 8227
of which the person was convicted or to which the person pleaded 8228
guilty, the time of conviction or the guilty plea, and the term 8229
of the person's sentence, to the prosecuting attorney and the 8230
judge of the court of common pleas of the county in which the 8231
indictment against the person was found. If there is more than 8232
one judge of that court of common pleas, the authority shall 8233
provide the notice to the presiding judge. Upon the request of 8234
the prosecuting attorney or of any law enforcement agency, the 8235
authority shall provide to the requesting prosecuting attorney 8236
and law enforcement agencies an institutional summary report 8237
that covers the subject person's participation while confined in 8238
a state correctional institution in training, work, and other 8239
rehabilitative activities and any disciplinary action taken 8240
against the person while so confined. The department of 8241
rehabilitation and correction may utilize electronic means to 8242
provide this notice. The department of rehabilitation and 8243
correction, at the same time that it provides the notice to the 8244
prosecuting attorney and judge under this division, also shall 8245

post on the database it maintains pursuant to section 5120.66 of 8246
the Revised Code the offender's name and all of the information 8247
specified in division (A) (1) (c) (iii) of that section. 8248

(B) If a request for notification has been made pursuant 8249
to section 2930.16 of the Revised Code or if division (H) of 8250
this section applies, the office of victim services or the adult 8251
parole authority also shall provide notice to the victim or the 8252
victim's representative at least sixty days prior to 8253
recommending any pardon or commutation of sentence for, or 8254
granting any parole to, the person. The notice shall include the 8255
information required by division (A) of this section and may be 8256
provided by telephone or through electronic means. The notice 8257
also shall inform the victim or the victim's representative that 8258
the victim or representative may send a written statement 8259
relative to the victimization and the pending action to the 8260
adult parole authority and that, if the authority receives any 8261
written statement prior to recommending a pardon or commutation 8262
or granting a parole for a person, the authority will consider 8263
the statement before it recommends a pardon or commutation or 8264
grants a parole. If the person is being considered for parole, 8265
the notice shall inform the victim or the victim's 8266
representative that a full board hearing of the parole board may 8267
be held and that the victim or victim's representative may 8268
contact the office of victims' services for further information. 8269
If the person being considered for parole was convicted of or 8270
pleaded guilty to a violation of section 2903.01 or 2903.02 of 8271
the Revised Code, an offense of violence that is a felony of the 8272
first, second, or third degree, or an offense punished by a 8273
sentence of life imprisonment, the notice shall inform the 8274
victim of that offense, the victim's representative, or a member 8275
of the victim's immediate family that the victim, the victim's 8276

representative, and the victim's immediate family have the right 8277
to give testimony at a full board hearing of the parole board 8278
and that the victim or victim's representative may contact the 8279
office of victims' services for further information. 8280

(C) When notice of the pendency of any pardon, commutation 8281
of sentence, or parole has been provided to a judge or 8282
prosecutor or posted on the database as required in division (A) 8283
of this section and a hearing on the pardon, commutation, or 8284
parole is continued to a date certain, the authority shall 8285
provide notice of the further consideration of the pardon, 8286
commutation, or parole at least sixty days before the further 8287
consideration. The notice of the further consideration shall be 8288
provided to the proper judge and prosecuting attorney at least 8289
sixty days before the further consideration, and may be provided 8290
using electronic means, and, if the initial notice was posted on 8291
the database as provided in division (A) of this section, the 8292
notice of the further consideration shall be posted on the 8293
database at least sixty days before the further consideration. 8294
If the prosecuting attorney or a law enforcement agency was 8295
provided a copy of the institutional summary report relative to 8296
the subject person under division (A) of this section, the 8297
authority shall include with the notice of the further 8298
consideration sent to the prosecuting attorney any new 8299
information with respect to the person that relates to 8300
activities and actions of the person that are of a type covered 8301
by the report and shall send to the law enforcement agency a 8302
report that provides notice of the further consideration and 8303
includes any such new information with respect to the person. 8304
When notice of the pendency of any pardon, commutation, or 8305
parole has been given as provided in division (B) of this 8306
section and the hearing on it is continued to a date certain, 8307

the authority shall give notice of the further consideration to 8308
the victim or the victim's representative in accordance with 8309
section 2930.03 of the Revised Code. 8310

(D) In case of an application for the pardon or 8311
commutation of sentence of a person sentenced to capital 8312
punishment prior to the effective date of this amendment, the 8313
governor may modify the requirements of notification and 8314
publication if there is not sufficient time for compliance with 8315
the requirements before the date fixed for the execution of 8316
sentence. 8317

(E) If an offender is serving a prison term imposed under 8318
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8319
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8320
Code and if the parole board terminates its control over the 8321
offender's service of that term pursuant to section 2971.04 of 8322
the Revised Code, the parole board immediately shall provide 8323
written notice of its termination of control or the transfer of 8324
control to the entities and persons specified in section 2971.04 8325
of the Revised Code. 8326

(F) The failure of the adult parole authority to comply 8327
with the notice or posting provisions of division (A), (B), or 8328
(C) of this section or the failure of the parole board to comply 8329
with the notice provisions of division (E) of this section do 8330
not give any rights or any grounds for appeal or post-conviction 8331
relief to the person serving the sentence. 8332

(G) Divisions (A), (B), and (C) of this section do not 8333
apply to any release of a person that is of the type described 8334
in division (B) (2) (b) of section 5120.031 of the Revised Code. 8335

(H) If a defendant is incarcerated for the commission of 8336

aggravated murder, murder, or an offense of violence that is a 8337
felony of the first, second, or third degree or is under a 8338
sentence of life imprisonment, except as otherwise provided in 8339
this division, the notice described in division (B) of this 8340
section shall be given to the victim or victim's representative 8341
regardless of whether the victim or victim's representative has 8342
made a request for notification. The notice described in 8343
division (B) of this section shall not be given under this 8344
division to a victim or victim's representative if the victim or 8345
victim's representative has requested pursuant to division (B) 8346
(2) of section 2930.03 of the Revised Code that the victim or 8347
the victim's representative not be provided the notice. The 8348
notice described in division (B) of this section does not have 8349
to be given under this division to a victim or victim's 8350
representative if notice was given to the victim or victim's 8351
representative with respect to at least two prior considerations 8352
of pardon, commutation, or parole of a person and the victim or 8353
victim's representative did not provide any written statement 8354
relative to the victimization and the pending action, did not 8355
attend any hearing conducted relative to the pending action, and 8356
did not otherwise respond to the office with respect to the 8357
pending action. Regardless of whether the victim or victim's 8358
representative has requested that the notice described in 8359
division (B) of this section be provided or not be provided, the 8360
office of victim services or adult parole authority shall give 8361
similar notice to the law enforcement agency that arrested the 8362
defendant if any officer of that agency was a victim of the 8363
offense and to any member of the victim's immediate family who 8364
requests notification. If notice is to be given under this 8365
division, the office or authority may give the notice by any 8366
reasonable means, including regular mail, telephone, and 8367
electronic mail, in accordance with division (D)(1) of section 8368

2930.16 of the Revised Code. If the notice is based on an 8369
offense committed prior to March 22, 2013, the notice to the 8370
victim or victim's representative also shall include the opt-out 8371
information described in division (D) (1) of section 2930.16 of 8372
the Revised Code. The office or authority, in accordance with 8373
division (D) (2) of section 2930.16 of the Revised Code, shall 8374
keep a record of all attempts to provide the notice, and of all 8375
notices provided, under this division. 8376

Division (H) of this section, and the notice-related 8377
provisions of divisions (E) (2) and (K) of section 2929.20, 8378
division (D) (1) of section 2930.16, division (E) (1) (b) of 8379
section 2967.19 as it existed prior to ~~the effective date of~~ 8380
~~this amendment~~ April 4, 2023, division (A) (3) (b) of section 8381
2967.26, division (D) (1) of section 2967.28, and division (A) (2) 8382
of section 5149.101 of the Revised Code enacted in the act in 8383
which division (H) of this section was enacted, shall be known 8384
as "Roberta's Law." 8385

(I) In addition to and independent of the right of a 8386
victim to make a statement as described in division (A) of this 8387
section or pursuant to section 2930.17 of the Revised Code or to 8388
otherwise make a statement, the authority for a judge or 8389
prosecuting attorney to furnish statements and information, make 8390
recommendations, and give testimony as described in division (A) 8391
of this section, the right of a prosecuting attorney, judge, or 8392
victim to give testimony or submit a statement at a full parole 8393
board hearing pursuant to section 5149.101 of the Revised Code, 8394
and any other right or duty of a person to present information 8395
or make a statement, any person may send to the adult parole 8396
authority at any time prior to the authority's recommending a 8397
pardon or commutation or granting a parole for the offender a 8398
written statement relative to the offense and the pending 8399

action. 8400

(J) As used in this section, "victim's immediate family" 8401
means the mother, father, spouse, sibling, or child of the 8402
victim, provided that in no case does "victim's immediate 8403
family" include the offender with respect to whom the notice in 8404
question applies. 8405

Sec. 2967.13. (A) Except as provided in division (G) of 8406
this section or section 2967.132 of the Revised Code, a prisoner 8407
serving a sentence of imprisonment for life for an offense 8408
committed on or after July 1, 1996, is not entitled to any 8409
earned credit under division (A) (2) or (3) of section 2967.193 8410
or 2967.194 of the Revised Code and becomes eligible for parole 8411
as follows: 8412

(1) If a sentence of imprisonment for life was imposed for 8413
the offense of murder, at the expiration of the prisoner's 8414
minimum term; 8415

(2) If a sentence of imprisonment for life with parole 8416
eligibility after serving twenty years of imprisonment was 8417
imposed pursuant to section 2929.02 or former section 2929.022 8418
or 2929.03 of the Revised Code, after serving a term of twenty 8419
years; 8420

(3) If a sentence of imprisonment for life with parole 8421
eligibility after serving twenty-five full years of imprisonment 8422
was imposed pursuant to section 2929.02 or former section 8423
2929.022 or 2929.03 of the Revised Code, after serving a term of 8424
twenty-five full years; 8425

(4) If a sentence of imprisonment for life with parole 8426
eligibility after serving thirty full years of imprisonment was 8427
imposed pursuant to section 2929.02 or former section 2929.022 8428

or 2929.03 of the Revised Code, after serving a term of thirty 8429
full years; 8430

(5) If a sentence of imprisonment for life was imposed for 8431
rape, after serving a term of ten full years' imprisonment; 8432

(6) If a sentence of imprisonment for life with parole 8433
eligibility after serving fifteen years of imprisonment was 8434
imposed for a violation of section 2927.24 of the Revised Code, 8435
after serving a term of fifteen years. 8436

(B) Except as provided in division (G) of this section or 8437
section 2967.132 of the Revised Code, a prisoner serving a 8438
sentence of imprisonment for life with parole eligibility after 8439
serving twenty years of imprisonment or a sentence of 8440
imprisonment for life with parole eligibility after serving 8441
twenty-five full years or thirty full years of imprisonment 8442
imposed pursuant to section 2929.02 or former section 2929.022 8443
or 2929.03 of the Revised Code for an offense committed on or 8444
after July 1, 1996, consecutively to any other term of 8445
imprisonment, becomes eligible for parole after serving twenty 8446
years, twenty full years, or thirty full years, as applicable, 8447
as to each such sentence of life imprisonment, which shall not 8448
be reduced for earned credits under division (A) (2) or (3) of 8449
section 2967.193 or 2967.194 of the Revised Code, plus the term 8450
or terms of the other sentences consecutively imposed or, if one 8451
of the other sentences is another type of life sentence with 8452
parole eligibility, the number of years before parole 8453
eligibility for that sentence. 8454

(C) Except as provided in division (G) of this section or 8455
section 2967.132 of the Revised Code, a prisoner serving 8456
consecutively two or more sentences in which an indefinite term 8457
of imprisonment is imposed becomes eligible for parole upon the 8458

expiration of the aggregate of the minimum terms of the 8459
sentences. 8460

(D) Except as provided in division (G) of this section or 8461
section 2967.132 of the Revised Code, a prisoner serving a term 8462
of imprisonment who is described in division (A) of section 8463
2967.021 of the Revised Code becomes eligible for parole as 8464
described in that division or, if the prisoner is serving a 8465
definite term of imprisonment, shall be released as described in 8466
that division. 8467

(E) Except as provided in section 2967.132 of the Revised 8468
Code, a prisoner serving a sentence of life imprisonment without 8469
parole imposed pursuant to section 2907.02 or section 2929.02 or 8470
former section 2929.03 or 2929.06 of the Revised Code is not 8471
eligible for parole and shall be imprisoned until death. 8472

(F) A prisoner serving a stated prison term that is a non- 8473
life felony indefinite prison term shall be released in 8474
accordance with sections 2967.271 and 2967.28 of the Revised 8475
Code. A prisoner serving a stated prison term of any other 8476
nature shall be released in accordance with section 2967.28 of 8477
the Revised Code. 8478

(G) Except as provided in section 2967.132 of the Revised 8479
Code, a prisoner serving a prison term or term of life 8480
imprisonment without parole imposed pursuant to section 2971.03 8481
of the Revised Code never becomes eligible for parole during 8482
that term of imprisonment. 8483

Sec. 2967.193. (A) (1) The provisions of this section apply 8484
until April 4, 2024, to persons confined in a state correctional 8485
institution or in the substance use disorder treatment program. 8486
On and after April 4, 2024, the provisions of section 2967.194 8487

of the Revised Code apply to persons so confined, in the manner 8488
specified in division (G) of that section. 8489

(2) Except as provided in division (C) of this section and 8490
subject to the maximum aggregate total specified in division (A) 8491
(4) of this section, a person confined in a state correctional 8492
institution or placed in the substance use disorder treatment 8493
program may provisionally earn one day or five days of credit, 8494
based on the category set forth in division (D) (1), (2), (3), 8495
(4), or (5) of this section in which the person is included, 8496
toward satisfaction of the person's stated prison term, as 8497
described in division (F) of this section, for each completed 8498
month during which the person, if confined in a state 8499
correctional institution, productively participates in an 8500
education program, vocational training, employment in prison 8501
industries, treatment for substance abuse, or any other 8502
constructive program developed by the department of 8503
rehabilitation and correction with specific standards for 8504
performance by prisoners or during which the person, if placed 8505
in the substance use disorder treatment program, productively 8506
participates in the program. Except as provided in division (C) 8507
of this section and subject to the maximum aggregate total 8508
specified in division (A) (4) of this section, a person so 8509
confined in a state correctional institution who successfully 8510
completes two programs or activities of that type may, in 8511
addition, provisionally earn up to five days of credit toward 8512
satisfaction of the person's stated prison term, as described in 8513
division (F) of this section, for the successful completion of 8514
the second program or activity. The person shall not be awarded 8515
any provisional days of credit for the successful completion of 8516
the first program or activity or for the successful completion 8517
of any program or activity that is completed after the second 8518

program or activity. At the end of each calendar month in which 8519
a person productively participates in a program or activity 8520
listed in this division or successfully completes a program or 8521
activity listed in this division, the department of 8522
rehabilitation and correction shall determine and record the 8523
total number of days credit that the person provisionally earned 8524
in that calendar month. If the person in a state correctional 8525
institution violates prison rules or the person in the substance 8526
use disorder treatment program violates program or department 8527
rules, the department may deny the person a credit that 8528
otherwise could have been provisionally awarded to the person or 8529
may withdraw one or more credits previously provisionally earned 8530
by the person. Days of credit provisionally earned by a person 8531
shall be finalized and awarded by the department subject to 8532
administrative review by the department of the person's conduct. 8533

(3) Unless a person is serving a mandatory prison term or 8534
a prison term for an offense of violence or a sexually oriented 8535
offense, and notwithstanding the maximum aggregate total 8536
specified in division (A) (4) of this section, a person who 8537
successfully completes any of the following shall earn ninety 8538
days of credit toward satisfaction of the person's stated prison 8539
term or a ten per cent reduction of the person's stated prison 8540
term, whichever is less: 8541

(a) An Ohio high school diploma or Ohio certificate of 8542
high school equivalence certified by the Ohio central school 8543
system; 8544

(b) A therapeutic drug community program; 8545

(c) All three phases of the department of rehabilitation 8546
and correction's intensive outpatient drug treatment program; 8547

(d) A career technical vocational school program;	8548
(e) A college certification program;	8549
(f) The criteria for a certificate of achievement and employability as specified in division (A) (1) of section 2961.22 of the Revised Code.	8550 8551 8552
(4) (a) Except for persons described in division (A) (3) of this section and subject to division (A) (4) (b) of this section, the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion under this section and the aggregate days of credit finally credited to a person under this section shall not exceed eight per cent of the total number of days in the person's stated prison term.	8553 8554 8555 8556 8557 8558 8559 8560
(b) If a person is confined in a state correctional institution or in the substance use disorder treatment program after the effective date of this amendment <u>October 3, 2023</u> , and if the person as of that effective date <u>October 3, 2023</u> , has met the eight per cent limit specified in division (A) (4) (a) of this section or the person meets that eight per cent limit between that effective date <u>October 3, 2023</u> , and April 3, 2024, both of the following apply with respect to the person:	8561 8562 8563 8564 8565 8566 8567 8568
(i) On and after the effective date of this amendment <u>October 3, 2023</u> , the eight per cent limit specified in division (A) (4) (a) of this section no longer applies to the person;	8569 8570 8571
(ii) On and after the effective date of this amendment <u>October 3, 2023</u> , the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion under this section and the aggregate days of credit finally credited to a person under this	8572 8573 8574 8575 8576

section shall not exceed fifteen per cent of the total number of 8577
days in the person's stated prison term. 8578

(B) The department of rehabilitation and correction shall 8579
adopt rules that specify the programs or activities for which 8580
credit may be earned under this section, the criteria for 8581
determining productive participation in, or completion of, the 8582
programs or activities and the criteria for awarding credit, 8583
including criteria for awarding additional credit for successful 8584
program or activity completion, and the criteria for denying or 8585
withdrawing previously provisionally earned credit as a result 8586
of a violation of prison rules, or program or department rules, 8587
whichever is applicable. 8588

(C) No person confined in a state correctional institution 8589
or placed in a substance use disorder treatment program to whom 8590
any of the following applies shall be awarded any days of credit 8591
under division (A) of this section: 8592

(1) The person is serving a prison term that section 8593
2929.13 or section 2929.14 of the Revised Code specifies cannot 8594
be reduced pursuant to this section or this chapter or is 8595
serving a sentence for which section 2967.13 or division (B) of 8596
section 2929.143 of the Revised Code specifies that the person 8597
is not entitled to any earned credit under this section. 8598

(2) The person is ~~sentenced to death or~~ is serving a 8599
prison term or a term of life imprisonment for aggravated 8600
murder, murder, or a conspiracy or attempt to commit, or 8601
complicity in committing, aggravated murder or murder. 8602

(3) The person is serving a sentence of life imprisonment 8603
without parole imposed pursuant to section 2929.02 or former 8604
section 2929.03 or 2929.06 of the Revised Code, a prison term or 8605

a term of life imprisonment without parole imposed pursuant to 8606
section 2971.03 of the Revised Code, or a sentence for a 8607
sexually oriented offense that was committed on or after 8608
September 30, 2011. 8609

(D) This division does not apply to a determination of 8610
whether a person confined in a state correctional institution or 8611
placed in a substance use disorder treatment program may earn 8612
any days of credit under division (A) of this section for 8613
successful completion of a second program or activity. The 8614
determination of whether a person confined in a state 8615
correctional institution may earn one day of credit or five days 8616
of credit under division (A) of this section for each completed 8617
month during which the person productively participates in a 8618
program or activity specified under that division shall be made 8619
in accordance with the following: 8620

(1) The offender may earn one day of credit under division 8621
(A) of this section, except as provided in division (C) of this 8622
section, if the most serious offense for which the offender is 8623
confined is any of the following that is a felony of the first 8624
or second degree: 8625

(a) A violation of division (A) of section 2903.04 or of 8626
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 8627
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 8628
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.15, 2919.151, 8629
2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, 8630
or 2927.24 of the Revised Code; 8631

(b) A conspiracy or attempt to commit, or complicity in 8632
committing, any other offense for which the maximum penalty is 8633
imprisonment for life or any offense listed in division (D) (1) 8634
(a) of this section. 8635

(2) The offender may earn one day of credit under division 8636
(A) of this section, except as provided in division (C) of this 8637
section, if the offender is serving a stated prison term that 8638
includes a prison term imposed for a sexually oriented offense 8639
that the offender committed prior to September 30, 2011. 8640

(3) The offender may earn one day of credit under division 8641
(A) of this section, except as provided in division (C) of this 8642
section, if the offender is serving a stated prison term that 8643
includes a prison term imposed for a felony other than carrying 8644
a concealed weapon an essential element of which is any conduct 8645
or failure to act expressly involving any deadly weapon or 8646
dangerous ordnance. 8647

(4) Except as provided in division (C) of this section, if 8648
the most serious offense for which the offender is confined is a 8649
felony of the first or second degree and divisions (D) (1), (2), 8650
and (3) of this section do not apply to the offender, the 8651
offender may earn one day of credit under division (A) of this 8652
section if the offender committed that offense prior to 8653
September 30, 2011, and the offender may earn five days of 8654
credit under division (A) of this section if the offender 8655
committed that offense on or after September 30, 2011. 8656

(5) Except as provided in division (C) of this section, if 8657
the most serious offense for which the offender is confined is a 8658
felony of the third, fourth, or fifth degree or an unclassified 8659
felony and neither division (D) (2) nor (3) of this section 8660
applies to the offender, the offender may earn one day of credit 8661
under division (A) of this section if the offender committed 8662
that offense prior to September 30, 2011, and the offender may 8663
earn five days of credit under division (A) of this section if 8664
the offender committed that offense on or after September 30, 8665

2011. 8666

(E) The department annually shall seek and consider the 8667
written feedback of the Ohio prosecuting attorneys association, 8668
the Ohio judicial conference, the Ohio public defender, the Ohio 8669
association of criminal defense lawyers, and other organizations 8670
and associations that have an interest in the operation of the 8671
corrections system and the earned credits program under this 8672
section as part of its evaluation of the program and in 8673
determining whether to modify the program. 8674

(F) Days of credit awarded under this section shall be 8675
applied toward satisfaction of a person's stated prison term as 8676
follows: 8677

(1) Toward the definite prison term of a prisoner serving 8678
a definite prison term as a stated prison term; 8679

(2) Toward the minimum and maximum terms of a prisoner 8680
serving an indefinite prison term imposed under division (A) (1) 8681
(a) or (2) (a) of section 2929.14 of the Revised Code for a 8682
felony of the first or second degree committed on or after March 8683
22, 2019. 8684

(G) As used in this section: 8685

(1) "Sexually oriented offense" has the same meaning as in 8686
section 2950.01 of the Revised Code. 8687

(2) "Substance use disorder treatment program" means the 8688
substance use disorder treatment program established by the 8689
department of rehabilitation and correction under section 8690
5120.035 of the Revised Code. 8691

Sec. 2967.194. (A) (1) Beginning April 4, 2024, the 8692
provisions of this section shall apply, in the manner described 8693

in division (G) of this section, to persons confined on or after 8694
that date in a state correctional institution or in the 8695
substance use disorder treatment program. 8696

(2) Except as provided in division (C) of this section and 8697
subject to the maximum aggregate total specified in division (A) 8698
(4) of this section, a person confined in a state correctional 8699
institution or placed in the substance use disorder treatment 8700
program may provisionally earn one day or five days of credit, 8701
based on the category set forth in division (D)(1) or (2) of 8702
this section in which the person is included, toward 8703
satisfaction of the person's stated prison term, as described in 8704
division (F) of this section, for each completed month during 8705
which the person, if confined in a state correctional 8706
institution, productively participates in an education program, 8707
vocational training, employment in prison industries, treatment 8708
for substance abuse, or any other constructive program developed 8709
by the department of rehabilitation and correction with specific 8710
standards for performance by prisoners or during which the 8711
person, if placed in the substance use disorder treatment 8712
program, productively participates in the program. Except as 8713
provided in division (C) of this section and subject to the 8714
maximum aggregate total specified in division (A)(4) of this 8715
section, a person so confined in a state correctional 8716
institution who successfully completes two programs or 8717
activities of that type may, in addition, provisionally earn up 8718
to five days of credit toward satisfaction of the person's 8719
stated prison term, as described in division (F) of this 8720
section, for the successful completion of the second program or 8721
activity. The person shall not be awarded any provisional days 8722
of credit for the successful completion of the first program or 8723
activity or for the successful completion of any program or 8724

activity that is completed after the second program or activity. 8725
At the end of each calendar month in which a person productively 8726
participates in a program or activity listed in this division or 8727
successfully completes a program or activity listed in this 8728
division, the department of rehabilitation and correction shall 8729
determine and record the total number of days credit that the 8730
person provisionally earned in that calendar month. If the 8731
person in a state correctional institution violates prison rules 8732
or the person in the substance use disorder treatment program 8733
violates program or department rules, the department may deny 8734
the person a credit that otherwise could have been provisionally 8735
awarded to the person or may withdraw one or more credits 8736
previously provisionally earned by the person. Days of credit 8737
provisionally earned by a person shall be finalized and awarded 8738
by the department subject to administrative review by the 8739
department of the person's conduct. 8740

(3) Except as provided in division (C) of this section, 8741
unless a person is serving a mandatory prison term or a prison 8742
term for an offense of violence or a sexually oriented offense, 8743
and notwithstanding the maximum aggregate total specified in 8744
division (A) (4) of this section, a person who successfully 8745
completes any diploma, equivalence, program, or criteria 8746
identified in divisions (A) (3) (a) to (g) of this section shall 8747
earn ninety days of credit toward satisfaction of the person's 8748
stated prison term or a ten per cent reduction of the person's 8749
stated prison term, whichever is less, for each such diploma, 8750
equivalence, program, or criteria successfully completed. The 8751
diplomas, equivalences, programs, and criteria for which credit 8752
shall be granted under this division, upon successful 8753
completion, are: 8754

(a) An Ohio high school diploma or Ohio certificate of 8755

high school equivalence certified by the Ohio central school system; 8756
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(b) A therapeutic drug community program; 8758

(c) All three phases of the department of rehabilitation and correction's intensive outpatient drug treatment program; 8759
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(d) A career technical vocational school program; 8761

(e) A college certification program; 8762

(f) The criteria for a certificate of achievement and employability as specified in division (A)(1) of section 2961.22 of the Revised Code; 8763
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(g) Any other constructive program developed by the department of rehabilitation and correction with specific standards for performance by prisoners. 8766
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(4) Except for persons described in division (A)(3) of this section, the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion under this section and the aggregate days of credit finally credited to a person under this section shall not exceed fifteen per cent of the total number of days in the person's stated prison term. 8769
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(B) The department of rehabilitation and correction shall adopt rules that specify the programs or activities for which credit may be earned under this section, the criteria for determining productive participation in, or completion of, the programs or activities and the criteria for awarding credit, including criteria for awarding additional credit for successful program or activity completion, and the criteria for denying or withdrawing previously provisionally earned credit as a result 8776
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of a violation of prison rules, or program or department rules, 8784
whichever is applicable. 8785

(C) No person confined in a state correctional institution 8786
or placed in a substance use disorder treatment program to whom 8787
any of the following applies shall be awarded any days of credit 8788
under division (A) (2) or (3) of this section: 8789

(1) The person is serving a prison term that section 8790
2929.13 or section 2929.14 of the Revised Code specifies cannot 8791
be reduced pursuant to this section or this chapter or is 8792
serving a sentence for which section 2967.13 or division (B) of 8793
section 2929.143 of the Revised Code specifies that the person 8794
is not entitled to any earned credit under this section. 8795

(2) The person is sentenced to death or is serving a 8796
prison term or a term of life imprisonment for aggravated 8797
murder, murder, or a conspiracy or attempt to commit, or 8798
complicity in committing, aggravated murder or murder. 8799

(3) The person is serving a sentence of life imprisonment 8800
without parole imposed pursuant to former section 2929.03 or 8801
2929.06 of the Revised Code, a prison term or a term of life 8802
imprisonment without parole imposed pursuant to section 2971.03 8803
of the Revised Code, or a sentence for a sexually oriented 8804
offense that was committed on or after September 30, 2011. 8805

(D) This division does not apply to a determination of 8806
whether a person confined in a state correctional institution or 8807
placed in a substance use disorder treatment program may earn 8808
any days of credit under division (A) (2) of this section for 8809
successful completion of a second program or activity. The 8810
determination of whether a person confined in a state 8811
correctional institution may earn one day of credit or five days 8812

of credit under division (A) (2) of this section for each 8813
completed month during which the person productively 8814
participates in a program or activity specified under that 8815
division shall be made in accordance with the following: 8816

(1) The offender may earn one day of credit under division 8817
(A) (2) of this section, except as provided in division (C) of 8818
this section, if the offender is serving a stated prison term 8819
that includes a prison term imposed for a sexually oriented 8820
offense that the offender committed prior to September 30, 2011. 8821

(2) Except as provided in division (C) of this section, if 8822
division (D) (1) of this section does not apply to the offender, 8823
the offender may earn five days of credit under division (A) (2) 8824
of this section. 8825

(E) The department annually shall seek and consider the 8826
written feedback of the Ohio prosecuting attorneys association, 8827
the Ohio judicial conference, the Ohio public defender, the Ohio 8828
association of criminal defense lawyers, and other organizations 8829
and associations that have an interest in the operation of the 8830
corrections system and the earned credits program under this 8831
section as part of its evaluation of the program and in 8832
determining whether to modify the program. 8833

(F) Days of credit awarded under this section shall be 8834
applied toward satisfaction of a person's stated prison term as 8835
follows: 8836

(1) Toward the definite prison term of a prisoner serving 8837
a definite prison term as a stated prison term; 8838

(2) Toward the minimum and maximum terms of a prisoner 8839
serving an indefinite prison term imposed under division (A) (1) 8840
(a) or (2) (a) of section 2929.14 of the Revised Code for a 8841

felony of the first or second degree committed on or after March 22, 2019. 8842
8843

(G) The provisions of this section apply to persons 8844
confined in a state correctional institution or in the substance 8845
use disorder treatment program on or after April 4, 2024, as 8846
follows: 8847

(1) Subject to division (G)(2) of this section, the 8848
provisions apply to a person so confined regardless of whether 8849
the person committed the offense for which the person is 8850
confined in the institution or was placed in the program prior 8851
to, on, or after April 4, 2024, and regardless of whether the 8852
person was convicted of or pleaded guilty to that offense prior 8853
to, on, or after April 4, 2024. 8854

(2) The provisions apply to a person so confined only with 8855
respect to the time that the person is so confined on and after 8856
April 4, 2024, and the provisions of section 2967.193 of the 8857
Revised Code that were in effect prior to April 4, 2024, and 8858
that applied to the person prior to that date, including the 8859
provisions of division (A)(4) of that section as amended by ~~this~~ 8860
~~act~~ H.B. 33 of the 135th general assembly, apply to the person 8861
with respect to the time that the person was so confined prior 8862
to April 4, 2024. 8863

(H) As used in this section: 8864

(1) "Sexually oriented offense" has the same meaning as in 8865
section 2950.01 of the Revised Code. 8866

(2) "Substance use disorder treatment program" means the 8867
substance use disorder treatment program established by the 8868
department of rehabilitation and correction under section 8869
5120.035 of the Revised Code. 8870

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 8871
section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 8872
another section of the Revised Code, other than divisions (B) 8873
and (C) of section 2929.14 of the Revised Code, that authorizes 8874
or requires a specified prison term or a mandatory prison term 8875
for a person who is convicted of or pleads guilty to a felony or 8876
that specifies the manner and place of service of a prison term 8877
or term of imprisonment, the court shall impose a sentence upon 8878
a person who is convicted of or pleads guilty to a violent sex 8879
offense and who also is convicted of or pleads guilty to a 8880
sexually violent predator specification that was included in the 8881
indictment, count in the indictment, or information charging 8882
that offense, and upon a person who is convicted of or pleads 8883
guilty to a designated homicide, assault, or kidnapping offense 8884
and also is convicted of or pleads guilty to both a sexual 8885
motivation specification and a sexually violent predator 8886
specification that were included in the indictment, count in the 8887
indictment, or information charging that offense, as follows: 8888

(1) Except as provided in division (A) (5) of this section, 8889
if the offense for which the sentence is being imposed is 8890
~~aggravated murder and if the court does not impose upon the~~ 8891
~~offender a sentence of death,~~ it shall impose upon the offender 8892
a term of life imprisonment without parole. ~~If the court~~ 8893
~~sentences the offender to death and the sentence of death is~~ 8894
~~vacated, overturned, or otherwise set aside, the court shall~~ 8895
~~impose upon the offender a term of life imprisonment without~~ 8896
~~parole.~~ 8897

(2) Except as provided in division (A) (5) of this section, 8898
if the offense for which the sentence is being imposed is 8899
murder; or if the offense is rape committed in violation of 8900
division (A) (1) (b) of section 2907.02 of the Revised Code when 8901

the offender purposely compelled the victim to submit by force 8902
or threat of force, when the victim was less than ten years of 8903
age, when the offender previously has been convicted of or 8904
pleaded guilty to either rape committed in violation of that 8905
division or a violation of an existing or former law of this 8906
state, another state, or the United States that is substantially 8907
similar to division (A) (1) (b) of section 2907.02 of the Revised 8908
Code, or when the offender during or immediately after the 8909
commission of the rape caused serious physical harm to the 8910
victim; or if the offense is an offense other than aggravated 8911
murder or murder for which a term of life imprisonment may be 8912
imposed, it shall impose upon the offender a term of life 8913
imprisonment without parole. 8914

(3) (a) Except as otherwise provided in division (A) (3) (b), 8915
(c), (d), or (e) or (A) (4) of this section, if the offense for 8916
which the sentence is being imposed is an offense other than 8917
aggravated murder, murder, or rape and other than an offense for 8918
which a term of life imprisonment may be imposed, it shall 8919
impose an indefinite prison term consisting of a minimum term 8920
fixed by the court as described in this division, but not less 8921
than two years, and a maximum term of life imprisonment. Except 8922
as otherwise specified in this division, the minimum term shall 8923
be fixed by the court from among the range of terms available as 8924
a definite term for the offense. If the offense is a felony of 8925
the first or second degree committed on or after March 22, 2019, 8926
the minimum term shall be fixed by the court from among the 8927
range of terms available as a minimum term for the offense under 8928
division (A) (1) (a) or (2) (a) of that section. 8929

(b) Except as otherwise provided in division (A) (4) of 8930
this section, if the offense for which the sentence is being 8931
imposed is kidnapping that is a felony of the first degree, it 8932

shall impose an indefinite prison term as follows: 8933

(i) If the kidnapping is committed on or after January 1, 8934
2008, and the victim of the offense is less than thirteen years 8935
of age, except as otherwise provided in this division, it shall 8936
impose an indefinite prison term consisting of a minimum term of 8937
fifteen years and a maximum term of life imprisonment. If the 8938
kidnapping is committed on or after January 1, 2008, the victim 8939
of the offense is less than thirteen years of age, and the 8940
offender released the victim in a safe place unharmed, it shall 8941
impose an indefinite prison term consisting of a minimum term of 8942
ten years and a maximum term of life imprisonment. 8943

(ii) If the kidnapping is committed prior to January 1, 8944
2008, or division (A) (3) (b) (i) of this section does not apply, 8945
it shall impose an indefinite term consisting of a minimum term 8946
fixed by the court that is not less than ten years and a maximum 8947
term of life imprisonment. 8948

(c) Except as otherwise provided in division (A) (4) of 8949
this section, if the offense for which the sentence is being 8950
imposed is kidnapping that is a felony of the second degree, it 8951
shall impose an indefinite prison term consisting of a minimum 8952
term fixed by the court that is not less than eight years, and a 8953
maximum term of life imprisonment. 8954

(d) Except as otherwise provided in division (A) (4) of 8955
this section, if the offense for which the sentence is being 8956
imposed is rape for which a term of life imprisonment is not 8957
imposed under division (A) (2) of this section or division (B) of 8958
section 2907.02 of the Revised Code, it shall impose an 8959
indefinite prison term as follows: 8960

(i) If the rape is committed on or after January 2, 2007, 8961

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.

(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.

(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:

(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.

(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.

(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 8991
consisting of a minimum term of ten years and a maximum of life 8992
imprisonment. 8993

(iv) If the attempted rape for which sentence is being 8994
imposed was committed on or after January 2, 2007, and if the 8995
offender also is convicted of or pleads guilty to a 8996
specification of the type described in section 2941.1420 of the 8997
Revised Code, it shall impose an indefinite prison term 8998
consisting of a minimum term of fifteen years and a maximum of 8999
life imprisonment. 9000

(4) Except as provided in division (A)(5) of this section, 9001
for any offense for which the sentence is being imposed, if the 9002
offender previously has been convicted of or pleaded guilty to a 9003
violent sex offense and also to a sexually violent predator 9004
specification that was included in the indictment, count in the 9005
indictment, or information charging that offense, or previously 9006
has been convicted of or pleaded guilty to a designated 9007
homicide, assault, or kidnapping offense and also to both a 9008
sexual motivation specification and a sexually violent predator 9009
specification that were included in the indictment, count in the 9010
indictment, or information charging that offense, it shall 9011
impose upon the offender a term of life imprisonment without 9012
parole. 9013

(5) Notwithstanding divisions (A)(1), (2), and (4) of this 9014
section, the court shall not impose a sentence of life 9015
imprisonment without parole upon any person for an offense that 9016
was committed when the person was under eighteen years of age. 9017
In any case described in division (A)(1), (2), or (4) of this 9018
section, if the offense was committed when the person was under 9019
eighteen years of age, the court shall impose an indefinite 9020

prison term consisting of a minimum term of thirty years and a maximum term of life imprisonment. 9021
9022

(B) (1) Notwithstanding section 2929.13, division (A) or 9023
(D) of section 2929.14, or another section of the Revised Code 9024
other than division (B) of section 2907.02 or divisions (B) and 9025
(C) of section 2929.14 of the Revised Code that authorizes or 9026
requires a specified prison term or a mandatory prison term for 9027
a person who is convicted of or pleads guilty to a felony or 9028
that specifies the manner and place of service of a prison term 9029
or term of imprisonment, if a person is convicted of or pleads 9030
guilty to a violation of division (A) (1) (b) of section 2907.02 9031
of the Revised Code committed on or after January 2, 2007, if 9032
division (A) of this section does not apply regarding the 9033
person, and if the court does not impose a sentence of life 9034
without parole when authorized pursuant to division (B) of 9035
section 2907.02 of the Revised Code, the court shall impose upon 9036
the person an indefinite prison term consisting of one of the 9037
following: 9038

(a) Except as otherwise required in division (B) (1) (b) or 9039
(c) of this section, a minimum term of ten years and a maximum 9040
term of life imprisonment. 9041

(b) If the victim was less than ten years of age, a 9042
minimum term of fifteen years and a maximum of life 9043
imprisonment. 9044

(c) If the offender purposely compels the victim to submit 9045
by force or threat of force, or if the offender previously has 9046
been convicted of or pleaded guilty to violating division (A) (1) 9047
(b) of section 2907.02 of the Revised Code or to violating an 9048
existing or former law of this state, another state, or the 9049
United States that is substantially similar to division (A) (1) 9050

(b) of that section, or if the offender during or immediately 9051
after the commission of the offense caused serious physical harm 9052
to the victim, a minimum term of twenty-five years and a maximum 9053
of life imprisonment. 9054

(2) Notwithstanding section 2929.13, division (A) or (D) 9055
of section 2929.14, or another section of the Revised Code other 9056
than divisions (B) and (C) of section 2929.14 of the Revised 9057
Code that authorizes or requires a specified prison term or a 9058
mandatory prison term for a person who is convicted of or pleads 9059
guilty to a felony or that specifies the manner and place of 9060
service of a prison term or term of imprisonment and except as 9061
otherwise provided in division (B) of section 2907.02 of the 9062
Revised Code, if a person is convicted of or pleads guilty to 9063
attempted rape committed on or after January 2, 2007, and if 9064
division (A) of this section does not apply regarding the 9065
person, the court shall impose upon the person an indefinite 9066
prison term consisting of one of the following: 9067

(a) If the person also is convicted of or pleads guilty to 9068
a specification of the type described in section 2941.1418 of 9069
the Revised Code, the court shall impose upon the person an 9070
indefinite prison term consisting of a minimum term of five 9071
years and a maximum term of twenty-five years. 9072

(b) If the person also is convicted of or pleads guilty to 9073
a specification of the type described in section 2941.1419 of 9074
the Revised Code, the court shall impose upon the person an 9075
indefinite prison term consisting of a minimum term of ten years 9076
and a maximum term of life imprisonment. 9077

(c) If the person also is convicted of or pleads guilty to 9078
a specification of the type described in section 2941.1420 of 9079
the Revised Code, the court shall impose upon the person an 9080

indefinite prison term consisting of a minimum term of fifteen 9081
years and a maximum term of life imprisonment. 9082

(3) Notwithstanding section 2929.13, division (A) or (D) 9083
of section 2929.14, or another section of the Revised Code other 9084
than divisions (B) and (C) of section 2929.14 of the Revised 9085
Code that authorizes or requires a specified prison term or a 9086
mandatory prison term for a person who is convicted of or pleads 9087
guilty to a felony or that specifies the manner and place of 9088
service of a prison term or term of imprisonment, if a person is 9089
convicted of or pleads guilty to an offense described in 9090
division (B) (3) (a), (b), (c), or (d) of this section committed 9091
on or after January 1, 2008, if the person also is convicted of 9092
or pleads guilty to a sexual motivation specification that was 9093
included in the indictment, count in the indictment, or 9094
information charging that offense, and if division (A) of this 9095
section does not apply regarding the person, the court shall 9096
impose upon the person an indefinite prison term consisting of 9097
one of the following: 9098

(a) An indefinite prison term consisting of a minimum of 9099
ten years and a maximum term of life imprisonment if the offense 9100
for which the sentence is being imposed is kidnapping, the 9101
victim of the offense is less than thirteen years of age, and 9102
the offender released the victim in a safe place unharmed; 9103

(b) An indefinite prison term consisting of a minimum of 9104
fifteen years and a maximum term of life imprisonment if the 9105
offense for which the sentence is being imposed is kidnapping 9106
when the victim of the offense is less than thirteen years of 9107
age and division (B) (3) (a) of this section does not apply; 9108

(c) An indefinite term consisting of a minimum of thirty 9109
years and a maximum term of life imprisonment if the offense for 9110

which the sentence is being imposed is aggravated murder, when 9111
the victim of the offense is less than thirteen years of age, a 9112
sentence of ~~death or~~ life imprisonment without parole is not 9113
imposed for the offense, and division ~~(A) (2) (b) (ii) of section~~ 9114
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 9115
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section 2929.03, or~~ 9116
~~division (A) or (B) (C) of section 2929.06-2929.02~~ of the 9117
Revised Code requires that the sentence for the offense be 9118
imposed pursuant to this division; 9119

(d) An indefinite prison term consisting of a minimum of 9120
thirty years and a maximum term of life imprisonment if the 9121
offense for which the sentence is being imposed is murder when 9122
the victim of the offense is less than thirteen years of age. 9123

(C) (1) If the offender is sentenced to a prison term 9124
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 9125
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 9126
parole board shall have control over the offender's service of 9127
the term during the entire term unless the parole board 9128
terminates its control in accordance with section 2971.04 of the 9129
Revised Code. 9130

(2) Except as provided in division (C) (3) or (G) of this 9131
section, an offender sentenced to a prison term or term of life 9132
imprisonment without parole pursuant to division (A) of this 9133
section shall serve the entire prison term or term of life 9134
imprisonment in a state correctional institution. The offender 9135
is not eligible for judicial release under section 2929.20 of 9136
the Revised Code. 9137

(3) For a prison term imposed pursuant to division (A) (3), 9138
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 9139
(b), (c), or (d) of this section, subject to the application of 9140

division (G) of this section, the court, in accordance with 9141
section 2971.05 of the Revised Code, may terminate the prison 9142
term or modify the requirement that the offender serve the 9143
entire term in a state correctional institution if all of the 9144
following apply: 9145

(a) The offender has served at least the minimum term 9146
imposed as part of that prison term. 9147

(b) The parole board, pursuant to section 2971.04 of the 9148
Revised Code, has terminated its control over the offender's 9149
service of that prison term. 9150

(c) The court has held a hearing and found, by clear and 9151
convincing evidence, one of the following: 9152

(i) In the case of termination of the prison term, that 9153
the offender is unlikely to commit a sexually violent offense in 9154
the future; 9155

(ii) In the case of modification of the requirement, that 9156
the offender does not represent a substantial risk of physical 9157
harm to others. 9158

(4) Except as provided in division (G) of this section, an 9159
offender who has been sentenced to a term of life imprisonment 9160
without parole pursuant to division (A) (1), (2), or (4) of this 9161
section shall not be released from the term of life imprisonment 9162
or be permitted to serve a portion of it in a place other than a 9163
state correctional institution. 9164

(D) If a court sentences an offender to a prison term or 9165
term of life imprisonment without parole pursuant to division 9166
(A) of this section and the court also imposes on the offender 9167
one or more additional prison terms pursuant to division (B) of 9168
section 2929.14 of the Revised Code, all of the additional 9169

prison terms shall be served consecutively with, and prior to, 9170
the prison term or term of life imprisonment without parole 9171
imposed upon the offender pursuant to division (A) of this 9172
section. 9173

(E) If the offender is convicted of or pleads guilty to 9174
two or more offenses for which a prison term or term of life 9175
imprisonment without parole is required to be imposed pursuant 9176
to division (A) of this section, divisions (A) to (D) of this 9177
section shall be applied for each offense. All minimum terms 9178
imposed upon the offender pursuant to division (A) (3) or (B) of 9179
this section for those offenses shall be aggregated and served 9180
consecutively, as if they were a single minimum term imposed 9181
under that division. 9182

(F) (1) If an offender is convicted of or pleads guilty to 9183
a violent sex offense and also is convicted of or pleads guilty 9184
to a sexually violent predator specification that was included 9185
in the indictment, count in the indictment, or information 9186
charging that offense, or is convicted of or pleads guilty to a 9187
designated homicide, assault, or kidnapping offense and also is 9188
convicted of or pleads guilty to both a sexual motivation 9189
specification and a sexually violent predator specification that 9190
were included in the indictment, count in the indictment, or 9191
information charging that offense, the conviction of or plea of 9192
guilty to the offense and the sexually violent predator 9193
specification automatically classifies the offender as a tier 9194
III sex offender/child-victim offender for purposes of Chapter 9195
2950. of the Revised Code. 9196

(2) If an offender is convicted of or pleads guilty to 9197
committing on or after January 2, 2007, a violation of division 9198
(A) (1) (b) of section 2907.02 of the Revised Code and either the 9199

offender is sentenced under section 2971.03 of the Revised Code 9200
or a sentence of life without parole is imposed under division 9201
(B) of section 2907.02 of the Revised Code, the conviction of or 9202
plea of guilty to the offense automatically classifies the 9203
offender as a tier III sex offender/child-victim offender for 9204
purposes of Chapter 2950. of the Revised Code. 9205

(3) If a person is convicted of or pleads guilty to 9206
committing on or after January 2, 2007, attempted rape and also 9207
is convicted of or pleads guilty to a specification of the type 9208
described in section 2941.1418, 2941.1419, or 2941.1420 of the 9209
Revised Code, the conviction of or plea of guilty to the offense 9210
and the specification automatically classify the offender as a 9211
tier III sex offender/child-victim offender for purposes of 9212
Chapter 2950. of the Revised Code. 9213

(4) If a person is convicted of or pleads guilty to one of 9214
the offenses described in division (B) (3) (a), (b), (c), or (d) 9215
of this section and a sexual motivation specification related to 9216
the offense and the victim of the offense is less than thirteen 9217
years of age, the conviction of or plea of guilty to the offense 9218
automatically classifies the offender as a tier III sex 9219
offender/child-victim offender for purposes of Chapter 2950. of 9220
the Revised Code. 9221

(G) Notwithstanding divisions (A) to (E) of this section, 9222
if an offender receives or received a sentence of life 9223
imprisonment without parole, a definite sentence, or a sentence 9224
to an indefinite prison term under this chapter for an offense 9225
committed when the offender was under eighteen years of age, the 9226
offender is eligible for parole and the offender's parole 9227
eligibility shall be determined under section 2967.132 of the 9228
Revised Code. 9229

Sec. 2971.07. (A) This chapter does not apply to any	9230
offender unless the offender is one of the following:	9231
(1) The offender is convicted of or pleads guilty to a	9232
violent sex offense and also is convicted of or pleads guilty to	9233
a sexually violent predator specification that was included in	9234
the indictment, count in the indictment, or information charging	9235
that offense.	9236
(2) The offender is convicted of or pleads guilty to a	9237
designated homicide, assault, or kidnapping offense and also is	9238
convicted of or pleads guilty to both a sexual motivation	9239
specification and a sexually violent predator specification that	9240
were included in the indictment, count in the indictment, or	9241
information charging that offense.	9242
(3) The offender is convicted of or pleads guilty to a	9243
violation of division (A) (1) (b) of section 2907.02 of the	9244
Revised Code committed on or after January 2, 2007, and the	9245
court does not sentence the offender to a term of life without	9246
parole pursuant to division (B) of section 2907.02 of the	9247
Revised Code or division (B) of that section prohibits the court	9248
from sentencing the offender pursuant to section 2971.03 of the	9249
Revised Code.	9250
(4) The offender is convicted of or pleads guilty to	9251
attempted rape committed on or after January 2, 2007, and also	9252
is convicted of or pleads guilty to a specification of the type	9253
described in section 2941.1418, 2941.1419, or 2941.1420 of the	9254
Revised Code.	9255
(5) The offender is convicted of or pleads guilty to a	9256
violation of section 2905.01 of the Revised Code and also is	9257
convicted of or pleads guilty to a sexual motivation	9258

specification that was included in the indictment, count in the indictment, or information charging that offense, and that section requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(6) The offender is convicted of or pleads guilty to aggravated murder and also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense, and ~~division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section 2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ of the Revised Code requires a court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(7) The offender is convicted of or pleads guilty to murder and also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging that offense, 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.

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

(C) If an offender is sentenced to a prison term under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c),

or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised Code and if, pursuant to section 2971.05 of the Revised Code, the court modifies the requirement that the offender serve the entire prison term in a state correctional institution or places the offender on conditional release that involves the placement of the offender under the supervision of the adult parole authority, authorized field officers of the authority who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the offender, the place of residence of the offender, and a motor vehicle, another item of tangible or intangible personal property, or any other real property in which the offender has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the field officer has reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with the terms and conditions of the offender's modification or release. The authority shall provide each offender with a written notice that informs the offender that authorized field officers of the authority who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of the modification or release if they have reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with the terms and conditions of the offender's modification or release.

Sec. 3901.87. (A) No—Unless required by the United States Constitution, Ohio Constitution, or by federal statute, regulation, or decisions of federal courts, no qualified health plan shall provide coverage for a—either of the following:

(1) A nontherapeutic abortion, including through the use

<u>of lethal injection drugs;</u>	9320
<u>(2) Assisting suicide through the use of lethal injection</u>	9321
<u>drugs.</u>	9322
(B) As used in this section:	9323
<u>(1) "Assisting suicide" has the same meaning as in section</u>	9324
<u>3795.01 of the Revised Code.</u>	9325
<u>(2) "Lethal injection drug" has the same meaning as in</u>	9326
<u>section 9.04 of the Revised Code.</u>	9327
<u>(3) "Nontherapeutic abortion" has the same meaning as in</u>	9328
<u>section 9.04 of the Revised Code.</u>	9329
(2) <u>(4) "Qualified health plan" means any qualified health</u>	9330
<u>plan as defined in section 1301 of the "Patient Protection and</u>	9331
<u>Affordable Care Act," 42 U.S.C. 18021, offered in this state</u>	9332
<u>through an exchange created under that act.</u>	9333
Sec. 5101.56. (A) As used in this section, <u>"physician":</u>	9334
<u>(1) "Assisting suicide" has the same meaning as in section</u>	9335
<u>3795.01 of the Revised Code.</u>	9336
<u>(2) "Lethal injection drug" has the same meaning as in</u>	9337
<u>section 9.04 of the Revised Code.</u>	9338
<u>(3) "Physician" means a person who holds a valid license</u>	9339
<u>to practice medicine and surgery or osteopathic medicine and</u>	9340
<u>surgery issued under Chapter 4731. of the Revised Code.</u>	9341
(B) Unless required by the United States Constitution, <u></u>	9342
<u>Ohio Constitution, or by federal statute, regulation, or</u>	9343
<u>decisions of federal courts, state or local funds may not be</u>	9344
<u>used for payment or reimbursement for abortion any of the</u>	9345
<u>following:</u>	9346

(1) Abortion services, unless the certification required 9347
by division (C) of this section is made and one of the following 9348
circumstances exists: 9349

~~(1)~~ (a) The woman has a physical disorder, physical 9350
injury, or physical illness, including a life-endangering 9351
physical condition caused by or arising from the pregnancy, that 9352
would, as certified by a physician, place the woman in danger of 9353
death unless an abortion is performed. 9354

~~(2)~~ (b) The pregnancy was the result of an act of rape and 9355
the patient, the patient's legal guardian, or the person who 9356
made the report to the law enforcement agency, certifies in 9357
writing that prior to the performance of the abortion a report 9358
was filed with a law enforcement agency having the requisite 9359
jurisdiction, unless the patient was physically unable to comply 9360
with the reporting requirement and that fact is certified by the 9361
physician performing the abortion. 9362

~~(3)~~ (c) The pregnancy was the result of an act of incest 9363
and the patient, the patient's legal guardian, or the person who 9364
made the report certifies in writing that prior to the 9365
performance of the abortion a report was filed with either a law 9366
enforcement agency having the requisite jurisdiction, or, in the 9367
case of a minor, with a county children services agency 9368
established under Chapter 5153. of the Revised Code, unless the 9369
patient was physically unable to comply with the reporting 9370
requirement and that fact is certified by the physician 9371
performing the abortion. 9372

(2) Assisting suicide through the use of lethal injection 9373
drugs; 9374

(3) Executing a death sentence through the use of lethal 9375

injection drugs. 9376

(C) (1) Before payment of or reimbursement for an abortion 9377
can be made with state or local funds, the physician performing 9378
the abortion shall certify that one of the three circumstances 9379
in division (B) of this section has occurred. The certification 9380
shall be made on a form created by the Ohio department of job 9381
and family services known as the "Abortion Certification Form." 9382
The physician's signature shall be in the physician's own 9383
handwriting. The certification shall list the name and address 9384
of the patient. The certification form shall be attached to the 9385
billing invoice. 9386

(2) The certification shall be as follows: 9387

I certify that, on the basis of my professional judgment, 9388
this service was necessary because: 9389

(a) The woman has a physical disorder, physical injury, or 9390
physical illness, including a life-endangering physical 9391
condition caused by or arising from the pregnancy itself, that 9392
would place the woman in danger of death unless an abortion was 9393
performed; 9394

(b) The pregnancy was the result of an act of rape and the 9395
patient, the patient's legal guardian, or the person who made 9396
the report to the law enforcement agency certified in writing 9397
that prior to the performance of the abortion a report was filed 9398
with a law enforcement agency having the requisite jurisdiction; 9399

(c) The pregnancy was the result of an act of incest and 9400
the patient, the patient's legal guardian, or the person who 9401
made the report certified in writing that prior to the 9402
performance of the abortion a report was filed with either a law 9403
enforcement agency having the requisite jurisdiction or, in the 9404

case of a minor, with a county children services agency 9405
established under Chapter 5153. of the Revised Code; 9406

(d) The pregnancy was the result of an act of rape and in 9407
my professional opinion the recipient was physically unable to 9408
comply with the reporting requirement; or 9409

(e) The pregnancy was a result of an act of incest and in 9410
my professional opinion the recipient was physically unable to 9411
comply with the reporting requirement. 9412

(D) Payment or reimbursement for abortion services shall 9413
not be made with state or local funds for associated services 9414
such as anesthesia, laboratory tests, or hospital services if 9415
the abortion service itself cannot be paid or reimbursed with 9416
state or local funds. All abortion services for which a 9417
physician is seeking reimbursement or payment for the purposes 9418
of this division shall be submitted on a hard-copy billing 9419
invoice. 9420

(E) Documentation that supports the certification made by 9421
a physician shall be maintained by the physician in the 9422
recipient's medical record. When the physician certifies that 9423
circumstances described in division (C) (2) (b) or (c) of this 9424
section are the case, a copy of the statement signed by the 9425
patient, the patient's legal guardian, or the person who made 9426
the report shall be maintained in the patient's medical record. 9427

(F) Nothing in this section denies reimbursement for drugs 9428
or devices to prevent implantation of the fertilized ovum, or 9429
for medical procedures for the termination of an ectopic 9430
pregnancy. This section does not apply to treatments for 9431
incomplete, missed, or septic abortions. 9432

(G) If enforcement of this section will adversely affect 9433

eligibility of the state or a political subdivision of the state 9434
for participation in a federal program, this section shall be 9435
enforced to the extent permissible without preventing 9436
participation in that federal program. 9437

Sec. 5120.113. (A) For each inmate committed to the 9438
department of rehabilitation and correction, except as provided 9439
in division (B) of this section, the department shall prepare a 9440
written reentry plan for the inmate to help guide the inmate's 9441
rehabilitation program during imprisonment, to assist in the 9442
inmate's reentry into the community, and to assess the inmate's 9443
needs upon release. 9444

(B) Division (A) of this section does not apply to an 9445
inmate who has been sentenced to life imprisonment without 9446
parole or ~~who has been~~ sentenced to death before the effective 9447
date of this amendment. Division (A) of this section does not 9448
apply to any inmate who is expected to be imprisoned for thirty 9449
days or less, but the department may prepare a written reentry 9450
plan of the type described in that division if the department 9451
determines that the plan is needed. 9452

(C) The department may collect, if available, any social 9453
and other information that will aid in the preparation of 9454
reentry plans under this section. 9455

(D) In the event the department does not prepare a written 9456
reentry plan as specified in division (A) of this section, or 9457
makes a decision to not prepare a written reentry plan under 9458
division (B) of this section or to not collect information under 9459
division (C) of this section, that fact does not give rise to a 9460
claim for damages against the state, the department, the 9461
director of the department, or any employee of the department. 9462

Sec. 5120.53. (A) If a treaty between the United States 9463
and a foreign country provides for the transfer or exchange, 9464
from one of the signatory countries to the other signatory 9465
country, of convicted offenders who are citizens or nationals of 9466
the other signatory country, the governor, subject to and in 9467
accordance with the terms of the treaty, may authorize the 9468
director of rehabilitation and correction to allow the transfer 9469
or exchange of convicted offenders and to take any action 9470
necessary to initiate participation in the treaty. If the 9471
governor grants the director the authority described in this 9472
division, the director may take the necessary action to initiate 9473
participation in the treaty and, subject to and in accordance 9474
with division (B) of this section and the terms of the treaty, 9475
may allow the transfer or exchange to a foreign country that has 9476
signed the treaty of any convicted offender who is a citizen or 9477
national of that signatory country. 9478

(B) (1) No convicted offender who is serving a term of 9479
imprisonment in this state for aggravated murder, murder, or a 9480
felony of the first or second degree, who is serving a mandatory 9481
prison term imposed under section 2925.03 or 2925.11 of the 9482
Revised Code in circumstances in which the court was required to 9483
impose as the mandatory prison term the maximum definite prison 9484
term or longest minimum prison term authorized for the degree of 9485
offense committed, or who is serving a term of imprisonment in 9486
this state imposed for an offense committed prior to July 1, 9487
1996, that was an aggravated felony of the first or second 9488
degree or that was aggravated trafficking in violation of 9489
division (A) (9) or (10) of section 2925.03 of the Revised Code, ~~—~~ 9490
~~or who has been sentenced to death in this state shall be~~ 9491
transferred or exchanged to another country pursuant to a treaty 9492
of the type described in division (A) of this section. 9493

(2) If a convicted offender is serving a term of 9494
imprisonment in this state and the offender is a citizen or 9495
national of a foreign country that has signed a treaty of the 9496
type described in division (A) of this section, if the governor 9497
has granted the director of rehabilitation and correction the 9498
authority described in that division, and if the transfer or 9499
exchange of the offender is not barred by division (B)(1) of 9500
this section, the director or the director's designee may 9501
approve the offender for transfer or exchange pursuant to the 9502
treaty if the director or the designee, after consideration of 9503
the factors set forth in the rules adopted by the department 9504
under division (D) of this section and all other relevant 9505
factors, determines that the transfer or exchange of the 9506
offender is appropriate. 9507

(C) Notwithstanding any provision of the Revised Code 9508
regarding the parole eligibility of, or the duration or 9509
calculation of a sentence of imprisonment imposed upon, an 9510
offender, if a convicted offender is serving a term of 9511
imprisonment in this state and the offender is a citizen or 9512
national of a foreign country that has signed a treaty of the 9513
type described in division (A) of this section, if the offender 9514
is serving an indefinite term of imprisonment, if the offender 9515
is barred from being transferred or exchanged pursuant to the 9516
treaty due to the indefinite nature of the offender's term of 9517
imprisonment, and if in accordance with division (B)(2) of this 9518
section the director of rehabilitation and correction or the 9519
director's designee approves the offender for transfer or 9520
exchange pursuant to the treaty, the parole board, pursuant to 9521
rules adopted by the director, shall set a date certain for the 9522
release of the offender. To the extent possible, the date 9523
certain that is set shall be reasonably proportionate to the 9524

indefinite term of imprisonment that the offender is serving. 9525
The date certain that is set for the release of the offender 9526
shall be considered only for purposes of facilitating the 9527
international transfer or exchange of the offender, shall not be 9528
viable or actionable for any other purpose, and shall not create 9529
any expectation or guarantee of release. If an offender for whom 9530
a date certain for release is set under this division is not 9531
transferred to or exchanged with the foreign country pursuant to 9532
the treaty, the date certain is null and void, and the 9533
offender's release shall be determined pursuant to the laws and 9534
rules of this state pertaining to parole eligibility and the 9535
duration and calculation of an indefinite sentence of 9536
imprisonment. 9537

(D) If the governor, pursuant to division (A) of this 9538
section, authorizes the director of rehabilitation and 9539
correction to allow any transfer or exchange of convicted 9540
offenders as described in that division, the director shall 9541
adopt rules under Chapter 119. of the Revised Code to implement 9542
the provisions of this section. The rules shall include a rule 9543
that requires the director or the director's designee, in 9544
determining whether to approve a convicted offender who is 9545
serving a term of imprisonment in this state for transfer or 9546
exchange pursuant to a treaty of the type described in division 9547
(A) of this section, to consider all of the following factors: 9548

(1) The nature of the offense for which the offender is 9549
serving the term of imprisonment in this state; 9550

(2) The likelihood that, if the offender is transferred or 9551
exchanged to a foreign country pursuant to the treaty, the 9552
offender will serve a shorter period of time in imprisonment in 9553
the foreign country than the offender would serve if the 9554

offender is not transferred or exchanged to the foreign country 9555
pursuant to the treaty; 9556

(3) The likelihood that, if the offender is transferred or 9557
exchanged to a foreign country pursuant to the treaty, the 9558
offender will return or attempt to return to this state after 9559
the offender has been released from imprisonment in the foreign 9560
country; 9561

(4) The degree of any shock to the conscience of justice 9562
and society that will be experienced in this state if the 9563
offender is transferred or exchanged to a foreign country 9564
pursuant to the treaty; 9565

(5) All other factors that the department determines are 9566
relevant to the determination. 9567

Sec. 5120.61. (A) (1) Not later than ninety days after 9568
January 1, 1997, the department of rehabilitation and correction 9569
shall adopt standards that it will use under this section to 9570
assess the following criminal offenders and may periodically 9571
revise the standards: 9572

(a) A criminal offender who is convicted of or pleads 9573
guilty to a violent sex offense or designated homicide, assault, 9574
or kidnapping offense and is adjudicated a sexually violent 9575
predator in relation to that offense; 9576

(b) A criminal offender who is convicted of or pleads 9577
guilty to a violation of division (A) (1) (b) of section 2907.02 9578
of the Revised Code committed on or after January 2, 2007, and 9579
either who is sentenced under section 2971.03 of the Revised 9580
Code or upon whom a sentence of life without parole is imposed 9581
under division (B) of section 2907.02 of the Revised Code; 9582

(c) A criminal offender who is convicted of or pleads 9583

guilty to attempted rape committed on or after January 2, 2007, 9584
and a specification of the type described in section 2941.1418, 9585
2941.1419, or 2941.1420 of the Revised Code; 9586

(d) A criminal offender who is convicted of or pleads 9587
guilty to a violation of section 2905.01 of the Revised Code and 9588
also is convicted of or pleads guilty to a sexual motivation 9589
specification that was included in the indictment, count in the 9590
indictment, or information charging that offense, and who is 9591
sentenced pursuant to section 2971.03 of the Revised Code; 9592

(e) A criminal offender who is convicted of or pleads 9593
guilty to aggravated murder and also is convicted of or pleads 9594
guilty to a sexual motivation specification that was included in 9595
the indictment, count in the indictment, or information charging 9596
that offense, and who pursuant to division ~~(A) (2) (b) (ii)~~ of 9597
section ~~2929.022~~, division ~~(A) (1) (e)~~, ~~(C) (1) (a) (v)~~, ~~(C) (2) (a)~~ 9598
~~(ii)~~, ~~(D) (2) (b)~~, ~~(D) (3) (a) (iv)~~, or ~~(E) (1) (a) (iv)~~ of section 9599
~~2929.03~~, or division ~~(A) or (B)~~ (C) of section ~~2929.06~~ 2929.02 9600
of the Revised Code is sentenced pursuant to division (B) (3) of 9601
section 2971.03 of the Revised Code; 9602

(f) A criminal offender who is convicted of or pleads 9603
guilty to murder and also is convicted of or pleads guilty to a 9604
sexual motivation specification that was included in the 9605
indictment, count in the indictment, or information charging 9606
that offense, and who pursuant to division ~~(B) (2)~~ (C) (1) of 9607
section 2929.02 of the Revised Code is sentenced pursuant to 9608
section 2971.03 of the Revised Code. 9609

(2) When the department is requested by the parole board 9610
or the court to provide a risk assessment report of the offender 9611
under section 2971.04 or 2971.05 of the Revised Code, it shall 9612
assess the offender and complete the assessment as soon as 9613

possible after the offender has commenced serving the prison 9614
term or term of life imprisonment without parole imposed under 9615
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 9616
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 9617
Code. Thereafter, the department shall update a risk assessment 9618
report pertaining to an offender as follows: 9619

(a) Periodically, in the discretion of the department, 9620
provided that each report shall be updated no later than two 9621
years after its initial preparation or most recent update; 9622

(b) Upon the request of the parole board for use in 9623
determining pursuant to section 2971.04 of the Revised Code 9624
whether it should terminate its control over an offender's 9625
service of a prison term imposed upon the offender under 9626
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 9627
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 9628
Code; 9629

(c) Upon the request of the court. 9630

(3) After the department of rehabilitation and correction 9631
assesses an offender pursuant to division (A) (2) of this 9632
section, it shall prepare a report that contains its risk 9633
assessment for the offender or, if a risk assessment report 9634
previously has been prepared, it shall update the risk 9635
assessment report. 9636

(4) The department of rehabilitation and correction shall 9637
provide each risk assessment report that it prepares or updates 9638
pursuant to this section regarding an offender to all of the 9639
following: 9640

(a) The parole board for its use in determining pursuant 9641
to section 2971.04 of the Revised Code whether it should 9642

terminate its control over an offender's service of a prison 9643
term imposed upon the offender under division (A) (3), (B) (1) (a), 9644
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 9645
(d) of section 2971.03 of the Revised Code, if the parole board 9646
has not terminated its control over the offender; 9647

(b) The court for use in determining, pursuant to section 9648
2971.05 of the Revised Code, whether to modify the requirement 9649
that the offender serve the entire prison term imposed upon the 9650
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 9651
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 9652
2971.03 of the Revised Code in a state correctional institution, 9653
whether to revise any modification previously made, or whether 9654
to terminate the prison term; 9655

(c) The prosecuting attorney who prosecuted the case, or 9656
the successor in office to that prosecuting attorney; 9657

(d) The offender. 9658

(B) When the department of rehabilitation and correction 9659
provides a risk assessment report regarding an offender to the 9660
parole board or court pursuant to division (A) (4) (a) or (b) of 9661
this section, the department, prior to the parole board's or 9662
court's hearing, also shall provide to the offender or to the 9663
offender's attorney of record a copy of the report and a copy of 9664
any other relevant documents the department possesses regarding 9665
the offender that the department does not consider to be 9666
confidential. 9667

(C) As used in this section: 9668

(1) "Adjudicated a sexually violent predator" has the same 9669
meaning as in section 2929.01 of the Revised Code, and a person 9670
is "adjudicated a sexually violent predator" in the same manner 9671

and the same circumstances as are described in that section. 9672

(2) "Designated homicide, assault, or kidnapping offense" 9673
and "violent sex offense" have the same meanings as in section 9674
2971.01 of the Revised Code. 9675

Sec. 5139.04. The department of youth services shall do 9676
all of the following: 9677

(A) Support service districts through a central 9678
administrative office that shall have as its administrative head 9679
a deputy director who shall be appointed by the director of the 9680
department. When a vacancy occurs in the office of that deputy 9681
director, an assistant deputy director shall act as that deputy 9682
director until the vacancy is filled. The position of deputy 9683
director and assistant deputy director described in this 9684
division shall be in the unclassified civil service of the 9685
state. 9686

(B) Receive custody of all children committed to it under 9687
Chapter 2152. of the Revised Code, cause a study to be made of 9688
those children, and issue any orders, as it considers best 9689
suited to the needs of any of those children and the interest of 9690
the public, for the treatment of each of those children; 9691

(C) Obtain personnel necessary for the performance of its 9692
duties; 9693

(D) Adopt rules that regulate its organization and 9694
operation, that implement sections 5139.34 and 5139.41 to 9695
5139.43 of the Revised Code, and that pertain to the 9696
administration of other sections of this chapter; 9697

(E) Submit reports of its operations to the governor and 9698
the general assembly by the thirty-first day of January of each 9699
odd-numbered year; 9700

(F) Conduct a program of research in diagnosis, training, 9701
and treatment of delinquent children to evaluate the 9702
effectiveness of the department's services and to develop more 9703
adequate methods; 9704

(G) Develop a standard form for the disposition 9705
investigation report that a juvenile court is required pursuant 9706
to section 2152.18 of the Revised Code to complete and provide 9707
to the department when the court commits a child to the legal 9708
custody of the department; 9709

(H) Provide the state public defender the reasonable 9710
access authorized under division ~~(I)~~(H) of section 120.06 of 9711
the Revised Code in order to fulfill the department's 9712
constitutional obligation to provide juveniles who have been 9713
committed to the department's care access to the courts. 9714

(I) Do all other acts necessary or desirable to carry out 9715
this chapter. 9716

Sec. 5919.16. (A) Commissioned and warrant officers in the 9717
Ohio national guard shall be discharged by the adjutant general 9718
upon either of the following: 9719

(1) The officer's resignation; 9720

(2) Approval of a board's recommendation for withdrawal of 9721
federal recognition by the chief of the national guard bureau. 9722

(B) An officer also may be discharged under any of the 9723
following circumstances: 9724

(1) Pursuant to other federal regulations; 9725

(2) If absent without leave for three months, upon 9726
recommendation of an efficiency board; 9727

(3) Pursuant to sentence by court-martial; 9728

(4) If the officer has been convicted of a crime 9729
classified as a felony as described in division (C) or (D) ~~or~~
~~(E)~~ of section 2901.02 of the Revised Code. 9730
9731

Section 2. That existing sections 9.04, 9.07, 120.03, 9732
120.041, 120.06, 120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 9733
120.33, 120.34, 149.43, 149.436, 1901.183, 2152.13, 2152.67, 9734
2301.20, 2307.60, 2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 9735
2929.02, 2929.13, 2929.14, 2929.61, 2930.19, 2937.222, 2941.021, 9736
2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 9737
2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 9738
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 9739
2953.71, 2953.72, 2953.73, 2953.81, 2967.05, 2967.12, 2967.13, 9740
2967.193, 2967.194, 2971.03, 2971.07, 3901.87, 5101.56, 9741
5120.113, 5120.53, 5120.61, 5139.04, and 5919.16 of the Revised 9742
Code are hereby repealed. 9743

Section 3. That sections 109.97, 120.35, 2725.19, 9744
2929.021, 2929.022, 2929.023, 2929.024, 2929.025, 2929.03, 9745
2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 9746
2949.221, 2949.222, 2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 9747
2949.29, 2949.31, and 2967.08 of the Revised Code are hereby 9748
repealed. 9749

Section 4. (A) An offender whose sentence of death has 9750
been set aside, nullified, or vacated pursuant to section 9751
2929.06 of the Revised Code as it existed immediately before the 9752
effective date of this section but who has not been resentenced 9753
under that section as of the effective date of this section 9754
shall be resentenced in accordance with that section as it 9755
existed immediately before the effective date of this section. 9756

(B) Nothing in this act is intended to nullify or mitigate 9757
the sentence of an offender who was sentenced to death before 9758
the effective date of this section. An offender who was 9759
sentenced to death before the effective date of this section has 9760
the same rights to appeal and to postconviction remedies as the 9761
offender had under the provisions of Chapter 2953. of the 9762
Revised Code as those provisions existed immediately before the 9763
effective date of this section or as those provisions may 9764
hereafter be amended, and courts have the same powers and duties 9765
with respect to those offenders under those provisions as courts 9766
had before the effective date of this section. 9767

(C) All reports and payments relating to capital cases 9768
that were required to be made under any provision of Chapter 9769
120. or section 109.97 of the Revised Code as those provisions 9770
existed immediately before the effective date of this section 9771
shall be made each calendar or fiscal year, as applicable, in 9772
accordance with those provisions as they existed immediately 9773
before the effective date of this section, and the Capital Case 9774
Attorney Fee Council created under section 120.33 of the Revised 9775
Code shall continue under the provisions of that section as it 9776
existed immediately before the effective date of this section, 9777
until each case in which a defendant was sentenced to death 9778
before the effective date of this section is finally resolved. 9779

(D) In an action in which an offender was sentenced to 9780
death before the effective date of this section, a court of 9781
common pleas shall preserve the records of the action as 9782
required by section 2301.20 of the Revised Code as it existed 9783
immediately before the effective date of this section. 9784

Section 5. Attorneys appointed to represent indigent 9785
defendants in postconviction relief proceedings in cases in 9786

which the defendant was sentenced to death before the effective 9787
date of this section shall be certified under the Rules for 9788
Appointment of Counsel in Capital Cases in the same manner as 9789
those certifications were required under Rule 20 of the Rules of 9790
Superintendence for the Courts of Ohio by sections 120.06, 9791
120.14, 120.26, and 120.33 of the Revised Code as those sections 9792
existed immediately before the effective date of this section. 9793

Section 6. In amending sections 9.04, 3901.87, and 5101.56 9794
of the Revised Code in this act, the General Assembly intends to 9795
restate the law as it exists as of the effective date of the 9796
amendments and does not intend to broaden any restrictions 9797
included in those sections. 9798

Section 7. The General Assembly, applying the principle 9799
stated in division (B) of section 1.52 of the Revised Code that 9800
amendments are to be harmonized if reasonably capable of 9801
simultaneous operation, finds that the following sections, 9802
presented in this act as composites of the sections as amended 9803
by the acts indicated, are the resulting versions of the 9804
sections in effect prior to the effective date of the sections 9805
as presented in this act: 9806

Section 2929.02 of the Revised Code as amended by both 9807
H.B. 136 and S.B. 256 of the 133rd General Assembly. 9808

Section 2929.14 of the Revised Code as amended by both 9809
H.B. 56 and S.B. 106 of the 135th General Assembly. 9810

Section 2953.07 of the Revised Code as amended by both 9811
S.B. 2 and S.B. 4 of the 121st General Assembly. 9812

Section 2971.03 of the Revised Code as amended by both 9813
H.B. 136 and S.B. 256 of the 133rd General Assembly. 9814