

As Introduced

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H. B. No. 741

Representatives Swearingen, LaRe

To amend sections 2907.41, 2919.251, 2937.011, 1
2937.222, 2937.23, 2937.35, 2937.36, 2937.39, 2
3905.83, 3905.84, and 3905.99 of the Revised 3
Code to enact the Ohio Holly Act to prohibit 4
charitable bail organizations from engaging in 5
specified conduct and to make changes to the 6
determination and forfeiture of bail. 7

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

Section 1. That sections 2907.41, 2919.251, 2937.011, 8
2937.222, 2937.23, 2937.35, 2937.36, 2937.39, 3905.83, 3905.84, 9
and 3905.99 of the Revised Code be amended to read as follows: 10

Sec. 2907.41. (A) Subject to division (D) of this section, 11
a person who is charged with the commission of any sexually 12
oriented offense or with a violation of section 2907.09 of the 13
Revised Code shall appear before the court for the setting of 14
bail if the person charged previously was convicted of or 15
pleaded guilty to a sexually oriented offense, a violation of 16
section 2907.09 of the Revised Code, or a violation of an 17
existing or former municipal ordinance or law of this or any 18
other state or the United States that is substantially similar 19
to section 2907.09 of the Revised Code. 20

(B) To the extent that information about any of the 21
following is available to the court, the court, in addition to 22
any other circumstances considered by the court, including the 23
results of a risk assessment of the offender conducted through 24
use of the single validated risk assessment tool established 25
under section 5120.114 of the Revised Code, and notwithstanding 26
any provisions to the contrary contained in section 2937.011 of 27
the Revised Code, shall consider all of the following before 28
setting bail for a person who appears before the court pursuant 29
to division (A) of this section: 30

(1) Whether the person previously has been adjudicated a 31
sexual predator or child-victim predator pursuant to Chapter 32
2950. of the Revised Code, previously has been determined to be 33
a habitual sex offender or habitual child-victim offender 34
pursuant to that chapter, has a history of committing sexually 35
oriented offenses or child-victim oriented offenses, or has a 36
history of committing violations of section 2907.09 of the 37
Revised Code or violations of an existing or former municipal 38
ordinance or law of this or any other state or the United States 39
that is substantially similar to that section; 40

(2) The mental health of the person; 41

(3) Whether the person has a history of violating the 42
orders of any court or governmental entity; 43

(4) Whether the person is potentially a threat to any 44
other person; 45

(5) Whether the person has access to deadly weapons or a 46
history of using deadly weapons; 47

(6) Whether the person has a history of abusing alcohol or 48
any controlled substance; 49

(7) The severity of the alleged conduct of the person that 50
is the basis of the offense, including but not limited to, the 51
duration of the alleged conduct, and whether the alleged conduct 52
involved physical injury, assault, violence, or forcible entry 53
to gain access to an alleged victim; 54

(8) Whether the person has exhibited obsessive or 55
controlling behaviors toward another person, including, but not 56
limited to, stalking, surveillance, or isolation of another 57
person; 58

(9) Whether the person has expressed suicidal or homicidal 59
ideations; 60

(10) Any information contained in the complaint and any 61
police reports, affidavits, or other documents accompanying the 62
complaint. 63

(C) Any court that has jurisdiction over charges alleging 64
the commission of a sexually oriented offense or a violation of 65
section 2907.09 of the Revised Code, in circumstances in which 66
the person charged previously was convicted of or pleaded guilty 67
to any of the offenses or violations described in division (A) 68
of this section, may set a schedule for bail to be used in cases 69
involving those offenses and violations. The schedule shall 70
require that a judge consider all of the factors listed in 71
division (B) of this section and may require judges to set bail 72
at a certain level if the history of the alleged offender or the 73
circumstances of the alleged offense meet certain criteria in 74
the schedule. 75

(D) (1) Upon the court's own motion or the motion of a 76
party and upon any terms that the court may direct, a court may 77
permit a person who is required to appear before it by division 78

(A) of this section to appear by video conferencing equipment. 79

(2) If, in the opinion of the court, the appearance in 80
person or by video conferencing equipment of a person who is 81
charged with a misdemeanor and who is required to appear before 82
the court by division (A) of this section is not practicable, 83
the court may waive the appearance and release the person on 84
bail in accordance with the court's schedule for bail set under 85
division (C) of this section or, if the court has not set a 86
schedule for bail under that division, on one or both of the 87
following types of bail in an amount set by the court: 88

(a) A bail bond secured by a deposit of ten per cent of 89
the amount of the bond in cash; 90

(b) A surety bond, a bond secured by real estate or 91
securities as allowed by law, or the deposit of cash, at the 92
option of the person. 93

(3) Division (A) of this section does not create a right 94
in a person to appear before the court for the setting of bail 95
or prohibit a court from requiring any person charged with a 96
sexually oriented offense or a violation of section 2907.09 of 97
the Revised Code who is not described in that division from 98
appearing before the court for the setting of bail. 99

(E) As used in this section, "child-victim oriented 100
offense," "child-victim predator," "habitual child-victim 101
offender," "habitual sex offender," "sexually oriented offense," 102
and "sexual predator" have the same meanings as in section 103
2950.01 of the Revised Code. 104

Sec. 2919.251. (A) Subject to division (D) of this 105
section, a person who is charged with the commission of any 106
offense of violence shall appear before the court for the 107

setting of bail if the alleged victim of the offense charged was 108
a family or household member at the time of the offense and if 109
any of the following applies: 110

(1) The person charged, at the time of the alleged 111
offense, was subject to the terms of a protection order issued 112
or consent agreement approved pursuant to section 2919.26 or 113
3113.31 of the Revised Code or previously was convicted of or 114
pleaded guilty to a violation of section 2919.25 of the Revised 115
Code or a violation of section 2919.27 of the Revised Code 116
involving a protection order or consent agreement of that type, 117
a violation of an existing or former municipal ordinance or law 118
of this or any other state or the United States that is 119
substantially similar to either section, a violation of section 120
2909.06, 2909.07, 2911.12, or 2911.211 of the Revised Code if 121
the victim of the violation was a family or household member at 122
the time of the violation, a violation of an existing or former 123
municipal ordinance or law of this or any other state or the 124
United States that is substantially similar to any of those 125
sections if the victim of the violation was a family or 126
household member at the time of the commission of the violation, 127
or any offense of violence if the victim of the offense was a 128
family or household member at the time of the offense; 129

(2) The arresting officer indicates in a police report or 130
other document accompanying the complaint any of the following: 131

(a) That the arresting officer observed on the alleged 132
victim objective manifestations of physical harm that the 133
arresting officer reasonably believes are a result of the 134
alleged offense; 135

(b) That the arresting officer reasonably believes that 136
the person had on the person's person at the time of the alleged 137

offense a deadly weapon or dangerous ordnance;	138
(c) That the arresting officer reasonably believes that	139
the person presents a credible threat of serious physical harm	140
to the alleged victim or to any other person if released on bail	141
before trial.	142
(B) To the extent that information about any of the	143
following is available to the court, the court shall consider	144
all of the following, in addition to any other circumstances	145
considered by the court, <u>including the results of a risk</u>	146
<u>assessment of the offender conducted through use of the single</u>	147
<u>validated risk assessment tool established under section</u>	148
<u>5120.114 of the Revised Code, and notwithstanding any provisions</u>	149
to the contrary contained in section 2937.011 of the Revised	150
Code, before setting bail for a person who appears before the	151
court pursuant to division (A) of this section:	152
(1) Whether the person has a history of domestic violence	153
or a history of other violent acts;	154
(2) The mental health of the person;	155
(3) Whether the person has a history of violating the	156
orders of any court or governmental entity;	157
(4) Whether the person is potentially a threat to any	158
other person;	159
(5) Whether the person has access to deadly weapons or a	160
history of using deadly weapons;	161
(6) Whether the person has a history of abusing alcohol or	162
any controlled substance;	163
(7) The severity of the alleged violence that is the basis	164
of the offense, including but not limited to, the duration of	165

the alleged violent incident, and whether the alleged violent 166
incident involved serious physical injury, sexual assault, 167
strangulation, abuse during the alleged victim's pregnancy, 168
abuse of pets, or forcible entry to gain access to the alleged 169
victim; 170

(8) Whether a separation of the person from the alleged 171
victim or a termination of the relationship between the person 172
and the alleged victim has recently occurred or is pending; 173

(9) Whether the person has exhibited obsessive or 174
controlling behaviors toward the alleged victim, including but 175
not limited to, stalking, surveillance, or isolation of the 176
alleged victim; 177

(10) Whether the person has expressed suicidal or 178
homicidal ideations; 179

(11) Any information contained in the complaint and any 180
police reports, affidavits, or other documents accompanying the 181
complaint. 182

(C) Any court that has jurisdiction over charges alleging 183
the commission of an offense of violence in circumstances in 184
which the alleged victim of the offense was a family or 185
household member at the time of the offense may set a schedule 186
for bail to be used in cases involving those offenses. The 187
schedule shall require that a judge consider all of the factors 188
listed in division (B) of this section and may require judges to 189
set bail at a certain level if the history of the alleged 190
offender or the circumstances of the alleged offense meet 191
certain criteria in the schedule. 192

(D) (1) Upon the court's own motion or the motion of a 193
party and upon any terms that the court may direct, a court may 194

permit a person who is required to appear before it by division	195
(A) of this section to appear by video conferencing equipment.	196
(2) If in the opinion of the court the appearance in	197
person or by video conferencing equipment of a person who is	198
charged with a misdemeanor and who is required to appear before	199
the court by division (A) of this section is not practicable,	200
the court may waive the appearance and release the person on	201
bail in accordance with the court's schedule for bail set under	202
division (C) of this section or, if the court has not set a	203
schedule for bail under that division, on one or both of the	204
following types of bail in an amount set by the court:	205
(a) A bail bond secured by a deposit of ten per cent of	206
the amount of the bond in cash;	207
(b) A surety bond, a bond secured by real estate or	208
securities as allowed by law, or the deposit of cash, at the	209
option of the person.	210
(3) Division (A) of this section does not create a right	211
in a person to appear before the court for the setting of bail	212
or prohibit a court from requiring any person charged with an	213
offense of violence who is not described in that division from	214
appearing before the court for the setting of bail.	215
(E) As used in this section:	216
(1) "Controlled substance" has the same meaning as in	217
section 3719.01 of the Revised Code.	218
(2) "Dangerous ordnance" and "deadly weapon" have the same	219
meanings as in section 2923.11 of the Revised Code.	220
Sec. 2937.011. (A) Unless the court orders the defendant	221
detained pursuant to section 2937.222 of the Revised Code or	222

other applicable law, the court shall release the defendant on 223
the least restrictive conditions that, in the discretion of the 224
court, will reasonably assure the defendant's appearance in 225
court, the protection or safety of any person or the community, 226
and that the defendant will not obstruct the criminal justice 227
process. If the court orders financial conditions of release, 228
those financial conditions shall be related to public safety, 229
the defendant's risk of nonappearance in court, the seriousness 230
of the offense, and the previous criminal record of the 231
defendant. 232

(B) Any financial conditions shall be in an amount and 233
type that are least costly to the defendant while also 234
sufficient to reasonably assure the defendant's future 235
appearance in court. 236

(C) Any defendant who is entitled to release may be 237
released upon one or more of the following types of bail in the 238
amount set by the court: 239

(1) An unsecured bail bond; 240

(2) A bail bond secured by the deposit of ten per cent of 241
the amount of the bond in cash. The court shall return ninety 242
per cent of the deposit upon compliance with all conditions of 243
the bond. 244

(3) A surety bond, a bond secured by real estate or 245
securities as allowed by law, or the deposit of cash, at the 246
option of the defendant. 247

(D) The court may impose any of the following conditions 248
of release: 249

(1) The personal recognizance of the defendant; 250

(2) Placing the defendant in the custody of a designated person or organization that agrees to supervise the defendant;	251 252
(3) Placing restrictions on the travel, association, or place of abode of the defendant during the period of release;	253 254
(4) Placing the defendant under a house arrest, electronic monitoring, or work release program;	255 256
(5) Regulating or prohibiting the defendant's contact with the victim;	257 258
(6) Regulating the defendant's contact with witnesses or others associated with the case upon proof of the likelihood that the defendant will threaten, harass, cause injury, or seek to intimidate those persons;	259 260 261 262
(7) For any defendant charged with an offense that is alcohol or drug related, or where alcohol or drug influence or addiction appears to be a contributing factor in the offense, and who appears based upon an evaluation, prior treatment history, or recent alcohol or drug use, to be in need of treatment, requiring completion of a drug or alcohol assessment and compliance with treatment recommendations;	263 264 265 266 267 268 269
(8) Requiring compliance with alternatives to pretrial detention, including diversion programs, day reporting, or comparable alternatives, to ensure the defendant's appearance at future court proceedings;	270 271 272 273
(9) Any other constitutional condition considered reasonably necessary to reasonably assure the defendant's appearance or public safety.	274 275 276
(E) Subject to division (I)(2) of this section, in determining the types, amounts, and conditions of bail, the	277 278

court shall consider all relevant information, including the	279
following:	280
(1) The nature and circumstances of the crime charged, and	281
specifically whether the defendant used or had access to a	282
weapon;	283
(2) The weight of the evidence against the defendant;	284
(3) The confirmation of the defendant's identity;	285
(4) The defendant's family ties, employment, financial	286
resources, character, mental condition, length of residence in	287
the community, jurisdiction of residence, record of convictions,	288
record of appearance at court proceedings or of flight to avoid	289
prosecution;	290
(5) Whether the defendant is on probation, a community	291
control sanction, parole, post-release control, bail, or under a	292
court protection order;	293
(6) The considerations required under Ohio Constitution,	294
Article I, Section 9.	295
(F) Absent good cause, there is a presumption of release	296
on personal recognizance when the defendant appears pursuant to	297
a summons issued by the court.	298
(G) When a judicial officer, either on motion of a party	299
or on the court's own motion, determines that the considerations	300
set forth in divisions (D) and (E) of this section require a	301
modification of the conditions of release, the judicial officer	302
may order additional or different types, amounts, or conditions	303
of bail, or may eliminate or lessen conditions of bail the court	304
determines to be no longer necessary. Unless the parties agree	305
to a modification, the court shall hold a hearing on the	306

modification of bond as promptly as possible. Unless modified by 307
the judicial officer, or if application is made by a surety for 308
discharge from a bond pursuant to section 2937.40 of the Revised 309
Code, conditions of release shall continue until the return of a 310
verdict or the entry of a guilty plea or a no-contest plea and 311
may continue thereafter pending sentence or disposition of the 312
case on review. 313

(H) Information stated in or offered in connection with 314
any order entered pursuant to this section does not need to 315
conform to the rules pertaining to the admissibility of evidence 316
in a court of law. The court shall not receive as substantive 317
evidence in the trial of the case statements or admissions of 318
the defendant made at a bail proceeding or in the course of 319
compliance with a condition of bail. 320

(I) (1) In order to expedite the prompt release of a 321
defendant prior to an initial appearance, each court shall 322
establish a bail bond schedule covering all misdemeanors 323
including traffic offenses, either specifically, by type, by 324
potential penalty, or by some other reasonable method of 325
classification. The court also may include requirements for 326
release in consideration of divisions (D) and (E) (5) of this 327
section. The sole purpose of a bail schedule is to allow for the 328
consideration of release prior to the defendant's initial 329
appearance. 330

(2) A bond schedule is not relevant information under 331
division (E) of this section. 332

(3) Each municipal or county court shall, by rule, 333
establish a method whereby a defendant may make bail by use of a 334
credit card. 335

(4) Each court shall review its bail bond schedule 336
biennially by the thirty-first day of January of each even- 337
numbered year beginning in 2024, to ensure an appropriate bail 338
bond schedule that does not result in the unnecessary detention 339
of a defendant due to the defendant's inability to pay. 340

(J) (1) A person who has been arrested, either pursuant to 341
a warrant or without a warrant, and who has not been released on 342
bail, shall be brought before a judicial officer for an initial 343
bail hearing not later than the second court day following the 344
person's arrest. That bail hearing may be combined with the 345
initial appearance provided for in the Rules of Criminal 346
Procedure. 347

(2) If, at the initial bail hearing before a judicial 348
officer, the defendant was not represented by counsel, and if 349
the defendant has not yet been released on bail, the court shall 350
hold a second bail hearing on the second court day following the 351
initial bail hearing. An indigent defendant shall be afforded 352
representation by appointed counsel at the state's expense at 353
this second bail hearing. 354

(K) Any person who fails to appear before any court as 355
required is subject to the punishment provided by the law, and 356
any bail given for the defendant's release may be forfeited. If 357
there is a breach of a condition of release, the court may amend 358
the bail. 359

(L) Every surety, except a corporate surety licensed as 360
provided by law, shall justify by affidavit, and ~~may~~ shall be 361
required to describe in the affidavit, the property that the 362
surety proposes as security and the encumbrances on it, the 363
number and amount of other bonds and undertakings for bail 364
entered into by the surety and remaining undischarged, and all 365

of the surety's other liabilities. The surety shall provide 366
other evidence of financial responsibility as the court or clerk 367
~~may~~shall require. The court shall not approve a bail bond 368
unless the surety or sureties appear, in the opinion of the 369
court or clerk, to be financially responsible in at least the 370
amount of the bond. A licensed attorney at law may not be a 371
surety. 372

Sec. 2937.222. (A) On the motion of the prosecuting 373
attorney or on the judge's own motion, the judge shall hold a 374
hearing to determine whether an accused person charged with 375
aggravated murder when it is not a capital offense, murder, a 376
felony of the first or second degree, a violation of section 377
2903.06 of the Revised Code, a violation of section 2903.211 of 378
the Revised Code that is a felony, or a felony OVI offense shall 379
be denied bail. The judge shall order that the accused be 380
detained until the conclusion of the hearing. Except for good 381
cause, a continuance on the motion of the state shall not exceed 382
three court days. Except for good cause, a continuance on the 383
motion of the accused shall not exceed five court days unless 384
the motion of the accused waives in writing the five-day limit 385
and states in writing a specific period for which the accused 386
requests a continuance. A continuance granted upon a motion of 387
the accused that waives in writing the five-day limit shall not 388
exceed five court days after the period of continuance requested 389
in the motion. 390

At the hearing, the accused has the right to be 391
represented by counsel and, if the accused is indigent, to have 392
counsel appointed. The judge shall afford the accused an 393
opportunity to testify, to present witnesses and other 394
information, and to cross-examine witnesses who appear at the 395
hearing. The rules concerning admissibility of evidence in 396

criminal trials do not apply to the presentation and 397
consideration of information at the hearing. Regardless of 398
whether the hearing is being held on the motion of the 399
prosecuting attorney or on the court's own motion, the state has 400
the burden of proving that the proof is evident or the 401
presumption great that the accused committed the offense with 402
which the accused is charged, of proving that the accused poses 403
a substantial risk of serious physical harm to any person or to 404
the community, and of proving that no release conditions will 405
reasonably assure the safety of that person and the community. 406

The judge may reopen the hearing at any time before trial 407
if the judge finds that information exists that was not known to 408
the movant at the time of the hearing and that that information 409
has a material bearing on whether bail should be denied. If a 410
municipal court or county court enters an order denying bail, a 411
judge of the court of common pleas having jurisdiction over the 412
case may continue that order or may hold a hearing pursuant to 413
this section to determine whether to continue that order. 414

(B) No accused person shall be denied bail pursuant to 415
this section unless the judge finds by clear and convincing 416
evidence that the proof is evident or the presumption great that 417
the accused committed the offense described in division (A) of 418
this section with which the accused is charged, finds by clear 419
and convincing evidence that the accused poses a substantial 420
risk of serious physical harm to any person or to the community, 421
and finds by clear and convincing evidence that no release 422
conditions will reasonably assure the safety of that person and 423
the community. 424

(C) The judge, in determining whether the accused person 425
described in division (A) of this section poses a substantial 426

risk of serious physical harm to any person or to the community 427
and whether there are conditions of release that will reasonably 428
assure the safety of that person and the community, shall 429
consider all available information, including the results of a 430
risk assessment of the offender conducted through use of the 431
single validated risk assessment tool established under section 432
5120.114 of the Revised Code, regarding all of the following: 433

(1) The nature and circumstances of the offense charged, 434
including whether the offense is an offense of violence or 435
involves alcohol or a drug of abuse; 436

(2) The weight of the evidence against the accused; 437

(3) The history and characteristics of the accused, 438
including, but not limited to, both of the following: 439

(a) The character, physical and mental condition, family 440
ties, employment, financial resources, length of residence in 441
the community, community ties, past conduct, history relating to 442
drug or alcohol abuse, and criminal history of the accused; 443

(b) Whether, at the time of the current alleged offense or 444
at the time of the arrest of the accused, the accused was on 445
probation, parole, post-release control, or other release 446
pending trial, sentencing, appeal, or completion of sentence for 447
the commission of an offense under the laws of this state, 448
another state, or the United States or under a municipal 449
ordinance. 450

(4) The nature and seriousness of the danger to any person 451
or the community that would be posed by the person's release. 452

(D) (1) An order of the court of common pleas denying bail 453
pursuant to this section or not denying bail pursuant to 454
division (E) of this section, is a final appealable order. In an 455

appeal pursuant to division (D) of this section, the court of 456
appeals shall do all of the following: 457

(a) Give the appeal priority on its calendar; 458

(b) Liberally modify or dispense with formal requirements 459
in the interest of a speedy and just resolution of the appeal; 460

(c) Decide the appeal expeditiously; 461

(d) Promptly enter its judgment affirming or reversing the 462
~~order denying bail.~~ 463

(2) The pendency of an appeal under this section does not 464
deprive the court of common pleas of jurisdiction to conduct 465
further proceedings in the case ~~or to further consider the order~~ 466
~~denying bail in accordance with this section. If, during the~~ 467
~~pendency of an appeal under division (D) of this section, the~~ 468
~~court of common pleas sets aside or terminates the order denying~~ 469
~~bail, the court of appeals shall dismiss the appeal.~~ 470

(3) The court of appeals having jurisdiction over the case 471
may stay the order of the court of common pleas made pursuant to 472
this section during the pendency of the appeal if the court of 473
appeals determines, by a preponderance of the evidence, that the 474
accused committed the offense with which the accused is charged, 475
that the accused poses a substantial risk of serious physical 476
harm to any person or to the community, and that no release 477
conditions will reasonably assure the safety of that person and 478
the community. 479

(E) A judge that considers the denial of bail in 480
accordance with this section and does not deny bail shall 481
prepare a written order that includes findings of fact and a 482
statement explaining the justification for the decision and the 483
determinations made under this section. 484

(F) The attorney general may intervene in an appeal under 485
division (D) of this section if the attorney general determines 486
that bail was not properly denied and that the prosecuting 487
attorney in the case will not appeal the order of the court of 488
common pleas. When the attorney general files an appeal under 489
this section, the attorney general and any assistant or special 490
counsel designated by the attorney general may exercise all 491
rights, privileges, and powers of prosecuting attorneys in such 492
cases. 493

(G) As used in this section: 494

(1) "Court day" has the same meaning as in section 5122.01 495
of the Revised Code. 496

(2) "Felony OVI offense" means a third degree felony OVI 497
offense and a fourth degree felony OVI offense. 498

(3) "Fourth degree felony OVI offense" and "third degree 499
felony OVI offense" have the same meanings as in section 2929.01 500
of the Revised Code. 501

Sec. 2937.23. (A) (1) In a case involving a felony or a 502
violation of section 2903.11, 2903.12, or 2903.13 of the Revised 503
Code when the victim of the offense is a peace officer, the 504
judge or magistrate shall fix the amount of bail. 505

(2) In a case involving a misdemeanor or a violation of a 506
municipal ordinance and not involving a felony or a violation of 507
section 2903.11, 2903.12, or 2903.13 of the Revised Code when 508
the victim of the offense is a peace officer, the judge, 509
magistrate, or clerk of the court may fix the amount of bail and 510
may do so in accordance with a schedule previously fixed by the 511
judge or magistrate. If the judge, magistrate, or clerk of the 512
court is not readily available, the sheriff, deputy sheriff, 513

marshal, deputy marshal, police officer, or jailer having 514
custody of the person charged may fix the amount of bail in 515
accordance with a schedule previously fixed by the judge or 516
magistrate and shall take the bail only in the county 517
courthouse, the municipal or township building, or the county or 518
municipal jail. 519

(3) In all cases, the bail shall be fixed with 520
consideration of the seriousness of the offense charged, the 521
previous criminal record of the defendant, and the probability 522
of the defendant appearing at the trial of the case. 523

(4) If a defendant has failed to appear in the current 524
case or has failed to appear in response to two or more summons 525
issued by the court within the five-year period preceding the 526
current charge, the court shall not permit the defendant to be 527
released upon a bail bond secured by the deposit of less than 528
twenty-five per cent of the amount of the bond in cash or upon a 529
personal recognizance bond. 530

(5) If the defendant has previously been convicted of a 531
felony, the court shall consider the results of a risk 532
assessment of the offender conducted through use of the single 533
validated risk assessment tool established under section 534
5120.114 of the Revised Code when setting bail. 535

(B) In any case involving an alleged violation of section 536
2903.211 of the Revised Code or of a municipal ordinance that is 537
substantially similar to that section, the court shall determine 538
whether it will order an evaluation of the mental condition of 539
the defendant pursuant to section 2919.271 of the Revised Code 540
and, if it decides to so order, shall issue the order requiring 541
the evaluation before it sets bail for the person charged with 542
the violation. In any case involving an alleged violation of 543

section 2919.27 of the Revised Code or of a municipal ordinance 544
that is substantially similar to that section and in which the 545
court finds that either of the following criteria applies, the 546
court shall determine whether it will order an evaluation of the 547
mental condition of the defendant pursuant to section 2919.271 548
of the Revised Code and, if it decides to so order, shall issue 549
the order requiring that evaluation before it sets bail for the 550
person charged with the violation: 551

(1) Regarding an alleged violation of a protection order 552
issued or consent agreement approved pursuant to section 2919.26 553
or 3113.31 of the Revised Code, that the violation allegedly 554
involves conduct by the defendant that caused physical harm to 555
the person or property of a family or household member covered 556
by the order or agreement or conduct by that defendant that 557
caused a family or household member to believe that the 558
defendant would cause physical harm to that member or that 559
member's property; 560

(2) Regarding an alleged violation of a protection order 561
issued pursuant to section 2903.213 or 2903.214 of the Revised 562
Code, or a protection order issued by a court of another state, 563
as defined in section 2919.27 of the Revised Code, that the 564
violation allegedly involves conduct by the defendant that 565
caused physical harm to the person or property of the person 566
covered by the order or conduct by that defendant that caused 567
the person covered by the order to believe that the defendant 568
would cause physical harm to that person or that person's 569
property. 570

(C) As used in this section, "peace officer" has the same 571
meaning as in section 2935.01 of the Revised Code. 572

Sec. 2937.35. Bail may not be declared forfeit based only 573

upon a breach of a condition of bail. Upon the failure of the 574
accused or witness to appear in accordance with its terms the 575
bail may in open court be adjudged forfeit, in whole or in part 576
by the court or magistrate before whom ~~he~~the accused or witness 577
is to appear. But such court or magistrate may, in ~~its~~the 578
court's or magistrate's discretion, continue the cause to a 579
later date certain, giving notice of such date to ~~him~~the accused 580
or witness and the bail depositor or sureties, and adjudge the 581
bail forfeit upon failure to appear at such later date. 582

Upon a declaration of forfeiture, a court may not 583
reinstate a surety upon the bond that has been declared forfeit 584
and shall set a new bond when the accused returns to court. 585
Forfeiture proceedings shall be commenced within one year of the 586
failure of the accused to appear. 587

Sec. 2937.36. Upon declaration of forfeiture, the 588
magistrate or clerk of the court adjudging forfeiture shall 589
proceed as follows: 590

(A) As to each bail, the magistrate or clerk shall proceed 591
forthwith to deal with the sum deposited as if the same were 592
imposed as a fine for the offense charged and distribute and 593
account for the same accordingly provided that prior to so 594
doing, the magistrate or clerk may satisfy accrued costs in the 595
case out of the fund. 596

(B) As to any securities deposited, the magistrate or 597
clerk shall proceed to sell the same, either at public sale 598
advertised in the same manner as sale on chattel execution, or 599
through any state or national bank performing such service upon 600
the over the counter securities market and shall apply proceeds 601
of sale, less costs or brokerage thereof as in cases of 602
forfeited cash bail. Prior to such sale, the clerk shall give 603

notices by ordinary mail to the depositor, at the depositor's 604
address listed of record, if any, of the intention so to do, and 605
such sale shall not proceed if the depositor, within ten days of 606
mailing of such notice appears, and redeems said securities by 607
either producing the body of the defendant in open court or 608
posting the amount set in the recognizance in cash, to be dealt 609
with as forfeited cash bail. 610

(C) As to recognizances the magistrate or clerk shall 611
notify the accused and each surety within fifteen days after the 612
declaration of the forfeiture by ordinary mail at the address 613
shown by them in their affidavits of qualification or on the 614
record of the case, of the default of the accused and the 615
adjudication of forfeiture and require each of them to show 616
cause on or before a date certain to be stated in the notice, 617
and which shall be not less than forty-five nor more than sixty 618
days from the date of mailing notice, why judgment should not be 619
entered against each of them for the penalty stated in the 620
recognizance. If good cause by production of the body of the 621
accused or otherwise is not shown, the court or magistrate shall 622
thereupon enter judgment against the sureties or either of them, 623
so notified, in such amount, not exceeding the penalty of the 624
bond, as has been set in the adjudication of forfeiture, and 625
shall award execution therefor as in civil cases. The proceeds 626
of sale shall be received by the clerk or magistrate and 627
distributed as on forfeiture of cash bail. Good cause to avoid 628
forfeiture and judgment is shown by the sureties whenever the 629
accused is held on the process of another court in this state or 630
another state and available to the forfeiting court by means of 631
a detainer, holder, extradition, or other means, and the 632
sureties will be entitled to exoneration and release. 633

Sec. 2937.39. After judgment has been rendered against 634

surety or after securities sold or cash bail applied, the court 635
or magistrate, on the appearance, surrender, or re-arrest of the 636
accused on the charge, ~~may~~ shall remit all or such portion of 637
the penalty as it deems just and in the case of previous 638
application and transfer of cash or proceeds, the magistrate or 639
clerk may deduct an amount equal to the amount so transferred 640
from subsequent payments to the agencies receiving such proceeds 641
of forfeiture until the amount is recouped for the benefit of 642
the person or persons entitled thereto under order or remission. 643

A motion for remission may be made at any time subsequent 644
to the return of the accused to the forfeiting court, and res 645
judicata, laches, or similar doctrine is not a defense to the 646
motion. 647

If the accused is returned to the forfeiting court within 648
one year of the order of forfeiture, the court shall remit all 649
of any amount paid upon the forfeiture judgment. If the accused 650
is returned to the forfeiting court within two years of the 651
order of forfeiture, the court shall remit eighty per cent of 652
any amount paid upon the forfeiture judgment. If the accused is 653
not returned to the forfeiting court for three or more years 654
after forfeiture and the surety has paid upon the forfeiture 655
judgment, the court shall hold a hearing regarding remission and 656
apply the factors enunciated in *State v. Delgado*, 2004-Ohio-69 657
(2d Dist.). 658

Sec. 3905.83. As used in sections 3905.83 to 3905.95 of 659
the Revised Code: 660

(A) "Charitable bail organization" means an organization, 661
including a charitable organization that is exempt from federal 662
income taxation under section 501(c)(3) of the Internal Revenue 663
Code, that solicits or accepts donations from the public for 664

either of the following purposes: 665

(1) Furnishing bail, making bonds, or entering into 666
undertakings, as surety, whether through direct payment or by 667
payment through a third party, for the appearance of persons 668
charged with any criminal offense or violation of law or 669
ordinance punishable by fine, imprisonment, or death before any 670
of the courts of this state; 671

(2) Securing the payment of fines or costs assessed by a 672
court upon conviction of a felony or misdemeanor. 673

(B) "Insurer" means any domestic, foreign, or alien 674
insurance company that has been issued a certificate of 675
authority by the superintendent of insurance to transact surety 676
business in this state. 677

~~(B)~~(C) "Managing general agent" means any person that is 678
appointed or employed by an insurer to supervise or otherwise 679
manage the bail bond business written in this state by surety 680
bail bond agents appointed by the insurer. 681

~~(C)~~(D) "Surety" means an insurer that agrees to be 682
responsible for the fulfillment of the obligation of a principal 683
if the principal fails to fulfill that obligation. 684

Sec. 3905.84. (A) No person shall act in the capacity of a 685
surety bail bond agent, or perform any of the functions, duties, 686
or powers prescribed for surety bail bond agents under sections 687
3905.83 to 3905.95 of the Revised Code, unless that person is 688
qualified, licensed, and appointed as provided in those 689
sections. 690

(B) No charitable bail organization shall purposely do 691
either of the following for the appearance of a person charged 692
with a criminal offense or to secure payment of fines and costs 693

<u>imposed by a court upon conviction of a felony or misdemeanor:</u>	694
<u>(1) Furnish bail or funds or property to serve as bail in</u>	695
<u>an amount of five thousand dollars or more;</u>	696
<u>(2) Make bonds or enter into undertakings as surety in an</u>	697
<u>amount of five thousand dollars or more.</u>	698
<u>(C) No charitable bail organization shall purposely</u>	699
<u>furnish bail or funds or property to serve as bail or make bonds</u>	700
<u>or enter into undertakings as surety, regardless of amount, for</u>	701
<u>any of the following:</u>	702
<u>(1) A person alleged to have committed domestic violence</u>	703
<u>in violation of section 2919.25 of the Revised Code;</u>	704
<u>(2) A person alleged to have committed an act that</u>	705
<u>constitutes dating violence, as defined in section 2930.20 of</u>	706
<u>the Revised Code;</u>	707
<u>(3) A person alleged to have committed an offense of</u>	708
<u>violence, as defined in section 2901.01 of the Revised Code;</u>	709
<u>(4) A person who has previously received bail or funds or</u>	710
<u>property to serve as bail from a charitable bail organization.</u>	711
<u>(D) (1) Each charitable bail organization shall maintain</u>	712
<u>and annually report the following information to the legislative</u>	713
<u>service commission for referral to the standing committee of the</u>	714
<u>house of representatives and the senate with primary</u>	715
<u>responsibility for criminal justice issues, not later than</u>	716
<u>October 31 of each year, and shall make publicly available on</u>	717
<u>the organization's web site, or by publishing in a newspaper of</u>	718
<u>general circulation if the organization does not maintain a web</u>	719
<u>site, all of the following:</u>	720
<u>(a) The expenditures of the organization, including a</u>	721

separate reporting of the amount furnished for bail, or funds or 722
property to serve as bail; 723

(b) The number of individuals and classification of 724
offenses for those individuals for which any bail, or funds or 725
property to serve as bail, has been provided. 726

(2) No charitable bail organization shall purposely fail 727
to comply with division (D)(1) of this section. 728

(E) Any bond posted by a charitable organization under 729
this section that is ordered forfeited as a result of the 730
commission of a new criminal offense shall be distributed to the 731
victim of the new criminal offense, if a victim is identified. 732

Sec. 3905.99. (A) Whoever violates section 3905.182 of the 733
Revised Code shall be fined not less than twenty-five nor more 734
than five hundred dollars or imprisoned not more than six 735
months, or both. 736

(B) Whoever violates section 3905.31 or 3905.33 of the 737
Revised Code shall be fined not less than twenty-five nor more 738
than five hundred dollars or imprisoned not more than one year, 739
or both. 740

(C) Whoever violates section 3905.37 or 3905.43 of the 741
Revised Code shall be fined not less than one hundred nor more 742
than five hundred dollars. 743

(D) Whoever violates section 3905.02, division (F) of 744
section 3905.92, or division (A) of section 3905.931 of the 745
Revised Code is guilty of a misdemeanor of the first degree. 746

~~(E)~~(E)(1) Whoever violates division (A) of section 3905.84 747
of the Revised Code is guilty of a misdemeanor of the first 748
degree on a first or second offense and of a felony of the third 749

degree on each subsequent offense. 750

(2) Whoever violates division (B), (C), or (D) of section 751
3905.84 of the Revised Code is guilty of a misdemeanor of the 752
first degree on a first offense and a felony of the fifth degree 753
of each subsequent offense. 754

Section 2. That existing sections 2907.41, 2919.251, 755
2937.011, 2937.222, 2937.23, 2937.35, 2937.36, 2937.39, 3905.83, 756
3905.84, and 3905.99 of the Revised Code are hereby repealed. 757

Section 3. This act shall be known as the Ohio Holly Act. 758

Section 4. Section 2937.23 of the Revised Code is 759
presented in this act as a composite of the section as amended 760
by both H.B. 202 and S.B. 142 of the 123rd General Assembly. The 761
General Assembly, applying the principle stated in division (B) 762
of section 1.52 of the Revised Code that amendments are to be 763
harmonized if reasonably capable of simultaneous operation, 764
finds that the composite is the resulting version of the section 765
in effect prior to the effective date of the section as 766
presented in this act. 767