

As Introduced

136th General Assembly

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S. B. No. 134

Senators Antonio, Huffman

**Cosponsors: Senators Blackshear, Craig, Hicks-Hudson, Ingram, Blessing,
Cutrona, Lang, Roegner, Wilson**

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, 149.45, 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 abolish the death 21
penalty, to modify the number of jurors that may 22

be challenged in cases where a defendant may be 23
sentenced to life imprisonment, and to prohibit 24
public funding for the use of lethal injection 25
drugs in nontherapeutic abortions, assisting 26
suicide, and executing a death sentence. 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, 149.45, 1901.183, 2152.13, 2152.67, 30
2301.20, 2307.60, 2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 31
2929.02, 2929.13, 2929.14, 2929.61, 2930.19, 2937.222, 2941.021, 32
2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 33
2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 34
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 35
2953.71, 2953.72, 2953.73, 2953.81, 2967.05, 2967.12, 2967.13, 36
2967.193, 2967.194, 2971.03, 2971.07, 3901.87, 5101.56, 37
5120.113, 5120.53, 5120.61, 5139.04, and 5919.16 of the Revised 38
Code be amended to 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 used to quickly and painlessly cause death. 44

(3) "Nontherapeutic abortion" means an abortion that is 45
performed or induced when the life of the mother would not be 46
endangered if the fetus were carried to term or when the 47

pregnancy of the mother was not the result of rape or incest 48
reported to a law enforcement agency. 49

~~(2)~~(4) "Policy, contract, or plan" means a policy, 50
contract, or plan of one or more insurance companies, medical 51
care corporations, health care corporations, health maintenance 52
organizations, preferred provider organizations, or other 53
entities that provides health, medical, hospital, or surgical 54
coverage, benefits, or services to elected or appointed officers 55
or employees of the state or any political subdivision thereof. 56
"Policy, contract, or plan" includes a plan that is associated 57
with a self-insurance program and a policy, contract, or plan 58
that implements a collective bargaining agreement. 59

~~(3)~~(5) "Political subdivision" means any body corporate 60
and politic that is responsible for governmental activities in a 61
geographic area smaller than the state, except that "political 62
subdivision" does not include either of the following: 63

(a) A municipal corporation; 64

(b) A county that has adopted a charter under Section 3 of 65
Article X, Ohio Constitution, to the extent that it is 66
exercising the powers of local self-government as provided in 67
that charter and is subject to Section 3 of Article XVIII, Ohio 68
Constitution. 69

~~(4)~~(6) "State" means the state of Ohio, including the 70
general assembly, the supreme court, the offices of all elected 71
state officers, and all departments, boards, offices, 72
commissions, agencies, colleges and universities, institutions, 73
and other instrumentalities of the state of Ohio. "State" does 74
not include political subdivisions. 75

(B) Subject to division (C) of this section and unless 76

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

(1) A nontherapeutic abortion, including through the use 86
of lethal injection drugs; 87

(2) Assisting suicide through the use of lethal injection 88
drugs; 89

(3) Executing a death sentence through the use of lethal 90
injection drugs. 91

(C) Division (B) of this section does not preclude the 92
state or any political subdivision thereof from expending funds 93
to pay the costs, premiums, or charges associated with a policy, 94
contract, or plan that includes a rider or other provision 95
offered on an individual basis under which an elected or 96
appointed official or employee who accepts the offer of the 97
rider or provision may obtain coverage of a nontherapeutic 98
abortion through the policy, contract, or plan if the individual 99
pays for all of the costs, premiums, or charges associated with 100
the rider or provision, including all administrative expenses 101
related to the rider or provision and any claim made for a 102
nontherapeutic abortion. 103

(D) In addition to the laws specified in division (A) of 104
section 4117.10 of the Revised Code that prevail over 105

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

(E) Notwithstanding section 1.50 of the Revised Code, if 110
any provision of this section, section 3901.87 of the Revised 111
Code, or section 5101.56 of the Revised Code is held invalid, or 112
if the application of any provision of these sections to any 113
person or circumstance is held invalid, then these sections 114
cease to operate. 115

Sec. 9.07. (A) As used in this section: 116

(1) "Deadly weapon" has the same meaning as in section 117
2923.11 of the Revised Code. 118

(2) "Governing authority of a local public entity" means 119
whichever of the following is applicable: 120

(a) For a county, the board of county commissioners of the 121
county; 122

(b) For a municipal corporation, the legislative authority 123
of the municipal corporation; 124

(c) For a combination of counties, a combination of 125
municipal corporations, or a combination of one or more counties 126
and one or more municipal corporations, all boards of county 127
commissioners and legislative authorities of all of the counties 128
and municipal corporations that combined to form a local public 129
entity for purposes of this section. 130

(3) "Local public entity" means a county, a municipal 131
corporation, a combination of counties, a combination of 132
municipal corporations, or a combination of one or more counties 133

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

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

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

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

(C) (1) Except as provided in this division, on and after March 17, 1998, a local public entity shall not enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state. On and after March 17, 1998, a local public entity may enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state only if the local public entity and the out-of-state jurisdiction with which the local public entity intends to contract jointly submit to the department of rehabilitation and correction a statement that certifies the correctional facility's intended use, intended prisoner population, and custody level, and the department reviews and comments upon the plans for the design or renovation

of the correctional facility regarding their suitability for the 192
intended prisoner population specified in the submitted 193
statement. 194

(2) If a local public entity and an out-of-state 195
jurisdiction enter into a contract to house out-of-state 196
prisoners in a correctional facility in this state as authorized 197
under division (C)(1) of this section, in addition to any other 198
provisions it contains, the contract shall include whichever of 199
the following provisions is applicable: 200

(a) If a private contractor will operate the facility in 201
question pursuant to a contract entered into in accordance with 202
division (D) of this section, a requirement that, if the 203
facility is closed or ceases to operate for any reason and if 204
the conversion plan described in division (D)(16) of this 205
section is not complied with, the out-of-state jurisdiction will 206
be responsible for housing and transporting the prisoners who 207
are in the facility at the time it is closed or ceases to 208
operate and for the cost of so housing and transporting those 209
prisoners; 210

(b) If a private contractor will not operate the facility 211
in question pursuant to a contract entered into in accordance 212
with division (D) of this section, a conversion plan that will 213
be followed if, for any reason, the facility is closed or ceases 214
to operate. The conversion plan shall include, but is not 215
limited to, provisions that specify whether the local public 216
entity or the out-of-state jurisdiction will be responsible for 217
housing and transporting the prisoners who are in the facility 218
at the time it is closed or ceases to operate and for the cost 219
of so housing and transporting those prisoners. 220

(3) If a local public entity and an out-of-state 221

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

(D) Subject to division (I) of this section, on and after 250
March 17, 1998, if a local public entity enters into a contract 251
with a private contractor for the management and operation of a 252

correctional facility in this state to house out-of-state 253
prisoners, the contract, at a minimum, shall include all of the 254
following provisions: 255

(1) A requirement that the private contractor seek and 256
obtain accreditation from the American correctional association 257
for the correctional facility within two years after accepting 258
the first out-of-state prisoner at the correctional facility 259
under the contract and that it maintain that accreditation for 260
the term of the contract; 261

(2) A requirement that the private contractor comply with 262
all applicable laws, rules, or regulations of the government of 263
this state, political subdivisions of this state, and the United 264
States, including, but not limited to, all sanitation, food 265
service, safety, and health regulations; 266

(3) A requirement that the private contractor send copies 267
of reports of inspections completed by appropriate authorities 268
regarding compliance with laws, rules, and regulations of the 269
type described in division (D)(2) of this section to the 270
director of rehabilitation and correction or the director's 271
designee and to the governing authority of the local public 272
entity in which the correctional facility is located; 273

(4) A requirement that the private contractor report to 274
the local law enforcement agencies with jurisdiction over the 275
place at which the correctional facility is located, for 276
investigation, all criminal offenses or delinquent acts that are 277
committed in or on the grounds of, or otherwise in connection 278
with, the correctional facility and report to the department of 279
rehabilitation and correction all disturbances at the facility; 280

(5) A requirement that the private contractor immediately 281

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

(6) A requirement that the private contractor provide a 293
written report to the director of rehabilitation and correction 294
or the director's designee and to the governing authority of the 295
local public entity in which the correctional facility is 296
located of all unusual incidents occurring at the correctional 297
facility. The private contractor shall report the incidents in 298
accordance with the incident reporting rules that, at the time 299
of the incident, are applicable to state correctional facilities 300
for similar incidents occurring at state correctional 301
facilities. 302

(7) A requirement that the private contractor provide 303
internal and perimeter security to protect the public, staff 304
members of the correctional facility, and prisoners in the 305
correctional facility; 306

(8) A requirement that the correctional facility be 307
staffed at all times with a staffing pattern that is adequate to 308
ensure supervision of inmates and maintenance of security within 309
the correctional facility and to provide for appropriate 310
programs, transportation, security, and other operational needs. 311

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

(9) A requirement that the private contractor provide an 317
adequate policy of insurance that satisfies the requirements set 318
forth in division (D) of section 9.06 of the Revised Code 319
regarding contractors who operate and manage a facility under 320
that section, and that the private contractor indemnify and hold 321
harmless the state, its officers, agents, and employees, and any 322
local public entity in the state with jurisdiction over the 323
place at which the correctional facility is located or that owns 324
the correctional facility, reimburse the state for its costs in 325
defending the state or any of its officers, agents, or 326
employees, and reimburse any local government entity of that 327
nature for its costs in defending the local government entity, 328
in the manner described in division (D) of that section 329
regarding contractors who operate and manage a facility under 330
that section; 331

(10) A requirement that the private contractor adopt for 332
prisoners housed in the correctional facility the security 333
classification system and schedule adopted by the department of 334
rehabilitation and correction under section 5145.03 of the 335
Revised Code, classify in accordance with the system and 336
schedule each prisoner housed in the facility, and house all 337
prisoners in the facility in accordance with their 338
classification under this division; 339

(11) A requirement that the private contractor will not 340
accept for housing, and will not house, in the correctional 341

facility any out-of-state prisoner in relation to whom any of 342
the following applies: 343

(a) The private entity has not obtained from the out-of- 344
state jurisdiction that imposed the sentence or sanction under 345
which the prisoner will be confined in this state a copy of the 346
institutional record of the prisoner while previously confined 347
in that out-of-state jurisdiction or a statement that the 348
prisoner previously has not been confined in that out-of-state 349
jurisdiction and a copy of all medical records pertaining to 350
that prisoner that are in the possession of the out-of-state 351
jurisdiction. 352

(b) The prisoner, while confined in any out-of-state 353
jurisdiction, has a record of institutional violence involving 354
the use of a deadly weapon or a pattern of committing acts of an 355
assaultive nature against employees of, or visitors to, the 356
place of confinement or has a record of escape or attempted 357
escape from secure custody. 358

(c) Under the security classification system and schedule 359
adopted by the department of rehabilitation and correction under 360
section 5145.03 of the Revised Code and adopted by the private 361
contractor under division (B)(10) of this section, the out-of- 362
state prisoner would be classified as being at a security level 363
higher than medium security. 364

(12) A requirement that the private contractor, prior to 365
housing any out-of-state prisoner in the correctional facility 366
under the contract, enter into a written agreement with the 367
department of rehabilitation and correction that sets forth a 368
plan and procedure that will be used to coordinate law 369
enforcement activities of state law enforcement agencies and of 370
local law enforcement agencies with jurisdiction over the place 371

at which the facility is located in response to any riot, 372
rebellion, escape, insurrection, or other emergency occurring 373
inside or outside the facility; 374

(13) A requirement that the private contractor cooperate 375
with the correctional institution inspection committee in the 376
committee's performance of its duties under section 103.73 of 377
the Revised Code and provide the committee, its subcommittees, 378
and its staff members, in performing those duties, with access 379
to the correctional facility as described in that section; 380

(14) A requirement that the private contractor permit any 381
peace officer who serves a law enforcement agency with 382
jurisdiction over the place at which the correctional facility 383
is located to enter into the facility to investigate any 384
criminal offense or delinquent act that allegedly has been 385
committed in or on the grounds of, or otherwise in connection 386
with, the facility; 387

(15) A requirement that the private contractor will not 388
employ any person at the correctional facility until after the 389
private contractor has submitted to the bureau of criminal 390
identification and investigation, on a form prescribed by the 391
superintendent of the bureau, a request that the bureau conduct 392
a criminal records check of the person and a requirement that 393
the private contractor will not employ any person at the 394
facility if the records check or other information possessed by 395
the contractor indicates that the person previously has engaged 396
in malfeasance; 397

(16) A requirement that the private contractor will not 398
accept for housing, and will not house, in the correctional 399
facility any out-of-state prisoner unless the private contractor 400
and the out-of-state jurisdiction that imposed the sentence for 401

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

(a) Unless section 5120.50 of the Revised Code does not 409
apply in relation to the offense the prisoner committed while 410
confined in this state and the term of confinement imposed for 411
that offense, the out-of-state jurisdiction will accept the 412
prisoner pursuant to that section for service of that term of 413
confinement and for any period of time remaining under the 414
sentence for which the prisoner was confined in the facility in 415
this state, the out-of-state jurisdiction will confine the 416
prisoner pursuant to that section for that term and that 417
remaining period of time, and the private contractor will 418
transport the prisoner to the out-of-state jurisdiction for 419
service of that term and that remaining period of time. 420

(b) If section 5120.50 of the Revised Code does not apply 421
in relation to the offense the prisoner committed while confined 422
in this state and the term of confinement imposed for that 423
offense, the prisoner shall be returned to the out-of-state 424
jurisdiction or its private contractor for completion of the 425
period of time remaining under the out-of-state sentence for 426
which the prisoner was confined in the facility in this state 427
before starting service of the term of confinement imposed for 428
the offense committed while confined in this state, the out-of- 429
state jurisdiction or its private contractor will confine the 430
prisoner for that remaining period of time and will transport 431
the prisoner outside of this state for service of that remaining 432

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

(17) A requirement that the private contractor, prior to 440
housing any out-of-state prisoner in the correctional facility 441
under the contract, enter into an agreement with the local 442
public entity that sets forth a conversion plan that will be 443
followed if, for any reason, the facility is closed or ceases to 444
operate. The conversion plan shall include, but is not limited 445
to, provisions that specify whether the private contractor, the 446
local public entity, or the out-of-state jurisdictions that 447
imposed the sentences for which the out-of-state prisoners are 448
confined in the facility will be responsible for housing and 449
transporting the prisoners who are in the facility at the time 450
it is closed or ceases to operate and for the cost of so housing 451
and transporting those prisoners. 452

(18) A schedule of fines that the local public entity 453
shall impose upon the private contractor if the private 454
contractor fails to perform its contractual duties, and a 455
requirement that, if the private contractor fails to perform its 456
contractual duties, the local public entity shall impose a fine 457
on the private contractor from the schedule of fines and, in 458
addition to the fine, may exercise any other rights it has under 459
the contract. Division (F) (2) of this section applies regarding 460
a fine described in this division. 461

(19) A requirement that the private contractor adopt and 462

use in the correctional facility the drug testing and treatment 463
program that the department of rehabilitation and correction 464
uses for inmates in state correctional institutions; 465

(20) A requirement that the private contractor provide 466
clothing for all out-of-state prisoners housed in the 467
correctional facility that is conspicuous in its color, style, 468
or color and style, that conspicuously identifies its wearer as 469
a prisoner, and that is readily distinguishable from clothing of 470
a nature that normally is worn outside the facility by non- 471
prisoners, that the private contractor require all out-of-state 472
prisoners housed in the facility to wear the clothing so 473
provided, and that the private contractor not permit any out-of- 474
state prisoner, while inside or on the premises of the facility 475
or while being transported to or from the facility, to wear any 476
clothing of a nature that does not conspicuously identify its 477
wearer as a prisoner and that normally is worn outside the 478
facility by non-prisoners; 479

(21) A requirement that, at the time the contract is made, 480
the private contractor provide to all parties to the contract 481
adequate proof that it has complied with the requirement 482
described in division (D) (9) of this section, and a requirement 483
that, at any time during the term of the contract, the private 484
contractor upon request provide to any party to the contract 485
adequate proof that it continues to be in compliance with the 486
requirement described in division (D) (9) of this section. 487

(E) A private correctional officer or other designated 488
employee of a private contractor that operates a correctional 489
facility that houses out-of-state prisoners in this state under 490
a contract entered into prior to, on, or after March 17, 1998, 491
may carry and use firearms in the course of the officer's or 492

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

(F) (1) Upon notification by the private contractor of an 499
escape from, or of a disturbance at, a correctional facility 500
that is operated by a private contractor under a contract 501
entered into prior to, on, or after March 17, 1998, and that 502
houses out-of-state prisoners in this state, the department of 503
rehabilitation and correction and state and local law 504
enforcement agencies shall use all reasonable means to recapture 505
persons who escaped from the facility or quell any disturbance 506
at the facility, in accordance with the plan and procedure 507
included in the written agreement entered into under division 508
(D) (12) of this section in relation to contracts entered into on 509
or after March 17, 1998, and in accordance with their normal 510
procedures in relation to contracts entered into prior to March 511
17, 1998. Any cost incurred by this state or a political 512
subdivision of this state relating to the apprehension of a 513
person who escaped from the facility, to the quelling of a 514
disturbance at the facility, or to the investigation or 515
prosecution as described in division (G) (2) of this section of 516
any offense relating to the escape or disturbance shall be 517
chargeable to and borne by the private contractor. The 518
contractor also shall reimburse the state or its political 519
subdivisions for all reasonable costs incurred relating to the 520
temporary detention of a person who escaped from the facility, 521
following the person's recapture. 522

(2) If a private contractor that, on or after March 17, 523

1998, enters into a contract under this section with a local 524
public entity for the operation of a correctional facility that 525
houses out-of-state prisoners fails to perform its contractual 526
duties, the local public entity shall impose upon the private 527
contractor a fine from the schedule of fines included in the 528
contract and may exercise any other rights it has under the 529
contract. A fine imposed under this division shall be paid to 530
the local public entity that enters into the contract, and the 531
local public entity shall deposit the money so paid into its 532
treasury to the credit of the fund used to pay for community 533
policing. If a fine is imposed under this division, the local 534
public entity may reduce the payment owed to the private 535
contractor pursuant to any invoice in the amount of the fine. 536

(3) If a private contractor, on or after March 17, 1998, 537
enters into a contract under this section with a local public 538
entity for the operation of a correctional facility that houses 539
out-of-state prisoners in this state, the private contractor 540
shall comply with the insurance, indemnification, hold harmless, 541
and cost reimbursement provisions described in division (D) (9) 542
of this section. 543

(G) (1) Any act or omission that would be a criminal 544
offense or a delinquent act if committed at a state correctional 545
institution or at a jail, workhouse, prison, or other 546
correctional facility operated by this state or by any political 547
subdivision or group of political subdivisions of this state 548
shall be a criminal offense or delinquent act if committed by or 549
with regard to any out-of-state prisoner who is housed at any 550
correctional facility operated by a private contractor in this 551
state pursuant to a contract entered into prior to, on, or after 552
March 17, 1998. 553

(2) If any political subdivision of this state experiences 554
any cost in the investigation or prosecution of an offense 555
committed by an out-of-state prisoner housed in a correctional 556
facility operated by a private contractor in this state pursuant 557
to a contract entered into prior to, on, or after March 17, 558
1998, the private contractor shall reimburse the political 559
subdivision for the costs so experienced. 560

(3) (a) Except as otherwise provided in this division, the 561
state, and any officer or employee, as defined in section 109.36 562
of the Revised Code, of the state is not liable in damages in a 563
civil action for any injury, death, or loss to person or 564
property that allegedly arises from, or is related to, the 565
establishment, management, or operation of a correctional 566
facility to house out-of-state prisoners in this state pursuant 567
to a contract between a local public entity and an out-of-state 568
jurisdiction, a local public entity and a private contractor, or 569
a private contractor and an out-of-state jurisdiction that was 570
entered into prior to March 17, 1998, or that is entered into on 571
or after March 17, 1998, in accordance with its provisions. The 572
immunity provided in this division does not apply regarding an 573
act or omission of an officer or employee, as defined in section 574
109.36 of the Revised Code, of the state that is manifestly 575
outside the scope of the officer's or employee's official 576
responsibilities or regarding an act or omission of the state, 577
or of an officer or employee, as so defined, of the state that 578
is undertaken with malicious purpose, in bad faith, or in a 579
wanton or reckless manner. 580

(b) Except as otherwise provided in this division, a non- 581
contracting political subdivision, and any employee, as defined 582
in section 2744.01 of the Revised Code, of a non-contracting 583
political subdivision is not liable in damages in a civil action 584

for any injury, death, or loss to person or property that 585
allegedly arises from, or is related to, the establishment, 586
management, or operation of a correctional facility to house 587
out-of-state prisoners in this state pursuant to a contract 588
between a local public entity other than the non-contracting 589
political subdivision and an out-of-state jurisdiction, a local 590
public entity other than the non-contracting political 591
subdivision and a private contractor, or a private contractor 592
and an out-of-state jurisdiction that was entered into prior to 593
March 17, 1998, or that is entered into on or after March 17, 594
1998, in accordance with its provisions. The immunity provided 595
in this division does not apply regarding an act or omission of 596
an employee, as defined in section 2744.01 of the Revised Code, 597
of a non-contracting political subdivision that is manifestly 598
outside the scope of the employee's employment or official 599
responsibilities or regarding an act or omission of a non- 600
contracting political subdivision or an employee, as so defined, 601
of a non-contracting political subdivision that is undertaken 602
with malicious purpose, in bad faith, or in a wanton or reckless 603
manner. 604

(c) Divisions (G) (3) (a) and (b) of this section do not 605
affect any immunity or defense that the state and its officers 606
and employees or a non-contracting political subdivision and its 607
employees may be entitled to under another section of the 608
Revised Code or the common law of this state, including, but not 609
limited to, section 9.86 or Chapter 2744. of the Revised Code. 610

(H) (1) Upon the completion of an out-of-state prisoner's 611
term of detention at a correctional facility operated by a 612
private contractor in this state pursuant to a contract entered 613
into prior to, on, or after March 17, 1998, the operator of the 614
correctional facility shall transport the prisoner to the out- 615

of-state jurisdiction that imposed the sentence for which the 616
prisoner was confined before it releases the prisoner from its 617
custody. 618

(2) No private contractor that operates and manages a 619
correctional facility housing out-of-state prisoners in this 620
state pursuant to a contract entered into prior to, on, or after 621
March 17, 1998, shall fail to comply with division (H) (1) of 622
this section. 623

(3) Whoever violates division (H) (2) of this section is 624
guilty of a misdemeanor of the first degree. 625

(I) Except as otherwise provided in this division, the 626
provisions of divisions (A) to (H) of this section apply in 627
relation to any correctional facility operated by a private 628
contractor in this state to house out-of-state prisoners, 629
regardless of whether the facility is operated pursuant to a 630
contract entered into prior to, on, or after March 17, 1998. 631
Division (C) (1) of this section shall not apply in relation to 632
any correctional facility for housing out-of-state prisoners in 633
this state that is operated by a private contractor under a 634
contract entered into with a local public entity prior to March 635
17, 1998. If a private contractor operates a correctional 636
facility in this state for the housing of out-of-state prisoners 637
under a contract entered into with a local public entity prior 638
to March 17, 1998, no later than thirty days after the effective 639
date of this amendment, the private contractor shall enter into 640
a contract with the local public entity that comports to the 641
requirements and criteria of division (D) of this section. 642

Sec. 120.03. (A) The Ohio public defender commission shall 643
appoint the state public defender, who shall serve at the 644
pleasure of the commission. 645

(B) The Ohio public defender commission shall establish 646
rules for the conduct of the offices of the county and joint 647
county public defenders and for the conduct of county appointed 648
counsel systems in the state. These rules shall include, but are 649
not limited to, the following: 650

(1) Standards of indigency and minimum qualifications for 651
legal representation by a public defender or appointed counsel. 652
In establishing standards of indigency and determining who is 653
eligible for legal representation by a public defender or 654
appointed counsel, the commission shall consider an indigent 655
person to be an individual who at the time ~~his~~ the person's need 656
is determined is unable to provide for the payment of an 657
attorney and all other necessary expenses of representation. 658
Release on bail shall not prevent a person from being determined 659
to be indigent. 660

(2) Standards for the hiring of outside counsel; 661

(3) Standards for contracts by a public defender with law 662
schools, legal aid societies, and nonprofit organizations for 663
providing counsel; 664

(4) Standards for the qualifications, training, and size 665
of the legal and supporting staff for a public defender, 666
facilities, and other requirements needed to maintain and 667
operate an office of a public defender; 668

(5) Minimum caseload standards; 669

(6) Procedures for the assessment and collection of the 670
costs of legal representation that is provided by public 671
defenders or appointed counsel; 672

(7) Standards and guidelines for determining whether a 673
client is able to make an up-front contribution toward the cost 674

of ~~his~~ the client's legal representation; 675

(8) Procedures for the collection of up-front 676
contributions from clients who are able to contribute toward the 677
cost of their legal representation, as determined pursuant to 678
the standards and guidelines developed under division (B)(7) of 679
this section. All of such up-front contributions shall be paid 680
into the appropriate county fund. 681

(9) Standards for contracts between a board of county 682
commissioners, a county public defender commission, or a joint 683
county public defender commission and a municipal corporation 684
for the legal representation of indigent persons charged with 685
violations of the ordinances of the municipal corporation. 686

(C) The Ohio public defender commission shall adopt rules 687
prescribing minimum qualifications of counsel appointed pursuant 688
to this chapter or appointed by the courts. Without limiting its 689
general authority to prescribe different qualifications for 690
different categories of appointed counsel, the commission shall 691
prescribe, by rule, special qualifications for counsel and co- 692
counsel appointed in capital cases in which the defendant was 693
sentenced to death before the effective date of this amendment. 694

(D) In administering the office of the Ohio public 695
defender commission: 696

(1) The commission shall do the following: 697

(a) Approve an annual operating budget; 698

(b) Make an annual report to the governor, the general 699
assembly, and the supreme court of Ohio on the operation of the 700
state public defender's office, the county appointed counsel 701
systems, and the county and joint county public defenders' 702
offices. 703

(2) The commission may do the following: 704

(a) Accept the services of volunteer workers and 705
consultants at no compensation other than reimbursement of 706
actual and necessary expenses; 707

(b) Prepare and publish statistical and case studies and 708
other data pertinent to the legal representation of indigent 709
persons; 710

(c) Conduct programs having a general objective of 711
training and educating attorneys and others in the legal 712
representation of indigent persons. 713

(E) There is hereby established in the state treasury the 714
public defender training fund for the deposit of fees received 715
by the Ohio public defender commission from educational 716
seminars, and the sale of publications, on topics concerning 717
criminal law and procedure. Expenditures from this fund shall be 718
made only for the operation of activities authorized by division 719
(D) (2) (c) of this section. 720

(F) (1) In accordance with sections 109.02, 109.07, and 721
109.361 to 109.366 of the Revised Code, but subject to division 722
(E) of section 120.06 of the Revised Code, the attorney general 723
shall represent or provide for the representation of the Ohio 724
public defender commission, the state public defender, assistant 725
state public defenders, and other employees of the commission or 726
the state public defender. 727

(2) Subject to division (E) of section 120.06 of the 728
Revised Code, the attorney general shall represent or provide 729
for the representation of attorneys described in division (C) of 730
section 120.41 of the Revised Code in malpractice or other civil 731
actions or proceedings that arise from alleged actions or 732

omissions related to responsibilities derived pursuant to this 733
chapter, or in civil actions that are based upon alleged 734
violations of the constitution or statutes of the United States, 735
including section 1983 of Title 42 of the United States Code, 93 736
Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise 737
from alleged actions or omissions related to responsibilities 738
derived pursuant to this chapter. For purposes of the 739
representation, sections 109.361 to 109.366 of the Revised Code 740
shall apply to an attorney described in division (C) of section 741
120.41 of the Revised Code as if ~~he~~ the attorney were an officer 742
or employee, as defined in section 109.36 of the Revised Code, 743
and the Ohio public defender commission or the state public 744
defender, whichever contracted with the attorney, shall be 745
considered ~~his~~ the attorney's employer. 746

Sec. 120.041. (A) In addition to the state public 747
defender's other duties under this chapter and other Revised 748
Code provisions, the state public defender shall do all of the 749
following for each state fiscal year: 750

(1) Determine the total dollar amount of all requests for 751
reimbursements that were submitted for that fiscal year by 752
counties under sections 120.18, 120.28, 120.33, ~~120.35~~, and 753
2941.51 of the Revised Code; 754

(2) Determine the total dollar amount paid to all counties 755
as reimbursements under the requests described in division (A) 756
(1) of this section that were submitted for that fiscal year; 757

(3) Determine the percentage of total costs submitted by 758
counties under the requests described in division (A) (1) of this 759
section that was paid to all counties as reimbursements for that 760
fiscal year; 761

(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;	762 763 764 765 766
(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:	767 768 769 770 771
(a) Costs for appointed counsel;	772
(b) Costs for personnel;	773
(c) Costs for expert witnesses;	774
(d) Costs for investigations;	775
(e) Costs for transcripts;	776
(f) Costs for rent or lease, utilities, furnishings, maintenance, and equipment;	777 778
(g) Costs for travel;	779
(h) Any other category of costs set by the state public defender.	780 781
(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;	782 783 784 785 786 787 788

(7) Analyze the cost per each felony, misdemeanor, 789
traffic, or juvenile delinquency case assigned to a public 790
defender or counsel pursuant to section 120.06, 120.16, 120.26, 791
or 120.33 of the Revised Code. 792

(B) For each state fiscal year, the state public defender 793
shall prepare a report that includes all of its findings and 794
determinations for that fiscal year and, not later than the 795
first day of October in the state fiscal year following the 796
fiscal year covered by the report, shall submit copies of the 797
report to the president of the senate, the speaker of the house 798
of representatives, the minority leader of the senate, the 799
minority leader of the house of representatives, and the 800
governor. 801

Sec. 120.06. (A) (1) The state public defender, when 802
designated by the court or requested by a county public defender 803
or joint county public defender, may provide legal 804
representation in all courts throughout the state to indigent 805
adults and juveniles who are charged with the commission of an 806
offense or act for which the penalty or any possible 807
adjudication includes the potential loss of liberty. 808

(2) The state public defender may provide legal 809
representation to any indigent person who, while incarcerated in 810
any state correctional institution, is charged with a felony 811
offense, for which the penalty or any possible adjudication that 812
may be imposed by a court upon conviction includes the potential 813
loss of liberty. 814

(3) The state public defender may provide legal 815
representation to any person incarcerated in any correctional 816
institution of the state, in any matter in which the person 817
asserts the person is unlawfully imprisoned or detained. 818

(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 849
compensation that the court may approve, not to exceed the 850
amounts provided for in section 2941.51 of the Revised Code. 851

(D) (1) When the state public defender is designated by the 852
court or requested by a county public defender or joint county 853
public defender to provide legal representation for an indigent 854
person in any case, other than pursuant to a contract entered 855
into under authority of division (C) (7) of section 120.04 of the 856
Revised Code, the state public defender shall send to the county 857
in which the case is filed a bill detailing the actual cost of 858
the representation that separately itemizes legal fees and 859
expenses. The county, upon receipt of an itemized bill from the 860
state public defender pursuant to this division, shall pay the 861
state public defender one hundred per cent of the amount 862
identified as legal fees and expenses in the itemized bill. 863

(2) Upon payment of the itemized bill under division (D) 864
(1) of this section, the county may submit the cost of the legal 865
fees and expenses to the state public defender for reimbursement 866
pursuant to section 120.33 of the Revised Code. 867

(3) When the state public defender provides investigation 868
or mitigation services to private appointed counsel or to a 869
county or joint county public defender as approved by the 870
appointing court, other than pursuant to a contract entered into 871
under authority of division (C) (7) of section 120.04 of the 872
Revised Code, the state public defender shall send to the county 873
in which the case is filed a bill itemizing the actual cost of 874
the services provided. The county, upon receipt of an itemized 875
bill from the state public defender pursuant to this division, 876
shall pay one hundred per cent of the amount as set forth in the 877
itemized bill. Upon payment of the itemized bill received 878

pursuant to this division, the county may submit the cost of the 879
investigation and mitigation services to the state public 880
defender for reimbursement pursuant to section 120.33 of the 881
Revised Code. 882

(4) There is hereby created in the state treasury the 883
county representation fund for the deposit of moneys received 884
from counties under this division. All moneys credited to the 885
fund shall be used by the state public defender to provide legal 886
representation for indigent persons when designated by the court 887
or requested by a county or joint county public defender or to 888
provide investigation or mitigation services, including 889
investigation or mitigation services to private appointed 890
counsel or a county or joint county public defender, as approved 891
by the court. 892

(E) (1) Notwithstanding any contrary provision of sections 893
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised 894
Code that pertains to representation by the attorney general, an 895
assistant attorney general, or special counsel of an officer or 896
employee, as defined in section 109.36 of the Revised Code, or 897
of an entity of state government, the state public defender may 898
elect to contract with, and to have the state pay pursuant to 899
division (E) (2) of this section for the services of, private 900
legal counsel to represent the Ohio public defender commission, 901
the state public defender, assistant state public defenders, 902
other employees of the commission or the state public defender, 903
and attorneys described in division (C) of section 120.41 of the 904
Revised Code in a malpractice or other civil action or 905
proceeding that arises from alleged actions or omissions related 906
to responsibilities derived pursuant to this chapter, or in a 907
civil action that is based upon alleged violations of the 908
constitution or statutes of the United States, including section 909

1983 of Title 42 of the United States Code, 93 Stat. 1284 910
(1979), 42 U.S.C.A. 1983, as amended, and that arises from 911
alleged actions or omissions related to responsibilities derived 912
pursuant to this chapter, if the state public defender 913
determines, in good faith, that the defendant in the civil 914
action or proceeding did not act manifestly outside the scope of 915
the defendant's employment or official responsibilities, with 916
malicious purpose, in bad faith, or in a wanton or reckless 917
manner. If the state public defender elects not to contract 918
pursuant to this division for private legal counsel in a civil 919
action or proceeding, then, in accordance with sections 109.02, 920
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 921
attorney general shall represent or provide for the 922
representation of the Ohio public defender commission, the state 923
public defender, assistant state public defenders, other 924
employees of the commission or the state public defender, or 925
attorneys described in division (C) of section 120.41 of the 926
Revised Code in the civil action or proceeding. 927

(2) (a) Subject to division (E) (2) (b) of this section, 928
payment from the state treasury for the services of private 929
legal counsel with whom the state public defender has contracted 930
pursuant to division (E) (1) of this section shall be 931
accomplished only through the following procedure: 932

(i) The private legal counsel shall file with the attorney 933
general a copy of the contract; a request for an award of legal 934
fees, court costs, and expenses earned or incurred in connection 935
with the defense of the Ohio public defender commission, the 936
state public defender, an assistant state public defender, an 937
employee, or an attorney in a specified civil action or 938
proceeding; a written itemization of those fees, costs, and 939
expenses, including the signature of the state public defender 940

and the state public defender's attestation that the fees, 941
costs, and expenses were earned or incurred pursuant to division 942
(E) (1) of this section to the best of the state public 943
defender's knowledge and information; a written statement 944
whether the fees, costs, and expenses are for all legal services 945
to be rendered in connection with that defense, are only for 946
legal services rendered to the date of the request and 947
additional legal services likely will have to be provided in 948
connection with that defense, or are for the final legal 949
services rendered in connection with that defense; a written 950
statement indicating whether the private legal counsel 951
previously submitted a request for an award under division (E) 952
(2) of this section in connection with that defense and, if so, 953
the date and the amount of each award granted; and, if the fees, 954
costs, and expenses are for all legal services to be rendered in 955
connection with that defense or are for the final legal services 956
rendered in connection with that defense, a certified copy of 957
any judgment entry in the civil action or proceeding or a signed 958
copy of any settlement agreement entered into between the 959
parties to the civil action or proceeding. 960

(ii) Upon receipt of a request for an award of legal fees, 961
court costs, and expenses and the requisite supportive 962
documentation described in division (E) (2) (a) (i) of this 963
section, the attorney general shall review the request and 964
documentation; determine whether any of the limitations 965
specified in division (E) (2) (b) of this section apply to the 966
request; and, if an award of legal fees, court costs, or 967
expenses is permissible after applying the limitations, prepare 968
a document awarding legal fees, court costs, or expenses to the 969
private legal counsel. The document shall name the private legal 970
counsel as the recipient of the award; specify the total amount 971

of the award as determined by the attorney general; itemize the 972
portions of the award that represent legal fees, court costs, 973
and expenses; specify any limitation applied pursuant to 974
division (E) (2) (b) of this section to reduce the amount of the 975
award sought by the private legal counsel; state that the award 976
is payable from the state treasury pursuant to division (E) (2) 977
(a) (iii) of this section; and be approved by the inclusion of 978
the signatures of the attorney general, the state public 979
defender, and the private legal counsel. 980

(iii) The attorney general shall forward a copy of the 981
document prepared pursuant to division (E) (2) (a) (ii) of this 982
section to the director of budget and management. The award of 983
legal fees, court costs, or expenses shall be paid out of the 984
state public defender's appropriations, to the extent there is a 985
sufficient available balance in those appropriations. If the 986
state public defender does not have a sufficient available 987
balance in the state public defender's appropriations to pay the 988
entire award of legal fees, court costs, or expenses, the 989
director shall make application for a transfer of appropriations 990
out of the emergency purposes account or any other appropriation 991
for emergencies or contingencies in an amount equal to the 992
portion of the award that exceeds the sufficient available 993
balance in the state public defender's appropriations. A 994
transfer of appropriations out of the emergency purposes account 995
or any other appropriation for emergencies or contingencies 996
shall be authorized if there are sufficient moneys greater than 997
the sum total of then pending emergency purposes account 998
requests, or requests for releases from the other appropriation. 999
If a transfer of appropriations out of the emergency purposes 1000
account or other appropriation for emergencies or contingencies 1001
is made to pay an amount equal to the portion of the award that 1002

exceeds the sufficient available balance in the state public 1003
defender's appropriations, the director shall cause the payment 1004
to be made to the private legal counsel. If sufficient moneys do 1005
not exist in the emergency purposes account or other 1006
appropriation for emergencies or contingencies to pay an amount 1007
equal to the portion of the award that exceeds the sufficient 1008
available balance in the state public defender's appropriations, 1009
the private legal counsel shall request the general assembly to 1010
make an appropriation sufficient to pay an amount equal to the 1011
portion of the award that exceeds the sufficient available 1012
balance in the state public defender's appropriations, and no 1013
payment in that amount shall be made until the appropriation has 1014
been made. The private legal counsel shall make the request 1015
during the current biennium and during each succeeding biennium 1016
until a sufficient appropriation is made. 1017

(b) An award of legal fees, court costs, and expenses 1018
pursuant to division (E) of this section is subject to the 1019
following limitations: 1020

(i) The maximum award or maximum aggregate of a series of 1021
awards of legal fees, court costs, and expenses to the private 1022
legal counsel in connection with the defense of the Ohio public 1023
defender commission, the state public defender, an assistant 1024
state public defender, an employee, or an attorney in a 1025
specified civil action or proceeding shall not exceed fifty 1026
thousand dollars. 1027

(ii) The private legal counsel shall not be awarded legal 1028
fees, court costs, or expenses to the extent the fees, costs, or 1029
expenses are covered by a policy of malpractice or other 1030
insurance. 1031

(iii) The private legal counsel shall be awarded legal 1032

fees and expenses only to the extent that the fees and expenses 1033
are reasonable in light of the legal services rendered by the 1034
private legal counsel in connection with the defense of the Ohio 1035
public defender commission, the state public defender, an 1036
assistant state public defender, an employee, or an attorney in 1037
a specified civil action or proceeding. 1038

(c) If, pursuant to division (E)(2)(a) of this section, 1039
the attorney general denies a request for an award of legal 1040
fees, court costs, or expenses to private legal counsel because 1041
of the application of a limitation specified in division (E)(2) 1042
(b) of this section, the attorney general shall notify the 1043
private legal counsel in writing of the denial and of the 1044
limitation applied. 1045

(d) If, pursuant to division (E)(2)(c) of this section, a 1046
private legal counsel receives a denial of an award notification 1047
or if a private legal counsel refuses to approve a document 1048
under division (E)(2)(a)(ii) of this section because of the 1049
proposed application of a limitation specified in division (E) 1050
(2)(b) of this section, the private legal counsel may commence a 1051
civil action against the attorney general in the court of claims 1052
to prove the private legal counsel's entitlement to the award 1053
sought, to prove that division (E)(2)(b) of this section does 1054
not prohibit or otherwise limit the award sought, and to recover 1055
a judgment for the amount of the award sought. A civil action 1056
under division (E)(2)(d) of this section shall be commenced no 1057
later than two years after receipt of a denial of award 1058
notification or, if the private legal counsel refused to approve 1059
a document under division (E)(2)(a)(ii) of this section because 1060
of the proposed application of a limitation specified in 1061
division (E)(2)(b) of this section, no later than two years 1062
after the refusal. Any judgment of the court of claims in favor 1063

of the private legal counsel shall be paid from the state 1064
treasury in accordance with division (E) (2) (a) of this section. 1065

~~(F) If a court appoints the office of the state public 1066
defender to represent a petitioner in a postconviction relief 1067
proceeding under section 2953.21 of the Revised Code, the 1068
petitioner has received a sentence of death, and the proceeding 1069
relates to that sentence, all of the attorneys who represent the 1070
petitioner in the proceeding pursuant to the appointment, 1071
whether an assistant state public defender, the state public 1072
defender, or another attorney, shall be certified under Rule 20 1073
of the Rules of Superintendence for the Courts of Ohio to 1074
represent indigent defendants charged with or convicted of an 1075
offense for which the death penalty can be or has been imposed. 1076~~

~~(G) (1)~~ (F) (1) The state public defender may conduct a 1077
legal assistance referral service for children committed to the 1078
department of youth services relative to conditions of 1079
confinement claims. If the legal assistance referral service 1080
receives a request for assistance from a child confined in a 1081
facility operated, or contracted for, by the department of youth 1082
services and the state public defender determines that the child 1083
has a conditions of confinement claim that has merit, the state 1084
public defender may refer the child to a private attorney. If no 1085
private attorney who the child has been referred to by the state 1086
public defender accepts the case within a reasonable time, the 1087
state public defender may prepare, as appropriate, pro se 1088
pleadings in the form of a complaint regarding the conditions of 1089
confinement at the facility where the child is confined with a 1090
motion for appointment of counsel and other applicable pleadings 1091
necessary for sufficient pro se representation. 1092

(2) Division ~~(G) (1)~~ (F) (1) of this section does not 1093

authorize the state public defender to represent a child 1094
committed to the department of youth services in general civil 1095
matters arising solely out of state law. 1096

(3) The state public defender shall not undertake the 1097
representation of a child in court based on a conditions of 1098
confinement claim arising under this division. 1099

~~(H)~~ (G) A child's right to representation or services 1100
under this section is not affected by the child, or another 1101
person on behalf of the child, previously having paid for 1102
similar representation or services or having waived legal 1103
representation. 1104

~~(I)~~ (H) The state public defender shall have reasonable 1105
access to any child committed to the department of youth 1106
services, department of youth services institution, and 1107
department of youth services record as needed to implement this 1108
section. 1109

~~(J)~~ (I) As used in this section: 1110

(1) "Community control sanction" has the same meaning as 1111
in section 2929.01 of the Revised Code. 1112

(2) "Conditions of confinement" means any issue involving 1113
a constitutional right or other civil right related to a child's 1114
incarceration, including, but not limited to, actions cognizable 1115
under 42 U.S.C. 1983. 1116

(3) "Post-release control sanction" has the same meaning 1117
as in section 2967.01 of the Revised Code. 1118

Sec. 120.14. (A) (1) Except as provided in division (A) (2) 1119
of this section, the county public defender commission shall 1120
appoint the county public defender and may remove ~~him~~ the county 1121

public defender from office only for good cause. 1122

(2) If a county public defender commission contracts with 1123
the state public defender or with one or more nonprofit 1124
organizations for the state public defender or the organizations 1125
to provide all of the services that the county public defender 1126
is required or permitted to provide by this chapter, the 1127
commission shall not appoint a county public defender. 1128

(B) The commission shall determine the qualifications and 1129
size of the supporting staff and facilities and other 1130
requirements needed to maintain and operate the office of the 1131
county public defender. 1132

(C) In administering the office of county public defender, 1133
the commission shall: 1134

(1) Recommend to the county commissioners an annual 1135
operating budget which is subject to the review, amendment, and 1136
approval of the board of county commissioners; 1137

(2) (a) Make an annual report to the county commissioners 1138
and the Ohio public defender commission on the operation of the 1139
county public defender's office, ~~including complete and detailed~~ 1140
~~information on finances and costs that separately states costs~~ 1141
~~and expenses that are reimbursable under section 120.35 of the~~ 1142
~~Revised Code,~~ and any other data and information requested by 1143
the state public defender; 1144

(b) Make monthly reports relating to reimbursement and 1145
associated case data pursuant to the rules of the Ohio public 1146
defender commission to the board of county commissioners and the 1147
Ohio public defender commission on the total costs of the public 1148
defender's office. 1149

(3) Cooperate with the Ohio public defender commission in 1150

maintaining the standards established by rules of the Ohio 1151
public defender commission pursuant to divisions (B) and (C) of 1152
section 120.03 of the Revised Code, and cooperate with the state 1153
public defender in ~~his~~ the state public defender's programs 1154
providing technical aid and assistance to county systems. 1155

(D) The commission may accept the services of volunteer 1156
workers and consultants at no compensation except reimbursement 1157
for actual and necessary expenses. 1158

(E) The commission may contract with any municipal 1159
corporation, within the county served by the county public 1160
defender, for the county public defender to provide legal 1161
representation for indigent persons who are charged with a 1162
violation of the ordinances of the municipal corporation. 1163

(F) A county public defender commission, with the approval 1164
of the board of county commissioners regarding all provisions 1165
that pertain to the financing of defense counsel for indigent 1166
persons, may contract with the state public defender or with any 1167
nonprofit organization, the primary purpose of which is to 1168
provide legal representation to indigent persons, for the state 1169
public defender or the organization to provide all or any part 1170
of the services that a county public defender is required or 1171
permitted to provide by this chapter. A contract entered into 1172
pursuant to this division may provide for payment for the 1173
services provided on a per case, hourly, or fixed contract 1174
basis. The state public defender and any nonprofit organization 1175
that contracts with a county public defender commission pursuant 1176
to this division shall do all of the following: 1177

(1) Comply with all standards established by the rules of 1178
the Ohio public defender commission; 1179

(2) Comply with all standards established by the state 1180
public defender; 1181

(3) Comply with all statutory duties and other laws 1182
applicable to county public defenders. 1183

Sec. 120.16. (A) (1) The county public defender shall 1184
provide legal representation to indigent adults and juveniles 1185
who are charged with the commission of an offense or act that is 1186
a violation of a state statute and for which the penalty or any 1187
possible adjudication includes the potential loss of liberty and 1188
in postconviction proceedings as defined in this section. 1189

(2) The county public defender may provide legal 1190
representation to indigent adults and juveniles charged with the 1191
violation of an ordinance of a municipal corporation for which 1192
the penalty or any possible adjudication includes the potential 1193
loss of liberty, if the county public defender commission has 1194
contracted with the municipal corporation to provide legal 1195
representation for indigent persons charged with a violation of 1196
an ordinance of the municipal corporation. 1197

(B) The county public defender shall provide the legal 1198
representation authorized by division (A) of this section at 1199
every stage of the proceedings following arrest, detention, 1200
service of summons, or indictment. 1201

(C) The county public defender may request the state 1202
public defender to prosecute any appeal or other remedy before 1203
or after conviction that the county public defender decides is 1204
in the interests of justice, and may provide legal 1205
representation in parole and probation revocation matters and 1206
matters relating to the revocation of community control or post- 1207
release control under a community control sanction or post- 1208

release control sanction. 1209

(D) The county public defender shall not be required to 1210
prosecute any appeal, postconviction remedy, or other 1211
proceeding, unless the county public defender is first satisfied 1212
there is arguable merit to the proceeding. 1213

(E) Nothing in this section shall prevent a court from 1214
appointing counsel other than the county public defender or from 1215
allowing an indigent person to select the indigent person's own 1216
personal counsel to represent the indigent person. A court may 1217
also appoint counsel or allow an indigent person to select the 1218
indigent person's own personal counsel to assist the county 1219
public defender as co-counsel when the interests of justice so 1220
require. 1221

(F) Information as to the right to legal representation by 1222
the county public defender or assigned counsel shall be afforded 1223
to an accused person immediately upon arrest, when brought 1224
before a magistrate, or when formally charged, whichever occurs 1225
first. 1226

~~(G) If a court appoints the office of the county public 1227
defender to represent a petitioner in a postconviction relief 1228
proceeding under section 2953.21 of the Revised Code, the 1229
petitioner has received a sentence of death, and the proceeding 1230
relates to that sentence, all of the attorneys who represent the 1231
petitioner in the proceeding pursuant to the appointment, 1232
whether an assistant county public defender or the county public 1233
defender, shall be certified under Rule 20 of the Rules of 1234
Superintendence for the Courts of Ohio to represent indigent 1235
defendants charged with or convicted of an offense for which the 1236
death penalty can be or has been imposed. 1237~~

(H) —As used in this section:	1238
(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	1239 1240
(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	1241 1242
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	1243 1244 1245 1246 1247 1248 1249 1250 1251 1252 1253 1254 1255 1256 1257 1258 1259 1260 1261 1262 1263 1264 1265 1266 1267

~~for the costs and expenses that are reimbursable under section~~ 1268
~~120.35 of the Revised Code, if any.~~ The amount of payments to be 1269
included in and made under the voucher shall be determined as 1270
specified in section 120.34 of the Revised Code. For the 1271
purposes of this section, "cost" means total expenses minus 1272
~~costs and expenses reimbursable under section 120.35 of the~~ 1273
~~Revised Code and~~ any funds received by the county public 1274
defender commission pursuant to a contract, except a contract 1275
entered into with a municipal corporation pursuant to division 1276
(E) of section 120.14 of the Revised Code, gift, or grant. 1277

(B) If the county public defender fails to maintain the 1278
standards for the conduct of the office established by rules of 1279
the Ohio public defender commission pursuant to divisions (B) 1280
and (C) of section 120.03 or the standards established by the 1281
state public defender pursuant to division (B)(7) of section 1282
120.04 of the Revised Code, the Ohio public defender commission 1283
shall notify the county public defender commission and the board 1284
of county commissioners of the county that the county public 1285
defender has failed to comply with its rules or the standards of 1286
the state public defender. Unless the county public defender 1287
commission or the county public defender corrects the conduct of 1288
the county public defender's office to comply with the rules and 1289
standards within ninety days after the date of the notice, the 1290
state public defender may deny payment of all or part of the 1291
county's reimbursement from the state provided for in division 1292
(A) of this section. 1293

Sec. 120.24. (A) (1) Except as provided in division (A) (2) 1294
of this section, the joint county public defender commission 1295
shall appoint the joint county public defender and may remove 1296
~~him~~ the joint county public defender from office only for good 1297
cause. 1298

(2) If a joint county public defender commission contracts 1299
with the state public defender or with one or more nonprofit 1300
organizations for the state public defender or the organizations 1301
to provide all of the services that the joint county public 1302
defender is required or permitted to provide by this chapter, 1303
the commission shall not appoint a joint county public defender. 1304

(B) The commission shall determine the qualifications and 1305
size of the supporting staff and facilities and other 1306
requirements needed to maintain and operate the office. 1307

(C) In administering the office of joint county public 1308
defender, the commission shall: 1309

(1) Recommend to the boards of county commissioners in the 1310
district an annual operating budget which is subject to the 1311
review, amendment, and approval of the boards of county 1312
commissioners in the district; 1313

(2) (a) Make an annual report to the boards of county 1314
commissioners in the district and the Ohio public defender 1315
commission on the operation of the public defender's office,~~—~~ 1316
~~including complete and detailed information on finances and~~ 1317
~~costs that separately states costs and expenses that are~~ 1318
~~reimbursable under section 120.35 of the Revised Code,~~ and such 1319
other data and information requested by the state public 1320
defender; 1321

(b) Make monthly reports relating to reimbursement and 1322
associated case data pursuant to the rules of the Ohio public 1323
defender commission to the boards of county commissioners in the 1324
district and the Ohio public defender commission on the total 1325
costs of the public defender's office. 1326

(3) Cooperate with the Ohio public defender commission in 1327

maintaining the standards established by rules of the Ohio 1328
public defender commission pursuant to divisions (B) and (C) of 1329
section 120.03 of the Revised Code, and cooperate with the state 1330
public defender in ~~his~~ the state public defender's programs 1331
providing technical aid and assistance to county systems. 1332

(D) The commission may accept the services of volunteer 1333
workers and consultants at no compensation except reimbursement 1334
for actual and necessary expenses. 1335

(E) The commission may contract with any municipal 1336
corporation, within the counties served by the joint county 1337
public defender, for the joint county public defender to provide 1338
legal representation for indigent persons who are charged with a 1339
violation of the ordinances of the municipal corporation. 1340

(F) A joint county public defender commission, with the 1341
approval of each participating board of county commissioners 1342
regarding all provisions that pertain to the financing of 1343
defense counsel for indigent persons, may contract with the 1344
state public defender or with any nonprofit organization, the 1345
primary purpose of which is to provide legal representation to 1346
indigent persons, for the state public defender or the 1347
organization to provide all or any part of the services that a 1348
joint county public defender is required or permitted to provide 1349
by this chapter. A contract entered into pursuant to this 1350
division may provide for payment for the services provided on a 1351
per case, hourly, or fixed contract basis. The state public 1352
defender and any nonprofit organization that contracts with a 1353
joint county public defender commission pursuant to this 1354
division shall do all of the following: 1355

(1) Comply with all standards established by the rules of 1356
the Ohio public defender commission; 1357

(2) Comply with all standards established by the Ohio public defender; 1358
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(3) Comply with all statutory duties and other laws applicable to joint county public defenders. 1360
1361

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. 1362
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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. 1368
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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. 1376
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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- 1380
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release control sanction. 1387

(D) The joint county public defender shall not be required 1388
to prosecute any appeal, postconviction remedy, or other 1389
proceeding, unless the joint county public defender is first 1390
satisfied that there is arguable merit to the proceeding. 1391

(E) Nothing in this section shall prevent a court from 1392
appointing counsel other than the joint county public defender 1393
or from allowing an indigent person to select the indigent 1394
person's own personal counsel to represent the indigent person. 1395
A court may also appoint counsel or allow an indigent person to 1396
select the indigent person's own personal counsel to assist the 1397
joint county public defender as co-counsel when the interests of 1398
justice so require. 1399

(F) Information as to the right to legal representation by 1400
the joint county public defender or assigned counsel shall be 1401
afforded to an accused person immediately upon arrest, when 1402
brought before a magistrate, or when formally charged, whichever 1403
occurs first. 1404

~~(G) If a court appoints the office of the joint county 1405
public defender to represent a petitioner in a postconviction 1406
relief proceeding under section 2953.21 of the Revised Code, the 1407
petitioner has received a sentence of death, and the proceeding 1408
relates to that sentence, all of the attorneys who represent the 1409
petitioner in the proceeding pursuant to the appointment, 1410
whether an assistant joint county defender or the joint county 1411
public defender, shall be certified under Rule 20 of the Rules 1412
of Superintendence for the Courts of Ohio to represent indigent 1413
defendants charged with or convicted of an offense for which the 1414
death penalty can be or has been imposed. 1415~~

(H) —As used in this section:	1416
(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	1417 1418
(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	1419 1420
Sec. 120.28. (A) The joint county public defender commission's report to the joint board of county commissioners shall be audited by the fiscal officer of the district. The joint 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 joint 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 joint board of county commissioners 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 joint county public defender that all persons provided representation by the joint county public defender's office during the period covered by the request 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 joint	1421 1422 1423 1424 1425 1426 1427 1428 1429 1430 1431 1432 1433 1434 1435 1436 1437 1438 1439 1440 1441 1442 1443 1444 1445

county public defender's office for the period of time covered 1446
by the certified report ~~and a voucher for the costs and expenses~~ 1447
~~that are reimbursable under section 120.35 of the Revised Code,~~ 1448
~~if any.~~ The amount of payments to be included in and made under 1449
the voucher shall be determined as specified in section 120.34 1450
of the Revised Code. For purposes of this section, "cost" means 1451
total expenses minus ~~costs and expenses reimbursable under~~ 1452
~~section 120.35 of the Revised Code and~~ any funds received by the 1453
joint county public defender commission pursuant to a contract, 1454
except a contract entered into with a municipal corporation 1455
pursuant to division (E) of section 120.24 of the Revised Code, 1456
gift, or grant. Each county in the district shall be entitled to 1457
a share of such state reimbursement in proportion to the 1458
percentage of the cost it has agreed to pay. 1459

(B) If the joint county public defender fails to maintain 1460
the standards for the conduct of the office established by the 1461
rules of the Ohio public defender commission pursuant to 1462
divisions (B) and (C) of section 120.03 or the standards 1463
established by the state public defender pursuant to division 1464
(B)(7) of section 120.04 of the Revised Code, the Ohio public 1465
defender commission shall notify the joint county public 1466
defender commission and the board of county commissioners of 1467
each county in the district that the joint county public 1468
defender has failed to comply with its rules or the standards of 1469
the state public defender. Unless the joint public defender 1470
commission or the joint county public defender corrects the 1471
conduct of the joint county public defender's office to comply 1472
with the rules and standards within ninety days after the date 1473
of the notice, the state public defender may deny all or part of 1474
the counties' reimbursement from the state provided for in 1475
division (A) of this section. 1476

Sec. 120.33. (A) In lieu of using a county public defender 1477
or joint county public defender to represent indigent persons in 1478
the proceedings set forth in division (A) of section 120.16 of 1479
the Revised Code, the board of county commissioners of any 1480
county may adopt a resolution to pay counsel who are either 1481
personally selected by the indigent person or appointed by the 1482
court. The resolution shall include those provisions the board 1483
of county commissioners considers necessary to provide effective 1484
representation of indigent persons in any proceeding for which 1485
counsel is provided under this section. The resolution shall 1486
include provisions for contracts with any municipal corporation 1487
under which the municipal corporation shall reimburse the county 1488
for counsel appointed to represent indigent persons charged with 1489
violations of the ordinances of the municipal corporation. 1490

(1) In a county that adopts a resolution to pay counsel, 1491
an indigent person shall have the right to do either of the 1492
following: 1493

(a) To select the person's own personal counsel to 1494
represent the person in any proceeding included within the 1495
provisions of the resolution; 1496

(b) To request the court to appoint counsel to represent 1497
the person in such a proceeding. 1498

(2) The court having jurisdiction over the proceeding in a 1499
county that adopts a resolution to pay counsel shall, after 1500
determining that the person is indigent and entitled to legal 1501
representation under this section, do either of the following: 1502

(a) By signed journal entry recorded on its docket, enter 1503
the name of the lawyer selected by the indigent person as 1504
counsel of record; 1505

(b) Appoint counsel for the indigent person if the person 1506
has requested the court to appoint counsel and, by signed 1507
journal entry recorded on its dockets, enter the name of the 1508
lawyer appointed for the indigent person as counsel of record. 1509

(3) The board of county commissioners shall establish a 1510
schedule of fees by case or on an hourly basis to be paid to 1511
counsel for legal services provided pursuant to a resolution 1512
adopted under this section. Prior to establishing the schedule, 1513
the board of county commissioners shall request the bar 1514
association or associations of the county to submit a proposed 1515
~~schedule for cases other than capital cases.~~ The schedule 1516
submitted shall be subject to the review, amendment, and 1517
approval of the board of county commissioners, ~~except with~~ 1518
~~respect to capital cases. With respect to capital cases, the~~ 1519
~~schedule shall provide for fees by case or on an hourly basis to~~ 1520
~~be paid to counsel in the amount or at the rate set by the~~ 1521
~~capital case attorney fee council pursuant to division (D) of~~ 1522
~~this section, and the board of county commissioners shall~~ 1523
~~approve that amount or rate.~~ 1524

(4) Counsel selected by the indigent person or appointed 1525
by the court at the request of an indigent person in a county 1526
that adopts a resolution to pay counsel, except for counsel 1527
appointed to represent a person charged with any violation of an 1528
ordinance of a municipal corporation that has not contracted 1529
with the county commissioners for the payment of appointed 1530
counsel, shall be paid by the county and shall receive the 1531
compensation and expenses the court approves. ~~With respect to~~ 1532
~~capital cases, the court shall approve compensation and expenses~~ 1533
~~in accordance with the amount or at the rate set by the capital~~ 1534
~~case attorney fee council pursuant to division (D) of this~~ 1535
~~section.~~ Each request for payment shall include a financial 1536

disclosure form completed by the indigent person on a form 1537
prescribed by the state public defender. Compensation and 1538
expenses shall not exceed the amounts fixed by the board of 1539
county commissioners in the schedule adopted pursuant to 1540
division (A) (3) of this section. No court shall approve 1541
compensation and expenses that exceed the amount fixed pursuant 1542
to division (A) (3) of this section. 1543

The fees and expenses approved by the court shall not be 1544
taxed as part of the costs and shall be paid by the county. 1545
However, if the person represented has, or may reasonably be 1546
expected to have, the means to meet some part of the cost of the 1547
services rendered to the person, the person shall pay the county 1548
an amount that the person reasonably can be expected to pay. 1549
Pursuant to section 120.04 of the Revised Code, the county shall 1550
pay to the state public defender a percentage of the payment 1551
received from the person in an amount proportionate to the 1552
percentage of the costs of the person's case that were paid to 1553
the county by the state public defender pursuant to this 1554
section. The money paid to the state public defender shall be 1555
credited to the client payment fund created pursuant to division 1556
(B) (5) of section 120.04 of the Revised Code. 1557

The county auditor shall draw a warrant on the county 1558
treasurer for the payment of counsel in the amount fixed by the 1559
court, plus the expenses the court fixes and certifies to the 1560
auditor. The county auditor shall report periodically, but not 1561
less than annually, to the board of county commissioners and to 1562
the state public defender the amounts paid out pursuant to the 1563
approval of the court. The board of county commissioners, after 1564
review and approval of the auditor's report, or the county 1565
auditor, with permission from and notice to the board of county 1566
commissioners, may then certify it to the state public defender 1567

for reimbursement. The state public defender may pay a requested 1568
reimbursement only if the request for reimbursement includes a 1569
financial disclosure form completed by the indigent person on a 1570
form prescribed by the state public defender or if the court 1571
certifies by electronic signature as prescribed by the state 1572
public defender that a financial disclosure form has been 1573
completed by the indigent person and is available for 1574
inspection. If a request for the reimbursement of the cost of 1575
counsel in any case is not received by the state public defender 1576
within ninety days after the end of the calendar month in which 1577
the case is finally disposed of by the court, unless the county 1578
has requested and the state public defender has granted an 1579
extension of the ninety-day limit, the state public defender 1580
shall not pay the requested reimbursement. The state public 1581
defender shall also review the report and, in accordance with 1582
the standards, guidelines, and maximums established pursuant to 1583
divisions (B) (7) and (8) of section 120.04 of the Revised Code 1584
and the payment determination provisions of section 120.34 of 1585
the Revised Code, prepare a voucher for the cost of each county 1586
appointed counsel system in the period of time covered by the 1587
certified report ~~and a voucher for the costs and expenses that~~ 1588
~~are reimbursable under section 120.35 of the Revised Code, if~~ 1589
~~any.~~ The amount of payments to be included in and made under the 1590
voucher shall be determined as specified in section 120.34 of 1591
the Revised Code. 1592

(5) If any county appointed counsel system fails to 1593
maintain the standards for the conduct of the system established 1594
by the rules of the Ohio public defender commission pursuant to 1595
divisions (B) and (C) of section 120.03 or the standards 1596
established by the state public defender pursuant to division 1597
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1598

defender commission shall notify the board of county 1599
commissioners of the county that the county appointed counsel 1600
system has failed to comply with its rules or the standards of 1601
the state public defender. Unless the board of county 1602
commissioners corrects the conduct of its appointed counsel 1603
system to comply with the rules and standards within ninety days 1604
after the date of the notice, the state public defender may deny 1605
all or part of the county's reimbursement from the state 1606
provided for in division (A) (4) of this section. 1607

(B) In lieu of using a county public defender or joint 1608
county public defender to represent indigent persons in the 1609
proceedings set forth in division (A) of section 120.16 of the 1610
Revised Code, and in lieu of adopting the resolution and 1611
following the procedure described in division (A) of this 1612
section, the board of county commissioners of any county may 1613
contract with the state public defender for the state public 1614
defender's legal representation of indigent persons. A contract 1615
entered into pursuant to this division may provide for payment 1616
for the services provided on a per case, hourly, or fixed 1617
contract basis. 1618

~~(C) If a court appoints an attorney pursuant to this 1619
section to represent a petitioner in a postconviction relief 1620
proceeding under section 2953.21 of the Revised Code, the 1621
petitioner has received a sentence of death, and the proceeding 1622
relates to that sentence, the attorney who represents the 1623
petitioner in the proceeding pursuant to the appointment shall 1624
be certified under Rule 20 of the Rules of Superintendence for 1625
the Courts of Ohio to represent indigent defendants charged with 1626
or convicted of an offense for which the death penalty can be or 1627
has been imposed. 1628~~

~~(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.~~ 1629
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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.~~ 1634
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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.~~ 1653
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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~~ 1656
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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 1690
pursuant to sections 120.18, 120.28, 120.33, ~~120.35~~, and 2941.51 1691
of the Revised Code to each county for the fiscal year shall be 1692
reduced proportionately so that each county is paid an equal 1693
percentage of its cost in the fiscal year for operating its 1694
county public defender system, its joint county public defender 1695
system, and its county appointed counsel system, an equal 1696
percentage of its costs and expenses of conducting the defense 1697
in capital cases in the fiscal year, and an equal percentage of 1698
its costs and expenses of appointed counsel covered by section 1699
2941.51 of the Revised Code. 1700

(B) If any county receives an amount of money pursuant to 1701
section 120.18, 120.28, 120.33, ~~120.35~~, or 2941.51 of the 1702
Revised Code that is in excess of the amount of reimbursement it 1703
is entitled to receive pursuant to this section, the state 1704
public defender shall request the board of county commissioners 1705
to return the excess payment and the board of county 1706
commissioners, upon receipt of the request, shall direct the 1707
appropriate county officer to return the excess payment to the 1708
state. 1709

(C) Within thirty days of the end of each fiscal quarter, 1710
the state public defender shall provide to the office of budget 1711
and management and the legislative service commission an 1712
estimate of the amount of money that will be required for the 1713
balance of the fiscal year to make the payments required by 1714
sections 120.18, 120.28, 120.33, ~~120.35~~, and 2941.51 of the 1715
Revised Code. 1716

(D) No reimbursement shall be made under this section for 1717
costs of indigent defense to the extent that those costs exceed 1718
the hourly rate, if any, established by the general assembly. 1719

(E) All payments relating to capital cases that were 1720
required to be made under the provisions of this chapter or 1721
section 2941.51 of the Revised Code as those provisions existed 1722
immediately before the effective date of this amendment shall be 1723
made for each calendar or fiscal year, as applicable, in 1724
accordance with those provisions as they existed immediately 1725
before the effective date of this amendment until each case in 1726
which a defendant was sentenced to death before the effective 1727
date of this amendment is finally resolved. 1728

Sec. 149.43. (A) As used in this section: 1729

(1) "Public record" means records kept by any public 1730
office, including, but not limited to, state, county, city, 1731
village, township, and school district units, and records 1732
pertaining to the delivery of educational services by an 1733
alternative school in this state kept by the nonprofit or for- 1734
profit entity operating the alternative school pursuant to 1735
section 3313.533 of the Revised Code. "Public record" does not 1736
mean any of the following: 1737

(a) Medical records; 1738

(b) Records pertaining to probation and parole 1739
proceedings, to proceedings related to the imposition of 1740
community control sanctions and post-release control sanctions, 1741
or to proceedings related to determinations under section 1742
2967.271 of the Revised Code regarding the release or maintained 1743
incarceration of an offender to whom that section applies; 1744

(c) Records pertaining to actions under section 2151.85 1745
and division (C) of section 2919.121 of the Revised Code and to 1746
appeals of actions arising under those sections; 1747

(d) Records pertaining to adoption proceedings, including 1748

the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;	1749 1750
(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;	1751 1752 1753 1754 1755 1756
(f) Records specified in division (A) of section 3107.52 of the Revised Code;	1757 1758
(g) Trial preparation records;	1759
(h) Confidential law enforcement investigatory records;	1760
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	1761 1762
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	1763 1764
(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;	1765 1766 1767 1768
(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;	1769 1770 1771 1772
(m) Intellectual property records;	1773
(n) Donor profile records;	1774
(o) Records maintained by the department of job and family	1775

services pursuant to section 3121.894 of the Revised Code;	1776
(p) Designated public service worker residential and familial information;	1777 1778
(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;	1779 1780 1781 1782 1783
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	1784 1785
(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;	1786 1787 1788 1789 1790 1791 1792 1793 1794 1795 1796 1797
(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;	1798 1799 1800 1801 1802
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator	1803 1804

that the board of executives of long-term services and supports 1805
administers under section 4751.15 of the Revised Code or 1806
contracts under that section with a private or government entity 1807
to administer; 1808

(v) Records the release of which is prohibited by state or 1809
federal law; 1810

(w) Proprietary information of or relating to any person 1811
that is submitted to or compiled by the Ohio venture capital 1812
authority created under section 150.01 of the Revised Code; 1813

(x) Financial statements and data any person submits for 1814
any purpose to the Ohio housing finance agency or the 1815
controlling board in connection with applying for, receiving, or 1816
accounting for financial assistance from the agency, and 1817
information that identifies any individual who benefits directly 1818
or indirectly from financial assistance from the agency; 1819

(y) Records listed in section 5101.29 of the Revised Code; 1820

(z) Discharges recorded with a county recorder under 1821
section 317.24 of the Revised Code, as specified in division (B) 1822
(2) of that section; 1823

(aa) Usage information including names and addresses of 1824
specific residential and commercial customers of a municipally 1825
owned or operated public utility; 1826

(bb) Records described in division (C) of section 187.04 1827
of the Revised Code that are not designated to be made available 1828
to the public as provided in that division; 1829

~~(cc) Information and records that are made confidential,~~ 1830
~~privileged, and not subject to disclosure under divisions (B)~~ 1831
~~and (C) of section 2949.221 of the Revised Code;~~ 1832

~~(dd)~~ Personal information, as defined in section 149.45 of 1833
the Revised Code; 1834

~~(ee)~~(dd) The confidential name, address, and other 1835
personally identifiable information of a program participant in 1836
the address confidentiality program established under sections 1837
111.41 to 111.47 of the Revised Code, including the contents of 1838
any application for absent voter's ballots, absent voter's 1839
ballot identification envelope statement of voter, or 1840
provisional ballot affirmation completed by a program 1841
participant who has a confidential voter registration record; 1842
records or portions of records pertaining to that program that 1843
identify the number of program participants that reside within a 1844
precinct, ward, township, municipal corporation, county, or any 1845
other geographic area smaller than the state; and any real 1846
property confidentiality notice filed under section 111.431 of 1847
the Revised Code and the information described in division (C) 1848
of that section. As used in this division, "confidential 1849
address" and "program participant" have the meaning defined in 1850
section 111.41 of the Revised Code. 1851

~~(ff)~~(ee) Orders for active military service of an 1852
individual serving or with previous service in the armed forces 1853
of the United States, including a reserve component, or the Ohio 1854
organized militia, except that, such order becomes a public 1855
record on the day that is fifteen years after the published date 1856
or effective date of the call to order; 1857

~~(gg)~~(ff) The name, address, contact information, or other 1858
personal information of an individual who is less than eighteen 1859
years of age that is included in any record related to a traffic 1860
accident involving a school vehicle in which the individual was 1861
an occupant at the time of the accident; 1862

~~(hh)~~(gg) Protected health information, as defined in 45 1863
C.F.R. 160.103, that is in a claim for payment for a health care 1864
product, service, or procedure, as well as any other health 1865
claims data in another document that reveals the identity of an 1866
individual who is the subject of the data or could be used to 1867
reveal that individual's identity; 1868

~~(ii)~~(hh) Any depiction by photograph, film, videotape, or 1869
printed or digital image under either of the following 1870
circumstances: 1871

(i) The depiction is that of a victim of an offense the 1872
release of which would be, to a reasonable person of ordinary 1873
sensibilities, an offensive and objectionable intrusion into the 1874
victim's expectation of bodily privacy and integrity. 1875

(ii) The depiction captures or depicts the victim of a 1876
sexually oriented offense, as defined in section 2950.01 of the 1877
Revised Code, at the actual occurrence of that offense. 1878

~~(jj)~~(ii) Restricted portions of a body-worn camera or 1879
dashboard camera recording; 1880

~~(kk)~~(jj) In the case of a fetal-infant mortality review 1881
board acting under sections 3707.70 to 3707.77 of the Revised 1882
Code, records, documents, reports, or other information 1883
presented to the board or a person abstracting such materials on 1884
the board's behalf, statements made by review board members 1885
during board meetings, all work products of the board, and data 1886
submitted by the board to the department of health or a national 1887
infant death review database, other than the report prepared 1888
pursuant to section 3707.77 of the Revised Code. 1889

~~(ll)~~(kk) Records, documents, reports, or other information 1890
presented to the pregnancy-associated mortality review board 1891

established under section 3738.01 of the Revised Code, 1892
statements made by board members during board meetings, all work 1893
products of the board, and data submitted by the board to the 1894
department of health, other than the biennial reports prepared 1895
under section 3738.08 of the Revised Code; 1896

~~(mm)~~ (ll) Except as otherwise provided in division (A) (1) 1897
~~(oo)~~ (nn) of this section, telephone numbers for a victim, as 1898
defined in section 2930.01 of the Revised Code or a witness to a 1899
crime that are listed on any law enforcement record or report. 1900

~~(nn)~~ (mm) A preneed funeral contract, as defined in section 1901
4717.01 of the Revised Code, and contract terms and personally 1902
identifying information of a preneed funeral contract, that is 1903
contained in a report submitted by or for a funeral home to the 1904
board of embalmers and funeral directors under division (C) of 1905
section 4717.13, division (J) of section 4717.31, or section 1906
4717.41 of the Revised Code. 1907

~~(oo)~~ (nn) Telephone numbers for a party to a motor vehicle 1908
accident subject to the requirements of section 5502.11 of the 1909
Revised Code that are listed on any law enforcement record or 1910
report, except that the telephone numbers described in this 1911
division are not excluded from the definition of "public record" 1912
under this division on and after the thirtieth day after the 1913
occurrence of the motor vehicle accident. 1914

~~(pp)~~ (oo) Records pertaining to individuals who complete 1915
training under section 5502.703 of the Revised Code to be 1916
permitted by a school district board of education or governing 1917
body of a community school established under Chapter 3314. of 1918
the Revised Code, a STEM school established under Chapter 3326. 1919
of the Revised Code, or a chartered nonpublic school to convey 1920
deadly weapons or dangerous ordnance into a school safety zone; 1921

~~(qq)~~ (pp) Records, documents, reports, or other information 1922
presented to a domestic violence fatality review board 1923
established under section 307.651 of the Revised Code, 1924
statements made by board members during board meetings, all work 1925
products of the board, and data submitted by the board to the 1926
department of health, other than a report prepared pursuant to 1927
section 307.656 of the Revised Code; 1928

~~(rr)~~ (qq) Records, documents, and information the release 1929
of which is prohibited under sections 2930.04 and 2930.07 of the 1930
Revised Code; 1931

~~(ss)~~ (rr) Records of an existing qualified nonprofit 1932
corporation that creates a special improvement district under 1933
Chapter 1710. of the Revised Code that do not pertain to a 1934
purpose for which the district is created; 1935

~~(tt)~~ (ss) Educational support services data, as defined in 1936
section 3319.325 of the Revised Code; 1937

~~(uu)~~ (tt) Records of the past, current, and future work 1938
schedule of a designated public service worker. As used in 1939
division ~~(A)(1)~~ (uu) ~~(A)(1)~~ (tt) of this section, "work schedule" 1940
does not include the docket of cases of a court, judge, or 1941
magistrate; 1942

~~(vv)~~ (uu) A request form or confirmation letter submitted 1943
to a public office under section 149.45 of the Revised Code; 1944

~~(ww)~~ (vv) An affidavit or confirmation letter submitted 1945
under section 319.28 of the Revised Code; 1946

~~(xx)~~ (ww) License or certificate application or renewal 1947
responses and supporting documentation submitted to the state 1948
medical board regarding an applicant's, or a license or 1949
certificate holder's, inability to practice according to 1950

acceptable and prevailing standards of care by reason of a 1951
medical condition. 1952

A record that is not a public record under division (A) (1) 1953
of this section and that, under law, is permanently retained 1954
becomes a public record on the day that is seventy-five years 1955
after the day on which the record was created, or in the case of 1956
a record that is not a public record under division (A) (1) ~~(uu)~~ 1957
(tt) of this section that is retained, three years after the day 1958
on which the record was created, except for any record protected 1959
by the attorney-client privilege, a trial preparation record as 1960
defined in this section, a statement prohibiting the release of 1961
identifying information signed under section 3107.083 of the 1962
Revised Code, a denial of release form filed pursuant to section 1963
3107.46 of the Revised Code, or any record that is exempt from 1964
release or disclosure under section 149.433 of the Revised Code. 1965
If the record is a birth certificate and a biological parent's 1966
name redaction request form has been accepted under section 1967
3107.391 of the Revised Code, the name of that parent shall be 1968
redacted from the birth certificate before it is released under 1969
this paragraph. If any other section of the Revised Code 1970
establishes a time period for disclosure of a record that 1971
conflicts with the time period specified in this section, the 1972
time period in the other section prevails. 1973

(2) "Confidential law enforcement investigatory record" 1974
means any record that pertains to a law enforcement matter of a 1975
criminal, quasi-criminal, civil, or administrative nature, but 1976
only to the extent that the release of the record would create a 1977
high probability of disclosure of any of the following: 1978

(a) The identity of a suspect who has not been charged 1979
with the offense to which the record pertains, or of an 1980

information source or witness to whom confidentiality has been	1981
reasonably promised;	1982
(b) Information provided by an information source or	1983
witness to whom confidentiality has been reasonably promised,	1984
which information would reasonably tend to disclose the source's	1985
or witness's identity;	1986
(c) Specific confidential investigatory techniques or	1987
procedures or specific investigatory work product;	1988
(d) Information that would endanger the life or physical	1989
safety of law enforcement personnel, a crime victim, a witness,	1990
or a confidential information source.	1991
(3) "Medical record" means any document or combination of	1992
documents, except births, deaths, and the fact of admission to	1993
or discharge from a hospital, that pertains to the medical	1994
history, diagnosis, prognosis, or medical condition of a patient	1995
and that is generated and maintained in the process of medical	1996
treatment.	1997
(4) "Trial preparation record" means any record that	1998
contains information that is specifically compiled in reasonable	1999
anticipation of, or in defense of, a civil or criminal action or	2000
proceeding, including the independent thought processes and	2001
personal trial preparation of an attorney.	2002
(5) "Intellectual property record" means a record, other	2003
than a financial or administrative record, that is produced or	2004
collected by or for faculty or staff of a state institution of	2005
higher learning in the conduct of or as a result of study or	2006
research on an educational, commercial, scientific, artistic,	2007
technical, or scholarly issue, regardless of whether the study	2008
or research was sponsored by the institution alone or in	2009

conjunction with a governmental body or private concern, and 2010
that has not been publicly released, published, or patented. 2011

(6) "Donor profile record" means all records about donors 2012
or potential donors to a public institution of higher education 2013
except the names and reported addresses of the actual donors and 2014
the date, amount, and conditions of the actual donation. 2015

(7) "Designated public service worker" means a peace 2016
officer, parole officer, probation officer, bailiff, prosecuting 2017
attorney, assistant prosecuting attorney, correctional employee, 2018
county or multicounty corrections officer, community-based 2019
correctional facility employee, designated Ohio national guard 2020
member, protective services worker, youth services employee, 2021
firefighter, EMT, medical director or member of a cooperating 2022
physician advisory board of an emergency medical service 2023
organization, state board of pharmacy employee, investigator of 2024
the bureau of criminal identification and investigation, 2025
emergency service telecommunicator, forensic mental health 2026
provider, mental health evaluation provider, regional 2027
psychiatric hospital employee, judge, magistrate, or federal law 2028
enforcement officer. 2029

(8) "Designated public service worker residential and 2030
familial information" means any information that discloses any 2031
of the following about a designated public service worker: 2032

(a) The address of the actual personal residence of a 2033
designated public service worker, except for the following 2034
information: 2035

(i) The address of the actual personal residence of a 2036
prosecuting attorney or judge; and 2037

(ii) The state or political subdivision in which a 2038

designated public service worker resides.	2039
(b) Information compiled from referral to or participation in an employee assistance program;	2040 2041
(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a designated public service worker;	2042 2043 2044 2045 2046
(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker's employer;	2047 2048 2049 2050
(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker's compensation, unless the amount of the deduction is required by state or federal law;	2051 2052 2053 2054 2055
(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a designated public service worker;	2056 2057 2058 2059 2060 2061
(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.	2062 2063 2064 2065
(9) As used in divisions (A) (7) and (15) to (17) of this section:	2066 2067

"Peace officer" has the meaning defined in section 109.71 2068
of the Revised Code and also includes the superintendent and 2069
troopers of the state highway patrol; it does not include the 2070
sheriff of a county or a supervisory employee who, in the 2071
absence of the sheriff, is authorized to stand in for, exercise 2072
the authority of, and perform the duties of the sheriff. 2073

"Correctional employee" means any employee of the 2074
department of rehabilitation and correction who in the course of 2075
performing the employee's job duties has or has had contact with 2076
inmates and persons under supervision. 2077

"County or multicounty corrections officer" means any 2078
corrections officer employed by any county or multicounty 2079
correctional facility. 2080

"Designated Ohio national guard member" means a member of 2081
the Ohio national guard who is participating in duties related 2082
to remotely piloted aircraft, including, but not limited to, 2083
pilots, sensor operators, and mission intelligence personnel, 2084
duties related to special forces operations, or duties related 2085
to cybersecurity, and is designated by the adjutant general as a 2086
designated public service worker for those purposes. 2087

"Protective services worker" means any employee of a 2088
county agency who is responsible for child protective services, 2089
child support services, or adult protective services. 2090

"Youth services employee" means any employee of the 2091
department of youth services who in the course of performing the 2092
employee's job duties has or has had contact with children 2093
committed to the custody of the department of youth services. 2094

"Firefighter" means any regular, paid or volunteer, member 2095
of a lawfully constituted fire department of a municipal 2096

corporation, township, fire district, or village. 2097

"EMT" means EMTs-basic, EMTs-I, and paramedics that 2098
provide emergency medical services for a public emergency 2099
medical service organization. "Emergency medical service 2100
organization," "EMT-basic," "EMT-I," and "paramedic" have the 2101
meanings defined in section 4765.01 of the Revised Code. 2102

"Investigator of the bureau of criminal identification and 2103
investigation" has the meaning defined in section 2903.11 of the 2104
Revised Code. 2105

"Emergency service telecommunicator" means an individual 2106
employed by an emergency service provider as defined under 2107
section 128.01 of the Revised Code, whose primary responsibility 2108
is to be an operator for the receipt or processing of calls for 2109
emergency services made by telephone, radio, or other electronic 2110
means. 2111

"Forensic mental health provider" means any employee of a 2112
community mental health service provider or local alcohol, drug 2113
addiction, and mental health services board who, in the course 2114
of the employee's duties, has contact with persons committed to 2115
a local alcohol, drug addiction, and mental health services 2116
board by a court order pursuant to section 2945.38, 2945.39, 2117
2945.40, or 2945.402 of the Revised Code. 2118

"Mental health evaluation provider" means an individual 2119
who, under Chapter 5122. of the Revised Code, examines a 2120
respondent who is alleged to be a mentally ill person subject to 2121
court order, as defined in section 5122.01 of the Revised Code, 2122
and reports to the probate court the respondent's mental 2123
condition. 2124

"Regional psychiatric hospital employee" means any 2125

employee of the department of mental health and addiction 2126
services who, in the course of performing the employee's duties, 2127
has contact with patients committed to the department of mental 2128
health and addiction services by a court order pursuant to 2129
section 2945.38, 2945.39, 2945.40, or 2945.402 of the Revised 2130
Code. 2131

"Federal law enforcement officer" has the meaning defined 2132
in section 9.88 of the Revised Code. 2133

(10) "Information pertaining to the recreational 2134
activities of a person under the age of eighteen" means 2135
information that is kept in the ordinary course of business by a 2136
public office, that pertains to the recreational activities of a 2137
person under the age of eighteen years, and that discloses any 2138
of the following: 2139

(a) The address or telephone number of a person under the 2140
age of eighteen or the address or telephone number of that 2141
person's parent, guardian, custodian, or emergency contact 2142
person; 2143

(b) The social security number, birth date, or 2144
photographic image of a person under the age of eighteen; 2145

(c) Any medical record, history, or information pertaining 2146
to a person under the age of eighteen; 2147

(d) Any additional information sought or required about a 2148
person under the age of eighteen for the purpose of allowing 2149
that person to participate in any recreational activity 2150
conducted or sponsored by a public office or to use or obtain 2151
admission privileges to any recreational facility owned or 2152
operated by a public office. 2153

(11) "Community control sanction" has the meaning defined 2154

in section 2929.01 of the Revised Code. 2155

(12) "Post-release control sanction" has the meaning 2156
defined in section 2967.01 of the Revised Code. 2157

(13) "Redaction" means obscuring or deleting any 2158
information that is exempt from the duty to permit public 2159
inspection or copying from an item that otherwise meets the 2160
definition of a "record" in section 149.011 of the Revised Code. 2161

(14) "Designee," "elected official," and "future official" 2162
have the meanings defined in section 109.43 of the Revised Code. 2163

(15) "Body-worn camera" means a visual and audio recording 2164
device worn on the person of a correctional employee, youth 2165
services employee, or peace officer while the correctional 2166
employee, youth services employee, or peace officer is engaged 2167
in the performance of official duties. 2168

(16) "Dashboard camera" means a visual and audio recording 2169
device mounted on a peace officer's vehicle or vessel that is 2170
used while the peace officer is engaged in the performance of 2171
the peace officer's duties. 2172

(17) "Restricted portions of a body-worn camera or 2173
dashboard camera recording" means any visual or audio portion of 2174
a body-worn camera or dashboard camera recording that shows, 2175
communicates, or discloses any of the following: 2176

(a) The image or identity of a child or information that 2177
could lead to the identification of a child who is a primary 2178
subject of the recording when the department of rehabilitation 2179
and correction, department of youth services, or the law 2180
enforcement agency knows or has reason to know the person is a 2181
child based on the department's or law enforcement agency's 2182
records or the content of the recording; 2183

(b) The death of a person or a deceased person's body, 2184
unless the death was caused by a correctional employee, youth 2185
services employee, or peace officer or, subject to division (H) 2186
(1) of this section, the consent of the decedent's executor or 2187
administrator has been obtained; 2188

(c) The death of a correctional employee, youth services 2189
employee, peace officer, firefighter, paramedic, or other first 2190
responder, occurring while the decedent was engaged in the 2191
performance of official duties, unless, subject to division (H) 2192
(1) of this section, the consent of the decedent's executor or 2193
administrator has been obtained; 2194

(d) Grievous bodily harm, unless the injury was effected 2195
by a correctional employee, youth services employee, or peace 2196
officer or, subject to division (H) (1) of this section, the 2197
consent of the injured person or the injured person's guardian 2198
has been obtained; 2199

(e) An act of severe violence against a person that 2200
results in serious physical harm to the person, unless the act 2201
and injury was effected by a correctional employee, youth 2202
services employee, or peace officer or, subject to division (H) 2203
(1) of this section, the consent of the injured person or the 2204
injured person's guardian has been obtained; 2205

(f) Grievous bodily harm to a correctional employee, youth 2206
services employee, peace officer, firefighter, paramedic, or 2207
other first responder, occurring while the injured person was 2208
engaged in the performance of official duties, unless, subject 2209
to division (H) (1) of this section, the consent of the injured 2210
person or the injured person's guardian has been obtained; 2211

(g) An act of severe violence resulting in serious 2212

physical harm against a correctional employee, youth services 2213
employee, peace officer, firefighter, paramedic, or other first 2214
responder, occurring while the injured person was engaged in the 2215
performance of official duties, unless, subject to division (H) 2216
(1) of this section, the consent of the injured person or the 2217
injured person's guardian has been obtained; 2218

(h) A person's nude body, unless, subject to division (H) 2219
(1) of this section, the person's consent has been obtained; 2220

(i) Protected health information, the identity of a person 2221
in a health care facility who is not the subject of a 2222
correctional, youth services, or law enforcement encounter, or 2223
any other information in a health care facility that could 2224
identify a person who is not the subject of a correctional, 2225
youth services, or law enforcement encounter; 2226

(j) Information that could identify the alleged victim of 2227
a sex offense, menacing by stalking, or domestic violence; 2228

(k) Information, that does not constitute a confidential 2229
law enforcement investigatory record, that could identify a 2230
person who provides sensitive or confidential information to the 2231
department of rehabilitation and correction, the department of 2232
youth services, or a law enforcement agency when the disclosure 2233
of the person's identity or the information provided could 2234
reasonably be expected to threaten or endanger the safety or 2235
property of the person or another person; 2236

(l) Personal information of a person who is not arrested, 2237
cited, charged, or issued a written warning by a peace officer; 2238

(m) Proprietary correctional, youth services, or police 2239
contingency plans or tactics that are intended to prevent crime 2240
and maintain public order and safety; 2241

(n) A personal conversation unrelated to work between 2242
correctional employees, youth services employees, or peace 2243
officers or between a correctional employee, youth services 2244
employee, or peace officer and an employee of a law enforcement 2245
agency; 2246

(o) A conversation between a correctional employee, youth 2247
services employee, or peace officer and a member of the public 2248
that does not concern correctional, youth services, or law 2249
enforcement activities; 2250

(p) The interior of a residence, unless the interior of a 2251
residence is the location of an adversarial encounter with, or a 2252
use of force by, a correctional employee, youth services 2253
employee, or peace officer; 2254

(q) Any portion of the interior of a private business that 2255
is not open to the public, unless an adversarial encounter with, 2256
or a use of force by, a correctional employee, youth services 2257
employee, or peace officer occurs in that location. 2258

As used in division (A) (17) of this section: 2259

"Grievous bodily harm" has the same meaning as in section 2260
5924.120 of the Revised Code. 2261

"Health care facility" has the same meaning as in section 2262
1337.11 of the Revised Code. 2263

"Protected health information" has the same meaning as in 2264
45 C.F.R. 160.103. 2265

"Law enforcement agency" means a government entity that 2266
employs peace officers to perform law enforcement duties. 2267

"Personal information" means any government-issued 2268
identification number, date of birth, address, financial 2269

information, or criminal justice information from the law 2270
enforcement automated data system or similar databases. 2271

"Sex offense" has the same meaning as in section 2907.10 2272
of the Revised Code. 2273

"Firefighter," "paramedic," and "first responder" have the 2274
same meanings as in section 4765.01 of the Revised Code. 2275

(B) (1) Upon request by any person and subject to division 2276
(B) (8) of this section, all public records responsive to the 2277
request shall be promptly prepared and made available for 2278
inspection to the requester at all reasonable times during 2279
regular business hours. Subject to division (B) (8) of this 2280
section, upon request by any person, a public office or person 2281
responsible for public records shall make copies of the 2282
requested public record available to the requester at cost and 2283
within a reasonable period of time. 2284

When considering whether a state or local law enforcement 2285
agency promptly prepared a video record for inspection or 2286
provided a video record for production within a reasonable 2287
period of time, in addition to any other factors, a court shall 2288
consider the time required for a state or local law enforcement 2289
agency to retrieve, download, review, redact, seek legal advice 2290
regarding, and produce the video record. Notwithstanding any 2291
other requirement set forth in Chapter 149. of the Revised Code, 2292
a state or local law enforcement agency may charge a requester 2293
the actual cost associated with preparing a video record for 2294
inspection or production, not to exceed seventy-five dollars per 2295
hour of video produced, nor seven hundred fifty dollars total. 2296
As used in this division, "actual cost," with respect to video 2297
records only, means all costs incurred by the state or local law 2298
enforcement agency in reviewing, blurring or otherwise 2299

obscuring, redacting, uploading, or producing the video records, 2300
including but not limited to the storage medium on which the 2301
record is produced, staff time, and any other relevant overhead 2302
necessary to comply with the request. A state or local law 2303
enforcement agency may include in its public records policy the 2304
requirement that a requester pay the estimated actual cost 2305
before beginning the process of preparing a video record for 2306
inspection or production. Where a state or local law enforcement 2307
agency imposes such a requirement, its obligation to produce a 2308
video or make it available for inspection begins once the 2309
estimated actual cost is paid in full by the requester. A state 2310
or local law enforcement agency shall provide the requester with 2311
the estimated actual cost within five business days of receipt 2312
of the public records request. If the actual cost exceeds the 2313
estimated actual cost, a state or local law enforcement agency 2314
may charge a requester for the difference upon fulfilling a 2315
request for video records if the requester is notified in 2316
advance that the actual cost may be up to twenty per cent higher 2317
than the estimated actual cost. A state or local law enforcement 2318
agency shall not charge a requester a difference that exceeds 2319
twenty per cent of the estimated actual cost. 2320

If a public record contains information that is exempt 2321
from the duty to permit public inspection or to copy the public 2322
record, the public office or the person responsible for the 2323
public record shall make available all of the information within 2324
the public record that is not exempt. When making that public 2325
record available for public inspection or copying that public 2326
record, the public office or the person responsible for the 2327
public record shall notify the requester of any redaction or 2328
make the redaction plainly visible. A redaction shall be deemed 2329
a denial of a request to inspect or copy the redacted 2330

information, except if federal or state law authorizes or 2331
requires a public office to make the redaction. When the auditor 2332
of state receives a request to inspect or to make a copy of a 2333
record that was provided to the auditor of state for purposes of 2334
an audit, but the original public office has asserted to the 2335
auditor of state that the record is not a public record, the 2336
auditor of state may handle the requests by directing the 2337
requestor to the original public office that provided the record 2338
to the auditor of state. 2339

(2) To facilitate broader access to public records, a 2340
public office or the person responsible for public records shall 2341
organize and maintain public records in a manner that they can 2342
be made available for inspection or copying in accordance with 2343
division (B) of this section. A public office also shall have 2344
available a copy of its current records retention schedule at a 2345
location readily available to the public. If a requester makes 2346
an ambiguous or overly broad request or has difficulty in making 2347
a request for copies or inspection of public records under this 2348
section such that the public office or the person responsible 2349
for the requested public record cannot reasonably identify what 2350
public records are being requested, the public office or the 2351
person responsible for the requested public record may deny the 2352
request but shall provide the requester with an opportunity to 2353
revise the request by informing the requester of the manner in 2354
which records are maintained by the public office and accessed 2355
in the ordinary course of the public office's or person's 2356
duties. 2357

(3) If a request is ultimately denied, in part or in 2358
whole, the public office or the person responsible for the 2359
requested public record shall provide the requester with an 2360
explanation, including legal authority, setting forth why the 2361

request was denied. If the initial request was provided in 2362
writing, the explanation also shall be provided to the requester 2363
in writing. The explanation shall not preclude the public office 2364
or the person responsible for the requested public record from 2365
relying upon additional reasons or legal authority in defending 2366
an action commenced under division (C) of this section. 2367

(4) Unless specifically required or authorized by state or 2368
federal law or in accordance with division (B) of this section, 2369
no public office or person responsible for public records may 2370
limit or condition the availability of public records by 2371
requiring disclosure of the requester's identity or the intended 2372
use of the requested public record. Any requirement that the 2373
requester disclose the requester's identity or the intended use 2374
of the requested public record constitutes a denial of the 2375
request. 2376

(5) A public office or person responsible for public 2377
records may ask a requester to make the request in writing, may 2378
ask for the requester's identity, and may inquire about the 2379
intended use of the information requested, but may do so only 2380
after disclosing to the requester that a written request is not 2381
mandatory, that the requester may decline to reveal the 2382
requester's identity or the intended use, and when a written 2383
request or disclosure of the identity or intended use would 2384
benefit the requester by enhancing the ability of the public 2385
office or person responsible for public records to identify, 2386
locate, or deliver the public records sought by the requester. 2387

(6) If any person requests a copy of a public record in 2388
accordance with division (B) of this section, the public office 2389
or person responsible for the public record may require the 2390
requester to pay in advance the cost involved in providing the 2391

copy of the public record in accordance with the choice made by 2392
the requester under this division. The public office or the 2393
person responsible for the public record shall permit the 2394
requester to choose to have the public record duplicated upon 2395
paper, upon the same medium upon which the public office or 2396
person responsible for the public record keeps it, or upon any 2397
other medium upon which the public office or person responsible 2398
for the public record determines that it reasonably can be 2399
duplicated as an integral part of the normal operations of the 2400
public office or person responsible for the public record. When 2401
the requester makes a choice under this division, the public 2402
office or person responsible for the public record shall provide 2403
a copy of it in accordance with the choice made by the 2404
requester. Nothing in this section requires a public office or 2405
person responsible for the public record to allow the requester 2406
of a copy of the public record to make the copies of the public 2407
record. 2408

(7) (a) Upon a request made in accordance with division (B) 2409
of this section and subject to division (B) (6) of this section, 2410
a public office or person responsible for public records shall 2411
transmit a copy of a public record to any person by United 2412
States mail or by any other means of delivery or transmission 2413
within a reasonable period of time after receiving the request 2414
for the copy. The public office or person responsible for the 2415
public record may require the person making the request to pay 2416
in advance the cost of postage if the copy is transmitted by 2417
United States mail or the cost of delivery if the copy is 2418
transmitted other than by United States mail, and to pay in 2419
advance the costs incurred for other supplies used in the 2420
mailing, delivery, or transmission. 2421

(b) Any public office may adopt a policy and procedures 2422

that it will follow in transmitting, within a reasonable period 2423
of time after receiving a request, copies of public records by 2424
United States mail or by any other means of delivery or 2425
transmission pursuant to division (B) (7) of this section. A 2426
public office that adopts a policy and procedures under division 2427
(B) (7) of this section shall comply with them in performing its 2428
duties under that division. 2429

(c) In any policy and procedures adopted under division 2430
(B) (7) of this section: 2431

(i) A public office may limit the number of records 2432
requested by a person that the office will physically deliver by 2433
United States mail or by another delivery service to ten per 2434
month, unless the person certifies to the office in writing that 2435
the person does not intend to use or forward the requested 2436
records, or the information contained in them, for commercial 2437
purposes; 2438

(ii) A public office that chooses to provide some or all 2439
of its public records on a web site that is fully accessible to 2440
and searchable by members of the public at all times, other than 2441
during acts of God outside the public office's control or 2442
maintenance, and that charges no fee to search, access, 2443
download, or otherwise receive records provided on the web site, 2444
may limit to ten per month the number of records requested by a 2445
person that the office will deliver in a digital format, unless 2446
the requested records are not provided on the web site and 2447
unless the person certifies to the office in writing that the 2448
person does not intend to use or forward the requested records, 2449
or the information contained in them, for commercial purposes. 2450

(iii) For purposes of division (B) (7) of this section, 2451
"commercial" shall be narrowly construed and does not include 2452

reporting or gathering news, reporting or gathering information 2453
to assist citizen oversight or understanding of the operation or 2454
activities of government, or nonprofit educational research. 2455

(8) A public office or person responsible for public 2456
records is not required to permit a person who is incarcerated 2457
pursuant to a criminal conviction or a juvenile adjudication to 2458
inspect or to obtain a copy of any public record concerning a 2459
criminal investigation or prosecution or concerning what would 2460
be a criminal investigation or prosecution if the subject of the 2461
investigation or prosecution were an adult, unless the request 2462
to inspect or to obtain a copy of the record is for the purpose 2463
of acquiring information that is subject to release as a public 2464
record under this section and the judge who imposed the sentence 2465
or made the adjudication with respect to the person, or the 2466
judge's successor in office, finds that the information sought 2467
in the public record is necessary to support what appears to be 2468
a justiciable claim of the person. As used in this division, 2469
"public record concerning a criminal investigation or 2470
prosecution or concerning what would be a criminal investigation 2471
or prosecution if the subject of the investigation were an 2472
adult" includes, but is not limited to, personnel files and 2473
payroll and attendance records of designated public service 2474
workers. 2475

(9) (a) Upon written request made and signed by a 2476
journalist, a public office, or person responsible for public 2477
records, having custody of the records of the agency employing a 2478
specified designated public service worker shall disclose to the 2479
journalist the address of the actual personal residence of the 2480
designated public service worker and, if the designated public 2481
service worker's spouse, former spouse, or child is employed by 2482
a public office, the name and address of the employer of the 2483

designated public service worker's spouse, former spouse, or 2484
child, and any past, current, and future work schedules of the 2485
designated public service worker. The request shall include the 2486
journalist's name and title and the name and address of the 2487
journalist's employer and shall state that disclosure of the 2488
information sought would be in the public interest. 2489

(b) Division (B) (9) (a) of this section also applies to 2490
journalist requests for: 2491

(i) Customer information maintained by a municipally owned 2492
or operated public utility, other than social security numbers 2493
and any private financial information such as credit reports, 2494
payment methods, credit card numbers, and bank account 2495
information; 2496

(ii) Information about minors involved in a school vehicle 2497
accident as provided in division (A) (1) (gg) of this section, 2498
other than personal information as defined in section 149.45 of 2499
the Revised Code; 2500

(iii) A request form submitted to a public office under 2501
section 149.45 of the Revised Code; 2502

(iv) An affidavit submitted under section 319.28 of the 2503
Revised Code. 2504

(c) As used in division (B) (9) of this section, 2505
"journalist" means a person engaged in, connected with, or 2506
employed by any news medium, including a newspaper, magazine, 2507
press association, news agency, or wire service, a radio or 2508
television station, or a similar medium, for the purpose of 2509
gathering, processing, transmitting, compiling, editing, or 2510
disseminating information for the general public. 2511

(10) Upon a request made by a victim, victim's attorney, 2512

or victim's representative, as that term is used in section 2513
2930.02 of the Revised Code, a public office or person 2514
responsible for public records shall transmit a copy of a 2515
depiction of the victim as described in division (A) (1) (ii) of 2516
this section to the victim, victim's attorney, or victim's 2517
representative. 2518

(C) (1) If a person allegedly is aggrieved by the failure 2519
of a public office or the person responsible for public records 2520
to promptly prepare a public record and to make it available to 2521
the person for inspection in accordance with division (B) of 2522
this section or by any other failure of a public office or the 2523
person responsible for public records to comply with an 2524
obligation in accordance with division (B) of this section, the 2525
person allegedly aggrieved may serve pursuant to Rule 4 of the 2526
Ohio Rules of Civil Procedure a complaint, on a form prescribed 2527
by the clerk of the court of claims, to the public office or 2528
person responsible for public records allegedly responsible for 2529
the alleged failure. Upon receipt of the complaint of the person 2530
allegedly aggrieved, the public office or person responsible for 2531
public records has three business days to cure or otherwise 2532
address the failure alleged in the complaint. The person 2533
allegedly aggrieved shall not file a complaint with a court or 2534
commence a mandamus action under this section within the three- 2535
day period. Upon the expiration of the three-day period, the 2536
person allegedly aggrieved may, subject to the requirements of 2537
division (C) (2) of this section, do only one of the following, 2538
and not both: 2539

(a) File a complaint with the clerk of the court of claims 2540
or the clerk of the court of common pleas under section 2743.75 2541
of the Revised Code; 2542

(b) Commence a mandamus action to obtain a judgment that 2543
orders the public office or the person responsible for the 2544
public record to comply with division (B) of this section, that 2545
awards court costs and reasonable attorney's fees to the person 2546
that instituted the mandamus action, and, if applicable, that 2547
includes an order fixing statutory damages under division (C) (3) 2548
of this section. The mandamus action may be commenced in the 2549
court of common pleas of the county in which division (B) of 2550
this section allegedly was not complied with, in the supreme 2551
court pursuant to its original jurisdiction under Section 2 of 2552
Article IV, Ohio Constitution, or in the court of appeals for 2553
the appellate district in which division (B) of this section 2554
allegedly was not complied with pursuant to its original 2555
jurisdiction under Section 3 of Article IV, Ohio Constitution. 2556

(2) Upon filing a complaint or mandamus action with a 2557
court under divisions (C) (1) (a) or (b) of this section, a person 2558
allegedly aggrieved shall file with the court, in conjunction 2559
with the person's complaint or petition, a written affirmation 2560
stating that the person properly transmitted a complaint to the 2561
public office or person responsible for public records, the 2562
failure alleged in the complaint has not been cured or otherwise 2563
resolved to the person's satisfaction, and that the complaint 2564
was transmitted to the public office or person responsible for 2565
public records at least three business days before the filing of 2566
the suit. If the person fails to file an affirmation pursuant to 2567
this division, the suit shall be dismissed. 2568

(3) If a requester transmits a written request by hand 2569
delivery, electronic submission, or certified mail to inspect or 2570
receive copies of any public record in a manner that fairly 2571
describes the public record or class of public records to the 2572
public office or person responsible for the requested public 2573

records, except as otherwise provided in this section, the 2574
requester shall be entitled to recover the amount of statutory 2575
damages set forth in this division if a court determines that 2576
the public office or the person responsible for public records 2577
failed to comply with an obligation in accordance with division 2578
(B) of this section. Statutory damages are not available 2579
pursuant to this section to a person committed to the custody of 2580
the department of rehabilitation and correction or the United 2581
States bureau of prisons, or a child committed to the department 2582
of youth services as permitted in Chapter 2152. of the Revised 2583
Code. 2584

The amount of statutory damages shall be fixed at one 2585
hundred dollars for each business day during which the public 2586
office or person responsible for the requested public records 2587
failed to comply with an obligation in accordance with division 2588
(B) of this section, beginning with the day on which the 2589
requester files a mandamus action to recover statutory damages, 2590
up to a maximum of one thousand dollars. The award of statutory 2591
damages shall not be construed as a penalty, but as compensation 2592
for injury arising from lost use of the requested information. 2593
The existence of this injury shall be conclusively presumed. The 2594
award of statutory damages shall be in addition to all other 2595
remedies authorized by this section. 2596

The court may reduce an award of statutory damages or not 2597
award statutory damages if the court determines both of the 2598
following: 2599

(a) That, based on the ordinary application of statutory 2600
law and case law as it existed at the time of the conduct or 2601
threatened conduct of the public office or person responsible 2602
for the requested public records that allegedly constitutes a 2603

failure to comply with an obligation in accordance with division 2604
(B) of this section and that was the basis of the mandamus 2605
action, a well-informed public office or person responsible for 2606
the requested public records reasonably would believe that the 2607
conduct or threatened conduct of the public office or person 2608
responsible for the requested public records did not constitute 2609
a failure to comply with an obligation in accordance with 2610
division (B) of this section; 2611

(b) That a well-informed public office or person 2612
responsible for the requested public records reasonably would 2613
believe that the conduct or threatened conduct of the public 2614
office or person responsible for the requested public records 2615
would serve the public policy that underlies the authority that 2616
is asserted as permitting that conduct or threatened conduct. 2617

(4) In a mandamus action filed under division (C)(1) of 2618
this section, the following apply: 2619

(a) (i) If the court orders the public office or the person 2620
responsible for the public record to comply with division (B) of 2621
this section, the court shall determine and award to the relator 2622
all court costs, which shall be construed as remedial and not 2623
punitive. 2624

(ii) If the court makes a determination described in 2625
division (C)(4)(b)(iii) of this section, the court shall 2626
determine and award to the relator all court costs, which shall 2627
be construed as remedial and not punitive. 2628

(b) If the court renders a judgment that orders the public 2629
office or the person responsible for the public record to comply 2630
with division (B) of this section or if the court determines any 2631
of the following, the court may award reasonable attorney's fees 2632

to the relator, subject to division (C) (5) of this section: 2633

(i) The public office or the person responsible for the 2634
public records failed to respond affirmatively or negatively to 2635
the public records request in accordance with the time allowed 2636
under division (B) of this section. 2637

(ii) The public office or the person responsible for the 2638
public records promised to permit the relator to inspect or 2639
receive copies of the public records requested within a 2640
specified period of time but failed to fulfill that promise 2641
within that specified period of time. 2642

(iii) The public office or the person responsible for the 2643
public records acted in bad faith when the office or person 2644
voluntarily made the public records available to the relator for 2645
the first time after the relator commenced the mandamus action, 2646
but before the court issued any order concluding whether or not 2647
the public office or person was required to comply with division 2648
(B) of this section. No discovery may be conducted on the issue 2649
of the alleged bad faith of the public office or person 2650
responsible for the public records. This division shall not be 2651
construed as creating a presumption that the public office or 2652
the person responsible for the public records acted in bad faith 2653
when the office or person voluntarily made the public records 2654
available to the relator for the first time after the relator 2655
commenced the mandamus action, but before the court issued any 2656
order described in this division. 2657

(c) The court shall not award attorney's fees to the 2658
relator if the court determines both of the following: 2659

(i) That, based on the ordinary application of statutory 2660
law and case law as it existed at the time of the conduct or 2661

threatened conduct of the public office or person responsible 2662
for the requested public records that allegedly constitutes a 2663
failure to comply with an obligation in accordance with division 2664
(B) of this section and that was the basis of the mandamus 2665
action, a well-informed public office or person responsible for 2666
the requested public records reasonably would believe that the 2667
conduct or threatened conduct of the public office or person 2668
responsible for the requested public records did not constitute 2669
a failure to comply with an obligation in accordance with 2670
division (B) of this section; 2671

(ii) That a well-informed public office or person 2672
responsible for the requested public records reasonably would 2673
believe that the conduct or threatened conduct of the public 2674
office or person responsible for the requested public records 2675
would serve the public policy that underlies the authority that 2676
is asserted as permitting that conduct or threatened conduct. 2677

(5) All of the following apply to any award of reasonable 2678
attorney's fees awarded under division (C) (4) (b) of this 2679
section: 2680

(a) The fees shall be construed as remedial and not 2681
punitive. 2682

(b) The fees awarded shall not exceed the total of the 2683
reasonable attorney's fees incurred before the public record was 2684
made available to the relator and the fees described in division 2685
(C) (5) (c) of this section. 2686

(c) Reasonable attorney's fees shall include reasonable 2687
fees incurred to produce proof of the reasonableness and amount 2688
of the fees and to otherwise litigate entitlement to the fees. 2689

(d) The court may reduce the amount of fees awarded if the 2690

court determines that, given the factual circumstances involved 2691
with the specific public records request, an alternative means 2692
should have been pursued to more effectively and efficiently 2693
resolve the dispute that was subject to the mandamus action 2694
filed under division (C)(1) of this section. 2695

(6) If the court does not issue a writ of mandamus under 2696
division (C) of this section and the court determines at that 2697
time that the bringing of the mandamus action was frivolous 2698
conduct as defined in division (A) of section 2323.51 of the 2699
Revised Code, the court may award to the public office all court 2700
costs, expenses, and reasonable attorney's fees, as determined 2701
by the court. 2702

(D) Chapter 1347. of the Revised Code does not limit the 2703
provisions of this section. 2704

(E)(1) To ensure that all employees of public offices are 2705
appropriately educated about a public office's obligations under 2706
division (B) of this section, all elected officials or their 2707
appropriate designees shall attend training approved by the 2708
attorney general as provided in section 109.43 of the Revised 2709
Code. A future official may satisfy the requirements of this 2710
division by attending the training before taking office, 2711
provided that the future official may not send a designee in the 2712
future official's place. 2713

(2) All public offices shall adopt a public records policy 2714
in compliance with this section for responding to public records 2715
requests. In adopting a public records policy under this 2716
division, a public office may obtain guidance from the model 2717
public records policy developed and provided to the public 2718
office by the attorney general under section 109.43 of the 2719
Revised Code. Except as otherwise provided in this section, the 2720

policy may not limit the number of public records that the 2721
public office will make available to a single person, may not 2722
limit the number of public records that it will make available 2723
during a fixed period of time, and may not establish a fixed 2724
period of time before it will respond to a request for 2725
inspection or copying of public records, unless that period is 2726
less than eight hours. 2727

The public office shall distribute the public records 2728
policy adopted by the public office under this division to the 2729
employee of the public office who is the records custodian or 2730
records manager or otherwise has custody of the records of that 2731
office. The public office shall require that employee to 2732
acknowledge receipt of the copy of the public records policy. 2733
The public office shall create a poster that describes its 2734
public records policy and shall post the poster in a conspicuous 2735
place in the public office and in all locations where the public 2736
office has branch offices. The public office may post its public 2737
records policy on the internet web site of the public office if 2738
the public office maintains an internet web site. A public 2739
office that has established a manual or handbook of its general 2740
policies and procedures for all employees of the public office 2741
shall include the public records policy of the public office in 2742
the manual or handbook. 2743

(F) (1) The bureau of motor vehicles may adopt rules 2744
pursuant to Chapter 119. of the Revised Code to reasonably limit 2745
the number of bulk commercial special extraction requests made 2746
by a person for the same records or for updated records during a 2747
calendar year. The rules may include provisions for charges to 2748
be made for bulk commercial special extraction requests for the 2749
actual cost of the bureau, plus special extraction costs, plus 2750
ten per cent. The bureau may charge for expenses for redacting 2751

information, the release of which is prohibited by law. 2752

(2) As used in division (F)(1) of this section: 2753

(a) "Actual cost" means the cost of depleted supplies, 2754
records storage media costs, actual mailing and alternative 2755
delivery costs, or other transmitting costs, and any direct 2756
equipment operating and maintenance costs, including actual 2757
costs paid to private contractors for copying services. 2758

(b) "Bulk commercial special extraction request" means a 2759
request for copies of a record for information in a format other 2760
than the format already available, or information that cannot be 2761
extracted without examination of all items in a records series, 2762
class of records, or database by a person who intends to use or 2763
forward the copies for surveys, marketing, solicitation, or 2764
resale for commercial purposes. "Bulk commercial special 2765
extraction request" does not include a request by a person who 2766
gives assurance to the bureau that the person making the request 2767
does not intend to use or forward the requested copies for 2768
surveys, marketing, solicitation, or resale for commercial 2769
purposes. 2770

(c) "Commercial" means profit-seeking production, buying, 2771
or selling of any good, service, or other product. 2772

(d) "Special extraction costs" means the cost of the time 2773
spent by the lowest paid employee competent to perform the task, 2774
the actual amount paid to outside private contractors employed 2775
by the bureau, or the actual cost incurred to create computer 2776
programs to make the special extraction. "Special extraction 2777
costs" include any charges paid to a public agency for computer 2778
or records services. 2779

(3) For purposes of divisions (F)(1) and (2) of this 2780

section, "surveys, marketing, solicitation, or resale for 2781
commercial purposes" shall be narrowly construed and does not 2782
include reporting or gathering news, reporting or gathering 2783
information to assist citizen oversight or understanding of the 2784
operation or activities of government, or nonprofit educational 2785
research. 2786

(G) A request by a defendant, counsel of a defendant, or 2787
any agent of a defendant in a criminal action that public 2788
records related to that action be made available under this 2789
section shall be considered a demand for discovery pursuant to 2790
the Criminal Rules, except to the extent that the Criminal Rules 2791
plainly indicate a contrary intent. The defendant, counsel of 2792
the defendant, or agent of the defendant making a request under 2793
this division shall serve a copy of the request on the 2794
prosecuting attorney, director of law, or other chief legal 2795
officer responsible for prosecuting the action. 2796

(H) (1) Any portion of a body-worn camera or dashboard 2797
camera recording described in divisions (A) (17) (b) to (h) of 2798
this section may be released by consent of the subject of the 2799
recording or a representative of that person, as specified in 2800
those divisions, only if either of the following applies: 2801

(a) The recording will not be used in connection with any 2802
probable or pending criminal proceedings; 2803

(b) The recording has been used in connection with a 2804
criminal proceeding that was dismissed or for which a judgment 2805
has been entered pursuant to Rule 32 of the Rules of Criminal 2806
Procedure, and will not be used again in connection with any 2807
probable or pending criminal proceedings. 2808

(2) If a public office denies a request to release a 2809

restricted portion of a body-worn camera or dashboard camera 2810
recording, as defined in division (A)(17) of this section, any 2811
person may file a mandamus action pursuant to this section or a 2812
complaint with the clerk of the court of claims pursuant to 2813
section 2743.75 of the Revised Code, requesting the court to 2814
order the release of all or portions of the recording. If the 2815
court considering the request determines that the filing 2816
articulates by clear and convincing evidence that the public 2817
interest in the recording substantially outweighs privacy 2818
interests and other interests asserted to deny release, the 2819
court shall order the public office to release the recording. 2820

Sec. 149.436. Notwithstanding division ~~(A)(1)(gg)~~ (A)(1) 2821
(ff) of section 149.43 of the Revised Code, upon written request 2822
made and signed by the parent or guardian of an individual who 2823
is less than eighteen years of age and was an occupant of a 2824
school vehicle involved in a traffic accident, a public office 2825
or person responsible for public records, having custody of any 2826
record related to the traffic accident containing the personal 2827
information of the individual, shall transmit a copy of that 2828
record to the recipient identified in the request. 2829

The written request shall identify the individual on whose 2830
behalf the record is requested and the person to whom the record 2831
shall be transmitted. The record shall be transmitted only to 2832
the person identified in the written request as the recipient of 2833
the record. 2834

A public office or person responsible for records 2835
responding to a request under this section shall redact any 2836
personal information contained in the record of any individual 2837
less than eighteen years of age who is not the subject of the 2838
request, before providing the record to the recipient. 2839

Sec. 149.45. (A) As used in this section:	2840
(1) "Personal information" means any of the following:	2841
(a) An individual's social security number;	2842
(b) An individual's state or federal tax identification number;	2843 2844
(c) An individual's driver's license number or state identification number;	2845 2846
(d) An individual's checking account number, savings account number, credit card number, or debit card number;	2847 2848
(e) An individual's demand deposit account number, money market account number, mutual fund account number, or any other financial or medical account number.	2849 2850 2851
(2) "Public record," "designated public service worker," and "designated public service worker residential and familial information" have the meanings defined in section 149.43 of the Revised Code.	2852 2853 2854 2855
(3) "Qualifying former designated public service worker" means a former designated public service worker with a minimum of five years of qualifying service who was an employee in good standing at the completion of such service.	2856 2857 2858 2859
(4) "Truncate" means to redact all but the last four digits of an individual's social security number.	2860 2861
(B) (1) No public office or person responsible for a public office's public records shall make available to the general public on the internet any document that contains an individual's social security number without otherwise redacting, encrypting, or truncating the social security number.	2862 2863 2864 2865 2866

(2) A public office or person responsible for a public office's public records that, prior to October 17, 2011, made available to the general public on the internet any document that contains an individual's social security number shall redact, encrypt, or truncate the social security number from that document.

(3) Divisions (B)(1) and (2) of this section do not apply to documents that are only accessible through the internet with a password.

(C)(1) An individual may request that a public office or a person responsible for a public office's public records redact personal information of that individual from any record made available to the general public on the internet. An individual who makes a request for redaction pursuant to this division shall make the request in writing on a form developed by the attorney general and shall specify the personal information to be redacted and provide any information that identifies the location of that personal information within a document that contains that personal information.

(2) Upon receiving a request for a redaction pursuant to division (C)(1) of this section, a public office or a person responsible for a public office's public records shall act within five business days in accordance with the request to redact the personal information of the individual from any record made available to the general public on the internet, if practicable. If a redaction is not practicable, the public office or person responsible for the public office's public records shall verbally or in writing within five business days after receiving the written request explain to the individual why the redaction is impracticable.

(3) The attorney general shall develop a form to be used 2897
by an individual to request a redaction pursuant to division (C) 2898
(1) of this section. The form shall include a place to provide 2899
any information that identifies the location of the personal 2900
information to be redacted. 2901

(D) (1) A designated public service worker and a qualifying 2902
former designated public service worker may request that a 2903
public office, other than a county auditor, or a person 2904
responsible for the public records of a public office, other 2905
than a county auditor, redact the requestor's address from any 2906
record made available to the general public on the internet that 2907
includes designated public service worker residential and 2908
familial information of the requestor. A designated public 2909
service worker or qualifying former designated public service 2910
worker who makes a request for a redaction pursuant to this 2911
division shall make the request in writing and on a form 2912
developed by the attorney general. A qualifying former 2913
designated public service worker shall provide, with the form, a 2914
confirmation letter from each employer at which the worker 2915
accumulated service confirming the years of service and that the 2916
worker departed service in good standing. 2917

(2) Upon receiving a written request for a redaction, and 2918
confirmation letter if applicable, pursuant to division (D) (1) 2919
of this section, a public office, other than a county auditor, 2920
or a person responsible for the public records of a public 2921
office, other than a county auditor, shall act within five 2922
business days in accordance with the request to redact the 2923
address of the requestor from any record made available to the 2924
general public on the internet that includes designated public 2925
service worker residential and familial information of the 2926
requestor, if practicable. If a redaction is not practicable, 2927

the public office or person responsible for the public office's 2928
public records shall verbally or in writing within five business 2929
days after receiving the written request explain to the 2930
requestor why the redaction is impracticable. 2931

(3) Except as provided in this section and section 319.28 2932
of the Revised Code, a public office, other than an employer of 2933
a designated public service worker or qualifying former 2934
designated public service worker, or a person responsible for 2935
the public records of the employer, is not required to redact 2936
designated public service worker residential and familial 2937
information of the designated public service worker or 2938
qualifying former designated public service worker from other 2939
records maintained by the public office. 2940

(4) The attorney general shall develop a form to be used 2941
by a designated public service worker or qualifying former 2942
designated public service worker to request a redaction pursuant 2943
to division (D) (1) of this section. The form shall include a 2944
place to provide any information that identifies the location of 2945
the address of the designated public service worker or 2946
qualifying former designated public service worker to be 2947
redacted. 2948

(E) (1) If a public office or a person responsible for a 2949
public office's public records becomes aware that an electronic 2950
record of that public office that is made available to the 2951
general public on the internet contains an individual's social 2952
security number that was mistakenly not redacted, encrypted, or 2953
truncated as required by division (B) (1) or (2) of this section, 2954
the public office or person responsible for the public office's 2955
public records shall redact, encrypt, or truncate the 2956
individual's social security number within a reasonable period 2957

of time. 2958

(2) A public office or a person responsible for a public 2959
office's public records is not liable in damages in a civil 2960
action for any harm an individual allegedly sustains as a result 2961
of the inclusion of that individual's personal information on 2962
any record made available to the general public on the internet 2963
or any harm a designated public service worker sustains as a 2964
result of the inclusion of the designated public service 2965
worker's address on any record made available to the general 2966
public on the internet in violation of this section, unless the 2967
public office or person responsible for the public office's 2968
public records acted with malicious purpose, in bad faith, or in 2969
a wanton or reckless manner or unless division (A) (6) (a) or (c) 2970
of section 2744.03 of the Revised Code applies. 2971

(F) A form submitted under division (C) or (D) of this 2972
section, or a confirmation letter submitted under division (D) 2973
of this section, is not a public record under division ~~(A)(1)~~ 2974
~~(vv)~~ (A) (1) (uu) of section 149.43 of the Revised Code. 2975

Sec. 1901.183. In addition to jurisdiction otherwise 2976
granted in this chapter, the environmental division of a 2977
municipal court shall have jurisdiction within its territory in 2978
all of the following actions or proceedings and to perform all 2979
of the following functions: 2980

(A) Notwithstanding any monetary limitations in section 2981
1901.17 of the Revised Code, in all actions and proceedings for 2982
the sale of real or personal property under lien of a judgment 2983
of the environmental division of the municipal court, or a lien 2984
for machinery, material, fuel furnished, or labor performed, 2985
irrespective of amount, and, in those cases, the environmental 2986
division may proceed to foreclose and marshal all liens and all 2987

vested or contingent rights, to appoint a receiver, and to 2988
render personal judgment irrespective of amount in favor of any 2989
party; 2990

(B) When in aid of execution of a judgment of the 2991
environmental division of the municipal court, in all actions 2992
for the foreclosure of a mortgage on real property given to 2993
secure the payment of money, or the enforcement of a specific 2994
lien for money or other encumbrance or charge on real property, 2995
when the real property is situated within the territory, and, in 2996
those cases, the environmental division may proceed to foreclose 2997
all liens and all vested and contingent rights and proceed to 2998
render judgments, and make findings and orders, between the 2999
parties, in the same manner and to the same extent as in similar 3000
cases in the court of common pleas; 3001

(C) When in aid of execution of a judgment of the 3002
environmental division of the municipal court, in all actions 3003
for the recovery of real property situated within the territory 3004
to the same extent as courts of common pleas have jurisdiction; 3005

(D) In all actions for injunction to prevent or terminate 3006
violations of the ordinances and regulations of any municipal 3007
corporation within its territory enacted or promulgated under 3008
the police power of that municipal corporation pursuant to 3009
Section 3 of Article XVIII, Ohio Constitution, over which the 3010
court of common pleas has or may have jurisdiction, and, in 3011
those cases, the environmental division of the municipal court 3012
may proceed to render judgments, and make findings and orders, 3013
in the same manner and to the same extent as in similar cases in 3014
the court of common pleas; 3015

(E) In all actions for injunction to prevent or terminate 3016
violations of the resolutions and regulations of any political 3017

subdivision within its territory enacted or promulgated under 3018
the power of that political subdivision pursuant to Article X of 3019
the Ohio Constitution, over which the court of common pleas has 3020
or may have jurisdiction, and, in those cases, the environmental 3021
division of the municipal court may proceed to render judgments, 3022
and make findings and orders, in the same manner and to the same 3023
extent as in similar cases in the court of common pleas; 3024

(F) In any civil action to enforce any provision of 3025
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 3026
Revised Code over which the court of common pleas has or may 3027
have jurisdiction, and, in those actions, the environmental 3028
division of the municipal court may proceed to render judgments, 3029
and make findings and orders, in the same manner and to the same 3030
extent as in similar actions in the court of common pleas; 3031

(G) In all actions and proceedings in the nature of 3032
creditors' bills, and in aid of execution to subject the 3033
interests of a judgment debtor in real or personal property to 3034
the payment of a judgment of the division, and, in those actions 3035
and proceedings, the environmental division may proceed to 3036
marshal and foreclose all liens on the property irrespective of 3037
the amount of the lien, and all vested or contingent rights in 3038
the property; 3039

(H) Concurrent jurisdiction with the court of common pleas 3040
of all criminal actions or proceedings related to the pollution 3041
of the air, ground, or water within the territory of the 3042
environmental division of the municipal court, ~~for which a~~ 3043
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 3044
~~Revised Code;~~ 3045

(I) In any review or appeal of any final order of any 3046
administrative officer, agency, board, department, tribunal, 3047

commission, or other instrumentality that relates to a local 3048
building, housing, air pollution, sanitation, health, fire, 3049
zoning, or safety code, ordinance, or regulation, in the same 3050
manner and to the same extent as in similar appeals in the court 3051
of common pleas; 3052

(J) With respect to the environmental division of the 3053
Franklin county municipal court, to hear appeals from 3054
adjudication hearings conducted under Chapter 956. of the 3055
Revised Code. 3056

Sec. 2152.13. (A) A juvenile court shall impose a serious 3057
youthful dispositional sentence on a child when required under 3058
division (B) (3) of section 2152.121 of the Revised Code. In such 3059
a case, the remaining provisions of this division and divisions 3060
(B) and (C) do not apply to the child, and the court shall 3061
impose the mandatory serious youthful dispositional sentence 3062
under division (D) (1) of this section. 3063

In all other cases, a juvenile court may impose a serious 3064
youthful offender dispositional sentence on a child only if the 3065
prosecuting attorney of the county in which the delinquent act 3066
allegedly occurred initiates the process against the child in 3067
accordance with this division, and the child is an alleged 3068
delinquent child who is eligible for the dispositional sentence. 3069
The prosecuting attorney may initiate the process in any of the 3070
following ways: 3071

(1) Obtaining an indictment of the child as a serious 3072
youthful offender; 3073

(2) The child waives the right to indictment, charging the 3074
child in a bill of information as a serious youthful offender; 3075

(3) Until an indictment or information is obtained, 3076

requesting a serious youthful offender dispositional sentence in 3077
the original complaint alleging that the child is a delinquent 3078
child; 3079

(4) Until an indictment or information is obtained, if the 3080
original complaint does not request a serious youthful offender 3081
dispositional sentence, filing with the juvenile court a written 3082
notice of intent to seek a serious youthful offender 3083
dispositional sentence within twenty days after the later of the 3084
following, unless the time is extended by the juvenile court for 3085
good cause shown: 3086

(a) The date of the child's first juvenile court hearing 3087
regarding the complaint; 3088

(b) The date the juvenile court determines not to transfer 3089
the case under section 2152.12 of the Revised Code. 3090

After a written notice is filed under division (A) (4) of 3091
this section, the juvenile court shall serve a copy of the 3092
notice on the child and advise the child of the prosecuting 3093
attorney's intent to seek a serious youthful offender 3094
dispositional sentence in the case. 3095

(B) If an alleged delinquent child is not indicted or 3096
charged by information as described in division (A) (1) or (2) of 3097
this section and if a notice or complaint as described in 3098
division (A) (3) or (4) of this section indicates that the 3099
prosecuting attorney intends to pursue a serious youthful 3100
offender dispositional sentence in the case, the juvenile court 3101
shall hold a preliminary hearing to determine if there is 3102
probable cause that the child committed the act charged and is 3103
by age eligible for, or required to receive, a serious youthful 3104
offender dispositional sentence. 3105

(C) (1) A child for whom a serious youthful offender 3106
dispositional sentence is sought by a prosecuting attorney has 3107
the right to a grand jury determination of probable cause that 3108
the child committed the act charged and that the child is 3109
eligible by age for a serious youthful offender dispositional 3110
sentence. The grand jury may be impaneled by the court of common 3111
pleas or the juvenile court. 3112

Once a child is indicted, or charged by information or the 3113
juvenile court determines that the child is eligible for a 3114
serious youthful offender dispositional sentence, the child is 3115
entitled to an open and speedy trial by jury in juvenile court 3116
and to be provided with a transcript of the proceedings. The 3117
time within which the trial is to be held under Title XXIX of 3118
the Revised Code commences on whichever of the following dates 3119
is applicable: 3120

(a) If the child is indicted or charged by information, on 3121
the date of the filing of the indictment or information. 3122

(b) If the child is charged by an original complaint that 3123
requests a serious youthful offender dispositional sentence, on 3124
the date of the filing of the complaint. 3125

(c) If the child is not charged by an original complaint 3126
that requests a serious youthful offender dispositional 3127
sentence, on the date that the prosecuting attorney files the 3128
written notice of intent to seek a serious youthful offender 3129
dispositional sentence. 3130

(2) If the child is detained awaiting adjudication, upon 3131
indictment or being charged by information, the child has the 3132
same right to bail as an adult charged with the offense the 3133
alleged delinquent act would be if committed by an adult. Except 3134

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.

(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:

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

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

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

(2) (a) If a child is adjudicated a delinquent child for committing an act under circumstances that allow, but do not require, the juvenile court to impose on the child a serious youthful offender dispositional sentence under section 2152.11

of the Revised Code, all of the following apply: 3164

(i) If the juvenile court on the record makes a finding 3165
that, given the nature and circumstances of the violation and 3166
the history of the child, the length of time, level of security, 3167
and types of programming and resources available in the juvenile 3168
system alone are not adequate to provide the juvenile court with 3169
a reasonable expectation that the purposes set forth in section 3170
2152.01 of the Revised Code will be met, the juvenile court may 3171
impose upon the child a sentence available for the violation, as 3172
if the child were an adult, under Chapter 2929. of the Revised 3173
Code, except that the juvenile court shall not impose on the 3174
child a sentence of ~~death or~~ life imprisonment without parole. 3175

(ii) If a sentence is imposed under division (D) (2) (a) (i) 3176
of this section, the juvenile court also shall impose upon the 3177
child one or more traditional juvenile dispositions under 3178
sections 2152.16, 2152.19, and 2152.20 and, if applicable, 3179
section 2152.17 of the Revised Code. 3180

(iii) The juvenile court shall stay the adult portion of 3181
the serious youthful offender dispositional sentence pending the 3182
successful completion of the traditional juvenile dispositions 3183
imposed. 3184

(b) If the juvenile court does not find that a sentence 3185
should be imposed under division (D) (2) (a) (i) of this section, 3186
the juvenile court may impose one or more traditional juvenile 3187
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 3188
applicable, section 2152.17 of the Revised Code. 3189

(3) A child upon whom a serious youthful offender 3190
dispositional sentence is imposed under division (D) (1) or (2) 3191
of this section has a right to appeal under division (A) (1), 3192

(3), (4), or (5) of section 2953.08 of the Revised Code the 3193
adult portion of the serious youthful offender dispositional 3194
sentence when any of those divisions apply. The child may appeal 3195
the adult portion, and the court shall consider the appeal as if 3196
the adult portion were not stayed. 3197

Sec. 2152.67. Any adult who is arrested or charged under 3198
any provision in this chapter and who is charged with a crime 3199
may demand a trial by jury, or the juvenile judge upon the 3200
judge's own motion may call a jury. A demand for a jury trial 3201
shall be made in writing in not less than three days before the 3202
date set for trial, or within three days after counsel has been 3203
retained, whichever is later. Sections 2945.17 and 2945.23 to 3204
2945.36 of the Revised Code, relating to the drawing and 3205
impaneling of jurors in criminal cases in the court of common 3206
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 3207
under this section. The compensation of jurors and costs of the 3208
clerk and sheriff shall be taxed and paid in the same manner as 3209
in criminal cases in the court of common pleas. 3210

Sec. 2301.20. All civil and criminal actions in the court 3211
of common pleas shall be recorded. The reporter shall take 3212
accurate notes of or electronically record the oral testimony. 3213
The notes and electronic records shall be filed in the office of 3214
the official reporter and carefully preserved for either of the 3215
following periods of time: 3216

(A) If the action is not a ~~capital~~ case in which a 3217
sentence of life imprisonment has been imposed or a case in 3218
which, prior to the effective date of this amendment, a sentence 3219
of death was imposed, the notes and electronic records shall be 3220
preserved for the period of time specified by the court of 3221
common pleas, which period of time shall not be longer than the 3222

period of time that the other records of the particular action 3223
are required to be kept. 3224

(B) If the action is a ~~capital case~~, in which a sentence 3225
of life imprisonment has been imposed or a case in which, prior 3226
to the effective date of this amendment, a sentence of death has 3227
been imposed the notes and electronic records shall be preserved 3228
for the longer of ten years or until the final disposition of 3229
the action and exhaustion of all appeals. 3230

Sec. 2307.60. (A) (1) Anyone injured in person or property 3231
by a criminal act has, and may recover full damages in, a civil 3232
action unless specifically excepted by law, may recover the 3233
costs of maintaining the civil action and attorney's fees if 3234
authorized by any provision of the Rules of Civil Procedure or 3235
another section of the Revised Code or under the common law of 3236
this state, and may recover punitive or exemplary damages if 3237
authorized by section 2315.21 or another section of the Revised 3238
Code. 3239

(2) A final judgment of a trial court that has not been 3240
reversed on appeal or otherwise set aside, nullified, or 3241
vacated, entered after a trial or upon a plea of guilty, but not 3242
upon a plea of no contest or the equivalent plea from another 3243
jurisdiction, that adjudges an offender guilty of an offense of 3244
violence punishable by ~~death or~~ imprisonment in excess of one 3245
year, when entered as evidence in any subsequent civil 3246
proceeding based on the criminal act, shall preclude the 3247
offender from denying in the subsequent civil proceeding any 3248
fact essential to sustaining that judgment, unless the offender 3249
can demonstrate that extraordinary circumstances prevented the 3250
offender from having a full and fair opportunity to litigate the 3251
issue in the criminal proceeding or other extraordinary 3252

circumstances justify affording the offender an opportunity to 3253
relitigate the issue. The offender may introduce evidence of the 3254
offender's pending appeal of the final judgment of the trial 3255
court, if applicable, and the court may consider that evidence 3256
in determining the liability of the offender. 3257

(B) (1) As used in division (B) of this section: 3258

(a) "Tort action" means a civil action for damages for 3259
injury, death, or loss to person or property other than a civil 3260
action for damages for a breach of contract or another agreement 3261
between persons. "Tort action" includes, but is not limited to, 3262
a product liability claim, as defined in section 2307.71 of the 3263
Revised Code, and an asbestos claim, as defined in section 3264
2307.91 of the Revised Code, an action for wrongful death under 3265
Chapter 2125. of the Revised Code, and an action based on 3266
derivative claims for relief. 3267

(b) "Residence" has the same meaning as in section 2901.05 3268
of the Revised Code. 3269

(2) Recovery on a claim for relief in a tort action is 3270
barred to any person or the person's legal representative if any 3271
of the following apply: 3272

(a) The person has been convicted of or has pleaded guilty 3273
to a felony, or to a misdemeanor that is an offense of violence, 3274
arising out of criminal conduct that was a proximate cause of 3275
the injury or loss for which relief is claimed in the tort 3276
action. 3277

(b) The person engaged in conduct that, if prosecuted, 3278
would constitute a felony, a misdemeanor that is an offense of 3279
violence, an attempt to commit a felony, or an attempt to commit 3280
a misdemeanor that is an offense of violence and that conduct 3281

was a proximate cause of the injury or loss for which relief is 3282
claimed in the tort action, regardless of whether the person has 3283
been convicted of or pleaded guilty to or has been charged with 3284
committing the felony, the misdemeanor, or the attempt to commit 3285
the felony or misdemeanor. 3286

(c) The person suffered the injury or loss for which 3287
relief is claimed in the tort action as a proximate result of 3288
the victim of conduct that, if prosecuted, would constitute a 3289
felony, a misdemeanor that is an offense of violence, an attempt 3290
to commit a felony, or an attempt to commit a misdemeanor that 3291
is an offense of violence acting against the person in self- 3292
defense, defense of another, or defense of the victim's 3293
residence, regardless of whether the person has been convicted 3294
of or pleaded guilty to or has been charged with committing the 3295
felony, the misdemeanor, or the attempt to commit the felony or 3296
misdemeanor. Division (B) (2) (c) of this section does not apply 3297
if the person who suffered the injury or loss, at the time of 3298
the victim's act of self-defense, defense of another, or defense 3299
of residence, was an innocent bystander who had no connection 3300
with the underlying conduct that prompted the victim's exercise 3301
of self-defense, defense of another, or defense of residence. 3302

(3) Recovery against a victim of conduct that, if 3303
prosecuted, would constitute a felony, a misdemeanor that is an 3304
offense of violence, an attempt to commit a felony, or an 3305
attempt to commit a misdemeanor that is an offense of violence, 3306
on a claim for relief in a tort action is barred to any person 3307
or the person's legal representative if conduct the person 3308
engaged in against that victim was a proximate cause of the 3309
injury or loss for which relief is claimed in the tort action 3310
and that conduct, if prosecuted, would constitute a felony, a 3311
misdemeanor that is an offense of violence, an attempt to commit 3312

a felony, or an attempt to commit a misdemeanor that is an 3313
offense of violence, regardless of whether the person has been 3314
convicted of or pleaded guilty to or has been charged with 3315
committing the felony, the misdemeanor, or the attempt to commit 3316
the felony or misdemeanor. 3317

(4) Divisions (B)(1) to (3) of this section do not apply 3318
to civil claims based upon alleged intentionally tortious 3319
conduct, alleged violations of the United States Constitution, 3320
or alleged violations of statutes of the United States 3321
pertaining to civil rights. For purposes of division (B)(4) of 3322
this section, a person's act of self-defense, defense of 3323
another, or defense of the person's residence does not 3324
constitute intentionally tortious conduct. 3325

Sec. 2317.02. The following persons shall not testify in 3326
certain respects: 3327

(A)(1) An attorney, concerning a communication made to the 3328
attorney by a client in that relation or concerning the 3329
attorney's advice to a client, except that the attorney may 3330
testify by express consent of the client or, if the client is 3331
deceased, by the express consent of the surviving spouse or the 3332
executor or administrator of the estate of the deceased client. 3333
However, if the client voluntarily reveals the substance of 3334
attorney-client communications in a nonprivileged context or is 3335
deemed by section 2151.421 of the Revised Code to have waived 3336
any testimonial privilege under this division, the attorney may 3337
be compelled to testify on the same subject. 3338

The testimonial privilege established under this division 3339
does not apply concerning ~~either of the following:~~ 3340

~~(a) A communication between a client in a capital case, as~~ 3341

~~defined in section 2901.02 of the Revised Code, and the client's~~ 3342
~~attorney if the communication is relevant to a subsequent~~ 3343
~~ineffective assistance of counsel claim by the client alleging~~ 3344
~~that the attorney did not effectively represent the client in~~ 3345
~~the case;~~ 3346

~~(b) A~~ a communication between a client who has since died 3347
and the deceased client's attorney if the communication is 3348
relevant to a dispute between parties who claim through that 3349
deceased client, regardless of whether the claims are by testate 3350
or intestate succession or by inter vivos transaction, and the 3351
dispute addresses the competency of the deceased client when the 3352
deceased client executed a document that is the basis of the 3353
dispute or whether the deceased client was a victim of fraud, 3354
undue influence, or duress when the deceased client executed a 3355
document that is the basis of the dispute. 3356

(2) An attorney, concerning a communication made to the 3357
attorney by a client in that relationship or the attorney's 3358
advice to a client, except that if the client is an insurance 3359
company, the attorney may be compelled to testify, subject to an 3360
in camera inspection by a court, about communications made by 3361
the client to the attorney or by the attorney to the client that 3362
are related to the attorney's aiding or furthering an ongoing or 3363
future commission of bad faith by the client, if the party 3364
seeking disclosure of the communications has made a prima-facie 3365
showing of bad faith, fraud, or criminal misconduct by the 3366
client. 3367

(B) (1) A physician, advanced practice registered nurse, or 3368
dentist concerning a communication made to the physician, 3369
advanced practice registered nurse, or dentist by a patient in 3370
that relation or the advice of a physician, advanced practice 3371

registered nurse, or dentist given to a patient, except as 3372
otherwise provided in this division, division (B) (2), and 3373
division (B) (3) of this section, and except that, if the patient 3374
is deemed by section 2151.421 of the Revised Code to have waived 3375
any testimonial privilege under this division, the physician or 3376
advanced practice registered nurse may be compelled to testify 3377
on the same subject. 3378

The testimonial privilege established under this division 3379
does not apply, and a physician, advanced practice registered 3380
nurse, or dentist may testify or may be compelled to testify, in 3381
any of the following circumstances: 3382

(a) In any civil action, in accordance with the discovery 3383
provisions of the Rules of Civil Procedure in connection with a 3384
civil action, or in connection with a claim under Chapter 4123. 3385
of the Revised Code, under any of the following circumstances: 3386

(i) If the patient or the guardian or other legal 3387
representative of the patient gives express consent; 3388

(ii) If the patient is deceased, the spouse of the patient 3389
or the executor or administrator of the patient's estate gives 3390
express consent; 3391

(iii) If a medical claim, dental claim, chiropractic 3392
claim, or optometric claim, as defined in section 2305.113 of 3393
the Revised Code, an action for wrongful death, any other type 3394
of civil action, or a claim under Chapter 4123. of the Revised 3395
Code is filed by the patient, the personal representative of the 3396
estate of the patient if deceased, or the patient's guardian or 3397
other legal representative. 3398

(b) In any civil action concerning court-ordered treatment 3399
or services received by a patient, if the court-ordered 3400

treatment or services were ordered as part of a case plan 3401
journalized under section 2151.412 of the Revised Code or the 3402
court-ordered treatment or services are necessary or relevant to 3403
dependency, neglect, or abuse or temporary or permanent custody 3404
proceedings under Chapter 2151. of the Revised Code. 3405

(c) In any criminal action concerning any test or the 3406
results of any test that determines the presence or 3407
concentration of alcohol, a drug of abuse, a combination of 3408
them, a controlled substance, or a metabolite of a controlled 3409
substance in the patient's whole blood, blood serum or plasma, 3410
breath, urine, oral fluid, or other bodily substance at any time 3411
relevant to the criminal offense in question. 3412

(d) In any criminal action against a physician, advanced 3413
practice registered nurse, or dentist. In such an action, the 3414
testimonial privilege established under this division does not 3415
prohibit the admission into evidence, in accordance with the 3416
Rules of Evidence, of a patient's medical or dental records or 3417
other communications between a patient and the physician, 3418
advanced practice registered nurse, or dentist that are related 3419
to the action and obtained by subpoena, search warrant, or other 3420
lawful means. A court that permits or compels a physician, 3421
advanced practice registered nurse, or dentist to testify in 3422
such an action or permits the introduction into evidence of 3423
patient records or other communications in such an action shall 3424
require that appropriate measures be taken to ensure that the 3425
confidentiality of any patient named or otherwise identified in 3426
the records is maintained. Measures to ensure confidentiality 3427
that may be taken by the court include sealing its records or 3428
deleting specific information from its records. 3429

(e) (i) If the communication was between a patient who has 3430

since died and the deceased patient's physician, advanced 3431
practice registered nurse, or dentist, the communication is 3432
relevant to a dispute between parties who claim through that 3433
deceased patient, regardless of whether the claims are by 3434
testate or intestate succession or by inter vivos transaction, 3435
and the dispute addresses the competency of the deceased patient 3436
when the deceased patient executed a document that is the basis 3437
of the dispute or whether the deceased patient was a victim of 3438
fraud, undue influence, or duress when the deceased patient 3439
executed a document that is the basis of the dispute. 3440

(ii) If neither the spouse of a patient nor the executor 3441
or administrator of that patient's estate gives consent under 3442
division (B) (1) (a) (ii) of this section, testimony or the 3443
disclosure of the patient's medical records by a physician, 3444
advanced practice registered nurse, dentist, or other health 3445
care provider under division (B) (1) (e) (i) of this section is a 3446
permitted use or disclosure of protected health information, as 3447
defined in 45 C.F.R. 160.103, and an authorization or 3448
opportunity to be heard shall not be required. 3449

(iii) Division (B) (1) (e) (i) of this section does not 3450
require a mental health professional to disclose psychotherapy 3451
notes, as defined in 45 C.F.R. 164.501. 3452

(iv) An interested person who objects to testimony or 3453
disclosure under division (B) (1) (e) (i) of this section may seek 3454
a protective order pursuant to Civil Rule 26. 3455

(v) A person to whom protected health information is 3456
disclosed under division (B) (1) (e) (i) of this section shall not 3457
use or disclose the protected health information for any purpose 3458
other than the litigation or proceeding for which the 3459
information was requested and shall return the protected health 3460

information to the covered entity or destroy the protected 3461
health information, including all copies made, at the conclusion 3462
of the litigation or proceeding. 3463

(2) (a) If any law enforcement officer submits a written 3464
statement to a health care provider that states that an official 3465
criminal investigation has begun regarding a specified person or 3466
that a criminal action or proceeding has been commenced against 3467
a specified person, that requests the provider to supply to the 3468
officer copies of any records the provider possesses that 3469
pertain to any test or the results of any test administered to 3470
the specified person to determine the presence or concentration 3471
of alcohol, a drug of abuse, a combination of them, a controlled 3472
substance, or a metabolite of a controlled substance in the 3473
person's whole blood, blood serum or plasma, breath, oral fluid, 3474
or urine at any time relevant to the criminal offense in 3475
question, and that conforms to section 2317.022 of the Revised 3476
Code, the provider, except to the extent specifically prohibited 3477
by any law of this state or of the United States, shall supply 3478
to the officer a copy of any of the requested records the 3479
provider possesses. If the health care provider does not possess 3480
any of the requested records, the provider shall give the 3481
officer a written statement that indicates that the provider 3482
does not possess any of the requested records. 3483

(b) If a health care provider possesses any records of the 3484
type described in division (B) (2) (a) of this section regarding 3485
the person in question at any time relevant to the criminal 3486
offense in question, in lieu of personally testifying as to the 3487
results of the test in question, the custodian of the records 3488
may submit a certified copy of the records, and, upon its 3489
submission, the certified copy is qualified as authentic 3490
evidence and may be admitted as evidence in accordance with the 3491

Rules of Evidence. Division (A) of section 2317.422 of the 3492
Revised Code does not apply to any certified copy of records 3493
submitted in accordance with this division. Nothing in this 3494
division shall be construed to limit the right of any party to 3495
call as a witness the person who administered the test to which 3496
the records pertain, the person under whose supervision the test 3497
was administered, the custodian of the records, the person who 3498
made the records, or the person under whose supervision the 3499
records were made. 3500

(3) (a) If the testimonial privilege described in division 3501
(B) (1) of this section does not apply as provided in division 3502
(B) (1) (a) (iii) of this section, a physician, advanced practice 3503
registered nurse, or dentist may be compelled to testify or to 3504
submit to discovery under the Rules of Civil Procedure only as 3505
to a communication made to the physician, advanced practice 3506
registered nurse, or dentist by the patient in question in that 3507
relation, or the advice of the physician, advanced practice 3508
registered nurse, or dentist given to the patient in question, 3509
that related causally or historically to physical or mental 3510
injuries that are relevant to issues in the medical claim, 3511
dental claim, chiropractic claim, or optometric claim, action 3512
for wrongful death, other civil action, or claim under Chapter 3513
4123. of the Revised Code. 3514

(b) If the testimonial privilege described in division (B) 3515
(1) of this section does not apply to a physician, advanced 3516
practice registered nurse, or dentist as provided in division 3517
(B) (1) (c) of this section, the physician, advanced practice 3518
registered nurse, or dentist, in lieu of personally testifying 3519
as to the results of the test in question, may submit a 3520
certified copy of those results, and, upon its submission, the 3521
certified copy is qualified as authentic evidence and may be 3522

admitted as evidence in accordance with the Rules of Evidence. 3523
Division (A) of section 2317.422 of the Revised Code does not 3524
apply to any certified copy of results submitted in accordance 3525
with this division. Nothing in this division shall be construed 3526
to limit the right of any party to call as a witness the person 3527
who administered the test in question, the person under whose 3528
supervision the test was administered, the custodian of the 3529
results of the test, the person who compiled the results, or the 3530
person under whose supervision the results were compiled. 3531

(4) The testimonial privilege described in division (B) (1) 3532
of this section is not waived when a communication is made by a 3533
physician or advanced practice registered nurse to a pharmacist 3534
or when there is communication between a patient and a 3535
pharmacist in furtherance of the physician-patient or advanced 3536
practice registered nurse-patient relation. 3537

(5) (a) As used in divisions (B) (1) to (4) of this section, 3538
"communication" means acquiring, recording, or transmitting any 3539
information, in any manner, concerning any facts, opinions, or 3540
statements necessary to enable a physician, advanced practice 3541
registered nurse, or dentist to diagnose, treat, prescribe, or 3542
act for a patient. A "communication" may include, but is not 3543
limited to, any medical or dental, office, or hospital 3544
communication such as a record, chart, letter, memorandum, 3545
laboratory test and results, x-ray, photograph, financial 3546
statement, diagnosis, or prognosis. 3547

(b) As used in division (B) (2) of this section, "health 3548
care provider" means a hospital, ambulatory care facility, long- 3549
term care facility, pharmacy, emergency facility, or health care 3550
practitioner. 3551

(c) As used in division (B) (5) (b) of this section: 3552

(i) "Ambulatory care facility" means a facility that 3553
provides medical, diagnostic, or surgical treatment to patients 3554
who do not require hospitalization, including a dialysis center, 3555
ambulatory surgical facility, cardiac catheterization facility, 3556
diagnostic imaging center, extracorporeal shock wave lithotripsy 3557
center, home health agency, inpatient hospice, birthing center, 3558
radiation therapy center, emergency facility, and an urgent care 3559
center. "Ambulatory health care facility" does not include the 3560
private office of a physician, advanced practice registered 3561
nurse, or dentist, whether the office is for an individual or 3562
group practice. 3563

(ii) "Emergency facility" means a hospital emergency 3564
department or any other facility that provides emergency medical 3565
services. 3566

(iii) "Health care practitioner" has the same meaning as 3567
in section 4769.01 of the Revised Code. 3568

(iv) "Hospital" has the same meaning as in section 3727.01 3569
of the Revised Code. 3570

(v) "Long-term care facility" means a nursing home, 3571
residential care facility, or home for the aging, as those terms 3572
are defined in section 3721.01 of the Revised Code; a 3573
residential facility licensed under section 5119.34 of the 3574
Revised Code that provides accommodations, supervision, and 3575
personal care services for three to sixteen unrelated adults; a 3576
nursing facility, as defined in section 5165.01 of the Revised 3577
Code; a skilled nursing facility, as defined in section 5165.01 3578
of the Revised Code; and an intermediate care facility for 3579
individuals with intellectual disabilities, as defined in 3580
section 5124.01 of the Revised Code. 3581

(vi) "Pharmacy" has the same meaning as in section 4729.01 3582
of the Revised Code. 3583

(d) As used in divisions (B) (1) and (2) of this section, 3584
"drug of abuse" has the same meaning as in section 4506.01 of 3585
the Revised Code. 3586

(6) Divisions (B) (1), (2), (3), (4), and (5) of this 3587
section apply to doctors of medicine, doctors of osteopathic 3588
medicine, doctors of podiatry, advanced practice registered 3589
nurses, and dentists. 3590

(7) Nothing in divisions (B) (1) to (6) of this section 3591
affects, or shall be construed as affecting, the immunity from 3592
civil liability conferred by section 307.628 of the Revised Code 3593
or the immunity from civil liability conferred by section 3594
2305.33 of the Revised Code upon physicians or advanced practice 3595
registered nurses who report an employee's use of a drug of 3596
abuse, or a condition of an employee other than one involving 3597
the use of a drug of abuse, to the employer of the employee in 3598
accordance with division (B) of that section. As used in 3599
division (B) (7) of this section, "employee," "employer," and 3600
"physician" have the same meanings as in section 2305.33 of the 3601
Revised Code and "advanced practice registered nurse" has the 3602
same meaning as in section 4723.01 of the Revised Code. 3603

(C) (1) A cleric, when the cleric remains accountable to 3604
the authority of that cleric's church, denomination, or sect, 3605
concerning a confession made, or any information confidentially 3606
communicated, to the cleric for a religious counseling purpose 3607
in the cleric's professional character. The cleric may testify 3608
by express consent of the person making the communication, 3609
except when the disclosure of the information is in violation of 3610
a sacred trust and except that, if the person voluntarily 3611

testifies or is deemed by division (A) (4) (c) of section 2151.421 3612
of the Revised Code to have waived any testimonial privilege 3613
under this division, the cleric may be compelled to testify on 3614
the same subject except when disclosure of the information is in 3615
violation of a sacred trust. 3616

(2) As used in division (C) of this section: 3617

(a) "Cleric" means a member of the clergy, rabbi, priest, 3618
Christian Science practitioner, or regularly ordained, 3619
accredited, or licensed minister of an established and legally 3620
cognizable church, denomination, or sect. 3621

(b) "Sacred trust" means a confession or confidential 3622
communication made to a cleric in the cleric's ecclesiastical 3623
capacity in the course of discipline enjoined by the church to 3624
which the cleric belongs, including, but not limited to, the 3625
Catholic Church, if both of the following apply: 3626

(i) The confession or confidential communication was made 3627
directly to the cleric. 3628

(ii) The confession or confidential communication was made 3629
in the manner and context that places the cleric specifically 3630
and strictly under a level of confidentiality that is considered 3631
inviolable by canon law or church doctrine. 3632

(D) Husband or wife, concerning any communication made by 3633
one to the other, or an act done by either in the presence of 3634
the other, during coverture, unless the communication was made, 3635
or act done, in the known presence or hearing of a third person 3636
competent to be a witness; and such rule is the same if the 3637
marital relation has ceased to exist; 3638

(E) A person who assigns a claim or interest, concerning 3639
any matter in respect to which the person would not, if a party, 3640

be permitted to testify; 3641

(F) A person who, if a party, would be restricted under 3642
section 2317.03 of the Revised Code, when the property or thing 3643
is sold or transferred by an executor, administrator, guardian, 3644
trustee, heir, devisee, or legatee, shall be restricted in the 3645
same manner in any action or proceeding concerning the property 3646
or thing. 3647

(G) (1) A school guidance counselor who holds a valid 3648
educator license from the state board of education as provided 3649
for in section 3319.22 of the Revised Code, a person licensed 3650
under Chapter 4757. of the Revised Code as a licensed 3651
professional clinical counselor, licensed professional 3652
counselor, social worker, independent social worker, marriage 3653
and family therapist or independent marriage and family 3654
therapist, or registered under Chapter 4757. of the Revised Code 3655
as a social work assistant concerning a confidential 3656
communication received from a client in that relation or the 3657
person's advice to a client unless any of the following applies: 3658

(a) The communication or advice indicates clear and 3659
present danger to the client or other persons. For the purposes 3660
of this division, cases in which there are indications of 3661
present or past child abuse or neglect of the client constitute 3662
a clear and present danger. 3663

(b) The client gives express consent to the testimony. 3664

(c) If the client is deceased, the surviving spouse or the 3665
executor or administrator of the estate of the deceased client 3666
gives express consent. 3667

(d) The client voluntarily testifies, in which case the 3668
school guidance counselor or person licensed or registered under 3669

Chapter 4757. of the Revised Code may be compelled to testify on 3670
the same subject. 3671

(e) The court in camera determines that the information 3672
communicated by the client is not germane to the counselor- 3673
client, marriage and family therapist-client, or social worker- 3674
client relationship. 3675

(f) A court, in an action brought against a school, its 3676
administration, or any of its personnel by the client, rules 3677
after an in-camera inspection that the testimony of the school 3678
guidance counselor is relevant to that action. 3679

(g) The testimony is sought in a civil action and concerns 3680
court-ordered treatment or services received by a patient as 3681
part of a case plan journalized under section 2151.412 of the 3682
Revised Code or the court-ordered treatment or services are 3683
necessary or relevant to dependency, neglect, or abuse or 3684
temporary or permanent custody proceedings under Chapter 2151. 3685
of the Revised Code. 3686

(2) Nothing in division (G) (1) of this section shall 3687
relieve a school guidance counselor or a person licensed or 3688
registered under Chapter 4757. of the Revised Code from the 3689
requirement to report information concerning child abuse or 3690
neglect under section 2151.421 of the Revised Code. 3691

(H) A mediator acting under a mediation order issued under 3692
division (A) of section 3109.052 of the Revised Code or 3693
otherwise issued in any proceeding for divorce, dissolution, 3694
legal separation, annulment, or the allocation of parental 3695
rights and responsibilities for the care of children, in any 3696
action or proceeding, other than a criminal, delinquency, child 3697
abuse, child neglect, or dependent child action or proceeding, 3698

that is brought by or against either parent who takes part in 3699
mediation in accordance with the order and that pertains to the 3700
mediation process, to any information discussed or presented in 3701
the mediation process, to the allocation of parental rights and 3702
responsibilities for the care of the parents' children, or to 3703
the awarding of parenting time rights in relation to their 3704
children; 3705

(I) A communications assistant, acting within the scope of 3706
the communication assistant's authority, when providing 3707
telecommunications relay service pursuant to section 4931.06 of 3708
the Revised Code or Title II of the "Communications Act of 3709
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 3710
communication made through a telecommunications relay service. 3711
Nothing in this section shall limit the obligation of a 3712
communications assistant to divulge information or testify when 3713
mandated by federal law or regulation or pursuant to subpoena in 3714
a criminal proceeding. 3715

Nothing in this section shall limit any immunity or 3716
privilege granted under federal law or regulation. 3717

(J) (1) A chiropractor in a civil proceeding concerning a 3718
communication made to the chiropractor by a patient in that 3719
relation or the chiropractor's advice to a patient, except as 3720
otherwise provided in this division. The testimonial privilege 3721
established under this division does not apply, and a 3722
chiropractor may testify or may be compelled to testify, in any 3723
civil action, in accordance with the discovery provisions of the 3724
Rules of Civil Procedure in connection with a civil action, or 3725
in connection with a claim under Chapter 4123. of the Revised 3726
Code, under any of the following circumstances: 3727

(a) If the patient or the guardian or other legal 3728

representative of the patient gives express consent. 3729

(b) If the patient is deceased, the spouse of the patient 3730
or the executor or administrator of the patient's estate gives 3731
express consent. 3732

(c) If a medical claim, dental claim, chiropractic claim, 3733
or optometric claim, as defined in section 2305.113 of the 3734
Revised Code, an action for wrongful death, any other type of 3735
civil action, or a claim under Chapter 4123. of the Revised Code 3736
is filed by the patient, the personal representative of the 3737
estate of the patient if deceased, or the patient's guardian or 3738
other legal representative. 3739

(2) If the testimonial privilege described in division (J) 3740
(1) of this section does not apply as provided in division (J) 3741
(1)(c) of this section, a chiropractor may be compelled to 3742
testify or to submit to discovery under the Rules of Civil 3743
Procedure only as to a communication made to the chiropractor by 3744
the patient in question in that relation, or the chiropractor's 3745
advice to the patient in question, that related causally or 3746
historically to physical or mental injuries that are relevant to 3747
issues in the medical claim, dental claim, chiropractic claim, 3748
or optometric claim, action for wrongful death, other civil 3749
action, or claim under Chapter 4123. of the Revised Code. 3750

(3) The testimonial privilege established under this 3751
division does not apply, and a chiropractor may testify or be 3752
compelled to testify, in any criminal action or administrative 3753
proceeding. 3754

(4) As used in this division, "communication" means 3755
acquiring, recording, or transmitting any information, in any 3756
manner, concerning any facts, opinions, or statements necessary 3757

to enable a chiropractor to diagnose, treat, or act for a 3758
patient. A communication may include, but is not limited to, any 3759
chiropractic, office, or hospital communication such as a 3760
record, chart, letter, memorandum, laboratory test and results, 3761
x-ray, photograph, financial statement, diagnosis, or prognosis. 3762

(K) (1) Except as provided under division (K) (2) of this 3763
section, a critical incident stress management team member 3764
concerning a communication received from an individual who 3765
receives crisis response services from the team member, or the 3766
team member's advice to the individual, during a debriefing 3767
session. 3768

(2) The testimonial privilege established under division 3769
(K) (1) of this section does not apply if any of the following 3770
are true: 3771

(a) The communication or advice indicates clear and 3772
present danger to the individual who receives crisis response 3773
services or to other persons. For purposes of this division, 3774
cases in which there are indications of present or past child 3775
abuse or neglect of the individual constitute a clear and 3776
present danger. 3777

(b) The individual who received crisis response services 3778
gives express consent to the testimony. 3779

(c) If the individual who received crisis response 3780
services is deceased, the surviving spouse or the executor or 3781
administrator of the estate of the deceased individual gives 3782
express consent. 3783

(d) The individual who received crisis response services 3784
voluntarily testifies, in which case the team member may be 3785
compelled to testify on the same subject. 3786

(e) The court in camera determines that the information 3787
communicated by the individual who received crisis response 3788
services is not germane to the relationship between the 3789
individual and the team member. 3790

(f) The communication or advice pertains or is related to 3791
any criminal act. 3792

(3) As used in division (K) of this section: 3793

(a) "Crisis response services" means consultation, risk 3794
assessment, referral, and on-site crisis intervention services 3795
provided by a critical incident stress management team to 3796
individuals affected by crisis or disaster. 3797

(b) "Critical incident stress management team member" or 3798
"team member" means an individual specially trained to provide 3799
crisis response services as a member of an organized community 3800
or local crisis response team that holds membership in the Ohio 3801
critical incident stress management network. 3802

(c) "Debriefing session" means a session at which crisis 3803
response services are rendered by a critical incident stress 3804
management team member during or after a crisis or disaster. 3805

(L) (1) Subject to division (L) (2) of this section and 3806
except as provided in division (L) (3) of this section, an 3807
employee assistance professional, concerning a communication 3808
made to the employee assistance professional by a client in the 3809
employee assistance professional's official capacity as an 3810
employee assistance professional. 3811

(2) Division (L) (1) of this section applies to an employee 3812
assistance professional who meets either or both of the 3813
following requirements: 3814

(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession;	3815 3816
(b) Has education, training, and experience in all of the following:	3817 3818
(i) Providing workplace-based services designed to address employer and employee productivity issues;	3819 3820
(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;	3821 3822 3823 3824
(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;	3825 3826 3827 3828
(iv) Selecting and evaluating available community resources;	3829 3830
(v) Making appropriate referrals;	3831
(vi) Local and national employee assistance agreements;	3832
(vii) Client confidentiality.	3833
(3) Division (L)(1) of this section does not apply to any of the following:	3834 3835
(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;	3836 3837 3838 3839 3840
(b) A communication made by a client to an employee	3841

assistance professional that reveals the contemplation or 3842
commission of a crime or serious, harmful act; 3843

(c) A communication that is made by a client who is an 3844
unemancipated minor or an adult adjudicated to be incompetent 3845
and indicates that the client was the victim of a crime or 3846
abuse; 3847

(d) A civil proceeding to determine an individual's mental 3848
competency or a criminal action in which a plea of not guilty by 3849
reason of insanity is entered; 3850

(e) A civil or criminal malpractice action brought against 3851
the employee assistance professional; 3852

(f) When the employee assistance professional has the 3853
express consent of the client or, if the client is deceased or 3854
disabled, the client's legal representative; 3855

(g) When the testimonial privilege otherwise provided by 3856
division (L) (1) of this section is abrogated under law. 3857

Sec. 2701.07. When, in the opinion of the court, the 3858
business thereof so requires, each court of common pleas, court 3859
of appeals, and, in counties having at the last or any future 3860
federal census more than seventy thousand inhabitants, the 3861
probate court, may appoint one or more constables to preserve 3862
order, attend the assignment of cases in counties where more 3863
than two judges of the court of common pleas regularly hold 3864
court at the same time, and discharge such other duties as the 3865
court requires. When so directed by the court, each constable 3866
has the same powers as sheriffs to call and impanel jurors, ~~7-~~ 3867
~~except in capital cases.~~ 3868

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of 3869
the Revised Code: 3870

(A) "Claimant" means both of the following categories of persons:	3871 3872
(1) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:	3873 3874 3875
(a) A victim who was one of the following at the time of the criminally injurious conduct:	3876 3877
(i) A resident of the United States;	3878
(ii) A resident of a foreign country the laws of which permit residents of this state to recover compensation as victims of offenses committed in that country.	3879 3880 3881
(b) A dependent of a deceased victim who is described in division (A) (1) (a) of this section;	3882 3883
(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) (1) (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;	3884 3885 3886 3887 3888 3889 3890
(d) A person who is authorized to act on behalf of any person who is described in division (A) (1) (a), (b), or (c) of this section;	3891 3892 3893
(e) The estate of a deceased victim who is described in division (A) (1) (a) of this section.	3894 3895
(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:	3896 3897 3898

(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:	3899 3900 3901 3902
(i) Had a permanent place of employment in this state;	3903
(ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;	3904 3905 3906 3907
(iii) Was retired and receiving social security or any other retirement income;	3908 3909
(iv) Was sixty years of age or older;	3910
(v) Was temporarily in another state for the purpose of receiving medical treatment;	3911 3912
(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;	3913 3914 3915 3916
(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;	3917 3918 3919 3920 3921
(viii) Was a full-time student at an academic institution, college, or university located in another state;	3922 3923
(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	3924 3925 3926

permanent place of residence in another state. 3927

(b) A dependent of a deceased victim who is described in 3928
division (A) (2) (a) of this section; 3929

(c) A third person, other than a collateral source, who 3930
legally assumes or voluntarily pays the obligations of a victim, 3931
or of a dependent of a victim, who is described in division (A) 3932
(2) (a) of this section, which obligations are incurred as a 3933
result of the criminally injurious conduct that is the subject 3934
of the claim and may include, but are not limited to, medical or 3935
burial expenses; 3936

(d) A person who is authorized to act on behalf of any 3937
person who is described in division (A) (2) (a), (b), or (c) of 3938
this section; 3939

(e) The estate of a deceased victim who is described in 3940
division (A) (2) (a) of this section. 3941

(B) "Collateral source" means a source of benefits or 3942
advantages for economic loss otherwise reparable that the victim 3943
or claimant has received, or that is readily available to the 3944
victim or claimant, from any of the following sources: 3945

(1) The offender; 3946

(2) The government of the United States or any of its 3947
agencies, a state or any of its political subdivisions, or an 3948
instrumentality of two or more states, unless the law providing 3949
for the benefits or advantages makes them excess or secondary to 3950
benefits under sections 2743.51 to 2743.72 of the Revised Code; 3951

(3) Social security, medicare, and medicaid; 3952

(4) State-required, temporary, nonoccupational disability 3953
insurance; 3954

(5) Workers' compensation;	3955
(6) Wage continuation programs of any employer;	3956
(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;	3957 3958 3959
(8) A contract providing prepaid hospital and other health care services, or benefits for disability;	3960 3961
(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;	3962 3963 3964
(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.	3965 3966 3967 3968
"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.	3969 3970 3971 3972 3973
(C) "Criminally injurious conduct" means one of the following:	3974 3975
(1) For the purposes of any person described in division (A) (1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, <u>or</u> imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not	3976 3977 3978 3979 3980 3981 3982

include conduct arising out of the ownership, maintenance, or 3983
use of a motor vehicle, except when any of the following 3984
applies: 3985

(a) The person engaging in the conduct intended to cause 3986
personal injury or death; 3987

(b) The person engaging in the conduct was using the 3988
vehicle to flee immediately after committing a felony or an act 3989
that would constitute a felony but for the fact that the person 3990
engaging in the conduct lacked the capacity to commit the felony 3991
under the laws of this state; 3992

(c) The person engaging in the conduct was using the 3993
vehicle in a manner that constitutes an OVI violation; 3994

(d) The conduct occurred on or after July 25, 1990, and 3995
the person engaging in the conduct was using the vehicle in a 3996
manner that constitutes a violation of section 2903.08 of the 3997
Revised Code; 3998

(e) The person engaging in the conduct acted in a manner 3999
that caused serious physical harm to a person and that 4000
constituted a violation of section 4549.02 or 4549.021 of the 4001
Revised Code. 4002

(2) For the purposes of any person described in division 4003
(A) (2) of this section, any conduct that occurs or is attempted 4004
in another state, district, territory, or foreign country; poses 4005
a substantial threat of personal injury or death; and is 4006
punishable by fine, imprisonment, or death, or would be so 4007
punishable but for the fact that the person engaging in the 4008
conduct lacked capacity to commit the crime under the laws of 4009
the state, district, territory, or foreign country in which the 4010
conduct occurred or was attempted. Criminally injurious conduct 4011

does not include conduct arising out of the ownership, 4012
maintenance, or use of a motor vehicle, except when any of the 4013
following applies: 4014

(a) The person engaging in the conduct intended to cause 4015
personal injury or death; 4016

(b) The person engaging in the conduct was using the 4017
vehicle to flee immediately after committing a felony or an act 4018
that would constitute a felony but for the fact that the person 4019
engaging in the conduct lacked the capacity to commit the felony 4020
under the laws of the state, district, territory, or foreign 4021
country in which the conduct occurred or was attempted; 4022

(c) The person engaging in the conduct was using the 4023
vehicle in a manner that constitutes an OVI violation; 4024

(d) The conduct occurred on or after July 25, 1990, the 4025
person engaging in the conduct was using the vehicle in a manner 4026
that constitutes a violation of any law of the state, district, 4027
territory, or foreign country in which the conduct occurred, and 4028
that law is substantially similar to a violation of section 4029
2903.08 of the Revised Code; 4030

(e) The person engaging in the conduct acted in a manner 4031
that caused serious physical harm to a person and that 4032
constituted a violation of any law of the state, district, 4033
territory, or foreign country in which the conduct occurred, and 4034
that law is substantially similar to section 4549.02 or 4549.021 4035
of the Revised Code. 4036

(3) For the purposes of any person described in division 4037
(A) (1) or (2) of this section, terrorism that occurs within or 4038
outside the territorial jurisdiction of the United States. 4039

(D) "Dependent" means an individual wholly or partially 4040

dependent upon the victim for care and support, and includes a 4041
child of the victim born after the victim's death. 4042

(E) "Economic loss" means economic detriment consisting 4043
only of allowable expense, work loss, funeral expense, 4044
unemployment benefits loss, replacement services loss, cost of 4045
crime scene cleanup, and cost of evidence replacement. If 4046
criminally injurious conduct causes death, economic loss 4047
includes a dependent's economic loss and a dependent's 4048
replacement services loss. Noneconomic detriment is not economic 4049
loss; however, economic loss may be caused by pain and suffering 4050
or physical impairment. 4051

(F) (1) For a victim described in division (L) (1) of this 4052
section, "allowable expense" means reasonable charges incurred 4053
for reasonably needed products, services, and accommodations, 4054
including those for medical care, rehabilitation, rehabilitative 4055
occupational training, and other remedial treatment and care and 4056
including replacement costs for hearing aids; dentures, 4057
retainers, and other dental appliances; canes, walkers, and 4058
other mobility tools; and eyeglasses and other corrective 4059
lenses. It does not include that portion of a charge for a room 4060
in a hospital, clinic, convalescent home, nursing home, or any 4061
other institution engaged in providing nursing care and related 4062
services in excess of a reasonable and customary charge for 4063
semiprivate accommodations, unless accommodations other than 4064
semiprivate accommodations are medically required. 4065

(2) For a victim described in division (L) (2) of this 4066
section, "allowable expense" means reasonable charges incurred 4067
for psychiatric care or counseling reasonably needed as a result 4068
of the criminally injurious conduct. No other type of expense is 4069
compensable under section 2743.51 to 2743.72 of the Revised Code 4070

for a victim of that type. 4071

(3) For a victim described in division (L)(3) of this 4072
section, "allowable expense" means work loss and reasonable 4073
charges incurred for psychiatric care or counseling reasonably 4074
needed as a result of the criminally injurious conduct. No other 4075
type of expense is compensable under sections 2743.51 to 2743.72 4076
of the Revised Code for a victim of that type. 4077

(4) A family member of a victim who died as a proximate 4078
result of criminally injurious conduct may be reimbursed as an 4079
allowable expense through the victim's application for wages 4080
lost and travel expenses incurred in order to attend criminal 4081
justice proceedings arising from the criminally injurious 4082
conduct. The cumulative allowable expense for wages lost and 4083
travel expenses incurred by a family member to attend criminal 4084
justice proceedings shall not exceed five hundred dollars for 4085
each family member of the victim and two thousand dollars in the 4086
aggregate for all family members of the victim. 4087

(5) For a victim described in division (L)(1) of this 4088
section, "allowable expense" includes both of the following: 4089

(a) Reasonable expenses and fees necessary to obtain a 4090
guardian's bond pursuant to section 2109.04 of the Revised Code 4091
when the bond is required to pay an award to a fiduciary on 4092
behalf of a minor or other incompetent; 4093

(b) Attorney's fees not exceeding one thousand dollars, at 4094
a rate not exceeding one hundred dollars per hour, incurred to 4095
successfully obtain a restraining order, custody order, or other 4096
order to physically separate a victim from an offender. 4097
Attorney's fees for the services described in this division may 4098
include an amount for reasonable travel time incurred to attend 4099

court hearings, not exceeding three hours' round-trip for each 4100
court hearing, assessed at a rate not exceeding thirty dollars 4101
per hour. 4102

(G) "Work loss" means loss of income from work that the 4103
injured person would have performed if the person had not been 4104
injured and expenses reasonably incurred by the person to obtain 4105
services in lieu of those the person would have performed for 4106
income, reduced by any income from substitute work actually 4107
performed by the person, or by income the person would have 4108
earned in available appropriate substitute work that the person 4109
was capable of performing but unreasonably failed to undertake. 4110

(H) "Replacement services loss" means expenses reasonably 4111
incurred in obtaining ordinary and necessary services in lieu of 4112
those the injured person would have performed, not for income, 4113
but for the benefit of the person's self or family, if the 4114
person had not been injured. 4115

(I) "Dependent's economic loss" means loss after a 4116
victim's death of contributions of things of economic value to 4117
the victim's dependents, not including services they would have 4118
received from the victim if the victim had not suffered the 4119
fatal injury, less expenses of the dependents avoided by reason 4120
of the victim's death. If a minor child of a victim is adopted 4121
after the victim's death, the minor child continues after the 4122
adoption to incur a dependent's economic loss as a result of the 4123
victim's death. If the surviving spouse of a victim remarries, 4124
the surviving spouse continues after the remarriage to incur a 4125
dependent's economic loss as a result of the victim's death. 4126

(J) "Dependent's replacement services loss" means loss 4127
reasonably incurred by dependents after a victim's death in 4128
obtaining ordinary and necessary services in lieu of those the 4129

victim would have performed for their benefit if the victim had 4130
not suffered the fatal injury, less expenses of the dependents 4131
avoided by reason of the victim's death and not subtracted in 4132
calculating the dependent's economic loss. If a minor child of a 4133
victim is adopted after the victim's death, the minor child 4134
continues after the adoption to incur a dependent's replacement 4135
services loss as a result of the victim's death. If the 4136
surviving spouse of a victim remarries, the surviving spouse 4137
continues after the remarriage to incur a dependent's 4138
replacement services loss as a result of the victim's death. 4139

(K) "Noneconomic detriment" means pain, suffering, 4140
inconvenience, physical impairment, or other nonpecuniary 4141
damage. 4142

(L) "Victim" means one of the following: 4143

(1) A person who suffers personal injury or death as a 4144
result of any of the following: 4145

(a) Criminally injurious conduct; 4146

(b) The good faith effort of any person to prevent 4147
criminally injurious conduct; 4148

(c) The good faith effort of any person to apprehend a 4149
person suspected of engaging in criminally injurious conduct. 4150

(2) A person who is an immediate family member of a victim 4151
of criminally injurious conduct that consists of a homicide, a 4152
sexual assault, domestic violence, or a severe and permanently 4153
incapacitating injury resulting in paraplegia or a similar life- 4154
altering condition, who requires psychiatric care or counseling 4155
as a result of the criminally injurious conduct; 4156

(3) A person who suffers trauma so severe that it impedes 4157

or prohibits a person from participating in normal daily 4158
activities and who is either of the following: 4159

(a) A family member of a victim of criminally injurious 4160
conduct that consists of a homicide, or a family member of a 4161
victim who, as a result of criminally injurious conduct, has 4162
sustained a severe and permanently incapacitating injury 4163
resulting in paraplegia or a similar life-altering condition, 4164
and who can demonstrate either of the following by a 4165
preponderance of the evidence: 4166

(i) The person witnessed the criminally injurious conduct. 4167

(ii) The person arrived at the crime scene in its 4168
immediate aftermath. 4169

(b) An immediate family member who is a caretaker of a 4170
dependent victim of criminally injurious conduct that consists 4171
of a sexual assault. 4172

(M) "Contributory misconduct" means any conduct of the 4173
claimant or of the victim through whom the claimant claims an 4174
award of reparations that is unlawful or intentionally tortious 4175
and to which all of the following apply: 4176

(1) The conduct occurred at the time of the criminally 4177
injurious conduct that is the basis of the claim. 4178

(2) The conduct itself caused or posed a substantial and 4179
imminent threat of causing serious physical harm or death to 4180
another. 4181

(3) The conduct instigated or proximately caused the 4182
criminally injurious conduct that is the basis of the claim. 4183

(N) (1) "Funeral expense" means any reasonable charges that 4184
are not in excess of seven thousand five hundred dollars per 4185

funeral and that are incurred for expenses directly related to a 4186
victim's funeral, cremation, or burial and any wages lost or 4187
travel expenses incurred by a family member of a victim in order 4188
to attend the victim's funeral, cremation, or burial. 4189

(2) An award for funeral expenses shall be applied first 4190
to expenses directly related to the victim's funeral, cremation, 4191
or burial. An award for wages lost or travel expenses incurred 4192
by a family member of the victim shall not exceed five hundred 4193
dollars for each family member and shall not exceed in the 4194
aggregate the difference between seven thousand five hundred 4195
dollars and expenses that are reimbursed by the program and that 4196
are directly related to the victim's funeral, cremation, or 4197
burial. 4198

(O) "Unemployment benefits loss" means a loss of 4199
unemployment benefits pursuant to Chapter 4141. of the Revised 4200
Code when the loss arises solely from the inability of a victim 4201
to meet the able to work, available for suitable work, or the 4202
actively seeking suitable work requirements of division (A) (4) 4203
(a) of section 4141.29 of the Revised Code. 4204

(P) "OVI violation" means any of the following: 4205

(1) A violation of section 4511.19 of the Revised Code, of 4206
any municipal ordinance prohibiting the operation of a vehicle 4207
while under the influence of alcohol, a drug of abuse, or a 4208
combination of them, or of any municipal ordinance prohibiting 4209
the operation of a vehicle with a prohibited concentration of 4210
alcohol, a controlled substance, or a metabolite of a controlled 4211
substance in the whole blood, blood serum or plasma, breath, or 4212
urine; 4213

(2) A violation of division (A) (1) of section 2903.06 of 4214

the Revised Code; 4215

(3) A violation of division (A) (2), (3), or (4) of section 4216
2903.06 of the Revised Code or of a municipal ordinance 4217
substantially similar to any of those divisions, if the offender 4218
was under the influence of alcohol, a drug of abuse, or a 4219
combination of them, at the time of the commission of the 4220
offense; 4221

(4) For purposes of any person described in division (A) 4222
(2) of this section, a violation of any law of the state, 4223
district, territory, or foreign country in which the criminally 4224
injurious conduct occurred, if that law is substantially similar 4225
to a violation described in division (P) (1) or (2) of this 4226
section or if that law is substantially similar to a violation 4227
described in division (P) (3) of this section and the offender 4228
was under the influence of alcohol, a drug of abuse, or a 4229
combination of them, at the time of the commission of the 4230
offense. 4231

(Q) "Pendency of the claim" for an original reparations 4232
application or supplemental reparations application means the 4233
period of time from the date the criminally injurious conduct 4234
upon which the application is based occurred until the date a 4235
final decision, order, or judgment concerning that original 4236
reparations application or supplemental reparations application 4237
is issued. 4238

(R) "Terrorism" means any activity to which all of the 4239
following apply: 4240

(1) The activity involves a violent act or an act that is 4241
dangerous to human life. 4242

(2) The act described in division (R) (1) of this section 4243

is committed within the territorial jurisdiction of the United 4244
States and is a violation of the criminal laws of the United 4245
States, this state, or any other state or the act described in 4246
division (R) (1) of this section is committed outside the 4247
territorial jurisdiction of the United States and would be a 4248
violation of the criminal laws of the United States, this state, 4249
or any other state if committed within the territorial 4250
jurisdiction of the United States. 4251

(3) The activity appears to be intended to do any of the 4252
following: 4253

(a) Intimidate or coerce a civilian population; 4254

(b) Influence the policy of any government by intimidation 4255
or coercion; 4256

(c) Affect the conduct of any government by assassination 4257
or kidnapping. 4258

(4) The activity occurs primarily outside the territorial 4259
jurisdiction of the United States or transcends the national 4260
boundaries of the United States in terms of the means by which 4261
the activity is accomplished, the person or persons that the 4262
activity appears intended to intimidate or coerce, or the area 4263
or locale in which the perpetrator or perpetrators of the 4264
activity operate or seek asylum. 4265

(S) "Transcends the national boundaries of the United 4266
States" means occurring outside the territorial jurisdiction of 4267
the United States in addition to occurring within the 4268
territorial jurisdiction of the United States. 4269

(T) "Cost of crime scene cleanup" means any of the 4270
following: 4271

(1) The replacement cost for items of clothing removed 4272
from a victim in order to make an assessment of possible 4273
physical harm or to treat physical harm; 4274

(2) Reasonable and necessary costs of cleaning the scene 4275
and repairing, for the purpose of personal security, property 4276
damaged at the scene where the criminally injurious conduct 4277
occurred, not to exceed seven hundred fifty dollars in the 4278
aggregate per claim. 4279

(U) "Cost of evidence replacement" means costs for 4280
replacement of property confiscated for evidentiary purposes 4281
related to the criminally injurious conduct, not to exceed seven 4282
hundred fifty dollars in the aggregate per claim. 4283

(V) "Provider" means any person who provides a victim or 4284
claimant with a product, service, or accommodations that are an 4285
allowable expense or a funeral expense. 4286

(W) "Immediate family member" means an individual who 4287
resided in the same permanent household as a victim at the time 4288
of the criminally injurious conduct and who is related to the 4289
victim by affinity or consanguinity. 4290

(X) "Family member" means an individual who is related to 4291
a victim by affinity or consanguinity. 4292

Sec. 2901.02. As used in the Revised Code: 4293

(A) Offenses include aggravated murder, murder, felonies 4294
of the first, second, third, fourth, and fifth degree, 4295
misdemeanors of the first, second, third, and fourth degree, 4296
minor misdemeanors, and offenses not specifically classified. 4297

(B) ~~Aggravated murder when the indictment or the count in~~ 4298
~~the indictment charging aggravated murder contains one or more~~ 4299

~~specifications of aggravating circumstances listed in division
(A) of section 2929.04 of Revised Code, and any other offense
for which death may be imposed as a penalty, is a capital
offense.~~

~~(C)~~ Aggravated murder and murder are felonies. 4304

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

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

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

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

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

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

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

(1) Intimidate or coerce a civilian population;

(2) Influence the policy of any government by intimidation 4328
or coercion; 4329

(3) Affect the conduct of any government by the specified 4330
offense. 4331

(B) (1) Whoever violates this section is guilty of 4332
terrorism. 4333

(2) Except as otherwise provided in divisions (B) (3) and 4334
(4) of this section, terrorism is an offense one degree higher 4335
than the most serious underlying specified offense the defendant 4336
committed. 4337

(3) Except as provided in division (B) (6) of this section, 4338
if the most serious underlying specified offense the defendant 4339
committed is a felony of the first degree or murder, the person 4340
shall be sentenced to life imprisonment without parole. 4341

(4) Except as provided in division (B) (6) of this section, 4342
if the most serious underlying specified offense the defendant 4343
committed is aggravated murder, the offender shall be sentenced 4344
to life imprisonment without parole ~~or death pursuant to~~ 4345
~~sections 2929.02 to 2929.06 of the Revised Code.~~ 4346

(5) Section 2909.25 of the Revised Code applies regarding 4347
an offender who is convicted of or pleads guilty to a violation 4348
of this section. 4349

(6) If a person commits a violation of this section, if 4350
the most serious underlying specified offense the offender 4351
committed is aggravated murder, murder, or a felony of the first 4352
degree, and if the offender was under eighteen years of age at 4353
the time of the violation, the offender shall not be sentenced 4354
to life imprisonment without parole, but instead the offender 4355
shall be sentenced to an indefinite prison term of thirty years 4356

to life. 4357

Sec. 2929.02. (A) ~~Whoever~~ Except as provided in division 4358
(C) of this section, whoever is convicted of or pleads guilty to 4359
aggravated murder in violation of section 2903.01 of the Revised 4360
Code shall ~~suffer death or be imprisoned for life, as determined~~ 4361
~~pursuant to sections 2929.022, 2929.03, and 2929.04 of the~~ 4362
~~Revised Code~~ sentenced to life imprisonment with parole 4363
eligibility after serving twenty full years of imprisonment, 4364
life imprisonment with parole eligibility after serving thirty 4365
full years of imprisonment, or life imprisonment without parole, 4366
except that no person who is not found to have been eighteen 4367
years of age or older at the time of the commission of the 4368
offense shall be imprisoned for life without parole, ~~and that no~~ 4369
~~person who raises the matter of age pursuant to section 2929.023~~ 4370
~~of the Revised Code and who is not found to have been eighteen~~ 4371
~~years of age or older at the time of the commission of the~~ 4372
~~offense and no person who raises the matter of the person's~~ 4373
~~serious mental illness at the time of the alleged commission of~~ 4374
~~the offense pursuant to section 2929.025 of the Revised Code and~~ 4375
~~is found under that section to be ineligible for a sentence of~~ 4376
~~death due to serious mental illness shall suffer death. In~~ 4377
~~addition, the offender may be fined an amount fixed by the~~ 4378
~~court, but not more than twenty-five thousand dollars.~~ 4379

~~(B) (1)~~ (B) Except as otherwise provided in division ~~(B) (2)~~ 4380
~~or (3)~~ (C) of this section, whoever is convicted of or pleads 4381
guilty to murder in violation of section 2903.02 of the Revised 4382
Code shall be imprisoned for an indefinite term of fifteen years 4383
to life. 4384

~~(2)~~ (C) (1) Except as otherwise provided in division ~~(B) (3)~~ 4385
(C) (2) of this section, if a person is convicted of or pleads 4386

guilty to aggravated murder in violation of section 2903.01 of 4387
the Revised Code or to murder in violation of section 2903.02 of 4388
the Revised Code, the victim of the offense was less than 4389
thirteen years of age, and the offender also is convicted of or 4390
pleads guilty to a sexual motivation specification that was 4391
included in the indictment, count in the indictment, or 4392
information charging the offense, the court shall impose an 4393
indefinite prison term of thirty years to life pursuant to 4394
division (B) (3) of section 2971.03 of the Revised Code. 4395

~~(3)~~(2) Except as otherwise provided in this division, if a 4396
person is convicted of or pleads guilty to aggravated murder in 4397
violation of section 2903.01 of the Revised Code or to murder in 4398
violation of section 2903.02 of the Revised Code and also is 4399
convicted of or pleads guilty to a sexual motivation 4400
specification and a sexually violent predator specification that 4401
were included in the indictment, count in the indictment, or 4402
information that charged the murder, the court shall impose upon 4403
the offender a term of life imprisonment without parole that 4404
shall be served pursuant to section 2971.03 of the Revised Code. 4405
If the offender was under eighteen years of age at the time of 4406
the offense, the court shall impose an indefinite prison term of 4407
thirty years to life. 4408

~~(4)~~(D) In addition to the prison term imposed under this 4409
section, the offender may be fined an amount fixed by the court, 4410
but not more than twenty-five thousand dollars for aggravated 4411
murder or fifteen thousand dollars for murder. 4412

~~(C)~~(E) If an offender receives or received a sentence of 4413
life imprisonment without parole, a sentence of life 4414
imprisonment, a definite sentence, or a sentence to an 4415
indefinite prison term under this chapter for an aggravated 4416

murder or murder that was committed when the offender was under 4417
eighteen years of age, the offender's parole eligibility shall 4418
be determined under section 2967.132 of the Revised Code. 4419

~~(D)~~(F) The court shall not impose a fine or fines for 4420
aggravated murder or murder ~~which~~that, in the aggregate and to 4421
the extent not suspended by the court, exceeds the amount ~~which~~- 4422
that the offender is or will be able to pay by the method and 4423
within the time allowed without undue hardship to the offender 4424
or to the dependents of the offender, or will prevent the 4425
offender from making reparation for the victim's wrongful death. 4426

~~(E)~~~~(1)~~(G) (1) In addition to any other sanctions imposed 4427
for a violation of section 2903.01 or 2903.02 of the Revised 4428
Code, if the offender used a motor vehicle as the means to 4429
commit the violation, the court shall impose upon the offender a 4430
class two suspension of the offender's driver's license, 4431
commercial driver's license, temporary instruction permit, 4432
probationary license, or nonresident operating privilege as 4433
specified in division (A) (2) of section 4510.02 of the Revised 4434
Code. 4435

(2) As used in division ~~(E)~~(G) of this section, "motor 4436
vehicle" has the same meaning as in section 4501.01 of the 4437
Revised Code. 4438

Sec. 2929.13. (A) Except as provided in division (E), (F), 4439
or (G) of this section and unless a specific sanction is 4440
required to be imposed or is precluded from being imposed 4441
pursuant to law, a court that imposes a sentence upon an 4442
offender for a felony may impose any sanction or combination of 4443
sanctions on the offender that are provided in sections 2929.14 4444
to 2929.18 of the Revised Code. 4445

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

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

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

(2) For a third or fourth degree felony OVI offense for 4477
which sentence is imposed under division (G) (2) of this section, 4478
an additional prison term as described in division (B) (4) of 4479
section 2929.14 of the Revised Code or a community control 4480
sanction as described in division (G) (2) of this section. 4481

(B) (1) (a) Except as provided in division (B) (1) (b) of this 4482
section, if an offender is convicted of or pleads guilty to a 4483
felony of the fourth or fifth degree that is not an offense of 4484
violence or that is a qualifying assault offense, the court 4485
shall sentence the offender to a community control sanction or 4486
combination of community control sanctions if all of the 4487
following apply: 4488

(i) The offender previously has not been convicted of or 4489
pleaded guilty to a felony offense. 4490

(ii) The most serious charge against the offender at the 4491
time of sentencing is a felony of the fourth or fifth degree. 4492

(iii) The offender previously has not been convicted of or 4493
pleaded guilty to a misdemeanor offense of violence that the 4494
offender committed within two years prior to the offense for 4495
which sentence is being imposed. 4496

(b) The court has discretion to impose a prison term upon 4497
an offender who is convicted of or pleads guilty to a felony of 4498
the fourth or fifth degree that is not an offense of violence or 4499
that is a qualifying assault offense if any of the following 4500
apply: 4501

(i) The offender committed the offense while having a 4502
firearm on or about the offender's person or under the 4503
offender's control. 4504

(ii) If the offense is a qualifying assault offense, the 4505

offender caused serious physical harm to another person while 4506
committing the offense, and, if the offense is not a qualifying 4507
assault offense, the offender caused physical harm to another 4508
person while committing the offense. 4509

(iii) The offender violated a term of the conditions of 4510
bond as set by the court. 4511

(iv) The offense is a sex offense that is a fourth or 4512
fifth degree felony violation of any provision of Chapter 2907. 4513
of the Revised Code. 4514

(v) In committing the offense, the offender attempted to 4515
cause or made an actual threat of physical harm to a person with 4516
a deadly weapon. 4517

(vi) In committing the offense, the offender attempted to 4518
cause or made an actual threat of physical harm to a person, and 4519
the offender previously was convicted of an offense that caused 4520
physical harm to a person. 4521

(vii) The offender held a public office or position of 4522
trust, and the offense related to that office or position; the 4523
offender's position obliged the offender to prevent the offense 4524
or to bring those committing it to justice; or the offender's 4525
professional reputation or position facilitated the offense or 4526
was likely to influence the future conduct of others. 4527

(viii) The offender committed the offense for hire or as 4528
part of an organized criminal activity. 4529

(ix) The offender at the time of the offense was serving, 4530
or the offender previously had served, a prison term. 4531

(x) The offender committed the offense while under a 4532
community control sanction, while on probation, or while 4533

released from custody on a bond or personal recognizance. 4534

(c) A sentencing court may impose an additional penalty 4535
under division (B) of section 2929.15 of the Revised Code upon 4536
an offender sentenced to a community control sanction under 4537
division (B)(1)(a) of this section if the offender violates the 4538
conditions of the community control sanction, violates a law, or 4539
leaves the state without the permission of the court or the 4540
offender's probation officer. 4541

(2) If division (B)(1) of this section does not apply, 4542
except as provided in division (E), (F), or (G) of this section, 4543
in determining whether to impose a prison term as a sanction for 4544
a felony of the fourth or fifth degree, the sentencing court 4545
shall comply with the purposes and principles of sentencing 4546
under section 2929.11 of the Revised Code and with section 4547
2929.12 of the Revised Code. 4548

(C) Except as provided in division (D), (E), (F), or (G) 4549
of this section, in determining whether to impose a prison term 4550
as a sanction for a felony of the third degree or a felony drug 4551
offense that is a violation of a provision of Chapter 2925. of 4552
the Revised Code and that is specified as being subject to this 4553
division for purposes of sentencing, the sentencing court shall 4554
comply with the purposes and principles of sentencing under 4555
section 2929.11 of the Revised Code and with section 2929.12 of 4556
the Revised Code. 4557

(D)(1) Except as provided in division (E) or (F) of this 4558
section, for a felony of the first or second degree, for a 4559
felony drug offense that is a violation of any provision of 4560
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4561
presumption in favor of a prison term is specified as being 4562
applicable, and for a violation of division (A)(4) or (B) of 4563

section 2907.05 of the Revised Code for which a presumption in 4564
favor of a prison term is specified as being applicable, it is 4565
presumed that a prison term is necessary in order to comply with 4566
the purposes and principles of sentencing under section 2929.11 4567
of the Revised Code. Division (D) (2) of this section does not 4568
apply to a presumption established under this division for a 4569
violation of division (A) (4) of section 2907.05 of the Revised 4570
Code. 4571

(2) Notwithstanding the presumption established under 4572
division (D) (1) of this section for the offenses listed in that 4573
division other than a violation of division (A) (4) or (B) of 4574
section 2907.05 of the Revised Code, the sentencing court may 4575
impose a community control sanction or a combination of 4576
community control sanctions instead of a prison term on an 4577
offender for a felony of the first or second degree or for a 4578
felony drug offense that is a violation of any provision of 4579
Chapter 2925., 3719., or 4729. of the Revised Code for which a 4580
presumption in favor of a prison term is specified as being 4581
applicable if it makes both of the following findings: 4582

(a) A community control sanction or a combination of 4583
community control sanctions would adequately punish the offender 4584
and protect the public from future crime, because the applicable 4585
factors under section 2929.12 of the Revised Code indicating a 4586
lesser likelihood of recidivism outweigh the applicable factors 4587
under that section indicating a greater likelihood of 4588
recidivism. 4589

(b) A community control sanction or a combination of 4590
community control sanctions would not demean the seriousness of 4591
the offense, because one or more factors under section 2929.12 4592
of the Revised Code that indicate that the offender's conduct 4593

was less serious than conduct normally constituting the offense 4594
are applicable, and they outweigh the applicable factors under 4595
that section that indicate that the offender's conduct was more 4596
serious than conduct normally constituting the offense. 4597

(E) (1) Except as provided in division (F) of this section, 4598
for any drug offense that is a violation of any provision of 4599
Chapter 2925. of the Revised Code and that is a felony of the 4600
third, fourth, or fifth degree, the applicability of a 4601
presumption under division (D) of this section in favor of a 4602
prison term or of division (B) or (C) of this section in 4603
determining whether to impose a prison term for the offense 4604
shall be determined as specified in section 2925.02, 2925.03, 4605
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 4606
2925.36, or 2925.37 of the Revised Code, whichever is applicable 4607
regarding the violation. 4608

(2) If an offender who was convicted of or pleaded guilty 4609
to a felony violates the conditions of a community control 4610
sanction imposed for the offense solely by reason of producing 4611
positive results on a drug test, the court, as punishment for 4612
the violation of the sanction, shall not order that the offender 4613
be imprisoned unless the court determines on the record either 4614
of the following: 4615

(a) The offender had been ordered as a sanction for the 4616
felony to participate in a drug treatment program, in a drug 4617
education program, or in narcotics anonymous or a similar 4618
program, and the offender continued to use illegal drugs after a 4619
reasonable period of participation in the program. 4620

(b) The imprisonment of the offender for the violation is 4621
consistent with the purposes and principles of sentencing set 4622
forth in section 2929.11 of the Revised Code. 4623

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

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under ~~sections~~ section 2929.02 to 2929.06, section 2929.14, section 2929.142, or ~~section~~ 2971.03 of the Revised Code and except as specifically provided in section 2929.20, or section 2967.191 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code shall not reduce the term or terms 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 for any of the following offenses:

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

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted,

the offender would have been guilty of a violation of division 4654
(A) (1) (b) of section 2907.02 of the Revised Code and would be 4655
sentenced under section 2971.03 of the Revised Code; 4656

(3) Gross sexual imposition or sexual battery, if the 4657
victim is less than thirteen years of age and if any of the 4658
following applies: 4659

(a) Regarding gross sexual imposition, the offender 4660
previously was convicted of or pleaded guilty to rape, the 4661
former offense of felonious sexual penetration, gross sexual 4662
imposition, or sexual battery, and the victim of the previous 4663
offense was less than thirteen years of age; 4664

(b) Regarding gross sexual imposition, the offense was 4665
committed on or after August 3, 2006, and evidence other than 4666
the testimony of the victim was admitted in the case 4667
corroborating the violation. 4668

(c) Regarding sexual battery, either of the following 4669
applies: 4670

(i) The offense was committed prior to August 3, 2006, the 4671
offender previously was convicted of or pleaded guilty to rape, 4672
the former offense of felonious sexual penetration, or sexual 4673
battery, and the victim of the previous offense was less than 4674
thirteen years of age. 4675

(ii) The offense was committed on or after August 3, 2006. 4676

(4) A felony violation of section 2903.04, 2903.06, 4677
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 4678
or 2923.132 of the Revised Code if the section requires the 4679
imposition of a prison term; 4680

(5) A first, second, or third degree felony drug offense 4681

for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 4682
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 4683
or 4729.99 of the Revised Code, whichever is applicable 4684
regarding the violation, requires the imposition of a mandatory 4685
prison term; 4686

(6) Any offense that is a first or second degree felony 4687
and that is not set forth in division (F) (1), (2), (3), or (4) 4688
of this section, if the offender previously was convicted of or 4689
pleaded guilty to aggravated murder, murder, any first or second 4690
degree felony, or an offense under an existing or former law of 4691
this state, another state, or the United States that is or was 4692
substantially equivalent to one of those offenses; 4693

(7) Any offense that is a third degree felony and either 4694
is a violation of section 2903.04 of the Revised Code or an 4695
attempt to commit a felony of the second degree that is an 4696
offense of violence and involved an attempt to cause serious 4697
physical harm to a person or that resulted in serious physical 4698
harm to a person if the offender previously was convicted of or 4699
pleaded guilty to any of the following offenses: 4700

(a) Aggravated murder, murder, involuntary manslaughter, 4701
rape, felonious sexual penetration as it existed under section 4702
2907.12 of the Revised Code prior to September 3, 1996, a felony 4703
of the first or second degree that resulted in the death of a 4704
person or in physical harm to a person, or complicity in or an 4705
attempt to commit any of those offenses; 4706

(b) An offense under an existing or former law of this 4707
state, another state, or the United States that is or was 4708
substantially equivalent to an offense listed in division (F) (7) 4709
(a) of this section that resulted in the death of a person or in 4710
physical harm to a person. 4711

(8) Any offense, other than a violation of section 2923.12 4712
of the Revised Code, that is a felony, if the offender had a 4713
firearm on or about the offender's person or under the 4714
offender's control while committing the felony, with respect to 4715
a portion of the sentence imposed pursuant to division (B) (1) (a) 4716
of section 2929.14 of the Revised Code for having the firearm; 4717

(9) Any offense of violence that is a felony, if the 4718
offender wore or carried body armor while committing the felony 4719
offense of violence, with respect to the portion of the sentence 4720
imposed pursuant to division (B) (1) (d) of section 2929.14 of the 4721
Revised Code for wearing or carrying the body armor; 4722

(10) Corrupt activity in violation of section 2923.32 of 4723
the Revised Code when the most serious offense in the pattern of 4724
corrupt activity that is the basis of the offense is a felony of 4725
the first degree; 4726

(11) Any violent sex offense or designated homicide, 4727
assault, or kidnapping offense if, in relation to that offense, 4728
the offender is adjudicated a sexually violent predator; 4729

(12) A violation of division (A) (1) or (2) of section 4730
2921.36 of the Revised Code, or a violation of division (C) of 4731
that section involving an item listed in division (A) (1) or (2) 4732
of that section, if the offender is an officer or employee of 4733
the department of rehabilitation and correction; 4734

(13) A violation of division (A) (1) or (2) of section 4735
2903.06 of the Revised Code if the victim of the offense is a 4736
peace officer, as defined in section 2935.01 of the Revised 4737
Code, or an investigator of the bureau of criminal 4738
identification and investigation, as defined in section 2903.11 4739
of the Revised Code, with respect to the portion of the sentence 4740

imposed pursuant to division (B) (5) of section 2929.14 of the Revised Code; 4741
4742

(14) A violation of division (A) (1) or (2) of section 4743
2903.06 of the Revised Code if the offender has been convicted 4744
of or pleaded guilty to three or more violations of division (A) 4745
of section 4511.19 of the Revised Code or an equivalent offense, 4746
as defined in section 2941.1415 of the Revised Code, or three or 4747
more violations of any combination of those offenses, with 4748
respect to the portion of the sentence imposed pursuant to 4749
division (B) (6) of section 2929.14 of the Revised Code; 4750

(15) Kidnapping, in the circumstances specified in section 4751
2971.03 of the Revised Code and when no other provision of 4752
division (F) of this section applies; 4753

(16) Kidnapping, abduction, compelling prostitution, 4754
promoting prostitution, engaging in a pattern of corrupt 4755
activity, a violation of division (A) (1) or (2) of section 4756
2907.323 of the Revised Code that involves a minor, or 4757
endangering children in violation of division (B) (1), (2), (3), 4758
(4), or (5) of section 2919.22 of the Revised Code, if the 4759
offender is convicted of or pleads guilty to a specification as 4760
described in section 2941.1422 of the Revised Code that was 4761
included in the indictment, count in the indictment, or 4762
information charging the offense; 4763

(17) A felony violation of division (A) or (B) of section 4764
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 4765
that section, and division (D) (6) of that section, require the 4766
imposition of a prison term; 4767

(18) A felony violation of section 2903.11, 2903.12, or 4768
2903.13 of the Revised Code, if the victim of the offense was a 4769

woman that the offender knew was pregnant at the time of the 4770
violation, with respect to a portion of the sentence imposed 4771
pursuant to division (B) (8) of section 2929.14 of the Revised 4772
Code; 4773

(19) (a) Any violent felony offense if the offender is a 4774
violent career criminal and had a firearm on or about the 4775
offender's person or under the offender's control during the 4776
commission of the violent felony offense and displayed or 4777
brandished the firearm, indicated that the offender possessed a 4778
firearm, or used the firearm to facilitate the offense, with 4779
respect to the portion of the sentence imposed under division 4780
(K) of section 2929.14 of the Revised Code. 4781

(b) As used in division (F) (19) (a) of this section, 4782
"violent career criminal" and "violent felony offense" have the 4783
same meanings as in section 2923.132 of the Revised Code. 4784

(20) Any violation of division (A) (1) of section 2903.11 4785
of the Revised Code if the offender used an accelerant in 4786
committing the violation and the serious physical harm to 4787
another or another's unborn caused by the violation resulted in 4788
a permanent, serious disfigurement or permanent, substantial 4789
incapacity or any violation of division (A) (2) of that section 4790
if the offender used an accelerant in committing the violation, 4791
the violation caused physical harm to another or another's 4792
unborn, and the physical harm resulted in a permanent, serious 4793
disfigurement or permanent, substantial incapacity, with respect 4794
to a portion of the sentence imposed pursuant to division (B) (9) 4795
of section 2929.14 of the Revised Code. The provisions of this 4796
division and of division (D) (2) of section 2903.11, divisions 4797
(B) (9) and (C) (6) of section 2929.14, and section 2941.1425 of 4798
the Revised Code shall be known as "Judy's Law." 4799

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

(22) A felony violation of section 2925.03, 2925.05, or 2925.11 of the Revised Code, 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 the offender 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 was included in the indictment, count in the indictment, or information charging the offense, with respect to the portion of the sentence imposed under division (B) (11) of section 2929.14 of the Revised Code.

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

(1) If the offender is being sentenced for a fourth degree felony OVI offense and if the offender has not been convicted of and has not pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code, the court may impose upon the offender a mandatory term of local incarceration of sixty days or one hundred twenty days as specified in division (G) (1) (d) of section 4511.19 of the Revised Code. The court shall not reduce the term pursuant to

section 2929.20, division (A) (2) or (3) of section 2967.193 or 4830
2967.194, or any other provision of the Revised Code. The court 4831
that imposes a mandatory term of local incarceration under this 4832
division shall specify whether the term is to be served in a 4833
jail, a community-based correctional facility, a halfway house, 4834
or an alternative residential facility, and the offender shall 4835
serve the term in the type of facility specified by the court. A 4836
mandatory term of local incarceration imposed under division (G) 4837
(1) of this section is not subject to any other Revised Code 4838
provision that pertains to a prison term except as provided in 4839
division (A) (1) of this section. 4840

(2) If the offender is being sentenced for a third degree 4841
felony OVI offense, or if the offender is being sentenced for a 4842
fourth degree felony OVI offense and the court does not impose a 4843
mandatory term of local incarceration under division (G) (1) of 4844
this section, the court shall impose upon the offender a 4845
mandatory prison term of one, two, three, four, or five years if 4846
the offender also is convicted of or also pleads guilty to a 4847
specification of the type described in section 2941.1413 of the 4848
Revised Code or shall impose upon the offender a mandatory 4849
prison term of sixty days or one hundred twenty days as 4850
specified in division (G) (1) (d) or (e) of section 4511.19 of the 4851
Revised Code if the offender has not been convicted of and has 4852
not pleaded guilty to a specification of that type. The court 4853
shall not reduce the term pursuant to section 2929.20, division 4854
(A) (2) or (3) of section 2967.193 or 2967.194, or any other 4855
provision of the Revised Code. The offender shall serve the 4856
one-, two-, three-, four-, or five-year mandatory prison term 4857
consecutively to and prior to the prison term imposed for the 4858
underlying offense and consecutively to any other mandatory 4859
prison term imposed in relation to the offense. In no case shall 4860

an offender who once has been sentenced to a mandatory term of 4861
local incarceration pursuant to division (G)(1) of this section 4862
for a fourth degree felony OVI offense be sentenced to another 4863
mandatory term of local incarceration under that division for 4864
any violation of division (A) of section 4511.19 of the Revised 4865
Code. In addition to the mandatory prison term described in 4866
division (G)(2) of this section, the court may sentence the 4867
offender to a community control sanction under section 2929.16 4868
or 2929.17 of the Revised Code, but the offender shall serve the 4869
prison term prior to serving the community control sanction. The 4870
department of rehabilitation and correction may place an 4871
offender sentenced to a mandatory prison term under this 4872
division in an intensive program prison established pursuant to 4873
section 5120.033 of the Revised Code if the department gave the 4874
sentencing judge prior notice of its intent to place the 4875
offender in an intensive program prison established under that 4876
section and if the judge did not notify the department that the 4877
judge disapproved the placement. Upon the establishment of the 4878
initial intensive program prison pursuant to section 5120.033 of 4879
the Revised Code that is privately operated and managed by a 4880
contractor pursuant to a contract entered into under section 4881
9.06 of the Revised Code, both of the following apply: 4882

(a) The department of rehabilitation and correction shall 4883
make a reasonable effort to ensure that a sufficient number of 4884
offenders sentenced to a mandatory prison term under this 4885
division are placed in the privately operated and managed prison 4886
so that the privately operated and managed prison has full 4887
occupancy. 4888

(b) Unless the privately operated and managed prison has 4889
full occupancy, the department of rehabilitation and correction 4890
shall not place any offender sentenced to a mandatory prison 4891

term under this division in any intensive program prison 4892
established pursuant to section 5120.033 of the Revised Code 4893
other than the privately operated and managed prison. 4894

(H) If an offender is being sentenced for a sexually 4895
oriented offense or child-victim oriented offense that is a 4896
felony committed on or after January 1, 1997, the judge shall 4897
require the offender to submit to a DNA specimen collection 4898
procedure pursuant to section 2901.07 of the Revised Code. 4899

(I) If an offender is being sentenced for a sexually 4900
oriented offense or a child-victim oriented offense committed on 4901
or after January 1, 1997, the judge shall include in the 4902
sentence a summary of the offender's duties imposed under 4903
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 4904
Code and the duration of the duties. The judge shall inform the 4905
offender, at the time of sentencing, of those duties and of 4906
their duration. If required under division (A) (2) of section 4907
2950.03 of the Revised Code, the judge shall perform the duties 4908
specified in that section, or, if required under division (A) (6) 4909
of section 2950.03 of the Revised Code, the judge shall perform 4910
the duties specified in that division. 4911

(J) (1) Except as provided in division (J) (2) of this 4912
section, when considering sentencing factors under this section 4913
in relation to an offender who is convicted of or pleads guilty 4914
to an attempt to commit an offense in violation of section 4915
2923.02 of the Revised Code, the sentencing court shall consider 4916
the factors applicable to the felony category of the violation 4917
of section 2923.02 of the Revised Code instead of the factors 4918
applicable to the felony category of the offense attempted. 4919

(2) When considering sentencing factors under this section 4920
in relation to an offender who is convicted of or pleads guilty 4921

to an attempt to commit a drug abuse offense for which the 4922
penalty is determined by the amount or number of unit doses of 4923
the controlled substance involved in the drug abuse offense, the 4924
sentencing court shall consider the factors applicable to the 4925
felony category that the drug abuse offense attempted would be 4926
if that drug abuse offense had been committed and had involved 4927
an amount or number of unit doses of the controlled substance 4928
that is within the next lower range of controlled substance 4929
amounts than was involved in the attempt. 4930

(K) As used in this section: 4931

(1) "Community addiction services provider" has the same 4932
meaning as in section 5119.01 of the Revised Code. 4933

(2) "Drug abuse offense" has the same meaning as in 4934
section 2925.01 of the Revised Code. 4935

(3) "Minor drug possession offense" has the same meaning 4936
as in section 2925.11 of the Revised Code. 4937

(4) "Qualifying assault offense" means a violation of 4938
section 2903.13 of the Revised Code for which the penalty 4939
provision in division (C) (8) (b) or (C) (9) (b) of that section 4940
applies. 4941

(L) At the time of sentencing an offender for any sexually 4942
oriented offense, if the offender is a tier III sex 4943
offender/child-victim offender relative to that offense and the 4944
offender does not serve a prison term or jail term, the court 4945
may require that the offender be monitored by means of a global 4946
positioning device. If the court requires such monitoring, the 4947
cost of monitoring shall be borne by the offender. If the 4948
offender is indigent, the cost of compliance shall be paid by 4949
the crime victims reparations fund. 4950

Sec. 2929.14. (A) Except as provided in division (B) (1), 4951
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (B) (9), 4952
(B) (10), (B) (11), (E), (G), (H), (J), or (K) of this section or 4953
in division (D) (6) of section 2919.25 of the Revised Code and 4954
except in relation to an offense for which a sentence of ~~death-~~ 4955
~~or~~-life imprisonment is to be imposed, if the court imposing a 4956
sentence upon an offender for a felony elects or is required to 4957
impose a prison term on the offender pursuant to this chapter, 4958
the court shall impose a prison term that shall be one of the 4959
following: 4960

(1) (a) For a felony of the first degree committed on or 4961
after March 22, 2019, the prison term shall be an indefinite 4962
prison term with a stated minimum term selected by the court of 4963
three, four, five, six, seven, eight, nine, ten, or eleven years 4964
and a maximum term that is determined pursuant to section 4965
2929.144 of the Revised Code, except that if the section that 4966
criminalizes the conduct constituting the felony specifies a 4967
different minimum term or penalty for the offense, the specific 4968
language of that section shall control in determining the 4969
minimum term or otherwise sentencing the offender but the 4970
minimum term or sentence imposed under that specific language 4971
shall be considered for purposes of the Revised Code as if it 4972
had been imposed under this division. 4973

(b) For a felony of the first degree committed prior to 4974
March 22, 2019, the prison term shall be a definite prison term 4975
of three, four, five, six, seven, eight, nine, ten, or eleven 4976
years. 4977

(2) (a) For a felony of the second degree committed on or 4978
after March 22, 2019, the prison term shall be an indefinite 4979
prison term with a stated minimum term selected by the court of 4980

two, three, four, five, six, seven, or eight years and a maximum 4981
term that is determined pursuant to section 2929.144 of the 4982
Revised Code, except that if the section that criminalizes the 4983
conduct constituting the felony specifies a different minimum 4984
term or penalty for the offense, the specific language of that 4985
section shall control in determining the minimum term or 4986
otherwise sentencing the offender but the minimum term or 4987
sentence imposed under that specific language shall be 4988
considered for purposes of the Revised Code as if it had been 4989
imposed under this division. 4990

(b) For a felony of the second degree committed prior to 4991
March 22, 2019, the prison term shall be a definite term of two, 4992
three, four, five, six, seven, or eight years. 4993

(3) (a) For a felony of the third degree that is a 4994
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 4995
2907.05, 2907.321, 2907.322, 2907.323, 2919.25, or 3795.04 of 4996
the Revised Code, that is a violation of division (A) of section 4997
4511.19 of the Revised Code if the offender previously has been 4998
convicted of or pleaded guilty to a violation of division (A) of 4999
that section that was a felony, that is a violation of section 5000
2911.02 or 2911.12 of the Revised Code if the offender 5001
previously has been convicted of or pleaded guilty in two or 5002
more separate proceedings to two or more violations of section 5003
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, or 5004
that is a violation of division (B) of section 2921.331 of the 5005
Revised Code if division (C) (5) of that section applies, the 5006
prison term shall be a definite term of twelve, eighteen, 5007
twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty- 5008
four, or sixty months. 5009

(b) For a felony of the third degree that is not an 5010

offense for which division (A) (3) (a) of this section applies, 5011
the prison term shall be a definite term of nine, twelve, 5012
eighteen, twenty-four, thirty, or thirty-six months. 5013

(4) For a felony of the fourth degree, the prison term 5014
shall be a definite term of six, seven, eight, nine, ten, 5015
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 5016
or eighteen months. 5017

(5) For a felony of the fifth degree, the prison term 5018
shall be a definite term of six, seven, eight, nine, ten, 5019
eleven, or twelve months. 5020

(B) (1) (a) Except as provided in division (B) (1) (e) of this 5021
section, if an offender who is convicted of or pleads guilty to 5022
a felony also is convicted of or pleads guilty to a 5023
specification of the type described in section 2941.141, 5024
2941.144, or 2941.145 of the Revised Code, the court shall 5025
impose on the offender one of the following prison terms: 5026

(i) A prison term of six years if the specification is of 5027
the type described in division (A) of section 2941.144 of the 5028
Revised Code that charges the offender with having a firearm 5029
that is an automatic firearm or that was equipped with a firearm 5030
muffler or suppressor on or about the offender's person or under 5031
the offender's control while committing the offense; 5032

(ii) A prison term of three years if the specification is 5033
of the type described in division (A) of section 2941.145 of the 5034
Revised Code that charges the offender with having a firearm on 5035
or about the offender's person or under the offender's control 5036
while committing the offense and displaying the firearm, 5037
brandishing the firearm, indicating that the offender possessed 5038
the firearm, or using it to facilitate the offense; 5039

(iii) A prison term of one year if the specification is of 5040
the type described in division (A) of section 2941.141 of the 5041
Revised Code that charges the offender with having a firearm on 5042
or about the offender's person or under the offender's control 5043
while committing the offense; 5044

(iv) A prison term of nine years if the specification is 5045
of the type described in division (D) of section 2941.144 of the 5046
Revised Code that charges the offender with having a firearm 5047
that is an automatic firearm or that was equipped with a firearm 5048
muffler or suppressor on or about the offender's person or under 5049
the offender's control while committing the offense and 5050
specifies that the offender previously has been convicted of or 5051
pleaded guilty to a specification of the type described in 5052
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 5053
the Revised Code; 5054

(v) A prison term of fifty-four months if the 5055
specification is of the type described in division (D) of 5056
section 2941.145 of the Revised Code that charges the offender 5057
with having a firearm on or about the offender's person or under 5058
the offender's control while committing the offense and 5059
displaying the firearm, brandishing the firearm, indicating that 5060
the offender possessed the firearm, or using the firearm to 5061
facilitate the offense and that the offender previously has been 5062
convicted of or pleaded guilty to a specification of the type 5063
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 5064
2941.1412 of the Revised Code; 5065

(vi) A prison term of eighteen months if the specification 5066
is of the type described in division (D) of section 2941.141 of 5067
the Revised Code that charges the offender with having a firearm 5068
on or about the offender's person or under the offender's 5069

control while committing the offense and that the offender 5070
previously has been convicted of or pleaded guilty to a 5071
specification of the type described in section 2941.141, 5072
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 5073

(b) If a court imposes a prison term on an offender under 5074
division (B) (1) (a) of this section, the prison term shall not be 5075
reduced pursuant to section 2929.20, division (A) (2) or (3) of 5076
section 2967.193 or 2967.194, or any other provision of Chapter 5077
2967. or Chapter 5120. of the Revised Code. Except as provided 5078
in division (B) (1) (g) of this section, a court shall not impose 5079
more than one prison term on an offender under division (B) (1) 5080
(a) of this section for felonies committed as part of the same 5081
act or transaction. 5082

(c) (i) Except as provided in division (B) (1) (e) of this 5083
section, if an offender who is convicted of or pleads guilty to 5084
a violation of section 2923.161 of the Revised Code or to a 5085
felony that includes, as an essential element, purposely or 5086
knowingly causing or attempting to cause the death of or 5087
physical harm to another, also is convicted of or pleads guilty 5088
to a specification of the type described in division (A) of 5089
section 2941.146 of the Revised Code that charges the offender 5090
with committing the offense by discharging a firearm from a 5091
motor vehicle other than a manufactured home, the court, after 5092
imposing a prison term on the offender for the violation of 5093
section 2923.161 of the Revised Code or for the other felony 5094
offense under division (A), (B) (2), or (B) (3) of this section, 5095
shall impose an additional prison term of five years upon the 5096
offender that shall not be reduced pursuant to section 2929.20, 5097
division (A) (2) or (3) of section 2967.193 or 2967.194, or any 5098
other provision of Chapter 2967. or Chapter 5120. of the Revised 5099
Code. 5100

(ii) Except as provided in division (B) (1) (e) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in division (C) of section 2941.146 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle other than a manufactured home and that the offender previously has been convicted of or pleaded guilty to a specification of the type described in section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the violation of section 2923.161 of the Revised Code or for the other felony offense under division (A), (B) (2), or (3) of this section, shall impose an additional prison term of ninety months upon the offender that 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.

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

(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1411 of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony offense of violence, the court shall impose on the offender an additional prison term of two years. The prison term so imposed 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) (1) (d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (B) (1) (a) or (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. 5163
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(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. 5165
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(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, after imposing a prison term on the offender for the felony offense under division (A), (B) (2), or (B) (3) of this section, shall impose an additional prison term of seven years upon the offender that 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. 5168
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(ii) 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 (B) 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, 5184
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and that the offender previously has been convicted of or 5193
pleaded guilty to a specification of the type described in 5194
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 5195
the Revised Code, the court, after imposing a prison term on the 5196
offender for the felony offense under division (A), (B) (2), or 5197
(3) of this section, shall impose an additional prison term of 5198
one hundred twenty-six months upon the offender that shall not 5199
be reduced pursuant to section 2929.20, division (A) (2) or (3) 5200
of section 2967.193 or 2967.194, or any other provision of 5201
Chapter 2967. or 5120. of the Revised Code. 5202

(iii) If an offender is convicted of or pleads guilty to 5203
two or more felonies that include, as an essential element, 5204
causing or attempting to cause the death or physical harm to 5205
another and also is convicted of or pleads guilty to a 5206
specification of the type described under division (B) (1) (f) of 5207
this section in connection with two or more of the felonies of 5208
which the offender is convicted or to which the offender pleads 5209
guilty, the sentencing court shall impose on the offender the 5210
prison term specified under division (B) (1) (f) of this section 5211
for each of two of the specifications of which the offender is 5212
convicted or to which the offender pleads guilty and, in its 5213
discretion, also may impose on the offender the prison term 5214
specified under that division for any or all of the remaining 5215
specifications. If a court imposes an additional prison term on 5216
an offender under division (B) (1) (f) of this section relative to 5217
an offense, the court shall not impose a prison term under 5218
division (B) (1) (a) or (c) of this section relative to the same 5219
offense. 5220

(g) If an offender is convicted of or pleads guilty to two 5221
or more felonies, if one or more of those felonies are 5222
aggravated murder, murder, attempted aggravated murder, 5223

attempted murder, aggravated robbery, felonious assault, or 5224
rape, and if the offender is convicted of or pleads guilty to a 5225
specification of the type described under division (B) (1) (a) of 5226
this section in connection with two or more of the felonies, the 5227
sentencing court shall impose on the offender the prison term 5228
specified under division (B) (1) (a) of this section for each of 5229
the two most serious specifications of which the offender is 5230
convicted or to which the offender pleads guilty and, in its 5231
discretion, also may impose on the offender the prison term 5232
specified under that division for any or all of the remaining 5233
specifications. 5234

(2) (a) If division (B) (2) (b) of this section does not 5235
apply, the court may impose on an offender, in addition to the 5236
longest prison term authorized or required for the offense or, 5237
for offenses for which division (A) (1) (a) or (2) (a) of this 5238
section applies, in addition to the longest minimum prison term 5239
authorized or required for the offense, an additional definite 5240
prison term of one, two, three, four, five, six, seven, eight, 5241
nine, or ten years if all of the following criteria are met: 5242

(i) The offender is convicted of or pleads guilty to a 5243
specification of the type described in section 2941.149 of the 5244
Revised Code that the offender is a repeat violent offender. 5245

(ii) The offense of which the offender currently is 5246
convicted or to which the offender currently pleads guilty is 5247
aggravated murder and the court does not impose a sentence of 5248
~~death or~~ life imprisonment without parole, murder, terrorism and 5249
the court does not impose a sentence of life imprisonment 5250
without parole, any felony of the first degree that is an 5251
offense of violence and the court does not impose a sentence of 5252
life imprisonment without parole, or any felony of the second 5253

degree that is an offense of violence and the trier of fact 5254
finds that the offense involved an attempt to cause or a threat 5255
to cause serious physical harm to a person or resulted in 5256
serious physical harm to a person. 5257

(iii) The court imposes the longest prison term for the 5258
offense or the longest minimum prison term for the offense, 5259
whichever is applicable, that is not life imprisonment without 5260
parole. 5261

(iv) The court finds that the prison terms imposed 5262
pursuant to division (B) (2) (a) (iii) of this section and, if 5263
applicable, division (B) (1) or (3) of this section are 5264
inadequate to punish the offender and protect the public from 5265
future crime, because the applicable factors under section 5266
2929.12 of the Revised Code indicating a greater likelihood of 5267
recidivism outweigh the applicable factors under that section 5268
indicating a lesser likelihood of recidivism. 5269

(v) The court finds that the prison terms imposed pursuant 5270
to division (B) (2) (a) (iii) of this section and, if applicable, 5271
division (B) (1) or (3) of this section are demeaning to the 5272
seriousness of the offense, because one or more of the factors 5273
under section 2929.12 of the Revised Code indicating that the 5274
offender's conduct is more serious than conduct normally 5275
constituting the offense are present, and they outweigh the 5276
applicable factors under that section indicating that the 5277
offender's conduct is less serious than conduct normally 5278
constituting the offense. 5279

(b) The court shall impose on an offender the longest 5280
prison term authorized or required for the offense or, for 5281
offenses for which division (A) (1) (a) or (2) (a) of this section 5282
applies, the longest minimum prison term authorized or required 5283

for the offense, and shall impose on the offender an additional 5284
definite prison term of one, two, three, four, five, six, seven, 5285
eight, nine, or ten years if all of the following criteria are 5286
met: 5287

(i) The offender is convicted of or pleads guilty to a 5288
specification of the type described in section 2941.149 of the 5289
Revised Code that the offender is a repeat violent offender. 5290

(ii) The offender within the preceding twenty years has 5291
been convicted of or pleaded guilty to three or more offenses 5292
described in division (CC)(1) of section 2929.01 of the Revised 5293
Code, including all offenses described in that division of which 5294
the offender is convicted or to which the offender pleads guilty 5295
in the current prosecution and all offenses described in that 5296
division of which the offender previously has been convicted or 5297
to which the offender previously pleaded guilty, whether 5298
prosecuted together or separately. 5299

(iii) The offense or offenses of which the offender 5300
currently is convicted or to which the offender currently pleads 5301
guilty is aggravated murder and the court does not impose a 5302
sentence of ~~death or~~ life imprisonment without parole, murder, 5303
terrorism and the court does not impose a sentence of life 5304
imprisonment without parole, any felony of the first degree that 5305
is an offense of violence and the court does not impose a 5306
sentence of life imprisonment without parole, or any felony of 5307
the second degree that is an offense of violence and the trier 5308
of fact finds that the offense involved an attempt to cause or a 5309
threat to cause serious physical harm to a person or resulted in 5310
serious physical harm to a person. 5311

(c) For purposes of division (B)(2)(b) of this section, 5312
two or more offenses committed at the same time or as part of 5313

the same act or event shall be considered one offense, and that 5314
one offense shall be the offense with the greatest penalty. 5315

(d) A sentence imposed under division (B)(2)(a) or (b) of 5316
this section shall not be reduced pursuant to section 2929.20, 5317
division (A)(2) or (3) of section 2967.193 or 2967.194, or any 5318
other provision of Chapter 2967. or Chapter 5120. of the Revised 5319
Code. The offender shall serve an additional prison term imposed 5320
under division (B)(2)(a) or (b) of this section consecutively to 5321
and prior to the prison term imposed for the underlying offense. 5322

(e) When imposing a sentence pursuant to division (B)(2) 5323
(a) or (b) of this section, the court shall state its findings 5324
explaining the imposed sentence. 5325

(3) Except when an offender commits a violation of section 5326
2903.01 or 2907.02 of the Revised Code and the penalty imposed 5327
for the violation is life imprisonment or commits a violation of 5328
section 2903.02 of the Revised Code, if the offender commits a 5329
violation of section 2925.03 or 2925.11 of the Revised Code and 5330
that section classifies the offender as a major drug offender, 5331
if the offender commits a violation of section 2925.05 of the 5332
Revised Code and division (E)(1) of that section classifies the 5333
offender as a major drug offender, if the offender commits a 5334
felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 5335
3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, 5336
division (C) or (D) of section 3719.172, division (E) of section 5337
4729.51, or division (J) of section 4729.54 of the Revised Code 5338
that includes the sale, offer to sell, or possession of a 5339
schedule I or II controlled substance, with the exception of 5340
marihuana, and the court imposing sentence upon the offender 5341
finds that the offender is guilty of a specification of the type 5342
described in division (A) of section 2941.1410 of the Revised 5343

Code charging that the offender is a major drug offender, if the 5344
court imposing sentence upon an offender for a felony finds that 5345
the offender is guilty of corrupt activity with the most serious 5346
offense in the pattern of corrupt activity being a felony of the 5347
first degree, or if the offender is guilty of an attempted 5348
violation of section 2907.02 of the Revised Code and, had the 5349
offender completed the violation of section 2907.02 of the 5350
Revised Code that was attempted, the offender would have been 5351
subject to a sentence of life imprisonment or life imprisonment 5352
without parole for the violation of section 2907.02 of the 5353
Revised Code, the court shall impose upon the offender for the 5354
felony violation a mandatory prison term determined as described 5355
in this division that cannot be reduced pursuant to section 5356
2929.20, division (A)(2) or (3) of section 2967.193 or 2967.194, 5357
or any other provision of Chapter 2967. or 5120. of the Revised 5358
Code. The mandatory prison term shall be the maximum definite 5359
prison term prescribed in division (A)(1)(b) of this section for 5360
a felony of the first degree, except that for offenses for which 5361
division (A)(1)(a) of this section applies, the mandatory prison 5362
term shall be the longest minimum prison term prescribed in that 5363
division for the offense. 5364

(4) If the offender is being sentenced for a third or 5365
fourth degree felony OVI offense under division (G)(2) of 5366
section 2929.13 of the Revised Code, the sentencing court shall 5367
impose upon the offender a mandatory prison term in accordance 5368
with that division. In addition to the mandatory prison term, if 5369
the offender is being sentenced for a fourth degree felony OVI 5370
offense, the court, notwithstanding division (A)(4) of this 5371
section, may sentence the offender to a definite prison term of 5372
not less than six months and not more than thirty months, and if 5373
the offender is being sentenced for a third degree felony OVI 5374

offense, the sentencing court may sentence the offender to an 5375
additional prison term of any duration specified in division (A) 5376
(3) of this section. In either case, the additional prison term 5377
imposed shall be reduced by the sixty or one hundred twenty days 5378
imposed upon the offender as the mandatory prison term. The 5379
total of the additional prison term imposed under division (B) 5380
(4) of this section plus the sixty or one hundred twenty days 5381
imposed as the mandatory prison term shall equal a definite term 5382
in the range of six months to thirty months for a fourth degree 5383
felony OVI offense and shall equal one of the authorized prison 5384
terms specified in division (A) (3) of this section for a third 5385
degree felony OVI offense. If the court imposes an additional 5386
prison term under division (B) (4) of this section, the offender 5387
shall serve the additional prison term after the offender has 5388
served the mandatory prison term required for the offense. In 5389
addition to the mandatory prison term or mandatory and 5390
additional prison term imposed as described in division (B) (4) 5391
of this section, the court also may sentence the offender to a 5392
community control sanction under section 2929.16 or 2929.17 of 5393
the Revised Code, but the offender shall serve all of the prison 5394
terms so imposed prior to serving the community control 5395
sanction. 5396

If the offender is being sentenced for a fourth degree 5397
felony OVI offense under division (G) (1) of section 2929.13 of 5398
the Revised Code and the court imposes a mandatory term of local 5399
incarceration, the court may impose a prison term as described 5400
in division (A) (1) of that section. 5401

(5) If an offender is convicted of or pleads guilty to a 5402
violation of division (A) (1) or (2) of section 2903.06 of the 5403
Revised Code and also is convicted of or pleads guilty to a 5404
specification of the type described in section 2941.1414 of the 5405

Revised Code that charges that the victim of the offense is a 5406
peace officer, as defined in section 2935.01 of the Revised 5407
Code, an investigator of the bureau of criminal identification 5408
and investigation, as defined in section 2903.11 of the Revised 5409
Code, or a firefighter or emergency medical worker, both as 5410
defined in section 2941.1414 of the Revised Code, the court 5411
shall impose on the offender a prison term of five years. If a 5412
court imposes a prison term on an offender under division (B) (5) 5413
of this section, the prison term shall not be reduced pursuant 5414
to section 2929.20, division (A) (2) or (3) of section 2967.193 5415
or 2967.194, or any other provision of Chapter 2967. or Chapter 5416
5120. of the Revised Code. A court shall not impose more than 5417
one prison term on an offender under division (B) (5) of this 5418
section for felonies committed as part of the same act. 5419

(6) If an offender is convicted of or pleads guilty to a 5420
violation of division (A) (1) or (2) of section 2903.06 of the 5421
Revised Code and also is convicted of or pleads guilty to a 5422
specification of the type described in section 2941.1415 of the 5423
Revised Code that charges that the offender previously has been 5424
convicted of or pleaded guilty to three or more violations of 5425
division (A) of section 4511.19 of the Revised Code or an 5426
equivalent offense, as defined in section 2941.1415 of the 5427
Revised Code, or three or more violations of any combination of 5428
those offenses, the court shall impose on the offender a prison 5429
term of three years. If a court imposes a prison term on an 5430
offender under division (B) (6) of this section, the prison term 5431
shall not be reduced pursuant to section 2929.20, division (A) 5432
(2) or (3) of section 2967.193 or 2967.194, or any other 5433
provision of Chapter 2967. or Chapter 5120. of the Revised Code. 5434
A court shall not impose more than one prison term on an 5435
offender under division (B) (6) of this section for felonies 5436

committed as part of the same act. 5437

(7) (a) If an offender is convicted of or pleads guilty to 5438
a felony violation of section 2905.01, 2905.02, 2907.21, 5439
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323 5440
involving a minor, or division (B) (1), (2), (3), (4), or (5) of 5441
section 2919.22 of the Revised Code and also is convicted of or 5442
pleads guilty to a specification of the type described in 5443
section 2941.1422 of the Revised Code that charges that the 5444
offender knowingly committed the offense in furtherance of human 5445
trafficking, the court shall impose on the offender a mandatory 5446
prison term that is one of the following: 5447

(i) If the offense is a felony of the first degree, a 5448
definite prison term of not less than five years and not greater 5449
than eleven years, except that if the offense is a felony of the 5450
first degree committed on or after March 22, 2019, the court 5451
shall impose as the minimum prison term a mandatory term of not 5452
less than five years and not greater than eleven years; 5453

(ii) If the offense is a felony of the second or third 5454
degree, a definite prison term of not less than three years and 5455
not greater than the maximum prison term allowed for the offense 5456
by division (A) (2) (b) or (3) of this section, except that if the 5457
offense is a felony of the second degree committed on or after 5458
March 22, 2019, the court shall impose as the minimum prison 5459
term a mandatory term of not less than three years and not 5460
greater than eight years; 5461

(iii) If the offense is a felony of the fourth or fifth 5462
degree, a definite prison term that is the maximum prison term 5463
allowed for the offense by division (A) of section 2929.14 of 5464
the Revised Code. 5465

(b) The prison term imposed under division (B) (7) (a) of 5466
this section shall not be reduced pursuant to section 2929.20, 5467
division (A) (2) or (3) of section 2967.193 or 2967.194, or any 5468
other provision of Chapter 2967. of the Revised Code. A court 5469
shall not impose more than one prison term on an offender under 5470
division (B) (7) (a) of this section for felonies committed as 5471
part of the same act, scheme, or plan. 5472

(8) If an offender is convicted of or pleads guilty to a 5473
felony violation of section 2903.11, 2903.12, or 2903.13 of the 5474
Revised Code and also is convicted of or pleads guilty to a 5475
specification of the type described in section 2941.1423 of the 5476
Revised Code that charges that the victim of the violation was a 5477
woman whom the offender knew was pregnant at the time of the 5478
violation, notwithstanding the range prescribed in division (A) 5479
of this section as the definite prison term or minimum prison 5480
term for felonies of the same degree as the violation, the court 5481
shall impose on the offender a mandatory prison term that is 5482
either a definite prison term of six months or one of the prison 5483
terms prescribed in division (A) of this section for felonies of 5484
the same degree as the violation, except that if the violation 5485
is a felony of the first or second degree committed on or after 5486
March 22, 2019, the court shall impose as the minimum prison 5487
term under division (A) (1) (a) or (2) (a) of this section a 5488
mandatory term that is one of the terms prescribed in that 5489
division, whichever is applicable, for the offense. 5490

(9) (a) If an offender is convicted of or pleads guilty to 5491
a violation of division (A) (1) or (2) of section 2903.11 of the 5492
Revised Code and also is convicted of or pleads guilty to a 5493
specification of the type described in section 2941.1425 of the 5494
Revised Code, the court shall impose on the offender a mandatory 5495
prison term of six years if either of the following applies: 5496

(i) The violation is a violation of division (A) (1) of 5497
section 2903.11 of the Revised Code and the specification 5498
charges that the offender used an accelerant in committing the 5499
violation and the serious physical harm to another or to 5500
another's unborn caused by the violation resulted in a 5501
permanent, serious disfigurement or permanent, substantial 5502
incapacity; 5503

(ii) The violation is a violation of division (A) (2) of 5504
section 2903.11 of the Revised Code and the specification 5505
charges that the offender used an accelerant in committing the 5506
violation, that the violation caused physical harm to another or 5507
to another's unborn, and that the physical harm resulted in a 5508
permanent, serious disfigurement or permanent, substantial 5509
incapacity. 5510

(b) If a court imposes a prison term on an offender under 5511
division (B) (9) (a) of this section, the prison term shall not be 5512
reduced pursuant to section 2929.20, division (A) (2) or (3) of 5513
section 2967.193 or 2967.194, or any other provision of Chapter 5514
2967. or Chapter 5120. of the Revised Code. A court shall not 5515
impose more than one prison term on an offender under division 5516
(B) (9) of this section for felonies committed as part of the 5517
same act. 5518

(c) The provisions of divisions (B) (9) and (C) (6) of this 5519
section and of division (D) (2) of section 2903.11, division (F) 5520
(20) of section 2929.13, and section 2941.1425 of the Revised 5521
Code shall be known as "Judy's Law." 5522

(10) If an offender is convicted of or pleads guilty to a 5523
violation of division (A) of section 2903.11 of the Revised Code 5524
and also is convicted of or pleads guilty to a specification of 5525
the type described in section 2941.1426 of the Revised Code that 5526

charges that the victim of the offense suffered permanent 5527
disabling harm as a result of the offense and that the victim 5528
was under ten years of age at the time of the offense, 5529
regardless of whether the offender knew the age of the victim, 5530
the court shall impose upon the offender an additional definite 5531
prison term of six years. A prison term imposed on an offender 5532
under division (B) (10) of this section shall not be reduced 5533
pursuant to section 2929.20, division (A) (2) or (3) of section 5534
2967.193 or 2967.194, or any other provision of Chapter 2967. or 5535
Chapter 5120. of the Revised Code. If a court imposes an 5536
additional prison term on an offender under this division 5537
relative to a violation of division (A) of section 2903.11 of 5538
the Revised Code, the court shall not impose any other 5539
additional prison term on the offender relative to the same 5540
offense. 5541

(11) If an offender is convicted of or pleads guilty to a 5542
felony violation of section 2925.03 or 2925.05 of the Revised 5543
Code or a felony violation of section 2925.11 of the Revised 5544
Code for which division (C) (11) of that section applies in 5545
determining the sentence for the violation, if the drug involved 5546
in the violation is a fentanyl-related compound or a compound, 5547
mixture, preparation, or substance containing a fentanyl-related 5548
compound, and if the offender also is convicted of or pleads 5549
guilty to a specification of the type described in division (B) 5550
of section 2941.1410 of the Revised Code that charges that the 5551
offender is a major drug offender, in addition to any other 5552
penalty imposed for the violation, the court shall impose on the 5553
offender a mandatory prison term of three, four, five, six, 5554
seven, or eight years. If a court imposes a prison term on an 5555
offender under division (B) (11) of this section, the prison term 5556
shall not be reduced pursuant to section 2929.20, division (A) 5557

(2) or (3) of section 2967.193 or 2967.194, or any other 5558
provision of Chapter 2967. or 5120. of the Revised Code. A court 5559
shall not impose more than one prison term on an offender under 5560
division (B) (11) of this section for felonies committed as part 5561
of the same act. 5562

(C) (1) (a) Subject to division (C) (1) (b) of this section, 5563
if a mandatory prison term is imposed upon an offender pursuant 5564
to division (B) (1) (a) of this section for having a firearm on or 5565
about the offender's person or under the offender's control 5566
while committing a felony, if a mandatory prison term is imposed 5567
upon an offender pursuant to division (B) (1) (c) of this section 5568
for committing a felony specified in that division by 5569
discharging a firearm from a motor vehicle, or if both types of 5570
mandatory prison terms are imposed, the offender shall serve any 5571
mandatory prison term imposed under either division 5572
consecutively to any other mandatory prison term imposed under 5573
either division or under division (B) (1) (d) of this section, 5574
consecutively to and prior to any prison term imposed for the 5575
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 5576
this section or any other section of the Revised Code, and 5577
consecutively to any other prison term or mandatory prison term 5578
previously or subsequently imposed upon the offender. 5579

(b) If a mandatory prison term is imposed upon an offender 5580
pursuant to division (B) (1) (d) of this section for wearing or 5581
carrying body armor while committing an offense of violence that 5582
is a felony, the offender shall serve the mandatory term so 5583
imposed consecutively to any other mandatory prison term imposed 5584
under that division or under division (B) (1) (a) or (c) of this 5585
section, consecutively to and prior to any prison term imposed 5586
for the underlying felony under division (A), (B) (2), or (B) (3) 5587
of this section or any other section of the Revised Code, and 5588

consecutively to any other prison term or mandatory prison term 5589
previously or subsequently imposed upon the offender. 5590

(c) If a mandatory prison term is imposed upon an offender 5591
pursuant to division (B)(1)(f) of this section, the offender 5592
shall serve the mandatory prison term so imposed consecutively 5593
to and prior to any prison term imposed for the underlying 5594
felony under division (A), (B)(2), or (B)(3) of this section or 5595
any other section of the Revised Code, and consecutively to any 5596
other prison term or mandatory prison term previously or 5597
subsequently imposed upon the offender. 5598

(d) If a mandatory prison term is imposed upon an offender 5599
pursuant to division (B)(7) or (8) of this section, the offender 5600
shall serve the mandatory prison term so imposed consecutively 5601
to any other mandatory prison term imposed under that division 5602
or under any other provision of law and consecutively to any 5603
other prison term or mandatory prison term previously or 5604
subsequently imposed upon the offender. 5605

(e) If a mandatory prison term is imposed upon an offender 5606
pursuant to division (B)(11) of this section, the offender shall 5607
serve the mandatory prison term consecutively to any other 5608
mandatory prison term imposed under that division, consecutively 5609
to and prior to any prison term imposed for the underlying 5610
felony, and consecutively to any other prison term or mandatory 5611
prison term previously or subsequently imposed upon the 5612
offender. 5613

(2) If an offender who is an inmate in a jail, prison, or 5614
other residential detention facility violates section 2917.02, 5615
2917.03, or 2921.35 of the Revised Code or division (A)(1) or 5616
(2) of section 2921.34 of the Revised Code, if an offender who 5617
is under detention at a detention facility commits a felony 5618

violation of section 2923.131 of the Revised Code, or if an 5619
offender who is an inmate in a jail, prison, or other 5620
residential detention facility or is under detention at a 5621
detention facility commits another felony while the offender is 5622
an escapee in violation of division (A) (1) or (2) of section 5623
2921.34 of the Revised Code, any prison term imposed upon the 5624
offender for one of those violations shall be served by the 5625
offender consecutively to the prison term or term of 5626
imprisonment the offender was serving when the offender 5627
committed that offense and to any other prison term previously 5628
or subsequently imposed upon the offender. 5629

(3) If a prison term is imposed for a violation of 5630
division (B) of section 2911.01 of the Revised Code, a violation 5631
of division (A) of section 2913.02 of the Revised Code in which 5632
the stolen property is a firearm or dangerous ordnance, or a 5633
felony violation of division (B) of section 2921.331 of the 5634
Revised Code, the offender shall serve that prison term 5635
consecutively to any other prison term or mandatory prison term 5636
previously or subsequently imposed upon the offender. 5637

(4) If multiple prison terms are imposed on an offender 5638
for convictions of multiple offenses, the court may require the 5639
offender to serve the prison terms consecutively if the court 5640
finds that the consecutive service is necessary to protect the 5641
public from future crime or to punish the offender and that 5642
consecutive sentences are not disproportionate to the 5643
seriousness of the offender's conduct and to the danger the 5644
offender poses to the public, and if the court also finds any of 5645
the following: 5646

(a) The offender committed one or more of the multiple 5647
offenses while the offender was awaiting trial or sentencing, 5648

was under a sanction imposed pursuant to section 2929.16, 5649
2929.17, or 2929.18 of the Revised Code, or was under post- 5650
release control for a prior offense. 5651

(b) At least two of the multiple offenses were committed 5652
as part of one or more courses of conduct, and the harm caused 5653
by two or more of the multiple offenses so committed was so 5654
great or unusual that no single prison term for any of the 5655
offenses committed as part of any of the courses of conduct 5656
adequately reflects the seriousness of the offender's conduct. 5657

(c) The offender's history of criminal conduct 5658
demonstrates that consecutive sentences are necessary to protect 5659
the public from future crime by the offender. 5660

(5) If a mandatory prison term is imposed upon an offender 5661
pursuant to division (B) (5) or (6) of this section, the offender 5662
shall serve the mandatory prison term consecutively to and prior 5663
to any prison term imposed for the underlying violation of 5664
division (A) (1) or (2) of section 2903.06 of the Revised Code 5665
pursuant to division (A) of this section or section 2929.142 of 5666
the Revised Code. If a mandatory prison term is imposed upon an 5667
offender pursuant to division (B) (5) of this section, and if a 5668
mandatory prison term also is imposed upon the offender pursuant 5669
to division (B) (6) of this section in relation to the same 5670
violation, the offender shall serve the mandatory prison term 5671
imposed pursuant to division (B) (5) of this section 5672
consecutively to and prior to the mandatory prison term imposed 5673
pursuant to division (B) (6) of this section and consecutively to 5674
and prior to any prison term imposed for the underlying 5675
violation of division (A) (1) or (2) of section 2903.06 of the 5676
Revised Code pursuant to division (A) of this section or section 5677
2929.142 of the Revised Code. 5678

(6) If a mandatory prison term is imposed on an offender 5679
pursuant to division (B) (9) of this section, the offender shall 5680
serve the mandatory prison term consecutively to and prior to 5681
any prison term imposed for the underlying violation of division 5682
(A) (1) or (2) of section 2903.11 of the Revised Code and 5683
consecutively to and prior to any other prison term or mandatory 5684
prison term previously or subsequently imposed on the offender. 5685

(7) If a mandatory prison term is imposed on an offender 5686
pursuant to division (B) (10) of this section, the offender shall 5687
serve that mandatory prison term consecutively to and prior to 5688
any prison term imposed for the underlying felonious assault. 5689
Except as otherwise provided in division (C) of this section, 5690
any other prison term or mandatory prison term previously or 5691
subsequently imposed upon the offender may be served 5692
concurrently with, or consecutively to, the prison term imposed 5693
pursuant to division (B) (10) of this section. 5694

(8) Any prison term imposed for a violation of section 5695
2903.04 of the Revised Code that is based on a violation of 5696
section 2925.03 or 2925.11 of the Revised Code or on a violation 5697
of section 2925.05 of the Revised Code that is not funding of 5698
marihuana trafficking shall run consecutively to any prison term 5699
imposed for the violation of section 2925.03 or 2925.11 of the 5700
Revised Code or for the violation of section 2925.05 of the 5701
Revised Code that is not funding of marihuana trafficking. 5702

(9) When consecutive prison terms are imposed pursuant to 5703
division (C) (1), (2), (3), (4), (5), (6), (7), or (8) or 5704
division (H) (1) or (2) of this section, subject to division (C) 5705
(10) of this section, the term to be served is the aggregate of 5706
all of the terms so imposed. 5707

(10) When a court sentences an offender to a non-life 5708

felony indefinite prison term, any definite prison term or 5709
mandatory definite prison term previously or subsequently 5710
imposed on the offender in addition to that indefinite sentence 5711
that is required to be served consecutively to that indefinite 5712
sentence shall be served prior to the indefinite sentence. 5713

(11) If a court is sentencing an offender for a felony of 5714
the first or second degree, if division (A) (1) (a) or (2) (a) of 5715
this section applies with respect to the sentencing for the 5716
offense, and if the court is required under the Revised Code 5717
section that sets forth the offense or any other Revised Code 5718
provision to impose a mandatory prison term for the offense, the 5719
court shall impose the required mandatory prison term as the 5720
minimum term imposed under division (A) (1) (a) or (2) (a) of this 5721
section, whichever is applicable. 5722

(D) (1) If a court imposes a prison term, other than a term 5723
of life imprisonment, for a felony of the first degree, for a 5724
felony of the second degree, for a felony sex offense, or for a 5725
felony of the third degree that is an offense of violence and 5726
that is not a felony sex offense, it shall include in the 5727
sentence a requirement that the offender be subject to a period 5728
of post-release control after the offender's release from 5729
imprisonment, in accordance with section 2967.28 of the Revised 5730
Code. If a court imposes a sentence including a prison term of a 5731
type described in this division on or after July 11, 2006, the 5732
failure of a court to include a post-release control requirement 5733
in the sentence pursuant to this division does not negate, 5734
limit, or otherwise affect the mandatory period of post-release 5735
control that is required for the offender under division (B) of 5736
section 2967.28 of the Revised Code. Section 2929.191 of the 5737
Revised Code applies if, prior to July 11, 2006, a court imposed 5738
a sentence including a prison term of a type described in this 5739

division and failed to include in the sentence pursuant to this 5740
division a statement regarding post-release control. 5741

(2) If a court imposes a prison term for a felony of the 5742
third, fourth, or fifth degree that is not subject to division 5743
(D) (1) of this section, it shall include in the sentence a 5744
requirement that the offender be subject to a period of post- 5745
release control after the offender's release from imprisonment, 5746
in accordance with that division, if the parole board determines 5747
that a period of post-release control is necessary. Section 5748
2929.191 of the Revised Code applies if, prior to July 11, 2006, 5749
a court imposed a sentence including a prison term of a type 5750
described in this division and failed to include in the sentence 5751
pursuant to this division a statement regarding post-release 5752
control. 5753

(E) The court shall impose sentence upon the offender in 5754
accordance with section 2971.03 of the Revised Code, and Chapter 5755
2971. of the Revised Code applies regarding the prison term or 5756
term of life imprisonment without parole imposed upon the 5757
offender and the service of that term of imprisonment if any of 5758
the following apply: 5759

(1) A person is convicted of or pleads guilty to a violent 5760
sex offense or a designated homicide, assault, or kidnapping 5761
offense, and, in relation to that offense, the offender is 5762
adjudicated a sexually violent predator. 5763

(2) A person is convicted of or pleads guilty to a 5764
violation of division (A) (1) (b) of section 2907.02 of the 5765
Revised Code committed on or after January 2, 2007, and either 5766
the court does not impose a sentence of life without parole when 5767
authorized pursuant to division (B) of section 2907.02 of the 5768
Revised Code, or division (B) of section 2907.02 of the Revised 5769

Code provides that the court shall not sentence the offender 5770
pursuant to section 2971.03 of the Revised Code. 5771

(3) A person is convicted of or pleads guilty to attempted 5772
rape committed on or after January 2, 2007, and a specification 5773
of the type described in section 2941.1418, 2941.1419, or 5774
2941.1420 of the Revised Code. 5775

(4) A person is convicted of or pleads guilty to a 5776
violation of section 2905.01 of the Revised Code committed on or 5777
after January 1, 2008, and that section requires the court to 5778
sentence the offender pursuant to section 2971.03 of the Revised 5779
Code. 5780

(5) A person is convicted of or pleads guilty to 5781
aggravated murder committed on or after January 1, 2008, and 5782
division ~~(A) (2) (b) (ii) of section 2929.022, division (A) (1) (e),~~ 5783
~~(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1)~~ 5784
~~(a) (iv) of section 2929.03, or division (A) or (B) of section~~ 5785
~~2929.06 of the Revised Code~~ (C) of section 2929.02 of the 5786
Revised Code requires the court to sentence the offender 5787
pursuant to division (B) (3) of section 2971.03 of the Revised 5788
Code. 5789

(6) A person is convicted of or pleads guilty to murder 5790
committed on or after January 1, 2008, and division ~~(B) (2)~~ (C) (1) 5791
of section 2929.02 of the Revised Code requires the court to 5792
sentence the offender pursuant to section 2971.03 of the Revised 5793
Code. 5794

(F) If a person who has been convicted of or pleaded 5795
guilty to a felony is sentenced to a prison term or term of 5796
imprisonment under this section, ~~sections~~ section 2929.02 to 5797
~~2929.06 of the Revised Code, section 2929.142 of the Revised~~ 5798

~~Code, section or~~ 2971.03 of the Revised Code, or any other 5799
provision of law, section 5120.163 of the Revised Code applies 5800
regarding the person while the person is confined in a state 5801
correctional institution. 5802

(G) If an offender who is convicted of or pleads guilty to 5803
a felony that is an offense of violence also is convicted of or 5804
pleads guilty to a specification of the type described in 5805
section 2941.142 of the Revised Code that charges the offender 5806
with having committed the felony while participating in a 5807
criminal gang, the court shall impose upon the offender an 5808
additional prison term of one, two, or three years. 5809

(H) (1) If an offender who is convicted of or pleads guilty 5810
to aggravated murder, murder, or a felony of the first, second, 5811
or third degree that is an offense of violence also is convicted 5812
of or pleads guilty to a specification of the type described in 5813
section 2941.143 of the Revised Code that charges the offender 5814
with having committed the offense in a school safety zone or 5815
towards a person in a school safety zone, the court shall impose 5816
upon the offender an additional prison term of two years. The 5817
offender shall serve the additional two years consecutively to 5818
and prior to the prison term imposed for the underlying offense. 5819

(2) (a) If an offender is convicted of or pleads guilty to 5820
a felony violation of section 2907.22, 2907.24, 2907.241, or 5821
2907.25 of the Revised Code and to a specification of the type 5822
described in section 2941.1421 of the Revised Code and if the 5823
court imposes a prison term on the offender for the felony 5824
violation, the court may impose upon the offender an additional 5825
prison term as follows: 5826

(i) Subject to division (H) (2) (a) (ii) of this section, an 5827
additional prison term of one, two, three, four, five, or six 5828

months; 5829

(ii) If the offender previously has been convicted of or 5830
pleaded guilty to one or more felony or misdemeanor violations 5831
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 5832
the Revised Code and also was convicted of or pleaded guilty to 5833
a specification of the type described in section 2941.1421 of 5834
the Revised Code regarding one or more of those violations, an 5835
additional prison term of one, two, three, four, five, six, 5836
seven, eight, nine, ten, eleven, or twelve months. 5837

(b) In lieu of imposing an additional prison term under 5838
division (H)(2)(a) of this section, the court may directly 5839
impose on the offender a sanction that requires the offender to 5840
wear a real-time processing, continual tracking electronic 5841
monitoring device during the period of time specified by the 5842
court. The period of time specified by the court shall equal the 5843
duration of an additional prison term that the court could have 5844
imposed upon the offender under division (H)(2)(a) of this 5845
section. A sanction imposed under this division shall commence 5846
on the date specified by the court, provided that the sanction 5847
shall not commence until after the offender has served the 5848
prison term imposed for the felony violation of section 2907.22, 5849
2907.24, 2907.241, or 2907.25 of the Revised Code and any 5850
residential sanction imposed for the violation under section 5851
2929.16 of the Revised Code. A sanction imposed under this 5852
division shall be considered to be a community control sanction 5853
for purposes of section 2929.15 of the Revised Code, and all 5854
provisions of the Revised Code that pertain to community control 5855
sanctions shall apply to a sanction imposed under this division, 5856
except to the extent that they would by their nature be clearly 5857
inapplicable. The offender shall pay all costs associated with a 5858
sanction imposed under this division, including the cost of the 5859

use of the monitoring device. 5860

(I) At the time of sentencing, the court may recommend the 5861
offender for placement in a program of shock incarceration under 5862
section 5120.031 of the Revised Code or for placement in an 5863
intensive program prison under section 5120.032 of the Revised 5864
Code, disapprove placement of the offender in a program of shock 5865
incarceration or an intensive program prison of that nature, or 5866
make no recommendation on placement of the offender. In no case 5867
shall the department of rehabilitation and correction place the 5868
offender in a program or prison of that nature unless the 5869
department determines as specified in section 5120.031 or 5870
5120.032 of the Revised Code, whichever is applicable, that the 5871
offender is eligible for the placement. 5872

If the court disapproves placement of the offender in a 5873
program or prison of that nature, the department of 5874
rehabilitation and correction shall not place the offender in 5875
any program of shock incarceration or intensive program prison. 5876

If the court recommends placement of the offender in a 5877
program of shock incarceration or in an intensive program 5878
prison, and if the offender is subsequently placed in the 5879
recommended program or prison, the department shall notify the 5880
court of the placement and shall include with the notice a brief 5881
description of the placement. 5882

If the court recommends placement of the offender in a 5883
program of shock incarceration or in an intensive program prison 5884
and the department does not subsequently place the offender in 5885
the recommended program or prison, the department shall send a 5886
notice to the court indicating why the offender was not placed 5887
in the recommended program or prison. 5888

If the court does not make a recommendation under this 5889
division with respect to an offender and if the department 5890
determines as specified in section 5120.031 or 5120.032 of the 5891
Revised Code, whichever is applicable, that the offender is 5892
eligible for placement in a program or prison of that nature, 5893
the department shall screen the offender and determine if there 5894
is an available program of shock incarceration or an intensive 5895
program prison for which the offender is suited. If there is an 5896
available program of shock incarceration or an intensive program 5897
prison for which the offender is suited, the department shall 5898
notify the court of the proposed placement of the offender as 5899
specified in section 5120.031 or 5120.032 of the Revised Code 5900
and shall include with the notice a brief description of the 5901
placement. The court shall have ten days from receipt of the 5902
notice to disapprove the placement. 5903

(J) If a person is convicted of or pleads guilty to 5904
aggravated vehicular homicide in violation of division (A) (1) of 5905
section 2903.06 of the Revised Code and division (B) (2) (c) or 5906
(d) of that section applies, the person shall be sentenced 5907
pursuant to section 2929.142 of the Revised Code. 5908

(K) (1) The court shall impose an additional mandatory 5909
prison term of two, three, four, five, six, seven, eight, nine, 5910
ten, or eleven years on an offender who is convicted of or 5911
pleads guilty to a violent felony offense if the offender also 5912
is convicted of or pleads guilty to a specification of the type 5913
described in section 2941.1424 of the Revised Code that charges 5914
that the offender is a violent career criminal and had a firearm 5915
on or about the offender's person or under the offender's 5916
control while committing the presently charged violent felony 5917
offense and displayed or brandished the firearm, indicated that 5918
the offender possessed a firearm, or used the firearm to 5919

facilitate the offense. The offender shall serve the prison term 5920
imposed under this division consecutively to and prior to the 5921
prison term imposed for the underlying offense. The prison term 5922
shall not be reduced pursuant to section 2929.20, division (A) 5923
(2) or (3) of section 2967.193 or 2967.194, or any other 5924
provision of Chapter 2967. or 5120. of the Revised Code. A court 5925
may not impose more than one sentence under division (B) (2) (a) 5926
of this section and this division for acts committed as part of 5927
the same act or transaction. 5928

(2) As used in division (K) (1) of this section, "violent 5929
career criminal" and "violent felony offense" have the same 5930
meanings as in section 2923.132 of the Revised Code. 5931

(L) If an offender receives or received a sentence of life 5932
imprisonment without parole, a sentence of life imprisonment, a 5933
definite sentence, or a sentence to an indefinite prison term 5934
under this chapter for a felony offense that was committed when 5935
the offender was under eighteen years of age, the offender's 5936
parole eligibility shall be determined under section 2967.132 of 5937
the Revised Code. 5938

Sec. 2929.61. (A) Persons charged with an offense that was 5939
formerly a capital offense and that was committed prior to 5940
January 1, 1974, shall be prosecuted under the law as it existed 5941
at the time the offense was committed, and, if convicted, shall 5942
be imprisoned for life, except that whenever the statute under 5943
which any such person is prosecuted provides for a lesser 5944
penalty under the circumstances of the particular case, such 5945
lesser penalty shall be imposed. 5946

(B) Persons charged with an offense, other than an offense 5947
that was formerly a capital offense, that was committed prior to 5948
January 1, 1974, shall be prosecuted under the law as it existed 5949

at the time the offense was committed. Persons convicted or 5950
sentenced on or after January 1, 1974, for an offense committed 5951
prior to January 1, 1974, shall be sentenced according to the 5952
penalty for commission of the substantially equivalent offense 5953
under Amended Substitute House Bill 511 of the 109th General 5954
Assembly. If the offense for which sentence is being imposed 5955
does not have a substantial equivalent under that act, or if 5956
that act provides a more severe penalty than that originally 5957
prescribed for the offense of which the person is convicted, 5958
then sentence shall be imposed under the law as it existed prior 5959
to January 1, 1974. 5960

(C) Persons charged with an offense that is a felony of 5961
the third or fourth degree and that was committed on or after 5962
January 1, 1974, and before July 1, 1983, shall be prosecuted 5963
under the law as it existed at the time the offense was 5964
committed. Persons convicted or sentenced on or after July 1, 5965
1983, for an offense that is a felony of the third or fourth 5966
degree and that was committed on or after January 1, 1974, and 5967
before July 1, 1983, shall be notified by the court sufficiently 5968
in advance of sentencing that they may choose to be sentenced 5969
pursuant to either the law in effect at the time of the 5970
commission of the offense or the law in effect at the time of 5971
sentencing. This notice shall be written and shall include the 5972
differences between and possible effects of the alternative 5973
sentence forms and the effect of the person's refusal to choose. 5974
The person to be sentenced shall then inform the court in 5975
writing of the person's choice, and shall be sentenced 5976
accordingly. Any person choosing to be sentenced pursuant to the 5977
law in effect at the time of the commission of an offense that 5978
is a felony of the third or fourth degree shall then be eligible 5979
for parole, and this person cannot at a later date have the 5980

person's sentence converted to a definite sentence. If the 5981
person refuses to choose between the two possible sentences, the 5982
person shall be sentenced pursuant to the law in effect at the 5983
time of the commission of the offense. 5984

(D) Persons charged with an offense that was a felony of 5985
the first or second degree at the time it was committed, that 5986
was committed on or after January 1, 1974, and that was 5987
committed prior to July 1, 1983, shall be prosecuted for that 5988
offense and, if convicted, shall be sentenced under the law as 5989
it existed at the time the offense was committed. 5990

(E) Persons charged with an offense that is a felony of 5991
the first or second degree that was committed prior to ~~the~~ 5992
~~effective date~~ March 22, 2019, of this amendment shall be 5993
prosecuted for that offense and, if convicted, shall be 5994
sentenced under the law as it existed at the time the offense 5995
was committed. 5996

Sec. 2930.19. (A) (1) A victim, victim's representative, or 5997
victim's attorney, if applicable, or the prosecutor, on request 5998
of the victim, has standing as a matter of right to assert, or 5999
to challenge an order denying, the rights of the victim provided 6000
by law in any judicial or administrative proceeding. The trial 6001
court shall act promptly on a request to enforce, or on a 6002
challenge of an order denying, the rights of the victim. In any 6003
case, the trial court shall hear the matter within ten days of 6004
the assertion of the victim's rights. The reasons for any 6005
decision denying relief under this section shall be clearly 6006
stated on the record or in a judgment entry. 6007

(2) (a) If the trial court denies the relief sought under 6008
division (A) (1) of this section, the trial court shall do all of 6009
the following: 6010

(i) Provide the victim, the victim's representative, if applicable, the victim's attorney, if applicable, and the parties with notice of the decision and a copy of the judgment entry;

(ii) Provide the victim, the victim's representative, if applicable, and the victim's attorney, if applicable, with the following statement along with the judgment entry:

"NOTICE

The victim, the victim's attorney, if applicable, or the prosecutor on request of the victim, may appeal this decision or petition to the court of appeals for an extraordinary writ. If such an interlocutory appeal or extraordinary writ is sought while the case is still pending in the trial court, it shall be initiated no later than fourteen days after notice of the decision was provided to the victim by telephone or electronic mail to the latest telephone number or electronic mail address provided by the victim. The prosecutor or the prosecutor's designee shall provide the notice to the victim and the notice shall be memorialized in a manner sufficient to prove to the court the prosecutor or prosecutor's designee sent the notice. The court shall dismiss any such interlocutory appeal or petition as untimely if it does not comply with this fourteen-day limit."

(b) (i) If the court denies the relief sought, the victim or the victim's attorney, if applicable, or the prosecutor on request of the victim, may appeal or, if the victim has no remedy on appeal, petition the court of appeals or supreme court for an extraordinary writ, and the victim has standing to assert a right of limited appeal as it pertains to the decisions impacting the rights of the victim. An interlocutory appeal

filed under this section shall be filed not later than fourteen 6041
days after notice was provided to the victim as described in 6042
division (A)(1) of this section, and such an appeal divests the 6043
trial court of jurisdiction of the portion of the case 6044
implicating the victim's rights until the interlocutory appeal 6045
is resolved by the appellate court. 6046

(ii) Upon the filing of an interlocutory appeal, the trial 6047
court shall transmit those portions of the transcript necessary 6048
for consideration of the issues to be reviewed by the court of 6049
appeals within five business days. Once the transcript is 6050
received by the court of appeals, the party that initiated the 6051
appeal shall have eight days to file a merit brief. Once the 6052
merit brief is filed, the appellee shall have eight days to file 6053
a response brief. The court of appeals shall decide the entire 6054
appeal not later than thirty-five days after the appeal is 6055
filed. Notwithstanding these limits, the litigants, with the 6056
approval of the court, may stipulate to a different period of 6057
time for the briefing and issuance of the decision and judgment 6058
on the appeal. The victim, the victim's attorney, the 6059
prosecutor, or the defendant may notify the supreme court if a 6060
court of appeals has failed to issue a judgment in accordance 6061
with the stipulated period of time. Such notifications are 6062
public records. 6063

(iii) Nothing in this section shall be interpreted as 6064
applying to a direct appeal that is filed after the court 6065
sentences the defendant. A victim who wishes to appeal from an 6066
order that is final on its entry after the court sentences the 6067
defendant shall file the notice of appeal within thirty days of 6068
that entry. 6069

(c) If the victim or victim's attorney, if applicable, 6070

petitions for an extraordinary writ, the court of appeals or the 6071
supreme court shall enter an order establishing an expedited 6072
schedule for the filing of an answer, the submission of 6073
evidence, the filing of briefing by the litigants, and the entry 6074
of decision and judgment and shall place the petition on its 6075
accelerated calendar. The court of appeals or the supreme court 6076
shall immediately notify the trial court of the petition, and 6077
the trial court shall transmit to the court of appeals or the 6078
supreme court those portions of the transcript necessary for the 6079
consideration of the issues to be reviewed by the applicable 6080
appellate court within five business days of the filing of the 6081
appeal or petition. The court shall enter judgment within forty- 6082
five days after the petition for an extraordinary writ is filed. 6083
Notwithstanding these limits, the litigants, with the approval 6084
of the court, may stipulate to a different period of time for 6085
the briefing and issuance of the decision and judgment in the 6086
action. The victim, the victim's attorney, the prosecutor, or 6087
the defendant may notify the supreme court if a court of appeals 6088
has failed to issue a judgment in accordance with the stipulated 6089
period of time. Such notifications are a public record. 6090

(d) If any interlocutory appeal is pursued to the supreme 6091
court, the supreme court shall enter an order establishing an 6092
expedited schedule for its proceedings, including, as 6093
applicable, the filing of jurisdictional memoranda and ruling 6094
thereon, the transmission of the record, the filing of briefing 6095
by the litigants, oral argument if permitted, and the entry of 6096
decision and judgment and shall place the appeal on its 6097
accelerated calendar. The court shall enter judgment within 6098
sixty days after the appeal is filed. The supreme court shall 6099
immediately notify the trial court of the appeal, and the trial 6100
court shall transmit to the court of appeals or the supreme 6101

court those portions of the transcript necessary for 6102
consideration of the issues to be reviewed by the applicable 6103
appellate court within five business days of the filing of the 6104
appeal. Notwithstanding these limits, the litigants, with the 6105
approval of the court, may stipulate to a different period of 6106
time for the supreme court's proceedings and for the issuance of 6107
the supreme court's decision and judgment in the case. 6108

(e) Nothing in this division applies to a direct appeal 6109
that is filed by the victim after the court sentences the 6110
defendant. A victim who wishes to appeal from an appellate entry 6111
shall file the appropriate notice of appeal to the supreme court 6112
within thirty days of the entry. 6113

(B) (1) A victim of a criminal offense or delinquent act 6114
has the right to be represented by an attorney. Nothing in this 6115
section creates a right to an attorney at public expense for a 6116
victim. If a victim is represented by an attorney, the court 6117
shall notify the victim's attorney in the same manner in which 6118
the parties are notified under applicable law or rule. The 6119
victim's attorney shall be included in all bench conferences, 6120
meetings in chambers, and sidebars with the trial court that 6121
directly involve a decision implicating that victim's rights as 6122
enumerated in Ohio Constitution, Article I, Section 10a. Nothing 6123
in this section shall be construed as making a victim a party to 6124
the case. 6125

(2) A defendant has a right to respond and be represented 6126
by an attorney for appeals and writs the victim, the victim's 6127
attorney, if applicable, or the prosecutor may file pursuant to 6128
this section. An indigent defendant has the right to appointed 6129
counsel for appeals and writs filed pursuant to this section. 6130
If, as an indigent person, a defendant is unable to employ 6131

counsel, the defendant is entitled to have counsel provided 6132
pursuant to Chapter 120. of the Revised Code. The court shall 6133
notify the defendant and the defendant's attorney in the same 6134
manner that the parties are notified under applicable law or 6135
rule. 6136

(C) The failure of a public official or public agency or 6137
the public official's or public agency's designee to comply with 6138
the requirements of this chapter does not give rise to a claim 6139
for damages against that public official or public agency or 6140
that public official's or public agency's designee, except that 6141
a public agency as an employer may be held responsible for a 6142
violation of section 2930.18 of the Revised Code. 6143

(D) The failure of any person or entity to provide a 6144
right, privilege, or notice to a victim under this chapter does 6145
not constitute grounds for declaring a mistrial or new trial, 6146
for setting aside a conviction, sentence, adjudication, or 6147
disposition, or for granting postconviction release to a 6148
defendant or alleged juvenile offender. 6149

~~(E) If there is a conflict between a provision in this 6150
chapter and a specific statute governing the procedure in a case 6151
involving a capital offense, the specific statute supersedes the 6152
provision in this chapter. 6153~~

~~(F) A defendant or juvenile offender may not raise the 6154
failure to afford a right to a victim as error in any legal 6155
argument to provide an advantage to that defendant or juvenile 6156
offender in any motion, including a dispositive motion, motion 6157
for a mistrial, motion for new trial, or motion to have a 6158
conviction, sentence, or disposition set aside, in any petition 6159
for post-conviction relief, or in any assignment of error on 6160
appeal. 6161~~

~~(G)~~(F) If the victim of a criminal offense or delinquent act is incarcerated in a state or local correctional facility or is in the legal custody of the department of youth services, the victim's rights under this chapter may be modified by court order to prevent any security risk, hardship, or undue burden upon a public official or public agency with a duty under this chapter.

~~(H)~~(G) As used in this section, "post-conviction release" means judicial release, early release, and parole, but does not mean relief pursuant to a federal petition in habeas corpus.

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

At the hearing, the accused has the right to be represented by counsel and, if the accused is indigent, to have

counsel appointed. The judge shall afford the accused an 6192
opportunity to testify, to present witnesses and other 6193
information, and to cross-examine witnesses who appear at the 6194
hearing. The rules concerning admissibility of evidence in 6195
criminal trials do not apply to the presentation and 6196
consideration of information at the hearing. Regardless of 6197
whether the hearing is being held on the motion of the 6198
prosecuting attorney or on the court's own motion, the state has 6199
the burden of proving that the proof is evident or the 6200
presumption great that the accused committed the offense with 6201
which the accused is charged, of proving that the accused poses 6202
a substantial risk of serious physical harm to any person or to 6203
the community, and of proving that no release conditions will 6204
reasonably assure the safety of that person and the community. 6205

The judge may reopen the hearing at any time before trial 6206
if the judge finds that information exists that was not known to 6207
the movant at the time of the hearing and that that information 6208
has a material bearing on whether bail should be denied. If a 6209
municipal court or county court enters an order denying bail, a 6210
judge of the court of common pleas having jurisdiction over the 6211
case may continue that order or may hold a hearing pursuant to 6212
this section to determine whether to continue that order. 6213

(B) No accused person shall be denied bail pursuant to 6214
this section unless the judge finds by clear and convincing 6215
evidence that the proof is evident or the presumption great that 6216
the accused committed the offense described in division (A) of 6217
this section with which the accused is charged, finds by clear 6218
and convincing evidence that the accused poses a substantial 6219
risk of serious physical harm to any person or to the community, 6220
and finds by clear and convincing evidence that no release 6221
conditions will reasonably assure the safety of that person and 6222

the community. 6223

(C) The judge, in determining whether the accused person 6224
described in division (A) of this section poses a substantial 6225
risk of serious physical harm to any person or to the community 6226
and whether there are conditions of release that will reasonably 6227
assure the safety of that person and the community, shall 6228
consider all available information regarding all of the 6229
following: 6230

(1) The nature and circumstances of the offense charged, 6231
including whether the offense is an offense of violence or 6232
involves alcohol or a drug of abuse; 6233

(2) The weight of the evidence against the accused; 6234

(3) The history and characteristics of the accused, 6235
including, but not limited to, both of the following: 6236

(a) The character, physical and mental condition, family 6237
ties, employment, financial resources, length of residence in 6238
the community, community ties, past conduct, history relating to 6239
drug or alcohol abuse, and criminal history of the accused; 6240

(b) Whether, at the time of the current alleged offense or 6241
at the time of the arrest of the accused, the accused was on 6242
probation, parole, post-release control, or other release 6243
pending trial, sentencing, appeal, or completion of sentence for 6244
the commission of an offense under the laws of this state, 6245
another state, or the United States or under a municipal 6246
ordinance. 6247

(4) The nature and seriousness of the danger to any person 6248
or the community that would be posed by the person's release. 6249

(D) (1) An order of the court of common pleas denying bail 6250

pursuant to this section is a final appealable order. In an 6251
appeal pursuant to division (D) of this section, the court of 6252
appeals shall do all of the following: 6253

(a) Give the appeal priority on its calendar; 6254

(b) Liberally modify or dispense with formal requirements 6255
in the interest of a speedy and just resolution of the appeal; 6256

(c) Decide the appeal expeditiously; 6257

(d) Promptly enter its judgment affirming or reversing the 6258
order denying bail. 6259

(2) The pendency of an appeal under this section does not 6260
deprive the court of common pleas of jurisdiction to conduct 6261
further proceedings in the case or to further consider the order 6262
denying bail in accordance with this section. If, during the 6263
pendency of an appeal under division (D) of this section, the 6264
court of common pleas sets aside or terminates the order denying 6265
bail, the court of appeals shall dismiss the appeal. 6266

(E) As used in this section: 6267

(1) "Court day" has the same meaning as in section 5122.01 6268
of the Revised Code. 6269

(2) "Felony OVI offense" means a third degree felony OVI 6270
offense and a fourth degree felony OVI offense. 6271

(3) "Fourth degree felony OVI offense" and "third degree 6272
felony OVI offense" have the same meanings as in section 2929.01 6273
of the Revised Code. 6274

Sec. 2941.021. Any criminal offense which is not 6275
punishable by ~~death or~~ life imprisonment may be prosecuted by 6276
information filed in the common pleas court by the prosecuting 6277

attorney if the defendant, after ~~he has~~ having been advised by 6278
the court of the nature of the charge against ~~him~~ the defendant 6279
and of ~~his~~ the defendant's rights under the constitution, is 6280
represented by counsel or has affirmatively waived counsel by 6281
waiver in writing and in open court, waives in writing and in 6282
open court prosecution by indictment. 6283

Sec. 2941.14. ~~(A)~~ In an indictment for aggravated murder, 6284
murder, or voluntary or involuntary manslaughter, the manner in 6285
which, or the means by which the death was caused need not be 6286
set forth. 6287

~~(B) Imposition of the death penalty for aggravated murder~~ 6288
~~is precluded unless the indictment or count in the indictment~~ 6289
~~charging the offense specifies one or more of the aggravating~~ 6290
~~circumstances listed in division (A) of section 2929.04 of the~~ 6291
~~Revised Code. If more than one aggravating circumstance is~~ 6292
~~specified to an indictment or count, each shall be in a~~ 6293
~~separately numbered specification, and if an aggravating~~ 6294
~~circumstance is specified to a count in an indictment containing~~ 6295
~~more than one count, such specification shall be identified as~~ 6296
~~to the count to which it applies.~~ 6297

~~(C) A specification to an indictment or count in an~~ 6298
~~indictment charging aggravated murder shall be stated at the end~~ 6299
~~of the body of the indictment or count, and may be in~~ 6300
~~substantially the following form:~~ 6301

~~"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE~~ 6302
~~FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand~~ 6303
~~Jurors further find and specify that (set forth the applicable~~ 6304
~~aggravating circumstance listed in divisions (A) (1) to (10) of~~ 6305
~~section 2929.04 of the Revised Code. The aggravating~~ 6306
~~circumstance may be stated in the words of the subdivision in~~ 6307

~~which it appears, or in words sufficient to give the accused- 6308
notice of the same)."~~ 6309

Sec. 2941.148. (A) (1) The application of Chapter 2971. of 6310
the Revised Code to an offender is precluded unless one of the 6311
following applies: 6312

(a) The offender is charged with a violent sex offense, 6313
and the indictment, count in the indictment, or information 6314
charging the violent sex offense also includes a specification 6315
that the offender is a sexually violent predator, or the 6316
offender is charged with a designated homicide, assault, or 6317
kidnapping offense, and the indictment, count in the indictment, 6318
or information charging the designated homicide, assault, or 6319
kidnapping offense also includes both a specification of the 6320
type described in section 2941.147 of the Revised Code and a 6321
specification that the offender is a sexually violent predator. 6322

(b) The offender is convicted of or pleads guilty to a 6323
violation of division (A) (1) (b) of section 2907.02 of the 6324
Revised Code committed on or after January 2, 2007, and division 6325
(B) of section 2907.02 of the Revised Code does not prohibit the 6326
court from sentencing the offender pursuant to section 2971.03 6327
of the Revised Code. 6328

(c) The offender is convicted of or pleads guilty to 6329
attempted rape committed on or after January 2, 2007, and to a 6330
specification of the type described in section 2941.1418, 6331
2941.1419, or 2941.1420 of the Revised Code. 6332

(d) The offender is convicted of or pleads guilty to a 6333
violation of section 2905.01 of the Revised Code and to a 6334
specification of the type described in section 2941.147 of the 6335
Revised Code, and section 2905.01 of the Revised Code requires a 6336

court to sentence the offender pursuant to section 2971.03 of 6337
the Revised Code. 6338

(e) The offender is convicted of or pleads guilty to 6339
aggravated murder and to a specification of the type described 6340
in section 2941.147 of the Revised Code, and division ~~(A)(2)(b)~~ 6341
~~(ii) of section 2929.022, division (A)(1)(e), (C)(1)(a)(v), (C)~~ 6342
~~(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or (E)(1)(a)(iv) of~~ 6343
~~section 2929.03, or division (A) or (B) (C) of section 2929.06~~ 6344
2929.02 of the Revised Code requires a court to sentence the 6345
offender pursuant to division (B)(3) of section 2971.03 of the 6346
Revised Code. 6347

(f) The offender is convicted of or pleads guilty to 6348
murder and to a specification of the type described in section 6349
2941.147 of the Revised Code, and division ~~(B)(2)~~ (C)(1) of 6350
section 2929.02 of the Revised Code requires a court to sentence 6351
the offender pursuant to section 2971.03 of the Revised Code. 6352

(2) A specification required under division (A)(1)(a) of 6353
this section that an offender is a sexually violent predator 6354
shall be stated at the end of the body of the indictment, count, 6355
or information and shall be stated in substantially the 6356
following form: 6357

"Specification (or, specification to the first count). The 6358
grand jury (or insert the person's or prosecuting attorney's 6359
name when appropriate) further find and specify that the 6360
offender is a sexually violent predator." 6361

(B) In determining for purposes of this section whether a 6362
person is a sexually violent predator, all of the factors set 6363
forth in divisions (H)(1) to (6) of section 2971.01 of the 6364
Revised Code that apply regarding the person may be considered 6365

as evidence tending to indicate that it is likely that the 6366
person will engage in the future in one or more sexually violent 6367
offenses. 6368

(C) As used in this section, "designated homicide, 6369
assault, or kidnapping offense," "violent sex offense," and 6370
"sexually violent predator" have the same meanings as in section 6371
2971.01 of the Revised Code. 6372

Sec. 2941.401. When a person has entered upon a term of 6373
imprisonment in a correctional institution of this state, and 6374
when during the continuance of the term of imprisonment there is 6375
pending in this state any untried indictment, information, or 6376
complaint against the prisoner, the prisoner shall be brought to 6377
trial within one hundred eighty days after the prisoner causes 6378
to be delivered to the prosecuting attorney and the appropriate 6379
court in which the matter is pending, written notice of the 6380
place of the prisoner's imprisonment and a request for a final 6381
disposition to be made of the matter, except that for good cause 6382
shown in open court, with the prisoner or the prisoner's counsel 6383
present, the court may grant any necessary or reasonable 6384
continuance. The request of the prisoner shall be accompanied by 6385
a certificate of the warden or superintendent having custody of 6386
the prisoner, stating the term of commitment under which the 6387
prisoner is being held, the time served and remaining to be 6388
served on the sentence, the amount of good time earned, the time 6389
of parole eligibility of the prisoner, and any decisions of the 6390
adult parole authority relating to the prisoner. 6391

The written notice and request for final disposition shall 6392
be given or sent by the prisoner to the warden or superintendent 6393
having custody of the prisoner, who shall promptly forward it 6394
with the certificate to the appropriate prosecuting attorney and 6395

court by registered or certified mail, return receipt requested. 6396
If the appropriate prosecuting attorney and agency having 6397
custody of the prisoner have previously agreed, then the written 6398
notice, request, and certificate may be sent by electronic mail 6399
or facsimile, in lieu of registered mail or certified mail. 6400

The warden or superintendent having custody of the 6401
prisoner shall promptly inform the prisoner in writing of the 6402
source and contents of any untried indictment, information, or 6403
complaint against the prisoner, concerning which the warden or 6404
superintendent has knowledge, and of the prisoner's right to 6405
make a request for final disposition thereof. 6406

Escape from custody by the prisoner, subsequent to the 6407
prisoner's execution of the request for final disposition, voids 6408
the request. 6409

If the action is not brought to trial within the time 6410
provided, subject to continuance allowed pursuant to this 6411
section, no court any longer has jurisdiction thereof, the 6412
indictment, information, or complaint is void, and the court 6413
shall enter an order dismissing the action with prejudice. 6414

This section does not apply to any person adjudged to be 6415
mentally ill or who is under sentence of life imprisonment ~~or~~ 6416
~~death, or to any prisoner under sentence of death.~~ 6417

Sec. 2941.43. If the convict referred to in section 6418
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 6419
be forthwith returned by the sheriff to the state correctional 6420
institution to serve out the remainder of ~~his~~ the convict's 6421
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 6422
state correctional institution, ~~he~~ the convict shall be returned 6423
to the state correctional institution by the sheriff to serve 6424

~~his new the convict's term. If he is sentenced to death, the~~ 6425
~~death sentence shall be executed as if he were not under~~ 6426
~~sentence of imprisonment in a state correctional institution.~~ 6427

Sec. 2941.51. (A) Counsel appointed to a case or selected 6428
by an indigent person under division (E) of section 120.16 or 6429
division (E) of section 120.26 of the Revised Code, or otherwise 6430
appointed by the court, except for counsel appointed by the 6431
court to provide legal representation for a person charged with 6432
a violation of an ordinance of a municipal corporation, shall be 6433
paid for their services by the county the compensation and 6434
expenses that the trial court approves. Each request for payment 6435
shall include a financial disclosure form completed by the 6436
indigent person on a form prescribed by the state public 6437
defender. Compensation and expenses shall not exceed the amounts 6438
fixed by the board of county commissioners pursuant to division 6439
(B) of this section. 6440

(B) The board of county commissioners shall establish a 6441
schedule of fees by case or on an hourly basis to be paid by the 6442
county for legal services provided by appointed counsel. Prior 6443
to establishing such schedule, the board shall request the bar 6444
association or associations of the county to submit a proposed 6445
~~schedule for cases other than capital cases.~~ The schedule 6446
submitted shall be subject to the review, amendment, and 6447
approval of the board of county commissioners, ~~except with~~ 6448
~~respect to capital cases.~~ With respect to capital cases, the 6449
~~schedule shall provide for fees by case or on an hourly basis to~~ 6450
~~be paid to counsel in the amount or at the rate set by the~~ 6451
~~capital case attorney fee council pursuant to division (D) of~~ 6452
~~section 120.33 of the Revised Code, and the board of county~~ 6453
~~commissioners shall approve that amount or rate.~~ 6454

~~With respect to capital cases, counsel shall be paid~~ 6455
~~compensation and expenses in accordance with the amount or at~~ 6456
~~the rate set by the capital case attorney fee council pursuant~~ 6457
~~to division (D) of section 120.33 of the Revised Code.~~ 6458

(C) In a case where counsel have been appointed to conduct 6459
an appeal under Chapter 120. of the Revised Code, such 6460
compensation shall be fixed by the court of appeals or the 6461
supreme court, as provided in divisions (A) and (B) of this 6462
section. 6463

(D) The fees and expenses approved by the court under this 6464
section shall not be taxed as part of the costs and shall be 6465
paid by the county. However, if the person represented has, or 6466
reasonably may be expected to have, the means to meet some part 6467
of the cost of the services rendered to the person, the person 6468
shall pay the county an amount that the person reasonably can be 6469
expected to pay. Pursuant to section 120.04 of the Revised Code, 6470
the county shall pay to the state public defender a percentage 6471
of the payment received from the person in an amount 6472
proportionate to the percentage of the costs of the person's 6473
case that were paid to the county by the state public defender 6474
pursuant to this section. The money paid to the state public 6475
defender shall be credited to the client payment fund created 6476
pursuant to division (B) (5) of section 120.04 of the Revised 6477
Code. 6478

(E) The county auditor shall draw a warrant on the county 6479
treasurer for the payment of such counsel in the amount fixed by 6480
the court, plus the expenses that the court fixes and certifies 6481
to the auditor. The county auditor shall report periodically, 6482
but not less than annually, to the board of county commissioners 6483
and to the Ohio public defender commission the amounts paid out 6484

pursuant to the approval of the court under this section, 6485
~~separately stating costs and expenses that are reimbursable~~ 6486
~~under section 120.35 of the Revised Code.~~ The board, after 6487
review and approval of the auditor's report, may then certify it 6488
to the state public defender for reimbursement. The request for 6489
reimbursement shall be accompanied by a financial disclosure 6490
form completed by each indigent person for whom counsel was 6491
provided on a form prescribed by the state public defender. The 6492
state public defender shall review the report and, in accordance 6493
with the standards, guidelines, and maximums established 6494
pursuant to divisions (B) (7) and (8) of section 120.04 of the 6495
Revised Code and the payment determination provisions of section 6496
120.34 of the Revised Code, pay the cost, ~~other than costs and~~ 6497
~~expenses that are reimbursable under section 120.35 of the~~ 6498
~~Revised Code, if any,~~ of paying appointed counsel in each county 6499
and pay costs and expenses that are reimbursable under section 6500
120.35 of the Revised Code, if any, to the board. The amount of 6501
payments the state public defender is to make shall be 6502
determined as specified in section 120.34 of the Revised Code. 6503

(F) If any county system for paying appointed counsel 6504
fails to maintain the standards for the conduct of the system 6505
established by the rules of the Ohio public defender commission 6506
pursuant to divisions (B) and (C) of section 120.03 of the 6507
Revised Code or the standards established by the state public 6508
defender pursuant to division (B) (7) of section 120.04 of the 6509
Revised Code, the commission shall notify the board of county 6510
commissioners of the county that the county system for paying 6511
appointed counsel has failed to comply with its rules. Unless 6512
the board corrects the conduct of its appointed counsel system 6513
to comply with the rules within ninety days after the date of 6514
the notice, the state public defender may deny all or part of 6515

the county's reimbursement from the state provided for in this 6516
section. 6517

Sec. 2945.06. In any case in which a defendant waives ~~his~~ 6518
the defendant's right to trial by jury and elects to be tried by 6519
the court under section 2945.05 of the Revised Code, any judge 6520
of the court in which the cause is pending shall proceed to 6521
hear, try, and determine the cause in accordance with the rules 6522
and in like manner as if the cause were being tried before a 6523
jury. ~~If the accused is charged with an offense punishable with-~~ 6524
~~death, he shall be tried by a court to be composed of three-~~ 6525
~~judges, consisting of the judge presiding at the time in the~~ 6526
~~trial of criminal cases and two other judges to be designated by~~ 6527
~~the presiding judge or chief justice of that court, and in case-~~ 6528
~~there is neither a presiding judge nor a chief justice, by the~~ 6529
~~chief justice of the supreme court. The judges or a majority of-~~ 6530
~~them may decide all questions of fact and law arising upon the~~ 6531
~~trial; however the accused shall not be found guilty or not~~ 6532
~~guilty of any offense unless the judges unanimously find the~~ 6533
~~accused guilty or not guilty. If the accused pleads guilty of-~~ 6534
~~aggravated murder, a court composed of three judges shall~~ 6535
~~examine the witnesses, determine whether the accused is guilty-~~ 6536
~~of aggravated murder or any other offense, and pronounce-~~ 6537
~~sentence accordingly. The court shall follow the procedures-~~ 6538
~~contained in sections 2929.03 and 2929.04 of the Revised Code in~~ 6539
~~all cases in which the accused is charged with an offense-~~ 6540
~~punishable by death. If in the composition of the court it is-~~ 6541
~~necessary that a judge from another county be assigned by the~~ 6542
~~chief justice, the judge from another county shall be-~~ 6543
~~compensated for his services as provided by section 141.07 of-~~ 6544
~~the Revised Code.~~ 6545

Sec. 2945.10. The trial of an issue upon an indictment or 6546

information shall proceed before the trial court or jury as 6547
follows: 6548

(A) Counsel for the state must first state the case for 6549
the prosecution, and may briefly state the evidence by which the 6550
counsel for the state expects to sustain it. 6551

(B) The defendant or the defendant's counsel must then 6552
state the defense, and may briefly state the evidence which the 6553
defendant or the defendant's counsel expects to offer in support 6554
of it. 6555

(C) The state must first produce its evidence and the 6556
defendant shall then produce the defendant's evidence. 6557

(D) The state will then be confined to rebutting evidence, 6558
but the court, for good reason, in furtherance of justice, may 6559
permit evidence to be offered by either side out of its order. 6560

(E) When the evidence is concluded, ~~one of the following~~ 6561
~~applies regarding jury instructions:~~ 6562

~~(1) In a capital case that is being heard by a jury, the~~ 6563
~~court shall prepare written instructions to the jury on the~~ 6564
~~points of law, shall provide copies of the written instructions~~ 6565
~~to the jury before orally instructing the jury, and shall permit~~ 6566
~~the jury to retain and consult the instructions during the~~ 6567
~~court's presentation of the oral instructions and during the~~ 6568
~~jury's deliberations.~~ 6569

~~(2) In a case that is not a capital case, either party may~~ 6570
request instructions to the jury on the points of law, which 6571
instructions shall be reduced to writing if either party 6572
requests it. 6573

(F) When the evidence is concluded, unless the case is 6574

submitted without argument, the counsel for the state shall 6575
commence, the defendant or the defendant's counsel follow, and 6576
the counsel for the state conclude the argument to the jury. 6577

(G) The court, after the argument is concluded and before 6578
proceeding with other business, shall forthwith charge the jury. 6579
Such charge shall be reduced to writing by the court if either 6580
party requests it before the argument to the jury is commenced. 6581
Such charge, or other charge or instruction provided for in this 6582
section, when so written and given, shall not be orally 6583
qualified, modified, or explained to the jury by the court. 6584
Written charges and instructions shall be taken by the jury in 6585
their retirement and returned with their verdict into court and 6586
remain on file with the papers of the case. 6587

The court may deviate from the order of proceedings listed 6588
in this section. 6589

Sec. 2945.13. When two or more persons are jointly 6590
indicted for a felony, ~~except a capital offense,~~ they shall be 6591
tried jointly unless the court, for good cause shown on 6592
application therefor by the prosecuting attorney or one or more 6593
of said defendants, orders one or more of said defendants to be 6594
tried separately. 6595

Sec. 2945.21. (A) (1) In criminal cases in which there is 6596
only one defendant, each party, in addition to the challenges 6597
for cause authorized by law, may peremptorily challenge three of 6598
the jurors in misdemeanor cases ~~and,~~ four of the jurors in 6599
felony cases other than capital cases that may subject the 6600
defendant to a sentence of life imprisonment, and six of the 6601
jurors in cases that may subject the defendant to a sentence of 6602
life imprisonment. If there is more than one defendant, each 6603
defendant may peremptorily challenge the same number of jurors 6604

as if ~~he~~ the defendant were the sole defendant. 6605

~~(2) Notwithstanding Criminal Rule 24, in capital cases in
which there is only one defendant, each party, in addition to
the challenges for cause authorized by law, may peremptorily
challenge twelve of the jurors. If there is more than one
defendant, each defendant may peremptorily challenge the same
number of jurors as if he were the sole defendant.~~ 6606
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~~(3)~~ In any case in which there are multiple defendants,
the prosecuting attorney may peremptorily challenge a number of
jurors equal to the total number of peremptory challenges
allowed to all of the defendants. 6612
6613
6614
6615

(B) If any indictments, informations, or complaints are
consolidated for trial, the consolidated cases shall be
considered, for purposes of exercising peremptory challenges, as
though the defendants or offenses had been joined in the same
indictment, information, or complaint. 6616
6617
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(C) The exercise of peremptory challenges authorized by
this section shall be in accordance with the procedures of
Criminal Rule 24. 6621
6622
6623

Sec. 2945.25. A person called as a juror in a criminal
case may be challenged for the following causes: 6624
6625

(A) That the person was a member of the grand jury that
found the indictment in the case; 6626
6627

(B) That the person is possessed of a state of mind
evinced enmity or bias toward the defendant or the state; but
no person summoned as a juror shall be disqualified by reason of
a previously formed or expressed opinion with reference to the
guilt or innocence of the accused, if the court is satisfied,
from examination of the juror or from other evidence, that the
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juror will render an impartial verdict according to the law and 6634
the evidence submitted to the jury at the trial; 6635

~~(C) In the trial of a capital offense, that the person 6636
unequivocally states that under no circumstances will the person 6637
follow the instructions of a trial judge and consider fairly the 6638
imposition of a sentence of death in a particular case. A 6639
prospective juror's conscientious or religious opposition to the 6640
death penalty in and of itself is not grounds for a challenge 6641
for cause. All parties shall be given wide latitude in voir dire 6642
questioning in this regard. 6643~~

~~(D) That the person is related by consanguinity or 6644
affinity within the fifth degree to the person alleged to be 6645
injured or attempted to be injured by the offense charged, or to 6646
the person on whose complaint the prosecution was instituted, or 6647
to the defendant; 6648~~

~~(E) (D) That the person served on a petit jury drawn in 6649
the same cause against the same defendant, and that jury was 6650
discharged after hearing the evidence or rendering a verdict on 6651
the evidence that was set aside; 6652~~

~~(F) (E) That the person served as a juror in a civil case 6653
brought against the defendant for the same act; 6654~~

~~(G) (F) That the person has been subpoenaed in good faith 6655
as a witness in the case; 6656~~

~~(H) (G) That the person has chronic alcoholism, or a drug 6657
dependency; 6658~~

~~(I) (H) That the person has been convicted of a crime that 6659
by law disqualifies the person from serving on a jury; 6660~~

~~(J) (I) That the person has an action pending between the 6661~~

person and the state or the defendant; 6662

~~(K)~~ (J) That the person or the person's spouse is a party 6663
to another action then pending in any court in which an attorney 6664
in the cause then on trial is an attorney, either for or against 6665
the person; 6666

~~(L)~~ (K) That the person is the person alleged to be 6667
injured or attempted to be injured by the offense charged, or is 6668
the person on whose complaint the prosecution was instituted, or 6669
the defendant; 6670

~~(M)~~ (L) That the person is the employer or employee, or 6671
the spouse, parent, son, or daughter of the employer or 6672
employee, or the counselor, agent, or attorney of any person 6673
included in division ~~(L)~~ (K) of this section; 6674

~~(N)~~ (M) That English is not the person's native language, 6675
and the person's knowledge of English is insufficient to permit 6676
the person to understand the facts and law in the case; 6677

~~(O)~~ (N) That the person otherwise is unsuitable for any 6678
other cause to serve as a juror. 6679

The validity of each challenge listed in this section 6680
shall be determined by the court. 6681

Sec. 2945.33. When a cause is finally submitted the jurors 6682
must be kept together in a convenient place under the charge of 6683
an officer until they agree upon a verdict, or are discharged by 6684
the court. The court, ~~except in cases where the offense charged~~ 6685
~~may be punishable by death,~~ may permit the jurors to separate 6686
during the adjournment of court overnight, under proper 6687
cautions, or under supervision of an officer. Such officer shall 6688
not permit a communication to be made to them, nor make any 6689
himself communication to them except to ask if they have agreed 6690

upon a verdict, unless ~~he~~ the officer does so by order of the 6691
court. Such officer shall not communicate to any person, before 6692
the verdict is delivered, any matter in relation to their 6693
deliberation. Upon the trial of any prosecution for misdemeanor, 6694
the court may permit the jury to separate during their 6695
deliberation, or upon adjournment of the court overnight. 6696

~~In cases where the offense charged may be punished by 6697
death, after the case is finally submitted to the jury, the 6698
jurors shall be kept in charge of the proper officer and proper 6699
arrangements for their care and maintenance shall be made as 6700
under section 2945.31 of the Revised Code. 6701~~

Sec. 2945.38. (A) If the issue of a defendant's competence 6702
to stand trial is raised and if the court, upon conducting the 6703
hearing provided for in section 2945.37 of the Revised Code, 6704
finds that the defendant is competent to stand trial, the 6705
defendant shall be proceeded against as provided by law. If the 6706
court finds the defendant competent to stand trial and the 6707
defendant is receiving psychotropic drugs or other medication, 6708
the court may authorize the continued administration of the 6709
drugs or medication or other appropriate treatment in order to 6710
maintain the defendant's competence to stand trial, unless the 6711
defendant's attending physician advises the court against 6712
continuation of the drugs, other medication, or treatment. 6713

(B) (1) (a) (i) If the defendant has been charged with a 6714
felony offense or a misdemeanor offense of violence for which 6715
the prosecutor has not recommended the procedures under division 6716
(B) (1) (a) (vi) of this section and if, after taking into 6717
consideration all relevant reports, information, and other 6718
evidence, the court finds that the defendant is incompetent to 6719
stand trial and that there is a substantial probability that the 6720

defendant will become competent to stand trial within one year 6721
if the defendant is provided with a course of treatment, the 6722
court shall order the defendant to undergo treatment. 6723

(ii) If the defendant has been charged with a felony 6724
offense and if, after taking into consideration all relevant 6725
reports, information, and other evidence, the court finds that 6726
the defendant is incompetent to stand trial, but the court is 6727
unable at that time to determine whether there is a substantial 6728
probability that the defendant will become competent to stand 6729
trial within one year if the defendant is provided with a course 6730
of treatment, the court shall order continuing evaluation and 6731
treatment of the defendant for a period not to exceed four 6732
months to determine whether there is a substantial probability 6733
that the defendant will become competent to stand trial within 6734
one year if the defendant is provided with a course of 6735
treatment. 6736

(iii) If the defendant has not been charged with a felony 6737
offense but has been charged with a misdemeanor offense of 6738
violence and if, after taking into consideration all relevant 6739
reports, information, and other evidence, the court finds that 6740
the defendant is incompetent to stand trial, but the court is 6741
unable at that time to determine whether there is a substantial 6742
probability that the defendant will become competent to stand 6743
trial within the time frame permitted under division (C) (1) of 6744
this section, the court may order continuing evaluation and 6745
treatment of the defendant for a period not to exceed the 6746
maximum period permitted under that division. 6747

(iv) If the defendant has not been charged with a felony 6748
offense or a misdemeanor offense of violence, but has been 6749
charged with a misdemeanor offense that is not a misdemeanor 6750

offense of violence and if, after taking into consideration all 6751
relevant reports, information, and other evidence, the court 6752
finds that the defendant is incompetent to stand trial, but the 6753
court is unable at that time to determine whether there is a 6754
substantial probability that the defendant will become competent 6755
to stand trial within the time frame permitted under division 6756
(C) (1) of this section, the court shall dismiss the charges and 6757
follow the process outlined in division (B) (1) (a) (v) (I) of this 6758
section. 6759

(v) If the defendant has not been charged with a felony 6760
offense or a misdemeanor offense of violence, or if the 6761
defendant has been charged with a misdemeanor offense of 6762
violence and the prosecutor has recommended the procedures under 6763
division (B) (1) (a) (vi) of this section, and if, after taking 6764
into consideration all relevant reports, information, and other 6765
evidence, the trial court finds that the defendant is 6766
incompetent to stand trial, the trial court shall do one of the 6767
following: 6768

(I) Dismiss the charges pending against the defendant. A 6769
dismissal under this division is not a bar to further 6770
prosecution based on the same conduct. Upon dismissal of the 6771
charges, the trial court shall discharge the defendant unless 6772
the court or prosecutor, after consideration of the requirements 6773
of section 5122.11 of the Revised Code, files an affidavit in 6774
probate court alleging that the defendant is a mentally ill 6775
person subject to court order or a person with an intellectual 6776
disability subject to institutionalization by court order. If an 6777
affidavit is filed in probate court, the trial court may detain 6778
the defendant for ten days pending a hearing in the probate 6779
court and shall send to the probate court copies of all written 6780
reports of the defendant's mental condition that were prepared 6781

pursuant to section 2945.371 of the Revised Code. The trial 6782
court or prosecutor shall specify in the appropriate space on 6783
the affidavit that the defendant is a person described in this 6784
subdivision. 6785

(II) Order the defendant to undergo outpatient competency 6786
restoration treatment at a facility operated or certified by the 6787
department of mental health and addiction services as being 6788
qualified to treat mental illness, at a public or community 6789
mental health facility, at a jail that employs or contracts with 6790
an individual or entity listed in division (B) (1) (b) (i) of this 6791
section to provide treatment or continuing evaluation and 6792
treatment at a jail, or in the care of a psychiatrist or other 6793
mental health professional. If a defendant who has been released 6794
on bail or recognizance refuses to comply with court-ordered 6795
outpatient treatment under this division, the court may dismiss 6796
the charges pending against the defendant and proceed under 6797
division (B) (1) (a) (v) (I) of this section or may amend the 6798
conditions of bail or recognizance and order the sheriff to take 6799
the defendant into custody and deliver the defendant to a center 6800
or facility operated or certified by the department of mental 6801
health and addiction services for treatment. 6802

(vi) If the defendant has not been charged with a felony 6803
offense but has been charged with a misdemeanor offense of 6804
violence and after taking into consideration all relevant 6805
reports, information, and other evidence, the court finds that 6806
the defendant is incompetent to stand trial, the prosecutor in 6807
the case may recommend that the court follow the procedures 6808
prescribed in division (B) (1) (a) (v) of this section. If the 6809
prosecutor does not make such a recommendation, the court shall 6810
follow the procedures in division (B) (1) (a) (i) of this section. 6811

(b) (i) The court order for the defendant to undergo 6812
treatment or continuing evaluation and treatment under division 6813
(B) (1) (a) of this section shall specify that the defendant, if 6814
determined to require mental health treatment or continuing 6815
evaluation and treatment, shall be committed to one of the 6816
following: 6817

(I) The department of mental health and addiction services 6818
for treatment or continuing evaluation and treatment at a 6819
hospital, facility, or agency, as determined to be clinically 6820
appropriate by the department; 6821

(II) A facility certified by the department of mental 6822
health and addiction services as being qualified to treat mental 6823
illness; 6824

(III) A public or community mental health facility; 6825

(IV) A jail that employs or contracts with an entity or 6826
individual listed in division (B) (1) (b) (i) of this section to 6827
provide treatment or continuing evaluation and treatment at a 6828
jail; 6829

(V) A psychiatrist or another mental health professional 6830
for treatment or continuing evaluation and treatment. 6831

(ii) Prior to placing the defendant, the department of 6832
mental health and addiction services shall obtain court approval 6833
for that placement following a hearing. The court order for the 6834
defendant to undergo treatment or continuing evaluation and 6835
treatment under division (B) (1) (a) of this section shall specify 6836
that the defendant, if determined to require treatment or 6837
continuing evaluation and treatment for an intellectual 6838
disability, shall receive treatment or continuing evaluation and 6839
treatment at an institution or facility operated by the 6840

department of developmental disabilities, at a facility 6841
certified by the department of developmental disabilities as 6842
being qualified to treat intellectual disabilities, at a public 6843
or private intellectual disabilities facility, or by a 6844
psychiatrist or another intellectual disabilities professional. 6845
In any case, the order may restrict the defendant's freedom of 6846
movement as the court considers necessary. The prosecutor in the 6847
defendant's case shall send to the chief clinical officer of the 6848
hospital, facility, or agency where the defendant is placed by 6849
the department of mental health and addiction services, or to 6850
the managing officer or director of the institution, facility, 6851
or jail, or the person to which the defendant is committed, 6852
copies of relevant police reports and other background 6853
information that pertains to the defendant and is available to 6854
the prosecutor unless the prosecutor determines that the release 6855
of any of the information in the police reports or any of the 6856
other background information to unauthorized persons would 6857
interfere with the effective prosecution of any person or would 6858
create a substantial risk of harm to any person. 6859

(iii) In determining the place of commitment, the court 6860
shall consider the extent to which the person is a danger to the 6861
person and to others, the need for security, the availability of 6862
housing and supportive services, including outpatient mental 6863
health services in the community, and the type of crime involved 6864
and shall order the least restrictive alternative available that 6865
is consistent with public safety and treatment goals. In 6866
weighing these factors, the court shall give preference to 6867
protecting public safety and the availability of housing and 6868
supportive services. 6869

(c) If the defendant is found incompetent to stand trial, 6870
if the chief clinical officer of the hospital, facility, or 6871

agency where the defendant is placed, or the managing officer or 6872
director of the institution, facility, or jail, or the person to 6873
which the defendant is committed for treatment or continuing 6874
evaluation and treatment under division (B) (1) (b) of this 6875
section determines that medication is necessary to restore the 6876
defendant's competency to stand trial, and if the defendant 6877
lacks the capacity to give informed consent or refuses 6878
medication, the chief clinical officer of the hospital, 6879
facility, or agency where the defendant is placed, or the 6880
managing officer or director of the institution, facility, or 6881
jail, or the person to which the defendant is committed for 6882
treatment or continuing evaluation and treatment may petition 6883
the court for authorization for the involuntary administration 6884
of medication. The court shall hold a hearing on the petition 6885
within five days of the filing of the petition if the petition 6886
was filed in a municipal court or a county court regarding an 6887
incompetent defendant charged with a misdemeanor or within ten 6888
days of the filing of the petition if the petition was filed in 6889
a court of common pleas regarding an incompetent defendant 6890
charged with a felony offense. Following the hearing, the court 6891
may authorize the involuntary administration of medication or 6892
may dismiss the petition. 6893

(2) If the court finds that the defendant is incompetent 6894
to stand trial and that, even if the defendant is provided with 6895
a course of treatment, there is not a substantial probability 6896
that the defendant will become competent to stand trial within 6897
one year, the court shall order the discharge of the defendant, 6898
unless upon motion of the prosecutor or on its own motion, the 6899
court either seeks to retain jurisdiction over the defendant 6900
pursuant to section 2945.39 of the Revised Code or files an 6901
affidavit in the probate court for the civil commitment of the 6902

defendant pursuant to Chapter 5122. or 5123. of the Revised Code 6903
alleging that the defendant is a person with a mental illness 6904
subject to court order or a person with an intellectual 6905
disability subject to institutionalization by court order. If an 6906
affidavit is filed in the probate court, the trial court shall 6907
send to the probate court copies of all written reports of the 6908
defendant's mental condition that were prepared pursuant to 6909
section 2945.371 of the Revised Code. 6910

The trial court may issue the temporary order of detention 6911
that a probate court may issue under section 5122.11 or 5123.71 6912
of the Revised Code, to remain in effect until the probable 6913
cause or initial hearing in the probate court. Further 6914
proceedings in the probate court are civil proceedings governed 6915
by Chapter 5122. or 5123. of the Revised Code. 6916

(C) No defendant shall be required to undergo treatment, 6917
including any continuing evaluation and treatment, under 6918
division (B)(1) of this section for longer than whichever of the 6919
following periods is applicable: 6920

(1) One year, if the most serious offense with which the 6921
defendant is charged is one of the following offenses: 6922

(a) Aggravated murder, murder, or an offense of violence 6923
for which a sentence of ~~death or~~ life imprisonment may be 6924
imposed; 6925

(b) An offense of violence that is a felony of the first 6926
or second degree; 6927

(c) A conspiracy to commit, an attempt to commit, or 6928
complicity in the commission of an offense described in division 6929
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 6930
complicity is a felony of the first or second degree. 6931

(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;

(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree;

(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.

(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.

(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 addiction services or is committed to an institution or facility for the treatment of intellectual disabilities shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the defendant ordered under division (B) (1) (a) of this section informs the court that the treatment or continuing evaluation and treatment cannot be provided at the hospital or facility where the defendant is placed by the department of mental health and addiction services or the institution, facility, or jail to

which the defendant is committed. The chief clinical officer of 6962
the hospital or facility where the defendant is placed by the 6963
department of mental health and addiction services or the 6964
managing officer or director of the institution, facility, or 6965
jail to which the defendant is committed, or a designee of any 6966
of those persons, may grant a defendant movement to a medical 6967
facility for an emergency medical situation with appropriate 6968
supervision to ensure the safety of the defendant, staff, and 6969
community during that emergency medical situation. The chief 6970
clinical officer of the hospital or facility where the defendant 6971
is placed by the department of mental health and addiction 6972
services or the managing officer or director of the institution, 6973
facility, or jail to which the defendant is committed shall 6974
notify the court within twenty-four hours of the defendant's 6975
movement to the medical facility for an emergency medical 6976
situation under this division. 6977

(F) The person who supervises the treatment or continuing 6978
evaluation and treatment of a defendant ordered to undergo 6979
treatment or continuing evaluation and treatment under division 6980
(B) (1) (a) of this section shall file a written report with the 6981
court at the following times: 6982

(1) Whenever the person believes the defendant is capable 6983
of understanding the nature and objective of the proceedings 6984
against the defendant and of assisting in the defendant's 6985
defense; 6986

(2) For a felony offense, fourteen days before expiration 6987
of the maximum time for treatment as specified in division (C) 6988
of this section and fourteen days before the expiration of the 6989
maximum time for continuing evaluation and treatment as 6990
specified in division (B) (1) (a) of this section, and, for a 6991

misdemeanor offense, ten days before the expiration of the 6992
maximum time for treatment, as specified in division (C) of this 6993
section; 6994

(3) At a minimum, after each six months of treatment; 6995

(4) Whenever the person who supervises the treatment or 6996
continuing evaluation and treatment of a defendant ordered under 6997
division (B) (1) (a) of this section believes that there is not a 6998
substantial probability that the defendant will become capable 6999
of understanding the nature and objective of the proceedings 7000
against the defendant or of assisting in the defendant's defense 7001
even if the defendant is provided with a course of treatment. 7002

(G) A report under division (F) of this section shall 7003
contain the examiner's findings, the facts in reasonable detail 7004
on which the findings are based, and the examiner's opinion as 7005
to the defendant's capability of understanding the nature and 7006
objective of the proceedings against the defendant and of 7007
assisting in the defendant's defense. If, in the examiner's 7008
opinion, the defendant remains incapable of understanding the 7009
nature and objective of the proceedings against the defendant 7010
and of assisting in the defendant's defense and there is a 7011
substantial probability that the defendant will become capable 7012
of understanding the nature and objective of the proceedings 7013
against the defendant and of assisting in the defendant's 7014
defense if the defendant is provided with a course of treatment, 7015
if in the examiner's opinion the defendant continues to have a 7016
mental illness or an intellectual disability, and if the maximum 7017
time for treatment as specified in division (C) of this section 7018
has not expired, the report also shall contain the examiner's 7019
recommendation as to the least restrictive placement or 7020
commitment alternative that is consistent with the defendant's 7021

treatment needs for restoration to competency and with the 7022
safety of the community. The court shall provide copies of the 7023
report to the prosecutor and defense counsel. 7024

(H) If a defendant is committed pursuant to division (B) 7025
(1) of this section, within ten days after the treating 7026
physician of the defendant or the examiner of the defendant who 7027
is employed or retained by the treating facility advises that 7028
there is not a substantial probability that the defendant will 7029
become capable of understanding the nature and objective of the 7030
proceedings against the defendant or of assisting in the 7031
defendant's defense even if the defendant is provided with a 7032
course of treatment, within ten days after the expiration of the 7033
maximum time for treatment as specified in division (C) of this 7034
section, within ten days after the expiration of the maximum 7035
time for continuing evaluation and treatment as specified in 7036
division (B)(1)(a) of this section, within thirty days after a 7037
defendant's request for a hearing that is made after six months 7038
of treatment, or within thirty days after being advised by the 7039
treating physician or examiner that the defendant is competent 7040
to stand trial, whichever is the earliest, the court shall 7041
conduct another hearing to determine if the defendant is 7042
competent to stand trial and shall do whichever of the following 7043
is applicable: 7044

(1) If the court finds that the defendant is competent to 7045
stand trial, the defendant shall be proceeded against as 7046
provided by law. 7047

(2) If the court finds that the defendant is incompetent 7048
to stand trial, but that there is a substantial probability that 7049
the defendant will become competent to stand trial if the 7050
defendant is provided with a course of treatment, and the 7051

maximum time for treatment as specified in division (C) of this 7052
section has not expired, the court, after consideration of the 7053
examiner's recommendation, shall order that treatment be 7054
continued, may change the facility or location at which the 7055
treatment is to be continued, and shall specify whether the 7056
treatment is to be continued at the same or a different facility 7057
or location. 7058

(3) If the court finds that the defendant is incompetent 7059
to stand trial, if the defendant is charged with an offense 7060
listed in division (C)(1) of this section, and if the court 7061
finds that there is not a substantial probability that the 7062
defendant will become competent to stand trial even if the 7063
defendant is provided with a course of treatment, or if the 7064
maximum time for treatment relative to that offense as specified 7065
in division (C) of this section has expired, further proceedings 7066
shall be as provided in sections 2945.39, 2945.401, and 2945.402 7067
of the Revised Code. 7068

(4) If the court finds that the defendant is incompetent 7069
to stand trial, if the most serious offense with which the 7070
defendant is charged is a misdemeanor or a felony other than a 7071
felony listed in division (C)(1) of this section, and if the 7072
court finds that there is not a substantial probability that the 7073
defendant will become competent to stand trial even if the 7074
defendant is provided with a course of treatment, or if the 7075
maximum time for treatment relative to that offense as specified 7076
in division (C) of this section has expired, the court shall 7077
dismiss the indictment, information, or complaint against the 7078
defendant. A dismissal under this division is not a bar to 7079
further prosecution based on the same conduct. The court shall 7080
discharge the defendant unless the court or prosecutor files an 7081
affidavit in probate court for civil commitment pursuant to 7082

Chapter 5122. or 5123. of the Revised Code. If an affidavit for 7083
civil commitment is filed, the court may detain the defendant 7084
for ten days pending civil commitment and shall send to the 7085
probate court copies of all written reports of the defendant's 7086
mental condition prepared pursuant to section 2945.371 of the 7087
Revised Code. 7088

All of the following provisions apply to persons charged 7089
with a misdemeanor or a felony other than a felony listed in 7090
division (C)(1) of this section who are committed by the probate 7091
court subsequent to the court's or prosecutor's filing of an 7092
affidavit for civil commitment under authority of this division: 7093

(a) The chief clinical officer of the entity, hospital, or 7094
facility, the managing officer or director of the institution, 7095
facility, or jail, or the person to which the defendant is 7096
committed or admitted shall do all of the following: 7097

(i) Notify the prosecutor, in writing, of the discharge of 7098
the defendant, send the notice at least ten days prior to the 7099
discharge unless the discharge is by the probate court, and 7100
state in the notice the date on which the defendant will be 7101
discharged; 7102

(ii) Notify the prosecutor, in writing, when the defendant 7103
is absent without leave or is granted unsupervised, off-grounds 7104
movement, and send this notice promptly after the discovery of 7105
the absence without leave or prior to the granting of the 7106
unsupervised, off-grounds movement, whichever is applicable; 7107

(iii) Notify the prosecutor, in writing, of the change of 7108
the defendant's commitment or admission to voluntary status, 7109
send the notice promptly upon learning of the change to 7110
voluntary status, and state in the notice the date on which the 7111

defendant was committed or admitted on a voluntary status. 7112

(b) Upon receiving notice that the defendant will be 7113
granted unsupervised, off-grounds movement, the prosecutor 7114
either shall re-indict the defendant or promptly notify the 7115
court that the prosecutor does not intend to prosecute the 7116
charges against the defendant. 7117

(I) If a defendant is convicted of a crime and sentenced 7118
to a jail, the defendant's sentence shall be reduced by the 7119
total number of days the defendant is confined for evaluation to 7120
determine the defendant's competence to stand trial or treatment 7121
under this section and sections 2945.37 and 2945.371 of the 7122
Revised Code or by the total number of days the defendant is 7123
confined for evaluation to determine the defendant's mental 7124
condition at the time of the offense charged. 7125

Sec. 2949.02. (A) If a person is convicted of any bailable 7126
offense, including, but not limited to, a violation of an 7127
ordinance of a municipal corporation, in a municipal or county 7128
court or in a court of common pleas and if the person gives to 7129
the trial judge or magistrate a written notice of the person's 7130
intention to file or apply for leave to file an appeal to the 7131
court of appeals, the trial judge or magistrate may suspend, 7132
~~subject to division (A) (2) (b) of section 2953.09 of the Revised~~ 7133
~~Code,~~ execution of the sentence or judgment imposed for any 7134
fixed time that will give the person time either to prepare and 7135
file, or to apply for leave to file, the appeal. In all bailable 7136
cases, except as provided in division (B) of this section, the 7137
trial judge or magistrate may release the person on bail in 7138
accordance with section 2937.011 of the Revised Code, and the 7139
bail shall at least be conditioned that the person will appeal 7140
without delay and abide by the judgment and sentence of the 7141

court. 7142

(B) Notwithstanding any provision of section 2937.011 of 7143
the Revised Code to the contrary, a trial judge of a court of 7144
common pleas shall not release on bail pursuant to division (A) 7145
of this section a person who is convicted of a bailable offense 7146
if the person is sentenced to imprisonment for life or if that 7147
offense is a violation of section 2903.01, 2903.02, 2903.03, 7148
2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 7149
2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious 7150
sexual penetration in violation of former section 2907.12 of the 7151
Revised Code. 7152

(C) If a trial judge of a court of common pleas is 7153
prohibited by division (B) of this section from releasing on 7154
bail pursuant to division (A) of this section a person who is 7155
convicted of a bailable offense and not sentenced to 7156
imprisonment for life, the appropriate court of appeals or two 7157
judges of it, upon motion of such a person and for good cause 7158
shown, may release the person on bail in accordance with section 7159
2937.011 of the Revised Code and Appellate Rule 8, and the bail 7160
shall at least be conditioned as described in division (A) of 7161
this section. 7162

Sec. 2949.03. If a judgment of conviction by a court of 7163
common pleas, municipal court, or county court is affirmed by a 7164
court of appeals and remanded to the trial court for execution 7165
of the sentence or judgment imposed, and the person so convicted 7166
gives notice of ~~his~~ the person's intention to file a notice of 7167
appeal to the supreme court, the trial court, on the filing of a 7168
motion by such person within three days after the rendition by 7169
the court of appeals of the judgment of affirmation, may further 7170
suspend, ~~subject to division (A) (2) (b) of section 2953.09 of the~~ 7171

~~Revised Code,~~ the execution of the sentence or judgment imposed 7172
for a time sufficient to give such person an opportunity to file 7173
a notice of appeal to the supreme court, but the sentence or 7174
judgment imposed shall not be suspended more than thirty days 7175
for that purpose. 7176

Sec. 2953.02. ~~In a capital case in which a sentence of~~ 7177
~~death is imposed for an offense committed before January 1,~~ 7178
~~1995, and in any other criminal case, including a conviction for~~ 7179
the violation of an ordinance of a municipal corporation, the 7180
judgment or final order of a court of record inferior to the 7181
court of appeals may be reviewed in the court of appeals. A 7182
final order of an administrative officer or agency may be 7183
reviewed in the court of common pleas. A judgment or final order 7184
of the court of appeals involving a question arising under the 7185
Constitution of the United States or of this state may be 7186
appealed to the supreme court as a matter of right. This right 7187
of appeal from judgments and final orders of the court of 7188
appeals shall extend to ~~cases in which a sentence of death is~~ 7189
~~imposed for an offense committed before January 1, 1995, and in~~ 7190
~~which the death penalty has been affirmed,~~ felony cases in which 7191
the supreme court has directed the court of appeals to certify 7192
its record, and in all other criminal cases of public or general 7193
interest wherein the supreme court has granted a motion to 7194
certify the record of the court of appeals. ~~In a capital case in~~ 7195
~~which a sentence of death is imposed for an offense committed on~~ 7196
~~or after January 1, 1995, the judgment or final order may be~~ 7197
~~appealed from the trial court directly to the supreme court as a~~ 7198
~~matter of right.~~ The supreme court in criminal cases shall not 7199
be required to determine as to the weight of the evidence, 7200
~~except that, in cases in which a sentence of death is imposed~~ 7201
~~for an offense committed on or after January 1, 1995, and in~~ 7202

~~which the question of the weight of the evidence to support the judgment has been raised on appeal, the supreme court shall determine as to the weight of the evidence to support the judgment and shall determine as to the weight of the evidence to support the sentence of death as provided in section 2929.05 of the Revised Code.~~

Sec. 2953.07. ~~(A) Upon the hearing of an appeal other than an appeal from a mayor's court, the appellate court may affirm the judgment or reverse it, in whole or in part, or modify it, and order the accused to be discharged or grant a new trial. The appellate court may remand the accused for the sole purpose of correcting a sentence imposed contrary to law, provided that, on an appeal of a sentence imposed upon a person who is convicted of or pleads guilty to a felony that is brought under section 2953.08 of the Revised Code, division (G) of that section applies to the court. If the judgment is reversed, the appellant shall recover from the appellee all court costs incurred to secure the reversal, including the cost of transcripts. In capital cases, when the judgment is affirmed and the day fixed for the execution is passed, the appellate court shall appoint a day for it, and the clerk of the appellate court shall issue a warrant under the seal of the appellate court, to the sheriff of the proper county, or the warden of the appropriate state correctional institution, commanding the sheriff or warden to carry the sentence into execution on the day so appointed. The sheriff or warden shall execute and return the warrant as in other cases, and the clerk shall record the warrant and return.~~

~~(B) As used in this section, "appellate court" means, for a case in which a sentence of death is imposed for an offense committed before January 1, 1995, both the court of appeals and the supreme court, and for a case in which a sentence of death~~

~~is imposed for an offense committed on or after January 1, 1995,~~ 7234
~~the supreme court.~~ 7235

Sec. 2953.08. (A) In addition to any other right to appeal 7236
and except as provided in division (D) of this section, a 7237
defendant who is convicted of or pleads guilty to a felony may 7238
appeal as a matter of right the sentence imposed upon the 7239
defendant on one of the following grounds: 7240

(1) The sentence consisted of or included the maximum 7241
definite prison term allowed for the offense by division (A) of 7242
section 2929.14 or section 2929.142 of the Revised Code or, with 7243
respect to a non-life felony indefinite prison term, the longest 7244
minimum prison term allowed for the offense by division (A) (1) 7245
(a) or (2) (a) of section 2929.14 of the Revised Code, the 7246
maximum definite prison term or longest minimum prison term was 7247
not required for the offense pursuant to Chapter 2925. or any 7248
other provision of the Revised Code, and the court imposed the 7249
sentence under one of the following circumstances: 7250

(a) The sentence was imposed for only one offense. 7251

(b) The sentence was imposed for two or more offenses 7252
arising out of a single incident, and the court imposed the 7253
maximum definite prison term or longest minimum prison term for 7254
the offense of the highest degree. 7255

(2) The sentence consisted of or included a prison term 7256
and the offense for which it was imposed is a felony of the 7257
fourth or fifth degree or is a felony drug offense that is a 7258
violation of a provision of Chapter 2925. of the Revised Code 7259
and that is specified as being subject to division (B) of 7260
section 2929.13 of the Revised Code for purposes of sentencing. 7261
If the court specifies that it found one or more of the factors 7262

in division (B) (1) (b) of section 2929.13 of the Revised Code to 7263
apply relative to the defendant, the defendant is not entitled 7264
under this division to appeal as a matter of right the sentence 7265
imposed upon the offender. 7266

(3) The person was convicted of or pleaded guilty to a 7267
violent sex offense or a designated homicide, assault, or 7268
kidnapping offense, was adjudicated a sexually violent predator 7269
in relation to that offense, and was sentenced pursuant to 7270
division (A) (3) of section 2971.03 of the Revised Code, if the 7271
minimum term of the indefinite term imposed pursuant to division 7272
(A) (3) of section 2971.03 of the Revised Code is the longest 7273
term available for the offense from among the range of definite 7274
terms listed in section 2929.14 of the Revised Code or, with 7275
respect to a non-life felony indefinite prison term, the longest 7276
minimum prison term allowed for the offense by division (A) (1) 7277
(a) or (2) (a) of section 2929.14 of the Revised Code. As used in 7278
this division, "designated homicide, assault, or kidnapping 7279
offense" and "violent sex offense" have the same meanings as in 7280
section 2971.01 of the Revised Code. As used in this division, 7281
"adjudicated a sexually violent predator" has the same meaning 7282
as in section 2929.01 of the Revised Code, and a person is 7283
"adjudicated a sexually violent predator" in the same manner and 7284
the same circumstances as are described in that section. 7285

(4) The sentence is contrary to law. 7286

(5) The sentence consisted of an additional prison term of 7287
ten years imposed pursuant to division (B) (2) (a) of section 7288
2929.14 of the Revised Code. 7289

(B) In addition to any other right to appeal and except as 7290
provided in division (D) of this section, a prosecuting 7291
attorney, a city director of law, village solicitor, or similar 7292

chief legal officer of a municipal corporation, or the attorney 7293
general, if one of those persons prosecuted the case, may appeal 7294
as a matter of right a sentence imposed upon a defendant who is 7295
convicted of or pleads guilty to a felony or, in the 7296
circumstances described in division (B) (3) of this section the 7297
modification of a sentence imposed upon such a defendant, on any 7298
of the following grounds: 7299

(1) The sentence did not include a prison term despite a 7300
presumption favoring a prison term for the offense for which it 7301
was imposed, as set forth in section 2929.13 or Chapter 2925. of 7302
the Revised Code. 7303

(2) The sentence is contrary to law. 7304

(3) The sentence is a modification under section 2929.20 7305
of the Revised Code of a sentence that was imposed for a felony 7306
of the first or second degree. 7307

(C) (1) In addition to the right to appeal a sentence 7308
granted under division (A) or (B) of this section, a defendant 7309
who is convicted of or pleads guilty to a felony may seek leave 7310
to appeal a sentence imposed upon the defendant on the basis 7311
that the sentencing judge has imposed consecutive sentences 7312
under division (C) (3) of section 2929.14 of the Revised Code and 7313
that the consecutive sentences exceed the maximum definite 7314
prison term allowed by division (A) of that section for the most 7315
serious offense of which the defendant was convicted or, with 7316
respect to a non-life felony indefinite prison term, exceed the 7317
longest minimum prison term allowed by division (A) (1) (a) or (2) 7318
(a) of that section for the most serious such offense. Upon the 7319
filing of a motion under this division, the court of appeals may 7320
grant leave to appeal the sentence if the court determines that 7321
the allegation included as the basis of the motion is true. 7322

(2) A defendant may seek leave to appeal an additional 7323
sentence imposed upon the defendant pursuant to division (B) (2) 7324
(a) or (b) of section 2929.14 of the Revised Code if the 7325
additional sentence is for a definite prison term that is longer 7326
than five years. 7327

(D) (1) A sentence imposed upon a defendant is not subject 7328
to review under this section if the sentence is authorized by 7329
law, has been recommended jointly by the defendant and the 7330
prosecution in the case, and is imposed by a sentencing judge. 7331

(2) Except as provided in division (C) (2) of this section, 7332
a sentence imposed upon a defendant is not subject to review 7333
under this section if the sentence is imposed pursuant to 7334
division (B) (2) (b) of section 2929.14 of the Revised Code. 7335
Except as otherwise provided in this division, a defendant 7336
retains all rights to appeal as provided under this chapter or 7337
any other provision of the Revised Code. A defendant has the 7338
right to appeal under this chapter or any other provision of the 7339
Revised Code the court's application of division (B) (2) (c) of 7340
section 2929.14 of the Revised Code. 7341

(3) A sentence imposed for aggravated murder or murder 7342
pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised 7343
Code is not subject to review under this section. 7344

(E) A defendant, prosecuting attorney, city director of 7345
law, village solicitor, or chief municipal legal officer shall 7346
file an appeal of a sentence under this section to a court of 7347
appeals within the time limits specified in Rule 4(B) of the 7348
Rules of Appellate Procedure, provided that if the appeal is 7349
pursuant to division (B) (3) of this section, the time limits 7350
specified in that rule shall not commence running until the 7351
court grants the motion that makes the sentence modification in 7352

question. A sentence appeal under this section shall be 7353
consolidated with any other appeal in the case. If no other 7354
appeal is filed, the court of appeals may review only the 7355
portions of the trial record that pertain to sentencing. 7356

(F) On the appeal of a sentence under this section, the 7357
record to be reviewed shall include all of the following, as 7358
applicable: 7359

(1) Any presentence, psychiatric, or other investigative 7360
report that was submitted to the court in writing before the 7361
sentence was imposed. An appellate court that reviews a 7362
presentence investigation report prepared pursuant to section 7363
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 7364
connection with the appeal of a sentence under this section 7365
shall comply with division (D) (3) of section 2951.03 of the 7366
Revised Code when the appellate court is not using the 7367
presentence investigation report, and the appellate court's use 7368
of a presentence investigation report of that nature in 7369
connection with the appeal of a sentence under this section does 7370
not affect the otherwise confidential character of the contents 7371
of that report as described in division (D) (1) of section 7372
2951.03 of the Revised Code and does not cause that report to 7373
become a public record, as defined in section 149.43 of the 7374
Revised Code, following the appellate court's use of the report. 7375

(2) The trial record in the case in which the sentence was 7376
imposed; 7377

(3) Any oral or written statements made to or by the court 7378
at the sentencing hearing at which the sentence was imposed; 7379

(4) Any written findings that the court was required to 7380
make in connection with the modification of the sentence 7381

pursuant to a judicial release under division (I) of section 7382
2929.20 of the Revised Code. 7383

(G) (1) If the sentencing court was required to make the 7384
findings required by division (B) or (D) of section 2929.13 or 7385
division (I) of section 2929.20 of the Revised Code, or to state 7386
the findings of the trier of fact required by division (B) (2) (e) 7387
of section 2929.14 of the Revised Code, relative to the 7388
imposition or modification of the sentence, and if the 7389
sentencing court failed to state the required findings on the 7390
record, the court hearing an appeal under division (A), (B), or 7391
(C) of this section shall remand the case to the sentencing 7392
court and instruct the sentencing court to state, on the record, 7393
the required findings. 7394

(2) The court hearing an appeal under division (A), (B), 7395
or (C) of this section shall review the record, including the 7396
findings underlying the sentence or modification given by the 7397
sentencing court. 7398

The appellate court may increase, reduce, or otherwise 7399
modify a sentence that is appealed under this section or may 7400
vacate the sentence and remand the matter to the sentencing 7401
court for resentencing. The appellate court's standard for 7402
review is not whether the sentencing court abused its 7403
discretion. The appellate court may take any action authorized 7404
by this division if it clearly and convincingly finds either of 7405
the following: 7406

(a) That the record does not support the sentencing 7407
court's findings under division (B) or (D) of section 2929.13, 7408
division (B) (2) (e) or (C) (4) of section 2929.14, or division (I) 7409
of section 2929.20 of the Revised Code, whichever, if any, is 7410
relevant; 7411

(b) That the sentence is otherwise contrary to law. 7412

(H) A judgment or final order of a court of appeals under 7413
this section may be appealed, by leave of court, to the supreme 7414
court. 7415

(I) As used in this section, "non-life felony indefinite 7416
prison term" has the same meaning as in section 2929.01 of the 7417
Revised Code. 7418

Sec. 2953.09. (A) (1) Upon filing an appeal in the supreme 7419
court, the execution of the sentence or judgment imposed in 7420
cases of felony is suspended. 7421

~~(2)(a)(2)~~ If a notice of appeal is filed pursuant to the 7422
Rules of Appellate Procedure by a defendant who is convicted in 7423
a municipal or county court or a court of common pleas of a 7424
felony or misdemeanor under the Revised Code or an ordinance of 7425
a municipal corporation, the filing of the notice of appeal does 7426
not suspend execution of the sentence or judgment imposed. 7427
However, consistent with divisions ~~(A)(2)(b)~~, ~~(B)~~, and (C) of 7428
this section, section 2937.011 of the Revised Code, and 7429
Appellate Rule 8, the municipal or county court, court of common 7430
pleas, or court of appeals may suspend execution of the sentence 7431
or judgment imposed during the pendency of the appeal and shall 7432
determine whether that defendant is entitled to bail and the 7433
amount and nature of any bail that is required. The bail shall 7434
at least be conditioned that the defendant will prosecute the 7435
appeal without delay and abide by the judgment and sentence of 7436
the court. 7437

~~(b)(i) A court of common pleas or court of appeals may~~ 7438
~~suspend the execution of a sentence of death imposed for an~~ 7439
~~offense committed before January 1, 1995, only if no date for~~ 7440

~~execution has been set by the supreme court, good cause is shown 7441
for the suspension, the defendant files a motion requesting the 7442
suspension, and notice has been given to the prosecuting 7443
attorney of the appropriate county. 7444~~

~~(ii) A court of common pleas may suspend the execution of 7445
a sentence of death imposed for an offense committed on or after 7446
January 1, 1995, only if no date for execution has been set by 7447
the supreme court, good cause is shown, the defendant files a 7448
motion requesting the suspension, and notice has been given to 7449
the prosecuting attorney of the appropriate county. 7450~~

~~(iii) A court of common pleas or court of appeals may 7451
suspend the execution of the sentence or judgment imposed for a 7452
felony in a capital case in which a sentence of death is not 7453
imposed only if no date for execution of the sentence has been 7454
set by the supreme court, good cause is shown for the 7455
suspension, the defendant files a motion requesting the 7456
suspension, and only after notice has been given to the 7457
prosecuting attorney of the appropriate county. 7458~~

(B) Notwithstanding any provision of section 2937.011 of 7459
the Revised Code to the contrary, a trial judge of a court of 7460
common pleas shall not release on bail pursuant to division ~~(A)~~ 7461
~~(2)~~ (a) (A) (2) of this section a defendant who is convicted of a 7462
bailable offense if the defendant is sentenced to imprisonment 7463
for life or if that offense is a violation of section 2903.01, 7464
2903.02, 2903.03, 2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 7465
2907.02, 2909.02, 2911.01, 2911.02, or 2911.11 of the Revised 7466
Code or is felonious sexual penetration in violation of former 7467
section 2907.12 of the Revised Code. 7468

(C) If a trial judge of a court of common pleas is 7469
prohibited by division (B) of this section from releasing on 7470

bail pursuant to division ~~(A) (2) (a)~~ (A) (2) of this section a 7471
defendant who is convicted of aailable offense and not 7472
sentenced to imprisonment for life, the appropriate court of 7473
appeals or two judges of it, upon motion of the defendant and 7474
for good cause shown, may release the defendant on bail in 7475
accordance with division (A) (2) of this section. 7476

Sec. 2953.10. When an appeal is taken from a court of 7477
appeals to the supreme court, the supreme court has the same 7478
power and authority to suspend the execution of sentence during 7479
the pendency of the appeal and admit the defendant to bail as 7480
does the court of appeals unless another section of the Revised 7481
Code or the Rules of Practice of the Supreme Court specify a 7482
distinct bail or suspension of sentence authority. 7483

~~When an appeal in a case in which a sentence of death is~~ 7484
~~imposed for an offense committed on or after January 1, 1995, is~~ 7485
~~taken directly from the trial court to the supreme court, the~~ 7486
~~supreme court has the same power and authority to suspend the~~ 7487
~~execution of the sentence during the pendency of the appeal and~~ 7488
~~admit the defendant to bail as does the court of appeals for~~ 7489
~~cases in which a sentence of death is imposed for an offense~~ 7490
~~committed before January 1, 1995, unless another section of the~~ 7491
~~Revised Code or the Rules of Practice of the Supreme Court~~ 7492
~~specify a distinct bail or suspension of sentence authority.~~ 7493

Sec. 2953.21. (A) (1) (a) A person in any either of the 7494
following categories may file a petition in the court that 7495
imposed sentence, stating the grounds for relief relied upon, 7496
and asking the court to vacate or set aside the judgment or 7497
sentence or to grant other appropriate relief: 7498

(i) Any person who has been convicted of a criminal 7499
offense or adjudicated a delinquent child and who claims that 7500

there was such a denial or infringement of the person's rights 7501
as to render the judgment void or voidable under the Ohio 7502
Constitution or the Constitution of the United States; 7503

~~(ii) Any person who has been convicted of a criminal 7504
offense and sentenced to death and who claims that there was a 7505
denial or infringement of the person's rights under either of 7506
those Constitutions that creates a reasonable probability of an 7507
altered verdict; 7508~~

~~(iii) Any person who has been convicted of a criminal 7509
offense that is a felony and who is an offender for whom DNA 7510
testing that was performed under sections 2953.71 to 2953.81 of 7511
the Revised Code or under former section 2953.82 of the Revised 7512
Code and analyzed in the context of and upon consideration of 7513
all available admissible evidence related to the person's case 7514
as described in division (D) of section 2953.74 of the Revised 7515
Code provided results that establish, by clear and convincing 7516
evidence, actual innocence of that felony offense or, if the 7517
person was sentenced to death, establish, by clear and 7518
convincing evidence, actual innocence of the aggravating 7519
circumstance or circumstances the person was found guilty of 7520
committing and that is or are the basis of that sentence of 7521
death; 7522~~

~~(iv) Any person who has been convicted of aggravated 7523
murder and sentenced to death for the offense and who claims 7524
that the person had a serious mental illness at the time of the 7525
commission of the offense and that as a result the court should 7526
render void the sentence of death, with the filing of the 7527
petition constituting the waiver described in division (A) (3) (b) 7528
of this section. 7529~~

(b) A petitioner under division (A) (1) (a) of this section 7530

may file a supporting affidavit and other documentary evidence 7531
in support of the claim for relief. 7532

(c) As used in division (A)(1)(a) of this section: 7533

~~(i) "Actual, "actual innocence" means that, had the 7534
results of the DNA testing conducted under sections 2953.71 to 7535
2953.81 of the Revised Code or under former section 2953.82 of 7536
the Revised Code been presented at trial, and had those results 7537
been analyzed in the context of and upon consideration of all 7538
available admissible evidence related to the person's case as 7539
described in division (D) of section 2953.74 of the Revised 7540
Code, no reasonable factfinder would have found the petitioner 7541
guilty of the offense of which the petitioner was convicted, ~~or,~~ 7542
~~if the person was sentenced to death, no reasonable factfinder~~ 7543
~~would have found the petitioner guilty of the aggravating~~ 7544
~~circumstance or circumstances the petitioner was found guilty of~~ 7545
~~committing and that is or are the basis of that sentence of~~ 7546
~~death.~~ 7547~~

~~(ii) "Serious mental illness" has the same meaning as in 7548
section 2929.025 of the Revised Code. 7549~~

(d) As used in divisions (A)(1)(a) and (c) of this 7550
section, "former section 2953.82 of the Revised Code" means 7551
section 2953.82 of the Revised Code as it existed prior to July 7552
6, 2010. 7553

~~(e) At any time in conjunction with the filing of a 7554
petition for postconviction relief under division (A) of this 7555
section by a person who has been sentenced to death, or with the 7556
litigation of a petition so filed, the court, for good cause 7557
shown, may authorize the petitioner in seeking the 7558
postconviction relief and the prosecuting attorney of the county 7559~~

~~served by the court in defending the proceeding, to take~~ 7560
~~depositions and to issue subpoenas and subpoenas duces tecum in~~ 7561
~~accordance with divisions (A) (1) (c), (A) (1) (f), and (C) of this~~ 7562
~~section, and to any other form of discovery as in a civil action~~ 7563
~~that the court in its discretion permits. The court may limit~~ 7564
~~the extent of discovery under this division. In addition to~~ 7565
~~discovery that is relevant to the claim and was available under~~ 7566
~~Criminal Rule 16 through conclusion of the original criminal~~ 7567
~~trial, the court, for good cause shown, may authorize the~~ 7568
~~petitioner or prosecuting attorney to take depositions and issue~~ 7569
~~subpoenas and subpoenas duces tecum in either of the following~~ 7570
~~circumstances:~~ 7571

~~(i) For any witness who testified at trial or who was~~ 7572
~~disclosed by the state prior to trial, except as otherwise~~ 7573
~~provided in this division, the petitioner or prosecuting~~ 7574
~~attorney shows clear and convincing evidence that the witness is~~ 7575
~~material and that a deposition of the witness or the issuing of~~ 7576
~~a subpoena or subpoena duces tecum is of assistance in order to~~ 7577
~~substantiate or refute the petitioner's claim that there is a~~ 7578
~~reasonable probability of an altered verdict. This division does~~ 7579
~~not apply if the witness was unavailable for trial or would not~~ 7580
~~voluntarily be interviewed by the defendant or prosecuting~~ 7581
~~attorney.~~ 7582

~~(ii) For any witness with respect to whom division (A) (1)~~ 7583
~~(c) (i) of this section does not apply, the petitioner or~~ 7584
~~prosecuting attorney shows good cause that the witness is~~ 7585
~~material and that a deposition of the witness or the issuing of~~ 7586
~~a subpoena or subpoena duces tecum is of assistance in order to~~ 7587
~~substantiate or refute the petitioner's claim that there is a~~ 7588
~~reasonable probability of an altered verdict.~~ 7589

~~(f) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests postconviction discovery as described in division (A) (1) (e) of this section or if the prosecuting attorney of the county served by the court requests postconviction discovery as described in that division, within ten days after the docketing of the request, or within any other time that the court sets for good cause shown, the prosecuting attorney shall respond by answer or motion to the petitioner's request or the petitioner shall respond by answer or motion to the prosecuting attorney's request, whichever is applicable.~~

~~(g) If a person who has been sentenced to death and who files a petition for postconviction relief under division (A) of this section requests postconviction discovery as described in division (A) (1) (e) of this section or if the prosecuting attorney of the county served by the court requests postconviction discovery as described in that division, upon motion by the petitioner, the prosecuting attorney, or the person from whom discovery is sought, and for good cause shown, 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~~ 7621
~~just, may order that any party or person provide or permit~~ 7622
~~discovery as described in division (A) (1) (e) of this section.~~ 7623
~~The provisions of Civil Rule 37(A) (4) apply to the award of~~ 7624
~~expenses incurred in relation to the motion, except that in no~~ 7625
~~case shall a court require a petitioner who is indigent to pay~~ 7626
~~expenses under those provisions.~~ 7627

~~Before any person moves for an order under division (A) (1)~~ 7628
~~(g) of this section, that person shall make a reasonable effort~~ 7629
~~to resolve the matter through discussion with the petitioner or~~ 7630
~~prosecuting attorney seeking discovery. A motion for an order~~ 7631
~~under division (A) (1) (g) of this section shall be accompanied by~~ 7632
~~a statement reciting the effort made to resolve the matter in~~ 7633
~~accordance with this paragraph.~~ 7634

~~The orders that may be made under division (A) (1) (g) of~~ 7635
~~this section include, but are not limited to, any of the~~ 7636
~~following:~~ 7637

~~(i) That the discovery not be had;~~ 7638

~~(ii) That the discovery may be had only on specified terms~~ 7639
~~and conditions, including a designation of the time or place;~~ 7640

~~(iii) That the discovery may be had only by a method of~~ 7641
~~discovery other than that selected by the party seeking~~ 7642
~~discovery;~~ 7643

~~(iv) That certain matters not be inquired into or that the~~ 7644
~~scope of the discovery be limited to certain matters;~~ 7645

~~(v) That discovery be conducted with no one present except~~ 7646
~~persons designated by the court;~~ 7647

~~(vi) That a deposition after being sealed be opened only~~ 7648

~~by order of the court;~~ 7649

~~(vii) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;~~ 7650
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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.~~ 7653
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~~(i) Any postconviction discovery authorized under division (A) (1) (e) 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.~~ 7656
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~~(j) Nothing in division (A) (1) (e) 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.~~ 7661
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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 sentenced to death and who has unsuccessfully raised the same claims in a petition for postconviction relief.~~ 7665
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~~(2) (a) (2)~~ Except as otherwise provided in section 2953.23 of the Revised Code, a petition under division ~~(A) (1) (a) (i), (ii), or (iii)~~ (A) (1) (a) of this section shall be filed no later than three hundred sixty-five days after the date on which the trial transcript is filed in the court of appeals in the direct appeal of the judgment of conviction or adjudication ~~or, if the direct appeal involves a sentence of death, the date on which the trial transcript is filed in the supreme court.~~ If no appeal is taken, except as otherwise provided in section 2953.23 of the 7669
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Revised Code, the petition shall be filed no later than three 7678
hundred sixty-five days after the expiration of the time for 7679
filing the appeal. 7680

~~(b) Except as otherwise provided in section 2953.23 of the 7681
Revised Code, a petition under division (A)(1)(a)(iv) of this 7682
section shall be filed not later than three hundred sixty-five 7683
days after the effective date of this amendment 7684~~

~~(3)(a) In a petition filed under division (A)(1)(a)(i), 7685
(ii), or (iii) of this section, a person who has been sentenced 7686
to death may ask the court to render void or voidable the 7687
judgment with respect to the conviction of aggravated murder or 7688
the specification of an aggravating circumstance or the sentence 7689
of death. 7690~~

~~(b) A person sentenced to death who files a petition under 7691
division (A)(1)(a)(iv) of this section may ask the court to 7692
render void the sentence of death and to order the resentencing 7693
of the person under division (A) of section 2929.06 of the 7694
Revised Code. If a person sentenced to death files such a 7695
petition and asks the court to render void the sentence of death 7696
and to order the resentencing of the person under division (A) 7697
of section 2929.06 of the Revised Code, the act of filing the 7698
petition constitutes a waiver of any right to be sentenced under 7699
the law that existed at the time the offense was committed and 7700
constitutes consent to be sentenced to life imprisonment without 7701
parole under division (A) of section 2929.06 of the Revised 7702
Code. 7703~~

~~(4)~~(3) A petitioner shall state in the original or amended 7704
petition filed under division (A) of this section all grounds 7705
for relief claimed by the petitioner. Except as provided in 7706
section 2953.23 of the Revised Code, any ground for relief that 7707

is not so stated in the petition is waived. 7708

~~(5)~~ (4) If the petitioner in a petition filed under 7709
division ~~(A)(1)(a)(i), (ii), or (iii)~~ (A)(1)(a) of this section 7710
was convicted of or pleaded guilty to a felony, the petition may 7711
include a claim that the petitioner was denied the equal 7712
protection of the laws in violation of the Ohio Constitution or 7713
the United States Constitution because the sentence imposed upon 7714
the petitioner for the felony was part of a consistent pattern 7715
of disparity in sentencing by the judge who imposed the 7716
sentence, with regard to the petitioner's race, gender, ethnic 7717
background, or religion. If the supreme court adopts a rule 7718
requiring a court of common pleas to maintain information with 7719
regard to an offender's race, gender, ethnic background, or 7720
religion, the supporting evidence for the petition shall 7721
include, but shall not be limited to, a copy of that type of 7722
information relative to the petitioner's sentence and copies of 7723
that type of information relative to sentences that the same 7724
judge imposed upon other persons. 7725

~~(6) Notwithstanding any law or court rule to the contrary,~~ 7726
~~there is no limit on the number of pages in, or on the length~~ 7727
~~of, a petition filed under division (A)(1)(a)(i), (ii), (iii),~~ 7728
~~or (iv) of this section by a person who has been sentenced to~~ 7729
~~death. If any court rule specifies a limit on the number of~~ 7730
~~pages in, or on the length of, a petition filed under division~~ 7731
~~(A)(1)(a)(i), (ii), (iii), or (iv) of this section or on a~~ 7732
~~prosecuting attorney's response to such a petition by answer or~~ 7733
~~motion and a person who has been sentenced to death files a~~ 7734
~~petition that exceeds the limit specified for the petition, the~~ 7735
~~prosecuting attorney may respond by an answer or motion that~~ 7736
~~exceeds the limit specified for the response.~~ 7737

(B) The clerk of the court in which the petition for 7738
postconviction relief and, ~~if applicable, a request for~~ 7739
~~postconviction discovery described in division (A) (1) (e) of this~~ 7740
~~section is~~ filed shall docket the petition and the request and 7741
bring ~~them~~ it promptly to the attention of the court. The clerk 7742
of the court in which the petition for postconviction relief 7743
and, ~~if applicable, a request for postconviction discovery~~ 7744
~~described in division (A) (1) (e) of this section is~~ filed 7745
immediately shall forward a copy of the petition and ~~a copy of~~ 7746
~~the request if filed by the petitioner~~ to the prosecuting 7747
attorney of the county served by the court. ~~If the request for~~ 7748
~~postconviction discovery is filed by the prosecuting attorney,~~ 7749
~~the clerk of the court immediately shall forward a copy of the~~ 7750
~~request to the petitioner or the petitioner's counsel.~~ 7751

(C) ~~If a person who has been sentenced to death and who~~ 7752
~~files a petition for postconviction relief under division (A) (1)~~ 7753
~~(a) (i), (ii), (iii), or (iv) of this section requests a~~ 7754
~~deposition or the prosecuting attorney in the case requests a~~ 7755
~~deposition, and if the court grants the request under division~~ 7756
~~(A) (1) (e) of this section, the court shall notify the petitioner~~ 7757
~~or the petitioner's counsel and the prosecuting attorney. The~~ 7758
~~deposition shall be conducted pursuant to divisions (B), (D),~~ 7759
~~and (E) of Criminal Rule 15. Notwithstanding division (C) of~~ 7760
~~Criminal Rule 15, the petitioner is not entitled to attend the~~ 7761
~~deposition. The prosecuting attorney shall be permitted to~~ 7762
~~attend and participate in any deposition.~~ 7763

~~(D)~~ The court shall consider a petition that is timely 7764
filed within the period specified in division (A) (2) of this 7765
section even if a direct appeal of the judgment is pending. 7766
Before granting a hearing on a petition filed under division (A) 7767
(1) (a) (i) or (ii) ~~, (iii), or (iv)~~ of this section, the court 7768

shall determine whether there are substantive grounds for 7769
relief. In making such a determination, the court shall 7770
consider, in addition to the petition, the supporting 7771
affidavits, and the documentary evidence, all the files and 7772
records pertaining to the proceedings against the petitioner, 7773
including, but not limited to, the indictment, the court's 7774
journal entries, the journalized records of the clerk of the 7775
court, and the court reporter's transcript. The court reporter's 7776
transcript, if ordered and certified by the court, shall be 7777
taxed as court costs. If the court dismisses the petition, it 7778
shall make and file findings of fact and conclusions of law with 7779
respect to such dismissal. ~~If the petition was filed by a person 7780
who has been sentenced to death, the findings of fact and 7781
conclusions of law shall state specifically the reasons for the 7782
dismissal of the petition and of each claim it contains. 7783~~

~~(E)~~ (D) Within ten days after the docketing of the 7784
petition, or within any further time that the court may fix for 7785
good cause shown, the prosecuting attorney shall respond by 7786
answer or motion. ~~Division (A) (6) of this section applies with 7787
respect to the prosecuting attorney's response. Within twenty 7788
days from the date the issues are raised, either party may move 7789
for summary judgment. The right to summary judgment shall appear 7790
on the face of the record. 7791~~

~~(F)~~ (E) Unless the petition and the files and records of 7792
the case show the petitioner is not entitled to relief, the 7793
court shall proceed to a prompt hearing on the issues even if a 7794
direct appeal of the case is pending. If the court notifies the 7795
parties that it has found grounds for granting relief, either 7796
party may request an appellate court in which a direct appeal of 7797
the judgment is pending to remand the pending case to the court. 7798

~~With respect to a petition filed under division (A) (1) (a) (iv) of this section, the procedures and rules regarding introduction of evidence and burden of proof at the pretrial hearing that are set forth in divisions (C), (D), and (F) of section 2929.025 of the Revised Code apply in considering the petition. With respect to such a petition, the grounds for granting relief are that the person has been diagnosed with one or more of the conditions set forth in division (A) (1) (a) of section 2929.025 of the Revised Code and that, at the time of the aggravated murder that was the basis of the sentence of death, the condition or conditions significantly impaired the person's capacity in a manner described in division (A) (1) (b) of that section.~~ 7799
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~~(G) A petitioner who files a petition under division (A) (1) (a) (i), (ii), (iii), or (iv) of this section may amend the petition as follows:~~ 7812
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~~(1) If the petition was filed by a person who has been sentenced to death, at any time that is not later than one hundred eighty days after the petition is filed, the petitioner may amend the petition with or without leave or prejudice to the proceedings.~~ 7815
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~~(2) If division (G) (1) of this section does not apply, at (F) At any time before the answer or motion is filed, the petitioner may amend the petition with or without leave or prejudice to the proceedings.~~ 7820
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~~(3) The petitioner may amend the petition with leave of court at any time after the expiration of the applicable period specified in division (G) (1) or (2) of this section hereafter.~~ 7824
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~~(H) (G) If the court does not find grounds for granting~~ 7827

relief, it shall make and file findings of fact and conclusions 7828
of law and shall enter judgment denying relief on the petition. 7829
~~If the petition was filed by a person who has been sentenced to~~ 7830
~~death, the findings of fact and conclusions of law shall state~~ 7831
~~specifically the reasons for the denial of relief on the~~ 7832
~~petition and of each claim it contains.~~ If no direct appeal of 7833
the case is pending and the court finds grounds for relief or if 7834
a pending direct appeal of the case has been remanded to the 7835
court pursuant to a request made pursuant to division ~~(F)~~(E) of 7836
this section and the court finds grounds for granting relief, it 7837
shall make and file findings of fact and conclusions of law and 7838
shall enter a judgment that vacates and sets aside the judgment 7839
in question, and, in the case of a petitioner who is a prisoner 7840
in custody, except as otherwise described in this division, 7841
shall discharge or resentence the petitioner or grant a new 7842
trial as the court determines appropriate. ~~If the court finds~~ 7843
~~grounds for relief in the case of a petitioner who filed a~~ 7844
~~petition under division (A) (1) (a) (iv) of this section, the court~~ 7845
~~shall render void the sentence of death and order the~~ 7846
~~resentencing of the offender under division (A) of section~~ 7847
~~2929.06 of the Revised Code. If the petitioner has been~~ 7848
~~sentenced to death, the findings of fact and conclusions of law~~ 7849
~~shall state specifically the reasons for the finding of grounds~~ 7850
~~for granting the relief, with respect to each claim contained in~~ 7851
~~the petition.~~ The court also may make supplementary orders to 7852
the relief granted, concerning such matters as rearraignment, 7853
retrial, custody, and bail. If the trial court's order granting 7854
the petition is reversed on appeal and if the direct appeal of 7855
the case has been remanded from an appellate court pursuant to a 7856
request under division ~~(F)~~(E) of this section, the appellate 7857
court reversing the order granting the petition shall notify the 7858
appellate court in which the direct appeal of the case was 7859

pending at the time of the remand of the reversal and remand of 7860
the trial court's order. Upon the reversal and remand of the 7861
trial court's order granting the petition, regardless of whether 7862
notice is sent or received, the direct appeal of the case that 7863
was remanded is reinstated. 7864

~~(I) Upon the filing of a petition pursuant to division (A)~~ 7865
~~(1) (a) (i), (ii), (iii), or (iv) of this section by a person~~ 7866
~~sentenced to death, only the supreme court may stay execution of~~ 7867
~~the sentence of death.~~ 7868

~~(J) (1) If a person sentenced to death intends to file a~~ 7869
~~petition under this section, the court shall appoint counsel to~~ 7870
~~represent the person upon a finding that the person is indigent~~ 7871
~~and that the person either accepts the appointment of counsel or~~ 7872
~~is unable to make a competent decision whether to accept or~~ 7873
~~reject the appointment of counsel. The court may decline to~~ 7874
~~appoint counsel for the person only upon a finding, after a~~ 7875
~~hearing if necessary, that the person rejects the appointment of~~ 7876
~~counsel and understands the legal consequences of that decision~~ 7877
~~or upon a finding that the person is not indigent.~~ 7878

~~(2) The court shall not appoint as counsel under division~~ 7879
~~(J) (1) of this section an attorney who represented the~~ 7880
~~petitioner at trial in the case to which the petition relates~~ 7881
~~unless the person and the attorney expressly request the~~ 7882
~~appointment. The court shall appoint as counsel under division~~ 7883
~~(J) (1) of this section only an attorney who is certified under~~ 7884
~~Rule 20 of the Rules of Superintendence for the Courts of Ohio~~ 7885
~~to represent indigent defendants charged with or convicted of an~~ 7886
~~offense for which the death penalty can be or has been imposed.~~ 7887
~~The ineffectiveness or incompetence of counsel during~~ 7888
~~proceedings under this section does not constitute grounds for~~ 7889

~~relief in a proceeding under this section, in an appeal of any~~ 7890
~~action under this section, or in an application to reopen a~~ 7891
~~direct appeal.~~ 7892

~~(3) Division (J) of this section does not preclude~~ 7893
~~attorneys who represent the state of Ohio from invoking the~~ 7894
~~provisions of 28 U.S.C. 154 with respect to capital cases that~~ 7895
~~were pending in federal habeas corpus proceedings prior to July~~ 7896
~~1, 1996, insofar as the petitioners in those cases were~~ 7897
~~represented in proceedings under this section by one or more~~ 7898
~~counsel appointed by the court under this section or section~~ 7899
~~120.06, 120.16, 120.26, or 120.33 of the Revised Code and those~~ 7900
~~appointed counsel meet the requirements of division (J) (2) of~~ 7901
~~this section.~~ 7902

~~(K)~~(H) Subject to the appeal of a sentence for a felony 7903
that is authorized by section 2953.08 of the Revised Code, the 7904
remedy set forth in this section is the exclusive remedy by 7905
which a person may bring a collateral challenge to the validity 7906
of a conviction or sentence in a criminal case or to the 7907
validity of an adjudication of a child as a delinquent child for 7908
the commission of an act that would be a criminal offense if 7909
committed by an adult or the validity of a related order of 7910
disposition. 7911

Sec. 2953.23. (A) Whether a hearing is or is not held on a 7912
petition filed pursuant to section 2953.21 of the Revised Code, 7913
a court may not entertain a petition filed after the expiration 7914
of the period prescribed in division (A) of that section or a 7915
second petition or successive petitions for similar relief on 7916
behalf of a petitioner unless division (A) (1) or (2) of this 7917
section applies: 7918

(1) Both of the following apply: 7919

(a) Either the petitioner shows that the petitioner was 7920
unavoidably prevented from discovery of the facts upon which the 7921
petitioner must rely to present the claim for relief, or, 7922
subsequent to the period prescribed in division (A) (2) of 7923
section 2953.21 of the Revised Code or to the filing of an 7924
earlier petition, the United States Supreme Court recognized a 7925
new federal or state right that applies retroactively to persons 7926
in the petitioner's situation, and the petition asserts a claim 7927
based on that right. 7928

(b) The petitioner shows by clear and convincing evidence 7929
that, but for constitutional error at trial, no reasonable 7930
factfinder would have found the petitioner guilty of the offense 7931
of which the petitioner was convicted ~~or, if the claim~~ 7932
~~challenges a sentence of death that, but for constitutional~~ 7933
~~error at the sentencing hearing, no reasonable factfinder would~~ 7934
~~have found the petitioner eligible for the death sentence.~~ 7935

(2) The petitioner was convicted of a felony, the 7936
petitioner is an offender for whom DNA testing was performed 7937
under sections 2953.71 to 2953.81 of the Revised Code or under 7938
former section 2953.82 of the Revised Code and analyzed in the 7939
context of and upon consideration of all available admissible 7940
evidence related to the inmate's case as described in division 7941
(D) of section 2953.74 of the Revised Code, and the results of 7942
the DNA testing establish, by clear and convincing evidence, 7943
actual innocence of that felony offense ~~or, if the person was~~ 7944
~~sentenced to death, establish, by clear and convincing evidence,~~ 7945
~~actual innocence of the aggravating circumstance or~~ 7946
~~circumstances the person was found guilty of committing and that~~ 7947
~~is or are the basis of that sentence of death.~~ 7948

As used in this division, "actual innocence" has the same 7949

meaning as in division (A) (1) (c) of section 2953.21 of the Revised Code, and "former section 2953.82 of the Revised Code" has the same meaning as in division (A) (1) (d) of section 2953.21 of the Revised Code.

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

~~If a petition filed pursuant to section 2953.21 of the Revised Code by a person who has been sentenced to death is denied and the person appeals the judgment, notwithstanding any law or court rule to the contrary, there is no limit on the number of pages in, or on the length of, a notice of appeal or briefs related to an appeal filed by the person. If any court rule specifies a limit on the number of pages in, or on the length of, a notice of appeal or briefs described in this division or on a prosecuting attorney's response or briefs with respect to such an appeal and a person who has been sentenced to death files a notice of appeal or briefs that exceed the limit specified for the petition, the prosecuting attorney may file a response or briefs that exceed the limit specified for the answer or briefs.~~

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of the Revised Code:

(A) "Application" or "application for DNA testing" means a request through postconviction relief for the state to do DNA testing on biological material from the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing under sections 2953.71 to 2953.81 of the Revised Code.

(B) "Biological material" means any product of a human body containing DNA.

(C) "Chain of custody" means a record or other evidence that tracks a subject sample of biological material from the time the biological material was first obtained until the time it currently exists in its place of storage and, in relation to a DNA sample, a record or other evidence that tracks the DNA sample from the time it was first obtained until it currently exists in its place of storage. For purposes of this division, examples of when biological material or a DNA sample is first obtained include, but are not limited to, obtaining the material or sample at the scene of a crime, from a victim, from an offender, or in any other manner or time as is appropriate in the facts and circumstances present.

(D) "Custodial agency" means the group or entity that has the responsibility to maintain biological material in question.

(E) "Custodian" means the person who is the primary representative of a custodial agency.

(F) "Eligible offender" means an offender who is eligible under division (C) of section 2953.72 of the Revised Code to request DNA testing to be conducted under sections 2953.71 to 2953.81 of the Revised Code.

(G) "Exclusion" or "exclusion result" means a result of DNA testing that scientifically precludes or forecloses the subject offender as a contributor of biological material recovered from the crime scene or victim in question, in relation to the offense for which the offender is an eligible offender and for which the ~~sentence of death or prison~~ term was imposed upon the offender.

(H) "Extracting personnel" means medically approved 8009
personnel who are employed to physically obtain an offender's 8010
DNA specimen for purposes of DNA testing under sections 2953.71 8011
to 2953.81 of the Revised Code. 8012

(I) "Inclusion" or "inclusion result" means a result of 8013
DNA testing that scientifically cannot exclude, or that holds 8014
accountable, the subject offender as a contributor of biological 8015
material recovered from the crime scene or victim in question, 8016
in relation to the offense for which the offender is an eligible 8017
offender and for which the ~~sentence of death or prison~~ term was 8018
imposed upon the offender. 8019

(J) "Inconclusive" or "inconclusive result" means a result 8020
of DNA testing that is rendered when a scientifically 8021
appropriate and definitive DNA analysis or result, or both, 8022
cannot be determined. 8023

(K) "Offender" means a criminal offender who was sentenced 8024
by a court, or by a jury and a court, of this state. 8025

(L) "Outcome determinative" means that had the results of 8026
DNA testing of the subject offender been presented at the trial 8027
of the subject offender requesting DNA testing and been found 8028
relevant and admissible with respect to the felony offense for 8029
which the offender is an eligible offender and is requesting the 8030
DNA testing, and had those results been analyzed in the context 8031
of and upon consideration of all available admissible evidence 8032
related to the offender's case as described in division (D) of 8033
section 2953.74 of the Revised Code, there is a strong 8034
probability that no reasonable factfinder would have found the 8035
offender guilty of that offense ~~or, if the offender was~~ 8036
~~sentenced to death relative to that offense, would have found~~ 8037
~~the offender guilty of the aggravating circumstance or~~ 8038

~~circumstances the offender was found guilty of committing and
that is or are the basis of that sentence of death.~~ 8039
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(M) "Parent sample" means the biological material first 8041
obtained from a crime scene or a victim of an offense for which 8042
an offender is an eligible offender, and from which a sample 8043
will be presently taken to do a DNA comparison to the DNA of the 8044
subject offender under sections 2953.71 to 2953.81 of the 8045
Revised Code. 8046

(N) "Prison" and "community control sanction" have the 8047
same meanings as in section 2929.01 of the Revised Code. 8048

(O) "Prosecuting attorney" means the prosecuting attorney 8049
who, or whose office, prosecuted the case in which the subject 8050
offender was convicted of the offense for which the offender is 8051
an eligible offender and is requesting the DNA testing. 8052

(P) "Prosecuting authority" means the prosecuting attorney 8053
or the attorney general. 8054

(Q) "Reasonable diligence" means a degree of diligence 8055
that is comparable to the diligence a reasonable person would 8056
employ in searching for information regarding an important 8057
matter in the person's own life. 8058

(R) "Testing authority" means a laboratory at which DNA 8059
testing will be conducted under sections 2953.71 to 2953.81 of 8060
the Revised Code. 8061

(S) "Parole" and "post-release control" have the same 8062
meanings as in section 2967.01 of the Revised Code. 8063

(T) "Sexually oriented offense" and "child-victim oriented 8064
offense" have the same meanings as in section 2950.01 of the 8065
Revised Code. 8066

(U) "Definitive DNA test" means a DNA test that clearly 8067
establishes that biological material from the perpetrator of the 8068
crime was recovered from the crime scene and also clearly 8069
establishes whether or not the biological material is that of 8070
the eligible offender. A prior DNA test is not definitive if the 8071
eligible offender proves by a preponderance of the evidence that 8072
because of advances in DNA technology there is a possibility of 8073
discovering new biological material from the perpetrator that 8074
the prior DNA test may have failed to discover. Prior testing 8075
may have been a prior "definitive DNA test" as to some 8076
biological evidence but may not have been a prior "definitive 8077
DNA test" as to other biological evidence. 8078

Sec. 2953.72. (A) Any eligible offender who wishes to 8079
request DNA testing under sections 2953.71 to 2953.81 of the 8080
Revised Code shall submit an application for the testing to the 8081
court of common pleas specified in section 2953.73 of the 8082
Revised Code, on a form prescribed by the attorney general for 8083
this purpose. The eligible offender shall submit the application 8084
in accordance with the procedures set forth in section 2953.73 8085
of the Revised Code. The eligible offender shall specify on the 8086
application the offense or offenses for which the offender is an 8087
eligible offender and is requesting the DNA testing. Along with 8088
the application, the eligible offender shall submit an 8089
acknowledgment that is on a form prescribed by the attorney 8090
general for this purpose and that is signed by the offender. The 8091
acknowledgment shall set forth all of the following: 8092

(1) That sections 2953.71 to 2953.81 of the Revised Code 8093
contemplate applications for DNA testing of an eligible offender 8094
at a stage of a prosecution or case after the offender has been 8095
sentenced, that any exclusion or inclusion result of DNA testing 8096
rendered pursuant to those sections may be used by a party in 8097

any proceeding as described in section 2953.81 of the Revised Code, and that all requests for any DNA testing made at trial will continue to be handled by the prosecuting attorney in the case;

(2) That the process of conducting postconviction DNA testing for an eligible offender under sections 2953.71 to 2953.81 of the Revised Code begins when the offender submits an application under section 2953.73 of the Revised Code and the acknowledgment described in this section;

(3) That the eligible offender must submit the application and acknowledgment to the court of common pleas that heard the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing;

(4) That the state has established a set of criteria set forth in section 2953.74 of the Revised Code by which eligible offender applications for DNA testing will be screened and that a judge of a court of common pleas upon receipt of a properly filed application and accompanying acknowledgment will apply those criteria to determine whether to accept or reject the application;

(5) That the results of DNA testing conducted under sections 2953.71 to 2953.81 of the Revised Code will be provided as described in section 2953.81 of the Revised Code to all parties in the postconviction proceedings and will be reported to various courts;

(6) That, if DNA testing is conducted with respect to an offender under sections 2953.71 to 2953.81 of the Revised Code, the state will not offer the offender a retest if an inclusion

result is achieved relative to the testing and that, if the 8127
state were to offer a retest after an inclusion result, the 8128
policy would create an atmosphere in which endless testing could 8129
occur and in which postconviction proceedings could be stalled 8130
for many years; 8131

(7) That, if the court rejects an eligible offender's 8132
application for DNA testing because the offender does not 8133
satisfy the acceptance criteria described in division (A) (4) of 8134
this section, the court will not accept or consider subsequent 8135
applications; 8136

(8) That the acknowledgment memorializes the provisions of 8137
sections 2953.71 to 2953.81 of the Revised Code with respect to 8138
the application of postconviction DNA testing to offenders, that 8139
those provisions do not give any offender any additional 8140
constitutional right that the offender did not already have, 8141
that the court has no duty or obligation to provide 8142
postconviction DNA testing to offenders, that the court of 8143
common pleas has the sole discretion subject to an appeal as 8144
described in this division to determine whether an offender is 8145
an eligible offender and whether an eligible offender's 8146
application for DNA testing satisfies the acceptance criteria 8147
described in division (A) (4) of this section and whether the 8148
application should be accepted or rejected, that if the court of 8149
common pleas rejects an eligible offender's application, the 8150
offender may ~~seek leave of the supreme court to appeal the~~ 8151
~~rejection to that court if the offender was sentenced to death~~ 8152
~~for the offense for which the offender is requesting the DNA~~ 8153
~~testing and, if the offender was not sentenced to death for that~~ 8154
~~offense, may appeal the rejection to the court of appeals, and~~ 8155
that no determination otherwise made by the court of common 8156
pleas in the exercise of its discretion regarding the 8157

eligibility of an offender or regarding postconviction DNA 8158
testing under those provisions is reviewable by or appealable to 8159
any court; 8160

(9) That the manner in which sections 2953.71 to 2953.81 8161
of the Revised Code with respect to the offering of 8162
postconviction DNA testing to offenders are carried out does not 8163
confer any constitutional right upon any offender, that the 8164
state has established guidelines and procedures relative to 8165
those provisions to ensure that they are carried out with both 8166
justice and efficiency in mind, and that an offender who 8167
participates in any phase of the mechanism contained in those 8168
provisions, including, but not limited to, applying for DNA 8169
testing and being rejected, having an application for DNA 8170
testing accepted and not receiving the test, or having DNA 8171
testing conducted and receiving unfavorable results, does not 8172
gain as a result of the participation any constitutional right 8173
to challenge, or, except as provided in division (A)(8) of this 8174
section, any right to any review or appeal of, the manner in 8175
which those provisions are carried out; 8176

(10) That the most basic aspect of sections 2953.71 to 8177
2953.81 of the Revised Code is that, in order for DNA testing to 8178
occur, there must be an offender sample against which other 8179
evidence may be compared, that, if an eligible offender's 8180
application is accepted but the offender subsequently refuses to 8181
submit to the collection of the sample of biological material 8182
from the offender or hinders the state from obtaining a sample 8183
of biological material from the offender, the goal of those 8184
provisions will be frustrated, and that an offender's refusal or 8185
hindrance shall cause the court to rescind its prior acceptance 8186
of the application for DNA testing for the offender and deny the 8187
application. 8188

(B) The attorney general shall prescribe a form to be used 8189
to make an application for DNA testing under division (A) of 8190
this section and section 2953.73 of the Revised Code and a form 8191
to be used to provide the acknowledgment described in division 8192
(A) of this section. The forms shall include all information 8193
described in division (A) of this section, spaces for an 8194
offender to insert all information necessary to complete the 8195
forms, including, but not limited to, specifying the offense or 8196
offenses for which the offender is an eligible offender and is 8197
requesting the DNA testing, and any other information or 8198
material the attorney general determines is necessary or 8199
relevant. The attorney general shall distribute copies of the 8200
prescribed forms to the department of rehabilitation and 8201
correction, the department shall ensure that each prison in 8202
which offenders are housed has a supply of copies of the forms, 8203
and the department shall ensure that copies of the forms are 8204
provided free of charge to any offender who requests them. 8205

(C) (1) An offender is eligible to request DNA testing to 8206
be conducted under sections 2953.71 to 2953.81 of the Revised 8207
Code only if all of the following apply: 8208

(a) The offense for which the offender claims to be an 8209
eligible offender is a felony, and the offender was convicted by 8210
a judge or jury of that offense. 8211

(b) One of the following applies: 8212

(i) The offender was sentenced to a prison term ~~or~~ 8213
~~sentence of death~~ for the felony described in division (C) (1) (a) 8214
of this section, and the offender is in prison serving that 8215
prison term ~~or under that sentence of death~~, has been paroled or 8216
is on probation regarding that felony, is under post-release 8217
control regarding that felony, or has been released from that 8218

prison term and is under a community control sanction regarding 8219
that felony. 8220

(ii) The offender was not sentenced to a prison term ~~or~~ 8221
~~sentence of death~~ for the felony described in division (C) (1) (a) 8222
of this section, but was sentenced to a community control 8223
sanction for that felony and is under that community control 8224
sanction. 8225

(iii) The felony described in division (C) (1) (a) of this 8226
section was a sexually oriented offense or child-victim oriented 8227
offense, and the offender has a duty to comply with sections 8228
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 8229
relative to that felony. 8230

(2) An offender is not an eligible offender under division 8231
(C) (1) of this section regarding any offense to which the 8232
offender pleaded guilty or no contest. 8233

(3) An offender is not an eligible offender under division 8234
(C) (1) of this section regarding any offense if the offender 8235
dies prior to submitting an application for DNA testing related 8236
to that offense under section 2953.73 of the Revised Code. 8237

Sec. 2953.73. (A) An eligible offender who wishes to 8238
request DNA testing to be conducted under sections 2953.71 to 8239
2953.81 of the Revised Code shall submit an application for DNA 8240
testing on a form prescribed by the attorney general for this 8241
purpose and shall submit the form to the court of common pleas 8242
that sentenced the offender for the offense for which the 8243
offender is an eligible offender and is requesting DNA testing. 8244

(B) If an eligible offender submits an application for DNA 8245
testing under division (A) of this section, upon the submission 8246
of the application, all of the following apply: 8247

(1) The eligible offender shall serve a copy of the 8248
application on the prosecuting attorney and the attorney 8249
general. 8250

(2) The application shall be assigned to the judge of that 8251
court of common pleas who was the trial judge in the case in 8252
which the eligible offender was convicted of the offense for 8253
which the offender is requesting DNA testing, or, if that judge 8254
no longer is a judge of that court, it shall be assigned 8255
according to court rules. The judge to whom the application is 8256
assigned shall decide the application. The application shall 8257
become part of the file in the case. 8258

(C) If an eligible offender submits an application for DNA 8259
testing under division (A) of this section, regardless of 8260
whether the offender has commenced any federal habeas corpus 8261
proceeding relative to the case in which the offender was 8262
convicted of the offense for which the offender is an eligible 8263
offender and is requesting DNA testing, any response to the 8264
application by the prosecuting attorney or the attorney general 8265
shall be filed not later than forty-five days after the date on 8266
which the eligible offender submits the application. The 8267
prosecuting attorney or the attorney general, or both, may, but 8268
are not required to, file a response to the application. If the 8269
prosecuting attorney or the attorney general files a response 8270
under this division, the prosecuting attorney or attorney 8271
general, whoever filed the response, shall serve a copy of the 8272
response on the eligible offender. 8273

(D) If an eligible offender submits an application for DNA 8274
testing under division (A) of this section, the court shall make 8275
the determination as to whether the application should be 8276
accepted or rejected. The court shall expedite its review of the 8277

application. The court shall make the determination in 8278
accordance with the criteria and procedures set forth in 8279
sections 2953.74 to 2953.81 of the Revised Code and, in making 8280
the determination, shall consider the application, the 8281
supporting affidavits, and the documentary evidence and, in 8282
addition to those materials, shall consider all the files and 8283
records pertaining to the proceedings against the applicant, 8284
including, but not limited to, the indictment, the court's 8285
journal entries, the journalized records of the clerk of the 8286
court, and the court reporter's transcript and all responses to 8287
the application filed under division (C) of this section by a 8288
prosecuting attorney or the attorney general, unless the 8289
application and the files and records show the applicant is not 8290
entitled to DNA testing, in which case the application may be 8291
denied. The court is not required to conduct an evidentiary 8292
hearing in conducting its review of, and in making its 8293
determination as to whether to accept or reject, the 8294
application. Upon making its determination, the court shall 8295
enter a judgment and order that either accepts or rejects the 8296
application and that includes within the judgment and order the 8297
reasons for the acceptance or rejection as applied to the 8298
criteria and procedures set forth in sections 2953.71 to 2953.81 8299
of the Revised Code. The court shall send a copy of the judgment 8300
and order to the eligible offender who filed it, the prosecuting 8301
attorney, and the attorney general. 8302

(E) A judgment and order of a court entered under division 8303
(D) of this section is appealable only as provided in this 8304
division. If an eligible offender submits an application for DNA 8305
testing under section 2953.73 of the Revised Code and the court 8306
of common pleas rejects the application under division (D) of 8307
this section, ~~one of the following applies:~~ 8308

~~(1) If the offender was sentenced to death for the offense for which the offender claims to be an eligible offender and is requesting DNA testing, the offender may seek leave of the supreme court to appeal the rejection to the supreme court. Courts of appeals do not have jurisdiction to review any rejection if the offender was sentenced to death for the offense for which the offender claims to be an eligible offender and is requesting DNA testing.~~

~~(2) If the offender was not sentenced to death for the offense for which the offender claims to be an eligible offender and is requesting DNA testing, the rejection is a final appealable order, and the offender may appeal it to the court of appeals of the district in which is located that court of common pleas.~~

(F) Notwithstanding any provision of law regarding fees and costs, no filing fee shall be required of, and no court costs shall be assessed against, an eligible offender who is indigent and who submits an application under this section.

(G) If a court rejects an eligible offender's application for DNA testing under division (D) of this section, unless the rejection is overturned on appeal, no court shall require the state to administer a DNA test under sections 2953.71 to 2953.81 of the Revised Code on the eligible offender.

Sec. 2953.81. If an eligible offender submits an application for DNA testing under section 2953.73 of the Revised Code and if DNA testing is performed based on that application, upon completion of the testing, all of the following apply:

(A) The court or a designee of the court shall require the state to maintain the results of the testing and to maintain and

preserve both the parent sample of the biological material used 8338
and the offender sample of the biological material used. The 8339
testing authority may be designated as the person to maintain 8340
the results of the testing or to maintain and preserve some or 8341
all of the samples, or both. The results of the testing remain 8342
state's evidence. The samples shall be preserved during the 8343
entire period of time for which the offender is imprisoned or 8344
confined relative to the sentence in question, is on parole or 8345
probation relative to that sentence, is under post-release 8346
control or a community control sanction relative to that 8347
sentence, or has a duty to comply with sections 2950.04, 8348
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 8349
that sentence. Additionally, if the prison term or confinement 8350
under the sentence in question expires, ~~if the sentence in~~ 8351
~~question is a sentence of death and the offender is executed,~~ or 8352
if the parole or probation period, the period of post-release 8353
control, the community control sanction, or the duty to comply 8354
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 8355
Revised Code under the sentence in question ends, the samples 8356
shall be preserved for a reasonable period of time of not less 8357
than twenty-four months after the term or confinement expires, ~~or~~ 8358
~~the offender is executed,~~ or the parole or probation period, the 8359
period of post-release control, the community control sanction, 8360
or the duty to comply with sections 2950.04, 2950.041, 2950.05, 8361
and 2950.06 of the Revised Code ends, whichever is applicable. 8362
The court shall determine the period of time that is reasonable 8363
for purposes of this division, provided that the period shall 8364
not be less than twenty-four months after the term or 8365
confinement expires, ~~the offender is executed,~~ or the parole or 8366
probation period, the period of post-release control, the 8367
community control sanction, or the duty to comply with sections 8368
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 8369

ends, whichever is applicable. 8370

(B) The results of the testing are a public record. 8371

(C) The court or the testing authority shall provide a 8372
copy of the results of the testing to the prosecuting attorney, 8373
the attorney general, and the subject offender. 8374

(D) If the postconviction proceeding in question is 8375
pending at that time in a court of this state, the court of 8376
common pleas that decided the DNA application or the testing 8377
authority shall provide a copy of the results of the testing to 8378
any court of this state, and, if it is pending in a federal 8379
court, the court of common pleas that decided the DNA 8380
application or the testing authority shall provide a copy of the 8381
results of the testing to that federal court. 8382

(E) The testing authority shall provide a copy of the 8383
results of the testing to the court of common pleas that decided 8384
the DNA application. 8385

(F) The offender or the state may enter the results of the 8386
testing into any proceeding. 8387

Sec. 2967.05. (A) As used in this section: 8388

(1) "Imminent danger of death" means that the inmate has a 8389
medically diagnosable condition that will cause death to occur 8390
within a short period of time. 8391

As used in division (A)(1) of this section, "within a 8392
short period of time" means generally within six months. 8393

(2) (a) "Medically incapacitated" means any diagnosable 8394
medical condition, including mental dementia and severe, 8395
permanent medical or cognitive disability, that prevents the 8396
inmate from completing activities of daily living without 8397

significant assistance, that incapacitates the inmate to the 8398
extent that institutional confinement does not offer additional 8399
restrictions, that is likely to continue throughout the entire 8400
period of parole, and that is unlikely to improve noticeably. 8401

(b) "Medically incapacitated" does not include conditions 8402
related solely to mental illness unless the mental illness is 8403
accompanied by injury, disease, or organic defect. 8404

(3) (a) "Terminal illness" means a condition that satisfies 8405
all of the following criteria: 8406

(i) The condition is irreversible and incurable and is 8407
caused by disease, illness, or injury from which the inmate is 8408
unlikely to recover. 8409

(ii) In accordance with reasonable medical standards and a 8410
reasonable degree of medical certainty, the condition is likely 8411
to cause death to the inmate within twelve months. 8412

(iii) Institutional confinement of the inmate does not 8413
offer additional protections for public safety or against the 8414
inmate's risk to reoffend. 8415

(b) The department of rehabilitation and correction shall 8416
adopt rules pursuant to Chapter 119. of the Revised Code to 8417
implement the definition of "terminal illness" in division (A) 8418
(3) (a) of this section. 8419

(B) Upon the recommendation of the director of 8420
rehabilitation and correction, accompanied by a certificate of 8421
the attending physician that an inmate is terminally ill, 8422
medically incapacitated, or in imminent danger of death, the 8423
governor may order the inmate's release as if on parole, 8424
reserving the right to return the inmate to the institution 8425
pursuant to this section. If, subsequent to the inmate's 8426

release, the inmate's health improves so that the inmate is no 8427
longer terminally ill, medically incapacitated, or in imminent 8428
danger of death, the inmate shall be returned, by order of the 8429
governor, to the institution from which the inmate was released. 8430
If the inmate violates any rules or conditions applicable to the 8431
inmate, the inmate may be returned to an institution under the 8432
control of the department of rehabilitation and correction. The 8433
governor may direct the adult parole authority to investigate or 8434
cause to be investigated the inmate and make a recommendation. 8435
An inmate released under this section shall be subject to 8436
supervision by the adult parole authority in accordance with any 8437
recommendation of the adult parole authority that is approved by 8438
the governor. The adult parole authority shall adopt rules 8439
pursuant to section 119.03 of the Revised Code to establish the 8440
procedure for medical release of an inmate when an inmate is 8441
terminally ill, medically incapacitated, or in imminent danger 8442
of death. 8443

(C) No inmate is eligible for release under this section 8444
if the inmate is serving ~~a death sentence,~~ a sentence of life 8445
without parole, a sentence under Chapter 2971. of the Revised 8446
Code for a felony of the first or second degree, a sentence for 8447
aggravated murder or murder, or a mandatory prison term for an 8448
offense of violence or any specification described in Chapter 8449
2941. of the Revised Code. 8450

Sec. 2967.12. (A) Except as provided in division (G) of 8451
this section, at least sixty days before the adult parole 8452
authority recommends any pardon or commutation of sentence, or 8453
grants any parole, the authority shall provide a notice of the 8454
pendency of the pardon, commutation, or parole, setting forth 8455
the name of the person on whose behalf it is made, the offense 8456
of which the person was convicted or to which the person pleaded 8457

guilty, the time of conviction or the guilty plea, and the term 8458
of the person's sentence, to the prosecuting attorney and the 8459
judge of the court of common pleas of the county in which the 8460
indictment against the person was found. If there is more than 8461
one judge of that court of common pleas, the authority shall 8462
provide the notice to the presiding judge. Upon the request of 8463
the prosecuting attorney or of any law enforcement agency, the 8464
authority shall provide to the requesting prosecuting attorney 8465
and law enforcement agencies an institutional summary report 8466
that covers the subject person's participation while confined in 8467
a state correctional institution in training, work, and other 8468
rehabilitative activities and any disciplinary action taken 8469
against the person while so confined. The department of 8470
rehabilitation and correction may utilize electronic means to 8471
provide this notice. The department of rehabilitation and 8472
correction, at the same time that it provides the notice to the 8473
prosecuting attorney and judge under this division, also shall 8474
post on the database it maintains pursuant to section 5120.66 of 8475
the Revised Code the offender's name and all of the information 8476
specified in division (A) (1) (c) (iii) of that section. 8477

(B) If a request for notification has been made pursuant 8478
to section 2930.16 of the Revised Code or if division (H) of 8479
this section applies, the office of victim services or the adult 8480
parole authority also shall provide notice to the victim or the 8481
victim's representative at least sixty days prior to 8482
recommending any pardon or commutation of sentence for, or 8483
granting any parole to, the person. The notice shall include the 8484
information required by division (A) of this section and may be 8485
provided by telephone or through electronic means. The notice 8486
also shall inform the victim or the victim's representative that 8487
the victim or representative may send a written statement 8488

relative to the victimization and the pending action to the 8489
adult parole authority and that, if the authority receives any 8490
written statement prior to recommending a pardon or commutation 8491
or granting a parole for a person, the authority will consider 8492
the statement before it recommends a pardon or commutation or 8493
grants a parole. If the person is being considered for parole, 8494
the notice shall inform the victim or the victim's 8495
representative that a full board hearing of the parole board may 8496
be held and that the victim or victim's representative may 8497
contact the office of victims' services for further information. 8498
If the person being considered for parole was convicted of or 8499
pleaded guilty to a violation of section 2903.01 or 2903.02 of 8500
the Revised Code, an offense of violence that is a felony of the 8501
first, second, or third degree, or an offense punished by a 8502
sentence of life imprisonment, the notice shall inform the 8503
victim of that offense, the victim's representative, or a member 8504
of the victim's immediate family that the victim, the victim's 8505
representative, and the victim's immediate family have the right 8506
to give testimony at a full board hearing of the parole board 8507
and that the victim or victim's representative may contact the 8508
office of victims' services for further information. 8509

(C) When notice of the pendency of any pardon, commutation 8510
of sentence, or parole has been provided to a judge or 8511
prosecutor or posted on the database as required in division (A) 8512
of this section and a hearing on the pardon, commutation, or 8513
parole is continued to a date certain, the authority shall 8514
provide notice of the further consideration of the pardon, 8515
commutation, or parole at least sixty days before the further 8516
consideration. The notice of the further consideration shall be 8517
provided to the proper judge and prosecuting attorney at least 8518
sixty days before the further consideration, and may be provided 8519

using electronic means, and, if the initial notice was posted on 8520
the database as provided in division (A) of this section, the 8521
notice of the further consideration shall be posted on the 8522
database at least sixty days before the further consideration. 8523
If the prosecuting attorney or a law enforcement agency was 8524
provided a copy of the institutional summary report relative to 8525
the subject person under division (A) of this section, the 8526
authority shall include with the notice of the further 8527
consideration sent to the prosecuting attorney any new 8528
information with respect to the person that relates to 8529
activities and actions of the person that are of a type covered 8530
by the report and shall send to the law enforcement agency a 8531
report that provides notice of the further consideration and 8532
includes any such new information with respect to the person. 8533
When notice of the pendency of any pardon, commutation, or 8534
parole has been given as provided in division (B) of this 8535
section and the hearing on it is continued to a date certain, 8536
the authority shall give notice of the further consideration to 8537
the victim or the victim's representative in accordance with 8538
section 2930.03 of the Revised Code. 8539

(D) In case of an application for the pardon or 8540
commutation of sentence of a person sentenced to capital 8541
punishment prior to the effective date of this amendment, the 8542
governor may modify the requirements of notification and 8543
publication if there is not sufficient time for compliance with 8544
the requirements before the date fixed for the execution of 8545
sentence. 8546

(E) If an offender is serving a prison term imposed under 8547
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8548
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8549
Code and if the parole board terminates its control over the 8550

offender's service of that term pursuant to section 2971.04 of 8551
the Revised Code, the parole board immediately shall provide 8552
written notice of its termination of control or the transfer of 8553
control to the entities and persons specified in section 2971.04 8554
of the Revised Code. 8555

(F) The failure of the adult parole authority to comply 8556
with the notice or posting provisions of division (A), (B), or 8557
(C) of this section or the failure of the parole board to comply 8558
with the notice provisions of division (E) of this section do 8559
not give any rights or any grounds for appeal or post-conviction 8560
relief to the person serving the sentence. 8561

(G) Divisions (A), (B), and (C) of this section do not 8562
apply to any release of a person that is of the type described 8563
in division (B) (2) (b) of section 5120.031 of the Revised Code. 8564

(H) If a defendant is incarcerated for the commission of 8565
aggravated murder, murder, or an offense of violence that is a 8566
felony of the first, second, or third degree or is under a 8567
sentence of life imprisonment, except as otherwise provided in 8568
this division, the notice described in division (B) of this 8569
section shall be given to the victim or victim's representative 8570
regardless of whether the victim or victim's representative has 8571
made a request for notification. The notice described in 8572
division (B) of this section shall not be given under this 8573
division to a victim or victim's representative if the victim or 8574
victim's representative has requested pursuant to division (B) 8575
(2) of section 2930.03 of the Revised Code that the victim or 8576
the victim's representative not be provided the notice. The 8577
notice described in division (B) of this section does not have 8578
to be given under this division to a victim or victim's 8579
representative if notice was given to the victim or victim's 8580

representative with respect to at least two prior considerations 8581
of pardon, commutation, or parole of a person and the victim or 8582
victim's representative did not provide any written statement 8583
relative to the victimization and the pending action, did not 8584
attend any hearing conducted relative to the pending action, and 8585
did not otherwise respond to the office with respect to the 8586
pending action. Regardless of whether the victim or victim's 8587
representative has requested that the notice described in 8588
division (B) of this section be provided or not be provided, the 8589
office of victim services or adult parole authority shall give 8590
similar notice to the law enforcement agency that arrested the 8591
defendant if any officer of that agency was a victim of the 8592
offense and to any member of the victim's immediate family who 8593
requests notification. If notice is to be given under this 8594
division, the office or authority may give the notice by any 8595
reasonable means, including regular mail, telephone, and 8596
electronic mail, in accordance with division (D) (1) of section 8597
2930.16 of the Revised Code. If the notice is based on an 8598
offense committed prior to March 22, 2013, the notice to the 8599
victim or victim's representative also shall include the opt-out 8600
information described in division (D) (1) of section 2930.16 of 8601
the Revised Code. The office or authority, in accordance with 8602
division (D) (2) of section 2930.16 of the Revised Code, shall 8603
keep a record of all attempts to provide the notice, and of all 8604
notices provided, under this division. 8605

Division (H) of this section, and the notice-related 8606
provisions of divisions (E) (2) and (K) of section 2929.20, 8607
division (D) (1) of section 2930.16, division (E) (1) (b) of 8608
section 2967.19 as it existed prior to ~~the effective date of~~ 8609
~~this amendment~~ April 4, 2023, division (A) (3) (b) of section 8610
2967.26, division (D) (1) of section 2967.28, and division (A) (2) 8611

of section 5149.101 of the Revised Code enacted in the act in 8612
which division (H) of this section was enacted, shall be known 8613
as "Roberta's Law." 8614

(I) In addition to and independent of the right of a 8615
victim to make a statement as described in division (A) of this 8616
section or pursuant to section 2930.17 of the Revised Code or to 8617
otherwise make a statement, the authority for a judge or 8618
prosecuting attorney to furnish statements and information, make 8619
recommendations, and give testimony as described in division (A) 8620
of this section, the right of a prosecuting attorney, judge, or 8621
victim to give testimony or submit a statement at a full parole 8622
board hearing pursuant to section 5149.101 of the Revised Code, 8623
and any other right or duty of a person to present information 8624
or make a statement, any person may send to the adult parole 8625
authority at any time prior to the authority's recommending a 8626
pardon or commutation or granting a parole for the offender a 8627
written statement relative to the offense and the pending 8628
action. 8629

(J) As used in this section, "victim's immediate family" 8630
means the mother, father, spouse, sibling, or child of the 8631
victim, provided that in no case does "victim's immediate 8632
family" include the offender with respect to whom the notice in 8633
question applies. 8634

Sec. 2967.13. (A) Except as provided in division (G) of 8635
this section or section 2967.132 of the Revised Code, a prisoner 8636
serving a sentence of imprisonment for life for an offense 8637
committed on or after July 1, 1996, is not entitled to any 8638
earned credit under division (A) (2) or (3) of section 2967.193 8639
or 2967.194 of the Revised Code and becomes eligible for parole 8640
as follows: 8641

(1) If a sentence of imprisonment for life was imposed for 8642
the offense of murder, at the expiration of the prisoner's 8643
minimum term; 8644

(2) If a sentence of imprisonment for life with parole 8645
eligibility after serving twenty years of imprisonment was 8646
imposed pursuant to section 2929.02 or former section 2929.022 8647
or 2929.03 of the Revised Code, after serving a term of twenty 8648
years; 8649

(3) If a sentence of imprisonment for life with parole 8650
eligibility after serving twenty-five full years of imprisonment 8651
was imposed pursuant to section 2929.02 or former section 8652
2929.022 or 2929.03 of the Revised Code, after serving a term of 8653
twenty-five full years; 8654

(4) If a sentence of imprisonment for life with parole 8655
eligibility after serving thirty full years of imprisonment was 8656
imposed pursuant to section 2929.02 or former section 2929.022 8657
or 2929.03 of the Revised Code, after serving a term of thirty 8658
full years; 8659

(5) If a sentence of imprisonment for life was imposed for 8660
rape, after serving a term of ten full years' imprisonment; 8661

(6) If a sentence of imprisonment for life with parole 8662
eligibility after serving fifteen years of imprisonment was 8663
imposed for a violation of section 2927.24 of the Revised Code, 8664
after serving a term of fifteen years. 8665

(B) Except as provided in division (G) of this section or 8666
section 2967.132 of the Revised Code, a prisoner serving a 8667
sentence of imprisonment for life with parole eligibility after 8668
serving twenty years of imprisonment or a sentence of 8669
imprisonment for life with parole eligibility after serving 8670

twenty-five full years or thirty full years of imprisonment 8671
imposed pursuant to section 2929.02 or former section 2929.022 8672
or 2929.03 of the Revised Code for an offense committed on or 8673
after July 1, 1996, consecutively to any other term of 8674
imprisonment, becomes eligible for parole after serving twenty 8675
years, twenty full years, or thirty full years, as applicable, 8676
as to each such sentence of life imprisonment, which shall not 8677
be reduced for earned credits under division (A) (2) or (3) of 8678
section 2967.193 or 2967.194 of the Revised Code, plus the term 8679
or terms of the other sentences consecutively imposed or, if one 8680
of the other sentences is another type of life sentence with 8681
parole eligibility, the number of years before parole 8682
eligibility for that sentence. 8683

(C) Except as provided in division (G) of this section or 8684
section 2967.132 of the Revised Code, a prisoner serving 8685
consecutively two or more sentences in which an indefinite term 8686
of imprisonment is imposed becomes eligible for parole upon the 8687
expiration of the aggregate of the minimum terms of the 8688
sentences. 8689

(D) Except as provided in division (G) of this section or 8690
section 2967.132 of the Revised Code, a prisoner serving a term 8691
of imprisonment who is described in division (A) of section 8692
2967.021 of the Revised Code becomes eligible for parole as 8693
described in that division or, if the prisoner is serving a 8694
definite term of imprisonment, shall be released as described in 8695
that division. 8696

(E) Except as provided in section 2967.132 of the Revised 8697
Code, a prisoner serving a sentence of life imprisonment without 8698
parole imposed pursuant to section 2907.02 or section 2929.02 or 8699
former section 2929.03 or 2929.06 of the Revised Code is not 8700

eligible for parole and shall be imprisoned until death. 8701

(F) A prisoner serving a stated prison term that is a non- 8702
life felony indefinite prison term shall be released in 8703
accordance with sections 2967.271 and 2967.28 of the Revised 8704
Code. A prisoner serving a stated prison term of any other 8705
nature shall be released in accordance with section 2967.28 of 8706
the Revised Code. 8707

(G) Except as provided in section 2967.132 of the Revised 8708
Code, a prisoner serving a prison term or term of life 8709
imprisonment without parole imposed pursuant to section 2971.03 8710
of the Revised Code never becomes eligible for parole during 8711
that term of imprisonment. 8712

Sec. 2967.193. (A) (1) The provisions of this section apply 8713
until April 4, 2024, to persons confined in a state correctional 8714
institution or in the substance use disorder treatment program. 8715
On and after April 4, 2024, the provisions of section 2967.194 8716
of the Revised Code apply to persons so confined, in the manner 8717
specified in division (G) of that section. 8718

(2) Except as provided in division (C) of this section and 8719
subject to the maximum aggregate total specified in division (A) 8720
(4) of this section, a person confined in a state correctional 8721
institution or placed in the substance use disorder treatment 8722
program may provisionally earn one day or five days of credit, 8723
based on the category set forth in division (D) (1), (2), (3), 8724
(4), or (5) of this section in which the person is included, 8725
toward satisfaction of the person's stated prison term, as 8726
described in division (F) of this section, for each completed 8727
month during which the person, if confined in a state 8728
correctional institution, productively participates in an 8729
education program, vocational training, employment in prison 8730

industries, treatment for substance abuse, or any other 8731
constructive program developed by the department of 8732
rehabilitation and correction with specific standards for 8733
performance by prisoners or during which the person, if placed 8734
in the substance use disorder treatment program, productively 8735
participates in the program. Except as provided in division (C) 8736
of this section and subject to the maximum aggregate total 8737
specified in division (A) (4) of this section, a person so 8738
confined in a state correctional institution who successfully 8739
completes two programs or activities of that type may, in 8740
addition, provisionally earn up to five days of credit toward 8741
satisfaction of the person's stated prison term, as described in 8742
division (F) of this section, for the successful completion of 8743
the second program or activity. The person shall not be awarded 8744
any provisional days of credit for the successful completion of 8745
the first program or activity or for the successful completion 8746
of any program or activity that is completed after the second 8747
program or activity. At the end of each calendar month in which 8748
a person productively participates in a program or activity 8749
listed in this division or successfully completes a program or 8750
activity listed in this division, the department of 8751
rehabilitation and correction shall determine and record the 8752
total number of days credit that the person provisionally earned 8753
in that calendar month. If the person in a state correctional 8754
institution violates prison rules or the person in the substance 8755
use disorder treatment program violates program or department 8756
rules, the department may deny the person a credit that 8757
otherwise could have been provisionally awarded to the person or 8758
may withdraw one or more credits previously provisionally earned 8759
by the person. Days of credit provisionally earned by a person 8760
shall be finalized and awarded by the department subject to 8761
administrative review by the department of the person's conduct. 8762

(3) Unless a person is serving a mandatory prison term or a prison term for an offense of violence or a sexually oriented offense, and notwithstanding the maximum aggregate total specified in division (A) (4) of this section, a person who successfully completes any of the following shall earn ninety days of credit toward satisfaction of the person's stated prison term or a ten per cent reduction of the person's stated prison term, whichever is less:

(a) An Ohio high school diploma or Ohio certificate of high school equivalence certified by the Ohio central school system;

(b) A therapeutic drug community program;

(c) All three phases of the department of rehabilitation and correction's intensive outpatient drug treatment program;

(d) A career technical vocational school program;

(e) A college certification program;

(f) The criteria for a certificate of achievement and employability as specified in division (A) (1) of section 2961.22 of the Revised Code.

(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.

(b) If a person is confined in a state correctional

institution or in the substance use disorder treatment program 8791
after ~~the effective date of this amendment~~ October 3, 2023, and 8792
if the person as of ~~that effective date~~ October 3, 2023, has met 8793
the eight per cent limit specified in division (A) (4) (a) of this 8794
section or the person meets that eight per cent limit between 8795
~~that effective date~~ October 3, 2023, and April 3, 2024, both of 8796
the following apply with respect to the person: 8797

(i) On and after ~~the effective date of this amendment~~ 8798
October 3, 2023, the eight per cent limit specified in division 8799
(A) (4) (a) of this section no longer applies to the person; 8800

(ii) On and after ~~the effective date of this amendment~~ 8801
October 3, 2023, the aggregate days of credit provisionally 8802
earned by a person for program or activity participation and 8803
program and activity completion under this section and the 8804
aggregate days of credit finally credited to a person under this 8805
section shall not exceed fifteen per cent of the total number of 8806
days in the person's stated prison term. 8807

(B) The department of rehabilitation and correction shall 8808
adopt rules that specify the programs or activities for which 8809
credit may be earned under this section, the criteria for 8810
determining productive participation in, or completion of, the 8811
programs or activities and the criteria for awarding credit, 8812
including criteria for awarding additional credit for successful 8813
program or activity completion, and the criteria for denying or 8814
withdrawing previously provisionally earned credit as a result 8815
of a violation of prison rules, or program or department rules, 8816
whichever is applicable. 8817

(C) No person confined in a state correctional institution 8818
or placed in a substance use disorder treatment program to whom 8819
any of the following applies shall be awarded any days of credit 8820

under division (A) of this section: 8821

(1) The person is serving a prison term that section 8822
2929.13 or section 2929.14 of the Revised Code specifies cannot 8823
be reduced pursuant to this section or this chapter or is 8824
serving a sentence for which section 2967.13 or division (B) of 8825
section 2929.143 of the Revised Code specifies that the person 8826
is not entitled to any earned credit under this section. 8827

(2) The person is ~~sentenced to death or~~ is serving a 8828
prison term or a term of life imprisonment for aggravated 8829
murder, murder, or a conspiracy or attempt to commit, or 8830
complicity in committing, aggravated murder or murder. 8831

(3) The person is serving a sentence of life imprisonment 8832
without parole imposed pursuant to section 2929.02 or former 8833
section 2929.03 or 2929.06 of the Revised Code, a prison term or 8834
a term of life imprisonment without parole imposed pursuant to 8835
section 2971.03 of the Revised Code, or a sentence for a 8836
sexually oriented offense that was committed on or after 8837
September 30, 2011. 8838

(D) This division does not apply to a determination of 8839
whether a person confined in a state correctional institution or 8840
placed in a substance use disorder treatment program may earn 8841
any days of credit under division (A) of this section for 8842
successful completion of a second program or activity. The 8843
determination of whether a person confined in a state 8844
correctional institution may earn one day of credit or five days 8845
of credit under division (A) of this section for each completed 8846
month during which the person productively participates in a 8847
program or activity specified under that division shall be made 8848
in accordance with the following: 8849

(1) The offender may earn one day of credit under division 8850
(A) of this section, except as provided in division (C) of this 8851
section, if the most serious offense for which the offender is 8852
confined is any of the following that is a felony of the first 8853
or second degree: 8854

(a) A violation of division (A) of section 2903.04 or of 8855
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 8856
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 8857
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.15, 2919.151, 8858
2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, 8859
or 2927.24 of the Revised Code; 8860

(b) A conspiracy or attempt to commit, or complicity in 8861
committing, any other offense for which the maximum penalty is 8862
imprisonment for life or any offense listed in division (D) (1) 8863
(a) of this section. 8864

(2) The offender may earn one day of credit under division 8865
(A) of this section, except as provided in division (C) of this 8866
section, if the offender is serving a stated prison term that 8867
includes a prison term imposed for a sexually oriented offense 8868
that the offender committed prior to September 30, 2011. 8869

(3) The offender may earn one day of credit under division 8870
(A) of this section, except as provided in division (C) of this 8871
section, if the offender is serving a stated prison term that 8872
includes a prison term imposed for a felony other than carrying 8873
a concealed weapon an essential element of which is any conduct 8874
or failure to act expressly involving any deadly weapon or 8875
dangerous ordnance. 8876

(4) Except as provided in division (C) of this section, if 8877
the most serious offense for which the offender is confined is a 8878

felony of the first or second degree and divisions (D) (1), (2), 8879
and (3) of this section do not apply to the offender, the 8880
offender may earn one day of credit under division (A) of this 8881
section if the offender committed that offense prior to 8882
September 30, 2011, and the offender may earn five days of 8883
credit under division (A) of this section if the offender 8884
committed that offense on or after September 30, 2011. 8885

(5) Except as provided in division (C) of this section, if 8886
the most serious offense for which the offender is confined is a 8887
felony of the third, fourth, or fifth degree or an unclassified 8888
felony and neither division (D) (2) nor (3) of this section 8889
applies to the offender, the offender may earn one day of credit 8890
under division (A) of this section if the offender committed 8891
that offense prior to September 30, 2011, and the offender may 8892
earn five days of credit under division (A) of this section if 8893
the offender committed that offense on or after September 30, 8894
2011. 8895

(E) The department annually shall seek and consider the 8896
written feedback of the Ohio prosecuting attorneys association, 8897
the Ohio judicial conference, the Ohio public defender, the Ohio 8898
association of criminal defense lawyers, and other organizations 8899
and associations that have an interest in the operation of the 8900
corrections system and the earned credits program under this 8901
section as part of its evaluation of the program and in 8902
determining whether to modify the program. 8903

(F) Days of credit awarded under this section shall be 8904
applied toward satisfaction of a person's stated prison term as 8905
follows: 8906

(1) Toward the definite prison term of a prisoner serving 8907
a definite prison term as a stated prison term; 8908

(2) Toward the minimum and maximum terms of a prisoner 8909
serving an indefinite prison term imposed under division (A) (1) 8910
(a) or (2) (a) of section 2929.14 of the Revised Code for a 8911
felony of the first or second degree committed on or after March 8912
22, 2019. 8913

(G) As used in this section: 8914

(1) "Sexually oriented offense" has the same meaning as in 8915
section 2950.01 of the Revised Code. 8916

(2) "Substance use disorder treatment program" means the 8917
substance use disorder treatment program established by the 8918
department of rehabilitation and correction under section 8919
5120.035 of the Revised Code. 8920

Sec. 2967.194. (A) (1) Beginning April 4, 2024, the 8921
provisions of this section shall apply, in the manner described 8922
in division (G) of this section, to persons confined on or after 8923
that date in a state correctional institution or in the 8924
substance use disorder treatment program. 8925

(2) Except as provided in division (C) of this section and 8926
subject to the maximum aggregate total specified in division (A) 8927
(4) of this section, a person confined in a state correctional 8928
institution or placed in the substance use disorder treatment 8929
program may provisionally earn one day or five days of credit, 8930
based on the category set forth in division (D) (1) or (2) of 8931
this section in which the person is included, toward 8932
satisfaction of the person's stated prison term, as described in 8933
division (F) of this section, for each completed month during 8934
which the person, if confined in a state correctional 8935
institution, productively participates in an education program, 8936
vocational training, employment in prison industries, treatment 8937

for substance abuse, or any other constructive program developed 8938
by the department of rehabilitation and correction with specific 8939
standards for performance by prisoners or during which the 8940
person, if placed in the substance use disorder treatment 8941
program, productively participates in the program. Except as 8942
provided in division (C) of this section and subject to the 8943
maximum aggregate total specified in division (A) (4) of this 8944
section, a person so confined in a state correctional 8945
institution who successfully completes two programs or 8946
activities of that type may, in addition, provisionally earn up 8947
to five days of credit toward satisfaction of the person's 8948
stated prison term, as described in division (F) of this 8949
section, for the successful completion of the second program or 8950
activity. The person shall not be awarded any provisional days 8951
of credit for the successful completion of the first program or 8952
activity or for the successful completion of any program or 8953
activity that is completed after the second program or activity. 8954
At the end of each calendar month in which a person productively 8955
participates in a program or activity listed in this division or 8956
successfully completes a program or activity listed in this 8957
division, the department of rehabilitation and correction shall 8958
determine and record the total number of days credit that the 8959
person provisionally earned in that calendar month. If the 8960
person in a state correctional institution violates prison rules 8961
or the person in the substance use disorder treatment program 8962
violates program or department rules, the department may deny 8963
the person a credit that otherwise could have been provisionally 8964
awarded to the person or may withdraw one or more credits 8965
previously provisionally earned by the person. Days of credit 8966
provisionally earned by a person shall be finalized and awarded 8967
by the department subject to administrative review by the 8968
department of the person's conduct. 8969

(3) Except as provided in division (C) of this section, 8970
unless a person is serving a mandatory prison term or a prison 8971
term for an offense of violence or a sexually oriented offense, 8972
and notwithstanding the maximum aggregate total specified in 8973
division (A)(4) of this section, a person who successfully 8974
completes any diploma, equivalence, program, or criteria 8975
identified in divisions (A)(3)(a) to (g) of this section shall 8976
earn ninety days of credit toward satisfaction of the person's 8977
stated prison term or a ten per cent reduction of the person's 8978
stated prison term, whichever is less, for each such diploma, 8979
equivalence, program, or criteria successfully completed. The 8980
diplomas, equivalences, programs, and criteria for which credit 8981
shall be granted under this division, upon successful 8982
completion, are: 8983

(a) An Ohio high school diploma or Ohio certificate of 8984
high school equivalence certified by the Ohio central school 8985
system; 8986

(b) A therapeutic drug community program; 8987

(c) All three phases of the department of rehabilitation 8988
and correction's intensive outpatient drug treatment program; 8989

(d) A career technical vocational school program; 8990

(e) A college certification program; 8991

(f) The criteria for a certificate of achievement and 8992
employability as specified in division (A)(1) of section 2961.22 8993
of the Revised Code; 8994

(g) Any other constructive program developed by the 8995
department of rehabilitation and correction with specific 8996
standards for performance by prisoners. 8997

(4) Except for persons described in division (A) (3) of 8998
this section, the aggregate days of credit provisionally earned 8999
by a person for program or activity participation and program 9000
and activity completion under this section and the aggregate 9001
days of credit finally credited to a person under this section 9002
shall not exceed fifteen per cent of the total number of days in 9003
the person's stated prison term. 9004

(B) The department of rehabilitation and correction shall 9005
adopt rules that specify the programs or activities for which 9006
credit may be earned under this section, the criteria for 9007
determining productive participation in, or completion of, the 9008
programs or activities and the criteria for awarding credit, 9009
including criteria for awarding additional credit for successful 9010
program or activity completion, and the criteria for denying or 9011
withdrawing previously provisionally earned credit as a result 9012
of a violation of prison rules, or program or department rules, 9013
whichever is applicable. 9014

(C) No person confined in a state correctional institution 9015
or placed in a substance use disorder treatment program to whom 9016
any of the following applies shall be awarded any days of credit 9017
under division (A) (2) or (3) of this section: 9018

(1) The person is serving a prison term that section 9019
2929.13 or section 2929.14 of the Revised Code specifies cannot 9020
be reduced pursuant to this section or this chapter or is 9021
serving a sentence for which section 2967.13 or division (B) of 9022
section 2929.143 of the Revised Code specifies that the person 9023
is not entitled to any earned credit under this section. 9024

(2) The person is sentenced to death or is serving a 9025
prison term or a term of life imprisonment for aggravated 9026
murder, murder, or a conspiracy or attempt to commit, or 9027

complicity in committing, aggravated murder or murder. 9028

(3) The person is serving a sentence of life imprisonment 9029
without parole imposed pursuant to former section 2929.03 or 9030
2929.06 of the Revised Code, a prison term or a term of life 9031
imprisonment without parole imposed pursuant to section 2971.03 9032
of the Revised Code, or a sentence for a sexually oriented 9033
offense that was committed on or after September 30, 2011. 9034

(D) This division does not apply to a determination of 9035
whether a person confined in a state correctional institution or 9036
placed in a substance use disorder treatment program may earn 9037
any days of credit under division (A) (2) of this section for 9038
successful completion of a second program or activity. The 9039
determination of whether a person confined in a state 9040
correctional institution may earn one day of credit or five days 9041
of credit under division (A) (2) of this section for each 9042
completed month during which the person productively 9043
participates in a program or activity specified under that 9044
division shall be made in accordance with the following: 9045

(1) The offender may earn one day of credit under division 9046
(A) (2) of this section, except as provided in division (C) of 9047
this section, if the offender is serving a stated prison term 9048
that includes a prison term imposed for a sexually oriented 9049
offense that the offender committed prior to September 30, 2011. 9050

(2) Except as provided in division (C) of this section, if 9051
division (D) (1) of this section does not apply to the offender, 9052
the offender may earn five days of credit under division (A) (2) 9053
of this section. 9054

(E) The department annually shall seek and consider the 9055
written feedback of the Ohio prosecuting attorneys association, 9056

the Ohio judicial conference, the Ohio public defender, the Ohio 9057
association of criminal defense lawyers, and other organizations 9058
and associations that have an interest in the operation of the 9059
corrections system and the earned credits program under this 9060
section as part of its evaluation of the program and in 9061
determining whether to modify the program. 9062

(F) Days of credit awarded under this section shall be 9063
applied toward satisfaction of a person's stated prison term as 9064
follows: 9065

(1) Toward the definite prison term of a prisoner serving 9066
a definite prison term as a stated prison term; 9067

(2) Toward the minimum and maximum terms of a prisoner 9068
serving an indefinite prison term imposed under division (A)(1) 9069
(a) or (2)(a) of section 2929.14 of the Revised Code for a 9070
felony of the first or second degree committed on or after March 9071
22, 2019. 9072

(G) The provisions of this section apply to persons 9073
confined in a state correctional institution or in the substance 9074
use disorder treatment program on or after April 4, 2024, as 9075
follows: 9076

(1) Subject to division (G)(2) of this section, the 9077
provisions apply to a person so confined regardless of whether 9078
the person committed the offense for which the person is 9079
confined in the institution or was placed in the program prior 9080
to, on, or after April 4, 2024, and regardless of whether the 9081
person was convicted of or pleaded guilty to that offense prior 9082
to, on, or after April 4, 2024. 9083

(2) The provisions apply to a person so confined only with 9084
respect to the time that the person is so confined on and after 9085

April 4, 2024, and the provisions of section 2967.193 of the Revised Code that were in effect prior to April 4, 2024, and that applied to the person prior to that date, including the provisions of division (A) (4) of that section as amended by ~~this act~~ H.B. 33 of the 135th general assembly, apply to the person with respect to the time that the person was so confined prior to April 4, 2024.

(H) As used in this section:

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

(2) "Substance use disorder treatment program" means the substance use disorder treatment program established by the department of rehabilitation and correction under section 5120.035 of the Revised Code.

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or another section of the Revised Code, other than divisions (B) and (C) of section 2929.14 of the Revised Code, that authorizes or requires a specified prison term or a mandatory prison term for a person who is convicted of or pleads guilty to a felony or that specifies the manner and place of service of a prison term or term of imprisonment, the court shall impose a sentence upon a person who is convicted of or pleads guilty to a violent sex offense and who also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, and upon a person who is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator

specification that were included in the indictment, count in the 9116
indictment, or information charging that offense, as follows: 9117

(1) Except as provided in division (A) (5) of this section, 9118
if the offense for which the sentence is being imposed is 9119
aggravated murder ~~and if the court does not impose upon the~~ 9120
~~offender a sentence of death,~~ it shall impose upon the offender 9121
a term of life imprisonment without parole. ~~If the court~~ 9122
~~sentences the offender to death and the sentence of death is~~ 9123
~~vacated, overturned, or otherwise set aside, the court shall~~ 9124
~~impose upon the offender a term of life imprisonment without~~ 9125
~~parole.~~ 9126

(2) Except as provided in division (A) (5) of this section, 9127
if the offense for which the sentence is being imposed is 9128
murder; or if the offense is rape committed in violation of 9129
division (A) (1) (b) of section 2907.02 of the Revised Code when 9130
the offender purposely compelled the victim to submit by force 9131
or threat of force, when the victim was less than ten years of 9132
age, when the offender previously has been convicted of or 9133
pleaded guilty to either rape committed in violation of that 9134
division or a violation of an existing or former law of this 9135
state, another state, or the United States that is substantially 9136
similar to division (A) (1) (b) of section 2907.02 of the Revised 9137
Code, or when the offender during or immediately after the 9138
commission of the rape caused serious physical harm to the 9139
victim; or if the offense is an offense other than aggravated 9140
murder or murder for which a term of life imprisonment may be 9141
imposed, it shall impose upon the offender a term of life 9142
imprisonment without parole. 9143

(3) (a) Except as otherwise provided in division (A) (3) (b), 9144
(c), (d), or (e) or (A) (4) of this section, if the offense for 9145

which the sentence is being imposed is an offense other than 9146
aggravated murder, murder, or rape and other than an offense for 9147
which a term of life imprisonment may be imposed, it shall 9148
impose an indefinite prison term consisting of a minimum term 9149
fixed by the court as described in this division, but not less 9150
than two years, and a maximum term of life imprisonment. Except 9151
as otherwise specified in this division, the minimum term shall 9152
be fixed by the court from among the range of terms available as 9153
a definite term for the offense. If the offense is a felony of 9154
the first or second degree committed on or after March 22, 2019, 9155
the minimum term shall be fixed by the court from among the 9156
range of terms available as a minimum term for the offense under 9157
division (A) (1) (a) or (2) (a) of that section. 9158

(b) Except as otherwise provided in division (A) (4) of 9159
this section, if the offense for which the sentence is being 9160
imposed is kidnapping that is a felony of the first degree, it 9161
shall impose an indefinite prison term as follows: 9162

(i) If the kidnapping is committed on or after January 1, 9163
2008, and the victim of the offense is less than thirteen years 9164
of age, except as otherwise provided in this division, it shall 9165
impose an indefinite prison term consisting of a minimum term of 9166
fifteen years and a maximum term of life imprisonment. If the 9167
kidnapping is committed on or after January 1, 2008, the victim 9168
of the offense is less than thirteen years of age, and the 9169
offender released the victim in a safe place unharmed, it shall 9170
impose an indefinite prison term consisting of a minimum term of 9171
ten years and a maximum term of life imprisonment. 9172

(ii) If the kidnapping is committed prior to January 1, 9173
2008, or division (A) (3) (b) (i) of this section does not apply, 9174
it shall impose an indefinite term consisting of a minimum term 9175

fixed by the court that is not less than ten years and a maximum 9176
term of life imprisonment. 9177

(c) Except as otherwise provided in division (A) (4) of 9178
this section, if the offense for which the sentence is being 9179
imposed is kidnapping that is a felony of the second degree, it 9180
shall impose an indefinite prison term consisting of a minimum 9181
term fixed by the court that is not less than eight years, and a 9182
maximum term of life imprisonment. 9183

(d) Except as otherwise provided in division (A) (4) of 9184
this section, if the offense for which the sentence is being 9185
imposed is rape for which a term of life imprisonment is not 9186
imposed under division (A) (2) of this section or division (B) of 9187
section 2907.02 of the Revised Code, it shall impose an 9188
indefinite prison term as follows: 9189

(i) If the rape is committed on or after January 2, 2007, 9190
in violation of division (A) (1) (b) of section 2907.02 of the 9191
Revised Code, it shall impose an indefinite prison term 9192
consisting of a minimum term of twenty-five years and a maximum 9193
term of life imprisonment. 9194

(ii) If the rape is committed prior to January 2, 2007, or 9195
the rape is committed on or after January 2, 2007, other than in 9196
violation of division (A) (1) (b) of section 2907.02 of the 9197
Revised Code, it shall impose an indefinite prison term 9198
consisting of a minimum term fixed by the court that is not less 9199
than ten years, and a maximum term of life imprisonment. 9200

(e) Except as otherwise provided in division (A) (4) of 9201
this section, if the offense for which sentence is being imposed 9202
is attempted rape, it shall impose an indefinite prison term as 9203
follows: 9204

(i) Except as otherwise provided in division (A) (3) (e) 9205
(ii), (iii), or (iv) of this section, it shall impose an 9206
indefinite prison term pursuant to division (A) (3) (a) of this 9207
section. 9208

(ii) If the attempted rape for which sentence is being 9209
imposed was committed on or after January 2, 2007, and if the 9210
offender also is convicted of or pleads guilty to a 9211
specification of the type described in section 2941.1418 of the 9212
Revised Code, it shall impose an indefinite prison term 9213
consisting of a minimum term of five years and a maximum term of 9214
twenty-five years. 9215

(iii) If the attempted rape for which sentence is being 9216
imposed was committed on or after January 2, 2007, and if the 9217
offender also is convicted of or pleads guilty to a 9218
specification of the type described in section 2941.1419 of the 9219
Revised Code, it shall impose an indefinite prison term 9220
consisting of a minimum term of ten years and a maximum of life 9221
imprisonment. 9222

(iv) If the attempted rape for which sentence is being 9223
imposed was committed on or after January 2, 2007, and if the 9224
offender also is convicted of or pleads guilty to a 9225
specification of the type described in section 2941.1420 of the 9226
Revised Code, it shall impose an indefinite prison term 9227
consisting of a minimum term of fifteen years and a maximum of 9228
life imprisonment. 9229

(4) Except as provided in division (A) (5) of this section, 9230
for any offense for which the sentence is being imposed, if the 9231
offender previously has been convicted of or pleaded guilty to a 9232
violent sex offense and also to a sexually violent predator 9233
specification that was included in the indictment, count in the 9234

indictment, or information charging that offense, or previously 9235
has been convicted of or pleaded guilty to a designated 9236
homicide, assault, or kidnapping offense and also to both a 9237
sexual motivation specification and a sexually violent predator 9238
specification that were included in the indictment, count in the 9239
indictment, or information charging that offense, it shall 9240
impose upon the offender a term of life imprisonment without 9241
parole. 9242

(5) Notwithstanding divisions (A) (1), (2), and (4) of this 9243
section, the court shall not impose a sentence of life 9244
imprisonment without parole upon any person for an offense that 9245
was committed when the person was under eighteen years of age. 9246
In any case described in division (A) (1), (2), or (4) of this 9247
section, if the offense was committed when the person was under 9248
eighteen years of age, the court shall impose an indefinite 9249
prison term consisting of a minimum term of thirty years and a 9250
maximum term of life imprisonment. 9251

(B) (1) Notwithstanding section 2929.13, division (A) or 9252
(D) of section 2929.14, or another section of the Revised Code 9253
other than division (B) of section 2907.02 or divisions (B) and 9254
(C) of section 2929.14 of the Revised Code that authorizes or 9255
requires a specified prison term or a mandatory prison term for 9256
a person who is convicted of or pleads guilty to a felony or 9257
that specifies the manner and place of service of a prison term 9258
or term of imprisonment, if a person is convicted of or pleads 9259
guilty to a violation of division (A) (1) (b) of section 2907.02 9260
of the Revised Code committed on or after January 2, 2007, if 9261
division (A) of this section does not apply regarding the 9262
person, and if the court does not impose a sentence of life 9263
without parole when authorized pursuant to division (B) of 9264
section 2907.02 of the Revised Code, the court shall impose upon 9265

the person an indefinite prison term consisting of one of the 9266
following: 9267

(a) Except as otherwise required in division (B) (1) (b) or 9268
(c) of this section, a minimum term of ten years and a maximum 9269
term of life imprisonment. 9270

(b) If the victim was less than ten years of age, a 9271
minimum term of fifteen years and a maximum of life 9272
imprisonment. 9273

(c) If the offender purposely compels the victim to submit 9274
by force or threat of force, or if the offender previously has 9275
been convicted of or pleaded guilty to violating division (A) (1) 9276
(b) of section 2907.02 of the Revised Code or to violating an 9277
existing or former law of this state, another state, or the 9278
United States that is substantially similar to division (A) (1) 9279
(b) of that section, or if the offender during or immediately 9280
after the commission of the offense caused serious physical harm 9281
to the victim, a minimum term of twenty-five years and a maximum 9282
of life imprisonment. 9283

(2) Notwithstanding section 2929.13, division (A) or (D) 9284
of section 2929.14, or another section of the Revised Code other 9285
than divisions (B) and (C) of section 2929.14 of the Revised 9286
Code that authorizes or requires a specified prison term or a 9287
mandatory prison term for a person who is convicted of or pleads 9288
guilty to a felony or that specifies the manner and place of 9289
service of a prison term or term of imprisonment and except as 9290
otherwise provided in division (B) of section 2907.02 of the 9291
Revised Code, if a person is convicted of or pleads guilty to 9292
attempted rape committed on or after January 2, 2007, and if 9293
division (A) of this section does not apply regarding the 9294
person, the court shall impose upon the person an indefinite 9295

prison term consisting of one of the following: 9296

(a) If the person also is convicted of or pleads guilty to 9297
a specification of the type described in section 2941.1418 of 9298
the Revised Code, the court shall impose upon the person an 9299
indefinite prison term consisting of a minimum term of five 9300
years and a maximum term of twenty-five years. 9301

(b) If the person also is convicted of or pleads guilty to 9302
a specification of the type described in section 2941.1419 of 9303
the Revised Code, the court shall impose upon the person an 9304
indefinite prison term consisting of a minimum term of ten years 9305
and a maximum term of life imprisonment. 9306

(c) If the person also is convicted of or pleads guilty to 9307
a specification of the type described in section 2941.1420 of 9308
the Revised Code, the court shall impose upon the person an 9309
indefinite prison term consisting of a minimum term of fifteen 9310
years and a maximum term of life imprisonment. 9311

(3) Notwithstanding section 2929.13, division (A) or (D) 9312
of section 2929.14, or another section of the Revised Code other 9313
than divisions (B) and (C) of section 2929.14 of the Revised 9314
Code that authorizes or requires a specified prison term or a 9315
mandatory prison term for a person who is convicted of or pleads 9316
guilty to a felony or that specifies the manner and place of 9317
service of a prison term or term of imprisonment, if a person is 9318
convicted of or pleads guilty to an offense described in 9319
division (B)(3)(a), (b), (c), or (d) of this section committed 9320
on or after January 1, 2008, if the person also is convicted of 9321
or pleads guilty to a sexual motivation specification that was 9322
included in the indictment, count in the indictment, or 9323
information charging that offense, and if division (A) of this 9324
section does not apply regarding the person, the court shall 9325

impose upon the person an indefinite prison term consisting of 9326
one of the following: 9327

(a) An indefinite prison term consisting of a minimum of 9328
ten years and a maximum term of life imprisonment if the offense 9329
for which the sentence is being imposed is kidnapping, the 9330
victim of the offense is less than thirteen years of age, and 9331
the offender released the victim in a safe place unharmed; 9332

(b) An indefinite prison term consisting of a minimum of 9333
fifteen years and a maximum term of life imprisonment if the 9334
offense for which the sentence is being imposed is kidnapping 9335
when the victim of the offense is less than thirteen years of 9336
age and division (B) (3) (a) of this section does not apply; 9337

(c) An indefinite term consisting of a minimum of thirty 9338
years and a maximum term of life imprisonment if the offense for 9339
which the sentence is being imposed is aggravated murder, when 9340
the victim of the offense is less than thirteen years of age, a 9341
sentence of ~~death or~~ life imprisonment without parole is not 9342
imposed for the offense, and ~~division (A) (2) (b) (ii) of section~~ 9343
~~2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D)~~ 9344
~~(2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section 2929.03, or~~ 9345
~~division (A) or (B) (C) of section 2929.06-2929.02~~ of the 9346
Revised Code requires that the sentence for the offense be 9347
imposed pursuant to this division; 9348

(d) An indefinite prison term consisting of a minimum of 9349
thirty years and a maximum term of life imprisonment if the 9350
offense for which the sentence is being imposed is murder when 9351
the victim of the offense is less than thirteen years of age. 9352

(C) (1) If the offender is sentenced to a prison term 9353
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 9354

(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 9355
parole board shall have control over the offender's service of 9356
the term during the entire term unless the parole board 9357
terminates its control in accordance with section 2971.04 of the 9358
Revised Code. 9359

(2) Except as provided in division (C) (3) or (G) of this 9360
section, an offender sentenced to a prison term or term of life 9361
imprisonment without parole pursuant to division (A) of this 9362
section shall serve the entire prison term or term of life 9363
imprisonment in a state correctional institution. The offender 9364
is not eligible for judicial release under section 2929.20 of 9365
the Revised Code. 9366

(3) For a prison term imposed pursuant to division (A) (3), 9367
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 9368
(b), (c), or (d) of this section, subject to the application of 9369
division (G) of this section, the court, in accordance with 9370
section 2971.05 of the Revised Code, may terminate the prison 9371
term or modify the requirement that the offender serve the 9372
entire term in a state correctional institution if all of the 9373
following apply: 9374

(a) The offender has served at least the minimum term 9375
imposed as part of that prison term. 9376

(b) The parole board, pursuant to section 2971.04 of the 9377
Revised Code, has terminated its control over the offender's 9378
service of that prison term. 9379

(c) The court has held a hearing and found, by clear and 9380
convincing evidence, one of the following: 9381

(i) In the case of termination of the prison term, that 9382
the offender is unlikely to commit a sexually violent offense in 9383

the future; 9384

(ii) In the case of modification of the requirement, that 9385
the offender does not represent a substantial risk of physical 9386
harm to others. 9387

(4) Except as provided in division (G) of this section, an 9388
offender who has been sentenced to a term of life imprisonment 9389
without parole pursuant to division (A) (1), (2), or (4) of this 9390
section shall not be released from the term of life imprisonment 9391
or be permitted to serve a portion of it in a place other than a 9392
state correctional institution. 9393

(D) If a court sentences an offender to a prison term or 9394
term of life imprisonment without parole pursuant to division 9395
(A) of this section and the court also imposes on the offender 9396
one or more additional prison terms pursuant to division (B) of 9397
section 2929.14 of the Revised Code, all of the additional 9398
prison terms shall be served consecutively with, and prior to, 9399
the prison term or term of life imprisonment without parole 9400
imposed upon the offender pursuant to division (A) of this 9401
section. 9402

(E) If the offender is convicted of or pleads guilty to 9403
two or more offenses for which a prison term or term of life 9404
imprisonment without parole is required to be imposed pursuant 9405
to division (A) of this section, divisions (A) to (D) of this 9406
section shall be applied for each offense. All minimum terms 9407
imposed upon the offender pursuant to division (A) (3) or (B) of 9408
this section for those offenses shall be aggregated and served 9409
consecutively, as if they were a single minimum term imposed 9410
under that division. 9411

(F) (1) If an offender is convicted of or pleads guilty to 9412

a violent sex offense and also is convicted of or pleads guilty 9413
to a sexually violent predator specification that was included 9414
in the indictment, count in the indictment, or information 9415
charging that offense, or is convicted of or pleads guilty to a 9416
designated homicide, assault, or kidnapping offense and also is 9417
convicted of or pleads guilty to both a sexual motivation 9418
specification and a sexually violent predator specification that 9419
were included in the indictment, count in the indictment, or 9420
information charging that offense, the conviction of or plea of 9421
guilty to the offense and the sexually violent predator 9422
specification automatically classifies the offender as a tier 9423
III sex offender/child-victim offender for purposes of Chapter 9424
2950. of the Revised Code. 9425

(2) If an offender is convicted of or pleads guilty to 9426
committing on or after January 2, 2007, a violation of division 9427
(A) (1) (b) of section 2907.02 of the Revised Code and either the 9428
offender is sentenced under section 2971.03 of the Revised Code 9429
or a sentence of life without parole is imposed under division 9430
(B) of section 2907.02 of the Revised Code, the conviction of or 9431
plea of guilty to the offense automatically classifies the 9432
offender as a tier III sex offender/child-victim offender for 9433
purposes of Chapter 2950. of the Revised Code. 9434

(3) If a person is convicted of or pleads guilty to 9435
committing on or after January 2, 2007, attempted rape and also 9436
is convicted of or pleads guilty to a specification of the type 9437
described in section 2941.1418, 2941.1419, or 2941.1420 of the 9438
Revised Code, the conviction of or plea of guilty to the offense 9439
and the specification automatically classify the offender as a 9440
tier III sex offender/child-victim offender for purposes of 9441
Chapter 2950. of the Revised Code. 9442

(4) If a person is convicted of or pleads guilty to one of 9443
the offenses described in division (B) (3) (a), (b), (c), or (d) 9444
of this section and a sexual motivation specification related to 9445
the offense and the victim of the offense is less than thirteen 9446
years of age, the conviction of or plea of guilty to the offense 9447
automatically classifies the offender as a tier III sex 9448
offender/child-victim offender for purposes of Chapter 2950. of 9449
the Revised Code. 9450

(G) Notwithstanding divisions (A) to (E) of this section, 9451
if an offender receives or received a sentence of life 9452
imprisonment without parole, a definite sentence, or a sentence 9453
to an indefinite prison term under this chapter for an offense 9454
committed when the offender was under eighteen years of age, the 9455
offender is eligible for parole and the offender's parole 9456
eligibility shall be determined under section 2967.132 of the 9457
Revised Code. 9458

Sec. 2971.07. (A) This chapter does not apply to any 9459
offender unless the offender is one of the following: 9460

(1) The offender is convicted of or pleads guilty to a 9461
violent sex offense and also is convicted of or pleads guilty to 9462
a sexually violent predator specification that was included in 9463
the indictment, count in the indictment, or information charging 9464
that offense. 9465

(2) The offender is convicted of or pleads guilty to a 9466
designated homicide, assault, or kidnapping offense and also is 9467
convicted of or pleads guilty to both a sexual motivation 9468
specification and a sexually violent predator specification that 9469
were included in the indictment, count in the indictment, or 9470
information charging that offense. 9471

(3) The offender is convicted of or pleads guilty to a violation of division (A) (1) (b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and the court does not sentence the offender to a term of life without parole pursuant to division (B) of section 2907.02 of the Revised Code or division (B) of that section prohibits the court from sentencing the offender pursuant to section 2971.03 of the Revised Code.

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

(5) The offender is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code 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 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 9502
murder and also is convicted of or pleads guilty to a sexual 9503
motivation specification that was included in the indictment, 9504
count in the indictment, or information charging that offense, 9505
and division ~~(B) (2)~~ (C) (1) of section 2929.02 of the Revised 9506
Code requires a court to sentence the offender pursuant to 9507
section 2971.03 of the Revised Code. 9508

(B) This chapter does not limit or affect a court in 9509
imposing upon an offender described in divisions (A) (1) to (9) 9510
of this section any financial sanction under section 2929.18 or 9511
any other section of the Revised Code, or, except as 9512
specifically provided in this chapter, any other sanction that 9513
is authorized or required for the offense or violation by any 9514
other provision of law. 9515

(C) If an offender is sentenced to a prison term under 9516
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 9517
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 9518
Code and if, pursuant to section 2971.05 of the Revised Code, 9519
the court modifies the requirement that the offender serve the 9520
entire prison term in a state correctional institution or places 9521
the offender on conditional release that involves the placement 9522
of the offender under the supervision of the adult parole 9523
authority, authorized field officers of the authority who are 9524
engaged within the scope of their supervisory duties or 9525
responsibilities may search, with or without a warrant, the 9526
person of the offender, the place of residence of the offender, 9527
and a motor vehicle, another item of tangible or intangible 9528
personal property, or any other real property in which the 9529
offender has the express or implied permission of a person with 9530
a right, title, or interest to use, occupy, or possess if the 9531
field officer has reasonable grounds to believe that the 9532

offender is not abiding by the law or otherwise is not complying 9533
with the terms and conditions of the offender's modification or 9534
release. The authority shall provide each offender with a 9535
written notice that informs the offender that authorized field 9536
officers of the authority who are engaged within the scope of 9537
their supervisory duties or responsibilities may conduct those 9538
types of searches during the period of the modification or 9539
release if they have reasonable grounds to believe that the 9540
offender is not abiding by the law or otherwise is not complying 9541
with the terms and conditions of the offender's modification or 9542
release. 9543

Sec. 3901.87. (A) No Unless required by the United States 9544
Constitution, Ohio Constitution, or by federal statute, 9545
regulation, or decisions of federal courts, no qualified health 9546
plan shall provide coverage for a either of the following: 9547

(1) A nontherapeutic abortion, including through the use 9548
of lethal injection drugs; 9549

(2) Assisting suicide through the use of lethal injection 9550
drugs. 9551

(B) As used in this section: 9552

(1) "Assisting suicide" has the same meaning as in section 9553
3795.01 of the Revised Code. 9554

(2) "Lethal injection drug" has the same meaning as in 9555
section 9.04 of the Revised Code. 9556

(3) "Nontherapeutic abortion" has the same meaning as in 9557
section 9.04 of the Revised Code. 9558

~~(2)~~ (4) "Qualified health plan" means any qualified health 9559
plan as defined in section 1301 of the "Patient Protection and 9560

Affordable Care Act," 42 U.S.C. 18021, offered in this state 9561
through an exchange created under that act. 9562

Sec. 5101.56. (A) As used in this section, ~~"physician"~~: 9563

(1) "Assisting suicide" has the same meaning as in section 9564
3795.01 of the Revised Code. 9565

(2) "Lethal injection drug" has the same meaning as in 9566
section 9.04 of the Revised Code. 9567

(3) "Physician" means a person who holds a valid license 9568
to practice medicine and surgery or osteopathic medicine and 9569
surgery issued under Chapter 4731. of the Revised Code. 9570

(B) Unless required by the United States Constitution, 9571
Ohio Constitution, or by federal statute, regulation, or 9572
decisions of federal courts, state or local funds may not be 9573
used for payment or reimbursement for ~~abortion~~ any of the 9574
following: 9575

(1) Abortion services, unless the certification required 9576
by division (C) of this section is made and one of the following 9577
circumstances exists: 9578

~~(1)~~ (a) The woman has a physical disorder, physical 9579
injury, or physical illness, including a life-endangering 9580
physical condition caused by or arising from the pregnancy, that 9581
would, as certified by a physician, place the woman in danger of 9582
death unless an abortion is performed. 9583

~~(2)~~ (b) The pregnancy was the result of an act of rape and 9584
the patient, the patient's legal guardian, or the person who 9585
made the report to the law enforcement agency, certifies in 9586
writing that prior to the performance of the abortion a report 9587
was filed with a law enforcement agency having the requisite 9588

jurisdiction, unless the patient was physically unable to comply 9589
with the reporting requirement and that fact is certified by the 9590
physician performing the abortion. 9591

~~(3)~~ (c) The pregnancy was the result of an act of incest 9592
and the patient, the patient's legal guardian, or the person who 9593
made the report certifies in writing that prior to the 9594
performance of the abortion a report was filed with either a law 9595
enforcement agency having the requisite jurisdiction, or, in the 9596
case of a minor, with a county children services agency 9597
established under Chapter 5153. of the Revised Code, unless the 9598
patient was physically unable to comply with the reporting 9599
requirement and that fact is certified by the physician 9600
performing the abortion. 9601

(2) Assisting suicide through the use of lethal injection 9602
drugs; 9603

(3) Executing a death sentence through the use of lethal 9604
injection drugs. 9605

(C) (1) Before payment of or reimbursement for an abortion 9606
can be made with state or local funds, the physician performing 9607
the abortion shall certify that one of the three circumstances 9608
in division (B) of this section has occurred. The certification 9609
shall be made on a form created by the Ohio department of job 9610
and family services known as the "Abortion Certification Form." 9611
The physician's signature shall be in the physician's own 9612
handwriting. The certification shall list the name and address 9613
of the patient. The certification form shall be attached to the 9614
billing invoice. 9615

(2) The certification shall be as follows: 9616

I certify that, on the basis of my professional judgment, 9617

this service was necessary because: 9618

(a) The woman has a physical disorder, physical injury, or 9619
physical illness, including a life-endangering physical 9620
condition caused by or arising from the pregnancy itself, that 9621
would place the woman in danger of death unless an abortion was 9622
performed; 9623

(b) The pregnancy was the result of an act of rape and the 9624
patient, the patient's legal guardian, or the person who made 9625
the report to the law enforcement agency certified in writing 9626
that prior to the performance of the abortion a report was filed 9627
with a law enforcement agency having the requisite jurisdiction; 9628

(c) The pregnancy was the result of an act of incest and 9629
the patient, the patient's legal guardian, or the person who 9630
made the report certified in writing that prior to the 9631
performance of the abortion a report was filed with either a law 9632
enforcement agency having the requisite jurisdiction or, in the 9633
case of a minor, with a county children services agency 9634
established under Chapter 5153. of the Revised Code; 9635

(d) The pregnancy was the result of an act of rape and in 9636
my professional opinion the recipient was physically unable to 9637
comply with the reporting requirement; or 9638

(e) The pregnancy was a result of an act of incest and in 9639
my professional opinion the recipient was physically unable to 9640
comply with the reporting requirement. 9641

(D) Payment or reimbursement for abortion services shall 9642
not be made with state or local funds for associated services 9643
such as anesthesia, laboratory tests, or hospital services if 9644
the abortion service itself cannot be paid or reimbursed with 9645
state or local funds. All abortion services for which a 9646

physician is seeking reimbursement or payment for the purposes 9647
of this division shall be submitted on a hard-copy billing 9648
invoice. 9649

(E) Documentation that supports the certification made by 9650
a physician shall be maintained by the physician in the 9651
recipient's medical record. When the physician certifies that 9652
circumstances described in division (C) (2) (b) or (c) of this 9653
section are the case, a copy of the statement signed by the 9654
patient, the patient's legal guardian, or the person who made 9655
the report shall be maintained in the patient's medical record. 9656

(F) Nothing in this section denies reimbursement for drugs 9657
or devices to prevent implantation of the fertilized ovum, or 9658
for medical procedures for the termination of an ectopic 9659
pregnancy. This section does not apply to treatments for 9660
incomplete, missed, or septic abortions. 9661

(G) If enforcement of this section will adversely affect 9662
eligibility of the state or a political subdivision of the state 9663
for participation in a federal program, this section shall be 9664
enforced to the extent permissible without preventing 9665
participation in that federal program. 9666

Sec. 5120.113. (A) For each inmate committed to the 9667
department of rehabilitation and correction, except as provided 9668
in division (B) of this section, the department shall prepare a 9669
written reentry plan for the inmate to help guide the inmate's 9670
rehabilitation program during imprisonment, to assist in the 9671
inmate's reentry into the community, and to assess the inmate's 9672
needs upon release. 9673

(B) Division (A) of this section does not apply to an 9674
inmate who has been sentenced to life imprisonment without 9675

parole or ~~who has been~~ sentenced to death before the effective 9676
date of this amendment. Division (A) of this section does not 9677
apply to any inmate who is expected to be imprisoned for thirty 9678
days or less, but the department may prepare a written reentry 9679
plan of the type described in that division if the department 9680
determines that the plan is needed. 9681

(C) The department may collect, if available, any social 9682
and other information that will aid in the preparation of 9683
reentry plans under this section. 9684

(D) In the event the department does not prepare a written 9685
reentry plan as specified in division (A) of this section, or 9686
makes a decision to not prepare a written reentry plan under 9687
division (B) of this section or to not collect information under 9688
division (C) of this section, that fact does not give rise to a 9689
claim for damages against the state, the department, the 9690
director of the department, or any employee of the department. 9691

Sec. 5120.53. (A) If a treaty between the United States 9692
and a foreign country provides for the transfer or exchange, 9693
from one of the signatory countries to the other signatory 9694
country, of convicted offenders who are citizens or nationals of 9695
the other signatory country, the governor, subject to and in 9696
accordance with the terms of the treaty, may authorize the 9697
director of rehabilitation and correction to allow the transfer 9698
or exchange of convicted offenders and to take any action 9699
necessary to initiate participation in the treaty. If the 9700
governor grants the director the authority described in this 9701
division, the director may take the necessary action to initiate 9702
participation in the treaty and, subject to and in accordance 9703
with division (B) of this section and the terms of the treaty, 9704
may allow the transfer or exchange to a foreign country that has 9705

signed the treaty of any convicted offender who is a citizen or 9706
national of that signatory country. 9707

(B) (1) No convicted offender who is serving a term of 9708
imprisonment in this state for aggravated murder, murder, or a 9709
felony of the first or second degree, who is serving a mandatory 9710
prison term imposed under section 2925.03 or 2925.11 of the 9711
Revised Code in circumstances in which the court was required to 9712
impose as the mandatory prison term the maximum definite prison 9713
term or longest minimum prison term authorized for the degree of 9714
offense committed, or who is serving a term of imprisonment in 9715
this state imposed for an offense committed prior to July 1, 9716
1996, that was an aggravated felony of the first or second 9717
degree or that was aggravated trafficking in violation of 9718
division (A) (9) or (10) of section 2925.03 of the Revised Code, ~~—~~ 9719
~~or who has been sentenced to death in this state~~ shall be 9720
transferred or exchanged to another country pursuant to a treaty 9721
of the type described in division (A) of this section. 9722

(2) If a convicted offender is serving a term of 9723
imprisonment in this state and the offender is a citizen or 9724
national of a foreign country that has signed a treaty of the 9725
type described in division (A) of this section, if the governor 9726
has granted the director of rehabilitation and correction the 9727
authority described in that division, and if the transfer or 9728
exchange of the offender is not barred by division (B) (1) of 9729
this section, the director or the director's designee may 9730
approve the offender for transfer or exchange pursuant to the 9731
treaty if the director or the designee, after consideration of 9732
the factors set forth in the rules adopted by the department 9733
under division (D) of this section and all other relevant 9734
factors, determines that the transfer or exchange of the 9735
offender is appropriate. 9736

(C) Notwithstanding any provision of the Revised Code 9737
regarding the parole eligibility of, or the duration or 9738
calculation of a sentence of imprisonment imposed upon, an 9739
offender, if a convicted offender is serving a term of 9740
imprisonment in this state and the offender is a citizen or 9741
national of a foreign country that has signed a treaty of the 9742
type described in division (A) of this section, if the offender 9743
is serving an indefinite term of imprisonment, if the offender 9744
is barred from being transferred or exchanged pursuant to the 9745
treaty due to the indefinite nature of the offender's term of 9746
imprisonment, and if in accordance with division (B) (2) of this 9747
section the director of rehabilitation and correction or the 9748
director's designee approves the offender for transfer or 9749
exchange pursuant to the treaty, the parole board, pursuant to 9750
rules adopted by the director, shall set a date certain for the 9751
release of the offender. To the extent possible, the date 9752
certain that is set shall be reasonably proportionate to the 9753
indefinite term of imprisonment that the offender is serving. 9754
The date certain that is set for the release of the offender 9755
shall be considered only for purposes of facilitating the 9756
international transfer or exchange of the offender, shall not be 9757
viable or actionable for any other purpose, and shall not create 9758
any expectation or guarantee of release. If an offender for whom 9759
a date certain for release is set under this division is not 9760
transferred to or exchanged with the foreign country pursuant to 9761
the treaty, the date certain is null and void, and the 9762
offender's release shall be determined pursuant to the laws and 9763
rules of this state pertaining to parole eligibility and the 9764
duration and calculation of an indefinite sentence of 9765
imprisonment. 9766

(D) If the governor, pursuant to division (A) of this 9767

section, authorizes the director of rehabilitation and 9768
correction to allow any transfer or exchange of convicted 9769
offenders as described in that division, the director shall 9770
adopt rules under Chapter 119. of the Revised Code to implement 9771
the provisions of this section. The rules shall include a rule 9772
that requires the director or the director's designee, in 9773
determining whether to approve a convicted offender who is 9774
serving a term of imprisonment in this state for transfer or 9775
exchange pursuant to a treaty of the type described in division 9776
(A) of this section, to consider all of the following factors: 9777

(1) The nature of the offense for which the offender is 9778
serving the term of imprisonment in this state; 9779

(2) The likelihood that, if the offender is transferred or 9780
exchanged to a foreign country pursuant to the treaty, the 9781
offender will serve a shorter period of time in imprisonment in 9782
the foreign country than the offender would serve if the 9783
offender is not transferred or exchanged to the foreign country 9784
pursuant to the treaty; 9785

(3) The likelihood that, if the offender is transferred or 9786
exchanged to a foreign country pursuant to the treaty, the 9787
offender will return or attempt to return to this state after 9788
the offender has been released from imprisonment in the foreign 9789
country; 9790

(4) The degree of any shock to the conscience of justice 9791
and society that will be experienced in this state if the 9792
offender is transferred or exchanged to a foreign country 9793
pursuant to the treaty; 9794

(5) All other factors that the department determines are 9795
relevant to the determination. 9796

Sec. 5120.61. (A) (1) Not later than ninety days after 9797
January 1, 1997, the department of rehabilitation and correction 9798
shall adopt standards that it will use under this section to 9799
assess the following criminal offenders and may periodically 9800
revise the standards: 9801

(a) A criminal offender who is convicted of or pleads 9802
guilty to a violent sex offense or designated homicide, assault, 9803
or kidnapping offense and is adjudicated a sexually violent 9804
predator in relation to that offense; 9805

(b) A criminal offender who is convicted of or pleads 9806
guilty to a violation of division (A) (1) (b) of section 2907.02 9807
of the Revised Code committed on or after January 2, 2007, and 9808
either who is sentenced under section 2971.03 of the Revised 9809
Code or upon whom a sentence of life without parole is imposed 9810
under division (B) of section 2907.02 of the Revised Code; 9811

(c) A criminal offender who is convicted of or pleads 9812
guilty to attempted rape committed on or after January 2, 2007, 9813
and a specification of the type described in section 2941.1418, 9814
2941.1419, or 2941.1420 of the Revised Code; 9815

(d) A criminal offender who is convicted of or pleads 9816
guilty to a violation of section 2905.01 of the Revised Code and 9817
also is convicted of or pleads guilty to a sexual motivation 9818
specification that was included in the indictment, count in the 9819
indictment, or information charging that offense, and who is 9820
sentenced pursuant to section 2971.03 of the Revised Code; 9821

(e) A criminal offender who is convicted of or pleads 9822
guilty to aggravated murder and also is convicted of or pleads 9823
guilty to a sexual motivation specification that was included in 9824
the indictment, count in the indictment, or information charging 9825

that offense, and who pursuant to division ~~(A) (2) (b) (ii) of~~ 9826
~~section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a)~~ 9827
~~(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (a) (iv) of section~~ 9828
~~2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ 9829
of the Revised Code is sentenced pursuant to division (B) (3) of 9830
section 2971.03 of the Revised Code; 9831

(f) A criminal offender who is convicted of or pleads 9832
guilty to murder and also is convicted of or pleads guilty to a 9833
sexual motivation specification that was included in the 9834
indictment, count in the indictment, or information charging 9835
that offense, and who pursuant to division ~~(B) (2) (C) (1) of~~ 9836
section 2929.02 of the Revised Code is sentenced pursuant to 9837
section 2971.03 of the Revised Code. 9838

(2) When the department is requested by the parole board 9839
or the court to provide a risk assessment report of the offender 9840
under section 2971.04 or 2971.05 of the Revised Code, it shall 9841
assess the offender and complete the assessment as soon as 9842
possible after the offender has commenced serving the prison 9843
term or term of life imprisonment without parole imposed under 9844
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 9845
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 9846
Code. Thereafter, the department shall update a risk assessment 9847
report pertaining to an offender as follows: 9848

(a) Periodically, in the discretion of the department, 9849
provided that each report shall be updated no later than two 9850
years after its initial preparation or most recent update; 9851

(b) Upon the request of the parole board for use in 9852
determining pursuant to section 2971.04 of the Revised Code 9853
whether it should terminate its control over an offender's 9854
service of a prison term imposed upon the offender under 9855

division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 9856
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 9857
Code; 9858

(c) Upon the request of the court. 9859

(3) After the department of rehabilitation and correction 9860
assesses an offender pursuant to division (A) (2) of this 9861
section, it shall prepare a report that contains its risk 9862
assessment for the offender or, if a risk assessment report 9863
previously has been prepared, it shall update the risk 9864
assessment report. 9865

(4) The department of rehabilitation and correction shall 9866
provide each risk assessment report that it prepares or updates 9867
pursuant to this section regarding an offender to all of the 9868
following: 9869

(a) The parole board for its use in determining pursuant 9870
to section 2971.04 of the Revised Code whether it should 9871
terminate its control over an offender's service of a prison 9872
term imposed upon the offender under division (A) (3), (B) (1) (a), 9873
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 9874
(d) of section 2971.03 of the Revised Code, if the parole board 9875
has not terminated its control over the offender; 9876

(b) The court for use in determining, pursuant to section 9877
2971.05 of the Revised Code, whether to modify the requirement 9878
that the offender serve the entire prison term imposed upon the 9879
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 9880
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 9881
2971.03 of the Revised Code in a state correctional institution, 9882
whether to revise any modification previously made, or whether 9883
to terminate the prison term; 9884

(c) The prosecuting attorney who prosecuted the case, or 9885
the successor in office to that prosecuting attorney; 9886

(d) The offender. 9887

(B) When the department of rehabilitation and correction 9888
provides a risk assessment report regarding an offender to the 9889
parole board or court pursuant to division (A) (4) (a) or (b) of 9890
this section, the department, prior to the parole board's or 9891
court's hearing, also shall provide to the offender or to the 9892
offender's attorney of record a copy of the report and a copy of 9893
any other relevant documents the department possesses regarding 9894
the offender that the department does not consider to be 9895
confidential. 9896

(C) As used in this section: 9897

(1) "Adjudicated a sexually violent predator" has the same 9898
meaning as in section 2929.01 of the Revised Code, and a person 9899
is "adjudicated a sexually violent predator" in the same manner 9900
and the same circumstances as are described in that section. 9901

(2) "Designated homicide, assault, or kidnapping offense" 9902
and "violent sex offense" have the same meanings as in section 9903
2971.01 of the Revised Code. 9904

Sec. 5139.04. The department of youth services shall do 9905
all of the following: 9906

(A) Support service districts through a central 9907
administrative office that shall have as its administrative head 9908
a deputy director who shall be appointed by the director of the 9909
department. When a vacancy occurs in the office of that deputy 9910
director, an assistant deputy director shall act as that deputy 9911
director until the vacancy is filled. The position of deputy 9912
director and assistant deputy director described in this 9913

division shall be in the unclassified civil service of the 9914
state. 9915

(B) Receive custody of all children committed to it under 9916
Chapter 2152. of the Revised Code, cause a study to be made of 9917
those children, and issue any orders, as it considers best 9918
suited to the needs of any of those children and the interest of 9919
the public, for the treatment of each of those children; 9920

(C) Obtain personnel necessary for the performance of its 9921
duties; 9922

(D) Adopt rules that regulate its organization and 9923
operation, that implement sections 5139.34 and 5139.41 to 9924
5139.43 of the Revised Code, and that pertain to the 9925
administration of other sections of this chapter; 9926

(E) Submit reports of its operations to the governor and 9927
the general assembly by the thirty-first day of January of each 9928
odd-numbered year; 9929

(F) Conduct a program of research in diagnosis, training, 9930
and treatment of delinquent children to evaluate the 9931
effectiveness of the department's services and to develop more 9932
adequate methods; 9933

(G) Develop a standard form for the disposition 9934
investigation report that a juvenile court is required pursuant 9935
to section 2152.18 of the Revised Code to complete and provide 9936
to the department when the court commits a child to the legal 9937
custody of the department; 9938

(H) Provide the state public defender the reasonable 9939
access authorized under division ~~(I)~~ (H) of section 120.06 of 9940
the Revised Code in order to fulfill the department's 9941
constitutional obligation to provide juveniles who have been 9942

committed to the department's care access to the courts.	9943
(I) Do all other acts necessary or desirable to carry out this chapter.	9944 9945
Sec. 5919.16. (A) Commissioned and warrant officers in the Ohio national guard shall be discharged by the adjutant general upon either of the following:	9946 9947 9948
(1) The officer's resignation;	9949
(2) Approval of a board's recommendation for withdrawal of federal recognition by the chief of the national guard bureau.	9950 9951
(B) An officer also may be discharged under any of the following circumstances:	9952 9953
(1) Pursuant to other federal regulations;	9954
(2) If absent without leave for three months, upon recommendation of an efficiency board;	9955 9956
(3) Pursuant to sentence by court-martial;	9957
(4) If the officer has been convicted of a crime classified as a felony as described in division <u>(C) or (D)</u> or (E) of section 2901.02 of the Revised Code.	9958 9959 9960
Section 2. That existing sections 9.04, 9.07, 120.03, 120.041, 120.06, 120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 149.43, 149.436, 149.45, 1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2317.02, 2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 2929.61, 2930.19, 2937.222, 2941.021, 2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.10, 2945.13, 2945.21, 2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.81, 2967.05,	9961 9962 9963 9964 9965 9966 9967 9968 9969

2967.12, 2967.13, 2967.193, 2967.194, 2971.03, 2971.07, 3901.87, 9970
5101.56, 5120.113, 5120.53, 5120.61, 5139.04, and 5919.16 of the 9971
Revised Code are hereby repealed. 9972

Section 3. That sections 109.97, 120.35, 2725.19, 9973
2929.021, 2929.022, 2929.023, 2929.024, 2929.025, 2929.03, 9974
2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 2949.21, 2949.22, 9975
2949.221, 2949.222, 2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 9976
2949.29, 2949.31, and 2967.08 of the Revised Code are hereby 9977
repealed. 9978

Section 4. Attorneys appointed to represent indigent 9979
defendants in postconviction relief proceedings in cases in 9980
which the defendant was sentenced to death before the effective 9981
date of this section shall be certified under the Rules for 9982
Appointment of Counsel in Capital Cases in the same manner as 9983
those certifications were required under Rule 20 of the Rules of 9984
Superintendence for the Courts of Ohio by sections 120.06, 9985
120.14, 120.26, and 120.33 of the Revised Code as those sections 9986
existed immediately before the effective date of this section. 9987

Section 5. In amending sections 9.04, 3901.87, and 5101.56 9988
of the Revised Code in this act, the General Assembly intends to 9989
restate the law as it exists as of the effective date of the 9990
amendments and does not intend to broaden any restrictions 9991
included in those sections. 9992

Section 6. The General Assembly, applying the principle 9993
stated in division (B) of section 1.52 of the Revised Code that 9994
amendments are to be harmonized if reasonably capable of 9995
simultaneous operation, finds that the following sections, 9996
presented in this act as composites of the sections as amended 9997
by the acts indicated, are the resulting versions of the 9998
sections in effect prior to the effective date of the sections 9999

as presented in this act:	10000
Section 149.43 of the Revised Code as amended by H.B. 265,	10001
H.B. 315, S.B. 29, and S.B. 109, all of the 135th General	10002
Assembly.	10003
Section 2929.02 of the Revised Code as amended by both	10004
H.B. 136 and S.B. 256 of the 133rd General Assembly.	10005
Section 2929.14 of the Revised Code as amended by H.B. 37,	10006
H.B. 56, H.B. 111, and S.B. 106, all of the 135th General	10007
Assembly.	10008
Section 2953.07 of the Revised Code as amended by both	10009
S.B. 2 and S.B. 4 of the 121st General Assembly.	10010
Section 2971.03 of the Revised Code as amended by both	10011
H.B. 136 and S.B. 256 of the 133rd General Assembly.	10012