

H. B. No. 230
As Introduced

_____ moved to amend as follows:

In line 1 of the title, after "sections" insert "1547.11, 1547.111, 1
2317.02, 2317.022," 2

In line 2 of the title, delete the first "and" and insert 3
"3701.143,"; after "3705.08" insert ", 4506.17, 4511.19, 4511.191, and 4
4511.192" 5

In line 5 of the title, delete "and" and insert ",," 6

In line 6 of the title, after "persons" insert ", and to authorize 7
collecting oral fluid as evidence in suspected OVI cases" 8

In line 7, after "sections" insert "1547.11, 1547.111, 2317.02, 9
2317.022," 10

In line 8, delete the first "and" and insert "3701.143,"; after 11
"3705.08" insert ", 4506.17, 4511.19, 4511.191, and 4511.192" 12

After line 9, insert: 13

"**Sec. 1547.11.** (A) No person shall operate or be in 14
physical control of any vessel underway or shall manipulate any 15
water skis, aquaplane, or similar device on the waters in this 16



state if, at the time of the operation, control, or 17
manipulation, any of the following applies: 18

(1) The person is under the influence of alcohol, a drug 19
of abuse, or a combination of them. 20

(2) The person has a concentration of eight-hundredths of 21
one per cent or more by weight of alcohol per unit volume in the 22
person's whole blood. 23

(3) The person has a concentration of ninety-six- 24
thousandths of one per cent or more by weight per unit volume of 25
alcohol in the person's blood serum or plasma. 26

(4) The person has a concentration of eleven-hundredths of 27
one gram or more by weight of alcohol per one hundred 28
milliliters of the person's urine. 29

(5) The person has a concentration of eight-hundredths of 30
one gram or more by weight of alcohol per two hundred ten liters 31
of the person's breath. 32

(6) Except as provided in division (H) of this section, 33
the person has a concentration of any of the following 34
controlled substances or metabolites of a controlled substance 35
in the person's whole blood, blood serum or plasma, or urine 36
that equals or exceeds any of the following: 37

(a) The person has a concentration of amphetamine in the 38
person's urine of at least five hundred nanograms of amphetamine 39
per milliliter of the person's urine or has a concentration of 40
amphetamine in the person's whole blood or blood serum or plasma 41
of at least one hundred nanograms of amphetamine per milliliter 42
of the person's whole blood or blood serum or plasma. 43

(b) The person has a concentration of cocaine in the 44

person's urine of at least one hundred fifty nanograms of 45
cocaine per milliliter of the person's urine or has a 46
concentration of cocaine in the person's whole blood or blood 47
serum or plasma of at least fifty nanograms of cocaine per 48
milliliter of the person's whole blood or blood serum or plasma. 49

(c) The person has a concentration of cocaine metabolite 50
in the person's urine of at least one hundred fifty nanograms of 51
cocaine metabolite per milliliter of the person's urine or has a 52
concentration of cocaine metabolite in the person's whole blood 53
or blood serum or plasma of at least fifty nanograms of cocaine 54
metabolite per milliliter of the person's whole blood or blood 55
serum or plasma. 56

(d) The person has a concentration of heroin in the 57
person's urine of at least two thousand nanograms of heroin per 58
milliliter of the person's urine or has a concentration of 59
heroin in the person's whole blood or blood serum or plasma of 60
at least fifty nanograms of heroin per milliliter of the 61
person's whole blood or blood serum or plasma. 62

(e) The person has a concentration of heroin metabolite 63
(6-monoacetyl morphine) in the person's urine of at least ten 64
nanograms of heroin metabolite (6-monoacetyl morphine) per 65
milliliter of the person's urine or has a concentration of 66
heroin metabolite (6-monoacetyl morphine) in the person's whole 67
blood or blood serum or plasma of at least ten nanograms of 68
heroin metabolite (6-monoacetyl morphine) per milliliter of the 69
person's whole blood or blood serum or plasma. 70

(f) The person has a concentration of L.S.D. in the 71
person's urine of at least twenty-five nanograms of L.S.D. per 72
milliliter of the person's urine or has a concentration of 73
L.S.D. in the person's whole blood or blood serum or plasma of 74

at least ten nanograms of L.S.D. per milliliter of the person's 75
whole blood or blood serum or plasma. 76

(g) The person has a concentration of marihuana in the 77
person's urine of at least ten nanograms of marihuana per 78
milliliter of the person's urine or has a concentration of 79
marihuana in the person's whole blood or blood serum or plasma 80
of at least two nanograms of marihuana per milliliter of the 81
person's whole blood or blood serum or plasma. 82

(h) The state board of pharmacy has adopted a rule 83
pursuant to section 4729.041 of the Revised Code that specifies 84
the amount of salvia divinorum and the amount of salvinorin A 85
that constitute concentrations of salvia divinorum and 86
salvinorin A in a person's urine, in a person's whole blood, or 87
in a person's blood serum or plasma at or above which the person 88
is impaired for purposes of operating or being in physical 89
control of any vessel underway or manipulating any water skis, 90
aquaplane, or similar device on the waters of this state, the 91
rule is in effect, and the person has a concentration of salvia 92
divinorum or salvinorin A of at least that amount so specified 93
by rule in the person's urine, in the person's whole blood, or 94
in the person's blood serum or plasma. 95

(i) Either of the following applies: 96

(i) The person is under the influence of alcohol, a drug 97
of abuse, or a combination of them, and, as measured by gas 98
chromatography mass spectrometry, the person has a concentration 99
of marihuana metabolite in the person's urine of at least 100
fifteen nanograms of marihuana metabolite per milliliter of the 101
person's urine or has a concentration of marihuana metabolite in 102
the person's whole blood or blood serum or plasma of at least 103
five nanograms of marihuana metabolite per milliliter of the 104

person's whole blood or blood serum or plasma. 105

(ii) As measured by gas chromatography mass spectrometry, 106
the person has a concentration of marihuana metabolite in the 107
person's urine of at least thirty-five nanograms of marihuana 108
metabolite per milliliter of the person's urine or has a 109
concentration of marihuana metabolite in the person's whole 110
blood or blood serum or plasma of at least fifty nanograms of 111
marihuana metabolite per milliliter of the person's whole blood 112
or blood serum or plasma. 113

(j) The person has a concentration of methamphetamine in 114
the person's urine of at least five hundred nanograms of 115
methamphetamine per milliliter of the person's urine or has a 116
concentration of methamphetamine in the person's whole blood or 117
blood serum or plasma of at least one hundred nanograms of 118
methamphetamine per milliliter of the person's whole blood or 119
blood serum or plasma. 120

(k) The person has a concentration of phencyclidine in the 121
person's urine of at least twenty-five nanograms of 122
phencyclidine per milliliter of the person's urine or has a 123
concentration of phencyclidine in the person's whole blood or 124
blood serum or plasma of at least ten nanograms of phencyclidine 125
per milliliter of the person's whole blood or blood serum or 126
plasma. 127

(B) No person under twenty-one years of age shall operate 128
or be in physical control of any vessel underway or shall 129
manipulate any water skis, aquaplane, or similar device on the 130
waters in this state if, at the time of the operation, control, 131
or manipulation, any of the following applies: 132

(1) The person has a concentration of at least two- 133

hundredths of one per cent, but less than eight-hundredths of 134
one per cent by weight per unit volume of alcohol in the 135
person's whole blood. 136

(2) The person has a concentration of at least three- 137
hundredths of one per cent but less than ninety-six-thousandths 138
of one per cent by weight per unit volume of alcohol in the 139
person's blood serum or plasma. 140

(3) The person has a concentration of at least twenty- 141
eight one-thousandths of one gram, but less than eleven- 142
hundredths of one gram by weight of alcohol per one hundred 143
milliliters of the person's urine. 144

(4) The person has a concentration of at least two- 145
hundredths of one gram, but less than eight-hundredths of one 146
gram by weight of alcohol per two hundred ten liters of the 147
person's breath. 148

(C) In any proceeding arising out of one incident, a 149
person may be charged with a violation of division (A) (1) and a 150
violation of division (B) (1), (2), (3), or (4) of this section, 151
but the person shall not be convicted of more than one violation 152
of those divisions. 153

(D) (1) (a) In any criminal prosecution or juvenile court 154
proceeding for a violation of division (A) or (B) of this 155
section or for an equivalent offense that is watercraft-related, 156
the result of any test of any blood, oral fluid, or urine 157
withdrawn and analyzed at any health care provider, as defined 158
in section 2317.02 of the Revised Code, may be admitted with 159
expert testimony to be considered with any other relevant and 160
competent evidence in determining the guilt or innocence of the 161
defendant. 162

(b) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section or for an equivalent offense that is watercraft-related, the court may admit evidence on the presence and concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's or child's whole blood, blood serum or plasma, urine, oral fluid, or breath at the time of the alleged violation as shown by chemical analysis of the substance withdrawn, or specimen taken within three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in division (C) of section 1547.111 of the Revised Code as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the presence and concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood, breath, urine, oral fluid, or other bodily substance test at the request of a law enforcement officer under section 1547.111 of the Revised Code or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic, or a qualified technician, chemist, or phlebotomist shall withdraw blood for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath, oral fluid, or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under

this division if, in that person's opinion, the physical welfare 194
of the defendant or child would be endangered by withdrawing 195
blood. 196

The whole blood, blood serum or plasma, urine, oral fluid, 197
or breath withdrawn under division (D) (1) (b) of this section 198
shall be analyzed in accordance with methods approved by the 199
director of health by an individual possessing a valid permit 200
issued by the director pursuant to section 3701.143 of the 201
Revised Code. 202

(2) In a criminal prosecution or juvenile court proceeding 203
for a violation of division (A) of this section or for an 204
equivalent offense that is watercraft-related, if there was at 205
the time the bodily substance was taken a concentration of less 206
than the applicable concentration of alcohol specified for a 207
violation of division (A) (2), (3), (4), or (5) of this section 208
or less than the applicable concentration of a listed controlled 209
substance or a listed metabolite of a controlled substance 210
specified for a violation of division (A) (6) of this section, 211
that fact may be considered with other competent evidence in 212
determining the guilt or innocence of the defendant or in making 213
an adjudication for the child. This division does not limit or 214
affect a criminal prosecution or juvenile court proceeding for a 215
violation of division (B) of this section or for a violation of 216
a prohibition that is substantially equivalent to that division. 217

(3) Upon the request of the person who was tested, the 218
results of the chemical test shall be made available to the 219
person or the person's attorney immediately upon completion of 220
the test analysis. 221

If the chemical test was administered pursuant to division 222
(D) (1) (b) of this section, the person tested may have a 223

physician, a registered nurse, or a qualified technician, 224
chemist, or phlebotomist of the person's own choosing administer 225
a chemical test or tests in addition to any administered at the 226
direction of a law enforcement officer, and shall be so advised. 227
The failure or inability to obtain an additional test by a 228
person shall not preclude the admission of evidence relating to 229
the test or tests taken at the direction of a law enforcement 230
officer. 231

(E) (1) In any criminal prosecution or juvenile court 232
proceeding for a violation of division (A) or (B) of this 233
section, of a municipal ordinance relating to operating or being 234
in physical control of any vessel underway or to manipulating 235
any water skis, aquaplane, or similar device on the waters of 236
this state while under the influence of alcohol, a drug of 237
abuse, or a combination of them, or of a municipal ordinance 238
relating to operating or being in physical control of any vessel 239
underway or to manipulating any water skis, aquaplane, or 240
similar device on the waters of this state with a prohibited 241
concentration of alcohol, a controlled substance, or a 242
metabolite of a controlled substance in the whole blood, blood 243
serum or plasma, breath, oral fluid, or urine, if a law 244
enforcement officer has administered a field sobriety test to 245
the operator or person found to be in physical control of the 246
vessel underway involved in the violation or the person 247
manipulating the water skis, aquaplane, or similar device 248
involved in the violation and if it is shown by clear and 249
convincing evidence that the officer administered the test in 250
substantial compliance with the testing standards for reliable, 251
credible, and generally accepted field sobriety tests for 252
vehicles that were in effect at the time the tests were 253
administered, including, but not limited to, any testing 254

standards then in effect that have been set by the national 255
highway traffic safety administration, that by their nature are 256
not clearly inapplicable regarding the operation or physical 257
control of vessels underway or the manipulation of water skis, 258
aquaplanes, or similar devices, all of the following apply: 259

(a) The officer may testify concerning the results of the 260
field sobriety test so administered. 261

(b) The prosecution may introduce the results of the field 262
sobriety test so administered as evidence in any proceedings in 263
the criminal prosecution or juvenile court proceeding. 264

(c) If testimony is presented or evidence is introduced 265
under division (E) (1) (a) or (b) of this section and if the 266
testimony or evidence is admissible under the Rules of Evidence, 267
the court shall admit the testimony or evidence, and the trier 268
of fact shall give it whatever weight the trier of fact 269
considers to be appropriate. 270

(2) Division (E) (1) of this section does not limit or 271
preclude a court, in its determination of whether the arrest of 272
a person was supported by probable cause or its determination of 273
any other matter in a criminal prosecution or juvenile court 274
proceeding of a type described in that division, from 275
considering evidence or testimony that is not otherwise 276
disallowed by division (E) (1) of this section. 277

(F) (1) Subject to division (F) (3) of this section, in any 278
criminal prosecution or juvenile court proceeding for a 279
violation of division (A) or (B) of this section or for an 280
equivalent offense that is substantially equivalent to either of 281
those divisions, the court shall admit as prima-facie evidence a 282
laboratory report from any laboratory personnel issued a permit 283

by the department of health authorizing an analysis as described 284
in this division that contains an analysis of the whole blood, 285
blood serum or plasma, breath, urine, or other bodily substance 286
tested and that contains all of the information specified in 287
this division. The laboratory report shall contain all of the 288
following: 289

(a) The signature, under oath, of any person who performed 290
the analysis; 291

(b) Any findings as to the identity and quantity of 292
alcohol, a drug of abuse, a controlled substance, a metabolite 293
of a controlled substance, or a combination of them that was 294
found; 295

(c) A copy of a notarized statement by the laboratory 296
director or a designee of the director that contains the name of 297
each certified analyst or test performer involved with the 298
report, the analyst's or test performer's employment 299
relationship with the laboratory that issued the report, and a 300
notation that performing an analysis of the type involved is 301
part of the analyst's or test performer's regular duties; 302

(d) An outline of the analyst's or test performer's 303
education, training, and experience in performing the type of 304
analysis involved and a certification that the laboratory 305
satisfies appropriate quality control standards in general and, 306
in this particular analysis, under rules of the department of 307
health. 308

(2) Notwithstanding any other provision of law regarding 309
the admission of evidence, a report of the type described in 310
division (F)(1) of this section is not admissible against the 311
defendant or child to whom it pertains in any proceeding, other 312

than a preliminary hearing or a grand jury proceeding, unless 313
the prosecutor has served a copy of the report on the 314
defendant's or child's attorney or, if the defendant or child 315
has no attorney, on the defendant or child. 316

(3) A report of the type described in division (F) (1) of 317
this section shall not be prima-facie evidence of the contents, 318
identity, or amount of any substance if, within seven days after 319
the defendant or child to whom the report pertains or the 320
defendant's or child's attorney receives a copy of the report, 321
the defendant or child or the defendant's or child's attorney 322
demands the testimony of the person who signed the report. The 323
judge in the case may extend the seven-day time limit in the 324
interest of justice. 325

(G) Except as otherwise provided in this division, any 326
physician, registered nurse, emergency medical technician- 327
intermediate, emergency medical technician-paramedic, or 328
qualified technician, chemist, or phlebotomist who withdraws 329
blood from a person pursuant to this section or section 1547.111 330
of the Revised Code, and a hospital, first-aid station, or 331
clinic at which blood is withdrawn from a person pursuant to 332
this section or section 1547.111 of the Revised Code, is immune 333
from criminal and civil liability based upon a claim of assault 334
and battery or any other claim that is not a claim of 335
malpractice, for any act performed in withdrawing blood from the 336
person. The immunity provided in this division also extends to 337
an emergency medical service organization that employs an 338
emergency medical technician-intermediate or an emergency 339
medical technician-paramedic who withdraws blood under this 340
section. The immunity provided in this division is not available 341
to a person who withdraws blood if the person engages in willful 342
or wanton misconduct. 343

(H) Division (A) (6) of this section does not apply to a person who operates or is in physical control of a vessel underway or manipulates any water skis, aquaplane, or similar device while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that division, if both of the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(I) As used in this section and section 1547.111 of the Revised Code:

(1) "Equivalent offense" has the same meaning as in section 4511.181 of the Revised Code.

(2) "National highway traffic safety administration" has the same meaning as in section 4511.19 of the Revised Code.

(3) "Operate" means that a vessel is being used on the waters in this state when the vessel is not securely affixed to a dock or to shore or to any permanent structure to which the vessel has the right to affix or that a vessel is not anchored in a designated anchorage area or boat camping area that is established by the United States coast guard, this state, or a political subdivision and in which the vessel has the right to anchor.

(4) "Controlled substance" and "marihuana" have the same meanings as in section 3719.01 of the Revised Code.	372 373
(5) "Cocaine" and "L.S.D." have the same meanings as in section 2925.01 of the Revised Code.	374 375
(6) "Equivalent offense that is watercraft-related" means an equivalent offense that is one of the following:	376 377
(a) A violation of division (A) of this section;	378
(b) A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;	379 380 381 382 383 384 385 386 387 388 389
(c) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) of this section;	390 391 392 393
(d) A violation of a former law of this state that was substantially equivalent to division (A) of this section.	394 395
(7) "Emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in section 4765.01 of the Revised Code.	396 397 398
Sec. 1547.111. (A) (1) (a) Any person who operates or is in	399

physical control of a vessel or manipulates any water skis, 400
aquaplane, or similar device upon any waters in this state shall 401
be deemed to have given consent to a chemical test or tests to 402
determine the alcohol, drug of abuse, controlled substance, 403
metabolite of a controlled substance, or combination content of 404
the person's whole blood, blood serum or plasma, breath, oral 405
fluid, or urine if arrested for operating or being in physical 406
control of a vessel or manipulating any water skis, aquaplane, 407
or similar device in violation of section 1547.11 of the Revised 408
Code or a substantially equivalent municipal ordinance. 409

(b) The test or tests under division (A) (1) of this 410
section shall be administered at the request of a law 411
enforcement officer having reasonable grounds to believe the 412
person was operating or in physical control of a vessel or 413
manipulating any water skis, aquaplane, or similar device in 414
violation of section 1547.11 of the Revised Code or a 415
substantially equivalent municipal ordinance. The law 416
enforcement agency by which the officer is employed shall 417
designate which test or tests shall be administered. 418

(2) Any person who is dead or unconscious or who otherwise 419
is in a condition rendering the person incapable of refusal 420
shall be deemed to have consented as provided in division (A) (1) 421
of this section, and the test or tests may be administered, 422
subject to sections 313.12 to 313.16 of the Revised Code. 423

(B) (1) If a law enforcement officer arrests a person for 424
operating or being in physical control of a vessel or 425
manipulating any water skis, aquaplane, or similar device in 426
violation of section 1547.11 of the Revised Code or a 427
substantially equivalent municipal ordinance and if the person 428
previously has been convicted of or pleaded guilty to two or 429

more violations of division (A) of section 1547.11 of the Revised Code or other equivalent offenses, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, oral fluid, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, oral fluid, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of refusing to submit to the test or tests and is not required to give the person the form described in division (C) of this section, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. The advice shall be in written form prescribed by the chief of the division of parks and watercraft and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. The reading of the form shall be witnessed by one or more persons, and the witnesses shall certify to this fact by signing the form. Divisions (A) (1) (b) and (A) (2) of this section apply to the administration of a chemical test or tests pursuant to this division.

(2) If a person refuses to submit to a chemical test upon

a request made pursuant to division (B) (1) of this section, the
law enforcement officer who made the request may employ whatever
reasonable means are necessary to ensure that the person submits
to a chemical test of the person's whole blood or blood serum or
plasma. A law enforcement officer who acts pursuant to this
division to ensure that a person submits to a chemical test of
the person's whole blood or blood serum or plasma is immune from
criminal and civil liability based upon a claim for assault and
battery or any other claim for the acts, unless the officer so
acted with malicious purpose, in bad faith, or in a wanton or
reckless manner.

(C) Except as provided in division (B) of this section,
any person under arrest for violating section 1547.11 of the
Revised Code or a substantially equivalent municipal ordinance
shall be advised of the consequences of refusing to submit to a
chemical test or tests designated as provided in division (A) of
this section. The advice shall be in a written form prescribed
by the chief of the division of parks and watercraft and shall
be read to the person. The form shall contain a statement that
the form was shown to the person under arrest and read to the
person by the arresting officer. The reading of the form shall
be witnessed by one or more persons, and the witnesses shall
certify to this fact by signing the form. The person must submit
to the chemical test or tests, subsequent to the request of the
arresting officer, within two hours of the time of the alleged
violation, and if the person does not submit to the test or
tests within that two-hour time limit, the failure to submit
automatically constitutes a refusal to submit to the test or
tests.

(D) Except as provided in division (B) of this section, if
a law enforcement officer asks a person under arrest for

violating section 1547.11 of the Revised Code or a substantially 492
equivalent municipal ordinance to submit to a chemical test or 493
tests as provided in division (A) of this section, if the 494
arresting officer advises the person of the consequences of the 495
person's refusal as provided in division (C) of this section, 496
and if the person refuses to submit, no chemical test shall be 497
given. Upon receipt of a sworn statement of the officer that the 498
arresting law enforcement officer had reasonable grounds to 499
believe the arrested person violated section 1547.11 of the 500
Revised Code or a substantially equivalent municipal ordinance 501
and that the person refused to submit to the chemical test upon 502
the request of the officer, and upon receipt of the form as 503
provided in division (C) of this section certifying that the 504
arrested person was advised of the consequences of the refusal, 505
the chief of the division of parks and watercraft shall inform 506
the person by written notice that the person is prohibited from 507
operating or being in physical control of a vessel, from 508
manipulating any water skis, aquaplane, or similar device, and 509
from registering any watercraft in accordance with section 510
1547.54 of the Revised Code, for one year following the date of 511
the alleged violation. The suspension of these operation, 512
physical control, manipulation, and registration privileges 513
shall continue for the entire one-year period, subject to review 514
as provided in this section. 515

If the person under arrest is the owner of the vessel 516
involved in the alleged violation, the law enforcement officer 517
who arrested the person shall seize the watercraft registration 518
certificate and tags from the vessel involved in the violation 519
and forward them to the chief. The chief shall retain the 520
impounded registration certificate and tags and shall impound 521
all other registration certificates and tags issued to the 522

person in accordance with sections 1547.54 and 1547.57 of the Revised Code, for a period of one year following the date of the alleged violation, subject to review as provided in this section.

If the arrested person fails to surrender the registration certificate because it is not on the person of the arrested person or in the watercraft, the law enforcement officer who made the arrest shall order the person to surrender it within twenty-four hours to the law enforcement officer or the law enforcement agency that employs the law enforcement officer. If the person fails to do so, the law enforcement officer shall notify the chief of that fact in the statement the officer submits to the chief under this division.

(E) Upon suspending a person's operation, physical control, manipulation, and registration privileges in accordance with division (D) of this section, the chief shall notify the person in writing, at the person's last known address, and inform the person that the person may petition for a hearing in accordance with division (F) of this section. If a person whose operation, physical control, manipulation, and registration privileges have been suspended petitions for a hearing or appeals any adverse decision, the suspension shall begin at the termination of any hearing or appeal unless the hearing or appeal results in a decision favorable to the person.

(F) Any person who has been notified by the chief that the person is prohibited from operating or being in physical control of a vessel or manipulating any water skis, aquaplane, or similar device and from registering any watercraft in accordance with section 1547.54 of the Revised Code, or who has had the registration certificate and tags of the person's watercraft

impounded pursuant to division (D) of this section, within 553
twenty days of the notification or impoundment, may file a 554
petition in the municipal court or the county court, or if the 555
person is a minor in juvenile court, with jurisdiction over the 556
place at which the arrest occurred, agreeing to pay the cost of 557
the proceedings and alleging error in the action taken by the 558
chief under division (D) of this section or alleging one or more 559
of the matters within the scope of the hearing as provided in 560
this section, or both. The petitioner shall notify the chief of 561
the filing of the petition and send the chief a copy of the 562
petition. 563

The scope of the hearing is limited to the issues of 564
whether the law enforcement officer had reasonable grounds to 565
believe the petitioner was operating or in physical control of a 566
vessel or manipulating any water skis, aquaplane, or similar 567
device in violation of section 1547.11 of the Revised Code or a 568
substantially equivalent municipal ordinance, whether the 569
petitioner was placed under arrest, whether the petitioner 570
refused to submit to the chemical test upon request of the 571
officer, and whether the petitioner was advised of the 572
consequences of the petitioner's refusal. 573

(G) (1) The chief shall furnish the court a copy of the 574
affidavit as provided in division (C) of this section and any 575
other relevant information requested by the court. 576

(2) In hearing the matter and in determining whether the 577
person has shown error in the decision taken by the chief as 578
provided in division (D) of this section, the court shall decide 579
the issue upon the relevant, competent, and material evidence 580
submitted by the chief or the person whose operation, physical 581
control, manipulation, and registration privileges have been 582

suspended. 583

In the proceedings, the chief shall be represented by the 584
prosecuting attorney of the county in which the petition is 585
filed if the petition is filed in a county court or juvenile 586
court, except that if the arrest occurred within a city or 587
village within the jurisdiction of the county court in which the 588
petition is filed, the city director of law or village solicitor 589
of that city or village shall represent the chief. If the 590
petition is filed in the municipal court, the chief shall be 591
represented as provided in section 1901.34 of the Revised Code. 592

(3) If the court finds from the evidence submitted that 593
the person has failed to show error in the action taken by the 594
chief under division (D) of this section or in one or more of 595
the matters within the scope of the hearing as provided in 596
division (F) of this section, or both, the court shall assess 597
the cost of the proceeding against the person and shall uphold 598
the suspension of the operation, physical control, use, and 599
registration privileges provided in division (D) of this 600
section. If the court finds that the person has shown error in 601
the action taken by the chief under division (D) of this section 602
or in one or more of the matters within the scope of the hearing 603
as provided in division (F) of this section, or both, the cost 604
of the proceedings shall be paid out of the county treasury of 605
the county in which the proceedings were held, the chief shall 606
reinstate the operation, physical control, manipulation, and 607
registration privileges of the person without charge, and the 608
chief shall return the registration certificate and tags, if 609
impounded, without charge. 610

(4) The court shall give information in writing of any 611
action taken under this section to the chief. 612

(H) At the end of any period of suspension or impoundment 613
imposed under this section, and upon request of the person whose 614
operation, physical control, use, and registration privileges 615
were suspended or whose registration certificate and tags were 616
impounded, the chief shall reinstate the person's operation, 617
physical control, manipulation, and registration privileges by 618
written notice and return the certificate and tags. 619

(I) No person who has received written notice from the 620
chief that the person is prohibited from operating or being in 621
physical control of a vessel, from manipulating any water skis, 622
aquaplane, or similar device, and from registering a watercraft, 623
or who has had the registration certificate and tags of the 624
person's watercraft impounded, in accordance with division (D) 625
of this section, shall operate or be in physical control of a 626
vessel or manipulate any water skis, aquaplane, or similar 627
device for a period of one year following the date of the 628
person's alleged violation of section 1547.11 of the Revised 629
Code or the substantially equivalent municipal ordinance. 630

Sec. 2317.02. The following persons shall not testify in 631
certain respects: 632

(A) (1) An attorney, concerning a communication made to the 633
attorney by a client in that relation or concerning the 634
attorney's advice to a client, except that the attorney may 635
testify by express consent of the client or, if the client is 636
deceased, by the express consent of the surviving spouse or the 637
executor or administrator of the estate of the deceased client. 638
However, if the client voluntarily reveals the substance of 639
attorney-client communications in a nonprivileged context or is 640
deemed by section 2151.421 of the Revised Code to have waived 641
any testimonial privilege under this division, the attorney may 642

be compelled to testify on the same subject. 643

The testimonial privilege established under this division 644
does not apply concerning either of the following: 645

(a) A communication between a client in a capital case, as 646
defined in section 2901.02 of the Revised Code, and the client's 647
attorney if the communication is relevant to a subsequent 648
ineffective assistance of counsel claim by the client alleging 649
that the attorney did not effectively represent the client in 650
the case; 651

(b) A communication between a client who has since died 652
and the deceased client's attorney if the communication is 653
relevant to a dispute between parties who claim through that 654
deceased client, regardless of whether the claims are by testate 655
or intestate succession or by inter vivos transaction, and the 656
dispute addresses the competency of the deceased client when the 657
deceased client executed a document that is the basis of the 658
dispute or whether the deceased client was a victim of fraud, 659
undue influence, or duress when the deceased client executed a 660
document that is the basis of the dispute. 661

(2) An attorney, concerning a communication made to the 662
attorney by a client in that relationship or the attorney's 663
advice to a client, except that if the client is an insurance 664
company, the attorney may be compelled to testify, subject to an 665
in camera inspection by a court, about communications made by 666
the client to the attorney or by the attorney to the client that 667
are related to the attorney's aiding or furthering an ongoing or 668
future commission of bad faith by the client, if the party 669
seeking disclosure of the communications has made a prima-facie 670
showing of bad faith, fraud, or criminal misconduct by the 671
client. 672

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

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

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

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

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

(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the

estate of the patient if deceased, or the patient's guardian or 702
other legal representative. 703

(b) In any civil action concerning court-ordered treatment 704
or services received by a patient, if the court-ordered 705
treatment or services were ordered as part of a case plan 706
journalized under section 2151.412 of the Revised Code or the 707
court-ordered treatment or services are necessary or relevant to 708
dependency, neglect, or abuse or temporary or permanent custody 709
proceedings under Chapter 2151. of the Revised Code. 710

(c) In any criminal action concerning any test or the 711
results of any test that determines the presence or 712
concentration of alcohol, a drug of abuse, a combination of 713
them, a controlled substance, or a metabolite of a controlled 714
substance in the patient's whole blood, blood serum or plasma, 715
breath, urine, oral fluid, or other bodily substance at any time 716
relevant to the criminal offense in question. 717

(d) In any criminal action against a physician, advanced 718
practice registered nurse, or dentist. In such an action, the 719
testimonial privilege established under this division does not 720
prohibit the admission into evidence, in accordance with the 721
Rules of Evidence, of a patient's medical or dental records or 722
other communications between a patient and the physician, 723
advanced practice registered nurse, or dentist that are related 724
to the action and obtained by subpoena, search warrant, or other 725
lawful means. A court that permits or compels a physician, 726
advanced practice registered nurse, or dentist to testify in 727
such an action or permits the introduction into evidence of 728
patient records or other communications in such an action shall 729
require that appropriate measures be taken to ensure that the 730
confidentiality of any patient named or otherwise identified in 731

the records is maintained. Measures to ensure confidentiality 732
that may be taken by the court include sealing its records or 733
deleting specific information from its records. 734

(e) (i) If the communication was between a patient who has 735
since died and the deceased patient's physician, advanced 736
practice registered nurse, or dentist, the communication is 737
relevant to a dispute between parties who claim through that 738
deceased patient, regardless of whether the claims are by 739
testate or intestate succession or by inter vivos transaction, 740
and the dispute addresses the competency of the deceased patient 741
when the deceased patient executed a document that is the basis 742
of the dispute or whether the deceased patient was a victim of 743
fraud, undue influence, or duress when the deceased patient 744
executed a document that is the basis of the dispute. 745

(ii) If neither the spouse of a patient nor the executor 746
or administrator of that patient's estate gives consent under 747
division (B) (1) (a) (ii) of this section, testimony or the 748
disclosure of the patient's medical records by a physician, 749
advanced practice registered nurse, dentist, or other health 750
care provider under division (B) (1) (e) (i) of this section is a 751
permitted use or disclosure of protected health information, as 752
defined in 45 C.F.R. 160.103, and an authorization or 753
opportunity to be heard shall not be required. 754

(iii) Division (B) (1) (e) (i) of this section does not 755
require a mental health professional to disclose psychotherapy 756
notes, as defined in 45 C.F.R. 164.501. 757

(iv) An interested person who objects to testimony or 758
disclosure under division (B) (1) (e) (i) of this section may seek 759
a protective order pursuant to Civil Rule 26. 760

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

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

(b) If a health care provider possesses any records of the type described in division (B) (2) (a) of this section regarding the person in question at any time relevant to the criminal

offense in question, in lieu of personally testifying as to the 792
results of the test in question, the custodian of the records 793
may submit a certified copy of the records, and, upon its 794
submission, the certified copy is qualified as authentic 795
evidence and may be admitted as evidence in accordance with the 796
Rules of Evidence. Division (A) of section 2317.422 of the 797
Revised Code does not apply to any certified copy of records 798
submitted in accordance with this division. Nothing in this 799
division shall be construed to limit the right of any party to 800
call as a witness the person who administered the test to which 801
the records pertain, the person under whose supervision the test 802
was administered, the custodian of the records, the person who 803
made the records, or the person under whose supervision the 804
records were made. 805

(3) (a) If the testimonial privilege described in division 806
(B) (1) of this section does not apply as provided in division 807
(B) (1) (a) (iii) of this section, a physician, advanced practice 808
registered nurse, or dentist may be compelled to testify or to 809
submit to discovery under the Rules of Civil Procedure only as 810
to a communication made to the physician, advanced practice 811
registered nurse, or dentist by the patient in question in that 812
relation, or the advice of the physician, advanced practice 813
registered nurse, or dentist given to the patient in question, 814
that related causally or historically to physical or mental 815
injuries that are relevant to issues in the medical claim, 816
dental claim, chiropractic claim, or optometric claim, action 817
for wrongful death, other civil action, or claim under Chapter 818
4123. of the Revised Code. 819

(b) If the testimonial privilege described in division (B) 820
(1) of this section does not apply to a physician, advanced 821
practice registered nurse, or dentist as provided in division 822

(B) (1) (c) of this section, the physician, advanced practice registered nurse, or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test in question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled.

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

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

(b) As used in division (B) (2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner. 853
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855
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(c) As used in division (B) (5) (b) of this section: 857

(i) "Ambulatory care facility" means a facility that 858
provides medical, diagnostic, or surgical treatment to patients 859
who do not require hospitalization, including a dialysis center, 860
ambulatory surgical facility, cardiac catheterization facility, 861
diagnostic imaging center, extracorporeal shock wave lithotripsy 862
center, home health agency, inpatient hospice, birthing center, 863
radiation therapy center, emergency facility, and an urgent care 864
center. "Ambulatory health care facility" does not include the 865
private office of a physician, advanced practice registered 866
nurse, or dentist, whether the office is for an individual or 867
group practice. 868

(ii) "Emergency facility" means a hospital emergency 869
department or any other facility that provides emergency medical 870
services. 871

(iii) "Health care practitioner" has the same meaning as 872
in section 4769.01 of the Revised Code. 873

(iv) "Hospital" has the same meaning as in section 3727.01 874
of the Revised Code. 875

(v) "Long-term care facility" means a nursing home, 876
residential care facility, or home for the aging, as those terms 877
are defined in section 3721.01 of the Revised Code; a 878
residential facility licensed under section 5119.34 of the 879
Revised Code that provides accommodations, supervision, and 880
personal care services for three to sixteen unrelated adults; a 881

nursing facility, as defined in section 5165.01 of the Revised Code; a skilled nursing facility, as defined in section 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code.

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

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

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

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

(C) (1) A cleric, when the cleric remains accountable to the authority of that cleric's church, denomination, or sect,

concerning a confession made, or any information confidentially 911
communicated, to the cleric for a religious counseling purpose 912
in the cleric's professional character. The cleric may testify 913
by express consent of the person making the communication, 914
except when the disclosure of the information is in violation of 915
a sacred trust and except that, if the person voluntarily 916
testifies or is deemed by division (A) (4) (c) of section 2151.421 917
of the Revised Code to have waived any testimonial privilege 918
under this division, the cleric may be compelled to testify on 919
the same subject except when disclosure of the information is in 920
violation of a sacred trust. 921

(2) As used in division (C) of this section: 922

(a) "Cleric" means a member of the clergy, rabbi, priest, 923
Christian Science practitioner, or regularly ordained, 924
accredited, or licensed minister of an established and legally 925
cognizable church, denomination, or sect. 926

(b) "Sacred trust" means a confession or confidential 927
communication made to a cleric in the cleric's ecclesiastical 928
capacity in the course of discipline enjoined by the church to 929
which the cleric belongs, including, but not limited to, the 930
Catholic Church, if both of the following apply: 931

(i) The confession or confidential communication was made 932
directly to the cleric. 933

(ii) The confession or confidential communication was made 934
in the manner and context that places the cleric specifically 935
and strictly under a level of confidentiality that is considered 936
inviolable by canon law or church doctrine. 937

(D) Husband or wife, concerning any communication made by 938
one to the other, or an act done by either in the presence of 939

the other, during coverture, unless the communication was made, 940
or act done, in the known presence or hearing of a third person 941
competent to be a witness; and such rule is the same if the 942
marital relation has ceased to exist; 943

(E) A person who assigns a claim or interest, concerning 944
any matter in respect to which the person would not, if a party, 945
be permitted to testify; 946

(F) A person who, if a party, would be restricted under 947
section 2317.03 of the Revised Code, when the property or thing 948
is sold or transferred by an executor, administrator, guardian, 949
trustee, heir, devisee, or legatee, shall be restricted in the 950
same manner in any action or proceeding concerning the property 951
or thing. 952

(G) (1) A school guidance counselor who holds a valid 953
educator license from the state board of education as provided 954
for in section 3319.22 of the Revised Code, a person licensed 955
under Chapter 4757. of the Revised Code as a licensed 956
professional clinical counselor, licensed professional 957
counselor, social worker, independent social worker, marriage 958
and family therapist or independent marriage and family 959
therapist, or registered under Chapter 4757. of the Revised Code 960
as a social work assistant concerning a confidential 961
communication received from a client in that relation or the 962
person's advice to a client unless any of the following applies: 963

(a) The communication or advice indicates clear and 964
present danger to the client or other persons. For the purposes 965
of this division, cases in which there are indications of 966
present or past child abuse or neglect of the client constitute 967
a clear and present danger. 968

(b) The client gives express consent to the testimony.	969
(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.	970 971 972
(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.	973 974 975 976
(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.	977 978 979 980
(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.	981 982 983 984
(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.	985 986 987 988 989 990 991
(2) Nothing in division (G) (1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.	992 993 994 995 996

(H) A mediator acting under a mediation order issued under 997
division (A) of section 3109.052 of the Revised Code or 998
otherwise issued in any proceeding for divorce, dissolution, 999
legal separation, annulment, or the allocation of parental 1000
rights and responsibilities for the care of children, in any 1001
action or proceeding, other than a criminal, delinquency, child 1002
abuse, child neglect, or dependent child action or proceeding, 1003
that is brought by or against either parent who takes part in 1004
mediation in accordance with the order and that pertains to the 1005
mediation process, to any information discussed or presented in 1006
the mediation process, to the allocation of parental rights and 1007
responsibilities for the care of the parents' children, or to 1008
the awarding of parenting time rights in relation to their 1009
children; 1010

(I) A communications assistant, acting within the scope of 1011
the communication assistant's authority, when providing 1012
telecommunications relay service pursuant to section 4931.06 of 1013
the Revised Code or Title II of the "Communications Act of 1014
1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a 1015
communication made through a telecommunications relay service. 1016
Nothing in this section shall limit the obligation of a 1017
communications assistant to divulge information or testify when 1018
mandated by federal law or regulation or pursuant to subpoena in 1019
a criminal proceeding. 1020

Nothing in this section shall limit any immunity or 1021
privilege granted under federal law or regulation. 1022

(J) (1) A chiropractor in a civil proceeding concerning a 1023
communication made to the chiropractor by a patient in that 1024
relation or the chiropractor's advice to a patient, except as 1025
otherwise provided in this division. The testimonial privilege 1026

established under this division does not apply, and a	1027
chiropractor may testify or may be compelled to testify, in any	1028
civil action, in accordance with the discovery provisions of the	1029
Rules of Civil Procedure in connection with a civil action, or	1030
in connection with a claim under Chapter 4123. of the Revised	1031
Code, under any of the following circumstances:	1032
(a) If the patient or the guardian or other legal	1033
representative of the patient gives express consent.	1034
(b) If the patient is deceased, the spouse of the patient	1035
or the executor or administrator of the patient's estate gives	1036
express consent.	1037
(c) If a medical claim, dental claim, chiropractic claim,	1038
or optometric claim, as defined in section 2305.113 of the	1039
Revised Code, an action for wrongful death, any other type of	1040
civil action, or a claim under Chapter 4123. of the Revised Code	1041
is filed by the patient, the personal representative of the	1042
estate of the patient if deceased, or the patient's guardian or	1043
other legal representative.	1044
(2) If the testimonial privilege described in division (J)	1045
(1) of this section does not apply as provided in division (J)	1046
(1) (c) of this section, a chiropractor may be compelled to	1047
testify or to submit to discovery under the Rules of Civil	1048
Procedure only as to a communication made to the chiropractor by	1049
the patient in question in that relation, or the chiropractor's	1050
advice to the patient in question, that related causally or	1051
historically to physical or mental injuries that are relevant to	1052
issues in the medical claim, dental claim, chiropractic claim,	1053
or optometric claim, action for wrongful death, other civil	1054
action, or claim under Chapter 4123. of the Revised Code.	1055

(3) The testimonial privilege established under this 1056
division does not apply, and a chiropractor may testify or be 1057
compelled to testify, in any criminal action or administrative 1058
proceeding. 1059

(4) As used in this division, "communication" means 1060
acquiring, recording, or transmitting any information, in any 1061
manner, concerning any facts, opinions, or statements necessary 1062
to enable a chiropractor to diagnose, treat, or act for a 1063
patient. A communication may include, but is not limited to, any 1064
chiropractic, office, or hospital communication such as a 1065
record, chart, letter, memorandum, laboratory test and results, 1066
x-ray, photograph, financial statement, diagnosis, or prognosis. 1067

(K) (1) Except as provided under division (K) (2) of this 1068
section, a critical incident stress management team member 1069
concerning a communication received from an individual who 1070
receives crisis response services from the team member, or the 1071
team member's advice to the individual, during a debriefing 1072
session. 1073

(2) The testimonial privilege established under division 1074
(K) (1) of this section does not apply if any of the following 1075
are true: 1076

(a) The communication or advice indicates clear and 1077
present danger to the individual who receives crisis response 1078
services or to other persons. For purposes of this division, 1079
cases in which there are indications of present or past child 1080
abuse or neglect of the individual constitute a clear and 1081
present danger. 1082

(b) The individual who received crisis response services 1083
gives express consent to the testimony. 1084

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

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

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

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

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

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

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

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

(L) (1) Subject to division (L) (2) of this section and except as provided in division (L) (3) of this section, an

employee assistance professional, concerning a communication	1113
made to the employee assistance professional by a client in the	1114
employee assistance professional's official capacity as an	1115
employee assistance professional.	1116
(2) Division (L)(1) of this section applies to an employee	1117
assistance professional who meets either or both of the	1118
following requirements:	1119
(a) Is certified by the employee assistance certification	1120
commission to engage in the employee assistance profession;	1121
(b) Has education, training, and experience in all of the	1122
following:	1123
(i) Providing workplace-based services designed to address	1124
employer and employee productivity issues;	1125
(ii) Providing assistance to employees and employees'	1126
dependents in identifying and finding the means to resolve	1127
personal problems that affect the employees or the employees'	1128
performance;	1129
(iii) Identifying and resolving productivity problems	1130
associated with an employee's concerns about any of the	1131
following matters: health, marriage, family, finances, substance	1132
abuse or other addiction, workplace, law, and emotional issues;	1133
(iv) Selecting and evaluating available community	1134
resources;	1135
(v) Making appropriate referrals;	1136
(vi) Local and national employee assistance agreements;	1137
(vii) Client confidentiality.	1138
(3) Division (L)(1) of this section does not apply to any	1139

of the following:	1140
(a) A criminal action or proceeding involving an offense	1141
under sections 2903.01 to 2903.06 of the Revised Code if the	1142
employee assistance professional's disclosure or testimony	1143
relates directly to the facts or immediate circumstances of the	1144
offense;	1145
(b) A communication made by a client to an employee	1146
assistance professional that reveals the contemplation or	1147
commission of a crime or serious, harmful act;	1148
(c) A communication that is made by a client who is an	1149
unemancipated minor or an adult adjudicated to be incompetent	1150
and indicates that the client was the victim of a crime or	1151
abuse;	1152
(d) A civil proceeding to determine an individual's mental	1153
competency or a criminal action in which a plea of not guilty by	1154
reason of insanity is entered;	1155
(e) A civil or criminal malpractice action brought against	1156
the employee assistance professional;	1157
(f) When the employee assistance professional has the	1158
express consent of the client or, if the client is deceased or	1159
disabled, the client's legal representative;	1160
(g) When the testimonial privilege otherwise provided by	1161
division (L)(1) of this section is abrogated under law.	1162
Sec. 2317.022. (A) As used in this section:	1163
(1) "Health care provider" has the same meaning as in	1164
section 2317.02 of the Revised Code.	1165
(2) "Drug of abuse" has the same meaning as in section	1166

4506.01 of the Revised Code. 1167

(B) If an official criminal investigation has begun 1168
regarding a person or if a criminal action or proceeding is 1169
commenced against a person, any law enforcement officer who 1170
wishes to obtain from any health care provider a copy of any 1171
records the provider possesses that pertain to any test or the 1172
result of any test administered to the person to determine the 1173
presence or concentration of alcohol, a drug of abuse, or 1174
alcohol and a drug of abuse in the person's blood, breath, oral 1175
fluid, or urine at any time relevant to the criminal offense in 1176
question shall submit to the health care facility a written 1177
statement in the following form: 1178

"WRITTEN STATEMENT REQUESTING THE RELEASE OF RECORDS 1179

To: _____ (insert name of the health care 1180
provider in question). 1181

I hereby state that an official criminal investigation has 1182
begun regarding, or a criminal action or proceeding has been 1183
commenced against, _____ (insert the name of the 1184
person in question), and that I believe that one or more tests 1185
has been administered to that person by this health care 1186
provider to determine the presence or concentration of alcohol, 1187
a drug of abuse, a combination of them, a controlled substance, 1188
or a metabolite of a controlled substance in that person's whole 1189
blood, blood serum or plasma, breath, oral fluid, or urine at a 1190
time relevant to the criminal offense in question. Therefore, I 1191
hereby request that, pursuant to division (B) (2) of section 1192
2317.02 of the Revised Code, this health care provider supply me 1193
with copies of any records the provider possesses that pertain 1194
to any test or the results of any test administered to the 1195
person specified above to determine the presence or 1196

concentration of alcohol, a drug of abuse, a combination of 1197
them, a controlled substance, or a metabolite of a controlled 1198
substance in that person's whole blood, blood serum or plasma, 1199
breath, oral fluid, or urine at any time relevant to the 1200
criminal offense in question. 1201

_____ 1202

(Name of officer) 1203

_____ 1204

(Officer's title) 1205

_____ 1206

(Officer's employing agency) 1207

_____ 1208

(Officer's telephone number) 1209

_____ 1210

_____ 1211

_____ 1212

(Agency's address) 1213

_____ 1214

(Date written statement submitted)" 1215

(C) A health care provider that receives a written 1216
statement of the type described in division (B) of this section 1217
shall comply with division (B) (2) of section 2317.02 of the 1218
Revised Code relative to the written statement." 1219

After line 3286, insert: 1220

"Sec. 3701.143. For purposes of sections 1547.11, 1221
4511.19, and 4511.194 of the Revised Code, the director of 1222
health shall determine, or cause to be determined, techniques or 1223
methods for chemically analyzing a person's whole blood, blood 1224
serum or plasma, urine, breath, oral fluid, or other bodily 1225
substance in order to ascertain the presence or amount of 1226
alcohol, a drug of abuse, controlled substance, metabolite of a 1227
controlled substance, or combination of them in the person's 1228
whole blood, blood serum or plasma, urine, breath, oral fluid, 1229
or other bodily substance. The director shall approve 1230
satisfactory techniques or methods, ascertain the qualifications 1231
of individuals to conduct such analyses, and issue permits to 1232
qualified persons authorizing them to perform such analyses. 1233
Such permits shall be subject to termination or revocation at 1234
the discretion of the director. 1235

As used in this section, "drug of abuse" has the same 1236
meaning as in section 4506.01 of the Revised Code." 1237

After line 3340, insert: 1238

"Sec. 4506.17. (A) Both of the following are deemed to 1239
have given consent to a test or tests of the person's whole 1240
blood, blood serum or plasma, breath, oral fluid, or urine for 1241
the purpose of determining the person's alcohol concentration or 1242
the presence of any controlled substance or a metabolite of a 1243
controlled substance: 1244

(1) A person while operating a commercial motor vehicle 1245
that requires a commercial driver's license or commercial 1246
driver's license temporary instruction permit; 1247

(2) A person who holds a commercial driver's license or 1248
commercial driver's license temporary instruction permit while 1249

operating a motor vehicle, including a commercial motor vehicle. 1250

(B) A test or tests as provided in division (A) of this 1251
section may be administered at the direction of a peace officer 1252
having reasonable ground to stop or detain the person and, after 1253
investigating the circumstances surrounding the operation of the 1254
motor vehicle, also having reasonable ground to believe the 1255
person was driving the motor vehicle while having a measurable 1256
or detectable amount of alcohol or of a controlled substance or 1257
a metabolite of a controlled substance in the person's whole 1258
blood, blood serum or plasma, breath, oral fluid, or urine. Any 1259
such test shall be given within two hours of the time of the 1260
alleged violation. 1261

(C) A person requested by a peace officer to submit to a 1262
test under division (A) of this section shall be advised by the 1263
peace officer that a refusal to submit to the test will result 1264
in the person immediately being placed out-of-service for a 1265
period of twenty-four hours and being disqualified from 1266
operating a commercial motor vehicle for a period of not less 1267
than one year, and that the person is required to surrender the 1268
person's commercial driver's license or permit to the peace 1269
officer. 1270

(D) If a person refuses to submit to a test after being 1271
warned as provided in division (C) of this section or submits to 1272
a test that discloses the presence of an amount of alcohol or a 1273
controlled substance prohibited by divisions (A) (1) to (6) of 1274
section 4506.15 of the Revised Code or a metabolite of a 1275
controlled substance, the person immediately shall surrender the 1276
person's commercial driver's license or permit to the peace 1277
officer. The peace officer shall forward the license or permit, 1278
together with a sworn report, to the registrar of motor vehicles 1279

certifying that the test was requested pursuant to division (A) 1280
of this section and that the person either refused to submit to 1281
testing or submitted to a test that disclosed the presence of 1282
one of the prohibited concentrations of a substance listed in 1283
divisions (A) (1) to (6) of section 4506.15 of the Revised Code 1284
or a metabolite of a controlled substance. The form and contents 1285
of the report required by this section shall be established by 1286
the registrar by rule, but shall contain the advice to be read 1287
to the driver and a statement to be signed by the driver 1288
acknowledging that the driver has been read the advice and that 1289
the form was shown to the driver. 1290

(E) Upon receipt of a sworn report from a peace officer as 1291
provided in division (D) of this section, or upon receipt of 1292
notification that a person has been disqualified under a similar 1293
law of another state or foreign jurisdiction, the registrar 1294
shall disqualify the person named in the report from driving a 1295
commercial motor vehicle for the period described below: 1296

(1) Upon a first incident, one year; 1297

(2) Upon an incident of refusal or of a prohibited 1298
concentration of alcohol, a controlled substance, or a 1299
metabolite of a controlled substance after one or more previous 1300
incidents of either refusal or of a prohibited concentration of 1301
alcohol, a controlled substance, or a metabolite of a controlled 1302
substance, the person shall be disqualified for life or such 1303
lesser period as prescribed by rule by the registrar. 1304

(F) A test of a person's whole blood or a person's blood 1305
serum or plasma given under this section shall comply with the 1306
applicable provisions of division (D) of section 4511.19 of the 1307
Revised Code and any physician, registered nurse, emergency 1308
medical technician-intermediate, emergency medical technician- 1309

paramedic, or qualified technician, chemist, or phlebotomist who 1310
withdraws whole blood or blood serum or plasma from a person 1311
under this section, and any hospital, first-aid station, clinic, 1312
or other facility at which whole blood or blood serum or plasma 1313
is withdrawn from a person pursuant to this section, is immune 1314
from criminal liability, and from civil liability that is based 1315
upon a claim of assault and battery or based upon any other 1316
claim of malpractice, for any act performed in withdrawing whole 1317
blood or blood serum or plasma from the person. The immunity 1318
provided in this division also extends to an emergency medical 1319
service organization that employs an emergency medical 1320
technician-intermediate or emergency medical technician- 1321
paramedic who withdraws blood under this section. 1322

(G) When a person submits to a test under this section, 1323
the results of the test, at the person's request, shall be made 1324
available to the person, the person's attorney, or the person's 1325
agent, immediately upon completion of the chemical test 1326
analysis. The person also may have an additional test 1327
administered by a physician, a registered nurse, or a qualified 1328
technician, chemist, or phlebotomist of the person's own 1329
choosing as provided in division (D) of section 4511.19 of the 1330
Revised Code for tests administered under that section, and the 1331
failure to obtain such a test has the same effect as in that 1332
division. 1333

(H) No person shall refuse to immediately surrender the 1334
person's commercial driver's license or permit to a peace 1335
officer when required to do so by this section. 1336

(I) A peace officer issuing an out-of-service order or 1337
receiving a commercial driver's license or permit surrendered 1338
under this section may remove or arrange for the removal of any 1339

commercial motor vehicle affected by the issuance of that order 1340
or the surrender of that license. 1341

(J) (1) Except for civil actions arising out of the 1342
operation of a motor vehicle and civil actions in which the 1343
state is a plaintiff, no peace officer of any law enforcement 1344
agency within this state is liable in compensatory damages in 1345
any civil action that arises under the Revised Code or common 1346
law of this state for an injury, death, or loss to person or 1347
property caused in the performance of official duties under this 1348
section and rules adopted under this section, unless the 1349
officer's actions were manifestly outside the scope of the 1350
officer's employment or official responsibilities, or unless the 1351
officer acted with malicious purpose, in bad faith, or in a 1352
wanton or reckless manner. 1353

(2) Except for civil actions that arise out of the 1354
operation of a motor vehicle and civil actions in which the 1355
state is a plaintiff, no peace officer of any law enforcement 1356
agency within this state is liable in punitive or exemplary 1357
damages in any civil action that arises under the Revised Code 1358
or common law of this state for any injury, death, or loss to 1359
person or property caused in the performance of official duties 1360
under this section of the Revised Code and rules adopted under 1361
this section, unless the officer's actions were manifestly 1362
outside the scope of the officer's employment or official 1363
responsibilities, or unless the officer acted with malicious 1364
purpose, in bad faith, or in a wanton or reckless manner. 1365

(K) When disqualifying a driver, the registrar shall cause 1366
the records of the bureau of motor vehicles to be updated to 1367
reflect the disqualification within ten days after it occurs. 1368

(L) The registrar immediately shall notify a driver who is 1369

subject to disqualification of the disqualification, of the 1370
length of the disqualification, and that the driver may request 1371
a hearing within thirty days of the mailing of the notice to 1372
show cause why the driver should not be disqualified from 1373
operating a commercial motor vehicle. If a request for such a 1374
hearing is not made within thirty days of the mailing of the 1375
notice, the order of disqualification is final. The registrar 1376
may designate hearing examiners who, after affording all parties 1377
reasonable notice, shall conduct a hearing to determine whether 1378
the disqualification order is supported by reliable evidence. 1379
The registrar shall adopt rules to implement this division. 1380

(M) Any person who is disqualified from operating a 1381
commercial motor vehicle under this section may apply to the 1382
registrar for a driver's license to operate a motor vehicle 1383
other than a commercial motor vehicle, provided the person's 1384
commercial driver's license or permit is not otherwise 1385
suspended. A person whose commercial driver's license or permit 1386
is suspended shall not apply to the registrar for or receive a 1387
driver's license under Chapter 4507. of the Revised Code during 1388
the period of suspension. 1389

(N) Whoever violates division (H) of this section is 1390
guilty of a misdemeanor of the first degree. 1391

(O) As used in this section, "emergency medical 1392
technician-intermediate" and "emergency medical technician- 1393
paramedic" have the same meanings as in section 4765.01 of the 1394
Revised Code. 1395

Sec. 4511.19. (A) (1) No person shall operate any vehicle, 1396
streetcar, or trackless trolley within this state, if, at the 1397
time of the operation, any of the following apply: 1398

(a) The person is under the influence of alcohol, a drug of abuse, or a combination of them.	1399 1400
(b) The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.	1401 1402 1403 1404
(c) The person has a concentration of ninety-six- thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.	1405 1406 1407 1408
(d) The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.	1409 1410 1411 1412
(e) The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight- thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.	1413 1414 1415 1416
(f) The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.	1417 1418 1419
(g) The person has a concentration of two hundred four- thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.	1420 1421 1422
(h) The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.	1423 1424 1425
(i) The person has a concentration of two hundred thirty-	1426

eight-thousandths of one gram or more by weight of alcohol per 1427
one hundred milliliters of the person's urine. 1428

(j) Except as provided in division (K) of this section, 1429
the person has a concentration of any of the following 1430
controlled substances or metabolites of a controlled substance 1431
in the person's whole blood, blood serum or plasma, or urine 1432
that equals or exceeds any of the following: 1433

(i) The person has a concentration of amphetamine in the 1434
person's urine of at least five hundred nanograms of amphetamine 1435
per milliliter of the person's urine or has a concentration of 1436
amphetamine in the person's whole blood or blood serum or plasma 1437
of at least one hundred nanograms of amphetamine per milliliter 1438
of the person's whole blood or blood serum or plasma. 1439

(ii) The person has a concentration of cocaine in the 1440
person's urine of at least one hundred fifty nanograms of 1441
cocaine per milliliter of the person's urine or has a 1442
concentration of cocaine in the person's whole blood or blood 1443
serum or plasma of at least fifty nanograms of cocaine per 1444
milliliter of the person's whole blood or blood serum or plasma. 1445

(iii) The person has a concentration of cocaine metabolite 1446
in the person's urine of at least one hundred fifty nanograms of 1447
cocaine metabolite per milliliter of the person's urine or has a 1448
concentration of cocaine metabolite in the person's whole blood 1449
or blood serum or plasma of at least fifty nanograms of cocaine 1450
metabolite per milliliter of the person's whole blood or blood 1451
serum or plasma. 1452

(iv) The person has a concentration of heroin in the 1453
person's urine of at least two thousand nanograms of heroin per 1454
milliliter of the person's urine or has a concentration of 1455

heroin in the person's whole blood or blood serum or plasma of 1456
at least fifty nanograms of heroin per milliliter of the 1457
person's whole blood or blood serum or plasma. 1458

(v) The person has a concentration of heroin metabolite 1459
(6-monoacetyl morphine) in the person's urine of at least ten 1460
nanograms of heroin metabolite (6-monoacetyl morphine) per 1461
milliliter of the person's urine or has a concentration of 1462
heroin metabolite (6-monoacetyl morphine) in the person's whole 1463
blood or blood serum or plasma of at least ten nanograms of 1464
heroin metabolite (6-monoacetyl morphine) per milliliter of the 1465
person's whole blood or blood serum or plasma. 1466

(vi) The person has a concentration of L.S.D. in the 1467
person's urine of at least twenty-five nanograms of L.S.D. per 1468
milliliter of the person's urine or a concentration of L.S.D. in 1469
the person's whole blood or blood serum or plasma of at least 1470
ten nanograms of L.S.D. per milliliter of the person's whole 1471
blood or blood serum or plasma. 1472

(vii) The person has a concentration of marihuana in the 1473
person's urine of at least ten nanograms of marihuana per 1474
milliliter of the person's urine or has a concentration of 1475
marihuana in the person's whole blood or blood serum or plasma 1476
of at least two nanograms of marihuana per milliliter of the 1477
person's whole blood or blood serum or plasma. 1478

(viii) Either of the following applies: 1479

(I) The person is under the influence of alcohol, a drug 1480
of abuse, or a combination of them, and the person has a 1481
concentration of marihuana metabolite in the person's urine of 1482
at least fifteen nanograms of marihuana metabolite per 1483
milliliter of the person's urine or has a concentration of 1484

marihuana metabolite in the person's whole blood or blood serum	1485
or plasma of at least five nanograms of marihuana metabolite per	1486
milliliter of the person's whole blood or blood serum or plasma.	1487
(II) The person has a concentration of marihuana	1488
metabolite in the person's urine of at least thirty-five	1489
nanograms of marihuana metabolite per milliliter of the person's	1490
urine or has a concentration of marihuana metabolite in the	1491
person's whole blood or blood serum or plasma of at least fifty	1492
nanograms of marihuana metabolite per milliliter of the person's	1493
whole blood or blood serum or plasma.	1494
(ix) The person has a concentration of methamphetamine in	1495
the person's urine of at least five hundred nanograms of	1496
methamphetamine per milliliter of the person's urine or has a	1497
concentration of methamphetamine in the person's whole blood or	1498
blood serum or plasma of at least one hundred nanograms of	1499
methamphetamine per milliliter of the person's whole blood or	1500
blood serum or plasma.	1501
(x) The person has a concentration of phencyclidine in the	1502
person's urine of at least twenty-five nanograms of	1503
phencyclidine per milliliter of the person's urine or has a	1504
concentration of phencyclidine in the person's whole blood or	1505
blood serum or plasma of at least ten nanograms of phencyclidine	1506
per milliliter of the person's whole blood or blood serum or	1507
plasma.	1508
(xi) The state board of pharmacy has adopted a rule	1509
pursuant to section 4729.041 of the Revised Code that specifies	1510
the amount of salvia divinorum and the amount of salvinorin A	1511
that constitute concentrations of salvia divinorum and	1512
salvinorin A in a person's urine, in a person's whole blood, or	1513
in a person's blood serum or plasma at or above which the person	1514

is impaired for purposes of operating any vehicle, streetcar, or 1515
trackless trolley within this state, the rule is in effect, and 1516
the person has a concentration of salvia divinorum or salvinorin 1517
A of at least that amount so specified by rule in the person's 1518
urine, in the person's whole blood, or in the person's blood 1519
serum or plasma. 1520

(2) No person who, within twenty years of the conduct 1521
described in division (A) (2) (a) of this section, previously has 1522
been convicted of or pleaded guilty to a violation of this 1523
division, a violation of division (A) (1) of this section, or any 1524
other equivalent offense shall do both of the following: 1525

(a) Operate any vehicle, streetcar, or trackless trolley 1526
within this state while under the influence of alcohol, a drug 1527
of abuse, or a combination of them; 1528

(b) Subsequent to being arrested for operating the 1529
vehicle, streetcar, or trackless trolley as described in 1530
division (A) (2) (a) of this section, being asked by a law 1531
enforcement officer to submit to a chemical test or tests under 1532
section 4511.191 of the Revised Code, and being advised by the 1533
officer in accordance with section 4511.192 of the Revised Code 1534
of the consequences of the person's refusal or submission to the 1535
test or tests, refuse to submit to the test or tests. 1536

(B) No person under twenty-one years of age shall operate 1537
any vehicle, streetcar, or trackless trolley within this state, 1538
if, at the time of the operation, any of the following apply: 1539

(1) The person has a concentration of at least two- 1540
hundredths of one per cent but less than eight-hundredths of one 1541
per cent by weight per unit volume of alcohol in the person's 1542
whole blood. 1543

(2) The person has a concentration of at least three- 1544
hundredths of one per cent but less than ninety-six-thousandths 1545
of one per cent by weight per unit volume of alcohol in the 1546
person's blood serum or plasma. 1547

(3) The person has a concentration of at least two- 1548
hundredths of one gram but less than eight-hundredths of one 1549
gram by weight of alcohol per two hundred ten liters of the 1550
person's breath. 1551

(4) The person has a concentration of at least twenty- 1552
eight one-thousandths of one gram but less than eleven- 1553
hundredths of one gram by weight of alcohol per one hundred 1554
milliliters of the person's urine. 1555

(C) In any proceeding arising out of one incident, a 1556
person may be charged with a violation of division (A) (1) (a) or 1557
(A) (2) and a violation of division (B) (1), (2), or (3) of this 1558
section, but the person may not be convicted of more than one 1559
violation of these divisions. 1560

(D) (1) (a) In any criminal prosecution or juvenile court 1561
proceeding for a violation of division (A) (1) (a) of this section 1562
or for an equivalent offense that is vehicle-related, the result 1563
of any test of any blood, oral fluid, or urine withdrawn and 1564
analyzed at any health care provider, as defined in section 1565
2317.02 of the Revised Code, may be admitted with expert 1566
testimony to be considered with any other relevant and competent 1567
evidence in determining the guilt or innocence of the defendant. 1568

(b) In any criminal prosecution or juvenile court 1569
proceeding for a violation of division (A) or (B) of this 1570
section or for an equivalent offense that is vehicle-related, 1571
the court may admit evidence on the presence and concentration 1572

of alcohol, drugs of abuse, controlled substances, metabolites 1573
of a controlled substance, or a combination of them in the 1574
defendant's whole blood, blood serum or plasma, breath, urine, 1575
oral fluid, or other bodily substance at the time of the alleged 1576
violation as shown by chemical analysis of the substance 1577
withdrawn within three hours of the time of the alleged 1578
violation. The three-hour time limit specified in this division 1579
regarding the admission of evidence does not extend or affect 1580
the two-hour time limit specified in division (A) of section 1581
4511.192 of the Revised Code as the maximum period of time 1582
during which a person may consent to a chemical test or tests as 1583
described in that section. The court may admit evidence on the 1584
presence and concentration of alcohol, drugs of abuse, or a 1585
combination of them as described in this division when a person 1586
submits to a blood, breath, urine, oral fluid, or other bodily 1587
substance test at the request of a law enforcement officer under 1588
section 4511.191 of the Revised Code or a blood or urine sample 1589
is obtained pursuant to a search warrant. Only a physician, a 1590
registered nurse, an emergency medical technician-intermediate, 1591
an emergency medical technician-paramedic, or a qualified 1592
technician, chemist, or phlebotomist shall withdraw a blood 1593
sample for the purpose of determining the alcohol, drug, 1594
controlled substance, metabolite of a controlled substance, or 1595
combination content of the whole blood, blood serum, or blood 1596
plasma. This limitation does not apply to the taking of breath, 1597
oral fluid, or urine specimens. A person authorized to withdraw 1598
blood under this division may refuse to withdraw blood under 1599
this division, if in that person's opinion, the physical welfare 1600
of the person would be endangered by the withdrawing of blood. 1601

The bodily substance withdrawn under division (D) (1) (b) of 1602
this section shall be analyzed in accordance with methods 1603

approved by the director of health by an individual possessing a 1604
valid permit issued by the director pursuant to section 3701.143 1605
of the Revised Code. 1606

(c) As used in division (D) (1) (b) of this section, 1607
"emergency medical technician-intermediate" and "emergency 1608
medical technician-paramedic" have the same meanings as in 1609
section 4765.01 of the Revised Code. 1610

(2) In a criminal prosecution or juvenile court proceeding 1611
for a violation of division (A) of this section or for an 1612
equivalent offense that is vehicle-related, if there was at the 1613
time the bodily substance was withdrawn a concentration of less 1614
than the applicable concentration of alcohol specified in 1615
divisions (A) (1) (b), (c), (d), and (e) of this section or less 1616
than the applicable concentration of a listed controlled 1617
substance or a listed metabolite of a controlled substance 1618
specified for a violation of division (A) (1) (j) of this section, 1619
that fact may be considered with other competent evidence in 1620
determining the guilt or innocence of the defendant. This 1621
division does not limit or affect a criminal prosecution or 1622
juvenile court proceeding for a violation of division (B) of 1623
this section or for an equivalent offense that is substantially 1624
equivalent to that division. 1625

(3) Upon the request of the person who was tested, the 1626
results of the chemical test shall be made available to the 1627
person or the person's attorney, immediately upon the completion 1628
of the chemical test analysis. 1629

If the chemical test was obtained pursuant to division (D) 1630
(1) (b) of this section, the person tested may have a physician, 1631
a registered nurse, or a qualified technician, chemist, or 1632
phlebotomist of the person's own choosing administer a chemical 1633

test or tests, at the person's expense, in addition to any 1634
administered at the request of a law enforcement officer. If the 1635
person was under arrest as described in division (A) (5) of 1636
section 4511.191 of the Revised Code, the arresting officer 1637
shall advise the person at the time of the arrest that the 1638
person may have an independent chemical test taken at the 1639
person's own expense. If the person was under arrest other than 1640
described in division (A) (5) of section 4511.191 of the Revised 1641
Code, the form to be read to the person to be tested, as 1642
required under section 4511.192 of the Revised Code, shall state 1643
that the person may have an independent test performed at the 1644
person's expense. The failure or inability to obtain an 1645
additional chemical test by a person shall not preclude the 1646
admission of evidence relating to the chemical test or tests 1647
taken at the request of a law enforcement officer. 1648

(4) (a) As used in divisions (D) (4) (b) and (c) of this 1649
section, "national highway traffic safety administration" means 1650
the national highway traffic safety administration established 1651
as an administration of the United States department of 1652
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 1653

(b) In any criminal prosecution or juvenile court 1654
proceeding for a violation of division (A) or (B) of this 1655
section, of a municipal ordinance relating to operating a 1656
vehicle while under the influence of alcohol, a drug of abuse, 1657
or alcohol and a drug of abuse, or of a municipal ordinance 1658
relating to operating a vehicle with a prohibited concentration 1659
of alcohol, a controlled substance, or a metabolite of a 1660
controlled substance in the whole blood, blood serum or plasma, 1661
breath, oral fluid, or urine, if a law enforcement officer has 1662
administered a field sobriety test to the operator of the 1663
vehicle involved in the violation and if it is shown by clear 1664

and convincing evidence that the officer administered the test 1665
in substantial compliance with the testing standards for any 1666
reliable, credible, and generally accepted field sobriety tests 1667
that were in effect at the time the tests were administered, 1668
including, but not limited to, any testing standards then in 1669
effect that were set by the national highway traffic safety 1670
administration, all of the following apply: 1671

(i) The officer may testify concerning the results of the 1672
field sobriety test so administered. 1673

(ii) The prosecution may introduce the results of the 1674
field sobriety test so administered as evidence in any 1675
proceedings in the criminal prosecution or juvenile court 1676
proceeding. 1677

(iii) If testimony is presented or evidence is introduced 1678
under division (D) (4) (b) (i) or (ii) of this section and if the 1679
testimony or evidence is admissible under the Rules of Evidence, 1680
the court shall admit the testimony or evidence and the trier of 1681
fact shall give it whatever weight the trier of fact considers 1682
to be appropriate. 1683

(c) Division (D) (4) (b) of this section does not limit or 1684
preclude a court, in its determination of whether the arrest of 1685
a person was supported by probable cause or its determination of 1686
any other matter in a criminal prosecution or juvenile court 1687
proceeding of a type described in that division, from 1688
considering evidence or testimony that is not otherwise 1689
disallowed by division (D) (4) (b) of this section. 1690

(E) (1) Subject to division (E) (3) of this section, in any 1691
criminal prosecution or juvenile court proceeding for a 1692
violation of division (A) (1) (b), (c), (d), (e), (f), (g), (h), 1693

(i), or (j) or (B) (1), (2), (3), or (4) of this section or for 1694
an equivalent offense that is substantially equivalent to any of 1695
those divisions, a laboratory report from any laboratory 1696
personnel issued a permit by the department of health 1697
authorizing an analysis as described in this division that 1698
contains an analysis of the whole blood, blood serum or plasma, 1699
breath, urine, or other bodily substance tested and that 1700
contains all of the information specified in this division shall 1701
be admitted as prima-facie evidence of the information and 1702
statements that the report contains. The laboratory report shall 1703
contain all of the following: 1704

(a) The signature, under oath, of any person who performed 1705
the analysis; 1706

(b) Any findings as to the identity and quantity of 1707
alcohol, a drug of abuse, a controlled substance, a metabolite 1708
of a controlled substance, or a combination of them that was 1709
found; 1710

(c) A copy of a notarized statement by the laboratory 1711
director or a designee of the director that contains the name of 1712
each certified analyst or test performer involved with the 1713
report, the analyst's or test performer's employment 1714
relationship with the laboratory that issued the report, and a 1715
notation that performing an analysis of the type involved is 1716
part of the analyst's or test performer's regular duties; 1717

(d) An outline of the analyst's or test performer's 1718
education, training, and experience in performing the type of 1719
analysis involved and a certification that the laboratory 1720
satisfies appropriate quality control standards in general and, 1721
in this particular analysis, under rules of the department of 1722
health. 1723

(2) Notwithstanding any other provision of law regarding 1724
the admission of evidence, a report of the type described in 1725
division (E)(1) of this section is not admissible against the 1726
defendant to whom it pertains in any proceeding, other than a 1727
preliminary hearing or a grand jury proceeding, unless the 1728
prosecutor has served a copy of the report on the defendant's 1729
attorney or, if the defendant has no attorney, on the defendant. 1730

(3) A report of the type described in division (E)(1) of 1731
this section shall not be prima-facie evidence of the contents, 1732
identity, or amount of any substance if, within seven days after 1733
the defendant to whom the report pertains or the defendant's 1734
attorney receives a copy of the report, the defendant or the 1735
defendant's attorney demands the testimony of the person who 1736
signed the report. The judge in the case may extend the seven- 1737
day time limit in the interest of justice. 1738

(F) Except as otherwise provided in this division, any 1739
physician, registered nurse, emergency medical technician- 1740
intermediate, emergency medical technician-paramedic, or 1741
qualified technician, chemist, or phlebotomist who withdraws 1742
blood from a person pursuant to this section or section 4511.191 1743
or 4511.192 of the Revised Code, and any hospital, first-aid 1744
station, or clinic at which blood is withdrawn from a person 1745
pursuant to this section or section 4511.191 or 4511.192 of the 1746
Revised Code, is immune from criminal liability and civil 1747
liability based upon a claim of assault and battery or any other 1748
claim that is not a claim of malpractice, for any act performed 1749
in withdrawing blood from the person. The immunity provided in 1750
this division also extends to an emergency medical service 1751
organization that employs an emergency medical technician- 1752
intermediate or emergency medical technician-paramedic who 1753
withdraws blood under this section. The immunity provided in 1754

this division is not available to a person who withdraws blood 1755
if the person engages in willful or wanton misconduct. 1756

As used in this division, "emergency medical technician- 1757
intermediate" and "emergency medical technician-paramedic" have 1758
the same meanings as in section 4765.01 of the Revised Code. 1759

(G) (1) Whoever violates any provision of divisions (A) (1) 1760
(a) to (i) or (A) (2) of this section is guilty of operating a 1761
vehicle under the influence of alcohol, a drug of abuse, or a 1762
combination of them. Whoever violates division (A) (1) (j) of this 1763
section is guilty of operating a vehicle while under the 1764
influence of a listed controlled substance or a listed 1765
metabolite of a controlled substance. The court shall sentence 1766
the offender for either offense under Chapter 2929. of the 1767
Revised Code, except as otherwise authorized or required by 1768
divisions (G) (1) (a) to (e) of this section: 1769

(a) Except as otherwise provided in division (G) (1) (b), 1770
(c), (d), or (e) of this section, the offender is guilty of a 1771
misdemeanor of the first degree, and the court shall sentence 1772
the offender to all of the following: 1773

(i) If the sentence is being imposed for a violation of 1774
division (A) (1) (a), (b), (c), (d), (e), or (j) of this section, 1775
a mandatory jail term of three consecutive days. As used in this 1776
division, three consecutive days means seventy-two consecutive 1777
hours. The court may sentence an offender to both an 1778
intervention program and a jail term. The court may impose a 1779
jail term in addition to the three-day mandatory jail term or 1780
intervention program. However, in no case shall the cumulative 1781
jail term imposed for the offense exceed six months. 1782

The court may suspend the execution of the three-day jail 1783

term under this division if the court, in lieu of that suspended 1784
term, places the offender under a community control sanction 1785
pursuant to section 2929.25 of the Revised Code and requires the 1786
offender to attend, for three consecutive days, a drivers' 1787
intervention program certified under section 5119.38 of the 1788
Revised Code. The court also may suspend the execution of any 1789
part of the three-day jail term under this division if it places 1790
the offender under a community control sanction pursuant to 1791
section 2929.25 of the Revised Code for part of the three days, 1792
requires the offender to attend for the suspended part of the 1793
term a drivers' intervention program so certified, and sentences 1794
the offender to a jail term equal to the remainder of the three 1795
consecutive days that the offender does not spend attending the 1796
program. The court may require the offender, as a condition of 1797
community control and in addition to the required attendance at 1798
a drivers' intervention program, to attend and satisfactorily 1799
complete any treatment or education programs that comply with 1800
the minimum standards adopted pursuant to Chapter 5119. of the 1801
Revised Code by the director of mental health and addiction 1802
services that the operators of the drivers' intervention program 1803
determine that the offender should attend and to report 1804
periodically to the court on the offender's progress in the 1805
programs. The court also may impose on the offender any other 1806
conditions of community control that it considers necessary. 1807

If the court grants unlimited driving privileges to a 1808
first-time offender under section 4510.022 of the Revised Code, 1809
all penalties imposed upon the offender by the court under 1810
division (G)(1)(a)(i) of this section for the offense apply, 1811
except that the court shall suspend any mandatory or additional 1812
jail term imposed by the court under division (G)(1)(a)(i) of 1813
this section upon granting unlimited driving privileges in 1814

accordance with section 4510.022 of the Revised Code. 1815

(ii) If the sentence is being imposed for a violation of 1816
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1817
section, except as otherwise provided in this division, a 1818
mandatory jail term of at least three consecutive days and a 1819
requirement that the offender attend, for three consecutive 1820
days, a drivers' intervention program that is certified pursuant 1821
to section 5119.38 of the Revised Code. As used in this 1822
division, three consecutive days means seventy-two consecutive 1823
hours. If the court determines that the offender is not 1824
conducive to treatment in a drivers' intervention program, if 1825
the offender refuses to attend a drivers' intervention program, 1826
or if the jail at which the offender is to serve the jail term 1827
imposed can provide a driver's intervention program, the court 1828
shall sentence the offender to a mandatory jail term of at least 1829
six consecutive days. 1830

If the court grants unlimited driving privileges to a 1831
first-time offender under section 4510.022 of the Revised Code, 1832
all penalties imposed upon the offender by the court under 1833
division (G)(1)(a)(ii) of this section for the offense apply, 1834
except that the court shall suspend any mandatory or additional 1835
jail term imposed by the court under division (G)(1)(a)(ii) of 1836
this section upon granting unlimited driving privileges in 1837
accordance with section 4510.022 of the Revised Code. 1838

The court may require the offender, under a community 1839
control sanction imposed under section 2929.25 of the Revised 1840
Code, to attend and satisfactorily complete any treatment or 1841
education programs that comply with the minimum standards 1842
adopted pursuant to Chapter 5119. of the Revised Code by the 1843
director of mental health and addiction services, in addition to 1844

the required attendance at drivers' intervention program, that 1845
the operators of the drivers' intervention program determine 1846
that the offender should attend and to report periodically to 1847
the court on the offender's progress in the programs. The court 1848
also may impose any other conditions of community control on the 1849
offender that it considers necessary. 1850

(iii) In all cases, a fine of not less than three hundred 1851
seventy-five and not more than one thousand seventy-five 1852
dollars; 1853

(iv) In all cases, a suspension of the offender's driver's 1854
or commercial driver's license or permit or nonresident 1855
operating privilege for a definite period of one to three years. 1856
The court may grant limited driving privileges relative to the 1857
suspension under sections 4510.021 and 4510.13 of the Revised 1858
Code. The court may grant unlimited driving privileges with an 1859
ignition interlock device relative to the suspension and may 1860
reduce the period of suspension as authorized under section 1861
4510.022 of the Revised Code. 1862

(b) Except as otherwise provided in division (G) (1) (e) of 1863
this section, an offender who, within ten years of the offense, 1864
previously has been convicted of or pleaded guilty to one 1865
violation of division (A) of this section or one other 1866
equivalent offense is guilty of a misdemeanor of the first 1867
degree. The court shall sentence the offender to all of the 1868
following: 1869

(i) If the sentence is being imposed for a violation of 1870
division (A) (1) (a), (b), (c), (d), (e), or (j) of this section, 1871
a mandatory jail term of ten consecutive days. The court shall 1872
impose the ten-day mandatory jail term under this division 1873
unless, subject to division (G) (3) of this section, it instead 1874

imposes a sentence under that division consisting of both a jail 1875
term and a term of house arrest with electronic monitoring, with 1876
continuous alcohol monitoring, or with both electronic 1877
monitoring and continuous alcohol monitoring. The court may 1878
impose a jail term in addition to the ten-day mandatory jail 1879
term. The cumulative jail term imposed for the offense shall not 1880
exceed six months. 1881

In addition to the jail term or the term of house arrest 1882
with electronic monitoring or continuous alcohol monitoring or 1883
both types of monitoring and jail term, the court shall require 1884
the offender to be assessed by a community addiction services 1885
provider that is authorized by section 5119.21 of the Revised 1886
Code, subject to division (I) of this section, and shall order 1887
the offender to follow the treatment recommendations of the 1888
services provider. The purpose of the assessment is to determine 1889
the degree of the offender's alcohol usage and to determine 1890
whether or not treatment is warranted. Upon the request of the 1891
court, the services provider shall submit the results of the 1892
assessment to the court, including all treatment recommendations 1893
and clinical diagnoses related to alcohol use. 1894

(ii) If the sentence is being imposed for a violation of 1895
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1896
section, except as otherwise provided in this division, a 1897
mandatory jail term of twenty consecutive days. The court shall 1898
impose the twenty-day mandatory jail term under this division 1899
unless, subject to division (G)(3) of this section, it instead 1900
imposes a sentence under that division consisting of both a jail 1901
term and a term of house arrest with electronic monitoring, with 1902
continuous alcohol monitoring, or with both electronic 1903
monitoring and continuous alcohol monitoring. The court may 1904
impose a jail term in addition to the twenty-day mandatory jail 1905

term. The cumulative jail term imposed for the offense shall not exceed six months. 1906
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In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction service provider that is authorized by section 5119.21 of the Revised Code, subject to division (I) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use. 1908
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(iii) In all cases, notwithstanding the fines set forth in Chapter 2929. of the Revised Code, a fine of not less than five hundred twenty-five and not more than one thousand six hundred twenty-five dollars; 1921
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(iv) In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13 of the Revised Code. 1925
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(v) In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with section 4503.233 of the Revised Code and impoundment of the license plates of that vehicle for ninety days. 1931
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(c) Except as otherwise provided in division (G)(1)(e) of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of division (A) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in sections 2929.21 to 2929.28 of the Revised Code, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the jail terms set forth in

sections 2929.21 to 2929.28 of the Revised Code, the additional	1967
jail term shall not exceed one year, and the cumulative jail	1968
term imposed for the offense shall not exceed one year.	1969
(iii) In all cases, notwithstanding the fines set forth in	1970
Chapter 2929. of the Revised Code, a fine of not less than eight	1971
hundred fifty and not more than two thousand seven hundred fifty	1972
dollars;	1973
(iv) In all cases, a suspension of the offender's driver's	1974
license, commercial driver's license, temporary instruction	1975
permit, probationary license, or nonresident operating privilege	1976
for a definite period of two to twelve years. The court may	1977
grant limited driving privileges relative to the suspension	1978
under sections 4510.021 and 4510.13 of the Revised Code.	1979
(v) In all cases, if the vehicle is registered in the	1980
offender's name, criminal forfeiture of the vehicle involved in	1981
the offense in accordance with section 4503.234 of the Revised	1982
Code. Division (G) (6) of this section applies regarding any	1983
vehicle that is subject to an order of criminal forfeiture under	1984
this division.	1985
(vi) In all cases, the court shall order the offender to	1986
participate with a community addiction services provider	1987
authorized by section 5119.21 of the Revised Code, subject to	1988
division (I) of this section, and shall order the offender to	1989
follow the treatment recommendations of the services provider.	1990
The operator of the services provider shall determine and assess	1991
the degree of the offender's alcohol dependency and shall make	1992
recommendations for treatment. Upon the request of the court,	1993
the services provider shall submit the results of the assessment	1994
to the court, including all treatment recommendations and	1995
clinical diagnoses related to alcohol use.	1996

(d) Except as otherwise provided in division (G)(1)(e) of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of division (A) of this section or other equivalent offenses, an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code is guilty of a felony of the fourth degree. The court shall sentence the offender to all of the following:

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or, in the discretion of the court, either a mandatory term of local incarceration of sixty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of sixty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the sixty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of

section 2929.14 of the Revised Code, it also may sentence the 2028
offender to a definite prison term that shall be not less than 2029
six months and not more than thirty months and the prison terms 2030
shall be imposed as described in division (G)(2) of section 2031
2929.13 of the Revised Code. If the court imposes a mandatory 2032
prison term or mandatory prison term and additional prison term, 2033
in addition to the term or terms so imposed, the court also may 2034
sentence the offender to a community control sanction for the 2035
offense, but the offender shall serve all of the prison terms so 2036
imposed prior to serving the community control sanction. 2037

(ii) If the sentence is being imposed for a violation of 2038
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 2039
section, a mandatory prison term of one, two, three, four, or 2040
five years as required by and in accordance with division (G)(2) 2041
of section 2929.13 of the Revised Code if the offender also is 2042
convicted of or also pleads guilty to a specification of the 2043
type described in section 2941.1413 of the Revised Code or, in 2044
the discretion of the court, either a mandatory term of local 2045
incarceration of one hundred twenty consecutive days in 2046
accordance with division (G)(1) of section 2929.13 of the 2047
Revised Code or a mandatory prison term of one hundred twenty 2048
consecutive days in accordance with division (G)(2) of that 2049
section if the offender is not convicted of and does not plead 2050
guilty to a specification of that type. If the court imposes a 2051
mandatory term of local incarceration, it may impose a jail term 2052
in addition to the one hundred twenty-day mandatory term, the 2053
cumulative total of the mandatory term and the jail term for the 2054
offense shall not exceed one year, and, except as provided in 2055
division (A)(1) of section 2929.13 of the Revised Code, no 2056
prison term is authorized for the offense. If the court imposes 2057
a mandatory prison term, notwithstanding division (A)(4) of 2058

section 2929.14 of the Revised Code, it also may sentence the
offender to a definite prison term that shall be not less than
six months and not more than thirty months and the prison terms
shall be imposed as described in division (G) (2) of section
2929.13 of the Revised Code. If the court imposes a mandatory
prison term or mandatory prison term and additional prison term,
in addition to the term or terms so imposed, the court also may
sentence the offender to a community control sanction for the
offense, but the offender shall serve all of the prison terms so
imposed prior to serving the community control sanction.

(iii) In all cases, notwithstanding section 2929.18 of the
Revised Code, a fine of not less than one thousand three hundred
fifty nor more than ten thousand five hundred dollars;

(iv) In all cases, a class two license suspension of the
offender's driver's license, commercial driver's license,
temporary instruction permit, probationary license, or
nonresident operating privilege from the range specified in
division (A) (2) of section 4510.02 of the Revised Code. The
court may grant limited driving privileges relative to the
suspension under sections 4510.021 and 4510.13 of the Revised
Code.

(v) In all cases, if the vehicle is registered in the
offender's name, criminal forfeiture of the vehicle involved in
the offense in accordance with section 4503.234 of the Revised
Code. Division (G) (6) of this section applies regarding any
vehicle that is subject to an order of criminal forfeiture under
this division.

(vi) In all cases, the court shall order the offender to
participate with a community addiction services provider
authorized by section 5119.21 of the Revised Code, subject to

division (I) of this section, and shall order the offender to 2089
follow the treatment recommendations of the services provider. 2090
The operator of the services provider shall determine and assess 2091
the degree of the offender's alcohol dependency and shall make 2092
recommendations for treatment. Upon the request of the court, 2093
the services provider shall submit the results of the assessment 2094
to the court, including all treatment recommendations and 2095
clinical diagnoses related to alcohol use. 2096

(vii) In all cases, if the court sentences the offender to 2097
a mandatory term of local incarceration, in addition to the 2098
mandatory term, the court, pursuant to section 2929.17 of the 2099
Revised Code, may impose a term of house arrest with electronic 2100
monitoring. The term shall not commence until after the offender 2101
has served the mandatory term of local incarceration. 2102

(e) An offender who previously has been convicted of or 2103
pleaded guilty to a violation of division (A) of this section 2104
that was a felony, regardless of when the violation and the 2105
conviction or guilty plea occurred, is guilty of a felony of the 2106
third degree. The court shall sentence the offender to all of 2107
the following: 2108

(i) If the offender is being sentenced for a violation of 2109
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, 2110
a mandatory prison term of one, two, three, four, or five years 2111
as required by and in accordance with division (G)(2) of section 2112
2929.13 of the Revised Code if the offender also is convicted of 2113
or also pleads guilty to a specification of the type described 2114
in section 2941.1413 of the Revised Code or a mandatory prison 2115
term of sixty consecutive days in accordance with division (G) 2116
(2) of section 2929.13 of the Revised Code if the offender is 2117
not convicted of and does not plead guilty to a specification of 2118

that type. The court may impose a prison term in addition to the 2119
mandatory prison term. The cumulative total of a sixty-day 2120
mandatory prison term and the additional prison term for the 2121
offense shall not exceed five years. In addition to the 2122
mandatory prison term or mandatory prison term and additional 2123
prison term the court imposes, the court also may sentence the 2124
offender to a community control sanction for the offense, but 2125
the offender shall serve all of the prison terms so imposed 2126
prior to serving the community control sanction. 2127

(ii) If the sentence is being imposed for a violation of 2128
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 2129
section, a mandatory prison term of one, two, three, four, or 2130
five years as required by and in accordance with division (G)(2) 2131
of section 2929.13 of the Revised Code if the offender also is 2132
convicted of or also pleads guilty to a specification of the 2133
type described in section 2941.1413 of the Revised Code or a 2134
mandatory prison term of one hundred twenty consecutive days in 2135
accordance with division (G)(2) of section 2929.13 of the 2136
Revised Code if the offender is not convicted of and does not 2137
plead guilty to a specification of that type. The court may 2138
impose a prison term in addition to the mandatory prison term. 2139
The cumulative total of a one hundred twenty-day mandatory 2140
prison term and the additional prison term for the offense shall 2141
not exceed five years. In addition to the mandatory prison term 2142
or mandatory prison term and additional prison term the court 2143
imposes, the court also may sentence the offender to a community 2144
control sanction for the offense, but the offender shall serve 2145
all of the prison terms so imposed prior to serving the 2146
community control sanction. 2147

(iii) In all cases, notwithstanding section 2929.18 of the 2148
Revised Code, a fine of not less than one thousand three hundred 2149

fifty nor more than ten thousand five hundred dollars; 2150

(iv) In all cases, a class two license suspension of the 2151
offender's driver's license, commercial driver's license, 2152
temporary instruction permit, probationary license, or 2153
nonresident operating privilege from the range specified in 2154
division (A) (2) of section 4510.02 of the Revised Code. The 2155
court may grant limited driving privileges relative to the 2156
suspension under sections 4510.021 and 4510.13 of the Revised 2157
Code. 2158

(v) In all cases, if the vehicle is registered in the 2159
offender's name, criminal forfeiture of the vehicle involved in 2160
the offense in accordance with section 4503.234 of the Revised 2161
Code. Division (G) (6) of this section applies regarding any 2162
vehicle that is subject to an order of criminal forfeiture under 2163
this division. 2164

(vi) In all cases, the court shall order the offender to 2165
participate with a community addiction services provider 2166
authorized by section 5119.21 of the Revised Code, subject to 2167
division (I) of this section, and shall order the offender to 2168
follow the treatment recommendations of the services provider. 2169
The operator of the services provider shall determine and assess 2170
the degree of the offender's alcohol dependency and shall make 2171
recommendations for treatment. Upon the request of the court, 2172
the services provider shall submit the results of the assessment 2173
to the court, including all treatment recommendations and 2174
clinical diagnoses related to alcohol use. 2175

(2) An offender who is convicted of or pleads guilty to a 2176
violation of division (A) of this section and who subsequently 2177
seeks reinstatement of the driver's or occupational driver's 2178
license or permit or nonresident operating privilege suspended 2179

under this section as a result of the conviction or guilty plea 2180
shall pay a reinstatement fee as provided in division (F) (2) of 2181
section 4511.191 of the Revised Code. 2182

(3) If an offender is sentenced to a jail term under 2183
division (G) (1) (b) (i) or (ii) or (G) (1) (c) (i) or (ii) of this 2184
section and if, within sixty days of sentencing of the offender, 2185
the court issues a written finding on the record that, due to 2186
the unavailability of space at the jail where the offender is 2187
required to serve the term, the offender will not be able to 2188
begin serving that term within the sixty-day period following 2189
the date of sentencing, the court may impose an alternative 2190
sentence under this division that includes a term of house 2191
arrest with electronic monitoring, with continuous alcohol 2192
monitoring, or with both electronic monitoring and continuous 2193
alcohol monitoring. 2194

As an alternative to a mandatory jail term of ten 2195
consecutive days required by division (G) (1) (b) (i) of this 2196
section, the court, under this division, may sentence the 2197
offender to five consecutive days in jail and not less than 2198
eighteen consecutive days of house arrest with electronic 2199
monitoring, with continuous alcohol monitoring, or with both 2200
electronic monitoring and continuous alcohol monitoring. The 2201
cumulative total of the five consecutive days in jail and the 2202
period of house arrest with electronic monitoring, continuous 2203
alcohol monitoring, or both types of monitoring shall not exceed 2204
six months. The five consecutive days in jail do not have to be 2205
served prior to or consecutively to the period of house arrest. 2206

As an alternative to the mandatory jail term of twenty 2207
consecutive days required by division (G) (1) (b) (ii) of this 2208
section, the court, under this division, may sentence the 2209

offender to ten consecutive days in jail and not less than 2210
thirty-six consecutive days of house arrest with electronic 2211
monitoring, with continuous alcohol monitoring, or with both 2212
electronic monitoring and continuous alcohol monitoring. The 2213
cumulative total of the ten consecutive days in jail and the 2214
period of house arrest with electronic monitoring, continuous 2215
alcohol monitoring, or both types of monitoring shall not exceed 2216
six months. The ten consecutive days in jail do not have to be 2217
served prior to or consecutively to the period of house arrest. 2218

As an alternative to a mandatory jail term of thirty 2219
consecutive days required by division (G)(1)(c)(i) of this 2220
section, the court, under this division, may sentence the 2221
offender to fifteen consecutive days in jail and not less than 2222
fifty-five consecutive days of house arrest with electronic 2223
monitoring, with continuous alcohol monitoring, or with both 2224
electronic monitoring and continuous alcohol monitoring. The 2225
cumulative total of the fifteen consecutive days in jail and the 2226
period of house arrest with electronic monitoring, continuous 2227
alcohol monitoring, or both types of monitoring shall not exceed 2228
one year. The fifteen consecutive days in jail do not have to be 2229
served prior to or consecutively to the period of house arrest. 2230

As an alternative to the mandatory jail term of sixty 2231
consecutive days required by division (G)(1)(c)(ii) of this 2232
section, the court, under this division, may sentence the 2233
offender to thirty consecutive days in jail and not less than 2234
one hundred ten consecutive days of house arrest with electronic 2235
monitoring, with continuous alcohol monitoring, or with both 2236
electronic monitoring and continuous alcohol monitoring. The 2237
cumulative total of the thirty consecutive days in jail and the 2238
period of house arrest with electronic monitoring, continuous 2239
alcohol monitoring, or both types of monitoring shall not exceed 2240

one year. The thirty consecutive days in jail do not have to be 2241
served prior to or consecutively to the period of house arrest. 2242

(4) If an offender's driver's or occupational driver's 2243
license or permit or nonresident operating privilege is 2244
suspended under division (G) of this section and if section 2245
4510.13 of the Revised Code permits the court to grant limited 2246
driving privileges, the court may grant the limited driving 2247
privileges in accordance with that section. If division (A) (7) 2248
of that section requires that the court impose as a condition of 2249
the privileges that the offender must display on the vehicle 2250
that is driven subject to the privileges restricted license 2251
plates that are issued under section 4503.231 of the Revised 2252
Code, except as provided in division (B) of that section, the 2253
court shall impose that condition as one of the conditions of 2254
the limited driving privileges granted to the offender, except 2255
as provided in division (B) of section 4503.231 of the Revised 2256
Code. 2257

(5) Fines imposed under this section for a violation of 2258
division (A) of this section shall be distributed as follows: 2259

(a) Twenty-five dollars of the fine imposed under division 2260
(G) (1) (a) (iii), thirty-five dollars of the fine imposed under 2261
division (G) (1) (b) (iii), one hundred twenty-three dollars of the 2262
fine imposed under division (G) (1) (c) (iii), and two hundred ten 2263
dollars of the fine imposed under division (G) (1) (d) (iii) or (e) 2264
(iii) of this section shall be paid to an enforcement and 2265
education fund established by the legislative authority of the 2266
law enforcement agency in this state that primarily was 2267
responsible for the arrest of the offender, as determined by the 2268
court that imposes the fine. The agency shall use this share to 2269
pay only those costs it incurs in enforcing this section or a 2270

municipal OVI ordinance and in informing the public of the laws governing the operation of a vehicle while under the influence of alcohol, the dangers of the operation of a vehicle under the influence of alcohol, and other information relating to the operation of a vehicle under the influence of alcohol and the consumption of alcoholic beverages.

(b) Fifty dollars of the fine imposed under division (G) (1) (a) (iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. If the offender is being sentenced for a violation of division (A) (1) (a), (b), (c), (d), (e), or (j) of this section and was confined as a result of the offense prior to being sentenced for the offense but is not sentenced to a term of incarceration, the fifty dollars shall be paid to the political subdivision that paid the cost of housing the offender during that period of confinement. The political subdivision shall use the share under this division to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate this section or a municipal OVI ordinance, costs of any immobilizing or disabling device used on the offender's vehicle, and costs of electronic house arrest equipment needed for persons who violate this section.

(c) Twenty-five dollars of the fine imposed under division (G) (1) (a) (iii) and fifty dollars of the fine imposed under division (G) (1) (b) (iii) of this section shall be deposited into the county or municipal indigent drivers' alcohol treatment fund under the control of that court, as created by the county or municipal corporation under division (F) of section 4511.191 of the Revised Code.

(d) One hundred fifteen dollars of the fine imposed under 2301
division (G) (1) (b) (iii), two hundred seventy-seven dollars of 2302
the fine imposed under division (G) (1) (c) (iii), and four hundred 2303
forty dollars of the fine imposed under division (G) (1) (d) (iii) 2304
or (e) (iii) of this section shall be paid to the political 2305
subdivision that pays the cost of housing the offender during 2306
the offender's term of incarceration. The political subdivision 2307
shall use this share to pay or reimburse incarceration or 2308
treatment costs it incurs in housing or providing drug and 2309
alcohol treatment to persons who violate this section or a 2310
municipal OVI ordinance, costs for any immobilizing or disabling 2311
device used on the offender's vehicle, and costs of electronic 2312
house arrest equipment needed for persons who violate this 2313
section. 2314

(e) Fifty dollars of the fine imposed under divisions (G) 2315
(1) (a) (iii), (G) (1) (b) (iii), (G) (1) (c) (iii), (G) (1) (d) (iii), and 2316
(G) (1) (e) (iii) of this section shall be deposited into the 2317
special projects fund of the court in which the offender was 2318
convicted and that is established under division (E) (1) of 2319
section 2303.201, division (B) (1) of section 1901.26, or 2320
division (B) (1) of section 1907.24 of the Revised Code, to be 2321
used exclusively to cover the cost of immobilizing or disabling 2322
devices, including certified ignition interlock devices, and 2323
remote alcohol monitoring devices for indigent offenders who are 2324
required by a judge to use either of these devices. If the court 2325
in which the offender was convicted does not have a special 2326
projects fund that is established under division (E) (1) of 2327
section 2303.201, division (B) (1) of section 1901.26, or 2328
division (B) (1) of section 1907.24 of the Revised Code, the 2329
fifty dollars shall be deposited into the indigent drivers 2330
interlock and alcohol monitoring fund under division (I) of 2331

section 4511.191 of the Revised Code. 2332

(f) Seventy-five dollars of the fine imposed under 2333
division (G) (1) (a) (iii), one hundred twenty-five dollars of the 2334
fine imposed under division (G) (1) (b) (iii), two hundred fifty 2335
dollars of the fine imposed under division (G) (1) (c) (iii), and 2336
five hundred dollars of the fine imposed under division (G) (1) 2337
(d) (iii) or (e) (iii) of this section shall be transmitted to the 2338
treasurer of state for deposit into the indigent defense support 2339
fund established under section 120.08 of the Revised Code. 2340

(g) The balance of the fine imposed under division (G) (1) 2341
(a) (iii), (b) (iii), (c) (iii), (d) (iii), or (e) (iii) of this 2342
section shall be disbursed as otherwise provided by law. 2343

(6) If title to a motor vehicle that is subject to an 2344
order of criminal forfeiture under division (G) (1) (c), (d), or 2345
(e) of this section is assigned or transferred and division (B) 2346
(2) or (3) of section 4503.234 of the Revised Code applies, in 2347
addition to or independent of any other penalty established by 2348
law, the court may fine the offender the value of the vehicle as 2349
determined by publications of the national automobile dealers 2350
association. The proceeds of any fine so imposed shall be 2351
distributed in accordance with division (C) (2) of that section. 2352

(7) In all cases in which an offender is sentenced under 2353
division (G) of this section, the offender shall provide the 2354
court with proof of financial responsibility as defined in 2355
section 4509.01 of the Revised Code. If the offender fails to 2356
provide that proof of financial responsibility, the court, in 2357
addition to any other penalties provided by law, may order 2358
restitution pursuant to section 2929.18 or 2929.28 of the 2359
Revised Code in an amount not exceeding five thousand dollars 2360
for any economic loss arising from an accident or collision that 2361

was the direct and proximate result of the offender's operation 2362
of the vehicle before, during, or after committing the offense 2363
for which the offender is sentenced under division (G) of this 2364
section. 2365

(8) A court may order an offender to reimburse a law 2366
enforcement agency for any costs incurred by the agency with 2367
respect to a chemical test or tests administered to the offender 2368
if all of the following apply: 2369

(a) The offender is convicted of or pleads guilty to a 2370
violation of division (A) of this section. 2371

(b) The test or tests were of the offender's whole blood, 2372
blood serum or plasma, oral fluid, or urine. 2373

(c) The test or tests indicated that the offender had ~~a~~ 2374
one of the following at the time of the offense: 2375

(i) A prohibited concentration of a controlled substance 2376
or a metabolite of a controlled substance in the offender's 2377
whole blood, blood serum or plasma, or urine ~~at the time of the~~ 2378
~~offense;~~ 2379

(ii) A drug of abuse or a metabolite of a drug of abuse in 2380
the offender's oral fluid. 2381

(9) As used in division (G) of this section, "electronic 2382
monitoring," "mandatory prison term," and "mandatory term of 2383
local incarceration" have the same meanings as in section 2384
2929.01 of the Revised Code. 2385

(H) Whoever violates division (B) of this section is 2386
guilty of operating a vehicle after underage alcohol consumption 2387
and shall be punished as follows: 2388

(1) Except as otherwise provided in division (H) (2) of 2389

this section, the offender is guilty of a misdemeanor of the 2390
fourth degree. In addition to any other sanction imposed for the 2391
offense, the court shall impose a class six suspension of the 2392
offender's driver's license, commercial driver's license, 2393
temporary instruction permit, probationary license, or 2394
nonresident operating privilege from the range specified in 2395
division (A)(6) of section 4510.02 of the Revised Code. The 2396
court may grant limited driving privileges relative to the 2397
suspension under sections 4510.021 and 4510.13 of the Revised 2398
Code. The court may grant unlimited driving privileges with an 2399
ignition interlock device relative to the suspension and may 2400
reduce the period of suspension as authorized under section 2401
4510.022 of the Revised Code. If the court grants unlimited 2402
driving privileges under section 4510.022 of the Revised Code, 2403
the court shall suspend any jail term imposed under division (H) 2404
(1) of this section as required under that section. 2405

(2) If, within one year of the offense, the offender 2406
previously has been convicted of or pleaded guilty to one or 2407
more violations of division (A) of this section or other 2408
equivalent offenses, the offender is guilty of a misdemeanor of 2409
the third degree. In addition to any other sanction imposed for 2410
the offense, the court shall impose a class four suspension of 2411
the offender's driver's license, commercial driver's license, 2412
temporary instruction permit, probationary license, or 2413
nonresident operating privilege from the range specified in 2414
division (A)(4) of section 4510.02 of the Revised Code. The 2415
court may grant limited driving privileges relative to the 2416
suspension under sections 4510.021 and 4510.13 of the Revised 2417
Code. 2418

(3) The offender shall provide the court with proof of 2419
financial responsibility as defined in section 4509.01 of the 2420

Revised Code. If the offender fails to provide that proof of 2421
financial responsibility, then, in addition to any other 2422
penalties provided by law, the court may order restitution 2423
pursuant to section 2929.28 of the Revised Code in an amount not 2424
exceeding five thousand dollars for any economic loss arising 2425
from an accident or collision that was the direct and proximate 2426
result of the offender's operation of the vehicle before, 2427
during, or after committing the violation of division (B) of 2428
this section. 2429

(I) (1) No court shall sentence an offender to an alcohol 2430
treatment program under this section unless the treatment 2431
program complies with the minimum standards for alcohol 2432
treatment programs adopted under Chapter 5119. of the Revised 2433
Code by the director of mental health and addiction services. 2434

(2) An offender who stays in a drivers' intervention 2435
program or in an alcohol treatment program under an order issued 2436
under this section shall pay the cost of the stay in the 2437
program. However, if the court determines that an offender who 2438
stays in an alcohol treatment program under an order issued 2439
under this section is unable to pay the cost of the stay in the 2440
program, the court may order that the cost be paid from the 2441
court's indigent drivers' alcohol treatment fund. 2442

(J) If a person whose driver's or commercial driver's 2443
license or permit or nonresident operating privilege is 2444
suspended under this section files an appeal regarding any 2445
aspect of the person's trial or sentence, the appeal itself does 2446
not stay the operation of the suspension. 2447

(K) Division (A) (1) (j) of this section does not apply to a 2448
person who operates a vehicle, streetcar, or trackless trolley 2449
while the person has a concentration of a listed controlled 2450

substance or a listed metabolite of a controlled substance in 2451
the person's whole blood, blood serum or plasma, or urine that 2452
equals or exceeds the amount specified in that division, if both 2453
of the following apply: 2454

(1) The person obtained the controlled substance pursuant 2455
to a prescription issued by a licensed health professional 2456
authorized to prescribe drugs. 2457

(2) The person injected, ingested, or inhaled the 2458
controlled substance in accordance with the health 2459
professional's directions. 2460

(L) The prohibited concentrations of a controlled 2461
substance or a metabolite of a controlled substance listed in 2462
division (A) (1) (j) of this section also apply in a prosecution 2463
of a violation of division (D) of section 2923.16 of the Revised 2464
Code in the same manner as if the offender is being prosecuted 2465
for a prohibited concentration of alcohol. 2466

(M) All terms defined in section 4510.01 of the Revised 2467
Code apply to this section. If the meaning of a term defined in 2468
section 4510.01 of the Revised Code conflicts with the meaning 2469
of the same term as defined in section 4501.01 or 4511.01 of the 2470
Revised Code, the term as defined in section 4510.01 of the 2471
Revised Code applies to this section. 2472

(N) (1) The Ohio Traffic Rules in effect on January 1, 2473
2004, as adopted by the supreme court under authority of section 2474
2937.46 of the Revised Code, do not apply to felony violations 2475
of this section. Subject to division (N) (2) of this section, the 2476
Rules of Criminal Procedure apply to felony violations of this 2477
section. 2478

(2) If, on or after January 1, 2004, the supreme court 2479

modifies the Ohio Traffic Rules to provide procedures to govern 2480
felony violations of this section, the modified rules shall 2481
apply to felony violations of this section. 2482

Sec. 4511.191. (A) (1) As used in this section: 2483

(a) "Physical control" has the same meaning as in section 2484
4511.194 of the Revised Code. 2485

(b) "Alcohol monitoring device" means any device that 2486
provides for continuous alcohol monitoring, any ignition 2487
interlock device, any immobilizing or disabling device other 2488
than an ignition interlock device that is constantly available 2489
to monitor the concentration of alcohol in a person's system, or 2490
any other device that provides for the automatic testing and 2491
periodic reporting of alcohol consumption by a person and that a 2492
court orders a person to use as a sanction imposed as a result 2493
of the person's conviction of or plea of guilty to an offense. 2494

(c) "Community addiction services provider" has the same 2495
meaning as in section 5119.01 of the Revised Code. 2496

(2) Any person who operates a vehicle, streetcar, or 2497
trackless trolley upon a highway or any public or private 2498
property used by the public for vehicular travel or parking 2499
within this state or who is in physical control of a vehicle, 2500
streetcar, or trackless trolley shall be deemed to have given 2501
consent to a chemical test or tests of the person's whole blood, 2502
blood serum or plasma, breath, oral fluid, or urine to determine 2503
the alcohol, drug of abuse, controlled substance, metabolite of 2504
a controlled substance, or combination content of the person's 2505
whole blood, blood serum or plasma, breath, oral fluid, or urine 2506
if arrested for a violation of division (A) or (B) of section 2507
4511.19 of the Revised Code, section 4511.194 of the Revised 2508

Code or a substantially equivalent municipal ordinance, or a 2509
municipal OVI ordinance. 2510

(3) The chemical test or tests under division (A) (2) of 2511
this section shall be administered at the request of a law 2512
enforcement officer having reasonable grounds to believe the 2513
person was operating or in physical control of a vehicle, 2514
streetcar, or trackless trolley in violation of a division, 2515
section, or ordinance identified in division (A) (2) of this 2516
section. The law enforcement agency by which the officer is 2517
employed shall designate which of the tests shall be 2518
administered. 2519

(4) Any person who is dead or unconscious, or who 2520
otherwise is in a condition rendering the person incapable of 2521
refusal, shall be deemed to have consented as provided in 2522
division (A) (2) of this section, and the test or tests may be 2523
administered, subject to sections 313.12 to 313.16 of the 2524
Revised Code. 2525

(5) (a) If a law enforcement officer arrests a person for a 2526
violation of division (A) or (B) of section 4511.19 of the 2527
Revised Code, section 4511.194 of the Revised Code or a 2528
substantially equivalent municipal ordinance, or a municipal OVI 2529
ordinance and if the person if convicted would be required to be 2530
sentenced under division (G) (1) (c), (d), or (e) of section 2531
4511.19 of the Revised Code, the law enforcement officer shall 2532
request the person to submit, and the person shall submit, to a 2533
chemical test or tests of the person's whole blood, blood serum 2534
or plasma, breath, oral fluid, or urine for the purpose of 2535
determining the alcohol, drug of abuse, controlled substance, 2536
metabolite of a controlled substance, or combination content of 2537
the person's whole blood, blood serum or plasma, breath, oral 2538

fluid, or urine. A law enforcement officer who makes a request 2539
pursuant to this division that a person submit to a chemical 2540
test or tests is not required to advise the person of the 2541
consequences of submitting to, or refusing to submit to, the 2542
test or tests and is not required to give the person the form 2543
described in division (B) of section 4511.192 of the Revised 2544
Code, but the officer shall advise the person at the time of the 2545
arrest that if the person refuses to take a chemical test the 2546
officer may employ whatever reasonable means are necessary to 2547
ensure that the person submits to a chemical test of the 2548
person's whole blood or blood serum or plasma. The officer shall 2549
also advise the person at the time of the arrest that the person 2550
may have an independent chemical test taken at the person's own 2551
expense. Divisions (A) (3) and (4) of this section apply to the 2552
administration of a chemical test or tests pursuant to this 2553
division. 2554

(b) If a person refuses to submit to a chemical test upon 2555
a request made pursuant to division (A) (5) (a) of this section, 2556
the law enforcement officer who made the request may employ 2557
whatever reasonable means are necessary to ensure that the 2558
person submits to a chemical test of the person's whole blood or 2559
blood serum or plasma. A law enforcement officer who acts 2560
pursuant to this division to ensure that a person submits to a 2561
chemical test of the person's whole blood or blood serum or 2562
plasma is immune from criminal and civil liability based upon a 2563
claim for assault and battery or any other claim for the acts, 2564
unless the officer so acted with malicious purpose, in bad 2565
faith, or in a wanton or reckless manner. 2566

(B) (1) Upon receipt of the sworn report of a law 2567
enforcement officer who arrested a person for a violation of 2568
division (A) or (B) of section 4511.19 of the Revised Code, 2569

section 4511.194 of the Revised Code or a substantially 2570
equivalent municipal ordinance, or a municipal OVI ordinance 2571
that was completed and sent to the registrar of motor vehicles 2572
and a court pursuant to section 4511.192 of the Revised Code in 2573
regard to a person who refused to take the designated chemical 2574
test, the registrar shall enter into the registrar's records the 2575
fact that the person's driver's or commercial driver's license 2576
or permit or nonresident operating privilege was suspended by 2577
the arresting officer under this division and that section and 2578
the period of the suspension, as determined under this section. 2579
The suspension shall be subject to appeal as provided in section 2580
4511.197 of the Revised Code. The suspension shall be for 2581
whichever of the following periods applies: 2582

(a) Except when division (B) (1) (b), (c), or (d) of this 2583
section applies and specifies a different class or length of 2584
suspension, the suspension shall be a class C suspension for the 2585
period of time specified in division (B) (3) of section 4510.02 2586
of the Revised Code. 2587

(b) If the arrested person, within ten years of the date 2588
on which the person refused the request to consent to the 2589
chemical test, had refused one previous request to consent to a 2590
chemical test or had been convicted of or pleaded guilty to one 2591
violation of division (A) of section 4511.19 of the Revised Code 2592
or one other equivalent offense, the suspension shall be a class 2593
B suspension imposed for the period of time specified in 2594
division (B) (2) of section 4510.02 of the Revised Code. 2595

(c) If the arrested person, within ten years of the date 2596
on which the person refused the request to consent to the 2597
chemical test, had refused two previous requests to consent to a 2598
chemical test, had been convicted of or pleaded guilty to two 2599

violations of division (A) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a chemical test and also had been convicted of or pleaded guilty to one violation of division (A) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, the suspension shall be a class A suspension imposed for the period of time specified in division (B) (1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within ten years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, had been convicted of or pleaded guilty to three or more violations of division (A) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B) (1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI

ordinance, if the offense for which the conviction is had or the 2631
plea is entered arose from the same incident that led to the 2632
suspension or denial. 2633

The registrar shall credit against any judicial suspension 2634
of a person's driver's or commercial driver's license or permit 2635
or nonresident operating privilege imposed pursuant to section 2636
4511.19 of the Revised Code, or pursuant to section 4510.07 of 2637
the Revised Code for a violation of a municipal OVI ordinance, 2638
any time during which the person serves a related suspension 2639
imposed pursuant to division (B) (1) of this section. 2640

(C) (1) Upon receipt of the sworn report of the law 2641
enforcement officer who arrested a person for a violation of 2642
division (A) or (B) of section 4511.19 of the Revised Code or a 2643
municipal OVI ordinance that was completed and sent to the 2644
registrar and a court pursuant to section 4511.192 of the 2645
Revised Code in regard to a person whose test results indicate 2646
that the person's whole blood, blood serum or plasma, breath, or 2647
urine contained at least the concentration of alcohol specified 2648
in division (A) (1) (b), (c), (d), or (e) of section 4511.19 of 2649
the Revised Code or at least the concentration of a listed 2650
controlled substance or a listed metabolite of a controlled 2651
substance specified in division (A) (1) (j) of section 4511.19 of 2652
the Revised Code, the registrar shall enter into the registrar's 2653
records the fact that the person's driver's or commercial 2654
driver's license or permit or nonresident operating privilege 2655
was suspended by the arresting officer under this division and 2656
section 4511.192 of the Revised Code and the period of the 2657
suspension, as determined under divisions (C) (1) (a) to (d) of 2658
this section. The suspension shall be subject to appeal as 2659
provided in section 4511.197 of the Revised Code. The suspension 2660
described in this division does not apply to, and shall not be 2661

imposed upon, a person arrested for a violation of section 2662
4511.194 of the Revised Code or a substantially equivalent 2663
municipal ordinance who submits to a designated chemical test. 2664
The suspension shall be for whichever of the following periods 2665
applies: 2666

(a) Except when division (C) (1) (b), (c), or (d) of this 2667
section applies and specifies a different period, the suspension 2668
shall be a class E suspension imposed for the period of time 2669
specified in division (B) (5) of section 4510.02 of the Revised 2670
Code. 2671

(b) The suspension shall be a class C suspension for the 2672
period of time specified in division (B) (3) of section 4510.02 2673
of the Revised Code if the person has been convicted of or 2674
pleaded guilty to, within ten years of the date the test was 2675
conducted, one violation of division (A) of section 4511.19 of 2676
the Revised Code or one other equivalent offense. 2677

(c) If, within ten years of the date the test was 2678
conducted, the person has been convicted of or pleaded guilty to 2679
two violations of a statute or ordinance described in division 2680
(C) (1) (b) of this section, the suspension shall be a class B 2681
suspension imposed for the period of time specified in division 2682
(B) (2) of section 4510.02 of the Revised Code. 2683

(d) If, within ten years of the date the test was 2684
conducted, the person has been convicted of or pleaded guilty to 2685
more than two violations of a statute or ordinance described in 2686
division (C) (1) (b) of this section, the suspension shall be a 2687
class A suspension imposed for the period of time specified in 2688
division (B) (1) of section 4510.02 of the Revised Code. 2689

(2) The registrar shall terminate a suspension of the 2690

driver's or commercial driver's license or permit of a resident 2691
or of the operating privilege of a nonresident, or a denial of a 2692
driver's or commercial driver's license or permit, imposed 2693
pursuant to division (C)(1) of this section upon receipt of 2694
notice that the person has entered a plea of guilty to, or that 2695
the person has been convicted after entering a plea of no 2696
contest to, operating a vehicle in violation of section 4511.19 2697
of the Revised Code or in violation of a municipal OVI 2698
ordinance, if the offense for which the conviction is had or the 2699
plea is entered arose from the same incident that led to the 2700
suspension or denial. 2701

The registrar shall credit against any judicial suspension 2702
of a person's driver's or commercial driver's license or permit 2703
or nonresident operating privilege imposed pursuant to section 2704
4511.19 of the Revised Code, or pursuant to section 4510.07 of 2705
the Revised Code for a violation of a municipal OVI ordinance, 2706
any time during which the person serves a related suspension 2707
imposed pursuant to division (C)(1) of this section. 2708

(D)(1) A suspension of a person's driver's or commercial 2709
driver's license or permit or nonresident operating privilege 2710
under this section for the time described in division (B) or (C) 2711
of this section is effective immediately from the time at which 2712
the arresting officer serves the notice of suspension upon the 2713
arrested person. Any subsequent finding that the person is not 2714
guilty of the charge that resulted in the person being requested 2715
to take the chemical test or tests under division (A) of this 2716
section does not affect the suspension. 2717

(2) If a person is arrested for operating a vehicle, 2718
streetcar, or trackless trolley in violation of division (A) or 2719
(B) of section 4511.19 of the Revised Code or a municipal OVI 2720

ordinance, or for being in physical control of a vehicle, 2721
streetcar, or trackless trolley in violation of section 4511.194 2722
of the Revised Code or a substantially equivalent municipal 2723
ordinance, regardless of whether the person's driver's or 2724
commercial driver's license or permit or nonresident operating 2725
privilege is or is not suspended under division (B) or (C) of 2726
this section or Chapter 4510. of the Revised Code, the person's 2727
initial appearance on the charge resulting from the arrest shall 2728
be held within five days of the person's arrest or the issuance 2729
of the citation to the person, subject to any continuance 2730
granted by the court pursuant to section 4511.197 of the Revised 2731
Code regarding the issues specified in that division. 2732

(E) When it finally has been determined under the 2733
procedures of this section and sections 4511.192 to 4511.197 of 2734
the Revised Code that a nonresident's privilege to operate a 2735
vehicle within this state has been suspended, the registrar 2736
shall give information in writing of the action taken to the 2737
motor vehicle administrator of the state of the person's 2738
residence and of any state in which the person has a license. 2739

(F) At the end of a suspension period under this section, 2740
under section 4511.194, section 4511.196, or division (G) of 2741
section 4511.19 of the Revised Code, or under section 4510.07 of 2742
the Revised Code for a violation of a municipal OVI ordinance 2743
and upon the request of the person whose driver's or commercial 2744
driver's license or permit was suspended and who is not 2745
otherwise subject to suspension, cancellation, or 2746
disqualification, the registrar shall return the driver's or 2747
commercial driver's license or permit to the person upon the 2748
occurrence of all of the conditions specified in divisions (F) 2749
(1) and (2) of this section: 2750

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F) (3) of this section, payment by the person to the registrar or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. Money credited to the fund under this section shall be used for purposes identified under section 5119.22 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established in the state treasury. The department of mental health and addiction services shall distribute the moneys in that fund to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to division (H) of this section to be used only as provided in division (H) (3) of this section.

Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of mental health and addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of mental health and addiction services.

(d) Seventy-five dollars shall be credited to the opportunities for Ohioans with disabilities agency established by section 3304.15 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate or for any other purpose or program of the agency.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F) (4) of this section.

(f) Thirty dollars shall be credited to the public safety - highway purposes fund created by section 4501.06 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F) (3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the registrar or an eligible deputy registrar, only one reinstatement fee of four hundred seventy-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F) (2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law

enforcement agencies to establish and implement drug abuse 2841
resistance education programs in public schools. Grants awarded 2842
to a law enforcement agency under this section shall be used by 2843
the agency to pay for not more than fifty per cent of the amount 2844
of the salaries of law enforcement officers who conduct drug 2845
abuse resistance education programs in public schools. The 2846
attorney general shall not use more than six per cent of the 2847
amounts the attorney general's office receives under division 2848
(F) (2) (e) of this section to pay the costs it incurs in 2849
administering the grant program established by division (F) (2) 2850
(e) of this section and in providing training and materials 2851
relating to drug abuse resistance education programs. 2852

The attorney general shall report to the governor and the 2853
general assembly each fiscal year on the progress made in 2854
establishing and implementing drug abuse resistance education 2855
programs. These reports shall include an evaluation of the 2856
effectiveness of these programs. 2857

(5) In addition to the reinstatement fee under this 2858
section, if the person pays the reinstatement fee to a deputy 2859
registrar, the deputy registrar shall collect a service fee of 2860
ten dollars to compensate the deputy registrar for services 2861
performed under this section. The deputy registrar shall retain 2862
eight dollars of the service fee and shall transmit the 2863
reinstatement fee, plus two dollars of the service fee, to the 2864
registrar in the manner the registrar shall determine. 2865

(G) Suspension of a commercial driver's license under 2866
division (B) or (C) of this section shall be concurrent with any 2867
period of disqualification under section 3123.611 or 4506.16 of 2868
the Revised Code or any period of suspension under section 2869
3123.58 of the Revised Code. No person who is disqualified for 2870

life from holding a commercial driver's license under section 2871
4506.16 of the Revised Code shall be issued a driver's license 2872
under Chapter 4507. of the Revised Code during the period for 2873
which the commercial driver's license was suspended under 2874
division (B) or (C) of this section. No person whose commercial 2875
driver's license is suspended under division (B) or (C) of this 2876
section shall be issued a driver's license under Chapter 4507. 2877
of the Revised Code during the period of the suspension. 2878

(H) (1) Each county shall establish an indigent drivers 2879
alcohol treatment fund and a juvenile indigent drivers alcohol 2880
treatment fund. Each municipal corporation in which there is a 2881
municipal court shall establish an indigent drivers alcohol 2882
treatment fund. All revenue that the general assembly 2883
appropriates to the indigent drivers alcohol treatment fund for 2884
transfer to a county indigent drivers alcohol treatment fund, a 2885
county juvenile indigent drivers alcohol treatment fund, or a 2886
municipal indigent drivers alcohol treatment fund, all portions 2887
of fees that are paid under division (F) of this section and 2888
that are credited under that division to the indigent drivers 2889
alcohol treatment fund in the state treasury for a county 2890
indigent drivers alcohol treatment fund, a county juvenile 2891
indigent drivers alcohol treatment fund, or a municipal indigent 2892
drivers alcohol treatment fund, all portions of additional costs 2893
imposed under section 2949.094 of the Revised Code that are 2894
specified for deposit into a county, county juvenile, or 2895
municipal indigent drivers alcohol treatment fund by that 2896
section, and all portions of fines that are specified for 2897
deposit into a county or municipal indigent drivers alcohol 2898
treatment fund by section 4511.193 of the Revised Code shall be 2899
deposited into that county indigent drivers alcohol treatment 2900
fund, county juvenile indigent drivers alcohol treatment fund, 2901

or municipal indigent drivers alcohol treatment fund. The 2902
portions of the fees paid under division (F) of this section 2903
that are to be so deposited shall be determined in accordance 2904
with division (H) (2) of this section. Additionally, all portions 2905
of fines that are paid for a violation of section 4511.19 of the 2906
Revised Code or of any prohibition contained in Chapter 4510. of 2907
the Revised Code, and that are required under section 4511.19 or 2908
any provision of Chapter 4510. of the Revised Code to be 2909
deposited into a county indigent drivers alcohol treatment fund 2910
or municipal indigent drivers alcohol treatment fund shall be 2911
deposited into the appropriate fund in accordance with the 2912
applicable division of the section or provision. 2913

(2) That portion of the license reinstatement fee that is 2914
paid under division (F) of this section and that is credited 2915
under that division to the indigent drivers alcohol treatment 2916
fund shall be deposited into a county indigent drivers alcohol 2917
treatment fund, a county juvenile indigent drivers alcohol 2918
treatment fund, or a municipal indigent drivers alcohol 2919
treatment fund as follows: 2920

(a) Regarding a suspension imposed under this section, 2921
that portion of the fee shall be deposited as follows: 2922

(i) If the fee is paid by a person who was charged in a 2923
county court with the violation that resulted in the suspension 2924
or in the imposition of the court costs, the portion shall be 2925
deposited into the county indigent drivers alcohol treatment 2926
fund under the control of that court; 2927

(ii) If the fee is paid by a person who was charged in a 2928
juvenile court with the violation that resulted in the 2929
suspension or in the imposition of the court costs, the portion 2930
shall be deposited into the county juvenile indigent drivers 2931

alcohol treatment fund established in the county served by the	2932
court;	2933
(iii) If the fee is paid by a person who was charged in a	2934
municipal court with the violation that resulted in the	2935
suspension or in the imposition of the court costs, the portion	2936
shall be deposited into the municipal indigent drivers alcohol	2937
treatment fund under the control of that court.	2938
(b) Regarding a suspension imposed under section 4511.19	2939
of the Revised Code or under section 4510.07 of the Revised Code	2940
for a violation of a municipal OVI ordinance, that portion of	2941
the fee shall be deposited as follows:	2942
(i) If the fee is paid by a person whose license or permit	2943
was suspended by a county court, the portion shall be deposited	2944
into the county indigent drivers alcohol treatment fund under	2945
the control of that court;	2946
(ii) If the fee is paid by a person whose license or	2947
permit was suspended by a municipal court, the portion shall be	2948
deposited into the municipal indigent drivers alcohol treatment	2949
fund under the control of that court.	2950
(3) (a) As used in division (H) (3) of this section,	2951
"indigent person" means a person who is convicted of a violation	2952
of division (A) or (B) of section 4511.19 of the Revised Code or	2953
a substantially similar municipal ordinance or found to be a	2954
juvenile traffic offender by reason of a violation of division	2955
(A) or (B) of section 4511.19 of the Revised Code or a	2956
substantially similar municipal ordinance, who is ordered by the	2957
court to attend an alcohol and drug addiction treatment program,	2958
and who is determined by the court under division (H) (5) of this	2959
section to be unable to pay the cost of the assessment or the	2960

cost of attendance at the treatment program. 2961

(b) A county, juvenile, or municipal court judge, by 2962
order, may make expenditures from a county indigent drivers 2963
alcohol treatment fund, a county juvenile indigent drivers 2964
alcohol treatment fund, or a municipal indigent drivers alcohol 2965
treatment fund with respect to an indigent person for any of the 2966
following: 2967

(i) To pay the cost of an assessment that is conducted by 2968
an appropriately licensed clinician at either a driver 2969
intervention program that is certified under section 5119.38 of 2970
the Revised Code or at a community addiction services provider 2971
whose alcohol and drug addiction services are certified under 2972
section 5119.36 of the Revised Code; 2973

(ii) To pay the cost of alcohol addiction services, drug 2974
addiction services, or integrated alcohol and drug addiction 2975
services at a community addiction services provider whose 2976
alcohol and drug addiction services are certified under section 2977
5119.36 of the Revised Code; 2978

(iii) To pay the cost of transportation to attend an 2979
assessment as provided under division (H) (3) (b) (i) of this 2980
section or addiction services as provided under division (H) (3) 2981
(b) (ii) of this section. 2982

The alcohol and drug addiction services board or the board 2983
of alcohol, drug addiction, and mental health services 2984
established pursuant to section 340.02 or 340.021 of the Revised 2985
Code and serving the alcohol, drug addiction, and mental health 2986
service district in which the court is located shall administer 2987
the indigent drivers alcohol treatment program of the court. 2988
When a court orders an offender or juvenile traffic offender to 2989

obtain an assessment or attend an alcohol and drug addiction 2990
treatment program, the board shall determine which program is 2991
suitable to meet the needs of the offender or juvenile traffic 2992
offender, and when a suitable program is located and space is 2993
available at the program, the offender or juvenile traffic 2994
offender shall attend the program designated by the board. A 2995
reasonable amount not to exceed five per cent of the amounts 2996
credited to and deposited into the county indigent drivers 2997
alcohol treatment fund, the county juvenile indigent drivers 2998
alcohol treatment fund, or the municipal indigent drivers 2999
alcohol treatment fund serving every court whose program is 3000
administered by that board shall be paid to the board to cover 3001
the costs it incurs in administering those indigent drivers 3002
alcohol treatment programs. 3003

(c) Upon exhaustion of moneys in the indigent drivers 3004
interlock and alcohol monitoring fund for the use of an alcohol 3005
monitoring device, a county, juvenile, or municipal court judge 3006
may use moneys in the county indigent drivers alcohol treatment 3007
fund, county juvenile indigent drivers alcohol treatment fund, 3008
or municipal indigent drivers alcohol treatment fund in either 3009
of the following manners: 3010

(i) If the source of the moneys was an appropriation of 3011
the general assembly, a portion of a fee that was paid under 3012
division (F) of this section, a portion of a fine that was 3013
specified for deposit into the fund by section 4511.193 of the 3014
Revised Code, or a portion of a fine that was paid for a 3015
violation of section 4511.19 of the Revised Code or of a 3016
provision contained in Chapter 4510. of the Revised Code that 3017
was required to be deposited into the fund, to pay for the 3018
continued use of an alcohol monitoring device by an offender or 3019
juvenile traffic offender, in conjunction with a treatment 3020

program approved by the department of mental health and 3021
addiction services, when such use is determined clinically 3022
necessary by the treatment program and when the court determines 3023
that the offender or juvenile traffic offender is unable to pay 3024
all or part of the daily monitoring or cost of the device; 3025

(ii) If the source of the moneys was a portion of an 3026
additional court cost imposed under section 2949.094 of the 3027
Revised Code, to pay for the continued use of an alcohol 3028
monitoring device by an offender or juvenile traffic offender 3029
when the court determines that the offender or juvenile traffic 3030
offender is unable to pay all or part of the daily monitoring or 3031
cost of the device. The moneys may be used for a device as 3032
described in this division if the use of the device is in 3033
conjunction with a treatment program approved by the department 3034
of mental health and addiction services, when the use of the 3035
device is determined clinically necessary by the treatment 3036
program, but the use of a device is not required to be in 3037
conjunction with a treatment program approved by the department 3038
in order for the moneys to be used for the device as described 3039
in this division. 3040

(4) If a county, juvenile, or municipal court determines, 3041
in consultation with the alcohol and drug addiction services 3042
board or the board of alcohol, drug addiction, and mental health 3043
services established pursuant to section 340.02 or 340.021 of 3044
the Revised Code and serving the alcohol, drug addiction, and 3045
mental health district in which the court is located, that the 3046
funds in the county indigent drivers alcohol treatment fund, the 3047
county juvenile indigent drivers alcohol treatment fund, or the 3048
municipal indigent drivers alcohol treatment fund under the 3049
control of the court are more than sufficient to satisfy the 3050
purpose for which the fund was established, as specified in 3051

divisions (H) (1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may take one or more of the following actions with regard to the amount of the surplus in the fund:

(a) Expend any of the surplus amount for alcohol and drug abuse assessment and treatment, and for the cost of transportation related to assessment and treatment, of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) Expend any of the surplus amount to pay all or part of the cost of purchasing alcohol monitoring devices to be used in conjunction with division (H) (3) (c) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(c) Transfer to another court in the same county any of the surplus amount to be utilized in a manner consistent with division (H) (3) of this section. If surplus funds are transferred to another court, the court that transfers the funds shall notify the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services

that serves the alcohol, drug addiction, and mental health 3081
service district in which that court is located. 3082

(d) Transfer to the alcohol and drug addiction services 3083
board or the board of alcohol, drug addiction, and mental health 3084
services that serves the alcohol, drug addiction, and mental 3085
health service district in which the court is located any of the 3086
surplus amount to be utilized in a manner consistent with 3087
division (H) (3) of this section or for board contracted recovery 3088
support services. 3089

(e) Expend any of the surplus amount for the cost of 3090
staffing, equipment, training, drug testing, supplies, and other 3091
expenses of any specialized docket program established within 3092
the court and certified by the supreme court. 3093

(5) In order to determine if an offender does not have the 3094
means to pay for the offender's attendance at an alcohol and 3095
drug addiction treatment program for purposes of division (H) (3) 3096
of this section or if an alleged offender or delinquent child is 3097
unable to pay the costs specified in division (H) (4) of this 3098
section, the court shall use the indigent client eligibility 3099
guidelines and the standards of indigency established by the 3100
state public defender to make the determination. 3101

(6) The court shall identify and refer any community 3102
addiction services provider that intends to provide alcohol and 3103
drug addiction services and has not had its alcohol and drug 3104
addiction services certified under section 5119.36 of the 3105
Revised Code and that is interested in receiving amounts from 3106
the surplus in the fund declared under division (H) (4) of this 3107
section to the department of mental health and addiction 3108
services in order for the community addiction services provider 3109
to have its alcohol and drug addiction services certified by the 3110

department. The department shall keep a record of applicant 3111
referrals received pursuant to this division and shall submit a 3112
report on the referrals each year to the general assembly. If a 3113
community addiction services provider interested in having its 3114
alcohol and drug addiction services certified makes an 3115
application pursuant to section 5119.36 of the Revised Code, the 3116
community addiction services provider is eligible to receive 3117
surplus funds as long as the application is pending with the 3118
department. The department of mental health and addiction 3119
services must offer technical assistance to the applicant. If 3120
the interested community addiction services provider withdraws 3121
the certification application, the department must notify the 3122
court, and the court shall not provide the interested community 3123
addiction services provider with any further surplus funds. 3124

(7) (a) Each alcohol and drug addiction services board and 3125
board of alcohol, drug addiction, and mental health services 3126
established pursuant to section 340.02 or 340.021 of the Revised 3127
Code shall submit to the department of mental health and 3128
addiction services an annual report for each indigent drivers 3129
alcohol treatment fund in that board's area. 3130

(b) The report, which shall be submitted not later than 3131
sixty days after the end of the state fiscal year, shall provide 3132
the total payment that was made from the fund, including the 3133
number of indigent consumers that received treatment services 3134
and the number of indigent consumers that received an alcohol 3135
monitoring device. The report shall identify the treatment 3136
program and expenditure for an alcohol monitoring device for 3137
which that payment was made. The report shall include the fiscal 3138
year balance of each indigent drivers alcohol treatment fund 3139
located in that board's area. In the event that a surplus is 3140
declared in the fund pursuant to division (H) (4) of this 3141

section, the report also shall provide the total payment that 3142
was made from the surplus moneys and identify the authorized 3143
purpose for which that payment was made. 3144

(c) If a board is unable to obtain adequate information to 3145
develop the report to submit to the department for a particular 3146
indigent drivers alcohol treatment fund, the board shall submit 3147
a report detailing the effort made in obtaining the information. 3148

(I) (1) Each county shall establish an indigent drivers 3149
interlock and alcohol monitoring fund and a juvenile indigent 3150
drivers interlock and alcohol treatment fund. Each municipal 3151
corporation in which there is a municipal court shall establish 3152
an indigent drivers interlock and alcohol monitoring fund. All 3153
revenue that the general assembly appropriates to the indigent 3154
drivers interlock and alcohol monitoring fund for transfer to a 3155
county indigent drivers interlock and alcohol monitoring fund, a 3156
county juvenile indigent drivers interlock and alcohol 3157
monitoring fund, or a municipal indigent drivers interlock and 3158
alcohol monitoring fund, all portions of license reinstatement 3159
fees that are paid under division (F) (2) of this section and 3160
that are credited under that division to the indigent drivers 3161
interlock and alcohol monitoring fund in the state treasury, and 3162
all portions of fines that are paid under division (G) of 3163
section 4511.19 of the Revised Code and that are credited by 3164
division (G) (5) (e) of that section to the indigent drivers 3165
interlock and alcohol monitoring fund in the state treasury 3166
shall be deposited in the appropriate fund in accordance with 3167
division (I) (2) of this section. 3168

(2) That portion of the license reinstatement fee that is 3169
paid under division (F) of this section and that portion of the 3170
fine paid under division (G) of section 4511.19 of the Revised 3171

Code and that is credited under either division to the indigent 3172
drivers interlock and alcohol monitoring fund shall be deposited 3173
into a county indigent drivers interlock and alcohol monitoring 3174
fund, a county juvenile indigent drivers interlock and alcohol 3175
monitoring fund, or a municipal indigent drivers interlock and 3176
alcohol monitoring fund as follows: 3177

(a) If the fee or fine is paid by a person who was charged 3178
in a county court with the violation that resulted in the 3179
suspension or fine, the portion shall be deposited into the 3180
county indigent drivers interlock and alcohol monitoring fund 3181
under the control of that court. 3182

(b) If the fee or fine is paid by a person who was charged 3183
in a juvenile court with the violation that resulted in the 3184
suspension or fine, the portion shall be deposited into the 3185
county juvenile indigent drivers interlock and alcohol 3186
monitoring fund established in the county served by the court. 3187

(c) If the fee or fine is paid by a person who was charged 3188
in a municipal court with the violation that resulted in the 3189
suspension, the portion shall be deposited into the municipal 3190
indigent drivers interlock and alcohol monitoring fund under the 3191
control of that court. 3192

(3) If a county, juvenile, or municipal court determines 3193
that the funds in the county indigent drivers interlock and 3194
alcohol monitoring fund, the county juvenile indigent drivers 3195
interlock and alcohol monitoring fund, or the municipal indigent 3196
drivers interlock and alcohol monitoring fund under the control 3197
of that court are more than sufficient to satisfy the purpose 3198
for which the fund was established as specified in division (F) 3199
(2) (h) of this section, the court may declare a surplus in the 3200
fund. The court then may order the transfer of a specified 3201

amount into the county indigent drivers alcohol treatment fund, 3202
the county juvenile indigent drivers alcohol treatment fund, or 3203
the municipal indigent drivers alcohol treatment fund under the 3204
control of that court to be utilized in accordance with division 3205
(H) of this section. 3206

Sec. 4511.192. (A) Except as provided in division (A) (5) 3207
of section 4511.191 of the Revised Code, the arresting law 3208
enforcement officer shall give advice in accordance with this 3209
section to any person under arrest for a violation of division 3210
(A) or (B) of section 4511.19 of the Revised Code, section 3211
4511.194 of the Revised Code or a substantially equivalent 3212
municipal ordinance, or a municipal OVI ordinance. The officer 3213
shall give that advice in a written form that contains the 3214
information described in division (B) of this section and shall 3215
read the advice to the person. The form shall contain a 3216
statement that the form was shown to the person under arrest and 3217
read to the person by the arresting officer. One or more persons 3218
shall witness the arresting officer's reading of the form, and 3219
the witnesses shall certify to this fact by signing the form. 3220
The person must submit to the chemical test or tests, subsequent 3221
to the request of the arresting officer, within two hours of the 3222
time of the alleged violation and, if the person does not submit 3223
to the test or tests within that two-hour time limit, the 3224
failure to submit automatically constitutes a refusal to submit 3225
to the test or tests. 3226

(B) Except as provided in division (A) (5) of section 3227
4511.191 of the Revised Code, if a person is under arrest as 3228
described in division (A) of this section, before the person may 3229
be requested to submit to a chemical test or tests to determine 3230
the alcohol, drug of abuse, controlled substance, metabolite of 3231
a controlled substance, or combination content of the person's 3232

whole blood, blood serum or plasma, breath, oral fluid, or 3233
urine, the arresting officer shall read the following form to 3234
the person: 3235

"You now are under arrest for (specifically state the 3236
offense under state law or a substantially equivalent municipal 3237
ordinance for which the person was arrested - operating a 3238
vehicle under the influence of alcohol, a drug, or a combination 3239
of them; operating a vehicle while under the influence of a 3240
listed controlled substance or a listed metabolite of a 3241
controlled substance; operating a vehicle after underage alcohol 3242
consumption; or having physical control of a vehicle while under 3243
the influence). 3244

If you refuse to take any chemical test required by law, 3245
your Ohio driving privileges will be suspended immediately, and 3246
you will have to pay a fee to have the privileges reinstated. If 3247
you have a prior conviction of OVI or operating a vehicle while 3248
under the influence of a listed controlled substance or a listed 3249
metabolite of a controlled substance under state or municipal 3250
law within the preceding twenty years, you now are under arrest 3251
for state OVI, and, if you refuse to take a chemical test, you 3252
will face increased penalties if you subsequently are convicted 3253
of the state OVI. 3254

(Read this part unless the person is under arrest for 3255
solely having physical control of a vehicle while under the 3256
influence.) If you take any chemical test required by law and 3257
are found to be at or over the prohibited amount of alcohol, a 3258
controlled substance, or a metabolite of a controlled substance 3259
in your whole blood, blood serum or plasma, breath, or urine as 3260
set by law, your Ohio driving privileges will be suspended 3261
immediately, and you will have to pay a fee to have the 3262

privileges reinstated. 3263

If you take a chemical test, you may have an independent 3264
chemical test taken at your own expense." 3265

(C) If the arresting law enforcement officer does not ask 3266
a person under arrest as described in division (A) of this 3267
section or division (A) (5) of section 4511.191 of the Revised 3268
Code to submit to a chemical test or tests under section 3269
4511.191 of the Revised Code, the arresting officer shall seize 3270
the Ohio or out-of-state driver's or commercial driver's license 3271
or permit of the person and immediately forward it to the court 3272
in which the arrested person is to appear on the charge. If the 3273
arrested person is not in possession of the person's license or 3274
permit or it is not in the person's vehicle, the officer shall 3275
order the person to surrender it to the law enforcement agency 3276
that employs the officer within twenty-four hours after the 3277
arrest, and, upon the surrender, the agency immediately shall 3278
forward the license or permit to the court in which the person 3279
is to appear on the charge. Upon receipt of the license or 3280
permit, the court shall retain it pending the arrested person's 3281
initial appearance and any action taken under section 4511.196 3282
of the Revised Code. 3283

(D) (1) If a law enforcement officer asks a person under 3284
arrest as described in division (A) (5) of section 4511.191 of 3285
the Revised Code to submit to a chemical test or tests under 3286
that section and the test results indicate a prohibited 3287
concentration of alcohol, a controlled substance, or a 3288
metabolite of a controlled substance in the person's whole 3289
blood, blood serum or plasma, breath, or urine at the time of 3290
the alleged offense, or if a law enforcement officer asks a 3291
person under arrest as described in division (A) of this section 3292

to submit to a chemical test or tests under section 4511.191 of 3293
the Revised Code, the officer advises the person in accordance 3294
with this section of the consequences of the person's refusal or 3295
submission, and either the person refuses to submit to the test 3296
or tests or, unless the arrest was for a violation of section 3297
4511.194 of the Revised Code or a substantially equivalent 3298
municipal ordinance, the person submits to the test or tests and 3299
the test results indicate a prohibited concentration of alcohol, 3300
a controlled substance, or a metabolite of a controlled 3301
substance in the person's whole blood, blood serum or plasma, 3302
breath, or urine at the time of the alleged offense, the 3303
arresting officer shall do all of the following: 3304

(a) On behalf of the registrar of motor vehicles, notify 3305
the person that, independent of any penalties or sanctions 3306
imposed upon the person, the person's Ohio driver's or 3307
commercial driver's license or permit or nonresident operating 3308
privilege is suspended immediately, that the suspension will 3309
last at least until the person's initial appearance on the 3310
charge, which will be held within five days after the date of 3311
the person's arrest or the issuance of a citation to the person, 3312
and that the person may appeal the suspension at the initial 3313
appearance or during the period of time ending thirty days after 3314
that initial appearance; 3315

(b) Seize the driver's or commercial driver's license or 3316
permit of the person and immediately forward it to the 3317
registrar. If the arrested person is not in possession of the 3318
person's license or permit or it is not in the person's vehicle, 3319
the officer shall order the person to surrender it to the law 3320
enforcement agency that employs the officer within twenty-four 3321
hours after the person is given notice of the suspension, and, 3322
upon the surrender, the officer's employing agency immediately 3323

shall forward the license or permit to the registrar. 3324

(c) Verify the person's current residence and, if it 3325
differs from that on the person's driver's or commercial 3326
driver's license or permit, notify the registrar of the change; 3327

(d) Send to the registrar, within forty-eight hours after 3328
the arrest of the person, a sworn report that includes all of 3329
the following statements: 3330

(i) That the officer had reasonable grounds to believe 3331
that, at the time of the arrest, the arrested person was 3332
operating a vehicle, streetcar, or trackless trolley in 3333
violation of division (A) or (B) of section 4511.19 of the 3334
Revised Code or a municipal OVI ordinance or for being in 3335
physical control of a stationary vehicle, streetcar, or 3336
trackless trolley in violation of section 4511.194 of the 3337
Revised Code or a substantially equivalent municipal ordinance; 3338

(ii) That the person was arrested and charged with a 3339
violation of division (A) or (B) of section 4511.19 of the 3340
Revised Code, section 4511.194 of the Revised Code or a 3341
substantially equivalent municipal ordinance, or a municipal OVI 3342
ordinance; 3343

(iii) Unless division (D) (1) (d) (v) of this section 3344
applies, that the officer asked the person to take the 3345
designated chemical test or tests, advised the person in 3346
accordance with this section of the consequences of submitting 3347
to, or refusing to take, the test or tests, and gave the person 3348
the form described in division (B) of this section; 3349

(iv) Unless division (D) (1) (d) (v) of this section applies, 3350
that either the person refused to submit to the chemical test or 3351
tests or, unless the arrest was for a violation of section 3352

4511.194 of the Revised Code or a substantially equivalent 3353
municipal ordinance, the person submitted to the chemical test 3354
or tests and the test results indicate a prohibited 3355
concentration of alcohol, a controlled substance, or a 3356
metabolite of a controlled substance in the person's whole 3357
blood, blood serum or plasma, breath, or urine at the time of 3358
the alleged offense; 3359

(v) If the person was under arrest as described in 3360
division (A) (5) of section 4511.191 of the Revised Code and the 3361
chemical test or tests were performed in accordance with that 3362
division, that the person was under arrest as described in that 3363
division, that the chemical test or tests were performed in 3364
accordance with that division, and that test results indicated a 3365
prohibited concentration of alcohol, a controlled substance, or 3366
a metabolite of a controlled substance in the person's whole 3367
blood, blood serum or plasma, breath, or urine at the time of 3368
the alleged offense. 3369

(2) Division (D) (1) of this section does not apply to a 3370
person who is arrested for a violation of section 4511.194 of 3371
the Revised Code or a substantially equivalent municipal 3372
ordinance, who is asked by a law enforcement officer to submit 3373
to a chemical test or tests under section 4511.191 of the 3374
Revised Code, and who submits to the test or tests, regardless 3375
of the amount of alcohol, a controlled substance, or a 3376
metabolite of a controlled substance that the test results 3377
indicate is present in the person's whole blood, blood serum or 3378
plasma, breath, oral fluid, or urine. 3379

(E) The arresting officer shall give the officer's sworn 3380
report that is completed under this section to the arrested 3381
person at the time of the arrest, or the registrar of motor 3382

vehicles shall send the report to the person by regular first 3383
class mail as soon as possible after receipt of the report, but 3384
not later than fourteen days after receipt of it. An arresting 3385
officer may give an unsworn report to the arrested person at the 3386
time of the arrest provided the report is complete when given to 3387
the arrested person and subsequently is sworn to by the 3388
arresting officer. As soon as possible, but not later than 3389
forty-eight hours after the arrest of the person, the arresting 3390
officer shall send a copy of the sworn report to the court in 3391
which the arrested person is to appear on the charge for which 3392
the person was arrested. 3393

(F) The sworn report of an arresting officer completed 3394
under this section is prima-facie proof of the information and 3395
statements that it contains. It shall be admitted and considered 3396
as prima-facie proof of the information and statements that it 3397
contains in any appeal under section 4511.197 of the Revised 3398
Code relative to any suspension of a person's driver's or 3399
commercial driver's license or permit or nonresident operating 3400
privilege that results from the arrest covered by the report." 3401

In line 3341, after "sections" insert "1547.11, 1547.111, 2317.02, 3402
2317.022," 3403

In line 3342, delete "and" and insert "3701.143,"; after "3705.08" 3404
insert ", 4506.17, 4511.19, 4511.191, and 4511.192" 3405

The motion was _____ agreed to.

SYNOPSIS 3406

Oral fluid collection, testing, and evidence 3407

R.C. 1547.11, 1547.111, 2317.02, 2317.022, 3701.143,	3408
4506.17, 4511.19, 4511.191, and 4511.192	3409
Authorizes law enforcement to collect an oral fluid sample	3410
from a person arrested for operating a vehicle under the	3411
influence (OVI).	3412
Authorizes the testing of that oral fluid sample for the	3413
presence of a drug of abuse or a metabolite of a drug of abuse.	3414
Authorizes the oral fluid sample and its test results to	3415
be used as evidence related to charges that a person operated a	3416
vehicle while "under the influence of alcohol, a drug of abuse,	3417
or a combination of them" (the general offense under R.C.	3418
4511.19(A) (1) (a)).	3419
Specifies that any person who operates a vehicle or who is	3420
in physical control of a vehicle has given consent to have that	3421
person's oral fluid collected and tested if arrested for OVI	3422
("implied consent").	3423
Makes conforming changes to the laws governing OVI while	3424
operating a watercraft or a commercial motor vehicle and the	3425
release of drug test records in criminal cases.	3426