

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 249

Representatives Driehaus, Sprague

**Cosponsors: Representatives LaTourette, Sheehy, Bishoff, Smith, R., Antonio,
Slaby, Smith, K., Reineke, Grossman, Lepore-Hagan, Green**

A BILL

To amend sections 2925.11, 2929.13, 2929.141, 1
2929.15, 2929.25, and 2967.28 of the Revised 2
Code to provide an immunity from arrest, 3
prosecution, or conviction, or to permit a court 4
to consider drug treatment or as a mitigating 5
factor in supervised release sanctioning, for a 6
minor drug possession offense for a person who 7
seeks or obtains medical assistance for self or 8
another person who is experiencing a medical 9
emergency as a result of ingesting drugs or for 10
a person who is experiencing such a medical 11
emergency and for whom medical assistance is 12
sought. 13

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

Section 1. That sections 2925.11, 2929.13, 2929.141, 14
2929.15, 2929.25, and 2967.28 of the Revised Code be amended to 15
read as follows: 16

Sec. 2925.11. (A) No person shall knowingly obtain, 17
possess, or use a controlled substance or a controlled substance 18

analog. 19

(B) (1) This section does not apply to any of the 20
following: 21

~~(1)~~ (a) Manufacturers, licensed health professionals 22
authorized to prescribe drugs, pharmacists, owners of 23
pharmacies, and other persons whose conduct was in accordance 24
with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 25
4741. of the Revised Code; 26

~~(2)~~ (b) If the offense involves an anabolic steroid, any 27
person who is conducting or participating in a research project 28
involving the use of an anabolic steroid if the project has been 29
approved by the United States food and drug administration; 30

~~(3)~~ (c) Any person who sells, offers for sale, prescribes, 31
dispenses, or administers for livestock or other nonhuman 32
species an anabolic steroid that is expressly intended for 33
administration through implants to livestock or other nonhuman 34
species and approved for that purpose under the "Federal Food, 35
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 36
as amended, and is sold, offered for sale, prescribed, 37
dispensed, or administered for that purpose in accordance with 38
that act; 39

~~(4)~~ (d) Any person who obtained the controlled substance 40
pursuant to a lawful prescription issued by a licensed health 41
professional authorized to prescribe drugs. 42

(2) (a) Except if the person is on community control or 43
post-release control, a person acting in good faith who seeks or 44
obtains medical assistance for another person who is 45
experiencing a medical emergency as a result of ingesting drugs 46
shall not be arrested, charged, prosecuted, convicted, or 47

penalized pursuant to this chapter for a minor drug possession 48
offense if the evidence of the obtaining, possession, or use of 49
the controlled substance or controlled substance analog that 50
would be the basis of the offense was obtained as a result of 51
the person seeking the medical assistance. 52

(b) Except if the person is on community control or post- 53
release control, a person who experiences a medical emergency as 54
a result of ingesting drugs and who seeks medical assistance for 55
that emergency or who is the subject of another person seeking 56
or obtaining medical assistance for that emergency as described 57
in division (B) (2) (a) of this section shall not be arrested, 58
charged, prosecuted, convicted, or penalized pursuant to this 59
chapter for a minor drug possession offense if the evidence of 60
the obtaining, possession, or use of the controlled substance or 61
controlled substance analog that would be the basis of the 62
offense was obtained as a result of the person ingesting drugs 63
and needing the medical assistance. 64

(c) If a person is found to be in violation of any 65
community control sanction and if the violation is a result of 66
either of the following, the court shall first consider ordering 67
the person's participation or continued participation in a drug 68
treatment program or mitigating the penalty specified in section 69
2929.13, 2929.15, or 2929.25 of the Revised Code, whichever is 70
applicable, after which the court has the discretion either to 71
order the person's participation or continued participation in a 72
drug treatment program or to impose the penalty with the 73
mitigating factor specified in any of those applicable sections: 74

(i) Seeking or obtaining medical assistance in good faith 75
for another person who is experiencing a medical emergency as a 76
result of ingesting drugs; 77

(ii) Experiencing a medical emergency as a result of 78
ingesting drugs and seeking medical assistance for that 79
emergency or being the subject of another person seeking or 80
obtaining medical assistance for that emergency as described in 81
division (B) (2) (a) of this section. 82

(d) If a person is found to be in violation of any post- 83
release control sanction and if the violation is a result of 84
either of the following, the court or the parole board shall 85
first consider ordering the person's participation or continued 86
participation in a drug treatment program or mitigating the 87
penalty specified in section 2929.141 or 2967.28 of the Revised 88
Code, whichever is applicable, after which the court or the 89
parole board has the discretion either to order the person's 90
participation or continued participation in a drug treatment 91
program or to impose the penalty with the mitigating factor 92
specified in either of those applicable sections: 93

(i) Seeking or obtaining medical assistance in good faith 94
for another person who is experiencing a medical emergency as a 95
result of ingesting drugs; 96

(ii) Experiencing a medical emergency as a result of 97
ingesting drugs and seeking medical assistance for that 98
emergency or being the subject of another person seeking or 99
obtaining medical assistance for that emergency as described in 100
division (B) (2) (a) of this section. 101

(e) Nothing in division (B) (2) (a) or (b) of this section 102
shall be construed to do any of the following: 103

(i) Limit the admissibility of any evidence in connection 104
with the investigation or prosecution of a crime with regards to 105
a defendant who does not qualify for the protections of division 106

<u>(B) (2) (a) or (b) of this section or with regards to any crime</u>	107
<u>other than a minor drug possession offense committed by a person</u>	108
<u>who qualifies for protection pursuant to division (B) (2) (a) or</u>	109
<u>(b) of this section for a minor drug possession offense;</u>	110
<u>(ii) Limit any seizure of evidence or contraband otherwise</u>	111
<u>permitted by law;</u>	112
<u>(iii) Limit or abridge the authority of a peace officer to</u>	113
<u>detain or take into custody a person in the course of an</u>	114
<u>investigation or to effectuate an arrest for any offense except</u>	115
<u>as provided in either division;</u>	116
<u>(iv) Limit, modify, or remove any immunity from liability</u>	117
<u>available pursuant to law in effect prior to the effective date</u>	118
<u>of this amendment to any public agency or to an employee of any</u>	119
<u>public agency.</u>	120
<u>(f) As used in division (B) (2) of this section:</u>	121
<u>(i) "Community control sanction" and "drug treatment</u>	122
<u>program" have the same meanings as in section 2929.01 of the</u>	123
<u>Revised Code.</u>	124
<u>(ii) "Health care facility" has the same meaning as in</u>	125
<u>section 2919.16 of the Revised Code.</u>	126
<u>(iii) "Post-release control sanction" has the same meaning</u>	127
<u>as in section 2967.28 of the Revised Code.</u>	128
<u>(iv) "Peace officer" has the same meaning as in section</u>	129
<u>2935.01 of the Revised Code.</u>	130
<u>(v) "Public agency" has the same meaning as in section</u>	131
<u>2930.01 of the Revised Code.</u>	132
<u>(vi) "Seeks or obtains medical assistance" includes, but</u>	133

is not limited to making a 9-1-1 call, contacting in person or 134
by telephone call an on-duty peace officer, or transporting or 135
presenting a person to a health care facility. 136

(C) Whoever violates division (A) of this section is 137
guilty of one of the following: 138

(1) If the drug involved in the violation is a compound, 139
mixture, preparation, or substance included in schedule I or II, 140
with the exception of marihuana, cocaine, L.S.D., heroin, 141
hashish, and controlled substance analogs, whoever violates 142
division (A) of this section is guilty of aggravated possession 143
of drugs. The penalty for the offense shall be determined as 144
follows: 145

(a) Except as otherwise provided in division (C) (1) (b), 146
(c), (d), or (e) of this section, aggravated possession of drugs 147
is a felony of the fifth degree, and division (B) of section 148
2929.13 of the Revised Code applies in determining whether to 149
impose a prison term on the offender. 150

(b) If the amount of the drug involved equals or exceeds 151
the bulk amount but is less than five times the bulk amount, 152
aggravated possession of drugs is a felony of the third degree, 153
and there is a presumption for a prison term for the offense. 154

(c) If the amount of the drug involved equals or exceeds 155
five times the bulk amount but is less than fifty times the bulk 156
amount, aggravated possession of drugs is a felony of the second 157
degree, and the court shall impose as a mandatory prison term 158
one of the prison terms prescribed for a felony of the second 159
degree. 160

(d) If the amount of the drug involved equals or exceeds 161
fifty times the bulk amount but is less than one hundred times 162

the bulk amount, aggravated possession of drugs is a felony of 163
the first degree, and the court shall impose as a mandatory 164
prison term one of the prison terms prescribed for a felony of 165
the first degree. 166

(e) If the amount of the drug involved equals or exceeds 167
one hundred times the bulk amount, aggravated possession of 168
drugs is a felony of the first degree, the offender is a major 169
drug offender, and the court shall impose as a mandatory prison 170
term the maximum prison term prescribed for a felony of the 171
first degree. 172

(2) If the drug involved in the violation is a compound, 173
mixture, preparation, or substance included in schedule III, IV, 174
or V, whoever violates division (A) of this section is guilty of 175
possession of drugs. The penalty for the offense shall be 176
determined as follows: 177

(a) Except as otherwise provided in division (C) (2) (b), 178
(c), or (d) of this section, possession of drugs is a 179
misdemeanor of the first degree or, if the offender previously 180
has been convicted of a drug abuse offense, a felony of the 181
fifth degree. 182

(b) If the amount of the drug involved equals or exceeds 183
the bulk amount but is less than five times the bulk amount, 184
possession of drugs is a felony of the fourth degree, and 185
division (C) of section 2929.13 of the Revised Code applies in 186
determining whether to impose a prison term on the offender. 187

(c) If the amount of the drug involved equals or exceeds 188
five times the bulk amount but is less than fifty times the bulk 189
amount, possession of drugs is a felony of the third degree, and 190
there is a presumption for a prison term for the offense. 191

(d) If the amount of the drug involved equals or exceeds 192
fifty times the bulk amount, possession of drugs is a felony of 193
the second degree, and the court shall impose upon the offender 194
as a mandatory prison term one of the prison terms prescribed 195
for a felony of the second degree. 196

(3) If the drug involved in the violation is marihuana or 197
a compound, mixture, preparation, or substance containing 198
marihuana other than hashish, whoever violates division (A) of 199
this section is guilty of possession of marihuana. The penalty 200
for the offense shall be determined as follows: 201

(a) Except as otherwise provided in division (C) (3) (b), 202
(c), (d), (e), (f), or (g) of this section, possession of 203
marihuana is a minor misdemeanor. 204

(b) If the amount of the drug involved equals or exceeds 205
one hundred grams but is less than two hundred grams, possession 206
of marihuana is a misdemeanor of the fourth degree. 207

(c) If the amount of the drug involved equals or exceeds 208
two hundred grams but is less than one thousand grams, 209
possession of marihuana is a felony of the fifth degree, and 210
division (B) of section 2929.13 of the Revised Code applies in 211
determining whether to impose a prison term on the offender. 212

(d) If the amount of the drug involved equals or exceeds 213
one thousand grams but is less than five thousand grams, 214
possession of marihuana is a felony of the third degree, and 215
division (C) of section 2929.13 of the Revised Code applies in 216
determining whether to impose a prison term on the offender. 217

(e) If the amount of the drug involved equals or exceeds 218
five thousand grams but is less than twenty thousand grams, 219
possession of marihuana is a felony of the third degree, and 220

there is a presumption that a prison term shall be imposed for 221
the offense. 222

(f) If the amount of the drug involved equals or exceeds 223
twenty thousand grams but is less than forty thousand grams, 224
possession of marihuana is a felony of the second degree, and 225
the court shall impose a mandatory prison term of five, six, 226
seven, or eight years. 227

(g) If the amount of the drug involved equals or exceeds 228
forty thousand grams, possession of marihuana is a felony of the 229
second degree, and the court shall impose as a mandatory prison 230
term the maximum prison term prescribed for a felony of the 231
second degree. 232

(4) If the drug involved in the violation is cocaine or a 233
compound, mixture, preparation, or substance containing cocaine, 234
whoever violates division (A) of this section is guilty of 235
possession of cocaine. The penalty for the offense shall be 236
determined as follows: 237

(a) Except as otherwise provided in division (C) (4) (b), 238
(c), (d), (e), or (f) of this section, possession of cocaine is 239
a felony of the fifth degree, and division (B) of section 240
2929.13 of the Revised Code applies in determining whether to 241
impose a prison term on the offender. 242

(b) If the amount of the drug involved equals or exceeds 243
five grams but is less than ten grams of cocaine, possession of 244
cocaine is a felony of the fourth degree, and division (B) of 245
section 2929.13 of the Revised Code applies in determining 246
whether to impose a prison term on the offender. 247

(c) If the amount of the drug involved equals or exceeds 248
ten grams but is less than twenty grams of cocaine, possession 249

of cocaine is a felony of the third degree, and, except as 250
otherwise provided in this division, there is a presumption for 251
a prison term for the offense. If possession of cocaine is a 252
felony of the third degree under this division and if the 253
offender two or more times previously has been convicted of or 254
pleaded guilty to a felony drug abuse offense, the court shall 255
impose as a mandatory prison term one of the prison terms 256
prescribed for a felony of the third degree. 257

(d) If the amount of the drug involved equals or exceeds 258
twenty grams but is less than twenty-seven grams of cocaine, 259
possession of cocaine is a felony of the second degree, and the 260
court shall impose as a mandatory prison term one of the prison 261
terms prescribed for a felony of the second degree. 262

(e) If the amount of the drug involved equals or exceeds 263
twenty-seven grams but is less than one hundred grams of 264
cocaine, possession of cocaine is a felony of the first degree, 265
and the court shall impose as a mandatory prison term one of the 266
prison terms prescribed for a felony of the first degree. 267

(f) If the amount of the drug involved equals or exceeds 268
one hundred grams of cocaine, possession of cocaine is a felony 269
of the first degree, the offender is a major drug offender, and 270
the court shall impose as a mandatory prison term the maximum 271
prison term prescribed for a felony of the first degree. 272

(5) If the drug involved in the violation is L.S.D., 273
whoever violates division (A) of this section is guilty of 274
possession of L.S.D. The penalty for the offense shall be 275
determined as follows: 276

(a) Except as otherwise provided in division (C) (5) (b), 277
(c), (d), (e), or (f) of this section, possession of L.S.D. is a 278

felony of the fifth degree, and division (B) of section 2929.13 279
of the Revised Code applies in determining whether to impose a 280
prison term on the offender. 281

(b) If the amount of L.S.D. involved equals or exceeds ten 282
unit doses but is less than fifty unit doses of L.S.D. in a 283
solid form or equals or exceeds one gram but is less than five 284
grams of L.S.D. in a liquid concentrate, liquid extract, or 285
liquid distillate form, possession of L.S.D. is a felony of the 286
fourth degree, and division (C) of section 2929.13 of the 287
Revised Code applies in determining whether to impose a prison 288
term on the offender. 289

(c) If the amount of L.S.D. involved equals or exceeds 290
fifty unit doses, but is less than two hundred fifty unit doses 291
of L.S.D. in a solid form or equals or exceeds five grams but is 292
less than twenty-five grams of L.S.D. in a liquid concentrate, 293
liquid extract, or liquid distillate form, possession of L.S.D. 294
is a felony of the third degree, and there is a presumption for 295
a prison term for the offense. 296

(d) If the amount of L.S.D. involved equals or exceeds two 297
hundred fifty unit doses but is less than one thousand unit 298
doses of L.S.D. in a solid form or equals or exceeds twenty-five 299
grams but is less than one hundred grams of L.S.D. in a liquid 300
concentrate, liquid extract, or liquid distillate form, 301
possession of L.S.D. is a felony of the second degree, and the 302
court shall impose as a mandatory prison term one of the prison 303
terms prescribed for a felony of the second degree. 304

(e) If the amount of L.S.D. involved equals or exceeds one 305
thousand unit doses but is less than five thousand unit doses of 306
L.S.D. in a solid form or equals or exceeds one hundred grams 307
but is less than five hundred grams of L.S.D. in a liquid 308

concentrate, liquid extract, or liquid distillate form, 309
possession of L.S.D. is a felony of the first degree, and the 310
court shall impose as a mandatory prison term one of the prison 311
terms prescribed for a felony of the first degree. 312

(f) If the amount of L.S.D. involved equals or exceeds 313
five thousand unit doses of L.S.D. in a solid form or equals or 314
exceeds five hundred grams of L.S.D. in a liquid concentrate, 315
liquid extract, or liquid distillate form, possession of L.S.D. 316
is a felony of the first degree, the offender is a major drug 317
offender, and the court shall impose as a mandatory prison term 318
the maximum prison term prescribed for a felony of the first 319
degree. 320

(6) If the drug involved in the violation is heroin or a 321
compound, mixture, preparation, or substance containing heroin, 322
whoever violates division (A) of this section is guilty of 323
possession of heroin. The penalty for the offense shall be 324
determined as follows: 325

(a) Except as otherwise provided in division (C) (6) (b), 326
(c), (d), (e), or (f) of this section, possession of heroin is a 327
felony of the fifth degree, and division (B) of section 2929.13 328
of the Revised Code applies in determining whether to impose a 329
prison term on the offender. 330

(b) If the amount of the drug involved equals or exceeds 331
ten unit doses but is less than fifty unit doses or equals or 332
exceeds one gram but is less than five grams, possession of 333
heroin is a felony of the fourth degree, and division (C) of 334
section 2929.13 of the Revised Code applies in determining 335
whether to impose a prison term on the offender. 336

(c) If the amount of the drug involved equals or exceeds 337

fifty unit doses but is less than one hundred unit doses or 338
equals or exceeds five grams but is less than ten grams, 339
possession of heroin is a felony of the third degree, and there 340
is a presumption for a prison term for the offense. 341

(d) If the amount of the drug involved equals or exceeds 342
one hundred unit doses but is less than five hundred unit doses 343
or equals or exceeds ten grams but is less than fifty grams, 344
possession of heroin is a felony of the second degree, and the 345
court shall impose as a mandatory prison term one of the prison 346
terms prescribed for a felony of the second degree. 347

(e) If the amount of the drug involved equals or exceeds 348
five hundred unit doses but is less than two thousand five 349
hundred unit doses or equals or exceeds fifty grams but is less 350
than two hundred fifty grams, possession of heroin is a felony 351
of the first degree, and the court shall impose as a mandatory 352
prison term one of the prison terms prescribed for a felony of 353
the first degree. 354

(f) If the amount of the drug involved equals or exceeds 355
two thousand five hundred unit doses or equals or exceeds two 356
hundred fifty grams, possession of heroin is a felony of the 357
first degree, the offender is a major drug offender, and the 358
court shall impose as a mandatory prison term the maximum prison 359
term prescribed for a felony of the first degree. 360

(7) If the drug involved in the violation is hashish or a 361
compound, mixture, preparation, or substance containing hashish, 362
whoever violates division (A) of this section is guilty of 363
possession of hashish. The penalty for the offense shall be 364
determined as follows: 365

(a) Except as otherwise provided in division (C) (7) (b), 366

(c), (d), (e), (f), or (g) of this section, possession of 367
hashish is a minor misdemeanor. 368

(b) If the amount of the drug involved equals or exceeds 369
five grams but is less than ten grams of hashish in a solid form 370
or equals or exceeds one gram but is less than two grams of 371
hashish in a liquid concentrate, liquid extract, or liquid 372
distillate form, possession of hashish is a misdemeanor of the 373
fourth degree. 374

(c) If the amount of the drug involved equals or exceeds 375
ten grams but is less than fifty grams of hashish in a solid 376
form or equals or exceeds two grams but is less than ten grams 377
of hashish in a liquid concentrate, liquid extract, or liquid 378
distillate form, possession of hashish is a felony of the fifth 379
degree, and division (B) of section 2929.13 of the Revised Code 380
applies in determining whether to impose a prison term on the 381
offender. 382

(d) If the amount of the drug involved equals or exceeds 383
fifty grams but is less than two hundred fifty grams of hashish 384
in a solid form or equals or exceeds ten grams but is less than 385
fifty grams of hashish in a liquid concentrate, liquid extract, 386
or liquid distillate form, possession of hashish is a felony of 387
the third degree, and division (C) of section 2929.13 of the 388
Revised Code applies in determining whether to impose a prison 389
term on the offender. 390

(e) If the amount of the drug involved equals or exceeds 391
two hundred fifty grams but is less than one thousand grams of 392
hashish in a solid form or equals or exceeds fifty grams but is 393
less than two hundred grams of hashish in a liquid concentrate, 394
liquid extract, or liquid distillate form, possession of hashish 395
is a felony of the third degree, and there is a presumption that 396

a prison term shall be imposed for the offense. 397

(f) If the amount of the drug involved equals or exceeds 398
one thousand grams but is less than two thousand grams of 399
hashish in a solid form or equals or exceeds two hundred grams 400
but is less than four hundred grams of hashish in a liquid 401
concentrate, liquid extract, or liquid distillate form, 402
possession of hashish is a felony of the second degree, and the 403
court shall impose a mandatory prison term of five, six, seven, 404
or eight years. 405

(g) If the amount of the drug involved equals or exceeds 406
two thousand grams of hashish in a solid form or equals or 407
exceeds four hundred grams of hashish in a liquid concentrate, 408
liquid extract, or liquid distillate form, possession of hashish 409
is a felony of the second degree, and the court shall impose as 410
a mandatory prison term the maximum prison term prescribed for a 411
felony of the second degree. 412

(8) If the drug involved is a controlled substance analog 413
or compound, mixture, preparation, or substance that contains a 414
controlled substance analog, whoever violates division (A) of 415
this section is guilty of possession of a controlled substance 416
analog. The penalty for the offense shall be determined as 417
follows: 418

(a) Except as otherwise provided in division (C) (8) (b), 419
(c), (d), (e), or (f) of this section, possession of a 420
controlled substance analog is a felony of the fifth degree, and 421
division (B) of section 2929.13 of the Revised Code applies in 422
determining whether to impose a prison term on the offender. 423

(b) If the amount of the drug involved equals or exceeds 424
ten grams but is less than twenty grams, possession of a 425

controlled substance analog is a felony of the fourth degree, 426
and there is a presumption for a prison term for the offense. 427

(c) If the amount of the drug involved equals or exceeds 428
twenty grams but is less than thirty grams, possession of a 429
controlled substance analog is a felony of the third degree, and 430
there is a presumption for a prison term for the offense. 431

(d) If the amount of the drug involved equals or exceeds 432
thirty grams but is less than forty grams, possession of a 433
controlled substance analog is a felony of the second degree, 434
and the court shall impose as a mandatory prison term one of the 435
prison terms prescribed for a felony of the second degree. 436

(e) If the amount of the drug involved equals or exceeds 437
forty grams but is less than fifty grams, possession of a 438
controlled substance analog is a felony of the first degree, and 439
the court shall impose as a mandatory prison term one of the 440
prison terms prescribed for a felony of the first degree. 441

(f) If the amount of the drug involved equals or exceeds 442
fifty grams, possession of a controlled substance analog is a 443
felony of the first degree, the offender is a major drug 444
offender, and the court shall impose as a mandatory prison term 445
the maximum prison term prescribed for a felony of the first 446
degree. 447

(D) Arrest or conviction for a minor misdemeanor violation 448
of this section does not constitute a criminal record and need 449
not be reported by the person so arrested or convicted in 450
response to any inquiries about the person's criminal record, 451
including any inquiries contained in any application for 452
employment, license, or other right or privilege, or made in 453
connection with the person's appearance as a witness. 454

(E) In addition to any prison term or jail term authorized 455
or required by division (C) of this section and sections 456
2929.13, 2929.14, 2929.22, 2929.24, and 2929.25 of the Revised 457
Code and in addition to any other sanction that is imposed for 458
the offense under this section, sections 2929.11 to 2929.18, or 459
sections 2929.21 to 2929.28 of the Revised Code, the court that 460
sentences an offender who is convicted of or pleads guilty to a 461
violation of division (A) of this section shall do all of the 462
following that are applicable regarding the offender: 463

(1) (a) If the violation is a felony of the first, second, 464
or third degree, the court shall impose upon the offender the 465
mandatory fine specified for the offense under division (B) (1) 466
of section 2929.18 of the Revised Code unless, as specified in 467
that division, the court determines that the offender is 468
indigent. 469

(b) Notwithstanding any contrary provision of section 470
3719.21 of the Revised Code, the clerk of the court shall pay a 471
mandatory fine or other fine imposed for a violation of this 472
section pursuant to division (A) of section 2929.18 of the 473
Revised Code in accordance with and subject to the requirements 474
of division (F) of section 2925.03 of the Revised Code. The 475
agency that receives the fine shall use the fine as specified in 476
division (F) of section 2925.03 of the Revised Code. 477

(c) If a person is charged with a violation of this 478
section that is a felony of the first, second, or third degree, 479
posts bail, and forfeits the bail, the clerk shall pay the 480
forfeited bail pursuant to division (E) (1) (b) of this section as 481
if it were a mandatory fine imposed under division (E) (1) (a) of 482
this section. 483

(2) The court shall suspend for not less than six months 484

or more than five years the offender's driver's or commercial 485
driver's license or permit. 486

(3) If the offender is a professionally licensed person, 487
in addition to any other sanction imposed for a violation of 488
this section, the court immediately shall comply with section 489
2925.38 of the Revised Code. 490

(F) It is an affirmative defense, as provided in section 491
2901.05 of the Revised Code, to a charge of a fourth degree 492
felony violation under this section that the controlled 493
substance that gave rise to the charge is in an amount, is in a 494
form, is prepared, compounded, or mixed with substances that are 495
not controlled substances in a manner, or is possessed under any 496
other circumstances, that indicate that the substance was 497
possessed solely for personal use. Notwithstanding any contrary 498
provision of this section, if, in accordance with section 499
2901.05 of the Revised Code, an accused who is charged with a 500
fourth degree felony violation of division (C) (2), (4), (5), or 501
(6) of this section sustains the burden of going forward with 502
evidence of and establishes by a preponderance of the evidence 503
the affirmative defense described in this division, the accused 504
may be prosecuted for and may plead guilty to or be convicted of 505
a misdemeanor violation of division (C) (2) of this section or a 506
fifth degree felony violation of division (C) (4), (5), or (6) of 507
this section respectively. 508

(G) When a person is charged with possessing a bulk amount 509
or multiple of a bulk amount, division (E) of section 2925.03 of 510
the Revised Code applies regarding the determination of the 511
amount of the controlled substance involved at the time of the 512
offense. 513

(H) It is an affirmative defense to a charge of possession 514

of a controlled substance analog under division (C) (8) of this 515
section that the person charged with violating that offense 516
obtained, possessed, or used an item described in division (HH) 517
(2) (a), (b), or (c) of section 3719.01 of the Revised Code. 518

Sec. 2929.13. (A) Except as provided in division (E), (F), 519
or (G) of this section and unless a specific sanction is 520
required to be imposed or is precluded from being imposed 521
pursuant to law, a court that imposes a sentence upon an 522
offender for a felony may impose any sanction or combination of 523
sanctions on the offender that are provided in sections 2929.14 524
to 2929.18 of the Revised Code. 525

If the offender is eligible to be sentenced to community 526
control sanctions, the court shall consider the appropriateness 527
of imposing a financial sanction pursuant to section 2929.18 of 528
the Revised Code or a sanction of community service pursuant to 529
section 2929.17 of the Revised Code as the sole sanction for the 530
offense. Except as otherwise provided in this division, if the 531
court is required to impose a mandatory prison term for the 532
offense for which sentence is being imposed, the court also 533
shall impose any financial sanction pursuant to section 2929.18 534
of the Revised Code that is required for the offense and may 535
impose any other financial sanction pursuant to that section but 536
may not impose any additional sanction or combination of 537
sanctions under section 2929.16 or 2929.17 of the Revised Code. 538

If the offender is being sentenced for a fourth degree 539
felony OVI offense or for a third degree felony OVI offense, in 540
addition to the mandatory term of local incarceration or the 541
mandatory prison term required for the offense by division (G) 542
(1) or (2) of this section, the court shall impose upon the 543
offender a mandatory fine in accordance with division (B) (3) of 544

section 2929.18 of the Revised Code and may impose whichever of 545
the following is applicable: 546

(1) For a fourth degree felony OVI offense for which 547
sentence is imposed under division (G) (1) of this section, an 548
additional community control sanction or combination of 549
community control sanctions under section 2929.16 or 2929.17 of 550
the Revised Code. If the court imposes upon the offender a 551
community control sanction and the offender violates any 552
condition of the community control sanction, the court may take 553
any action prescribed in division (B) of section 2929.15 of the 554
Revised Code relative to the offender, including imposing a 555
prison term on the offender pursuant to that division. 556

(2) For a third or fourth degree felony OVI offense for 557
which sentence is imposed under division (G) (2) of this section, 558
an additional prison term as described in division (B) (4) of 559
section 2929.14 of the Revised Code or a community control 560
sanction as described in division (G) (2) of this section. 561

(B) (1) (a) Except as provided in division (B) (1) (b) of this 562
section, if an offender is convicted of or pleads guilty to a 563
felony of the fourth or fifth degree that is not an offense of 564
violence or that is a qualifying assault offense, the court 565
shall sentence the offender to a community control sanction of 566
at least one year's duration if all of the following apply: 567

(i) The offender previously has not been convicted of or 568
pleaded guilty to a felony offense. 569

(ii) The most serious charge against the offender at the 570
time of sentencing is a felony of the fourth or fifth degree. 571

(iii) If the court made a request of the department of 572
rehabilitation and correction pursuant to division (B) (1) (c) of 573

this section, the department, within the forty-five-day period 574
specified in that division, provided the court with the names 575
of, contact information for, and program details of one or more 576
community control sanctions of at least one year's duration that 577
are available for persons sentenced by the court. 578

(iv) The offender previously has not been convicted of or 579
pleaded guilty to a misdemeanor offense of violence that the 580
offender committed within two years prior to the offense for 581
which sentence is being imposed. 582

(b) The court has discretion to impose a prison term upon 583
an offender who is convicted of or pleads guilty to a felony of 584
the fourth or fifth degree that is not an offense of violence or 585
that is a qualifying assault offense if any of the following 586
apply: 587

(i) The offender committed the offense while having a 588
firearm on or about the offender's person or under the 589
offender's control. 590

(ii) If the offense is a qualifying assault offense, the 591
offender caused serious physical harm to another person while 592
committing the offense, and, if the offense is not a qualifying 593
assault offense, the offender caused physical harm to another 594
person while committing the offense. 595

(iii) The offender violated a term of the conditions of 596
bond as set by the court. 597

(iv) The court made a request of the department of 598
rehabilitation and correction pursuant to division (B)(1)(c) of 599
this section, and the department, within the forty-five-day 600
period specified in that division, did not provide the court 601
with the name of, contact information for, and program details 602

of any community control sanction of at least one year's 603
duration that is available for persons sentenced by the court. 604

(v) The offense is a sex offense that is a fourth or fifth 605
degree felony violation of any provision of Chapter 2907. of the 606
Revised Code. 607

(vi) In committing the offense, the offender attempted to 608
cause or made an actual threat of physical harm to a person with 609
a deadly weapon. 610

(vii) In committing the offense, the offender attempted to 611
cause or made an actual threat of physical harm to a person, and 612
the offender previously was convicted of an offense that caused 613
physical harm to a person. 614

(viii) The offender held a public office or position of 615
trust, and the offense related to that office or position; the 616
offender's position obliged the offender to prevent the offense 617
or to bring those committing it to justice; or the offender's 618
professional reputation or position facilitated the offense or 619
was likely to influence the future conduct of others. 620

(ix) The offender committed the offense for hire or as 621
part of an organized criminal activity. 622

(x) The offender at the time of the offense was serving, 623
or the offender previously had served, a prison term. 624

(xi) The offender committed the offense while under a 625
community control sanction, while on probation, or while 626
released from custody on a bond or personal recognizance. 627

(c) If a court that is sentencing an offender who is 628
convicted of or pleads guilty to a felony of the fourth or fifth 629
degree that is not an offense of violence or that is a 630

qualifying assault offense believes that no community control 631
sanctions are available for its use that, if imposed on the 632
offender, will adequately fulfill the overriding principles and 633
purposes of sentencing, the court shall contact the department 634
of rehabilitation and correction and ask the department to 635
provide the court with the names of, contact information for, 636
and program details of one or more community control sanctions 637
of at least one year's duration that are available for persons 638
sentenced by the court. Not later than forty-five days after 639
receipt of a request from a court under this division, the 640
department shall provide the court with the names of, contact 641
information for, and program details of one or more community 642
control sanctions of at least one year's duration that are 643
available for persons sentenced by the court, if any. Upon 644
making a request under this division that relates to a 645
particular offender, a court shall defer sentencing of that 646
offender until it receives from the department the names of, 647
contact information for, and program details of one or more 648
community control sanctions of at least one year's duration that 649
are available for persons sentenced by the court or for forty- 650
five days, whichever is the earlier. 651

If the department provides the court with the names of, 652
contact information for, and program details of one or more 653
community control sanctions of at least one year's duration that 654
are available for persons sentenced by the court within the 655
forty-five-day period specified in this division, the court 656
shall impose upon the offender a community control sanction 657
under division (B) (1) (a) of this section, except that the court 658
may impose a prison term under division (B) (1) (b) of this 659
section if a factor described in division (B) (1) (b) (i) or (ii) 660
of this section applies. If the department does not provide the 661

court with the names of, contact information for, and program
details of one or more community control sanctions of at least
one year's duration that are available for persons sentenced by
the court within the forty-five-day period specified in this
division, the court may impose upon the offender a prison term
under division (B) (1) (b) (iv) of this section.

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

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

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

(D) (1) Except as provided in division (E) or (F) of this

section, for a felony of the first or second degree, for a 692
felony drug offense that is a violation of any provision of 693
Chapter 2925., 3719., or 4729. of the Revised Code for which a 694
presumption in favor of a prison term is specified as being 695
applicable, and for a violation of division (A) (4) or (B) of 696
section 2907.05 of the Revised Code for which a presumption in 697
favor of a prison term is specified as being applicable, it is 698
presumed that a prison term is necessary in order to comply with 699
the purposes and principles of sentencing under section 2929.11 700
of the Revised Code. Division (D) (2) of this section does not 701
apply to a presumption established under this division for a 702
violation of division (A) (4) of section 2907.05 of the Revised 703
Code. 704

(2) Notwithstanding the presumption established under 705
division (D) (1) of this section for the offenses listed in that 706
division other than a violation of division (A) (4) or (B) of 707
section 2907.05 of the Revised Code, the sentencing court may 708
impose a community control sanction or a combination of 709
community control sanctions instead of a prison term on an 710
offender for a felony of the first or second degree or for a 711
felony drug offense that is a violation of any provision of 712
Chapter 2925., 3719., or 4729. of the Revised Code for which a 713
presumption in favor of a prison term is specified as being 714
applicable if it makes both of the following findings: 715

(a) A community control sanction or a combination of 716
community control sanctions would adequately punish the offender 717
and protect the public from future crime, because the applicable 718
factors under section 2929.12 of the Revised Code indicating a 719
lesser likelihood of recidivism outweigh the applicable factors 720
under that section indicating a greater likelihood of 721
recidivism. 722

(b) A community control sanction or a combination of 723
community control sanctions would not demean the seriousness of 724
the offense, because one or more factors under section 2929.12 725
of the Revised Code that indicate that the offender's conduct 726
was less serious than conduct normally constituting the offense 727
are applicable, and they outweigh the applicable factors under 728
that section that indicate that the offender's conduct was more 729
serious than conduct normally constituting the offense. 730

(E) (1) Except as provided in division (F) of this section, 731
for any drug offense that is a violation of any provision of 732
Chapter 2925. of the Revised Code and that is a felony of the 733
third, fourth, or fifth degree, the applicability of a 734
presumption under division (D) of this section in favor of a 735
prison term or of division (B) or (C) of this section in 736
determining whether to impose a prison term for the offense 737
shall be determined as specified in section 2925.02, 2925.03, 738
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 739
2925.36, or 2925.37 of the Revised Code, whichever is applicable 740
regarding the violation. 741

(2) If an offender who was convicted of or pleaded guilty 742
to a felony violates the conditions of a community control 743
sanction imposed for the offense solely by reason of producing 744
positive results on a drug test or by acting pursuant to 745
division (B) (2) (a) or (b) of section 2925.11 of the Revised Code 746
with respect to a minor drug possession offense, the court, as 747
punishment for the violation of the sanction, shall not order 748
that the offender be imprisoned unless the court determines on 749
the record either of the following: 750

(a) The offender had been ordered as a sanction for the 751
felony to participate in a drug treatment program, in a drug 752

education program, or in narcotics anonymous or a similar 753
program, and the offender continued to use illegal drugs after a 754
reasonable period of participation in the program. 755

(b) The imprisonment of the offender for the violation is 756
consistent with the purposes and principles of sentencing set 757
forth in section 2929.11 of the Revised Code. 758

(3) A court that sentences an offender for a drug abuse 759
offense that is a felony of the third, fourth, or fifth degree 760
may require that the offender be assessed by a properly 761
credentialed professional within a specified period of time. The 762
court shall require the professional to file a written 763
assessment of the offender with the court. If the offender is 764
eligible for a community control sanction and after considering 765
the written assessment, the court may impose a community control 766
sanction that includes treatment and recovery support services 767
authorized by section 3793.02 of the Revised Code. If the court 768
imposes treatment and recovery support services as a community 769
control sanction, the court shall direct the level and type of 770
treatment and recovery support services after considering the 771
assessment and recommendation of treatment and recovery support 772
services providers. 773

(F) Notwithstanding divisions (A) to (E) of this section, 774
the court shall impose a prison term or terms under sections 775
2929.02 to 2929.06, section 2929.14, section 2929.142, or 776
section 2971.03 of the Revised Code and except as specifically 777
provided in section 2929.20, divisions (C) to (I) of section 778
2967.19, or section 2967.191 of the Revised Code or when parole 779
is authorized for the offense under section 2967.13 of the 780
Revised Code shall not reduce the term or terms pursuant to 781
section 2929.20, section 2967.19, section 2967.193, or any other 782

provision of Chapter 2967. or Chapter 5120. of the Revised Code 783
for any of the following offenses: 784

(1) Aggravated murder when death is not imposed or murder; 785

(2) Any rape, regardless of whether force was involved and 786
regardless of the age of the victim, or an attempt to commit 787
rape if, had the offender completed the rape that was attempted, 788
the offender would have been guilty of a violation of division 789
(A) (1) (b) of section 2907.02 of the Revised Code and would be 790
sentenced under section 2971.03 of the Revised Code; 791

(3) Gross sexual imposition or sexual battery, if the 792
victim is less than thirteen years of age and if any of the 793
following applies: 794

(a) Regarding gross sexual imposition, the offender 795
previously was convicted of or pleaded guilty to rape, the 796
former offense of felonious sexual penetration, gross sexual 797
imposition, or sexual battery, and the victim of the previous 798
offense was less than thirteen years of age; 799

(b) Regarding gross sexual imposition, the offense was 800
committed on or after August 3, 2006, and evidence other than 801
the testimony of the victim was admitted in the case 802
corroborating the violation. 803

(c) Regarding sexual battery, either of the following 804
applies: 805

(i) The offense was committed prior to August 3, 2006, the 806
offender previously was convicted of or pleaded guilty to rape, 807
the former offense of felonious sexual penetration, or sexual 808
battery, and the victim of the previous offense was less than 809
thirteen years of age. 810

- (ii) The offense was committed on or after August 3, 2006. 811
- (4) A felony violation of section 2903.04, 2903.06, 812
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, or 2907.07 of the 813
Revised Code if the section requires the imposition of a prison 814
term; 815
- (5) A first, second, or third degree felony drug offense 816
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 817
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 818
or 4729.99 of the Revised Code, whichever is applicable 819
regarding the violation, requires the imposition of a mandatory 820
prison term; 821
- (6) Any offense that is a first or second degree felony 822
and that is not set forth in division (F)(1), (2), (3), or (4) 823
of this section, if the offender previously was convicted of or 824
pleaded guilty to aggravated murder, murder, any first or second 825
degree felony, or an offense under an existing or former law of 826
this state, another state, or the United States that is or was 827
substantially equivalent to one of those offenses; 828
- (7) Any offense that is a third degree felony and either 829
is a violation of section 2903.04 of the Revised Code or an 830
attempt to commit a felony of the second degree that is an 831
offense of violence and involved an attempt to cause serious 832
physical harm to a person or that resulted in serious physical 833
harm to a person if the offender previously was convicted of or 834
pleaded guilty to any of the following offenses: 835
- (a) Aggravated murder, murder, involuntary manslaughter, 836
rape, felonious sexual penetration as it existed under section 837
2907.12 of the Revised Code prior to September 3, 1996, a felony 838
of the first or second degree that resulted in the death of a 839

person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

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

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

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

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

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

(12) A violation of division (A) (1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A) (1) or (2) of that section, if the offender is an officer or employee of

the department of rehabilitation and correction; 869

(13) A violation of division (A) (1) or (2) of section 870
2903.06 of the Revised Code if the victim of the offense is a 871
peace officer, as defined in section 2935.01 of the Revised 872
Code, or an investigator of the bureau of criminal 873
identification and investigation, as defined in section 2903.11 874
of the Revised Code, with respect to the portion of the sentence 875
imposed pursuant to division (B) (5) of section 2929.14 of the 876
Revised Code; 877

(14) A violation of division (A) (1) or (2) of section 878
2903.06 of the Revised Code if the offender has been convicted 879
of or pleaded guilty to three or more violations of division (A) 880
or (B) of section 4511.19 of the Revised Code or an equivalent 881
offense, as defined in section 2941.1415 of the Revised Code, or 882
three or more violations of any combination of those divisions 883
and offenses, with respect to the portion of the sentence 884
imposed pursuant to division (B) (6) of section 2929.14 of the 885
Revised Code; 886

(15) Kidnapping, in the circumstances specified in section 887
2971.03 of the Revised Code and when no other provision of 888
division (F) of this section applies; 889

(16) Kidnapping, abduction, compelling prostitution, 890
promoting prostitution, engaging in a pattern of corrupt 891
activity, illegal use of a minor in a nudity-oriented material 892
or performance in violation of division (A) (1) or (2) of section 893
2907.323 of the Revised Code, or endangering children in 894
violation of division (B) (1), (2), (3), (4), or (5) of section 895
2919.22 of the Revised Code, if the offender is convicted of or 896
pleads guilty to a specification as described in section 897
2941.1422 of the Revised Code that was included in the 898

indictment, count in the indictment, or information charging the offense; 899
900

(17) A felony violation of division (A) or (B) of section 2919.25 of the Revised Code if division (D) (3), (4), or (5) of that section, and division (D) (6) of that section, require the imposition of a prison term; 901
902
903
904

(18) A felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code, if the victim of the offense was a woman that the offender knew was pregnant at the time of the violation, with respect to a portion of the sentence imposed pursuant to division (B) (8) of section 2929.14 of the Revised Code. 905
906
907
908
909
910

(G) Notwithstanding divisions (A) to (E) of this section, if an offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, the court shall impose upon the offender a mandatory term of local incarceration or a mandatory prison term in accordance with the following: 911
912
913
914
915
916

(1) If the offender is being sentenced for a fourth degree felony OVI offense and if the offender has not been convicted of and has not pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code, the court may impose upon the offender a mandatory term of local incarceration of sixty days or one hundred twenty days as specified in division (G) (1) (d) of section 4511.19 of the Revised Code. The court shall not reduce the term pursuant to section 2929.20, 2967.193, or any other provision of the Revised Code. The court that imposes a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional 917
918
919
920
921
922
923
924
925
926
927
928

facility, a halfway house, or an alternative residential 929
facility, and the offender shall serve the term in the type of 930
facility specified by the court. A mandatory term of local 931
incarceration imposed under division (G)(1) of this section is 932
not subject to any other Revised Code provision that pertains to 933
a prison term except as provided in division (A)(1) of this 934
section. 935

(2) If the offender is being sentenced for a third degree 936
felony OVI offense, or if the offender is being sentenced for a 937
fourth degree felony OVI offense and the court does not impose a 938
mandatory term of local incarceration under division (G)(1) of 939
this section, the court shall impose upon the offender a 940
mandatory prison term of one, two, three, four, or five years if 941
the offender also is convicted of or also pleads guilty to a 942
specification of the type described in section 2941.1413 of the 943
Revised Code or shall impose upon the offender a mandatory 944
prison term of sixty days or one hundred twenty days as 945
specified in division (G)(1)(d) or (e) of section 4511.19 of the 946
Revised Code if the offender has not been convicted of and has 947
not pleaded guilty to a specification of that type. Subject to 948
divisions (C) to (I) of section 2967.19 of the Revised Code, the 949
court shall not reduce the term pursuant to section 2929.20, 950
2967.19, 2967.193, or any other provision of the Revised Code. 951
The offender shall serve the one-, two-, three-, four-, or five- 952
year mandatory prison term consecutively to and prior to the 953
prison term imposed for the underlying offense and consecutively 954
to any other mandatory prison term imposed in relation to the 955
offense. In no case shall an offender who once has been 956
sentenced to a mandatory term of local incarceration pursuant to 957
division (G)(1) of this section for a fourth degree felony OVI 958
offense be sentenced to another mandatory term of local 959

incarceration under that division for any violation of division 960
(A) of section 4511.19 of the Revised Code. In addition to the 961
mandatory prison term described in division (G) (2) of this 962
section, the court may sentence the offender to a community 963
control sanction under section 2929.16 or 2929.17 of the Revised 964
Code, but the offender shall serve the prison term prior to 965
serving the community control sanction. The department of 966
rehabilitation and correction may place an offender sentenced to 967
a mandatory prison term under this division in an intensive 968
program prison established pursuant to section 5120.033 of the 969
Revised Code if the department gave the sentencing judge prior 970
notice of its intent to place the offender in an intensive 971
program prison established under that section and if the judge 972
did not notify the department that the judge disapproved the 973
placement. Upon the establishment of the initial intensive 974
program prison pursuant to section 5120.033 of the Revised Code 975
that is privately operated and managed by a contractor pursuant 976
to a contract entered into under section 9.06 of the Revised 977
Code, both of the following apply: 978

(a) The department of rehabilitation and correction shall 979
make a reasonable effort to ensure that a sufficient number of 980
offenders sentenced to a mandatory prison term under this 981
division are placed in the privately operated and managed prison 982
so that the privately operated and managed prison has full 983
occupancy. 984

(b) Unless the privately operated and managed prison has 985
full occupancy, the department of rehabilitation and correction 986
shall not place any offender sentenced to a mandatory prison 987
term under this division in any intensive program prison 988
established pursuant to section 5120.033 of the Revised Code 989
other than the privately operated and managed prison. 990

(H) If an offender is being sentenced for a sexually 991
oriented offense or child-victim oriented offense that is a 992
felony committed on or after January 1, 1997, the judge shall 993
require the offender to submit to a DNA specimen collection 994
procedure pursuant to section 2901.07 of the Revised Code. 995

(I) If an offender is being sentenced for a sexually 996
oriented offense or a child-victim oriented offense committed on 997
or after January 1, 1997, the judge shall include in the 998
sentence a summary of the offender's duties imposed under 999
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 1000
Code and the duration of the duties. The judge shall inform the 1001
offender, at the time of sentencing, of those duties and of 1002
their duration. If required under division (A)(2) of section 1003
2950.03 of the Revised Code, the judge shall perform the duties 1004
specified in that section, or, if required under division (A)(6) 1005
of section 2950.03 of the Revised Code, the judge shall perform 1006
the duties specified in that division. 1007

(J)(1) Except as provided in division (J)(2) of this 1008
section, when considering sentencing factors under this section 1009
in relation to an offender who is convicted of or pleads guilty 1010
to an attempt to commit an offense in violation of section 1011
2923.02 of the Revised Code, the sentencing court shall consider 1012
the factors applicable to the felony category of the violation 1013
of section 2923.02 of the Revised Code instead of the factors 1014
applicable to the felony category of the offense attempted. 1015

(2) When considering sentencing factors under this section 1016
in relation to an offender who is convicted of or pleads guilty 1017
to an attempt to commit a drug abuse offense for which the 1018
penalty is determined by the amount or number of unit doses of 1019
the controlled substance involved in the drug abuse offense, the 1020

sentencing court shall consider the factors applicable to the 1021
felony category that the drug abuse offense attempted would be 1022
if that drug abuse offense had been committed and had involved 1023
an amount or number of unit doses of the controlled substance 1024
that is within the next lower range of controlled substance 1025
amounts than was involved in the attempt. 1026

(K) As used in this section: 1027

(1) "Drug abuse offense"~~has~~ and "minor drug possession
offense" have the same ~~meaning~~ meanings as in section 2925.01 1028
of the Revised Code. 1029
1030

(2) "Qualifying assault offense" means a violation of 1031
section 2903.13 of the Revised Code for which the penalty 1032
provision in division (C) (8) (b) or (C) (9) (b) of that section 1033
applies. 1034

(L) At the time of sentencing an offender for any sexually 1035
oriented offense, if the offender is a tier III sex 1036
offender/child-victim offender relative to that offense and the 1037
offender does not serve a prison term or jail term, the court 1038
may require that the offender be monitored by means of a global 1039
positioning device. If the court requires such monitoring, the 1040
cost of monitoring shall be borne by the offender. If the 1041
offender is indigent, the cost of compliance shall be paid by 1042
the crime victims reparations fund. 1043

Sec. 2929.141. (A) Upon the conviction of or plea of 1044
guilty to a felony by a person on post-release control at the 1045
time of the commission of the felony, the court may terminate 1046
the term of post-release control, and the court may do either of 1047
the following regardless of whether the sentencing court or 1048
another court of this state imposed the original prison term for 1049

which the person is on post-release control: 1050

(1) In addition to any prison term for the new felony, 1051
impose a prison term for the post-release control violation. The 1052
maximum prison term for the violation shall be the greater of 1053
twelve months or the period of post-release control for the 1054
earlier felony minus any time the person has spent under post- 1055
release control for the earlier felony. In all cases, any prison 1056
term imposed for the violation shall be reduced by any prison 1057
term that is administratively imposed by the parole board as a 1058
post-release control sanction. A prison term imposed for the 1059
violation shall be served consecutively to any prison term 1060
imposed for the new felony. The imposition of a prison term for 1061
the post-release control violation shall terminate the period of 1062
post-release control for the earlier felony. 1063

(2) Impose a sanction under sections 2929.15 to 2929.18 of 1064
the Revised Code for the violation that shall be served 1065
concurrently or consecutively, as specified by the court, with 1066
any community control sanctions for the new felony. 1067

(B) If a person on post-release control was acting 1068
pursuant to division (B) (2) (a) or (b) of section 2925.11 of the 1069
Revised Code and in so doing violated the conditions of a post- 1070
release control sanction based on a minor drug possession 1071
offense, as defined in section 2925.01 of the Revised Code, the 1072
court may consider the person's conduct in seeking or obtaining 1073
medical assistance for another in good faith or for self or may 1074
consider the person being the subject of another person seeking 1075
or obtaining medical assistance in accordance with either of 1076
those divisions as a mitigating factor before imposing any of 1077
the penalties described in division (A) of this section. 1078

(C) Upon the conviction of or plea of guilty to a felony 1079

by a person on transitional control under section 2967.26 of the Revised Code at the time of the commission of the felony, the court may, in addition to any prison term for the new felony, impose a prison term not exceeding twelve months for having committed the felony while on transitional control. An additional prison term imposed pursuant to this section shall be served consecutively to any prison term imposed for the new felony. The sentencing court may impose the additional prison term authorized by this section regardless of whether the sentencing court or another court of this state imposed the original prison term for which the person is on transitional control.

Sec. 2929.15. (A) (1) If in sentencing an offender for a felony the court is not required to impose a prison term, a mandatory prison term, or a term of life imprisonment upon the offender, the court may directly impose a sentence that consists of one or more community control sanctions authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code. If the court is sentencing an offender for a fourth degree felony OVI offense under division (G) (1) of section 2929.13 of the Revised Code, in addition to the mandatory term of local incarceration imposed under that division and the mandatory fine required by division (B) (3) of section 2929.18 of the Revised Code, the court may impose upon the offender a community control sanction or combination of community control sanctions in accordance with sections 2929.16 and 2929.17 of the Revised Code. If the court is sentencing an offender for a third or fourth degree felony OVI offense under division (G) (2) of section 2929.13 of the Revised Code, in addition to the mandatory prison term or mandatory prison term and additional prison term imposed under that division, the court also may

impose upon the offender a community control sanction or 1111
combination of community control sanctions under section 2929.16 1112
or 2929.17 of the Revised Code, but the offender shall serve all 1113
of the prison terms so imposed prior to serving the community 1114
control sanction. 1115

The duration of all community control sanctions imposed 1116
upon an offender under this division shall not exceed five 1117
years. If the offender absconds or otherwise leaves the 1118
jurisdiction of the court in which the offender resides without 1119
obtaining permission from the court or the offender's probation 1120
officer to leave the jurisdiction of the court, or if the 1121
offender is confined in any institution for the commission of 1122
any offense while under a community control sanction, the period 1123
of the community control sanction ceases to run until the 1124
offender is brought before the court for its further action. If 1125
the court sentences the offender to one or more nonresidential 1126
sanctions under section 2929.17 of the Revised Code, the court 1127
shall impose as a condition of the nonresidential sanctions 1128
that, during the period of the sanctions, the offender must 1129
abide by the law and must not leave the state without the 1130
permission of the court or the offender's probation officer. The 1131
court may impose any other conditions of release under a 1132
community control sanction that the court considers appropriate, 1133
including, but not limited to, requiring that the offender not 1134
ingest or be injected with a drug of abuse and submit to random 1135
drug testing as provided in division (D) of this section to 1136
determine whether the offender ingested or was injected with a 1137
drug of abuse and requiring that the results of the drug test 1138
indicate that the offender did not ingest or was not injected 1139
with a drug of abuse. 1140

(2) (a) If a court sentences an offender to any community 1141

control sanction or combination of community control sanctions 1142
authorized pursuant to section 2929.16, 2929.17, or 2929.18 of 1143
the Revised Code, the court shall place the offender under the 1144
general control and supervision of a department of probation in 1145
the county that serves the court for purposes of reporting to 1146
the court a violation of any condition of the sanctions, any 1147
condition of release under a community control sanction imposed 1148
by the court, a violation of law, or the departure of the 1149
offender from this state without the permission of the court or 1150
the offender's probation officer. Alternatively, if the offender 1151
resides in another county and a county department of probation 1152
has been established in that county or that county is served by 1153
a multicounty probation department established under section 1154
2301.27 of the Revised Code, the court may request the court of 1155
common pleas of that county to receive the offender into the 1156
general control and supervision of that county or multicounty 1157
department of probation for purposes of reporting to the court a 1158
violation of any condition of the sanctions, any condition of 1159
release under a community control sanction imposed by the court, 1160
a violation of law, or the departure of the offender from this 1161
state without the permission of the court or the offender's 1162
probation officer, subject to the jurisdiction of the trial 1163
judge over and with respect to the person of the offender, and 1164
to the rules governing that department of probation. 1165

If there is no department of probation in the county that 1166
serves the court, the court shall place the offender, regardless 1167
of the offender's county of residence, under the general control 1168
and supervision of the adult parole authority for purposes of 1169
reporting to the court a violation of any of the sanctions, any 1170
condition of release under a community control sanction imposed 1171
by the court, a violation of law, or the departure of the 1172

offender from this state without the permission of the court or 1173
the offender's probation officer. 1174

(b) If the court imposing sentence upon an offender 1175
sentences the offender to any community control sanction or 1176
combination of community control sanctions authorized pursuant 1177
to section 2929.16, 2929.17, or 2929.18 of the Revised Code, and 1178
if the offender violates any condition of the sanctions, any 1179
condition of release under a community control sanction imposed 1180
by the court, violates any law, or departs the state without the 1181
permission of the court or the offender's probation officer, the 1182
public or private person or entity that operates or administers 1183
the sanction or the program or activity that comprises the 1184
sanction shall report the violation or departure directly to the 1185
sentencing court, or shall report the violation or departure to 1186
the county or multicounty department of probation with general 1187
control and supervision over the offender under division (A)(2) 1188
(a) of this section or the officer of that department who 1189
supervises the offender, or, if there is no such department with 1190
general control and supervision over the offender under that 1191
division, to the adult parole authority. If the public or 1192
private person or entity that operates or administers the 1193
sanction or the program or activity that comprises the sanction 1194
reports the violation or departure to the county or multicounty 1195
department of probation or the adult parole authority, the 1196
department's or authority's officers may treat the offender as 1197
if the offender were on probation and in violation of the 1198
probation, and shall report the violation of the condition of 1199
the sanction, any condition of release under a community control 1200
sanction imposed by the court, the violation of law, or the 1201
departure from the state without the required permission to the 1202
sentencing court. 1203

(3) If an offender who is eligible for community control sanctions under this section admits to being drug addicted or the court has reason to believe that the offender is drug addicted, and if the offense for which the offender is being sentenced was related to the addiction, the court may require that the offender be assessed by a properly credentialed professional within a specified period of time and shall require the professional to file a written assessment of the offender with the court. If a court imposes treatment and recovery support services as a community control sanction, the court shall direct the level and type of treatment and recovery support services after consideration of the written assessment, if available at the time of sentencing, and recommendations of the professional and other treatment and recovery support services providers.

(4) If an assessment completed pursuant to division (A) (3) of this section indicates that the offender is addicted to drugs or alcohol, the court may include in any community control sanction imposed for a violation of section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code a requirement that the offender participate in a treatment and recovery support services program certified under section 5119.36 of the Revised Code or offered by another properly credentialed community addiction services provider.

(B) (1) If the conditions of a community control sanction are violated or if the offender violates a law or leaves the state without the permission of the court or the offender's probation officer, the sentencing court may impose upon the violator one or more of the following penalties:

(a) A longer time under the same sanction if the total
time under the sanctions does not exceed the five-year limit
specified in division (A) of this section;

(b) A more restrictive sanction under section 2929.16,
2929.17, or 2929.18 of the Revised Code;

(c) A prison term on the offender pursuant to section
2929.14 of the Revised Code.

(2) If an offender was acting pursuant to division (B) (2)
(a) or (b) of section 2925.11 of the Revised Code and in so
doing violated the conditions of a community control sanction
based on a minor drug possession offense, as defined in section
2925.01 of the Revised Code, the sentencing court may consider
the offender's conduct in seeking or obtaining medical
assistance for another in good faith or for self or may consider
the offender being the subject of another person seeking or
obtaining medical assistance in accordance with either of those
divisions as a mitigating factor before imposing any of the
penalties described in division (B) (1) of this section.

(3) The prison term, if any, imposed upon a violator
pursuant to this division shall be within the range of prison
terms available for the offense for which the sanction that was
violated was imposed and shall not exceed the prison term
specified in the notice provided to the offender at the
sentencing hearing pursuant to division (B) (2) of section
2929.19 of the Revised Code. The court may reduce the longer
period of time that the offender is required to spend under the
longer sanction, the more restrictive sanction, or a prison term
imposed pursuant to this division by the time the offender
successfully spent under the sanction that was initially
imposed.

(C) If an offender, for a significant period of time, 1264
fulfills the conditions of a sanction imposed pursuant to 1265
section 2929.16, 2929.17, or 2929.18 of the Revised Code in an 1266
exemplary manner, the court may reduce the period of time under 1267
the sanction or impose a less restrictive sanction, but the 1268
court shall not permit the offender to violate any law or permit 1269
the offender to leave the state without the permission of the 1270
court or the offender's probation officer. 1271

(D) (1) If a court under division (A) (1) of this section 1272
imposes a condition of release under a community control 1273
sanction that requires the offender to submit to random drug 1274
testing, the department of probation or the adult parole 1275
authority that has general control and supervision of the 1276
offender under division (A) (2) (a) of this section may cause the 1277
offender to submit to random drug testing performed by a 1278
laboratory or entity that has entered into a contract with any 1279
of the governmental entities or officers authorized to enter 1280
into a contract with that laboratory or entity under section 1281
341.26, 753.33, or 5120.63 of the Revised Code. 1282

(2) If no laboratory or entity described in division (D) 1283
(1) of this section has entered into a contract as specified in 1284
that division, the department of probation or the adult parole 1285
authority that has general control and supervision of the 1286
offender under division (A) (2) (a) of this section shall cause 1287
the offender to submit to random drug testing performed by a 1288
reputable public laboratory to determine whether the individual 1289
who is the subject of the drug test ingested or was injected 1290
with a drug of abuse. 1291

(3) A laboratory or entity that has entered into a 1292
contract pursuant to section 341.26, 753.33, or 5120.63 of the 1293

Revised Code shall perform the random drug tests under division 1294
(D) (1) of this section in accordance with the applicable 1295
standards that are included in the terms of that contract. A 1296
public laboratory shall perform the random drug tests under 1297
division (D) (2) of this section in accordance with the standards 1298
set forth in the policies and procedures established by the 1299
department of rehabilitation and correction pursuant to section 1300
5120.63 of the Revised Code. An offender who is required under 1301
division (A) (1) of this section to submit to random drug testing 1302
as a condition of release under a community control sanction and 1303
whose test results indicate that the offender ingested or was 1304
injected with a drug of abuse shall pay the fee for the drug 1305
test if the department of probation or the adult parole 1306
authority that has general control and supervision of the 1307
offender requires payment of a fee. A laboratory or entity that 1308
performs the random drug testing on an offender under division 1309
(D) (1) or (2) of this section shall transmit the results of the 1310
drug test to the appropriate department of probation or the 1311
adult parole authority that has general control and supervision 1312
of the offender under division (A) (2) (a) of this section. 1313

Sec. 2929.25. (A) (1) Except as provided in sections 1314
2929.22 and 2929.23 of the Revised Code or when a jail term is 1315
required by law, in sentencing an offender for a misdemeanor, 1316
other than a minor misdemeanor, the sentencing court may do 1317
either of the following: 1318

(a) Directly impose a sentence that consists of one or 1319
more community control sanctions authorized by section 2929.26, 1320
2929.27, or 2929.28 of the Revised Code. The court may impose 1321
any other conditions of release under a community control 1322
sanction that the court considers appropriate. If the court 1323
imposes a jail term upon the offender, the court may impose any 1324

community control sanction or combination of community control 1325
sanctions in addition to the jail term. 1326

(b) Impose a jail term under section 2929.24 of the 1327
Revised Code from the range of jail terms authorized under that 1328
section for the offense, suspend all or a portion of the jail 1329
term imposed, and place the offender under a community control 1330
sanction or combination of community control sanctions 1331
authorized under section 2929.26, 2929.27, or 2929.28 of the 1332
Revised Code. 1333

(2) The duration of all community control sanctions 1334
imposed upon an offender and in effect for an offender at any 1335
time shall not exceed five years. 1336

(3) At sentencing, if a court directly imposes a community 1337
control sanction or combination of community control sanctions 1338
pursuant to division (A)(1)(a) or (B) of this section, the court 1339
shall state the duration of the community control sanctions 1340
imposed and shall notify the offender that if any of the 1341
conditions of the community control sanctions are violated the 1342
court may do any of the following: 1343

(a) Impose a longer time under the same community control 1344
sanction if the total time under all of the offender's community 1345
control sanctions does not exceed the five-year limit specified 1346
in division (A)(2) of this section; 1347

(b) Impose a more restrictive community control sanction 1348
under section 2929.26, 2929.27, or 2929.28 of the Revised Code, 1349
but the court is not required to impose any particular sanction 1350
or sanctions; 1351

(c) Impose a definite jail term from the range of jail 1352
terms authorized for the offense under section 2929.24 of the 1353

Revised Code. 1354

(B) If a court sentences an offender to any community 1355
control sanction or combination of community control sanctions 1356
pursuant to division (A)(1)(a) of this section, the sentencing 1357
court retains jurisdiction over the offender and the period of 1358
community control for the duration of the period of community 1359
control. Upon the motion of either party or on the court's own 1360
motion, the court, in the court's sole discretion and as the 1361
circumstances warrant, may modify the community control 1362
sanctions or conditions of release previously imposed, 1363
substitute a community control sanction or condition of release 1364
for another community control sanction or condition of release 1365
previously imposed, or impose an additional community control 1366
sanction or condition of release. 1367

(C)(1) If a court sentences an offender to any community 1368
control sanction or combination of community control sanctions 1369
authorized under section 2929.26, 2929.27, or 2929.28 of the 1370
Revised Code, the court shall place the offender under the 1371
general control and supervision of the court or of a department 1372
of probation in the jurisdiction that serves the court for 1373
purposes of reporting to the court a violation of any of the 1374
conditions of the sanctions imposed. If the offender resides in 1375
another jurisdiction and a department of probation has been 1376
established to serve the municipal court or county court in that 1377
jurisdiction, the sentencing court may request the municipal 1378
court or the county court to receive the offender into the 1379
general control and supervision of that department of probation 1380
for purposes of reporting to the sentencing court a violation of 1381
any of the conditions of the sanctions imposed. The sentencing 1382
court retains jurisdiction over any offender whom it sentences 1383
for the duration of the sanction or sanctions imposed. 1384

(2) The sentencing court shall require as a condition of any community control sanction that the offender abide by the law and not leave the state without the permission of the court or the offender's probation officer. In the interests of doing justice, rehabilitating the offender, and ensuring the offender's good behavior, the court may impose additional requirements on the offender. The offender's compliance with the additional requirements also shall be a condition of the community control sanction imposed upon the offender.

(D)(1) If the court imposing sentence upon an offender sentences the offender to any community control sanction or combination of community control sanctions authorized under section 2929.26, 2929.27, or 2929.28 of the Revised Code, and if the offender violates any of the conditions of the sanctions, the public or private person or entity that supervises or administers the program or activity that comprises the sanction shall report the violation directly to the sentencing court or to the department of probation or probation officer with general control and supervision over the offender. If the public or private person or entity reports the violation to the department of probation or probation officer, the department or officer shall report the violation to the sentencing court.

(2) If an offender violates any condition of a community control sanction, the sentencing court may impose upon the violator one or more of the following penalties:

(a) A longer time under the same community control sanction if the total time under all of the community control sanctions imposed on the violator does not exceed the five-year limit specified in division (A)(2) of this section;

(b) A more restrictive community control sanction;

(c) A combination of community control sanctions, 1415
including a jail term. 1416

(3) If an offender was acting pursuant to division (B) (2) 1417
(a) or (b) of section 2925.11 of the Revised Code and in so 1418
doing violated the conditions of a community control sanction 1419
based on a minor drug possession offense, as defined in section 1420
2925.01 of the Revised Code, the sentencing court may consider 1421
the offender's conduct in seeking or obtaining medical 1422
assistance for another in good faith or for self or may consider 1423
the offender being the subject of another person seeking or 1424
obtaining medical assistance in accordance with either of those 1425
divisions as a mitigating factor before imposing any of the 1426
penalties described in division (D) (2) of this section. 1427

(4) If the court imposes a jail term upon a violator 1428
pursuant to division (D) (2) of this section, the total time 1429
spent in jail for the misdemeanor offense and the violation of a 1430
condition of the community control sanction shall not exceed the 1431
maximum jail term available for the offense for which the 1432
sanction that was violated was imposed. The court may reduce the 1433
longer period of time that the violator is required to spend 1434
under the longer sanction or the more restrictive sanction 1435
imposed under division (D) (2) of this section by all or part of 1436
the time the violator successfully spent under the sanction that 1437
was initially imposed. 1438

(E) Except as otherwise provided in this division, if an 1439
offender, for a significant period of time, fulfills the 1440
conditions of a community control sanction imposed pursuant to 1441
section 2929.26, 2929.27, or 2929.28 of the Revised Code in an 1442
exemplary manner, the court may reduce the period of time under 1443
the community control sanction or impose a less restrictive 1444

community control sanction. Fulfilling the conditions of a 1445
community control sanction does not relieve the offender of a 1446
duty to make restitution under section 2929.28 of the Revised 1447
Code. 1448

Sec. 2967.28. (A) As used in this section: 1449

(1) "Monitored time" means the monitored time sanction 1450
specified in section 2929.17 of the Revised Code. 1451

(2) "Deadly weapon" and "dangerous ordnance" have the same 1452
meanings as in section 2923.11 of the Revised Code. 1453

(3) "Felony sex offense" means a violation of a section 1454
contained in Chapter 2907. of the Revised Code that is a felony. 1455

(4) "Risk reduction sentence" means a prison term imposed 1456
by a court, when the court recommends pursuant to section 1457
2929.143 of the Revised Code that the offender serve the 1458
sentence under section 5120.036 of the Revised Code, and the 1459
offender may potentially be released from imprisonment prior to 1460
the expiration of the prison term if the offender successfully 1461
completes all assessment and treatment or programming required 1462
by the department of rehabilitation and correction under section 1463
5120.036 of the Revised Code. 1464

(5) "Victim's immediate family" has the same meaning as in 1465
section 2967.12 of the Revised Code. 1466

(6) "Minor drug possession offense" has the same meaning 1467
as in section 2925.01 of the Revised Code. 1468

(B) Each sentence to a prison term for a felony of the 1469
first degree, for a felony of the second degree, for a felony 1470
sex offense, or for a felony of the third degree that is an 1471
offense of violence and is not a felony sex offense shall 1472

include a requirement that the offender be subject to a period 1473
of post-release control imposed by the parole board after the 1474
offender's release from imprisonment. This division applies with 1475
respect to all prison terms of a type described in this 1476
division, including a term of any such type that is a risk 1477
reduction sentence. If a court imposes a sentence including a 1478
prison term of a type described in this division on or after 1479
July 11, 2006, the failure of a sentencing court to notify the 1480
offender pursuant to division (B) (2) (c) of section 2929.19 of 1481
the Revised Code of this requirement or to include in the 1482
judgment of conviction entered on the journal a statement that 1483
the offender's sentence includes this requirement does not 1484
negate, limit, or otherwise affect the mandatory period of 1485
supervision that is required for the offender under this 1486
division. Section 2929.191 of the Revised Code applies if, prior 1487
to July 11, 2006, a court imposed a sentence including a prison 1488
term of a type described in this division and failed to notify 1489
the offender pursuant to division (B) (2) (c) of section 2929.19 1490
of the Revised Code regarding post-release control or to include 1491
in the judgment of conviction entered on the journal or in the 1492
sentence pursuant to division (D) (1) of section 2929.14 of the 1493
Revised Code a statement regarding post-release control. Unless 1494
reduced by the parole board pursuant to division (D) of this 1495
section when authorized under that division, a period of post- 1496
release control required by this division for an offender shall 1497
be of one of the following periods: 1498

(1) For a felony of the first degree or for a felony sex 1499
offense, five years; 1500

(2) For a felony of the second degree that is not a felony 1501
sex offense, three years; 1502

(3) For a felony of the third degree that is an offense of violence and is not a felony sex offense, three years.

(C) Any sentence to a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (B) (1) or (3) of this section shall include a requirement that the offender be subject to a period of post-release control of up to three years after the offender's release from imprisonment, if the parole board, in accordance with division (D) of this section, determines that a period of post-release control is necessary for that offender. This division applies with respect to all prison terms of a type described in this division, including a term of any such type that is a risk reduction sentence. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to notify the offender pursuant to division (B) (2) (d) of section 2929.19 of the Revised Code regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence pursuant to division (D) (2) of section 2929.14 of the Revised Code a statement regarding post-release control. Pursuant to an agreement entered into under section 2967.29 of the Revised Code, a court of common pleas or parole board may impose sanctions or conditions on an offender who is placed on post-release control under this division.

(D) (1) Before the prisoner is released from imprisonment, the parole board or, pursuant to an agreement under section 2967.29 of the Revised Code, the court shall impose upon a prisoner described in division (B) of this section, shall impose upon a prisoner described in division (C) of this section who is to be released before the expiration of the prisoner's stated prison term under a risk reduction sentence, may impose upon a

prisoner described in division (C) of this section who is not to 1534
be released before the expiration of the prisoner's stated 1535
prison term under a risk reduction sentence, and shall impose 1536
upon a prisoner described in division (B) (2) (b) of section 1537
5120.031 or in division (B) (1) of section 5120.032 of the 1538
Revised Code, one or more post-release control sanctions to 1539
apply during the prisoner's period of post-release control. 1540
Whenever the board or court imposes one or more post-release 1541
control sanctions upon a prisoner, the board or court, in 1542
addition to imposing the sanctions, also shall include as a 1543
condition of the post-release control that the offender not 1544
leave the state without permission of the court or the 1545
offender's parole or probation officer and that the offender 1546
abide by the law. The board or court may impose any other 1547
conditions of release under a post-release control sanction that 1548
the board or court considers appropriate, and the conditions of 1549
release may include any community residential sanction, 1550
community nonresidential sanction, or financial sanction that 1551
the sentencing court was authorized to impose pursuant to 1552
sections 2929.16, 2929.17, and 2929.18 of the Revised Code. 1553
Prior to the release of a prisoner for whom it will impose one 1554
or more post-release control sanctions under this division, the 1555
parole board or court shall review the prisoner's criminal 1556
history, results from the single validated risk assessment tool 1557
selected by the department of rehabilitation and correction 1558
under section 5120.114 of the Revised Code, all juvenile court 1559
adjudications finding the prisoner, while a juvenile, to be a 1560
delinquent child, and the record of the prisoner's conduct while 1561
imprisoned. The parole board or court shall consider any 1562
recommendation regarding post-release control sanctions for the 1563
prisoner made by the office of victims' services. After 1564
considering those materials, the board or court shall determine, 1565

for a prisoner described in division (B) of this section, 1566
division (B) (2) (b) of section 5120.031, or division (B) (1) of 1567
section 5120.032 of the Revised Code and for a prisoner 1568
described in division (C) of this section who is to be released 1569
before the expiration of the prisoner's stated prison term under 1570
a risk reduction sentence, which post-release control sanction 1571
or combination of post-release control sanctions is reasonable 1572
under the circumstances or, for a prisoner described in division 1573
(C) of this section who is not to be released before the 1574
expiration of the prisoner's stated prison term under a risk 1575
reduction sentence, whether a post-release control sanction is 1576
necessary and, if so, which post-release control sanction or 1577
combination of post-release control sanctions is reasonable 1578
under the circumstances. In the case of a prisoner convicted of 1579
a felony of the fourth or fifth degree other than a felony sex 1580
offense, the board or court shall presume that monitored time is 1581
the appropriate post-release control sanction unless the board 1582
or court determines that a more restrictive sanction is 1583
warranted. A post-release control sanction imposed under this 1584
division takes effect upon the prisoner's release from 1585
imprisonment. 1586

Regardless of whether the prisoner was sentenced to the 1587
prison term prior to, on, or after July 11, 2006, prior to the 1588
release of a prisoner for whom it will impose one or more post- 1589
release control sanctions under this division, the parole board 1590
shall notify the prisoner that, if the prisoner violates any 1591
sanction so imposed or any condition of post-release control 1592
described in division (B) of section 2967.131 of the Revised 1593
Code that is imposed on the prisoner, the parole board may 1594
impose a prison term of up to one-half of the stated prison term 1595
originally imposed upon the prisoner. 1596

At least thirty days before the prisoner is released from 1597
imprisonment, except as otherwise provided in this paragraph, 1598
the department of rehabilitation and correction shall notify the 1599
victim and the victim's immediate family of the date on which 1600
the prisoner will be released, the period for which the prisoner 1601
will be under post-release control supervision, and the terms 1602
and conditions of the prisoner's post-release control regardless 1603
of whether the victim or victim's immediate family has requested 1604
the notification. The notice described in this paragraph shall 1605
not be given to a victim or victim's immediate family if the 1606
victim or the victim's immediate family has requested pursuant 1607
to division (B) (2) of section 2930.03 of the Revised Code that 1608
the notice not be provided to the victim or the victim's 1609
immediate family. At least thirty days before the prisoner is 1610
released from imprisonment and regardless of whether the victim 1611
or victim's immediate family has requested that the notice 1612
described in this paragraph be provided or not be provided to 1613
the victim or the victim's immediate family, the department also 1614
shall provide notice of that nature to the prosecuting attorney 1615
in the case and the law enforcement agency that arrested the 1616
prisoner if any officer of that agency was a victim of the 1617
offense. 1618

If the notice given under the preceding paragraph to the 1619
victim or the victim's immediate family is based on an offense 1620
committed prior to ~~the effective date of this amendment~~ March 1621
22, 2013, and if the department of rehabilitation and correction 1622
has not previously successfully provided any notice to the 1623
victim or the victim's immediate family under division (B), (C), 1624
or (D) of section 2930.16 of the Revised Code with respect to 1625
that offense and the offender who committed it, the notice also 1626
shall inform the victim or the victim's immediate family that 1627

the victim or the victim's immediate family may request that the 1628
victim or the victim's immediate family not be provided any 1629
further notices with respect to that offense and the offender 1630
who committed it and shall describe the procedure for making 1631
that request. The department may give the notices to which the 1632
preceding paragraph applies by any reasonable means, including 1633
regular mail, telephone, and electronic mail. If the department 1634
attempts to provide notice to any specified person under the 1635
preceding paragraph but the attempt is unsuccessful because the 1636
department is unable to locate the specified person, is unable 1637
to provide the notice by its chosen method because it cannot 1638
determine the mailing address, electronic mail address, or 1639
telephone number at which to provide the notice, or, if the 1640
notice is sent by mail, the notice is returned, the department 1641
shall make another attempt to provide the notice to the 1642
specified person. If the second attempt is unsuccessful, the 1643
department shall make at least one more attempt to provide the 1644
notice. If the notice is based on an offense committed prior to 1645
~~the effective date of this amendment~~ March 22, 2013, in each 1646
attempt to provide the notice to the victim or victim's 1647
immediate family, the notice shall include the opt-out 1648
information described in this paragraph. The department, in the 1649
manner described in division (D) (2) of section 2930.16 of the 1650
Revised Code, shall keep a record of all attempts to provide the 1651
notice, and of all notices provided, under this paragraph and 1652
the preceding paragraph. The record shall be considered as if it 1653
was kept under division (D) (2) of section 2930.16 of the Revised 1654
Code. This paragraph, the preceding paragraph, and the notice- 1655
related provisions of divisions (E) (2) and (K) of section 1656
2929.20, division (D) (1) of section 2930.16, division (H) of 1657
section 2967.12, division (E) (1) (b) of section 2967.19, division 1658
(A) (3) (b) of section 2967.26, and division (A) (2) of section 1659

5149.101 of the Revised Code enacted in the act in which this 1660
paragraph and the preceding paragraph were enacted, shall be 1661
known as "Roberta's Law." 1662

(2) If a prisoner who is placed on post-release control 1663
under this section is released before the expiration of the 1664
prisoner's stated prison term by reason of credit earned under 1665
section 2967.193 of the Revised Code and if the prisoner earned 1666
sixty or more days of credit, the adult parole authority shall 1667
supervise the offender with an active global positioning system 1668
device for the first fourteen days after the offender's release 1669
from imprisonment. This division does not prohibit or limit the 1670
imposition of any post-release control sanction otherwise 1671
authorized by this section. 1672

(3) At any time after a prisoner is released from 1673
imprisonment and during the period of post-release control 1674
applicable to the releasee, the adult parole authority or, 1675
pursuant to an agreement under section 2967.29 of the Revised 1676
Code, the court may review the releasee's behavior under the 1677
post-release control sanctions imposed upon the releasee under 1678
this section. The authority or court may determine, based upon 1679
the review and in accordance with the standards established 1680
under division (E) of this section, that a more restrictive or a 1681
less restrictive sanction is appropriate and may impose a 1682
different sanction. The authority also may recommend that the 1683
parole board or court increase or reduce the duration of the 1684
period of post-release control imposed by the court. If the 1685
authority recommends that the board or court increase the 1686
duration of post-release control, the board or court shall 1687
review the releasee's behavior and may increase the duration of 1688
the period of post-release control imposed by the court up to 1689
eight years. If the authority recommends that the board or court 1690

reduce the duration of control for an offense described in 1691
division (B) or (C) of this section, the board or court shall 1692
review the releasee's behavior and may reduce the duration of 1693
the period of control imposed by the court. In no case shall the 1694
board or court reduce the duration of the period of control 1695
imposed for an offense described in division (B)(1) of this 1696
section to a period less than the length of the stated prison 1697
term originally imposed, and in no case shall the board or court 1698
permit the releasee to leave the state without permission of the 1699
court or the releasee's parole or probation officer. 1700

(E) The department of rehabilitation and correction, in 1701
accordance with Chapter 119. of the Revised Code, shall adopt 1702
rules that do all of the following: 1703

(1) Establish standards for the imposition by the parole 1704
board of post-release control sanctions under this section that 1705
are consistent with the overriding purposes and sentencing 1706
principles set forth in section 2929.11 of the Revised Code and 1707
that are appropriate to the needs of releasees; 1708

(2) Establish standards that provide for a period of post- 1709
release control of up to three years for all prisoners described 1710
in division (C) of this section who are to be released before 1711
the expiration of their stated prison term under a risk 1712
reduction sentence and standards by which the parole board can 1713
determine which prisoners described in division (C) of this 1714
section who are not to be released before the expiration of 1715
their stated prison term under a risk reduction sentence should 1716
be placed under a period of post-release control; 1717

(3) Establish standards to be used by the parole board in 1718
reducing the duration of the period of post-release control 1719
imposed by the court when authorized under division (D) of this 1720

section, in imposing a more restrictive post-release control 1721
sanction than monitored time upon a prisoner convicted of a 1722
felony of the fourth or fifth degree other than a felony sex 1723
offense, or in imposing a less restrictive control sanction upon 1724
a releasee based on the releasee's activities including, but not 1725
limited to, remaining free from criminal activity and from the 1726
abuse of alcohol or other drugs, successfully participating in 1727
approved rehabilitation programs, maintaining employment, and 1728
paying restitution to the victim or meeting the terms of other 1729
financial sanctions; 1730

(4) Establish standards to be used by the adult parole 1731
authority in modifying a releasee's post-release control 1732
sanctions pursuant to division (D)(2) of this section; 1733

(5) Establish standards to be used by the adult parole 1734
authority or parole board in imposing further sanctions under 1735
division (F) of this section on releasees who violate post- 1736
release control sanctions, including standards that do the 1737
following: 1738

(a) Classify violations according to the degree of 1739
seriousness; 1740

(b) Define the circumstances under which formal action by 1741
the parole board is warranted; 1742

(c) Govern the use of evidence at violation hearings; 1743

(d) Ensure procedural due process to an alleged violator; 1744

(e) Prescribe nonresidential community control sanctions 1745
for most misdemeanor and technical violations; 1746

(f) Provide procedures for the return of a releasee to 1747
imprisonment for violations of post-release control. 1748

(F) (1) Whenever the parole board imposes one or more post-
release control sanctions upon an offender under this section,
the offender upon release from imprisonment shall be under the
general jurisdiction of the adult parole authority and generally
shall be supervised by the field services section through its
staff of parole and field officers as described in section
5149.04 of the Revised Code, as if the offender had been placed
on parole. If the offender upon release from imprisonment
violates the post-release control sanction or any conditions
described in division (A) of section 2967.131 of the Revised
Code that are imposed on the offender, the public or private
person or entity that operates or administers the sanction or
the program or activity that comprises the sanction shall report
the violation directly to the adult parole authority or to the
officer of the authority who supervises the offender. The
authority's officers may treat the offender as if the offender
were on parole and in violation of the parole, and otherwise
shall comply with this section.

(2) If the adult parole authority or, pursuant to an
agreement under section 2967.29 of the Revised Code, the court
determines that a releasee has violated a post-release control
sanction or any conditions described in division (A) of section
2967.131 of the Revised Code imposed upon the releasee and that
a more restrictive sanction is appropriate, the authority or
court may impose a more restrictive sanction upon the releasee,
in accordance with the standards established under division (E)
of this section or in accordance with the agreement made under
section 2967.29 of the Revised Code, or may report the violation
to the parole board for a hearing pursuant to division (F) (3) of
this section. The authority or court may not, pursuant to this
division, increase the duration of the releasee's post-release

control or impose as a post-release control sanction a 1780
residential sanction that includes a prison term, but the 1781
authority or court may impose on the releasee any other 1782
residential sanction, nonresidential sanction, or financial 1783
sanction that the sentencing court was authorized to impose 1784
pursuant to sections 2929.16, 2929.17, and 2929.18 of the 1785
Revised Code. 1786

(3) The parole board or, pursuant to an agreement under 1787
section 2967.29 of the Revised Code, the court may hold a 1788
hearing on any alleged violation by a releasee of a post-release 1789
control sanction or any conditions described in division (A) of 1790
section 2967.131 of the Revised Code that are imposed upon the 1791
releasee. If after the hearing the board or court finds that the 1792
releasee violated the sanction or condition, the board or court 1793
may increase the duration of the releasee's post-release control 1794
up to the maximum duration authorized by division (B) or (C) of 1795
this section or impose a more restrictive post-release control 1796
sanction. If a releasee was acting pursuant to division (B) (2) 1797
(a) or (b) of section 2925.11 of the Revised Code and in so 1798
doing violated the conditions of a post-release control sanction 1799
based on a minor drug possession offense, the board or the court 1800
may consider the releasee's conduct in seeking or obtaining 1801
medical assistance for another in good faith or for self or may 1802
consider the releasee being the subject of another person 1803
seeking or obtaining medical assistance in accordance with 1804
either of those divisions as a mitigating factor before imposing 1805
any of the penalties described in this division. When 1806
appropriate, the board or court may impose as a post-release 1807
control sanction a residential sanction that includes a prison 1808
term. The board or court shall consider a prison term as a post- 1809
release control sanction imposed for a violation of post-release 1810

control when the violation involves a deadly weapon or dangerous 1811
ordnance, physical harm or attempted serious physical harm to a 1812
person, or sexual misconduct, or when the releasee committed 1813
repeated violations of post-release control sanctions. Unless a 1814
releasee's stated prison term was reduced pursuant to section 1815
5120.032 of the Revised Code, the period of a prison term that 1816
is imposed as a post-release control sanction under this 1817
division shall not exceed nine months, and the maximum 1818
cumulative prison term for all violations under this division 1819
shall not exceed one-half of the stated prison term originally 1820
imposed upon the offender as part of this sentence. If a 1821
releasee's stated prison term was reduced pursuant to section 1822
5120.032 of the Revised Code, the period of a prison term that 1823
is imposed as a post-release control sanction under this 1824
division and the maximum cumulative prison term for all 1825
violations under this division shall not exceed the period of 1826
time not served in prison under the sentence imposed by the 1827
court. The period of a prison term that is imposed as a post- 1828
release control sanction under this division shall not count as, 1829
or be credited toward, the remaining period of post-release 1830
control. 1831

If an offender is imprisoned for a felony committed while 1832
under post-release control supervision and is again released on 1833
post-release control for a period of time determined by division 1834
(F) (4) (d) of this section, the maximum cumulative prison term 1835
for all violations under this division shall not exceed one-half 1836
of the total stated prison terms of the earlier felony, reduced 1837
by any prison term administratively imposed by the parole board 1838
or court, plus one-half of the total stated prison term of the 1839
new felony. 1840

(4) Any period of post-release control shall commence upon 1841

an offender's actual release from prison. If an offender is 1842
serving an indefinite prison term or a life sentence in addition 1843
to a stated prison term, the offender shall serve the period of 1844
post-release control in the following manner: 1845

(a) If a period of post-release control is imposed upon 1846
the offender and if the offender also is subject to a period of 1847
parole under a life sentence or an indefinite sentence, and if 1848
the period of post-release control ends prior to the period of 1849
parole, the offender shall be supervised on parole. The offender 1850
shall receive credit for post-release control supervision during 1851
the period of parole. The offender is not eligible for final 1852
release under section 2967.16 of the Revised Code until the 1853
post-release control period otherwise would have ended. 1854

(b) If a period of post-release control is imposed upon 1855
the offender and if the offender also is subject to a period of 1856
parole under an indefinite sentence, and if the period of parole 1857
ends prior to the period of post-release control, the offender 1858
shall be supervised on post-release control. The requirements of 1859
parole supervision shall be satisfied during the post-release 1860
control period. 1861

(c) If an offender is subject to more than one period of 1862
post-release control, the period of post-release control for all 1863
of the sentences shall be the period of post-release control 1864
that expires last, as determined by the parole board or court. 1865
Periods of post-release control shall be served concurrently and 1866
shall not be imposed consecutively to each other. 1867

(d) The period of post-release control for a releasee who 1868
commits a felony while under post-release control for an earlier 1869
felony shall be the longer of the period of post-release control 1870
specified for the new felony under division (B) or (C) of this 1871

section or the time remaining under the period of post-release 1872
control imposed for the earlier felony as determined by the 1873
parole board or court. 1874

Section 2. That existing sections 2925.11, 2929.13, 1875
2929.141, 2929.15, 2929.25, and 2967.28 of the Revised Code are 1876
hereby repealed. 1877