

As Introduced

131st General Assembly

Regular Session

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H. B. No. 289

Representatives Antonio, Antani

Cosponsors: Representatives Driehaus, Fedor, Ramos

A BILL

To amend sections 9.07, 120.03, 120.06, 120.14, 1
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 2
120.34, 1901.183, 2152.13, 2152.67, 2301.20, 3
2307.60, 2701.07, 2743.51, 2901.02, 2909.24, 4
2929.02, 2929.13, 2929.14, 2929.20, 2929.61, 5
2930.03, 2930.06, 2930.16, 2937.222, 2941.021, 6
2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 7
2945.06, 2945.13, 2945.21, 2945.25, 2945.33, 8
2945.38, 2949.02, 2949.03, 2953.02, 2953.07, 9
2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 10
2953.71, 2953.72, 2953.73, 2953.81, 2967.03, 11
2967.05, 2967.12, 2967.13, 2967.19, 2967.193, 12
2967.26, 2967.28, 2971.03, 2971.07, 5120.113, 13
5120.53, 5120.61, 5139.04, 5149.101, and 5919.16 14
and to repeal sections 109.97, 120.35, 2725.19, 15
2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 16
2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 17
2949.21, 2949.22, 2949.24, 2949.25, 2949.26, 18
2949.27, 2949.28, 2949.29, 2949.31, and 2967.08 19
of the Revised Code to abolish the death 20
penalty. 21

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

Section 1. That sections 9.07, 120.03, 120.06, 120.14, 22
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 23
1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2701.07, 2743.51, 24
2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 2929.61, 25
2930.03, 2930.06, 2930.16, 2937.222, 2941.021, 2941.14, 26
2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.13, 2945.21, 27
2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 2953.07, 28
2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 2953.72, 29
2953.73, 2953.81, 2967.03, 2967.05, 2967.12, 2967.13, 2967.19, 30
2967.193, 2967.26, 2967.28, 2971.03, 2971.07, 5120.113, 5120.53, 31
5120.61, 5139.04, 5149.101, and 5919.16 of the Revised Code be 32
amended to read as follows: 33

Sec. 9.07. (A) As used in this section: 34

(1) "Deadly weapon" has the same meaning as in section 35
2923.11 of the Revised Code. 36

(2) "Governing authority of a local public entity" means 37
whichever of the following is applicable: 38

(a) For a county, the board of county commissioners of the 39
county; 40

(b) For a municipal corporation, the legislative authority 41
of the municipal corporation; 42

(c) For a combination of counties, a combination of 43
municipal corporations, or a combination of one or more counties 44
and one or more municipal corporations, all boards of county 45
commissioners and legislative authorities of all of the counties 46
and municipal corporations that combined to form a local public 47
entity for purposes of this section. 48

(3) "Local public entity" means a county, a municipal 49
corporation, a combination of counties, a combination of 50

municipal corporations, or a combination of one or more counties 51
and one or more municipal corporations. 52

(4) "Non-contracting political subdivision" means any 53
political subdivision to which all of the following apply: 54

(a) A correctional facility for the housing of out-of- 55
state prisoners in this state is or will be located in the 56
political subdivision. 57

(b) The correctional facility described in division (A) (4) 58
(a) of this section is being operated and managed, or will be 59
operated and managed, by a local public entity or a private 60
contractor pursuant to a contract entered into prior to March 61
17, 1998, or a contract entered into on or after March 17, 1998, 62
under this section. 63

(c) The political subdivision is not a party to the 64
contract described in division (A) (4) (b) of this section for the 65
management and operation of the correctional facility. 66

(5) "Out-of-state jurisdiction" means the United States, 67
any state other than this state, and any political subdivision 68
or other jurisdiction located in a state other than this state. 69

(6) "Out-of-state prisoner" means a person who is 70
convicted of a crime in another state or under the laws of the 71
United States or who is found under the laws of another state or 72
of the United States to be a delinquent child or the 73
substantially equivalent designation. 74

(7) "Private contractor" means either of the following: 75

(a) A person who, on or after March 17, 1998, enters into 76
a contract under this section with a local public entity to 77
operate and manage a correctional facility in this state for 78

out-of-state prisoners. 79

(b) A person who, pursuant to a contract with a local 80
public entity entered into prior to March 17, 1998, operates and 81
manages on March 17, 1998, a correctional facility in this state 82
for housing out-of-state prisoners. 83

(B) Subject to division (I) of this section, the only 84
entities other than this state that are authorized to operate a 85
correctional facility to house out-of-state prisoners in this 86
state are a local public entity that operates a correctional 87
facility pursuant to this section or a private contractor that 88
operates a correctional facility pursuant to this section under 89
a contract with a local public entity. 90

Subject to division (I) of this section, a private entity 91
may operate a correctional facility in this state for the 92
housing of out-of-state prisoners only if the private entity is 93
a private contractor that enters into a contract that comports 94
with division (D) of this section with a local public entity for 95
the management and operation of the correctional facility. 96

(C) (1) Except as provided in this division, on and after 97
March 17, 1998, a local public entity shall not enter into a 98
contract with an out-of-state jurisdiction to house out-of-state 99
prisoners in a correctional facility in this state. On and after 100
March 17, 1998, a local public entity may enter into a contract 101
with an out-of-state jurisdiction to house out-of-state 102
prisoners in a correctional facility in this state only if the 103
local public entity and the out-of-state jurisdiction with which 104
the local public entity intends to contract jointly submit to 105
the department of rehabilitation and correction a statement that 106
certifies the correctional facility's intended use, intended 107
prisoner population, and custody level, and the department 108

reviews and comments upon the plans for the design or renovation 109
of the correctional facility regarding their suitability for the 110
intended prisoner population specified in the submitted 111
statement. 112

(2) If a local public entity and an out-of-state 113
jurisdiction enter into a contract to house out-of-state 114
prisoners in a correctional facility in this state as authorized 115
under division (C) (1) of this section, in addition to any other 116
provisions it contains, the contract shall include whichever of 117
the following provisions is applicable: 118

(a) If a private contractor will operate the facility in 119
question pursuant to a contract entered into in accordance with 120
division (D) of this section, a requirement that, if the 121
facility is closed or ceases to operate for any reason and if 122
the conversion plan described in division (D) (16) of this 123
section is not complied with, the out-of-state jurisdiction will 124
be responsible for housing and transporting the prisoners who 125
are in the facility at the time it is closed or ceases to 126
operate and for the cost of so housing and transporting those 127
prisoners; 128

(b) If a private contractor will not operate the facility 129
in question pursuant to a contract entered into in accordance 130
with division (D) of this section, a conversion plan that will 131
be followed if, for any reason, the facility is closed or ceases 132
to operate. The conversion plan shall include, but is not 133
limited to, provisions that specify whether the local public 134
entity or the out-of-state jurisdiction will be responsible for 135
housing and transporting the prisoners who are in the facility 136
at the time it is closed or ceases to operate and for the cost 137
of so housing and transporting those prisoners. 138

(3) If a local public entity and an out-of-state jurisdiction intend to enter into a contract to house out-of-state prisoners in a correctional facility in this state as authorized under division (C)(1) of this section, or if a local public entity and a private contractor intend to enter into a contract pursuant to division (D) of this section for the private contractor's management and operation of a correctional facility in this state to house out-of-state prisoners, prior to entering into the contract the local public entity and the out-of-state jurisdiction, or the local public entity and the private contractor, whichever is applicable, shall conduct a public hearing in accordance with this division, and, prior to entering into the contract, the governing authority of the local public entity in which the facility is or will be located shall authorize the location and operation of the facility. The hearing shall be conducted at a location within the municipal corporation or township in which the facility is or will be located. At least one week prior to conducting the hearing, the local public entity and the out-of-state jurisdiction or private contractor with the duty to conduct the hearing shall cause notice of the date, time, and place of the hearing to be made by publication in the newspaper with the largest general circulation in the county in which the municipal corporation or township is located. The notice shall be of a sufficient size that it covers at least one-quarter of a page of the newspaper in which it is published. This division applies to a private contractor that, pursuant to the requirement set forth in division (I) of this section, is required to enter into a contract under division (D) of this section.

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

with a private contractor for the management and operation of a 170
correctional facility in this state to house out-of-state 171
prisoners, the contract, at a minimum, shall include all of the 172
following provisions: 173

(1) A requirement that the private contractor seek and 174
obtain accreditation from the American correctional association 175
for the correctional facility within two years after accepting 176
the first out-of-state prisoner at the correctional facility 177
under the contract and that it maintain that accreditation for 178
the term of the contract; 179

(2) A requirement that the private contractor comply with 180
all applicable laws, rules, or regulations of the government of 181
this state, political subdivisions of this state, and the United 182
States, including, but not limited to, all sanitation, food 183
service, safety, and health regulations; 184

(3) A requirement that the private contractor send copies 185
of reports of inspections completed by appropriate authorities 186
regarding compliance with laws, rules, and regulations of the 187
type described in division (D) (2) of this section to the 188
director of rehabilitation and correction or the director's 189
designee and to the governing authority of the local public 190
entity in which the correctional facility is located; 191

(4) A requirement that the private contractor report to 192
the local law enforcement agencies with jurisdiction over the 193
place at which the correctional facility is located, for 194
investigation, all criminal offenses or delinquent acts that are 195
committed in or on the grounds of, or otherwise in connection 196
with, the correctional facility and report to the department of 197
rehabilitation and correction all disturbances at the facility; 198

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

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

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

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

programs, transportation, security, and other operational needs. 229
In determining security needs for the correctional facility, the 230
private contractor and the contract requirements shall fully 231
take into account all relevant factors, including, but not 232
limited to, the proximity of the facility to neighborhoods and 233
schools. 234

(9) A requirement that the private contractor provide an 235
adequate policy of insurance that satisfies the requirements set 236
forth in division (D) of section 9.06 of the Revised Code 237
regarding contractors who operate and manage a facility under 238
that section, and that the private contractor indemnify and hold 239
harmless the state, its officers, agents, and employees, and any 240
local public entity in the state with jurisdiction over the 241
place at which the correctional facility is located or that owns 242
the correctional facility, reimburse the state for its costs in 243
defending the state or any of its officers, agents, or 244
employees, and reimburse any local government entity of that 245
nature for its costs in defending the local government entity, 246
in the manner described in division (D) of that section 247
regarding contractors who operate and manage a facility under 248
that section; 249

(10) A requirement that the private contractor adopt for 250
prisoners housed in the correctional facility the security 251
classification system and schedule adopted by the department of 252
rehabilitation and correction under section 5145.03 of the 253
Revised Code, classify in accordance with the system and 254
schedule each prisoner housed in the facility, and house all 255
prisoners in the facility in accordance with their 256
classification under this division; 257

(11) A requirement that the private contractor will not 258

accept for housing, and will not house, in the correctional 259
facility any out-of-state prisoner in relation to whom any of 260
the following applies: 261

(a) The private entity has not obtained from the out-of- 262
state jurisdiction that imposed the sentence or sanction under 263
which the prisoner will be confined in this state a copy of the 264
institutional record of the prisoner while previously confined 265
in that out-of-state jurisdiction or a statement that the 266
prisoner previously has not been confined in that out-of-state 267
jurisdiction and a copy of all medical records pertaining to 268
that prisoner that are in the possession of the out-of-state 269
jurisdiction. 270

(b) The prisoner, while confined in any out-of-state 271
jurisdiction, has a record of institutional violence involving 272
the use of a deadly weapon or a pattern of committing acts of an 273
assaultive nature against employees of, or visitors to, the 274
place of confinement or has a record of escape or attempted 275
escape from secure custody. 276

(c) Under the security classification system and schedule 277
adopted by the department of rehabilitation and correction under 278
section 5145.03 of the Revised Code and adopted by the private 279
contractor under division (B)(10) of this section, the out-of- 280
state prisoner would be classified as being at a security level 281
higher than medium security. 282

(12) A requirement that the private contractor, prior to 283
housing any out-of-state prisoner in the correctional facility 284
under the contract, enter into a written agreement with the 285
department of rehabilitation and correction that sets forth a 286
plan and procedure that will be used to coordinate law 287
enforcement activities of state law enforcement agencies and of 288

local law enforcement agencies with jurisdiction over the place 289
at which the facility is located in response to any riot, 290
rebellion, escape, insurrection, or other emergency occurring 291
inside or outside the facility; 292

(13) A requirement that the private contractor cooperate 293
with the correctional institution inspection committee in the 294
committee's performance of its duties under section 103.73 of 295
the Revised Code and provide the committee, its subcommittees, 296
and its staff members, in performing those duties, with access 297
to the correctional facility as described in that section; 298

(14) A requirement that the private contractor permit any 299
peace officer who serves a law enforcement agency with 300
jurisdiction over the place at which the correctional facility 301
is located to enter into the facility to investigate any 302
criminal offense or delinquent act that allegedly has been 303
committed in or on the grounds of, or otherwise in connection 304
with, the facility; 305

(15) A requirement that the private contractor will not 306
employ any person at the correctional facility until after the 307
private contractor has submitted to the bureau of criminal 308
identification and investigation, on a form prescribed by the 309
superintendent of the bureau, a request that the bureau conduct 310
a criminal records check of the person and a requirement that 311
the private contractor will not employ any person at the 312
facility if the records check or other information possessed by 313
the contractor indicates that the person previously has engaged 314
in malfeasance; 315

(16) A requirement that the private contractor will not 316
accept for housing, and will not house, in the correctional 317
facility any out-of-state prisoner unless the private contractor 318

and the out-of-state jurisdiction that imposed the sentence for 319
which the prisoner is to be confined agree that, if the out-of- 320
state prisoner is confined in the facility in this state, 321
commits a criminal offense while confined in the facility, is 322
convicted of or pleads guilty to that offense, and is sentenced 323
to a term of confinement for that offense ~~but is not sentenced~~ 324
~~to death for that offense~~, the private contractor and the out- 325
of-state jurisdiction will do all of the following: 326

(a) Unless section 5120.50 of the Revised Code does not 327
apply in relation to the offense the prisoner committed while 328
confined in this state and the term of confinement imposed for 329
that offense, the out-of-state jurisdiction will accept the 330
prisoner pursuant to that section for service of that term of 331
confinement and for any period of time remaining under the 332
sentence for which the prisoner was confined in the facility in 333
this state, the out-of-state jurisdiction will confine the 334
prisoner pursuant to that section for that term and that 335
remaining period of time, and the private contractor will 336
transport the prisoner to the out-of-state jurisdiction for 337
service of that term and that remaining period of time. 338

(b) If section 5120.50 of the Revised Code does not apply 339
in relation to the offense the prisoner committed while confined 340
in this state and the term of confinement imposed for that 341
offense, the prisoner shall be returned to the out-of-state 342
jurisdiction or its private contractor for completion of the 343
period of time remaining under the out-of-state sentence for 344
which the prisoner was confined in the facility in this state 345
before starting service of the term of confinement imposed for 346
the offense committed while confined in this state, the out-of- 347
state jurisdiction or its private contractor will confine the 348
prisoner for that remaining period of time and will transport 349

the prisoner outside of this state for service of that remaining 350
period of time, and, if the prisoner is confined in this state 351
in a facility operated by the department of rehabilitation and 352
correction, the private contractor will be financially 353
responsible for reimbursing the department at the per diem cost 354
of confinement for the duration of that incarceration, with the 355
amount of the reimbursement so paid to be deposited in the 356
department's prisoner programs fund. 357

(17) A requirement that the private contractor, prior to 358
housing any out-of-state prisoner in the correctional facility 359
under the contract, enter into an agreement with the local 360
public entity that sets forth a conversion plan that will be 361
followed if, for any reason, the facility is closed or ceases to 362
operate. The conversion plan shall include, but is not limited 363
to, provisions that specify whether the private contractor, the 364
local public entity, or the out-of-state jurisdictions that 365
imposed the sentences for which the out-of-state prisoners are 366
confined in the facility will be responsible for housing and 367
transporting the prisoners who are in the facility at the time 368
it is closed or ceases to operate and for the cost of so housing 369
and transporting those prisoners. 370

(18) A schedule of fines that the local public entity 371
shall impose upon the private contractor if the private 372
contractor fails to perform its contractual duties, and a 373
requirement that, if the private contractor fails to perform its 374
contractual duties, the local public entity shall impose a fine 375
on the private contractor from the schedule of fines and, in 376
addition to the fine, may exercise any other rights it has under 377
the contract. Division (F) (2) of this section applies regarding 378
a fine described in this division. 379

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

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

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

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

may carry and use firearms in the course of the officer's or 410
employee's employment only if the officer or employee is 411
certified as having satisfactorily completed an approved 412
training program designed to qualify persons for positions as 413
special police officers, security guards, or persons otherwise 414
privately employed in a police capacity, as described in 415
division (A) of section 109.78 of the Revised Code. 416

(F)(1) Upon notification by the private contractor of an 417
escape from, or of a disturbance at, a correctional facility 418
that is operated by a private contractor under a contract 419
entered into prior to, on, or after March 17, 1998, and that 420
houses out-of-state prisoners in this state, the department of 421
rehabilitation and correction and state and local law 422
enforcement agencies shall use all reasonable means to recapture 423
persons who escaped from the facility or quell any disturbance 424
at the facility, in accordance with the plan and procedure 425
included in the written agreement entered into under division 426
(D)(12) of this section in relation to contracts entered into on 427
or after March 17, 1998, and in accordance with their normal 428
procedures in relation to contracts entered into prior to March 429
17, 1998. Any cost incurred by this state or a political 430
subdivision of this state relating to the apprehension of a 431
person who escaped from the facility, to the quelling of a 432
disturbance at the facility, or to the investigation or 433
prosecution as described in division (G)(2) of this section of 434
any offense relating to the escape or disturbance shall be 435
chargeable to and borne by the private contractor. The 436
contractor also shall reimburse the state or its political 437
subdivisions for all reasonable costs incurred relating to the 438
temporary detention of a person who escaped from the facility, 439
following the person's recapture. 440

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

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

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

(2) If any political subdivision of this state experiences 472
any cost in the investigation or prosecution of an offense 473
committed by an out-of-state prisoner housed in a correctional 474
facility operated by a private contractor in this state pursuant 475
to a contract entered into prior to, on, or after March 17, 476
1998, the private contractor shall reimburse the political 477
subdivision for the costs so experienced. 478

(3) (a) Except as otherwise provided in this division, the 479
state, and any officer or employee, as defined in section 109.36 480
of the Revised Code, of the state is not liable in damages in a 481
civil action for any injury, death, or loss to person or 482
property that allegedly arises from, or is related to, the 483
establishment, management, or operation of a correctional 484
facility to house out-of-state prisoners in this state pursuant 485
to a contract between a local public entity and an out-of-state 486
jurisdiction, a local public entity and a private contractor, or 487
a private contractor and an out-of-state jurisdiction that was 488
entered into prior to March 17, 1998, or that is entered into on 489
or after March 17, 1998, in accordance with its provisions. The 490
immunity provided in this division does not apply regarding an 491
act or omission of an officer or employee, as defined in section 492
109.36 of the Revised Code, of the state that is manifestly 493
outside the scope of the officer's or employee's official 494
responsibilities or regarding an act or omission of the state, 495
or of an officer or employee, as so defined, of the state that 496
is undertaken with malicious purpose, in bad faith, or in a 497
wanton or reckless manner. 498

(b) Except as otherwise provided in this division, a non- 499
contracting political subdivision, and any employee, as defined 500
in section 2744.01 of the Revised Code, of a non-contracting 501
political subdivision is not liable in damages in a civil action 502

for any injury, death, or loss to person or property that 503
allegedly arises from, or is related to, the establishment, 504
management, or operation of a correctional facility to house 505
out-of-state prisoners in this state pursuant to a contract 506
between a local public entity other than the non-contracting 507
political subdivision and an out-of-state jurisdiction, a local 508
public entity other than the non-contracting political 509
subdivision and a private contractor, or a private contractor 510
and an out-of-state jurisdiction that was entered into prior to 511
March 17, 1998, or that is entered into on or after March 17, 512
1998, in accordance with its provisions. The immunity provided 513
in this division does not apply regarding an act or omission of 514
an employee, as defined in section 2744.01 of the Revised Code, 515
of a non-contracting political subdivision that is manifestly 516
outside the scope of the employee's employment or official 517
responsibilities or regarding an act or omission of a non- 518
contracting political subdivision or an employee, as so defined, 519
of a non-contracting political subdivision that is undertaken 520
with malicious purpose, in bad faith, or in a wanton or reckless 521
manner. 522

(c) Divisions (G) (3) (a) and (b) of this section do not 523
affect any immunity or defense that the state and its officers 524
and employees or a non-contracting political subdivision and its 525
employees may be entitled to under another section of the 526
Revised Code or the common law of this state, including, but not 527
limited to, section 9.86 or Chapter 2744. of the Revised Code. 528

(H) (1) Upon the completion of an out-of-state prisoner's 529
term of detention at a correctional facility operated by a 530
private contractor in this state pursuant to a contract entered 531
into prior to, on, or after March 17, 1998, the operator of the 532
correctional facility shall transport the prisoner to the out- 533

of-state jurisdiction that imposed the sentence for which the 534
prisoner was confined before it releases the prisoner from its 535
custody. 536

(2) No private contractor that operates and manages a 537
correctional facility housing out-of-state prisoners in this 538
state pursuant to a contract entered into prior to, on, or after 539
March 17, 1998, shall fail to comply with division (H) (1) of 540
this section. 541

(3) Whoever violates division (H) (2) of this section is 542
guilty of a misdemeanor of the first degree. 543

(I) Except as otherwise provided in this division, the 544
provisions of divisions (A) to (H) of this section apply in 545
relation to any correctional facility operated by a private 546
contractor in this state to house out-of-state prisoners, 547
regardless of whether the facility is operated pursuant to a 548
contract entered into prior to, on, or after March 17, 1998. 549
Division (C) (1) of this section shall not apply in relation to 550
any correctional facility for housing out-of-state prisoners in 551
this state that is operated by a private contractor under a 552
contract entered into with a local public entity prior to March 553
17, 1998. If a private contractor operates a correctional 554
facility in this state for the housing of out-of-state prisoners 555
under a contract entered into with a local public entity prior 556
to March 17, 1998, no later than thirty days after the effective 557
date of this amendment, the private contractor shall enter into 558
a contract with the local public entity that comports to the 559
requirements and criteria of division (D) of this section. 560

Sec. 120.03. (A) The Ohio public defender commission shall 561
appoint the state public defender, who shall serve at the 562
pleasure of the commission. 563

(B) The Ohio public defender commission shall establish 564
rules for the conduct of the offices of the county and joint 565
county public defenders and for the conduct of county appointed 566
counsel systems in the state. These rules shall include, but are 567
not limited to, the following: 568

(1) Standards of indigency and minimum qualifications for 569
legal representation by a public defender or appointed counsel. 570
In establishing standards of indigency and determining who is 571
eligible for legal representation by a public defender or 572
appointed counsel, the commission shall consider an indigent 573
person to be an individual who at the time ~~his~~ the person's need 574
is determined is unable to provide for the payment of an 575
attorney and all other necessary expenses of representation. 576
Release on bail shall not prevent a person from being determined 577
to be indigent. 578

(2) Standards for the hiring of outside counsel; 579

(3) Standards for contracts by a public defender with law 580
schools, legal aid societies, and nonprofit organizations for 581
providing counsel; 582

(4) Standards for the qualifications, training, and size 583
of the legal and supporting staff for a public defender, 584
facilities, and other requirements needed to maintain and 585
operate an office of a public defender; 586

(5) Minimum caseload standards; 587

(6) Procedures for the assessment and collection of the 588
costs of legal representation that is provided by public 589
defenders or appointed counsel; 590

(7) Standards and guidelines for determining whether a 591
client is able to make an up-front contribution toward the cost 592

of ~~his~~ the client's legal representation; 593

(8) Procedures for the collection of up-front 594
contributions from clients who are able to contribute toward the 595
cost of their legal representation, as determined pursuant to 596
the standards and guidelines developed under division (B) (7) of 597
this section. All of such up-front contributions shall be paid 598
into the appropriate county fund. 599

(9) Standards for contracts between a board of county 600
commissioners, a county public defender commission, or a joint 601
county public defender commission and a municipal corporation 602
for the legal representation of indigent persons charged with 603
violations of the ordinances of the municipal corporation. 604

(C) The Ohio public defender commission shall adopt rules 605
prescribing minimum qualifications of counsel appointed pursuant 606
to this chapter or appointed by the courts. Without limiting its 607
general authority to prescribe different qualifications for 608
different categories of appointed counsel, the commission shall 609
prescribe, by rule, special qualifications for counsel and co- 610
counsel appointed in capital cases in which the defendant was 611
sentenced to death before the effective date of this amendment. 612

(D) In administering the office of the Ohio public 613
defender commission: 614

(1) The commission shall do the following: 615

(a) Approve an annual operating budget; 616

(b) Make an annual report to the governor, the general 617
assembly, and the supreme court of Ohio on the operation of the 618
state public defender's office, the county appointed counsel 619
systems, and the county and joint county public defenders' 620
offices. 621

(2) The commission may do the following: 622

(a) Accept the services of volunteer workers and 623
consultants at no compensation other than reimbursement of 624
actual and necessary expenses; 625

(b) Prepare and publish statistical and case studies and 626
other data pertinent to the legal representation of indigent 627
persons; 628

(c) Conduct programs having a general objective of 629
training and educating attorneys and others in the legal 630
representation of indigent persons. 631

(E) There is hereby established in the state treasury the 632
public defender training fund for the deposit of fees received 633
by the Ohio public defender commission from educational 634
seminars, and the sale of publications, on topics concerning 635
criminal law and procedure. Expenditures from this fund shall be 636
made only for the operation of activities authorized by division 637
(D) (2) (c) of this section. 638

(F) (1) In accordance with sections 109.02, 109.07, and 639
109.361 to 109.366 of the Revised Code, but subject to division 640
(E) of section 120.06 of the Revised Code, the attorney general 641
shall represent or provide for the representation of the Ohio 642
public defender commission, the state public defender, assistant 643
state public defenders, and other employees of the commission or 644
the state public defender. 645

(2) Subject to division (E) of section 120.06 of the 646
Revised Code, the attorney general shall represent or provide 647
for the representation of attorneys described in division (C) of 648
section 120.41 of the Revised Code in malpractice or other civil 649
actions or proceedings that arise from alleged actions or 650

omissions related to responsibilities derived pursuant to this 651
chapter, or in civil actions that are based upon alleged 652
violations of the constitution or statutes of the United States, 653
including section 1983 of Title 42 of the United States Code, 93 654
Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise 655
from alleged actions or omissions related to responsibilities 656
derived pursuant to this chapter. For purposes of the 657
representation, sections 109.361 to 109.366 of the Revised Code 658
shall apply to an attorney described in division (C) of section 659
120.41 of the Revised Code as if ~~he~~ the attorney were an officer 660
or employee, as defined in section 109.36 of the Revised Code, 661
and the Ohio public defender commission or the state public 662
defender, whichever contracted with the attorney, shall be 663
considered ~~his~~ the attorney's employer. 664

Sec. 120.06. (A) (1) The state public defender, when 665
designated by the court or requested by a county public defender 666
or joint county public defender, may provide legal 667
representation in all courts throughout the state to indigent 668
adults and juveniles who are charged with the commission of an 669
offense or act for which the penalty or any possible 670
adjudication includes the potential loss of liberty. 671

(2) The state public defender may provide legal 672
representation to any indigent person who, while incarcerated in 673
any state correctional institution, is charged with a felony 674
offense, for which the penalty or any possible adjudication that 675
may be imposed by a court upon conviction includes the potential 676
loss of liberty. 677

(3) The state public defender may provide legal 678
representation to any person incarcerated in any correctional 679
institution of the state, in any matter in which the person 680

asserts the person is unlawfully imprisoned or detained. 681

(4) The state public defender, in any case in which the 682
state public defender has provided legal representation or is 683
requested to do so by a county public defender or joint county 684
public defender, may provide legal representation on appeal. 685

(5) The state public defender, when designated by the 686
court or requested by a county public defender, joint county 687
public defender, or the director of rehabilitation and 688
correction, shall provide legal representation in parole and 689
probation revocation matters or matters relating to the 690
revocation of community control or post-release control under a 691
community control sanction or post-release control sanction, 692
unless the state public defender finds that the alleged parole 693
or probation violator or alleged violator of a community control 694
sanction or post-release control sanction has the financial 695
capacity to retain the alleged violator's own counsel. 696

(6) If the state public defender contracts with a county 697
public defender commission, a joint county public defender 698
commission, or a board of county commissioners for the provision 699
of services, under authority of division (C)(7) of section 700
120.04 of the Revised Code, the state public defender shall 701
provide legal representation in accordance with the contract. 702

(B) The state public defender shall not be required to 703
prosecute any appeal, postconviction remedy, or other proceeding 704
pursuant to division (A)(3), (4), or (5) of this section, unless 705
the state public defender first is satisfied that there is 706
arguable merit to the proceeding. 707

(C) A court may appoint counsel or allow an indigent 708
person to select the indigent's own personal counsel to assist 709

the state public defender as co-counsel when the interests of 710
justice so require. When co-counsel is appointed to assist the 711
state public defender, the co-counsel shall receive any 712
compensation that the court may approve, not to exceed the 713
amounts provided for in section 2941.51 of the Revised Code. 714

(D) (1) When the state public defender is designated by the 715
court or requested by a county public defender or joint county 716
public defender to provide legal representation for an indigent 717
person in any case, other than pursuant to a contract entered 718
into under authority of division (C) (7) of section 120.04 of the 719
Revised Code, the state public defender shall send to the county 720
in which the case is filed a bill detailing the actual cost of 721
the representation that separately itemizes legal fees and 722
expenses. The county, upon receipt of an itemized bill from the 723
state public defender pursuant to this division, shall pay the 724
state public defender each of the following amounts: 725

(a) For the amount identified as legal fees in the 726
itemized bill, one hundred per cent of the amount identified as 727
legal fees less the state reimbursement rate as calculated by 728
the state public defender pursuant to section 120.34 of the 729
Revised Code for the month the case terminated, as set forth in 730
the itemized bill; 731

(b) For the amount identified as expenses in the itemized 732
bill, one hundred per cent. 733

(2) Upon payment of the itemized bill under division (D) 734
(1) of this section, the county may submit the cost of the 735
expenses, excluding legal fees, to the state public defender for 736
reimbursement pursuant to section 120.33 of the Revised Code. 737

(3) When the state public defender provides investigation 738

or mitigation services to private appointed counsel or to a 739
county or joint county public defender as approved by the 740
appointing court, other than pursuant to a contract entered into 741
under authority of division (C) (7) of section 120.04 of the 742
Revised Code, the state public defender shall send to the county 743
in which the case is filed a bill itemizing the actual cost of 744
the services provided. The county, upon receipt of an itemized 745
bill from the state public defender pursuant to this division, 746
shall pay one hundred per cent of the amount as set forth in the 747
itemized bill. Upon payment of the itemized bill received 748
pursuant to this division, the county may submit the cost of the 749
investigation and mitigation services to the state public 750
defender for reimbursement pursuant to section 120.33 of the 751
Revised Code. 752

(4) There is hereby created in the state treasury the 753
county representation fund for the deposit of moneys received 754
from counties under this division. All moneys credited to the 755
fund shall be used by the state public defender to provide legal 756
representation for indigent persons when designated by the court 757
or requested by a county or joint county public defender or to 758
provide investigation or mitigation services, including 759
investigation or mitigation services to private appointed 760
counsel or a county or joint county public defender, as approved 761
by the court. 762

(E) (1) Notwithstanding any contrary provision of sections 763
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised 764
Code that pertains to representation by the attorney general, an 765
assistant attorney general, or special counsel of an officer or 766
employee, as defined in section 109.36 of the Revised Code, or 767
of an entity of state government, the state public defender may 768
elect to contract with, and to have the state pay pursuant to 769

division (E) (2) of this section for the services of, private 770
legal counsel to represent the Ohio public defender commission, 771
the state public defender, assistant state public defenders, 772
other employees of the commission or the state public defender, 773
and attorneys described in division (C) of section 120.41 of the 774
Revised Code in a malpractice or other civil action or 775
proceeding that arises from alleged actions or omissions related 776
to responsibilities derived pursuant to this chapter, or in a 777
civil action that is based upon alleged violations of the 778
constitution or statutes of the United States, including section 779
1983 of Title 42 of the United States Code, 93 Stat. 1284 780
(1979), 42 U.S.C.A. 1983, as amended, and that arises from 781
alleged actions or omissions related to responsibilities derived 782
pursuant to this chapter, if the state public defender 783
determines, in good faith, that the defendant in the civil 784
action or proceeding did not act manifestly outside the scope of 785
the defendant's employment or official responsibilities, with 786
malicious purpose, in bad faith, or in a wanton or reckless 787
manner. If the state public defender elects not to contract 788
pursuant to this division for private legal counsel in a civil 789
action or proceeding, then, in accordance with sections 109.02, 790
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 791
attorney general shall represent or provide for the 792
representation of the Ohio public defender commission, the state 793
public defender, assistant state public defenders, other 794
employees of the commission or the state public defender, or 795
attorneys described in division (C) of section 120.41 of the 796
Revised Code in the civil action or proceeding. 797

(2) (a) Subject to division (E) (2) (b) of this section, 798
payment from the state treasury for the services of private 799
legal counsel with whom the state public defender has contracted 800

pursuant to division (E) (1) of this section shall be 801
accomplished only through the following procedure: 802

(i) The private legal counsel shall file with the attorney 803
general a copy of the contract; a request for an award of legal 804
fees, court costs, and expenses earned or incurred in connection 805
with the defense of the Ohio public defender commission, the 806
state public defender, an assistant state public defender, an 807
employee, or an attorney in a specified civil action or 808
proceeding; a written itemization of those fees, costs, and 809
expenses, including the signature of the state public defender 810
and the state public defender's attestation that the fees, 811
costs, and expenses were earned or incurred pursuant to division 812
(E) (1) of this section to the best of the state public 813
defender's knowledge and information; a written statement 814
whether the fees, costs, and expenses are for all legal services 815
to be rendered in connection with that defense, are only for 816
legal services rendered to the date of the request and 817
additional legal services likely will have to be provided in 818
connection with that defense, or are for the final legal 819
services rendered in connection with that defense; a written 820
statement indicating whether the private legal counsel 821
previously submitted a request for an award under division (E) 822
(2) of this section in connection with that defense and, if so, 823
the date and the amount of each award granted; and, if the fees, 824
costs, and expenses are for all legal services to be rendered in 825
connection with that defense or are for the final legal services 826
rendered in connection with that defense, a certified copy of 827
any judgment entry in the civil action or proceeding or a signed 828
copy of any settlement agreement entered into between the 829
parties to the civil action or proceeding. 830

(ii) Upon receipt of a request for an award of legal fees, 831

court costs, and expenses and the requisite supportive 832
documentation described in division (E) (2) (a) (i) of this 833
section, the attorney general shall review the request and 834
documentation; determine whether any of the limitations 835
specified in division (E) (2) (b) of this section apply to the 836
request; and, if an award of legal fees, court costs, or 837
expenses is permissible after applying the limitations, prepare 838
a document awarding legal fees, court costs, or expenses to the 839
private legal counsel. The document shall name the private legal 840
counsel as the recipient of the award; specify the total amount 841
of the award as determined by the attorney general; itemize the 842
portions of the award that represent legal fees, court costs, 843
and expenses; specify any limitation applied pursuant to 844
division (E) (2) (b) of this section to reduce the amount of the 845
award sought by the private legal counsel; state that the award 846
is payable from the state treasury pursuant to division (E) (2) 847
(a) (iii) of this section; and be approved by the inclusion of 848
the signatures of the attorney general, the state public 849
defender, and the private legal counsel. 850

(iii) The attorney general shall forward a copy of the 851
document prepared pursuant to division (E) (2) (a) (ii) of this 852
section to the director of budget and management. The award of 853
legal fees, court costs, or expenses shall be paid out of the 854
state public defender's appropriations, to the extent there is a 855
sufficient available balance in those appropriations. If the 856
state public defender does not have a sufficient available 857
balance in the state public defender's appropriations to pay the 858
entire award of legal fees, court costs, or expenses, the 859
director shall make application for a transfer of appropriations 860
out of the emergency purposes account or any other appropriation 861
for emergencies or contingencies in an amount equal to the 862

portion of the award that exceeds the sufficient available 863
balance in the state public defender's appropriations. A 864
transfer of appropriations out of the emergency purposes account 865
or any other appropriation for emergencies or contingencies 866
shall be authorized if there are sufficient moneys greater than 867
the sum total of then pending emergency purposes account 868
requests, or requests for releases from the other appropriation. 869
If a transfer of appropriations out of the emergency purposes 870
account or other appropriation for emergencies or contingencies 871
is made to pay an amount equal to the portion of the award that 872
exceeds the sufficient available balance in the state public 873
defender's appropriations, the director shall cause the payment 874
to be made to the private legal counsel. If sufficient moneys do 875
not exist in the emergency purposes account or other 876
appropriation for emergencies or contingencies to pay an amount 877
equal to the portion of the award that exceeds the sufficient 878
available balance in the state public defender's appropriations, 879
the private legal counsel shall request the general assembly to 880
make an appropriation sufficient to pay an amount equal to the 881
portion of the award that exceeds the sufficient available 882
balance in the state public defender's appropriations, and no 883
payment in that amount shall be made until the appropriation has 884
been made. The private legal counsel shall make the request 885
during the current biennium and during each succeeding biennium 886
until a sufficient appropriation is made. 887

(b) An award of legal fees, court costs, and expenses 888
pursuant to division (E) of this section is subject to the 889
following limitations: 890

(i) The maximum award or maximum aggregate of a series of 891
awards of legal fees, court costs, and expenses to the private 892
legal counsel in connection with the defense of the Ohio public 893

defender commission, the state public defender, an assistant 894
state public defender, an employee, or an attorney in a 895
specified civil action or proceeding shall not exceed fifty 896
thousand dollars. 897

(ii) The private legal counsel shall not be awarded legal 898
fees, court costs, or expenses to the extent the fees, costs, or 899
expenses are covered by a policy of malpractice or other 900
insurance. 901

(iii) The private legal counsel shall be awarded legal 902
fees and expenses only to the extent that the fees and expenses 903
are reasonable in light of the legal services rendered by the 904
private legal counsel in connection with the defense of the Ohio 905
public defender commission, the state public defender, an 906
assistant state public defender, an employee, or an attorney in 907
a specified civil action or proceeding. 908

(c) If, pursuant to division (E) (2) (a) of this section, 909
the attorney general denies a request for an award of legal 910
fees, court costs, or expenses to private legal counsel because 911
of the application of a limitation specified in division (E) (2) 912
(b) of this section, the attorney general shall notify the 913
private legal counsel in writing of the denial and of the 914
limitation applied. 915

(d) If, pursuant to division (E) (2) (c) of this section, a 916
private legal counsel receives a denial of an award notification 917
or if a private legal counsel refuses to approve a document 918
under division (E) (2) (a) (ii) of this section because of the 919
proposed application of a limitation specified in division (E) 920
(2) (b) of this section, the private legal counsel may commence a 921
civil action against the attorney general in the court of claims 922
to prove the private legal counsel's entitlement to the award 923

sought, to prove that division (E) (2) (b) of this section does 924
not prohibit or otherwise limit the award sought, and to recover 925
a judgment for the amount of the award sought. A civil action 926
under division (E) (2) (d) of this section shall be commenced no 927
later than two years after receipt of a denial of award 928
notification or, if the private legal counsel refused to approve 929
a document under division (E) (2) (a) (ii) of this section because 930
of the proposed application of a limitation specified in 931
division (E) (2) (b) of this section, no later than two years 932
after the refusal. Any judgment of the court of claims in favor 933
of the private legal counsel shall be paid from the state 934
treasury in accordance with division (E) (2) (a) of this section. 935

~~(F) If a court appoints the office of the state public- 936
defender to represent a petitioner in a postconviction relief- 937
proceeding under section 2953.21 of the Revised Code, the 938
petitioner has received a sentence of death, and the proceeding- 939
relates to that sentence, all of the attorneys who represent the 940
petitioner in the proceeding pursuant to the appointment, 941
whether an assistant state public defender, the state public- 942
defender, or another attorney, shall be certified under Rule 20- 943
of the Rules of Superintendence for the Courts of Ohio to 944
represent indigent defendants charged with or convicted of an 945
offense for which the death penalty can be or has been imposed. 946~~

~~(G)~~ (1) The state public defender may conduct a legal 947
assistance referral service for children committed to the 948
department of youth services relative to conditions of 949
confinement claims. If the legal assistance referral service 950
receives a request for assistance from a child confined in a 951
facility operated, or contracted for, by the department of youth 952
services and the state public defender determines that the child 953
has a conditions of confinement claim that has merit, the state 954

public defender may refer the child to a private attorney. If no 955
private attorney who the child has been referred to by the state 956
public defender accepts the case within a reasonable time, the 957
state public defender may prepare, as appropriate, pro se 958
pleadings in the form of a complaint regarding the conditions of 959
confinement at the facility where the child is confined with a 960
motion for appointment of counsel and other applicable pleadings 961
necessary for sufficient pro se representation. 962

(2) Division ~~(G)~~(F) (1) of this section does not authorize 963
the state public defender to represent a child committed to the 964
department of youth services in general civil matters arising 965
solely out of state law. 966

(3) The state public defender shall not undertake the 967
representation of a child in court based on a conditions of 968
confinement claim arising under this division. 969

~~(H)~~(G) A child's right to representation or services 970
under this section is not affected by the child, or another 971
person on behalf of the child, previously having paid for 972
similar representation or services or having waived legal 973
representation. 974

~~(I)~~(H) The state public defender shall have reasonable 975
access to any child committed to the department of youth 976
services, department of youth services institution, and 977
department of youth services record as needed to implement this 978
section. 979

~~(J)~~(I) As used in this section: 980

(1) "Community control sanction" has the same meaning as 981
in section 2929.01 of the Revised Code. 982

(2) "Conditions of confinement" means any issue involving 983

a constitutional right or other civil right related to a child's 984
incarceration, including, but not limited to, actions cognizable 985
under 42 U.S.C. 1983. 986

(3) "Post-release control sanction" has the same meaning 987
as in section 2967.01 of the Revised Code. 988

Sec. 120.14. (A) (1) Except as provided in division (A) (2) 989
of this section, the county public defender commission shall 990
appoint the county public defender and may remove ~~him~~ the county 991
public defender from office only for good cause. 992

(2) If a county public defender commission contracts with 993
the state public defender or with one or more nonprofit 994
organizations for the state public defender or the organizations 995
to provide all of the services that the county public defender 996
is required or permitted to provide by this chapter, the 997
commission shall not appoint a county public defender. 998

(B) The commission shall determine the qualifications and 999
size of the supporting staff and facilities and other 1000
requirements needed to maintain and operate the office of the 1001
county public defender. 1002

(C) In administering the office of county public defender, 1003
the commission shall: 1004

(1) Recommend to the county commissioners an annual 1005
operating budget which is subject to the review, amendment, and 1006
approval of the board of county commissioners; 1007

(2) (a) Make an annual report to the county commissioners 1008
and the Ohio public defender commission on the operation of the 1009
county public defender's office, ~~including complete and detailed~~ 1010
~~information on finances and costs that separately states costs~~ 1011
~~and expenses that are reimbursable under section 120.35 of the~~ 1012

~~Revised Code~~, and any other data and information requested by 1013
the state public defender; 1014

(b) Make monthly reports relating to reimbursement and 1015
associated case data pursuant to the rules of the Ohio public 1016
defender commission to the board of county commissioners and the 1017
Ohio public defender commission on the total costs of the public 1018
defender's office. 1019

(3) Cooperate with the Ohio public defender commission in 1020
maintaining the standards established by rules of the Ohio 1021
public defender commission pursuant to divisions (B) and (C) of 1022
section 120.03 of the Revised Code, and cooperate with the state 1023
public defender in his the state public defender's programs 1024
providing technical aid and assistance to county systems. 1025

(D) The commission may accept the services of volunteer 1026
workers and consultants at no compensation except reimbursement 1027
for actual and necessary expenses. 1028

(E) The commission may contract with any municipal 1029
corporation, within the county served by the county public 1030
defender, for the county public defender to provide legal 1031
representation for indigent persons who are charged with a 1032
violation of the ordinances of the municipal corporation. 1033

(F) A county public defender commission, with the approval 1034
of the board of county commissioners regarding all provisions 1035
that pertain to the financing of defense counsel for indigent 1036
persons, may contract with the state public defender or with any 1037
nonprofit organization, the primary purpose of which is to 1038
provide legal representation to indigent persons, for the state 1039
public defender or the organization to provide all or any part 1040
of the services that a county public defender is required or 1041

permitted to provide by this chapter. A contract entered into 1042
pursuant to this division may provide for payment for the 1043
services provided on a per case, hourly, or fixed contract 1044
basis. The state public defender and any nonprofit organization 1045
that contracts with a county public defender commission pursuant 1046
to this division shall do all of the following: 1047

(1) Comply with all standards established by the rules of 1048
the Ohio public defender commission; 1049

(2) Comply with all standards established by the state 1050
public defender; 1051

(3) Comply with all statutory duties and other laws 1052
applicable to county public defenders. 1053

Sec. 120.16. (A) (1) The county public defender shall 1054
provide legal representation to indigent adults and juveniles 1055
who are charged with the commission of an offense or act that is 1056
a violation of a state statute and for which the penalty or any 1057
possible adjudication includes the potential loss of liberty and 1058
in postconviction proceedings as defined in this section. 1059

(2) The county public defender may provide legal 1060
representation to indigent adults and juveniles charged with the 1061
violation of an ordinance of a municipal corporation for which 1062
the penalty or any possible adjudication includes the potential 1063
loss of liberty, if the county public defender commission has 1064
contracted with the municipal corporation to provide legal 1065
representation for indigent persons charged with a violation of 1066
an ordinance of the municipal corporation. 1067

(B) The county public defender shall provide the legal 1068
representation authorized by division (A) of this section at 1069
every stage of the proceedings following arrest, detention, 1070

service of summons, or indictment. 1071

(C) The county public defender may request the state 1072
public defender to prosecute any appeal or other remedy before 1073
or after conviction that the county public defender decides is 1074
in the interests of justice, and may provide legal 1075
representation in parole and probation revocation matters and 1076
matters relating to the revocation of community control or post- 1077
release control under a community control sanction or post- 1078
release control sanction. 1079

(D) The county public defender shall not be required to 1080
prosecute any appeal, postconviction remedy, or other 1081
proceeding, unless the county public defender is first satisfied 1082
there is arguable merit to the proceeding. 1083

(E) Nothing in this section shall prevent a court from 1084
appointing counsel other than the county public defender or from 1085
allowing an indigent person to select the indigent person's own 1086
personal counsel to represent the indigent person. A court may 1087
also appoint counsel or allow an indigent person to select the 1088
indigent person's own personal counsel to assist the county 1089
public defender as co-counsel when the interests of justice so 1090
require. 1091

(F) Information as to the right to legal representation by 1092
the county public defender or assigned counsel shall be afforded 1093
to an accused person immediately upon arrest, when brought 1094
before a magistrate, or when formally charged, whichever occurs 1095
first. 1096

~~(G) If a court appoints the office of the county public~~ 1097
~~defender to represent a petitioner in a postconviction relief~~ 1098
~~proceeding under section 2953.21 of the Revised Code, the~~ 1099

~~petitioner has received a sentence of death, and the proceeding- 1100
relates to that sentence, all of the attorneys who represent the- 1101
petitioner in the proceeding pursuant to the appointment,- 1102
whether an assistant county public defender or the county public- 1103
defender, shall be certified under Rule 20 of the Rules of- 1104
Superintendence for the Courts of Ohio to represent indigent- 1105
defendants charged with or convicted of an offense for which the- 1106
death penalty can be or has been imposed. 1107~~

~~(H) As used in this section: 1108~~

(1) "Community control sanction" has the same meaning as 1109
in section 2929.01 of the Revised Code. 1110

(2) "Post-release control sanction" has the same meaning 1111
as in section 2967.01 of the Revised Code. 1112

Sec. 120.18. (A) The county public defender commission's 1113
report to the board of county commissioners shall be audited by 1114
the county auditor. The board of county commissioners, after 1115
review and approval of the audited report, may then certify it 1116
to the state public defender for reimbursement. If a request for 1117
the reimbursement of any operating expenditure incurred by a 1118
county public defender office is not received by the state 1119
public defender within sixty days after the end of the calendar 1120
month in which the expenditure is incurred, the state public 1121
defender shall not pay the requested reimbursement, unless the 1122
county has requested, and the state public defender has granted, 1123
an extension of the sixty-day time limit. Each request for 1124
reimbursement shall include a certification by the county public 1125
defender that the persons provided representation by the county 1126
public defender's office during the period covered by the report 1127
were indigent and, for each person provided representation 1128
during that period, a financial disclosure form completed by the 1129

person on a form prescribed by the state public defender. The 1130
state public defender shall also review the report and, in 1131
accordance with the standards, guidelines, and maximums 1132
established pursuant to divisions (B) (7) and (8) of section 1133
120.04 of the Revised Code, prepare a voucher for fifty per cent 1134
of the total cost of each county public defender's office for 1135
the period of time covered by the certified report ~~and a voucher~~ 1136
~~for fifty per cent of the costs and expenses that are~~ 1137
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 1138
or, if the amount of money appropriated by the general assembly 1139
to reimburse counties for the operation of county public 1140
defender offices, joint county public defender offices, and 1141
county appointed counsel systems is not sufficient to pay fifty 1142
per cent of the total cost of all of the offices and systems, 1143
for the lesser amount required by section 120.34 of the Revised 1144
Code. For the purposes of this section, "total cost" means total 1145
expenses minus ~~costs and expenses reimbursable under section~~ 1146
~~120.35 of the Revised Code and~~ any funds received by the county 1147
public defender commission pursuant to a contract, except a 1148
contract entered into with a municipal corporation pursuant to 1149
division (E) of section 120.14 of the Revised Code, gift, or 1150
grant. 1151

(B) If the county public defender fails to maintain the 1152
standards for the conduct of the office established by rules of 1153
the Ohio public defender commission pursuant to divisions (B) 1154
and (C) of section 120.03 or the standards established by the 1155
state public defender pursuant to division (B) (7) of section 1156
120.04 of the Revised Code, the Ohio public defender commission 1157
shall notify the county public defender commission and the board 1158
of county commissioners of the county that the county public 1159
defender has failed to comply with its rules or the standards of 1160

the state public defender. Unless the county public defender 1161
commission or the county public defender corrects the conduct of 1162
the county public defender's office to comply with the rules and 1163
standards within ninety days after the date of the notice, the 1164
state public defender may deny payment of all or part of the 1165
county's reimbursement from the state provided for in division 1166
(A) of this section. 1167

Sec. 120.24. (A) (1) Except as provided in division (A) (2) 1168
of this section, the joint county public defender commission 1169
shall appoint the joint county public defender and may remove 1170
~~him~~ the joint county public defender from office only for good 1171
cause. 1172

(2) If a joint county public defender commission contracts 1173
with the state public defender or with one or more nonprofit 1174
organizations for the state public defender or the organizations 1175
to provide all of the services that the joint county public 1176
defender is required or permitted to provide by this chapter, 1177
the commission shall not appoint a joint county public defender. 1178

(B) The commission shall determine the qualifications and 1179
size of the supporting staff and facilities and other 1180
requirements needed to maintain and operate the office. 1181

(C) In administering the office of joint county public 1182
defender, the commission shall: 1183

(1) Recommend to the boards of county commissioners in the 1184
district an annual operating budget which is subject to the 1185
review, amendment, and approval of the boards of county 1186
commissioners in the district; 1187

(2) (a) Make an annual report to the boards of county 1188
commissioners in the district and the Ohio public defender 1189

commission on the operation of the public defender's office, 1190
~~including complete and detailed information on finances and~~ 1191
~~costs that separately states costs and expenses that are~~ 1192
~~reimbursable under section 120.35 of the Revised Code,~~ and such 1193
other data and information requested by the state public 1194
defender; 1195

(b) Make monthly reports relating to reimbursement and 1196
associated case data pursuant to the rules of the Ohio public 1197
defender commission to the boards of county commissioners in the 1198
district and the Ohio public defender commission on the total 1199
costs of the public defender's office. 1200

(3) Cooperate with the Ohio public defender commission in 1201
maintaining the standards established by rules of the Ohio 1202
public defender commission pursuant to divisions (B) and (C) of 1203
section 120.03 of the Revised Code, and cooperate with the state 1204
public defender in ~~his~~ the state public defender's programs 1205
providing technical aid and assistance to county systems. 1206

(D) The commission may accept the services of volunteer 1207
workers and consultants at no compensation except reimbursement 1208
for actual and necessary expenses. 1209

(E) The commission may contract with any municipal 1210
corporation, within the counties served by the joint county 1211
public defender, for the joint county public defender to provide 1212
legal representation for indigent persons who are charged with a 1213
violation of the ordinances of the municipal corporation. 1214

(F) A joint county public defender commission, with the 1215
approval of each participating board of county commissioners 1216
regarding all provisions that pertain to the financing of 1217
defense counsel for indigent persons, may contract with the 1218

state public defender or with any nonprofit organization, the 1219
primary purpose of which is to provide legal representation to 1220
indigent persons, for the state public defender or the 1221
organization to provide all or any part of the services that a 1222
joint county public defender is required or permitted to provide 1223
by this chapter. A contract entered into pursuant to this 1224
division may provide for payment for the services provided on a 1225
per case, hourly, or fixed contract basis. The state public 1226
defender and any nonprofit organization that contracts with a 1227
joint county public defender commission pursuant to this 1228
division shall do all of the following: 1229

(1) Comply with all standards established by the rules of 1230
the Ohio public defender commission; 1231

(2) Comply with all standards established by the Ohio 1232
public defender; 1233

(3) Comply with all statutory duties and other laws 1234
applicable to joint county public defenders. 1235

Sec. 120.26. (A) (1) The joint county public defender shall 1236
provide legal representation to indigent adults and juveniles 1237
who are charged with the commission of an offense or act that is 1238
a violation of a state statute and for which the penalty or any 1239
possible adjudication includes the potential loss of liberty and 1240
in postconviction proceedings as defined in this section. 1241

(2) The joint county public defender may provide legal 1242
representation to indigent adults and juveniles charged with the 1243
violation of an ordinance of a municipal corporation for which 1244
the penalty or any possible adjudication includes the potential 1245
loss of liberty, if the joint county public defender commission 1246
has contracted with the municipal corporation to provide legal 1247

representation for indigent persons charged with a violation of 1248
an ordinance of the municipal corporation. 1249

(B) The joint county public defender shall provide the 1250
legal representation authorized by division (A) of this section 1251
at every stage of the proceedings following arrest, detention, 1252
service of summons, or indictment. 1253

(C) The joint county public defender may request the Ohio 1254
public defender to prosecute any appeal or other remedy before 1255
or after conviction that the joint county public defender 1256
decides is in the interests of justice and may provide legal 1257
representation in parole and probation revocation matters and 1258
matters relating to the revocation of community control or post- 1259
release control under a community control sanction or post- 1260
release control sanction. 1261

(D) The joint county public defender shall not be required 1262
to prosecute any appeal, postconviction remedy, or other 1263
proceeding, unless the joint county public defender is first 1264
satisfied that there is arguable merit to the proceeding. 1265

(E) Nothing in this section shall prevent a court from 1266
appointing counsel other than the joint county public defender 1267
or from allowing an indigent person to select the indigent 1268
person's own personal counsel to represent the indigent person. 1269
A court may also appoint counsel or allow an indigent person to 1270
select the indigent person's own personal counsel to assist the 1271
joint county public defender as co-counsel when the interests of 1272
justice so require. 1273

(F) Information as to the right to legal representation by 1274
the joint county public defender or assigned counsel shall be 1275
afforded to an accused person immediately upon arrest, when 1276

brought before a magistrate, or when formally charged, whichever
occurs first.

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

~~(H) As used in this section:~~

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

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

Sec. 120.28. (A) The joint county public defender
commission's report to the joint board of county commissioners
shall be audited by the fiscal officer of the district. The
joint board of county commissioners, after review and approval
of the audited report, may then certify it to the state public
defender for reimbursement. If a request for the reimbursement
of any operating expenditure incurred by a joint county public
defender office is not received by the state public defender
within sixty days after the end of the calendar month in which
the expenditure is incurred, the state public defender shall not
pay the requested reimbursement, unless the joint board of

county commissioners has requested, and the state public 1306
defender has granted, an extension of the sixty-day time limit. 1307
Each request for reimbursement shall include a certification by 1308
the joint county public defender that all persons provided 1309
representation by the joint county public defender's office 1310
during the period covered by the request were indigent and, for 1311
each person provided representation during that period, a 1312
financial disclosure form completed by the person on a form 1313
prescribed by the state public defender. The state public 1314
defender shall also review the report and, in accordance with 1315
the standards, guidelines, and maximums established pursuant to 1316
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1317
prepare a voucher for fifty per cent of the total cost of each 1318
joint county public defender's office for the period of time 1319
covered by the certified report ~~and a voucher for fifty per cent~~ 1320
~~of the costs and expenses that are reimbursable under section~~ 1321
~~120.35 of the Revised Code, if any, or, if the amount of money~~ 1322
appropriated by the general assembly to reimburse counties for 1323
the operation of county public defender offices, joint county 1324
public defender offices, and county appointed counsel systems is 1325
not sufficient to pay fifty per cent of the total cost of all of 1326
the offices and systems, for the lesser amount required by 1327
section 120.34 of the Revised Code. For purposes of this 1328
section, "total cost" means total expenses minus ~~costs and~~ 1329
~~expenses reimbursable under section 120.35 of the Revised Code~~ 1330
~~and~~ any funds received by the joint county public defender 1331
commission pursuant to a contract, except a contract entered 1332
into with a municipal corporation pursuant to division (E) of 1333
section 120.24 of the Revised Code, gift, or grant. Each county 1334
in the district shall be entitled to a share of such state 1335
reimbursement in proportion to the percentage of the total cost 1336
it has agreed to pay. 1337

(B) If the joint county public defender fails to maintain 1338
the standards for the conduct of the office established by the 1339
rules of the Ohio public defender commission pursuant to 1340
divisions (B) and (C) of section 120.03 or the standards 1341
established by the state public defender pursuant to division 1342
(B) (7) of section 120.04 of the Revised Code, the Ohio public 1343
defender commission shall notify the joint county public 1344
defender commission and the board of county commissioners of 1345
each county in the district that the joint county public 1346
defender has failed to comply with its rules or the standards of 1347
the state public defender. Unless the joint public defender 1348
commission or the joint county public defender corrects the 1349
conduct of the joint county public defender's office to comply 1350
with the rules and standards within ninety days after the date 1351
of the notice, the state public defender may deny all or part of 1352
the counties' reimbursement from the state provided for in 1353
division (A) of this section. 1354

Sec. 120.33. (A) In lieu of using a county public defender 1355
or joint county public defender to represent indigent persons in 1356
the proceedings set forth in division (A) of section 120.16 of 1357
the Revised Code, the board of county commissioners of any 1358
county may adopt a resolution to pay counsel who are either 1359
personally selected by the indigent person or appointed by the 1360
court. The resolution shall include those provisions the board 1361
of county commissioners considers necessary to provide effective 1362
representation of indigent persons in any proceeding for which 1363
counsel is provided under this section. The resolution shall 1364
include provisions for contracts with any municipal corporation 1365
under which the municipal corporation shall reimburse the county 1366
for counsel appointed to represent indigent persons charged with 1367
violations of the ordinances of the municipal corporation. 1368

(1) In a county that adopts a resolution to pay counsel, 1369
an indigent person shall have the right to do either of the 1370
following: 1371

(a) To select the person's own personal counsel to 1372
represent the person in any proceeding included within the 1373
provisions of the resolution; 1374

(b) To request the court to appoint counsel to represent 1375
the person in such a proceeding. 1376

(2) The court having jurisdiction over the proceeding in a 1377
county that adopts a resolution to pay counsel shall, after 1378
determining that the person is indigent and entitled to legal 1379
representation under this section, do either of the following: 1380

(a) By signed journal entry recorded on its docket, enter 1381
the name of the lawyer selected by the indigent person as 1382
counsel of record; 1383

(b) Appoint counsel for the indigent person if the person 1384
has requested the court to appoint counsel and, by signed 1385
journal entry recorded on its dockets, enter the name of the 1386
lawyer appointed for the indigent person as counsel of record. 1387

(3) The board of county commissioners shall establish a 1388
schedule of fees by case or on an hourly basis to be paid to 1389
counsel for legal services provided pursuant to a resolution 1390
adopted under this section. Prior to establishing the schedule, 1391
the board of county commissioners shall request the bar 1392
association or associations of the county to submit a proposed 1393
schedule. The schedule submitted shall be subject to the review, 1394
amendment, and approval of the board of county commissioners. 1395

(4) Counsel selected by the indigent person or appointed 1396
by the court at the request of an indigent person in a county 1397

that adopts a resolution to pay counsel, except for counsel 1398
appointed to represent a person charged with any violation of an 1399
ordinance of a municipal corporation that has not contracted 1400
with the county commissioners for the payment of appointed 1401
counsel, shall be paid by the county and shall receive the 1402
compensation and expenses the court approves. Each request for 1403
payment shall be accompanied by a financial disclosure form and 1404
an affidavit of indigency that are completed by the indigent 1405
person on forms prescribed by the state public defender. 1406
Compensation and expenses shall not exceed the amounts fixed by 1407
the board of county commissioners in the schedule adopted 1408
pursuant to division (A) (3) of this section. No court shall 1409
approve compensation and expenses that exceed the amount fixed 1410
pursuant to division (A) (3) of this section. 1411

The fees and expenses approved by the court shall not be 1412
taxed as part of the costs and shall be paid by the county. 1413
However, if the person represented has, or may reasonably be 1414
expected to have, the means to meet some part of the cost of the 1415
services rendered to the person, the person shall pay the county 1416
an amount that the person reasonably can be expected to pay. 1417
Pursuant to section 120.04 of the Revised Code, the county shall 1418
pay to the state public defender a percentage of the payment 1419
received from the person in an amount proportionate to the 1420
percentage of the costs of the person's case that were paid to 1421
the county by the state public defender pursuant to this 1422
section. The money paid to the state public defender shall be 1423
credited to the client payment fund created pursuant to division 1424
(B) (5) of section 120.04 of the Revised Code. 1425

The county auditor shall draw a warrant on the county 1426
treasurer for the payment of counsel in the amount fixed by the 1427
court, plus the expenses the court fixes and certifies to the 1428

auditor. The county auditor shall report periodically, but not 1429
less than annually, to the board of county commissioners and to 1430
the state public defender the amounts paid out pursuant to the 1431
approval of the court. The board of county commissioners, after 1432
review and approval of the auditor's report, or the county 1433
auditor, with permission from and notice to the board of county 1434
commissioners, may then certify it to the state public defender 1435
for reimbursement. The state public defender may pay a requested 1436
reimbursement only if the request for reimbursement is 1437
accompanied by a financial disclosure form and an affidavit of 1438
indigency completed by the indigent person on forms prescribed 1439
by the state public defender or if the court certifies by 1440
electronic signature as prescribed by the state public defender 1441
that a financial disclosure form and affidavit of indigency have 1442
been completed by the indigent person and are available for 1443
inspection. If a request for the reimbursement of the cost of 1444
counsel in any case is not received by the state public defender 1445
within ninety days after the end of the calendar month in which 1446
the case is finally disposed of by the court, unless the county 1447
has requested and the state public defender has granted an 1448
extension of the ninety-day limit, the state public defender 1449
shall not pay the requested reimbursement. The state public 1450
defender shall also review the report and, in accordance with 1451
the standards, guidelines, and maximums established pursuant to 1452
divisions (B) (7) and (8) of section 120.04 of the Revised Code, 1453
prepare a voucher for fifty per cent of the total cost of each 1454
county appointed counsel system in the period of time covered by 1455
the certified report ~~and a voucher for fifty per cent of the~~ 1456
~~costs and expenses that are reimbursable under section 120.35 of~~ 1457
~~the Revised Code, if any, or, if the amount of money~~ 1458
appropriated by the general assembly to reimburse counties for 1459
the operation of county public defender offices, joint county 1460

public defender offices, and county appointed counsel systems is 1461
not sufficient to pay fifty per cent of the total cost of all of 1462
the offices and systems ~~other than costs and expenses that are~~ 1463
~~reimbursable under section 120.35 of the Revised Code~~, for the 1464
lesser amount required by section 120.34 of the Revised Code. 1465

(5) If any county appointed counsel system fails to 1466
maintain the standards for the conduct of the system established 1467
by the rules of the Ohio public defender commission pursuant to 1468
divisions (B) and (C) of section 120.03 or the standards 1469
established by the state public defender pursuant to division 1470
(B)(7) of section 120.04 of the Revised Code, the Ohio public 1471
defender commission shall notify the board of county 1472
commissioners of the county that the county appointed counsel 1473
system has failed to comply with its rules or the standards of 1474
the state public defender. Unless the board of county 1475
commissioners corrects the conduct of its appointed counsel 1476
system to comply with the rules and standards within ninety days 1477
after the date of the notice, the state public defender may deny 1478
all or part of the county's reimbursement from the state 1479
provided for in division (A)(4) of this section. 1480

(B) In lieu of using a county public defender or joint 1481
county public defender to represent indigent persons in the 1482
proceedings set forth in division (A) of section 120.16 of the 1483
Revised Code, and in lieu of adopting the resolution and 1484
following the procedure described in division (A) of this 1485
section, the board of county commissioners of any county may 1486
contract with the state public defender for the state public 1487
defender's legal representation of indigent persons. A contract 1488
entered into pursuant to this division may provide for payment 1489
for the services provided on a per case, hourly, or fixed 1490
contract basis. 1491

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

Sec. 120.34. The total amount of money paid to all counties in any fiscal year pursuant to sections 120.18, 120.28, and 120.33 of the Revised Code for the reimbursement of a percentage of the counties' cost of operating county public defender offices, joint county public defender offices, and county appointed counsel systems shall not exceed the total amount appropriated for that fiscal year by the general assembly for the reimbursement of the counties for the operation of the offices and systems. If the amount appropriated by the general assembly in any fiscal year is insufficient to pay fifty per cent of the total cost in the fiscal year of all county public defender offices, all joint county public defender offices, and all county appointed counsel systems, the amount of money paid in that fiscal year pursuant to sections 120.18, 120.28, and 120.33 of the Revised Code to each county for the fiscal year shall be reduced proportionately so that each county is paid an equal percentage of its total cost in the fiscal year for operating its county public defender system, its joint county public defender system, and its county appointed counsel system.

~~The total amount of money paid to all counties in any fiscal year pursuant to section 120.35 of the Revised Code for~~

~~the reimbursement of a percentage of the counties' costs and 1523
expenses of conducting the defense in capital cases shall not 1524
exceed the total amount appropriated for that fiscal year by the 1525
general assembly for the reimbursement of the counties for 1526
conducting the defense in capital cases. If the amount 1527
appropriated by the general assembly in any fiscal year is 1528
insufficient to pay fifty per cent of the counties' total costs 1529
and expenses of conducting the defense in capital cases in the 1530
fiscal year, the amount of money paid in that fiscal year 1531
pursuant to section 120.35 of the Revised Code to each county 1532
for the fiscal year shall be reduced proportionately so that 1533
each county is paid an equal percentage of its costs and 1534
expenses of conducting the defense in capital cases in the 1535
fiscal year. 1536~~

All payments relating to capital cases that were required 1537
to be made under the provisions of this chapter or section 1538
2941.51 of the Revised Code as those provisions existed 1539
immediately before the effective date of this amendment shall be 1540
made for each calendar or fiscal year, as applicable, in 1541
accordance with those provisions as they existed immediately 1542
before the effective date of this amendment until each case in 1543
which a defendant was sentenced to death before the effective 1544
date of this amendment is finally resolved. 1545

If any county receives an amount of money pursuant to 1546
section 120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code 1547
that is in excess of the amount of reimbursement it is entitled 1548
to receive pursuant to this section, the state public defender 1549
shall request the board of county commissioners to return the 1550
excess payment and the board of county commissioners, upon 1551
receipt of the request, shall direct the appropriate county 1552
officer to return the excess payment to the state. 1553

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

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

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

(B) When in aid of execution of a judgment of the
environmental division of the municipal court, in all actions
for the foreclosure of a mortgage on real property given to
secure the payment of money, or the enforcement of a specific
lien for money or other encumbrance or charge on real property,
when the real property is situated within the territory, and, in
those cases, the environmental division may proceed to foreclose
all liens and all vested and contingent rights and proceed to

render judgments, and make findings and orders, between the 1584
parties, in the same manner and to the same extent as in similar 1585
cases in the court of common pleas; 1586

(C) When in aid of execution of a judgment of the 1587
environmental division of the municipal court, in all actions 1588
for the recovery of real property situated within the territory 1589
to the same extent as courts of common pleas have jurisdiction; 1590

(D) In all actions for injunction to prevent or terminate 1591
violations of the ordinances and regulations of any municipal 1592
corporation within its territory enacted or promulgated under 1593
the police power of that municipal corporation pursuant to 1594
Section 3 of Article XVIII, Ohio Constitution, over which the 1595
court of common pleas has or may have jurisdiction, and, in 1596
those cases, the environmental division of the municipal court 1597
may proceed to render judgments, and make findings and orders, 1598
in the same manner and to the same extent as in similar cases in 1599
the court of common pleas; 1600

(E) In all actions for injunction to prevent or terminate 1601
violations of the resolutions and regulations of any political 1602
subdivision within its territory enacted or promulgated under 1603
the power of that political subdivision pursuant to Article X of 1604
the Ohio Constitution, over which the court of common pleas has 1605
or may have jurisdiction, and, in those cases, the environmental 1606
division of the municipal court may proceed to render judgments, 1607
and make findings and orders, in the same manner and to the same 1608
extent as in similar cases in the court of common pleas; 1609

(F) In any civil action to enforce any provision of 1610
Chapter 3704., 3714., 3734., 3737., 3767., or 6111. of the 1611
Revised Code over which the court of common pleas has or may 1612
have jurisdiction, and, in those actions, the environmental 1613

division of the municipal court may proceed to render judgments, 1614
and make findings and orders, in the same manner and to the same 1615
extent as in similar actions in the court of common pleas; 1616

(G) In all actions and proceedings in the nature of 1617
creditors' bills, and in aid of execution to subject the 1618
interests of a judgment debtor in real or personal property to 1619
the payment of a judgment of the division, and, in those actions 1620
and proceedings, the environmental division may proceed to 1621
marshal and foreclose all liens on the property irrespective of 1622
the amount of the lien, and all vested or contingent rights in 1623
the property; 1624

(H) Concurrent jurisdiction with the court of common pleas 1625
of all criminal actions or proceedings related to the pollution 1626
of the air, ground, or water within the territory of the 1627
environmental division of the municipal court, ~~for which a~~ 1628
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 1629
~~Revised Code;~~ 1630

(I) In any review or appeal of any final order of any 1631
administrative officer, agency, board, department, tribunal, 1632
commission, or other instrumentality that relates to a local 1633
building, housing, air pollution, sanitation, health, fire, 1634
zoning, or safety code, ordinance, or regulation, in the same 1635
manner and to the same extent as in similar appeals in the court 1636
of common pleas; 1637

(J) With respect to the environmental division of the 1638
Franklin county municipal court, to hear appeals from 1639
adjudication hearings conducted under Chapter 956. of the 1640
Revised Code. 1641

Sec. 2152.13. (A) A juvenile court shall impose a serious 1642

youthful dispositional sentence on a child when required under 1643
division (B) (3) of section 2152.121 of the Revised Code. In such 1644
a case, the remaining provisions of this division and divisions 1645
(B) and (C) do not apply to the child, and the court shall 1646
impose the mandatory serious youthful dispositional sentence 1647
under division (D) (1) of this section. 1648

In all other cases, a juvenile court may impose a serious 1649
youthful offender dispositional sentence on a child only if the 1650
prosecuting attorney of the county in which the delinquent act 1651
allegedly occurred initiates the process against the child in 1652
accordance with this division, and the child is an alleged 1653
delinquent child who is eligible for the dispositional sentence. 1654
The prosecuting attorney may initiate the process in any of the 1655
following ways: 1656

(1) Obtaining an indictment of the child as a serious 1657
youthful offender; 1658

(2) The child waives the right to indictment, charging the 1659
child in a bill of information as a serious youthful offender; 1660

(3) Until an indictment or information is obtained, 1661
requesting a serious youthful offender dispositional sentence in 1662
the original complaint alleging that the child is a delinquent 1663
child; 1664

(4) Until an indictment or information is obtained, if the 1665
original complaint does not request a serious youthful offender 1666
dispositional sentence, filing with the juvenile court a written 1667
notice of intent to seek a serious youthful offender 1668
dispositional sentence within twenty days after the later of the 1669
following, unless the time is extended by the juvenile court for 1670
good cause shown: 1671

(a) The date of the child's first juvenile court hearing 1672
regarding the complaint; 1673

(b) The date the juvenile court determines not to transfer 1674
the case under section 2152.12 of the Revised Code. 1675

After a written notice is filed under division (A) (4) of 1676
this section, the juvenile court shall serve a copy of the 1677
notice on the child and advise the child of the prosecuting 1678
attorney's intent to seek a serious youthful offender 1679
dispositional sentence in the case. 1680

(B) If an alleged delinquent child is not indicted or 1681
charged by information as described in division (A) (1) or (2) of 1682
this section and if a notice or complaint as described in 1683
division (A) (3) or (4) of this section indicates that the 1684
prosecuting attorney intends to pursue a serious youthful 1685
offender dispositional sentence in the case, the juvenile court 1686
shall hold a preliminary hearing to determine if there is 1687
probable cause that the child committed the act charged and is 1688
by age eligible for, or required to receive, a serious youthful 1689
offender dispositional sentence. 1690

(C) (1) A child for whom a serious youthful offender 1691
dispositional sentence is sought by a prosecuting attorney has 1692
the right to a grand jury determination of probable cause that 1693
the child committed the act charged and that the child is 1694
eligible by age for a serious youthful offender dispositional 1695
sentence. The grand jury may be impaneled by the court of common 1696
pleas or the juvenile court. 1697

Once a child is indicted, or charged by information or the 1698
juvenile court determines that the child is eligible for a 1699
serious youthful offender dispositional sentence, the child is 1700

entitled to an open and speedy trial by jury in juvenile court 1701
and to be provided with a transcript of the proceedings. The 1702
time within which the trial is to be held under Title XXIX of 1703
the Revised Code commences on whichever of the following dates 1704
is applicable: 1705

(a) If the child is indicted or charged by information, on 1706
the date of the filing of the indictment or information. 1707

(b) If the child is charged by an original complaint that 1708
requests a serious youthful offender dispositional sentence, on 1709
the date of the filing of the complaint. 1710

(c) If the child is not charged by an original complaint 1711
that requests a serious youthful offender dispositional 1712
sentence, on the date that the prosecuting attorney files the 1713
written notice of intent to seek a serious youthful offender 1714
dispositional sentence. 1715

(2) If the child is detained awaiting adjudication, upon 1716
indictment or being charged by information, the child has the 1717
same right to bail as an adult charged with the offense the 1718
alleged delinquent act would be if committed by an adult. Except 1719
as provided in division (D) of section 2152.14 of the Revised 1720
Code, all provisions of Title XXIX of the Revised Code and the 1721
Criminal Rules shall apply in the case and to the child. The 1722
juvenile court shall afford the child all rights afforded a 1723
person who is prosecuted for committing a crime including the 1724
right to counsel and the right to raise the issue of competency. 1725
The child may not waive the right to counsel. 1726

(D) (1) If a child is adjudicated a delinquent child for 1727
committing an act under circumstances that require the juvenile 1728
court to impose upon the child a serious youthful offender 1729

dispositional sentence under section 2152.11 of the Revised Code, all of the following apply:

(a) The juvenile court shall impose upon the child a sentence available for the violation, as if the child were an adult, under Chapter 2929. of the Revised Code, except that the juvenile court shall not impose on the child a sentence of ~~death~~ ~~or~~ life imprisonment without parole.

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

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

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

(i) If the juvenile court on the record makes a finding that, given the nature and circumstances of the violation and the history of the child, the length of time, level of security, and types of programming and resources available in the juvenile system alone are not adequate to provide the juvenile court with a reasonable expectation that the purposes set forth in section 2152.01 of the Revised Code will be met, the juvenile court may impose upon the child a sentence available for the violation, as if the child were an adult, under Chapter 2929. of the Revised

Code, except that the juvenile court shall not impose on the 1759
child a sentence of ~~death or~~ life imprisonment without parole. 1760

(ii) If a sentence is imposed under division (D) (2) (a) (i) 1761
of this section, the juvenile court also shall impose upon the 1762
child one or more traditional juvenile dispositions under 1763
sections 2152.16, 2152.19, and 2152.20 and, if applicable, 1764
section 2152.17 of the Revised Code. 1765

(iii) The juvenile court shall stay the adult portion of 1766
the serious youthful offender dispositional sentence pending the 1767
successful completion of the traditional juvenile dispositions 1768
imposed. 1769

(b) If the juvenile court does not find that a sentence 1770
should be imposed under division (D) (2) (a) (i) of this section, 1771
the juvenile court may impose one or more traditional juvenile 1772
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 1773
applicable, section 2152.17 of the Revised Code. 1774

(3) A child upon whom a serious youthful offender 1775
dispositional sentence is imposed under division (D) (1) or (2) 1776
of this section has a right to appeal under division (A) (1), 1777
(3), (4), or (5) of section 2953.08 of the Revised Code the 1778
adult portion of the serious youthful offender dispositional 1779
sentence when any of those divisions apply. The child may appeal 1780
the adult portion, and the court shall consider the appeal as if 1781
the adult portion were not stayed. 1782

Sec. 2152.67. Any adult who is arrested or charged under 1783
any provision in this chapter and who is charged with a crime 1784
may demand a trial by jury, or the juvenile judge upon the 1785
judge's own motion may call a jury. A demand for a jury trial 1786
shall be made in writing in not less than three days before the 1787

date set for trial, or within three days after counsel has been 1788
retained, whichever is later. Sections 2945.17 and 2945.23 to 1789
2945.36 of the Revised Code, relating to the drawing and 1790
impaneling of jurors in criminal cases in the court of common 1791
pleas, ~~other than in capital cases,~~ shall apply to a jury trial 1792
under this section. The compensation of jurors and costs of the 1793
clerk and sheriff shall be taxed and paid in the same manner as 1794
in criminal cases in the court of common pleas. 1795

Sec. 2301.20. All civil and criminal actions in the court 1796
of common pleas shall be recorded. The reporter shall take 1797
accurate notes of or electronically record the oral testimony. 1798
The notes and electronic records shall be filed in the office of 1799
the official reporter and carefully preserved for ~~either of the~~ 1800
~~following periods of time:~~ 1801

~~(A) If the action is not a capital case, the notes and~~ 1802
~~electronic records shall be preserved for the period of time~~ 1803
specified by the court of common pleas, which period of time 1804
shall not be longer than the period of time that the other 1805
records of the particular action are required to be kept. 1806

~~(B) If the action is a capital case, the notes and~~ 1807
~~electronic records shall be preserved for the longer of ten~~ 1808
~~years or until the final disposition of the action and~~ 1809
~~exhaustion of all appeals.~~ 1810

Sec. 2307.60. (A) (1) Anyone injured in person or property 1811
by a criminal act has, and may recover full damages in, a civil 1812
action unless specifically excepted by law, may recover the 1813
costs of maintaining the civil action and attorney's fees if 1814
authorized by any provision of the Rules of Civil Procedure or 1815
another section of the Revised Code or under the common law of 1816
this state, and may recover punitive or exemplary damages if 1817

authorized by section 2315.21 or another section of the Revised Code. 1818
1819

(2) A final judgment of a trial court that has not been 1820
reversed on appeal or otherwise set aside, nullified, or 1821
vacated, entered after a trial or upon a plea of guilty, but not 1822
upon a plea of no contest or the equivalent plea from another 1823
jurisdiction, that adjudges an offender guilty of an offense of 1824
violence punishable by ~~death or~~ imprisonment in excess of one 1825
year, when entered as evidence in any subsequent civil 1826
proceeding based on the criminal act, shall preclude the 1827
offender from denying in the subsequent civil proceeding any 1828
fact essential to sustaining that judgment, unless the offender 1829
can demonstrate that extraordinary circumstances prevented the 1830
offender from having a full and fair opportunity to litigate the 1831
issue in the criminal proceeding or other extraordinary 1832
circumstances justify affording the offender an opportunity to 1833
relitigate the issue. The offender may introduce evidence of the 1834
offender's pending appeal of the final judgment of the trial 1835
court, if applicable, and the court may consider that evidence 1836
in determining the liability of the offender. 1837

(B) (1) As used in division (B) of this section: 1838

(a) "Tort action" means a civil action for damages for 1839
injury, death, or loss to person or property other than a civil 1840
action for damages for a breach of contract or another agreement 1841
between persons. "Tort action" includes, but is not limited to, 1842
a product liability claim, as defined in section 2307.71 of the 1843
Revised Code, and an asbestos claim, as defined in section 1844
2307.91 of the Revised Code, an action for wrongful death under 1845
Chapter 2125. of the Revised Code, and an action based on 1846
derivative claims for relief. 1847

(b) "Residence" has the same meaning as in section 2901.05 1848
of the Revised Code. 1849

(2) Recovery on a claim for relief in a tort action is 1850
barred to any person or the person's legal representative if any 1851
of the following apply: 1852

(a) The person has been convicted of or has pleaded guilty 1853
to a felony, or to a misdemeanor that is an offense of violence, 1854
arising out of criminal conduct that was a proximate cause of 1855
the injury or loss for which relief is claimed in the tort 1856
action. 1857

(b) The person engaged in conduct that, if prosecuted, 1858
would constitute a felony, a misdemeanor that is an offense of 1859
violence, an attempt to commit a felony, or an attempt to commit 1860
a misdemeanor that is an offense of violence and that conduct 1861
was a proximate cause of the injury or loss for which relief is 1862
claimed in the tort action, regardless of whether the person has 1863
been convicted of or pleaded guilty to or has been charged with 1864
committing the felony, the misdemeanor, or the attempt to commit 1865
the felony or misdemeanor. 1866

(c) The person suffered the injury or loss for which 1867
relief is claimed in the tort action as a proximate result of 1868
the victim of conduct that, if prosecuted, would constitute a 1869
felony, a misdemeanor that is an offense of violence, an attempt 1870
to commit a felony, or an attempt to commit a misdemeanor that 1871
is an offense of violence acting against the person in self- 1872
defense, defense of another, or defense of the victim's 1873
residence, regardless of whether the person has been convicted 1874
of or pleaded guilty to or has been charged with committing the 1875
felony, the misdemeanor, or the attempt to commit the felony or 1876
misdemeanor. Division (B) (2) (c) of this section does not apply 1877

if the person who suffered the injury or loss, at the time of 1878
the victim's act of self-defense, defense of another, or defense 1879
of residence, was an innocent bystander who had no connection 1880
with the underlying conduct that prompted the victim's exercise 1881
of self-defense, defense of another, or defense of residence. 1882

(3) Recovery against a victim of conduct that, if 1883
prosecuted, would constitute a felony, a misdemeanor that is an 1884
offense of violence, an attempt to commit a felony, or an 1885
attempt to commit a misdemeanor that is an offense of violence, 1886
on a claim for relief in a tort action is barred to any person 1887
or the person's legal representative if conduct the person 1888
engaged in against that victim was a proximate cause of the 1889
injury or loss for which relief is claimed in the tort action 1890
and that conduct, if prosecuted, would constitute a felony, a 1891
misdemeanor that is an offense of violence, an attempt to commit 1892
a felony, or an attempt to commit a misdemeanor that is an 1893
offense of violence, regardless of whether the person has been 1894
convicted of or pleaded guilty to or has been charged with 1895
committing the felony, the misdemeanor, or the attempt to commit 1896
the felony or misdemeanor. 1897

(4) Divisions (B) (1) to (3) of this section do not apply 1898
to civil claims based upon alleged intentionally tortious 1899
conduct, alleged violations of the United States Constitution, 1900
or alleged violations of statutes of the United States 1901
pertaining to civil rights. For purposes of division (B) (4) of 1902
this section, a person's act of self-defense, defense of 1903
another, or defense of the person's residence does not 1904
constitute intentionally tortious conduct. 1905

Sec. 2701.07. When, in the opinion of the court, the 1906
business thereof so requires, each court of common pleas, court 1907

of appeals, and, in counties having at the last or any future 1908
federal census more than seventy thousand inhabitants, the 1909
probate court, may appoint one or more constables to preserve 1910
order, attend the assignment of cases in counties where more 1911
than two judges of the court of common pleas regularly hold 1912
court at the same time, and discharge such other duties as the 1913
court requires. When so directed by the court, each constable 1914
has the same powers as sheriffs to call and impanel jurors,~~—~~ 1915
~~except in capital cases.~~ 1916

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of 1917
the Revised Code: 1918

(A) "Claimant" means both of the following categories of 1919
persons: 1920

(1) Any of the following persons who claim an award of 1921
reparations under sections 2743.51 to 2743.72 of the Revised 1922
Code: 1923

(a) A victim who was one of the following at the time of 1924
the criminally injurious conduct: 1925

(i) A resident of the United States; 1926

(ii) A resident of a foreign country the laws of which 1927
permit residents of this state to recover compensation as 1928
victims of offenses committed in that country. 1929

(b) A dependent of a deceased victim who is described in 1930
division (A) (1) (a) of this section; 1931

(c) A third person, other than a collateral source, who 1932
legally assumes or voluntarily pays the obligations of a victim, 1933
or of a dependent of a victim, who is described in division (A) 1934
(1) (a) of this section, which obligations are incurred as a 1935

result of the criminally injurious conduct that is the subject 1936
of the claim and may include, but are not limited to, medical or 1937
burial expenses; 1938

(d) A person who is authorized to act on behalf of any 1939
person who is described in division (A)(1)(a), (b), or (c) of 1940
this section; 1941

(e) The estate of a deceased victim who is described in 1942
division (A)(1)(a) of this section. 1943

(2) Any of the following persons who claim an award of 1944
reparations under sections 2743.51 to 2743.72 of the Revised 1945
Code: 1946

(a) A victim who had a permanent place of residence within 1947
this state at the time of the criminally injurious conduct and 1948
who, at the time of the criminally injurious conduct, complied 1949
with any one of the following: 1950

(i) Had a permanent place of employment in this state; 1951

(ii) Was a member of the regular armed forces of the 1952
United States or of the United States coast guard or was a full- 1953
time member of the Ohio organized militia or of the United 1954
States army reserve, naval reserve, or air force reserve; 1955

(iii) Was retired and receiving social security or any 1956
other retirement income; 1957

(iv) Was sixty years of age or older; 1958

(v) Was temporarily in another state for the purpose of 1959
receiving medical treatment; 1960

(vi) Was temporarily in another state for the purpose of 1961
performing employment-related duties required by an employer 1962

located within this state as an express condition of employment	1963
or employee benefits;	1964
(vii) Was temporarily in another state for the purpose of	1965
receiving occupational, vocational, or other job-related	1966
training or instruction required by an employer located within	1967
this state as an express condition of employment or employee	1968
benefits;	1969
(viii) Was a full-time student at an academic institution,	1970
college, or university located in another state;	1971
(ix) Had not departed the geographical boundaries of this	1972
state for a period exceeding thirty days or with the intention	1973
of becoming a citizen of another state or establishing a	1974
permanent place of residence in another state.	1975
(b) A dependent of a deceased victim who is described in	1976
division (A) (2) (a) of this section;	1977
(c) A third person, other than a collateral source, who	1978
legally assumes or voluntarily pays the obligations of a victim,	1979
or of a dependent of a victim, who is described in division (A)	1980
(2) (a) of this section, which obligations are incurred as a	1981
result of the criminally injurious conduct that is the subject	1982
of the claim and may include, but are not limited to, medical or	1983
burial expenses;	1984
(d) A person who is authorized to act on behalf of any	1985
person who is described in division (A) (2) (a), (b), or (c) of	1986
this section;	1987
(e) The estate of a deceased victim who is described in	1988
division (A) (2) (a) of this section.	1989
(B) "Collateral source" means a source of benefits or	1990

advantages for economic loss otherwise reparable that the victim	1991
or claimant has received, or that is readily available to the	1992
victim or claimant, from any of the following sources:	1993
(1) The offender;	1994
(2) The government of the United States or any of its	1995
agencies, a state or any of its political subdivisions, or an	1996
instrumentality of two or more states, unless the law providing	1997
for the benefits or advantages makes them excess or secondary to	1998
benefits under sections 2743.51 to 2743.72 of the Revised Code;	1999
(3) Social security, medicare, and medicaid;	2000
(4) State-required, temporary, nonoccupational disability	2001
insurance;	2002
(5) Workers' compensation;	2003
(6) Wage continuation programs of any employer;	2004
(7) Proceeds of a contract of insurance payable to the	2005
victim for loss that the victim sustained because of the	2006
criminally injurious conduct;	2007
(8) A contract providing prepaid hospital and other health	2008
care services, or benefits for disability;	2009
(9) That portion of the proceeds of all contracts of	2010
insurance payable to the claimant on account of the death of the	2011
victim that exceeds fifty thousand dollars;	2012
(10) Any compensation recovered or recoverable under the	2013
laws of another state, district, territory, or foreign country	2014
because the victim was the victim of an offense committed in	2015
that state, district, territory, or country.	2016
"Collateral source" does not include any money, or the	2017

monetary value of any property, that is subject to sections 2018
2969.01 to 2969.06 of the Revised Code or that is received as a 2019
benefit from the Ohio public safety officers death benefit fund 2020
created by section 742.62 of the Revised Code. 2021

(C) "Criminally injurious conduct" means one of the 2022
following: 2023

(1) For the purposes of any person described in division 2024
(A)(1) of this section, any conduct that occurs or is attempted 2025
in this state; poses a substantial threat of personal injury or 2026
death; and is punishable by fine, or imprisonment, ~~or death~~, or 2027
would be so punishable but for the fact that the person engaging 2028
in the conduct lacked capacity to commit the crime under the 2029
laws of this state. Criminally injurious conduct does not 2030
include conduct arising out of the ownership, maintenance, or 2031
use of a motor vehicle, except when any of the following 2032
applies: 2033

(a) The person engaging in the conduct intended to cause 2034
personal injury or death; 2035

(b) The person engaging in the conduct was using the 2036
vehicle to flee immediately after committing a felony or an act 2037
that would constitute a felony but for the fact that the person 2038
engaging in the conduct lacked the capacity to commit the felony 2039
under the laws of this state; 2040

(c) The person engaging in the conduct was using the 2041
vehicle in a manner that constitutes an OVI violation; 2042

(d) The conduct occurred on or after July 25, 1990, and 2043
the person engaging in the conduct was using the vehicle in a 2044
manner that constitutes a violation of section 2903.08 of the 2045
Revised Code; 2046

(e) The person engaging in the conduct acted in a manner 2047
that caused serious physical harm to a person and that 2048
constituted a violation of section 4549.02 or 4549.021 of the 2049
Revised Code. 2050

(2) For the purposes of any person described in division 2051
(A) (2) of this section, any conduct that occurs or is attempted 2052
in another state, district, territory, or foreign country; poses 2053
a substantial threat of personal injury or death; and is 2054
punishable by fine, or imprisonment, ~~or death~~, or would be so 2055
punishable but for the fact that the person engaging in the 2056
conduct lacked capacity to commit the crime under the laws of 2057
the state, district, territory, or foreign country in which the 2058
conduct occurred or was attempted. Criminally injurious conduct 2059
does not include conduct arising out of the ownership, 2060
maintenance, or use of a motor vehicle, except when any of the 2061
following applies: 2062

(a) The person engaging in the conduct intended to cause 2063
personal injury or death; 2064

(b) The person engaging in the conduct was using the 2065
vehicle to flee immediately after committing a felony or an act 2066
that would constitute a felony but for the fact that the person 2067
engaging in the conduct lacked the capacity to commit the felony 2068
under the laws of the state, district, territory, or foreign 2069
country in which the conduct occurred or was attempted; 2070

(c) The person engaging in the conduct was using the 2071
vehicle in a manner that constitutes an OVI violation; 2072

(d) The conduct occurred on or after July 25, 1990, the 2073
person engaging in the conduct was using the vehicle in a manner 2074
that constitutes a violation of any law of the state, district, 2075

territory, or foreign country in which the conduct occurred, and 2076
that law is substantially similar to a violation of section 2077
2903.08 of the Revised Code; 2078

(e) The person engaging in the conduct acted in a manner 2079
that caused serious physical harm to a person and that 2080
constituted a violation of any law of the state, district, 2081
territory, or foreign country in which the conduct occurred, and 2082
that law is substantially similar to section 4549.02 or 4549.021 2083
of the Revised Code. 2084

(3) For the purposes of any person described in division 2085
(A) (1) or (2) of this section, terrorism that occurs within or 2086
outside the territorial jurisdiction of the United States. 2087

(D) "Dependent" means an individual wholly or partially 2088
dependent upon the victim for care and support, and includes a 2089
child of the victim born after the victim's death. 2090

(E) "Economic loss" means economic detriment consisting 2091
only of allowable expense, work loss, funeral expense, 2092
unemployment benefits loss, replacement services loss, cost of 2093
crime scene cleanup, and cost of evidence replacement. If 2094
criminally injurious conduct causes death, economic loss 2095
includes a dependent's economic loss and a dependent's 2096
replacement services loss. Noneconomic detriment is not economic 2097
loss; however, economic loss may be caused by pain and suffering 2098
or physical impairment. 2099

(F) (1) "Allowable expense" means reasonable charges 2100
incurred for reasonably needed products, services, and 2101
accommodations, including those for medical care, 2102
rehabilitation, rehabilitative occupational training, and other 2103
remedial treatment and care and including replacement costs for 2104

hearing aids; dentures, retainers, and other dental appliances; 2105
canes, walkers, and other mobility tools; and eyeglasses and 2106
other corrective lenses. It does not include that portion of a 2107
charge for a room in a hospital, clinic, convalescent home, 2108
nursing home, or any other institution engaged in providing 2109
nursing care and related services in excess of a reasonable and 2110
customary charge for semiprivate accommodations, unless 2111
accommodations other than semiprivate accommodations are 2112
medically required. 2113

(2) An immediate family member of a victim of criminally 2114
injurious conduct that consists of a homicide, a sexual assault, 2115
domestic violence, or a severe and permanent incapacitating 2116
injury resulting in paraplegia or a similar life-altering 2117
condition, who requires psychiatric care or counseling as a 2118
result of the criminally injurious conduct, may be reimbursed 2119
for that care or counseling as an allowable expense through the 2120
victim's application. The cumulative allowable expense for care 2121
or counseling of that nature shall not exceed two thousand five 2122
hundred dollars for each immediate family member of a victim of 2123
that type and seven thousand five hundred dollars in the 2124
aggregate for all immediate family members of a victim of that 2125
type. 2126

(3) A family member of a victim who died as a proximate 2127
result of criminally injurious conduct may be reimbursed as an 2128
allowable expense through the victim's application for wages 2129
lost and travel expenses incurred in order to attend criminal 2130
justice proceedings arising from the criminally injurious 2131
conduct. The cumulative allowable expense for wages lost and 2132
travel expenses incurred by a family member to attend criminal 2133
justice proceedings shall not exceed five hundred dollars for 2134
each family member of the victim and two thousand dollars in the 2135

aggregate for all family members of the victim. 2136

(4) (a) "Allowable expense" includes reasonable expenses 2137
and fees necessary to obtain a guardian's bond pursuant to 2138
section 2109.04 of the Revised Code when the bond is required to 2139
pay an award to a fiduciary on behalf of a minor or other 2140
incompetent. 2141

(b) "Allowable expense" includes attorney's fees not 2142
exceeding one thousand dollars, at a rate not exceeding one 2143
hundred dollars per hour, incurred to successfully obtain a 2144
restraining order, custody order, or other order to physically 2145
separate a victim from an offender. Attorney's fees for the 2146
services described in this division may include an amount for 2147
reasonable travel time incurred to attend court hearings, not 2148
exceeding three hours' round-trip for each court hearing, 2149
assessed at a rate not exceeding thirty dollars per hour. 2150

(G) "Work loss" means loss of income from work that the 2151
injured person would have performed if the person had not been 2152
injured and expenses reasonably incurred by the person to obtain 2153
services in lieu of those the person would have performed for 2154
income, reduced by any income from substitute work actually 2155
performed by the person, or by income the person would have 2156
earned in available appropriate substitute work that the person 2157
was capable of performing but unreasonably failed to undertake. 2158

(H) "Replacement services loss" means expenses reasonably 2159
incurred in obtaining ordinary and necessary services in lieu of 2160
those the injured person would have performed, not for income, 2161
but for the benefit of the person's self or family, if the 2162
person had not been injured. 2163

(I) "Dependent's economic loss" means loss after a 2164

victim's death of contributions of things of economic value to 2165
the victim's dependents, not including services they would have 2166
received from the victim if the victim had not suffered the 2167
fatal injury, less expenses of the dependents avoided by reason 2168
of the victim's death. If a minor child of a victim is adopted 2169
after the victim's death, the minor child continues after the 2170
adoption to incur a dependent's economic loss as a result of the 2171
victim's death. If the surviving spouse of a victim remarries, 2172
the surviving spouse continues after the remarriage to incur a 2173
dependent's economic loss as a result of the victim's death. 2174

(J) "Dependent's replacement services loss" means loss 2175
reasonably incurred by dependents after a victim's death in 2176
obtaining ordinary and necessary services in lieu of those the 2177
victim would have performed for their benefit if the victim had 2178
not suffered the fatal injury, less expenses of the dependents 2179
avoided by reason of the victim's death and not subtracted in 2180
calculating the dependent's economic loss. If a minor child of a 2181
victim is adopted after the victim's death, the minor child 2182
continues after the adoption to incur a dependent's replacement 2183
services loss as a result of the victim's death. If the 2184
surviving spouse of a victim remarries, the surviving spouse 2185
continues after the remarriage to incur a dependent's 2186
replacement services loss as a result of the victim's death. 2187

(K) "Noneconomic detriment" means pain, suffering, 2188
inconvenience, physical impairment, or other nonpecuniary 2189
damage. 2190

(L) "Victim" means a person who suffers personal injury or 2191
death as a result of any of the following: 2192

(1) Criminally injurious conduct; 2193

(2) The good faith effort of any person to prevent 2194
criminally injurious conduct; 2195

(3) The good faith effort of any person to apprehend a 2196
person suspected of engaging in criminally injurious conduct. 2197

(M) "Contributory misconduct" means any conduct of the 2198
claimant or of the victim through whom the claimant claims an 2199
award of reparations that is unlawful or intentionally tortious 2200
and that, without regard to the conduct's proximity in time or 2201
space to the criminally injurious conduct, has a causal 2202
relationship to the criminally injurious conduct that is the 2203
basis of the claim. 2204

(N) (1) "Funeral expense" means any reasonable charges that 2205
are not in excess of seven thousand five hundred dollars per 2206
funeral and that are incurred for expenses directly related to a 2207
victim's funeral, cremation, or burial and any wages lost or 2208
travel expenses incurred by a family member of a victim in order 2209
to attend the victim's funeral, cremation, or burial. 2210

(2) An award for funeral expenses shall be applied first 2211
to expenses directly related to the victim's funeral, cremation, 2212
or burial. An award for wages lost or travel expenses incurred 2213
by a family member of the victim shall not exceed five hundred 2214
dollars for each family member and shall not exceed in the 2215
aggregate the difference between seven thousand five hundred 2216
dollars and expenses that are reimbursed by the program and that 2217
are directly related to the victim's funeral, cremation, or 2218
burial. 2219

(O) "Unemployment benefits loss" means a loss of 2220
unemployment benefits pursuant to Chapter 4141. of the Revised 2221
Code when the loss arises solely from the inability of a victim 2222

to meet the able to work, available for suitable work, or the 2223
actively seeking suitable work requirements of division (A) (4) 2224
(a) of section 4141.29 of the Revised Code. 2225

(P) "OVI violation" means any of the following: 2226

(1) A violation of section 4511.19 of the Revised Code, of 2227
any municipal ordinance prohibiting the operation of a vehicle 2228
while under the influence of alcohol, a drug of abuse, or a 2229
combination of them, or of any municipal ordinance prohibiting 2230
the operation of a vehicle with a prohibited concentration of 2231
alcohol, a controlled substance, or a metabolite of a controlled 2232
substance in the whole blood, blood serum or plasma, breath, or 2233
urine; 2234

(2) A violation of division (A) (1) of section 2903.06 of 2235
the Revised Code; 2236

(3) A violation of division (A) (2), (3), or (4) of section 2237
2903.06 of the Revised Code or of a municipal ordinance 2238
substantially similar to any of those divisions, if the offender 2239
was under the influence of alcohol, a drug of abuse, or a 2240
combination of them, at the time of the commission of the 2241
offense; 2242

(4) For purposes of any person described in division (A) 2243
(2) of this section, a violation of any law of the state, 2244
district, territory, or foreign country in which the criminally 2245
injurious conduct occurred, if that law is substantially similar 2246
to a violation described in division (P) (1) or (2) of this 2247
section or if that law is substantially similar to a violation 2248
described in division (P) (3) of this section and the offender 2249
was under the influence of alcohol, a drug of abuse, or a 2250
combination of them, at the time of the commission of the 2251

offense. 2252

(Q) "Pendency of the claim" for an original reparations 2253
application or supplemental reparations application means the 2254
period of time from the date the criminally injurious conduct 2255
upon which the application is based occurred until the date a 2256
final decision, order, or judgment concerning that original 2257
reparations application or supplemental reparations application 2258
is issued. 2259

(R) "Terrorism" means any activity to which all of the 2260
following apply: 2261

(1) The activity involves a violent act or an act that is 2262
dangerous to human life. 2263

(2) The act described in division (R)(1) of this section 2264
is committed within the territorial jurisdiction of the United 2265
States and is a violation of the criminal laws of the United 2266
States, this state, or any other state or the act described in 2267
division (R)(1) of this section is committed outside the 2268
territorial jurisdiction of the United States and would be a 2269
violation of the criminal laws of the United States, this state, 2270
or any other state if committed within the territorial 2271
jurisdiction of the United States. 2272

(3) The activity appears to be intended to do any of the 2273
following: 2274

(a) Intimidate or coerce a civilian population; 2275

(b) Influence the policy of any government by intimidation 2276
or coercion; 2277

(c) Affect the conduct of any government by assassination 2278
or kidnapping. 2279

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

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

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

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

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

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

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

(W) "Immediate family member" means an individual who

resided in the same permanent household as a victim at the time 2309
of the criminally injurious conduct and who is related to the 2310
victim by affinity or consanguinity. 2311

(X) "Family member" means an individual who is related to 2312
a victim by affinity or consanguinity. 2313

Sec. 2901.02. As used in the Revised Code: 2314

(A) Offenses include aggravated murder, murder, felonies 2315
of the first, second, third, fourth, and fifth degree, 2316
misdemeanors of the first, second, third, and fourth degree, 2317
minor misdemeanors, and offenses not specifically classified. 2318

~~(B) Aggravated murder when the indictment or the count in 2319
the indictment charging aggravated murder contains one or more 2320
specifications of aggravating circumstances listed in division 2321
(A) of section 2929.04 of Revised Code, and any other offense 2322
for which death may be imposed as a penalty, is a capital 2323
offense. 2324~~

~~(C) Aggravated murder and murder are felonies. 2325~~

~~(D) (C) Regardless of the penalty that may be imposed, any 2326
offense specifically classified as a felony is a felony, and any 2327
offense specifically classified as a misdemeanor is a 2328
misdemeanor. 2329~~

~~(E) (D) Any offense not specifically classified is a 2330
felony if imprisonment for more than one year may be imposed as 2331
a penalty. 2332~~

~~(F) (E) Any offense not specifically classified is a 2333
misdemeanor if imprisonment for not more than one year may be 2334
imposed as a penalty. 2335~~

~~(G) (F) Any offense not specifically classified is a minor 2336~~

misdemeanor if the only penalty that may be imposed is one of 2337
the following: 2338

(1) For an offense committed prior to January 1, 2004, a 2339
fine not exceeding one hundred dollars; 2340

(2) For an offense committed on or after January 1, 2004, 2341
a fine not exceeding one hundred fifty dollars, community 2342
service under division (D) of section 2929.27 of the Revised 2343
Code, or a financial sanction other than a fine under section 2344
2929.28 of the Revised Code. 2345

Sec. 2909.24. (A) No person shall commit a specified 2346
offense with purpose to do any of the following: 2347

(1) Intimidate or coerce a civilian population; 2348

(2) Influence the policy of any government by intimidation 2349
or coercion; 2350

(3) Affect the conduct of any government by the specified 2351
offense. 2352

(B) (1) Whoever violates this section is guilty of 2353
terrorism. 2354

(2) Except as otherwise provided in divisions (B) (3) and 2355
(4) of this section, terrorism is an offense one degree higher 2356
than the most serious underlying specified offense the defendant 2357
committed. 2358

(3) If the most serious underlying specified offense the 2359
defendant committed is a felony of the first degree or murder, 2360
the person shall be sentenced to life imprisonment without 2361
parole. 2362

(4) If the most serious underlying specified offense the 2363

defendant committed is aggravated murder, the offender shall be 2364
sentenced to life imprisonment without parole ~~or death pursuant to~~ 2365
~~to sections 2929.02 to 2929.06 of the Revised Code.~~ 2366

(5) Section 2909.25 of the Revised Code applies regarding 2367
an offender who is convicted of or pleads guilty to a violation 2368
of this section. 2369

Sec. 2929.02. (A) ~~Whoever~~ Except as otherwise provided in 2370
division (C) of this section, whoever is convicted of or pleads 2371
guilty to aggravated murder in violation of section 2903.01 of 2372
the Revised Code shall ~~suffer death or be imprisoned for life,~~ 2373
~~as determined pursuant to sections 2929.022, 2929.03, and~~ 2374
~~2929.04 of the Revised Code, except that no person who raises~~ 2375
~~the matter of age pursuant to section 2929.023 of the Revised~~ 2376
~~Code and who is not found to have been eighteen years of age or~~ 2377
~~older at the time of the commission of the offense shall suffer~~ 2378
~~death. In addition, the offender may be fined an amount fixed by~~ 2379
~~the court, but not more than twenty five thousand dollars~~ 2380
sentenced to life imprisonment with parole eligibility after 2381
serving twenty full years of imprisonment, life imprisonment 2382
with parole eligibility after serving thirty full years of 2383
imprisonment, or life imprisonment without parole. 2384

(B) ~~(1)~~ Except as otherwise provided in division ~~(B) (2) or~~ 2385
~~(3)~~ (C) of this section, whoever is convicted of or pleads 2386
guilty to murder in violation of section 2903.02 of the Revised 2387
Code shall be imprisoned for an indefinite term of fifteen years 2388
to life. 2389

~~(2)~~ (C) (1) Except as otherwise provided in division ~~(B) (3)~~ 2390
(C) (2) of this section, if a person is convicted of or pleads 2391
guilty to aggravated murder in violation of section 2903.01 of 2392
the Revised Code or to murder in violation of section 2903.02 of 2393

the Revised Code, the victim of the offense was less than 2394
thirteen years of age, and the offender also is convicted of or 2395
pleads guilty to a sexual motivation specification that was 2396
included in the indictment, count in the indictment, or 2397
information charging the offense, the court shall impose an 2398
indefinite prison term of thirty years to life pursuant to 2399
division (B) (3) of section 2971.03 of the Revised Code. 2400

~~(3)~~ (2) If a person is convicted of or pleads guilty to 2401
aggravated murder in violation of section 2903.01 of the Revised 2402
Code or to murder in violation of section 2903.02 of the Revised 2403
Code and also is convicted of or pleads guilty to a sexual 2404
motivation specification and a sexually violent predator 2405
specification that were included in the indictment, count in the 2406
indictment, or information that charged the murder, the court 2407
shall impose upon the offender a term of life imprisonment 2408
without parole that shall be served pursuant to section 2971.03 2409
of the Revised Code. 2410

~~(4)~~ (D) In addition to the prison term imposed under this 2411
section, the offender may be fined an amount fixed by the court, 2412
but not more than twenty-five thousand dollars for aggravated 2413
murder or fifteen thousand dollars for murder. 2414

~~(C)~~ (E) The court shall not impose a fine or fines for 2415
aggravated murder or murder ~~which that~~, in the aggregate and to 2416
the extent not suspended by the court, exceeds the amount ~~which~~ 2417
that the offender is or will be able to pay by the method and 2418
within the time allowed without undue hardship to the offender 2419
or to the dependents of the offender, or will prevent the 2420
offender from making reparation for the victim's wrongful death. 2421

~~(D)~~ (F) (1) In addition to any other sanctions imposed for a 2422
violation of section 2903.01 or 2903.02 of the Revised Code, if 2423

the offender used a motor vehicle as the means to commit the 2424
violation, the court shall impose upon the offender a class two 2425
suspension of the offender's driver's license, commercial 2426
driver's license, temporary instruction permit, probationary 2427
license, or nonresident operating privilege as specified in 2428
division (A) (2) of section 4510.02 of the Revised Code. 2429

(2) As used in division ~~(D)~~ (F) of this section, "motor 2430
vehicle" has the same meaning as in section 4501.01 of the 2431
Revised Code. 2432

Sec. 2929.13. (A) Except as provided in division (E), (F), 2433
or (G) of this section and unless a specific sanction is 2434
required to be imposed or is precluded from being imposed 2435
pursuant to law, a court that imposes a sentence upon an 2436
offender for a felony may impose any sanction or combination of 2437
sanctions on the offender that are provided in sections 2929.14 2438
to 2929.18 of the Revised Code. 2439

If the offender is eligible to be sentenced to community 2440
control sanctions, the court shall consider the appropriateness 2441
of imposing a financial sanction pursuant to section 2929.18 of 2442
the Revised Code or a sanction of community service pursuant to 2443
section 2929.17 of the Revised Code as the sole sanction for the 2444
offense. Except as otherwise provided in this division, if the 2445
court is required to impose a mandatory prison term for the 2446
offense for which sentence is being imposed, the court also 2447
shall impose any financial sanction pursuant to section 2929.18 2448
of the Revised Code that is required for the offense and may 2449
impose any other financial sanction pursuant to that section but 2450
may not impose any additional sanction or combination of 2451
sanctions under section 2929.16 or 2929.17 of the Revised Code. 2452

If the offender is being sentenced for a fourth degree 2453

felony OVI offense or for a third degree felony OVI offense, in 2454
addition to the mandatory term of local incarceration or the 2455
mandatory prison term required for the offense by division (G) 2456
(1) or (2) of this section, the court shall impose upon the 2457
offender a mandatory fine in accordance with division (B) (3) of 2458
section 2929.18 of the Revised Code and may impose whichever of 2459
the following is applicable: 2460

(1) For a fourth degree felony OVI offense for which 2461
sentence is imposed under division (G) (1) of this section, an 2462
additional community control sanction or combination of 2463
community control sanctions under section 2929.16 or 2929.17 of 2464
the Revised Code. If the court imposes upon the offender a 2465
community control sanction and the offender violates any 2466
condition of the community control sanction, the court may take 2467
any action prescribed in division (B) of section 2929.15 of the 2468
Revised Code relative to the offender, including imposing a 2469
prison term on the offender pursuant to that division. 2470

(2) For a third or fourth degree felony OVI offense for 2471
which sentence is imposed under division (G) (2) of this section, 2472
an additional prison term as described in division (B) (4) of 2473
section 2929.14 of the Revised Code or a community control 2474
sanction as described in division (G) (2) of this section. 2475

(B) (1) (a) Except as provided in division (B) (1) (b) of this 2476
section, if an offender is convicted of or pleads guilty to a 2477
felony of the fourth or fifth degree that is not an offense of 2478
violence or that is a qualifying assault offense, the court 2479
shall sentence the offender to a community control sanction of 2480
at least one year's duration if all of the following apply: 2481

(i) The offender previously has not been convicted of or 2482
pleaded guilty to a felony offense. 2483

- (ii) The most serious charge against the offender at the time of sentencing is a felony of the fourth or fifth degree. 2484
2485
- (iii) If the court made a request of the department of rehabilitation and correction pursuant to division (B)(1)(c) of this section, the department, within the forty-five-day period specified in that division, provided the 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. 2486
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- (iv) The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed. 2493
2494
2495
2496
- (b) The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense if any of the following apply: 2497
2498
2499
2500
2501
- (i) The offender committed the offense while having a firearm on or about the offender's person or under the offender's control. 2502
2503
2504
- (ii) If the offense is a qualifying assault offense, the offender caused serious physical harm to another person while committing the offense, and, if the offense is not a qualifying assault offense, the offender caused physical harm to another person while committing the offense. 2505
2506
2507
2508
2509
- (iii) The offender violated a term of the conditions of bond as set by the court. 2510
2511
- (iv) The court made a request of the department of 2512

rehabilitation and correction pursuant to division (B)(1)(c) of 2513
this section, and the department, within the forty-five-day 2514
period specified in that division, did not provide the court 2515
with the name of, contact information for, and program details 2516
of any community control sanction of at least one year's 2517
duration that is available for persons sentenced by the court. 2518

(v) The offense is a sex offense that is a fourth or fifth 2519
degree felony violation of any provision of Chapter 2907. of the 2520
Revised Code. 2521

(vi) In committing the offense, the offender attempted to 2522
cause or made an actual threat of physical harm to a person with 2523
a deadly weapon. 2524

(vii) In committing the offense, the offender attempted to 2525
cause or made an actual threat of physical harm to a person, and 2526
the offender previously was convicted of an offense that caused 2527
physical harm to a person. 2528

(viii) The offender held a public office or position of 2529
trust, and the offense related to that office or position; the 2530
offender's position obliged the offender to prevent the offense 2531
or to bring those committing it to justice; or the offender's 2532
professional reputation or position facilitated the offense or 2533
was likely to influence the future conduct of others. 2534

(ix) The offender committed the offense for hire or as 2535
part of an organized criminal activity. 2536

(x) The offender at the time of the offense was serving, 2537
or the offender previously had served, a prison term. 2538

(xi) The offender committed the offense while under a 2539
community control sanction, while on probation, or while 2540
released from custody on a bond or personal recognizance. 2541

(c) If a court that is sentencing an offender who is 2542
convicted of or pleads guilty to a felony of the fourth or fifth 2543
degree that is not an offense of violence or that is a 2544
qualifying assault offense believes that no community control 2545
sanctions are available for its use that, if imposed on the 2546
offender, will adequately fulfill the overriding principles and 2547
purposes of sentencing, the court shall contact the department 2548
of rehabilitation and correction and ask the department to 2549
provide the court with the names of, contact information for, 2550
and program details of one or more community control sanctions 2551
of at least one year's duration that are available for persons 2552
sentenced by the court. Not later than forty-five days after 2553
receipt of a request from a court under this division, the 2554
department shall provide the court with the names of, contact 2555
information for, and program details of one or more community 2556
control sanctions of at least one year's duration that are 2557
available for persons sentenced by the court, if any. Upon 2558
making a request under this division that relates to a 2559
particular offender, a court shall defer sentencing of that 2560
offender until it receives from the department the names of, 2561
contact information for, and program details of one or more 2562
community control sanctions of at least one year's duration that 2563
are available for persons sentenced by the court or for forty- 2564
five days, whichever is the earlier. 2565

If the department provides the court with the names of, 2566
contact information for, and program details of one or more 2567
community control sanctions of at least one year's duration that 2568
are available for persons sentenced by the court within the 2569
forty-five-day period specified in this division, the court 2570
shall impose upon the offender a community control sanction 2571
under division (B)(1)(a) of this section, except that the court 2572

may impose a prison term under division (B) (1) (b) of this 2573
section if a factor described in division (B) (1) (b) (i) or (ii) 2574
of this section applies. If the department does not provide the 2575
court with the names of, contact information for, and program 2576
details of one or more community control sanctions of at least 2577
one year's duration that are available for persons sentenced by 2578
the court within the forty-five-day period specified in this 2579
division, the court may impose upon the offender a prison term 2580
under division (B) (1) (b) (iv) of this section. 2581

(d) A sentencing court may impose an additional penalty 2582
under division (B) of section 2929.15 of the Revised Code upon 2583
an offender sentenced to a community control sanction under 2584
division (B) (1) (a) of this section if the offender violates the 2585
conditions of the community control sanction, violates a law, or 2586
leaves the state without the permission of the court or the 2587
offender's probation officer. 2588

(2) If division (B) (1) of this section does not apply, 2589
except as provided in division (E), (F), or (G) of this section, 2590
in determining whether to impose a prison term as a sanction for 2591
a felony of the fourth or fifth degree, the sentencing court 2592
shall comply with the purposes and principles of sentencing 2593
under section 2929.11 of the Revised Code and with section 2594
2929.12 of the Revised Code. 2595

(C) Except as provided in division (D), (E), (F), or (G) 2596
of this section, in determining whether to impose a prison term 2597
as a sanction for a felony of the third degree or a felony drug 2598
offense that is a violation of a provision of Chapter 2925. of 2599
the Revised Code and that is specified as being subject to this 2600
division for purposes of sentencing, the sentencing court shall 2601
comply with the purposes and principles of sentencing under 2602

section 2929.11 of the Revised Code and with section 2929.12 of 2603
the Revised Code. 2604

(D) (1) Except as provided in division (E) or (F) of this 2605
section, for a felony of the first or second degree, for a 2606
felony drug offense that is a violation of any provision of 2607
Chapter 2925., 3719., or 4729. of the Revised Code for which a 2608
presumption in favor of a prison term is specified as being 2609
applicable, and for a violation of division (A) (4) or (B) of 2610
section 2907.05 of the Revised Code for which a presumption in 2611
favor of a prison term is specified as being applicable, it is 2612
presumed that a prison term is necessary in order to comply with 2613
the purposes and principles of sentencing under section 2929.11 2614
of the Revised Code. Division (D) (2) of this section does not 2615
apply to a presumption established under this division for a 2616
violation of division (A) (4) of section 2907.05 of the Revised 2617
Code. 2618

(2) Notwithstanding the presumption established under 2619
division (D) (1) of this section for the offenses listed in that 2620
division other than a violation of division (A) (4) or (B) of 2621
section 2907.05 of the Revised Code, the sentencing court may 2622
impose a community control sanction or a combination of 2623
community control sanctions instead of a prison term on an 2624
offender for a felony of the first or second degree or for a 2625
felony drug offense that is a violation of any provision of 2626
Chapter 2925., 3719., or 4729. of the Revised Code for which a 2627
presumption in favor of a prison term is specified as being 2628
applicable if it makes both of the following findings: 2629

(a) A community control sanction or a combination of 2630
community control sanctions would adequately punish the offender 2631
and protect the public from future crime, because the applicable 2632

factors under section 2929.12 of the Revised Code indicating a 2633
lesser likelihood of recidivism outweigh the applicable factors 2634
under that section indicating a greater likelihood of 2635
recidivism. 2636

(b) A community control sanction or a combination of 2637
community control sanctions would not demean the seriousness of 2638
the offense, because one or more factors under section 2929.12 2639
of the Revised Code that indicate that the offender's conduct 2640
was less serious than conduct normally constituting the offense 2641
are applicable, and they outweigh the applicable factors under 2642
that section that indicate that the offender's conduct was more 2643
serious than conduct normally constituting the offense. 2644

(E) (1) Except as provided in division (F) of this section, 2645
for any drug offense that is a violation of any provision of 2646
Chapter 2925. of the Revised Code and that is a felony of the 2647
third, fourth, or fifth degree, the applicability of a 2648
presumption under division (D) of this section in favor of a 2649
prison term or of division (B) or (C) of this section in 2650
determining whether to impose a prison term for the offense 2651
shall be determined as specified in section 2925.02, 2925.03, 2652
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2653
2925.36, or 2925.37 of the Revised Code, whichever is applicable 2654
regarding the violation. 2655

(2) If an offender who was convicted of or pleaded guilty 2656
to a felony violates the conditions of a community control 2657
sanction imposed for the offense solely by reason of producing 2658
positive results on a drug test, the court, as punishment for 2659
the violation of the sanction, shall not order that the offender 2660
be imprisoned unless the court determines on the record either 2661
of the following: 2662

(a) The offender had been ordered as a sanction for the 2663
felony to participate in a drug treatment program, in a drug 2664
education program, or in narcotics anonymous or a similar 2665
program, and the offender continued to use illegal drugs after a 2666
reasonable period of participation in the program. 2667

(b) The imprisonment of the offender for the violation is 2668
consistent with the purposes and principles of sentencing set 2669
forth in section 2929.11 of the Revised Code. 2670

(3) A court that sentences an offender for a drug abuse 2671
offense that is a felony of the third, fourth, or fifth degree 2672
may require that the offender be assessed by a properly 2673
credentialed professional within a specified period of time. The 2674
court shall require the professional to file a written 2675
assessment of the offender with the court. If the offender is 2676
eligible for a community control sanction and after considering 2677
the written assessment, the court may impose a community control 2678
sanction that includes treatment and recovery support services 2679
authorized by section 3793.02 of the Revised Code. If the court 2680
imposes treatment and recovery support services as a community 2681
control sanction, the court shall direct the level and type of 2682
treatment and recovery support services after considering the 2683
assessment and recommendation of treatment and recovery support 2684
services providers. 2685

(F) Notwithstanding divisions (A) to (E) of this section, 2686
the court shall impose a prison term or terms under ~~sections~~ 2687
section 2929.02 to 2929.06, section 2929.14, section 2929.142, 2688
or ~~section~~ 2971.03 of the Revised Code and except as 2689
specifically provided in section 2929.20, divisions (C) to (I) 2690
of section 2967.19, or section 2967.191 of the Revised Code or 2691
when parole is authorized for the offense under section 2967.13 2692

of the Revised Code shall not reduce the term or terms pursuant 2693
to section 2929.20, section 2967.19, section 2967.193, or any 2694
other provision of Chapter 2967. or Chapter 5120. of the Revised 2695
Code for any of the following offenses: 2696

(1) Aggravated murder ~~when death is not imposed~~ or murder; 2697

(2) Any rape, regardless of whether force was involved and 2698
regardless of the age of the victim, or an attempt to commit 2699
rape if, had the offender completed the rape that was attempted, 2700
the offender would have been guilty of a violation of division 2701
(A) (1) (b) of section 2907.02 of the Revised Code and would be 2702
sentenced under section 2971.03 of the Revised Code; 2703

(3) Gross sexual imposition or sexual battery, if the 2704
victim is less than thirteen years of age and if any of the 2705
following applies: 2706

(a) Regarding gross sexual imposition, the offender 2707
previously was convicted of or pleaded guilty to rape, the 2708
former offense of felonious sexual penetration, gross sexual 2709
imposition, or sexual battery, and the victim of the previous 2710
offense was less than thirteen years of age; 2711

(b) Regarding gross sexual imposition, the offense was 2712
committed on or after August 3, 2006, and evidence other than 2713
the testimony of the victim was admitted in the case 2714
corroborating the violation. 2715

(c) Regarding sexual battery, either of the following 2716
applies: 2717

(i) The offense was committed prior to August 3, 2006, the 2718
offender previously was convicted of or pleaded guilty to rape, 2719
the former offense of felonious sexual penetration, or sexual 2720
battery, and the victim of the previous offense was less than 2721

thirteen years of age. 2722

(ii) The offense was committed on or after August 3, 2006. 2723

(4) A felony violation of section 2903.04, 2903.06, 2724
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, or 2907.07 of the 2725
Revised Code if the section requires the imposition of a prison 2726
term; 2727

(5) A first, second, or third degree felony drug offense 2728
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2729
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 2730
or 4729.99 of the Revised Code, whichever is applicable 2731
regarding the violation, requires the imposition of a mandatory 2732
prison term; 2733

(6) Any offense that is a first or second degree felony 2734
and that is not set forth in division (F)(1), (2), (3), or (4) 2735
of this section, if the offender previously was convicted of or 2736
pleaded guilty to aggravated murder, murder, any first or second 2737
degree felony, or an offense under an existing or former law of 2738
this state, another state, or the United States that is or was 2739
substantially equivalent to one of those offenses; 2740

(7) Any offense that is a third degree felony and either 2741
is a violation of section 2903.04 of the Revised Code or an 2742
attempt to commit a felony of the second degree that is an 2743
offense of violence and involved an attempt to cause serious 2744
physical harm to a person or that resulted in serious physical 2745
harm to a person if the offender previously was convicted of or 2746
pleaded guilty to any of the following offenses: 2747

(a) Aggravated murder, murder, involuntary manslaughter, 2748
rape, felonious sexual penetration as it existed under section 2749
2907.12 of the Revised Code prior to September 3, 1996, a felony 2750

of the first or second degree that resulted in the death of a 2751
person or in physical harm to a person, or complicity in or an 2752
attempt to commit any of those offenses; 2753

(b) An offense under an existing or former law of this 2754
state, another state, or the United States that is or was 2755
substantially equivalent to an offense listed in division (F) (7) 2756
(a) of this section that resulted in the death of a person or in 2757
physical harm to a person. 2758

(8) Any offense, other than a violation of section 2923.12 2759
of the Revised Code, that is a felony, if the offender had a 2760
firearm on or about the offender's person or under the 2761
offender's control while committing the felony, with respect to 2762
a portion of the sentence imposed pursuant to division (B) (1) (a) 2763
of section 2929.14 of the Revised Code for having the firearm; 2764

(9) Any offense of violence that is a felony, if the 2765
offender wore or carried body armor while committing the felony 2766
offense of violence, with respect to the portion of the sentence 2767
imposed pursuant to division (B) (1) (d) of section 2929.14 of the 2768
Revised Code for wearing or carrying the body armor; 2769

(10) Corrupt activity in violation of section 2923.32 of 2770
the Revised Code when the most serious offense in the pattern of 2771
corrupt activity that is the basis of the offense is a felony of 2772
the first degree; 2773

(11) Any violent sex offense or designated homicide, 2774
assault, or kidnapping offense if, in relation to that offense, 2775
the offender is adjudicated a sexually violent predator; 2776

(12) A violation of division (A) (1) or (2) of section 2777
2921.36 of the Revised Code, or a violation of division (C) of 2778
that section involving an item listed in division (A) (1) or (2) 2779

of that section, if the offender is an officer or employee of 2780
the department of rehabilitation and correction; 2781

(13) A violation of division (A) (1) or (2) of section 2782
2903.06 of the Revised Code if the victim of the offense is a 2783
peace officer, as defined in section 2935.01 of the Revised 2784
Code, or an investigator of the bureau of criminal 2785
identification and investigation, as defined in section 2903.11 2786
of the Revised Code, with respect to the portion of the sentence 2787
imposed pursuant to division (B) (5) of section 2929.14 of the 2788
Revised Code; 2789

(14) A violation of division (A) (1) or (2) of section 2790
2903.06 of the Revised Code if the offender has been convicted 2791
of or pleaded guilty to three or more violations of division (A) 2792
or (B) of section 4511.19 of the Revised Code or an equivalent 2793
offense, as defined in section 2941.1415 of the Revised Code, or 2794
three or more violations of any combination of those divisions 2795
and offenses, with respect to the portion of the sentence 2796
imposed pursuant to division (B) (6) of section 2929.14 of the 2797
Revised Code; 2798

(15) Kidnapping, in the circumstances specified in section 2799
2971.03 of the Revised Code and when no other provision of 2800
division (F) of this section applies; 2801

(16) Kidnapping, abduction, compelling prostitution, 2802
promoting prostitution, engaging in a pattern of corrupt 2803
activity, illegal use of a minor in a nudity-oriented material 2804
or performance in violation of division (A) (1) or (2) of section 2805
2907.323 of the Revised Code, or endangering children in 2806
violation of division (B) (1), (2), (3), (4), or (5) of section 2807
2919.22 of the Revised Code, if the offender is convicted of or 2808
pleads guilty to a specification as described in section 2809

2941.1422 of the Revised Code that was included in the 2810
indictment, count in the indictment, or information charging the 2811
offense; 2812

(17) A felony violation of division (A) or (B) of section 2813
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 2814
that section, and division (D) (6) of that section, require the 2815
imposition of a prison term; 2816

(18) A felony violation of section 2903.11, 2903.12, or 2817
2903.13 of the Revised Code, if the victim of the offense was a 2818
woman that the offender knew was pregnant at the time of the 2819
violation, with respect to a portion of the sentence imposed 2820
pursuant to division (B) (8) of section 2929.14 of the Revised 2821
Code. 2822

(G) Notwithstanding divisions (A) to (E) of this section, 2823
if an offender is being sentenced for a fourth degree felony OVI 2824
offense or for a third degree felony OVI offense, the court 2825
shall impose upon the offender a mandatory term of local 2826
incarceration or a mandatory prison term in accordance with the 2827
following: 2828

(1) If the offender is being sentenced for a fourth degree 2829
felony OVI offense and if the offender has not been convicted of 2830
and has not pleaded guilty to a specification of the type 2831
described in section 2941.1413 of the Revised Code, the court 2832
may impose upon the offender a mandatory term of local 2833
incarceration of sixty days or one hundred twenty days as 2834
specified in division (G) (1) (d) of section 4511.19 of the 2835
Revised Code. The court shall not reduce the term pursuant to 2836
section 2929.20, 2967.193, or any other provision of the Revised 2837
Code. The court that imposes a mandatory term of local 2838
incarceration under this division shall specify whether the term 2839

is to be served in a jail, a community-based correctional 2840
facility, a halfway house, or an alternative residential 2841
facility, and the offender shall serve the term in the type of 2842
facility specified by the court. A mandatory term of local 2843
incarceration imposed under division (G) (1) of this section is 2844
not subject to any other Revised Code provision that pertains to 2845
a prison term except as provided in division (A) (1) of this 2846
section. 2847

(2) If the offender is being sentenced for a third degree 2848
felony OVI offense, or if the offender is being sentenced for a 2849
fourth degree felony OVI offense and the court does not impose a 2850
mandatory term of local incarceration under division (G) (1) of 2851
this section, the court shall impose upon the offender a 2852
mandatory prison term of one, two, three, four, or five years if 2853
the offender also is convicted of or also pleads guilty to a 2854
specification of the type described in section 2941.1413 of the 2855
Revised Code or shall impose upon the offender a mandatory 2856
prison term of sixty days or one hundred twenty days as 2857
specified in division (G) (1) (d) or (e) of section 4511.19 of the 2858
Revised Code if the offender has not been convicted of and has 2859
not pleaded guilty to a specification of that type. Subject to 2860
divisions (C) to (I) of section 2967.19 of the Revised Code, the 2861
court shall not reduce the term pursuant to section 2929.20, 2862
2967.19, 2967.193, or any other provision of the Revised Code. 2863
The offender shall serve the one-, two-, three-, four-, or five- 2864
year mandatory prison term consecutively to and prior to the 2865
prison term imposed for the underlying offense and consecutively 2866
to any other mandatory prison term imposed in relation to the 2867
offense. In no case shall an offender who once has been 2868
sentenced to a mandatory term of local incarceration pursuant to 2869
division (G) (1) of this section for a fourth degree felony OVI 2870

offense be sentenced to another mandatory term of local 2871
incarceration under that division for any violation of division 2872
(A) of section 4511.19 of the Revised Code. In addition to the 2873
mandatory prison term described in division (G) (2) of this 2874
section, the court may sentence the offender to a community 2875
control sanction under section 2929.16 or 2929.17 of the Revised 2876
Code, but the offender shall serve the prison term prior to 2877
serving the community control sanction. The department of 2878
rehabilitation and correction may place an offender sentenced to 2879
a mandatory prison term under this division in an intensive 2880
program prison established pursuant to section 5120.033 of the 2881
Revised Code if the department gave the sentencing judge prior 2882
notice of its intent to place the offender in an intensive 2883
program prison established under that section and if the judge 2884
did not notify the department that the judge disapproved the 2885
placement. Upon the establishment of the initial intensive 2886
program prison pursuant to section 5120.033 of the Revised Code 2887
that is privately operated and managed by a contractor pursuant 2888
to a contract entered into under section 9.06 of the Revised 2889
Code, both of the following apply: 2890

(a) The department of rehabilitation and correction shall 2891
make a reasonable effort to ensure that a sufficient number of 2892
offenders sentenced to a mandatory prison term under this 2893
division are placed in the privately operated and managed prison 2894
so that the privately operated and managed prison has full 2895
occupancy. 2896

(b) Unless the privately operated and managed prison has 2897
full occupancy, the department of rehabilitation and correction 2898
shall not place any offender sentenced to a mandatory prison 2899
term under this division in any intensive program prison 2900
established pursuant to section 5120.033 of the Revised Code 2901

other than the privately operated and managed prison. 2902

(H) If an offender is being sentenced for a sexually 2903
oriented offense or child-victim oriented offense that is a 2904
felony committed on or after January 1, 1997, the judge shall 2905
require the offender to submit to a DNA specimen collection 2906
procedure pursuant to section 2901.07 of the Revised Code. 2907

(I) If an offender is being sentenced for a sexually 2908
oriented offense or a child-victim oriented offense committed on 2909
or after January 1, 1997, the judge shall include in the 2910
sentence a summary of the offender's duties imposed under 2911
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 2912
Code and the duration of the duties. The judge shall inform the 2913
offender, at the time of sentencing, of those duties and of 2914
their duration. If required under division (A) (2) of section 2915
2950.03 of the Revised Code, the judge shall perform the duties 2916
specified in that section, or, if required under division (A) (6) 2917
of section 2950.03 of the Revised Code, the judge shall perform 2918
the duties specified in that division. 2919

(J) (1) Except as provided in division (J) (2) of this 2920
section, when considering sentencing factors under this section 2921
in relation to an offender who is convicted of or pleads guilty 2922
to an attempt to commit an offense in violation of section 2923
2923.02 of the Revised Code, the sentencing court shall consider 2924
the factors applicable to the felony category of the violation 2925
of section 2923.02 of the Revised Code instead of the factors 2926
applicable to the felony category of the offense attempted. 2927

(2) When considering sentencing factors under this section 2928
in relation to an offender who is convicted of or pleads guilty 2929
to an attempt to commit a drug abuse offense for which the 2930
penalty is determined by the amount or number of unit doses of 2931

the controlled substance involved in the drug abuse offense, the 2932
sentencing court shall consider the factors applicable to the 2933
felony category that the drug abuse offense attempted would be 2934
if that drug abuse offense had been committed and had involved 2935
an amount or number of unit doses of the controlled substance 2936
that is within the next lower range of controlled substance 2937
amounts than was involved in the attempt. 2938

(K) As used in this section: 2939

(1) "Drug abuse offense" has the same meaning as in 2940
section 2925.01 of the Revised Code. 2941

(2) "Qualifying assault offense" means a violation of 2942
section 2903.13 of the Revised Code for which the penalty 2943
provision in division (C) (8) (b) or (C) (9) (b) of that section 2944
applies. 2945

(L) At the time of sentencing an offender for any sexually 2946
oriented offense, if the offender is a tier III sex 2947
offender/child-victim offender relative to that offense and the 2948
offender does not serve a prison term or jail term, the court 2949
may require that the offender be monitored by means of a global 2950
positioning device. If the court requires such monitoring, the 2951
cost of monitoring shall be borne by the offender. If the 2952
offender is indigent, the cost of compliance shall be paid by 2953
the crime victims reparations fund. 2954

Sec. 2929.14. (A) Except as provided in division (B) (1), 2955
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (E), 2956
(G), (H), or (J) of this section or in division (D) (6) of 2957
section 2919.25 of the Revised Code and except in relation to an 2958
offense for which a sentence of ~~death or~~ life imprisonment is to 2959
be imposed, if the court imposing a sentence upon an offender 2960

for a felony elects or is required to impose a prison term on 2961
the offender pursuant to this chapter, the court shall impose a 2962
definite prison term that shall be one of the following: 2963

(1) For a felony of the first degree, the prison term 2964
shall be three, four, five, six, seven, eight, nine, ten, or 2965
eleven years. 2966

(2) For a felony of the second degree, the prison term 2967
shall be two, three, four, five, six, seven, or eight years. 2968

(3) (a) For a felony of the third degree that is a 2969
violation of section 2903.06, 2903.08, 2907.03, 2907.04, or 2970
2907.05 of the Revised Code or that is a violation of section 2971
2911.02 or 2911.12 of the Revised Code if the offender 2972
previously has been convicted of or pleaded guilty in two or 2973
more separate proceedings to two or more violations of section 2974
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the 2975
prison term shall be twelve, eighteen, twenty-four, thirty, 2976
thirty-six, forty-two, forty-eight, fifty-four, or sixty months. 2977

(b) For a felony of the third degree that is not an 2978
offense for which division (A) (3) (a) of this section applies, 2979
the prison term shall be nine, twelve, eighteen, twenty-four, 2980
thirty, or thirty-six months. 2981

(4) For a felony of the fourth degree, the prison term 2982
shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, 2983
fourteen, fifteen, sixteen, seventeen, or eighteen months. 2984

(5) For a felony of the fifth degree, the prison term 2985
shall be six, seven, eight, nine, ten, eleven, or twelve months. 2986

(B) (1) (a) Except as provided in division (B) (1) (e) of this 2987
section, if an offender who is convicted of or pleads guilty to 2988
a felony also is convicted of or pleads guilty to a 2989

specification of the type described in section 2941.141, 2990
2941.144, or 2941.145 of the Revised Code, the court shall 2991
impose on the offender one of the following prison terms: 2992

(i) A prison term of six years if the specification is of 2993
the type described in section 2941.144 of the Revised Code that 2994
charges the offender with having a firearm that is an automatic 2995
firearm or that was equipped with a firearm muffler or silencer 2996
on or about the offender's person or under the offender's 2997
control while committing the felony; 2998

(ii) A prison term of three years if the specification is 2999
of the type described in section 2941.145 of the Revised Code 3000
that charges the offender with having a firearm on or about the 3001
offender's person or under the offender's control while 3002
committing the offense and displaying the firearm, brandishing 3003
the firearm, indicating that the offender possessed the firearm, 3004
or using it to facilitate the offense; 3005

(iii) A prison term of one year if the specification is of 3006
the type described in section 2941.141 of the Revised Code that 3007
charges the offender with having a firearm on or about the 3008
offender's person or under the offender's control while 3009
committing the felony. 3010

(b) If a court imposes a prison term on an offender under 3011
division (B) (1) (a) of this section, the prison term shall not be 3012
reduced pursuant to section 2967.19, section 2929.20, section 3013
2967.193, or any other provision of Chapter 2967. or Chapter 3014
5120. of the Revised Code. Except as provided in division (B) (1) 3015
(g) of this section, a court shall not impose more than one 3016
prison term on an offender under division (B) (1) (a) of this 3017
section for felonies committed as part of the same act or 3018
transaction. 3019

(c) Except as provided in division (B) (1) (e) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in section 2941.146 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle other than a manufactured home, the court, after imposing a prison term on the offender for the violation of section 2923.161 of the Revised Code or for the other felony offense under division (A), (B) (2), or (B) (3) of this section, shall impose an additional prison term of five years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (B) (1) (c) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (B) (1) (c) of this section relative to an offense, the court also shall impose a prison term under division (B) (1) (a) of this section relative to the same offense, provided the criteria specified in that division for imposing an additional prison term are satisfied relative to the offender and the offense.

(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1411 of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony

offense of violence, the court shall impose on the offender a 3051
prison term of two years. The prison term so imposed, subject to 3052
divisions (C) to (I) of section 2967.19 of the Revised Code, 3053
shall not be reduced pursuant to section 2929.20, section 3054
2967.19, section 2967.193, or any other provision of Chapter 3055
2967. or Chapter 5120. of the Revised Code. A court shall not 3056
impose more than one prison term on an offender under division 3057
(B) (1) (d) of this section for felonies committed as part of the 3058
same act or transaction. If a court imposes an additional prison 3059
term under division (B) (1) (a) or (c) of this section, the court 3060
is not precluded from imposing an additional prison term under 3061
division (B) (1) (d) of this section. 3062

(e) The court shall not impose any of the prison terms 3063
described in division (B) (1) (a) of this section or any of the 3064
additional prison terms described in division (B) (1) (c) of this 3065
section upon an offender for a violation of section 2923.12 or 3066
2923.123 of the Revised Code. The court shall not impose any of 3067
the prison terms described in division (B) (1) (a) or (b) of this 3068
section upon an offender for a violation of section 2923.122 3069
that involves a deadly weapon that is a firearm other than a 3070
dangerous ordnance, section 2923.16, or section 2923.121 of the 3071
Revised Code. The court shall not impose any of the prison terms 3072
described in division (B) (1) (a) of this section or any of the 3073
additional prison terms described in division (B) (1) (c) of this 3074
section upon an offender for a violation of section 2923.13 of 3075
the Revised Code unless all of the following apply: 3076

(i) The offender previously has been convicted of 3077
aggravated murder, murder, or any felony of the first or second 3078
degree. 3079

(ii) Less than five years have passed since the offender 3080

was released from prison or post-release control, whichever is later, for the prior offense.

(f) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer, as defined in section 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the felony offense under division (A), (B) (2), or (B) (3) of this section, shall impose an additional prison term of seven years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If an offender is convicted of or pleads guilty to two or more felonies that include, as an essential element, causing or attempting to cause the death or physical harm to another and also is convicted of or pleads guilty to a specification of the type described under division (B) (1) (f) of this section in connection with two or more of the felonies of which the offender is convicted or to which the offender pleads guilty, the sentencing court shall impose on the offender the prison term specified under division (B) (1) (f) of this section for each of two of the specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications. If a court imposes an additional prison term on an offender under division (B) (1) (f)

of this section relative to an offense, the court shall not 3112
impose a prison term under division (B) (1) (a) or (c) of this 3113
section relative to the same offense. 3114

(g) If an offender is convicted of or pleads guilty to two 3115
or more felonies, if one or more of those felonies are 3116
aggravated murder, murder, attempted aggravated murder, 3117
attempted murder, aggravated robbery, felonious assault, or 3118
rape, and if the offender is convicted of or pleads guilty to a 3119
specification of the type described under division (B) (1) (a) of 3120
this section in connection with two or more of the felonies, the 3121
sentencing court shall impose on the offender the prison term 3122
specified under division (B) (1) (a) of this section for each of 3123
the two most serious specifications of which the offender is 3124
convicted or to which the offender pleads guilty and, in its 3125
discretion, also may impose on the offender the prison term 3126
specified under that division for any or all of the remaining 3127
specifications. 3128

(2) (a) If division (B) (2) (b) of this section does not 3129
apply, the court may impose on an offender, in addition to the 3130
longest prison term authorized or required for the offense, an 3131
additional definite prison term of one, two, three, four, five, 3132
six, seven, eight, nine, or ten years if all of the following 3133
criteria are met: 3134

(i) The offender is convicted of or pleads guilty to a 3135
specification of the type described in section 2941.149 of the 3136
Revised Code that the offender is a repeat violent offender. 3137

(ii) The offense of which the offender currently is 3138
convicted or to which the offender currently pleads guilty is 3139
aggravated murder and the court does not impose a sentence of 3140
~~death or~~ life imprisonment without parole, murder, terrorism and 3141

the court does not impose a sentence of life imprisonment 3142
without parole, any felony of the first degree that is an 3143
offense of violence and the court does not impose a sentence of 3144
life imprisonment without parole, or any felony of the second 3145
degree that is an offense of violence and the trier of fact 3146
finds that the offense involved an attempt to cause or a threat 3147
to cause serious physical harm to a person or resulted in 3148
serious physical harm to a person. 3149

(iii) The court imposes the longest prison term for the 3150
offense that is not life imprisonment without parole. 3151

(iv) The court finds that the prison terms imposed 3152
pursuant to division (B) (2) (a) (iii) of this section and, if 3153
applicable, division (B) (1) or (3) of this section are 3154
inadequate to punish the offender and protect the public from 3155
future crime, because the applicable factors under section 3156
2929.12 of the Revised Code indicating a greater likelihood of 3157
recidivism outweigh the applicable factors under that section 3158
indicating a lesser likelihood of recidivism. 3159

(v) The court finds that the prison terms imposed pursuant 3160
to division (B) (2) (a) (iii) of this section and, if applicable, 3161
division (B) (1) or (3) of this section are demeaning to the 3162
seriousness of the offense, because one or more of the factors 3163
under section 2929.12 of the Revised Code indicating that the 3164
offender's conduct is more serious than conduct normally 3165
constituting the offense are present, and they outweigh the 3166
applicable factors under that section indicating that the 3167
offender's conduct is less serious than conduct normally 3168
constituting the offense. 3169

(b) The court shall impose on an offender the longest 3170
prison term authorized or required for the offense and shall 3171

impose on the offender an additional definite prison term of 3172
one, two, three, four, five, six, seven, eight, nine, or ten 3173
years if all of the following criteria are met: 3174

(i) The offender is convicted of or pleads guilty to a 3175
specification of the type described in section 2941.149 of the 3176
Revised Code that the offender is a repeat violent offender. 3177

(ii) The offender within the preceding twenty years has 3178
been convicted of or pleaded guilty to three or more offenses 3179
described in division (CC)(1) of section 2929.01 of the Revised 3180
Code, including all offenses described in that division of which 3181
the offender is convicted or to which the offender pleads guilty 3182
in the current prosecution and all offenses described in that 3183
division of which the offender previously has been convicted or 3184
to which the offender previously pleaded guilty, whether 3185
prosecuted together or separately. 3186

(iii) The offense or offenses of which the offender 3187
currently is convicted or to which the offender currently pleads 3188
guilty is aggravated murder and the court does not impose a 3189
sentence of ~~death or~~ life imprisonment without parole, murder, 3190
terrorism and the court does not impose a sentence of life 3191
imprisonment without parole, any felony of the first degree that 3192
is an offense of violence and the court does not impose a 3193
sentence of life imprisonment without parole, or any felony of 3194
the second degree that is an offense of violence and the trier 3195
of fact finds that the offense involved an attempt to cause or a 3196
threat to cause serious physical harm to a person or resulted in 3197
serious physical harm to a person. 3198

(c) For purposes of division (B)(2)(b) of this section, 3199
two or more offenses committed at the same time or as part of 3200
the same act or event shall be considered one offense, and that 3201

one offense shall be the offense with the greatest penalty. 3202

(d) A sentence imposed under division (B) (2) (a) or (b) of 3203
this section shall not be reduced pursuant to section 2929.20, 3204
section 2967.19, or section 2967.193, or any other provision of 3205
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 3206
shall serve an additional prison term imposed under this section 3207
consecutively to and prior to the prison term imposed for the 3208
underlying offense. 3209

(e) When imposing a sentence pursuant to division (B) (2) 3210
(a) or (b) of this section, the court shall state its findings 3211
explaining the imposed sentence. 3212

(3) Except when an offender commits a violation of section 3213
2903.01 or 2907.02 of the Revised Code and the penalty imposed 3214
for the violation is life imprisonment or commits a violation of 3215
section 2903.02 of the Revised Code, if the offender commits a 3216
violation of section 2925.03 or 2925.11 of the Revised Code and 3217
that section classifies the offender as a major drug offender, 3218
if the offender commits a felony violation of section 2925.02, 3219
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 3220
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 3221
division (C) of section 4729.51, or division (J) of section 3222
4729.54 of the Revised Code that includes the sale, offer to 3223
sell, or possession of a schedule I or II controlled substance, 3224
with the exception of marihuana, and the court imposing sentence 3225
upon the offender finds that the offender is guilty of a 3226
specification of the type described in section 2941.1410 of the 3227
Revised Code charging that the offender is a major drug 3228
offender, if the court imposing sentence upon an offender for a 3229
felony finds that the offender is guilty of corrupt activity 3230
with the most serious offense in the pattern of corrupt activity 3231

being a felony of the first degree, or if the offender is guilty 3232
of an attempted violation of section 2907.02 of the Revised Code 3233
and, had the offender completed the violation of section 2907.02 3234
of the Revised Code that was attempted, the offender would have 3235
been subject to a sentence of life imprisonment or life 3236
imprisonment without parole for the violation of section 2907.02 3237
of the Revised Code, the court shall impose upon the offender 3238
for the felony violation a mandatory prison term of the maximum 3239
prison term prescribed for a felony of the first degree that, 3240
subject to divisions (C) to (I) of section 2967.19 of the 3241
Revised Code, cannot be reduced pursuant to section 2929.20, 3242
section 2967.19, or any other provision of Chapter 2967. or 3243
5120. of the Revised Code. 3244

(4) If the offender is being sentenced for a third or 3245
fourth degree felony OVI offense under division (G) (2) of 3246
section 2929.13 of the Revised Code, the sentencing court shall 3247
impose upon the offender a mandatory prison term in accordance 3248
with that division. In addition to the mandatory prison term, if 3249
the offender is being sentenced for a fourth degree felony OVI 3250
offense, the court, notwithstanding division (A) (4) of this 3251
section, may sentence the offender to a definite prison term of 3252
not less than six months and not more than thirty months, and if 3253
the offender is being sentenced for a third degree felony OVI 3254
offense, the sentencing court may sentence the offender to an 3255
additional prison term of any duration specified in division (A) 3256
(3) of this section. In either case, the additional prison term 3257
imposed shall be reduced by the sixty or one hundred twenty days 3258
imposed upon the offender as the mandatory prison term. The 3259
total of the additional prison term imposed under division (B) 3260
(4) of this section plus the sixty or one hundred twenty days 3261
imposed as the mandatory prison term shall equal a definite term 3262

in the range of six months to thirty months for a fourth degree 3263
felony OVI offense and shall equal one of the authorized prison 3264
terms specified in division (A) (3) of this section for a third 3265
degree felony OVI offense. If the court imposes an additional 3266
prison term under division (B) (4) of this section, the offender 3267
shall serve the additional prison term after the offender has 3268
served the mandatory prison term required for the offense. In 3269
addition to the mandatory prison term or mandatory and 3270
additional prison term imposed as described in division (B) (4) 3271
of this section, the court also may sentence the offender to a 3272
community control sanction under section 2929.16 or 2929.17 of 3273
the Revised Code, but the offender shall serve all of the prison 3274
terms so imposed prior to serving the community control 3275
sanction. 3276

If the offender is being sentenced for a fourth degree 3277
felony OVI offense under division (G) (1) of section 2929.13 of 3278
the Revised Code and the court imposes a mandatory term of local 3279
incarceration, the court may impose a prison term as described 3280
in division (A) (1) of that section. 3281

(5) If an offender is convicted of or pleads guilty to a 3282
violation of division (A) (1) or (2) of section 2903.06 of the 3283
Revised Code and also is convicted of or pleads guilty to a 3284
specification of the type described in section 2941.1414 of the 3285
Revised Code that charges that the victim of the offense is a 3286
peace officer, as defined in section 2935.01 of the Revised 3287
Code, or an investigator of the bureau of criminal 3288
identification and investigation, as defined in section 2903.11 3289
of the Revised Code, the court shall impose on the offender a 3290
prison term of five years. If a court imposes a prison term on 3291
an offender under division (B) (5) of this section, the prison 3292
term, subject to divisions (C) to (I) of section 2967.19 of the 3293

Revised Code, shall not be reduced pursuant to section 2929.20, 3294
section 2967.19, section 2967.193, or any other provision of 3295
Chapter 2967. or Chapter 5120. of the Revised Code. A court 3296
shall not impose more than one prison term on an offender under 3297
division (B) (5) of this section for felonies committed as part 3298
of the same act. 3299

(6) If an offender is convicted of or pleads guilty to a 3300
violation of division (A) (1) or (2) of section 2903.06 of the 3301
Revised Code and also is convicted of or pleads guilty to a 3302
specification of the type described in section 2941.1415 of the 3303
Revised Code that charges that the offender previously has been 3304
convicted of or pleaded guilty to three or more violations of 3305
division (A) or (B) of section 4511.19 of the Revised Code or an 3306
equivalent offense, as defined in section 2941.1415 of the 3307
Revised Code, or three or more violations of any combination of 3308
those divisions and offenses, the court shall impose on the 3309
offender a prison term of three years. If a court imposes a 3310
prison term on an offender under division (B) (6) of this 3311
section, the prison term, subject to divisions (C) to (I) of 3312
section 2967.19 of the Revised Code, shall not be reduced 3313
pursuant to section 2929.20, section 2967.19, section 2967.193, 3314
or any other provision of Chapter 2967. or Chapter 5120. of the 3315
Revised Code. A court shall not impose more than one prison term 3316
on an offender under division (B) (6) of this section for 3317
felonies committed as part of the same act. 3318

(7) (a) If an offender is convicted of or pleads guilty to 3319
a felony violation of section 2905.01, 2905.02, 2907.21, 3320
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 3321
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 3322
the Revised Code and also is convicted of or pleads guilty to a 3323
specification of the type described in section 2941.1422 of the 3324

Revised Code that charges that the offender knowingly committed 3325
the offense in furtherance of human trafficking, the court shall 3326
impose on the offender a mandatory prison term that is one of 3327
the following: 3328

(i) If the offense is a felony of the first degree, a 3329
definite prison term of not less than five years and not greater 3330
than ten years; 3331

(ii) If the offense is a felony of the second or third 3332
degree, a definite prison term of not less than three years and 3333
not greater than the maximum prison term allowed for the offense 3334
by division (A) of section 2929.14 of the Revised Code; 3335

(iii) If the offense is a felony of the fourth or fifth 3336
degree, a definite prison term that is the maximum prison term 3337
allowed for the offense by division (A) of section 2929.14 of 3338
the Revised Code. 3339

(b) Subject to divisions (C) to (I) of section 2967.19 of 3340
the Revised Code, the prison term imposed under division (B) (7) 3341
(a) of this section shall not be reduced pursuant to section 3342
2929.20, section 2967.19, section 2967.193, or any other 3343
provision of Chapter 2967. of the Revised Code. A court shall 3344
not impose more than one prison term on an offender under 3345
division (B) (7) (a) of this section for felonies committed as 3346
part of the same act, scheme, or plan. 3347

(8) If an offender is convicted of or pleads guilty to a 3348
felony violation of section 2903.11, 2903.12, or 2903.13 of the 3349
Revised Code and also is convicted of or pleads guilty to a 3350
specification of the type described in section 2941.1423 of the 3351
Revised Code that charges that the victim of the violation was a 3352
woman whom the offender knew was pregnant at the time of the 3353

violation, notwithstanding the range of prison terms prescribed 3354
in division (A) of this section for felonies of the same degree 3355
as the violation, the court shall impose on the offender a 3356
mandatory prison term that is either a definite prison term of 3357
six months or one of the prison terms prescribed in section 3358
2929.14 of the Revised Code for felonies of the same degree as 3359
the violation. 3360

(C) (1) (a) Subject to division (C) (1) (b) of this section, 3361
if a mandatory prison term is imposed upon an offender pursuant 3362
to division (B) (1) (a) of this section for having a firearm on or 3363
about the offender's person or under the offender's control 3364
while committing a felony, if a mandatory prison term is imposed 3365
upon an offender pursuant to division (B) (1) (c) of this section 3366
for committing a felony specified in that division by 3367
discharging a firearm from a motor vehicle, or if both types of 3368
mandatory prison terms are imposed, the offender shall serve any 3369
mandatory prison term imposed under either division 3370
consecutively to any other mandatory prison term imposed under 3371
either division or under division (B) (1) (d) of this section, 3372
consecutively to and prior to any prison term imposed for the 3373
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 3374
this section or any other section of the Revised Code, and 3375
consecutively to any other prison term or mandatory prison term 3376
previously or subsequently imposed upon the offender. 3377

(b) If a mandatory prison term is imposed upon an offender 3378
pursuant to division (B) (1) (d) of this section for wearing or 3379
carrying body armor while committing an offense of violence that 3380
is a felony, the offender shall serve the mandatory term so 3381
imposed consecutively to any other mandatory prison term imposed 3382
under that division or under division (B) (1) (a) or (c) of this 3383
section, consecutively to and prior to any prison term imposed 3384

for the underlying felony under division (A), (B) (2), or (B) (3) 3385
of this section or any other section of the Revised Code, and 3386
consecutively to any other prison term or mandatory prison term 3387
previously or subsequently imposed upon the offender. 3388

(c) If a mandatory prison term is imposed upon an offender 3389
pursuant to division (B) (1) (f) of this section, the offender 3390
shall serve the mandatory prison term so imposed consecutively 3391
to and prior to any prison term imposed for the underlying 3392
felony under division (A), (B) (2), or (B) (3) of this section or 3393
any other section of the Revised Code, and consecutively to any 3394
other prison term or mandatory prison term previously or 3395
subsequently imposed upon the offender. 3396

(d) If a mandatory prison term is imposed upon an offender 3397
pursuant to division (B) (7) or (8) of this section, the offender 3398
shall serve the mandatory prison term so imposed consecutively 3399
to any other mandatory prison term imposed under that division 3400
or under any other provision of law and consecutively to any 3401
other prison term or mandatory prison term previously or 3402
subsequently imposed upon the offender. 3403

(2) If an offender who is an inmate in a jail, prison, or 3404
other residential detention facility violates section 2917.02, 3405
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 3406
(2) of section 2921.34 of the Revised Code, if an offender who 3407
is under detention at a detention facility commits a felony 3408
violation of section 2923.131 of the Revised Code, or if an 3409
offender who is an inmate in a jail, prison, or other 3410
residential detention facility or is under detention at a 3411
detention facility commits another felony while the offender is 3412
an escapee in violation of division (A) (1) or (2) of section 3413
2921.34 of the Revised Code, any prison term imposed upon the 3414

offender for one of those violations shall be served by the 3415
offender consecutively to the prison term or term of 3416
imprisonment the offender was serving when the offender 3417
committed that offense and to any other prison term previously 3418
or subsequently imposed upon the offender. 3419

(3) If a prison term is imposed for a violation of 3420
division (B) of section 2911.01 of the Revised Code, a violation 3421
of division (A) of section 2913.02 of the Revised Code in which 3422
the stolen property is a firearm or dangerous ordnance, or a 3423
felony violation of division (B) of section 2921.331 of the 3424
Revised Code, the offender shall serve that prison term 3425
consecutively to any other prison term or mandatory prison term 3426
previously or subsequently imposed upon the offender. 3427

(4) If multiple prison terms are imposed on an offender 3428
for convictions of multiple offenses, the court may require the 3429
offender to serve the prison terms consecutively if the court 3430
finds that the consecutive service is necessary to protect the 3431
public from future crime or to punish the offender and that 3432
consecutive sentences are not disproportionate to the 3433
seriousness of the offender's conduct and to the danger the 3434
offender poses to the public, and if the court also finds any of 3435
the following: 3436

(a) The offender committed one or more of the multiple 3437
offenses while the offender was awaiting trial or sentencing, 3438
was under a sanction imposed pursuant to section 2929.16, 3439
2929.17, or 2929.18 of the Revised Code, or was under post- 3440
release control for a prior offense. 3441

(b) At least two of the multiple offenses were committed 3442
as part of one or more courses of conduct, and the harm caused 3443
by two or more of the multiple offenses so committed was so 3444

great or unusual that no single prison term for any of the 3445
offenses committed as part of any of the courses of conduct 3446
adequately reflects the seriousness of the offender's conduct. 3447

(c) The offender's history of criminal conduct 3448
demonstrates that consecutive sentences are necessary to protect 3449
the public from future crime by the offender. 3450

(5) If a mandatory prison term is imposed upon an offender 3451
pursuant to division (B) (5) or (6) of this section, the offender 3452
shall serve the mandatory prison term consecutively to and prior 3453
to any prison term imposed for the underlying violation of 3454
division (A) (1) or (2) of section 2903.06 of the Revised Code 3455
pursuant to division (A) of this section or section 2929.142 of 3456
the Revised Code. If a mandatory prison term is imposed upon an 3457
offender pursuant to division (B) (5) of this section, and if a 3458
mandatory prison term also is imposed upon the offender pursuant 3459
to division (B) (6) of this section in relation to the same 3460
violation, the offender shall serve the mandatory prison term 3461
imposed pursuant to division (B) (5) of this section 3462
consecutively to and prior to the mandatory prison term imposed 3463
pursuant to division (B) (6) of this section and consecutively to 3464
and prior to any prison term imposed for the underlying 3465
violation of division (A) (1) or (2) of section 2903.06 of the 3466
Revised Code pursuant to division (A) of this section or section 3467
2929.142 of the Revised Code. 3468

(6) When consecutive prison terms are imposed pursuant to 3469
division (C) (1), (2), (3), (4), or (5) or division (H) (1) or (2) 3470
of this section, the term to be served is the aggregate of all 3471
of the terms so imposed. 3472

(D) (1) If a court imposes a prison term for a felony of 3473
the first degree, for a felony of the second degree, for a 3474

felony sex offense, or for a felony of the third degree that is 3475
not a felony sex offense and in the commission of which the 3476
offender caused or threatened to cause physical harm to a 3477
person, it shall include in the sentence a requirement that the 3478
offender be subject to a period of post-release control after 3479
the offender's release from imprisonment, in accordance with 3480
that division. If a court imposes a sentence including a prison 3481
term of a type described in this division on or after July 11, 3482
2006, the failure of a court to include a post-release control 3483
requirement in the sentence pursuant to this division does not 3484
negate, limit, or otherwise affect the mandatory period of post- 3485
release control that is required for the offender under division 3486
(B) of section 2967.28 of the Revised Code. Section 2929.191 of 3487
the Revised Code applies if, prior to July 11, 2006, a court 3488
imposed a sentence including a prison term of a type described 3489
in this division and failed to include in the sentence pursuant 3490
to this division a statement regarding post-release control. 3491

(2) If a court imposes a prison term for a felony of the 3492
third, fourth, or fifth degree that is not subject to division 3493
(D)(1) of this section, it shall include in the sentence a 3494
requirement that the offender be subject to a period of post- 3495
release control after the offender's release from imprisonment, 3496
in accordance with that division, if the parole board determines 3497
that a period of post-release control is necessary. Section 3498
2929.191 of the Revised Code applies if, prior to July 11, 2006, 3499
a court imposed a sentence including a prison term of a type 3500
described in this division and failed to include in the sentence 3501
pursuant to this division a statement regarding post-release 3502
control. 3503

(E) The court shall impose sentence upon the offender in 3504
accordance with section 2971.03 of the Revised Code, and Chapter 3505

2971. of the Revised Code applies regarding the prison term or 3506
term of life imprisonment without parole imposed upon the 3507
offender and the service of that term of imprisonment if any of 3508
the following apply: 3509

(1) A person is convicted of or pleads guilty to a violent 3510
sex offense or a designated homicide, assault, or kidnapping 3511
offense, and, in relation to that offense, the offender is 3512
adjudicated a sexually violent predator. 3513

(2) A person is convicted of or pleads guilty to a 3514
violation of division (A) (1) (b) of section 2907.02 of the 3515
Revised Code committed on or after January 2, 2007, and either 3516
the court does not impose a sentence of life without parole when 3517
authorized pursuant to division (B) of section 2907.02 of the 3518
Revised Code, or division (B) of section 2907.02 of the Revised 3519
Code provides that the court shall not sentence the offender 3520
pursuant to section 2971.03 of the Revised Code. 3521

(3) A person is convicted of or pleads guilty to attempted 3522
rape committed on or after January 2, 2007, and a specification 3523
of the type described in section 2941.1418, 2941.1419, or 3524
2941.1420 of the Revised Code. 3525

(4) A person is convicted of or pleads guilty to a 3526
violation of section 2905.01 of the Revised Code committed on or 3527
after January 1, 2008, and that section requires the court to 3528
sentence the offender pursuant to section 2971.03 of the Revised 3529
Code. 3530

(5) A person is convicted of or pleads guilty to 3531
aggravated murder committed on or after January 1, 2008, and 3532
division ~~(A) (2) (b) (ii) of section 2929.022, division (A) (1) (e),~~ 3533
~~(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1)~~ 3534

~~(d) of section 2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ of the Revised Code requires the court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(6) A person is convicted of or pleads guilty to murder committed on or after January 1, 2008, and division ~~(B) (2) (C)~~ (1) of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(F) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, ~~sections-section 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section or~~ 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(G) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(H) (1) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or third degree that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.143 of the Revised Code that charges the offender with having committed the offense in a school safety zone or

towards a person in a school safety zone, the court shall impose 3565
upon the offender an additional prison term of two years. The 3566
offender shall serve the additional two years consecutively to 3567
and prior to the prison term imposed for the underlying offense. 3568

(2) (a) If an offender is convicted of or pleads guilty to 3569
a felony violation of section 2907.22, 2907.24, 2907.241, or 3570
2907.25 of the Revised Code and to a specification of the type 3571
described in section 2941.1421 of the Revised Code and if the 3572
court imposes a prison term on the offender for the felony 3573
violation, the court may impose upon the offender an additional 3574
prison term as follows: 3575

(i) Subject to division (H) (2) (a) (ii) of this section, an 3576
additional prison term of one, two, three, four, five, or six 3577
months; 3578

(ii) If the offender previously has been convicted of or 3579
pleaded guilty to one or more felony or misdemeanor violations 3580
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 3581
the Revised Code and also was convicted of or pleaded guilty to 3582
a specification of the type described in section 2941.1421 of 3583
the Revised Code regarding one or more of those violations, an 3584
additional prison term of one, two, three, four, five, six, 3585
seven, eight, nine, ten, eleven, or twelve months. 3586

(b) In lieu of imposing an additional prison term under 3587
division (H) (2) (a) of this section, the court may directly 3588
impose on the offender a sanction that requires the offender to 3589
wear a real-time processing, continual tracking electronic 3590
monitoring device during the period of time specified by the 3591
court. The period of time specified by the court shall equal the 3592
duration of an additional prison term that the court could have 3593
imposed upon the offender under division (H) (2) (a) of this 3594

section. A sanction imposed under this division shall commence 3595
on the date specified by the court, provided that the sanction 3596
shall not commence until after the offender has served the 3597
prison term imposed for the felony violation of section 2907.22, 3598
2907.24, 2907.241, or 2907.25 of the Revised Code and any 3599
residential sanction imposed for the violation under section 3600
2929.16 of the Revised Code. A sanction imposed under this 3601
division shall be considered to be a community control sanction 3602
for purposes of section 2929.15 of the Revised Code, and all 3603
provisions of the Revised Code that pertain to community control 3604
sanctions shall apply to a sanction imposed under this division, 3605
except to the extent that they would by their nature be clearly 3606
inapplicable. The offender shall pay all costs associated with a 3607
sanction imposed under this division, including the cost of the 3608
use of the monitoring device. 3609

(I) At the time of sentencing, the court may recommend the 3610
offender for placement in a program of shock incarceration under 3611
section 5120.031 of the Revised Code or for placement in an 3612
intensive program prison under section 5120.032 of the Revised 3613
Code, disapprove placement of the offender in a program of shock 3614
incarceration or an intensive program prison of that nature, or 3615
make no recommendation on placement of the offender. In no case 3616
shall the department of rehabilitation and correction place the 3617
offender in a program or prison of that nature unless the 3618
department determines as specified in section 5120.031 or 3619
5120.032 of the Revised Code, whichever is applicable, that the 3620
offender is eligible for the placement. 3621

If the court disapproves placement of the offender in a 3622
program or prison of that nature, the department of 3623
rehabilitation and correction shall not place the offender in 3624
any program of shock incarceration or intensive program prison. 3625

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the recommended program or prison, the department shall notify the court of the placement and shall include with the notice a brief description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

(J) If a person is convicted of or pleads guilty to aggravated vehicular homicide in violation of division (A) (1) of section 2903.06 of the Revised Code and division (B) (2) (c) of

that section applies, the person shall be sentenced pursuant to 3656
section 2929.142 of the Revised Code. 3657

Sec. 2929.20. (A) As used in this section: 3658

(1)(a) Except as provided in division (A)(1)(b) of this 3659
section, "eligible offender" means any person who, on or after 3660
April 7, 2009, is serving a stated prison term that includes one 3661
or more nonmandatory prison terms. 3662

(b) "Eligible offender" does not include any person who, 3663
on or after April 7, 2009, is serving a stated prison term for 3664
any of the following criminal offenses that was a felony and was 3665
committed while the person held a public office in this state: 3666

(i) A violation of section 2921.02, 2921.03, 2921.05, 3667
2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised 3668
Code; 3669

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 3670
2921.12 of the Revised Code, when the conduct constituting the 3671
violation was related to the duties of the offender's public 3672
office or to the offender's actions as a public official holding 3673
that public office; 3674

(iii) A violation of an existing or former municipal 3675
ordinance or law of this or any other state or the United States 3676
that is substantially equivalent to any violation listed in 3677
division (A)(1)(b)(i) of this section; 3678

(iv) A violation of an existing or former municipal 3679
ordinance or law of this or any other state or the United States 3680
that is substantially equivalent to any violation listed in 3681
division (A)(1)(b)(ii) of this section, when the conduct 3682
constituting the violation was related to the duties of the 3683
offender's public office or to the offender's actions as a 3684

public official holding that public office; 3685

(v) A conspiracy to commit, attempt to commit, or 3686
complicity in committing any offense listed in division (A) (1) 3687
(b) (i) or described in division (A) (1) (b) (iii) of this section; 3688

(vi) A conspiracy to commit, attempt to commit, or 3689
complicity in committing any offense listed in division (A) (1) 3690
(b) (ii) or described in division (A) (1) (b) (iv) of this section, 3691
if the conduct constituting the offense that was the subject of 3692
the conspiracy, that would have constituted the offense 3693
attempted, or constituting the offense in which the offender was 3694
complicit was or would have been related to the duties of the 3695
offender's public office or to the offender's actions as a 3696
public official holding that public office. 3697

(2) "Nonmandatory prison term" means a prison term that is 3698
not a mandatory prison term. 3699

(3) "Public office" means any elected federal, state, or 3700
local government office in this state. 3701

(4) "Victim's representative" has the same meaning as in 3702
section 2930.01 of the Revised Code. 3703

(B) On the motion of an eligible offender or upon its own 3704
motion, the sentencing court may reduce the eligible offender's 3705
aggregated nonmandatory prison term or terms through a judicial 3706
release under this section. 3707

(C) An eligible offender may file a motion for judicial 3708
release with the sentencing court within the following 3709
applicable periods: 3710

(1) If the aggregated nonmandatory prison term or terms is 3711
less than two years, the eligible offender may file the motion 3712

not earlier than thirty days after the offender is delivered to 3713
a state correctional institution or, if the prison term includes 3714
a mandatory prison term or terms, not earlier than thirty days 3715
after the expiration of all mandatory prison terms. 3716

(2) If the aggregated nonmandatory prison term or terms is 3717
at least two years but less than five years, the eligible 3718
offender may file the motion not earlier than one hundred eighty 3719
days after the offender is delivered to a state correctional 3720
institution or, if the prison term includes a mandatory prison 3721
term or terms, not earlier than one hundred eighty days after 3722
the expiration of all mandatory prison terms. 3723

(3) If the aggregated nonmandatory prison term or terms is 3724
five years, the eligible offender may file the motion not 3725
earlier than four years after the eligible offender is delivered 3726
to a state correctional institution or, if the prison term 3727
includes a mandatory prison term or terms, not earlier than four 3728
years after the expiration of all mandatory prison terms. 3729

(4) If the aggregated nonmandatory prison term or terms is 3730
more than five years but not more than ten years, the eligible 3731
offender may file the motion not earlier than five years after 3732
the eligible offender is delivered to a state correctional 3733
institution or, if the prison term includes a mandatory prison 3734
term or terms, not earlier than five years after the expiration 3735
of all mandatory prison terms. 3736

(5) If the aggregated nonmandatory prison term or terms is 3737
more than ten years, the eligible offender may file the motion 3738
not earlier than the later of the date on which the offender has 3739
served one-half of the offender's stated prison term or the date 3740
specified in division (C) (4) of this section. 3741

(D) Upon receipt of a timely motion for judicial release 3742
filed by an eligible offender under division (C) of this section 3743
or upon the sentencing court's own motion made within the 3744
appropriate time specified in that division, the court may deny 3745
the motion without a hearing or schedule a hearing on the 3746
motion. The court shall not grant the motion without a hearing. 3747
If a court denies a motion without a hearing, the court later 3748
may consider judicial release for that eligible offender on a 3749
subsequent motion filed by that eligible offender unless the 3750
court denies the motion with prejudice. If a court denies a 3751
motion with prejudice, the court may later consider judicial 3752
release on its own motion. If a court denies a motion after a 3753
hearing, the court shall not consider a subsequent motion for 3754
that eligible offender. The court shall hold only one hearing 3755
for any eligible offender. 3756

A hearing under this section shall be conducted in open 3757
court not less than thirty or more than sixty days after the 3758
motion is filed, provided that the court may delay the hearing 3759
for one hundred eighty additional days. If the court holds a 3760
hearing, the court shall enter a ruling on the motion within ten 3761
days after the hearing. If the court denies the motion without a 3762
hearing, the court shall enter its ruling on the motion within 3763
sixty days after the motion is filed. 3764

(E) If a court schedules a hearing under division (D) of 3765
this section, the court shall notify the eligible offender and 3766
the head of the state correctional institution in which the 3767
eligible offender is confined prior to the hearing. The head of 3768
the state correctional institution immediately shall notify the 3769
appropriate person at the department of rehabilitation and 3770
correction of the hearing, and the department within twenty-four 3771
hours after receipt of the notice, shall post on the database it 3772

maintains pursuant to section 5120.66 of the Revised Code the 3773
offender's name and all of the information specified in division 3774
(A) (1) (c) (i) of that section. If the court schedules a hearing 3775
for judicial release, the court promptly shall give notice of 3776
the hearing to the prosecuting attorney of the county in which 3777
the eligible offender was indicted. Upon receipt of the notice 3778
from the court, the prosecuting attorney shall do whichever of 3779
the following is applicable: 3780

(1) Subject to division (E) (2) of this section, notify the 3781
victim of the offense or the victim's representative pursuant to 3782
division (B) of section 2930.16 of the Revised Code; 3783

(2) If the offense was an offense of violence that is a 3784
felony of the first, second, or third degree, except as 3785
otherwise provided in this division, notify the victim or the 3786
victim's representative of the hearing regardless of whether the 3787
victim or victim's representative has requested the 3788
notification. The notice of the hearing shall not be given under 3789
this division to a victim or victim's representative if the 3790
victim or victim's representative has requested pursuant to 3791
division (B) (2) of section 2930.03 of the Revised Code that the 3792
victim or the victim's representative not be provided the 3793
notice. If notice is to be provided to a victim or victim's 3794
representative under this division, the prosecuting attorney may 3795
give the notice by any reasonable means, including regular mail, 3796
telephone, and electronic mail, in accordance with division (D) 3797
(1) of section 2930.16 of the Revised Code. If the notice is 3798
based on an offense committed prior to March 22, 2013, the 3799
notice also shall include the opt-out information described in 3800
division (D) (1) of section 2930.16 of the Revised Code. The 3801
prosecuting attorney, in accordance with division (D) (2) of 3802
section 2930.16 of the Revised Code, shall keep a record of all 3803

attempts to provide the notice, and of all notices provided, 3804
under this division. Division (E) (2) of this section, and the 3805
notice-related provisions of division (K) of this section, 3806
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 3807
2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) 3808
(b) of section 2967.26, division (D) (1) of section 2967.28, and 3809
division (A) (2) of section 5149.101 of the Revised Code enacted 3810
in the act in which division (E) (2) of this section was enacted, 3811
shall be known as "Roberta's Law." 3812

(F) Upon an offender's successful completion of 3813
rehabilitative activities, the head of the state correctional 3814
institution may notify the sentencing court of the successful 3815
completion of the activities. 3816

(G) Prior to the date of the hearing on a motion for 3817
judicial release under this section, the head of the state 3818
correctional institution in which the eligible offender is 3819
confined shall send to the court an institutional summary report 3820
on the eligible offender's conduct in the institution and in any 3821
institution from which the eligible offender may have been 3822
transferred. Upon the request of the prosecuting attorney of the 3823
county in which the eligible offender was indicted or of any law 3824
enforcement agency, the head of the state correctional 3825
institution, at the same time the person sends the institutional 3826
summary report to the court, also shall send a copy of the 3827
report to the requesting prosecuting attorney and law 3828
enforcement agencies. The institutional summary report shall 3829
cover the eligible offender's participation in school, 3830
vocational training, work, treatment, and other rehabilitative 3831
activities and any disciplinary action taken against the 3832
eligible offender. The report shall be made part of the record 3833
of the hearing. A presentence investigation report is not 3834

required for judicial release. 3835

(H) If the court grants a hearing on a motion for judicial 3836
release under this section, the eligible offender shall attend 3837
the hearing if ordered to do so by the court. Upon receipt of a 3838
copy of the journal entry containing the order, the head of the 3839
state correctional institution in which the eligible offender is 3840
incarcerated shall deliver the eligible offender to the sheriff 3841
of the county in which the hearing is to be held. The sheriff 3842
shall convey the eligible offender to and from the hearing. 3843

(I) At the hearing on a motion for judicial release under 3844
this section, the court shall afford the eligible offender and 3845
the eligible offender's attorney an opportunity to present 3846
written and, if present, oral information relevant to the 3847
motion. The court shall afford a similar opportunity to the 3848
prosecuting attorney, the victim or the victim's representative, 3849
and any other person the court determines is likely to present 3850
additional relevant information. The court shall consider any 3851
statement of a victim made pursuant to section 2930.14 or 3852
2930.17 of the Revised Code, any victim impact statement 3853
prepared pursuant to section 2947.051 of the Revised Code, and 3854
any report made under division (G) of this section. The court 3855
may consider any written statement of any person submitted to 3856
the court pursuant to division (L) of this section. After ruling 3857
on the motion, the court shall notify the victim of the ruling 3858
in accordance with sections 2930.03 and 2930.16 of the Revised 3859
Code. 3860

(J) (1) A court shall not grant a judicial release under 3861
this section to an eligible offender who is imprisoned for a 3862
felony of the first or second degree, or to an eligible offender 3863
who committed an offense under Chapter 2925. or 3719. of the 3864

Revised Code and for whom there was a presumption under section 3865
2929.13 of the Revised Code in favor of a prison term, unless 3866
the court, with reference to factors under section 2929.12 of 3867
the Revised Code, finds both of the following: 3868

(a) That a sanction other than a prison term would 3869
adequately punish the offender and protect the public from 3870
future criminal violations by the eligible offender because the 3871
applicable factors indicating a lesser likelihood of recidivism 3872
outweigh the applicable factors indicating a greater likelihood 3873
of recidivism; 3874

(b) That a sanction other than a prison term would not 3875
demean the seriousness of the offense because factors indicating 3876
that the eligible offender's conduct in committing the offense 3877
was less serious than conduct normally constituting the offense 3878
outweigh factors indicating that the eligible offender's conduct 3879
was more serious than conduct normally constituting the offense. 3880

(2) A court that grants a judicial release to an eligible 3881
offender under division (J)(1) of this section shall specify on 3882
the record both findings required in that division and also 3883
shall list all the factors described in that division that were 3884
presented at the hearing. 3885

(K) If the court grants a motion for judicial release 3886
under this section, the court shall order the release of the 3887
eligible offender, shall place the eligible offender under an 3888
appropriate community control sanction, under appropriate 3889
conditions, and under the supervision of the department of 3890
probation serving the court and shall reserve the right to 3891
reimpose the sentence that it reduced if the offender violates 3892
the sanction. If the court reimposes the reduced sentence, it 3893
may do so either concurrently with, or consecutive to, any new 3894

sentence imposed upon the eligible offender as a result of the 3895
violation that is a new offense. The period of community control 3896
shall be no longer than five years. The court, in its 3897
discretion, may reduce the period of community control by the 3898
amount of time the eligible offender spent in jail or prison for 3899
the offense and in prison. If the court made any findings 3900
pursuant to division (J) (1) of this section, the court shall 3901
serve a copy of the findings upon counsel for the parties within 3902
fifteen days after the date on which the court grants the motion 3903
for judicial release. 3904

If the court grants a motion for judicial release, the 3905
court shall notify the appropriate person at the department of 3906
rehabilitation and correction, and the department shall post 3907
notice of the release on the database it maintains pursuant to 3908
section 5120.66 of the Revised Code. The court also shall notify 3909
the prosecuting attorney of the county in which the eligible 3910
offender was indicted that the motion has been granted. Unless 3911
the victim or the victim's representative has requested pursuant 3912
to division (B) (2) of section 2930.03 of the Revised Code that 3913
the victim or victim's representative not be provided the 3914
notice, the prosecuting attorney shall notify the victim or the 3915
victim's representative of the judicial release in any manner, 3916
and in accordance with the same procedures, pursuant to which 3917
the prosecuting attorney is authorized to provide notice of the 3918
hearing pursuant to division (E) (2) of this section. If the 3919
notice is based on an offense committed prior to March 22, 2013, 3920
the notice to the victim or victim's representative also shall 3921
include the opt-out information described in division (D) (1) of 3922
section 2930.16 of the Revised Code. 3923

(L) In addition to and independent of the right of a 3924
victim to make a statement pursuant to section 2930.14, 2930.17, 3925

or 2946.051 of the Revised Code and any right of a person to 3926
present written information or make a statement pursuant to 3927
division (I) of this section, any person may submit to the 3928
court, at any time prior to the hearing on the offender's motion 3929
for judicial release, a written statement concerning the effects 3930
of the offender's crime or crimes, the circumstances surrounding 3931
the crime or crimes, the manner in which the crime or crimes 3932
were perpetrated, and the person's opinion as to whether the 3933
offender should be released. 3934

(M) The changes to this section that are made on September 3935
30, 2011, apply to any judicial release decision made on or 3936
after September 30, 2011, for any eligible offender. 3937

Sec. 2929.61. (A) Persons charged with an offense that 3938
formerly was a capital offense and that was committed prior to 3939
January 1, 1974, shall be prosecuted under the law as it existed 3940
at the time the offense was committed, and, if convicted, shall 3941
be imprisoned for life, except that whenever the statute under 3942
which any such person is prosecuted provides for a lesser 3943
penalty under the circumstances of the particular case, such 3944
lesser penalty shall be imposed. 3945

(B) Persons charged with an offense, other than an offense 3946
that formerly was a capital offense, that was committed prior to 3947
January 1, 1974, shall be prosecuted under the law as it existed 3948
at the time the offense was committed. Persons convicted or 3949
sentenced on or after January 1, 1974, for an offense committed 3950
prior to January 1, 1974, shall be sentenced according to the 3951
penalty for commission of the substantially equivalent offense 3952
under Amended Substitute House Bill 511 of the 109th General 3953
Assembly. If the offense for which sentence is being imposed 3954
does not have a substantial equivalent under that act, or if 3955

that act provides a more severe penalty than that originally 3956
prescribed for the offense of which the person is convicted, 3957
then sentence shall be imposed under the law as it existed prior 3958
to January 1, 1974. 3959

(C) Persons charged with an offense that is a felony of 3960
the third or fourth degree and that was committed on or after 3961
January 1, 1974, and before July 1, 1983, shall be prosecuted 3962
under the law as it existed at the time the offense was 3963
committed. Persons convicted or sentenced on or after July 1, 3964
1983, for an offense that is a felony of the third or fourth 3965
degree and that was committed on or after January 1, 1974, and 3966
before July 1, 1983, shall be notified by the court sufficiently 3967
in advance of sentencing that they may choose to be sentenced 3968
pursuant to either the law in effect at the time of the 3969
commission of the offense or the law in effect at the time of 3970
sentencing. This notice shall be written and shall include the 3971
differences between and possible effects of the alternative 3972
sentence forms and the effect of the person's refusal to choose. 3973
The person to be sentenced shall then inform the court in 3974
writing of ~~his~~ the person's choice, and shall be sentenced 3975
accordingly. Any person choosing to be sentenced pursuant to the 3976
law in effect at the time of the commission of an offense that 3977
is a felony of the third or fourth degree shall then be eligible 3978
for parole, and this person cannot at a later date have ~~his~~ the 3979
person's sentence converted to a definite sentence. If the 3980
person refuses to choose between the two possible sentences, the 3981
person shall be sentenced pursuant to the law in effect at the 3982
time of the commission of the offense. 3983

(D) Persons charged with an offense that was a felony of 3984
the first or second degree at the time it was committed, that 3985
was committed on or after January 1, 1974, and that was 3986

committed prior to July 1, 1983, shall be prosecuted for that 3987
offense and, if convicted, shall be sentenced under the law as 3988
it existed at the time the offense was committed. 3989

Sec. 2930.03. (A) A person or entity required or 3990
authorized under this chapter to give notice to a victim shall 3991
give the notice to the victim by any means reasonably calculated 3992
to provide prompt actual notice. Except when a provision 3993
requires that notice is to be given in a specific manner, a 3994
notice may be oral or written. 3995

(B) (1) Except for receipt of the initial information and 3996
notice required to be given to a victim under divisions (A) and 3997
(B) of section 2930.04, section 2930.05, and divisions (A) and 3998
(B) of section 2930.06 of the Revised Code and the notice 3999
required to be given to a victim under division (D) of section 4000
2930.16 of the Revised Code, a victim who wishes to receive any 4001
notice authorized by this chapter shall make a request for the 4002
notice to the prosecutor or the custodial agency that is to 4003
provide the notice, as specified in this chapter. If the victim 4004
does not make a request as described in this division, the 4005
prosecutor or custodial agency is not required to provide any 4006
notice described in this chapter other than the initial 4007
information and notice required to be given to a victim under 4008
divisions (A) and (B) of section 2930.04, section 2930.05, and 4009
divisions (A) and (B) of section 2930.06 of the Revised Code and 4010
the notice required to be given to a victim under division (D) 4011
of section 2930.16 of the Revised Code. 4012

(2) A victim who does not wish to receive any of the 4013
notices required to be given to a victim under division (E) (2) 4014
or (K) of section 2929.20, division (D) of section 2930.16, 4015
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 4016

section 2967.19, division (A) (3) (b) of section 2967.26, division 4017
(D) (1) of section 2967.28, or division (A) (2) of section 4018
5149.101 of the Revised Code shall make a request to the 4019
prosecutor or custodial agency that is to provide the particular 4020
notice that the notice not be provided to the victim. Unless the 4021
victim makes a request as described in this division, the 4022
prosecutor or custodial agency shall provide the notices 4023
required to be given to a victim under division (E) (2) or (K) of 4024
section 2929.20, division (D) of section 2930.16, division (H) 4025
of section 2967.12, division (E) (1) (b) of section 2967.19, 4026
division (A) (3) (b) of section 2967.26, division (D) (1) of 4027
section 2967.28, or division (A) (2) of section 5149.101 of the 4028
Revised Code in any manner, and in accordance with the 4029
procedures, specified in the particular division. This division 4030
also applies to a victim's representative or a member of a 4031
victim's immediate family that is authorized to receive any of 4032
the notices specified in this division. 4033

(C) A person or agency that is required to furnish notice 4034
under this chapter shall give the notice to the victim at the 4035
address or telephone number provided to the person or agency by 4036
the victim. A victim who requests to receive notice under this 4037
chapter as described in division (B) of this section shall 4038
inform the person or agency of the name, address, or telephone 4039
number of the victim and of any change to that information. 4040

(D) A person or agency that has furnished information to a 4041
victim in accordance with any requirement or authorization under 4042
this chapter shall notify the victim promptly of any significant 4043
changes to that information. 4044

(E) Divisions (A) to (D) of this section do not apply 4045
regarding a notice that a prosecutor is required to provide 4046

under section 2930.061 of the Revised Code. A prosecutor 4047
required to provide notice under that section shall provide the 4048
notice as specified in that section. 4049

Sec. 2930.06. (A) The prosecutor in a case, to the extent 4050
practicable, shall confer with the victim in the case before 4051
pretrial diversion is granted to the defendant or alleged 4052
juvenile offender in the case, before amending or dismissing an 4053
indictment, information, or complaint against that defendant or 4054
alleged juvenile offender, before agreeing to a negotiated plea 4055
for that defendant or alleged juvenile offender, before a trial 4056
of that defendant by judge or jury, or before the juvenile court 4057
conducts an adjudicatory hearing for that alleged juvenile 4058
offender. If the juvenile court disposes of a case prior to the 4059
prosecutor's involvement in the case, the court or a court 4060
employee shall notify the victim in the case that the alleged 4061
juvenile offender will be granted pretrial diversion, the 4062
complaint against that alleged juvenile offender will be amended 4063
or dismissed, or the court will conduct an adjudicatory hearing 4064
for that alleged juvenile offender. If the prosecutor fails to 4065
confer with the victim at any of those times, the court, if 4066
informed of the failure, shall note on the record the failure 4067
and the prosecutor's reasons for the failure. A prosecutor's 4068
failure to confer with a victim as required by this division and 4069
a court's failure to provide the notice as required by this 4070
division do not affect the validity of an agreement between the 4071
prosecutor and the defendant or alleged juvenile offender in the 4072
case, a pretrial diversion of the defendant or alleged juvenile 4073
offender, an amendment or dismissal of an indictment, 4074
information, or complaint filed against the defendant or alleged 4075
juvenile offender, a plea entered by the defendant or alleged 4076
juvenile defender, an admission entered by the defendant or 4077

alleged juvenile offender, or any other disposition in the case. 4078
A court shall not dismiss a criminal complaint, charge, 4079
information, or indictment or a delinquent child complaint 4080
solely at the request of the victim and over the objection of 4081
the prosecuting attorney, village solicitor, city director of 4082
law, or other chief legal officer responsible for the 4083
prosecution of the case. 4084

(B) After a prosecution in a case has been commenced, the 4085
prosecutor or a designee of the prosecutor other than a court or 4086
court employee, to the extent practicable, promptly shall give 4087
the victim all of the following information, except that, if the 4088
juvenile court disposes of a case prior to the prosecutor's 4089
involvement in the case, the court or a court employee, to the 4090
extent practicable, promptly shall give the victim all of the 4091
following information: 4092

(1) The name of the crime or specified delinquent act with 4093
which the defendant or alleged juvenile offender in the case has 4094
been charged and the name of the defendant or alleged juvenile 4095
offender; 4096

(2) The file number of the case; 4097

(3) A brief statement regarding the procedural steps in a 4098
criminal prosecution or delinquency proceeding involving a crime 4099
or specified delinquent act similar to the crime or specified 4100
delinquent act with which the defendant or alleged juvenile 4101
offender has been charged and the right of the victim to be 4102
present during all proceedings held throughout the prosecution 4103
of the case; 4104

(4) A summary of the rights of a victim under this 4105
chapter; 4106

(5) Procedures the victim or the prosecutor may follow if the victim becomes subject to threats or intimidation by the defendant, alleged juvenile offender, or any other person;

(6) The name and business telephone number of a person to contact for further information with respect to the case;

(7) The right of the victim to have a victim's representative exercise the victim's rights under this chapter in accordance with section 2930.02 of the Revised Code and the procedure by which a victim's representative may be designated;

(8) Notice that any notification under division (C) of this section, sections 2930.07 to 2930.15, division (A), (B), or (C) of section 2930.16, sections 2930.17 to 2930.19, and section 5139.56 of the Revised Code will be given to the victim only if the victim asks to receive the notification and that notice under division (E) (2) or (K) of section 2929.20, division (D) of section 2930.16, division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of section 2967.19, division (A) (3) (b) of section 2967.26, division (D) (1) of section 2967.28, or division (A) (2) of section 5149.101 of the Revised Code will be given unless the victim asks that the notification not be provided.

(C) Upon the request of the victim, the prosecutor or, if it is a delinquency proceeding and a prosecutor is not involved in the case, the court shall give the victim notice of the date, time, and place of any scheduled criminal or juvenile proceedings in the case and notice of any changes in those proceedings or in the schedule in the case.

(D) A victim who requests notice under division (C) of this section and who elects pursuant to division (B) of section 2930.03 of the Revised Code to receive any further notice from

the prosecutor or, if it is a delinquency proceeding and a 4136
prosecutor is not involved in the case, the court under this 4137
chapter shall keep the prosecutor or the court informed of the 4138
victim's current address and telephone number until the case is 4139
dismissed or terminated, the defendant is acquitted or 4140
sentenced, the delinquent child complaint is dismissed, the 4141
defendant is adjudicated a delinquent child, or the appellate 4142
process is completed, whichever is the final disposition in the 4143
case. 4144

(E) If a defendant is charged with the commission of a 4145
misdemeanor offense that is not identified in division (A) (2) of 4146
section 2930.01 of the Revised Code and if a police report or a 4147
complaint, indictment, or information that charges the 4148
commission of that offense and provides the basis for a criminal 4149
prosecution of that defendant identifies one or more individuals 4150
as individuals against whom that offense was committed, after a 4151
prosecution in the case has been commenced, the prosecutor or a 4152
designee of the prosecutor other than a court or court employee, 4153
to the extent practicable, promptly shall notify each of the 4154
individuals so identified in the report, complaint, indictment, 4155
or information that, if the defendant is convicted of or pleads 4156
guilty to the offense, the individual may make an oral or 4157
written statement to the court hearing the case regarding the 4158
sentence to be imposed upon the defendant and that the court 4159
must consider any statement so made that is relevant. Before 4160
imposing sentence in the case, the court shall permit the 4161
individuals so identified in the report, complaint, indictment, 4162
or information to make an oral or written statement. Division 4163
(A) of section 2930.14 of the Revised Code applies regarding any 4164
statement so made. The court shall consider a statement so made, 4165
in accordance with division (B) of that section and division (D) 4166

of section 2929.22 of the Revised Code. 4167

Sec. 2930.16. (A) If a defendant is incarcerated, a victim 4168
in a case who has requested to receive notice under this section 4169
shall be given notice of the incarceration of the defendant. If 4170
an alleged juvenile offender is committed to the temporary 4171
custody of a school, camp, institution, or other facility 4172
operated for the care of delinquent children or to the legal 4173
custody of the department of youth services, a victim in a case 4174
who has requested to receive notice under this section shall be 4175
given notice of the commitment. Promptly after sentence is 4176
imposed upon the defendant or the commitment of the alleged 4177
juvenile offender is ordered, the prosecutor in the case shall 4178
notify the victim of the date on which the defendant will be 4179
released from confinement or the prosecutor's reasonable 4180
estimate of that date or the date on which the alleged juvenile 4181
offender will have served the minimum period of commitment or 4182
the prosecutor's reasonable estimate of that date. The 4183
prosecutor also shall notify the victim of the name of the 4184
custodial agency of the defendant or alleged juvenile offender 4185
and tell the victim how to contact that custodial agency. If the 4186
custodial agency is the department of rehabilitation and 4187
correction, the prosecutor shall notify the victim of the 4188
services offered by the office of victims' services pursuant to 4189
section 5120.60 of the Revised Code. If the custodial agency is 4190
the department of youth services, the prosecutor shall notify 4191
the victim of the services provided by the office of victims' 4192
services within the release authority of the department pursuant 4193
to section 5139.55 of the Revised Code and the victim's right 4194
pursuant to section 5139.56 of the Revised Code to submit a 4195
written request to the release authority to be notified of 4196
actions the release authority takes with respect to the alleged 4197

juvenile offender. The victim shall keep the custodial agency 4198
informed of the victim's current address and telephone number. 4199

(B) (1) Upon the victim's request or in accordance with 4200
division (D) of this section, the prosecutor promptly shall 4201
notify the victim of any hearing for judicial release of the 4202
defendant pursuant to section 2929.20 of the Revised Code, of 4203
any hearing for release of the defendant pursuant to section 4204
2967.19 of the Revised Code, or of any hearing for judicial 4205
release or early release of the alleged juvenile offender 4206
pursuant to section 2151.38 of the Revised Code and of the 4207
victim's right to make a statement under those sections. The 4208
court shall notify the victim of its ruling in each of those 4209
hearings and on each of those applications. 4210

(2) If an offender is sentenced to a prison term pursuant 4211
to division (A) (3) or (B) of section 2971.03 of the Revised 4212
Code, upon the request of the victim of the crime or in 4213
accordance with division (D) of this section, the prosecutor 4214
promptly shall notify the victim of any hearing to be conducted 4215
pursuant to section 2971.05 of the Revised Code to determine 4216
whether to modify the requirement that the offender serve the 4217
entire prison term in a state correctional facility in 4218
accordance with division (C) of that section, whether to 4219
continue, revise, or revoke any existing modification of that 4220
requirement, or whether to terminate the prison term in 4221
accordance with division (D) of that section. The court shall 4222
notify the victim of any order issued at the conclusion of the 4223
hearing. 4224

(C) Upon the victim's request made at any time before the 4225
particular notice would be due or in accordance with division 4226
(D) of this section, the custodial agency of a defendant or 4227

alleged juvenile offender shall give the victim any of the 4228
following notices that is applicable: 4229

(1) At least sixty days before the adult parole authority 4230
recommends a pardon or commutation of sentence for the defendant 4231
or at least sixty days prior to a hearing before the adult 4232
parole authority regarding a grant of parole to the defendant, 4233
notice of the victim's right to submit a statement regarding the 4234
impact of the defendant's release in accordance with section 4235
2967.12 of the Revised Code and, if applicable, of the victim's 4236
right to appear at a full board hearing of the parole board to 4237
give testimony as authorized by section 5149.101 of the Revised 4238
Code; 4239

(2) At least sixty days before the defendant is 4240
transferred to transitional control under section 2967.26 of the 4241
Revised Code, notice of the pendency of the transfer and of the 4242
victim's right under that section to submit a statement 4243
regarding the impact of the transfer; 4244

(3) At least sixty days before the release authority of 4245
the department of youth services holds a release review, release 4246
hearing, or discharge review for the alleged juvenile offender, 4247
notice of the pendency of the review or hearing, of the victim's 4248
right to make an oral or written statement regarding the impact 4249
of the crime upon the victim or regarding the possible release 4250
or discharge, and, if the notice pertains to a hearing, of the 4251
victim's right to attend and make statements or comments at the 4252
hearing as authorized by section 5139.56 of the Revised Code; 4253

(4) Prompt notice of the defendant's or alleged juvenile 4254
offender's escape from a facility of the custodial agency in 4255
which the defendant was incarcerated or in which the alleged 4256
juvenile offender was placed after commitment, of the 4257

defendant's or alleged juvenile offender's absence without leave 4258
from a mental health or mental retardation and developmental 4259
disabilities facility or from other custody, and of the capture 4260
of the defendant or alleged juvenile offender after an escape or 4261
absence; 4262

(5) Notice of the defendant's or alleged juvenile 4263
offender's death while in confinement or custody; 4264

(6) Notice of the filing of a petition by the director of 4265
rehabilitation and correction pursuant to section 2967.19 of the 4266
Revised Code requesting the early release under that section of 4267
the defendant; 4268

(7) Notice of the defendant's or alleged juvenile 4269
offender's release from confinement or custody and the terms and 4270
conditions of the release. 4271

(D) (1) If a defendant is incarcerated for the commission 4272
of aggravated murder, murder, or an offense of violence that is 4273
a felony of the first, second, or third degree or is under a 4274
sentence of life imprisonment or if an alleged juvenile offender 4275
has been charged with the commission of an act that would be 4276
aggravated murder, murder, or an offense of violence that is a 4277
felony of the first, second, or third degree or be subject to a 4278
sentence of life imprisonment if committed by an adult, except 4279
as otherwise provided in this division, the notices described in 4280
divisions (B) and (C) of this section shall be given regardless 4281
of whether the victim has requested the notification. The 4282
notices described in divisions (B) and (C) of this section shall 4283
not be given under this division to a victim if the victim has 4284
requested pursuant to division (B) (2) of section 2930.03 of the 4285
Revised Code that the victim not be provided the notice. 4286
Regardless of whether the victim has requested that the notices 4287

described in division (C) of this section be provided or not be 4288
provided, the custodial agency shall give notice similar to 4289
those notices to the prosecutor in the case, to the sentencing 4290
court, to the law enforcement agency that arrested the defendant 4291
or alleged juvenile offender if any officer of that agency was a 4292
victim of the offense, and to any member of the victim's 4293
immediate family who requests notification. If the notice given 4294
under this division to the victim is based on an offense 4295
committed prior to ~~the effective date of this amendment~~ March 4296
22, 2013, and if the prosecutor or custodial agency has not 4297
previously successfully provided any notice to the victim under 4298
this division or division (B) or (C) of this section with 4299
respect to that offense and the offender who committed it, the 4300
notice also shall inform the victim that the victim may request 4301
that the victim not be provided any further notices with respect 4302
to that offense and the offender who committed it and shall 4303
describe the procedure for making that request. If the notice 4304
given under this division to the victim pertains to a hearing 4305
regarding a grant of a parole to the defendant, the notice also 4306
shall inform the victim that the victim, a member of the 4307
victim's immediate family, or the victim's representative may 4308
request a victim conference, as described in division (E) of 4309
this section, and shall provide an explanation of a victim 4310
conference. 4311

The prosecutor or custodial agency may give the notices to 4312
which this division applies by any reasonable means, including 4313
regular mail, telephone, and electronic mail. If the prosecutor 4314
or custodial agency attempts to provide notice to a victim under 4315
this division but the attempt is unsuccessful because the 4316
prosecutor or custodial agency is unable to locate the victim, 4317
is unable to provide the notice by its chosen method because it 4318

cannot determine the mailing address, telephone number, or 4319
electronic mail address at which to provide the notice, or, if 4320
the notice is sent by mail, the notice is returned, the 4321
prosecutor or custodial agency shall make another attempt to 4322
provide the notice to the victim. If the second attempt is 4323
unsuccessful, the prosecutor or custodial agency shall make at 4324
least one more attempt to provide the notice. If the notice is 4325
based on an offense committed prior to ~~the effective date of~~ 4326
~~this amendment~~ March 22, 2013, in each attempt to provide the 4327
notice to the victim, the notice shall include the opt-out 4328
information described in the preceding paragraph. The prosecutor 4329
or custodial agency, in accordance with division (D) (2) of this 4330
section, shall keep a record of all attempts to provide the 4331
notice, and of all notices provided, under this division. 4332

Division (D) (1) of this section, and the notice-related 4333
provisions of divisions (E) (2) and (K) of section 2929.20, 4334
division ~~(H)~~ (G) of section 2967.12, division (E) (1) (b) of 4335
section 2967.19, division (A) (3) (b) of section 2967.26, division 4336
(D) (1) of section 2967.28, and division (A) (2) of section 4337
5149.101 of the Revised Code enacted in the act in which 4338
division (D) (1) of this section was enacted, shall be known as 4339
"Roberta's Law." 4340

(2) Each prosecutor and custodial agency that attempts to 4341
give any notice to which division (D) (1) of this section applies 4342
shall keep a record of all attempts to give the notice. The 4343
record shall indicate the person who was to be the recipient of 4344
the notice, the date on which the attempt was made, the manner 4345
in which the attempt was made, and the person who made the 4346
attempt. If the attempt is successful and the notice is given, 4347
the record shall indicate that fact. The record shall be kept in 4348
a manner that allows public inspection of attempts and notices 4349

given to persons other than victims without revealing the names, 4350
addresses, or other identifying information relating to victims. 4351
The record of attempts and notices given to victims is not a 4352
public record, but the prosecutor or custodial agency shall 4353
provide upon request a copy of that record to a prosecuting 4354
attorney, judge, law enforcement agency, or member of the 4355
general assembly. The record of attempts and notices given to 4356
persons other than victims is a public record. A record kept 4357
under this division may be indexed by offender name, or in any 4358
other manner determined by the prosecutor or the custodial 4359
agency. Each prosecutor or custodial agency that is required to 4360
keep a record under this division shall determine the procedures 4361
for keeping the record and the manner in which it is to be kept, 4362
subject to the requirements of this division. 4363

(E) The adult parole authority shall adopt rules under 4364
Chapter 119. of the Revised Code providing for a victim 4365
conference, upon request of the victim, a member of the victim's 4366
immediate family, or the victim's representative, prior to a 4367
parole hearing in the case of a prisoner who is incarcerated for 4368
the commission of aggravated murder, murder, or an offense of 4369
violence that is a felony of the first, second, or third degree 4370
or is under a sentence of life imprisonment. The rules shall 4371
provide for, but not be limited to, all of the following: 4372

(1) Subject to division (E) (3) of this section, attendance 4373
by the victim, members of the victim's immediate family, the 4374
victim's representative, and, if practicable, other individuals; 4375

(2) Allotment of up to one hour for the conference; 4376

(3) A specification of the number of persons specified in 4377
division (E) (1) of this section who may be present at any single 4378
victim conference, if limited by the department pursuant to 4379

division (F) of this section. 4380

(F) The department may limit the number of persons 4381
specified in division (E) (1) of this section who may be present 4382
at any single victim conference, provided that the department 4383
shall not limit the number of persons who may be present at any 4384
single conference to fewer than three. If the department limits 4385
the number of persons who may be present at any single victim 4386
conference, the department shall permit and schedule, upon 4387
request of the victim, a member of the victim's immediate 4388
family, or the victim's representative, multiple victim 4389
conferences for the persons specified in division (E) (1) of this 4390
section. 4391

(G) As used in this section, "victim's immediate family" 4392
has the same meaning as in section 2967.12 of the Revised Code. 4393

Sec. 2937.222. (A) On the motion of the prosecuting 4394
attorney or on the judge's own motion, the judge shall hold a 4395
hearing to determine whether an accused person charged with 4396
aggravated murder ~~when it is not a capital offense~~, murder, a 4397
felony of the first or second degree, a violation of section 4398
2903.06 of the Revised Code, a violation of section 2903.211 of 4399
the Revised Code that is a felony, or a felony OVI offense shall 4400
be denied bail. The judge shall order that the accused be 4401
detained until the conclusion of the hearing. Except for good 4402
cause, a continuance on the motion of the state shall not exceed 4403
three court days. Except for good cause, a continuance on the 4404
motion of the accused shall not exceed five court days unless 4405
the motion of the accused waives in writing the five-day limit 4406
and states in writing a specific period for which the accused 4407
requests a continuance. A continuance granted upon a motion of 4408
the accused that waives in writing the five-day limit shall not 4409

exceed five court days after the period of continuance requested 4410
in the motion. 4411

At the hearing, the accused has the right to be 4412
represented by counsel and, if the accused is indigent, to have 4413
counsel appointed. The judge shall afford the accused an 4414
opportunity to testify, to present witnesses and other 4415
information, and to cross-examine witnesses who appear at the 4416
hearing. The rules concerning admissibility of evidence in 4417
criminal trials do not apply to the presentation and 4418
consideration of information at the hearing. Regardless of 4419
whether the hearing is being held on the motion of the 4420
prosecuting attorney or on the court's own motion, the state has 4421
the burden of proving that the proof is evident or the 4422
presumption great that the accused committed the offense with 4423
which the accused is charged, of proving that the accused poses 4424
a substantial risk of serious physical harm to any person or to 4425
the community, and of proving that no release conditions will 4426
reasonably assure the safety of that person and the community. 4427

The judge may reopen the hearing at any time before trial 4428
if the judge finds that information exists that was not known to 4429
the movant at the time of the hearing and that that information 4430
has a material bearing on whether bail should be denied. If a 4431
municipal court or county court enters an order denying bail, a 4432
judge of the court of common pleas having jurisdiction over the 4433
case may continue that order or may hold a hearing pursuant to 4434
this section to determine whether to continue that order. 4435

(B) No accused person shall be denied bail pursuant to 4436
this section unless the judge finds by clear and convincing 4437
evidence that the proof is evident or the presumption great that 4438
the accused committed the offense described in division (A) of 4439

this section with which the accused is charged, finds by clear 4440
and convincing evidence that the accused poses a substantial 4441
risk of serious physical harm to any person or to the community, 4442
and finds by clear and convincing evidence that no release 4443
conditions will reasonably assure the safety of that person and 4444
the community. 4445

(C) The judge, in determining whether the accused person 4446
described in division (A) of this section poses a substantial 4447
risk of serious physical harm to any person or to the community 4448
and whether there are conditions of release that will reasonably 4449
assure the safety of that person and the community, shall 4450
consider all available information regarding all of the 4451
following: 4452

(1) The nature and circumstances of the offense charged, 4453
including whether the offense is an offense of violence or 4454
involves alcohol or a drug of abuse; 4455

(2) The weight of the evidence against the accused; 4456

(3) The history and characteristics of the accused, 4457
including, but not limited to, both of the following: 4458

(a) The character, physical and mental condition, family 4459
ties, employment, financial resources, length of residence in 4460
the community, community ties, past conduct, history relating to 4461
drug or alcohol abuse, and criminal history of the accused; 4462

(b) Whether, at the time of the current alleged offense or 4463
at the time of the arrest of the accused, the accused was on 4464
probation, parole, post-release control, or other release 4465
pending trial, sentencing, appeal, or completion of sentence for 4466
the commission of an offense under the laws of this state, 4467
another state, or the United States or under a municipal 4468

ordinance. 4469

(4) The nature and seriousness of the danger to any person 4470
or the community that would be posed by the person's release. 4471

(D) (1) An order of the court of common pleas denying bail 4472
pursuant to this section is a final appealable order. In an 4473
appeal pursuant to division (D) of this section, the court of 4474
appeals shall do all of the following: 4475

(a) Give the appeal priority on its calendar; 4476

(b) Liberally modify or dispense with formal requirements 4477
in the interest of a speedy and just resolution of the appeal; 4478

(c) Decide the appeal expeditiously; 4479

(d) Promptly enter its judgment affirming or reversing the 4480
order denying bail. 4481

(2) The pendency of an appeal under this section does not 4482
deprive the court of common pleas of jurisdiction to conduct 4483
further proceedings in the case or to further consider the order 4484
denying bail in accordance with this section. If, during the 4485
pendency of an appeal under division (D) of this section, the 4486
court of common pleas sets aside or terminates the order denying 4487
bail, the court of appeals shall dismiss the appeal. 4488

(E) As used in this section: 4489

(1) "Court day" has the same meaning as in section 5122.01 4490
of the Revised Code. 4491

(2) "Felony OVI offense" means a third degree felony OVI 4492
offense and a fourth degree felony OVI offense. 4493

(3) "Fourth degree felony OVI offense" and "third degree 4494
felony OVI offense" have the same meanings as in section 2929.01 4495

of the Revised Code. 4496

Sec. 2941.021. Any criminal offense ~~which~~ that is not 4497
punishable by ~~death or~~ life imprisonment may be prosecuted by 4498
information filed in the common pleas court by the prosecuting 4499
attorney if the defendant, ~~after he has~~ having been advised by 4500
the court of the nature of the charge against ~~him~~ the defendant 4501
and of ~~his~~ the defendant's rights under the constitution, is 4502
represented by counsel or has affirmatively waived counsel by 4503
waiver in writing and in open court, waives in writing and in 4504
open court prosecution by indictment. 4505

Sec. 2941.14. (A) ~~In an indictment for aggravated murder,~~ 4506
~~murder, or voluntary or involuntary manslaughter, the manner in~~ 4507
~~which, or the means by which the death was caused need not be~~ 4508
~~set forth.~~ 4509

~~(B) Imposition of the death penalty for aggravated murder~~ 4510
~~is precluded unless the indictment or count in the indictment~~ 4511
~~charging the offense specifies one or more of the aggravating~~ 4512
~~circumstances listed in division (A) of section 2929.04 of the~~ 4513
~~Revised Code. If more than one aggravating circumstance is~~ 4514
~~specified to an indictment or count, each shall be in a~~ 4515
~~separately numbered specification, and if an aggravating~~ 4516
~~circumstance is specified to a count in an indictment containing~~ 4517
~~more than one count, such specification shall be identified as~~ 4518
~~to the count to which it applies.~~ 4519

~~(C) A specification to an indictment or count in an~~ 4520
~~indictment charging aggravated murder shall be stated at the end~~ 4521
~~of the body of the indictment or count, and may be in~~ 4522
~~substantially the following form:~~ 4523

~~"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE~~ 4524

~~FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand
Jurors further find and specify that (set forth the applicable
aggravating circumstance listed in divisions (A) (1) to (10) of
section 2929.04 of the Revised Code. The aggravating
circumstance may be stated in the words of the subdivision in
which it appears, or in words sufficient to give the accused
notice of the same)."~~ 4525
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Sec. 2941.148. (A) (1) The application of Chapter 2971. of 4532
the Revised Code to an offender is precluded unless one of the 4533
following applies: 4534

(a) The offender is charged with a violent sex offense, 4535
and the indictment, count in the indictment, or information 4536
charging the violent sex offense also includes a specification 4537
that the offender is a sexually violent predator, or the 4538
offender is charged with a designated homicide, assault, or 4539
kidnapping offense, and the indictment, count in the indictment, 4540
or information charging the designated homicide, assault, or 4541
kidnapping offense also includes both a specification of the 4542
type described in section 2941.147 of the Revised Code and a 4543
specification that the offender is a sexually violent predator. 4544

(b) The offender is convicted of or pleads guilty to a 4545
violation of division (A) (1) (b) of section 2907.02 of the 4546
Revised Code committed on or after January 2, 2007, and division 4547
(B) of section 2907.02 of the Revised Code does not prohibit the 4548
court from sentencing the offender pursuant to section 2971.03 4549
of the Revised Code. 4550

(c) The offender is convicted of or pleads guilty to 4551
attempted rape committed on or after January 2, 2007, and to a 4552
specification of the type described in section 2941.1418, 4553
2941.1419, or 2941.1420 of the Revised Code. 4554

(d) The offender is convicted of or pleads guilty to a 4555
violation of section 2905.01 of the Revised Code and to a 4556
specification of the type described in section 2941.147 of the 4557
Revised Code, and section 2905.01 of the Revised Code requires a 4558
court to sentence the offender pursuant to section 2971.03 of 4559
the Revised Code. 4560

(e) The offender is convicted of or pleads guilty to 4561
aggravated murder and to a specification of the type described 4562
in section 2941.147 of the Revised Code, and division ~~(A) (2) (b)~~ 4563
~~(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C)~~ 4564
~~(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section~~ 4565
~~2929.03, or division (A) or (B) (C) (1) of section 2929.06~~ 4566
2929.02 of the Revised Code requires a court to sentence the 4567
offender pursuant to division (B) (3) of section 2971.03 of the 4568
Revised Code. 4569

(f) The offender is convicted of or pleads guilty to 4570
murder and to a specification of the type described in section 4571
2941.147 of the Revised Code, and division ~~(B) (2) (C) (1)~~ of 4572
section 2929.02 of the Revised Code requires a court to sentence 4573
the offender pursuant to section 2971.03 of the Revised Code. 4574

(2) A specification required under division (A) (1) (a) of 4575
this section that an offender is a sexually violent predator 4576
shall be stated at the end of the body of the indictment, count, 4577
or information and shall be stated in substantially the 4578
following form: 4579

"Specification (or, specification to the first count). The 4580
grand jury (or insert the person's or prosecuting attorney's 4581
name when appropriate) further find and specify that the 4582
offender is a sexually violent predator." 4583

(B) In determining for purposes of this section whether a person is a sexually violent predator, all of the factors set forth in divisions (H) (1) to (6) of section 2971.01 of the Revised Code that apply regarding the person may be considered as evidence tending to indicate that it is likely that the person will engage in the future in one or more sexually violent offenses.

(C) As used in this section, "designated homicide, assault, or kidnapping offense," "violent sex offense," and "sexually violent predator" have the same meanings as in section 2971.01 of the Revised Code.

Sec. 2941.401. When a person has entered upon a term of imprisonment in a correctional institution of this state, and when during the continuance of the term of imprisonment there is pending in this state any untried indictment, information, or complaint against the prisoner, ~~he~~ the prisoner shall be brought to trial within one hundred eighty days after ~~he~~ the prisoner causes to be delivered to the prosecuting attorney and the appropriate court in which the matter is pending, written notice of the place of ~~his~~ the prisoner's imprisonment and a request for a final disposition to be made of the matter, except that for good cause shown in open court, with the prisoner or ~~his~~ the prisoner's counsel present, the court may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the warden or superintendent having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time served and remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the adult parole authority relating to the prisoner.

The written notice and request for final disposition shall 4615
be given or sent by the prisoner to the warden or superintendent 4616
having custody of ~~him~~ the prisoner, who shall promptly forward 4617
it with the certificate to the appropriate prosecuting attorney 4618
and court by registered or certified mail, return receipt 4619
requested. 4620

The warden or superintendent having custody of the 4621
prisoner shall promptly inform ~~him~~ the prisoner in writing of 4622
the source and contents of any untried indictment, information, 4623
or complaint against ~~him~~ the prisoner, concerning which the 4624
warden or superintendent has knowledge, and of ~~his~~ the 4625
prisoner's right to make a request for final disposition 4626
thereof. 4627

Escape from custody by the prisoner, subsequent to ~~his~~ the 4628
prisoner's execution of the request for final disposition, voids 4629
the request. 4630

If the action is not brought to trial within the time 4631
provided, subject to continuance allowed pursuant to this 4632
section, no court any longer has jurisdiction thereof, the 4633
indictment, information, or complaint is void, and the court 4634
shall enter an order dismissing the action with prejudice. 4635

This section does not apply to any person adjudged to be 4636
mentally ill or who is under sentence of life imprisonment ~~or~~ 4637
~~death, or to any prisoner under sentence of death.~~ 4638

Sec. 2941.43. If the convict referred to in section 4639
2941.40 of the Revised Code is acquitted, ~~he~~ the convict shall 4640
be forthwith returned by the sheriff to the state correctional 4641
institution to serve out the remainder of ~~his~~ the convict's 4642
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 4643

state correctional institution, ~~he~~ the convict shall be returned 4644
to the state correctional institution by the sheriff to serve 4645
~~his new~~ the convict's term. ~~If he is sentenced to death, the~~ 4646
~~death sentence shall be executed as if he were not under~~ 4647
~~sentence of imprisonment in a state correctional institution.~~ 4648

Sec. 2941.51. (A) Counsel appointed to a case or selected 4649
by an indigent person under division (E) of section 120.16 or 4650
division (E) of section 120.26 of the Revised Code, or otherwise 4651
appointed by the court, except for counsel appointed by the 4652
court to provide legal representation for a person charged with 4653
a violation of an ordinance of a municipal corporation, shall be 4654
paid for their services by the county the compensation and 4655
expenses that the trial court approves. Each request for payment 4656
shall be accompanied by a financial disclosure form and an 4657
affidavit of indigency that are completed by the indigent person 4658
on forms prescribed by the state public defender. Compensation 4659
and expenses shall not exceed the amounts fixed by the board of 4660
county commissioners pursuant to division (B) of this section. 4661

(B) The board of county commissioners shall establish a 4662
schedule of fees by case or on an hourly basis to be paid by the 4663
county for legal services provided by appointed counsel. Prior 4664
to establishing such schedule, the board shall request the bar 4665
association or associations of the county to submit a proposed 4666
schedule. The schedule submitted shall be subject to the review, 4667
amendment, and approval of the board of county commissioners. 4668

(C) In a case where counsel have been appointed to conduct 4669
an appeal under Chapter 120. of the Revised Code, such 4670
compensation shall be fixed by the court of appeals or the 4671
supreme court, as provided in divisions (A) and (B) of this 4672
section. 4673

(D) The fees and expenses approved by the court under this 4674
section shall not be taxed as part of the costs and shall be 4675
paid by the county. However, if the person represented has, or 4676
reasonably may be expected to have, the means to meet some part 4677
of the cost of the services rendered to the person, the person 4678
shall pay the county an amount that the person reasonably can be 4679
expected to pay. Pursuant to section 120.04 of the Revised Code, 4680
the county shall pay to the state public defender a percentage 4681
of the payment received from the person in an amount 4682
proportionate to the percentage of the costs of the person's 4683
case that were paid to the county by the state public defender 4684
pursuant to this section. The money paid to the state public 4685
defender shall be credited to the client payment fund created 4686
pursuant to division (B) (5) of section 120.04 of the Revised 4687
Code. 4688

(E) The county auditor shall draw a warrant on the county 4689
treasurer for the payment of such counsel in the amount fixed by 4690
the court, plus the expenses that the court fixes and certifies 4691
to the auditor. The county auditor shall report periodically, 4692
but not less than annually, to the board of county commissioners 4693
and to the Ohio public defender commission the amounts paid out 4694
pursuant to the approval of the court under this section, ~~—~~ 4695
~~separately stating costs and expenses that are reimbursable—~~ 4696
~~under section 120.35 of the Revised Code.~~ The board, after 4697
review and approval of the auditor's report, may then certify it 4698
to the state public defender for reimbursement. The request for 4699
reimbursement shall be accompanied by a financial disclosure 4700
form completed by each indigent person for whom counsel was 4701
provided on a form prescribed by the state public defender. The 4702
state public defender shall review the report and, in accordance 4703
with the standards, guidelines, and maximums established 4704

pursuant to divisions (B) (7) and (8) of section 120.04 of the 4705
Revised Code, pay fifty per cent of the total cost, ~~other than~~ 4706
~~costs and expenses that are reimbursable under section 120.35 of~~ 4707
~~the Revised Code, if any,~~ of paying appointed counsel in each 4708
county and ~~pay fifty per cent of costs and expenses that are~~ 4709
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 4710
to the board. 4711

(F) If any county system for paying appointed counsel 4712
fails to maintain the standards for the conduct of the system 4713
established by the rules of the Ohio public defender commission 4714
pursuant to divisions (B) and (C) of section 120.03 of the 4715
Revised Code or the standards established by the state public 4716
defender pursuant to division (B) (7) of section 120.04 of the 4717
Revised Code, the commission shall notify the board of county 4718
commissioners of the county that the county system for paying 4719
appointed counsel has failed to comply with its rules. Unless 4720
the board corrects the conduct of its appointed counsel system 4721
to comply with the rules within ninety days after the date of 4722
the notice, the state public defender may deny all or part of 4723
the county's reimbursement from the state provided for in this 4724
section. 4725

Sec. 2945.06. In any case in which a defendant waives his 4726
right to trial by jury and elects to be tried by the court under 4727
section 2945.05 of the Revised Code, any judge of the court in 4728
which the cause is pending shall proceed to hear, try, and 4729
determine the cause in accordance with the rules and in like 4730
manner as if the cause were being tried before a jury. ~~If the~~ 4731
~~accused is charged with an offense punishable with death, he~~ 4732
~~shall be tried by a court to be composed of three judges,~~ 4733
~~consisting of the judge presiding at the time in the trial of~~ 4734
~~criminal cases and two other judges to be designated by the~~ 4735

~~presiding judge or chief justice of that court, and in case~~ 4736
~~there is neither a presiding judge nor a chief justice, by the~~ 4737
~~chief justice of the supreme court. The judges or a majority of~~ 4738
~~them may decide all questions of fact and law arising upon the~~ 4739
~~trial; however the accused shall not be found guilty or not~~ 4740
~~guilty of any offense unless the judges unanimously find the~~ 4741
~~accused guilty or not guilty. If the accused pleads guilty of~~ 4742
~~aggravated murder, a court composed of three judges shall~~ 4743
~~examine the witnesses, determine whether the accused is guilty~~ 4744
~~of aggravated murder or any other offense, and pronounce~~ 4745
~~sentence accordingly. The court shall follow the procedures~~ 4746
~~contained in sections 2929.03 and 2929.04 of the Revised Code in~~ 4747
~~all cases in which the accused is charged with an offense~~ 4748
~~punishable by death. If in the composition of the court it is~~ 4749
~~necessary that a judge from another county be assigned by the~~ 4750
~~chief justice, the judge from another county shall be~~ 4751
~~compensated for his services as provided by section 141.07 of~~ 4752
~~the Revised Code.~~ 4753

Sec. 2945.13. When two or more persons are jointly 4754
indicted for a felony, ~~except a capital offense,~~ they shall be 4755
tried jointly unless the court, for good cause shown on 4756
application therefor by the prosecuting attorney or one or more 4757
of said defendants, orders one or more of said defendants to be 4758
tried separately. 4759

Sec. 2945.21. (A) (1) In criminal cases in which there is 4760
only one defendant, each party, in addition to the challenges 4761
for cause authorized by law, may peremptorily challenge three of 4762
the jurors in misdemeanor cases and four of the jurors in felony 4763
cases ~~other than capital cases~~. If there is more than one 4764
defendant, each defendant may peremptorily challenge the same 4765
number of jurors as if ~~he~~ the defendant were the sole defendant. 4766

(2) ~~Notwithstanding Criminal Rule 24, in capital cases in which there is only one defendant, each party, in addition to the challenges for cause authorized by law, may peremptorily challenge twelve of the jurors. If there is more than one defendant, each defendant may peremptorily challenge the same number of jurors as if he were the sole defendant.~~ 4767
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~~(3)~~ In any case in which there are multiple defendants, 4773
the prosecuting attorney may peremptorily challenge a number of 4774
jurors equal to the total number of peremptory challenges 4775
allowed to all of the defendants. 4776

(B) If any indictments, informations, or complaints are 4777
consolidated for trial, the consolidated cases shall be 4778
considered, for purposes of exercising peremptory challenges, as 4779
though the defendants or offenses had been joined in the same 4780
indictment, information, or complaint. 4781

(C) The exercise of peremptory challenges authorized by 4782
this section shall be in accordance with the procedures of 4783
Criminal Rule 24. 4784

Sec. 2945.25. A person called as a juror in a criminal 4785
case may be challenged for the following causes: 4786

(A) That ~~he~~ the person was a member of the grand jury that 4787
found the indictment in the case; 4788

(B) That ~~he~~ the person is possessed of a state of mind 4789
evinced enmity or bias toward the defendant or the state; but 4790
no person summoned as a juror shall be disqualified by reason of 4791
a previously formed or expressed opinion with reference to the 4792
guilt or innocence of the accused, if the court is satisfied, 4793
from examination of the juror or from other evidence, that ~~he~~ 4794
the juror will render an impartial verdict according to the law 4795

and the evidence submitted to the jury at the trial; 4796

~~(C) In the trial of a capital offense, that~~ 4797
~~he unequivocally states that under no circumstances will he~~ 4798
~~follow the instructions of a trial judge and consider fairly the~~ 4799
~~imposition of a sentence of death in a particular case. A~~ 4800
~~prospective juror's conscientious or religious opposition to the~~ 4801
~~death penalty in and of itself is not grounds for a challenge~~ 4802
~~for cause. All parties shall be given wide latitude in voir dire~~ 4803
~~questioning in this regard.~~ 4804

~~(D)~~ That he the person is related by consanguinity or 4805
affinity within the fifth degree to the person alleged to be 4806
injured or attempted to be injured by the offense charged, or to 4807
the person on whose complaint the prosecution was instituted, or 4808
to the defendant; 4809

~~(E)~~ ~~(D)~~ That he the person served on a petit jury drawn in 4810
the same cause against the same defendant, and that jury was 4811
discharged after hearing the evidence or rendering a verdict on 4812
the evidence that was set aside; 4813

~~(F)~~ ~~(E)~~ That he the person served as a juror in a civil 4814
case brought against the defendant for the same act; 4815

~~(G)~~ ~~(F)~~ That he the person has been subpoenaed in good 4816
faith as a witness in the case; 4817

~~(H)~~ ~~(G)~~ That he the person is a chronic alcoholic, or drug 4818
dependent person; 4819

~~(I)~~ ~~(H)~~ That he the person has been convicted of a crime 4820
that by law disqualifies ~~him~~ the person from serving on a jury; 4821

~~(J)~~ ~~(I)~~ That he the person has an action pending between 4822
him the person and the state or the defendant; 4823

~~(K)~~(J) That ~~he~~ the person or ~~his~~ the person's spouse is a party to another action then pending in any court in which an attorney in the cause then on trial is an attorney, either for or against ~~him~~ the person;

~~(L)~~(K) That ~~he~~ the person is the person alleged to be injured or attempted to be injured by the offense charged, or is the person on whose complaint the prosecution was instituted, or the defendant;

~~(M)~~(L) That ~~he~~ the person is the employer or employee, or the spouse, parent, son, or daughter of the employer or employee, or the counselor, agent, or attorney of any person included in division (L) of this section;

~~(N)~~(M) That English is not ~~his~~ the person's native language, and ~~his~~ the person's knowledge of English is insufficient to permit ~~him~~ the person to understand the facts and law in the case;

~~(O)~~(N) That ~~he~~ the person otherwise is unsuitable for any other cause to serve as a juror.

The validity of each challenge listed in this section shall be determined by the court.

Sec. 2945.33. When a cause is finally submitted the jurors must be kept together in a convenient place under the charge of an officer until they agree upon a verdict, or are discharged by the court. The court, ~~except in cases where the offense charged may be punishable by death,~~ may permit the jurors to separate during the adjournment of court overnight, under proper cautions, or under supervision of an officer. Such officer shall not permit a communication to be made to them, nor make any ~~himself~~ communication to them except to ask if they have agreed

upon a verdict, unless ~~he~~ the officer does so by order of the 4853
court. Such officer shall not communicate to any person, before 4854
the verdict is delivered, any matter in relation to their 4855
deliberation. Upon the trial of any prosecution for misdemeanor, 4856
the court may permit the jury to separate during their 4857
deliberation, or upon adjournment of the court overnight. 4858

~~In cases where the offense charged may be punished by~~ 4859
~~death, after the case is finally submitted to the jury, the~~ 4860
~~jurors shall be kept in charge of the proper officer and proper~~ 4861
~~arrangements for their care and maintenance shall be made as~~ 4862
~~under section 2945.31 of the Revised Code.~~ 4863

Sec. 2945.38. (A) If the issue of a defendant's competence 4864
to stand trial is raised and if the court, upon conducting the 4865
hearing provided for in section 2945.37 of the Revised Code, 4866
finds that the defendant is competent to stand trial, the 4867
defendant shall be proceeded against as provided by law. If the 4868
court finds the defendant competent to stand trial and the 4869
defendant is receiving psychotropic drugs or other medication, 4870
the court may authorize the continued administration of the 4871
drugs or medication or other appropriate treatment in order to 4872
maintain the defendant's competence to stand trial, unless the 4873
defendant's attending physician advises the court against 4874
continuation of the drugs, other medication, or treatment. 4875

(B) (1) (a) If, after taking into consideration all relevant 4876
reports, information, and other evidence, the court finds that 4877
the defendant is incompetent to stand trial and that there is a 4878
substantial probability that the defendant will become competent 4879
to stand trial within one year if the defendant is provided with 4880
a course of treatment, the court shall order the defendant to 4881
undergo treatment. If the defendant has been charged with a 4882

felony offense and if, after taking into consideration all 4883
relevant reports, information, and other evidence, the court 4884
finds that the defendant is incompetent to stand trial, but the 4885
court is unable at that time to determine whether there is a 4886
substantial probability that the defendant will become competent 4887
to stand trial within one year if the defendant is provided with 4888
a course of treatment, the court shall order continuing 4889
evaluation and treatment of the defendant for a period not to 4890
exceed four months to determine whether there is a substantial 4891
probability that the defendant will become competent to stand 4892
trial within one year if the defendant is provided with a course 4893
of treatment. 4894

(b) The court order for the defendant to undergo treatment 4895
or continuing evaluation and treatment under division (B) (1) (a) 4896
of this section shall specify that the defendant, if determined 4897
to require mental health treatment or continuing evaluation and 4898
treatment, either shall be committed to the department of mental 4899
health and addiction services for treatment or continuing 4900
evaluation and treatment at a hospital, facility, or agency, as 4901
determined to be clinically appropriate by the department of 4902
mental health and addiction services or shall be committed to a 4903
facility certified by the department of mental health and 4904
addiction services as being qualified to treat mental illness, 4905
to a public or community mental health facility, or to a 4906
psychiatrist or another mental health professional for treatment 4907
or continuing evaluation and treatment. Prior to placing the 4908
defendant, the department of mental health and addiction 4909
services shall obtain court approval for that placement 4910
following a hearing. The court order for the defendant to 4911
undergo treatment or continuing evaluation and treatment under 4912
division (B) (1) (a) of this section shall specify that the 4913

defendant, if determined to require treatment or continuing 4914
evaluation and treatment for mental retardation, shall receive 4915
treatment or continuing evaluation and treatment at an 4916
institution or facility operated by the department of 4917
developmental disabilities, at a facility certified by the 4918
department of developmental disabilities as being qualified to 4919
treat mental retardation, at a public or private mental 4920
retardation facility, or by a psychiatrist or another mental 4921
retardation professional. In any case, the order may restrict 4922
the defendant's freedom of movement as the court considers 4923
necessary. The prosecutor in the defendant's case shall send to 4924
the chief clinical officer of the hospital, facility, or agency 4925
where the defendant is placed by the department of mental health 4926
and addiction services, or to the managing officer of the 4927
institution, the director of the program or facility, or the 4928
person to which the defendant is committed, copies of relevant 4929
police reports and other background information that pertains to 4930
the defendant and is available to the prosecutor unless the 4931
prosecutor determines that the release of any of the information 4932
in the police reports or any of the other background information 4933
to unauthorized persons would interfere with the effective 4934
prosecution of any person or would create a substantial risk of 4935
harm to any person. 4936

In determining the place of commitment, the court shall 4937
consider the extent to which the person is a danger to the 4938
person and to others, the need for security, and the type of 4939
crime involved and shall order the least restrictive alternative 4940
available that is consistent with public safety and treatment 4941
goals. In weighing these factors, the court shall give 4942
preference to protecting public safety. 4943

(c) If the defendant is found incompetent to stand trial, 4944

if the chief clinical officer of the hospital, facility, or 4945
agency where the defendant is placed, or the managing officer of 4946
the institution, the director of the program or facility, or the 4947
person to which the defendant is committed for treatment or 4948
continuing evaluation and treatment under division (B)(1)(b) of 4949
this section determines that medication is necessary to restore 4950
the defendant's competency to stand trial, and if the defendant 4951
lacks the capacity to give informed consent or refuses 4952
medication, the chief clinical officer of the hospital, 4953
facility, or agency where the defendant is placed, or the 4954
managing officer of the institution, the director of the program 4955
or facility, or the person to which the defendant is committed 4956
for treatment or continuing evaluation and treatment may 4957
petition the court for authorization for the involuntary 4958
administration of medication. The court shall hold a hearing on 4959
the petition within five days of the filing of the petition if 4960
the petition was filed in a municipal court or a county court 4961
regarding an incompetent defendant charged with a misdemeanor or 4962
within ten days of the filing of the petition if the petition 4963
was filed in a court of common pleas regarding an incompetent 4964
defendant charged with a felony offense. Following the hearing, 4965
the court may authorize the involuntary administration of 4966
medication or may dismiss the petition. 4967

(2) If the court finds that the defendant is incompetent 4968
to stand trial and that, even if the defendant is provided with 4969
a course of treatment, there is not a substantial probability 4970
that the defendant will become competent to stand trial within 4971
one year, the court shall order the discharge of the defendant, 4972
unless upon motion of the prosecutor or on its own motion, the 4973
court either seeks to retain jurisdiction over the defendant 4974
pursuant to section 2945.39 of the Revised Code or files an 4975

affidavit in the probate court for the civil commitment of the 4976
defendant pursuant to Chapter 5122. or 5123. of the Revised Code 4977
alleging that the defendant is a mentally ill person subject to 4978
court order or a mentally retarded person subject to 4979
institutionalization by court order. If an affidavit is filed in 4980
the probate court, the trial court shall send to the probate 4981
court copies of all written reports of the defendant's mental 4982
condition that were prepared pursuant to section 2945.371 of the 4983
Revised Code. 4984

The trial court may issue the temporary order of detention 4985
that a probate court may issue under section 5122.11 or 5123.71 4986
of the Revised Code, to remain in effect until the probable 4987
cause or initial hearing in the probate court. Further 4988
proceedings in the probate court are civil proceedings governed 4989
by Chapter 5122. or 5123. of the Revised Code. 4990

(C) No defendant shall be required to undergo treatment, 4991
including any continuing evaluation and treatment, under 4992
division (B) (1) of this section for longer than whichever of the 4993
following periods is applicable: 4994

(1) One year, if the most serious offense with which the 4995
defendant is charged is one of the following offenses: 4996

(a) Aggravated murder, murder, or an offense of violence 4997
for which a sentence of ~~death or~~ life imprisonment may be 4998
imposed; 4999

(b) An offense of violence that is a felony of the first 5000
or second degree; 5001

(c) A conspiracy to commit, an attempt to commit, or 5002
complicity in the commission of an offense described in division 5003
(C) (1) (a) or (b) of this section if the conspiracy, attempt, or 5004

complicity is a felony of the first or second degree. 5005

(2) Six months, if the most serious offense with which the 5006
defendant is charged is a felony other than a felony described 5007
in division (C) (1) of this section; 5008

(3) Sixty days, if the most serious offense with which the 5009
defendant is charged is a misdemeanor of the first or second 5010
degree; 5011

(4) Thirty days, if the most serious offense with which 5012
the defendant is charged is a misdemeanor of the third or fourth 5013
degree, a minor misdemeanor, or an unclassified misdemeanor. 5014

(D) Any defendant who is committed pursuant to this 5015
section shall not voluntarily admit the defendant or be 5016
voluntarily admitted to a hospital or institution pursuant to 5017
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised 5018
Code. 5019

(E) Except as otherwise provided in this division, a 5020
defendant who is charged with an offense and is committed by the 5021
court under this section to the department of mental health and 5022
addiction services or is committed to an institution or facility 5023
for the treatment of mental retardation shall not be granted 5024
unsupervised on-grounds movement, supervised off-grounds 5025
movement, or nonsecured status except in accordance with the 5026
court order. The court may grant a defendant supervised off- 5027
grounds movement to obtain medical treatment or specialized 5028
habilitation treatment services if the person who supervises the 5029
treatment or the continuing evaluation and treatment of the 5030
defendant ordered under division (B) (1) (a) of this section 5031
informs the court that the treatment or continuing evaluation 5032
and treatment cannot be provided at the hospital or facility 5033

where the defendant is placed by the department of mental health 5034
and addiction services or the institution or facility to which 5035
the defendant is committed. The chief clinical officer of the 5036
hospital or facility where the defendant is placed by the 5037
department of mental health and addiction services or the 5038
managing officer of the institution or director of the facility 5039
to which the defendant is committed, or a designee of any of 5040
those persons, may grant a defendant movement to a medical 5041
facility for an emergency medical situation with appropriate 5042
supervision to ensure the safety of the defendant, staff, and 5043
community during that emergency medical situation. The chief 5044
clinical officer of the hospital or facility where the defendant 5045
is placed by the department of mental health and addiction 5046
services or the managing officer of the institution or director 5047
of the facility to which the defendant is committed shall notify 5048
the court within twenty-four hours of the defendant's movement 5049
to the medical facility for an emergency medical situation under 5050
this division. 5051

(F) The person who supervises the treatment or continuing 5052
evaluation and treatment of a defendant ordered to undergo 5053
treatment or continuing evaluation and treatment under division 5054
(B) (1) (a) of this section shall file a written report with the 5055
court at the following times: 5056

(1) Whenever the person believes the defendant is capable 5057
of understanding the nature and objective of the proceedings 5058
against the defendant and of assisting in the defendant's 5059
defense; 5060

(2) For a felony offense, fourteen days before expiration 5061
of the maximum time for treatment as specified in division (C) 5062
of this section and fourteen days before the expiration of the 5063

maximum time for continuing evaluation and treatment as 5064
specified in division (B) (1) (a) of this section, and, for a 5065
misdemeanor offense, ten days before the expiration of the 5066
maximum time for treatment, as specified in division (C) of this 5067
section; 5068

(3) At a minimum, after each six months of treatment; 5069

(4) Whenever the person who supervises the treatment or 5070
continuing evaluation and treatment of a defendant ordered under 5071
division (B) (1) (a) of this section believes that there is not a 5072
substantial probability that the defendant will become capable 5073
of understanding the nature and objective of the proceedings 5074
against the defendant or of assisting in the defendant's defense 5075
even if the defendant is provided with a course of treatment. 5076

(G) A report under division (F) of this section shall 5077
contain the examiner's findings, the facts in reasonable detail 5078
on which the findings are based, and the examiner's opinion as 5079
to the defendant's capability of understanding the nature and 5080
objective of the proceedings against the defendant and of 5081
assisting in the defendant's defense. If, in the examiner's 5082
opinion, the defendant remains incapable of understanding the 5083
nature and objective of the proceedings against the defendant 5084
and of assisting in the defendant's defense and there is a 5085
substantial probability that the defendant will become capable 5086
of understanding the nature and objective of the proceedings 5087
against the defendant and of assisting in the defendant's 5088
defense if the defendant is provided with a course of treatment, 5089
if in the examiner's opinion the defendant remains mentally ill 5090
or mentally retarded, and if the maximum time for treatment as 5091
specified in division (C) of this section has not expired, the 5092
report also shall contain the examiner's recommendation as to 5093

the least restrictive placement or commitment alternative that 5094
is consistent with the defendant's treatment needs for 5095
restoration to competency and with the safety of the community. 5096
The court shall provide copies of the report to the prosecutor 5097
and defense counsel. 5098

(H) If a defendant is committed pursuant to division (B) 5099
(1) of this section, within ten days after the treating 5100
physician of the defendant or the examiner of the defendant who 5101
is employed or retained by the treating facility advises that 5102
there is not a substantial probability that the defendant will 5103
become capable of understanding the nature and objective of the 5104
proceedings against the defendant or of assisting in the 5105
defendant's defense even if the defendant is provided with a 5106
course of treatment, within ten days after the expiration of the 5107
maximum time for treatment as specified in division (C) of this 5108
section, within ten days after the expiration of the maximum 5109
time for continuing evaluation and treatment as specified in 5110
division (B) (1) (a) of this section, within thirty days after a 5111
defendant's request for a hearing that is made after six months 5112
of treatment, or within thirty days after being advised by the 5113
treating physician or examiner that the defendant is competent 5114
to stand trial, whichever is the earliest, the court shall 5115
conduct another hearing to determine if the defendant is 5116
competent to stand trial and shall do whichever of the following 5117
is applicable: 5118

(1) If the court finds that the defendant is competent to 5119
stand trial, the defendant shall be proceeded against as 5120
provided by law. 5121

(2) If the court finds that the defendant is incompetent 5122
to stand trial, but that there is a substantial probability that 5123

the defendant will become competent to stand trial if the 5124
defendant is provided with a course of treatment, and the 5125
maximum time for treatment as specified in division (C) of this 5126
section has not expired, the court, after consideration of the 5127
examiner's recommendation, shall order that treatment be 5128
continued, may change the facility or program at which the 5129
treatment is to be continued, and shall specify whether the 5130
treatment is to be continued at the same or a different facility 5131
or program. 5132

(3) If the court finds that the defendant is incompetent 5133
to stand trial, if the defendant is charged with an offense 5134
listed in division (C)(1) of this section, and if the court 5135
finds that there is not a substantial probability that the 5136
defendant will become competent to stand trial even if the 5137
defendant is provided with a course of treatment, or if the 5138
maximum time for treatment relative to that offense as specified 5139
in division (C) of this section has expired, further proceedings 5140
shall be as provided in sections 2945.39, 2945.401, and 2945.402 5141
of the Revised Code. 5142

(4) If the court finds that the defendant is incompetent 5143
to stand trial, if the most serious offense with which the 5144
defendant is charged is a misdemeanor or a felony other than a 5145
felony listed in division (C)(1) of this section, and if the 5146
court finds that there is not a substantial probability that the 5147
defendant will become competent to stand trial even if the 5148
defendant is provided with a course of treatment, or if the 5149
maximum time for treatment relative to that offense as specified 5150
in division (C) of this section has expired, the court shall 5151
dismiss the indictment, information, or complaint against the 5152
defendant. A dismissal under this division is not a bar to 5153
further prosecution based on the same conduct. The court shall 5154

discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment pursuant to Chapter 5122. or 5123. of the Revised Code. If an affidavit for civil commitment is filed, the court may detain the defendant for ten days pending civil commitment. All of the following provisions apply to persons charged with a misdemeanor or a felony other than a felony listed in division (C)(1) of this section who are committed by the probate court subsequent to the court's or prosecutor's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall do all of the following:

(i) Notify the prosecutor, in writing, of the discharge of the defendant, send the notice at least ten days prior to the discharge unless the discharge is by the probate court, and state in the notice the date on which the defendant will be discharged;

(ii) Notify the prosecutor, in writing, when the defendant is absent without leave or is granted unsupervised, off-grounds movement, and send this notice promptly after the discovery of the absence without leave or prior to the granting of the unsupervised, off-grounds movement, whichever is applicable;

(iii) Notify the prosecutor, in writing, of the change of the defendant's commitment or admission to voluntary status, send the notice promptly upon learning of the change to voluntary status, and state in the notice the date on which the defendant was committed or admitted on a voluntary status.

(b) Upon receiving notice that the defendant will be 5184
granted unsupervised, off-grounds movement, the prosecutor 5185
either shall re-indict the defendant or promptly notify the 5186
court that the prosecutor does not intend to prosecute the 5187
charges against the defendant. 5188

(I) If a defendant is convicted of a crime and sentenced 5189
to a jail or workhouse, the defendant's sentence shall be 5190
reduced by the total number of days the defendant is confined 5191
for evaluation to determine the defendant's competence to stand 5192
trial or treatment under this section and sections 2945.37 and 5193
2945.371 of the Revised Code or by the total number of days the 5194
defendant is confined for evaluation to determine the 5195
defendant's mental condition at the time of the offense charged. 5196

Sec. 2949.02. (A) If a person is convicted of anyailable 5197
offense, including, but not limited to, a violation of an 5198
ordinance of a municipal corporation, in a municipal or county 5199
court or in a court of common pleas and if the person gives to 5200
the trial judge or magistrate a written notice of the person's 5201
intention to file or apply for leave to file an appeal to the 5202
court of appeals, the trial judge or magistrate may suspend, 5203
subject to division (A) (2) (b) of section 2953.09 of the Revised 5204
Code, execution of the sentence or judgment imposed for any 5205
fixed time that will give the person time either to prepare and 5206
file, or to apply for leave to file, the appeal. In allailable 5207
cases, except as provided in division (B) of this section, the 5208
trial judge or magistrate may release the person on bail in 5209
accordance with Criminal Rule 46, and the bail shall at least be 5210
conditioned that the person will appeal without delay and abide 5211
by the judgment and sentence of the court. 5212

(B) Notwithstanding any provision of Criminal Rule 46 to 5213

the contrary, a trial judge of a court of common pleas shall not 5214
release on bail pursuant to division (A) of this section a 5215
person who is convicted of a bailable offense if the person is 5216
sentenced to imprisonment for life or if that offense is a 5217
violation of section 2903.01, 2903.02, 2903.03, 2903.04, 5218
2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 5219
2911.02, or 2911.11 of the Revised Code or is felonious sexual 5220
penetration in violation of former section 2907.12 of the 5221
Revised Code. 5222

(C) If a trial judge of a court of common pleas is 5223
prohibited by division (B) of this section from releasing on 5224
bail pursuant to division (A) of this section a person who is 5225
convicted of a bailable offense and not sentenced to 5226
imprisonment for life, the appropriate court of appeals or two 5227
judges of it, upon motion of such a person and for good cause 5228
shown, may release the person on bail in accordance with 5229
Appellate Rule 8 and Criminal Rule 46, and the bail shall at 5230
least be conditioned as described in division (A) of this 5231
section. 5232

Sec. 2949.03. If a judgment of conviction by a court of 5233
common pleas, municipal court, or county court is affirmed by a 5234
court of appeals and remanded to the trial court for execution 5235
of the sentence or judgment imposed, and the person so convicted 5236
gives notice of ~~his~~ the person's intention to file a notice of 5237
appeal to the supreme court, the trial court, on the filing of a 5238
motion by such person within three days after the rendition by 5239
the court of appeals of the judgment of affirmation, may further 5240
suspend, ~~subject to division (A) (2) (b) of section 2953.09 of the~~ 5241
~~Revised Code,~~ the execution of the sentence or judgment imposed 5242
for a time sufficient to give such person an opportunity to file 5243
a notice of appeal to the supreme court, but the sentence or 5244

judgment imposed shall not be suspended more than thirty days 5245
for that purpose. 5246

Sec. 2953.02. ~~In a capital case in which a sentence of~~ 5247
~~death is imposed for an offense committed before January 1,~~ 5248
~~1995, and in any other criminal case, including a conviction for~~ 5249
the violation of an ordinance of a municipal corporation, the 5250
judgment or final order of a court of record inferior to the 5251
court of appeals may be reviewed in the court of appeals. A 5252
final order of an administrative officer or agency may be 5253
reviewed in the court of common pleas. A judgment or final order 5254
of the court of appeals involving a question arising under the 5255
Constitution of the United States or of this state may be 5256
appealed to the supreme court as a matter of right. This right 5257
of appeal from judgments and final orders of the court of 5258
appeals shall extend to ~~cases in which a sentence of death is~~ 5259
~~imposed for an offense committed before January 1, 1995, and in~~ 5260
~~which the death penalty has been affirmed,~~ felony cases in which 5261
the supreme court has directed the court of appeals to certify 5262
its record, and in all other criminal cases of public or general 5263
interest wherein the supreme court has granted a motion to 5264
certify the record of the court of appeals. ~~In a capital case in~~ 5265
~~which a sentence of death is imposed for an offense committed on~~ 5266
~~or after January 1, 1995, the judgment or final order may be~~ 5267
~~appealed from the trial court directly to the supreme court as a~~ 5268
~~matter of right.~~ The supreme court in criminal cases shall not 5269
be required to determine as to the weight of the evidence, 5270
except that, ~~in cases in which a sentence of death is imposed~~ 5271
~~for an offense committed on or after January 1, 1995, and in~~ 5272
~~which the question of the weight of the evidence to support the~~ 5273
~~judgment has been raised on appeal, the supreme court shall~~ 5274
~~determine as to the weight of the evidence to support the~~ 5275

~~judgment and shall determine as to the weight of the evidence to support the sentence of death as provided in section 2929.05 of the Revised Code.~~ 5276
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Sec. 2953.07. ~~(A) Upon the hearing of an appeal other than an appeal from a mayor's court, the appellate court may affirm the judgment or reverse it, in whole or in part, or modify it, and order the accused to be discharged or grant a new trial. The appellate court may remand the accused for the sole purpose of correcting a sentence imposed contrary to law, provided that, on an appeal of a sentence imposed upon a person who is convicted of or pleads guilty to a felony that is brought under section 2953.08 of the Revised Code, division (G) of that section applies to the court. If the judgment is reversed, the appellant shall recover from the appellee all court costs incurred to secure the reversal, including the cost of transcripts. In capital cases, when the judgment is affirmed and the day fixed for the execution is passed, the appellate court shall appoint a day for it, and the clerk of the appellate court shall issue a warrant under the seal of the appellate court, to the sheriff of the proper county, or the warden of the appropriate state correctional institution, commanding the sheriff or warden to carry the sentence into execution on the day so appointed. The sheriff or warden shall execute and return the warrant as in other cases, and the clerk shall record the warrant and return.~~ 5279
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~~(B) As used in this section, "appellate court" means, for a case in which a sentence of death is imposed for an offense committed before January 1, 1995, both the court of appeals and the supreme court, and for a case in which a sentence of death is imposed for an offense committed on or after January 1, 1995, the supreme court.~~ 5300
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Sec. 2953.08. (A) In addition to any other right to appeal 5306
and except as provided in division (D) of this section, a 5307
defendant who is convicted of or pleads guilty to a felony may 5308
appeal as a matter of right the sentence imposed upon the 5309
defendant on one of the following grounds: 5310

(1) The sentence consisted of or included the maximum 5311
prison term allowed for the offense by division (A) of section 5312
2929.14 or section 2929.142 of the Revised Code, the maximum 5313
prison term was not required for the offense pursuant to Chapter 5314
2925. or any other provision of the Revised Code, and the court 5315
imposed the sentence under one of the following circumstances: 5316

(a) The sentence was imposed for only one offense. 5317

(b) The sentence was imposed for two or more offenses 5318
arising out of a single incident, and the court imposed the 5319
maximum prison term for the offense of the highest degree. 5320

(2) The sentence consisted of or included a prison term 5321
and the offense for which it was imposed is a felony of the 5322
fourth or fifth degree or is a felony drug offense that is a 5323
violation of a provision of Chapter 2925. of the Revised Code 5324
and that is specified as being subject to division (B) of 5325
section 2929.13 of the Revised Code for purposes of sentencing. 5326
If the court specifies that it found one or more of the factors 5327
in division (B) (1) (b) of section 2929.13 of the Revised Code to 5328
apply relative to the defendant, the defendant is not entitled 5329
under this division to appeal as a matter of right the sentence 5330
imposed upon the offender. 5331

(3) The person was convicted of or pleaded guilty to a 5332
violent sex offense or a designated homicide, assault, or 5333
kidnapping offense, was adjudicated a sexually violent predator 5334

in relation to that offense, and was sentenced pursuant to 5335
division (A) (3) of section 2971.03 of the Revised Code, if the 5336
minimum term of the indefinite term imposed pursuant to division 5337
(A) (3) of section 2971.03 of the Revised Code is the longest 5338
term available for the offense from among the range of terms 5339
listed in section 2929.14 of the Revised Code. As used in this 5340
division, "designated homicide, assault, or kidnapping offense" 5341
and "violent sex offense" have the same meanings as in section 5342
2971.01 of the Revised Code. As used in this division, 5343
"adjudicated a sexually violent predator" has the same meaning 5344
as in section 2929.01 of the Revised Code, and a person is 5345
"adjudicated a sexually violent predator" in the same manner and 5346
the same circumstances as are described in that section. 5347

(4) The sentence is contrary to law. 5348

(5) The sentence consisted of an additional prison term of 5349
ten years imposed pursuant to division (B) (2) (a) of section 5350
2929.14 of the Revised Code. 5351

(B) In addition to any other right to appeal and except as 5352
provided in division (D) of this section, a prosecuting 5353
attorney, a city director of law, village solicitor, or similar 5354
chief legal officer of a municipal corporation, or the attorney 5355
general, if one of those persons prosecuted the case, may appeal 5356
as a matter of right a sentence imposed upon a defendant who is 5357
convicted of or pleads guilty to a felony or, in the 5358
circumstances described in division (B) (3) of this section the 5359
modification of a sentence imposed upon such a defendant, on any 5360
of the following grounds: 5361

(1) The sentence did not include a prison term despite a 5362
presumption favoring a prison term for the offense for which it 5363
was imposed, as set forth in section 2929.13 or Chapter 2925. of 5364

the Revised Code. 5365

(2) The sentence is contrary to law. 5366

(3) The sentence is a modification under section 2929.20 5367
of the Revised Code of a sentence that was imposed for a felony 5368
of the first or second degree. 5369

(C) (1) In addition to the right to appeal a sentence 5370
granted under division (A) or (B) of this section, a defendant 5371
who is convicted of or pleads guilty to a felony may seek leave 5372
to appeal a sentence imposed upon the defendant on the basis 5373
that the sentencing judge has imposed consecutive sentences 5374
under division (C) (3) of section 2929.14 of the Revised Code and 5375
that the consecutive sentences exceed the maximum prison term 5376
allowed by division (A) of that section for the most serious 5377
offense of which the defendant was convicted. Upon the filing of 5378
a motion under this division, the court of appeals may grant 5379
leave to appeal the sentence if the court determines that the 5380
allegation included as the basis of the motion is true. 5381

(2) A defendant may seek leave to appeal an additional 5382
sentence imposed upon the defendant pursuant to division (B) (2) 5383
(a) or (b) of section 2929.14 of the Revised Code if the 5384
additional sentence is for a definite prison term that is longer 5385
than five years. 5386

(D) (1) A sentence imposed upon a defendant is not subject 5387
to review under this section if the sentence is authorized by 5388
law, has been recommended jointly by the defendant and the 5389
prosecution in the case, and is imposed by a sentencing judge. 5390

(2) Except as provided in division (C) (2) of this section, 5391
a sentence imposed upon a defendant is not subject to review 5392
under this section if the sentence is imposed pursuant to 5393

division (B) (2) (b) of section 2929.14 of the Revised Code. 5394
Except as otherwise provided in this division, a defendant 5395
retains all rights to appeal as provided under this chapter or 5396
any other provision of the Revised Code. A defendant has the 5397
right to appeal under this chapter or any other provision of the 5398
Revised Code the court's application of division (B) (2) (c) of 5399
section 2929.14 of the Revised Code. 5400

(3) A sentence imposed for aggravated murder or murder 5401
pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised 5402
Code is not subject to review under this section. 5403

(E) A defendant, prosecuting attorney, city director of 5404
law, village solicitor, or chief municipal legal officer shall 5405
file an appeal of a sentence under this section to a court of 5406
appeals within the time limits specified in Rule 4(B) of the 5407
Rules of Appellate Procedure, provided that if the appeal is 5408
pursuant to division (B) (3) of this section, the time limits 5409
specified in that rule shall not commence running until the 5410
court grants the motion that makes the sentence modification in 5411
question. A sentence appeal under this section shall be 5412
consolidated with any other appeal in the case. If no other 5413
appeal is filed, the court of appeals may review only the 5414
portions of the trial record that pertain to sentencing. 5415

(F) On the appeal of a sentence under this section, the 5416
record to be reviewed shall include all of the following, as 5417
applicable: 5418

(1) Any presentence, psychiatric, or other investigative 5419
report that was submitted to the court in writing before the 5420
sentence was imposed. An appellate court that reviews a 5421
presentence investigation report prepared pursuant to section 5422
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 5423

connection with the appeal of a sentence under this section 5424
shall comply with division (D) (3) of section 2951.03 of the 5425
Revised Code when the appellate court is not using the 5426
presentence investigation report, and the appellate court's use 5427
of a presentence investigation report of that nature in 5428
connection with the appeal of a sentence under this section does 5429
not affect the otherwise confidential character of the contents 5430
of that report as described in division (D) (1) of section 5431
2951.03 of the Revised Code and does not cause that report to 5432
become a public record, as defined in section 149.43 of the 5433
Revised Code, following the appellate court's use of the report. 5434

(2) The trial record in the case in which the sentence was 5435
imposed; 5436

(3) Any oral or written statements made to or by the court 5437
at the sentencing hearing at which the sentence was imposed; 5438

(4) Any written findings that the court was required to 5439
make in connection with the modification of the sentence 5440
pursuant to a judicial release under division (I) of section 5441
2929.20 of the Revised Code. 5442

(G) (1) If the sentencing court was required to make the 5443
findings required by division (B) or (D) of section 2929.13 or 5444
division (I) of section 2929.20 of the Revised Code, or to state 5445
the findings of the trier of fact required by division (B) (2) (e) 5446
of section 2929.14 of the Revised Code, relative to the 5447
imposition or modification of the sentence, and if the 5448
sentencing court failed to state the required findings on the 5449
record, the court hearing an appeal under division (A), (B), or 5450
(C) of this section shall remand the case to the sentencing 5451
court and instruct the sentencing court to state, on the record, 5452
the required findings. 5453

(2) The court hearing an appeal under division (A), (B),
or (C) of this section shall review the record, including the
findings underlying the sentence or modification given by the
sentencing court.

The appellate court may increase, reduce, or otherwise
modify a sentence that is appealed under this section or may
vacate the sentence and remand the matter to the sentencing
court for resentencing. The appellate court's standard for
review is not whether the sentencing court abused its
discretion. The appellate court may take any action authorized
by this division if it clearly and convincingly finds either of
the following:

(a) That the record does not support the sentencing
court's findings under division (B) or (D) of section 2929.13,
division (B) (2) (e) or (C) (4) of section 2929.14, or division (I)
of section 2929.20 of the Revised Code, whichever, if any, is
relevant;

(b) That the sentence is otherwise contrary to law.

(H) A judgment or final order of a court of appeals under
this section may be appealed, by leave of court, to the supreme
court.

Sec. 2953.09. (A) (1) Upon filing an appeal in the supreme
court, the execution of the sentence or judgment imposed in
cases of felony is suspended.

(2) ~~(a)~~ If a notice of appeal is filed pursuant to the
Rules of Appellate Procedure by a defendant who is convicted in
a municipal or county court or a court of common pleas of a
felony or misdemeanor under the Revised Code or an ordinance of
a municipal corporation, the filing of the notice of appeal does

not suspend execution of the sentence or judgment imposed. 5483
However, consistent with divisions (A) (2) (b), (B), and (C) of 5484
this section, Appellate Rule 8, and Criminal Rule 46, the 5485
municipal or county court, court of common pleas, or court of 5486
appeals may suspend execution of the sentence or judgment 5487
imposed during the pendency of the appeal and shall determine 5488
whether that defendant is entitled to bail and the amount and 5489
nature of any bail that is required. The bail shall at least be 5490
conditioned that the defendant will prosecute the appeal without 5491
delay and abide by the judgment and sentence of the court. 5492

~~(b) (i) A court of common pleas or court of appeals may 5493
suspend the execution of a sentence of death imposed for an 5494
offense committed before January 1, 1995, only if no date for 5495
execution has been set by the supreme court, good cause is shown 5496
for the suspension, the defendant files a motion requesting the 5497
suspension, and notice has been given to the prosecuting 5498
attorney of the appropriate county. 5499~~

~~(ii) A court of common pleas may suspend the execution of 5500
a sentence of death imposed for an offense committed on or after 5501
January 1, 1995, only if no date for execution has been set by 5502
the supreme court, good cause is shown, the defendant files a 5503
motion requesting the suspension, and notice has been given to 5504
the prosecuting attorney of the appropriate county. 5505~~

~~(iii) A court of common pleas or court of appeals may 5506
suspend the execution of the sentence or judgment imposed for a 5507
felony in a capital case in which a sentence of death is not 5508
imposed only if no date for execution of the sentence has been 5509
set by the supreme court, good cause is shown for the 5510
suspension, the defendant files a motion requesting the 5511
suspension, and only after notice has been given to the 5512~~

~~prosecuting attorney of the appropriate county.~~ 5513

(B) Notwithstanding any provision of Criminal Rule 46 to 5514
the contrary, a trial judge of a court of common pleas shall not 5515
release on bail pursuant to division (A)(2)(a) of this section a 5516
defendant who is convicted of a bailable offense if the 5517
defendant is sentenced to imprisonment for life or if that 5518
offense is a violation of section 2903.01, 2903.02, 2903.03, 5519
2903.04, 2903.11, 2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 5520
2911.01, 2911.02, or 2911.11 of the Revised Code or is felonious 5521
sexual penetration in violation of former section 2907.12 of the 5522
Revised Code. 5523

(C) If a trial judge of a court of common pleas is 5524
prohibited by division (B) of this section from releasing on 5525
bail pursuant to division (A)(2)(a) of this section a defendant 5526
who is convicted of a bailable offense and not sentenced to 5527
imprisonment for life, the appropriate court of appeals or two 5528
judges of it, upon motion of the defendant and for good cause 5529
shown, may release the defendant on bail in accordance with 5530
division (A)(2) of this section. 5531

Sec. 2953.10. When an appeal is taken from a court of 5532
appeals to the supreme court, the supreme court has the same 5533
power and authority to suspend the execution of sentence during 5534
the pendency of the appeal and admit the defendant to bail as 5535
does the court of appeals unless another section of the Revised 5536
Code or the Rules of Practice of the Supreme Court specify a 5537
distinct bail or suspension of sentence authority. 5538

~~When an appeal in a case in which a sentence of death is~~ 5539
~~imposed for an offense committed on or after January 1, 1995, is~~ 5540
~~taken directly from the trial court to the supreme court, the~~ 5541
~~supreme court has the same power and authority to suspend the~~ 5542

~~execution of the sentence during the pendency of the appeal and~~ 5543
~~admit the defendant to bail as does the court of appeals for~~ 5544
~~cases in which a sentence of death is imposed for an offense~~ 5545
~~committed before January 1, 1995, unless another section of the~~ 5546
~~Revised Code or the Rules of Practice of the Supreme Court~~ 5547
~~specify a distinct bail or suspension of sentence authority.~~ 5548

Sec. 2953.21. (A) (1) (a) Any person who has been convicted 5549
of a criminal offense or adjudicated a delinquent child and who 5550
claims that there was such a denial or infringement of the 5551
person's rights as to render the judgment void or voidable under 5552
the Ohio Constitution or the Constitution of the United States, 5553
and any person who has been convicted of a criminal offense that 5554
is a felony and who is an offender for whom DNA testing that was 5555
performed under sections 2953.71 to 2953.81 of the Revised Code 5556
or under former section 2953.82 of the Revised Code and analyzed 5557
in the context of and upon consideration of all available 5558
admissible evidence related to the person's case as described in 5559
division (D) of section 2953.74 of the Revised Code provided 5560
results that establish, by clear and convincing evidence, actual 5561
innocence of that felony offense ~~or, if the person was sentenced~~ 5562
~~to death, establish, by clear and convincing evidence, actual~~ 5563
~~innocence of the aggravating circumstance or circumstances the~~ 5564
~~person was found guilty of committing and that is or are the~~ 5565
~~basis of that sentence of death,~~ may file a petition in the 5566
court that imposed sentence, stating the grounds for relief 5567
relied upon, and asking the court to vacate or set aside the 5568
judgment or sentence or to grant other appropriate relief. The 5569
petitioner may file a supporting affidavit and other documentary 5570
evidence in support of the claim for relief. 5571

(b) As used in division (A) (1) (a) of this section, "actual 5572
innocence" means that, had the results of the DNA testing 5573

conducted under sections 2953.71 to 2953.81 of the Revised Code 5574
or under former section 2953.82 of the Revised Code been 5575
presented at trial, and had those results been analyzed in the 5576
context of and upon consideration of all available admissible 5577
evidence related to the person's case as described in division 5578
(D) of section 2953.74 of the Revised Code, no reasonable 5579
factfinder would have found the petitioner guilty of the offense 5580
of which the petitioner was convicted, ~~or, if the person was~~ 5581
~~sentenced to death, no reasonable factfinder would have found~~ 5582
~~the petitioner guilty of the aggravating circumstance or~~ 5583
~~circumstances the petitioner was found guilty of committing and~~ 5584
~~that is or are the basis of that sentence of death.~~ 5585

(c) As used in divisions (A) (1) (a) and (b) of this 5586
section, "former section 2953.82 of the Revised Code" means 5587
section 2953.82 of the Revised Code as it existed prior to ~~the~~ 5588
~~effective date of this amendment~~ July 6, 2010. 5589

(2) Except as otherwise provided in section 2953.23 of the 5590
Revised Code, a petition under division (A) (1) of this section 5591
shall be filed no later than one hundred eighty days after the 5592
date on which the trial transcript is filed in the court of 5593
appeals in the direct appeal of the judgment of conviction or 5594
adjudication ~~or, if the direct appeal involves a sentence of~~ 5595
~~death, the date on which the trial transcript is filed in the~~ 5596
~~supreme court~~. If no appeal is taken, except as otherwise 5597
provided in section 2953.23 of the Revised Code, the petition 5598
shall be filed no later than one hundred eighty days after the 5599
expiration of the time for filing the appeal. 5600

(3) ~~In a petition filed under division (A) of this~~ 5601
~~section, a person who has been sentenced to death may ask the~~ 5602
~~court to render void or voidable the judgment with respect to~~ 5603

~~the conviction of aggravated murder or the specification of an
aggravating circumstance or the sentence of death.~~ 5604
5605

~~(4)~~ A petitioner shall state in the original or amended 5606
petition filed under division (A) of this section all grounds 5607
for relief claimed by the petitioner. Except as provided in 5608
section 2953.23 of the Revised Code, any ground for relief that 5609
is not so stated in the petition is waived. 5610

~~(5)~~(4) If the petitioner in a petition filed under 5611
division (A) of this section was convicted of or pleaded guilty 5612
to a felony, the petition may include a claim that the 5613
petitioner was denied the equal protection of the laws in 5614
violation of the Ohio Constitution or the United States 5615
Constitution because the sentence imposed upon the petitioner 5616
for the felony was part of a consistent pattern of disparity in 5617
sentencing by the judge who imposed the sentence, with regard to 5618
the petitioner's race, gender, ethnic background, or religion. 5619
If the supreme court adopts a rule requiring a court of common 5620
pleas to maintain information with regard to an offender's race, 5621
gender, ethnic background, or religion, the supporting evidence 5622
for the petition shall include, but shall not be limited to, a 5623
copy of that type of information relative to the petitioner's 5624
sentence and copies of that type of information relative to 5625
sentences that the same judge imposed upon other persons. 5626

(B) The clerk of the court in which the petition is filed 5627
shall docket the petition and bring it promptly to the attention 5628
of the court. The clerk of the court in which the petition is 5629
filed immediately shall forward a copy of the petition to the 5630
prosecuting attorney of that county. 5631

(C) The court shall consider a petition that is timely 5632
filed under division (A) (2) of this section even if a direct 5633

appeal of the judgment is pending. Before granting a hearing on 5634
a petition filed under division (A) of this section, the court 5635
shall determine whether there are substantive grounds for 5636
relief. In making such a determination, the court shall 5637
consider, in addition to the petition, the supporting 5638
affidavits, and the documentary evidence, all the files and 5639
records pertaining to the proceedings against the petitioner, 5640
including, but not limited to, the indictment, the court's 5641
journal entries, the journalized records of the clerk of the 5642
court, and the court reporter's transcript. The court reporter's 5643
transcript, if ordered and certified by the court, shall be 5644
taxed as court costs. If the court dismisses the petition, it 5645
shall make and file findings of fact and conclusions of law with 5646
respect to such dismissal. 5647

(D) Within ten days after the docketing of the petition, 5648
or within any further time that the court may fix for good cause 5649
shown, the prosecuting attorney shall respond by answer or 5650
motion. Within twenty days from the date the issues are raised, 5651
either party may move for summary judgment. The right to summary 5652
judgment shall appear on the face of the record. 5653

(E) Unless the petition and the files and records of the 5654
case show the petitioner is not entitled to relief, the court 5655
shall proceed to a prompt hearing on the issues even if a direct 5656
appeal of the case is pending. If the court notifies the parties 5657
that it has found grounds for granting relief, either party may 5658
request an appellate court in which a direct appeal of the 5659
judgment is pending to remand the pending case to the court. 5660

(F) At any time before the answer or motion is filed, the 5661
petitioner may amend the petition with or without leave or 5662
prejudice to the proceedings. The petitioner may amend the 5663

petition with leave of court at any time thereafter. 5664

(G) If the court does not find grounds for granting 5665
relief, it shall make and file findings of fact and conclusions 5666
of law and shall enter judgment denying relief on the petition. 5667
If no direct appeal of the case is pending and the court finds 5668
grounds for relief or if a pending direct appeal of the case has 5669
been remanded to the court pursuant to a request made pursuant 5670
to division (E) of this section and the court finds grounds for 5671
granting relief, it shall make and file findings of fact and 5672
conclusions of law and shall enter a judgment that vacates and 5673
sets aside the judgment in question, and, in the case of a 5674
petitioner who is a prisoner in custody, shall discharge or 5675
resentence the petitioner or grant a new trial as the court 5676
determines appropriate. The court also may make supplementary 5677
orders to the relief granted, concerning such matters as 5678
rearraignment, retrial, custody, and bail. If the trial court's 5679
order granting the petition is reversed on appeal and if the 5680
direct appeal of the case has been remanded from an appellate 5681
court pursuant to a request under division (E) of this section, 5682
the appellate court reversing the order granting the petition 5683
shall notify the appellate court in which the direct appeal of 5684
the case was pending at the time of the remand of the reversal 5685
and remand of the trial court's order. Upon the reversal and 5686
remand of the trial court's order granting the petition, 5687
regardless of whether notice is sent or received, the direct 5688
appeal of the case that was remanded is reinstated. 5689

~~(H) Upon the filing of a petition pursuant to division (A)~~ 5690
~~of this section by a person sentenced to death, only the supreme~~ 5691
~~court may stay execution of the sentence of death.~~ 5692

~~(I) (1) If a person sentenced to death intends to file a~~ 5693

~~petition under this section, the court shall appoint counsel to~~ 5694
~~represent the person upon a finding that the person is indigent~~ 5695
~~and that the person either accepts the appointment of counsel or~~ 5696
~~is unable to make a competent decision whether to accept or~~ 5697
~~reject the appointment of counsel. The court may decline to~~ 5698
~~appoint counsel for the person only upon a finding, after a~~ 5699
~~hearing if necessary, that the person rejects the appointment of~~ 5700
~~counsel and understands the legal consequences of that decision~~ 5701
~~or upon a finding that the person is not indigent.~~ 5702

~~(2) The court shall not appoint as counsel under division~~ 5703
~~(I)(1) of this section an attorney who represented the~~ 5704
~~petitioner at trial in the case to which the petition relates~~ 5705
~~unless the person and the attorney expressly request the~~ 5706
~~appointment. The court shall appoint as counsel under division~~ 5707
~~(I)(1) of this section only an attorney who is certified under~~ 5708
~~Rule 20 of the Rules of Superintendence for the Courts of Ohio~~ 5709
~~to represent indigent defendants charged with or convicted of an~~ 5710
~~offense for which the death penalty can be or has been imposed.~~ 5711
~~The ineffectiveness or incompetence of counsel during~~ 5712
~~proceedings under this section does not constitute grounds for~~ 5713
~~relief in a proceeding under this section, in an appeal of any~~ 5714
~~action under this section, or in an application to reopen a~~ 5715
~~direct appeal.~~ 5716

~~(3) Division (I) of this section does not preclude~~ 5717
~~attorneys who represent the state of Ohio from invoking the~~ 5718
~~provisions of 28 U.S.C. 154 with respect to capital cases that~~ 5719
~~were pending in federal habeas corpus proceedings prior to July~~ 5720
~~1, 1996, insofar as the petitioners in those cases were~~ 5721
~~represented in proceedings under this section by one or more~~ 5722
~~counsel appointed by the court under this section or section~~ 5723
~~120.06, 120.16, 120.26, or 120.33 of the Revised Code and those~~ 5724

~~appointed counsel meet the requirements of division (I) (2) of
this section.~~ 5725
5726

~~(J)~~ Subject to the appeal of a sentence for a felony that 5727
is authorized by section 2953.08 of the Revised Code, the remedy 5728
set forth in this section is the exclusive remedy by which a 5729
person may bring a collateral challenge to the validity of a 5730
conviction or sentence in a criminal case or to the validity of 5731
an adjudication of a child as a delinquent child for the 5732
commission of an act that would be a criminal offense if 5733
committed by an adult or the validity of a related order of 5734
disposition. 5735

Sec. 2953.23. (A) Whether a hearing is or is not held on a 5736
petition filed pursuant to section 2953.21 of the Revised Code, 5737
a court may not entertain a petition filed after the expiration 5738
of the period prescribed in division (A) of that section or a 5739
second petition or successive petitions for similar relief on 5740
behalf of a petitioner unless division (A) (1) or (2) of this 5741
section applies: 5742

(1) Both of the following apply: 5743

(a) Either the petitioner shows that the petitioner was 5744
unavoidably prevented from discovery of the facts upon which the 5745
petitioner must rely to present the claim for relief, or, 5746
subsequent to the period prescribed in division (A) (2) of 5747
section 2953.21 of the Revised Code or to the filing of an 5748
earlier petition, the United States Supreme Court recognized a 5749
new federal or state right that applies retroactively to persons 5750
in the petitioner's situation, and the petition asserts a claim 5751
based on that right. 5752

(b) The petitioner shows by clear and convincing evidence 5753

that, but for constitutional error at trial, no reasonable 5754
factfinder would have found the petitioner guilty of the offense 5755
of which the petitioner was convicted ~~or, if the claim~~ 5756
~~challenges a sentence of death that, but for constitutional~~ 5757
~~error at the sentencing hearing, no reasonable factfinder would~~ 5758
~~have found the petitioner eligible for the death sentence.~~ 5759

(2) The petitioner was convicted of a felony, the 5760
petitioner is an offender for whom DNA testing was performed 5761
under sections 2953.71 to 2953.81 of the Revised Code or under 5762
former section 2953.82 of the Revised Code and analyzed in the 5763
context of and upon consideration of all available admissible 5764
evidence related to the inmate's case as described in division 5765
(D) of section 2953.74 of the Revised Code, and the results of 5766
the DNA testing establish, by clear and convincing evidence, 5767
actual innocence of that felony offense ~~or, if the person was~~ 5768
~~sentenced to death, establish, by clear and convincing evidence,~~ 5769
~~actual innocence of the aggravating circumstance or~~ 5770
~~circumstances the person was found guilty of committing and that~~ 5771
~~is or are the basis of that sentence of death.~~ 5772

As used in this division, "actual innocence" has the same 5773
meaning as in division (A) (1) (b) of section 2953.21 of the 5774
Revised Code, and "former section 2953.82 of the Revised Code" 5775
has the same meaning as in division (A) (1) (c) of section 2953.21 5776
of the Revised Code. 5777

(B) An order awarding or denying relief sought in a 5778
petition filed pursuant to section 2953.21 of the Revised Code 5779
is a final judgment and may be appealed pursuant to Chapter 5780
2953. of the Revised Code. 5781

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of 5782
the Revised Code: 5783

(A) "Application" or "application for DNA testing" means a request through postconviction relief for the state to do DNA testing on biological material from the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing under sections 2953.71 to 2953.81 of the Revised Code.

(B) "Biological material" means any product of a human body containing DNA.

(C) "Chain of custody" means a record or other evidence that tracks a subject sample of biological material from the time the biological material was first obtained until the time it currently exists in its place of storage and, in relation to a DNA sample, a record or other evidence that tracks the DNA sample from the time it was first obtained until it currently exists in its place of storage. For purposes of this division, examples of when biological material or a DNA sample is first obtained include, but are not limited to, obtaining the material or sample at the scene of a crime, from a victim, from an offender, or in any other manner or time as is appropriate in the facts and circumstances present.

(D) "Custodial agency" means the group or entity that has the responsibility to maintain biological material in question.

(E) "Custodian" means the person who is the primary representative of a custodial agency.

(F) "Eligible offender" means an offender who is eligible under division (C) of section 2953.72 of the Revised Code to request DNA testing to be conducted under sections 2953.71 to 2953.81 of the Revised Code.

(G) "Exclusion" or "exclusion result" means a result of

DNA testing that scientifically precludes or forecloses the 5813
subject offender as a contributor of biological material 5814
recovered from the crime scene or victim in question, in 5815
relation to the offense for which the offender is an eligible 5816
offender and for which the ~~sentence of death or prison~~ term was 5817
imposed upon the offender. 5818

(H) "Extracting personnel" means medically approved 5819
personnel who are employed to physically obtain an offender's 5820
DNA specimen for purposes of DNA testing under sections 2953.71 5821
to 2953.81 of the Revised Code. 5822

(I) "Inclusion" or "inclusion result" means a result of 5823
DNA testing that scientifically cannot exclude, or that holds 5824
accountable, the subject offender as a contributor of biological 5825
material recovered from the crime scene or victim in question, 5826
in relation to the offense for which the offender is an eligible 5827
offender and for which the ~~sentence of death or prison~~ term was 5828
imposed upon the offender. 5829

(J) "Inconclusive" or "inconclusive result" means a result 5830
of DNA testing that is rendered when a scientifically 5831
appropriate and definitive DNA analysis or result, or both, 5832
cannot be determined. 5833

(K) "Offender" means a criminal offender who was sentenced 5834
by a court, or by a jury and a court, of this state. 5835

(L) "Outcome determinative" means that had the results of 5836
DNA testing of the subject offender been presented at the trial 5837
of the subject offender requesting DNA testing and been found 5838
relevant and admissible with respect to the felony offense for 5839
which the offender is an eligible offender and is requesting the 5840
DNA testing, and had those results been analyzed in the context 5841

of and upon consideration of all available admissible evidence 5842
related to the offender's case as described in division (D) of 5843
section 2953.74 of the Revised Code, there is a strong 5844
probability that no reasonable factfinder would have found the 5845
offender guilty of that offense ~~or, if the offender was~~ 5846
~~sentenced to death relative to that offense, would have found~~ 5847
~~the offender guilty of the aggravating circumstance or~~ 5848
~~circumstances the offender was found guilty of committing and~~ 5849
~~that is or are the basis of that sentence of death.~~ 5850

(M) "Parent sample" means the biological material first 5851
obtained from a crime scene or a victim of an offense for which 5852
an offender is an eligible offender, and from which a sample 5853
will be presently taken to do a DNA comparison to the DNA of the 5854
subject offender under sections 2953.71 to 2953.81 of the 5855
Revised Code. 5856

(N) "Prison" and "community control sanction" have the 5857
same meanings as in section 2929.01 of the Revised Code. 5858

(O) "Prosecuting attorney" means the prosecuting attorney 5859
who, or whose office, prosecuted the case in which the subject 5860
offender was convicted of the offense for which the offender is 5861
an eligible offender and is requesting the DNA testing. 5862

(P) "Prosecuting authority" means the prosecuting attorney 5863
or the attorney general. 5864

(Q) "Reasonable diligence" means a degree of diligence 5865
that is comparable to the diligence a reasonable person would 5866
employ in searching for information regarding an important 5867
matter in the person's own life. 5868

(R) "Testing authority" means a laboratory at which DNA 5869
testing will be conducted under sections 2953.71 to 2953.81 of 5870

the Revised Code. 5871

(S) "Parole" and "post-release control" have the same 5872
meanings as in section 2967.01 of the Revised Code. 5873

(T) "Sexually oriented offense" and "child-victim oriented 5874
offense" have the same meanings as in section 2950.01 of the 5875
Revised Code. 5876

(U) "Definitive DNA test" means a DNA test that clearly 5877
establishes that biological material from the perpetrator of the 5878
crime was recovered from the crime scene and also clearly 5879
establishes whether or not the biological material is that of 5880
the eligible offender. A prior DNA test is not definitive if the 5881
eligible offender proves by a preponderance of the evidence that 5882
because of advances in DNA technology there is a possibility of 5883
discovering new biological material from the perpetrator that 5884
the prior DNA test may have failed to discover. Prior testing 5885
may have been a prior "definitive DNA test" as to some 5886
biological evidence but may not have been a prior "definitive 5887
DNA test" as to other biological evidence. 5888

Sec. 2953.72. (A) Any eligible offender who wishes to 5889
request DNA testing under sections 2953.71 to 2953.81 of the 5890
Revised Code shall submit an application for the testing to the 5891
court of common pleas specified in section 2953.73 of the 5892
Revised Code, on a form prescribed by the attorney general for 5893
this purpose. The eligible offender shall submit the application 5894
in accordance with the procedures set forth in section 2953.73 5895
of the Revised Code. The eligible offender shall specify on the 5896
application the offense or offenses for which the offender is an 5897
eligible offender and is requesting the DNA testing. Along with 5898
the application, the eligible offender shall submit an 5899
acknowledgment that is on a form prescribed by the attorney 5900

general for this purpose and that is signed by the offender. The 5901
acknowledgment shall set forth all of the following: 5902

(1) That sections 2953.71 to 2953.81 of the Revised Code 5903
contemplate applications for DNA testing of an eligible offender 5904
at a stage of a prosecution or case after the offender has been 5905
sentenced, that any exclusion or inclusion result of DNA testing 5906
rendered pursuant to those sections may be used by a party in 5907
any proceeding as described in section 2953.81 of the Revised 5908
Code, and that all requests for any DNA testing made at trial 5909
will continue to be handled by the prosecuting attorney in the 5910
case; 5911

(2) That the process of conducting postconviction DNA 5912
testing for an eligible offender under sections 2953.71 to 5913
2953.81 of the Revised Code begins when the offender submits an 5914
application under section 2953.73 of the Revised Code and the 5915
acknowledgment described in this section; 5916

(3) That the eligible offender must submit the application 5917
and acknowledgment to the court of common pleas that heard the 5918
case in which the offender was convicted of the offense for 5919
which the offender is an eligible offender and is requesting the 5920
DNA testing; 5921

(4) That the state has established a set of criteria set 5922
forth in section 2953.74 of the Revised Code by which eligible 5923
offender applications for DNA testing will be screened and that 5924
a judge of a court of common pleas upon receipt of a properly 5925
filed application and accompanying acknowledgment will apply 5926
those criteria to determine whether to accept or reject the 5927
application; 5928

(5) That the results of DNA testing conducted under 5929

sections 2953.71 to 2953.81 of the Revised Code will be provided 5930
as described in section 2953.81 of the Revised Code to all 5931
parties in the postconviction proceedings and will be reported 5932
to various courts; 5933

(6) That, if DNA testing is conducted with respect to an 5934
offender under sections 2953.71 to 2953.81 of the Revised Code, 5935
the state will not offer the offender a retest if an inclusion 5936
result is achieved relative to the testing and that, if the 5937
state were to offer a retest after an inclusion result, the 5938
policy would create an atmosphere in which endless testing could 5939
occur and in which postconviction proceedings could be stalled 5940
for many years; 5941

(7) That, if the court rejects an eligible offender's 5942
application for DNA testing because the offender does not 5943
satisfy the acceptance criteria described in division (A) (4) of 5944
this section, the court will not accept or consider subsequent 5945
applications; 5946

(8) That the acknowledgment memorializes the provisions of 5947
sections 2953.71 to 2953.81 of the Revised Code with respect to 5948
the application of postconviction DNA testing to offenders, that 5949
those provisions do not give any offender any additional 5950
constitutional right that the offender did not already have, 5951
that the court has no duty or obligation to provide 5952
postconviction DNA testing to offenders, that the court of 5953
common pleas has the sole discretion subject to an appeal as 5954
described in this division to determine whether an offender is 5955
an eligible offender and whether an eligible offender's 5956
application for DNA testing satisfies the acceptance criteria 5957
described in division (A) (4) of this section and whether the 5958
application should be accepted or rejected, that if the court of 5959

common pleas rejects an eligible offender's application, the 5960
offender may ~~seek leave of the supreme court to appeal the~~ 5961
~~rejection to that court if the offender was sentenced to death~~ 5962
~~for the offense for which the offender is requesting the DNA~~ 5963
~~testing and, if the offender was not sentenced to death for that~~ 5964
~~offense, may~~ appeal the rejection to the court of appeals, and 5965
that no determination otherwise made by the court of common 5966
pleas in the exercise of its discretion regarding the 5967
eligibility of an offender or regarding postconviction DNA 5968
testing under those provisions is reviewable by or appealable to 5969
any court; 5970

(9) That the manner in which sections 2953.71 to 2953.81 5971
of the Revised Code with respect to the offering of 5972
postconviction DNA testing to offenders are carried out does not 5973
confer any constitutional right upon any offender, that the 5974
state has established guidelines and procedures relative to 5975
those provisions to ensure that they are carried out with both 5976
justice and efficiency in mind, and that an offender who 5977
participates in any phase of the mechanism contained in those 5978
provisions, including, but not limited to, applying for DNA 5979
testing and being rejected, having an application for DNA 5980
testing accepted and not receiving the test, or having DNA 5981
testing conducted and receiving unfavorable results, does not 5982
gain as a result of the participation any constitutional right 5983
to challenge, or, except as provided in division (A) (8) of this 5984
section, any right to any review or appeal of, the manner in 5985
which those provisions are carried out; 5986

(10) That the most basic aspect of sections 2953.71 to 5987
2953.81 of the Revised Code is that, in order for DNA testing to 5988
occur, there must be an offender sample against which other 5989
evidence may be compared, that, if an eligible offender's 5990

application is accepted but the offender subsequently refuses to 5991
submit to the collection of the sample of biological material 5992
from the offender or hinders the state from obtaining a sample 5993
of biological material from the offender, the goal of those 5994
provisions will be frustrated, and that an offender's refusal or 5995
hindrance shall cause the court to rescind its prior acceptance 5996
of the application for DNA testing for the offender and deny the 5997
application. 5998

(B) The attorney general shall prescribe a form to be used 5999
to make an application for DNA testing under division (A) of 6000
this section and section 2953.73 of the Revised Code and a form 6001
to be used to provide the acknowledgment described in division 6002
(A) of this section. The forms shall include all information 6003
described in division (A) of this section, spaces for an 6004
offender to insert all information necessary to complete the 6005
forms, including, but not limited to, specifying the offense or 6006
offenses for which the offender is an eligible offender and is 6007
requesting the DNA testing, and any other information or 6008
material the attorney general determines is necessary or 6009
relevant. The attorney general shall distribute copies of the 6010
prescribed forms to the department of rehabilitation and 6011
correction, the department shall ensure that each prison in 6012
which offenders are housed has a supply of copies of the forms, 6013
and the department shall ensure that copies of the forms are 6014
provided free of charge to any offender who requests them. 6015

(C) (1) An offender is eligible to request DNA testing to 6016
be conducted under sections 2953.71 to 2953.81 of the Revised 6017
Code only if all of the following apply: 6018

(a) The offense for which the offender claims to be an 6019
eligible offender is a felony, and the offender was convicted by 6020

a judge or jury of that offense. 6021

(b) One of the following applies: 6022

(i) The offender was sentenced to a prison term ~~or~~ 6023
~~sentence of death~~ for the felony described in division (C) (1) (a) 6024
of this section, and the offender is in prison serving that 6025
prison term ~~or under that sentence of death~~, has been paroled or 6026
is on probation regarding that felony, is under post-release 6027
control regarding that felony, or has been released from that 6028
prison term and is under a community control sanction regarding 6029
that felony. 6030

(ii) The offender was not sentenced to a prison term ~~or~~ 6031
~~sentence of death~~ for the felony described in division (C) (1) (a) 6032
of this section, but was sentenced to a community control 6033
sanction for that felony and is under that community control 6034
sanction. 6035

(iii) The felony described in division (C) (1) (a) of this 6036
section was a sexually oriented offense or child-victim oriented 6037
offense, and the offender has a duty to comply with sections 6038
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 6039
relative to that felony. 6040

(2) An offender is not an eligible offender under division 6041
(C) (1) of this section regarding any offense to which the 6042
offender pleaded guilty or no contest. 6043

(3) An offender is not an eligible offender under division 6044
(C) (1) of this section regarding any offense if the offender 6045
dies prior to submitting an application for DNA testing related 6046
to that offense under section 2953.73 of the Revised Code. 6047

Sec. 2953.73. (A) An eligible offender who wishes to 6048
request DNA testing to be conducted under sections 2953.71 to 6049

2953.81 of the Revised Code shall submit an application for DNA testing on a form prescribed by the attorney general for this purpose and shall submit the form to the court of common pleas that sentenced the offender for the offense for which the offender is an eligible offender and is requesting DNA testing.

(B) If an eligible offender submits an application for DNA testing under division (A) of this section, upon the submission of the application, all of the following apply:

(1) The eligible offender shall serve a copy of the application on the prosecuting attorney and the attorney general.

(2) The application shall be assigned to the judge of that court of common pleas who was the trial judge in the case in which the eligible offender was convicted of the offense for which the offender is requesting DNA testing, or, if that judge no longer is a judge of that court, it shall be assigned according to court rules. The judge to whom the application is assigned shall decide the application. The application shall become part of the file in the case.

(C) If an eligible offender submits an application for DNA testing under division (A) of this section, regardless of whether the offender has commenced any federal habeas corpus proceeding relative to the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting DNA testing, any response to the application by the prosecuting attorney or the attorney general shall be filed not later than forty-five days after the date on which the eligible offender submits the application. The prosecuting attorney or the attorney general, or both, may, but are not required to, file a response to the application. If the

prosecuting attorney or the attorney general files a response 6080
under this division, the prosecuting attorney or attorney 6081
general, whoever filed the response, shall serve a copy of the 6082
response on the eligible offender. 6083

(D) If an eligible offender submits an application for DNA 6084
testing under division (A) of this section, the court shall make 6085
the determination as to whether the application should be 6086
accepted or rejected. The court shall expedite its review of the 6087
application. The court shall make the determination in 6088
accordance with the criteria and procedures set forth in 6089
sections 2953.74 to 2953.81 of the Revised Code and, in making 6090
the determination, shall consider the application, the 6091
supporting affidavits, and the documentary evidence and, in 6092
addition to those materials, shall consider all the files and 6093
records pertaining to the proceedings against the applicant, 6094
including, but not limited to, the indictment, the court's 6095
journal entries, the journalized records of the clerk of the 6096
court, and the court reporter's transcript and all responses to 6097
the application filed under division (C) of this section by a 6098
prosecuting attorney or the attorney general, unless the 6099
application and the files and records show the applicant is not 6100
entitled to DNA testing, in which case the application may be 6101
denied. The court is not required to conduct an evidentiary 6102
hearing in conducting its review of, and in making its 6103
determination as to whether to accept or reject, the 6104
application. Upon making its determination, the court shall 6105
enter a judgment and order that either accepts or rejects the 6106
application and that includes within the judgment and order the 6107
reasons for the acceptance or rejection as applied to the 6108
criteria and procedures set forth in sections 2953.71 to 2953.81 6109
of the Revised Code. The court shall send a copy of the judgment 6110

and order to the eligible offender who filed it, the prosecuting attorney, and the attorney general. 6111
6112

(E) A judgment and order of a court entered under division 6113
(D) of this section is appealable only as provided in this 6114
division. If an eligible offender submits an application for DNA 6115
testing under section 2953.73 of the Revised Code and the court 6116
of common pleas rejects the application under division (D) of 6117
this section, ~~one of the following applies:~~ 6118

~~(1) If the offender was sentenced to death for the offense~~ 6119
~~for which the offender claims to be an eligible offender and is~~ 6120
~~requesting DNA testing, the offender may seek leave of the~~ 6121
~~supreme court to appeal the rejection to the supreme court.~~ 6122
~~Courts of appeals do not have jurisdiction to review any~~ 6123
~~rejection if the offender was sentenced to death for the offense~~ 6124
~~for which the offender claims to be an eligible offender and is~~ 6125
~~requesting DNA testing.~~ 6126

~~(2) If the offender was not sentenced to death for the~~ 6127
~~offense for which the offender claims to be an eligible offender~~ 6128
~~and is requesting DNA testing,~~ the rejection is a final 6129
appealable order, and the offender may appeal it to the court of 6130
appeals of the district in which is located that court of common 6131
pleas. 6132

(F) Notwithstanding any provision of law regarding fees 6133
and costs, no filing fee shall be required of, and no court 6134
costs shall be assessed against, an eligible offender who is 6135
indigent and who submits an application under this section. 6136

(G) If a court rejects an eligible offender's application 6137
for DNA testing under division (D) of this section, unless the 6138
rejection is overturned on appeal, no court shall require the 6139

state to administer a DNA test under sections 2953.71 to 2953.81 6140
of the Revised Code on the eligible offender. 6141

Sec. 2953.81. If an eligible offender submits an 6142
application for DNA testing under section 2953.73 of the Revised 6143
Code and if DNA testing is performed based on that application, 6144
upon completion of the testing, all of the following apply: 6145

(A) The court or a designee of the court shall require the 6146
state to maintain the results of the testing and to maintain and 6147
preserve both the parent sample of the biological material used 6148
and the offender sample of the biological material used. The 6149
testing authority may be designated as the person to maintain 6150
the results of the testing or to maintain and preserve some or 6151
all of the samples, or both. The results of the testing remain 6152
state's evidence. The samples shall be preserved during the 6153
entire period of time for which the offender is imprisoned or 6154
confined relative to the sentence in question, is on parole or 6155
probation relative to that sentence, is under post-release 6156
control or a community control sanction relative to that 6157
sentence, or has a duty to comply with sections 2950.04, 6158
2950.041, 2950.05, and 2950.06 of the Revised Code relative to 6159
that sentence. Additionally, if the prison term or confinement 6160
under the sentence in question expires, ~~if the sentence in~~ 6161
~~question is a sentence of death and the offender is executed,~~ or 6162
if the parole or probation period, the period of post-release 6163
control, the community control sanction, or the duty to comply 6164
with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the 6165
Revised Code under the sentence in question ends, the samples 6166
shall be preserved for a reasonable period of time of not less 6167
than twenty-four months after the term or confinement expires, ~~—~~ 6168
~~the offender is executed,~~ or the parole or probation period, the 6169
period of post-release control, the community control sanction, 6170

or the duty to comply with sections 2950.04, 2950.041, 2950.05, 6171
and 2950.06 of the Revised Code ends, whichever is applicable. 6172
The court shall determine the period of time that is reasonable 6173
for purposes of this division, provided that the period shall 6174
not be less than twenty-four months after the term or 6175
confinement expires, ~~the offender is executed,~~ or the parole or 6176
probation period, the period of post-release control, the 6177
community control sanction, or the duty to comply with sections 6178
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 6179
ends, whichever is applicable. 6180

(B) The results of the testing are a public record. 6181

(C) The court or the testing authority shall provide a 6182
copy of the results of the testing to the prosecuting attorney, 6183
the attorney general, and the subject offender. 6184

(D) If the postconviction proceeding in question is 6185
pending at that time in a court of this state, the court of 6186
common pleas that decided the DNA application or the testing 6187
authority shall provide a copy of the results of the testing to 6188
any court of this state, and, if it is pending in a federal 6189
court, the court of common pleas that decided the DNA 6190
application or the testing authority shall provide a copy of the 6191
results of the testing to that federal court. 6192

(E) The testing authority shall provide a copy of the 6193
results of the testing to the court of common pleas that decided 6194
the DNA application. 6195

(F) The offender or the state may enter the results of the 6196
testing into any proceeding. 6197

Sec. 2967.03. The adult parole authority may exercise its 6198
functions and duties in relation to the pardon, commutation of 6199

sentence, or reprieve of a convict upon direction of the 6200
governor or upon its own initiative. It may exercise its 6201
functions and duties in relation to the parole of a prisoner who 6202
is eligible for parole upon the initiative of the head of the 6203
institution in which the prisoner is confined or upon its own 6204
initiative. When a prisoner becomes eligible for parole, the 6205
head of the institution in which the prisoner is confined shall 6206
notify the authority in the manner prescribed by the authority. 6207
The authority may investigate and examine, or cause the 6208
investigation and examination of, prisoners confined in state 6209
correctional institutions concerning their conduct in the 6210
institutions, their mental and moral qualities and 6211
characteristics, their knowledge of a trade or profession, their 6212
former means of livelihood, their family relationships, and any 6213
other matters affecting their fitness to be at liberty without 6214
being a threat to society. 6215

The authority may recommend to the governor the pardon, 6216
commutation of sentence, or reprieve of any convict or prisoner 6217
or grant a parole to any prisoner for whom parole is authorized, 6218
if in its judgment there is reasonable ground to believe that 6219
granting a pardon, commutation, or reprieve to the convict or 6220
paroling the prisoner would further the interests of justice and 6221
be consistent with the welfare and security of society. However, 6222
the authority shall not recommend a pardon or commutation of 6223
sentence, or grant a parole to, any convict or prisoner until 6224
the authority has complied with the applicable notice 6225
requirements of sections 2930.16 and 2967.12 of the Revised Code 6226
and until it has considered any statement made by a victim or a 6227
victim's representative that is relevant to the convict's or 6228
prisoner's case and that was sent to the authority pursuant to 6229
section 2930.17 of the Revised Code, any other statement made by 6230

a victim or a victim's representative that is relevant to the 6231
convict's or prisoner's case and that was received by the 6232
authority after it provided notice of the pendency of the action 6233
under sections 2930.16 and 2967.12 of the Revised Code, and any 6234
written statement of any person submitted to the court pursuant 6235
to division ~~(I)~~(H) of section 2967.12 of the Revised Code. If a 6236
victim, victim's representative, or the victim's spouse, parent, 6237
sibling, or child appears at a full board hearing of the parole 6238
board and gives testimony as authorized by section 5149.101 of 6239
the Revised Code, the authority shall consider the testimony in 6240
determining whether to grant a parole. The trial judge and 6241
prosecuting attorney of the trial court in which a person was 6242
convicted shall furnish to the authority, at the request of the 6243
authority, a summarized statement of the facts proved at the 6244
trial and of all other facts having reference to the propriety 6245
of recommending a pardon or commutation or granting a parole, 6246
together with a recommendation for or against a pardon, 6247
commutation, or parole, and the reasons for the recommendation. 6248
The trial judge, the prosecuting attorney, specified law 6249
enforcement agency members, and a representative of the prisoner 6250
may appear at a full board hearing of the parole board and give 6251
testimony in regard to the grant of a parole to the prisoner as 6252
authorized by section 5149.101 of the Revised Code. All state 6253
and local officials shall furnish information to the authority, 6254
when so requested by it in the performance of its duties. 6255

The adult parole authority shall exercise its functions 6256
and duties in relation to the release of prisoners who are 6257
serving a stated prison term in accordance with section 2967.28 6258
of the Revised Code. 6259

Sec. 2967.05. (A) As used in this section: 6260

(1) "Imminent danger of death" means that the inmate has a medically diagnosable condition that will cause death to occur within a short period of time.

As used in division (A)(1) of this section, "within a short period of time" means generally within six months.

(2)(a) "Medically incapacitated" means any diagnosable medical condition, including mental dementia and severe, permanent medical or cognitive disability, that prevents the inmate from completing activities of daily living without significant assistance, that incapacitates the inmate to the extent that institutional confinement does not offer additional restrictions, that is likely to continue throughout the entire period of parole, and that is unlikely to improve noticeably.

(b) "Medically incapacitated" does not include conditions related solely to mental illness unless the mental illness is accompanied by injury, disease, or organic defect.

(3)(a) "Terminal illness" means a condition that satisfies all of the following criteria:

(i) The condition is irreversible and incurable and is caused by disease, illness, or injury from which the inmate is unlikely to recover.

(ii) In accordance with reasonable medical standards and a reasonable degree of medical certainty, the condition is likely to cause death to the inmate within twelve months.

(iii) Institutional confinement of the inmate does not offer additional protections for public safety or against the inmate's risk to reoffend.

(b) The department of rehabilitation and correction shall

adopt rules pursuant to Chapter 119. of the Revised Code to 6289
implement the definition of "terminal illness" in division (A) 6290
(3) (a) of this section. 6291

(B) Upon the recommendation of the director of 6292
rehabilitation and correction, accompanied by a certificate of 6293
the attending physician that an inmate is terminally ill, 6294
medically incapacitated, or in imminent danger of death, the 6295
governor may order the inmate's release as if on parole, 6296
reserving the right to return the inmate to the institution 6297
pursuant to this section. If, subsequent to the inmate's 6298
release, the inmate's health improves so that the inmate is no 6299
longer terminally ill, medically incapacitated, or in imminent 6300
danger of death, the inmate shall be returned, by order of the 6301
governor, to the institution from which the inmate was released. 6302
If the inmate violates any rules or conditions applicable to the 6303
inmate, the inmate may be returned to an institution under the 6304
control of the department of rehabilitation and correction. The 6305
governor may direct the adult parole authority to investigate or 6306
cause to be investigated the inmate and make a recommendation. 6307
An inmate released under this section shall be subject to 6308
supervision by the adult parole authority in accordance with any 6309
recommendation of the adult parole authority that is approved by 6310
the governor. The adult parole authority shall adopt rules 6311
pursuant to section 119.03 of the Revised Code to establish the 6312
procedure for medical release of an inmate when an inmate is 6313
terminally ill, medically incapacitated, or in imminent danger 6314
of death. 6315

(C) No inmate is eligible for release under this section 6316
if the inmate is serving ~~a death sentence,~~ a sentence of life 6317
without parole, a sentence under Chapter 2971. of the Revised 6318
Code for a felony of the first or second degree, a sentence for 6319

aggravated murder or murder, or a mandatory prison term for an 6320
offense of violence or any specification described in Chapter 6321
2941. of the Revised Code. 6322

Sec. 2967.12. (A) Except as provided in division (G) of 6323
this section, at least sixty days before the adult parole 6324
authority recommends any pardon or commutation of sentence, or 6325
grants any parole, the authority shall provide a notice of the 6326
pendency of the pardon, commutation, or parole, setting forth 6327
the name of the person on whose behalf it is made, the offense 6328
of which the person was convicted or to which the person pleaded 6329
guilty, the time of conviction or the guilty plea, and the term 6330
of the person's sentence, to the prosecuting attorney and the 6331
judge of the court of common pleas of the county in which the 6332
indictment against the person was found. If there is more than 6333
one judge of that court of common pleas, the authority shall 6334
provide the notice to the presiding judge. Upon the request of 6335
the prosecuting attorney or of any law enforcement agency, the 6336
authority shall provide to the requesting prosecuting attorney 6337
and law enforcement agencies an institutional summary report 6338
that covers the subject person's participation while confined in 6339
a state correctional institution in training, work, and other 6340
rehabilitative activities and any disciplinary action taken 6341
against the person while so confined. The department of 6342
rehabilitation and correction may utilize electronic means to 6343
provide this notice. The department of rehabilitation and 6344
correction, at the same time that it provides the notice to the 6345
prosecuting attorney and judge under this division, also shall 6346
post on the database it maintains pursuant to section 5120.66 of 6347
the Revised Code the offender's name and all of the information 6348
specified in division (A) (1) (c) (iii) of that section. 6349

(B) If a request for notification has been made pursuant 6350

to section 2930.16 of the Revised Code or if division (H) of 6351
this section applies, the office of victim services or the adult 6352
parole authority also shall provide notice to the victim or the 6353
victim's representative at least sixty days prior to 6354
recommending any pardon or commutation of sentence for, or 6355
granting any parole to, the person. The notice shall include the 6356
information required by division (A) of this section and may be 6357
provided by telephone or through electronic means. The notice 6358
also shall inform the victim or the victim's representative that 6359
the victim or representative may send a written statement 6360
relative to the victimization and the pending action to the 6361
adult parole authority and that, if the authority receives any 6362
written statement prior to recommending a pardon or commutation 6363
or granting a parole for a person, the authority will consider 6364
the statement before it recommends a pardon or commutation or 6365
grants a parole. If the person is being considered for parole, 6366
the notice shall inform the victim or the victim's 6367
representative that a full board hearing of the parole board may 6368
be held and that the victim or victim's representative may 6369
contact the office of victims' services for further information. 6370
If the person being considered for parole was convicted of or 6371
pleaded guilty to a violation of section 2903.01 or 2903.02 of 6372
the Revised Code, an offense of violence that is a felony of the 6373
first, second, or third degree, or an offense punished by a 6374
sentence of life imprisonment, the notice shall inform the 6375
victim of that offense, the victim's representative, or a member 6376
of the victim's immediate family that the victim, the victim's 6377
representative, and the victim's immediate family have the right 6378
to give testimony at a full board hearing of the parole board 6379
and that the victim or victim's representative may contact the 6380
office of victims' services for further information. 6381

(C) When notice of the pendency of any pardon, commutation
of sentence, or parole has been provided to a judge or
prosecutor or posted on the database as required in division (A)
of this section and a hearing on the pardon, commutation, or
parole is continued to a date certain, the authority shall
provide notice of the further consideration of the pardon,
commutation, or parole at least sixty days before the further
consideration. The notice of the further consideration shall be
provided to the proper judge and prosecuting attorney at least
sixty days before the further consideration, and may be provided
using electronic means, and, if the initial notice was posted on
the database as provided in division (A) of this section, the
notice of the further consideration shall be posted on the
database at least sixty days before the further consideration.
If the prosecuting attorney or a law enforcement agency was
provided a copy of the institutional summary report relative to
the subject person under division (A) of this section, the
authority shall include with the notice of the further
consideration sent to the prosecuting attorney any new
information with respect to the person that relates to
activities and actions of the person that are of a type covered
by the report and shall send to the law enforcement agency a
report that provides notice of the further consideration and
includes any such new information with respect to the person.
When notice of the pendency of any pardon, commutation, or
parole has been given as provided in division (B) of this
section and the hearing on it is continued to a date certain,
the authority shall give notice of the further consideration to
the victim or the victim's representative in accordance with
section 2930.03 of the Revised Code.

~~(D) In case of an application for the pardon or~~

~~commutation of sentence of a person sentenced to capital
punishment, the governor may modify the requirements of
notification and publication if there is not sufficient time for
compliance with the requirements before the date fixed for the
execution of sentence.~~

~~(E)~~—If an offender is serving a prison term imposed under
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c),
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised
Code and if the parole board terminates its control over the
offender's service of that term pursuant to section 2971.04 of
the Revised Code, the parole board immediately shall provide
written notice of its termination of control or the transfer of
control to the entities and persons specified in section 2971.04
of the Revised Code.

~~(F)~~—(E) The failure of the adult parole authority to
comply with the notice or posting provisions of division (A),
(B), or (C) of this section or the failure of the parole board
to comply with the notice provisions of division ~~(E)~~—(D) of this
section do not give any rights or any grounds for appeal or
post-conviction relief to the person serving the sentence.

~~(G)~~—(F) Divisions (A), (B), and (C) of this section do not
apply to any release of a person that is of the type described
in division (B) (2) (b) of section 5120.031 of the Revised Code.

~~(H)~~—(G) If a defendant is incarcerated for the commission
of aggravated murder, murder, or an offense of violence that is
a felony of the first, second, or third degree or is under a
sentence of life imprisonment, except as otherwise provided in
this division, the notice described in division (B) of this
section shall be given to the victim or victim's representative
regardless of whether the victim or victim's representative has

made a request for notification. The notice described in 6443
division (B) of this section shall not be given under this 6444
division to a victim or victim's representative if the victim or 6445
victim's representative has requested pursuant to division (B) 6446
(2) of section 2930.03 of the Revised Code that the victim or 6447
the victim's representative not be provided the notice. The 6448
notice described in division (B) of this section does not have 6449
to be given under this division to a victim or victim's 6450
representative if notice was given to the victim or victim's 6451
representative with respect to at least two prior considerations 6452
of pardon, commutation, or parole of a person and the victim or 6453
victim's representative did not provide any written statement 6454
relative to the victimization and the pending action, did not 6455
attend any hearing conducted relative to the pending action, and 6456
did not otherwise respond to the office with respect to the 6457
pending action. Regardless of whether the victim or victim's 6458
representative has requested that the notice described in 6459
division (B) of this section be provided or not be provided, the 6460
office of victim services or adult parole authority shall give 6461
similar notice to the law enforcement agency that arrested the 6462
defendant if any officer of that agency was a victim of the 6463
offense and to any member of the victim's immediate family who 6464
requests notification. If notice is to be given under this 6465
division, the office or authority may give the notice by any 6466
reasonable means, including regular mail, telephone, and 6467
electronic mail, in accordance with division (D) (1) of section 6468
2930.16 of the Revised Code. If the notice is based on an 6469
offense committed prior to ~~the effective date of this amendment~~ 6470
March 22, 2013, the notice to the victim or victim's 6471
representative also shall include the opt-out information 6472
described in division (D) (1) of section 2930.16 of the Revised 6473
Code. The office or authority, in accordance with division (D) 6474

(2) of section 2930.16 of the Revised Code, shall keep a record 6475
of all attempts to provide the notice, and of all notices 6476
provided, under this division. 6477

Division ~~(H)~~(G) of this section, and the notice-related 6478
provisions of divisions (E) (2) and (K) of section 2929.20, 6479
division (D) (1) of section 2930.16, division (E) (1) (b) of 6480
section 2967.19, division (A) (3) (b) of section 2967.26, division 6481
(D) (1) of section 2967.28, and division (A) (2) of section 6482
5149.101 of the Revised Code enacted in the act in which 6483
division ~~(H)~~(G) of this section was enacted, shall be known as 6484
"Roberta's Law." 6485

~~(I)~~(H) In addition to and independent of the right of a 6486
victim to make a statement as described in division (A) of this 6487
section or pursuant to section 2930.17 of the Revised Code or to 6488
otherwise make a statement, the authority for a judge or 6489
prosecuting attorney to furnish statements and information, make 6490
recommendations, and give testimony as described in division (A) 6491
of this section, the right of a prosecuting attorney, judge, or 6492
victim to give testimony or submit a statement at a full parole 6493
board hearing pursuant to section 5149.101 of the Revised Code, 6494
and any other right or duty of a person to present information 6495
or make a statement, any person may send to the adult parole 6496
authority at any time prior to the authority's recommending a 6497
pardon or commutation or granting a parole for the offender a 6498
written statement relative to the offense and the pending 6499
action. 6500

~~(J)~~(I) As used in this section, "victim's immediate 6501
family" means the mother, father, spouse, sibling, or child of 6502
the victim, provided that in no case does "victim's immediate 6503
family" include the offender with respect to whom the notice in 6504

question applies. 6505

Sec. 2967.13. (A) Except as provided in division (G) of 6506
this section, a prisoner serving a sentence of imprisonment for 6507
life for an offense committed on or after July 1, 1996, is not 6508
entitled to any earned credit under section 2967.193 of the 6509
Revised Code and becomes eligible for parole as follows: 6510

(1) If a sentence of imprisonment for life was imposed for 6511
the offense of murder, at the expiration of the prisoner's 6512
minimum term; 6513

(2) If a sentence of imprisonment for life with parole 6514
eligibility after serving twenty years of imprisonment was 6515
imposed pursuant to section 2929.02 or former section 2929.022 6516
or 2929.03 of the Revised Code, after serving a term of twenty 6517
years; 6518

(3) If a sentence of imprisonment for life with parole 6519
eligibility after serving twenty-five full years of imprisonment 6520
was imposed pursuant to section 2929.02 or former section 6521
2929.022 or 2929.03 of the Revised Code, after serving a term of 6522
twenty-five full years; 6523

(4) If a sentence of imprisonment for life with parole 6524
eligibility after serving thirty full years of imprisonment was 6525
imposed pursuant to section 2929.02 or former section 2929.022 6526
or 2929.03 of the Revised Code, after serving a term of thirty 6527
full years; 6528

(5) If a sentence of imprisonment for life was imposed for 6529
rape, after serving a term of ten full years' imprisonment; 6530

(6) If a sentence of imprisonment for life with parole 6531
eligibility after serving fifteen years of imprisonment was 6532
imposed for a violation of section 2927.24 of the Revised Code, 6533

after serving a term of fifteen years. 6534

(B) Except as provided in division (G) of this section, a 6535
prisoner serving a sentence of imprisonment for life with parole 6536
eligibility after serving twenty years of imprisonment or a 6537
sentence of imprisonment for life with parole eligibility after 6538
serving twenty-five full years or thirty full years of 6539
imprisonment imposed pursuant to section 2929.02 or former 6540
section 2929.022 or 2929.03 of the Revised Code for an offense 6541
committed on or after July 1, 1996, consecutively to any other 6542
term of imprisonment, becomes eligible for parole after serving 6543
twenty years, twenty full years, or thirty full years, as 6544
applicable, as to each such sentence of life imprisonment, which 6545
shall not be reduced for earned credits under section 2967.193 6546
of the Revised Code, plus the term or terms of the other 6547
sentences consecutively imposed or, if one of the other 6548
sentences is another type of life sentence with parole 6549
eligibility, the number of years before parole eligibility for 6550
that sentence. 6551

(C) Except as provided in division (G) of this section, a 6552
prisoner serving consecutively two or more sentences in which an 6553
indefinite term of imprisonment is imposed becomes eligible for 6554
parole upon the expiration of the aggregate of the minimum terms 6555
of the sentences. 6556

(D) Except as provided in division (G) of this section, a 6557
prisoner serving a term of imprisonment who is described in 6558
division (A) of section 2967.021 of the Revised Code becomes 6559
eligible for parole as described in that division or, if the 6560
prisoner is serving a definite term of imprisonment, shall be 6561
released as described in that division. 6562

(E) A prisoner serving a sentence of life imprisonment 6563

without parole imposed pursuant to section 2907.02 or 2929.02 or 6564
former section 2929.03 or 2929.06 of the Revised Code is not 6565
eligible for parole and shall be imprisoned until death. 6566

(F) A prisoner serving a stated prison term shall be 6567
released in accordance with section 2967.28 of the Revised Code. 6568

(G) A prisoner serving a prison term or term of life 6569
imprisonment without parole imposed pursuant to section 2971.03 6570
of the Revised Code never becomes eligible for parole during 6571
that term of imprisonment. 6572

Sec. 2967.19. (A) As used in this section: 6573

(1) "Deadly weapon" and "dangerous ordnance" have the same 6574
meanings as in section 2923.11 of the Revised Code. 6575

(2) "Disqualifying prison term" means any of the 6576
following: 6577

(a) A prison term imposed for aggravated murder, murder, 6578
voluntary manslaughter, involuntary manslaughter, felonious 6579
assault, kidnapping, rape, aggravated arson, aggravated 6580
burglary, or aggravated robbery; 6581

(b) A prison term imposed for complicity in, an attempt to 6582
commit, or conspiracy to commit any offense listed in division 6583
(A) (2) (a) of this section; 6584

(c) A prison term of life imprisonment, including any term 6585
of life imprisonment that has parole eligibility; 6586

(d) A prison term imposed for any felony other than 6587
carrying a concealed weapon an essential element of which is any 6588
conduct or failure to act expressly involving any deadly weapon 6589
or dangerous ordnance; 6590

(e) A prison term imposed for any violation of section 2925.03 of the Revised Code that is a felony of the first or second degree;

(f) A prison term imposed for engaging in a pattern of corrupt activity in violation of section 2923.32 of the Revised Code;

(g) A prison term imposed pursuant to section 2971.03 of the Revised Code;

(h) A prison term imposed for any sexually oriented offense.

(3) "Eligible prison term" means any prison term that is not a disqualifying prison term and is not a restricting prison term.

(4) "Restricting prison term" means any of the following:

(a) A mandatory prison term imposed under division (B) (1) (a), (B) (1) (c), (B) (1) (f), (B) (1) (g), (B) (2), or (B) (7) of section 2929.14 of the Revised Code for a specification of the type described in that division;

(b) In the case of an offender who has been sentenced to a mandatory prison term for a specification of the type described in division (A) (4) (a) of this section, the prison term imposed for the felony offense for which the specification was stated at the end of the body of the indictment, count in the indictment, or information charging the offense;

(c) A prison term imposed for trafficking in persons;

(d) A prison term imposed for any offense that is described in division (A) (4) (d) (i) of this section if division (A) (4) (d) (ii) of this section applies to the offender:

(i) The offense is a felony of the first or second degree 6619
that is an offense of violence and that is not described in 6620
division (A) (2) (a) or (b) of this section, an attempt to commit 6621
a felony of the first or second degree that is an offense of 6622
violence and that is not described in division (A) (2) (a) or (b) 6623
of this section if the attempt is a felony of the first or 6624
second degree, or an offense under an existing or former law of 6625
this state, another state, or the United States that is or was 6626
substantially equivalent to any other offense described in this 6627
division. 6628

(ii) The offender previously was convicted of or pleaded 6629
guilty to any offense listed in division (A) (2) or (A) (4) (d) (i) 6630
of this section. 6631

(5) "Sexually oriented offense" has the same meaning as in 6632
section 2950.01 of the Revised Code. 6633

(B) The director of the department of rehabilitation and 6634
correction may recommend in writing to the sentencing court that 6635
the court consider releasing from prison any offender who, on or 6636
after September 30, 2011, is confined in a state correctional 6637
institution, who is serving a stated prison term of one year or 6638
more, and who is eligible under division (C) of this section for 6639
a release under this section. If the director wishes to 6640
recommend that the sentencing court consider releasing an 6641
offender under this section, the director shall notify the 6642
sentencing court in writing of the offender's eligibility not 6643
earlier than ninety days prior to the date on which the offender 6644
becomes eligible as described in division (C) of this section. 6645
The director's submission of the written notice constitutes a 6646
recommendation by the director that the court strongly consider 6647
release of the offender consistent with the purposes and 6648

principles of sentencing set forth in sections 2929.11 and 6649
2929.13 of the Revised Code. Only an offender recommended by the 6650
director under division (B) of this section may be considered 6651
for early release under this section. 6652

(C) (1) An offender serving a stated prison term of one 6653
year or more and who has commenced service of that stated prison 6654
term becomes eligible for release from prison under this section 6655
only as described in this division. An offender serving a stated 6656
prison term that includes a disqualifying prison term is not 6657
eligible for release from prison under this section. An offender 6658
serving a stated prison term that consists solely of one or more 6659
restricting prison terms is not eligible for release under this 6660
section. An offender serving a stated prison term of one year or 6661
more that includes one or more restricting prison terms and one 6662
or more eligible prison terms becomes eligible for release under 6663
this section after having fully served all restricting prison 6664
terms and having served eighty per cent of the stated prison 6665
term that remains to be served after all restricting prison 6666
terms have been fully served. An offender serving a stated 6667
prison term that consists solely of one or more eligible prison 6668
terms becomes eligible for release under this section after 6669
having served eighty per cent of that stated prison term. For 6670
purposes of determining an offender's eligibility for release 6671
under this section, if the offender's stated prison term 6672
includes consecutive prison terms, any restricting prison terms 6673
shall be deemed served prior to any eligible prison terms that 6674
run consecutively to the restricting prison terms, and the 6675
eligible prison terms are deemed to commence after all of the 6676
restricting prison terms have been fully served. 6677

An offender serving a stated prison term of one year or 6678
more that includes a mandatory prison term that is not a 6679

disqualifying prison term and is not a restricting prison term 6680
is not automatically ineligible as a result of the offender's 6681
service of that mandatory term for release from prison under 6682
this section, and the offender's eligibility for release from 6683
prison under this section is determined in accordance with this 6684
division. 6685

(2) If an offender confined in a state correctional 6686
institution under a stated prison term is eligible for release 6687
under this section as described in division (C) (1) of this 6688
section, the director of the department of rehabilitation and 6689
correction may recommend in writing that the sentencing court 6690
consider releasing the offender from prison under this section 6691
by submitting to the sentencing court the written notice 6692
described in division (B) of this section. 6693

(D) The director shall include with any notice submitted 6694
to the sentencing court under division (B) of this section an 6695
institutional summary report that covers the offender's 6696
participation while confined in a state correctional institution 6697
in school, training, work, treatment, and other rehabilitative 6698
activities and any disciplinary action taken against the 6699
offender while so confined. The director shall include with the 6700
notice any other documentation requested by the court, if 6701
available. 6702

(E) (1) When the director submits a written notice to a 6703
sentencing court that an offender is eligible to be considered 6704
for early release under this section, the department promptly 6705
shall provide to the prosecuting attorney of the county in which 6706
the offender was indicted a copy of the written notice, a copy 6707
of the institutional summary report, and any other information 6708
provided to the court and shall provide a copy of the 6709

institutional summary report to any law enforcement agency that 6710
requests the report. The department also promptly shall do 6711
whichever of the following is applicable: 6712

(a) Subject to division (E) (1) (b) of this section, give 6713
written notice of the submission to any victim of the offender 6714
or victim's representative of any victim of the offender who is 6715
registered with the office of victim's services. 6716

(b) If the offense was aggravated murder, murder, an 6717
offense of violence that is a felony of the first, second, or 6718
third degree, or an offense punished by a sentence of life 6719
imprisonment, except as otherwise provided in this division, 6720
notify the victim or the victim's representative of the filing 6721
of the petition regardless of whether the victim or victim's 6722
representative has registered with the office of victim's 6723
services. The notice of the filing of the petition shall not be 6724
given under this division to a victim or victim's representative 6725
if the victim or victim's representative has requested pursuant 6726
to division (B) (2) of section 2930.03 of the Revised Code that 6727
the victim or the victim's representative not be provided the 6728
notice. If notice is to be provided to a victim or victim's 6729
representative under this division, the department may give the 6730
notice by any reasonable means, including regular mail, 6731
telephone, and electronic mail, in accordance with division (D) 6732
(1) of section 2930.16 of the Revised Code. If the notice is 6733
based on an offense committed prior to ~~the effective date of~~ 6734
~~this amendment~~ March 22, 2013, the notice also shall include the 6735
opt-out information described in division (D) (1) of section 6736
2930.16 of the Revised Code. The department, in accordance with 6737
division (D) (2) of section 2930.16 of the Revised Code, shall 6738
keep a record of all attempts to provide the notice, and of all 6739
notices provided, under this division. 6740

Division (E) (1) (b) of this section, and the notice-related 6741
provisions of divisions (E) (2) and (K) of section 2929.20, 6742
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 6743
2967.12, division (A) (3) (b) of section 2967.26, division (D) (1) 6744
of section 2967.28, and division (A) (2) of section 5149.101 of 6745
the Revised Code enacted in the act in which division (E) (2) of 6746
this section was enacted, shall be known as "Roberta's Law." 6747

(2) When the director submits a petition under this 6748
section, the department also promptly shall post a copy of the 6749
written notice on the database it maintains under section 6750
5120.66 of the Revised Code and include information on where a 6751
person may send comments regarding the recommendation of early 6752
release. 6753

The information provided to the court, the prosecutor, and 6754
the victim or victim's representative under divisions (D) and 6755
(E) of this section shall include the name and contact 6756
information of a specific department of rehabilitation and 6757
correction employee who is available to answer questions about 6758
the offender who is the subject of the written notice submitted 6759
by the director, including, but not limited to, the offender's 6760
institutional conduct and rehabilitative activities while 6761
incarcerated. 6762

(F) Upon receipt of a written notice submitted by the 6763
director under division (B) of this section, the court either 6764
shall, on its own motion, schedule a hearing to consider 6765
releasing the offender who is the subject of the notice or shall 6766
inform the department that it will not be conducting a hearing 6767
relative to the offender. The court shall not grant an early 6768
release to an offender without holding a hearing. If a court 6769
declines to hold a hearing relative to an offender with respect 6770

to a written notice submitted by the director, the court may 6771
later consider release of that offender under this section on 6772
its own motion by scheduling a hearing for that purpose. Within 6773
thirty days after the written notice is submitted, the court 6774
shall inform the department whether or not the court is 6775
scheduling a hearing on the offender who is the subject of the 6776
notice. 6777

(G) If the court schedules a hearing upon receiving a 6778
written notice submitted under division (B) of this section or 6779
upon its own motion under division (F) of this section, the 6780
court shall notify the head of the state correctional 6781
institution in which the offender is confined of the hearing 6782
prior to the hearing. If the court makes a journal entry 6783
ordering the offender to be conveyed to the hearing, except as 6784
otherwise provided in this division, the head of the 6785
correctional institution shall deliver the offender to the 6786
sheriff of the county in which the hearing is to be held, and 6787
the sheriff shall convey the offender to and from the hearing. 6788
Upon the court's own motion or the motion of the offender or the 6789
prosecuting attorney of the county in which the offender was 6790
indicted, the court may permit the offender to appear at the 6791
hearing by video conferencing equipment if equipment of that 6792
nature is available and compatible. 6793

Upon receipt of notice from a court of a hearing on the 6794
release of an offender under this division, the head of the 6795
state correctional institution in which the offender is confined 6796
immediately shall notify the appropriate person at the 6797
department of rehabilitation and correction of the hearing, and 6798
the department within twenty-four hours after receipt of the 6799
notice shall post on the database it maintains pursuant to 6800
section 5120.66 of the Revised Code the offender's name and all 6801

of the information specified in division (A) (1) (c) (i) of that 6802
section. If the court schedules a hearing under this section, 6803
the court promptly shall give notice of the hearing to the 6804
prosecuting attorney of the county in which the offender was 6805
indicted. Upon receipt of the notice from the court, the 6806
prosecuting attorney shall notify pursuant to section 2930.16 of 6807
the Revised Code any victim of the offender or the victim's 6808
representative of the hearing. 6809

(H) If the court schedules a hearing under this section, 6810
at the hearing, the court shall afford the offender and the 6811
offender's attorney an opportunity to present written 6812
information and, if present, oral information relevant to the 6813
offender's early release. The court shall afford a similar 6814
opportunity to the prosecuting attorney, victim or victim's 6815
representative, as defined in section 2930.01 of the Revised 6816
Code, and any other person the court determines is likely to 6817
present additional relevant information. If the court pursuant 6818
to division (G) of this section permits the offender to appear 6819
at the hearing by video conferencing equipment, the offender's 6820
opportunity to present oral information shall be as a part of 6821
the video conferencing. The court shall consider any statement 6822
of a victim made under section 2930.14 or 2930.17 of the Revised 6823
Code, any victim impact statement prepared under section 6824
2947.051 of the Revised Code, and any report and other 6825
documentation submitted by the director under division (D) of 6826
this section. After ruling on whether to grant the offender 6827
early release, the court shall notify the victim in accordance 6828
with sections 2930.03 and 2930.16 of the Revised Code. 6829

(I) If the court grants an offender early release under 6830
this section, it shall order the release of the offender, shall 6831
place the offender under one or more appropriate community 6832

control sanctions, under appropriate conditions, and under the supervision of the department of probation that serves the court, and shall reserve the right to reimpose the sentence that it reduced and from which the offender was released if the offender violates the sanction. The court shall not make a release under this section effective prior to the date on which the offender becomes eligible as described in division (C) of this section. If the sentence under which the offender is confined in a state correctional institution and from which the offender is being released was imposed for a felony of the first or second degree, the court shall consider ordering that the offender be monitored by means of a global positioning device. If the court reimposes the sentence that it reduced and from which the offender was released and if the violation of the sanction is a new offense, the court may order that the reimposed sentence be served either concurrently with, or consecutive to, any new sentence imposed upon the offender as a result of the violation that is a new offense. The period of all community control sanctions imposed under this division shall not exceed five years. The court, in its discretion, may reduce the period of community control sanctions by the amount of time the offender spent in jail or prison for the offense.

If the court grants an offender early release under this section, it shall notify the appropriate person at the department of rehabilitation and correction of the release, and the department shall post notice of the release on the database it maintains pursuant to section 5120.66 of the Revised Code.

(J) The department shall adopt under Chapter 119. of the Revised Code any rules necessary to implement this section.

Sec. 2967.193. (A) (1) Except as provided in division (C)

of this section and subject to the maximum aggregate total 6863
specified in division (A) (2) of this section, a person confined 6864
in a state correctional institution may provisionally earn one 6865
day or five days of credit, based on the category set forth in 6866
division (D) (1), (2), (3), (4), or (5) of this section in which 6867
the person is included, toward satisfaction of the person's 6868
stated prison term for each completed month during which the 6869
person productively participates in an education program, 6870
vocational training, employment in prison industries, treatment 6871
for substance abuse, or any other constructive program developed 6872
by the department with specific standards for performance by 6873
prisoners. Except as provided in division (C) of this section 6874
and subject to the maximum aggregate total specified in division 6875
(A) (2) of this section, a person so confined who successfully 6876
completes two programs or activities of that type may, in 6877
addition, provisionally earn up to five days of credit toward 6878
satisfaction of the person's stated prison term for the 6879
successful completion of the second program or activity. The 6880
person shall not be awarded any provisional days of credit for 6881
the successful completion of the first program or activity or 6882
for the successful completion of any program or activity that is 6883
completed after the second program or activity. At the end of 6884
each calendar month in which a prisoner productively 6885
participates in a program or activity listed in this division or 6886
successfully completes a program or activity listed in this 6887
division, the department of rehabilitation and correction shall 6888
determine and record the total number of days credit that the 6889
prisoner provisionally earned in that calendar month. If the 6890
prisoner violates prison rules, the department may deny the 6891
prisoner a credit that otherwise could have been provisionally 6892
awarded to the prisoner or may withdraw one or more credits 6893
previously provisionally earned by the prisoner. Days of credit 6894

provisionally earned by a prisoner shall be finalized and 6895
awarded by the department subject to administrative review by 6896
the department of the prisoner's conduct. 6897

(2) The aggregate days of credit provisionally earned by a 6898
person for program or activity participation and program and 6899
activity completion under this section and the aggregate days of 6900
credit finally credited to a person under this section shall not 6901
exceed eight per cent of the total number of days in the 6902
person's stated prison term. 6903

(B) The department of rehabilitation and correction shall 6904
adopt rules that specify the programs or activities for which 6905
credit may be earned under this section, the criteria for 6906
determining productive participation in, or completion of, the 6907
programs or activities and the criteria for awarding credit, 6908
including criteria for awarding additional credit for successful 6909
program or activity completion, and the criteria for denying or 6910
withdrawing previously provisionally earned credit as a result 6911
of a violation of prison rules. 6912

(C) No person confined in a state correctional institution 6913
to whom any of the following applies shall be awarded any days 6914
of credit under division (A) of this section: 6915

(1) The person is serving a prison term that section 6916
2929.13 or section 2929.14 of the Revised Code specifies cannot 6917
be reduced pursuant to this section or this chapter or is 6918
serving a sentence for which section 2967.13 or division (B) of 6919
section 2929.143 of the Revised Code specifies that the person 6920
is not entitled to any earned credit under this section. 6921

(2) The person is ~~sentenced to death or is~~ serving a 6922
prison term or a term of life imprisonment for aggravated 6923

murder, murder, or a conspiracy or attempt to commit, or 6924
complicity in committing, aggravated murder or murder. 6925

(3) The person is serving a sentence of life imprisonment 6926
without parole imposed pursuant to section 2929.02 or former 6927
section 2929.03 or 2929.06 of the Revised Code, a prison term or 6928
a term of life imprisonment without parole imposed pursuant to 6929
section 2971.03 of the Revised Code, or a sentence for a 6930
sexually oriented offense that was committed on or after 6931
September 30, 2011. 6932

(D) This division does not apply to a determination of 6933
whether a person confined in a state correctional institution 6934
may earn any days of credit under division (A) of this section 6935
for successful completion of a second program or activity. The 6936
determination of whether a person confined in a state 6937
correctional institution may earn one day of credit or five days 6938
of credit under division (A) of this section for each completed 6939
month during which the person productively participates in a 6940
program or activity specified under that division shall be made 6941
in accordance with the following: 6942

(1) The offender may earn one day of credit under division 6943
(A) of this section, except as provided in division (C) of this 6944
section, if the most serious offense for which the offender is 6945
confined is any of the following that is a felony of the first 6946
or second degree: 6947

(a) A violation of division (A) of section 2903.04 or of 6948
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 6949
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 6950
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.151, 2919.22, 6951
2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 6952
2927.24 of the Revised Code; 6953

(b) A conspiracy or attempt to commit, or complicity in committing, any other offense for which the maximum penalty is imprisonment for life or any offense listed in division (D) (1) (a) of this section. 6954
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(2) The offender may earn one day of credit under division (A) of this section, except as provided in division (C) of this section, if the offender is serving a stated prison term that includes a prison term imposed for a sexually oriented offense that the offender committed prior to September 30, 2011. 6958
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(3) The offender may earn one day of credit under division (A) of this section, except as provided in division (C) of this section, if the offender is serving a stated prison term that includes a prison term imposed for a felony other than carrying a concealed weapon an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance. 6963
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(4) Except as provided in division (C) of this section, if the most serious offense for which the offender is confined is a felony of the first or second degree and divisions (D) (1), (2), and (3) of this section do not apply to the offender, the offender may earn one day of credit under division (A) of this section if the offender committed that offense prior to September 30, 2011, and the offender may earn five days of credit under division (A) of this section if the offender committed that offense on or after September 30, 2011. 6970
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(5) Except as provided in division (C) of this section, if the most serious offense for which the offender is confined is a felony of the third, fourth, or fifth degree or an unclassified felony and neither division (D) (2) nor (3) of this section applies to the offender, the offender may earn one day of credit 6979
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under division (A) of this section if the offender committed 6984
that offense prior to September 30, 2011, and the offender may 6985
earn five days of credit under division (A) of this section if 6986
the offender committed that offense on or after September 30, 6987
2011. 6988

(E) The department annually shall seek and consider the 6989
written feedback of the Ohio prosecuting attorneys association, 6990
the Ohio judicial conference, the Ohio public defender, the Ohio 6991
association of criminal defense lawyers, and other organizations 6992
and associations that have an interest in the operation of the 6993
corrections system and the earned credits program under this 6994
section as part of its evaluation of the program and in 6995
determining whether to modify the program. 6996

(F) As used in this section, "sexually oriented offense" 6997
has the same meaning as in section 2950.01 of the Revised Code. 6998

Sec. 2967.26. (A) (1) The department of rehabilitation and 6999
correction, by rule, may establish a transitional control 7000
program for the purpose of closely monitoring a prisoner's 7001
adjustment to community supervision during the final one hundred 7002
eighty days of the prisoner's confinement. If the department 7003
establishes a transitional control program under this division, 7004
the division of parole and community services of the department 7005
of rehabilitation and correction may transfer eligible prisoners 7006
to transitional control status under the program during the 7007
final one hundred eighty days of their confinement and under the 7008
terms and conditions established by the department, shall 7009
provide for the confinement as provided in this division of each 7010
eligible prisoner so transferred, and shall supervise each 7011
eligible prisoner so transferred in one or more community 7012
control sanctions. Each eligible prisoner who is transferred to 7013

transitional control status under the program shall be confined 7014
in a suitable facility that is licensed pursuant to division (C) 7015
of section 2967.14 of the Revised Code, or shall be confined in 7016
a residence the department has approved for this purpose and be 7017
monitored pursuant to an electronic monitoring device, as 7018
defined in section 2929.01 of the Revised Code. If the 7019
department establishes a transitional control program under this 7020
division, the rules establishing the program shall include 7021
criteria that define which prisoners are eligible for the 7022
program, criteria that must be satisfied to be approved as a 7023
residence that may be used for confinement under the program of 7024
a prisoner that is transferred to it and procedures for the 7025
department to approve residences that satisfy those criteria, 7026
and provisions of the type described in division (C) of this 7027
section. At a minimum, the criteria that define which prisoners 7028
are eligible for the program shall provide all of the following: 7029

(a) That a prisoner is eligible for the program if the 7030
prisoner is serving a prison term or term of imprisonment for an 7031
offense committed prior to March 17, 1998, and if, at the time 7032
at which eligibility is being determined, the prisoner would 7033
have been eligible for a furlough under this section as it 7034
existed immediately prior to March 17, 1998, or would have been 7035
eligible for conditional release under former section 2967.23 of 7036
the Revised Code as that section existed immediately prior to 7037
March 17, 1998; 7038

(b) That no prisoner who is serving a mandatory prison 7039
term is eligible for the program until after expiration of the 7040
mandatory term; 7041

(c) That no prisoner who is serving a prison term or term 7042
of life imprisonment without parole imposed pursuant to section 7043

2971.03 of the Revised Code is eligible for the program. 7044

(2) At least sixty days prior to transferring to 7045
transitional control under this section a prisoner who is 7046
serving a term of imprisonment or prison term of two years or 7047
less for an offense committed on or after July 1, 1996, the 7048
division of parole and community services of the department of 7049
rehabilitation and correction shall give notice of the pendency 7050
of the transfer to transitional control to the court of common 7051
pleas of the county in which the indictment against the prisoner 7052
was found and of the fact that the court may disapprove the 7053
transfer of the prisoner to transitional control and shall 7054
include the institutional summary report prepared by the head of 7055
the state correctional institution in which the prisoner is 7056
confined. The head of the state correctional institution in 7057
which the prisoner is confined, upon the request of the division 7058
of parole and community services, shall provide to the division 7059
for inclusion in the notice sent to the court under this 7060
division an institutional summary report on the prisoner's 7061
conduct in the institution and in any institution from which the 7062
prisoner may have been transferred. The institutional summary 7063
report shall cover the prisoner's participation in school, 7064
vocational training, work, treatment, and other rehabilitative 7065
activities and any disciplinary action taken against the 7066
prisoner. If the court disapproves of the transfer of the 7067
prisoner to transitional control, the court shall notify the 7068
division of the disapproval within thirty days after receipt of 7069
the notice. If the court timely disapproves the transfer of the 7070
prisoner to transitional control, the division shall not proceed 7071
with the transfer. If the court does not timely disapprove the 7072
transfer of the prisoner to transitional control, the division 7073
may transfer the prisoner to transitional control. 7074

(3) (a) If the victim of an offense for which a prisoner was sentenced to a prison term or term of imprisonment has requested notification under section 2930.16 of the Revised Code and has provided the department of rehabilitation and correction with the victim's name and address or if division (A) (3) (b) of this section applies, the division of parole and community services, at least sixty days prior to transferring the prisoner to transitional control pursuant to this section, shall notify the victim of the pendency of the transfer and of the victim's right to submit a statement to the division regarding the impact of the transfer of the prisoner to transitional control. If the victim subsequently submits a statement of that nature to the division, the division shall consider the statement in deciding whether to transfer the prisoner to transitional control.

(b) If a prisoner is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or under a sentence of life imprisonment, except as otherwise provided in this division, the notice described in division (A) (3) (a) of this section shall be given regardless of whether the victim has requested the notification. The notice described in division (A) (3) (a) of this section shall not be given under this division to a victim if the victim has requested pursuant to division (B) (2) of section 2930.03 of the Revised Code that the victim not be provided the notice. If notice is to be provided to a victim under this division, the authority may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D) (1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to March 22, 2013, the notice also shall include the opt-out information described in division (D) (1) of

section 2930.16 of the Revised Code. The authority, in 7106
accordance with division (D) (2) of section 2930.16 of the 7107
Revised Code, shall keep a record of all attempts to provide the 7108
notice, and of all notices provided, under this division. 7109

Division (A) (3) (b) of this section, and the notice-related 7110
provisions of divisions (E) (2) and (K) of section 2929.20, 7111
division (D) (1) of section 2930.16, division ~~(H)~~ (G) of section 7112
2967.12, division (E) (1) (b) of section 2967.19, division (D) (1) 7113
of section 2967.28, and division (A) (2) of section 5149.101 of 7114
the Revised Code enacted in the act in which division (A) (3) (b) 7115
of this section was enacted, shall be known as "Roberta's Law." 7116

(4) The department of rehabilitation and correction, at 7117
least sixty days prior to transferring a prisoner to 7118
transitional control pursuant to this section, shall post on the 7119
database it maintains pursuant to section 5120.66 of the Revised 7120
Code the prisoner's name and all of the information specified in 7121
division (A) (1) (c) (iv) of that section. In addition to and 7122
independent of the right of a victim to submit a statement as 7123
described in division (A) (3) of this section or to otherwise 7124
make a statement and in addition to and independent of any other 7125
right or duty of a person to present information or make a 7126
statement, any person may send to the division of parole and 7127
community services at any time prior to the division's transfer 7128
of the prisoner to transitional control a written statement 7129
regarding the transfer of the prisoner to transitional control. 7130
In addition to the information, reports, and statements it 7131
considers under divisions (A) (2) and (3) of this section or that 7132
it otherwise considers, the division shall consider each 7133
statement submitted in accordance with this division in deciding 7134
whether to transfer the prisoner to transitional control. 7135

(B) Each prisoner transferred to transitional control 7136
under this section shall be confined in the manner described in 7137
division (A) of this section during any period of time that the 7138
prisoner is not actually working at the prisoner's approved 7139
employment, engaged in a vocational training or another 7140
educational program, engaged in another program designated by 7141
the director, or engaged in other activities approved by the 7142
department. 7143

(C) The department of rehabilitation and correction shall 7144
adopt rules for transferring eligible prisoners to transitional 7145
control, supervising and confining prisoners so transferred, 7146
administering the transitional control program in accordance 7147
with this section, and using the moneys deposited into the 7148
transitional control fund established under division (E) of this 7149
section. 7150

(D) The department of rehabilitation and correction may 7151
adopt rules for the issuance of passes for the limited purposes 7152
described in this division to prisoners who are transferred to 7153
transitional control under this section. If the department 7154
adopts rules of that nature, the rules shall govern the granting 7155
of the passes and shall provide for the supervision of prisoners 7156
who are temporarily released pursuant to one of those passes. 7157
Upon the adoption of rules under this division, the department 7158
may issue passes to prisoners who are transferred to 7159
transitional control status under this section in accordance 7160
with the rules and the provisions of this division. All passes 7161
issued under this division shall be for a maximum of forty-eight 7162
hours and may be issued only for the following purposes: 7163

(1) To visit a relative in imminent danger of death; 7164

(2) To have a private viewing of the body of a deceased 7165

relative; 7166

(3) To visit with family; 7167

(4) To otherwise aid in the rehabilitation of the 7168
prisoner. 7169

(E) The division of parole and community services may 7170
require a prisoner who is transferred to transitional control to 7171
pay to the division the reasonable expenses incurred by the 7172
division in supervising or confining the prisoner while under 7173
transitional control. Inability to pay those reasonable expenses 7174
shall not be grounds for refusing to transfer an otherwise 7175
eligible prisoner to transitional control. Amounts received by 7176
the division of parole and community services under this 7177
division shall be deposited into the transitional control fund, 7178
which is hereby created in the state treasury and which hereby 7179
replaces and succeeds the furlough services fund that formerly 7180
existed in the state treasury. All moneys that remain in the 7181
furlough services fund on March 17, 1998, shall be transferred 7182
on that date to the transitional control fund. The transitional 7183
control fund shall be used solely to pay costs related to the 7184
operation of the transitional control program established under 7185
this section. The director of rehabilitation and correction 7186
shall adopt rules in accordance with section 111.15 of the 7187
Revised Code for the use of the fund. 7188

(F) A prisoner who violates any rule established by the 7189
department of rehabilitation and correction under division (A), 7190
(C), or (D) of this section may be transferred to a state 7191
correctional institution pursuant to rules adopted under 7192
division (A), (C), or (D) of this section, but the prisoner 7193
shall receive credit towards completing the prisoner's sentence 7194
for the time spent under transitional control. 7195

If a prisoner is transferred to transitional control under this section, upon successful completion of the period of transitional control, the prisoner may be released on parole or under post-release control pursuant to section 2967.13 or 2967.28 of the Revised Code and rules adopted by the department of rehabilitation and correction. If the prisoner is released under post-release control, the duration of the post-release control, the type of post-release control sanctions that may be imposed, the enforcement of the sanctions, and the treatment of prisoners who violate any sanction applicable to the prisoner are governed by section 2967.28 of the Revised Code.

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

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

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

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

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

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

(B) Each sentence to a prison term for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is an offense of violence and is not a felony sex offense shall include a requirement that the offender be subject to a period of post-release control imposed by the parole board after the offender's release from imprisonment. 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. If a court imposes a sentence including a prison term of a type described in this division on or after July 11, 2006, the failure of a sentencing court to notify the offender pursuant to division (B) (2) (c) of section 2929.19 of the Revised Code of this requirement or to include in the judgment of conviction entered on the journal a statement that the offender's sentence includes this requirement does not negate, limit, or otherwise affect the mandatory period of supervision that is required for the offender under this division. 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) (c) 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) (1) of section 2929.14 of the Revised Code a statement regarding post-release control. Unless reduced by the parole board pursuant to division (D) of this section when authorized under that division, a period of post-release control required by this division for an offender shall be of one of the following periods:

(1) For a felony of the first degree or for a felony sex

offense, five years; 7256

(2) For a felony of the second degree that is not a felony sex offense, three years; 7257
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(3) For a felony of the third degree that is an offense of violence and is not a felony sex offense, three years. 7259
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(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. 7261
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(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 7283
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prisoner described in division (B) of this section, shall impose 7286
upon a prisoner described in division (C) of this section who is 7287
to be released before the expiration of the prisoner's stated 7288
prison term under a risk reduction sentence, may impose upon a 7289
prisoner described in division (C) of this section who is not to 7290
be released before the expiration of the prisoner's stated 7291
prison term under a risk reduction sentence, and shall impose 7292
upon a prisoner described in division (B) (2) (b) of section 7293
5120.031 or in division (B) (1) of section 5120.032 of the 7294
Revised Code, one or more post-release control sanctions to 7295
apply during the prisoner's period of post-release control. 7296
Whenever the board or court imposes one or more post-release 7297
control sanctions upon a prisoner, the board or court, in 7298
addition to imposing the sanctions, also shall include as a 7299
condition of the post-release control that the offender not 7300
leave the state without permission of the court or the 7301
offender's parole or probation officer and that the offender 7302
abide by the law. The board or court may impose any other 7303
conditions of release under a post-release control sanction that 7304
the board or court considers appropriate, and the conditions of 7305
release may include any community residential sanction, 7306
community nonresidential sanction, or financial sanction that 7307
the sentencing court was authorized to impose pursuant to 7308
sections 2929.16, 2929.17, and 2929.18 of the Revised Code. 7309
Prior to the release of a prisoner for whom it will impose one 7310
or more post-release control sanctions under this division, the 7311
parole board or court shall review the prisoner's criminal 7312
history, results from the single validated risk assessment tool 7313
selected by the department of rehabilitation and correction 7314
under section 5120.114 of the Revised Code, all juvenile court 7315
adjudications finding the prisoner, while a juvenile, to be a 7316
delinquent child, and the record of the prisoner's conduct while 7317

imprisoned. The parole board or court shall consider any 7318
recommendation regarding post-release control sanctions for the 7319
prisoner made by the office of victims' services. After 7320
considering those materials, the board or court shall determine, 7321
for a prisoner described in division (B) of this section, 7322
division (B) (2) (b) of section 5120.031, or division (B) (1) of 7323
section 5120.032 of the Revised Code and for a prisoner 7324
described in division (C) of this section who is to be released 7325
before the expiration of the prisoner's stated prison term under 7326
a risk reduction sentence, which post-release control sanction 7327
or combination of post-release control sanctions is reasonable 7328
under the circumstances or, for a prisoner described in division 7329
(C) of this section who is not to be released before the 7330
expiration of the prisoner's stated prison term under a risk 7331
reduction sentence, whether a post-release control sanction is 7332
necessary and, if so, which post-release control sanction or 7333
combination of post-release control sanctions is reasonable 7334
under the circumstances. In the case of a prisoner convicted of 7335
a felony of the fourth or fifth degree other than a felony sex 7336
offense, the board or court shall presume that monitored time is 7337
the appropriate post-release control sanction unless the board 7338
or court determines that a more restrictive sanction is 7339
warranted. A post-release control sanction imposed under this 7340
division takes effect upon the prisoner's release from 7341
imprisonment. 7342

Regardless of whether the prisoner was sentenced to the 7343
prison term prior to, on, or after July 11, 2006, prior to the 7344
release of a prisoner for whom it will impose one or more post- 7345
release control sanctions under this division, the parole board 7346
shall notify the prisoner that, if the prisoner violates any 7347
sanction so imposed or any condition of post-release control 7348

described in division (B) of section 2967.131 of the Revised Code that is imposed on the prisoner, the parole board may impose a prison term of up to one-half of the stated prison term originally imposed upon the prisoner.

At least thirty days before the prisoner is released from imprisonment, except as otherwise provided in this paragraph, the department of rehabilitation and correction shall notify the victim and the victim's immediate family of the date on which the prisoner will be released, the period for which the prisoner will be under post-release control supervision, and the terms and conditions of the prisoner's post-release control regardless of whether the victim or victim's immediate family has requested the notification. The notice described in this paragraph shall not be given to a victim or victim's immediate family if the victim or the victim's immediate family has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the notice not be provided to the victim or the victim's immediate family. At least thirty days before the prisoner is released from imprisonment and regardless of whether the victim or victim's immediate family has requested that the notice described in this paragraph be provided or not be provided to the victim or the victim's immediate family, the department also shall provide notice of that nature to the prosecuting attorney in the case and the law enforcement agency that arrested the prisoner if any officer of that agency was a victim of the offense.

If the notice given under the preceding paragraph to the victim or the victim's immediate family is based on an offense committed prior to ~~the effective date of this amendment~~ March 22, 2013, and if the department of rehabilitation and correction has not previously successfully provided any notice to the

victim or the victim's immediate family under division (B), (C), 7380
or (D) of section 2930.16 of the Revised Code with respect to 7381
that offense and the offender who committed it, the notice also 7382
shall inform the victim or the victim's immediate family that 7383
the victim or the victim's immediate family may request that the 7384
victim or the victim's immediate family not be provided any 7385
further notices with respect to that offense and the offender 7386
who committed it and shall describe the procedure for making 7387
that request. The department may give the notices to which the 7388
preceding paragraph applies by any reasonable means, including 7389
regular mail, telephone, and electronic mail. If the department 7390
attempts to provide notice to any specified person under the 7391
preceding paragraph but the attempt is unsuccessful because the 7392
department is unable to locate the specified person, is unable 7393
to provide the notice by its chosen method because it cannot 7394
determine the mailing address, electronic mail address, or 7395
telephone number at which to provide the notice, or, if the 7396
notice is sent by mail, the notice is returned, the department 7397
shall make another attempt to provide the notice to the 7398
specified person. If the second attempt is unsuccessful, the 7399
department shall make at least one more attempt to provide the 7400
notice. If the notice is based on an offense committed prior to 7401
~~the effective date of this amendment~~ March 22, 2013, in each 7402
attempt to provide the notice to the victim or victim's 7403
immediate family, the notice shall include the opt-out 7404
information described in this paragraph. The department, in the 7405
manner described in division (D) (2) of section 2930.16 of the 7406
Revised Code, shall keep a record of all attempts to provide the 7407
notice, and of all notices provided, under this paragraph and 7408
the preceding paragraph. The record shall be considered as if it 7409
was kept under division (D) (2) of section 2930.16 of the Revised 7410
Code. This paragraph, the preceding paragraph, and the notice- 7411

related provisions of divisions (E) (2) and (K) of section 7412
2929.20, division (D) (1) of section 2930.16, division ~~(H)~~ (G) of 7413
section 2967.12, division (E) (1) (b) of section 2967.19, division 7414
(A) (3) (b) of section 2967.26, and division (A) (2) of section 7415
5149.101 of the Revised Code enacted in the act in which this 7416
paragraph and the preceding paragraph were enacted, shall be 7417
known as "Roberta's Law." 7418

(2) If a prisoner who is placed on post-release control 7419
under this section is released before the expiration of the 7420
prisoner's stated prison term by reason of credit earned under 7421
section 2967.193 of the Revised Code and if the prisoner earned 7422
sixty or more days of credit, the adult parole authority shall 7423
supervise the offender with an active global positioning system 7424
device for the first fourteen days after the offender's release 7425
from imprisonment. This division does not prohibit or limit the 7426
imposition of any post-release control sanction otherwise 7427
authorized by this section. 7428

(3) At any time after a prisoner is released from 7429
imprisonment and during the period of post-release control 7430
applicable to the releasee, the adult parole authority or, 7431
pursuant to an agreement under section 2967.29 of the Revised 7432
Code, the court may review the releasee's behavior under the 7433
post-release control sanctions imposed upon the releasee under 7434
this section. The authority or court may determine, based upon 7435
the review and in accordance with the standards established 7436
under division (E) of this section, that a more restrictive or a 7437
less restrictive sanction is appropriate and may impose a 7438
different sanction. The authority also may recommend that the 7439
parole board or court increase or reduce the duration of the 7440
period of post-release control imposed by the court. If the 7441
authority recommends that the board or court increase the 7442

duration of post-release control, the board or court shall 7443
review the releasee's behavior and may increase the duration of 7444
the period of post-release control imposed by the court up to 7445
eight years. If the authority recommends that the board or court 7446
reduce the duration of control for an offense described in 7447
division (B) or (C) of this section, the board or court shall 7448
review the releasee's behavior and may reduce the duration of 7449
the period of control imposed by the court. In no case shall the 7450
board or court reduce the duration of the period of control 7451
imposed for an offense described in division (B) (1) of this 7452
section to a period less than the length of the stated prison 7453
term originally imposed, and in no case shall the board or court 7454
permit the releasee to leave the state without permission of the 7455
court or the releasee's parole or probation officer. 7456

(E) The department of rehabilitation and correction, in 7457
accordance with Chapter 119. of the Revised Code, shall adopt 7458
rules that do all of the following: 7459

(1) Establish standards for the imposition by the parole 7460
board of post-release control sanctions under this section that 7461
are consistent with the overriding purposes and sentencing 7462
principles set forth in section 2929.11 of the Revised Code and 7463
that are appropriate to the needs of releasees; 7464

(2) Establish standards that provide for a period of post- 7465
release control of up to three years for all prisoners described 7466
in division (C) of this section who are to be released before 7467
the expiration of their stated prison term under a risk 7468
reduction sentence and standards by which the parole board can 7469
determine which prisoners described in division (C) of this 7470
section who are not to be released before the expiration of 7471
their stated prison term under a risk reduction sentence should 7472

be placed under a period of post-release control; 7473

(3) Establish standards to be used by the parole board in 7474
reducing the duration of the period of post-release control 7475
imposed by the court when authorized under division (D) of this 7476
section, in imposing a more restrictive post-release control 7477
sanction than monitored time upon a prisoner convicted of a 7478
felony of the fourth or fifth degree other than a felony sex 7479
offense, or in imposing a less restrictive control sanction upon 7480
a releasee based on the releasee's activities including, but not 7481
limited to, remaining free from criminal activity and from the 7482
abuse of alcohol or other drugs, successfully participating in 7483
approved rehabilitation programs, maintaining employment, and 7484
paying restitution to the victim or meeting the terms of other 7485
financial sanctions; 7486

(4) Establish standards to be used by the adult parole 7487
authority in modifying a releasee's post-release control 7488
sanctions pursuant to division (D)(2) of this section; 7489

(5) Establish standards to be used by the adult parole 7490
authority or parole board in imposing further sanctions under 7491
division (F) of this section on releasees who violate post- 7492
release control sanctions, including standards that do the 7493
following: 7494

(a) Classify violations according to the degree of 7495
seriousness; 7496

(b) Define the circumstances under which formal action by 7497
the parole board is warranted; 7498

(c) Govern the use of evidence at violation hearings; 7499

(d) Ensure procedural due process to an alleged violator; 7500

(e) Prescribe nonresidential community control sanctions 7501
for most misdemeanor and technical violations; 7502

(f) Provide procedures for the return of a releasee to 7503
imprisonment for violations of post-release control. 7504

(F) (1) Whenever the parole board imposes one or more post- 7505
release control sanctions upon an offender under this section, 7506
the offender upon release from imprisonment shall be under the 7507
general jurisdiction of the adult parole authority and generally 7508
shall be supervised by the field services section through its 7509
staff of parole and field officers as described in section 7510
5149.04 of the Revised Code, as if the offender had been placed 7511
on parole. If the offender upon release from imprisonment 7512
violates the post-release control sanction or any conditions 7513
described in division (A) of section 2967.131 of the Revised 7514
Code that are imposed on the offender, the public or private 7515
person or entity that operates or administers the sanction or 7516
the program or activity that comprises the sanction shall report 7517
the violation directly to the adult parole authority or to the 7518
officer of the authority who supervises the offender. The 7519
authority's officers may treat the offender as if the offender 7520
were on parole and in violation of the parole, and otherwise 7521
shall comply with this section. 7522

(2) If the adult parole authority or, pursuant to an 7523
agreement under section 2967.29 of the Revised Code, the court 7524
determines that a releasee has violated a post-release control 7525
sanction or any conditions described in division (A) of section 7526
2967.131 of the Revised Code imposed upon the releasee and that 7527
a more restrictive sanction is appropriate, the authority or 7528
court may impose a more restrictive sanction upon the releasee, 7529
in accordance with the standards established under division (E) 7530

of this section or in accordance with the agreement made under 7531
section 2967.29 of the Revised Code, or may report the violation 7532
to the parole board for a hearing pursuant to division (F) (3) of 7533
this section. The authority or court may not, pursuant to this 7534
division, increase the duration of the releasee's post-release 7535
control or impose as a post-release control sanction a 7536
residential sanction that includes a prison term, but the 7537
authority or court may impose on the releasee any other 7538
residential sanction, nonresidential sanction, or financial 7539
sanction that the sentencing court was authorized to impose 7540
pursuant to sections 2929.16, 2929.17, and 2929.18 of the 7541
Revised Code. 7542

(3) The parole board or, pursuant to an agreement under 7543
section 2967.29 of the Revised Code, the court may hold a 7544
hearing on any alleged violation by a releasee of a post-release 7545
control sanction or any conditions described in division (A) of 7546
section 2967.131 of the Revised Code that are imposed upon the 7547
releasee. If after the hearing the board or court finds that the 7548
releasee violated the sanction or condition, the board or court 7549
may increase the duration of the releasee's post-release control 7550
up to the maximum duration authorized by division (B) or (C) of 7551
this section or impose a more restrictive post-release control 7552
sanction. When appropriate, the board or court may impose as a 7553
post-release control sanction a residential sanction that 7554
includes a prison term. The board or court shall consider a 7555
prison term as a post-release control sanction imposed for a 7556
violation of post-release control when the violation involves a 7557
deadly weapon or dangerous ordnance, physical harm or attempted 7558
serious physical harm to a person, or sexual misconduct, or when 7559
the releasee committed repeated violations of post-release 7560
control sanctions. Unless a releasee's stated prison term was 7561

reduced pursuant to section 5120.032 of the Revised Code, the 7562
period of a prison term that is imposed as a post-release 7563
control sanction under this division shall not exceed nine 7564
months, and the maximum cumulative prison term for all 7565
violations under this division shall not exceed one-half of the 7566
stated prison term originally imposed upon the offender as part 7567
of this sentence. If a releasee's stated prison term was reduced 7568
pursuant to section 5120.032 of the Revised Code, the period of 7569
a prison term that is imposed as a post-release control sanction 7570
under this division and the maximum cumulative prison term for 7571
all violations under this division shall not exceed the period 7572
of time not served in prison under the sentence imposed by the 7573
court. The period of a prison term that is imposed as a post- 7574
release control sanction under this division shall not count as, 7575
or be credited toward, the remaining period of post-release 7576
control. 7577

If an offender is imprisoned for a felony committed while 7578
under post-release control supervision and is again released on 7579
post-release control for a period of time determined by division 7580
(F) (4) (d) of this section, the maximum cumulative prison term 7581
for all violations under this division shall not exceed one-half 7582
of the total stated prison terms of the earlier felony, reduced 7583
by any prison term administratively imposed by the parole board 7584
or court, plus one-half of the total stated prison term of the 7585
new felony. 7586

(4) Any period of post-release control shall commence upon 7587
an offender's actual release from prison. If an offender is 7588
serving an indefinite prison term or a life sentence in addition 7589
to a stated prison term, the offender shall serve the period of 7590
post-release control in the following manner: 7591

(a) If a period of post-release control is imposed upon 7592
the offender and if the offender also is subject to a period of 7593
parole under a life sentence or an indefinite sentence, and if 7594
the period of post-release control ends prior to the period of 7595
parole, the offender shall be supervised on parole. The offender 7596
shall receive credit for post-release control supervision during 7597
the period of parole. The offender is not eligible for final 7598
release under section 2967.16 of the Revised Code until the 7599
post-release control period otherwise would have ended. 7600

(b) If a period of post-release control is imposed upon 7601
the offender and if the offender also is subject to a period of 7602
parole under an indefinite sentence, and if the period of parole 7603
ends prior to the period of post-release control, the offender 7604
shall be supervised on post-release control. The requirements of 7605
parole supervision shall be satisfied during the post-release 7606
control period. 7607

(c) If an offender is subject to more than one period of 7608
post-release control, the period of post-release control for all 7609
of the sentences shall be the period of post-release control 7610
that expires last, as determined by the parole board or court. 7611
Periods of post-release control shall be served concurrently and 7612
shall not be imposed consecutively to each other. 7613

(d) The period of post-release control for a releasee who 7614
commits a felony while under post-release control for an earlier 7615
felony shall be the longer of the period of post-release control 7616
specified for the new felony under division (B) or (C) of this 7617
section or the time remaining under the period of post-release 7618
control imposed for the earlier felony as determined by the 7619
parole board or court. 7620

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 7621

section 2929.14, section 2929.02, ~~2929.03, 2929.06,~~ 2929.13, or 7622
another section of the Revised Code, other than divisions (B) 7623
and (C) of section 2929.14 of the Revised Code, that authorizes 7624
or requires a specified prison term or a mandatory prison term 7625
for a person who is convicted of or pleads guilty to a felony or 7626
that specifies the manner and place of service of a prison term 7627
or term of imprisonment, the court shall impose a sentence upon 7628
a person who is convicted of or pleads guilty to a violent sex 7629
offense and who also is convicted of or pleads guilty to a 7630
sexually violent predator specification that was included in the 7631
indictment, count in the indictment, or information charging 7632
that offense, and upon a person who is convicted of or pleads 7633
guilty to a designated homicide, assault, or kidnapping offense 7634
and also is convicted of or pleads guilty to both a sexual 7635
motivation specification and a sexually violent predator 7636
specification that were included in the indictment, count in the 7637
indictment, or information charging that offense, as follows: 7638

(1) If the offense for which the sentence is being imposed 7639
is aggravated murder ~~and if the court does not impose upon the~~ 7640
~~offender a sentence of death,~~ it shall impose upon the offender 7641
a term of life imprisonment without parole. ~~If the court~~ 7642
~~sentences the offender to death and the sentence of death is~~ 7643
~~vacated, overturned, or otherwise set aside, the court shall~~ 7644
~~impose upon the offender a term of life imprisonment without~~ 7645
~~parole.~~ 7646

(2) If the offense for which the sentence is being imposed 7647
is murder; or if the offense is rape committed in violation of 7648
division (A)(1)(b) of section 2907.02 of the Revised Code when 7649
the offender purposely compelled the victim to submit by force 7650
or threat of force, when the victim was less than ten years of 7651
age, when the offender previously has been convicted of or 7652

pleaded guilty to either rape committed in violation of that 7653
division or a violation of an existing or former law of this 7654
state, another state, or the United States that is substantially 7655
similar to division (A) (1) (b) of section 2907.02 of the Revised 7656
Code, or when the offender during or immediately after the 7657
commission of the rape caused serious physical harm to the 7658
victim; or if the offense is an offense other than aggravated 7659
murder or murder for which a term of life imprisonment may be 7660
imposed, it shall impose upon the offender a term of life 7661
imprisonment without parole. 7662

(3) (a) Except as otherwise provided in division (A) (3) (b), 7663
(c), (d), or (e) or (A) (4) of this section, if the offense for 7664
which the sentence is being imposed is an offense other than 7665
aggravated murder, murder, or rape and other than an offense for 7666
which a term of life imprisonment may be imposed, it shall 7667
impose an indefinite prison term consisting of a minimum term 7668
fixed by the court from among the range of terms available as a 7669
definite term for the offense, but not less than two years, and 7670
a maximum term of life imprisonment. 7671

(b) Except as otherwise provided in division (A) (4) of 7672
this section, if the offense for which the sentence is being 7673
imposed is kidnapping that is a felony of the first degree, it 7674
shall impose an indefinite prison term as follows: 7675

(i) If the kidnapping is committed on or after January 1, 7676
2008, and the victim of the offense is less than thirteen years 7677
of age, except as otherwise provided in this division, it shall 7678
impose an indefinite prison term consisting of a minimum term of 7679
fifteen years and a maximum term of life imprisonment. If the 7680
kidnapping is committed on or after January 1, 2008, the victim 7681
of the offense is less than thirteen years of age, and the 7682

offender released the victim in a safe place unharmed, it shall 7683
impose an indefinite prison term consisting of a minimum term of 7684
ten years and a maximum term of life imprisonment. 7685

(ii) If the kidnapping is committed prior to January 1, 7686
2008, or division (A) (3) (b) (i) of this section does not apply, 7687
it shall impose an indefinite term consisting of a minimum term 7688
fixed by the court that is not less than ten years and a maximum 7689
term of life imprisonment. 7690

(c) Except as otherwise provided in division (A) (4) of 7691
this section, if the offense for which the sentence is being 7692
imposed is kidnapping that is a felony of the second degree, it 7693
shall impose an indefinite prison term consisting of a minimum 7694
term fixed by the court that is not less than eight years, and a 7695
maximum term of life imprisonment. 7696

(d) Except as otherwise provided in division (A) (4) of 7697
this section, if the offense for which the sentence is being 7698
imposed is rape for which a term of life imprisonment is not 7699
imposed under division (A) (2) of this section or division (B) of 7700
section 2907.02 of the Revised Code, it shall impose an 7701
indefinite prison term as follows: 7702

(i) If the rape is committed on or after January 2, 2007, 7703
in violation of division (A) (1) (b) of section 2907.02 of the 7704
Revised Code, it shall impose an indefinite prison term 7705
consisting of a minimum term of twenty-five years and a maximum 7706
term of life imprisonment. 7707

(ii) If the rape is committed prior to January 2, 2007, or 7708
the rape is committed on or after January 2, 2007, other than in 7709
violation of division (A) (1) (b) of section 2907.02 of the 7710
Revised Code, it shall impose an indefinite prison term 7711

consisting of a minimum term fixed by the court that is not less than ten years, and a maximum term of life imprisonment.

(e) Except as otherwise provided in division (A) (4) of this section, if the offense for which sentence is being imposed is attempted rape, it shall impose an indefinite prison term as follows:

(i) Except as otherwise provided in division (A) (3) (e) (ii), (iii), or (iv) of this section, it shall impose an indefinite prison term pursuant to division (A) (3) (a) of this section.

(ii) If the attempted rape for which sentence is being imposed was committed on or after January 2, 2007, and if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1418 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of five years and a maximum term of twenty-five years.

(iii) If the attempted rape for which sentence is being imposed was committed on or after January 2, 2007, and if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1419 of the Revised Code, it shall impose an indefinite prison term consisting of a minimum term of ten years and a maximum of life imprisonment.

(iv) If the attempted rape for which sentence is being imposed was committed on or after January 2, 2007, and if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1420 of the Revised Code, it shall impose an indefinite prison term

consisting of a minimum term of fifteen years and a maximum of 7741
life imprisonment. 7742

(4) For any offense for which the sentence is being 7743
imposed, if the offender previously has been convicted of or 7744
pleaded guilty to a violent sex offense and also to a sexually 7745
violent predator specification that was included in the 7746
indictment, count in the indictment, or information charging 7747
that offense, or previously has been convicted of or pleaded 7748
guilty to a designated homicide, assault, or kidnapping offense 7749
and also to both a sexual motivation specification and a 7750
sexually violent predator specification that were included in 7751
the indictment, count in the indictment, or information charging 7752
that offense, it shall impose upon the offender a term of life 7753
imprisonment without parole. 7754

(B) (1) Notwithstanding section 2929.13, division (A) or 7755
(D) of section 2929.14, or another section of the Revised Code 7756
other than division (B) of section 2907.02 or divisions (B) and 7757
(C) of section 2929.14 of the Revised Code that authorizes or 7758
requires a specified prison term or a mandatory prison term for 7759
a person who is convicted of or pleads guilty to a felony or 7760
that specifies the manner and place of service of a prison term 7761
or term of imprisonment, if a person is convicted of or pleads 7762
guilty to a violation of division (A) (1) (b) of section 2907.02 7763
of the Revised Code committed on or after January 2, 2007, if 7764
division (A) of this section does not apply regarding the 7765
person, and if the court does not impose a sentence of life 7766
without parole when authorized pursuant to division (B) of 7767
section 2907.02 of the Revised Code, the court shall impose upon 7768
the person an indefinite prison term consisting of one of the 7769
following: 7770

(a) Except as otherwise required in division (B) (1) (b) or 7771
(c) of this section, a minimum term of ten years and a maximum 7772
term of life imprisonment. 7773

(b) If the victim was less than ten years of age, a 7774
minimum term of fifteen years and a maximum of life 7775
imprisonment. 7776

(c) If the offender purposely compels the victim to submit 7777
by force or threat of force, or if the offender previously has 7778
been convicted of or pleaded guilty to violating division (A) (1) 7779
(b) of section 2907.02 of the Revised Code or to violating an 7780
existing or former law of this state, another state, or the 7781
United States that is substantially similar to division (A) (1) 7782
(b) of that section, or if the offender during or immediately 7783
after the commission of the offense caused serious physical harm 7784
to the victim, a minimum term of twenty-five years and a maximum 7785
of life imprisonment. 7786

(2) Notwithstanding section 2929.13, division (A) or (D) 7787
of section 2929.14, or another section of the Revised Code other 7788
than divisions (B) and (C) of section 2929.14 of the Revised 7789
Code that authorizes or requires a specified prison term or a 7790
mandatory prison term for a person who is convicted of or pleads 7791
guilty to a felony or that specifies the manner and place of 7792
service of a prison term or term of imprisonment and except as 7793
otherwise provided in division (B) of section 2907.02 of the 7794
Revised Code, if a person is convicted of or pleads guilty to 7795
attempted rape committed on or after January 2, 2007, and if 7796
division (A) of this section does not apply regarding the 7797
person, the court shall impose upon the person an indefinite 7798
prison term consisting of one of the following: 7799

(a) If the person also is convicted of or pleads guilty to 7800

a specification of the type described in section 2941.1418 of 7801
the Revised Code, the court shall impose upon the person an 7802
indefinite prison term consisting of a minimum term of five 7803
years and a maximum term of twenty-five years. 7804

(b) If the person also is convicted of or pleads guilty to 7805
a specification of the type described in section 2941.1419 of 7806
the Revised Code, the court shall impose upon the person an 7807
indefinite prison term consisting of a minimum term of ten years 7808
and a maximum term of life imprisonment. 7809

(c) If the person also is convicted of or pleads guilty to 7810
a specification of the type described in section 2941.1420 of 7811
the Revised Code, the court shall impose upon the person an 7812
indefinite prison term consisting of a minimum term of fifteen 7813
years and a maximum term of life imprisonment. 7814

(3) Notwithstanding section 2929.13, division (A) or (D) 7815
of section 2929.14, or another section of the Revised Code other 7816
than divisions (B) and (C) of section 2929.14 of the Revised 7817
Code that authorizes or requires a specified prison term or a 7818
mandatory prison term for a person who is convicted of or pleads 7819
guilty to a felony or that specifies the manner and place of 7820
service of a prison term or term of imprisonment, if a person is 7821
convicted of or pleads guilty to an offense described in 7822
division (B)(3)(a), (b), (c), or (d) of this section committed 7823
on or after January 1, 2008, if the person also is convicted of 7824
or pleads guilty to a sexual motivation specification that was 7825
included in the indictment, count in the indictment, or 7826
information charging that offense, and if division (A) of this 7827
section does not apply regarding the person, the court shall 7828
impose upon the person an indefinite prison term consisting of 7829
one of the following: 7830

(a) An indefinite prison term consisting of a minimum of ten years and a maximum term of life imprisonment if the offense for which the sentence is being imposed is kidnapping, the victim of the offense is less than thirteen years of age, and the offender released the victim in a safe place unharmed;

(b) An indefinite prison term consisting of a minimum of fifteen years and a maximum term of life imprisonment if the offense for which the sentence is being imposed is kidnapping when the victim of the offense is less than thirteen years of age and division (B) (3) (a) of this section does not apply;

(c) An indefinite term consisting of a minimum of thirty years and a maximum term of life imprisonment if the offense for which the sentence is being imposed is aggravated murder, when the victim of the offense is less than thirteen years of age, a sentence of ~~death or~~ life imprisonment without parole is not imposed for the offense, and division ~~(A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or (B) (C) of section 2929.06-2929.02~~ of the Revised Code requires that the sentence for the offense be imposed pursuant to this division;

(d) An indefinite prison term consisting of a minimum of thirty years and a maximum term of life imprisonment if the offense for which the sentence is being imposed is murder when the victim of the offense is less than thirteen years of age.

(C) (1) If the offender is sentenced to a prison term pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the parole board shall have control over the offender's service of the term during the entire term unless the parole board

terminates its control in accordance with section 2971.04 of the Revised Code. 7861
7862

(2) Except as provided in division (C)(3) of this section, 7863
an offender sentenced to a prison term or term of life 7864
imprisonment without parole pursuant to division (A) of this 7865
section shall serve the entire prison term or term of life 7866
imprisonment in a state correctional institution. The offender 7867
is not eligible for judicial release under section 2929.20 of 7868
the Revised Code. 7869

(3) For a prison term imposed pursuant to division (A)(3), 7870
(B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), 7871
(b), (c), or (d) of this section, the court, in accordance with 7872
section 2971.05 of the Revised Code, may terminate the prison 7873
term or modify the requirement that the offender serve the 7874
entire term in a state correctional institution if all of the 7875
following apply: 7876

(a) The offender has served at least the minimum term 7877
imposed as part of that prison term. 7878

(b) The parole board, pursuant to section 2971.04 of the 7879
Revised Code, has terminated its control over the offender's 7880
service of that prison term. 7881

(c) The court has held a hearing and found, by clear and 7882
convincing evidence, one of the following: 7883

(i) In the case of termination of the prison term, that 7884
the offender is unlikely to commit a sexually violent offense in 7885
the future; 7886

(ii) In the case of modification of the requirement, that 7887
the offender does not represent a substantial risk of physical 7888
harm to others. 7889

(4) An offender who has been sentenced to a term of life imprisonment without parole pursuant to division (A) (1), (2), or (4) of this section shall not be released from the term of life imprisonment or be permitted to serve a portion of it in a place other than a state correctional institution.

(D) If a court sentences an offender to a prison term or term of life imprisonment without parole pursuant to division (A) of this section and the court also imposes on the offender one or more additional prison terms pursuant to division (B) of section 2929.14 of the Revised Code, all of the additional prison terms shall be served consecutively with, and prior to, the prison term or term of life imprisonment without parole imposed upon the offender pursuant to division (A) of this section.

(E) If the offender is convicted of or pleads guilty to two or more offenses for which a prison term or term of life imprisonment without parole is required to be imposed pursuant to division (A) of this section, divisions (A) to (D) of this section shall be applied for each offense. All minimum terms imposed upon the offender pursuant to division (A) (3) or (B) of this section for those offenses shall be aggregated and served consecutively, as if they were a single minimum term imposed under that division.

(F) (1) If an offender is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, or is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation

specification and a sexually violent predator specification that 7920
were included in the indictment, count in the indictment, or 7921
information charging that offense, the conviction of or plea of 7922
guilty to the offense and the sexually violent predator 7923
specification automatically classifies the offender as a tier 7924
III sex offender/child-victim offender for purposes of Chapter 7925
2950. of the Revised Code. 7926

(2) If an offender is convicted of or pleads guilty to 7927
committing on or after January 2, 2007, a violation of division 7928
(A) (1) (b) of section 2907.02 of the Revised Code and either the 7929
offender is sentenced under section 2971.03 of the Revised Code 7930
or a sentence of life without parole is imposed under division 7931
(B) of section 2907.02 of the Revised Code, the conviction of or 7932
plea of guilty to the offense automatically classifies the 7933
offender as a tier III sex offender/child-victim offender for 7934
purposes of Chapter 2950. of the Revised Code. 7935

(3) If a person is convicted of or pleads guilty to 7936
committing on or after January 2, 2007, attempted rape and also 7937
is convicted of or pleads guilty to a specification of the type 7938
described in section 2941.1418, 2941.1419, or 2941.1420 of the 7939
Revised Code, the conviction of or plea of guilty to the offense 7940
and the specification automatically classify the offender as a 7941
tier III sex offender/child-victim offender for purposes of 7942
Chapter 2950. of the Revised Code. 7943

(4) If a person is convicted of or pleads guilty to one of 7944
the offenses described in division (B) (3) (a), (b), (c), or (d) 7945
of this section and a sexual motivation specification related to 7946
the offense and the victim of the offense is less than thirteen 7947
years of age, the conviction of or plea of guilty to the offense 7948
automatically classifies the offender as a tier III sex 7949

offender/child-victim offender for purposes of Chapter 2950. of 7950
the Revised Code. 7951

Sec. 2971.07. (A) This chapter does not apply to any 7952
offender unless the offender is one of the following: 7953

(1) The offender is convicted of or pleads guilty to a 7954
violent sex offense and also is convicted of or pleads guilty to 7955
a sexually violent predator specification that was included in 7956
the indictment, count in the indictment, or information charging 7957
that offense. 7958

(2) The offender is convicted of or pleads guilty to a 7959
designated homicide, assault, or kidnapping offense and also is 7960
convicted of or pleads guilty to both a sexual motivation 7961
specification and a sexually violent predator specification that 7962
were included in the indictment, count in the indictment, or 7963
information charging that offense. 7964

(3) The offender is convicted of or pleads guilty to a 7965
violation of division (A) (1) (b) of section 2907.02 of the 7966
Revised Code committed on or after January 2, 2007, and the 7967
court does not sentence the offender to a term of life without 7968
parole pursuant to division (B) of section 2907.02 of the 7969
Revised Code or division (B) of that section prohibits the court 7970
from sentencing the offender pursuant to section 2971.03 of the 7971
Revised Code. 7972

(4) The offender is convicted of or pleads guilty to 7973
attempted rape committed on or after January 2, 2007, and also 7974
is convicted of or pleads guilty to a specification of the type 7975
described in section 2941.1418, 2941.1419, or 2941.1420 of the 7976
Revised Code. 7977

(5) The offender is convicted of or pleads guilty to a 7978

violation of section 2905.01 of the Revised Code and also is 7979
convicted of or pleads guilty to a sexual motivation 7980
specification that was included in the indictment, count in the 7981
indictment, or information charging that offense, and that 7982
section requires a court to sentence the offender pursuant to 7983
section 2971.03 of the Revised Code. 7984

(6) The offender is convicted of or pleads guilty to 7985
aggravated murder and also is convicted of or pleads guilty to a 7986
sexual motivation specification that was included in the 7987
indictment, count in the indictment, or information charging 7988
that offense, and ~~division (A) (2) (b) (ii) of section 2929.022,~~ 7989
~~division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D)~~ 7990
~~(3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or~~ 7991
~~(B) (C) of section 2929.06-2929.02~~ of the Revised Code requires 7992
a court to sentence the offender pursuant to division (B) (3) of 7993
section 2971.03 of the Revised Code. 7994

(7) The offender is convicted of or pleads guilty to 7995
murder and also is convicted of or pleads guilty to a sexual 7996
motivation specification that was included in the indictment, 7997
count in the indictment, or information charging that offense, 7998
and ~~division (B) (2) (C)~~ of section 2929.02 of the Revised Code 7999
requires a court to sentence the offender pursuant to section 8000
2971.03 of the Revised Code. 8001

(B) This chapter does not limit or affect a court in 8002
imposing upon an offender described in divisions (A) (1) to (9) 8003
of this section any financial sanction under section 2929.18 or 8004
any other section of the Revised Code, or, except as 8005
specifically provided in this chapter, any other sanction that 8006
is authorized or required for the offense or violation by any 8007
other provision of law. 8008

(C) If an offender is sentenced to a prison term under 8009
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8010
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8011
Code and if, pursuant to section 2971.05 of the Revised Code, 8012
the court modifies the requirement that the offender serve the 8013
entire prison term in a state correctional institution or places 8014
the offender on conditional release that involves the placement 8015
of the offender under the supervision of the adult parole 8016
authority, authorized field officers of the authority who are 8017
engaged within the scope of their supervisory duties or 8018
responsibilities may search, with or without a warrant, the 8019
person of the offender, the place of residence of the offender, 8020
and a motor vehicle, another item of tangible or intangible 8021
personal property, or any other real property in which the 8022
offender has the express or implied permission of a person with 8023
a right, title, or interest to use, occupy, or possess if the 8024
field officer has reasonable grounds to believe that the 8025
offender is not abiding by the law or otherwise is not complying 8026
with the terms and conditions of the offender's modification or 8027
release. The authority shall provide each offender with a 8028
written notice that informs the offender that authorized field 8029
officers of the authority who are engaged within the scope of 8030
their supervisory duties or responsibilities may conduct those 8031
types of searches during the period of the modification or 8032
release if they have reasonable grounds to believe that the 8033
offender is not abiding by the law or otherwise is not complying 8034
with the terms and conditions of the offender's modification or 8035
release. 8036

Sec. 5120.113. (A) For each inmate committed to the 8037
department of rehabilitation and correction, except as provided 8038
in division (B) of this section, the department shall prepare a 8039

written reentry plan for the inmate to help guide the inmate's 8040
rehabilitation program during imprisonment, to assist in the 8041
inmate's reentry into the community, and to assess the inmate's 8042
needs upon release. 8043

(B) Division (A) of this section does not apply to an 8044
inmate who has been sentenced to life imprisonment without 8045
parole or ~~who has been~~ sentenced to death before the effective 8046
date of this amendment. Division (A) of this section does not 8047
apply to any inmate who is expected to be imprisoned for thirty 8048
days or less, but the department may prepare a written reentry 8049
plan of the type described in that division if the department 8050
determines that the plan is needed. 8051

(C) The department may collect, if available, any social 8052
and other information that will aid in the preparation of 8053
reentry plans under this section. 8054

(D) In the event the department does not prepare a written 8055
reentry plan as specified in division (A) of this section, or 8056
makes a decision to not prepare a written reentry plan under 8057
division (B) of this section or to not collect information under 8058
division (C) of this section, that fact does not give rise to a 8059
claim for damages against the state, the department, the 8060
director of the department, or any employee of the department. 8061

Sec. 5120.53. (A) If a treaty between the United States 8062
and a foreign country provides for the transfer or exchange, 8063
from one of the signatory countries to the other signatory 8064
country, of convicted offenders who are citizens or nationals of 8065
the other signatory country, the governor, subject to and in 8066
accordance with the terms of the treaty, may authorize the 8067
director of rehabilitation and correction to allow the transfer 8068
or exchange of convicted offenders and to take any action 8069

necessary to initiate participation in the treaty. If the 8070
governor grants the director the authority described in this 8071
division, the director may take the necessary action to initiate 8072
participation in the treaty and, subject to and in accordance 8073
with division (B) of this section and the terms of the treaty, 8074
may allow the transfer or exchange to a foreign country that has 8075
signed the treaty of any convicted offender who is a citizen or 8076
national of that signatory country. 8077

(B) (1) No convicted offender who is serving a term of 8078
imprisonment in this state for aggravated murder, murder, or a 8079
felony of the first or second degree, who is serving a mandatory 8080
prison term imposed under section 2925.03 or 2925.11 of the 8081
Revised Code in circumstances in which the court was required to 8082
impose as the mandatory prison term the maximum prison term 8083
authorized for the degree of offense committed, or who is 8084
serving a term of imprisonment in this state imposed for an 8085
offense committed prior to ~~the effective date of this amendment~~ 8086
July 1, 1996, that was an aggravated felony of the first or 8087
second degree or that was aggravated trafficking in violation of 8088
division (A) (9) or (10) of section 2925.03 of the Revised Code, ~~—~~ 8089
~~or who has been sentenced to death in this state~~ shall be 8090
transferred or exchanged to another country pursuant to a treaty 8091
of the type described in division (A) of this section. 8092

(2) If a convicted offender is serving a term of 8093
imprisonment in this state and the offender is a citizen or 8094
national of a foreign country that has signed a treaty of the 8095
type described in division (A) of this section, if the governor 8096
has granted the director of rehabilitation and correction the 8097
authority described in that division, and if the transfer or 8098
exchange of the offender is not barred by division (B) (1) of 8099
this section, the director or the director's designee may 8100

approve the offender for transfer or exchange pursuant to the 8101
treaty if the director or the designee, after consideration of 8102
the factors set forth in the rules adopted by the department 8103
under division (D) of this section and all other relevant 8104
factors, determines that the transfer or exchange of the 8105
offender is appropriate. 8106

(C) Notwithstanding any provision of the Revised Code 8107
regarding the parole eligibility of, or the duration or 8108
calculation of a sentence of imprisonment imposed upon, an 8109
offender, if a convicted offender is serving a term of 8110
imprisonment in this state and the offender is a citizen or 8111
national of a foreign country that has signed a treaty of the 8112
type described in division (A) of this section, if the offender 8113
is serving an indefinite term of imprisonment, if the offender 8114
is barred from being transferred or exchanged pursuant to the 8115
treaty due to the indefinite nature of the offender's term of 8116
imprisonment, and if in accordance with division (B) (2) of this 8117
section the director of rehabilitation and correction or the 8118
director's designee approves the offender for transfer or 8119
exchange pursuant to the treaty, the parole board, pursuant to 8120
rules adopted by the director, shall set a date certain for the 8121
release of the offender. To the extent possible, the date 8122
certain that is set shall be reasonably proportionate to the 8123
indefinite term of imprisonment that the offender is serving. 8124
The date certain that is set for the release of the offender 8125
shall be considered only for purposes of facilitating the 8126
international transfer or exchange of the offender, shall not be 8127
viable or actionable for any other purpose, and shall not create 8128
any expectation or guarantee of release. If an offender for whom 8129
a date certain for release is set under this division is not 8130
transferred to or exchanged with the foreign country pursuant to 8131

the treaty, the date certain is null and void, and the 8132
offender's release shall be determined pursuant to the laws and 8133
rules of this state pertaining to parole eligibility and the 8134
duration and calculation of an indefinite sentence of 8135
imprisonment. 8136

(D) If the governor, pursuant to division (A) of this 8137
section, authorizes the director of rehabilitation and 8138
correction to allow any transfer or exchange of convicted 8139
offenders as described in that division, the director shall 8140
adopt rules under Chapter 119. of the Revised Code to implement 8141
the provisions of this section. The rules shall include a rule 8142
that requires the director or the director's designee, in 8143
determining whether to approve a convicted offender who is 8144
serving a term of imprisonment in this state for transfer or 8145
exchange pursuant to a treaty of the type described in division 8146
(A) of this section, to consider all of the following factors: 8147

(1) The nature of the offense for which the offender is 8148
serving the term of imprisonment in this state; 8149

(2) The likelihood that, if the offender is transferred or 8150
exchanged to a foreign country pursuant to the treaty, the 8151
offender will serve a shorter period of time in imprisonment in 8152
the foreign country than the offender would serve if the 8153
offender is not transferred or exchanged to the foreign country 8154
pursuant to the treaty; 8155

(3) The likelihood that, if the offender is transferred or 8156
exchanged to a foreign country pursuant to the treaty, the 8157
offender will return or attempt to return to this state after 8158
the offender has been released from imprisonment in the foreign 8159
country; 8160

(4) The degree of any shock to the conscience of justice 8161
and society that will be experienced in this state if the 8162
offender is transferred or exchanged to a foreign country 8163
pursuant to the treaty; 8164

(5) All other factors that the department determines are 8165
relevant to the determination. 8166

Sec. 5120.61. (A) (1) Not later than ninety days after 8167
January 1, 1997, the department of rehabilitation and correction 8168
shall adopt standards that it will use under this section to 8169
assess the following criminal offenders and may periodically 8170
revise the standards: 8171

(a) A criminal offender who is convicted of or pleads 8172
guilty to a violent sex offense or designated homicide, assault, 8173
or kidnapping offense and is adjudicated a sexually violent 8174
predator in relation to that offense; 8175

(b) A criminal offender who is convicted of or pleads 8176
guilty to a violation of division (A) (1) (b) of section 2907.02 8177
of the Revised Code committed on or after January 2, 2007, and 8178
either who is sentenced under section 2971.03 of the Revised 8179
Code or upon whom a sentence of life without parole is imposed 8180
under division (B) of section 2907.02 of the Revised Code; 8181

(c) A criminal offender who is convicted of or pleads 8182
guilty to attempted rape committed on or after January 2, 2007, 8183
and a specification of the type described in section 2941.1418, 8184
2941.1419, or 2941.1420 of the Revised Code; 8185

(d) A criminal offender who is convicted of or pleads 8186
guilty to a violation of section 2905.01 of the Revised Code and 8187
also is convicted of or pleads guilty to a sexual motivation 8188
specification that was included in the indictment, count in the 8189

indictment, or information charging that offense, and who is 8190
sentenced pursuant to section 2971.03 of the Revised Code; 8191

(e) A criminal offender who is convicted of or pleads 8192
guilty to aggravated murder and also is convicted of or pleads 8193
guilty to a sexual motivation specification that was included in 8194
the indictment, count in the indictment, or information charging 8195
that offense, and who pursuant to division ~~(A) (2) (b) (ii) of~~ 8196
~~section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a)~~ 8197
~~(ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03,~~ 8198
~~or division (A) or (B) (C) of section 2929.06-2929.02~~ of the 8199
Revised Code is sentenced pursuant to division (B) (3) of section 8200
2971.03 of the Revised Code; 8201

(f) A criminal offender who is convicted of or pleads 8202
guilty to murder and also is convicted of or pleads guilty to a 8203
sexual motivation specification that was included in the 8204
indictment, count in the indictment, or information charging 8205
that offense, and who pursuant to division ~~(B) (2) (C) (1)~~ of 8206
section 2929.02 of the Revised Code is sentenced pursuant to 8207
section 2971.03 of the Revised Code. 8208

(2) When the department is requested by the parole board 8209
or the court to provide a risk assessment report of the offender 8210
under section 2971.04 or 2971.05 of the Revised Code, it shall 8211
assess the offender and complete the assessment as soon as 8212
possible after the offender has commenced serving the prison 8213
term or term of life imprisonment without parole imposed under 8214
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 8215
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8216
Code. Thereafter, the department shall update a risk assessment 8217
report pertaining to an offender as follows: 8218

(a) Periodically, in the discretion of the department, 8219

provided that each report shall be updated no later than two 8220
years after its initial preparation or most recent update; 8221

(b) Upon the request of the parole board for use in 8222
determining pursuant to section 2971.04 of the Revised Code 8223
whether it should terminate its control over an offender's 8224
service of a prison term imposed upon the offender under 8225
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 8226
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 8227
Code; 8228

(c) Upon the request of the court. 8229

(3) After the department of rehabilitation and correction 8230
assesses an offender pursuant to division (A) (2) of this 8231
section, it shall prepare a report that contains its risk 8232
assessment for the offender or, if a risk assessment report 8233
previously has been prepared, it shall update the risk 8234
assessment report. 8235

(4) The department of rehabilitation and correction shall 8236
provide each risk assessment report that it prepares or updates 8237
pursuant to this section regarding an offender to all of the 8238
following: 8239

(a) The parole board for its use in determining pursuant 8240
to section 2971.04 of the Revised Code whether it should 8241
terminate its control over an offender's service of a prison 8242
term imposed upon the offender under division (A) (3), (B) (1) (a), 8243
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 8244
(d) of section 2971.03 of the Revised Code, if the parole board 8245
has not terminated its control over the offender; 8246

(b) The court for use in determining, pursuant to section 8247
2971.05 of the Revised Code, whether to modify the requirement 8248

that the offender serve the entire prison term imposed upon the 8249
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 8250
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 8251
2971.03 of the Revised Code in a state correctional institution, 8252
whether to revise any modification previously made, or whether 8253
to terminate the prison term; 8254

(c) The prosecuting attorney who prosecuted the case, or 8255
the successor in office to that prosecuting attorney; 8256

(d) The offender. 8257

(B) When the department of rehabilitation and correction 8258
provides a risk assessment report regarding an offender to the 8259
parole board or court pursuant to division (A) (4) (a) or (b) of 8260
this section, the department, prior to the parole board's or 8261
court's hearing, also shall provide to the offender or to the 8262
offender's attorney of record a copy of the report and a copy of 8263
any other relevant documents the department possesses regarding 8264
the offender that the department does not consider to be 8265
confidential. 8266

(C) As used in this section: 8267

(1) "Adjudicated a sexually violent predator" has the same 8268
meaning as in section 2929.01 of the Revised Code, and a person 8269
is "adjudicated a sexually violent predator" in the same manner 8270
and the same circumstances as are described in that section. 8271

(2) "Designated homicide, assault, or kidnapping offense" 8272
and "violent sex offense" have the same meanings as in section 8273
2971.01 of the Revised Code. 8274

Sec. 5139.04. The department of youth services shall do 8275
all of the following: 8276

- (A) Support service districts through a central administrative office that shall have as its administrative head a deputy director who shall be appointed by the director of the department. When a vacancy occurs in the office of that deputy director, an assistant deputy director shall act as that deputy director until the vacancy is filled. The position of deputy director and assistant deputy director described in this division shall be in the unclassified civil service of the state.
- (B) Receive custody of all children committed to it under Chapter 2152. of the Revised Code, cause a study to be made of those children, and issue any orders, as it considers best suited to the needs of any of those children and the interest of the public, for the treatment of each of those children;
- (C) Obtain personnel necessary for the performance of its duties;
- (D) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.43 of the Revised Code, and that pertain to the administration of other sections of this chapter;
- (E) Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year;
- (F) Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods;
- (G) Develop a standard form for the disposition investigation report that a juvenile court is required pursuant

to section 2152.18 of the Revised Code to complete and provide 8306
to the department when the court commits a child to the legal 8307
custody of the department; 8308

(H) Provide the state public defender the reasonable 8309
access authorized under division ~~(I)~~(H) of section 120.06 of 8310
the Revised Code in order to fulfill the department's 8311
constitutional obligation to provide juveniles who have been 8312
committed to the department's care access to the courts. 8313

(I) Do all other acts necessary or desirable to carry out 8314
this chapter. 8315

Sec. 5149.101. (A) (1) A board hearing officer, a board 8316
member, or the office of victims' services may petition the 8317
board for a full board hearing that relates to the proposed 8318
parole or re-parole of a prisoner. At a meeting of the board at 8319
which a majority of board members are present, the majority of 8320
those present shall determine whether a full board hearing shall 8321
be held. 8322

(2) A victim of a violation of section 2903.01 or 2903.02 8323
of the Revised Code, an offense of violence that is a felony of 8324
the first, second, or third degree, or an offense punished by a 8325
sentence of life imprisonment, the victim's representative, or 8326
any person described in division (B) (5) of this section may 8327
request the board to hold a full board hearing that relates to 8328
the proposed parole or re-parole of the person that committed 8329
the violation. If a victim, victim's representative, or other 8330
person requests a full board hearing pursuant to this division, 8331
the board shall hold a full board hearing. 8332

At least thirty days before the full hearing, except as 8333
otherwise provided in this division, the board shall give notice 8334

of the date, time, and place of the hearing to the victim 8335
regardless of whether the victim has requested the notification. 8336
The notice of the date, time, and place of the hearing shall not 8337
be given under this division to a victim if the victim has 8338
requested pursuant to division (B)(2) of section 2930.03 of the 8339
Revised Code that the notice not be provided to the victim. At 8340
least thirty days before the full board hearing and regardless 8341
of whether the victim has requested that the notice be provided 8342
or not be provided under this division to the victim, the board 8343
shall give similar notice to the prosecuting attorney in the 8344
case, the law enforcement agency that arrested the prisoner if 8345
any officer of that agency was a victim of the offense, and, if 8346
different than the victim, the person who requested the full 8347
hearing. If the prosecuting attorney has not previously been 8348
sent an institutional summary report with respect to the 8349
prisoner, upon the request of the prosecuting attorney, the 8350
board shall include with the notice sent to the prosecuting 8351
attorney an institutional summary report that covers the 8352
offender's participation while confined in a state correctional 8353
institution in training, work, and other rehabilitative 8354
activities and any disciplinary action taken against the 8355
offender while so confined. Upon the request of a law 8356
enforcement agency that has not previously been sent an 8357
institutional summary report with respect to the prisoner, the 8358
board also shall send a copy of the institutional summary report 8359
to the law enforcement agency. If notice is to be provided as 8360
described in this division, the board may give the notice by any 8361
reasonable means, including regular mail, telephone, and 8362
electronic mail, in accordance with division (D)(1) of section 8363
2930.16 of the Revised Code. If the notice is based on an 8364
offense committed prior to ~~the effective date of this amendment~~ 8365
March 22, 2013, the notice also shall include the opt-out 8366

information described in division (D)(1) of section 2930.16 of 8367
the Revised Code. The board, in accordance with division (D)(2) 8368
of section 2930.16 of the Revised Code, shall keep a record of 8369
all attempts to provide the notice, and of all notices provided, 8370
under this division. 8371

The preceding paragraph, and the notice-related provisions 8372
of divisions (E)(2) and (K) of section 2929.20, division (D)(1) 8373
of section 2930.16, division ~~(H)~~(G) of section 2967.12, 8374
division (E)(1)(b) of section 2967.19, division (A)(3)(b) of 8375
section 2967.26, and division (D)(1) of section 2967.28 of the 8376
Revised Code enacted in the act in which this paragraph was 8377
enacted, shall be known as "Roberta's Law." 8378

(B) At a full board hearing that relates to the proposed 8379
parole or re-parole of a prisoner and that has been petitioned 8380
for or requested in accordance with division (A) of this 8381
section, the parole board shall permit the following persons to 8382
appear and to give testimony or to submit written statements: 8383

(1) The prosecuting attorney of the county in which the 8384
original indictment against the prisoner was found and members 8385
of any law enforcement agency that assisted in the prosecution 8386
of the original offense; 8387

(2) The judge of the court of common pleas who imposed the 8388
original sentence of incarceration upon the prisoner, or the 8389
judge's successor; 8390

(3) The victim of the original offense for which the 8391
prisoner is serving the sentence or the victim's representative 8392
designated pursuant to section 2930.02 of the Revised Code; 8393

(4) The victim of any behavior that resulted in parole 8394
being revoked; 8395

(5) With respect to a full board hearing held pursuant to division (A)(2) of this section, all of the following:

- (a) The spouse of the victim of the original offense;
- (b) The parent or parents of the victim of the original offense;
- (c) The sibling of the victim of the original offense;
- (d) The child or children of the victim of the original offense.

(6) Counsel or some other person designated by the prisoner as a representative, as described in division (C) of this section.

(C) Except as otherwise provided in this division, a full board hearing of the parole board is not subject to section 121.22 of the Revised Code. The persons who may attend a full board hearing are the persons described in divisions (B)(1) to (6) of this section, and representatives of the press, radio and television stations, and broadcasting networks who are members of a generally recognized professional media organization.

At the request of a person described in division (B)(3) of this section, representatives of the news media described in this division shall be excluded from the hearing while that person is giving testimony at the hearing. The prisoner being considered for parole has no right to be present at the hearing, but may be represented by counsel or some other person designated by the prisoner.

If there is an objection at a full board hearing to a recommendation for the parole of a prisoner, the board may approve or disapprove the recommendation or defer its decision

until a subsequent full board hearing. The board may permit 8424
interested persons other than those listed in this division and 8425
division (B) of this section to attend full board hearings 8426
pursuant to rules adopted by the adult parole authority. 8427

(D) If the victim of the original offense died as a result 8428
of the offense and the offense was aggravated murder, murder, an 8429
offense of violence that is a felony of the first, second, or 8430
third degree, or an offense punished by a sentence of life 8431
imprisonment, the family of the victim may show at a full board 8432
hearing a video recording not exceeding five minutes in length 8433
memorializing the victim. 8434

(E) The adult parole authority shall adopt rules for the 8435
implementation of this section. The rules shall specify 8436
reasonable restrictions on the number of media representatives 8437
that may attend a hearing, based on considerations of space, and 8438
other procedures designed to accomplish an effective, orderly 8439
process for full board hearings. 8440

Sec. 5919.16. (A) Commissioned and warrant officers in the 8441
Ohio national guard shall be discharged by the adjutant general 8442
upon either of the following: 8443

(1) The officer's resignation; 8444

(2) Approval of a board's recommendation for withdrawal of 8445
federal recognition by the chief of the national guard bureau. 8446

(B) An officer also may be discharged under any of the 8447
following circumstances: 8448

(1) Pursuant to other federal regulations; 8449

(2) If absent without leave for three months, upon 8450
recommendation of an efficiency board; 8451

(3) Pursuant to sentence by court-martial; 8452

(4) If the officer has been convicted of a crime 8453
classified as a felony as described in division (C) or (D) ~~or~~ 8454
~~(E)~~ of section 2901.02 of the Revised Code. 8455

Section 2. That existing sections 9.07, 120.03, 120.06, 8456
120.14, 120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 8457
1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 2701.07, 2743.51, 8458
2901.02, 2909.24, 2929.02, 2929.13, 2929.14, 2929.20, 2929.61, 8459
2930.03, 2930.06, 2930.16, 2937.222, 2941.021, 2941.14, 8460
2941.148, 2941.401, 2941.43, 2941.51, 2945.06, 2945.13, 2945.21, 8461
2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 2953.02, 2953.07, 8462
2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 2953.72, 8463
2953.73, 2953.81, 2967.03, 2967.05, 2967.12, 2967.13, 2967.19, 8464
2967.193, 2967.26, 2967.28, 2971.03, 2971.07, 5120.113, 5120.53, 8465
5120.61, 5139.04, 5149.101, and 5919.16 and sections 109.97, 8466
120.35, 2725.19, 2929.021, 2929.022, 2929.023, 2929.024, 8467
2929.03, 2929.04, 2929.05, 2929.06, 2945.20, 2947.08, 2949.21, 8468
2949.22, 2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 8469
2949.31, and 2967.08 of the Revised Code are hereby repealed. 8470

Section 3. (A) An offender whose sentence of death has 8471
been set aside, nullified, or vacated pursuant to section 8472
2929.06 of the Revised Code as it existed immediately before the 8473
effective date of this act but who has not been resentenced 8474
under that section as of the effective date of this act shall be 8475
resentenced in accordance with that section as it existed 8476
immediately before the effective date of this act. 8477

(B) Nothing in this act is intended to nullify or mitigate 8478
the sentence of an offender who was sentenced to death before 8479
the effective date of this act. An offender who was sentenced to 8480
death before the effective date of this act shall have the same 8481

rights to appeal and to postconviction remedies as the offender 8482
had under the provisions of Chapter 2953. of the Revised Code as 8483
those provisions existed immediately before the effective date 8484
of this act or as those provisions may hereafter be amended, and 8485
courts shall have the same powers and duties with respect to 8486
those offenders under those provisions as courts had before the 8487
effective date of this act. 8488

(C) All reports and payments relating to capital cases 8489
that were required to be made under any provision of Chapter 8490
120. or section 109.97 of the Revised Code as those provisions 8491
existed immediately before the effective date of this act shall 8492
be made for the current calendar or fiscal year, as applicable, 8493
in accordance with those provisions as they existed immediately 8494
before the effective date of this act until each case in which a 8495
defendant was sentenced to death before the effective date of 8496
this act is finally resolved. 8497

(D) In an action in which an offender was sentenced to 8498
death before the effective date of this act, a court of common 8499
pleas shall preserve the records of the action as required by 8500
section 2301.20 of the Revised Code as it existed immediately 8501
before the effective date of this act. 8502

Section 4. Attorneys appointed to represent indigent 8503
defendants in postconviction relief proceedings in cases in 8504
which the defendant was sentenced to death before the effective 8505
date of this act shall be certified under Rule 20 of the Rules 8506
of Superintendence for the Courts of Ohio as required by 8507
sections 120.06, 120.14, 120.26, and 120.33 of the Revised Code 8508
as those sections existed immediately before the effective date 8509
of this act. 8510

Section 5. The General Assembly, applying the principle 8511

stated in division (B) of section 1.52 of the Revised Code that 8512
amendments are to be harmonized if reasonably capable of 8513
simultaneous operation, finds that the following sections, 8514
presented in this act as composites of the sections as amended 8515
by the acts indicated, are the resulting versions of the 8516
sections in effect prior to the effective date of the sections 8517
as presented in this act: 8518

Section 2953.07 of the Revised Code as amended by both Am. 8519
Sub. S.B. 2 and Am. Sub. S.B. 4 of the 121st General Assembly. 8520

Section 2953.08 of the Revised Code as amended by Sub. 8521
H.B. 247, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 8522
129th General Assembly. 8523

Section 2967.03 of the Revised Code as amended by Am. Sub. 8524
H.B. 487, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 8525
129th General Assembly. 8526